

**Exhibit F**  
**P23-00835/P23-02080 Conditions of Approval**  
**dated November 3, 2023**

**ID 23-1785:** Consideration of Conditional Use Permit Application No. P23-00835, Planned Development Permit Application No. P23-02080, and related Environmental Assessment

2600 Fresno Street, Room 3043  
 Fresno, California 93721-3604  
 (559) 621-8277  
 www.fresno.gov

**Jennifer K. Clark, AICP, HDFP**  
 Director

November 3, 2023

Robert Vermeltfoort  
 VAI on behalf of Jim Shehadey of  
 2500 MLK, LLC and Starbucks  
[rcv@vaifresno.com](mailto:rcv@vaifresno.com)  
 (Sent via email only)

Please Reply to:  
 Steven Martinez  
[Steven.Martinez@fresno.gov](mailto:Steven.Martinez@fresno.gov)

**SUBJECT: CONDITIONAL USE PERMIT APPLICATION NO P23-00835 & PLANNED DEVELOPMENT PERMIT APPLICATION NO. P22-02080 FOR PROPERTY LOCATED AT 864 EAST CHURCH AVENUE (APNs: 479-050-14 & PORTION OF 479-050-15)**

The Planning and Development Director has approved Conditional Use Permit Application No P23-00835 & Planned Development Permit Application No. P22-02080 pertaining to ± 2.98 acres of property located at the address noted above. The subject property is zoned CC and RM-1 (*Commercial Community and Residential Multi-Family*).

**Conditional Use Permit Application No. P23-00835** proposes to construct a ± 5,781 square foot multi-tenant shell building with Starbucks Café with drive-thru; and fully develop the site with a 168-car parking lot, landscaping, trash enclosures, and pad for a future building to be entitled under separate permit.

**Planned Development Permit Application No. P23-02080** proposes to modify façade and drive-through property development standards for drive-through facilities, and allow the portion of the subject site zoned as RM-1 (*Residential Multi-Family*) to be developed under the CC (*Commercial Community*) development standards.

An addendum to Environmental Assessment Nos. A-17-007/R-17-010/TPM-17-06/ANX-17-005, P18-03290, and Development Agreement has been prepared in accordance with Section 15164 of the California Environmental Quality Act (CEQA) Guidelines dated November 3, 2023. The approval of this project is subject to compliance with the following Conditions of Approval.

**CONDITIONS OF APPROVAL**

<u>Planner to check box when completed:</u>	
<input type="checkbox"/>	1. Development shall take place in accordance with Plan Exhibits O-1, O-2; A; E-1, E-2; and F dated May 26, 2023. Transfer <u>all</u> red line notes, comments, conditions, etc. to the corrected plan exhibits and <b>submit to planner Steven Martinez</b> . All revisions to plans shall be called out with a cloud or delta.  <input type="checkbox"/> <u>All Applicable Exhibits:</u> <input type="checkbox"/> Add new building address: 864 East Church Avenue Suite. 101, Fresno, CA 93706

Exhibits O-1 & O-2:

- Revise Operational Statement per the redlines.

Exhibit A:

- Provide all site plan pages, including cover page and details page. Ensure consistency.
- Identify area limits of future building development. Update labels to reflect pad will be entitled under a separate permit.
- Update Zoning and Planned Land Use; see redlines.

**Trash Enclosure:**

- Pursuant to FMC Section 15-2016(D)(7): The perimeter of enclosures (excluding gates) shall be landscaped with a combination of shrubs and/or climbing evergreen vines. Demonstrate compliance.
- Pursuant to FMC Section 15-2016(D)(6): Enclosure pads must be designed to prevent contamination of the stormwater system. Measures that may be taken to achieve this include, but are not limited to, using roofs to divert stormwater away from the enclosures, creating grade breaks to properly direct stormwater away while keeping any water that may be in the enclosure from spilling out, and connecting a drain in the enclosure to the sewer system to collect contaminated water in cases of spillage, washing, etc. Demonstrate compliance.

**Bicycle Parking:**

- Pursuant to FMC Section 15-2429: Provide compliant Short-Term and Long-Term Bike Parking. The number of bike stalls shall be calculated using Table 2429-D and/or the California Green Building Standards Code.

**Parking Lot:**

- To promote vehicular and pedestrian safety, provide traffic calming measures in East-West drive-aisle.
- Pursuant to the City of Fresno Parking Manual, the standard dimension for a stall with concrete curb is 9'x18' with an appropriate 3' overhang. The proposed stalls may remain as is, or be reduced to no less than the minimum required dimensions.
- Pursuant to the City of Fresno Parking Manual, the minimum required drive-aisle clearance is 27'. The proposed aisle clearance may remain as is, or be reduced to no less than the minimum required dimension.
- Pursuant to FMC Sections 15-2015 and 15-2420:  
Parking areas designed to accommodate four or more vehicles shall be provided with light over the parking surface as follows:
  - A. Lighting design shall be coordinated with the landscape plan to ensure that vegetation growth will not substantially impair the intended illumination.
  - B. Parking lot lighting shall, to the maximum extent feasible, be designed and installed so that light and glare is not directed onto residential use areas or adjacent public rights-of-way, consistent with Article 25, Performance Standards. Such parking lot illumination shall be no less than 0.5 foot-candles.

On a new page, provide a photometric plan showing compliance. Page shall also provide description and/or depiction of lighting fixture. The height of the fixture shall not exceed 20'-0" within 100' of any street frontage or Residential District, or 25'-0" in any other location.

	<p><b>Parking Lot Considerations (Recommended, but Not Required):</b>                  1.) Utilization of double-striped parking stalls.                  2.) Provide a 12'-14' foot landing for parking stalls parallel to landscaped areas. (see photo example on plans).</p> <p><b>Drive-Through:</b>  <input type="checkbox"/> To promote pedestrian safety, provide a traffic calming measure near the exit of the drive-through.  <input type="checkbox"/> Identify and maintain 12' visibility triangle.  <input type="checkbox"/> Provide a decorative 4'-0" fence/wall (hereafter "wall") along the drive-through lane as identified.                  (1) The design of the wall shall be architecturally consistent with the primary structure.                  (2) Each wall section shall provide a minimum of 50 percent, but no greater than 75 percent, transparency with a trellis or similar structure as part of the transparent portion. The trellis or similar structure will not count against the transparency.                  (3) The identified sections of the wall shall be 100% opaque to prevent headlight glare from spilling into the public right of way.</p> <p>Provide section drawings of the 100% opaque and partially transparent screening wall.</p> <p><b>Pedestrian Walkways:</b>  <input type="checkbox"/> Pursuant to FMC Section 15-1204(E)(1):                  A system of pedestrian walkways shall connect all buildings on a site to each other, to on-site automobile and bicycle parking areas, and to any on-site open space areas or pedestrian amenities. Revise for compliance.  <input type="checkbox"/> Pursuant to FMC Section 15-1204(E)(3):                  Regular connections between on-site walkways and the public sidewalk and other planned or existing pedestrian routes shall be provided. An on-site walkway shall connect the primary building entry or entries to a public sidewalk on each street frontage. Revise for compliance.  <input type="checkbox"/> Pedestrian walkways shall be designed per the standards outlined in FMC Section 15-1204(E)(6)(a-c). Walkways may be part of landscaped areas.</p> <p><b>Landscape Buffer:</b>  <input type="checkbox"/> Pursuant to FMC Section 15-2503, a Type 2 Landscape Buffer is required between Commercial and Residential land uses. Revise plans for compliance.</p>
2.	<p>Landscaping must be in place prior issuance of occupancy and/or final inspection. A Hold on Occupancy/Final Inspection shall be placed on the proposed improvements until such time that landscaping has been approved and verified for proper installation by the Planning Division. (Include this note on the site and landscape plans.)</p>
3.	<p>Prior to granting of occupancy/final inspection, a written certification, signed by a landscape professional approved by the Planning and Development Department Director, shall be submitted stating that the required landscaping and irrigation system have been installed in accordance with the landscaping and irrigation plans approved by the Planning Division. (Include this note on the site and landscape plans)</p>
<input type="checkbox"/> 4.	<p><b>Public Works Land Planning Section:</b>                  Comply with Land Planning Section conditions of approval and redlined Exhibit A-1, check print 1 dated June 19, 2023. For questions, please contact Rogelio Ruiz at <a href="mailto:Braulio.Flores@fresno.gov">Braulio.Flores@fresno.gov</a> or at (559) 621-8806.</p>



5.

**Fire Department:**

All back checks are performed electronically through the Accela Program (FAASTER portal). You must submit the following documentation to the Building Department: 1) Provide copy of the original submittals (drawings, calculations, and supporting documents) including mark-ups from the plan reviewers who worked on your documents. 2) Provide a complete set of revised drawings, calculations, and supporting documents addressing plan check comments (all changes shall be clouded). 3) Provide a detailed typed response to each item listed in the plan check correction comments document. If you have additional questions regarding back check submittals, please contact the Building Department.^

All revisions to plans shall be called out with a cloud or delta.^

If you have questions and would like more information regarding FFD Development Policies please see the following: <https://www.fresno.gov/fire-training/manuals-and-forms/>

This project was reviewed by the Fire Department only for requirements related to water supply, fire hydrants, and fire apparatus access to the building(s) on site. Review for compliance with fire and life safety requirements for the building interior and its intended use are reviewed by both the Fire Department and the Building and Safety Section of DARM when a submittal for building plan review is made as required by the California Building Code by the architect or engineer of record for the building.^

1) Site plan Sheet A100, no fire access gates appear to be on the plan, please update note to : Provide signs (17"x22" minimum) at all public entrance drives to the property which state "Warning – Vehicles stopped, parked or left standing in fire lanes will be immediately removed at owner's expense – 22658(a) California Vehicle Code – Fresno Police Department 621-7000."^

2) Note on plan: Turns in private drives for fire apparatus access shall have minimum 44 foot centerline turn radius.^

3) Show the location of the fire department connection. Fire department connections shall not be installed within five (5) feet of any building opening, excluding a fire department riser access door. (FFD Development Policy 405.025). A remote FDC/PIV between the north property line and drive through lane are recommended based on the drive through lane layout occupying 3 sides of the building.^

4) Note on plan: Fire department connections shall be located within forty (40) feet of a fire apparatus access lane. (FFD Development Policy 405.025)^

5) Note on plan: The minimum size of all fire department connections shall be based upon the system type. No connection shall be less than 2½ inch in size. (FFD Development Policy 405.025)^

6) Note on plan: Fire department connections shall be located on the street side of buildings or facing approved fire apparatus access roads, fully visible and recognizable from the street or nearest point of fire department vehicle access or as otherwise approved by the fire chief. 2022 CFC, Section 912.2.1.^

	<p>7) Note on plan: Address Identification. For new and existing buildings, the fire code official is authorized to require approved address or building area identification signage as needed to readily determine the building or area of a building protected by fire department connections. 2022 FMC, Section 10-50912.4.4^^</p> <p>8) Sheet A100, note 02-07: Update the street names.</p>
<input type="checkbox"/>	<p>6. <b>City of Fresno Development Impact Fee Estimate:</b>        Review attached City of Fresno Development Impact Fee Estimate Memorandum dated June 6, 2023 enclosed.</p>
<input type="checkbox"/>	<p>7. <b>Department of Public Utilities (Sewer, Water, and Solid Waste Divisions)</b>        Comply with attached DPU Memorandum dated June 19, 2023 enclosed.</p>
<input type="checkbox"/>	<p>8. <b>Public Works ROW Landscaping / Street Trees:</b>        Comply with attached Department of Public Works ROW Landscaping Memorandum dated July 6, 2023 enclosed.</p>
<input type="checkbox"/>	<p>9. <b>Public Works Community Facilities District:</b>        Comply with attached Department of Public Works Community Facilities District ("CFD") Memorandum dated July 6, 2023 enclosed.</p>
	<p>10. <b>Fresno County Environmental Health:</b></p> <ul style="list-style-type: none"> <li>• Prior to issuance of building permits, food facility applicants will be required to submit complete food facility plans and specifications to the Fresno County Department of Public Health, Environmental Health Division, for review and approval. Future applicants shall apply for and obtain permits to operate a food facility from the Fresno County Department of Public Health, Environmental Health Division. A permit, once issued, is nontransferable. Contact the Consumer Food Protection Program at (559) 600-3357 for more information.</li> <li>• Should alcohol sales be proposed, the applicant shall first obtain their license to sell alcoholic beverages. Contact the California Alcoholic Beverage Control Department at (559) 225-6334 for more information.</li> <li>• Facilities that use and/or store hazardous materials and/or hazardous wastes shall meet the requirements set forth in the California Health and Safety Code (HSC), Division 20, Chapter 6.95, and the California Code of Regulations (CCR), Title 22, Division 4.5. Your proposed business will handle hazardous materials and/or hazardous waste and will be required to submit a Hazardous Materials Business Plan pursuant to the HSC, Division 20, Chapter 6.95 (<a href="http://cers.calepa.ca.gov/">http://cers.calepa.ca.gov/</a>). Contact the Fresno County Hazmat Compliance Program at (559) 600-3271 for more information.</li> <li>• Future applicants may be required to obtain a Medical Waste Permit from the California Department of Health Services, Medical Waste Management Program. Call (916) 449-5671 for more information.</li> <li>• Should a body art facility (i.e. tattoo, piercing, branding or permanent cosmetics facility) be proposed, prior to issuance of building permits, the tenant shall submit complete body art facility plans and specifications to the Fresno County Department of Public Health, Environmental Health Division, for review and approval. Contact the Body Art Program at (559) 600-3357 for more information.</li> </ul>

	<ul style="list-style-type: none"> <li>• The proposed project has the potential to expose nearby residents to elevated noise levels. Consideration should be given to the City of Fresno Municipal Code.</li> <li>• As a measure to protect ground water, all water wells and/or septic systems that exist or have been abandoned within the project area should be properly destroyed by an appropriately licensed contractor.</li> <li>• Should any underground storage tank(s) be found during the project, the applicant shall apply for and secure an Underground Storage Tank Removal Permit from the Fresno County Department of Public Health, Environmental Health Division. Contact the Fresno County Hazmat Compliance Program at (559) 600-3271 for more information.</li> </ul>
11.	<b>PG&amp;E:</b> Comply with attached PG&E Memorandum dated June 26, 2023 enclosed.
12.	<b>San Joaquin Valley Air Pollution Control District:</b> Comply with attached SJVAPCD Memorandum dated June 9, 2023 enclosed.
13.	<b>Fresno Irrigation District:</b> Comply with attached Fresno Irrigation District Memorandum dated June 9, 2023 enclosed.
<input type="checkbox"/> 14.	<b>Fresno Metropolitan Flood Control District:</b> See FMFCD Notice of Requirements (NOR) dated June 21, 2023 enclosed. NOR Review fees, Grading Plan Review fees, and preliminary drainage fee are due. Please provide receipt of payment.

**PART B – OTHER REQUIREMENTS**

Mitigation Monitoring Requirements

On August 24, 2017, the Council of the City of Fresno adopted Resolution No. 2017-231, adopting Environmental Assessment No. A-17-007/R-17-010/ANX-17-005/TPM 2017-06, dated August 2, 2017, as amended on January 13, 2020 and June 23, 2022, for The West Creek Village Project Area.

- a) Development of the subject property shall be subject to implementation of the mitigation measures, fees, and timelines as stipulated within the Mitigation Monitoring Program of Environmental Assessment No. A-17-007/R-17-010/ANX-17-005/TPM 2017-06, dated August 2, 2017, as amended on January 13, 2020 and June 23, 2022.

