The City of Hanford
CALIFORNIA

CITY COUNCIL SPECIAL MEETING
AGENDA
January 13, 2014

Training Room, City Hall
319 N Douty St

SPECIAL MEETING - 5:30 PM

ROLL CALL BY THE CITY CLERK:

1. **CLOSED SESSION FOR DISCUSSION OF THE FOLLOWING:**

   A. CONFERENCE WITH REAL PROPERTY NEGOTIATORS – Pursuant to Government Code Sec. 54956.8

   Property: APNs 014-251-044, 014-251-023, 014-251-051, 014-251-050, 014-251-051, 014-251-040, 014-251-045, 014-251-046, 014-251-006, 014-251-007, 014-260-077, 014-260-078
   Agency Negotiators: Darrel Pyle, and Ty Mizote.
   Negotiating Party: Pinnacle Pointe, LLC, Helena, Terry Johnson, Leroy Souza, SPCA, EBC Farms, LLC, and Daljit Singh.
   Under Negotiation: Terms and Price

2. **CLOSED SESSION ACTION REPORT:**

   A. Closed Session Action Report

3. **STAFF COMMUNICATIONS:**

   A. City Clerk - Special Meeting Notice

4. **NEW BUSINESS:**

   A. City Manager: Discussion regarding a Sales Tax Incentive Agreement for the 59 acre commercial development at the southwest corner of E. Lacey Blvd. and Highway 43.

   B. City Manager: Discussion of potential Development Agreement terms for the 59 acre commercial development at the southwest corner of E. Lacey Blvd. and Highway 43.

ADJOURNMENT:

Materials related to an item on this Agenda submitted to the City Council after distribution of the agenda packet are available for public inspection in the City Clerk's Office located at 319 N. Douty Street, Hanford, California 93230, during normal business hours. City Council Agendas and materials are also available at the City's website, www.ci.hanford.ca.us;, subject to staff's ability to post the agenda before the meeting.

If you need a disability-related modification or accommodation, including auxiliary aids or services, to participate in this meeting, please contact the City Clerk's office, 559-585-2515, 319 N. Douty Street, Hanford, California 93230, at least 2 days prior to the meeting {28 CFR 35.102.35.104 ADA Title II}

NOTICE OF SPECIAL MEETING
CITY COUNCIL OF THE CITY OF HANFORD

NOTICE IS HEREBY GIVEN that a Special Meeting of the City Council of the City of Hanford, California, will be held on Monday, January 13, 2014, at 5:30 p.m., in the Training Room in the City Hall building, 319 N. Douty Street, Hanford, California, to discuss the following:

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2. Discussion regarding a Sales Tax Incentive Agreement for the 59 acre commercial development at the southwest corner of E. Lacey Blvd. and Highway 43.

3. Discussion of potential Development Agreement terms for the 59 acre commercial development at the southwest corner of E. Lacey Blvd. and Highway 43.

Notice of this Special Meeting is furnished to the Mayor, each Member of the City Council, the newspapers, television stations, and radio stations within the City of Hanford in compliance with California State Government Code 54956.

Dated: January 10, 2014

AGENDA
STAFF REPORT

MEETING DATE: 1/13/2014	**AGENDA SECTION:** 3. A.

SUBJECT:
City Clerk - Special Meeting Notice

RECOMMENDATION:

BACKGROUND:

FISCAL IMPACT:

ATTACHMENTS:

Description

- Special Meeting Notice

NOTICE OF SPECIAL MEETING
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Dated: January 10, 2014

AGENDA
STAFF REPORT

MEETING DATE: 1/13/2014	**AGENDA SECTION:** 4. A.

SUBJECT:

City Manager: Discussion regarding a Sales Tax Incentive Agreement for the 59 acre commercial development at the southwest corner of E. Lacey Blvd. and Highway 43.

RECOMMENDATION:

That the City Council discuss the attached draft Sales Tax Incentive Agreement.

BACKGROUND:

In 2011 the City Council adopted a Development Stimulus Policy that was designed to stimulate development within the City. A Sales Tax Incentive Program is one component of that Policy.

In 2012, the Council modified the Sales Tax Incentive Program to allow large retailers and parties who cause large retailers to locate in Hanford to receive sales tax incentives. Incentives are granted by the City under a Sales Tax Incentive Agreement. A copy of Resolution No. 12-43-R, which outlines the 2012 changes to the Sales Tax Incentive Program, is provided with this report. A copy of the City's current Sales Tax Incentive Program is attached to the Resolution.

Sales Tax Incentive Agreements are a tool used by numerous cities throughout California to attract retailers. There is competition to attract large retailers since they generate large amounts of sales tax for cities.

The developer of the 59 acre property located at the southwest corner of E. Lacey Blvd. and Highway 43 would like to participate in the City's Sales Tax Incentive Program since the developer intends to bring a large retailer to the developer's shopping center.

Attached is a draft Sales Tax Incentive Agreement on which City staff and the developer of the 59 acre property have been working.

FISCAL IMPACT:

ATTACHMENTS:

Description

- Proposed Sales Tax Incentive Agreement
- Resolution 12-43-R
- Resolution 12-44-R

AGREEMENT

* * * * *

ARTICLE 1.

PARTIES AND EFFECTIVE DATE

1.1 Parties. This Sales Tax Incentive Agreement ("**Agreement**") is entered into by and between the CITY OF HANFORD, a municipal corporation ("**City**"), and 198/43, LLC ("**Company**"). Company's offices are currently located at 265 E River Park Circle, Suite 465, Fresno, CA 93720. City's offices are located at 319 N. Douty St., Hanford, CA 93230.

1.1.1 City and Company are sometimes individually referred to herein as "**Party**" and collectively as "**Parties**."

1.1.2 This Agreement shall be binding upon and shall inure to the benefit of City and Company and their respective successors and assigns.

1.2 Effective Date. This Agreement will become effective on the date on which it is signed by the appropriate authorities of both City and Company (the "**Effective Date**").

ARTICLE 2.

RECITALS

2.1 Company intends to develop that certain real property (the "**Property**") more particularly described in the attached Exhibit "A," which is incorporated herein by reference.

2.2 Company has held discussions with a retailer ("Retailer") under which Company will sell a portion of the Property, which is identified as Parcel A of Phase I of the site plan attached hereto as Exhibit "B" and incorporated herein by reference, to Retailer and Retailer will construct a new one hundred fifty thousand (150,000)+/- square foot retail store at the Property (the "**Store**").

2.3 It is estimated that Retailer will employ approximately one hundred (100) full-time and one hundred (100) part-time employees at the Store.

2.4 City adopted a development stimulus policy that includes a sales tax incentive program ("**Program**") as a component. Through the Program, City may pay inducements to entities based on a percentage of the Local Sales Tax Revenues (as defined below) generated for City by new business' taxable sales occurring within City, as more fully described herein.

2.5 Company desires to participate in the Program in order to receive reimbursement for the costs it will incur for public improvements associated with the development of the Property

for the benefit of City and Company, along with other parcels. The improvements are identified in the attached Exhibit "C," which is incorporated herein by reference.

2.6 City, in consideration for Company contributing the public improvements set forth in the attached Exhibit "C" and causing Retailer to establish a retail store at the Property and the Local Sales Tax Revenues to be paid by Retailer, is willing to provide City Payments (as defined herein) to Company.

2.7 City Payments for each Fiscal Quarter will be amounts paid from any legally available source of funds and shall be equal to a percentage of the Local Sales Tax Revenues (as defined herein) generated in City by Retailer and received by City during such Fiscal Quarter. The manner by which City Payments shall be calculated is described hereinbelow.

2.8 The Store will provide significant public benefits to City, in that the Local Sales Tax Revenues to be paid by Retailer will represent a substantial and significant source of additional public revenue for City, which may be used by City for the funding of necessary public services and facilities, including, without implied limitation, public safety services and facilities. Establishment of the Store within City will also provide a benefit to City's residents in the form of new employment opportunities.

2.9 Company and City wish to enter into this Agreement for the purposes described above.

ARTICLE 3.

DEFINITIONS

3.1 Definitions. Unless the context otherwise requires, the terms defined in this Article 3 shall for all purposes hereto, and of any amendment hereof, and of any opinion or report or other document mentioned herein or therein, have the meanings defined herein. The following definitions are to be equally applicable to both the singular and plural forms of any of the terms defined herein.

3.1.1 "**Agreement**" shall have the meaning set forth in Section 1.1 hereinabove.

3.1.2 "**Business Day**" means a day which is not a Saturday, Sunday or legal holiday on which banking institutions in the State or City are closed.

3.1.3 "**City Payment**" means, for each Fiscal Year in which Retailer operates the Store, the amount calculated in the manner identified hereinbelow and which shall be paid to Company.

3.1.4 "**Effective Date**" shall have the meaning set forth in Section 1.2 hereinabove.

3.1.5 "**Fiscal Quarter**" means one (1) calendar year quarter during the Term and commencing on January 1, April 1, July 1, or October 1, and ending on, as applicable, the immediately following March 31, June 30, September 30, or December 31. As an example, the Fiscal Quarter commencing January 1 shall end on the immediately following March 31, the Fiscal Quarter commencing on April 1 shall end on the immediately following June 30, and so on.

3.1.6 "**Fiscal Year**" means July 1 through June 30.

3.1.7 "**Local Sales Tax Revenues**" means the monies paid by Company upon taxable sales and uses attributable to the Store's operations and allocated and paid to City under the California Uniform Local Sales and Use Tax Law (Part 1.5, Division 2 of the California Revenue and Taxation Code), subject to the limitations identified hereinafter.

In the event City's Sales Tax rate increases after the Effective Date, the new rate will be divided into two (2) components for purposes of this Agreement: (i) a base component representing City's one percent (1%) Sales Tax rate that exists as of the Effective Date ("**Base Rate**"); and (ii) a component representing the portion of City's increased Sales Tax rate in excess of the Base Rate ("**Supplemental Component**"). Local Sales Tax Revenues will be limited to City's Sales Tax revenues from the Store's operations that are attributable to the Base Rate. Local Sales Tax Revenues do ***not*** include any amounts paid by Retailer that are attributable to the Supplemental Component.

Local Sales Tax Revenues shall not include: (i) Penalty Assessments; (ii) any Sales Tax or portion thereof levied by, collected for, allocated to, or retained by the State of California, the County of Kings or a district or any entity (including an allocation to a statewide or countywide pool) other than City; (iii) any Sales Tax-related administrative or processing fee charged by the SBE, the County, or any other government entity other than City; (iv) any Sales or Use Tax subject to any sharing, rebate, offset or other charge imposed pursuant to any applicable provision of federal, state or local (except City's) law, rule, or regulation to the extent such Sales or Use Taxes are not received and retained by City; (v) any Sales Tax attributable to any transaction not consummated within the Term; or (vi) any Sales Tax (or other funds measured by Sales Tax) required by the State of California to be paid over to another public entity (including the State or County of Kings) or set aside and/or pledged to a specific use other than for deposit into or payment from City's general fund, including retroactively. Items excluded from Local Sales Tax Revenues shall be allocated between the Base Rate and Supplemental Component on a pro rata basis (e.g., if City increases its Sales Tax rate by fifty percent (50%) to one and one-half percent (1.5%), excluded items will be allocated two-thirds (2/3) to the Base Rate and one-third (1/3) to the Supplemental Component) unless otherwise required by State law or other applicable authority.

Without limiting the generality of the foregoing, City and Company acknowledge that as of the Effective Date of this Agreement, the California Legislature previously adopted certain legislation commonly known as the "Triple Flip" which diverts to the State of California

up to one-quarter (1/4) of the Sales and Use Tax Revenue which would otherwise be payable to City pursuant to the Sales Tax and Use Tax Law as it existed prior to enactment of the above-referenced legislation. City and Company acknowledge that such legislation causes a reduction of up to approximately twenty-five percent (25%) of the Local Sales Tax Revenues which would otherwise be attributable to Sales and that such reduction will cause a corresponding effect. Furthermore, City acknowledges that it is possible that the legislation described above, or some alternative legislation (whether or not similar to the "Triple Flip"), may be enacted and effective during one or more subsequent years during the Term and may materially and negatively impact the amount of Local Sales Tax Revenues and, accordingly, City Payments. City does not make any representation, warranty or commitment concerning the future actions of the California Legislature with respect to the allocation of Sales Taxes to City. Company agrees that it is undertaking its obligations under this Agreement after having considered, and is expressly assuming the risk of, the possibility of such legislation and its resultant impact on City Payments.

The foregoing paragraph notwithstanding, City acknowledges that the California Legislature may provide for the payment to City of other revenues for the specific purpose of offsetting any losses in Local Sales and Use Tax Revenues resulting from the enactment of legislation of the type described in the immediately preceding paragraph. City agrees that should the California Legislature provide for such offsetting revenues, then, for purposes of this Agreement and the computation of any City Payments which may become due to Company hereunder, any such offsetting revenues which are: (i) specifically intended to offset the loss of sales tax revenues to City and such intent is explicitly stated in the legislation affecting such offset (and/or the legislative history relating thereto); (ii) actually received by City; and (iii) not subject to any restrictions on use beyond those which are otherwise generally applicable to sales tax revenues received by California municipalities, will be deemed to be Local Sales Tax Revenues within the meaning of this Agreement, limited to the extent that such revenues actually offset the local sales tax revenues (including both current Local Sales Tax Revenues and prior period Local Sales Tax Revenues).

If the Sales and Use Tax Law is further amended, terminated or rescinded, and Local Sales Tax Revenues are calculated in an alternate manner or are replaced or partially replaced by an alternate revenue stream (i) arising from the retail sale, storage, use or other consumption of tangible personal property by Company from or at the Store; or (ii) designated as being a replacement for Local Sales Tax Revenues previously generated by the retail, sale, storage, use or other consumption of tangible personal property from or at the Store, Local Sales Tax Revenues shall also mean those revenues actually paid or caused to be paid by Company and ultimately collected for City in the alternate manner of calculation or the alternate revenue stream, as long as City receives its portion of such revenues and has the legal right under State law to retain and control the disposition of substantially all of its portion thereof, provided that such revenues shall only be considered Local Sales Tax revenues to the extent that they actually offset the loss of Local Sales Tax Revenues (including both current Local Sales Tax Revenues and prior period Local Sales Tax Revenues).

3.1.8 "**Penalty Assessments**" means penalties, assessments, collection costs and other costs, fees or charges resulting from late or delinquent payment of Sales or Use Tax and

which are levied, assessed or otherwise collected from Retailer as a result of sales occurring at the Store.

3.1.9 "**Retail Sales**" means all sales of tangible personal property, which occur at the Store, to any person or entity which is subject to the Sales and Use Tax Law and that generates Local Sales Tax Revenues.

3.1.10 "**SBE**" means the California State Board of Equalization, and any successor agency.

3.1.11 "**Sales and Use Tax Law**" means: (i) Part 1.5 of Division 2 of the California Revenue and Taxation Code, commencing with Section 7200, as may be amended, and any successor law thereto; (ii) any legislation allowing City or other public agency with jurisdiction in City to levy any form of sales and use tax on the Store's operations; and (iii) regulations of the SBE and other binding rulings and interpretations relating to (i) and (ii) hereof.

3.1.12 "**Sales Tax**" means all sales and use taxes at the rates levied by City under the authority of the California Sales and Use Tax Law as of the Effective Date, excluding any Sales Tax that is to be refunded to Retailer because of an overpayment of Sales Tax.

3.1.13 "**Store**" means the Retailer warehouse club retail store that Company will cause to locate and operate at the Property.

3.1.14 "**Term**" shall mean that period commencing as of the first day of the first full Fiscal Quarter and ending on the tenth (10^{th}) year anniversary of such date, unless earlier terminated as provided by this Agreement.

ARTICLE 4.

GENERAL TERMS

4.1 Location and Operation of Store within City.

4.1.1. As a condition of receiving City Payments, Company will construct improvements outlined in the attached Exhibit "C" that will benefit the City and Company and will cause Retailer to establish and operate the Store at the Property. As a condition of receipt of City Payments, the Store must open for business no later than January 1, 2016. For purposes of this Agreement, the Store shall be deemed open for business if the Store is open to the public for the purpose of retail sales in a manner substantially similar to other Retailer stores in Central California.

4.1.2 As a further condition of Company's receipt of City Payments, Retailer must maintain a retail sales tax permit for the Store with the SBE and file with the SBE sales reports for all Retail Sales occurring at the Store.

4.2 City Payment.

4.2.1 Calculation. As consideration for Company's construction of the improvements set forth in the attached Exhibit "C" and the establishment and continued operation of the Store at the Property, City shall pay Company the City Payment if Retail Sales for a Fiscal Quarter are greater than FIVE MILLION, SEVEN HUNDRED FIFTY THOUSAND and NO/100 DOLLARS ($5,750,000.00) ("**Threshold Amount**"). Each City Payment shall be one-half (1/2) of Local Sales Tax Revenues for each Fiscal Quarter during which the Threshold Amount is attained.

4.2.2. Deadline for Payment. City Payment for a Fiscal Quarter during which the Threshold Amount is attained will be made within sixty (60) calendar days following the later of: (i) the receipt by City of the quarterly final reconciliation reports from the SBE relating to such Fiscal Quarter occurring within the Term; or (ii) City's actual receipt of the Local Sales Tax Revenues for the Fiscal Quarter.

4.2.3 Payment Cap and Automatic Termination.

4.2.3.1 This Agreement shall automatically terminate when City Payments total TWO MILLION and NO/100 DOLLARS ($2,000,000.00) ("**Maximum Rebate Amount**").

4.2.3.2 In the event a City Payment for a Fiscal Quarter would cause the total of all City Payments made to Company to exceed the Maximum Rebate Amount, the final City Payment shall be limited to the amount that would cause the total of all City Payments to equal the Maximum Rebate Amount.

4.2.3.3 If there is an overpayment by City that causes the total of all City Payments to exceed the Maximum Rebate Amount, Company shall refund to City the overage within thirty (30) calendar days of Company's receipt of City's request for repayment.

4.2.3.4 This Agreement shall cease to be effective upon the earlier of the following events: (i) expiration of the term identified in Section 3.1.14; or (ii) Company's receipt of a City Payment that causes the total City Payments received by Company hereunder to equal the Maximum Rebate Amount. The term hereof, as identified in Section 3.1.14 hereinabove, shall ***not*** be automatically extended in the event this Agreement expires before City Payments to Company total the Maximum Rebate Amount.

4.2.4 Conditions Precedent to City Payment. City's obligations under this Section 4.2 to render a City Payment are contingent upon the satisfaction of the following conditions precedent for such Fiscal Quarter:

(i) City's receipt of Local Sales Tax Revenue; and

(ii) Satisfaction of the conditions identified in Section 4.1 above.

4.2.5 Adequate Consideration.

4.2.5.1 Each City Payment due and payable shall constitute the total payment to Company for the Fiscal Quarter to which it relates, and shall be paid by City for and in consideration of Company causing Retailer to establish and operate the Store at the Property during such Fiscal Quarter. The Parties have determined and agreed that City Payment due and payable during each Fiscal Quarter represents fair consideration to Company for its covenants and obligations hereunder.

4.2.5.2 Both City and Company expressly acknowledge and agree that Company will receive no compensation under this Agreement other than City Payment. Company will not be entitled to any reimbursement or other compensation from City for any costs incurred by Company in performing, preparing to perform or continuing its obligations under this Agreement for the term of the Agreement.

4.2.6 Recapture of City Payments.

4.2.6.1 If, at any time during or after the Term of this Agreement, the SBE determines that all or any portion of the Local Sales Tax Revenues received by City were improperly allocated and/or paid to City (an "**improper allocation**"), and if SBE requires repayment of, offsets against future Sales Tax payments, or otherwise recaptures from City those improperly allocated and/or paid Local Sales Tax Revenues, then Company shall, within thirty (30) calendar days after written demand from City, repay all City Payments (or applicable portions thereof) theretofore paid to Company which are attributable to such repayment, offset or recaptured Local Sales Tax Revenues. If Company fails to make such repayment within thirty (30) calendar days after City's written demand, then: (i) such obligation shall accrue interest from the date of City's original written demand at the then maximum legal rate imposed by the California Code of Civil Procedure on prejudgment monetary obligations, compounded monthly, until paid; and (ii) City may deduct the amount owed by Company, including accrued interest, from any future City Payment due hereunder.

4.2.6.2 City and Company agree that, should the SBE question the correctness of the allocation or determine that there has been an improper allocation to City, City shall defend such allocation in all SBE administrative proceedings unless City, in good faith, determines that an improper allocation occurred. For purposes of this Section, administrative proceedings include all SBE meetings, conferences, and appeals before SBE Board Members. Company will cooperate fully with City and its attorneys, and shall have the right to be present at and participate in all SBE administrative proceedings. The reasonable costs incurred by City and Company in connection with SBE administrative proceedings will be shared and borne fifty percent (50%) by Company and fifty percent (50%) by City. In the event that the amount of Local Sales Tax Revenue received by City, less City Payment at the time of initiation of such proceeding, is not sufficient to pay City's share of such costs, Company agrees that it will

advance the funds necessary to pay City's share of such costs and allow City to repay Company out of future Local Sales Tax Revenue. Notwithstanding the foregoing payment of reasonable costs, costs incurred by Company that are included in the sum of the reasonable costs shall be limited to attorneys' fees and costs.

4.2.7 Supplemental City Payments. If SBE determines that an insufficient amount in Local Sales Tax Revenue was paid to the City during the term of this Agreement and the City receives a supplemental payment, City will, within thirty (30) calendar days of its receipt of such supplemental payment pay one-half (1/2) of such amount to Company if the supplemental payment relates back to a Fiscal Quarter during which the Threshold Amount was attained; provided however, no such supplemental payment shall be made to Company if Company has already received the Maximum Rebate Amount.

4.2.8 Audit of Books and Records. City shall, once per calendar year and upon no less than seventy-two (72) hours prior written request from Company, make available to Company and/or its designees (including its accountants and/or attorneys) City's books and records relating to the calculation and determination of the amounts payable hereunder; provided however, nothing herein shall be deemed to abridge or constitute a waiver of City's evidentiary rights and privileges arising pursuant to any provision of law or require the City to disclose information that is protected, privileged, confidential, proprietary, or non-disclosable under state or federal law. Company shall bear the costs of its own auditors, experts and other consultants it may engage to complete its investigation of the City's books and records.

4.3 Event of Default.

4.3.1 Each of the following shall constitute an "**Event of Default**":

(i) Failure by a Party to comply with and observe any of the conditions, terms, or covenants set forth in this Agreement, if such failure remains uncured within thirty (30) days after written notice of such failure from the non-defaulting Party to the defaulting Party in the manner provided herein, or, with respect to a default that cannot be cured within thirty (30) days, if the defaulting Party fails to commence such cure within such thirty (30) day period or thereafter fails to diligently and continuously proceed with such cure to completion; however, if a different period, notice requirement, or remedy is specified under any other Section of this Agreement, then the specific provision shall control;

(ii) Any representation or warranty contained in this Agreement or in any application, financial statement, invoice, certificate, or report submitted pursuant to this Agreement proves to have been incorrect in any material respect when made.

4.3.2 In the event of a default by Company that cannot be cured within thirty (30) days of its receipt of a written notice from City, City may withhold City Payments until the default is cured. When the default is fully cured, in City's reasonable judgment, City will pay to Company, without interest, all City Payments that were withheld during the cure period. If Company commences to cure the default but fails to complete such efforts and this Agreement is

terminated by City in accordance with Section 4.7 hereinbelow, City will have no obligation to pay to Company any portion of City Payments that were withheld as a result of Company's default.

4.4 Rights and Remedies; Rights and Remedies Not Exclusive. Unless prohibited by law or otherwise provided by a specific term of this Agreement, the rights and remedies of Company and City under this Agreement are nonexclusive and all remedies hereunder may be exercised individually or cumulatively.

4.4.1 Rights not Granted under Agreement. This Agreement is not, and shall not be construed to be, a statutory development agreement under Government Code Section 65864 *et seq.*, or a disposition and development agreement under Health and Safety Code Section 33000 *et seq.* This Agreement is not, and shall not be construed to be, an approval of or an agreement to issue permits or a granting of any right or entitlement by City concerning any project, development, construction by Company in City. This Agreement does not and shall not be construed to exempt Company in any way from the requirement to obtain permits and/or other discretionary or non-discretionary approvals, including, without limitation, an amendment of City's General Plan to modify the Property's zoning designation, as may be necessary for the development of the Property. Likewise, this Agreement does not exempt Company from compliance with the California Environmental Quality Act; City makes no representations or warranties as to the certification of any Environmental Impact Report that may be required for the development of the Property. This Agreement does not, and shall not be construed to, exempt Company or Retailer from the application and/or exercise of City's power of eminent domain or its police power, including, but not limited to, the regulation of land uses and the taking of any actions necessary to protect the health, safety and welfare of its citizenry.

4.5 No Financial Assistance. Except as set forth in Section 4.7 below, Company covenants and agrees for the period beginning on the Effective Date and continuing until and including the termination of this Agreement, Company will not directly or indirectly solicit or accept any Financial Assistance (as defined below) from any other public or private person or entity, to the extent such Financial Assistance is given for the purpose of causing or would result in either relocation or closure of the Store or termination of this Agreement. For purposes of this Section 4.5, the term "**Financial Assistance**" means any direct or indirect payment, subsidy, rebate, or other similar or dissimilar monetary or non-monetary benefit including, without implied limitation, payment of land subsidies, relocation expenses, public financings, property or sales tax relief or rebates, relief from public improvement obligations, and payment for public improvements to or for the benefit of Company. This section shall not be interpreted to prohibit Company's receipt of funds generated from the sale of Community Facilities District bonds that may the finance the construction of public improvements associated with the Property or from the receipt of reimbursement payments from City under other agreements.

4.6 Sole Compensation. Both City and Company expressly acknowledge and agree that Company will receive no compensation under this Agreement other than City Payments.

4.7 Termination.

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4.7.1 In the event of a failure by a Party to comply with its obligations hereunder, and a failure by the Party to cure such default, the non-defaulting Party shall have the right by written notice to Company to terminate this Agreement as of the date when the defaulting Party's right to cure such default expires.

4.7.2 This Agreement shall automatically terminate in the event a court of competent jurisdiction determines that Local Sales Tax Revenues were improperly received by City. If said court of competent jurisdiction orders City to pay such improperly received Local Sales Tax Revenues as damages to a third party, and Company received City Payments attributable to such improperly received Local Sales Tax Revenues, Company shall repay all City Payments attributable to such improperly received Local Sales Tax Revenue to City within thirty (30) calendar days after written demand by City. This obligation to repay City Payments attributable to improperly received Local Sales Tax Revenue shall apply irrespective of whether Company is in default under this Agreement. Should Company owe money to City at the time this Agreement is terminated, City may offset such amounts owed to City against amounts payable by City to Company.

4.7.3 Upon the termination of this Agreement, all executory obligations that accrue or arise subsequent to the date of termination shall also terminate, but, except as otherwise provided herein, obligations that have accrued or arisen prior to such termination shall remain in full force and effect. Without limiting the generality of the foregoing, no termination of this Agreement shall discharge Company from any obligation to refund to City any City Payment(s) as required by any provision of this Agreement.

4.8 City and Company Representations and Warranties. All of the foregoing representations and warranties are made according to City's and Company's actual knowledge as of the Effective Date, without having undertaken any independent inquiry or investigation for the purpose of making such representation or warranty and without any duty of inquiry or investigation.

4.8.1 City Representations and Warranties.

4.8.1.1 City is a California municipal corporation and general law city and has full legal right, power and authority to enter into this Agreement and to carry out and consummate all transactions contemplated hereby and thereby, and by proper action, City has duly authorized the execution and delivery of this Agreement.

4.8.1.2 The representatives of City executing this Agreement are fully authorized to execute the same pursuant to official action taken by City.

4.8.1.3 This Agreement has been duly authorized, executed and delivered by City and, assuming due execution and delivery by Company, constitutes the legal, valid and binding agreement of City, enforceable against City in accordance with its terms, except as the same may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or

similar laws in effect from time to time relating to or affecting the enforcement of creditor's rights generally and by general principles of equity (regardless of whether enforcement is sought in a proceeding in equity or at law).

4.8.1.4 The execution and delivery of this Agreement, the consummation of the transactions on the part of City contemplated and the fulfillment of or compliance by City with the terms and conditions hereof, do not and will not conflict with or constitute a violation or breach of or default (with due notice or the passage of time or both) under any applicable law or administrative rule or regulation, or any applicable court or administrative decree or order, or any indenture, mortgage, deed of trust, lease, contract or other agreement or instrument to which City is a party or by which it or its properties are otherwise subject or bound, or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of City, which conflict, violation, breach, default, lien, charge or encumbrance would have consequences that would materially and adversely affect the consummation of the transactions on the part of City contemplated by this Agreement or the financial condition, assets, properties or operations of City.

4.8.1.5 There is no action, suit, proceeding, inquiry or investigation before or by any court or federal, state, municipal or other governmental authority pending or, to the actual knowledge of City, threatened against or affecting City or the assets, properties or operations of which, if determined adversely to City or its interests, would have a material and adverse effect upon the consummation of the transactions contemplated by or the validity of this Agreement, or upon the financial condition, assets, properties or operations of City, and City is not in default with respect to any order or decree of any court or any order, regulation or demand of any federal, state, municipal or other governmental authority, which default might have consequences that would materially and adversely affect the consummation of the transactions contemplated by this Agreement or the financial conditions, assets, properties or operations of City.

4.8.1.6 City and its appointed and elected officials, officers, employees, agents, contractors, consultants, and representatives and Company and its officers, employees, agents, consultants and representatives agree to maintain the confidentiality of the terms of the Agreement, except where required by law. Company acknowledges and understands that City is subject to various statutes and regulations that dictate government transparency; as a result, City will disclose the provisions of this Agreement and the negotiation thereof as required by State law.

4.8.2 Company's Representations and Warranties.

4.8.2.1 Company has full legal right, power and authority to enter into this Agreement and to carry out and consummate all transactions contemplated hereby and, thereby, and by proper action Company has duly authorized the execution and delivery of this Agreement.

4.8.2.2 The representatives of Company executing this Agreement are fully authorized to execute the same pursuant to official action taken by Company.

4.8.2.3 This Agreement has been duly authorized, executed and delivered by Company and, assuming due execution and delivery by Company, constitutes the legal, valid and binding agreement of Company, enforceable against Company in accordance with its terms, except as the same may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws in effect from time to time relating to or affecting the enforcement of creditor's rights generally and by general principles of equity (regardless of whether enforcement is sought in a proceeding in equity or at law).

4.8.2.4 The execution and delivery of this Agreement, the consummation of the transactions on the part of Company contemplated and the fulfillment or compliance by Company with the terms and conditions hereof, do not and will not conflict with or constitute a violation or breach of or default (with due notice or the passage of time or both) under any applicable law or administrative rule or regulation, or any applicable court or administrative decree or order, or any indenture, mortgage, deed of trust, lease, contract or other agreement or instrument to which Company is a party or by which it or its properties are otherwise subject or bound, or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of Company, which conflict, violation, breach, default, lien, charge or encumbrance would have consequences that would materially and adversely affect the consummation of the transactions on the part of Company contemplated by this Agreement or the financial condition, assets, properties or operations of Company.

4.8.2.5 There is no action, suit, proceeding, inquiry or investigation before or by any court or federal, state, municipal or other governmental authority pending or, to the knowledge of Company, threatened against or affecting Company or its interests, which, if determined adversely to Company or its interests, would have a material and adverse effect upon the consummation of the transactions contemplated by or the validity of this Agreement, or upon the financial condition, assets, properties or operations of Company, and Company is not in default with respect to any order or decree of any court or any order, regulation or demand of any federal, state, municipal or other governmental authority, which default might have consequences that would materially and adversely affect the consummation of the transactions contemplated by this Agreement or the financial conditions, assets, properties or operations of Company.

4.8.2.6 Company acknowledges and agrees that the execution of this Agreement by City does not, in any away, constitute, nor shall the same be inferred to be, an approval by City of any aspect of Company's proposed development project. Company must obtain all necessary approvals and satisfy all applicable statutes, laws, ordinances, rules, and regulations for the design, construction, and operation of the Store. City's execution of this Agreement does not constitute a waiver by City of any applicable laws, regulations, requirements, permits, fees, or agreements pertaining to or affecting the design, construction, and operation of the Store.

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4.9 Indemnification and Defense of Agreement.

4.9.1 Company shall indemnify, hold harmless, save and defend (with counsel reasonably acceptable to City) City and its appointed and elected officials, officers, employees, agents, contractors, consultants, and representatives from and against any and all claims, demands, damage, cause of action, liens, liability, loss, damage, fines, penalties, cost and expense, including reasonable attorneys' fees, or other amounts arising out of or in connection with: (i) any challenge that this Agreement and/or any City Payment made hereunder are impermissible, improper, or illegal; (ii) any overpayment to Company or any amount that Company may owe to City hereunder; and (iii) the acts and omissions of the Parties. The foregoing shall not, however, apply to claims or actions caused by the gross negligence or intentional misconduct of City and its appointed and elected officials, officers, employees, agents, and representatives. This indemnity provision shall apply to any claim or cause of action initiated in state or federal court.

4.9.2 In addition to the foregoing, in the event that an appropriate administrative agency or court considers whether any construction performed by Company within City's boundaries constitutes a public work subject to prevailing wages and/or determines that such construction does constitute a public work subject to prevailing wages, Company shall indemnify, hold harmless and defend (with counsel reasonably acceptable to City) City and its appointed and elected officials, officers, employees, agents, contractors, consultants, and representatives against any claim for damages, compensation, fines, penalties or other amounts arising out of the failure or alleged failure of any person or entity (including Company, its contractors and subcontractors) to pay prevailing wages as required by law or to comply with the other applicable provisions of Labor Code sections 1720, et seq., and implementing regulations in connection with any other work undertaken by Company or its contractors or subcontractors in connection with the Property. The foregoing indemnity shall survive any termination of this Agreement.

4.9.3 In the event any person or entity, other than City or Company, attempts to enjoin or otherwise challenge the validity of any recital or provision of this Agreement, both City and Company agree to vigorously defend this Agreement and hereby agree that each will not take a position adverse to enforcement of this Agreement. If either City or Company is made a party to any such challenge to this Agreement, the Company will be solely responsible for any and all costs associated with the cost of the defense of such challenge in accordance with this Section 4.9, and City and its appointed and elected officials, officers, employees, agents, contractors, consultants, and representatives shall be held harmless from any costs incurred in such defense.

4.10 Amendment of Agreement. Any amendment to this Agreement shall only be by written agreement signed by City and Company. Should Retailer sell the building from which the Store operates to another retailer, Company may seek an amendment to this Agreement under which Company would receive sales tax incentive payments based upon the sales tax generated for City by the new retailer; provided however, the new retailer, at a minimum, must generate the Threshold Amount per Fiscal Quarter and must satisfy the requirements of City's Sales Tax

Incentive Program. City shall negotiate an amendment to this Agreement in good faith; provided however, such duty to negotiate shall not constitute an automatic approval by City of any entitlements or a waiver of any requirements or conditions that must otherwise be satisfied for the new retailer's operations at the Property.

4.11 California Law. This Agreement shall be construed and governed in accordance with the laws of the State of California.

4.12 Execution in Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.

4.13 Tax Consequences. Company shall be responsible for federal, state and/or local income taxes resulting from its receipt of City Payments.

4.14 Notices and Demands. All notices or other communications required or permitted between City and Company under this Agreement shall be in writing, and may be: (i) personally delivered; (ii) sent by United States certified mail with return receipt requested; (iii) sent by telecopy; or (iv) sent by nationally recognized overnight courier service (e.g., Federal Express, UPS, , etc.), and addressed to the Parties at the addresses provided in Article 1 above, subject to the right of either Party to designate a different address for itself by notice similarly given. Any notice so given by registered or certified United States mail shall be deemed to have been received on the third (3rd) Business Day after the same is deposited in the United States mail. Any notice not so given by registered or certified mail, such as notices delivered personally or by telecopy or courier service, shall be deemed received upon actual receipt of the same by the Party to whom the notice is given.

4.15 Nonliability of City Officials and Employees. No appointed or elected official, officer, employee, agent, contractor, consultant, or representative of City shall be personally liable to Company, any voluntary or involuntary successors or assignees, or any lender or other party holding an interest in Company's property, in the event of any default or breach by City, or for any amount which may become due to Company or to its successors or assignees, or on any obligations arising under this Agreement.

4.16 Nonliability of Company Officials and Employees. No member, manager, officer, contractor, consultant, attorney or employee of Company shall be personally liable to City, any voluntary or involuntary successors or assignees in the event of any default or breach by Company, or for any amount that may become due to City or to its successors or assignees, or on any obligations arising under this Agreement.

4.17 Entire Agreement. This Agreement contains all of the terms and conditions agreed upon by the Parties. No other understanding, oral or otherwise, in direct conflict with this Agreement shall be deemed to exist or to bind any of the Parties hereto. All prior written or oral offers, counteroffers, memoranda of understanding, proposals and the like are superseded by this Agreement.

4.18 Extensions and Delays; No Excuse Due to Economic Changes. Time is of the essence in the performance of the obligations of City and Company under this Agreement. In addition to specific provisions of this Agreement providing for extensions of time, times for performance hereunder shall be extended where delays in performance are due to war, insurrection, any form of labor dispute, lockouts, riots, floods, earthquakes, fires, acts of God or of third parties, third party litigation, acts of a public enemy, acts of governmental authorities, epidemics, quarantine restrictions, and freight embargoes (collectively "**Enforced Delays**"); provided, however, that the Party claiming the extension must notify the other Party in writing of the nature of the matter causing the default; and, provided further, that the extension of time shall be only for the period of the Enforced Delays. However, deadlines for performance may not be extended as provided above due to any inability of Company to obtain or maintain financing for the design, construction, or operation of the Store or due to City's inability to make City Payments due and payable to Company. In no event shall either Party be deemed in default of this Agreement because of an Enforced Delay event.