Development Agreement

On February 27, 2020, the Council of the City of Fresno adopted Ordinance No. 2020-006 approving the Development Agreement, as may be amended, by and between the City of Fresno and Master Developer, relating to development of the subject property, for which Vesting Tentative Tract Map No. 6391 has been filed.

- b) Development of the subject property shall be subject to the impact fees, dedications, and improvements as stipulated within the terms, conditions, and requirements provided within the list of exactions in the aforementioned Development Agreement.
  - NOTE: With the exception of those conditions which may be required in order to implement the mitigation measures identified by Environmental Assessment No. A-17-007/R-17-010/ANX-17-005/TPM 2017-06 dated August 2, 2017, as amended on January 13, 2020 and June 23, 2022, where any inconsistencies or conflicts may exist between these Conditions of Approval and the terms or provisions of the

Development Agreement, the stipulations of the Development Agreement shall prevail.

#### Planning / Zoning / Environmental Compliance Requirements

- a) Development shall take place in accordance with the policies of the Fresno General Plan, the Southwest Fresno Specific Plan, and in accordance with the Commercial Community planned land use designation.
- b) Development shall take place in accordance with the CC (*Commercial Community*) zone district and all other applicable sections of the Citywide Development Code, Chapter 15 of the Fresno Municipal Code (FMC).
- c) Development and operations shall comply with the final approved operational statement.
- d) Development shall comply with the City of Fresno Parking Manual, California Building Code, and American Disabilities Act requirements.
- e) Property development standards and operational conditions are contained in Articles 12 (*Commercial Districts*), 20 (*General Site Requirements*), 23 (*Landscape*), 24 (*Parking and Loading*) and 25 (*Performance Standards*). Any project revisions, development and operation must comply with these property development standards and operational conditions.
- f) Signage shall be permitted under a separate entitlement and comply with Article 26 (*Signs*).
- g) Development shall take place in accordance with the attached "General Notes and Requirements for Entitlement Applications" where applicable.

#### Miscellaneous Requirements

- a) Approval of these special permits shall be considered null and void in the event of failure by the applicant and/or the authorized representative, architect, engineer, or designer to disclose and delineate all facts and information relating to the subject property and the proposed development including, but not limited to, the following:
  - i) All existing and proposed improvements including but not limited to buildings and structures, signs and their uses, trees, walls, driveways, outdoor storage, and open land use areas on the subject property and all of the preceding which are located on adjoining property and may encroach on the subject property; and
  - ii) All public and private easements, rights-of-way and any actual or potential prescriptive easements or uses of the subject property; and,
  - iii) Existing and proposed grade differentials between the subject property and adjoining property zoned or planned for residential use.
- b) Approval of this special permit may become null and void in the event that development is not completed in accordance with all the conditions and requirements imposed on this special permit, the Zoning Ordinance, and all Public Works Standards and Specifications.
- c) The Planning and Development Department shall not assume responsibility for any deletions or omissions resulting from the special permit review process or for additions or alterations to construction plans not specifically submitted and reviewed and approved pursuant to this special permit or subsequent amendments or revisions.

## **APPEALS**

Please be advised that this project is subject to a variety of discretionary conditions of approval. These conditions based on adopted City plans, ordinances and policies; those determined to be required through the interdepartmental/interagency review process; and those determined through the environmental assessment process as necessary to mitigate adverse effects on the health, safety and welfare of the community. The conditions of approval include requirements for development that would, on the whole, enhance the project and its relationship to the neighborhood and environment.

All conditions of approval based on adopted plans, codes, and regulations are mandatory. Conditions based on the FMC may only be modified by variance, provided the findings required by FMC [Section 15-5506](#) can be made.

Per FMC [Section 15-5017](#), this approval commences a 15-day appeal period. Discretionary conditions of approval may be appealed but will ultimately be deemed mandatory unless appealed in writing within 15 days. The appeal shall identify the decision being appealed and shall clearly and concisely state the reasons for the appeal and signed by the person making the appeal including the accompanied appeal applicable fee.

If you wish to appeal the decision on this project, a written request shall be submitted directly to the email address – [PublicCommentsPlanning@fresno.gov](mailto:PublicCommentsPlanning@fresno.gov) (cc [Steven.Martinez@fresno.gov](mailto:Steven.Martinez@fresno.gov)) by the end of business on **November 20, 2023**. **Please note, the fee for an appeal is \$963.77**. Once the 15-day appeal period has ended and no appeals are received or filed, the approval will be final.

## **COMPLIANCE PROCESS**

**Please Note:** To complete the compliance process, submit **an electronic copy** of the corrected site plan and corrected elevations to **Steven Martinez** in the Planning and Development Department for final review and approval at least 15 days prior to final sign off. These documents can be uploaded electronically to the citizen access portal at <https://lmsaca.fresno.gov/CitizenAccess/Default.aspx>. It may be necessary to resubmit these “corrected exhibits” a second time if not all the conditions have been complied with or are not shown on the exhibits.

## **EXPIRATION DATES**

1.) The exercise of rights granted by these special permits must be commenced by **November 3, 2026** (three years from the date of approval), pursuant to FMC Section [15-5013](#). An extension of up to one additional year may be granted, provided that the findings required under FMC Section 15-5013-A.1 are made by the Director. All required improvements must be installed prior to the operation of the proposed use.

2.) Pursuant to Fresno Municipal Code Section [15-5308](#), the Review Authority has determined this conditional use permit/planned development permit authorizes permanent physical property improvements. Therefore, this conditional use permit shall not have an expiration date of seven years from the date of approval.

If you have any questions regarding this letter, feel free to contact me at the email above.

Sincerely,

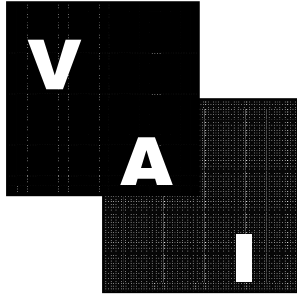


Steven Martinez - Planner

City of Fresno - Planning and Development Department

Enclosures:

- ❖ Plan Exhibits O-1, O-2; A; E-1, E-2; and F dated May 26, 2023
- ❖ Department of Public Works Land Planning Conditions of Approval dated June 19, 2023
- ❖ Department of Public Works Land Planning Check Print 1 redlined exhibits dated June 19, 2023
- ❖ City of Fresno Development Impact Fee Estimate dated June 6, 2023
- ❖ Department of Public Utilities Memorandum dated June 19, 2023
- ❖ Department of Public Works ROW Landscaping / Street Trees Memorandum dated July 6, 2023
- ❖ Department of Public Works Community Facilities District Memorandum dated July 6, 2023
- ❖ PG&E Memorandum dated June 26, 2023
- ❖ San Joaquin Valley Air Pollution Control District Memorandum dated June 9, 2023
- ❖ Fresno Irrigation District Memorandum dated June 9, 2023
- ❖ Fresno Metropolitan Flood Control District Notice of Requirements dated June 21, 2023
- ❖ General Notes and Requirements for Entitlement Applications
- ❖ MEIR Mitigation and Monitoring Reporting Program
- ❖ Development Agreement dated March 5, 2020



**Vermeltfoort Architects Inc.**  
**Architecture and Planning**

Revise Operational Statement to reflect all changes.

**MEMORANDUM**

**DATE:** February 28, 2023  
**TO:** City of Fresno  
**FROM:** Robert Vermeltfoort  
**RE:** Proposed Retail/Drive-thru Building  
SWC of Martin Luther King Jr Blvd. & Church Ave.  
**PROJECT #:** 22025

APPL. NO. P23-00835 EXHIBIT O-1 DATE 05/28/2023  
PLANNING REVIEW BY \_\_\_\_\_ DATE \_\_\_\_\_  
TRAFFIC ENG. \_\_\_\_\_ DATE \_\_\_\_\_  
APPROVED BY \_\_\_\_\_ DATE \_\_\_\_\_  
CITY OF FRESNO DARM DEPT

Add Address:  
864 East Church Avenue,  
Fresno, CA 93706

**Project Description / Operational Statement**

List both APNs (479-050-14 & Portion of 479-050-15) and clarify to be adjusted under LLA 2022-15.

The proposed building and site improvements are located at the southwest corner of Martin Luther King Jr. Blvd. & Church Ave., with an APN 479-050-14. We are proposing a 6,663 square foot wood-framed building on an existing vacant dirt lot. This building will consist of an approximately 3,063 square foot drive-thru restaurant tenant with a 400 square foot outdoor patio, and 3,600 square feet of an office/retail tenant(s). The current zoning for the area is "CC – Community Commercial", existing land use is "OA – Open Space/Ag", general plan is "CC – Community Commercial". There is also a +/-10,650 square foot future building shown on site – this would be under a separate application and approval. **Add second zone district RM-1 - Residential Multi-Family.**

**Clarify the project qualifies for a split zoning exception pursuant to FMC Section 15-2020(F).**  
The hours of operation for the drive-thru tenant would be 5am-9pm, 7 days a week. The number of employees per shift would be 4. The hours of operation for the office/retail tenant(s) would be from 8am-6pm, 7 days a week. The number of employees per shift would be 10-15. Deliveries would be up to 5 times per week (via a small delivery truck), during non-peak hours. The expected number of daily visitors would be approximately 100.

Our elevations being proposed were designed to be aesthetically pleasing from all street sides, as well as from the neighboring residential and commercial parcels. Different materials, overhangs, and colors have been proposed to create a welcome appearance. Landscaping has been provided as a buffer between the residential parcel to the west and the building.

Trees and shrubs will be provided in the landscape frontage shielding vehicles from the public right-of-way, quantity and size designed per city code standard. The trash/recycle bins will be located

**State pursuant to FMC Section 15-2728(H), the drive-through is required to close no later than 10 PM, however, this location will close at X.**

within a 6-foot tall covered CMU enclosure with metal gates, along with necessary landscaping tall enough to soften the trash enclosure walls.

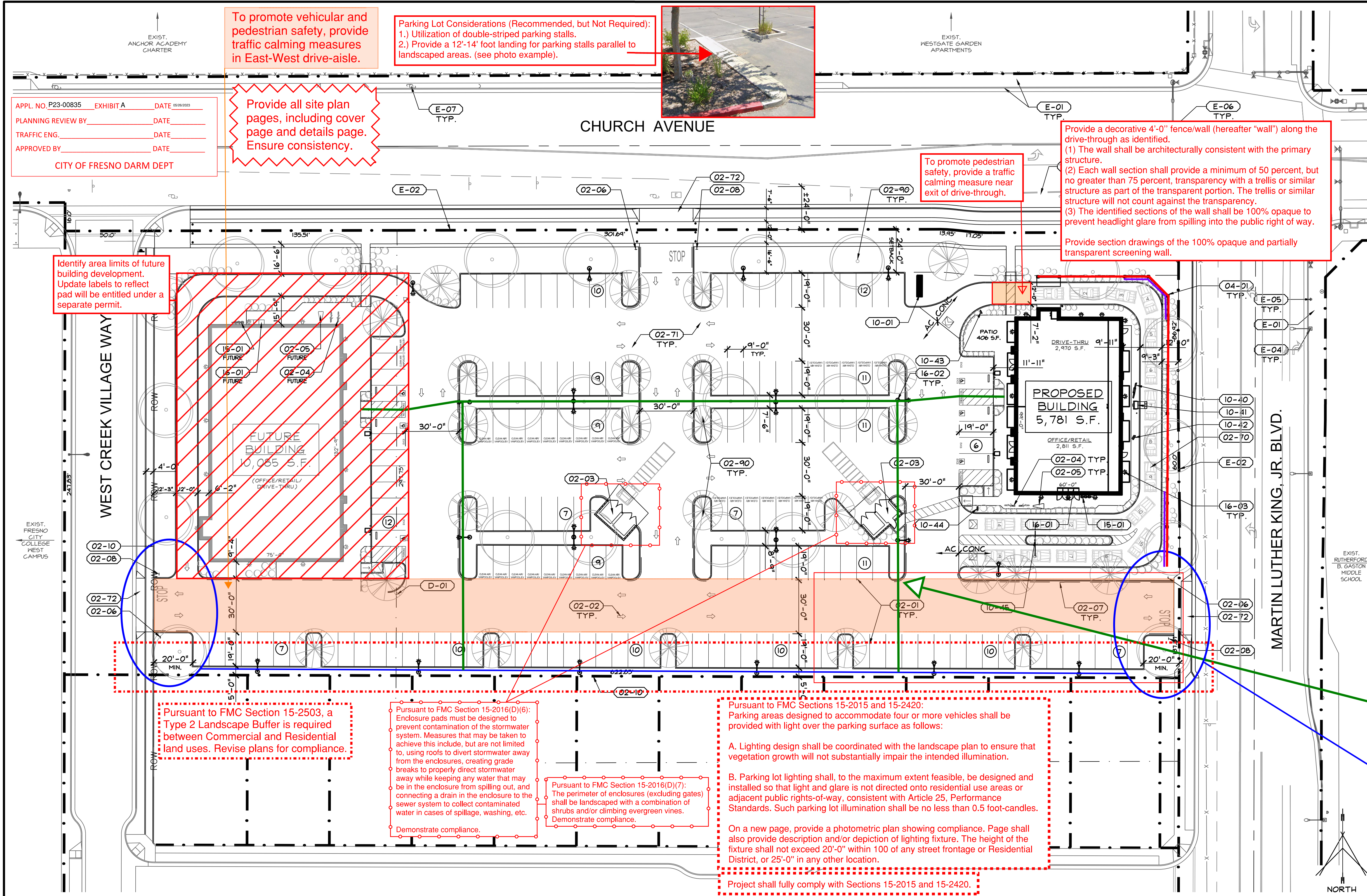
All items to allow pedestrians safe and easily accessible access to the site have been addressed; including, but not limited to ample bicycle parking areas, pedestrian walkways, sidewalks, lighting, and striping.

Signage is being placed on areas facing the street, to draw vehicles onto the site. The signs being proposed are sized appropriately for the areas of the building in which they are being installed. These signs are back lit, producing a soft glow, and therefore not impacting neighboring properties. Building mounted light fixtures provide accent lighting to the building façade, as well as creating a lit and safe area around the site. Lighting will be shielded, and focused on the building, as to create minimal glare and reflections into open spaces or neighboring properties. Pole-mounted parking lot light fixtures will be proposed at the recommended height of 18 feet.

If you have any questions, please do not hesitate to contact this office.

Thanks,  
Robert Vermeltfoort

APPL. NO. <u>P23-00835</u>	EXHIBIT <u>O-2</u>	DATE <u>05/26/2023</u>
PLANNING REVIEW BY _____	DATE _____	
TRAFFIC ENG. _____	DATE _____	
APPROVED BY _____	DATE _____	
<b>CITY OF FRESNO DARM DEPT</b>		



APPL. NO. P23-00835 EXHIBIT A DATE 10/06/2023  
 PLANNING REVIEW BY DATE  
 TRAFFIC ENG. DATE  
 APPROVED BY DATE  
 CITY OF FRESNO DARM DEPT

Provide all site plan pages, including cover page and details page. Ensure consistency.

Parking Lot Considerations (Recommended, but Not Required):  
 1.) Utilization of double-striped parking stalls.  
 2.) Provide a 12'-14' foot landing for parking stalls parallel to landscaped areas. (see photo example).



Provide a decorative 4'-0" fence/wall (hereafter "wall") along the drive-through as identified.  
 (1) The wall shall be architecturally consistent with the primary structure.  
 (2) Each wall section shall provide a minimum of 50 percent, but no greater than 75 percent, transparency with a trellis or similar structure as part of the transparent portion. The trellis or similar structure will not count against the transparency.  
 (3) The identified sections of the wall shall be 100% opaque to prevent headlight glare from spilling into the public right of way.  
 Provide section drawings of the 100% opaque and partially transparent screening wall.