4.19 Attorney's Fees. In the event of the bringing of an action or suit by a Party hereto against another Party hereunder by reason of any breach of any of the covenants or agreements or any intentional inaccuracies in any of the representations and warranties on the part of the other Party arising out of this Agreement or any other dispute between the Parties concerning this Agreement then, in that event, the prevailing Party in such action or dispute shall be entitled to have and recover of and from the other Party all costs and expenses of suit or claim, including actual attorneys' fees and expert witness fees. Any judgment, order or award shall contain a specific provision providing for the recovery of all costs and expenses of suit or claim, including actual attorneys' fees and expert witness fees (collectively "**Costs**") incurred in enforcing, perfecting and executing such judgment or award. For the purposes of this Section 4.19, Costs shall include, without implied limitation, attorneys' and experts' fees, costs and expenses incurred in the following: (i) post judgment motions and appeals; (ii) contempt proceedings; (iii) garnishment, levy and debtor and third party examination; (iv) discovery; and (v) bankruptcy litigation. This Section 4.19 shall survive any termination of this Agreement.

4.20 Jurisdiction and Venue. Any legal action or proceeding concerning this Agreement shall be filed and prosecuted in the Superior Court for the County of Kings, California, if state court, or the United States District Court for the Eastern District of California, Fresno Division, if federal court. Both Parties hereto irrevocably consent to the personal jurisdiction of those courts. City and Company each hereby expressly waive the benefit of any provision of federal or state law or judicial decision providing for the filing, removal, or change of venue to any other court or jurisdiction.

4.21 Interpretation. City and Company acknowledge that this Agreement is the product of mutual arms-length negotiation and drafting and that both Parties have been represented by legal counsel in the negotiation and drafting of this Agreement. Accordingly, the rule of construction which provides that ambiguities in a document shall be construed against the drafter of that document shall have no application to the interpretation and enforcement of this Agreement. In any action or proceeding to interpret or enforce this Agreement, the finder of fact

may refer to any extrinsic evidence not in direct conflict with any specific provision of this Agreement to determine and give effect to the intention of the Parties with respect to any ambiguities in this Agreement.

4.22 No Waiver. Failure to insist on any occasion upon strict compliance with any of the terms, covenants or conditions hereof shall not be deemed a waiver by any Party of such term, covenant or condition, nor shall any waiver or relinquishment of any rights or powers hereunder at any one (1) time or more times be deemed a waiver or relinquishment by any Party of such other right or power at any other time or times.

4.23 Successors and Assigns. The terms, covenants and conditions of this Agreement shall be binding upon and inure to the benefit of the Parties hereto and their voluntary and involuntary successors and assigns.

4.24 No Third Party Beneficiaries. The performance of the respective obligations of City and Company under this Agreement are not intended to benefit any party other than City or Company, except as expressly provided otherwise herein. No person or entity not a signatory to this Agreement shall have any rights or causes of action against any Party to this Agreement as a result of that Party's performance or non-performance under this Agreement, except as expressly provided otherwise herein.

4.25 Warranty Against Payment of Consideration for Agreement. Company warrants that it has not paid or given, and will not pay or give, any third party any money or other consideration for obtaining this Agreement. Third parties, for the purposes of this Section 4.25, shall not include persons to whom fees are paid for professional services if rendered by attorneys, financial consultants, accountants, engineers, architects and the like when such fees are considered necessary by Company.

4.26 Severability. City and Company declare that the provisions of this Agreement are severable. If it is determined by a court of competent jurisdiction that any term, condition or provision hereof is void, voidable, or unenforceable for any reason whatsoever, then such term, condition or provision shall be severed from this Agreement and the remainder of the Agreement enforced in accordance with its terms.

4.27 Further Acts and Releases. City and Company each agrees to take such additional acts and execute such other documents as may be reasonable and necessary in the performance of their obligations hereunder.

4.28 No Pledge or Hypothecation of This Agreement. Company may not assign, transfer, encumber, or hypothecate its rights and/or obligations under this Agreement without the express written consent of City. Any unpermitted assignment, transfer, pledge, encumbrance, or hypothecation, or any attempt thereat, shall not confer any rights upon the purported assignee/transferee and shall constitute Company's immediate and incurable material default of this Agreement, and City may, without providing Company notice or opportunity to cure, exercise those remedies available to City herein.

4.29 Limitation on Liability of City; Limitation on Remedies. Except as otherwise provided herein, the liability of City under this Agreement shall be limited solely to the amount of City Payments, and in no event shall any recourse against any of the other assets of City be available to Company except where gross negligence or willful misconduct is conducted by the City, its appointed and elected officials, officers, employees, agents, contractors, consultants, and representatives.

4.30 Relationship of Parties. The Parties shall not be deemed in a relationship of partners or joint ventures by virtue of this Agreement, nor shall either Party be an agent, representative, trustee or fiduciary of the other. Neither Party shall have any authority to bind the other to any agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in Hanford, Kings County, California.

198/43, LLC
a California limited liability company

By: Its Managing Partner,

Dated: _____, 2014

CADDIS PROPERTIES, LLC,

_____
John Kashian, President and CEO

CITY OF HANFORD

Dated: _____, 2014 By: _____

_____
Mayor

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EXHIBIT “A”

(Legal Description)

DRAFT

EXHIBIT “B”

(site plan)

DRAFT

EXHIBIT "C"

(public improvements associated with the Property's development)

- Sidewalks along E. Lacey Blvd.
- Street lighting along E. Lacey Blvd.
- Traffic signal on E. Lacey Blvd. at Property's main entrance.
- Landscaping and hardscape within E. Lacey Blvd. median islands constructed by Company.
- Utility relocations along E. Lacey Blvd.
- Sewer and water improvements along Property's frontage.
- Storm drainage and basin for storm water from E. Lacey Blvd.

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RESOLUTION NO. 12-43-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HANFORD STATE OF CALIFORNIA, AMENDING THE SALES TAX INCENTIVE PROGRAM

At a regular meeting of the City Council of the City of Hanford, duly called and held on November 20, 2012, at 7:00 p.m., and upon a motion by Council Member Chin and seconded by Council Member Martinez and duly carried, the following resolution was adopted:

WHEREAS, the City Council adopted Resolution 11-28-R approving the Sales Tax Incentive Program; and

WHEREAS, the City Council wants to continue the program and revise the Program to allow Businesses and/or Developers to receive sales tax incentive funds upon the location of a retail business within the City's boundaries; and

WHEREAS, current economic recession has stifled commercial development in the City; and

WHEREAS, the recession has negatively impacted the City's income; and

WHEREAS, the attraction of new businesses would result in increased sales tax revenue to the City; and

WHEREAS, it would be in the City's best interest to revise the incentive program in order to attract new businesses to the City; and

WHEREAS, the revised sales tax incentive program could attract retail businesses not currently located in the City and result in new sales tax revenue to the City; and

WHEREAS, an increase in the City's sales tax revenue would serve the City's best interest in such difficult economic times by bolstering the City's income.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Hanford, does hereby adopt the REVISED SALES TAX INCENTIVE PROGRAM attached hereto as Exhibit "A" and incorporated herein by reference and directs the City Manager and his staff to

City of Original Hanford

carry out the terms of the program.

I HEREBY CERTIFY that the foregoing Resolution was passed and adopted by the Council of the City of Hanford at a regular meeting thereof held on November 20, 2012 by the following vote:

AYES:	Councilmembers Martinez, Chin, Jameson, Sorensen
NOES:	None
ABSTAINED:	None
ABSENT:	Councilmember Irwin

ATTEST:

Linda Rodriquez

LINDA RODRIQUEZ, CMC
INTERIM CITY CLERK and Ex Officio Clerk
of the Council of the City of Hanford

APPROVED

Sue Sorensen

SUE SORENSEN
MAYOR of the City of Hanford

Attachments: Exhibit "A"

City of Hanford Original

SALES TAX INCENTIVE PROGRAM

* * * * *

1. **Purpose**: The purpose of the City of Hanford ("City") Sales Tax Incentive Program ("Program") is to attract businesses to the City with public sector support. This Program is meant to attract new investment dollars of businesses that are not currently serving the City. The Program is intended to use sales tax rebates as the incentive.

2. **Eligibility**: To be an eligible applicant for the Program, an applicant must be a business or must cause a business to locate within the City's boundaries which meets the following criteria:

   a. The business must be an entity that engages in retail sales within the City;

   b. The business' point of sale must be within the City;

   c. The business must not currently be located within the City;

   d. Applicant must provide five (5) years of actual annual sales for its two (2) closest locations, or, at the City's designation, two (2) locations within California with the closest demographics to the City;

   e. The business may not be a vehicle dealer or a big box retailer that is relocating from another jurisdiction within California that is subject to the provisions of Government Code Section 53084 or 53084.5;

   f. The business must generate a minimum of twenty-three million dollars ($23,000,000.00) annually in taxable sales revenue; and

   g. The applicant and the business must satisfy all other requirements and conditions identified by the City for the specific project.

3. **Procedure**:

   a. Application. An eligible applicant must complete an application form provided by the City and/or will provide the information requested by the City. Each applicant will provide basic information about the new business, including, but not limited to: (i) a description of the business; (ii) projected annual sales; (iii) the number of new jobs within the City it will create; and (iv) the improvements to be constructed.

   b. Evaluation and Preparation of Contract. City staff will review the information provided by an applicant. If the applicant's information is complete and meets the threshold requirements identified above, Staff will confer with the City Council and will receive direction. The City Council may, without limitation, direct City

City of Hanford Original

staff obtain additional information or to prepare a written contract ("Contract") in a form approved by the City Attorney, which includes, but is not limited to, the following provisions:

i. The period of time that the sales tax rebate will remain in effect;

ii. The amount of sales tax that will be rebated and the manner in which rebates will be calculated;

iii. Restriction against opening the same or similar business within the City during the term of the Agreement;

iv. A requirement to pay prevailing wages pursuant to Labor Code Section 1720 et seq., as may be amended;

v. A requirement that the business' books, records, and accounts be open to and available for inspection by the City for monitoring purposes, upon reasonable notice;

vi. A requirement that the business obtain a City business license and comply with all laws and regulations; and

vii. A provision indemnifying, defending, and holding the City harmless with respect to any claim of violation of Government Code Section 53084 or 53084.5, or any other federal, state, or local law, statute, ordinance, rule, or regulation pertaining to the financial assistance that is the subject of the Contract.

e. City Council Review and Decision. The proposed Contract will be submitted to the City Council for its review and decision. Approval of a Contract is within the complete discretion of the City Council. In making a decision whether to approve a Contract, the City Council may take into account the direct public benefits to the City that will result from the subject business. The City Council possesses the sole discretion and absolute authority in determining whether to enter into a Contract with an applicant. The City does not warrant, represent, or guarantee that the City will enter into a Contract with any particular business.

City of Hanford Original

RESOLUTION NO. 12-44-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HANFORD EXTENDING THE TEMPORARY AMOUNT OF IMPACT FEES FOR DEVELOPMENT PROJECTS

At a regular meeting of the City Council of the City of Hanford, duly called and held on November 20, 2012 at 7:00 p.m., and upon a motion by Council Member Chin and seconded by Council Member Martinez and duly carried, the following resolution was adopted:

WHEREAS, subject to applicable provisions of California law, development impact fees may be established and charged to pay for the cost of development and construction of public facilities and capital improvements and the purchase of equipment needed as a result of new development; and

WHEREAS, Chapters 15.44, 15.45, 15.46, 15.47, 15.48, 15.49, 15.50. and 15.51 of Title 15 of the City of Hanford Municipal Code requires the payment of Impact Fees for Parks, Transportation, Fire, Police, Storm Drain, Water, Sanitary Sewer, and Refuse/Recycling as a condition of approval of development projects for the purpose of defraying the costs of infrastructure and other facilities for the City of Hanford needed as a result of new development projects; and

WHEREAS, the City is in an unprecedented downturn in the economy that has been in effect since 2008 and, in an effort to stimulate the local economy, the City Council has looked at several options; and

WHEREAS, a City Council Study Session was held on May 17, 2011, at which time staff was directed to prepare necessary documentation to allow for an 18-month reduction in the development impact fees; and

WHEREAS, the City Council adopted Resolution 11-26-R approving the 18-month reduction in Development Impact Fees; and

WHEREAS, the 18-month period will expire on December 21, 2012; and

WHEREAS, the continued reduction of development impact fees for an additional 18-month period commencing December 21, 2012 will further stimulate the local economy.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Hanford, in accordance with the provisions of Title 15 of the City of Hanford Municipal Code and Government Code Section 66000, et. seq., as follows:

1. All provisions set forth above are true and correct and are hereby incorporated herein by reference as findings.
2. Development Impact Fees shall remain temporarily reduced in the manner shown in the attached Exhibit "A". The reduced Development Impact Fees shown in the attached Exhibit "A" will automatically expire June 21, 2014 and will revert to the levels that existed on June 21, 2011. The reduced Development Impact Fees shall apply to projects for which a complete set of building plans, as identified by the City, are submitted to the City during the continued program period. The fees will not be retroactive for any project for which a complete set of building plans, as identified by the City, were submitted to the City prior to the adoption of Resolution 11-26-R.

I HEREBY CERTIFY that the foregoing Resolution was passed and adopted by the Council of the City of Hanford at a regular meeting thereof held on November 20, 2012 by the following vote:

AYES:	Councilmembers Martinez, Chin, Jameson, Sorensen
NOES:	None
ABSTAINED:	None
ABSENT:	Councilmember Irwin

ATTEST:

MELONIE PATRICK
CITY CLERK and Clerk of the
Council of the City of Hanford

APPROVED

LOU MARTINEZ
MAYOR of the City of Hanford

Attached Exhibit "A" (3 pages)

Melonie A. Patrick

From: Ty N. Mizote [tmizote@griswoldlasalle.com]
Sent: Friday, May 10, 2013 5:37 PM
To: Melonie A. Patrick
Cc: Darrel Pyle; Bob Dowd; 'Mario U. Zamora'; Shirley Rebelo; 'Kay Burnett'
Subject: RE: 12-44-R - Impact Fee Reduction extended - CORRECTED 5-10-13

Melonie,

I reviewed the changes to the resolution and listened to the audio of the public hearing that occurred on 11/20/12. I concur that the CC approved the resolution subject to changes specified in the motion and that the resolution was not correctly revised following the vote.

I believe it would be appropriate for you and Mayor Martinez to sign the revised resolution because the version signed last year clearly does not reflect that the C approved on 11/20. The new resolution is not an amendment of the old resolution because the old resolution does not accurately reflect what the CC approved.

We've never run into this issue before. You may want to check with other city clerks regarding the procedure that they use to note a correction to a resolution.

Thanks,

Ty

Ty N. Mizote
GRISWOLD, LaSALLE, COBB,
DOWD & GIN, L.L.P.
111 E. Seventh St.
Hanford, CA 93230
Phone: (559) 584-6656 x113
FAX: (800) 948-2707

From: Melonie A. Patrick [mailto:MPatrick@ci.hanford.ca.us]
Sent: Friday, May 10, 2013 1:18 PM
To: Ty N. Mizote
Cc: 'Mario U. Zamora'; Darrel Pyle
Subject: RE: 12-44-R - Impact Fee Reduction extended - CORRECTED 5-10-13

See attached, changes are called out

From: Ty N. Mizote [mailto:tmizote@griswoldlasalle.com]
Sent: Friday, May 10, 2013 12:53 PM
To: Melonie A. Patrick
Cc: 'Mario U. Zamora'; Darrel Pyle
Subject: RE: 12-44-R - Impact Fee Reduction extended - CORRECTED 5-10-13

What changes were made?

Ty N. Mizote
GRISWOLD, LaSALLE, COBB,
DOWD & GIN, L.L.P.

111 E. Seventh St.
Hanford, CA 93230
Phone: (559) 584-6656 x113
FAX: (800) 948-2707

From: Melonie A. Patrick [mailto:MPatrick@ci.hanford.ca.us]
Sent: Friday, May 10, 2013 12:22 PM
To: Ty N. Mizote; Mario U. Zamora; Darrel Pyle
Subject: 12-44-R - Impact Fee Reduction extended - CORRECTED 5-10-13

The attached is a corrected resolution that was originally signed and attested to by the former Mayor and Interim City Clerk, however it had errors printed in the resolution. I have confirmed with the minutes from the 11/20/12 meeting the needed corrections (as made on the attached).

Since Council and Clerk has changed, does this need to go to the New Council? Or do I just need to add some sort of notice of correction and have the new Mayor sign it?

Thank You,

Melonie Patrick
City Clerk and Clerk to the Council
of the City of Hanford
319 N Douty St
Hanford CA 93230
559-585-2515

RESOLUTION NO. 12-44-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HANFORD EXTENDING THE TEMPORARY AMOUNT OF IMPACT FEES FOR DEVELOPMENT PROJECTS

At a regular meeting of the City Council of the City of Hanford, duly called and held on November 20, 2012 at 7:00 p.m., and upon a motion by Council Member Chin and seconded by Council Member Martinez and duly carried, the following resolution was adopted:

WHEREAS, subject to applicable provisions of California law, development impact fees may be established and charged to pay for the cost of development and construction of public facilities and capital improvements and the purchase of equipment needed as a result of new development; and

WHEREAS, Chapters 15.44, 15.45, 15.46, 15.47, 15.48, 15.49, 15.50. and 15.51 of Title 15 of the City of Hanford Municipal Code requires the payment of Impact Fees for Parks, Transportation, Fire, Police, Storm Drain, Water, Sanitary Sewer, and Refuse/Recycling as a condition of approval of development projects for the purpose of defraying the costs of infrastructure and other facilities for the City of Hanford needed as a result of new development projects; and

WHEREAS, the City is in an unprecedented downturn in the economy that has been in effect since 2008 and, in an effort to stimulate the local economy, the City Council has looked at several options; and

WHEREAS, a City Council Study Session was held on May 17, 2011, at which time staff was directed to prepare necessary documentation to allow for an 18-month reduction in the development impact fees; and

WHEREAS, the City Council adopted Resolution 11-26-R approving the ~~18~~ 18-month reduction in Development Impact Fees; and

18 months from 6-21-11 to 12/21/2013

WHEREAS, the 18-month period will expire on December 31, 2012; and

WHEREAS, the continued reduction of development impact fees for an additional ~~12~~ 18-month period commencing ~~January 1, 2013~~ 12/21/2012 will further stimulate the local economy.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Hanford, in accordance with the provisions of Title 15 of the City of Hanford Municipal Code and Government Code Section 66000, et. seq., as follows:

1. All provisions set forth above are true and correct and are hereby incorporated herein by reference as findings.
2. Development Impact Fees shall remain temporarily reduced in the manner shown in the attached Exhibit "A". The reduced Development Impact Fees shown in the attached Exhibit "A" will automatically expire ~~December 31, 2013~~ June 21, 2014 and will revert to the levels that existed on June 21, 2011. The reduced Development Impact Fees shall apply to projects for which a complete set of building plans, as identified by the City, are submitted to the City during the continued program period. The fees will not be retroactive for any project for which a complete set of building plans, as identified by the City, were submitted to the City prior to the adoption of Resolution 11-26-R.

--oOo--

I HEREBY CERTIFY that the foregoing Resolution was passed and adopted by the Council of the City of Hanford at a regular meeting thereof held on November 20, 2012 by the following vote:

AYES:	Councilmembers Martinez, Chin, Jameson, Sorensen
NOES:	None
ABSTAINED:	None
ABSENT:	Councilmember Irwin

ATTEST:

LINDA RODRIQUEZ, CMC
INTERIM CITY CLERK and Ex Officio Clerk
of the Council of the City of Hanford

APPROVED

SUE SORENSEN
MAYOR of the City of Hanford

Attached Exhibit "A" (3 pages)

DEVELOPMENT IMPACT FEE SCHEDULE EXHIBIT "A"	
FIRE IMPACT FEES (100% COST OF RECOVERY)	
Single Family Residential	$158.30/unit
Multi-family Residential	139.32/unit
Commercial	0.1874/sq. ft.
Industrial	0.0187/sq. ft.
POLICE IMPACT FEES (100% COST OF RECOVERY)	
Single Family Residential	$302.11/unit
Multi-family Residential	265.87/unit
Commercial	0.3577/sq. ft.
Industrial	0.0356/sq. ft.
WATER IMPACT FEES (70% COST OF RECOVERY)	
Single Family Residential	$1,290.25/unit
Multi-family Residential	993.59/unit
Commercial	0.8234/sq. ft.
Industrial	0.7862/sq. ft.
Public Use	0.1702/sq. ft.
Water Meter Inspection Fee (all land uses)	$ 85.00/meter
Backflow Prevention Assembly Inspection Fee (all land uses)	$ 80.00/assembly
WASTEWATER SYSTEM IMPACT FEES (70% COST OF RECOVERY)	
Wastewater Facilities (Collection System,*Treatment Plant, and Pond Relocation) *Note: Wastewater treatment portion of fee is based on standard household strength waste of 200 MG/L B.O.D. and 200 MG/L S.S. and 300 gal./day flow rate	
Single Family Residential	$1,590.56/unit
Multi-family Residential	1,451.61/unit
Commercial	0.9027/sq. ft.
Industrial	0.4512/sq. ft.
Public Use	0.1865/sq. ft.
PARK IMPACT FEES (100% COST OF RECOVERY)	
Single Family Residential	$2,786.85/unit
Multi-family Residential	2,451.87/unit
Senior Housing and Mobile Homes	1,393.43/unit
STORM WATER IMPACT FEES (70% COST OF RECOVERY)	
Original City Limits (OCL) = area bounded by Grangeville Blvd. on the north; Hanford-Armona on the south; 10th Avenue on the east; and 11th Avenue on the west	
Single Family Residential (within OCL)	$1,766.46/gross acre
Single Family Residential (outside OCL)	$3,532.91/gross acre
Multi-family Residential, Commercial & Industrial (within OCL)	$1,766.46/gross acre x "C" / .35 x gross development acres
Multi-family Residential, Commercial & Industrial (outside OCL) * "C" factor = runoff coefficient for that specific type of development	$3,532.91/gross acre x "C" / .35 x gross development acres

DEVELOPMENT IMPACT FEE SCHEDULE
EXHIBIT "A"
(CONTINUED)

REFUSE AND RECYCLING IMPACT FEES (70% COST OF RECOVERY)	
Single Family Residential	$216.71/unit
Multi-Family Residential	97.90/unit
Commercial *	* Subject to impact
Industrial *	assessment per
Other Non-Residential *	service required

*Commercial, Industrial, Other Non-residential

Rear-load refuse truck $123,740/1,758 cubic yard/week = $70.39/cu.yd./week

Rear-load dumpster cost (including sales tax & delivery) 1cu.yd. = $329.33; 2cu.yd. = $394.71; 3cu.yd. = $484.61 (times the number of containers required)

Total Refuse and Recycling Development Impact Fee = Contingent on projected service needed

For example, if the projected refuse service needs require a one cubic yard dumpster emptied once a week, the total RDIF would be $399.72, calculated as follows:

Truck cost share 1 cu. yd. x 1/week x $70.39/cu. yd./wk	$ 70.39
One cubic yard dumpster	329.33
Total	$399.72

If the projected refuse service needs require two 3-cubic yard dumpsters emptied three times a week, the RDIF would be calculated as follows:

Truck cost share 2 (3 cu. yd. x 3/week) x $70.39/cu. yd./wk.	$1,267.02
Two three-cubic yard dumpster (2 x $484.61)	969.22
Total	$2,236.24

DEVELOPMENT IMPACT FEE SCHEDULE
EXHIBIT "A"

TRANSPORTATION IMPACT FEES (70 % COST OF RECOVERY)	
Transportation Facilities - All Land Uses (see chart below for fee based on number of trip ends per use)	$ 181.90/tripend

TRANSPORTATION IMPACT FEES TRIPENDS

CATEGORIES	UNITS	TRIPENDS	FEE
	RESIDENTIAL		
Single Family	D.U.	9.53	$ 1,733.51/D.U.
Apartment	D.U.	6.55	1,191.45/D U.
Condominium	D.U.	5.69	1,035.01/D.U
Mobile Home	D.U.	4.90	891.31/D.U.
Senior Adult Housing	D.U.	3.23	587.54/D.U.
	COMMERCIAL		
General/Specialty Reta'l	1,000 sf	40.58	$ 7,381.50/1000 sf
Shopping Center	1,000 sf	41.42	7,534.30/1000 sf
Discount Store	1,000 sf	30.86	5,613.43/1000 sf
Hardware/Paint Store	1,000 sf	51.03	9,282.35/1000 sf
Furniture Store	1,000 sf	4.98	905.86/1000 sf
Bank	1,000 sf	49.59	9,020.42/1000 sf
Supermarket	1,000 sf	68.65	12,487.44/1000 sf
Convenience Market	1,000 sf	330.00	60,027.00/1000 sf
Gas & Service Station w/Mini-Mart	Fueling Position	90.67	16,492.87/fp
Gas/Service Station	Fueling Position	73.00	13,278.70/fp
Auto Repair/Car Center	1,000 sf	14.00	2,546.60/1000 sf
Car Sales	1,000 sf	14.50	2,637.55/1000 sf
Hotel/Motel	Room	8.95	1,628.01/Room
	RESTAURANT		
Quality	1,000 sf	36.40	6,621.16/1000 sf
High Turnover	1,000 sf	90.22	16,411.02/1000 sf
Fast Food	1,000 sf	220.60	40,127.14/1000 sf
	OFFICE		
General	1,000 sf	8.34	1,517.05/1000 sf
Medical/Dental	1,000 sf	27.31	4,967.69/1000 sf
Government	1,000 sf	68.93	12,538.37/1000 sf
	INDUSTRIAL		
General	1,000 sf	5.43	987.72/1000 sf
Mini-storage	1,000 sf	2.37	431.10/1000 sf
Warehousing	1,000 sf	3.83	696.68/1000 sf

Notes: (A) Tripend rates for other than those listed above shall be determined using trip generation statistics in the Institute of Transportation Engineers Trip General Manual, latest edition.

(B) Tripends for development within the Central Parking and Improvement District shall be reduced by 20% to reflect captured trip rates for multi-use district. (Council Resolution 95-74-R).

(C) Cost of improvement completed by developer on arterial and designated collector streets will be credited against payment of the impact fee for that project.

RESOLUTION NO. 11-26-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HANFORD ESTABLISHING THE TEMPORARY (18 MONTHS) AMOUNT OF IMPACT FEES FOR DEVELOPMENT PROJECTS

At a regular meeting of the City Council of the City of Hanford, duly called and held on June 21, 2011, at 7:00 p.m., and upon a motion by Council Member SORENSEN and seconded by Council Member IRWIN and duly carried, the following resolution was adopted:

WHEREAS, subject to applicable provisions of California law, development impact fees may be established and charged to pay for the cost of development and construction of public facilities and capital improvements and the purchase of equipment needed as a result of new development; and

WHEREAS, Chapters 15.44, 15.45, 15.46, 15.47, 15.48, 15.49, 15.50. and 15.51 of Title 15 of the City of Hanford Municipal Code requires the payment of Impact Fees for Parks, Transportation, Fire, Police, Storm Drain, Water, Sanitary Sewer, and Refuse/Recycling as a condition of approval of development projects for the purpose of defraying the costs of infrastructure and other facilities for the City of Hanford needed as a result of new development projects; and

WHEREAS, the City is in an unprecedented downturn in the economy that has been in effect since 2008 and, in an effort to stimulate the local economy, the City Council has looked at several options; and

WHEREAS, a City Council Study Session was held on May 17, 2011, at which time staff was directed to prepare necessary documentation to allow for an 18-month reduction in the development impact fees; and

WHEREAS, reduction of development impact fees is a temporary measure to stimulate the local economy.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Hanford, in accordance with the provisions of Title 15 of the City of Hanford Municipal Code and Government Code

Section 66000, et. seq., as follows:

1. All provisions set forth above are true and correct and are hereby incorporated herein by reference as findings.

2. Existing Development Impact Fees shall be temporarily reduced in the manner shown in the attached Exhibit "A". Such reduction shall be effective immediately for those projects submitting plans for building permits as of the date of approval of this resolution and forward. The reduced Development Impact Fees shown in the attached Exhibit "A" will automatically expire eighteen (18) months after the effective date of this Resolution and will revert to the levels that existed on the date of the adoption of this Resolution. The reduced Development Impact Fees shall apply to projects for which a complete set of building plans, as identified by the City, are submitted to the City during the 18-month program period. The fees will not be retroactive for any project for which a complete set of building plans, as identified by the City, were submitted to the City prior to the adoption of this Resolution.

Passed and adopted at a regular meeting of the City Council of the City of Hanford duly called and held on the 21st day of June, 2011, by the following vote:

AYES:	Council Member	SORENSEN
		IRWIN
		MARTINEZ
		JAMESON
		CHIN
NOES:	Council Member	NONE
ABSTAIN:	Council Member	NONE
ABSENT:	Council Member	NONE
	APPROVED:	Dan Chin
		Mayor

ATTEST: Karen Madruga
City Clerk

STATE OF CALIFORNIA)
COUNTY OF KINGS) ss.
CITY OF HANFORD)

I, **KAREN MADRUGA**, City Clerk of the City of Hanford, do hereby certify the foregoing resolution was duly passed and adopted by the City Council of the City of Hanford at a regular meeting thereof held on the 21st day of June, 2011.

Date: June 23, 2011

Karen Madruga
City Clerk

DEVELOPMENT IMPACT FEE SCHEDULE EXHIBIT "A"	
FIRE IMPACT FEES (100% COST OF RECOVERY)	
Single Family Residential	$158.30/unit
Multi-family Residential	139.32/unit
Commercial	0.1874/sq. ft.
Industrial	0.0187/sq. ft.
POLICE IMPACT FEES (100% COST OF RECOVERY)	
Single Family Residential	$302.11/unit
Multi-family Residential	265.87/unit
Commercial	0.3577/sq. ft.
Industrial	0.0356/sq. ft.
WATER IMPACT FEES (70% COST OF RECOVERY)	
Single Family Residential	$1,290.25/unit
Multi-family Residential	993.59/unit
Commercial	0.8234/sq. ft.
Industrial	0.7862/sq. ft.
Public Use	0.1702/sq. ft.
Water Meter Inspection Fee (all land uses)	$ 85.00/meter
Backflow Prevention Assembly Inspection Fee (all land uses)	$ 80.00/assembly
WASTEWATER SYSTEM IMPACT FEES (70% COST OF RECOVERY)	
Wastewater Facilities (Collection System,*Treatment Plant, and Pond Relocation) *Note: Wastewater treatment portion of fee is based on standard household strength waste of 200 MG/L B.O.D. and 200 MG/L S.S. and 300 gal./day flow rate	
Single Family Residential	$1,590.56/unit
Multi-family Residential	1,451.61/unit
Commercial	0.9027/sq. ft.
Industrial	0.4512/sq. ft.
Public Use	0.1865/sq. ft.
PARK IMPACT FEES (100% COST OF RECOVERY)	
Single Family Residential	$2,786.85/unit
Multi-family Residential	2,451.87/unit
Senior Housing and Mobile Homes	1,393.43/unit
STORM WATER IMPACT FEES (70% COST OF RECOVERY)	
Original City Limits (OCL) = area bounded by Grangeville Blvd. on the north; Hanford-Armona on the south; 10th Avenue on the east; and 11th Avenue on the west	
Single Family Residential (within OCL)	$1,766.46/gross acre
Single Family Residential (outside OCL)	$3,532.91/gross acre
Multi-family Residential, Commercial & Industrial (within OCL)	$1,766.46/gross acre x "C" / .35 x gross development acres
Multi-family Residential, Commercial & Industrial (outside OCL) * "C" factor = runoff coefficient for that specific type of development	$3,532.91/gross acre x "C" / .35 x gross development acres

DEVELOPMENT IMPACT FEE SCHEDULE
EXHIBIT "A"
(CONTINUED)

REFUSE AND RECYCLING IMPACT FEES (70% COST OF RECOVERY)	
Single Family Residential	$216.71/unit
Multi-Family Residential	97.90/unit
Commercial *	* Subject to impact
Industrial *	assessment per
Other Non-Residential *	service required

*Commercial, Industrial, Other Non-residential

Rear-load refuse truck — $123,740/1,758 cubic yard/week = $70.39/cu.yd./week

Rear-load dumpster cost (including sales tax & delivery) — 1cu.yd. = $329.33; 2cu.yd. = $394.71; 3cu.yd. = $484.61 (times the number of containers required)

Total Refuse and Recycling Development Impact Fee = Contingent on projected service needed

For example, if the projected refuse service needs require a one cubic yard dumpster emptied once a week, the total RDIF would be $399.72, calculated as follows:

Truck cost share 1 cu. yd. x 1/week x $70.39/cu. yd./wk	$ 70.39
One cubic yard dumpster	329.33
Total	$399.72

If the projected refuse service needs require two 3-cubic yard dumpsters emptied three times a week, the RDIF would be calculated as follows:

Truck cost share 2 (3 cu. yd. x 3/week) x $70.39/cu. yd./wk.	$1,267.02
Two three-cubic yard dumpster (2 x $484.61)	969.22
Total	$2,236.24

EXHIBIT "A"

TRANSPORTATION IMPACT FEES (70 % COST OF RECOVERY)	
Transportation Facilities - All Land Uses (see chart below for fee based on number of trip ends per use)	$ 181.90/tripend

TRANSPORTATION IMPACT FEES TRIPENDS

CATEGORIES	UNITS	TRIPENDS	FEE
	RESIDENTIAL		
Single Family	D.U.	9.53	$ 1,733.51/D.U.
Apartment	D.U.	6.55	1,191.45/D.U.
Condominium	D.U.	5.69	1,035.01/D.U.
Mobile Home	D.U.	4.90	891.31/D.U.
Senior Adult Housing	D.U.	3.23	587.54/D.U.
	COMMERCIAL		
General/Specialty Retail	1,000 sf	40.58	$ 7,381.50/1000 sf
Shopping Center	1,000 sf	41.42	7,534.30/1000 sf
Discount Store	1,000 sf	30.86	5,613.43/1000 sf
Hardware/Paint Store	1,000 sf	51.03	9,282.35/1000 sf
Furniture Store	1,000 sf	4.98	905.86/1000 sf
Bank	1,000 sf	49.59	9,020.42/1000 sf
Supermarket	1,000 sf	68.65	12,487.44/1000 sf
Convenience Market	1,000 sf	330.00	60,027.00/1000 sf
Gas & Service Station w/Mini-Mart	Fueling Position	90.67	16,492.87/fp
Gas/Service Station	Fueling Position	73.00	13,278.70/fp
Auto Repair/Car Center	1,000 sf	14.00	2,546.60/1000 sf
Car Sales	1,000 sf	14.50	2,637.55/1000 sf
Hotel/Motel	Room	8.95	1,628.01/Room
	RESTAURANT		
Quality	1,000 sf	36.40	6,621.16/1000 sf
High Turnover	1,000 sf	90.22	16,411.02/1000 sf
Fast Food	1,000 sf	220.60	40,127.14/1000 sf
	OFFICE		
General	1,000 sf	8.34	1,517.05/1000 sf
Medical/Dental	1,000 sf	27.31	4,967.69/1000 sf
Government	1,000 sf	68.93	12,538.37/1000 sf
	INDUSTRIAL		
General	1,000 sf	5.43	987.72/1000 sf
Mini-storage	1,000 sf	2.37	431.10/1000 sf
Warehousing	1,000 sf	3.83	696.68/1000 sf

Notes: (A) Tripend rates for other than those listed above shall be determined using trip generation statistics in the Institute of Transportation Engineers Trip General Manual, latest edition.

(B) Tripends for development within the Central Parking and Improvement District shall be reduced by 20% to reflect captured trip rates for multi-use district. (Council Resolution 95-74-R).

(C) Cost of improvement completed by developer on arterial and designated collector streets will be credited against payment of the impact fee for that project.

RESOLUTION NO. 12-44-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HANFORD EXTENDING THE TEMPORARY AMOUNT OF IMPACT FEES FOR DEVELOPMENT PROJECTS

At a regular meeting of the City Council of the City of Hanford, duly called and held on November 20, 2012 at 7:00 p.m., and upon a motion by Council Member Chin and seconded by Council Member Martinez and duly carried, the following resolution was adopted:

WHEREAS, subject to applicable provisions of California law, development impact fees may be established and charged to pay for the cost of development and construction of public facilities and capital improvements and the purchase of equipment needed as a result of new development; and

WHEREAS, Chapters 15.44, 15.45, 15.46, 15.47, 15.48, 15.49, 15.50. and 15.51 of Title 15 of the City of Hanford Municipal Code requires the payment of Impact Fees for Parks, Transportation, Fire, Police, Storm Drain, Water, Sanitary Sewer, and Refuse/Recycling as a condition of approval of development projects for the purpose of defraying the costs of infrastructure and other facilities for the City of Hanford needed as a result of new development projects; and

WHEREAS, the City is in an unprecedented downturn in the economy that has been in effect since 2008 and, in an effort to stimulate the local economy, the City Council has looked at several options; and

WHEREAS, a City Council Study Session was held on May 17, 2011, at which time staff was directed to prepare necessary documentation to allow for an 18-month reduction in the development impact fees; and

WHEREAS, the City Council adopted Resolution 11-26-R approving the 19-month reduction in Development Impact Fees; and

City of Hanford Original

WHEREAS, the 18-month period will expire on December 31, 2012; and

WHEREAS, the continued reduction of development impact fees for an additional 12-month period commencing January 1, 2013 will further stimulate the local economy.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Hanford, in accordance with the provisions of Title 15 of the City of Hanford Municipal Code and Government Code Section 66000, et. seq., as follows:

1. All provisions set forth above are true and correct and are hereby incorporated herein by reference as findings.
2. Development Impact Fees shall remain temporarily reduced in the manner shown in the attached Exhibit "A". The reduced Development Impact Fees shown in the attached Exhibit "A" will automatically expire December 31, 2013 and will revert to the levels that existed on June 21, 2011. The reduced Development Impact Fees shall apply to projects for which a complete set of building plans, as identified by the City, are submitted to the City during the continued program period. The fees will not be retroactive for any project for which a complete set of building plans, as identified by the City, were submitted to the City prior to the adoption of Resolution 11-26-R.

--oOo--

City of Hanford Original

I HEREBY CERTIFY that the foregoing Resolution was passed and adopted by the Council of the City of Hanford at a regular meeting thereof held on November 20, 2012 by the following vote:

AYES:	Councilmembers Martinez, Chin, Jameson, Sorensen
NOES:	None
ABSTAINED:	None
ABSENT:	Councilmember Irwin

ATTEST:

LINDA RODRIQUEZ, CMC
INTERIM CITY CLERK and Ex Officio Clerk
of the Council of the City of Hanford

APPROVED

SUE SORENSEN
MAYOR of the City of Hanford

Attached Exhibit "A" (3 pages)

City of Original Hanford

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Single Family Residential	$302.11/unit
Multi-family Residential	265.87/unit
Commercial	0.3577/sq. ft.
Industrial	0.0356/sq. ft.
WATER IMPACT FEES (70% COST OF RECOVERY)	
Single Family Residential	$1,290.25/unit
Multi-family Residential	993.59/unit
Commercial	0.8234/sq. ft.
Industrial	0.7862/sq. ft.
Public Use	0.1702/sq. ft.
Water Meter Inspection Fee (all land uses)	$ 85.00/meter
Backflow Prevention Assembly Inspection Fee (all land uses)	$ 80.00/assembly
WASTEWATER SYSTEM IMPACT FEES (70% COST OF RECOVERY)	
Wastewater Facilities (Collection System,*Treatment Plant, and Pond Relocation) *Note: Wastewater treatment portion of fee is based on standard household strength waste of 200 MG/L B.O.D. and 200 MG/L S.S. and 300 gal./day flow rate	
Single Family Residential	$1,590.56/unit
Multi-family Residential	1,451.61/unit
Commercial	0.9027/sq. ft.
Industrial	0.4512/sq. ft.
Public Use	0.1865/sq. ft.
PARK IMPACT FEES (100% COST OF RECOVERY)	
Single Family Residential	$2,786.85/unit
Multi-family Residential	2,451.87/unit
Senior Housing and Mobile Homes	1,393.43/unit
STORM WATER IMPACT FEES (70% COST OF RECOVERY)	
Original City Limits (OCL) = area bounded by Grangeville Blvd. on the north; Hanford-Armona on the south; 10th Avenue on the east; and 11th Avenue on the west	
Single Family Residential (within OCL)	$1,766.46/gross acre
Single Family Residential (outside OCL)	$3,532.91/gross acre
Multi-family Residential, Commercial & Industrial (within OCL)	$1,766.46/gross acre x "C" / .35 x gross development acres
Multi-family Residential, Commercial & Industrial (outside OCL) * "C" factor = runoff coefficient for that specific type of development	$3,532.91/gross acre x "C" / .35 x gross development acres

City of Original Hanford

DEVELOPMENT IMPACT FEE SCHEDULE EXHIBIT "A" (CONTINUED)	
REFUSE AND RECYCLING IMPACT FEES (70% COST OF RECOVERY)	
Single Family Residential	$216.71/unit
Multi-Family Residential	97.90/unit
Commercial *	* Subject to impact
Industrial *	assessment per
Other Non-Residential *	service required

*Commercial, Industrial, Other Non-residential

Rear-load refuse truck $123,740/1,758 cubic yard/week = $70.39/cu.yd./week

Rear-load dumpster cost (including sales tax & delivery) 1cu.yd. = $329.33; 2cu.yd. = $394.71; 3cu.yd. = $484.61 (times the number of containers required)

Total Refuse and Recycling Development Impact Fee = Contingent on projected service needed

For example, if the projected refuse service needs require a one cubic yard dumpster emptied once a week, the total RDIF would be $399.72, calculated as follows:

Truck cost share 1 cu. yd. x 1/week x $70.39/cu. yd./wk	$ 70.39
One cubic yard dumpster	329.33
Total	$399.72

If the projected refuse service needs require two 3-cubic yard dumpsters emptied three times a week, the RDIF would be calculated as follows:

Truck cost share 2 (3 cu. yd. x 3/week) x $70.39/cu. yd./wk.	$1,267.02
Two three-cubic yard dumpster (2 x $484.61)	969.22
Total	$2,236.24

City of Original Hanford

DEVELOPMENT IMPACT FEE SCHEDULE
EXHIBIT "A"

TRANSPORTATION IMPACT FEES (70 % COST OF RECOVERY)	
Transportation Facilities - All Land Uses (see chart below for fee based on number of trip ends per use)	$ 181.90/tripend

TRANSPORTATION IMPACT FEES TRIPENDS

CATEGORIES	UNITS	TRIPENDS	FEE
	RESIDENTIAL		$ 18/190/TRIPEND
Single Family	D.U.	9.53	$ 1,733.51/D.U.
Apartment	D.U.	6.55	1,191.45/D.U.
Condominium	D.U.	5.69	1,035.01/D.U.
Mobile Home	D.U.	4.90	891.31/D.U.
Senior Adult Housing	D.U.	3.23	587.54/D.U.
	COMMERCIAL		
General/Specialty Retail	1,000 sf	40.58	$ 7,381.50/1000 sf
Shopping Center	1,000 sf	41.42	7,534.30/1000 sf
Discount Store	1,000 sf	30.86	5,613.43/1000 sf
Hardware/Paint Store	1,000 sf	51.03	9,282.35/1000 sf
Furniture Store	1,000 sf	4.98	905.86/1000 sf
Bank	1,000 sf	49.59	9,020.42/1000 sf
Supermarket	1,000 sf	68.65	12,487.44/1000 sf
Convenience Market	1,000 sf	330.00	60,027.00/1000 sf
Gas & Service Station w/Mini-Mart	Fueling Position	90.67	16,492.87/fp
Gas/Service Station	Fueling Position	73.00	13,278.70/fp
Auto Repair/Car Center	1,000 sf	14.00	2,546.60/1000 sf
Car Sales	1,000 sf	14.50	2,637.55/1000 sf
Hotel/Motel	Room	8.95	1,628.01/Room
	RESTAURANT		
Quality	1,000 sf	36.40	6,621.16/1000 sf
High Turnover	1,000 sf	90.22	16,411.02/1000 sf
Fast Food	1,000 sf	220.60	40,127.14/1000 sf
	OFFICE		
General	1,000 sf	8.34	1,517.05/1000 sf
Medical/Dental	1,000 sf	27.31	4,967.69/1000 sf
Government	1,000 sf	68.93	12,538.37/1000 sf
	INDUSTRIAL		
General	1,000 sf	5.43	987.72/1000 sf
Mini-storage	1,000 sf	2.37	431.10/1000 sf
Warehousing	1,000 sf	3.83	696.68/1000 sf

Notes:
(A) Tripend rates for other than those listed above shall be determined using trip generation statistics in the Institute of Transportation Engineers Trip General Manual, latest edition.
(B) Tripends for development within the Central Parking and Improvement District shall be reduced by 20% to reflect captured trip rates for multi-use district. (Council Resolution 95-74-R).
(C) Cost of improvement completed by developer on arterial and designated collector streets will be credited against payment of the impact fee for that project.

City of Original Hanford

AGENDA
STAFF REPORT

MEETING DATE: 1/13/2014	**AGENDA SECTION:** 4. B.

SUBJECT:

City Manager: Discussion of potential Development Agreement terms for the 59 acre commercial development at the southwest corner of E. Lacey Blvd. and Highway 43.

RECOMMENDATION:

That the City Council direct City staff regarding Development Agreement terms.

BACKGROUND:

The developer of the 59 acre property located at the southwest corner of E. Lacey Blvd. and Highway 43 has expressed interest in entering into a Development Agreement.

Development Agreements are a common tool utilized by developers and municipalities. The City has entered into such agreements in the past. Attached is a copy of a Development Agreement that the City executed with MMV Development, LLC for the Live Oak residential subdivision.

Staff desires direction from the Council so discussions with the developer regarding Development Agreement terms may continue.

FISCAL IMPACT:

ATTACHMENTS:

Description

- MMV Development LLC - Development Agreement

Doc Nbr: 1012061
Doc Type: 01

Titles: 01 Pages: 126
Fees: 0.00
Taxes: 0.00
Paid: $0.00

Kings County Clerk Recorder-157200 07/16/2010
Ken Baird 02:48:40
City of Hanford

RECORDING REQUESTED BY:
City Clerk
City of Hanford
317 North Douty Street
Hanford, California 93230

AND WHEN RECORDED MAIL TO:
City of Hanford
317 North Douty Street
Hanford, CA 93230
Attn: City Manager

MMV Development, LLC
550 Harvest Park Drive
Suite A
Brentwood, CA 94513
Attn: Manny Vierra

Space Above For Recorder's Use

APN 018-172-010
APN 018-172-012
APN 018-172-029
APN 018-172-031
APN 018-172-032
APN 018-112-017
APN 018-112-027
APN 018-112-052
APN 018-112-053
APN 018-112-073
APN 018-112-074
APN 018-112-075

DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF HANFORD AND MMV DEVELOPMENT, LLC RELATING TO THE RESIDENTIAL DEVELOPMENT KNOWN AS LIVE OAK

[Ordinance No. 09-10 Adopted on October 6, 2009]

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DEVELOPMENT AGREEMENT
BY AND BETWEEN
THE CITY OF HANFORD
AND
MMV DEVELOPMENT, LLC
RELATING TO THE RESIDENTIAL DEVELOPMENT KNOWN AS
LIVE OAK

This DEVELOPMENT AGREEMENT ("**Agreement**") is made and entered into on this 10 day of November, 2009, by and between the CITY OF HANFORD, a political subdivision of the State of California ("**City**") and MMV DEVELOPMENT, LLC, a California corporation ("**Developer**"). Developer and City may be referred to herein individually as "**Party**" and collectively as "**Parties.**" This Agreement is entered into with reference to the following facts:

RECITALS

A. In order to strengthen the public land use planning process, to encourage private participation in comprehensive planning, provide more certainty in the approval of development projects, to reduce the economic risk of development and to reduce the waste of resources, the Legislature of the State of California adopted the "**Development Agreement Statute**" (Government Code Section 65864 et seq.). The Development Agreement Statute authorizes the City and an applicant for a development project, having legal or equitable interest in the real property, to enter into a development agreement establishing certain development rights in and obligations with respect to the property which is the subject of a development project application. Pursuant to the Development Agreement Statute, the City has adopted rules and regulations establishing procedures and requirements for consideration of development agreements on June 5, 2007 by Ordinance 07-04 ("**Development Agreement Ordinance**"). This Agreement has been processed, considered, and executed in accordance with the Development Agreement Statute and the Development Agreement Ordinance.

B. The Development Agreement Statute permits cities and counties to contract with private interests for their mutual benefit in a manner not otherwise available to the contracting parties. Such agreements, as authorized by the Development Agreement Statute, allow developers to proceed with projects assured that approvals granted by public agencies will not change during the period of development of their projects. Cities and counties are equally assured that costly infrastructure such as roads, sewers, schools, fire protection facilities, etc. will be available at the time development projects come on line.

C. Pursuant to Government Code Section 65865 (a), Developer represents and warrants that it has a legal or equitable interest in those certain parcels of real

property consisting of approximately 390 acres ("**Property**") as further defined herein in Section 1.1 and as shown on Exhibit A, attached hereto. The legal description of the Property is set forth in Exhibit B, attached hereto.

D. Developer desires to develop the Property consistent with this Agreement and the following entitlements, permits, approvals and actions that have been enacted or that are contemplated by the City Council, referred to collectively as "**Project Entitlements**."

(1) The Kings County Local Agency Formation Commission ("**LAFCO**") approved annexation of the Property to the City on December 7, 2005 by LAFCO Case No. 05-15;

(2) City adopted Negative Declaration No. 2005-31 by City Council Resolution No. 05-55-R on October 18, 2005;

(3) Certification of the Final Environmental Impact Report ("**FEIR**"), Adoption of California Environmental Quality Act Findings, Statement of Overriding Considerations and Mitigation Monitoring and Reporting Programs by City Council Resolution No. 09-57-R on September 15, 2009;

(4) Approval of the Live Oak Planned Unit Development Application including all conditions of approval contained therein pursuant to City Council Resolution No. 09-57-R on September 15, 2009, attached hereto as Exhibit C;

(4) Approval of the Final Live Oak Master Plan and all conditions of approval attached thereto by City Council Resolution No. 09-57-R on September 15, 2009, attached hereto in Exhibit D;

(5) Approval of Vesting Tentative "A" Map (TT865) by City Council Resolution No. 09-58-R on September 15, 2009, a copy of which map is attached hereto in Exhibit E;

(6) Approval of Vesting Tentative "B" Map (TT881) by City Council Resolution No. 09-59-R on September 15, 2009, a copy of which map is attached hereto in Exhibit E;

(7) Adoption of the Conditions of Approval by City Council Resolution No. 09-57-R on September 15, 2009.

E. The development of the Property in accordance with this Agreement and the Project Entitlements will provide for orderly growth within the City, consistent with

the goals, policies, and other provisions of the City's General Plan, the City's Zoning Ordinance and the Live Oak Master Plan.

F. City recognizes that the economic success of the Project, as defined below, depends greatly upon the certainty and timing of the City's regulations and fees.

G. For the reasons recited herein, Developer and City have determined that the Project is the type of development for which this Agreement is appropriate. This Agreement will eliminate uncertainty in planning and provide for the orderly development of the Property and otherwise achieve the goals and purposes for which the Development Agreement Statute and the Development Agreement Ordinance were enacted.

H. In exchange for these benefits to the City, together with the public benefits that will result from the development of the Land pursuant to the Project Entitlements, Developer desires to receive the assurance that it may proceed with development of the Property, including receipt of building permits and construction of the Project in accordance with the terms and conditions of this Agreement.

I. On August 11, 2009, the City's Planning Commission considered this Agreement and recommended its approval to the City Council.

J. On September 15, 2009, the City Council considered this Agreement.

J. Having duly considered this Agreement and having held the noticed public hearings, the City finds and declares that the provisions of this Agreement are consistent with the maps and text of the City's General Plan, the City's Zoning Ordinance and the Project Entitlements.

K. The Parties shall cooperatively collect this Agreement, all documents mentioned in Recital D and elsewhere in this Agreement, and place them in a three ring binder to be maintained at all times by the City Clerk. Two true and correct conformed copies of such binder shall be prepared and given to Developer and Community Development Director of the City respectively. The Parties shall rely on the documents in such binder to determine the approvals granted by the City and the ordinances, policies and regulations in effect at the Effective Date of this Agreement.

NOW, THEREFORE, it is agreed by and between the Parties as follows:

ARTICLE 1

GENERAL PROVISIONS

1.1. THE PROPERTY.

The subject property of this Agreement is that certain real property located in the City of Hanford, County of Kings, State of California, consisting of approximately 390 acres made up of those parcels more commonly described as Assessor's Parcel Numbers, 018-172-010, 018-172-012, 018-172-029, 018-172-031, 018-172-032, 018-112-017, 018-112-027, 018-112-052, 018-112-053, 018-112-073, 018-112-074, and 018-112-075 (collectively "Property"), depicted on Exhibit A and described more fully in Exhibit B, attached hereto. The Property is located in the southwestern portion of the City of Hanford. The northern boundary of the Property is Hume Avenue and the southern boundary of the Property is Houston Avenue. Lone Oak Slough and Sand Slough form the western boundary and eastern boundary, respectively, of the Property.

1.2. THE PROJECT.

The Live Oak residential project ("**Project**" or "**Live Oak**") includes the construction of approximately 1,560 residential dwelling units, in a range of housing, density and lot types, on the Property in accordance with the Live Oak Master Plan ("**Master Plan**"), attached hereto as Exhibit D. The Project is a mixed-use project consisting of very low density residential, low density residential, medium density residential, park facilities, open space/conservation land and pedestrian trails. The land use characteristics of the above uses are described in the Master Plan. The Master Plan also sets forth detailed development standards, design standards, and an implementation program for the development of the Project.

1.3. DEFINITIONS.

Unless the context requires otherwise, any word or phrase defined by the introductory paragraph and Recitals of this Agreement and the following words and phrases hereinafter defined shall apply throughout the Agreement:

1.3.1 **"AB 1600"** means the Mitigation Fee Act (Government Code Sections 66000-66025).

1.3.2. **"AB 1600 Capital Facilities Fees"** means the City's capital facility programs and resulting fee schedule, specifically the Live Oak Residential Fee Schedule, as set forth on Exhibit F

1.3.3. "**Affordable Housing" or "Affordable Units"** means Units within the Project that will be developed, offered to, and sold to a household with moderate income, as that term is defined in Health and Safety Code Section 50093. The cost of affordable housing means the published affordable rate by the U.S. Department of Housing and Urban Development.

1.3.4. "**Agreement**" means this Development Agreement entered into by and between the City and Developer relating to the residential development known as Live Oak.

1.3.6. "**CEQA**" means the California Environmental Quality Act, Sections 21000, et seq., of the Public Resources Codes of the State of California.

1.3.7. "**City**" means the City of Hanford, a California general law city. The City's principal office, for purpose of this Agreement, is 319 North Douty Street, Hanford, California.

1.3.8. "**City Council**" shall mean the duly elected legislative body governing the City of Hanford.

1.3.9. "**Design Guidelines**" shall mean the Live Oak Master Plan Design Guidelines, set forth in Chapter 3 of the Master Plan as interpreted by the City of Hanford Community Development Department.

1.3.10. "**Developer**" shall mean MMV Development, LLC, a California corporation, and includes the Developer's assigns and/or successors-in-interest. Developer's principal office, for purposes of this Agreement, is 550 Harvest Park Drive, Suite A, Brentwood, California.

1.3.11. "**Developer Fees**" are a sub-category of the City's AB-1600 Capital Facility Fees, including infrastructure fees, connection fees, use fees, and other applicable fees.

1.3.12. "**Director of Community Development**" shall mean the individual acting as the Director of the Community Development Department for the City of Hanford.

1.3.13. "**Effective Date**" shall mean the 30th day following (a) the date of adoption by the City Council of the ordinance approving this Agreement, (b) publication of the ordinance pursuant to Government Code Section 25214, or (c) date upon which this Agreement is executed by Developer and by the City, whichever is later.

1.3.14. "**Effective Standards**" means the ordinances, resolutions, rules, policies and regulations adopted by the City Council in effect and applicable to the Property on the Effective Date, including the adopting ordinances that govern the permitted uses of

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land, the density and intensity of use, the timing of development, and the design, improvement, construction standards, the General Plan, the zoning ordinance and all other ordinances, codes, rules, and regulations of the City establishing subdivision standards, park regulations, impact or development fees and building standards (but only to the extent the Zoning Ordinance, the AB 1600 Capital Facilities Fees attached hereto in Exhibit F, and other such regulations that are not inconsistent with this Agreement and the Master Plan), and as may from time to time be amended in accordance with the terms and conditions of this Agreement. Effective Standards does not include design and/or construction requirements for public improvements or improvements to be acquired by a public entity, except where such requirements are explicitly addressed by the Master Plan. Effective Standards do not include non-land use regulations, which include taxes.

1.3.15. "Final Map" shall mean and refer to one or more final subdivision maps for the Property prepared by Developer pursuant to the State Subdivision Map Act (California Government Code Section 66410 et seq.) that conforms with the Project Entitlements.

1.3.16. "Financing Districts" shall mean, collectively, one or more Mello-Roos Community Facilities Districts (Government Code Section 53311 et seq.), 1913-1915 Limited Obligation Improvement Assessment Districts, Landscape and Lighting Maintenance Districts (Streets and Highway Code Section 22500 et seq.), Benefit Assessment Districts (Government Code Section 54703 et seq.), or other similar districts that the City and Developer may form for the purpose of facilitating the long-term financing for the operation and maintenance of public facilities.

1.3.17. "Final Environment Impact Report" ("FEIR") means a detailed environmental statement prepared under CEQA as defined in Section 15362(b) of the State CEQA Guidelines.

1.3.18. "General Plan" means the General Plan of the City of Hanford including the text and maps, as amended in connection with the Project.

1.3.19. "Infrastructure Improvements" or "Improvements" is the infrastructure, including without limitation water, sewer, drainage and street improvements, necessary to serve the Project area. The Parties anticipate the Master Plan Infrastructure Improvements to be constructed and funded in multiple phases in accordance with this Agreement and the Project Entitlements.

1.3.20. "Master Plan" shall mean the Live Oak Master Plan and all conditions of approval applicable thereto adopted by Resolution 09-57-R dated September 15, 2009, a copy of which Master Plan has been attached hereto in Exhibit D.

1.3.21. "Model Unit" shall mean a Unit that is temporarily utilized, for marketing and sales purposes only, as either a so-called model home or as an ancillary sales office and/or parking lot.

1.3.22. "Mortgagee" shall mean the holder of any mortgage or the beneficiary of any deed of trust covering all or part of the Property or any successor or assignee of any such mortgage holder or beneficiary, identified by name and mailing address in a written notice received by City by personal delivery or certified mail—return receipt requested. Such notice shall state whether such mortgagee desires to receive a notice of default as provided by this Agreement.

1.3.23. "Party" or "Parties" shall mean Developer, City or any other party to this Agreement, as the context may require.

1.3.24. "Phasing Plan," "Project Phasing," or "Phase" shall mean the phasing of the Project's development as identified in the Master Plan, as that document may be amended from time to time.

1.3.25. "Planning Commission" shall mean the Planning Commission of the City of Hanford.

1.3.26. "Project" shall mean and refer to the land uses, densities and improvements of the Property, as specified in Section 1.2 consistent with the Project Entitlements and as provided for in the provisions of this Agreement, including the Master Plan and all other incorporated exhibits.

1.3.27. "Project Entitlements" shall mean those entitlements, permits and approvals listed above in Paragraph D of the Recitals and any and all of which may be amended from time to time in compliance with this Agreement.

1.3.28. "Property" shall mean and refer to that real property described in Section 1.1 above, located in the City of Hanford, County of Kings, State of California, consisting of approximately 390 acres made up of those parcels depicted on the map attached hereto as Exhibit A and described more fully in Exhibit B.

1.3.29. "Reserved Discretionary Approvals" shall mean each discretionary approval, including without limitation, preliminary and final development plans, preliminary and final improvements plans, conditional use permits, tentative subdivision maps, including vesting and non-vesting tentative parcel maps and tentative tract maps, building permits, variances, lot line adjustments, grading permits, encroachment permits, site plan approvals, and any accompanying conditions of approval that will accomplish the goals, objectives, policies and plans referenced,

described, implied and shown in the Agreement and obtained by the Developer for the Project after the Effective Date.

1.3.30. **"Vested Components"** shall mean and refer to those vested resolutions, ordinances, regulations, and other terms described in Section 1.12 below, including without limitation, this Agreement, the Project Entitlements and approved Reserved Discretionary Approvals.

1.3.31. **"Vesting Tentative Maps"** shall mean the Vesting Tentative Maps for the Property as approved by the City Council on Sept 15, 2009 by Resolution No. 09-58 R & 09-59-R, as may be amended from time to time in compliance with this Agreement, a copy of which maps and enabling resolution are attached hereto as Exhibit E.

1.3.34. **"Unit"** shall mean a single family detached residential dwelling to be constructed on the Property pursuant to the Project Entitlements herein.

1.3.35. **"Zoning Ordinance"** means the Zoning Ordinance of the City of Hanford including the text and maps, as amended in connection with the Project.

1.4. INCORPORATION OF RECITALS AND EXHIBITS.

The Parties agree that the Recitals and Exhibits to this Agreement are true and correct and are incorporated into the Agreement as if they were set forth in the Agreement. In the event of inconsistency between the Recitals and the provisions of Articles 1 through 8, the provisions of Articles 1 through 8 shall prevail.

1.5. PROJECT IS A PRIVATE UNDERTAKING.

It is agreed among the Parties that the Project is a private development and that City has no interest therein except as authorized in the exercise of governmental functions. Nothing in this Agreement shall preclude the Developer from forming any form of investment entity for the purpose of completing any portion of the Project.

1.6. DURATION OF AGREEMENT AND VESTING TENTATIVE MAP.

The term of this Agreement shall commence upon the Effective Date and shall expire on the twelfth (12th) anniversary from the Effective Date ("**Initial Term**") unless otherwise terminated, modified, extended, or breached by the circumstances set forth in this Agreement, particularly in Article 8.

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1.7. CONSISTENCY WITH GENERAL PLAN.

City hereby finds and declares that this Agreement furthers the public health, safety, and general welfare of the community and that the provisions of this Agreement and all Project Entitlements are consistent with the General Plan and Zoning Ordinance.

1.8. EXERCISE OF CITY CONTRACTING AUTHORITY.

The City, by electing to enter into this Agreement, acknowledges that the obligations of the City shall survive beyond the term or terms of the present City Council and that such action will serve to bind the City and future city councils to the obligations thereby undertaken. By approving this Agreement, the City Council has elected to exercise certain governmental powers at the time of entering into this Agreement rather than deferring its actions to some undetermined future date. The terms and conditions of this Agreement have undergone extensive review by both the City and the City Council and have been found to be fair, just and reasonable, and the City has concluded that the pursuit of the Project will serve the best interests of its citizens, and the public health, safety and welfare will be best served by entering into this Agreement.

1.9. DEVELOPMENT AGREEMENT REGULATIONS.

City and Developer have taken all actions mandated by and fulfilled all requirements set forth in the Development Agreement Statute and the Development Agreement Ordinance.

1.10. SUBSTANTIAL COSTS TO THE PARTIES.

The Parties, at their sole cost and expense, have incurred and will incur substantial costs in order to process the Project Entitlements, to comply with conditions of approval and environmental mitigation measures of the Project Entitlements, and to assure development of the Property in accordance with the Project Entitlements and the terms of this Agreement. Nothing in this Section 1.10 is intended, nor shall it be construed, as a waiver by the City of any fees to which the Developer is obligated to pay as set forth in the Live Oak Residential Fee Schedule in Exhibit F.

1.11. PRIORITY OF ENACTMENT.

In the event of conflict between the Agreement and the Effective Standards, the Parties agree that the following sequence of approvals establishes the relative priority of the approvals, each approval superior to the approvals listed thereafter: (1) the General Plan and Zoning Ordinance, as in effect on the Effective Date; (2) this Agreement,

Project Entitlements, Project Approvals and all other exhibits attached hereto; and (3) the Effective Standards.

1.12. VESTED RIGHTS OF DEVELOPER.

Provided that this Agreement is not cancelled or terminated due to default by the Developer, as provided herein, during the Initial Term of this Agreement, and any extension or modification thereto, the Project Entitlements and the Effective Standards are declared fully vested in the Developer, its successors and assigns, and are referred to herein as the "**Vested Components**", except as the Effective Standards may be modified by the City from time to time. Nothing herein shall be construed to limit the City's power of eminent domain.

1.13. ASSIGNMENT AND TRANSFER OF DEVELOPMENT RIGHTS.

This Agreement shall not prevent the Developer from assigning or delegating, in any way, its rights and duties under this Agreement in connection with the sale, assignment, or other transfer of the Property, in whole or in part, with all its right, title and interest therein to any person, partnership, joint venture, firm or corporation at any time during the term of this Agreement. Developer shall provide City with notice of the assignment and delegation within thirty (30) days of such sale or delegation as provided for in Section 9.8. Developer shall be deemed relieved of the rights assigned and released from the duties delegated under an assignment and assumption agreement that contains terms reasonably satisfactory to the City, which terms shall include, but not be limited to, agreement by the assignee or transferee to be bound to all the terms of this Agreement, and provided that the City Clerk receives a copy of the express written assignment and assumption agreement by such purchaser, assignee or transferee of the benefits and obligations of this Agreement, and further provided that such purchaser, assignee or transferee provides evidence to the reasonable satisfaction of the City that such purchaser, assignee or transferee shall be able to perform the obligations of Developer under this Agreement.

1.14. SUCCESSORS IN INTEREST/COVENANTS RUN WITH LAND.

1.14.1 The conditions and covenants set forth in this Agreement and incorporated herein shall run with the land and the benefits and burdens shall bind and inure to the benefit of the Parties. Each and every purchaser, assignee, or transferee of an interest in the Property, or any portion thereof, shall be obligated and bound by the terms and conditions of this Agreement, and shall be the beneficiary thereof and a Party thereto, but only with respect to the Property, or such portion thereof, sold, assigned, or transferred to it. Any such purchaser, assignee, or transferee shall observe and fully perform all duties and obligations of a Developer contained in this Agreement, as such duties and obligations pertain to the portion of the Property sold, assigned, or

transferred to it. Provided, however, notwithstanding anything to the contrary above, if any such sale, assignment or transfer is related to a completed residential unit which has been approved by the City for occupancy, the automatic termination provisions of Section 8.2 herein shall apply thereto and the rights and obligations of Developer hereunder shall not run with respect to such portion of the Property sold, assigned, or transferred and shall not be binding upon such purchaser, assignee or transferee.

1.14.2 Except as to any sale, assignment, or transfer related to a completed residential unit which has been approved by the City for occupancy, if Developer conveys, assigns, or transfers a partial interest in the Property or an entity that owns the Property to a third party so that there are multiple owners of the Property, all owners of the Property shall be jointly and severally liable for the Developer's obligations hereunder. All owners of the Property shall be jointly deemed to be the Developer. Any funds payable to Developer from City shall be paid to all owners of the Property on a proportionate basis in accordance with their respective ownership interests unless otherwise specified in writing by all the owners of the Property.

1.15. AMENDMENT.

This Agreement may be modified, amended, changed, added to or subtracted from by the mutual consent of the Parties or their successors in interest, after notice and public hearing in conformance with and pursuant to the provisions of Government Code Section 65868. Any duly adopted amendment or change shall be in written form, executed and approved with the same formalities as this Agreement, and attached to the original Agreement to maintain continuity. The Director of Community Development shall have authority to make ministerial changes in any of the exhibits made a part of this Agreement (e.g., replacing an exhibit that has been superceded as a result of action by the Planning Commission or the City Council with the current exhibit); all other changes to the Agreement require approval of the City Council. Unless otherwise provided by law, all other amendments may be approved without a noticed public hearing.

1.16. RECORDATION.

Pursuant to Government Code Section 65868.5, the Clerk of the City Council shall record a copy of this Agreement with the Office of the County Recorder no later than ten (10) days after the ordinance approving this Agreement takes effect.

1.17. RESERVED DISCRETIONARY APPROVALS.

The Reserved Discretionary Approvals shall automatically become part of the Project Entitlements, which vest hereunder, as each such approval becomes effective following formal action by the City. In reviewing and approving such applications, the City reserves the right to exercise its discretion as set forth in applicable provisions of the Development Agreement Statute, the General Plan and City Municipal Code in effect as of the Effective Date.

ARTICLE 2

PROJECT DEVELOPMENT

2.1. GENERAL PERMITTED USES.

The Project's permitted uses, density and intensity of use, the maximum height and size of the proposed buildings, provisions for reservations and dedications of land or payment of fees in lieu of dedication for public purposes, the location, construction, installation and extension of public improvements and utilities, and other terms and conditions of development applicable to the Project shall be those set forth in this Agreement and the Project Entitlements, as they pertain to the Project, and any amendments thereto, as permitted herein.

2.2. SUBSEQUENT APPROVALS.

2.2.1. Application of Subsequently Enacted Standards. The City may apply to the Project only such later enacted or modified rules, regulations and policies which:

(a) Are not in conflict with those in effect on the Effective Date and application of which would not prevent development of the Project or increase the cost of development or building, except as identified in subsection 2.2.1(b); or

(b) Are the then current development fees as adopted by the City Council and in effect on the July 1 nearest each two year anniversary from the Effective Date of this Agreement, including any periodic cost of living increases applied thereto as determined by a percentage no greater than the engineering cost index as published by the Engineering News record for the preceding 12 months.

(c) Are consistent with the most recent version of the California Building Code as published by the California Building Standards Commission and as modified and adopted by the City; or

(d) Are subsequent citywide changes to construction or technical design standards or specifications for public improvements which are reasonably and directly related to durability or longevity of the public improvements; or

(e) Are changes in City laws, regulations, plans, or policies, the terms of which are specifically mandated and required by changes in state or federal law or regional application thereof; or

(f) Are necessary to avoid placing the residents of the subdivision or the immediate community, or both, in a condition dangerous to their health or safety, or both; or

(g) Are otherwise unambiguously and expressly authorized in this Agreement; or

(h) Are the subject of City-wide services that are applicable to all residents within the City.

With respect to Subsection (f) of this Section 2.2.1, nothing in this Agreement shall be construed to be in derogation of City's police power to protect the public health and safety.

2.3. POLICE POWER AND TAXING POWER.

The City, through the exercise of either its police power or its taxing power, whether by direct City Council action or initiative or referendum by the City's electorate, shall not establish, enact or impose any additional conditions, dedications, fees, and other exactions, policies, standards, laws or regulations which relate or apply, directly or indirectly, to the Project except as provided in Section 2.2.1 herein or other provision of this Agreement that allows the City to make such changes. Nothing herein prohibits the Project from being subjected to a (i) city-wide bond issue, (ii) city-wide special or general tax, or (iii) special assessment for the construction or maintenance of a city-wide facility as may be voted on by the electorate or otherwise enacted, provided that such tax, assessment or measure is city-wide in nature, does not discriminate against the Property, and does not distinguish between developed and undeveloped parcels.

2.4. PHASING OF DEVELOPMENT.

The Parties acknowledge that the phase sequence indicated in Figure 8-1 in the Master Plan, attached hereto in Exhibit D, provides for the order of development of the Project.

2.5. PROVISIONS FOR INFRASTRUCTURE.

2.5.1. Provisions for Storm Drainage.

(a) Developer's obligation. In lieu of paying the AB 1600 Capital Facilities Fee for storm drainage in effect as of the Effective Date of this Agreement as listed in Exhibit F attached hereto, the Developer shall design, engineer and construct the storm drainage infrastructure "**New Storm Infrastructure**", to serve the Project consistent with the terms of this Agreement and the Project Entitlements. Developer's

provision of New Storm Infrastructure shall be deemed full and complete mitigation of the Project's impact on storm drainage so long as the New Storm Infrastructure is of sufficient capacity to serve the Project; does not utilize any existing City owned storm drainage infrastructure, is a design approved by the City; and is constructed in accordance with City Standards and Specifications as determined in the sole and absolute discretion of the City.

(b) Reimbursement Rights. Pursuant to Section 2.9.1 and to the extent such storm drainage infrastructure exceeds the capacity necessary to serve the Project and constitutes oversized facilities pursuant to the City's Municipal Code Section 15.50.050, Developer shall be reimbursed by the City, via cash or fee credits toward the storm drainage fee, for such oversizing from the stormwater system development impact fee as permitted under Municipal Code Section 15.50.040.

2.5.2. Provisions for Wastewater.

(a) Developer's obligation. Prior to the issuance of the building permit for each Unit, Developer shall be deemed to fully and completely satisfy its impact on wastewater by paying the AB 1600 Capital Facilities Fee for wastewater in effect as of the Effective Date of this Agreement as listed in Exhibit F attached hereto, as may be adjusted pursuant to the terms of this Agreement.

(b) Reimbursement Rights. Pursuant to Section 2.9.1 and to the extent such wastewater infrastructure exceeds the capacity necessary to serve the Project and constitutes oversized facilities pursuant to the City's Municipal Code Section 15.47.050, Developer shall be reimbursed by the City, via cash or fee credits toward the wastewater fee, for such oversizing from the wastewater system development impact fee as permitted under Municipal Code Section 15.47.040.

2.5.3. Provisions for Water.

(a) Developer's obligation. Prior to the issuance of the building permit for each Unit, Developer shall pay the impact fee AB 1600 Capital Facilities Fee for water as listed in Exhibit F attached hereto, as may be adjusted pursuant to the terms of this Agreement. Additionally, Developer shall design, engineer, construct and install water infrastructure to serve the Project in a manner and timing consistent with this Agreement and the Project Entitlements. Developer's payment of the water impact fee and provision of water infrastructure shall be deemed full and complete mitigation of the Project's impact on water.

(b) Reimbursement Rights. Pursuant to Section 2.9.1 and to the extent that such water infrastructure exceeds the capacity needed to serve the Project and constitutes an oversized facility pursuant to Municipal Code Section 15.49.050, Developer

shall be reimbursed from the City pursuant to Municipal Code Section 15.49.040, via cash or fee credits, for such oversizing.

2.5.4. Provisions for Traffic. Prior to the issuance of the building permit for each Unit, Developer shall be deemed to fully and completely satisfy its impact on traffic by paying the mitigation fees for improvements for the Projects effects on the 13th Avenue and Highway 198 interchange, on the 12th Avenue and Highway 198 Interchange, and its AB 1600 Capital Facilities Fee for traffic in effect as of the Effective Date of this Agreement as listed in Exhibit F attached hereto, as may be adjusted pursuant to the terms of this Agreement.

2.6. OTHER PROVISIONS.

2.6.1. Provisions for Parkland.

(a) Developer's obligation. Prior to the issuance of the building permit for each Unit, Developer shall pay the AB 1600 Capital Facilities Fee for parkland in effect as of the Effective Date of this Agreement, or as may be amended from time to time as provided for in this Agreement, as listed in Exhibit F attached hereto. Of this park impact fee, the City agrees that fifty percent (50%) of the fee is allocated to neighborhood parks while fifty percent (50%) of the park impact fee is attributable to community parks. In consideration of Developer's provision of "**Public Parks**" (including neighborhood parks, but excluding community parks) dedicating the parkland and park improvements made to such Public Parks to the City as discussed herein, and payment of the park impact fee, the City agrees to abide by the General Plan and parkland and park development standards as they exist on the Effective Date, including without limitation, how those standards appear in the City's General Plan, Quimby Act ordinance. Upon Developer's payment of the AB 1600 Capital Facilities Fee for parkland in effect as of the Effective Date of this Agreement as listed in Exhibit F attached hereto, the fifty percent (50%) portion paid shall constitute Developer's full and complete mitigation of the Project's impacts on community parkland and to have satisfied and paid in full any parkland in lieu fees, AB 1600 Community Facilities Impact Fees for park development, capital facility fees, Quimby Act fees or exactions, special taxes, assessments or other similar obligation of a monetary or non-monetary kind, both for parkland and for park development, improvement, or construction purposes, or any combination of these, or similar obligations of any kind for community parks.

(b) Timing. Developer and City intend that the public parks in the Project area be built so that parks generally are available as new residents arrive in new neighborhoods. To achieve this mutual purpose, Developer shall design, engineer and construct the parks in the following program of phasing:

(i) Neighborhood Park #1.

(1) Prior to the issuance of the 1st building permit of the first residential unit on the Vesting Tentative Map, excluding Model Units, Developer shall submit for review and approval a complete set of landscape and irrigation plans for the Neighborhood Park #1, as shown in Figure 5-1 of the Master Plan attached hereto in Exhibit D, to the City Engineer. Said landscape and irrigation plans shall be prepared by a licensed landscape architect and shall be developed in accordance with, and shall fully comply with the City's Municipal Code and the Master Plan. Developer shall not be required to commence said parkland improvements until the City Engineer has signed and stamped approved such plans. Developer shall post a performance bond in the appropriate amount guaranteeing performance on the construction of Neighborhood Park #1 within ten (10) days following approval of the park improvement plans by the City Engineer and the Community Development Department.