To promote pedestrian safety, provide a traffic calming measure near exit of drive-through.

Identify area limits of future building development. Update labels to reflect pad will be entitled under a separate permit.

Pursuant to FMC Section 15-2503, a Type 2 Landscape Buffer is required between Commercial and Residential land uses. Revise plans for compliance.

Pursuant to FMC Section 15-2016(D)(6): Enclosure pads must be designed to prevent contamination of the stormwater system. Measures that may be taken to achieve this include, but are not limited to, using roofs to divert stormwater away from the enclosures, creating grade breaks to properly direct stormwater away while keeping any water that may be in the enclosure from spilling out, and connecting a drain in the enclosure to the sewer system to collect contaminated water in cases of spillage, washing, etc.  
 Demonstrate compliance.

Pursuant to FMC Section 15-2016(D)(7): The perimeter of enclosures (excluding gates) shall be landscaped with a combination of shrubs and/or climbing evergreen vines.  
 Demonstrate compliance.

Pursuant to FMC Sections 15-2015 and 15-2420: Parking areas designed to accommodate four or more vehicles shall be provided with light over the parking surface as follows:  
 A. Lighting design shall be coordinated with the landscape plan to ensure that vegetation growth will not substantially impair the intended illumination.  
 B. Parking lot lighting shall, to the maximum extent feasible, be designed and installed so that light and glare is not directed onto residential use areas or adjacent public rights-of-way, consistent with Article 25, Performance Standards. Such parking lot illumination shall be no less than 0.5 foot-candles.  
 On a new page, provide a photometric plan showing compliance. Page shall also provide description and/or depiction of lighting fixture. The height of the fixture shall not exceed 20'-0" within 100' of any street frontage or Residential District, or 25'-0" in any other location.  
 Project shall fully comply with Sections 15-2015 and 15-2420.

- E-01 EXIST. CONC. SIDEWALK, CURB, & GUTTER TO REMAIN, PROTECT FROM DAMAGE, REPAIR AS NECESSARY.
- E-02 EXIST. PROPERTY LINE TO REMAIN.
- E-03 EXIST. AC PAVING TO REMAIN, PROTECT FROM DAMAGE.
- E-04 EXIST. STREET LIGHT TO REMAIN.
- E-05 EXIST. FIRE HYDRANT TO REMAIN.
- E-06 EXIST. TRAFFIC SIGNAL TO REMAIN.
- E-07 EXIST. POWER POLE & OVERHEAD POWER LINE TO REMAIN.
- D-01 (E) PROPERTY LINE TO BE RELOCATED UNDER L.L.A.
- O2-01 (N) PARKING LOT STRIPING PER CITY PARKING MANUAL.
- O2-02 (N) DIRECTIONAL ARROW.
- O2-03 (N) TRASH ENCLOSURE, PER P.M. STANDARDS P-33 THRU P-35.
- O2-04 (N) I-LOOP BIKE RACK, "ULINE #H-2842", SEE 18/A101. (CAPABLE OF HOLDING 2 BIKES)
- O2-05 (N) BIKE LOCKER: AMERICAN BICYCLE SECURITY COMPANY, "MODEL 301P".
- O2-06 (N) "UNAUTHORIZED VEHICLE SIGN, SEE 13/A101.
- O2-07 PAINT CURB RED W/ WHITE "NO PARKING FIRE LANE" LETTERS @ MAX 50' APART, (SHOWN DASHED). PROVIDE RED CURBS & LETTERING ALONG CHESTNUT & OLIVE AVENUES.
- O2-08 INSTALL 30" STATE STANDARD "STOP" SIGN, PROVIDE A "RIGHT TURN ONLY" SIGN (30"x36" STATE STANDARD) IMMEDIATELY BELOW STOP SIGN ON SAME POST. SIGNS SHALL BE MOUNTED ON 2" GALV. POST W/ THE BOTTOM OF SIGN 1'-0" ABOVE FINISH GROUND, LOCATED BEHIND SIDEWALK.
- O2-09 ENVIRONMENT-FRIENDLY VEHICLE PARKING STALLS (DENOTED "EV"), DESIGNATE BY PAINTING IN WHITE 12" HIGH SAN-SERIF LETTERING "CLEAN AIR/VANPOOL/VEV".
- O2-10 PROPERTY LINE AFTER L.L.A. RECORDATION.
- O2-10 (N) CONC. PAVING, PER P.M. STANDARDS P-21 THRU P-23, SEE CIVIL DRAWINGS.
- O2-10 (N) AC PAVING, PER P.M. STANDARDS P-21 THRU P-23, SEE CIVIL DRAWINGS.
- O2-10 (N) 30'-0" WIDE DRIVE APPROACH, PER CITY STANDARDS P-2 & P-6.
- O2-10 (N) LANDSCAPING.
- O4-01 (N) CMU SCREEN WALL, TO +3'-8" A.F.G.
- O4-01 (N) MONUMENT SIGN.
- O4-01 (N) 5-PANEL MENU BOARD, SEE 4/A802.
- O4-01 (N) ORDER SCREEN AND SPEAKER, SEE 10/A802.
- O4-01 (N) PRE-MENU BOARD, SEE 12/A802.
- O4-01 (N) DIRECTIONAL "THANK YOU - EXIT ONLY" SIGN.
- O4-01 (N) DIRECTIONAL "ENTRANCE" SIGN.
- O4-01 (N) MAX. HEIGHT SIGN.
- O4-01 (N) GAS METERS.
- O4-01 (N) MAIN ELECTRICAL PANELS, WITHIN ELECTRICAL ROOM.
- O4-01 (N) POLE-MOUNTED LIGHT, SEE ELECTRICAL DRAWINGS.
- O4-01 (N) BUILDING-MOUNTED LIGHT, SEE ELECTRICAL DRAWINGS.

KEYNOTES 2

ADDRESS: SOUTHWEST CORNER OF CHURCH AVE. & MARTIN LUTHER KING JR. BLVD. FRESNO, CALIFORNIA 93706  
 864 East Church Avenue Suite. 101, Fresno, CA 93706

SITE: 474-050-14  
 AREA: 2.98 ACRES (129,808 S.F.)  
 ZONING: CC - COMMUNITY COMMERCIAL  
 EXIST. LAND USE: OA - OPEN SPACE/AG  
 PLANNED LAND USE: CC - COMMERCIAL COMMUNITY  
 GENERAL PLAN: SNFSP  
 SPECIFIC PLAN: & RM-1 - Residential Multi-Family

BUILDING: 6,663 S.F.  
 AREA: 5,138  
 SITE DENSITY: Residential Community & RM-1 - Residential Medium High Density

PARKING PROVIDED:  
 126 STANDARD PARKING STALLS  
 2 ACCESSIBLE STALLS  
 4 ACCESSIBLE & EVCS STALLS  
 4 ELECTRIC VEHICLE CHARGING STALLS  
 32 CLEAN AIR STALLS  
 168 TOTAL PARKING STALLS

REQUIRED:  
 DRIVE-THRU: 26 STALLS  
 OFFICE/RETAIL: 18 STALLS  
 FUTURE BLDG: 54 STALLS  
 TOTAL: 98 STALLS

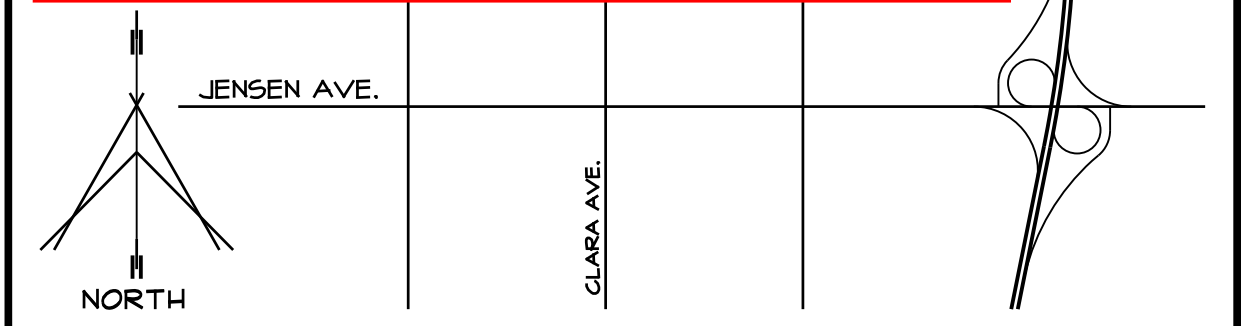
PROPOSED SITE PLAN 7

1. NO USES OF LAND, BUILDINGS OR STRUCTURES OTHER THAN THOSE SPECIFICALLY APPROVED PURSUANT TO THIS SITE PLAN SHALL BE PERMITTED.
2. THE BACK FLOW DEVICE SHALL BE SCREENED BY LANDSCAPING OR SUCH OTHER MEANS AS MAY BE APPROVED.
3. TREES SHALL BE MAINTAINED IN GOOD HEALTH. HOWEVER, TREES MAY NOT BE TRIMMED OR PRUNED TO REDUCE THE NATURAL HEIGHT OR OVERALL CROWN OF THE TREE, EXCEPT AS NECESSARY FOR THE HEALTH OF THE TREE & PUBLIC SAFETY OR AS MAY OTHERWISE BE APPROVED BY THE DEVELOPMENT DEPARTMENT.
4. LANDSCAPING MUST BE IN PLACE BEFORE ISSUANCE OF THE CERTIFICATE OF OCCUPANCY.
5. PRIOR TO FINAL INSPECTION A WRITTEN CERTIFICATION, SIGNED BY A LANDSCAPE PROFESSIONAL APPROVED BY THE DIRECTOR SHALL BE SUBMITTED STATING THAT THE REQUIRED LANDSCAPING & IRRIGATION SYSTEM WAS INSTALLED IN ACCORDANCE W/ THE LANDSCAPING & IRRIGATION PLANS APPROVED BY THE PLANNING DIVISION, DEVELOPMENT DEPARTMENT.
6. ALL ACCESSIBLE STALLS SHALL BE MARKED TO COMPLY W/ & MEET THE REQUIREMENTS OF CBC 11B-500.
7. LIGHTING WHERE PROVIDED TO ILLUMINATE PARKING, SALES OR DISPLAY AREAS SHALL BE HOODED & SO ARRANGED & CONTROLLED SO AS NOT TO CAUSE A NUISANCE EITHER TO HIGHWAY TRAFFIC OR TO THE LIVING ENVIRONMENT. THE AMOUNT OF LIGHT SHALL BE PROVIDED ACCORDING TO THE STANDARDS OF THE DEPARTMENT OF PUBLIC WORKS.
8. SIGNS ARE NOT APPROVED FOR INSTALLATION AS PART OF THIS SPECIAL PERMIT. SUBMIT FOR SEPARATE SIGN REVIEW.
9. ALL CONSTRUCTION WORK ON THIS PROJECT IS SUBJECT TO INTERRUPTION IF ROAD SYSTEM BECOMES IMPASSABLE FOR FIRE APPARATUS DUE TO RAIN OR OTHER OBSTACLES.
10. ANY SURVEY MONUMENTS WITHIN THE AREA OF CONSTRUCTION SHALL BE PRESERVED OR RESET BY A PERSON LICENSED TO PRACTICE LAND SURVEYING IN THE STATE OF CALIFORNIA.
11. REPAIR ALL DAMAGED AND/OR OFF-GRADE CONCRETE STREET IMPROVEMENTS AS DETERMINED BY THE CONSTRUCTION MANAGEMENT ENGINEER, PRIOR TO OCCUPANCY.
12. CONTRACTOR SHALL GIVE THE CITY TWO WORKING DAYS NOTICE BEFORE COMMENCING EXCAVATION OPERATIONS WITHIN THE STREET RIGHT-OF-WAY AND/OR UTILITY EASEMENTS. ALL EXISTING UNDERGROUND FACILITIES SHALL HAVE BEEN LOCATED BY UNDERGROUND SERVICES ALERT (USA). CALL 1-800-642-2444.
13. FIRE HYDRANTS SHALL BE TESTED & APPROVED & ALL SURFACE ACCESS ROADS SHALL BE INSTALLED & MADE SERVICEABLE PRIOR TO & DURING CONSTRUCTION.
14. APPROVAL OF THIS SPECIAL PERMIT MAY BECOME NULL & VOID IN THE EVENT THAT DEVELOPMENT IS NOT COMPLETED IN ACCORDANCE W/ ALL THE CONDITIONS & REQUIREMENTS IMPOSED ON THIS SPECIAL PERMIT, THE ZONING ORDINANCE & ALL PUBLIC WORKS STANDARDS & SPECIFICATIONS. THE CITY OF FRESNO SHALL NOT ASSUME RESPONSIBILITY FOR ANY DELETIONS OR OMISSIONS RESULTING FROM THE SPECIAL PERMIT REVIEW PROCESS OR FOR ADDITIONS OR ALTERATIONS TO CONSTRUCTION PLAN NOT SPECIFICALLY SUBMITTED & REVIEWED & APPROVED PURSUANT TO THIS SPECIAL PERMIT OR SUBSEQUENT AMENDMENTS OR REVISIONS.
15. FUTURE FENCES SHALL BE REVIEWED & APPROVED BY THE PLANNING & DEVELOPMENT DEPARTMENT PRIOR TO INSTALLATION.
16. ALL ACCESSIBLE PARKING STALLS SHALL BE PLACED ADJACENT TO FACILITY ACCESS RAMPS OR IN STRATEGIC AREAS WHERE THE PERSONS W/ DISABILITIES SHALL NOT HAVE TO WHEEL OR WALK BEHIND PARKED VEHICLES WHILE TRAVELING TO OR FROM ACCESSIBLE PARKING STALLS & RAMPS.
17. IF ARCHAEOLOGICAL &/OR ANNUAL FOSSIL MATERIAL IS ENCOUNTERED DURING PROJECT SURVEYING, GRADING, EXCAVATING, OR CONSTRUCTION, WORK SHALL STOP IMMEDIATELY.
18. IF THERE ARE SUSPECTED HUMAN REMAINS, THE FRESNO COUNTY CORONER SHALL BE IMMEDIATELY CONTACTED. IF THE REMAINS OR OTHER ARCHAEOLOGICAL MATERIAL IS POSSIBLY NATIVE AMERICAN IN ORIGIN, THE NATIVE AMERICAN HERITAGE COMMISSION (PHONE: (416) 655-4082) SHALL BE IMMEDIATELY CONTACTED, & THE CALIFORNIA ARCHAEOLOGICAL INVENTORY/SOUTHERN SAN JOAQUIN VALLEY INFORMATION CENTER (PHONE: (805) 644-2284) SHALL BE CONTACTED TO OBTAIN A REFERRAL LIST OF RECOGNIZED ARCHAEOLOGISTS. AN ARCHAEOLOGICAL ASSESSMENT SHALL BE CONDUCTED FOR THE PROJECT, THE SITE SHALL BE FORMALLY RECORDED, & RECOMMENDATIONS MADE TO THE CITY AS TO ANY FURTHER SITE INVESTIGATION OR SITE AVOIDANCE/RESERVATION.
19. IF ANIMAL FOSSILS ARE UNCOVERED, THE MUSEUM OF PALEONTOLOGY, U.C. BERKELEY SHALL BE CONTACTED TO OBTAIN A REFERRAL LIST OF RECOGNIZED PALEONTOLOGISTS. A PALEONTOLOGIST SHALL CONDUCT AN ASSESSMENT & IF THE PALEONTOLOGIST DETERMINES THE MATERIAL TO BE SIGNIFICANT, IT SHALL BE PRESERVED.
20. TWO MEANS OF INGRESS/EGRESS MUST BE PROVIDED. THIS ACCESS MUST BE MAINTAINED DURING ALL PHASES OF DEVELOPMENT. THE DEVELOPER SHALL SHOW ON THE FINAL BUILDING PLANS A MIN. 20 FOOT WIDE ALL-WEATHER EMERGENCY ACCESS W/ AN OVERHEAD CLEARANCE OF 13'-6" WITHIN 150 FEET OF ALL BUILDINGS ON THE PROJECT SITE. THE FIRE DEPT. MUST APPROVE THE FINAL LOCATION & DESIGN OF THE ACCESS PRIOR TO BUILDING PERMITS BEING ISSUED. THIS ACCESS SHALL BE CONSTRUCTED BEFORE BUILDING OCCUPANCY WILL BE GRANTED.
21. DESIGNATE HIGHLIGHTED CURBS AS FIRE LANE (RED CURBS W/ "FIRE LANE" STENCILED IN 3" LETTERS EVERY 50').
22. FIRE HYDRANTS & ACCESS ROADS SHALL BE INSTALLED, TESTED & APPROVED & SHALL BE MAINTAINED SERVICEABLE PRIOR & DURING ALL PHASES OF DEVELOPMENT.
23. THE DEVELOPER SHALL MEET ALL REGULATIONS OF THE SAN JOAQUIN VALLEY AIR POLLUTION CONTROL DISTRICT (REGULATION VIII) CONCERNING DUST SUPPRESSION DURING CONSTRUCTION OF THE PROJECT.
24. TWO WORKING DAYS BEFORE COMMENCING EXCAVATION OPERATIONS WITHIN THE STREET RIGHT-OF-WAY AND/OR UTILITY EASEMENTS, ALL EXISTING UNDERGROUND FACILITIES SHALL HAVE BEEN LOCATED BY UNDERGROUND SERVICES ALERT (USA). CALL 1-800-642-2444.
25. ALL CONCRETE CURBS SHALL BE 6 INCHES IN HEIGHT.
26. IF REQUIRED, WHEEL STOPS SHALL BE 6 INCHES IN HEIGHT.
27. ALL EXISTING SIDEWALKS IN EXCESS OF 2% MAXIMUM GROSS SLOPE MUST BE BROUGHT INTO COMPLIANCE PRIOR TO ACCEPTANCE BY PUBLIC WORKS.
28. CONTACT THE PUBLIC WORKS DEPARTMENT, TRAFFIC ENGINEERING AT 554-621-8800, 10 WORKING DAYS PRIOR TO ANY OFFSITE CONCRETE CONSTRUCTION.
29. THE PERFORMANCE OF ANY WORK WITHIN THE PUBLIC STREET R/W REQUIRES A STREET WORK PERMIT PRIOR TO COMMENCEMENT OF WORK. ALL ROAD STREET IMPROVEMENTS MUST BE COMPLETED & ACCEPTED BY THE CITY PRIOR TO OCCUPANCY.
30. DEEDS ARE REQUIRED TO PROVIDE EASEMENTS TO THE CITY FOR REQUIRED PUBLIC IMPROVEMENTS. THEY SHALL BE PREPARED BY THE OWNER / DEVELOPER'S ENGINEER. EXECUTED COPIES SHALL BE SUBMITTED TO THE CITY WITH VERIFICATION OF OWNERSHIP PRIOR TO THE ISSUANCE OF BUILDING PERMITS.
31. A BUILDING WITH A DRIVE-THRU LANE SHALL NOT BE LOCATED WITHIN 400 FEET OF ANOTHER STRUCTURE CONTAINING A DRIVE-THRU FACILITY, PER CITY OF FRESNO MUNICIPAL CODE SEC. 15-2128.
32. DRIVE-THRU DESIGN MINIMUM REQUIREMENTS: 200 FOOT STACKING, 11 FOOT WIDTH AISLE, 13 FOOT WIDTH AISLE WITHIN TURNS, 9 FOOT WIDTH @ WINDOW, 15 FOOT INSIDE TURN RADIUS.
33. ALL EXISTING SIDEWALKS IN EXCESS OF 2% MAXIMUM GROSS SLOPE MUST BE BROUGHT INTO COMPLIANCE.
34. MODIFY OR REPLACE EXISTING RAMPS THAT ARE NOT TO CURRENT ACCESSIBLE STANDARDS, AS DETERMINED BY CONST. MANAGEMENT, PRIOR TO OCCUPANCY.
35. CONSTRUCT FULL OFF-SITE IMPROVEMENTS TO PUBLIC WORKS STANDARDS, WHERE MISSING - EXAMPLES INCLUDE, BUT NOT LIMITED TO, CURB, GUTTER, SIDEWALK, APPROACHES, RAMPS, STREET LIGHTS, PAVEMENT, UNDERGROUNDING OF OVERHEAD UTILITIES, ETC., RELOCATED EXISTING UTILITIES, AS NEEDED ON APPROVED PLANS.
36. ALL ACCESSIBLE STALLS SHALL BE MARKED WITH THE INTERNATIONAL SYMBOL OF SPACES AND A WARNING THAT VEHICLES IN VIOLATION OF SECTION 10-1011 OF THE MUNICIPAL CODE SHALL BE TOWED AWAY. THE INTERNATIONAL SYMBOL AND TOW-AWAY WARNING SHALL BE PLACED ON A 1 FOOT POLE. APPLICANTS ARE ENCOURAGED TO PROVIDE SHARED VEHICLE AND PEDESTRIAN ACCESS BETWEEN ADJACENT PROPERTIES FOR CONVENIENCE, SAFETY, AND EFFICIENT CIRCULATION. A JOINT ACCESS COVENANT SHALL BE REQUIRED.
37. ALL GENERAL STANDARDS OF SECTION 15-2015 OF THE FMC SHALL APPLY WHEN LIGHTING IS PROVIDED TO ILLUMINATE PARKING, SALES, OR DISPLAY AREAS. SUBMIT STREET LIGHTING PLANS TO THE PUBLIC WORKS DEPT.
38. SIGNS, OTHER THAN DIRECTIONAL SIGNS, ARE NOT APPROVED FOR INSTALLATION AS PART OF THIS SPECIAL PERMIT.
39. ALL EXIST. DRIVEWAY APPROACHES WHICH NO LONGER PROVIDE ACCESS TO APPROVED VEHICLE PARKING AREAS SHALL BE REMOVED UNLESS OTHERWISE APPROVED BY THE CITY ENGINEER. SUCH AREAS SHALL BE RECONSTRUCTED WITH CURB, GUTTER, AND SIDEWALK TO MATCH EXIST. ADJACENT STREET IMPROVEMENTS. THIS WORK SHALL BE COMPLETED AND ACCEPTED BEFORE A PERMIT OF OCCUPANCY IS ISSUED OR THE BUILDING IS OCCUPIED PER FMC 15-211.
40. CONSTRUCTION ON STATE HIGHWAYS MUST CONFORM TO BOTH CITY OF FRESNO AND STATE DIVISION OF HIGHWAY SPECIFICATIONS.
41. PROVIDE A 4'-0" MIN. PATH OF TRAVEL ALONG THE PUBLIC SIDEWALK DIRECTLY IN FRONT OF PROPERTY, TO MEET CURRENT ACCESSIBILITY REGULATIONS. A PEDESTRIAN EASEMENT MAY BE REQUIRED IF REQUIREMENTS ARE NOT MET.
42. ALL DEVELOPMENT SHALL TAKE PLACE IN ACCORDANCE WITH ALL CITY AND COUNTY LAWS AND REGULATIONS.
43. IF ENTRY ACCESS GATES ARE INSTALLED AT THIS SITE, EMERGENCY ACCESS GATES ACROSS ENTRANCES THAT HAVE BEEN DESIGNED FOR USE BY FIRE/POLICE PERSONNEL ONLY SHALL BE DESIGNATED ON THE PROPERTIES SITE PLAN PRIOR TO CONSTRUCTION OF THE COMPLEX. (FEED DEVELOPMENT POLICY 403.205) THE SIGN BELOW IS REQUIRED ON BOTH SIDES OF THE GATE: "FIRE LANE" (IN 6 INCH LETTER) "VEHICLES REMOVED AT OWNER'S EXPENSE" (IN 2 INCH LETTERS) "FRESNO POLICE DEPARTMENT @ (559) 621-1000" (IN 1 INCH LETTERS).

GENERAL NOTES 8

SITE INFORMATION 3

- Pursuant to FMC Section 15-1204(E)(1): A system of pedestrian walkways shall connect all buildings on a site to each other, to on-site automobile and bicycle parking areas, and to any on-site open space areas or pedestrian amenities. Revise for compliance.
- Pursuant to FMC Section 15-1204(E)(3): Regular connections between on-site walkways and the public sidewalk and other planned or existing pedestrian routes shall be provided. An on-site walkway shall connect the primary building entry or entries to a public sidewalk on each street frontage. Revise for compliance.
- Pedestrian walkways shall be designed per the standards outlined in FMC Section 15-1204(E)(6)(a-c). Walkways may be part of landscaped areas.



VICINITY MAP 4

Vermelfoort Architects, Inc.  
 Architecture and Planning  
 8525 North Cedar Avenue  
 Suite 106  
 Fresno, California 93720  
 Office: 559.432.6744  
 Email: rcv@vafresno.com

REVISION

DATE

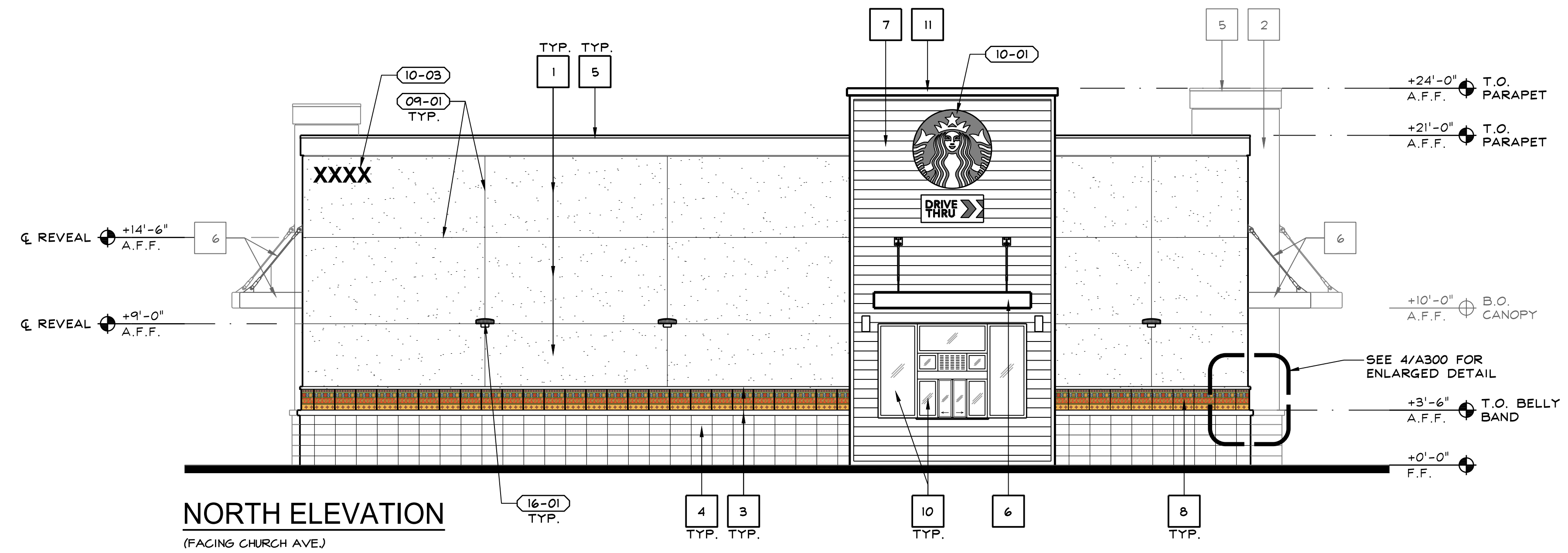
ISSUE DATE: 1-12-23  
 REV. DATE:  
 PROJECT NO.: 22025  
 DRAWN BY: NL  
 SHEET: A100

PROPOSED RETAIL & DRIVE-THRU BUILDING

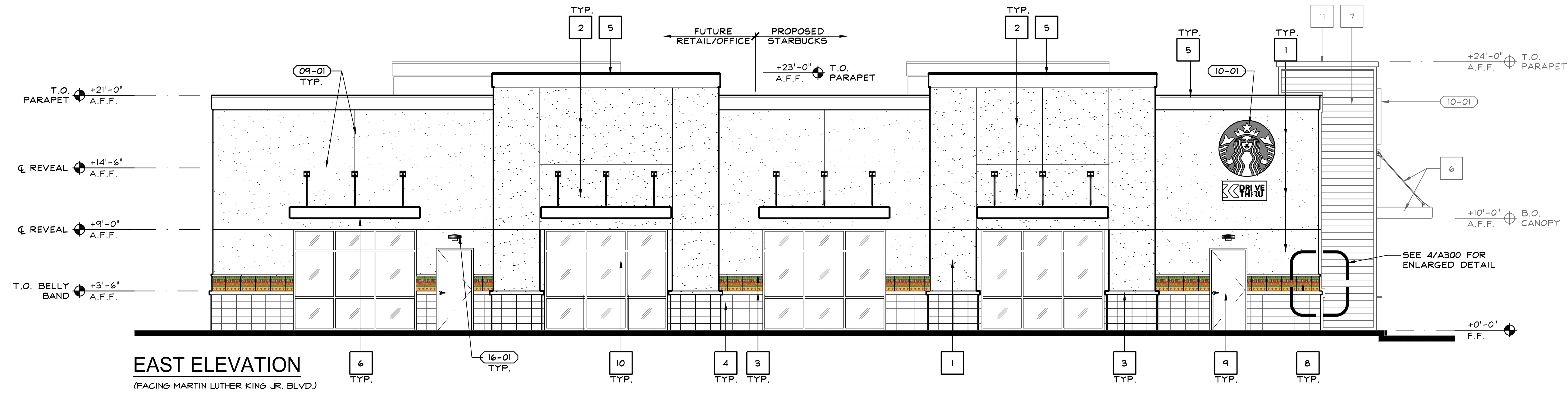
PROPOSED SITE PLAN

(STAMP INVALID UNLESS SIGNED)

APPL. NO. P23-00835 EXHIBIT E-1 DATE 05/26/2023  
 PLANNING REVIEW BY \_\_\_\_\_ DATE \_\_\_\_\_  
 TRAFFIC ENG. \_\_\_\_\_ DATE \_\_\_\_\_  
 APPROVED BY \_\_\_\_\_ DATE \_\_\_\_\_  
 CITY OF FRESNO DARM DEPT



**NORTH ELEVATION**  
(FACING CHURCH AVE.)

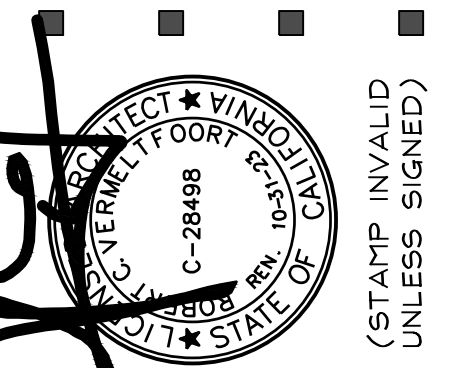
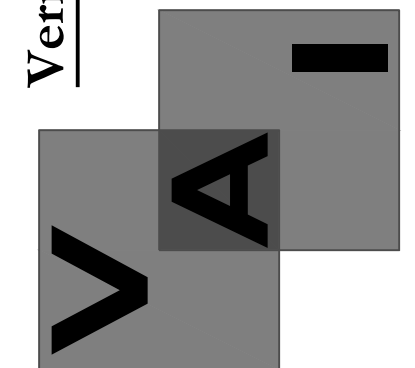