(2) Prior to the issuance of the 1st building permit, the improvement plans for Neighborhood Park #1 in the Project area, as shown in Figure 5-1 of the Master Plan attached hereto in Exhibit D, shall be approved by the City Engineer and Community Development Department.

(3) Prior to the issuance of the 50th building permit, the infrastructure for Neighborhood Park #1 shall be completed.

(4) Prior to the issuance of the 75th building permit, excluding Model Units, the landscaping, improvements and fixtures for Neighborhood Park #1 shall be installed.

(5) Prior to the issuance of the 100th building permit, excluding Model Units, the improvements and fixtures (sports courts, picnic facilities, play structure, and accent landscaping) for Neighborhood Park #1 shall be installed.

(ii) Neighborhood Park #2.

(1) Prior to the issuance of the 1st building permit of the first residential unit on the Vesting Tentative Map, excluding Model Units, Developer shall submit for review and approval a complete set of landscape and irrigation plans for the Neighborhood Park #2, as shown in Figure 5-1 of the Master Plan attached hereto in Exhibit D, to the City Engineer. Said landscape and irrigation plans shall be prepared by a licensed landscape architect and shall be developed in accordance with, and shall fully comply with the City's Municipal Code and the Master Plan. Developer shall not be required to commence said parkland improvements until the City Engineer has signed and stamped approved such plans. Developer shall post a performance bond in the appropriate amount guaranteeing performance on the construction of Neighborhood Park

#2 within ten (10) days following approval of the park improvement plans by the City Engineer and the Community Development Department..

(2) By the 1st building permit, the improvement plans for Neighborhood Park #2 in the Project area, as shown in Figure 5-1 of the Master Plan attached hereto in Exhibit D, shall be approved by the City Engineer and Community Development Department..

(3) By the issuance of the 50th building permit, the infrastructure (curb, gutter, and sidewalk) for Neighborhood Park #2 shall be completed.

(4) By the issuance of the 75th building permit, excluding Model Units, the landscaping (turf and trees) and irrigation for Neighborhood Park #2 shall be installed.

(5) By the issuance of the 100th building permit, excluding Model Units, the improvements and fixtures (sports courts, picnic facilities, play structure, and accent landscaping) for Neighborhood Park #2 shall be installed.

(ii) Remaining Phases. Developer is not processing vesting tentative subdivision maps concurrently with this Agreement for later phases of the Project. However, the development of the Public Parks on the Property in later phases of the Project shall be accomplished in accordance with the conditions of approval for the Master Plan and the City's standards for park land development.

(c) Reimbursement Rights. Pursuant to Section 2.9.1 and in consideration of Developer's dedication of Public Parks to the City, via a final map, as discussed more fully in Section 2.8, Developer shall be reimbursed from the City out of the park impact fee account from the fifty percent (50%) vested portion of the park impact fee attributable to neighborhood parklands and park improvements, not to exceed 50% of park impact fees collected from the Live Oak development, as set forth in subsection (a) above, upon the dedication of such neighborhood parkland on the respective final map and the completion and acceptance of park improvements (Notice of completion accepted by City Council) for each phase of development as referenced herein.

To the extent reasonably practical and taking into consideration the total funds in the park impact fee account collected from the Live Oak Development, the City shall use the portion of the park impact fees attributable to neighborhood parkland, collected in Phases I and II, to reimburse the Developer for all Public Park land and improvements in Phases I and II. To the extent reasonably practical and taking into consideration the total funds in the park impact fee account, collected from the Live Oak Development, the City shall use the portion of the park impact fees

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attributable to neighborhood parkland, collected in Phases III, IV and V, to reimburse the Developer for all Public Park land and improvements in Phases III, IV and V. To the extent reasonably practical and taking into consideration the total funds in the park impact fee account, the City shall use the portion of the park impact fees attributable to neighborhood parkland, collected in Phase VI, to reimburse the Developer for all Public Park land and improvements in Phase VI.

However, in any event, the reimbursement provisions for Public Parks shall be granted to the Developer, for cost associated with such Public Parks, in the following order of priority, as depicted in Figure 5-1 of the Master Plan attached hereto in Exhibit D:

(i) Neighborhood Park #1 in Phase I;

(ii) Neighborhood Park #2 in Phase II;

(iii) Portion of Neighborhood Park #3 dedicated and improved in Phase III;

(iv) Portion of Neighborhood Park #3 dedicated and improved in Phase IV;

(g) Maintenance. City and Developer desire to develop an open-space maintenance program to ensure that all open-spaces in the Project are properly maintained. Prior to the issuance of the first building permit of the Project, City and Developer shall determine the proper entity or entities to be obligated for such maintenance, including, but not limited to, maintenance community facilities district, landscape and lighting districts, and similar districts, and City and Developer shall proceed with the establishment of such entity or entities in accordance with applicable law. City and Developer desire to have the open-space maintenance program include facilities, such as, but not limited to, Public Parks and landscaping, and to have the open-space maintenance program in operation prior to the recording of the subdivision final map.

2.6.2. Provisions for Police and Fire Protection and Refuse Collection. Prior to the issuance of the building permit for each Unit, Developer shall fully and completely satisfy its impact on police and fire protection and refuse collection by paying the AB 1600 Capital Facilities Fee for police, fire and refuse collection respectively, as listed in Exhibit F attached hereto, as may be amended pursuant to the terms of this Agreement.

2.6.3. Provisions for Affordable Housing.

(a) Stated Objectives. Subject to the terms of this Agreement, Developer shall ensure that ten percent (10%) of all Units constructed within the Project be affordable to moderate income households, as that term is presently defined under Health and Safety Code Section 50093. ("Affordable Units"). The Parties hereby agree that the construction of the Developer's Affordable Units may be assigned, dedicated, or transferred to a non-profit organization or other affordable housing developers. Additionally, unless otherwise provided herein, the Parties hereby agree that the Affordable Units shall be distributed throughout the Project.

(b) Type of Units. Developer and City agree that a portion of the Affordable Units to be constructed by Developer may include concentrated senior citizen housing as defined under Civil Code Section 51.3, at the discretion of the City.

(c) Timing of Construction. Ten percent (10%) of the Units on each Vesting Tentative Subdivision Map shall be Affordable Units. Developer shall pull a building permit for one (1) Affordable Unit for each ten (10) building permits pulled for market rate units.

(d) Duration of Affordability. Each Affordable Unit shall have a covenant that it will remain affordable to moderate income households for a period of forty-five (45) years, unless otherwise agreed to by the Parties.

(e) City Cooperation. In order to assist in the provision of Affordable Units in the Project, City agrees, at City's sole and absolute discretion, to apply for and participate, directly or through a public housing agency with jurisdiction within the City, or another public agency or non-profit organization of the City's choosing, in affordable housing programs provided by the state and federal governments. However, any housing related grant funding applied for by City, whether or not received from a funding entity, is not a condition precedent to Developers obligations under this section 2.6.3.

(f) Qualification. The City, acting through the Community Development Department, an existing public housing agency, or another public agency or non-profit organization of the City's choosing, shall be responsible for administering, verifying and overseeing the pre-qualification process for the Affordable Units. For those Affordable Units of which the Developer has the responsibility to provide, Developer shall notify the Director of Community Development upon pulling a building permit for an Affordable Unit. The City shall have one hundred twenty (120) days from the issuance of the Final Inspection for that Affordable Unit built by the Developer or the Developer's successor, assignee or affiliate, to pre-qualify a resident for that Affordable Unit. If the City cannot pre-qualify a resident within one hundred twenty (120) days of the issuance of the Final Inspection for that Affordable Unit, the Developer may sell that unit as a market rate unit.

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2.7 ACQUISITION OF EASEMENTS AND RIGHTS-OF WAY FOR PUBLIC IMPROVEMENTS.

With regard to property acquisitions and dedications for the purpose of constructing any public improvements, including without limitation Infrastructure Improvements, the City shall use its best efforts to include as a condition of approval of other development projects adjacent to the Project, that such adjacent projects shall dedicate easements and rights-of-way necessary for the Infrastructure Improvements, as feasible, and Developer shall use and document its reasonable efforts to obtain easements and rights-of-way where the City is unable, due to lack of immediate jurisdiction, to require a dedication. If Developer is unable to acquire such easements or rights-of-way within a reasonable timeframe and after the exercise of reasonable diligence, then Developer shall request that City initiate and exercise its power of eminent domain in accordance with Government Code Section 66462.5 to acquire such easements and/or rights-of-way. Developer shall advance all costs and expenses which may be incurred through a condemnation action to acquire the easements and rights-of-way, including but not limited to, payment of the fair market value or negotiated settlement of the subject property, the cost of removing any existing structures and/or relocation expenses if necessary to construct the requirement improvements, and all appraisal, expert, legal, staff and administrative costs, as well as condemnation proceedings, if any. Developer shall indemnify the City, its elected and appointed officers, officials, employees, agents, representatives and volunteers against any adverse determination, adjudication or monetary award to a plaintiff in an eminent domain proceeding conducted pursuant to the provisions of this Agreement, by a court of competent jurisdiction.

2.8. DEDICATIONS.

Developer shall offer and the City shall accept such dedications for all required public lands upon completion of the improvements to be installed therein, or when otherwise provided herein, as follows:

(a) **Parks.** Each park site, or portion thereof, including without limitation, neighborhood parks, linear parks, pocket parks, and open space, within the Project shall be dedicated to the City, at no cost to the City or any other public agency, and the City shall accept such dedication upon the recordation of the final map for the corresponding subdivision.

(b) **Rights-of Way.** Developer shall dedicate its interest in any and all public road rights-of-way without expense to the City, at no cost to the City or any other public agency, and the City shall accept such dedication upon the recordation of the final map for the corresponding subdivision. Such rights-of-way or property to be conveyed to City pursuant to the Project Entitlements shall be delivered by Developer free of any liens, encumbrances, special taxes, or assessments, not approved by City, and shall be excluded from any covenants, conditions and restrictions on the Property.

(c) **Public Utility Easements.** Developer shall dedicate its interest in any and all improvements to water lines, water tanks, pump stations, sewer lines, storm drains, storm retention basins (including Sand Slough and Lone Oak Slough) and other public utilities for public utility purposes, as required by the public utilities having jurisdiction and City's Engineer, in a form approved by City's Engineer, to the City, at no cost to the City or any other public agency, and the City shall accept such dedication. The easements shall be effective upon recordation of said form.

(d) **All Dedications.** Such rights-of-way or property to be dedicated to City pursuant to the Project Entitlements shall be delivered by Developer free of any liens, encumbrances, special taxes, or assessments, not approved by City, and shall be excluded from any covenants, conditions and restrictions on the Property.

2.9. REIMBURSEMENTS.

2.9.1. Oversizing. Whenever new development, not including the Project, uses water, wastewater, storm drain lines or any other utilities, public improvements or public services, the City agrees to use its best efforts to include as a condition of approval, that such other new development will be subject to the provisions of the Hanford Municipal Code sections 13.04.130 & 13.04.140 & 13.08.140 related to infrastructure reimbursement agreements.

2.10. FINANCING OF PUBLIC FACILITIES AND MAINTENANCE.

2.10.1. Financing District.

(a) Formation. Prior to the issuance of the first final map, the City shall take all actions reasonably necessary to form a maintenance Community Facilities District ("**CFD**") pursuant to the provisions of Government Code Section 53311, et seq., assessment district, or other similar project-related public financing mechanisms (collectively "**Financing District**") for the purpose of funding and assuring long-term operation and maintenance of certain public improvements constructed in conjunction with the Project, including without limitation, all public landscaping and irrigation improvements (including all medians and street landscaping), bike trails, neighborhood parks, pocket parks, linear parks, open-space and storm drainage facilities, whether temporary or permanent, to serve the Project.

(b) Developer's Participation. City and Developer acknowledge and agree that Developer shall participate in the Financing District and any amendments thereto, applicable to Project for its benefit-based, pro rata fair share of the costs of the public improvements necessary for the Project to be financed thereby, in accordance with the provisions of this Agreement. Developer agrees that each parcel on a tentative

subdivision map in the Project area shall be annexed into the Financing District formed for such financing where Developer was the owner of taxable property within the boundaries of such district on the date of formation thereof and to the extent permitted by law, no bonds or other indebtedness will be sold or incurred by such CFD or other financing district without prior written consent of both the City and Developer. Notwithstanding Section 1.13 herein, Developer's foregoing right to consent shall not be assignable and Developer's foregoing right to consent shall terminate at such time as Developer owns less than fifty percent (50%) of the taxable land (measured in area rather than assessed value) within the boundaries of such district, subject only to Developer's continuing right to protest.

(c) Future Funding Mechanisms. City shall retain the ability to initiate or process applications for the formation of new Financing Districts covering all or any portion of the Project site. Notwithstanding the foregoing, as long as Developer is an owner of any portion of the Property, Developer retains all its rights to oppose the formation or proposed assessment of any new Financing Districts. In the event a Financing District is lawfully formed to provide funding for services, improvements, maintenance or facilities which overlap with those services, improvements, maintenance or facilities being funded by the fees, taxes or assessment to be paid by Developer under the Project Entitlements and in accordance with this Agreement, such fees, taxes, or assessments to be paid by Developer shall be reduced or credited in an amount equal to such fees, taxes, or assessments as have been paid by Developer under the Project Entitlements and this Agreement.

2.10.3 Fees.

(a) Development Fees. Except as provided in this Agreement, Developer, or its successor-in-interest or assignee, shall only pay those fees adopted by the City Council and in effect on the Effective Date of this Agreement, except as such fees may be modified from time to time pursuant to Section 2.2.1(b) of this Agreement. The applicable development fees are attached hereto in Exhibit F, "**Live Oak Residential Fee Schedule**." The City shall have the right, but not the obligation, to apply to the Project, increases in its AB-1600 Capital Facilities Fees, connection fees, use fees and other applicable fees as set forth in Exhibit F hereto, once a year by an amount no greater than the annual increase, if any, by a percentage no greater than the engineering cost index as published by the Engineering News Record for the preceding 12 months or pursuant to a study of such fees by the City. Such adjustments must be applied uniformly by City to all development within the City or other development otherwise subject to such fees. Except as authorized in Section 2.2.1(b) of this Agreement, the City shall neither impose nor collect any other City development fees, impact fees, hook-up fees or similar fees on the Project.

(b) Fee Deferral Program. Notwithstanding anything contrary in this Agreement, Developer and City may agree to defer the payment of any Development Fees from time of issuance of a building permit to the final inspection so long as the affected property enters into a separate agreement secured by a lien against the improved property.

(c) Revision of Ministerial Fees. Subject to the following sentence, this Agreement shall not be construed to limit the authority of the City to charge processing fees for land use approvals, building permits as they relate to plumbing, mechanical, electric or fire code permits, or other similar permits and entitlements which are in force and effect on a city-wide basis at the time those permits are applied for, except to the extent any such processing regulations would be inconsistent with this Agreement. Such fees and charges shall not be increased, or new fees added after the Effective Date with respect to the development of the Project, except that City may increase those fees and charges based on (i) any increase in the estimated reasonable cost to City for performing the work for which the particular fee or charge is paid, by an amount which will compensate City for the estimated reasonable cost of increases incurred.

(d) Exceptions to Development Fees.

(i) School Facilities Fees. City and Developer acknowledge that all or portions of the Project lie within the jurisdiction of Hanford Joint Union High School District, Hanford Elementary School District, and Armona Elementary School District (collectively "**School Districts**") and that the School Districts have certain facilities needs related to serving the expected student population to be generated by new development. To the extent legally permissible, the Developer shall provide full mitigation for school impacts caused by the Project by complying with the Leroy S. Greene School Facilities Act of 1998 (Senate Bill 50) and paying those school facilities fees in place, as adopted by the School Districts, at the time Developer, its successors or assignees, pull a building permit, or any other fee agreed upon between the Developer and the School Districts.

(e) Changes in Fees and Construction Costs. If any subsequent change in local ordinance, state law or by court decision causes any citywide fee (including, but not limited to school fees) applicable to the Project to be reduced or eliminated, or a subsequent change in local citywide ordinance, state law or by court decision change building and/or construction requirements so that those requirements make building and/or construction less expensive to Developer, then the subsequent change shall apply to this Agreement. Provided, however, that no such change shall apply to this Agreement with respect to facilities already financed, under construction, or constructed, unless such change contains a specific provision calling for the retroactive implementation of the change.

2.11. NOTICE OF COMPLETION.

Developer shall execute, acknowledge and record in the manner provided by law, a notice of completion of the Infrastructure Improvements and/or other public improvements required as a condition to this Agreement and/or the Project Entitlements within ten (10) days after the Department of Public Works for the City provides written notice to the Developer that the Infrastructure Improvements and/or other public improvements required as a condition to this Agreement and/or the Project Entitlements have passed the final inspection. Upon completion of the Infrastructure Improvements or other public improvements, the Developer's Engineer shall supply to the City with one mylar set of "as built drawings" and an electronic version of same in a format satisfactory to the City Engineer. These drawings shall be certified on each page by a Registered Civil Engineer as being "as built drawings," pursuant to Business and Professions Code section 6735.6 as may be amended from time-to-time.

2.12. FINAL INSPECTION.

After completion of each Unit in the Project, the City shall provide Developer with a Final Inspection for that Unit. The Final Inspection is conclusive determination that the obligations of the Developer under this Agreement have been met for that Unit.

2.13. WILLIAMSON ACT CONTRACTS.

Three (3) parcels within the Project are subject to a land conservation contracts pursuant to the California Land Conservation Act of 1965, also known as the Williamson Act. A notice of non-renewal of the Williamson Act contract has been filed as to each parcel. Developer has filed a petition for cancellation of the contract on two (2) parcels, specifically Assessor's Parcel Numbers 018-012-073 and 018-012-074, and the City is processing such cancellations. The City agrees to follow the procedures proscribed by law for canceling such contracts, provided that Developer promptly pays all fees and taxes associated with such cancellations.

2.14. COMPLIANCE WITH CEQA.

The FEIR for the Project was certified by the City Council. Except as otherwise required by CEQA, as it may be amended from time to time or by other state law, no subsequent environmental impact report, supplement to an environmental impact report, addendum to an environmental impact report, or other type of additional environmental review, except a mitigated negative declaration, including, but not limited to an expanded negative declaration, shall be required of any Reserved Discretionary Approval or other subsequent approval concerning the Project unless:

(a) The Reserved Discretionary Approval or other subsequent approval concerning does not substantially comply with the approved Design Guidelines of the Project Entitlements for the uses, such as residential, for which there has been adequate environmental review; or,

(b) The Reserved Discretionary Approval or other subsequent approval concerning proposes land uses, population densities or building intensities which are greater than permitted by the Project Entitlements; or,

(c) The Reserved Discretionary Approval or other subsequent approval concerning does not substantially comply with the approved Design Guidelines of the Project Entitlements and/or proposes land uses population densities or building intensities which are greater than permitted by the Project Entitlements and these changes directly cause significant environmental impacts that were not discussed in the earlier environmental impact report.

Notwithstanding the foregoing, a subsequent or supplemental environmental impact report shall be required whenever the standards of Public Resources Code Section 21666 and CEQA Guidelines Section 15166, or either, are met.

(d) A court or tribunal of competent jurisdiction requires such additional environmental review of the Reserved Discretionary Approval or other subsequent approval, or otherwise determines the Project must submit to additional environmental review.

ARTICLE 3

OBLIGATIONS OF DEVELOPER

3.1. OBLIGATIONS.

In consideration of the City entering into this Agreement, Developer agrees and acknowledges as follows:

(a) That it will comply with this Agreement and all of the Project Entitlements, including, but not limited to, all conditions of approval identified in each of the components of the Project Entitlements.

(b) That an express condition to the City's issuance of any permits to or for the benefit of the Project shall be the financing and construction of those Infrastructure Improvements in the Master Plan on such terms and at such times as the City, in its sole discretion, deems necessary and appropriate in order to provide infrastructure service to the Project.

(c) That the City's execution of this Agreement is a material consideration for Developer's acceptance of, and agreement to comply with, the foregoing. Developer shall only make those dedications, and otherwise be subject to those conditions and exactions that are expressly set forth in this Agreement, the Project Entitlements and the Effective Standards.

(d) That the Developer's agreement to perform, and Developer's performance of, the obligations of Developer under this Agreement are a material consideration for City's acceptance of, and agreement to comply with, the terms of this Agreement.

ARTICLE 4

OBLIGATIONS OF CITY

4.1. CITY PROCESSING AND REVIEW.

The City shall allow the uses on the Property that are permitted by this Agreement and the Vested Components. Subject to the applicable regulations and the Project Entitlements, City agrees that upon payment of all applicable fees and costs by Developer, City will accept for processing and review the Reserved Discretionary Approvals or other entitlements necessary to accomplish the goals and purposes set forth in the Project Entitlements, without restriction as to number as set forth in this Article. Such applications will be processed in compliance with statutory and municipal code provisions. Notwithstanding any other provisions contained herein to the contrary, failure to meet any of the time lines set forth in this Article shall not be deemed to be a breach of this Agreement by City and shall not relieve Developer of any obligations under this Agreement, provided that City is operating in good faith hereunder.

4.2. COOPERATION BETWEEN CITY AND DEVELOPER.

Obtaining required permits is the sole and absolute obligation of the Developer. Notwithstanding Developer's sole obligation to properly obtain all permits required under this Agreement, the City agrees to reasonably cooperate with Developer in securing all permits which may be required by City.

4.3. ANNUAL REVIEW.

The City shall review the extent of good faith compliance by Developer, or its successors in interest, with the terms of this Agreement at least every twelve (12) months from the Effective Date, at which time the Developer, or successors in interest thereto, shall be required to demonstrate good faith compliance with the terms of this Agreement. Developer, on or before June 1 of each year during the Initial Term and any extensions thereof, shall meet with the Community Development Director and provide the Community Development Director the information requested by the Community Development Director to demonstrate Developer's compliance with the terms of this Agreement. The Community Development Director shall review the information submitted by Developer and shall prepare a staff report to the City Council for its consideration, in accordance with the requirements of the Development Agreement Ordinance. The City Council, after a public hearing, shall determine on the basis of substantial evidence whether or not the Developer has, for the period under review, demonstrated good faith compliance with the terms and conditions of this Agreement.

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The failure of any review or annual review of the Agreement to occur shall not terminate, void, make voidable, or otherwise adversely affect this Agreement.

The City shall deposit in the mail or fax to the Developer a copy of all staff reports and related exhibits concerning contract performance at least seven (7) days prior to the public hearing on such periodic review. Developer shall be permitted an opportunity to be heard orally or in writing regarding its performance under this Agreement before the City Council and, if the matter is referred to the Planning Commission, before said Planning Commission.

If the City determines after the hearing on the basis of substantial evidence that Developer has not complied in good faith with the terms and conditions of this Agreement, the City shall provide written notice thereof to Developer. Said notice shall specify the nature of the alleged failure and, where appropriate, the manner and period of time in which the failure might be satisfactorily cured. If the nature of the alleged failure is such that it cannot reasonably be cured within three (3) months, the commencement of the cure within such time period and diligent prosecution to completion of the cure shall be deemed a cure, except that failure to cure such default within thirty (30) days of Developer's commencement of a good faith effort to cure shall be deemed a breach of this Agreement.

During any period of curing, the Developer shall not be considered in default for the purposes of termination or institution of legal proceedings as long as Developer is diligently prosecuting such cure to completion.

ARTICLE 5

MORTGAGE PROTECTION

5.1. ENCUMBRANCES ON THE PROPERTY.

The Parties hereto agree that this Agreement shall not prevent or limit the Developer, in any manner, at the Developer's sole and absolute discretion, from encumbering the Property or any portion thereof or any improvements thereon with any mortgage or deed of trust securing financing with respect to the construction, development, use or operation of the Project. The City acknowledges that Mortgagee may request certain modifications to this Agreement, and the City agrees, upon request, from time to time, to meet with Developer and/or any representatives of such Mortgagee to negotiate in good faith any such request for modification. The City further agrees that it will consider any such requested modification to this Agreement provided the proposed modification is consistent with the overall intent of the Master Plan and the Project Entitlements and with any agreements between the City and the Developer. Notwithstanding anything contained in this Section 5.1 to the contrary, the decision on whether to accept and approve any requested modification of this Agreement rests within the reasonable judgment and discretion of the City. Any Mortgagee and its successor and assigns shall be entitled to the rights and privileges set forth in this section.

5.2. MORTGAGE PROTECTION.

This Agreement shall be superior and senior to the lien of any mortgage or deed of trust recorded against the Property. Notwithstanding the foregoing, no breach of this Agreement shall defeat, render invalid, diminish or impair the lien of any mortgage or deed of trust made in good faith and for value, and any acquisition or acceptance of title or any right or interest in or with respect to the Property or any portion thereof by a Mortgagee (whether pursuant to foreclosure, trustee's sale, deed in lieu of foreclosure, lease termination or otherwise) shall be subject to all of the terms and conditions of this Agreement. However, notwithstanding these provisions, no Mortgagee shall have any obligation or duty under this Agreement to perform the obligations of the Developer or other affirmative covenants of Developer hereunder, or to guarantee such performance, except that, to the extent that any covenant to be performed by the Developer is a condition to the performance of a covenant by the City, the performance thereof shall continue to be a condition precedent to the City's performance hereunder.

5.3. MORTGAGEE NOTICE AND RIGHT TO CURE DEFAULT.

A Mortgagee may elect to receive notice of any default or non-compliance under City Code and/or notice of public hearing under City Municipal Code by furnishing

both the Developer and the City prior written notice of such election by personal delivery, or by certified mail—return receipt requested. In such case, the Mortgagee shall have the right to (a) cure a default, or (b) show good faith compliance, as provided in the Agreement and the City Municipal Code.

ARTICLE 6

ESTOPPEL CERTIFICATE.

Either Party may, at any time, and from time to time, deliver written notice to the other Party requesting such Party to certify in writing that, to the knowledge of the certifying Party: (i) this Agreement is in full force and effect and a binding obligation of the Parties, (ii) this Agreement has not been amended or modified either orally or in writing, or if so amended, identifying the amendments, and (iii) the requesting Party is not known to be in default of the performance of its obligations under this Agreement, or if in default, to describe therein the nature and amount of any such defaults. A Party receiving a request hereunder shall execute and return such certificate within thirty (30) days following the receipt thereof. The Community Development Director, or any other individual designated in writing by the City, shall issue such certification on behalf of the City. If the certifying Party fails to execute and deliver such statement to the requesting Party within such time, the requesting Party shall submit a second request in which the other Party to this Agreement shall have ten (10) business days to execute and deliver to the requesting Party a statement certifying the above listed information.

The City acknowledges that a certificate hereunder may be relied upon by assignees and other persons having an interest in the Property, including Mortgagees.

For any estoppel certificates requested in a single year the City may charge Developer a reasonable fee directly related to the actual cost to review the request, investigate the facts and performance of Developer under this Agreement, and prepare the certificate. Said fee shall be paid by Developer to the City before the City releases the executed certificate.

ARTICLE 7

INSURANCE

7.1. COVERAGE.

7.1.1. Insurance. At all times that Developer is designing, engineering, or constructing any improvements that will become public improvements, Developer shall take out and maintain, or shall have maintained, insurance policies with coverage at least as broad as follows:

i. Workers Compensation Coverage. Developer shall maintain Worker's Compensation Insurance and Employer's Liability Insurance for its employees in accordance with the laws of the State of California. In addition, Developer shall require each subcontractor to similarly maintain worker's compensation insurance and employer's liability insurance in accordance with the laws of the State of California for all of subcontractor's employees. Any notice of cancellation, non-renewal or modification of any Workers' compensation policies must be received by the City at least thirty (30) days prior to such termination, non-renewal or modification. The insurer shall agree to waive all rights of subrogation against City, its officials, officers, agents, employees and volunteers for losses arising from work performed by Developer or its contractors or subcontractors for the design, engineering and construction of public improvements under this Agreement.

ii. General Liability Coverage. Developer shall maintain commercial general liability insurance in an amount not less than one million dollars ($1,000,000) per occurrence for bodily injury, personal injury and property damage. If a commercial general liability insurance form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the design, engineering, and construction of public facilities to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit identified in this paragraph.

iii. Automobile Liability Coverage. Developer shall maintain automobile liability insurance covering bodily injury and property damage for all activities of the Consultant arising out of or in connection with the design, engineering, and construction of public facilities to be performed under this Agreement, including coverage for owned, hired and non-owned vehicles, in an amount of not less than one million dollars ($1,000,000) combined single limit for each occurrence.

7.2. DEDUCTIBLES AND SELF-INSURED RETENTIONS.

Any deductibles or self-insured retentions must be declared to and approved by the City, in the reasonable discretion of the City. At the City's option, Developer shall demonstrate financial capability for payment of such deductibles or self-insured retentions.

7.3. ADDITIONAL INSURED ENDORSEMENT.

Each general liability and automobile liability insurance policy shall be endorsed with the following specific language:

i. The City, its elected or appointed officers, officials, employees, agents, representatives and volunteers shall be covered as additional insureds on all such policies of insurance with respect to liability arising out of design, engineering, and construction of public improvements performed by or on behalf of the Developer, including materials, parts or equipment furnished in connection with such design, engineering, and construction activities.

ii. These policies of insurance shall be considered primary and non-contributory insurance as respects the City, its elected or appointed officers, officials, employees, agents, representatives and volunteers. Any insurance maintained by the City, including any self-insured retention the City may have, shall be considered excess insurance only and shall not contribute with the policies of insurance obtained by Developer.

iii. These policies of insurance shall act for each insured and additional insured as though a separate policy had been written for each, except with respect to the limits of liability of the insuring company.

iv. The insurer waives all rights of subrogation against the City, its elected or appointed officers, officials, employees, agents, representatives or volunteers.

v. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the City, its elected or appointed officers, officials, employees, agents, representatives or volunteers.

vi. The insurance provided by these policies shall not be suspended, voided, canceled, modified or reduced in coverage or in limits except after thirty (30) days written notice has been received by the City.

vii. The general liability insurance coverage shall be at least as broad as Insurance Services Office commercial general liability coverage (occurrence form CG0001 1188). The automobile liability insurance coverage shall be at least as broad as Insurance Services Office form number CA 0001 0692 Code 1 (any auto).

7.4. PRIORITY OF POLICIES.

The Developer's insurance coverage shall be primary insurance regarding the City, its elected and appointed officers, officials, employees, agents, representatives and volunteers. Any insurance or self-insurance maintained by the City or City's elected and appointed officers, officials, employees, agents, representatives or volunteers shall be excess of the Developer's insurance and shall not contribute with Developer's insurance.

7.5. COMPLIANCE.

Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the City or its elected and appointed officers, officials, employees, agents, representatives and volunteers.

7.6. APPLICATION.

The Developer's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

7.7. NOTICE OF CANCELLATION.

Each insurance policy required by this Article 7 shall be endorsed to state that coverage shall not be suspended, voided, canceled except after thirty (30) days' prior written notice has been given to City. The Developer shall promptly notify, or cause the insurance carrier to promptly notify, the City of any change in the insurance policy or policies required under this Agreement, including, without limitation, any reduction in coverage or in limits of the required policy or policies.

7.8. INSURANCE RATING.

Each general liability and automobile liability insurance policy shall be with insurers possessing a Best's rating of no less than A:VII and which are licensed to conduct business in California.

7.9. CONTRACTORS AND SUBCONTRACTORS.

Developer shall require that all of its contractors and subcontractors involved in the design, engineering, and construction of public facilities under this Agreement are subject to the insurance and indemnity requirements stated herein, or shall include all subcontractors as additional named insureds under its insurance policies.

7.10. PROOF OF INSURANCE.

At least ten (10) days prior to the commencement of design, engineering or construction of any improvements which will become public improvements, Developer shall furnish City with certificates of insurance and with original endorsements effecting coverage required by this Agreement, including, without limitation, those effecting coverage for contractors and subcontractors of the Developer. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements shall be received and, in City's sole and absolute discretion, approved by City. City reserves the right to require complete copies of all required insurance policies and endorsements, at any time.

7.11. LIMITATION OF LIABILITY.

The limits of insurance described herein shall not limit the liability of the Developer and Developer's officers, employees, agents, representatives, contractors or subcontractors.

ARTICLE 8

EXTENSION, CANCELLATION, TERMINATION, EXTENSION, DEFAULT, ENFORCEMENT AND REMEDIES

8.1. EXTENSION

8.1.1. Extension of Terms. Provided that Developer is not then in default under any provision of this Agreement and further provided that neither City nor Developer has terminated this Agreement, City and Developer agree that it be mutually desirable for the Initial Term to be extended. The Developer may request in writing, at least thirty (30) days before the expiration of the Initial Term, as may be extended, that the City extend the Initial Term of this Agreement. Upon the consent of the City the Agreement may be extended for one additional five (5) year period. Such extension shall constitute an amendment to this Agreement subject to the provisions of this Agreement regarding amendments, including Government Code Section 65868.

8.1.2. Extension of Term Upon Legal Challenge. If any litigation affecting the Property or Project is filed challenging this Agreement, any Project Entitlement, or any Reserved Discretionary Approval granted pursuant to this Agreement (including but not limited to any environmental determinations relating to any of the foregoing), or otherwise raising issues of the validity and binding nature of this Agreement, the Initial Term of this Agreement shall be extended for the period of time from the date of the filing of such litigation until the conclusion of such litigation by dismissal or final entry of judgment, and the Developer and City shall execute an amendment to this Agreement setting forth the period of any such extension and may record a notice to such effect. The extension of time shall not be applicable if the Developer is the plaintiff or petitioner in the litigation unless a court of competent jurisdiction orders an extension based on a finding that the action filed was in good faith. The filing of any third party lawsuit(s) against City or Developer relating to this Agreement, the Project Entitlements, or the Reserved Discretionary Approvals shall not delay or stop the development, processing or construction of the Project or approval of any Reserved Discretionary Approvals, unless enjoined by a court of competent jurisdiction, except that Developer proceeds with such development processing or construction at Developer's sole and absolute risk. Nothing in the foregoing shall be construed to relieve Developer of its obligation to pay necessary application fees, or be reimbursed for application fees paid. City shall not stipulate to the issuance of any such order.

8.1.3 Automatic Extension—Force Majeure. In addition to specific provisions of this Agreement, performance by either Party hereunder shall not be deemed to be in default where delays or defaults are due to war, insurrection, strikes, walkouts, riots, floods, earthquakes, fires, casualties, acts of God, governmental restrictions imposed or mandated by governmental entities other than the City, enactment of conflicting state or

federal laws or regulations, or new or supplementary environmental regulation enacted by the state or federal government or litigation. An extension of time for such cause shall be granted in writing by City for the period of the enforced delay or longer, as may mutually agreed upon.

8.1.4 Term of Subdivision Maps, Vested Components and Permits.

(a) Except for fees relating thereto, the term of any parcel map, tentative subdivision map, vesting parcel map or vesting tentative subdivision map, any subdivision improvement agreement related to the development of the Property or any portion thereof, and all Vested Components shall automatically be extended (pursuant to Government Code Section 66452.6(a)) for the longer of:

(i) the Initial Term, as may be extended from time to time under the terms of this Agreement; or

(ii) the term of the particular map otherwise allowed under the Subdivision Map Act (Government Code Section 66410 et seq.) and the City's subdivision ordinance.

(b) The term of any use permits or other entitlements for development for all or any part of the Property shall be extended (pursuant to Government Code Section 65863.9) for the longer of:

(i) the Initial Term, as may be extended from time to time under the terms of this Agreement;

(ii) the term of that permit or entitlement; or

(iii) the term of a subdivision map or parcel map relating to that portion of the Property that is the subject of the permit or other entitlement.

8.2. CANCELLATION

8.2.1. Cancellation by Mutual Consent. This Agreement may be canceled in whole or in part, by mutual consent of the Parties to the Agreement or their successors in interest in conformance with Government Code Section 65868 and City Code Section 16.44.130.

8.2.2. Cancellation for Non-Compliance. Pursuant to City Code Section 16.44.140, the City may terminate or cancel this Agreement, or impose new terms or conditions as the City, in its sole discretion, determines reasonable, upon a finding that the Developer has not complied with the terms and conditions of this Agreement and

has failed to cure such noncompliance. This provision is subject to the notice, hearing and cure provisions of City Code Section 16.44.140.

8.2.3. Rights Upon Cancellation or Termination. The rights of the Parties in the event that this Agreement is canceled or otherwise terminated are set forth in Section 16.44.130 of the City Code. In no event shall Developer be entitled to any damages against City upon cancellation or termination of this Agreement.

8.3. TERMINATION

8.3.1. Termination Date. This Agreement shall be deemed terminated ("**Termination Date**") and of no further effect upon the occurrence of any of the following events:

(a) Expiration of the Initial Term, as may be extended from time to time under the terms of this Agreement;

(b) Entry after all appeals have been exhausted of a final court judgment or issuance of a final court order directed to the City to set aside, withdraw, or abrogate the City's approval of this Agreement or any material part thereof; or

(c) The effective date of a Party's election to terminate the Agreement as provided in this Agreement; or

(d) When the Property has been fully developed and all of the Developer's obligations in connection therewith are satisfied as determined by the City.

8.3.2. Recordation Upon Termination. Upon termination of this Agreement pursuant to Section 8.3.1, the City shall record a notice of such termination in a form satisfactory to the City Attorney that the Agreement has been terminated. This Agreement shall automatically terminate and be of no further force or effect as to any single-family residence or any non-residential building, and the lot or parcel upon which such residence is located, when it has been approved by the City for occupancy.

8.3.3. Effect Of Termination on Developer Obligations. Termination of this Agreement as to the Developer of the Property or any portion thereof shall not affect any of the Developer's obligations to comply with the General Plan and the terms and conditions of any applicable zoning, or subdivision map or other land use entitlements approved with respect to the Property, nor shall it affect the provisions for affordable housing in Section 2.6.3 hereof, or any other covenants or any other development requirements specified in this Agreement to continue after the termination of this Agreement, or obligations to pay assessments, liens, fees or taxes.