**EAST ELEVATION**  
(FACING MARTIN LUTHER KING JR. BLVD.)

864 East Church Avenue Suite. 101, Fresno, CA 93706  
 SWC OF CHURCH AVE. & MLK JR. BLVD. FRESNO, CA 93706

NO.	DATE	REVISION

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 Email: rcv@vaifresno.com



FRESNO  
 SWC OF CHURCH AVE. & MLK JR. BLVD. FRESNO, CA 93706

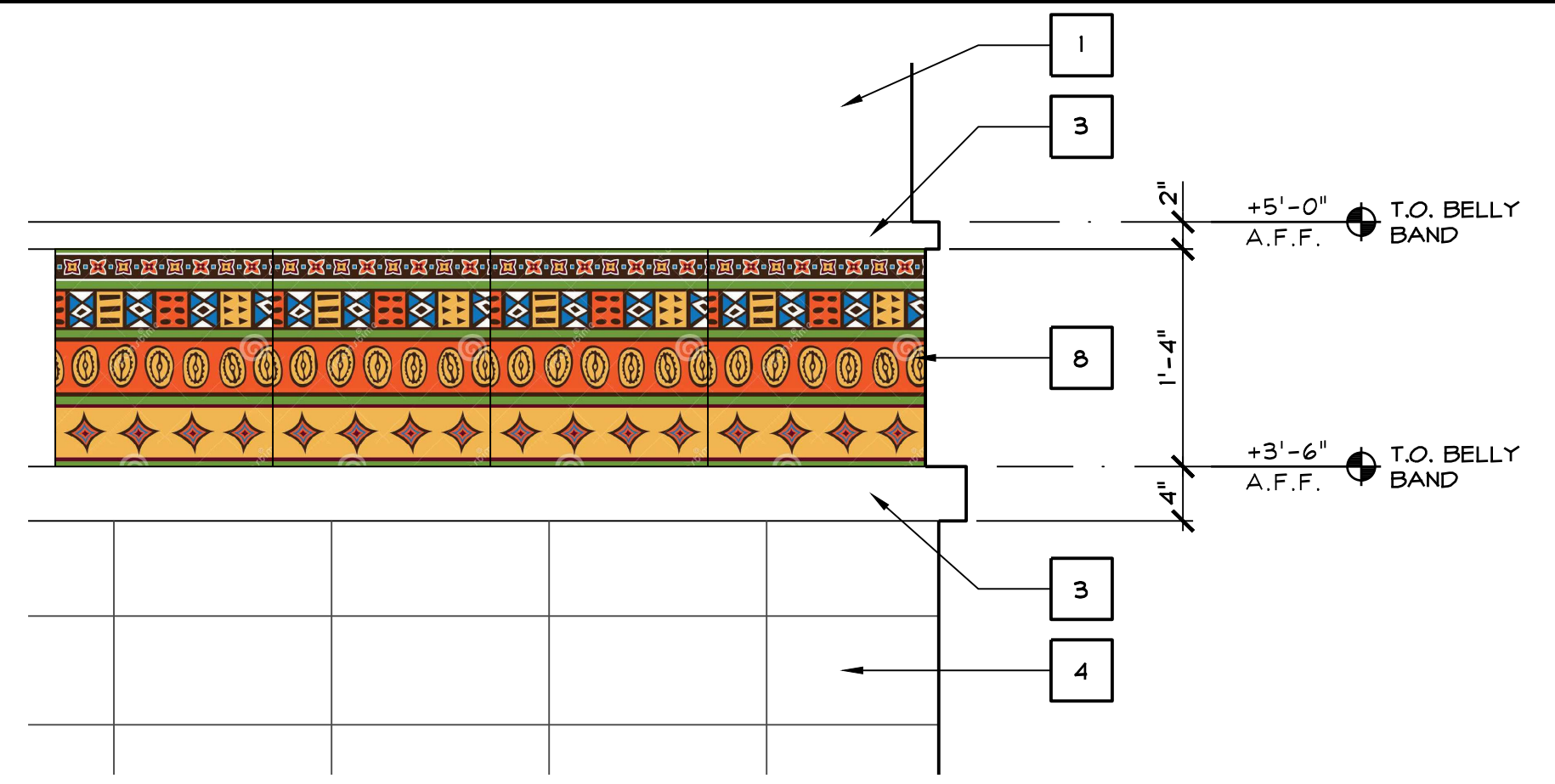
**PROPOSED RETAIL & DRIVE-THRU BUILDING**  
 PROPOSED EXTERIOR ELEVATIONS

**PROPOSED EXTERIOR ELEVATIONS**

SCALE: 3/16"=1'-0" 3

KEY	MATERIAL	COLOR / FINISH	KEY	MATERIAL	COLOR / FINISH
1	7/8" EXTERIOR CEMENT PLASTER, ELASTOMERIC TOP COAT - FIELD	SHERWIN WILLIAMS #SW7716 "CROISSANT"	9	MISC. METALS	PAINT TO MATCH 1
2	7/8" EXTERIOR CEMENT PLASTER, ELASTOMERIC TOP COAT - ACCENT	SHERWIN WILLIAMS #SW6643 "YAM"	10	STOREFRONT & GLAZING	FRAME: CLEAR ANODIZED ALUM. GLAZING: CLEAR, NON-TINTED, NON-REFLECTIVE, DOUBLE GLAZED
3	7/8" EXTERIOR CEMENT PLASTER, ELASTOMERIC TOP COAT - ACCENT	SHERWIN WILLIAMS #SW6887 "NAVEL"	11	PARAPET CAP FLASHING	DARK BRONZE TO MATCH 7
4	GROUND-FACED CMU VENEER	BASALITE GROUND-FACE "S-282 (P)"	-	-	-
5	PARAPET CAP	SHERWIN WILLIAMS #SW6382 "CEREMONIAL GOLD"	-	-	-
6	AWNINGS	SHERWIN WILLIAMS #SW2858 "HARVEST GOLD"	-	-	-
7	CORRUGATED METAL PANEL	KYNAR 500 DARK BRONZE SRI-500	-	-	-
8	ACCENT TILE	CUSTOM FINISH & DESIGN	-	-	-

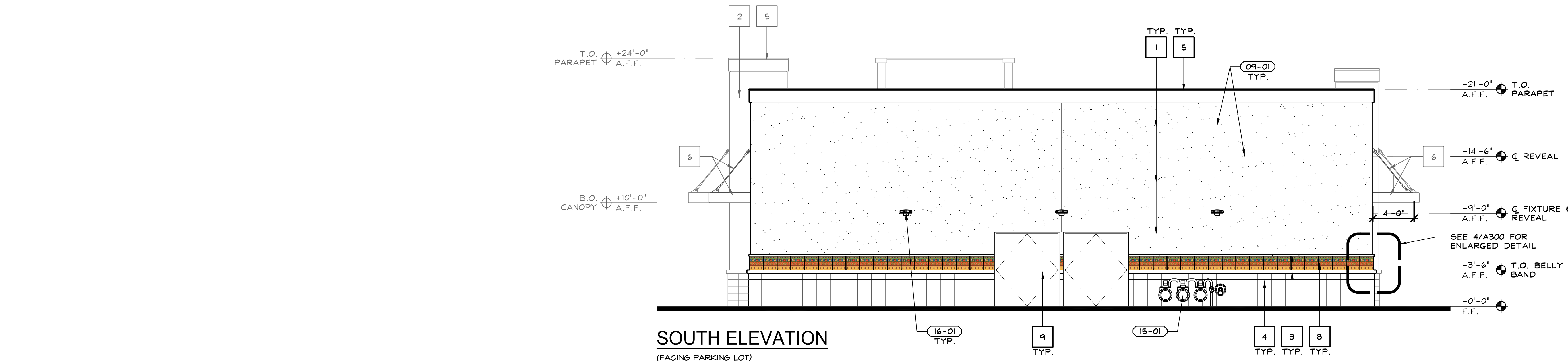
- 09-01 FRY REVEAL, PCS-75-50.
- 10-01 BUILDING SIGNAGE, BY SEPARATE REVIEW & PERMIT.
- 10-02 5'x5' SYMBOL OF ACCESSIBILITY, MOUNTED @ +60 A.F.F.
- 10-03 12" HIGH ADDRESS POSTING ON CONTRASTING BACKGROUND, PER CITY OF FRESNO FIRE DEPARTMENT STANDARDS.
- 15-01 GAS METER.
- 16-01 EXTERIOR WALL-MOUNTED LIGHTING.



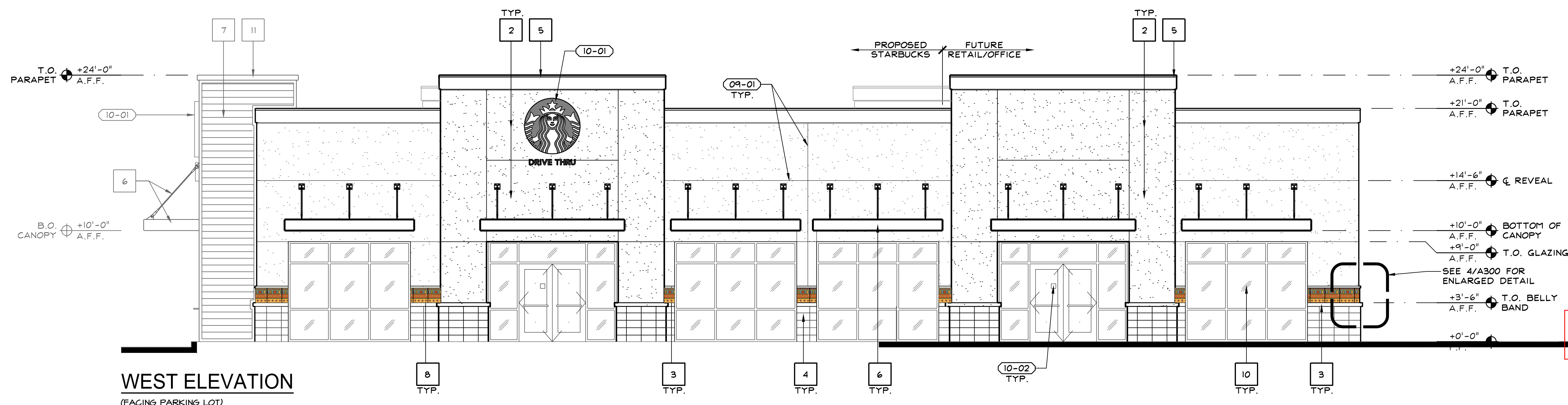
SCALE: 1/4"=1'-0" 4

EXTERIOR FINISH SCHEDULE	16	KEYNOTES	12	ENLARGED ACCENT DETAIL	4
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ISSUE DATE:	1-12-23
REV. DATE:	
PROJECT NO.:	22025
DRAWN BY:	NL
SHEET:	A300



**SOUTH ELEVATION**  
(FACING PARKING LOT)



**WEST ELEVATION**  
(FACING PARKING LOT)

**PROPOSED EXTERIOR ELEVATIONS**

SCALE: 3/16"=1'-0" 3

KEY	MATERIAL	COLOR / FINISH	KEY	MATERIAL	COLOR / FINISH
1	7/8" EXTERIOR CEMENT PLASTER, ELASTOMERIC TOP COAT - FIELD	SHERWIN WILLIAMS #SW7716 "CROISSANT"	9	MISC. METALS	PAINT TO MATCH 1
2	7/8" EXTERIOR CEMENT PLASTER, ELASTOMERIC TOP COAT - ACCENT	SHERWIN WILLIAMS #SW6643 "YAM"	10	STOREFRONT # GLAZING	FRAME: CLEAR ANODIZED ALUM. GLAZING: CLEAR, NON-TINTED, NON-REFLECTIVE, DOUBLE GLAZED
3	7/8" EXTERIOR CEMENT PLASTER, ELASTOMERIC TOP COAT - ACCENT	SHERWIN WILLIAMS #SW6887 "NAVEL"	11	PARAPET CAP FLASHING	DARK BRONZE TO MATCH 7
4	GROUND-FACED CMU VENEER	BASALITE GROUND-FACE "S-282 (P)"	-	-	-
5	PARAPET CAP	SHERWIN WILLIAMS #SW6382 "CEREMONIAL GOLD"	-	-	-
6	AWNINGS	SHERWIN WILLIAMS #SW2858 "HARVEST GOLD"	-	-	-
7	CORRUGATED METAL PANEL	KYNAR 500 DARK BRONZE SRI-500	-	-	-
8	ACCENT TILE	CUSTOM FINISH # DESIGN	-	-	-

- 09-01 FRY REVEAL, PCS-75-50.
- 10-01 BUILDING SIGNAGE, BY SEPARATE REVIEW # PERMIT.
- 10-02 5"x5" SYMBOL OF ACCESSIBILITY, MOUNTED @ +60 A.F.F.
- 10-03 12" HIGH ADDRESS POSTING ON CONTRASTING BACKGROUND, PER CITY OF FRESNO FIRE DEPARTMENT STANDARDS.
- 15-01 GAS METER.
- 16-01 EXTERIOR WALL-MOUNTED LIGHTING.

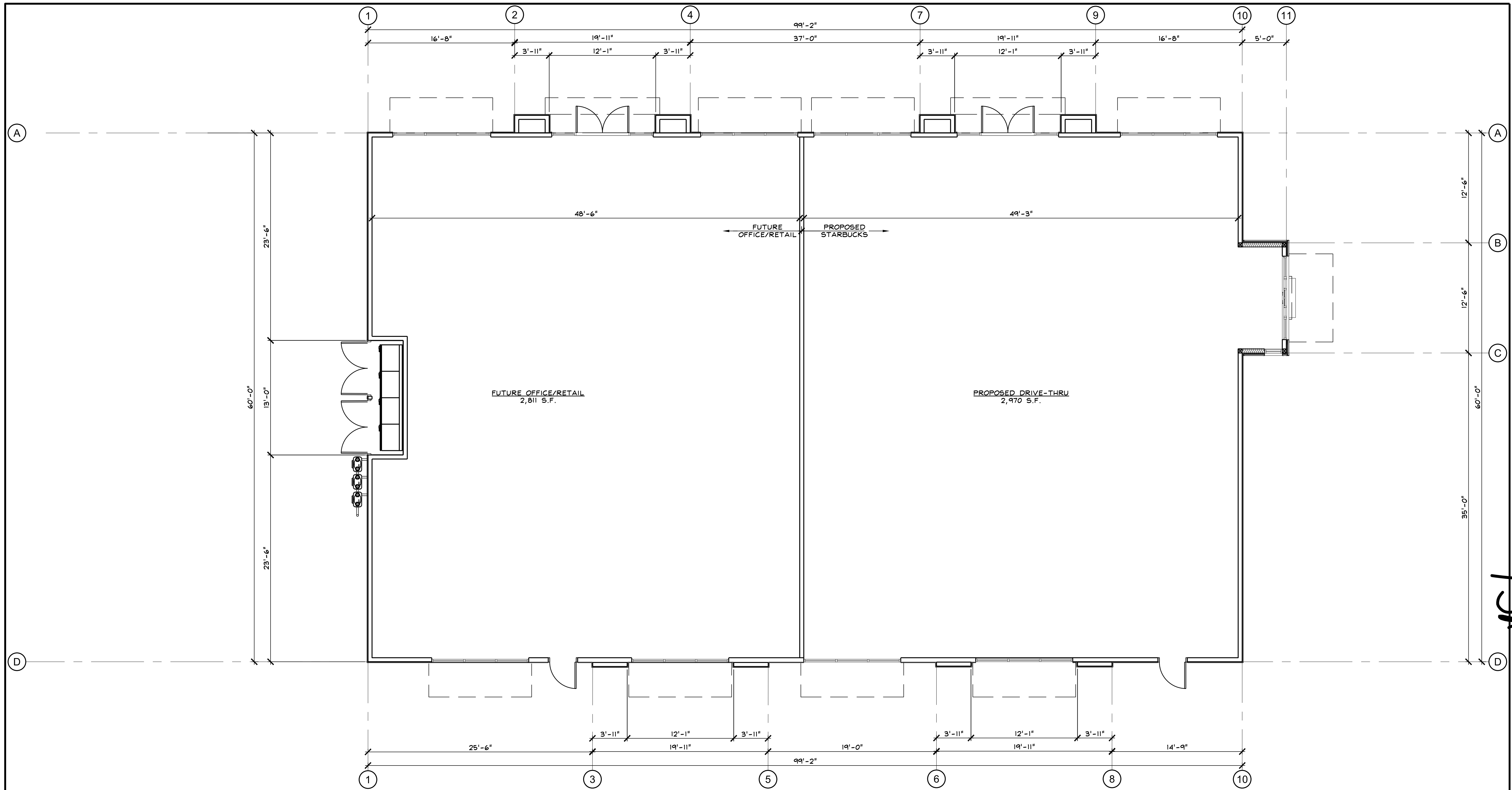
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 TRAFFIC ENG. \_\_\_\_\_ DATE \_\_\_\_\_  
 APPROVED BY \_\_\_\_\_ DATE \_\_\_\_\_  
 CITY OF FRESNO DARM DEPT

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VAI  
 REGISTERED ARCHITECT  
 STATE OF CALIFORNIA  
 C-28498  
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PROPOSED RETAIL & DRIVE-THRU BUILDING  
 PROPOSED EXTERIOR ELEVATIONS

ISSUE DATE: 1-12-23  
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 PROJECT NO.: 22025  
 DRAWN BY: NL  
 SHEET:  
**A301**



PROPOSED FLOOR PLAN

SCALE: 3/16" = 1'-0" 3

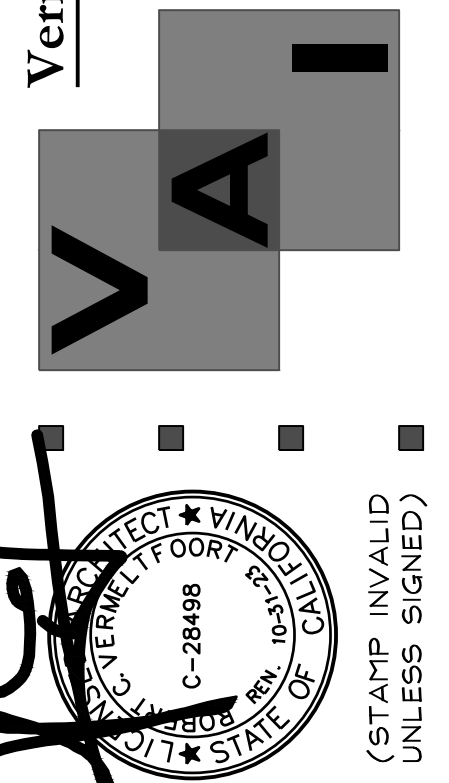
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 APPROVED BY \_\_\_\_\_ DATE \_\_\_\_\_  
 CITY OF FRESNO DARM DEPT

20	16	GENERAL NOTES	12	EXTERIOR FINISH SCHEDULE	8	KEYNOTES	4
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**FRESNO**  
 SWC OF CHURCH AVE. & MLK JR. BLVD.  
 FRESNO, CA 93706

**PROPOSED RETAIL & DRIVE-THRU BUILDING**

PROPOSED FLOOR PLAN

ISSUE DATE: 1-12-23  
 REV. DATE:  
 PROJECT NO.: 22025  
 DRAWN BY: NL  
 SHEET:  
**A200**



**SUBJECT:** Conditions of Approval for **P23-00835**

**DATE:** June 19<sup>th</sup>, 2023

**TO:** Steven Martinez, Planner II  
Planning and Development Department

**FROM:** Braulio Flores, Engineer I  
Public Works Department, Land Planning Section

**ADDRESS:** 820 East Church Avenue

**APN:** 479-050-14

<b>ATTENTION:</b>		
The items below require a separate process with additional fees and timelines, in addition to the development permit process. Submit the following items early to avoid delaying approval of building permits. Final approval of the site plan is contingent on receipt of all items checked below.		
To be completed:	Point of Contact	Department and Contact Information
<p><b>Deeds (up to 2-month processing time)</b> Deeds are required to provide easements to the City for required public improvements. They shall be prepared by the owner / developer's engineer. Contact Jason Camit for fees and processing requirements. Provide a copy of the recorded dedications to Traffic Planning prior to the issuance of building permits.</p>	<p>Jason Camit</p>	<p>Public Works Department (559) 621-8681 <a href="mailto:Jason.Camit@fresno.gov">Jason.Camit@fresno.gov</a></p>

<b>ATTENTION:</b>
<p><b>Provide corrections as noted on Exhibit "A".</b></p> <p><b>Prior to resubmitting the corrected exhibit, provide the following information and conditions of approval on the site plan:</b></p>
<p><b>A. GENERAL REQUIREMENTS</b></p> <ol style="list-style-type: none"> <li>1. <b>Address:</b> Verify the project address with the Planning and Development Department.</li> <li>2. <b>Property Lines:</b> Revise existing and proposed property lines.</li> <li>3. <b>Legal description:</b> Provide/Revise legal description.</li> </ol>

4. **Easements:** Identify, revise and dimension existing and proposed easements.
5. **Legend:** Provide/Revise line type and utility symbols.
6. **Required Notes:** Revise General Notes to include the required Public Works Department notes.
  - a. Any survey monuments within the area of construction shall be preserved or reset by a person licensed to practice land surveying in the State of California.
  - b. Repair all damaged and/or off-grade concrete street improvements as determined by the Construction Management Engineer, prior to occupancy.
  - c. Two working days before commencing excavation operations within the street right-of way and/or utility easements, all existing underground facilities shall have been located by UNDERGROUND SERVICES ALERT (USA). CALL 1-800-642-2444
  - d. The performance of any work within the public street right-of-way requires a street work permit prior to commencement of work. All required street improvements must be completed and accepted by the City prior to occupancy. <https://www.fresno.gov/publicworks/traffic-engineering/#tab-6>
  - e. Deeds are required to provide easements to the city for required public improvements. They shall be prepared by the owner / developer's engineer. Executed copies shall be submitted to the city with verification of ownership prior to the issuance of building permits.
  - f. Provide a 4' minimum path of travel along the public sidewalk directly in front of property, to meet current accessibility regulations. A pedestrian easement may be required if requirements are not met.
  - g. Contact the Public Works Department, Traffic Engineering at 559-621-8800, 10 working days prior to any offsite concrete construction.
  - h. All development shall take place in accordance with all city laws and regulations.

#### **B. OFFSITE INFORMATION:**

1. **Section Lines:** Identify section lines.
2. **Public Street Improvements:**
  - a. **Sidewalk drains**
3. **Accessibility:** Identify and dimension the required 4' minimum path of travel along the public sidewalk adjacent to the property. Provide pinch point dimensions. A pedestrian easement may be required if Title 24 requirements cannot be met.
4. **Non-Standard Improvements:** Drive approach along Church Avenue to be constructed per *Public Works Standard* Modified **P-4** and **P-6** approach not permitted to encroach into **2'** shoulder; use **4.75'** for dimension "**A**" in Public Works Standard **P-4**.

#### **C. ONSITE INFORMATION:**

1. **Lot drainage:** Identify lot drainage conveyance to the right-of-way.
2. **Drive Through:** Identify and maintain a **minimum** of a **10-car** stack using **20'** per car. Stacking shall not block parking. Provide and maintain **15'** minimum inside turning radius, **13'** minimum aisle within the turn, **11'** through lane and **9'** minimum at the window.
3. **State standard "STOP":** Install **30"** state standard "STOP" signs at the locations shown. Signs shall be mounted on a **2"** galvanized post with the bottom of the lowest sign **7'** above ground, located behind curb and immediately behind a major street sidewalk.
4. **Parking lot:**
  - a. **Vehicle overhang:** Provide a **2'3"** overhang. No obstructions over **6"** permitted. **Curbs and /or Wheel Stops:** Identify locations.
  - b. **Turning template:** Provide turning templates for large vehicles. Identify the length for the largest vehicle to access the site in the operational statement.
  - c. **Visibility triangles:** Identify the required 12' visibility triangle at all approaches and alleys.

## PUBLIC IMPROVEMENT REQUIREMENTS

The following requirements are based on city records and the accuracy of the existing and proposed on-site and off-site conditions depicted on the exhibits submitted. Requirements not addressed due to omission or misrepresentation of information, on which this review process is dependent, will be imposed whenever such conditions are disclosed. Construct additional offsite improvements, including but not limited to, concrete curb, gutter, sidewalk, approaches, ramps, pavement, utility relocations, etc. in accordance with *City of Fresno's Public Works Standards, Specifications*, and the approved street plans. Street widening and transitions shall also include utility relocations and necessary dedications.

Repair all damaged and/or off grade off-site concrete street or paved public pedestrian walkway improvements as determined by the City of Fresno Public Works Department, Construction Management Division, (559) 621-5600. Pedestrian paths of travel must also meet current accessibility regulations.

The construction of any private overhead, surface or sub-surface structures, and appurtenances in the public right of way is prohibited unless an **Encroachment Covenant** is approved by the City of Fresno Public Works Department, Traffic and Engineering Services Division, (559) 621-8693. **Encroachment Covenant** must be approved **prior** to issuance of building permits.

### **Church Avenue: 2-Lane Collector**

(Provide the following as notes on the site plan.)

1. Construction Requirements:
  - a. Construct a driveway approach to *Public Works Standards modified P-4 and P-6*, approach not permitted to encroach into 2' shoulder; use 4.75' for dimension "A" in Public Works Standard P-4.
  - b. Planting and Irrigation of street trees shall conform to the minimum spacing, guidelines, and requirements as stated in the *Model Water Efficiency Landscape Ordinance, Public Works Standards and Specifications, Section 25 and 26*.
  - c. Provide a 12' visibility triangle at all driveways, per Fresno Municipal Code (FMC) 15-2018B.

### **Martin Luther King Jr. Boulevard: 2-Lane Collector**

(Provide the following as notes on the site plan.)

1. Construction Requirements:
  - d. Construct a driveway approach to *Public Works Standards P-2 and P-6*, as approved on the site plan. Construct a concrete pedestrian walkway behind all driveway approaches as identified on **Exhibit "A"**.
  - e. Construct 5' x 6' tree wells per *Public Works Standard P-8* (modified).
  - f. Planting and Irrigation of street trees shall conform to the minimum spacing, guidelines, and requirements as stated in the *Model Water Efficiency Landscape Ordinance, Public Works Standards and Specifications, Section 25 and 26*.
  - g. Provide a 12' visibility triangle at all driveways, per Fresno Municipal Code (FMC) 15-2018B.

### **West Creek Village Way: Local**

(Provide the following as notes on the site plan.)

1. Dedication Requirements:
  - a. Dedicate a 3' pedestrian easement to accommodate a 4' residential sidewalk.
2. Construction Requirements:
  - a. Construct a driveway approach to *Public Works Standards P-2 and P-6*, as approved on the site plan. Construct a concrete pedestrian walkway behind all driveway approaches as identified on **Exhibit "A"**.
  - b. Construct a 4' concrete sidewalk to *Public Works Standard P-5* (5.5' Planter -4' Sidewalk - 0.5' Gap).
  - c. Planting and Irrigation of street trees shall conform to the minimum spacing, guidelines, and requirements as stated in the *Model Water Efficiency Landscape Ordinance, Public Works Standards and Specifications, Section 25 and 26*.
  - d. Provide a 12' visibility triangle at all driveways, per Fresno Municipal Code (FMC) 15-2018B.

The performance of any work within the public right of way and/or easements (including street, bike, pedestrian, landscape, and utility easements) requires a **Street Work Permit prior** to commencement of work. Contact Public Works Department at (559) 621-8800, 10 working days prior to construction of any improvements in the public right-of-way and/or easements. All improvements shall be constructed in accordance with the City of Fresno, *Public Works Department Standard Drawings and Specifications*. Traffic Control Plans shall be required to ensure the sidewalk, or an approved accessible path remains open during construction. Contact Melessa Avakian at (559) 621-8812 or at [Melessa.Avakian@fresno.gov](mailto:Melessa.Avakian@fresno.gov) and submit Traffic Control Plans to the Traffic Operations and Planning Division. All work shall be reviewed, approved, completed, and accepted **prior** to obtaining a certificate of occupancy.

Two working days before commencing excavation operations within the street right of way and/or utility easements, all existing underground facilities shall have been located by Underground Services Alert (USA) Call 811.

Any survey monuments within the area of construction shall be preserved or reset by a person licensed to practice Land Surveying in the State of California.

## **PRIVATE IMPROVEMENT REQUIREMENTS**

### **Off-Street Parking Facilities and Geometrics:**

Contact the Planning and Development Department for review and approval of onsite parking. The parking lot is required to meet the *City of Fresno's Parking Manual, Public Works Standards P-21, P-22, and P-23 and Specifications*. Parking must also comply with the *California Building Code's* accessibility requirements and the Fire and Solid Waste Department's minimum turning templates.