8.3.4. Effect Upon Termination on City. Upon any termination of this Agreement as to the Developer of the Property, or any portion thereof, the entitlements, conditions of development, limitations on fees and all other terms and conditions of this Agreement shall no longer be vested hereby with respect to the Property affected by such termination (provided vesting of such entitlements, conditions or fees may then be established for such Property pursuant to then existing planning and zoning law), and the City shall no longer be limited, by this Agreement, to make any changes or modifications to such entitlements, conditions or fees applicable to such property.

8.4. DEFAULT

8.4.1. Default by Developer. Failure or unreasonable delay by Developer to perform any term, provision, or condition of this Agreement, or creation by Developer of a condition or circumstance which will render such performance impossible, for a period of thirty (30) days after written notice thereof from the City shall constitute a default under this Agreement, subject to extensions of time by mutual consent in writing. Said notice shall specify the nature of the alleged default and, where appropriate, the manner and period of time in which said default might be satisfactorily cured. If the nature of the alleged default, with the exception of any failure to pay money, is such that it cannot reasonably be cured within such thirty (30) day period, the commencement of the cure within such time period and the good faith diligent pursuit to completion of the cure shall be deemed a cure within such period, except that failure to cure such default within thirty (30) days of Developer's commencement of a good faith effort to cure shall be deemed a breach of this Agreement. During any period of curing, the Developer shall not be considered in default for the purposes of termination or institution of legal proceedings. If the default is cured, then no default shall exist and the noticing Party shall take no further action.

Subject to the foregoing, after notice and expiration of the thirty (30) day period without cure or commencing to cure, the City, at its option, may institute legal proceedings pursuant to this Agreement and/or give notice of intent to terminate the Agreement pursuant to Government Code Section 65868. Following such notice of intent to terminate, the matter shall be scheduled for consideration and review by the City Council in the manner set forth in Government Code Sections 65865, 65867, and 65868.

Following consideration of the evidence presented in said review before the City Council, and a determination by the City Council based thereon, the City, at its option, may give written notice of termination of this Agreement to the Developer by certified mail.

8.4.2. Default by City. In the event City defaults under the terms of this Agreement, Developer shall have all rights and remedies provided herein or under applicable law or equity (except as limited herein). Developer shall provide City with

written notice of the default and the City shall have thirty (30) days to notify Developer of City's initial action to cure the default and ninety (90) days thereafter to cure the default.

8.4.3. Waiver of Default. Waiver of any default or breach of any provision of this Agreement by a Party shall not be deemed to be waiver of any subsequent default or breach, and shall not be construed to be a modification of the terms of this Agreement unless this Agreement is modified as provided herein. Either Party's consent to or approval of any act shall not be deemed to render unnecessary the obtaining of that Party's consent to or approval of any subsequent act by either Party.

8.5. NO AGENCY, JOINT VENTURE OR PARTNERSHIP.

8.5.1. No Relationship Created. It is specifically understood and agreed to by and between the Parties hereto that:

(a) the subject development is a private development;

(b) except for City projects, the City has no interest or responsibilities for, or duty to, third parties concerning any improvements until such time, and only until such time, that the City formally accepts the dedication of such improvements;

(c) the Developer shall have full power over and exclusive control of the Project and the Project site, subject only to the limitations and obligations of Developer under Project Entitlements and this Agreement; and

(d) the City and Developer hereby renounce the existence of any form of agency relationship, partnership, joint venture, or a joint powers agreement under Government Code Section 6000 et seq., or otherwise, between the City and Developer and agree that nothing contained herein or in any document executed in connection herewith shall be construed as creating any such relationship between the City and Developer.

8.5.2. Representations by Developer. Developer shall not represent and conduct itself as an employee, agent, representative, or independent contractor of the City at any time during the term of this Agreement.

8.5.3. Authority of Parties. Developer shall not have the authority, express or implied, to act on behalf of, bind or obligate the City or any City department, City agent or City employee in any way without the express prior written consent of the City. City shall not have the authority, express or implied, to act on behalf of, bind or obligate Developer, Developer agent or Developer employee in any way without the express prior written consent of Developer.

8.6. INDEMNIFICATION.

8.6.1. **Indemnity.** Developer agrees to indemnify, defend and hold harmless the City and its elected or appointed officials, officers, employees, agents, representatives, independent contractors and volunteers (collectively the "**Indemnified Parties**") from and against all claims, demands, actions, injuries, liabilities, losses, costs or damages, direct or indirect, and any and all attorneys fees and other expenses which the Indemnified Parties, or any of them, may sustain or incur as a consequence of or in anyway related to Developer's negligence, recklessness, or willful misconduct or its failure to perform or comply with any of its obligations or responsibilities contained in this Agreement. This indemnification shall survive the termination of this Agreement.

8.6.2. **Attack of Proceedings.** To the fullest extent permitted by law, Developer shall defend, indemnify, and hold harmless the Indemnified Parties, and each of them, from any claim, action, or proceeding against the Indemnified Parties, or any of them, to attack, set aside, void, or annul, an approval of the City of the FEIR, Project Entitlements, Vested Components, Vesting Tentative Maps or any other approval required for development of the Project.

8.6.3. **Effect of Insurance.** Developer's obligation to defend, indemnify and hold the Indemnified Parties, and each of them, harmless under the provisions of this paragraph is not limited to or restricted by any requirement in this Agreement for Developer to procure and maintain a policy of insurance.

8.6.4. **Defense of Claim.** If any such claim, action, or proceeding is brought against the Indemnified Parties, or any of them, Developer, upon notice from City, shall defend the City at Developer's expense by counsel satisfactory to City.

8.6.5. **Notice of Claim.** City shall promptly notify Developer of any claim, action, or proceeding against the Indemnified Parties, or any of them, relating to the performance, or omission to perform, any term or condition of this Agreement. The Indemnified Parties shall cooperate fully in the defense of such claim, action, or proceeding.

8.6.6. **Assumption of Risk.** Developer assumes all risk of damage to property or injury to persons resulting from the performance or omission to perform under this Agreement by Developer or Developer's agents, representatives, employees, contractors and subcontractors. Developer hereby waives all claims in respect thereof against the Indemnified Parties, and each of them.

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8.7. GOVERNING LAW AND VENUE.

This Agreement shall be deemed to be made under, and shall be governed by and construed in accordance with, the laws of the State of California. Any action brought to enforce the terms or provisions of this Agreement shall be heard by the Superior Court for the State of California, County of Kings, which shall have venue over all legal proceedings involving this Agreement.

8.8. CUMULATIVE REMEDIES.

In addition to any other rights or remedies, City and Developer may institute legal or equitable proceedings to cure, correct or remedy any default, to specifically enforce any covenant or agreement herein to enjoin any threatened or attempted violation of the provisions of this Agreement.

8.9. CALIFORNIA TORT CLAIMS ACT.

Notwithstanding any term or condition of this Agreement, the provisions of the California Tort Claims Act (Division 3.6 (commencing at section 810) of Title 1 of the Government Code) are not waived by the City and shall apply to any claim against City arising out of any acts or conduct by any Party under the terms and conditions of this Agreement

8.10. ATTORNEY FEES.

Notwithstanding any contrary provision of law or of this Agreement, each Party shall be solely responsible for the cost and expenses, including attorneys' fees, incurred by that Party in any proceeding whatsoever brought by any Party to this Agreement to enforce or construe the provisions of this Agreement.

8.11. JOINT AND SEVERAL LIABILITY.

If any Party consists of more than one person or entity, the liability of each person or entity signing this Agreement shall be joint and several.

8.12. COOPERATION IN THE EVENT OF LEGAL CHALLENGE.

At the Developer's sole cost and in the event of any legal or equitable act, action, or other proceeding instituted by a third party, other governmental entity or official challenging the validity of any provision of this Agreement, the Parties hereby agree to cooperate in defending said action or proceedings. If Developer elects to file a validation action in order to confirm validity of this Agreement, City agrees to

cooperate with Developer, at no cost to City, in such litigation and further agrees to refrain from raising any arguments that challenge the validity of this Agreement.

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ARTICLE 9

MISCELLANEOUS PROVISIONS

9.1. AUTHORITY.

All Parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles and capacities herein stated and on behalf of any entities, persons, estates or firms represented or purported to be represented by such entity(s), person(s), estate(s) or firm(s) and that all formal requirements necessary or required by any state and/or federal law in order to enter into this Agreement have been fully complied with. Each Party to this Agreement further represents that by entering into this Agreement, such Party is not, and shall not be, in breach of the terms or conditions of any other contract or agreement to which such Party is obligated, which such breach would have a material effect hereon.

9.2. DOCUMENT PREPARATION.

This Agreement will not be construed against the Party preparing it, but will be construed as if prepared by all Parties.

9.3. ADVICE OF ATTORNEY.

Each Party warrants and represents that in executing this Agreement, it has received independent legal advice from its attorneys or the opportunity to seek such advice.

9.4. CONSTRUCTION.

9.4.1. Captions. Headings or captions to the provisions of this Agreement are solely for the convenience of the Parties, are not part of this Agreement, and shall not be used to interpret or determine the validity of this Agreement. Any ambiguity in this Agreement shall not be construed against the drafter, but rather the terms and provisions hereof shall be given a reasonable interpretation as if both Parties had in fact drafted this Agreement.

9.4.2. Numbers and Gender. In this Agreement, the neuter gender includes the feminine and masculine, and the singular includes the plural, the word "person" includes corporations, partnerships, firms or associations, wherever the context so requires.

9.4.3. Mandatory and Permissive. "Shall" and "will" and "agrees" are mandatory. "May" is permissive.

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9.5 TIME IS OF THE ESSENCE.

Time is of the essence of this Agreement and each covenant and term a condition herein.

9.6. CONFLICT OF INTEREST.

Neither a City employee whose position in City enables such employee to influence the award or administration of this Agreement or any competing Agreement, nor a spouse or economic dependent of such an employee, shall be employed, hired or retained in any capacity, either directly or indirectly, by the Developer, or have any other direct or indirect financial interest in this Agreement, during the term of this Agreement and for a period of two (2) years after the termination of this Agreement.

9.7. NO THIRD PARTY BENEFICIARY.

Nothing herein shall be construed to create any right of a third party to enforce this Agreement or to seek any benefit therefrom.

9.8. NOTICE.

All notices under this Agreement to the parties listed below will be in writing and will be given by personal delivery; or by registered or certified U.S. mail, postage prepaid, return receipt requested; or by facsimile if transmitted by a machine that produces a transmission report verifying the date and time of transmission and the telephone number to which transmitted, and a confirming hard copy is mailed to the recipient; or by overnight delivery service that issues a receipt and addressed to the appropriate party as the address set forth below. Notice given (a) by personal delivery will be effective upon delivery, (b) by mail will be effective upon receipt or three (3) calendar days after the postmark date, whichever is earlier; (c) by facsimile will be effective on the date shown on the transmission receipt; and (d) by overnight service will be effective on the date of receipt.

To City:

City of Hanford
317 North Douty Street
Hanford, CA 93230
Attn: Director of Community Development
Telephone: (559) 585-2580
Facsimile: (559) 583-1633

With a copy to:	City of Hanford 317 North Douty Street Hanford, CA 93230 Attn: City Manager Telephone: (559)585-2580 Facsimile: (559) 583-1633
With a copy to:	Griswold, LaSalle, Cobb, Dowd & Gin, L.L.P. 111 East Seventh Street Hanford, CA 93230 Attn: Robert M. Dowd and Ty N. Mizote Telephone: (559) 584-6646 Facsimile: (559) 582-3106
To Developer:	MMV Development, LLC 550 Harvest Park Drive Suite A Brentwood, CA 94513 Attn: Manny Vierra Telephone: (925) 634-8890 Facsimile: (925) 634-9651
With a copy to:	MMV Development, LLC 550 Harvest Park Drive Suite A Brentwood, CA 94513 Attn: Norm Allinder Telephone: (925) 634-8890 Facsimile: (925) 634-9651
With a Copy to:	Petrulakis Jensen & Friedrich, LLP 1130 12th Street, Suite B Modesto, CA 95354 Attn: George A. Petrulakis, Esq. Phone: (209) 522-0500 Fax: (209) 522-0700

The Parties hereby agree that notices may be given hereunder by the Parties' respective counsel and that, if any communication is to be given hereunder by Developer's or City's counsel, such counsel may communicate directly with all principals as required to comply with the provisions of this Section. A Party may change or supplement the

addresses given above, or designate additional addressees, for purposes of this Agreement by giving the other Party written notice of the new address in the manner set forth above.

9.9. SEVERABILITY.

If any portion of this Agreement or application thereof to any person or circumstance shall be declared invalid by a court of competent jurisdiction or if it is found in contravention of any federal, state or City statute, ordinance or regulation, the remaining provisions of this Agreement or the application thereof shall not be invalidated thereby and shall remain in full force and effect to the extent that the provisions of this Agreement are declared severable.

9.10. ENTIRE AGREEMENT.

This Agreement supersedes any and all other agreements, either oral or in writing, between any of the Parties herein with respect to the subject matter hereof and contains all the agreements between the Parties with respect to such matter. Each Party acknowledges that no representations, inducements, promises or agreements, oral or otherwise, have been made by any Party, or anyone acting on behalf of any Party, which is not embodied herein, and that no other agreement, statement or promise not contained in this Agreement shall be valid or binding.

9.11 EXECUTION IN COUNTERPARTS.

This Agreement may be executed in any number of duplicate counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same agreement.

--- SIGNATURE LINES ON FOLLOWING PAGE ---

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IN WITNESS WHEREOF, the Parties have executed this Agreement on the day and year first hereinabove written.

"CITY"
City of Hanford

By: _____
David G. Ayers
Its: Mayor

"DEVELOPER"
MMV Development, LLC, a California corporation

By: _____
Manny Vierra
Its: President

ATTEST:
HANFORD CITY CLERK

By: _____
Karen Madruga
Its: City Clerk

APPROVED AS TO FORM:
CITY ATTORNEY

By _____

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NOTARY ACKNOWLEDGEMENTS TO DEVELOPMENT AGREEMENT "LIVE OAK"

STATE OF CALIFORNIA)
)ss
COUNTY OF)

On November 10, 2009, before me, Ronald J. Enos, a notary public, personally appeared Manuel S. Vierra, who proved to me on the basis of satisfactory evidence to be the person(s) whose name 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(ies) 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.

(SEAL)

RONALD J. ENOS
Commission # 1864221
Notary Public - California
Contra Costa County
My Comm. Expires Jun 15, 2013

Ronald J Enos
Notary Public

STATE OF CALIFORNIA)
)ss
COUNTY OF)

On Dec 1, 2009, before me, Karen Madruga, a notary public, personally appeared DAVID G. AYERS, who proved to me on the basis of satisfactory evidence to be the person(s) whose name 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(ies) 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.

(SEAL)

KAREN MADRUGA
Commission # 1810410
Notary Public - California
Kings County
My Comm. Expires Aug 21, 2012

Karen Madruga
Notary Public

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SCHEDULE OF EXHIBITS

Exhibit "A"	Property: Map
Exhibit "B"	Property: Legal Description
Exhibit "C"	Planned Unit Development Resolution
Exhibit "D"	Master Plan
Exhibit "E"	Vesting Tentative Maps
Exhibit "F"	Live Oak Residential Fee Schedule

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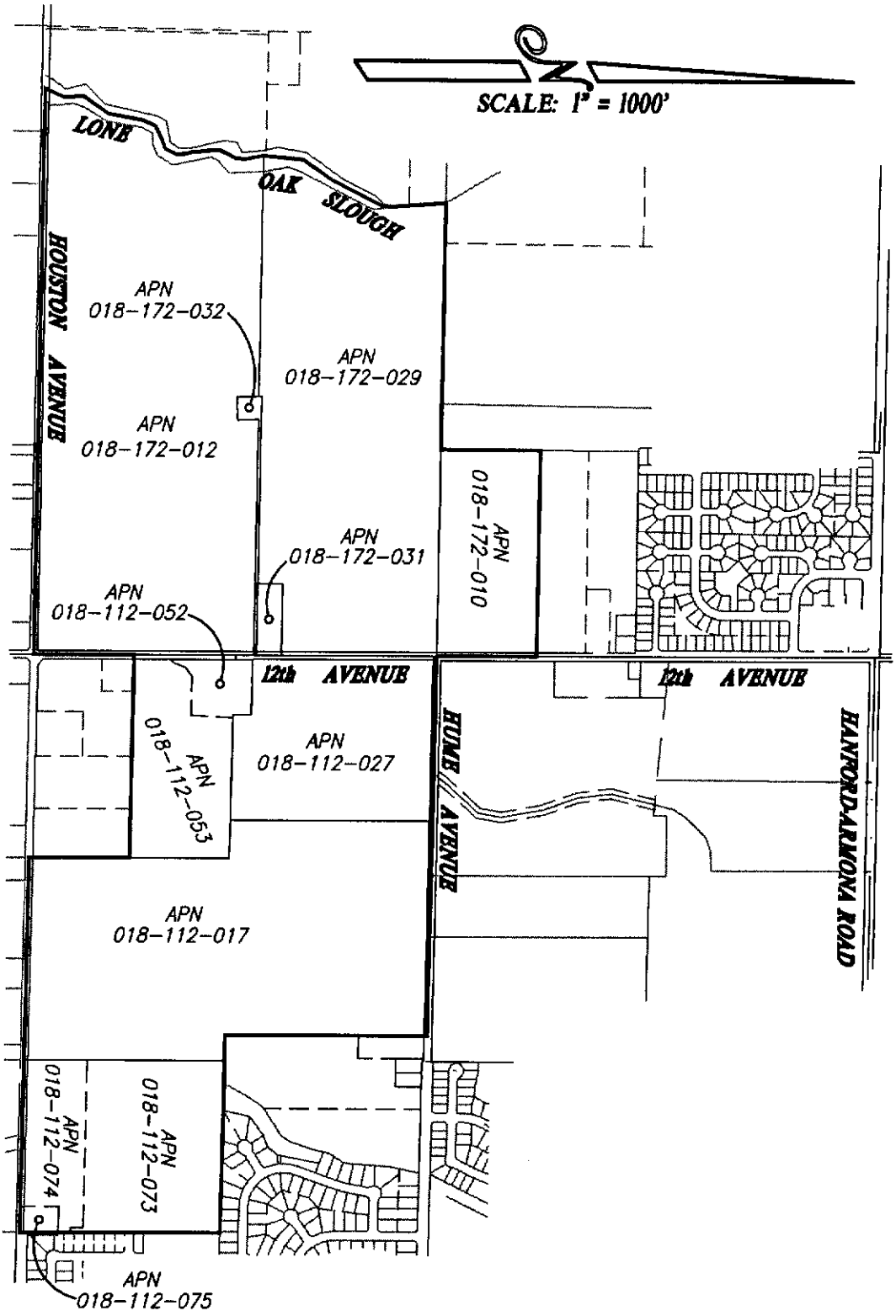
EXHIBIT A
PROPERTY: MAP



INDEX OF ASSESSORS PARCEL NUMBERS
APN 018-172-010
APN 018-172-012
APN 018-172-029
APN 018-172-031
APN 018-172-032
APN 018-112-052
APN 018-112-027
APN 018-112-017
APN 018-112-053
APN 018-112-073
APN 018-112-074
APN 018-112-075

NorthStar
Engineering Group, Inc.
• CIVIL ENGINEERING • SURVEYING • PLANNING •
909 14th Street, Modesto, CA 95354
(209) 524-3525 Phone (209) 524-3526 Fax

JOB NO. 04-205
DATE 7/31/2007
SCALE 1" = 1000'
DR. BY C. JOHNSON
FILE: DEVEL AGREEMENT

EXHIBIT "A"

SHEET 1 OF 1 SHEETS

EXHIBIT B
PROPERTY: LEGAL DESCRIPTION

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MASTER PLAN AREA IS COMPRISED OF THE FOLLOWING ASSESSORS PARCELS:
APN 018-172-010
APN 018-172-012
APN 018-172-029
APN 018-172-031
APN 018-172-032
APN 018-112-052
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APN 018-112-017
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JOB NO. 04-205
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SCALE 1" = 1000'
DR. BY C. JOHNSON
FILE: DEVEL AGREEMENT

EXHIBIT "B"

SHEET 1 OF 1 SHEETS

EXHIBIT C

PLANNED UNIT DEVELOPMENT RESOLUTION

RESOLUTION NO. 09-57-R

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HANFORD
APPROVING PLANNED UNIT DEVELOPMENT NO. 2005-04
FILED BY: MMV DEVELOPMENT, LLC

At a regular meeting of the City Council of the City of Hanford duly called and held on September 15, 2009, it was moved by Council Member CHIN, seconded by Council Member SORENSEN, and duly carried, that the following resolution be adopted:

WHEREAS, Planned Unit Development No. 2005-04, filed by MMV Development proposing to construct a 1,526-lot residential development with variations from the City's zoning standards on approximately 390 acres, was presented to the City Council of the City of Hanford; and

WHEREAS, the real property that is the subject of this Planned Unit Development (PUD) application is generally located on the east and west sides of 12th Avenue between Hume Avenue and Houston Avenue (APN: 018-172-010, 012, 029, 031, 032, 018-112-017, 027, 052, 053, 073, 074, and 075) in Hanford, California as depicted in Exhibit "A" which is attached hereto and made a part hereof; and

WHEREAS, the Final Environmental Impact Report and all notices related thereto were prepared in compliance with the California Environmental Quality Act ("CEQA") and the City of Hanford CEQA Guidelines; and

WHEREAS, on the basis of the application, the documentation and information provided in the staff report and the evidence and testimony submitted at the public hearing, and Environmental Impact Report for the Live Oak Project, the City Council of the City of Hanford hereby makes findings in accordance with Section 15091 of the CEQA Guidelines and as specifically articulated in an appendix to the Final EIR and incorporated herein by this reference; and

WHEREAS, the Final Environmental Impact Report identified significant environmental impacts that can be mitigated to substantially lessen the environmental effects relating to Air Quality,

Biological Resources, Hazards and Hazardous Materials, Hydrology and Water Quality, Noise, Public Facilities and Services, and Transportation and Circulation; and

WHEREAS, the City Council has systematically identified both the significant effects of the proposed project and the feasible alternatives or feasible mitigation measures which will avoid or substantially lessen such significant effects in accordance with the provisions of the California Environmental Quality Act as more specifically articulated in "The Mitigation Monitoring and Reporting Plan" in an appendix of the final EIR and incorporated herein by this reference; and

WHEREAS, the Final Environmental Impact Report also identified unavoidable significant adverse impacts regarding Agricultural Resources, Air Quality, and Energy Conservation and Climate Change; and

WHEREAS, Section 15093 of the CEQA Guidelines requires the City to balance the benefits of the Project against its unavoidable environmental impacts in determining whether or not to approve the Project; and

WHEREAS, the City Council finds that the following statement of overriding considerations can be made for the unavoidable significant environmental impacts identified by the Final Environmental Impact Report:

The City balanced the economic, legal, social and technological and other benefits of the proposed project and determined that the unavoidable adverse environmental impacts identified above may be considered acceptable due to the following specific considerations which outweigh the unavoidable adverse environmental impacts of the proposed project. Benefits of the proposed Project are stated herein, are determined to be unto itself and independent of the other project benefits, a basis for overriding all identified unavoidable environmental impacts.

- The proposed project will result in significant unavoidable impacts to agricultural land, air quality, and energy conservation and climate change. In adopting the Hanford General Plan Update, the City Council adopted a Statement of Overriding Considerations

for the loss of agricultural land and air quality impacts accruing to implementation of the Plan. The approval of the Live Oak project is considered implementation of the Hanford General Plan.

- The project will meet the objectives of the General Plan to conveniently serve current and future residential needs, be adequately served by arterial streets, and contribute to the attractiveness of the community and to the City's tax base.
- The proposed project is located on major arterial and collector streets in the City and adjacent to major public utilities with adequate capacity to accommodate its development.
- In adopting the finding of overriding considerations for the Hanford General Plan Update in 2002, the City Council recognized that the population of the City of Hanford will continue to grow and there will be a need to provide adequate land to serve the needs of existing and future population. The City is essentially surrounded by agricultural land and any growth will cause the conversion of agricultural land. The need to adequately house and provide services to a growing population outweighed the preservation of agricultural land. The project would provide a substantial increase in assessed value of the property over the agricultural state of the land that has the potential to increase revenues to all levels of local government to deliver necessary services.
- The project will expand improvements to infrastructure commensurate with its impacts on those systems.
- The City has adopted reasonable and feasible mitigation measures to the extent it has authority to reduce air quality, energy conservation and climate change impacts from the project.
- While the City may have an impact on urban designs that promote the use of bicycles, pedestrian, and public transit, local policies have little impact on the major causes of air

pollution whose conditions are controlled by the State and Federal Government. Motor vehicles are among the leading causes of air pollution in the Valley. The Valley's geographic location in comparison to other regions also adds to increased air pollution. Exemptions for certain kinds of agricultural activities also add to diminished air quality. The California Air Resources Board and the San Joaquin Valley Air Pollution Control District have the authority to promulgate regulations that affect Hanford and all other cities in California that may lead to major improvements in air quality. The City of Hanford does not have authority to make substantial reductions in motor vehicle air pollution affecting the City.

WHEREAS, the City of Hanford Planning Commission, at its regularly scheduled meeting held on August 11, 2009, held a public hearing and received testimony and evidence for and against the proposed Planned Unit Development. After closing the public hearing, the City of Hanford Planning Commission, by resolution, recommended that the City Council of the City of Hanford certify the Final Environmental Impact Report and approve Planned Unit Development No. 2005-04; and

WHEREAS, the City Council of the City of Hanford, at its regularly scheduled meeting held on **September 15, 2009**, held a public hearing and received testimony and evidence for and against the proposed Planned Unit Development; and

WHEREAS, on the basis of the facts and evidence provided in the staff report and the written and oral evidence presented at the public hearing, the City Council hereby makes the following findings pursuant to Section 17.62.070(J) of the Zoning Ordinance:

(a) That the proposed location of the PUD is in accordance with the objectives of the City's Zoning Ordinance;

(b) That the proposed location of the PUD and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, and welfare or materially injurious to properties or improvements in the vicinity and will not generate

more traffic than the streets in the vicinity can carry without congestion and will not overload utilities;

(c) That the proposed PUD complies with the provisions of Chapter 17.62.010 and the other applicable provisions of the City's Zoning Ordinance;

(d) That the requirements and standards of the City's Zoning Ordinance, including, but not limited to site area, dimension, site coverage, height of structures, distance between structures, off-street parking, off-street loading facilities, landscaped area, and street design will produce an environment of suitable and desirable character consistent with the objectives of the City's Zoning Ordinance.

(e) That the combination of different structure types or varieties of land use within the project will complement each other and harmonize with the existing and proposed land use within the vicinity; and

(f) That an Environmental Impact Report ("EIR") was prepared for this project that identifies several significant impacts that can be mitigated to a less-than-significant level and also identifies unavoidable significant adverse impacts that cannot be mitigated, and a statement of overriding considerations must also be made in accordance with CEQA.

THEREFORE, BE IT RESOLVED, that based on the above and incorporated findings, the City Council does hereby certify the Final Environmental Impact Report ("FEIR") with a Statement of Overriding Considerations and a Mitigation Monitoring and Reporting Plan ("MMRP") for Planned Unit Development No. 2005-04 was (i) completed in compliance with CEQA; (ii) presented to the Hanford City Council, as representing the Lead Agency, and the Hanford City Council reviewed and considered the information contained in the Final Environmental Impact Report prior to making any determinations on Planned Unit Development No. 2005-04; and (iii) the Final Environmental Impact Report reflects the Hanford City Council's independent judgment and analysis.

THEREFORE, BE IT FURTHER RESOLVED that the City Council hereby approves Planned Unit Development No. 2005-04 subject to the following conditions:

ADMINISTRATION DEPARTMENT

Contact the Planning Department: (559) 585-2580
Concerning questions that you may have on the conditions listed below:

Defense and Indemnification Provisions:

1. That the applicant shall defend, indemnify, and hold harmless the City of Hanford ("City"), its officials, officers, employees, representatives, agents and attorneys, from and against all claims, damages, losses, judgments, liabilities, expenses and other costs, including litigation costs and attorney's fees, arising out of, resulting from, or in connection with, the City's act or acts leading up to and including approval of any environmental document and/or granting of any approvals relating to the Project. Applicant's obligation to defend, indemnify and hold the City harmless specifically includes, but is not limited to, any suit or challenge by any third party against the City which challenges or seeks to set aside, void or annul the legality or adequacy of any environmental document approved by the City or any approval related to the Project.

2. That the applicant's obligations to defend, indemnify and hold the City, its officials, officers and employees, representatives, agents and attorneys harmless under the provisions of this paragraph shall include, but not be limited to, the cost of preparation of any administrative record by City, staff time, copying costs, court costs, the costs of any judgments or awards against the City for damages, losses, litigation costs, or attorney's fees arising out of a suit or challenge contesting the adequacy of any approval of the environmental document, or any approval related to the Project, and the costs of any settlement representing damages, litigation costs and attorney's fees to be paid to other parties arising out of a suit or challenge contesting the adequacy of the approval of the environmental document or any other approval related to the Project, if the settlement so provides.

3. That the City may, at any time, require the applicant to reimburse City for costs that have been, or which the City reasonably anticipates will be, incurred by the City during the course of any action. Applicant shall reimburse City within thirty (30) days of receipt of an itemized written invoice from City. Failure of the Applicant to timely reimburse the City shall be considered a material violation of the conditions of approval of the Project.

4. That the applicant shall defend, indemnify, and hold harmless the City of Hanford, its officials, officers, employees, representatives, agents and attorneys, from and against any and all claims, damages, losses, judgments, liabilities, expenses and other costs, including, without limitation, litigation costs and attorney's fees, arising out of, resulting from, or in any way in connection with any violation or claim of violation of any prevailing wage law, rule or regulation applicable to any portion or aspect of the Project. Applicant's obligation to defend, indemnify and hold the City of Hanford harmless specifically includes, but is not limited to, any suit or administrative action against the City of Hanford which claims a violation of any prevailing wage law, rule or regulation applicable to any portion or aspect of the Project.

5. That the applicant obligations to defend, indemnify and hold the City of Hanford, its officials, officers, employees, representatives, agents and attorneys harmless as set forth herein, shall include, but shall not be limited to, staff time, copying costs, court costs, the costs of any judgments or awards against the City of Hanford for damages, losses, litigation costs, or attorney fees arising out of any violation or claim of violation of any prevailing wage law, rule or regulation applicable to any portion or aspect of the Project and costs of any settlement representing damages, litigation costs and attorney's fees to be paid to other parties arising out of any such proceeding or suit.

6. That the City of Hanford may, at any time, require the Applicant to reimburse the City of Hanford for costs that have been, or which the City of Hanford reasonably anticipates will be, incurred by the City of Hanford during the course of any action. Applicant shall reimburse the City of Hanford within thirty (30) days of receipt of an itemized written invoice from the City of Hanford. Failure of the Applicant to timely reimburse the City of Hanford shall be considered a material violation of the conditions of approval of the Project.

PLANNING DEPARTMENT

Contact Interim Planning Manager Cathy Cain (559) 585-2578
Concerning questions that you may have on the conditions listed below:

General:

1. That the applicant hereby agrees to hold the City of Hanford and all of its departments, officers, agents, and employees free and harmless of and from all claims of any kind or nature arising out of or by reason of the approval of this project.

2. That approval of this project does not exempt the project from compliance with all applicable sections of the Zoning Ordinance, Public Works Improvement Standards, other City Ordinances or the payment of any applicable fees.

3. That all approved proposals of the application be conditions of development if not mentioned herein.

4. That the site be developed according to the approved master plan with minor modifications to be approved by the Community Development Department.

5. That all conditions of approval listed in this resolution by the City of Hanford be contained in the line drawing submitted for building permits.

6. That 10% of all units will be made affordable to persons of moderate income. Lots are to be distributed throughout the subdivision.

7. That no occupancy of any building and/or structure shall be permitted which is not in substantial compliance with approved plans except upon specific review and approval of any "as built" modifications by the authorizing City body (City Council, Planning Commission, Community Development Department, or other appropriate city departments).

8. That no expansion of use beyond the scope and nature described in this PUD, which would tend to increase the projected scale of operations, shall be permitted except upon application for, and approval of, modification of this Planned Unit Development permit in compliance with all procedures and requirements therefore.

9. That the developer shall designate, in writing before starting work, an authorized representative who shall have complete authority to represent and to act for the developer. Said authorized representative or designee shall be present at the site of the work at all times while work is actually in progress on the development. During periods when work is suspended, arrangements acceptable to the City Building Official shall be made for any emergency work, which may be required.

10. That the developer shall be responsible for all actions of the contractors and subcontractors during the course of any work occurring on the site.

11. That all applicable conditions of approval for Vesting Tentative Tract Map 865 and Vesting Tentative Tract Map 881 will apply.

Zoning:

1. That the proposed development is subject to the zone district standards, as modified by Planned Unit Development No. 2005-04. Setbacks, lot coverage, street frontages, parking, etc. will conform to the guidelines in the master plan.

2. That any changes to the proposed phasing be approved by the Community Development Department and Public Works Department.

Special Requirements:

1. That a right-to-farm provision be recorded with the recording of final subdivision map(s) to insure that future residents of the homes in the project are aware of the adjacent agricultural uses and their right to continue to operate.

2. That automatic garage door openers be installed on all garage doors to encourage the use of garages for the purpose of parking cars. The garages are to be used only for the parking of cars, boats or similar items for storage purposes. They are not to be converted for any items of living or recreational activities.

3. That recreational vehicle storage on individual lots shall be prohibited in the Small Lot Low Density and Medium Density Residential areas.

4. That drive strips are not allowed. All driveways are to have the full width paved.

Architectural Conditions:

1. That the structures in the PUD be developed in substantial compliance with the architectural renderings, colors, etc., as shown in the PUD Master Plan Exhibits.

2. That any future changes to the architectural design features must maintain the overall integrity of the surrounding neighborhood and not detract from the consistent look and appearance of the planned unit development.

3. That all pipes, gutters, and chases attached to the building wall shall be painted a similar or complementary color to the existing wall to which the item is attached.

4. That no surface shall be mirrored so as to cause glare and annoyance to other adjacent properties.

5. That all mechanical equipment, including electrical and gas meters are to be screened from view, and that all new electrical transformers are either installed underground or screened.

6. That all exterior architectural elements not detailed on the plans be finished in a style and in materials in harmony with the exterior of the building

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Environmental Requirements:

1. That the developer complies with all mitigation measures in the Mitigation Monitoring and Reporting Program (MMRP) as certified with the Final Environmental Impact Report

2. That if cultural resources are discovered during construction or related activities, all work shall be halted and a qualified archeologist and the City of Hanford shall be notified. The find shall be properly investigated and appropriate measures are to be taken before construction may continue.

3. That the developer shall abandon all existing water wells on the site, if any, according to California Department of Health requirements.

4. That all common areas be kept free of rubbish, debris and other unsightly and/or unsanitary materials.

5. That options offered as part of the Live Oak Master Plan, such as solar panels, be shown on the master building plans so as to be available to all buyers of qualified lots.

6. That the project is subject to the San Joaquin Valley Unified Air Pollution Control District's Indirect Source Review Rule 9510. **An application must be filed with the District immediately upon approval of project**. For more information and instruction, contact the District's ISR staff by telephone at (559) 230-5800 or by email at ISR@valleyair.org.

7. That if fireplaces are proposed in the residential units, natural gas fireplaces or EPA certified wood-burning fireplaces/stoves are to be installed in every unit that has a fireplace. Conventional open-hearth fireplaces are not allowed.

8. That natural gas lines and electrical outlets be installed in backyards or patios to encourage use of gas and/or electric barbecues.

9. That electrical outlets be installed around the exterior of the residential units to encourage use of electric lawn mowers, edgers, etc.

Noise:

1. That construction equipment be muffled and construction activities be limited to the hours between 7:00 a.m. to 7:00 p.m., Monday thru Friday, unless the construction is within the enclosed structure or approved by the Community Development Department.

2. That noise from fixed mechanical equipment when measured at the property line meets the standard of the Hanford Noise Element.

Lighting:

1. That all exterior lighting shall be focused downward to avoid point sources of light interfering with the vision of motorists. Lighting elements shall be recessed into their fixtures to prevent glare. Exterior lighting shall be installed so as not to illuminate adjacent properties.

Screening:

1. That all backflow device and electrical transformers be screened with landscaping.

2. That all backflow devices be painted hunter green.

Fencing/Walls:

1. That all proposed fencing on the site be maintained in good repair with any graffiti at the site removed within 72 hours of occurrence.

Landscaping:

1. That all open and unlandscaped portions of the site be maintained in good condition, free from weeds, dust, trash and debris.

2. That the Developer shall enter into an agreement for a tax assessment district for the maintenance of neighborhood park landscaping, open space slough area, subdivision street lighting, decorative fencing, and landscaping located along the property frontages of Houston Avenue, S. Alpine Avenue, Butterfield Lane, Hume Avenue, 12th Avenue (including Sanchez "not-a-part" area), and Countryside Drive (Hume Avenue to Amber Harvest Drive). The creation of the District will be required prior to the recording of the first subdivision map.

Signage:

1. That all signs proposed for this development be designed and approved in conformance with the City's Sign Ordinance and/or as outlined in the PUD Master Plan. A separate application is required for review and administrative approval.

PRIVATE UTILITY COMPANIES

Contact the following persons concerning questions that you
may have on the conditions listed below:
Southern California Edison Co., Jon Bimat: (559) 685-3202 or jon.bimat@sce.com
Or Southern California Edison Co., Eric Thomas: eric.thomas@sce.com
SBC/AT&T, Cindy Lee: (559) 228-7006: cindy.1.lee@att.com
Or SBC/AT&T, Lon Downer: (559) 228-7017 or ld2693@att.com
Southern California Gas Co., Jerry Alvarez: (559) 739-6455 or ajalvarez@semprautilities.com
Or Southern California Gas Co., Louise Lankford llankford@semprautilities.com
Comcast, Brian Copeland: (559) 455-4580 or brian_copeland@cable.comcast.com
USA: 1 (800) 642-2444

Public Utilities:

1. That all utilities including cable TV be installed underground within the subdivision. The developer shall be required to notify the utility companies in writing of this requirement.

2. That all utility transformers within the development are recommended to be subsurface type installations. The developer has the option of placing the transformers above or below ground. If above ground transformers are to be installed, the developer is to meet with City Engineering and Edison Company to determine an appropriate location of the transformer away from street view. The developer is responsible for notifying Southern California Edison Company in writing of the type of installation.

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3. That existing utility poles and appurtenances along the property frontage of 12th Avenue, Hume Avenue, and Houston Avenue are to be installed underground, at developer's expense; to facilitate widening of streets.

PUBLIC WORKS DEPARTMENT

Contact Senior Engineer: Eric Froberg (559) 585-2556
Concerning questions that you may have on the conditions listed below:

General Requirements:

1. That the developer complies with the City of Hanford Public Works Construction Standards and Specification requirements. Any deviation from said standards and specifications must be approved by the City Engineer prior to construction.

2. That the developer is required to contact the City of Hanford Public Works department to discuss proposed off-site street improvements, right-of-way dedications and site drainage requirements prior to submittal of project master plans. Project master plans will be required with the first subdivision of the proposed project.

3. That the development is subject to an engineering review/construction inspection fee in accordance with City Resolution No. 92-58-R, or any revisions thereof. Subject fee shall be payable prior to approval of improvement plans.

Drainage Requirements:

1. That all drainage from the proposed development shall be directed to the Sand Slough and Lone Oak drainage basins located as shown in the Live Oak Master Plan.

2. That applicant is required to comply with State of California Water Resource Control Board requirements specifically related to the National Pollution Elimination System permit process.

3. That applicant is required to comply with the approved layouts for the storm drainage basin size and location and the Live Oak Master Plan for all issues relating to drainage.

4. That developer's engineer provides a storm water system master plan for the project site for city public works department review and approval prior to the approval of the first subdivision on the project site.

5. That People's Ditch shall be relocated and installed underground in a pipeline in accordance with the requirements of both the City of Hanford Public Works Department and the People's Ditch Company. All costs to relocate and to underground People's Ditch with a pipeline and to backfill the abandoned open channel ditch as shown on the tentative subdivision map will be at developer's expense.

6. That all applicable conditions of approval of VTT 865 and VTT 881 relating to drainage requirements shall apply.

Street Right-of-Way Dedication & Easement Requirements:

1. That the developer shall dedicate to the City of Hanford all streets to the widths and locations as shown on the approved master plan and the tentative maps.

2. That all applicable conditions of approval of VTT 865 and VTT 881 relating to street right-of-way dedications and easement requirements shall apply.

Street Requirements:

1. That all improvements consisting of sanitary sewers, storm sewers, water mains, concrete curbs, gutters, sidewalks, street lights, traffic signal modifications, landscaping, site grading and pavement surfacing and all other improvements be installed in accordance with City of Hanford Public Works construction standards and specifications currently in effect.

2. That streetlights be installed along all public streets in conformance with City Standard GE-56 and PUD master plan guidelines. Street lights shall be located as designated by the city engineer.

3. That all applicable conditions of approval of VTT 865 and VTT 881 relating to street requirements shall apply.

Sanitary Sewer Requirements:

1. That developer's engineer provides a sanitary sewer master plan for the project site for city public works department review and approval prior to the approval of the first subdivision on the project site.

2. That all applicable conditions of approval of VTT 865 and VTT 881 relating to sanitary sewer requirements shall apply.

Water System Requirements:

1. That developer's engineer provides a water system master plan for the project site for city public works department review and approval prior to the approval of the first subdivision on the project site.

2. That all applicable conditions of approval of VTT 865 and VTT 881 relating to water system requirements shall apply.

Refuse Requirements:

1. That refuse facilities be installed as outlined in the PUD master plan.

Soil Requirements:

1. That a Preliminary Soils Report, prepared by a qualified Soils Engineer, be provided to the Engineering and Building Departments prior to approval of development improvement plans.

2. That a final soils report, prepared by a qualified Soils Engineer, be provided to the Engineering and Building Departments prior to acceptance of development improvements by the City.

3. That Developer retains the Design Engineer to inspect and verify that all grading within the development is completed in conformance with approved plans. Design Engineer shall be required to provide a certification letter to the Building Department prior to issuance of any building permits.

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Landscape Assessment District:

1. That the developer shall enter into an agreement with the City for the formation of a tax assessment district for the maintenance of neighborhood park landscaping (Lots "D & E"), open space slough area (Lot "A"), subdivision street lighting, decorative fencing, and landscaping located along the property frontages of Houston Avenue, S. Alpine Avenue and Butterfield Lane (Lots "B, C, F, G & H") located as shown on Tentative Subdivision Map 865.

2. That the developer shall enter into an agreement with the City for the formation of a tax assessment district for the maintenance of linear park landscaping (Lots "A, D, E, F, & G"), subdivision street lighting, decorative fencing and landscaping located along the property frontages of Hume Avenue, S. Alpine Avenue, 12th Avenue (Including Sanchez "not-a-part" area), Countryside Drive (Hume Avenue to Amber Harvest Drive) and Butterfield Lane (Lots "B, C, H, I, J, K, L & M") located as shown on Tentative Subdivision Map 881.

3. That prior to funds from the tax assessment district being obtained, the developer shall be responsible for the maintenance of all landscaping, subdivision street lighting and decorative fencing.

Development Impact Fees:

1. That development is subject to impact fees as outlined in the recorded development agreement for the Live Oak project.

2. All other transportation related fees as identified in the Final Environmental Impact Report approved with this project are required as outlined in the resolutions of approval and the development agreement. This includes mitigation fees related to the SR198/12th Avenue interim improvements and the SR198/13th Avenue interim improvements.

FIRE DEPARTMENT

Contact Fire Marshall David Sumaya (559) 585-2545
Concerning questions that you may have on the conditions listed below:

General:

1. Approval of this project does not exempt compliance with all applicable sections of the City adopted fire codes and local fire ordinances.

Emergency Access:

1. A city standard all weather fire lane 20 feet in width and an unobstructed vertical clearance of not less than 13 feet six inches be provided around the buildings as required by Article 9 of the 1998 California Fire Code. Access shall be in place prior to above ground construction beginning.

2. Gate widths shall be a minimum of 20 feet unobstructed and if locked a Knox lock will be required.

Special Requirements:

1. Site address shall be posted in an illuminated area, with 6" minimum letters on contrasting background.

2. Smoke detectors required in all units.

BUILDING DIVISION

Contact Building Official: Jim Kochar (559) 585-2584
Concerning questions that you may have on the conditions listed below:

1. That building permits must be obtained from the City Building Division for any structural, plumbing, electrical or mechanical work being done.

2. That the site, as well as the building, be made accessible and usable by the handicapped according to California Building Code Chapter 11A.

3. That no building or structure shall be used or occupied, and no change in the existing occupancy classification of building or structure or portion thereof shall be made until the building official has issued a Certificate of Occupancy.

4. That detailed dimensioned plans be provided to the Building Division prior to obtaining construction permits.

5. That single family dwellings will require plans and calculations signed by the designer. Submittal shall consist of:

    5.1 1 copy of the City of Hanford Permit Application form
    5.2 1 copy of the building floor plan for the assessor
    5.3 2 complete sets of drawings and documentation including:
        5.3.1 Site Plan including landscaping
        5.3.2 Architectural Drawings
        5.3.3 Structural Drawings and Calculations as required, and truss calculations
        5.3.4 Electrical Drawings and Calculations as required
        5.3.5 Mechanical Drawings and duct sizing calculations
        5.3.6 Plumbing Drawings and Calculations for dwellings greater than 3,000 SF
        5.3.7 Energy Calculations

6. Master plans shall follow the submittal requirements, as per item #5 above, for the original plan submittal. All subsequent submittals shall require two copies of a site plan describing the plan to be used and any options which might be included.
7. That separate sewer lateral and water services be provided to each building.

8 That separate gas and electric services be provided to each building.

9. That a school impact fee of $2.97 (or revision thereof) for each square foot of new residential building area be paid when building permits are issued.

10. That all special inspection reports be submitted to the Building Division prior to final inspection.

11. Addresses shall be assigned by the building division.

12. That a preliminary soils report, prepared by a qualified soils engineer, be provided to the Engineering and Building Divisions prior to approval of site improvement plans.

13. That a final soils report, prepared by a qualified soils engineer, be provided to the Engineering and Building Divisions before issuance of building permits.

14. All construction shall conform to the 2007 California Building Code, California Mechanical Code, California Plumbing Code, California Fire Code; California Electrical Code, and California Energy Code or currently adopted code at time of construction.

15. That Kings County Impact fees shall be assessed as applicable.

EXPIRATION

That the Planned Unit Development shall become null and void two (2) years following the date on which approval by the City Council became effective unless, prior to the expiration of two (2) years, a building permit is issued by the Building Official and construction is commenced and diligently pursued toward completion of the structures. The time-frame of the Planned Unit Development will run with the subdivision map approval. A time extension may be granted by the Planning Commission if a written request and fee is received from the applicant prior to the expiration date. If an extension is approved, the project shall be subject to all improvement standards and fees according to the development agreement.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Hanford held on the **15th** day of **September, 2009**, by the following vote:

AYES:	Council Member	CHIN
		SORENSEN
		THOMAS
		AYERS
NOES:	Council Member	NONE
ABSTAIN:	Council Member	NONE
ABSENT:	Council Member	GONZALES

APPROVED: _____
David G. Ayers, Mayor

ATTEST: Karen Madruga
Karen Madruga, City Clerk

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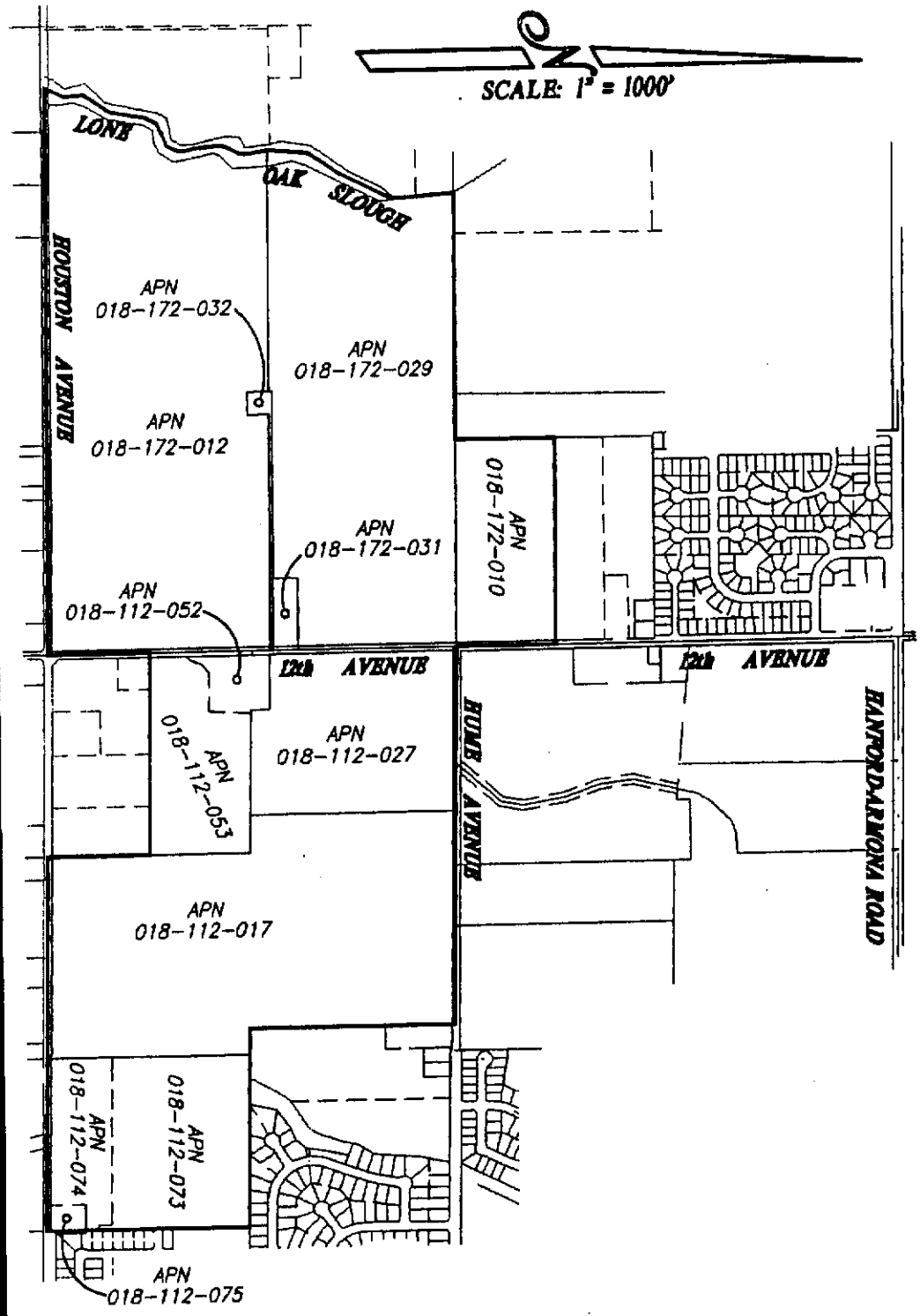
STATE OF CALIFORNIA)
COUNTY OF KINGS) ss
CITY OF HANFORD)

I, **KAREN MADRUGA**, City Clerk of the City Council of the City of Hanford, do hereby certify the foregoing Resolution was duly passed and adopted by the City Council of the City of Hanford at a regular meeting thereof held on the **15th** day of **September, 2009**.

Dated: **September 17, 2009**

Karen Madruga

Karen Madruga, City Clerk



INDEX OF ASSESSORS PARCEL NUMBERS
APN 018-172-010
APN 018-172-012
APN 018-172-029
APN 018-172-031
APN 018-172-032
APN 018-112-052
APN 018-112-027
APN 018-112-017
APN 018-112-053
APN 018-112-073
APN 018-112-074
APN 018-112-075

NorthStar
Engineering Group, Inc.
• CIVIL ENGINEERING • SURVEYING • PLANNING •
909 14th Street, Modesto, CA 95354
(209) 524-3525 Phone (209) 524-3526 Fax

JOB NO. 04-205
DATE 7/31/2007
SCALE 1" = 1000'
DR. BY C. JOHNSON
FILE: DEVEL AGREEMENT

EXHIBIT "A"

SHEET 1 OF 1 SHEETS

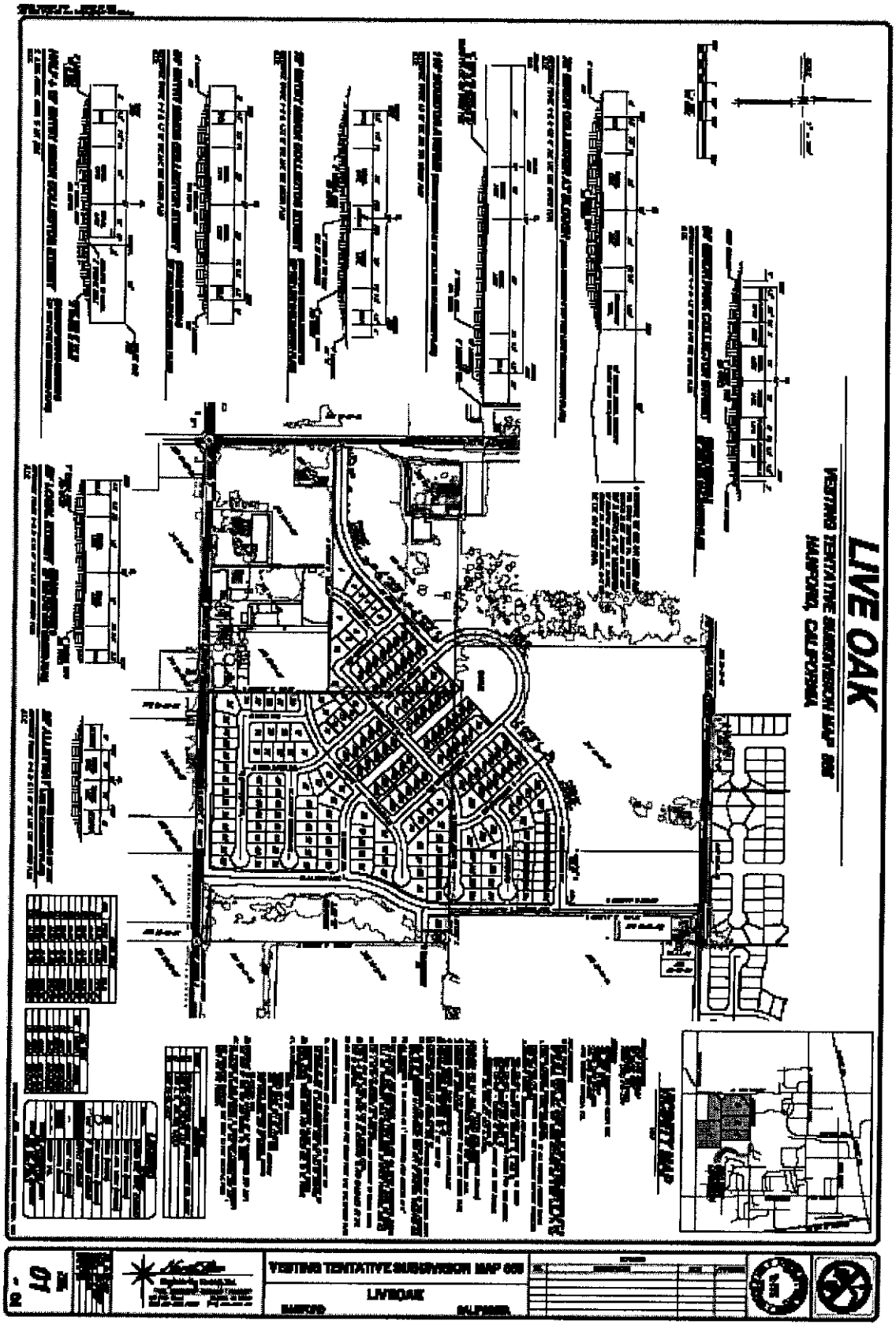
EXHIBIT D

MASTER PLAN

The Live Oak Master Plan, approved as Planned Unit Development No. 2005-04 on September 15, 2009, may be viewed in the Community Development Department at the City of Hanford City Hall, 317 N. Douty Street, Hanford, CA 93230

EXHIBIT E

VESTING TENTATIVE MAPS



"EXH"

COPY

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RESOLUTION NO. 09-58-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HANFORD APPROVING VESTING TENTATIVE SUBDIVISION MAP NO. 865 FILED BY: MMV DEVELOPMENT

At a regular meeting of the City Council of the City of Hanford duly called and held on September 15, 2009, it was moved by Council Member **CHIN**, seconded by Council Member **SORENSEN**, and duly carried, that the following resolution be adopted:

WHEREAS, Vesting Tentative Subdivision Map No. 865, filed by MMV Development, has been reviewed by the Planning Commission of the City of Hanford as an advisory agency in accordance with Title 16 of the Hanford Municipal Code; and

WHEREAS, the Final Environmental Impact Report and all notices related thereto were prepared in compliance with the California Environmental Quality Act ("CEQA") and the City of Hanford CEQA Guidelines; and

WHEREAS, on the basis of the application, the documentation and information provided in the staff report and the evidence and testimony submitted at the public hearing, and Environmental Impact Report for the Live Oak Project, the City Council of the City of Hanford hereby makes findings in accordance with Section 15091 of the CEQA Guidelines and as specifically articulated in an appendix to the Final EIR and incorporated herein by this reference; and

WHEREAS, the Final Environmental Impact Report identified significant environmental impacts that can be mitigated to substantially lessen the environmental effects relating to Air Quality, Biological Resources, Hazards and Hazardous Materials, Hydrology and Water Quality, Noise, Public Facilities and Services, and Transportation and Circulation; and

WHEREAS, the City Council has systematically identified both the significant effects of the proposed project and the feasible alternatives or feasible mitigation measures which will avoid or substantially lessen such significant effects in accordance with the provisions of the California Environmental Quality Act as more specifically articulated in "The Mitigation Monitoring and Reporting Plan" in an appendix of the final EIR and incorporated herein by this reference; and

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WHEREAS, the Final Environmental Impact Report also identified unavoidable significant adverse impacts regarding Agricultural Resources, Air Quality, and Energy Conservation and Climate Change; and

WHEREAS, Section 15093 of the CEQA Guidelines requires the City to balance the benefits of the Project against its unavoidable environmental impacts in determining whether or not to approve the Project; and

WHEREAS, the City Council finds that the following statement of overriding considerations can be made for the unavoidable significant environmental impacts identified by the Final Environmental Impact Report:

The City balanced the economic, legal, social and technological and other benefits of the proposed project and determined that the unavoidable adverse environmental impacts identified above may be considered acceptable due to the following specific considerations which outweigh the unavoidable adverse environmental impacts of the proposed project. Benefits of the proposed Project are stated herein, are determined to be unto itself and independent of the other project benefits, a basis for overriding all identified unavoidable environmental impacts.

- The proposed project will result in significant unavoidable impacts to agricultural land, air quality, and energy conservation and climate change. In adopting the Hanford General Plan Update, the City Council adopted a Statement of Overriding Considerations for the loss of agricultural land and air quality impacts accruing to implementation of the Plan. The approval of the Live Oak project is considered implementation of the Hanford General Plan.
- The project will meet the objectives of the General Plan to conveniently serve current and future residential needs, be adequately served by arterial streets, and contribute to the attractiveness of the community and to the City's tax base.

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- The proposed project is located on major arterial and collector streets in the City and adjacent to major public utilities with adequate capacity to accommodate its development.
- In adopting the finding of overriding considerations for the Hanford General Plan Update in 2002, the City Council recognized that the population of the City of Hanford will continue to grow and there will be a need to provide adequate land to serve the needs of existing and future population. The City is essentially surrounded by agricultural land and any growth will cause the conversion of agricultural land. The need to adequately house and provide services to a growing population outweighed the preservation of agricultural land. The project would provide a substantial increase in assessed value of the property over the agricultural state of the land that has the potential to increase revenues to all levels of local government to deliver necessary services.
- The project will expand improvements to infrastructure commensurate with its impacts on those systems.
- The City has adopted reasonable and feasible mitigation measures to the extent it has authority to reduce air quality, energy conservation and climate change impacts from the project.
- While the City may have an impact on urban designs that promote the use of bicycles, pedestrian, and public transit, local policies have little impact on the major causes of air pollution whose conditions are controlled by the State and Federal Government. Motor vehicles are among the leading causes of air pollution in the Valley. The Valley's geographic location in comparison to other regions also adds to increased air pollution. Exemptions for certain kinds of agricultural activities also add to diminished air quality. The California Air Resources Board and the San Joaquin Valley Air Pollution Control District have the authority to promulgate regulations that affect Hanford and all other

cities in California that may lead to major improvements in air quality. The City of Hanford does not have authority to make substantial reductions in motor vehicle air pollution affecting the City.

WHEREAS, the City of Hanford Planning Commission, at its regularly scheduled meeting held on August 11, 2009, held a public hearing and received testimony and evidence for and against the proposed Vesting Tentative Subdivision Map. After closing the public hearing, the City of Hanford Planning Commission, by resolution, recommended that the City Council of the City of Hanford certify the Final Environmental Impact Report and approve Vesting Tentative Subdivision Map No. 865; and

WHEREAS, the City Council of the City of Hanford, at its regularly scheduled meeting held on September 15, 2009, held a public hearing and received testimony and evidence for and against the proposed Vesting Tentative Subdivision Map; and

WHEREAS, the City Council has carefully considered recommendations and testimony presented at the public hearing; and

WHEREAS, all affected public utility companies, various governmental department agencies and the City Council staff have given careful consideration to this vesting tentative subdivision map and have made recommendations thereon; and

WHEREAS, the City Council has made the following findings pursuant to Section 66474 of the Subdivision Map Act:

a.) That the proposed subdivision map is consistent with the State Subdivision Map Act, General Plan, and Zoning Ordinance;

b.) That the design or improvement of the subdivision is consistent with general or specific plans;

c.) That the site is physically suitable for the type of development;

d.) That the site is physically suitable for the proposed density of development;

e.) That the design of the subdivision and the proposed improvements are not likely to cause substantial environmental damage, or substantially and unavoidably injure fish or wildlife or their habitat;

f.) That the design of the subdivision and type of improvements are not likely to cause serious public health problems; and

g.) That the design of the subdivision and the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of the property within the proposed subdivision.

THEREFORE, BE IT RESOLVED, that based on the above and incorporated findings, the City Council does hereby certify the Final Environmental Impact Report ("FEIR") with a Statement of Overriding Considerations and a Mitigation Monitoring and Reporting Plan ("MMRP") for Vesting Tentative Subdivision Map No. 865 was (i) completed in compliance with CEQA; (ii) presented to the Hanford City Council, as representing the Lead Agency, and the Hanford City Council reviewed and considered the information contained in the Final Environmental Impact Report prior to making any determinations on Vesting Tentative Subdivision Map No. 865; and (iii) the Final Environmental Impact Report reflects the Hanford City Council's independent judgment and analysis.

THEREFORE, BE IT FURTHER RESOLVED that Vesting Tentative Subdivision Map No. 865 be approved subject to the following conditions:

ADMINISTRATION DEPARTMENT
Contact the Planning Department at (559) 585-2580
Concerning questions that you may have on the conditions listed below:

Defense and Indemnification Provisions:

1. That the applicant shall defend, indemnify, and hold harmless the City of Hanford ("City"), its officials, officers, employees, representatives, agents and attorneys, from and against all claims, damages, losses, judgments, liabilities, expenses and other costs, including litigation costs and attorney's fees, arising out of, resulting from, or in connection with, the City's act or acts leading up to and including approval of any environmental document and/or granting of any approvals relating to the Project. Applicant's obligation to defend, indemnify and hold the City harmless specifically includes, but is not limited to, any suit or challenge by any third party against the City which challenges or seeks to set aside, void or annul the legality or adequacy of any environmental document approved by the City or any approval related to the Project.

2. That the applicant's obligations to defend, indemnify and hold the City, its officials, officers and employees, representatives, agents and attorneys harmless under the provisions of this paragraph shall include, but not be limited to, the cost of preparation of any administrative record by City, staff time, copying costs, court costs, the costs of any judgments or awards against the City for damages, losses, litigation costs, or attorney's fees arising out of a suit or challenge contesting the adequacy of any approval of the environmental document, or any approval related to the Project, and the costs of any settlement representing damages, litigation costs and attorney's fees to be paid to other parties arising out of a suit or challenge contesting the adequacy of the approval of the environmental document or any other approval related to the Project, if the settlement so provides.

3. That the City may, at any time, require the applicant to reimburse City for costs that have been, or which the City reasonably anticipates will be, incurred by the City during the course of any action. Applicant shall reimburse City within thirty (30) days of receipt of an itemized written invoice from City. Failure of the Applicant to timely reimburse the City shall be considered a material violation of the conditions of approval of the Project.

4. That the applicant shall defend, indemnify, and hold harmless the City of Hanford, its officials, officers, employees, representatives, agents and attorneys, from and against any and all claims, damages, losses, judgments, liabilities, expenses and other costs, including, without limitation, litigation costs and attorney's fees, arising out of, resulting from, or in any way in connection with any violation or claim of violation of any prevailing wage law, rule or regulation applicable to any portion or aspect of the Project. Applicant's obligation to defend, indemnify and hold the City of Hanford harmless specifically includes, but is not limited to, any suit or administrative action against the City of Hanford which claims a violation of any prevailing wage law, rule or regulation applicable to any portion or aspect of the Project.

5. That the applicant obligations to defend, indemnify and hold the City of Hanford, its officials, officers, employees, representatives, agents and attorneys harmless as set forth herein, shall include, but shall not be limited to, staff time, copying costs, court costs, the costs of any judgments or awards against the City of Hanford for damages, losses, litigation costs, or attorney fees arising out of any violation or claim of violation of any prevailing wage law, rule or regulation applicable to any portion or aspect of the Project and costs of any settlement representing damages, litigation costs and attorney's fees to be paid to other parties arising out of any such proceeding or suit.

6. That the City of Hanford may, at any time, require the Applicant to reimburse the City of Hanford for costs that have been, or which the City of Hanford reasonably anticipates will be, incurred by the City of Hanford during the course of any action. Applicant shall reimburse the City of Hanford within thirty (30) days of receipt of an itemized written invoice from the City of Hanford. Failure of the Applicant to timely reimburse the City of Hanford shall be considered a material violation of the conditions of approval of the Project.

PLANNING DEPARTMENT

Contact Interim Planning Manager Cathy Cain at (559) 585-2578
Concerning questions that you may have on the conditions listed below:

General:

1. That the applicant hereby agrees to hold the City of Hanford and all of its departments, officers, agents, and employees free and harmless of and from all claims of any kind or nature arising out of or by reason of the approval of this project.

2. That approval of this project does not exempt compliance with all applicable sections of the Uniform Fire and Building Codes, Zoning Ordinance, Public Works Improvement Standards, and other City Ordinances except as modified by Planned Unit Development No. 2005-04; and except as may be determined by the Development Agreement and development rights of a Vesting Tentative Map per the Subdivision Map Act.

3. That the final map be submitted to the City Engineer and Community Development Department for compliance with the Vesting Tentative Subdivision Map approval prior to recording the final map.

4. That in accordance with Title 16 of the Hanford Municipal Code, all conditions of this subdivision listed herein, and contained in subsequent improvement agreements, excluding the landscape district, must be completed and accepted for maintenance by the City Council prior to the final building inspection and occupancy permits being issued for the first house in the subdivision.

5. That four trees per lot be planted in the front yard at the time each lot is landscaped in accordance with City Ordinance 17.18.100(F). For corner lots, a minimum of two trees are to be planted between the curb and sidewalk along both street frontages located adjacent to the lot. Developer shall submit a landscape and irrigation system improvement plan for each house plan proposed within the subdivision for City Community Development Department review and approval.

6. That all species of trees shall be selected from a list approved by the City Street Tree Commission.

7. That all pertinent conditions of approval for Planned Unit Development No. 2005-04 and the Development Agreement shall be conditions of approval for Vesting Tentative Subdivision Map No. 865.

Zoning:

1. That the proposed subdivision is subject to the "R-1-6" Single-Family Residential zone district standards, as modified by Planned Unit Development No. 2005-04. Setback requirements for all lots are listed in Chapter 3 of the Master Plan.

2. That lots 1-212 be limited to one single family home, except as allowed by the Master Plan.

3. That any changes to the proposed phasing be approved by the Community Development Department. [No phasing of this map proposed.]

Special Requirements:

1. That a right-to-farm provision be recorded with the recording of the final subdivision map to insure that future residents of the homes in the subdivision are aware of the adjacent agricultural uses and their right to continue to operate.

2. That each lot owner within Tract No. 865 shall care for and maintain the trees and lawn area located in the parkway in front of their lot(s). For corner lots, the lot owner shall also care for and maintain the parkway trees and lawn area along the street side of their lot, unless covered by the landscape district. All species of trees shall be selected from a list approved by the City Street Tree Commission. The parkway is defined as that land area located between the street curb and the public sidewalk.

3. That the tree(s) and lawn area are to be properly pruned, mowed, sprayed, watered and fertilized on a regular on-going basis in order to preserve the health and life of the tree(s) and lawn area.

4. That should the tree(s) and lawn area become damaged, severely pruned, neglected, removed or die, the lot owner shall replace said tree(s) and lawn area within thirty (30) days after the date of written notice from the City of Hanford. The tree(s) shall be replaced with a 15 gal. size tree of the same species that was originally planted. The lawn area shall be replaced with lawn. Rocks, bark, ground cover, plants or paving are not allowed in the parkway

5. That the "NOTICE, DISCLOSURE, ACKNOWLEDGMENT AND AGREEMENT OF CONTINUED CARE AND MAINTENANCE BY LOT OWNER OF THE TREES AND LAWN AREA PLANTED IN THE PARKWAY" be recorded concurrent with the recording of the subdivision final map to insure that future residents of homes in the subdivision are aware of the obligation to maintain the landscaping within the park strip. Each lot owner is to be provided a copy of said Notice, Disclosure, Acknowledgement, and Agreement, attached as Exhibit "A".

6. That 10% of all units will be made affordable to persons of moderate income. Lots are to be distributed throughout the subdivision.

City Development Impact Fees:

1. That development is subject to a Police Development Impact Fee as required by City Ordinance No. 98-14, or any revisions thereof, if applicable. Fee shall be payable with each building permit.

2. That development is subject to a Fire Development Impact Fee as required by City Ordinance No. 98-14, or any revisions thereof, if applicable. Fee shall be payable with each building permit.

3. That development is subject to a Park Development Impact Fee as required by City Ordinance No. 90-10, or any revisions thereof, if applicable. Fee shall be payable with each building permit.

4. That development is subject to a Transportation mitigation impact fee as required by City Ordinance No. 90-09, or any revisions thereof, if applicable. Fee shall be payable with each building permit.

5. That development is subject to a Wastewater System Development Impact fee as required by City Ordinance No. 98-14, or any revisions thereof, if applicable. Fee shall be payable with each building permit.

6. That development is subject to a Water System Development Impact Fee as required by City Ordinance No. 98-14, or any revisions thereof, if applicable. Fee shall be payable with each building permit.

7. That development is subject to a Refuse and Recycling Development Impact Fee as required by City Ordinance No. 05-16, or any revisions thereof, if applicable. Fee shall be payable with each building permit.

8. That development is subject to a Storm Water development impact fee as required by City Ordinance No. 98-14, or any revisions thereof, if applicable. Fee shall be payable prior to recording of subdivision final map.

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9. That development is subject to a 12th Avenue Sanitary Sewer Area Benefit District assessment fee as required by City Ordinance No. 92-03, or any revisions thereof, if applicable. Fee shall be payable prior to recording of subdivision final map.

Environmental Requirements:

1. That if fireplaces are proposed in the residential units, natural gas fireplaces or EPA certified wood-burning fireplaces/stoves are to be installed in every unit that has a fireplace. Conventional open-hearth fireplaces are not allowed.

2. That electric or low nitrogen oxide (NO) emitting gas-fired water heaters be installed in each house.

3. That natural gas lines and electrical outlets be installed in backyards or patios to encourage use of gas and/or electric barbecues for each house.

4. That electrical outlets be installed around the exterior of the residential units to encourage use of electric lawn mower, edgers, etc.

5. That options offered as part of the Live Oak Master Plan be available to buyers within this subdivision. Options to include solar panels, attic storage, drive strips with front facing garages instead of driveways, and second units to be allowed, by right, above garages. Options shall be shown on the master building plans so as to be available to all buyers.

6. That the project is subject to the San Joaquin Valley Unified Air Pollution Control District's Indirect Source Review Rule 9510. **An application must be filed with the District immediately upon approval of project.** For more information and instruction, contact the District's ISR staff by telephone at (559) 230-5800 or by email at ISR@valleyair.org.

7. That the project is subject to all rules and regulations of the San Joaquin Valley Unified Air Pollution Control District for residential development.

Archeological:

1. That if any archeological resources or endangered species are discovered during the construction, the contractor shall stop excavation and notify the Community Development Department for appropriate mitigation measures.

Dust Control:

1. That the following dust control practices be implemented:

   Pre-construction

   That material excavated or graded be sufficiently watered to prevent excessive amounts of dust. Watering should occur at least twice a day with complete coverage, preferably in the late morning and after work is completed for the day.

   That clearing, grading, earth moving, or excavation activities cease during periods of high winds greater than 20 mph.

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That earth material transported off-site be either sufficiently watered or securely covered to prevent excessive amounts of dust.

That areas disturbed by clearing, earth moving, or excavation activities be minimized at all times.

That where acceptable to the Fire Department, weed control should be accomplished by mowing instead of disking, thereby leaving the ground undisturbed and with a mulch covering.

During Construction

After clearing, grading, earth moving, or excavation operations, during the construction phase, fugitive emissions should be controlled by the following methods:

That nonactive portions of the construction site be restricted from vehicular movement.

That active portions of the site should be sufficiently watered to prevent excessive amounts of dust.

General Fugitive Dust

At all times, fugitive dust emissions should be controlled using the following procedures:

That on site vehicle speed should be limited to 15 mph.

That areas with vehicle traffic be watered periodically or have petroleum-based palliatives applied for stabilization of dust emissions.

That during rough grading and construction, streets next to the project site be swept at least once per day, or as required to remove silt, which may have accumulated from construction activities.

That during rough grading and construction, access to the site should require the building of an apron into the project site from adjoining paved roadways. The apron should be paved or have a petroleum-based palliative applied.

Ozone Precursors

At all times, ozone precursor emissions should be controlled by the following methods:
That all internal combustion engine drive equipment be properly maintained and well tuned according to the manufacturer's specifications.

PRIVATE UTILITY COMPANIES

Contact the following persons concerning questions that you may have on the conditions listed below:

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Southern California Edison Co., Jon Bimat: (559) 685-3202 or jon.bimat@sce.com
Or Southern California Edison Co., Eric Thomas: eric.thomas@sce.com
SBC/AT&T, Cindy Lee: (559) 228-7006: cindy.1.lee@att.com
Or SBC/AT&T, Lon Downer: (559) 228-7017 or ld2693@att.com
Southern California Gas Co., Jerry Alvarez: (559) 739-6455 or ajalvarez@semprautilities.com
Or Southern California Gas Co., Louise Lankford llankford@semprautilities.com
Comcast, Brian Copeland: (559) 455-4580 or brian_copeland@cable.comcast.com
USA: 1 (800) 642-2444

Public Utilities:

1. That all utilities, including cable TV, shall be installed underground within the subdivision. The developer shall be required to notify the utility companies in writing of this requirement.

2. That all utility transformers within the development are recommended to be subsurface type installations. The developer has the option of placing the transformers above or below ground. If above ground transformers are to be installed, the developer is to meet with City Engineering and Edison Company to determine an appropriate location of the transformer away from street view. The developer is responsible for notifying Southern California Edison Company in writing of the type of installation.

3. That all existing utility poles and appurtenances located along the property frontage of Houston Avenue shall be installed underground at developer's expense.

PUBLIC WORKS DEPARTMENT
Contact Eric Froberg, Senior Engineer, at (559) 585-2556
Concerning questions that you may have on the conditions listed below:

Maps and Plans:

1. That the developer shall submit to the City Engineer a set of construction plans on 24" x 36" sheets for all required improvements. Plans shall be prepared by a registered civil engineer and shall include a drainage and utility plan identifying sizes and location of sanitary sewer, storm drainage and water mains, curbs, gutters, sidewalks, masonry walls, street lights, street improvements, park and landscape improvements and all other infrastructure required to complete development. All plans shall be approved by the City Engineer and all other involved agencies before the release of the building permits.