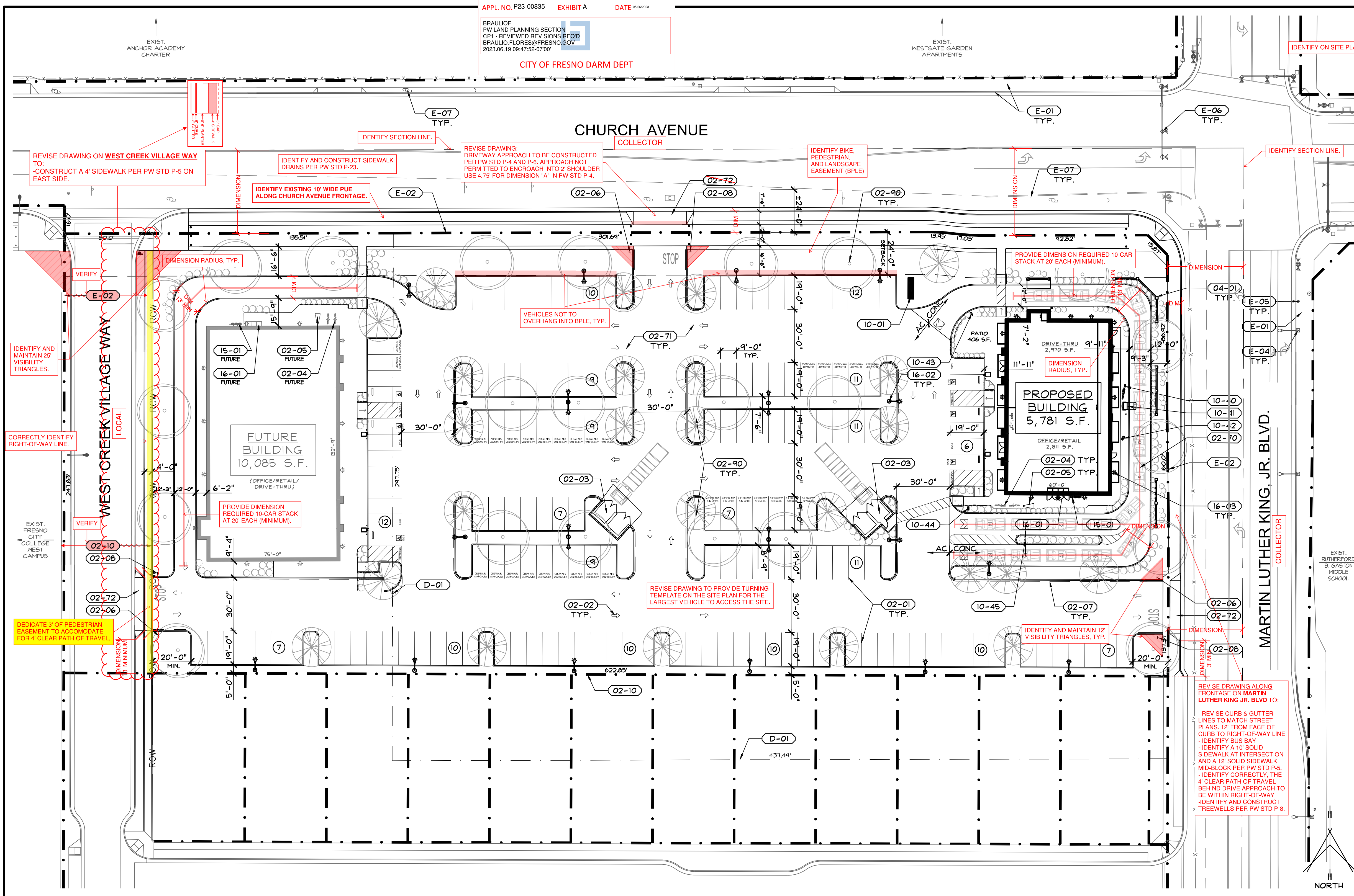
**Traffic Signal Mitigation Impact (TSMI) Fee:** This project shall pay all applicable TSMI Fees **at the time of building permit**. Contact the Public Works Department, Frank Saburit at (559)621-8797. The fees are based on the Master fee schedule.

**Fresno Major Street Impact (FMSI) Fees:** This entitlement is in the **New Growth Area**; therefore pay all applicable growth area fees and citywide regional street impact fees. Contact the Public Works Department, Frank Saburit at (559) 621-8797.

**Regional Transportation Mitigation Fee (RTMF):** Pay all applicable **RTMF** fees to the Joint Powers Agency located at 2035 Tulare Street, Suite 201, Fresno, CA 93721; (559) 233-4148 ext. 200; [www.fresnocog.org](http://www.fresnocog.org). Provide proof of payment or exemption **prior** to issuance of certificate of occupancy.

**In order to obtain street or building permit approval from the Public Works Department, an approval stamp with a signature from Land Planning Section is required on the site plan and inserted in the building sets.**

Questions relative to these conditions may be directed to Braulio Flores (559) 621-8806 [Braulio.Flores@fresno.gov](mailto:Braulio.Flores@fresno.gov) in the Public Works Department, Land Planning Section.

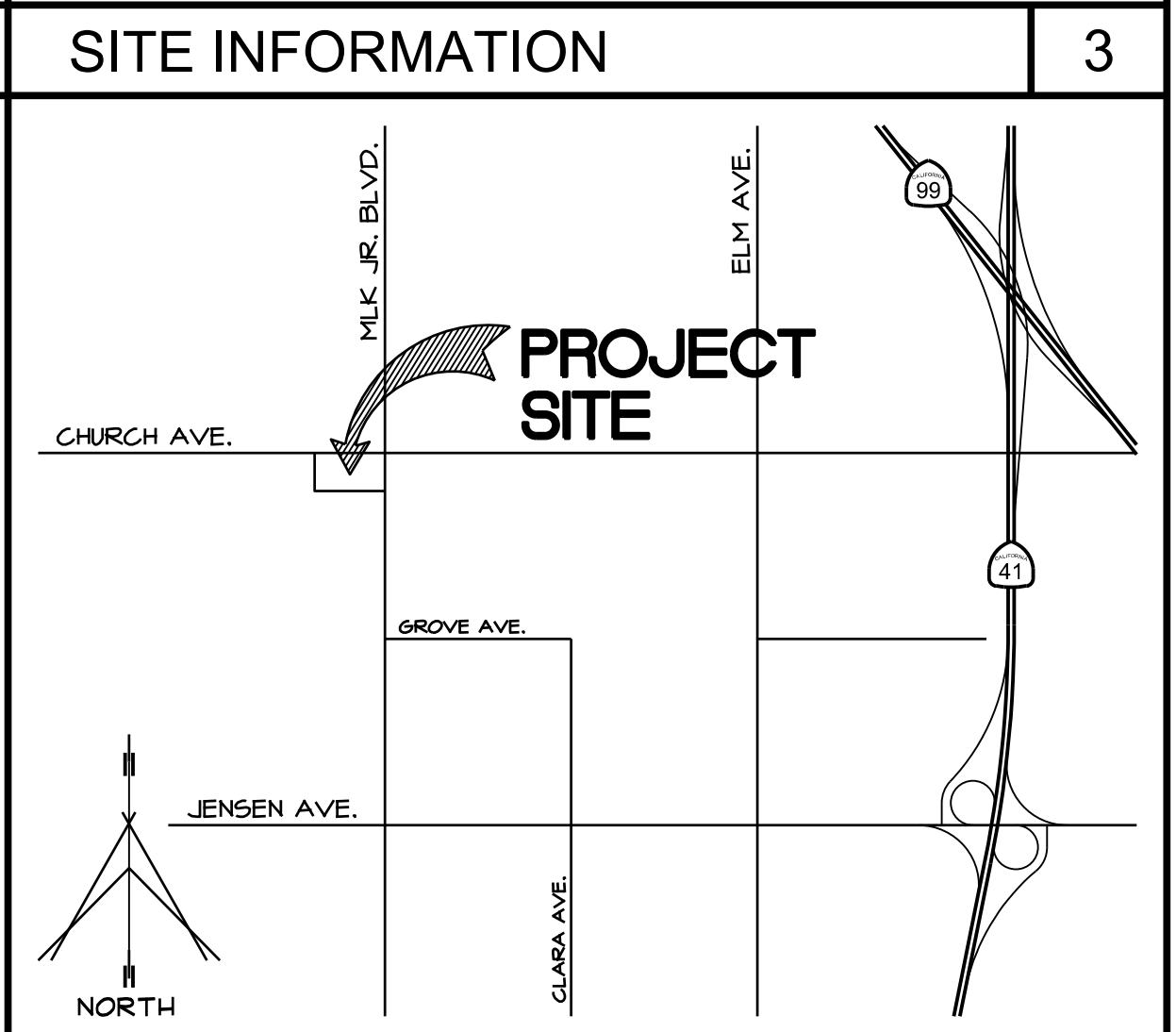


E-01	EXIST. CONC. SIDEWALK, CURB, & GUTTER TO REMAIN, PROTECT FROM DAMAGE, REPAIR AS NECESSARY.
E-02	EXIST. PROPERTY LINE TO REMAIN.
E-03	EXIST. AC PAVING TO REMAIN, PROTECT FROM DAMAGE.
E-04	EXIST. STREET LIGHT TO REMAIN.
E-05	EXIST. FIRE HYDRANT TO REMAIN.
E-06	EXIST. TRAFFIC SIGNAL TO REMAIN.
E-07	EXIST. POWER POLE & OVERHEAD POWER LINE TO REMAIN.
D-01	(E) PROPERTY LINE TO BE RELOCATED UNDER L.L.A.
02-01	(N) PARKING LOT STRIPING PER CITY PARKING MANUAL.
02-02	(N) DIRECTIONAL ARROW.
02-03	(N) TRASH ENCLOSURE, PER P.M. STANDARDS P-33 THRU P-35.
02-04	(N) 1-LOOP BIKE RACK, "ULINE #H-2842". SEE 18/A101. (CAPABLE OF HOLDING 2 BIKES)
02-05	(N) BIKE LOCKER: AMERICAN BICYCLE SECURITY COMPANY, "MODEL 301P".
02-06	(N) "UNAUTHORIZED VEHICLE SIGN, SEE 13/A101.
02-07	PAINT CURB RED w/ WHITE "NO PARKING FIRE LANE" LETTERS @ MAX 50' APART. (SHOWN DASHED). PROVIDE RED CURBS & LETTERING ALONG CHESTNUT & OLIVE AVENUES.
02-08	INSTALL 30" STATE STANDARD "STOP" SIGN, PROVIDE A "RIGHT TURN ONLY" SIGN (30"x36" STATE STANDARD) IMMEDIATELY BELOW STOP SIGN ON SAME POST. SIGNS SHALL BE MOUNTED ON 2" GALV. POST w/ THE BOTTOM OF SIGN 1'-0" ABOVE FINISH GROUND, LOCATED BEHIND SIDEWALK.
02-09	ENVIRONMENT-FRIENDLY VEHICLE PARKING STALLS (DENOTED "EV"). DESIGNATE BY PAINTING IN WHITE 12" HIGH SAN-SERIF LETTERING "CLEAN AIR/VAN/POOL/VEH".
02-10	PROPERTY LINE AFTER L.L.A. RECORDATION.
02-70	(N) CONC. PAVING, PER P.M. STANDARDS P-21 THRU P-23, SEE CIVIL DRAWINGS.
02-71	(N) AC PAVING, PER P.M. STANDARDS P-21 THRU P-23, SEE CIVIL DRAWINGS.
02-72	(N) 30'-0" WIDE DRIVE APPROACH, PER CITY STANDARDS P-2 & P-6.
02-90	(N) LANDSCAPING.
04-01	(N) CMU SCREEN WALL, TO +3'-8" A.F.G.
10-01	(N) MONUMENT SIGN.
10-40	(N) 5-PANEL MENU BOARD, SEE 4/A802.
10-41	(N) ORDER SCREEN AND SPEAKER, SEE 10/A802.
10-42	(N) PRE-MENU BOARD, SEE 12/A802.
10-43	(N) DIRECTIONAL "THANK YOU - EXIT ONLY" SIGN.
10-44	(N) DIRECTIONAL "ENTRANCE" SIGN.
10-45	(N) MAX. HEIGHT SIGN.
15-01	(N) GAS METERS.
16-01	(N) MAIN ELECTRICAL PANELS, WITHIN ELECTRICAL ROOM.
16-02	(N) POLE-MOUNTED LIGHT, SEE ELECTRICAL DRAWINGS.
16-03	(N) BUILDING-MOUNTED LIGHT, SEE ELECTRICAL DRAWINGS.

<b>KEYNOTES</b>		<b>2</b>
ADDRESS: VERIFY SITE ADDRESS WITH PLANNER, 820 E. CHURCH? SOUTHWEST CORNER OF CHURCH AVE. & MARTIN LUTHER KING, JR. BLVD. FRESNO, CALIFORNIA 93706		
SITE:	474-050-14	
AFN #:	2.98 ACRES (129,808 S.F.)	
AREA:	CC - COMMUNITY COMMERCIAL	
ZONING:	OA - OPEN SPACE/AG	
EXIST. LAND USE:	MULTI	
PLANNED LAND USE:	CC - COMMERCIAL COMMUNITY	
GENERAL PLAN:	SNFSP	
SPECIFIC PLAN:		
BUILDING:	6,663 S.F.	
AREA:	5.13%	
SITE DENSITY:		
PARKING PROVIDED:	126 STANDARD PARKING STALLS 2 ACCESSIBLE STALLS 4 ACCESSIBLE & EVCS STALLS 4 ELECTRIC VEHICLE CHARGING STALLS 32 CLEAN AIR STALLS 168 TOTAL PARKING STALLS	
REQUIRED:	26 STALLS 18 STALLS 54 STALLS 98 STALLS	
DRIVE-THRU:		
OFFICE/RETAIL:		
FUTURE BLDG:		
TOTAL:		