2. That prior to beginning any construction or within ten (10) calendar days after the approved plans are released by the City, the developer shall submit to the City of Hanford Engineering Division one (1) reproducible and four (4) blue line copies of the approved set of construction plans and four (4) bound sets of the approved construction specifications, if any.

3. That within twenty (20) calendar days after all improvements have been constructed and accepted by the City, the developer shall submit to the City of Hanford Engineering Division one (1) reproducible and one (1) blue line copy of the approved set of construction plans revised to reflect all field revisions and marked "RECORD DRAWING."

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Easements:

1. That all easements shall be designated on the subdivision final map as required by the utility companies and where needed for providing service to street lights and landscape improvements as designated by the City Public Works Department.

2. That all easements for irrigation ditches and/or irrigation pipelines shall be legally abandoned or relocated to the satisfaction of the City Engineer prior to the recording of a subdivision final map.

Dedications:

1. That all proposed streets and street extensions, located as shown on the tentative subdivision map, shall be dedicated to the City as public right-of-way, and any alteration of existing utilities shall be the responsibility of the developer.

2. That all proposed landscape lots, located as shown on the tentative subdivision map (Lots "B, C, F, G & H"), shall be dedicated to the City for landscape and public utility purposes concurrent with the recording of a subdivision final map.

3. That proposed neighborhood parks, located as shown on the tentative subdivision map (Lots "D & E"), shall be dedicated to the City for landscape and public utility purposes concurrent with the recording of a subdivision final map.

4. That proposed open space/slough area, located as shown on the tentative subdivision map (Lot "A"), shall be dedicated to the City for open space/drainage purposes concurrent with the recording of a subdivision final map.

Restricted Access:

1. That a one-foot reservation strip shall be established at the end or sides of all streets abutting undeveloped property and be indicated on the subdivision final map.

2. That all access shall be restricted from lots at the property lines backing or siding onto Houston Avenue, S. Alpine Avenue, and Butterfield Lane (except for pedestrian walkways) and shall be indicated on the subdivision final map.

Street Improvements:

1. That all improvements consisting of sanitary sewers, storm sewers, water mains, concrete curbs, gutters, sidewalks, street lights, landscaping, street sub-grading, surfacing and striping and all other improvements shall be installed in accordance with Chapter 16.24, "Improvements", of the Hanford Municipal Code and this resolution pertaining to subdivision improvements in effect at the time of filing the tentative subdivision map.

2. That all streets within the subdivision shall be developed to residential street standards ST-32, modified as indicated on the tentative subdivision map, (street narrowing adjacent to parks for traffic calming), except the following:

    a. Houston Avenue shall be developed as a major Arterial street along the development frontage of the subdivision in conformance with City Standards ST-17 and ST-18, modified as indicated on the tentative subdivision map and as follows:

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1. Traffic index used for the design of the street structural section shall be a minimum of 10.0.

2. A geotechnical report shall be submitted to the City Engineer identifying the existing structural section thickness of Houston Avenue along the development frontage of the subdivision concurrent with the submittal of development improvement plans. Reconstruction of existing Houston Avenue street section (or another form of mitigation as approved by the City Engineer) along the development frontage of the subdivision will be required if the existing street structural section does not conform to City Standards and Specifications.

3. Street improvements shall include, but not be limited to, the installation of concrete curb & gutter, sidewalk, landscaping, masonry block wall, street lights, pavement striping, signing, and transitional paving tapers to provide for both acceleration and deceleration lanes at entrances to subdivision. Pavement widening along Houston Avenue property frontage other than as stated herein shall be deferred until additional travel lane capacity is warranted. Installation of Class II aggregate base rock (4" minimum thickness) over compacted native soil shall be required in the area between existing roadway and new curb and gutter section. A petroleum based palliative shall be applied to the base rock surface to provide dust control. The installation of a raised concrete median in Houston Avenue is not required.

b. S. Alpine Avenue and Butterfield Lane shall be developed as collector streets in conformance with City Standard ST-26, modified as indicated on the tentative subdivision map.

3. That street lights shall be installed throughout the subdivision in conformance with City Standard GE-56 and PUD master plan requirements. Street lights located along Houston Avenue and S. Alpine Avenue shall be octagon concrete type poles as indicated on City Standard GE-56. Street lights located along all other streets within the subdivision shall be decorative lights in conformance with PUD master plan and Southern California Edison Company requirements. Street lights shall be located as designated by City Engineer.

4. That the development is subject to a transportation mitigation impact fee as required by City Municipal Code Section 15.48 and any revisions thereof. Developer shall be entitled to a credit towards impact fees for permanent street widening improvements constructed by developer within Houston Avenue, consisting of curb & gutter, street striping, signing and street paving from gutter lip to edge of the existing Houston Avenue street section. If applicable, developer may also be entitled to credit towards impact fees for supplemental transportation capacity improvements to the existing Houston Avenue street section. Temporary transitional paving improvements beyond the development limits will not be subject to a credit. Developer shall submit competitive bid proposals to substantiate the cost of reimbursable items for City Public Works Department review and approval prior to beginning construction. All documentation materials submitted for reimbursement consideration shall be well organized and tabulated for convenient reference by Public Works staff. Improvement quantities and costs proposed for reimbursement must be clearly identified in the documentation provided, and not combined or aggregated with non-reimbursable subdivision improvement costs. Graphic exhibits referenced to the subdivision improvement plans shall also be provided as needed to facilitate the reimbursement review process.

5. That the developer is responsible for payment of a proportionate cost share of future improvements to mitigate interim impacts to the 12th Avenue/State Highway 198 interchange eastbound off-ramp, as identified in the project Environmental Impact Report and the Traffic Impact Study prepared by the

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firm of KD Anderson Transportation Engineers, and Caltrans memorandum entitled *12th Avenue and SR 198 Eastbound Off-ramp Cost Estimates.* Payment of developer's equitable share of interim improvements cost shall be collected by the City prior to the recording of a subdivision final map. Mitigation fees shall be held in a separate interest bearing account and reserved for the interim improvements referenced above.

6. That the developer is responsible for payment of a proportionate cost share of future improvements to mitigate interim impacts to the 13th Avenue/State Highway 198 interchange as identified in the project Environmental Impact Report and the Traffic Impact Study prepared by the firm of KD Anderson Transportation Engineers. Payment of developer's equitable share of interim improvements cost shall be collected by the City prior to the recording of a subdivision final map. Mitigation fees shall be held in a separate interest bearing account and reserved for the interim improvements referenced above.

Backup Parkway Improvements:

1. That the developer shall design and construct the following improvements along the development frontages of Houston Avenue, S. Alpine Avenue and Butterfield Lane for lots backing or siding onto said streets.

   a. A minimum six foot high (or as determined by Mitigation Measure 4.8.2.b(1) in the MMRP). decorative masonry block wall with continuous reinforced concrete footings. Masonry walls shall be treated with anti-graffiti repellent. The minimum height of the wall shall be measured from the highest elevation grade of the property located adjacent to either side of the wall. Wall heights shall be maintained at a uniform grade/slope whenever possible. If elevation changes are required, steps shall be introduced at pilaster locations and/or changes in wall direction. Wall improvement plans shall be designed to incorporate architectural, civil and structural components into one set of drawings. Wall plans shall be reviewed and approved by both the City Public Works and Community Development Departments.

   b. Masonry walls shall be constructed along the development frontages of Houston Avenue, S. Alpine Avenue and Butterfield Lane for all lots backing or siding onto said streets.

   c. A 4 1/2 foot wide detached sidewalk along the development frontages of Houston Avenue, S. Alpine Avenue and Butterfield Lane.

   d. Landscape and irrigation system improvements along the development frontages of Houston Avenue, S. Alpine Avenue and Butterfield Lane (right of way and landscape parcel areas). Landscape plans shall be prepared by a licensed landscape architect. Plans shall be reviewed and approved by both the City Public Works and Community Development Departments.

2. That a minimum of four trees per lot shall be planted in the front yards of homes at the time each lot is landscaped in accordance with City Ordinance 17.18.100(F). For corner lots, a minimum of two trees per lot are to be planted between the curb and sidewalk along both street frontages located adjacent to the lot. Trees planted in the park strip shall be located in conformance with City Standard GE-13. Developer shall submit a landscape and irrigation system improvement plan for each house plan proposed within the subdivision for Community Development Department review and approval.

3. That all species of trees and plants shall be selected from a list approved by the City Street Tree Commission.

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4. That all new and existing electrical boxes, control boxes and other equipment boxes (excluding traffic control) cabinets along the street frontage shall be painted hunter green or be of a color compatible with the landscaping. Prior to painting, all metal surfaces shall be treated with an etching primer (zinc chromate) or equivalent. All above-ground pedestals and other utility boxes shall be located between back of sidewalk and masonry wall.

Park Improvements:

1. That all park facility and open space perimeter improvements shall conform to PUD master plan requirements and City Standards and Specifications. Developer shall retain the services of a landscape architect to design all park facility and open space perimeter improvements. Improvements shall include, but not be limited to, installation of a basketball court, horse shoe pit, covered picnic areas, tot-lot playground, connective linear park, decorative security lighting, drinking fountains, park benches, trash receptacles, and landscaping and irrigation systems. Park and open space improvements shall be constructed concurrent with the first phase of the development, or as detailed in the Development Agreement.

2. That a minimum six foot high decorative masonry block wall shall be constructed along the south property line of proposed neighborhood park (adjacent to lots 151, 157, 164 & 171).

3. That the development is subject to a park development mitigation impact fee as required by City Municipal Code section 15.44 and any revisions thereof. Developer shall be entitled to a 50% credit towards their park development impact fee, as specified in development agreement, for all park and open space improvements provided by developer in accordance with PUD master plan requirements.

Sewer Improvements:

1. That the developer's engineer shall provide a sanitary sewer master plan complete with calculations for the entire subdivision for City Public Works Department review and approval prior to recording a subdivision final map for the first phase of development. Provisions shall be made to provide service for future areas of development located adjacent to the subdivision.

2. That a minimum 8" diameter sanitary sewer main and appurtenances (unless determined otherwise by the City Engineer) shall be extended within S. Alpine Avenue, from W. Hackberry Lane to Butterfield Lane, to accommodate future development located east of S. Alpine Avenue.

3. That developer is entitled to a reimbursement agreement in accordance with City Municipal Code Section 13.08 for sanitary sewer main improvements constructed within S. Alpine Avenue which also provide a benefit to others. Developer shall submit competitive bid proposals to substantiate costs for sanitary sewer main improvements installed within S. Alpine Avenue, if applicable, for City Public Works Department review and approval prior to beginning construction.

Storm Drainage Improvements:

1. That the developer's engineer shall provide a storm drainage master plan complete with calculations for the entire subdivision for City Public Works Department review and approval prior to recording a subdivision final map for the first phase of development. Provisions shall be made to provide service for future areas of development located adjacent to the subdivision.

2. That all drainage from proposed development shall be directed to the Sand Slough drainage basin located as shown on the tentative subdivision map.

3. That developer shall install a minimum 36 inch diameter storm drain pipeline and appurtenances within Houston Avenue in conformance with City storm drainage master plan requirements. The proposed storm drain line will connect the Sand Slough basin located as shown on the tentative subdivision map to an existing slough basin located south of Houston Avenue and just east of proposed development.

4. That development is subject to a storm water development impact fee as required by City Ordinance No. 98-14, or any revisions thereof, if applicable. Developer shall be entitled to a credit towards their storm water development impact fee for capacity enhancement improvements constructed within Sand Slough (Lot "A") that satisfy all (full credit) or a portion (partial credit) of their storm water storage requirements.

5. That developer shall be required to comply with State of California Water Resources Control Board requirements specifically related to the National Pollution Elimination System Permit process.

Water System:

1. That the developer's engineer shall provide a Water System Master Plan complete with calculations for the entire subdivision for City review and approval prior to recording a subdivision final map for the first phase of the development. Provisions shall be made to provide service for future areas of development located adjacent to the subdivision.

2. That a minimum 18 inch diameter water main and appurtenances shall be extended within Houston Avenue from the eastern boundary of proposed development, as shown on the Live Oak master plan, (east property line of existing Sanchez development) to 12th Avenue. Improvement shall conform to the City's water system master plan.

3. That a minimum 12 inch diameter water main and appurtenances shall be extended within 12th Avenue from Houston Avenue to Hume Avenue in conformance with City's water system master plan.

4. Developer may be entitled to a refund for water main over-sizing in accordance with City Municipal Code Section 13.04. Developer's engineer shall be required to submit calculations to substantiate request for an over-sizing refund to the City Public Works Department for review and approval. If applicable, developer shall submit competitive bid proposals to substantiate costs for water main over-sizing for City Public Works Department review and approval prior to beginning construction.

5. That developer is entitled to a reimbursement agreement in accordance with City Municipal Code Section 13.04 for water system improvements installed within Houston Avenue, 12th Avenue and S. Alpine Avenue, which also provide a benefit to others. Developer shall submit competitive bid proposals to substantiate costs for said water system improvements for Public Works Department review and approval prior to beginning construction.

6. That all existing water wells located within the proposed development shall be abandoned in conformance with State of California Department of Health Standards.

Assessment District:

1. That the developer shall enter into an agreement with the City for the formation of a tax assessment district for the maintenance of neighborhood park landscaping (Lots "D & E"), open space slough

area (Lot "A"), subdivision street lighting, decorative fencing, and landscaping located along the property frontages of Houston Avenue, S. Alpine Avenue and Butterfield Lane (Lots "B, C, F, G & H") located as shown on the tentative subdivision map.

2. That prior to funds from the tax assessment district being obtained, the developer shall be responsible for the maintenance of all landscaping including park and open space areas, subdivision street lighting and decorative fencing.

FIRE DEPARTMENT

Contact Fire Marshal David Sumaya at (559) 585-2545
Concerning questions that you may have on the conditions listed below:

General:

1. That water mains and fire hydrants be installed before housing construction (unless otherwise approved by the Fire Department) and be of sufficient capacity for fire protection as well as domestic supply. Fire hydrants are to be located as designated by the Fire Department. All fire hydrants and mains are to meet City standards.

2. That the blue dot fire hydrant location markers be installed six inches from the middle of the street.

3. That an all weather 20 ft. wide road be provided throughout the subdivision where houses are being constructed, as required by City Ordinance No. 929, prior to the issuance of building permits.

BUILDING DIVISION

Contact Building Official: Jim Kochar (559) 585-2584
Concerning questions that you may have on the conditions listed below:

Soils:

1. That a preliminary soils report, prepared by a qualified soil's engineer, be provided to the Engineering and Building Departments prior to approval of Subdivision Improvement Plans.
2. That a final soils report, prepared by a qualified soils engineer, be provided to the Engineering and Building Departments prior to acceptance of the subdivision improvements by the City or issuance of building permits or whichever comes first.

3. That the developer retain the design engineer to inspect and verify that grading within the subdivision was constructed as per the approved design, and a copy of the report be provided to the Building Department prior to building permit issuance.

Street Names and Addresses:

1. That street addresses for each lot, as provided by the Building Division, be included on the subdivision final map.

2. That all single family dwellings within the subdivision have illuminated address numbers 2-¼ inches high or be within an illuminated area with 3-½ inch high address numbers installed on the front most part of the building leading to the entrance. In either case the address numbers shall be of contrasting colors with the background.

Kings County Impact Fees:

1. That Kings County Impact fees shall apply in the following amounts, or applicable revisions:

Criminal Justice	$1,206.62 per dwelling
Library	$323.30 per dwelling
Animal Control	$3.52 per dwelling
Compliance	$38.36 per dwelling

EXPIRATION:

That this vesting tentative subdivision map becomes null and void after 24 months has elapsed from the date of approval, if the above conditions have not been satisfied or bonded for, and a final map recorded. A time extension may be granted by the Commission upon written request by the applicant. The time extension, if approved, will be subject to all improvement standards and fees according to the development agreement.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Hanford held on the **15th** day of **September, 2009**, by the following vote:

AYES:	Council Member	CHIN
		SORENSEN
		THOMAS
		AYERS
NOES:	Council Member	NONE
ABSTAIN:	Council Member	NONE
ABSENT:	Council Member	GONZALES

APPROVED: _____
David G. Ayers, Mayor

ATTEST: Karen Madruga
City Clerk

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EXHIBIT "A"

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO :

CITY OF HANFORD
COMMUNITY DEVELOPMENT DEPARTMENT
317 N. Douty Street
Hanford, CA 93230

SPACE ABOVE THIS LINE FOR RECORDER'S USE

NOTICE, DISCLOSURE, ACKNOWLEDGMENT AND AGREEMENT OF CONTINUED CARE AND MAINTENANCE BY LOT OWNER OF THE TREES AND LAWN AREA PLANTED IN THE PARKWAY FOR TRACT NO. 865

NOTICE IS HEREBY GIVEN that City of Hanford City Council Resolution No. 09-58-R approved the development of Tract No. 865 subject to the following conditions pertaining to the continued care and maintenance of the tree(s) and lawn area located in the parkway of said Tract No. 865 by the lot owners in Tract No. 865:

CONDITIONS:

1. Each lot owner within Tract No. 865 shall care for and maintain the trees and lawn area located in the parkway in front of their lot(s). For corner lots, the lot owner shall also care for and maintain the parkway trees and lawn area along the street side of the lot. All species of trees shall be selected from a list approved by the City Street Tree Commission. The parkway is defined as that land area located between the street curb and the public sidewalk.

2. The tree(s) and lawn area are to be properly pruned, mowed, sprayed, watered and fertilized on a regular on-going basis in order to preserve the health and life of the tree(s) and lawn area.

3. Should the tree(s) and lawn area become damaged, severely pruned, neglected, removed, or die, the lot owner shall replace said tree(s) and lawn area within a reasonable time frame, but no later than thirty (30) days after the date of written notice from the City of Hanford. The tree(s) shall be replaced with a 15 gal. size tree of the same species that was originally planted. The lawn area shall be replaced with lawn. Rocks, bark, ground cover, plants or paving are not allowed in the parkway.

4. We understand and agree that our failure to comply with the conditions identified above shall constitute a breach of our obligations as identified in this document and shall also constitute a violation of the provisions of Chapter 17.68 of the Hanford Municipal Code.

WE HEREBY ACKNOWLEDGE AND UNDERSTAND our obligations for the care and maintenance of the parkway along the street frontage(s) of our lot and agree to be bound by the same.

PROPERTY ADDRESS: _____, Hanford, CA 93230

LEGAL DESCRIPTION OF PROPERTY: Lot No. _____ of Tract No. 865, Unit No. _____

ASSESSOR'S PARCEL NUMBER: _____ - _____ - _____

Owner's Signature _____ Date _____
Print or Type Owner's Name _____

Owner's Signature _____ Date _____
Print or Type Owner's Name _____

(attach Notary acknowledgment)

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STATE OF CALIFORNIA)
COUNTY OF KINGS) ss
CITY OF HANFORD)

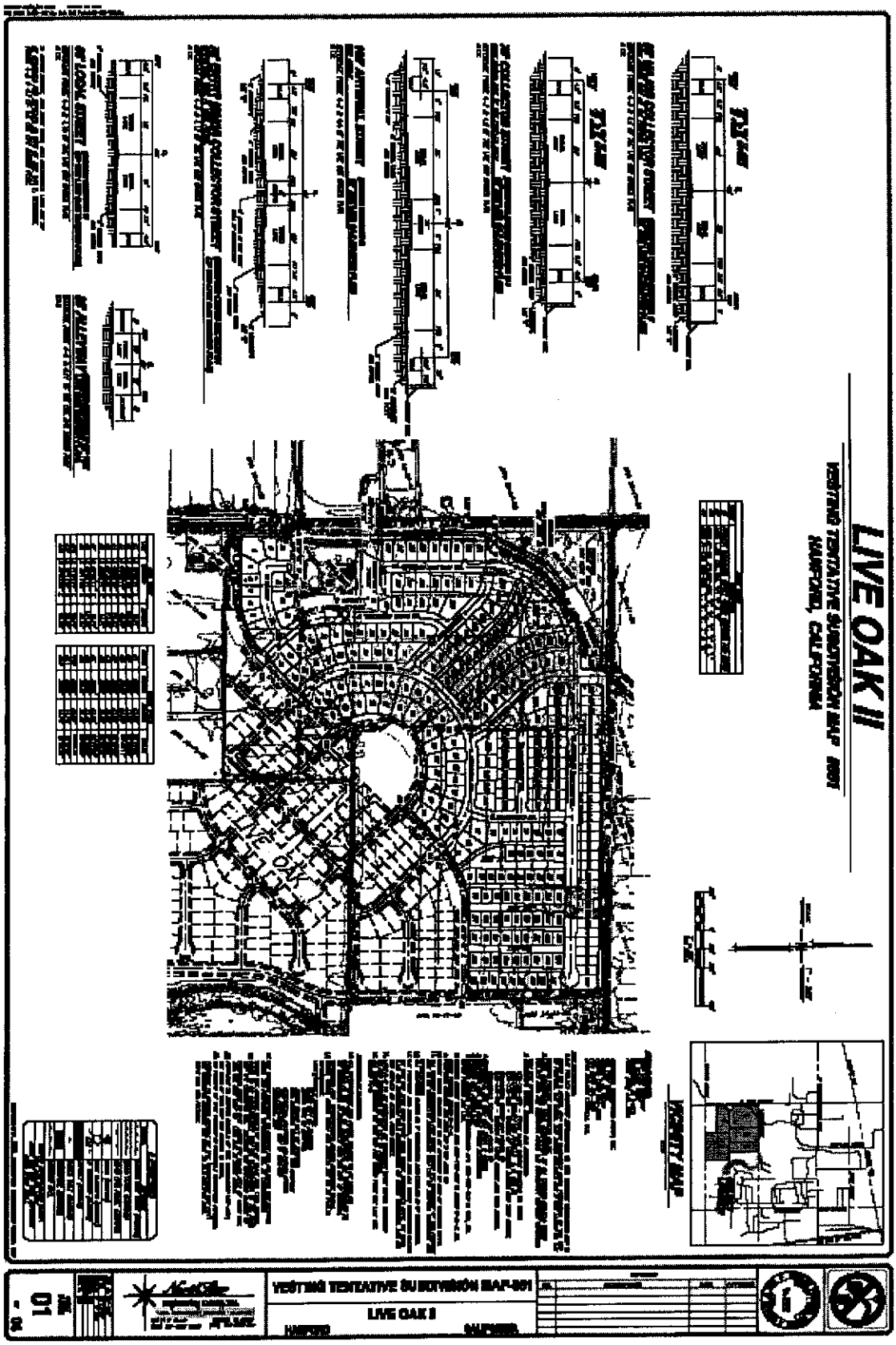
I, **KAREN MADRUGA**, City Clerk of the City Council of the City of Hanford, do hereby certify the foregoing Resolution was duly passed and adopted by the City Council of the City of Hanford at a regular meeting thereof held on the **15th** day of **September, 2009**.

Dated: **September 17, 2009**

Karen Madruga
City Clerk

EXHIBIT E

VESTING TENTATIVE MAPS



"EXH"

COPY 101

RESOLUTION NO. 09-59-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HANFORD APPROVING VESTING TENTATIVE SUBDIVISION MAP NO. 881 FILED BY: MMV DEVELOPMENT

At a regular meeting of the City Council of the City of Hanford duly called and held on **September 15, 2009**, it was moved by Council Member **CHIN** seconded by Council Member **SORENSEN** and duly carried, that the following resolution be adopted:

WHEREAS, Vesting Tentative Subdivision Map No. 881, filed by MMV Development, has been reviewed by the Planning Commission of the City of Hanford as an advisory agency in accordance with Title 16 of the Hanford Municipal Code; and

WHEREAS, the Final Environmental Impact Report and all notices related thereto were prepared in compliance with the California Environmental Quality Act ("CEQA") and the City of Hanford CEQA Guidelines; and

WHEREAS, on the basis of the application, the documentation and information provided in the staff report and the evidence and testimony submitted at the public hearing, and Environmental Impact Report for the Live Oak Project, the City Council of the City of Hanford hereby makes findings in accordance with Section 15091 of the CEQA Guidelines and as specifically articulated in an appendix to the Final EIR and incorporated herein by this reference; and

WHEREAS, the Final Environmental Impact Report identified significant environmental impacts that can be mitigated to substantially lessen the environmental effects relating to Air Quality, Biological Resources, Hazards and Hazardous Materials, Hydrology and Water Quality, Noise, Public Facilities and Services, and Transportation and Circulation; and

WHEREAS, the City Council has systematically identified both the significant effects of the proposed project and the feasible alternatives or feasible mitigation measures which will avoid or substantially lessen such significant effects in accordance with the provisions of the California Environmental Quality Act as more specifically articulated in "The Mitigation Monitoring and Reporting Plan" in an appendix of the final EIR and incorporated herein by this reference; and

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WHEREAS, the Final Environmental Impact Report also identified unavoidable significant adverse impacts regarding Agricultural Resources, Air Quality, and Energy Conservation and Climate Change; and

WHEREAS, Section 15093 of the CEQA Guidelines requires the City to balance the benefits of the Project against its unavoidable environmental impacts in determining whether or not to approve the Project; and

WHEREAS, the City Council finds that the following statement of overriding considerations can be made for the unavoidable significant environmental impacts identified by the Final Environmental Impact Report:

The City balanced the economic, legal, social and technological and other benefits of the proposed project and determined that the unavoidable adverse environmental impacts identified above may be considered acceptable due to the following specific considerations which outweigh the unavoidable adverse environmental impacts of the proposed project. Benefits of the proposed Project are stated herein, are determined to be unto itself and independent of the other project benefits, a basis for overriding all identified unavoidable environmental impacts.

- The proposed project will result in significant unavoidable impacts to agricultural land, air quality, and energy conservation and climate change. In adopting the Hanford General Plan Update, the City Council adopted a Statement of Overriding Considerations for the loss of agricultural land and air quality impacts accruing to implementation of the Plan. The approval of the Live Oak project is considered implementation of the Hanford General Plan.
- The project will meet the objectives of the General Plan to conveniently serve current and future residential needs, be adequately served by arterial streets, and contribute to the attractiveness of the community and to the City's tax base.

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- The proposed project is located on major arterial and collector streets in the City and adjacent to major public utilities with adequate capacity to accommodate its development.
- In adopting the finding of overriding considerations for the Hanford General Plan Update in 2002, the City Council recognized that the population of the City of Hanford will continue to grow and there will be a need to provide adequate land to serve the needs of existing and future population. The City is essentially surrounded by agricultural land and any growth will cause the conversion of agricultural land. The need to adequately house and provide services to a growing population outweighed the preservation of agricultural land. The project would provide a substantial increase in assessed value of the property over the agricultural state of the land that has the potential to increase revenues to all levels of local government to deliver necessary services.
- The project will expand improvements to infrastructure commensurate with its impacts on those systems.
- The City has adopted reasonable and feasible mitigation measures to the extent it has authority to reduce air quality, energy conservation and climate change impacts from the project.
- While the City may have an impact on urban designs that promote the use of bicycles, pedestrian, and public transit, local policies have little impact on the major causes of air pollution whose conditions are controlled by the State and Federal Government. Motor vehicles are among the leading causes of air pollution in the Valley. The Valley's geographic location in comparison to other regions also adds to increased air pollution. Exemptions for certain kinds of agricultural activities also add to diminished air quality. The California Air Resources Board and the San Joaquin Valley Air Pollution Control District have the authority to promulgate regulations that affect Hanford and all other

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cities in California that may lead to major improvements in air quality. The City of Hanford does not have authority to make substantial reductions in motor vehicle air pollution affecting the City.

WHEREAS, the City of Hanford Planning Commission, at its regularly scheduled meeting held on August 11, 2009, held a public hearing and received testimony and evidence for and against the proposed Vesting Tentative Subdivision Map. After closing the public hearing, the City of Hanford Planning Commission, by resolution, recommended that the City Council of the City of Hanford certify the Final Environmental Impact Report and approve Vesting Tentative Subdivision Map No. 881; and

WHEREAS, the City Council of the City of Hanford, at its regularly scheduled meeting held on September 15, 2009, held a public hearing and received testimony and evidence for and against the proposed Vesting Tentative Subdivision Map; and

WHEREAS, the City Council has carefully considered recommendations and testimony presented at the public hearing; and

WHEREAS, all affected public utility companies, various governmental department agencies and the City Council staff have given careful consideration to this vesting tentative subdivision map and have made recommendations thereon; and

WHEREAS, the City Council has made the following findings pursuant to Section 66474 of the Subdivision Map Act:

a.) That the proposed subdivision map is consistent with the State Subdivision Map Act, General Plan, and Zoning Ordinance;

b.) That the design or improvement of the subdivision is consistent with general or specific plans;

c.) That the site is physically suitable for the type of development;

d.) That the site is physically suitable for the proposed density of development;

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e.) That the design of the subdivision and the proposed improvements are not likely to cause substantial environmental damage, or substantially and unavoidably injure fish or wildlife or their habitat;

f.) That the design of the subdivision and type of improvements are not likely to cause serious public health problems; and

g.) That the design of the subdivision and the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of the property within the proposed subdivision.

THEREFORE, BE IT RESOLVED, that based on the above and incorporated findings, the City Council does hereby certify the Final Environmental Impact Report ("FEIR") with a Statement of Overriding Considerations and a Mitigation Monitoring and Reporting Plan ("MMRP") for Vesting Tentative Subdivision Map No. 881 was (i) completed in compliance with CEQA; (ii) presented to the Hanford City Council, as representing the Lead Agency, and the Hanford City Council reviewed and considered the information contained in the Final Environmental Impact Report prior to making any determinations on Vesting Tentative Subdivision Map No. 881; and (iii) the Final Environmental Impact Report reflects the Hanford City Council's independent judgment and analysis.

THEREFORE, BE IT FURTHER RESOLVED that Vesting Tentative Subdivision Map No. 881 be approved subject to the following conditions:

ADMINISTRATION DEPARTMENT
Contact the Planning Division at (559) 585-2580
Concerning questions that you may have on the conditions listed below:

Defense and Indemnification Provisions:

1. That the applicant shall defend, indemnify, and hold harmless the City of Hanford ("City"), its officials, officers, employees, representatives, agents and attorneys, from and against all claims, damages, losses, judgments, liabilities, expenses and other costs, including litigation costs and attorney's fees, arising out of, resulting from, or in connection with, the City's act or acts leading up to and including approval of any environmental document and/or granting of any approvals relating to the Project. Applicant's obligation to defend, indemnify and hold the City harmless specifically includes, but is not limited to, any suit or challenge by any third party against the City which challenges or seeks to set aside, void or annul the legality or adequacy of any environmental document approved by the City or any approval related to the Project.

2. That the applicant's obligations to defend, indemnify and hold the City, its officials, officers and employees, representatives, agents and attorneys harmless under the provisions of this paragraph shall include, but not be limited to, the cost of preparation of any administrative record by City, staff time, copying costs, court costs, the costs of any judgments or awards against the City for damages, losses, litigation costs, or attorney's fees arising out of a suit or challenge contesting the adequacy of any approval of the environmental document, or any approval related to the Project, and the costs of any settlement representing damages, litigation costs and attorney's fees to be paid to other parties arising out of a suit or challenge contesting the adequacy of the approval of the environmental document or any other approval related to the Project, if the settlement so provides.

3. That the City may, at any time, require the applicant to reimburse City for costs that have been, or which the City reasonably anticipates will be, incurred by the City during the course of any action. Applicant shall reimburse City within thirty (30) days of receipt of an itemized written invoice from City. Failure of the Applicant to timely reimburse the City shall be considered a material violation of the conditions of approval of the Project.

4. That the applicant shall defend, indemnify, and hold harmless the City of Hanford, its officials, officers, employees, representatives, agents and attorneys, from and against any and all claims, damages, losses, judgments, liabilities, expenses and other costs, including, without limitation, litigation costs and attorney's fees, arising out of, resulting from, or in any way in connection with any violation or claim of violation of any prevailing wage law, rule or regulation applicable to any portion or aspect of the Project. Applicant's obligation to defend, indemnify and hold the City of Hanford harmless specifically includes, but is not limited to, any suit or administrative action against the City of Hanford which claims a violation of any prevailing wage law, rule or regulation applicable to any portion or aspect of the Project.

5. That the applicant obligations to defend, indemnify and hold the City of Hanford, its officials, officers, employees, representatives, agents and attorneys harmless as set forth herein, shall include, but shall not be limited to, staff time, copying costs, court costs, the costs of any judgments or awards against the City of Hanford for damages, losses, litigation costs, or attorney fees arising out of any violation or claim of violation of any prevailing wage law, rule or regulation applicable to any portion or aspect of the Project and costs of any settlement representing damages, litigation costs and attorney's fees to be paid to other parties arising out of any such proceeding or suit.

6. That the City of Hanford may, at any time, require the Applicant to reimburse the City of Hanford for costs that have been, or which the City of Hanford reasonably anticipates will be, incurred by the City of Hanford during the course of any action. Applicant shall reimburse the City of Hanford within thirty (30) days of receipt of an itemized written invoice from the City of Hanford. Failure of the Applicant to timely reimburse the City of Hanford shall be considered a material violation of the conditions of approval of the Project.

PLANNING DEPARTMENT

Contact Interim Planning Manager Cathy Cain at (559) 585-2578
Concerning questions that you may have on the conditions listed below:

General:

1. That the applicant hereby agrees to hold the City of Hanford and all of its departments, officers, agents, and employees free and harmless of and from all claims of any kind or nature arising out of or by reason of the approval of this project.

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2. That approval of this project does not exempt compliance with all applicable sections of the Uniform Fire and Building Codes, Zoning Ordinance, Public Works Improvement Standards, and other City Ordinances except as modified by Planned Unit Development No. 2005-04; and except as may be determined by the Development Agreement and development rights of a Vesting Tentative Map per the Subdivision Map Act.

3. That the final map be submitted to the City Engineer and Community Development Department for compliance with the Vesting Tentative Subdivision Map approval prior to recording the final map.

4. That in accordance with Title 16 of the Hanford Municipal Code, all conditions of this subdivision listed herein, and contained in subsequent improvement agreements, excluding the landscape district, must be completed and accepted for maintenance by the City Council prior to the final building inspection and occupancy permits being issued for the first house in the subdivision.

5. That four trees per lot be planted in the front yard at the time each lot is landscaped in accordance with City Ordinance 17.18.100(F). For corner lots, a minimum of two trees are to be planted between the curb and sidewalk along both street frontages located adjacent to the lot. Developer shall submit a landscape and irrigation system improvement plan for each house plan proposed within the subdivision for City Community Development Department review and approval.

6. That all species of trees shall be selected from a list approved by the City Street Tree Commission.

7. That all pertinent conditions of approval for Planned Unit Development No. 2005-04 and the Development Agreement shall be conditions of approval for Vesting Tentative Subdivision Map No. 881.

Zoning:

1. That the proposed subdivision is subject to the "R-1-6" Single-Family Residential and "RM-3" Multi-Family Residential zone district standards, as modified by Planned Unit Development No. 2005-04. Setback requirements for all lots are listed in Chapter 3 of the Master Plan.

2. That lots 1-273 be limited to one single family home, except as allowed by the Master Plan.

3. That any changes to the proposed phasing be approved by the Community Development Department. [No phasing of this map proposed.]

Special Requirements:

1. That a right-to-farm provision be recorded with the recording of the final subdivision map to insure that future residents of the homes in the subdivision are aware of the adjacent agricultural uses and their right to continue to operate.

2. That each lot owner within Tract No. 881 shall care for and maintain the trees and lawn area located in the parkway in front of their lot(s). For corner lots, the lot owner shall also care for and maintain the parkway trees and lawn area along the street side of their lot. . All species of trees shall be selected from a list approved by the City Street Tree Commission. The parkway is defined as that land area located between the street curb and the public sidewalk.

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3. That the tree(s) and lawn area are to be properly pruned, mowed, sprayed, watered and fertilized on a regular on-going basis in order to preserve the health and life of the tree(s) and lawn area.

4. That should the tree(s) and lawn area become damaged, severely pruned, neglected, removed or die, the lot owner shall replace said tree(s) and lawn area within thirty (30) days after the date of written notice from the City of Hanford. The tree(s) shall be replaced with a 15 gal. size tree of the same species that was originally planted. The lawn area shall be replaced with lawn. Rocks, bark, ground cover, plants or paving are not allowed in the parkway

5. That the "NOTICE, DISCLOSURE, ACKNOWLEDGMENT AND AGREEMENT OF CONTINUED CARE AND MAINTENANCE BY LOT OWNER OF THE TREES AND LAWN AREA PLANTED IN THE PARKWAY" be recorded concurrent with the recording of the subdivision final map to insure that future residents of homes in the subdivision are aware of the obligation to maintain the landscaping within the park strip. Each lot owner is to be provided a copy of said Notice, Disclosure, Acknowledgement, and Agreement, attached as Exhibit "A".

6. That 10% of all units will be made affordable to persons of moderate income. Lots are to be distributed throughout the subdivision.

7. That development of Tract No. 865 (Live Oak I) shall be developed concurrent or prior to the development of Tract No. 881 (Live Oak II), or as stated in the Development Agreement and Master Plan.

City Development Impact Fees:

1. That development is subject to a Police Development Impact Fee as required by City Ordinance No. 98-14, or any revisions thereof, if applicable. Fee shall be payable with each building permit.

2. That development is subject to a Fire Development Impact Fee as required by City Ordinance No. 98-14, or any revisions thereof, if applicable. Fee shall be payable with each building permit.

3. That development is subject to a Park Development Impact Fee as required by City Ordinance No. 90-10, or any revisions thereof, if applicable. Fee shall be payable with each building permit.

4. That development is subject to a Transportation mitigation impact fee as required by City Ordinance No. 90-09, or any revisions thereof, if applicable. Fee shall be payable with each building permit.

5. That development is subject to a Wastewater System Development Impact fee as required by City Ordinance No. 98-14, or any revisions thereof, if applicable. Fee shall be payable with each building permit.

6. That development is subject to a Water System Development Impact Fee as required by City Ordinance No. 98-14, or any revisions thereof, if applicable. Fee shall be payable with each building permit.

7. That development is subject to a Refuse and Recycling Development Impact Fee as required by City Ordinance No. 05-16, or any revisions thereof, if applicable. Fee shall be payable with each building permit.

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8. That development is subject to a Storm Water development impact fee as required by City Ordinance No. 98-14, or any revisions thereof, if applicable. Fee shall be payable prior to recording of subdivision final map.

9. That development is subject to a 12th Avenue Sanitary Sewer Area Benefit District assessment fee as required by City Ordinance No. 92-03, or any revisions thereof, if applicable. Fee shall be payable prior to recording of subdivision final map.

Environmental Requirements:

1. That if fireplaces are proposed in the residential units, natural gas fireplaces or EPA certified wood-burning fireplaces/stoves are to be installed in every unit that has a fireplace. Conventional open-hearth fireplaces are not allowed.

2. That electric or low nitrogen oxide (NO) emitting gas-fired water heaters be installed in each house.

3. That natural gas lines and electrical outlets be installed in backyards or patios to encourage use of gas and/or electric barbecues for each house.

4. That electrical outlets be installed around the exterior of the residential units to encourage use of electric lawn mower, edgers, etc.

5. That options offered as part of the Live Oak Master Plan be available to buyers within this subdivision. Options to include solar panels, attic storage, drive strips with front facing garages instead of driveways, and second units to be allowed, by right, above garages. Options shall be shown on the master building plans so as to be available to all buyers.

6. That the project is subject to the San Joaquin Valley Unified Air Pollution Control District's Indirect Source Review Rule 9510. **An application must be filed with the District immediately upon approval of project.** For more information and instruction, contact the District's ISR staff by telephone at (559) 230-5800 or by email at ISR@valleyair.org.

7. That the project is subject to all rules and regulations of the San Joaquin Valley Unified Air Pollution Control District for residential development.

Archeological:

1. That if any archeological resources or endangered species are discovered during the construction, the contractor shall stop excavation and notify the Community Development Department for appropriate mitigation measures.

Dust Control:

1. That the following dust control practices be implemented:

   Pre-construction

   That material excavated or graded be sufficiently watered to prevent excessive amounts of dust. Watering should occur at least twice a day with complete coverage, preferably in the late morning and after work is completed for the day.

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That clearing, grading, earth moving, or excavation activities cease during periods of high winds greater than 20 mph.

That earth material transported off-site be either sufficiently watered or securely covered to prevent excessive amounts of dust.

That areas disturbed by clearing, earth moving, or excavation activities be minimized at all times.

That where acceptable to the Fire Department, weed control should be accomplished by mowing instead of disking, thereby leaving the ground undisturbed and with a mulch covering.

During Construction

After clearing, grading, earth moving, or excavation operations, during the construction phase, fugitive emissions should be controlled by the following methods:

That nonactive portions of the construction site be restricted from vehicular movement.

That active portions of the site should be sufficiently watered to prevent excessive amounts of dust.

General Fugitive Dust

At all times, fugitive dust emissions should be controlled using the following procedures:

That on site vehicle speed should be limited to 15 mph.

That areas with vehicle traffic be watered periodically or have petroleum-based palliatives applied for stabilization of dust emissions.

That during rough grading and construction, streets next to the project site be swept at least once per day, or as required to remove silt, which may have accumulated from construction activities.

That during rough grading and construction, access to the site should require the building of an apron into the project site from adjoining paved roadways. The apron should be paved or have a petroleum-based palliative applied.

Ozone Precursors

At all times, ozone precursor emissions should be controlled by the following methods:

That all internal combustion engine drive equipment be properly maintained and well tuned according to the manufacturer's specifications.

PRIVATE UTILITY COMPANIES

Contact the following persons concerning questions that you may have on the conditions listed below:

Southern California Edison Co., Jon Bimat: (559) 685-3202 or jon.bimat@sce.com
Or Southern California Edison Co., Eric Thomas: eric.thomas@sce.com
SBC/AT&T, Cindy Lee: (559) 228-7006: cindy.l.lee@att.com
Or SBC/AT&T, Lon Downer: (559) 228-7017 or ld2693@att.com
Southern California Gas Co., Jerry Alvarez: (559) 739-6455 or ajalvarez@semprautilities.com
Or Southern California Gas Co., Louise Lankford llankford@semprautilities.com
Comcast, Brian Copeland: (559) 455-4580 or brian_copeland@cable.comcast.com
USA: 1 (800) 642-2444

Public Utilities:

1. That all utilities, including cable TV, shall be installed underground within the subdivision. The developer shall be required to notify the utility companies in writing of this requirement.

2. That all utility transformers within the development are recommended to be subsurface type installations. The developer has the option of placing the transformers above or below ground. If above ground transformers are to be installed, the developer is to meet with City Engineering and Edison Company to determine an appropriate location of the transformer away from street view. The developer is responsible for notifying Southern California Edison Company in writing of the type of installation.

3. That all existing utility poles and appurtenances located along the property frontages of 12th Avenue and Hume Avenue shall be installed underground at the developer's expense.

PUBLIC WORKS DEPARTMENT
Contact Senior Engineer Eric Froberg at (559) 585-2556
Concerning questions that you may have on the conditions listed below:

Maps and Plans:

1. That the developer shall submit to the City Engineer a set of construction plans on 24" x 36" sheets for all required improvements. Plans shall be prepared by a registered civil engineer and shall include a drainage and utility plan identifying sizes and location of sanitary sewer, storm drainage and water mains, curbs, gutters, sidewalks, masonry walls, street lights, street improvements, park and landscape improvements and all other infrastructure required to complete development. All plans shall be approved by the City Engineer and all other involved agencies before the release of the building permits.

2. That prior to beginning any construction or within ten (10) calendar days after the approved plans are released by the City, the developer shall submit to the City of Hanford Engineering Division one (1) reproducible and four (4) blue line copies of the approved set of construction plans and four (4) bound sets of the approved construction specifications, if any.

3. That within twenty (20) calendar days after all improvements have been constructed and accepted by the City, the developer shall submit to the City of Hanford Engineering Division one (1) reproducible and one (1) blue line copy of the approved set of construction plans revised to reflect all field revisions and marked "RECORD DRAWING."

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Easements:

1. That all easements shall be designated on the subdivision final map as required by the utility companies and where needed for providing service to street lights and landscape improvements as designated by the City Public Works Department.

2. That all easements for irrigation ditches and/or irrigation pipelines shall be legally abandoned or relocated to the satisfaction of the City Engineer prior to the recording of a subdivision final map.

Dedications:

1. That all proposed streets and street extensions, located as shown on the tentative subdivision map, shall be dedicated to the City as public right-of-way, and any alteration of existing utilities shall be the responsibility of the developer.

2. That all proposed landscape lots, located as shown on the tentative subdivision map (Lots "B, C, H, I, J, K, L & M"), shall be dedicated to the City for landscape and public utility purposes concurrent with the recording of a subdivision final map.

3. That proposed neighborhood linear parks, located as shown on the tentative subdivision map (Lots "A, D, E, F, & G"), shall be dedicated to the City for landscape and public utility purposes concurrent with the recording of a subdivision final map.

Restricted Access:

1. That a one-foot reservation strip shall be established at the end or sides of all streets abutting undeveloped property and be indicated on the subdivision final map.

2. That all access shall be restricted from lots at the property lines backing or siding onto 12th Avenue, S. Alpine Avenue, Butterfield Lane and Hume Avenue (except for pedestrian walkways) and shall be indicated on the subdivision final map.

People's Ditch Improvements:

1. That People's Ditch shall be relocated and installed underground in a pipeline in accordance with the requirements of both the City of Hanford Public Works department and the People's Ditch Company. The proposed irrigation ditch pipeline alignment shall begin at Hume Avenue/People's Ditch intersection and continue west within Hume Avenue to 12th Avenue, then south within 12th Avenue to Houston Avenue, then west within Houston Avenue to the intersection of Houston Avenue/People's Ditch. The pipeline will terminate beyond the south limits of the future Houston Avenue right-of-way. All costs to relocate and to underground People's Ditch with a pipeline as stated herein, and to backfill the abandoned open channel ditch as shown on the tentative subdivision map, shall be at developer's own expense.

Street Improvements:

1. That all improvements consisting of sanitary sewers, storm sewers, water mains, concrete curbs, gutters, sidewalks, street lights, landscaping, street sub-grading, surfacing and striping and all other improvements shall be installed in accordance with Chapter 16.24, "Improvements", of the Hanford Municipal Code and this resolution pertaining to subdivision improvements in effect at the time of filing the tentative subdivision map.

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2. That all streets within the subdivision shall be developed to residential street standard ST-32, modified as indicated on the tentative subdivision map (street narrowing adjacent to park for traffic calming), except the following:

   a. Hume Avenue shall be developed as a collector street (east of People's Ditch) along the development frontage of the subdivision and as a major collector street (west of People's Ditch) from 12th Avenue to People's Ditch. All improvements shall be constructed in conformance with City Standards ST-17 and ST-23 & ST-26, modified as indicated on the tentative subdivision map and as follows:

      1. Traffic index used for the design of the street structural section shall be a minimum of 7.0

      2. A geotechnical report shall be submitted to the City Engineer identifying the existing structural section thickness of Hume Avenue, from S. Alpine Avenue to 12th Avenue, concurrent with the submittal of development improvement plans. Reconstruction of Hume Avenue, from S. Alpine Avenue to 12th Avenue, will be required if the existing street structural section does not conform to City Standards and Specifications.

      3. Street improvements shall include, but not be limited to, the installation of concrete curb & gutter, sidewalk, landscaping, masonry block wall, street lights, street striping, signing, and pavement reconstruction of existing roadway, if applicable, and pavement widening along the development frontage of the subdivision (half-width street improvements, plus a minimum 13 foot travel lane north of street centerline). Street improvements located beyond the development frontage of the subdivision ("not-a-part" area from12th Avenue to the west property line of lot # 173) shall include, but not be limited to, the installation of concrete curb & gutter, street lights, street striping, signing and pavement reconstruction and widening to provide for a protected left-turn travel lane and a separate right turn travel lane at east leg of the 12th Avenue/Hume Avenue intersection (half-width street improvements, plus additional pavement widening north of street centerline to facilitate turning movements as identified above). The installation of a raised concrete median is not required.

   b. Twelfth Avenue shall be developed as an arterial street, along the development frontages of the subdivision, and "not-a-part" areas south of Hume and north of Butterfield Lane in accordance with Section 66462.5 of the Subdivision Map Act. All improvements shall be constructed in conformance with City Standards ST-17 and ST-20, modified as indicated on the tentative subdivision map and as follows:

      1. Traffic index used for the design of street structural section shall be a minimum of 10.0.

      2. A geotechnical report shall be submitted to the City Engineer identifying the existing structural section thickness of 12th Avenue, from Hume Avenue to Houston Avenue, concurrent with the submittal of development improvement plans. Reconstruction of the existing 12th Avenue street section between Hume Avenue and Butterfield Lane (or another form of mitigation as approved by the City Engineer) will be required if the existing street structural section does not conform to City Standards and Specifications.

      3. Street improvements shall include, but not be limited to, the installation of concrete curb & gutter, sidewalk, landscaping, street lights, median island curb, street striping, signing and pavement reconstruction of existing roadway, if applicable, and pavement widening along 12th Avenue, from Hume Avenue to Butterfield Lane (including "not-a-part" areas), to

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facilitate the installation of a median island with a single 16 foot wide paved travel lane on each side of the median. Transitional paving improvements shall also be required for both acceleration and deceleration lane tapers at the Butterfield Lane entrance to subdivision and at the Hume/12th Avenue intersection to facilitate right turns to Hume Avenue from northbound 12th Avenue and to provide for a protected left turn lane from southbound 12th Avenue to Hume Avenue. The installation of a raised concrete median north of the Hume Avenue/12th Avenue intersection is not required for the protected left-turn lane. Pavement widening along 12th Avenue other than as stated herein shall be deferred until additional travel lane capacity is warranted. Installation of Class II aggregate base rock (4" minimum thickness) over compacted native soil shall be required in the unpaved area between existing roadway and new curb and gutter section. A petroleum based palliative shall be applied to the base rock surface to provide dust control.

4. That electrical conduit and pull boxes shall be installed at the intersection of 12th Avenue/Hume Avenue to facilitate the installation of a future traffic signal system in accordance with Traffic Impact Study prepared by the firm of KD Anderson and Associates dated March 20, 2006.

c. S. Alpine Avenue and Butterfield Lane shall be developed as collector streets along the development frontages of the subdivision in conformance with City Standard ST-26, modified as indicated on the tentative subdivision map for Tract # 865 (Live Oak I).

3. That street lights shall be installed throughout the subdivision in conformance with City Standard GE-56 and PUD master plan requirements. Street lights located along 12th Avenue, Hume Avenue and S. Alpine Avenue shall be octagon concrete type poles as indicated on City Standard GE-56. Street lights located along all other streets within the subdivision shall be decorative lights in conformance with PUD master plan and Southern California Edison Company requirements. Street lights shall be located as designated by City Engineer.

4. That the developer is subject to a transportation mitigation impact fee as required by City Municipal Code Section 15.48 and any revisions thereof. Developer shall be entitled to a credit towards the impact fee for permanent street widening improvements constructed by the developer within 12th Avenue, consisting of curb & gutter, median curb, street striping, signing, and street paving from gutter lip to edge of the existing 12th Avenue street section. If applicable, developer may also be entitled to credit towards impact fees for supplemental transportation capacity improvements to the existing Houston Avenue street section. Transitional paving improvements beyond the development limits, as stated in section 2b above, are not considered to be permanent improvements and will not be subject to a credit. The developer shall submit competitive bid proposals to substantiate the cost of reimbursable items for City Public Works department review and approval prior to beginning construction. All documentation materials submitted for reimbursement consideration shall be well organized and tabulated for convenient reference by Public Works' staff. Improvement quantities and costs proposed for reimbursement must be clearly identified in the documentation provided, and not combined or aggregated with non-reimbursable subdivision improvement costs. Appropriate graphic exhibits referenced to the subdivision improvement plans shall also be provided as needed to facilitate the reimbursement review process.

5. That the developer is responsible for payment of a proportionate cost share of future improvements to mitigate interim impacts to the 12th Avenue/State Highway 198 interchange as identified in the project Environmental Impact Report and the Traffic Impact Study prepared by the firm of KD Anderson Transportation Engineers, and Caltrans memorandum entitled *12th Avenue and SR 198 Eastbound Off-ramp Cost Estimates.* Payment of developer's equitable share of interim improvement

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cost shall be collected by the City prior to the recording of a subdivision final map. Mitigation fees shall be held in a separate interest bearing account and reserved for the interim improvements referenced above.

6. That the developer is responsible for payment of a proportionate cost share of future improvements to mitigate interim impacts to the 13th Avenue/Highway 198 interchange as identified in the project Environmental Impact Report and the Traffic Impact Study prepared by the firm of KD Anderson Transportation Engineers. Payment of developer's equitable share of improvement costs shall be collected by the City prior to the recording of a subdivision final map. Mitigation fees shall be held in a separate interest bearing account and reserved for the interim improvements referenced above.

Backup Parkway Improvements:

1. That the developer shall design and construct the following improvements along the development frontages of 12th Avenue (Including Sanchez "not-a-part" area), Hume Avenue, S. Alpine Avenue, Countryside Drive (Hume Avenue to Amber Harvest Drive) and Butterfield Lane for lots backing or siding onto said streets:

   a. A minimum six foot high decorative masonry block wall with continuous reinforced concrete footings. Masonry walls shall be treated with anti-graffiti repellent. The minimum height of the wall shall be measured from the highest elevation grade of the property located adjacent to either side of the wall. Wall heights shall be maintained at a uniform grade / slope whenever possible. If elevation changes are required, steps shall be introduced at pilaster locations and / or changes in wall direction. Wall improvement plans shall be designed to incorporate architectural, civil and structural components into one set of drawings. Wall plans shall be reviewed and approved by both the City Public Works and Community Development Departments.

   b. Masonry walls shall be constructed along the development frontages of 12th Avenue (including Sanchez "not-a-part" area), Hume Avenue, S. Alpine Avenue, Countryside Drive (Hume Avenue to Amber Harvest Drive) and Butterfield Lane for all lots backing or siding onto said streets.

   c. A 4 1/2 foot wide detached sidewalk along the development frontages of 12th Avenue (including Sanchez "not-a-part" area), Hume Avenue, S. Alpine Avenue, Countryside Drive (Hume Avenue to Amber Harvest Drive) and Butterfield Lane.

   d. Landscape and irrigation system improvements along the development frontages of 12th Avenue (including Sanchez "not-a-part" area), Hume Avenue, S. Alpine Avenue, Countryside Drive (Hume Avenue to Amber Harvest Drive) and Butterfield Lane right of way and landscape parcel areas. Landscape plans shall be prepared by a licensed landscape architect. Plans shall be reviewed and approved by both the City Public Works and Community Development Departments.

2. That a minimum of four trees per lot shall be planted in the front yards of homes at the time each lot is landscaped in accordance with City Ordinance 17.18.100(F). For corner lots, a minimum of two trees per lot are to be planted between the curb and sidewalk along both street frontages located adjacent to the lot. Trees planted in the park strip shall be located in conformance with City Standard GE-13. Developer shall submit a landscape and irrigation system improvement plan for each house plan proposed within the subdivision for City Community Development department review and approval.

3. That all species of trees and plants shall be selected from a list approved by the City Street Tree Commission.

4. That all new and existing electrical boxes, control boxes and other equipment boxes (excluding traffic control) cabinets along the street frontage shall be painted hunter green or be of a color compatible with the landscaping. Prior to painting, all metal surfaces shall be treated with an etching primer (zinc chromate) or equivalent. All above-ground pedestals and other utility boxes shall be located between back of sidewalk and masonry wall.

Park Improvements:

1. That all linear park facility improvements shall conform to PUD master plan requirements and City Standards and Specifications. Developer shall retain the services of a landscape architect to design all linear park facility improvements. Improvements shall include, but not be limited to, installation of covered picnic areas, connective linear parks, decorative security lighting, drinking fountains, park benches and trash receptacles landscaping and irrigation systems. Linear park improvements shall be constructed concurrent with the first phase of the development.

2. That a minimum six foot high decorative masonry block wall shall be constructed along the side yard property lines of proposed connective linear park (adjacent to lots 46, 53, 54 & 61)

3. That the development is subject to a park development mitigation impact fee as required by City Municipal Code Section 15.44 and any revisions thereof. Developer shall be entitled to a 50% credit towards their park development impact fee, as specified in development agreement, for all park and open space improvements provided by developer in accordance with PUD master plan requirements.

Sewer Improvements:

1. That the developer's engineer shall provide a sanitary sewer master plan complete with calculations for the entire subdivision for City Public Works Department review and approval prior to recording a subdivision final map for the first phase of development. Provisions shall be made to provide service for future areas of development located adjacent to the subdivision.

2. That developer is entitled to a reimbursement agreement in accordance with City Municipal Code Section 13.08 for sanitary sewer main improvements constructed within Amber Harvest Drive which also provides a benefit to others. Developer shall submit competitive bid cost proposals to substantiate costs for sanitary sewer main improvements installed within S. Amber Harvest drive, if applicable, for Public Works department review and approval prior to beginning construction.

Storm Drainage Improvements:

1. That the developer's engineer shall provide a storm drainage master plan complete with calculations for the entire subdivision for City Public Works Department review and approval prior to recording a subdivision final map for the first phase of development. Provisions shall be made to provide service for future areas of development located adjacent to the subdivision.

2. That all drainage from proposed development shall be directed to the Sand Slough drainage basin located as shown on the tentative subdivision map for Tract #881 (Live Oak II) and in conformance with Live Oak Development Master Plan requirements.

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3. That developer shall be required to comply with State of California Water Resources Control Board requirements specifically related to the National Pollution Elimination System Permit process.

4. That development is subject to a storm water development impact fee as required by City Ordinance No. 98-14, or any revisions thereof, if applicable. Developer shall be entitled to a credit towards their storm water development impact fee for capacity enhancement improvements constructed within Sand Slough (Tract # 881 - Lot "A") that satisfy all (full credit) or a portion (partial credit) of their storm water storage requirements.

Water System:

1. That the developer's engineer shall provide a Water System Master Plan complete with calculations for the entire subdivision for City review and approval prior to recording a subdivision final map for the first phase of the development. Provisions shall be made to provide service for future areas of development located adjacent to the subdivision.

2. That a minimum 24 inch diameter offsite water main and appurtenances shall be extended within the future alignment of 12 ½ Avenue, from Hanford-Armona Road to Hume Avenue, located as shown on the Live Oak development master plan. Improvement shall conform to the City's water system master plan.

3. That a minimum 12 inch diameter offsite water main and appurtenances shall be extended within the future extension of Hume Avenue from future 12 ½ Avenue to 12th Avenue, located as shown on the Live Oak development master plan. Improvement shall conform to the City's water system master plan.

4. That developer may be entitled to a refund for water main over-sizing in accordance with City Municipal Code Section 13.04. Developer's engineer shall be required to submit calculations to substantiate request for an over-sizing refund to the City Public Works Department for review and approval. If applicable, developer shall submit competitive bid proposals to substantiate costs for water main over-sizing for City Public Works Department review and approval prior to beginning construction.

5. That developer is entitled to a reimbursement agreement in accordance with City Municipal Code section 13.04 for water system improvements constructed within future 12 ½ Avenue, from Hanford-Armona Road to future Hume Avenue and within future Hume Avenue, from 12 ½ Avenue to 12th Avenue, which also provide a benefit to others. Developer shall submit competitive bid proposals to substantiate costs for said water system improvements for Public Works Department review and approval prior to beginning construction.

6. That all existing water wells located within the proposed development shall be abandoned in conformance with State of California Department of Health Standards.

Assessment District:

1. That the developer shall enter into an agreement with the City for the formation of a tax assessment district for the maintenance of linear park landscaping (Lots "A, D, E, F, & G"), subdivision street lighting, decorative fencing and landscaping located along the property frontages of Hume Avenue, S. Alpine Avenue, 12th Avenue (including Sanchez "not-a-part" area), Countryside Drive (Hume Avenue to Amber Harvest Drive) and Butterfield Lane (Lots "B, C, H, I, J, K, L & M") located as shown on the tentative subdivision map.

2. That prior to funds from the tax assessment district being obtained, the developer shall be responsible for the maintenance of all landscaping, subdivision street lighting and decorative fencing.

FIRE DEPARTMENT

Contact Fire Marshal David Sumaya at (559) 585-2545
Concerning questions that you may have on the conditions listed below:

General:

1. That water mains and fire hydrants be installed before housing construction (unless otherwise approved by the Fire Department) and be of sufficient capacity for fire protection as well as domestic supply. Fire hydrants are to be located as designated by the Fire Department. All fire hydrants and mains are to meet City standards.

2. That the blue dot fire hydrant location markers be installed six inches from the middle of the street.

3. That an all weather 20 ft. wide road be provided throughout the subdivision where houses are being constructed, as required by City Ordinance No. 929, prior to the issuance of building permits.

BUILDING DIVISION

Contact Building Official: Jim Kochar (559) 585-2584
Concerning questions that you may have on the conditions listed below:

Soils:

1. That a preliminary soils report, prepared by a qualified soil's engineer, be provided to the Engineering and Building Departments prior to approval of Subdivision Improvement Plans.

2. That a final soils report, prepared by a qualified soils engineer, be provided to the Engineering and Building Departments prior to acceptance of the subdivision improvements by the City or issuance of building permits or whichever comes first.

3. That the developer retain the design engineer to inspect and verify that grading within the subdivision was constructed as per the approved design, and a copy of the report be provided to the Building Department prior to building permit issuance.

Street Names and Addresses:

1. That street addresses for each lot, as provided by the Building Division, be included on the subdivision final map.

2. That street names, as shown on the tentative subdivision map, be included on the subdivision final maps.

3. That all single family dwellings within the subdivision have illuminated address numbers 2-¼ inches high or be within an illuminated area with 3-½ inch high address numbers installed on the front most part of the building leading to the entrance. In either case the address numbers shall be of contrasting colors with the background.

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Kings County Impact Fees:

1. That Kings County Impact fees shall apply in the following amounts:

Criminal Justice	$1,206.62 per dwelling
Library	$323.30 per dwelling
Animal Control	$3.52 per dwelling
Compliance	$38.36 per dwelling

EXPIRATION:

That this vesting tentative subdivision map becomes null and void after 24 months has elapsed from the date of approval, if the above conditions have not been satisfied or bonded for, and a final map recorded. A time extension may be granted by the Commission upon written request by the applicant. The time extension, if approved, will be subject to all improvement standards and fees according to the development agreement.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Hanford held on the 15th day of **September, 2009**, by the following vote:

AYES:	Council Member	CHIN
		SORENSEN
		THOMAS
		AYERS
NOES:	Council Member	NONE
ABSTAIN:	Council Member	NONE
ABSENT:	Council Member	GONZALES

APPROVED: _____
David S. Ayers, Mayor

ATTEST: Karen Madruga
Karen Madruga, City Clerk

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STATE OF CALIFORNIA)
COUNTY OF KINGS) ss
CITY OF HANFORD)

I, KAREN MADRUGA, City Clerk of the City Council of the City of Hanford, do hereby certify the foregoing Resolution was duly passed and adopted by the City Council of the City of Hanford at a regular meeting thereof held on the **15th** day of **September, 2009**.

Dated: **September 17, 2009**

Karen Madruga
City Clerk

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RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO :

CITY OF HANFORD
COMMUNITY DEVELOPMENT DEPARTMENT
317 N. Douty Street
Hanford, CA 93230

EXHIBIT "A"

SPACE ABOVE THIS LINE FOR RECORDER'S USE

NOTICE, DISCLOSURE, ACKNOWLEDGMENT AND AGREEMENT OF CONTINUED CARE AND MAINTENANCE BY LOT OWNER OF THE TREES AND LAWN AREA PLANTED IN THE PARKWAY FOR TRACT NO. 881

NOTICE IS HEREBY GIVEN that City of Hanford City Council Resolution No. 09-59-R approved the development of Tract No. 881 subject to the following conditions pertaining to the continued care and maintenance of the tree(s) and lawn area located in the parkway of said Tract No. 881 by the lot owners in Tract No. 881:

CONDITIONS:

1. Each lot owner within Tract No. 881 shall care for and maintain the trees and lawn area located in the parkway in front of their lot(s). For corner lots, the lot owner shall also care for and maintain the parkway trees and lawn area along the street side of the lot. All species of trees shall be selected from a list approved by the City Street Tree Commission. The parkway is defined as that land area located between the street curb and the public sidewalk.

2. The tree(s) and lawn area are to be properly pruned, mowed, sprayed, watered and fertilized on a regular on-going basis in order to preserve the health and life of the tree(s) and lawn area.

3. Should the tree(s) and lawn area become damaged, severely pruned, neglected, removed, or die, the lot owner shall replace said tree(s) and lawn area within a reasonable time frame, but no later than thirty (30) days after the date of written notice from the City of Hanford. The tree(s) shall be replaced with a 15 gal. size tree of the same species that was originally planted. The lawn area shall be replaced with lawn. Rocks, bark, ground cover, plants or paving are not allowed in the parkway.

4. We understand and agree that our failure to comply with the conditions identified above shall constitute a breach of our obligations as identified in this document and shall also constitute a violation of the provisions of Chapter 17.68 of the Hanford Municipal Code.

WE HEREBY ACKNOWLEDGE AND UNDERSTAND our obligations for the care and maintenance of the parkway along the street frontage(s) of our lot and agree to be bound by the same.

PROPERTY ADDRESS: _____, Hanford, CA 93230

LEGAL DESCRIPTION OF PROPERTY: Lot No. _____ of Tract No. 881, Unit No. _____

ASSESSOR'S PARCEL NUMBER: _____ - _____ - _____

Owner's Signature _____
Print or Type Owner's Name _____ Date _____

Owner's Signature _____
Print or Type Owner's Name _____ Date _____

(attach Notary acknowledgment)

EXHIBIT F

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LIVE OAK RESIDENTIAL FEE SCHEDULE

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City of Hanford
Community Development Department
APPLICATION AND PROCESSING FEES—
January 1, 2009
(all City fees subject to change by City Council Resolution)

Application Fee	**FY 2008**
Major Pre-Application Review [50% credit of fee to application(s)]	$ 9,497.00
Minor Pre-Application Review [75% credit of fee to application(s)]	1,886.00
Home Occupation	115.00
Certificate of Occupancy	249.00
Sign Application	242.00
Historic Review/Historic Designation of Site	1,706.00
Time Extensions	1,206.00
Administrative Permits: Approvals	1,631.00
Administrative Permits: Variances	2,906.00
Minor Land Division: Lot Line Adjustment	892.00
Minor Land Division: Certificate of Compliance	892.00
Site Plan Review	2,906.00
Major Land Division: Subdivision Map	5,998.00
Major Land Division: Parcel Map	3,954.00
Planning Commission: Conditional Use Permit/Change in Non-conforming Use	4,915.00
Planning Commission: Variances	4,915.00
Planning Commission: Planned Unit Development	6,667.00
City Council: General Plan Amendment	8,214.00
Pre-zoning, Rezoning, Zone Text Amendments	6,771.00
Annexations	9,631.00
Environmental Review (Initial Study)	955.00
Environmental Impact Report Processing (+ actual cost of EIR consultant)	7,369.00
Filing Fee (**separate check payable to Kings County**) for:	
Notice of Determination (Fish & Game)	90.00
Notice of Exemption	90.00
Fish and Game—Neg Dec/EIR	1,993.00/2,768.25
Other Fees	
Appeals to Planning Commission/City Council	1,000.00
Final Parcel Map	650.00
Final Subdivision Map	COST + $200 Nonrefundable deposit
In Lieu Parking Fee	2,000/stall
Right-of-Way Abandonment	4,092.00
Agriculture Contract Cancellation + cost legal fees	5,162.00
Specific Plan/Master Plan	8,830.00
Design Review	1,037.00
Sale of	
General Plan Text and Map	60.00
Zoning Text and Map	60.00
General Plan Map	11.00
Zoning Text Map	11.00
Photocopy	.25/copy
Promotional Video	12.00
Relocation Packet Folder	2.00

BUILDING DEPARTMENT FEES – December 1, 2007	
All Building Department fees are calculated on square foot or unit cost, based on the building occupancy and construction type.	
Compliance Inspection	$ 147.00
Reinspection Fee	105.00
Basic Building Permit for Swimming Pool	$ 245.00 + seismic
Seismic Fees: 1-3 Story Residential Commercial	.0001 x valuation .00021 x valuation
School Fees: (not City fees, but collected for the school districts) Residential—(eff. 10/1/08—Pioneer School District $4.06 sq. ft.) Commercial	$ 2.97 sq. ft. .42 sq. ft.
PUBLIC WORKS DEPARTMENT FEES – July 1, 2009	
Public Street and Infrastructure Improvement Plan Review/Inspection Fee Schedule for Subdivisions and Site Development projects:	
6% of the first $5,000.00 of improvement costs or fraction thereof	
5% of the next $20,000.00 of improvement costs or fraction thereof	
4.5% of the next $75,000.00 of improvement costs or fraction thereof	
3.5% of the next $150,000.00 of improvement costs or fraction thereof	
2% of all amounts of improvement costs over $250,000.00	
INFRASTRUCTURE FEES	
FIRE IMPACT FEES—July 1, 2009	
Single Family Residential	$ 158.30/unit
Multi-family Residential	139.32/unit
Commercial	0.1874/sq. ft.
Industrial	0.0187/sq. ft.
POLICE IMPACT FEES—July 1, 2009	
Single Family Residential	$ 302.11/unit
Multi-family Residential	265.87/unit
Commercial	0.3577/sq. ft.
Industrial	0.0356/sq. ft.
WATER IMPACT FEES—July 1, 2009	
Single Family Residential	$1,843.22/unit
Multi-family Residential	1,419.42/unit
Commercial	1.1763/sq. ft.
Industrial	1.1231/sq. ft.
Public Use	0.2432/sq. ft.
Water Meter Inspection Fee (all land uses)	$ 85.00/meter
Backflow Prevention Assembly Inspection Fee (all land uses)	$ 80.00/assembly
WASTEWATER SYSTEM IMPACT FEES—July 1, 2009	
Wastewater Facilities (Collection System,*Treatment Plant, and Pond Relocation) *Note: Wastewater treatment portion of fee is based on standard household strength waste of 200 MG/L B.O.D. and 200 MG/L S.S. and 300 gal./day flow rate	
Single Family Residential	$ 2,272.23/unit
Multi-family Residential	2,073.73/unit

WASTEWATER SYSTEM IMPACT FEES (continued)	
Commercial	1.2895/sq. ft.
Industrial	0.6446/sq. ft.
Public Use	0.2664/sq. ft.
PARK IMPACT FEES—July 1, 2009	
Single Family Residential	$ 2,786.85/unit
Multi-family Residential	2,451.87/unit
Senior Housing and Mobile Homes	1,393.43/unit
STORM WATER IMPACT FEES—July 1, 2009	
Original City Limits (OCL) = area bounded by Grangeville Blvd. on the north; Hanford-Armona on the south; 10th Avenue on the east; and 11th Avenue on the west	
Single Family Residential (within OCL)	$ 2,523.51/gross acre
Single Family Residential (outside OCL)	$ 5,047.01/gross acre
Multi-family Residential, Commercial & Industrial (within OCL)	$2,523.51/gross acre x "C" .35 x gross development acres
Multi-family Residential, Commercial & Industrial (outside OCL) * "C" factor = runoff coefficient for that specific type of development	$5,047.01/gross acre x "C" .35 x gross development acres
REFUSE AND RECYCLING IMPACT FEE (July 1, 2009)	
Single Family Residential	$ 309.59/unit
Multi-Family Residential	139.85/unit
Commercial *	* Subject to impact
Industrial *	assessment per
Other Non-Residential *	service required
Commercial, Industrial, Other Non-residential Rear-load refuse truck $176,772/1,758 cubic yard/week = 100.55/cu.yd./week Rear-load dumpster cost (including sales tax & delivery) 1cu.yd. = $470.47; 2cu.yd. = $563.87; 3cu.yd. = 692.30 (times the number of containers required) Total Refuse and Recycling Development Impact Fee = Contingent on projected service needed For example, if the projected refuse service needs require a one cubic yard dumpster emptied once a week, the total RDIF would be $571.02, calculated as follows: Truck cost share 1 cu. yd. x 1/week x $100.55/cu. yd./wk $ 100.55 One cubic yard dumpster 470.47 Total $571.02 If the projected refuse service needs require two 3-cubic yard dumpsters emptied three times a week, the RDIF would be calculated as follows: Truck cost share 2 (3 cu. yd. x 3/week) x $100.55/cu. yd./wk. $1,809.90 Two three-cubic yard dumpster (2 x $692.30) 1,384.60 Total $3,194.50	
SANITARY SEWER AREA OF BENEFIT DISTRICT FEE (6/2/92)	
9th Avenue Area of Benefit District (10th Ave. to Hwy. 43):	
Area generally south of Hanford-Armona Road	$ 899.81/acre
Area located between Hanford-Armona Rd. and Lacey Blvd.	1,337.60/acre
Area located between Lacey Blvd. and Grangeville Blvd.	2,015.10/acre
Area located between Grangeville Blvd. and Hwy. 43	2,778.62/acre
12th Ave. Area of Benefit District (11-1/2 Ave. to 13th Ave.):	
Area generally south of Hanford-Armona Road	$ 621.92/acre
Area located between Hanford-Armona Rd. and Lacey Blvd.	960.01/acre
Area located between Lacey Blvd. and Grangeville Blvd.	1,305.25/acre
Area located between Grangeville Blvd. and Fargo Ave.	1,734.30/acre
Area located between Fargo Ave. and Flint Ave.	2,401.14/acre

TRANSPORTATION IMPACT FEES—July 1,2009	
Transportation Facilities - All Land Uses (see chart below for fee based on number of trip ends per use)	$ 259.86/tripend

EXHIBIT A
TRANSPORTATION IMPACT FEES TRIPENDS
EFFECTIVE DATE: JULY 1, 2009

CATEGORIES	UNITS	TRIPENDS	FEE @ $259.86/TRIPEND
RESIDENTIAL			
Single Family	D.U.	9.53	$ 2,476.47/D.U.
Apartment	D.U.	6.55	1,702.08/D.U.
Condominium	D.U.	5.69	1,478.60/D.U.
Mobile Home	D.U.	4.90	1,273.31/D.U.
Senior Adult Housing	D.U.	3.23	839.35/D.U.
COMMERCIAL			
General/Specialty Retail	1,000 sf	40.58	10,545.12/1000 sf
Shopping Center	1,000 sf	41.42	10,763.40/1000 sf
Discount Store	1,000 sf	30.86	8,019.28/1000 sf
Hardware/Paint Store	1,000 sf	51.03	13,260.66/1000 sf
Furniture Store	1,000 sf	4.98	1,294.10/1000 sf
Bank	1,000 sf	49.59	12,886.46/1000 sf
Supermarket	1,000 sf	68.65	17,839.39/1000 sf
Convenience Market	1,000 sf	330.00	85,753.80/1000 sf
Gas & Service Station w/Mini-Mart	Fueling Position	90.67	23,561.51/fp
Gas/Service Station	Fueling Position	73.00	18,969.78/fp
Auto Repair/Car Center	1,000 sf	14.00	3,638.04/1000 sf
Car Sales	1,000 sf	14.50	3,767.97/1000 sf
Hotel/Motel	Room	8.95	2,325.75/Room
RESTAURANT			
Quality	1,000 sf	36.40	9,458.96/1000 sf
High Turnover	1,000 sf	90.22	23,444.57/1000 sf
Fast Food	1,000 sf	220.60	57,325.12/1000 sf
OFFICE			
General	1,000 sf	8.34	2,167.23/1000 sf
Medical/Dental	1,000 sf	27.31	7,096.78/1000 sf
Government	1,000 sf	68.93	17,912.15/1000 sf
INDUSTRIAL			
General	1,000 sf	5.43	1,411.04/1000 sf
Mini-storage	1,000 sf	2.37	615.87/1000 sf
Warehousing	1,000 sf	3.83	995.26/1000 sf

Notes:
(A) Tripend rates for other than those listed above shall be determined using trip generation statistics in the Institute of Transportation Engineers Trip General Manual, latest edition.
(B) Tripends for development within the Central Parking and Improvement District shall be reduced by 20% to reflect captured trip rates for multi-use district. (Council Resolution 95-74-R).
(C) Cost of improvement completed by developer on arterial and designated collectors will be credited against payment of the impact fee for that project.

END OF DOCUMENT