- PROPOSED SITE PLAN**
- SCALE: 1"=30'-0" **7**
- NO USES OF LAND, BUILDINGS OR STRUCTURES OTHER THAN THOSE SPECIFICALLY APPROVED PURSUANT TO THIS SITE PLAN SHALL BE PERMITTED.
  - THE BACK FLOW DEVICE SHALL BE SCREENED BY LANDSCAPING OR SUCH OTHER MEANS AS MAY BE APPROVED.
  - TREES SHALL BE MAINTAINED IN GOOD HEALTH. HOWEVER, TREES MAY NOT BE TRIMMED OR PRUNED TO REDUCE THE NATURAL HEIGHT OR OVERALL CROWN OF THE TREE, EXCEPT AS NECESSARY FOR THE HEALTH OF THE TREE & PUBLIC SAFETY OR AS MAY OTHERWISE BE APPROVED BY THE DEVELOPMENT DEPARTMENT.
  - LANDSCAPING MUST BE IN PLACE BEFORE ISSUANCE OF THE CERTIFICATE OF OCCUPANCY.
  - PRIOR TO FINAL INSPECTION A WRITTEN CERTIFICATION, SIGNED BY A LANDSCAPE PROFESSIONAL APPROVED BY THE DIRECTOR SHALL BE SUBMITTED STATING THAT THE REQUIRED LANDSCAPING & IRRIGATION SYSTEM WAS INSTALLED IN ACCORDANCE w/ THE LANDSCAPING & IRRIGATION PLANS APPROVED BY THE PLANNING DIVISION, DEVELOPMENT DEPARTMENT.
  - ALL ACCESSIBLE STALLS SHALL BE MARKED TO COMPLY w/ 4 MEET THE REQUIREMENTS OF CBC, 11B-500.
  - LIGHTING WHERE PROVIDED TO ILLUMINATE PARKING SALES OR DISPLAY AREAS SHALL BE HOODED & SO ARRANGED & CONTROLLED SO AS NOT TO CAUSE A NUISANCE EITHER TO HIGHWAY TRAFFIC OR TO THE LIVING ENVIRONMENT. THE AMOUNT OF LIGHT SHALL BE PROVIDED ACCORDING TO THE STANDARDS OF THE DEPARTMENT OF PUBLIC WORKS.
  - SIGNS ARE NOT APPROVED FOR INSTALLATION AS PART OF THIS SPECIAL PERMIT. SUBMIT FOR SEPARATE SIGN REVIEW.
  - ALL CONSTRUCTION WORK ON THIS PROJECT IS SUBJECT TO INTERRUPTION IF ROAD SYSTEM BECOMES IMPASSABLE FOR FIRE APPARATUS DUE TO RAIN OR OTHER OBSTACLES.
  - ANY SURVEY MONUMENTS WITHIN THE AREA OF CONSTRUCTION SHALL BE PRESERVED OR RESET BY A PERSON LICENSED TO PRACTICE LAND SURVEYING IN THE STATE OF CALIFORNIA.
  - REPAIR ALL DAMAGED AND/OR OFF-GRADE CONCRETE STREET IMPROVEMENTS AS DETERMINED BY THE CONSTRUCTION MANAGEMENT ENGINEER, PRIOR TO OCCUPANCY.
  - CONTRACTOR SHALL GIVE THE CITY TWO WORKING DAYS NOTICE BEFORE COMMENCING EXCAVATION OPERATIONS WITHIN THE STREET-RIGHT-OF-WAY AND/OR UTILITY EASEMENTS, ALL EXISTING UNDERGROUND FACILITIES SHALL HAVE BEEN LOCATED BY UNDERGROUND SERVICES ALERT (USA), CALL 1-800-642-2444.
  - FIRE HYDRANTS SHALL BE TESTED & APPROVED & ALL SURFACE ACCESS ROADS SHALL BE INSTALLED & MADE SERVICEABLE PRIOR TO & DURING CONSTRUCTION.
  - APPROVAL OF THIS SPECIAL PERMIT MAY BECOME NULL & VOID IN THE EVENT THAT DEVELOPMENT IS NOT COMPLETED IN ACCORDANCE w/ ALL THE CONDITIONS & REQUIREMENTS IMPOSED ON THIS SPECIAL PERMIT, THE ZONING ORDINANCE & ALL PUBLIC WORKS STANDARDS & SPECIFICATIONS. THE CITY OF FRESNO SHALL NOT ASSUME RESPONSIBILITY FOR ANY DELETIONS OR OMISSIONS RESULTING FROM THE SPECIAL PERMIT REVIEW PROCESS OR FOR ADDITIONS OR ALTERATIONS TO CONSTRUCTION PLAN NOT SPECIFICALLY SUBMITTED & REVIEWED & APPROVED PURSUANT TO THIS SPECIAL PERMIT OR SUBSEQUENT AMENDMENTS OR REVISIONS.
  - FUTURE FENCES SHALL BE REVIEWED & APPROVED BY THE PLANNING & DEVELOPMENT DEPARTMENT PRIOR TO INSTALLATION.
  - ALL ACCESSIBLE PARKING STALLS SHALL BE PLACED ADJACENT TO FACILITY ACCESS RAMPS OR IN STRATEGIC AREAS WHERE THE PERSONS w/ DISABILITIES SHALL NOT HAVE TO WHEEL OR WALK BEHIND PARKED VEHICLES WHILE TRAVELING TO OR FROM ACCESSIBLE PARKING STALLS & RAMPS.
  - IF ARCHAEOLOGICAL &/OR ANNUAL FOSSIL MATERIAL IS ENCOUNTERED DURING PROJECT SURVEYING, GRADING, EXCAVATING, OR CONSTRUCTION, WORK SHALL STOP IMMEDIATELY.
  - IF THERE ARE SUSPECTED HUMAN REMAINS, THE FRESNO COUNTY CORONER SHALL BE IMMEDIATELY CONTACTED. IF THE REMAINS OR OTHER ARCHAEOLOGICAL MATERIAL IS POSSIBLY NATIVE AMERICAN IN ORIGIN, THE NATIVE AMERICAN HERITAGE COMMISSION (PHONE: (416) 655-4082) SHALL BE IMMEDIATELY CONTACTED, & THE CALIFORNIA ARCHAEOLOGICAL INVENTORY/SOUTHERN SAN JOAQUIN VALLEY INFORMATION CENTER (PHONE: (805) 644-2284) SHALL BE CONTACTED TO OBTAIN A REFERRAL LIST OF RECOGNIZED ARCHAEOLOGISTS. AN ARCHAEOLOGICAL ASSESSMENT SHALL BE CONDUCTED FOR THE PROJECT, THE SITE SHALL BE FORMALLY RECORDED, & RECOMMENDATIONS MADE TO THE CITY AS TO ANY FURTHER SITE INVESTIGATION OR SITE AVOIDANCE/PRESERVATION.
  - IF ANNUAL FOSSILS ARE UNCOVERED, THE MUSEUM OF PALEONTOLOGY, U.C. BERKELEY SHALL BE CONTACTED TO OBTAIN A REFERRAL LIST OF RECOGNIZED PALEONTOLOGISTS. A PALEONTOLOGIST SHALL CONDUCT AN ASSESSMENT & IF THE PALEONTOLOGIST DETERMINES THE MATERIAL TO BE SIGNIFICANT, IT SHALL BE PRESERVED.
  - TWO MEANS OF INGRESS/EGRESS MUST BE PROVIDED. THIS ACCESS MUST BE MAINTAINED DURING ALL PHASES OF DEVELOPMENT. THE DEVELOPER SHALL SHOW ON THE FINAL BUILDING PLANS A MIN. 20 FOOT WIDE ALL-WEATHER EMERGENCY ACCESS w/ AN OVERHEAD CLEARANCE OF 13'-6" WITHIN 150 FEET OF ALL BUILDINGS ON THE PROJECT SITE. THE FIRE DEPT. MUST APPROVE THE FINAL LOCATION & DESIGN OF THE ACCESS. PRIOR TO BUILDING PERMITS BEING ISSUED, THIS ACCESS SHALL BE CONSTRUCTED BEFORE BUILDING OCCUPANCY WILL BE GRANTED.
  - DESIGNATE HIGHLIGHTED CURBS AS FIRE LANE (RED CURBS w/ "FIRE LANE" STENCILED IN 3" LETTERS EVERY 50').
  - FIRE HYDRANTS & ACCESS ROADS SHALL BE INSTALLED, TESTED & APPROVED & SHALL BE MAINTAINED SERVICEABLE PRIOR & DURING ALL PHASES OF DEVELOPMENT.
  - THE DEVELOPER SHALL MEET ALL REGULATIONS OF THE SAN JOAQUIN VALLEY AIR POLLUTION CONTROL DISTRICT (REGULATION VIII) CONCERNING DUST SUPPRESSION DURING CONSTRUCTION OF THE PROJECT.
  - TWO WORKING DAYS BEFORE COMMENCING EXCAVATION OPERATIONS WITHIN THE STREET RIGHT-OF-WAY AND/OR UTILITY EASEMENTS, ALL EXISTING UNDERGROUND FACILITIES SHALL HAVE BEEN LOCATED BY UNDERGROUND SERVICES ALERT (USA), CALL 1-800-642-2444.
  - ALL CONCRETE CURBS SHALL BE 6 INCHES IN HEIGHT.
  - IF REQUIRED, WHEEL STOPS SHALL BE 6 INCHES IN HEIGHT.
  - ALL EXISTING SIDEWALKS IN EXCESS OF 2% MAXIMUM GROSS SLOPE MUST BE BROUGHT INTO COMPLIANCE PRIOR TO ACCEPTANCE BY PUBLIC WORKS.
  - CONTACT THE PUBLIC WORKS DEPARTMENT, TRAFFIC ENGINEERING AT 551-621-8800, 10 WORKING DAYS PRIOR TO ANY OFFSITE CONCRETE CONSTRUCTION.
  - THE PERFORMANCE OF ANY WORK WITHIN THE PUBLIC STREET R/W REQUIRES A STREET WORK PERMIT PRIOR TO COMMENCEMENT OF WORK. ALL ROAD STREET IMPROVEMENTS MUST BE COMPLETED & ACCEPTED BY THE CITY PRIOR TO OCCUPANCY.
  - DEEDS ARE REQUIRED TO PROVIDE EASEMENTS TO THE CITY FOR REQUIRED PUBLIC IMPROVEMENTS. THEY SHALL BE PREPARED BY THE OWNER / DEVELOPER'S ENGINEER. EXECUTED COPIES SHALL BE SUBMITTED TO THE CITY WITH VERIFICATION OF OWNERSHIP PRIOR TO THE ISSUANCE OF BUILDING PERMITS.
  - A BUILDING WITH A DRIVE-THRU LANE SHALL NOT BE LOCATED WITHIN 400 FEET OF ANOTHER STRUCTURE CONTAINING A DRIVE-THRU FACILITY, PER CITY OF FRESNO MUNICIPAL CODE SEC. 15-212B.
  - DRIVE-THRU DESIGN MINIMUM REQUIREMENTS: 200 FOOT STACKING, 11 FOOT WIDTH AISLE, 13 FOOT WIDTH AISLE WITHIN TURNS, 9 FOOT WIDTH @ MINOR, 15 FOOT INSIDE TURN RADIUS.
  - ALL EXISTING SIDEWALKS IN EXCESS OF 2% MAXIMUM GROSS SLOPE MUST BE BROUGHT INTO COMPLIANCE.
  - MODIFY OR REPLACEMENT EXISTING RAMPS THAT ARE NOT TO CURRENT ACCESSIBLE STANDARDS, AS DETERMINED BY CONST. MANAGEMENT, PRIOR TO OCCUPANCY.
  - CONSTRUCT FULL OFF-SITE IMPROVEMENTS TO PUBLIC WORKS STANDARDS, WHERE MISSING - EXAMPLES INCLUDE, BUT NOT LIMITED TO, CURBS, GUTTER, SIDEWALK, APPROACHES, RAMPS, STREET LIGHTS, PAVEMENT, UNDERGROUNDINGS OF OVERHEAD UTILITIES, ETC., RELOCATED EXISTING UTILITIES, AS NEEDED ON APPROVED PLANS.
  - ALL ACCESSIBLE STALLS SHALL BE MARKED WITH THE INTERNATIONAL SYMBOL OF SPACES AND A WARNING THAT VEHICLES IN VIOLATION OF SECTION 10-1011 OF THE MUNICIPAL CODE SHALL BE TONED AWAY. THE INTERNATIONAL SYMBOL AND TONER WARNING SHALL BE PLACED ON A 1 FOOT POLE. APPLICANTS ARE ENCOURAGED TO PROVIDE SHARED VEHICLE AND PEDESTRIAN ACCESS BETWEEN ADJACENT PROPERTIES FOR CONVENIENCE, SAFETY, AND EFFICIENT CIRCULATION. A JOINT ACCESS COVENANT SHALL BE REQUIRED.
  - ALL GENERAL STANDARDS OF SECTION 15-2015 OF THE PMC SHALL APPLY WHEN LIGHTING IS PROVIDED TO ILLUMINATE PARKING, SALES, OR DISPLAY AREAS. SUBMIT STREET LIGHTING PLANS TO THE PUBLIC WORKS DEPT.
  - SIGNS, OTHER THAN DIRECTIONAL SIGNS, ARE NOT APPROVED FOR INSTALLATION AS PART OF THIS SPECIAL PERMIT.
  - ALL EXIST. DRIVEWAY APPROACHES WHICH NO LONGER PROVIDE ACCESS TO APPROVED VEHICLE PARKING AREAS SHALL BE REMOVED UNLESS OTHERWISE APPROVED BY THE CITY ENGINEER. SUCH AREAS SHALL BE RECONSTRUCTED WITH CURB, GUTTER, AND SIDEWALK TO MATCH EXIST. ADJACENT STREET IMPROVEMENTS. THIS WORK SHALL BE COMPLETED AND ACCEPTED BEFORE A PERMIT OF OCCUPANCY IS ISSUED OR THE BUILDING IS OCCUPIED PER PMC 15-211.
  - CONSTRUCTION ON STATE HIGHWAYS MUST CONFORM TO BOTH CITY OF FRESNO AND STATE DIVISION OF HIGHWAY SPECIFICATIONS.
  - PROVIDE A 4'-0" MIN. PATH OF TRAVEL ALONG THE PUBLIC SIDEWALK DIRECTLY IN FRONT OF PROPERTY, TO MEET CURRENT ACCESSIBILITY REGULATIONS. A PEDESTRIAN EASEMENT MAY BE REQUIRED IF REQUIREMENTS ARE NOT MET.
  - ALL DEVELOPMENT SHALL TAKE PLACE IN ACCORDANCE WITH ALL CITY AND COUNTY LAWS AND REGULATIONS.
  - IF ENTRY ACCESS GATES ARE INSTALLED AT THIS SITE, EMERGENCY ACCESS GATES ACROSS ENTRANCES THAT HAVE BEEN DESIGNED FOR USE BY FIRE/POLICE PERSONNEL ONLY SHALL BE DESIGNATED ON THE PROPERTIES SITE PLAN PRIOR TO CONSTRUCTION OF THE COMPLEX. (FEED DEVELOPMENT POLICY 403.205) THE SIGN BELOW IS REQUIRED ON BOTH SIDES OF THE GATE: "FIRE LANE" (IN 6 INCH LETTER) "VEHICLES REMOVED AT OWNER'S EXPENSE" (IN 2 INCH LETTERS) "FRESNO POLICE DEPARTMENT @ (559) 621-1000" (IN 1 INCH LETTERS).

**GENERAL NOTES**



**VICINITY MAP**

**Vermelfort Architects, Inc.**  
Architecture and Planning  
8525 North Cedar Avenue  
Suite 106  
Fresno, California 93720  
Office: 559.432.6744  
Email: rcv@vaifresno.com

**V A I**

**FRESNO**  
SWC OF CHURCH  
AVE. & MLK JR. BLVD.  
FRESNO, CA 93706

**PROPOSED RETAIL & DRIVE-THRU BUILDING**

**PROPOSED SITE PLAN**

ISSUE DATE: 1-12-23  
REV. DATE:  
PROJECT NO.: 22025  
DRAWN BY: NL  
SHEET:  
**A100**

# CITY OF FRESNO

## DEVELOPMENT AND IMPACT FEE ESTIMATE

The following estimates are based on preliminary conceptual information. The exact fee obligation will be computed at the time of development by Public Works Department, Land Division & Engineering. The fee rates in effect at the time of development shall apply.

**Proposed Development:** Starbucks - 820 E. Church Avenue (West Creek Village)

**A.P.N.** 479-050-14

**Planned Land Use:** Community Commercial

**Proposed Zoning:** CC/UGM

**Site Area:** +/- 2.98 acres

**Building Area:** 5,781 sq. ft.

**Entitlement:** P23-00835

**Estimate Date:** June 6, 2023

<b>WATER CONNECTION CHARGES</b>						
	<b>Service Area</b>	<b>Quantity</b>	<b>Units</b>	<b>Fee Rate</b>	<b>Amount Due</b>	<b>Notes</b>
Water Service & Meter Charge	2"	1	EA.	\$2,671.00	\$2,671.00	[1] [6]
Irrigation Service & Meter Charge	1.5"	1	EA.	\$2,508.00	\$2,508.00	[1] [6]
Time & Materials Charge	4" fire	1	EA.	\$7,100.00	\$7,100.00	[1] [6]
Frontage Charge		224	L.F.	\$6.50	\$1,456.00	[1] [6]
Water Capacity Fee	2"	0.50	EA.	\$14,206.00	\$7,103.00	[1] [6]
Water Capacity Fee	1.5"	0.50	EA.	\$7,106.00	\$3,553.00	[1] [6]

<b>Total Water Connection Charges</b>	<b>\$24,391.00</b>	<b>[1]</b>
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<b>SEWER CONNECTION CHARGES</b>						
	<b>Service Area</b>	<b>Quantity</b>	<b>Units</b>	<b>Fee Rate</b>	<b>Amount Due</b>	<b>Notes</b>
House Branch Sewer Charge		[2]	EA	\$0.00	[2]	[2]
Lateral Sewer Charge		22,400	Sq.Ft.	\$0.10	\$2,240.00	[6]
Oversized Sewer Charge	UGM	22,400	Sq.Ft.	\$0.05	\$1,120.00	[6]
Wastewater Facilities Charge		STEP		[3]	[3]	[4] [7]

<b>Total Sewer Connection Charges</b>	<b>\$3,360.00</b>	<b>[3]</b>
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<b>CITYWIDE/REGIONAL IMPACT FEES</b>						
	<b>Service Area</b>	<b>Quantity</b>	<b>Units</b>	<b>Fee Rate</b>	<b>Amount Due</b>	<b>Notes</b>
Citywide Fire Facilities Impact Fee	Comm. Retail	5,781	Sq.Ft.	\$602.00	\$3,480.16	[7]
Citywide Police Facilities Impact Fee	Comm. Retail	5,781	Sq.Ft.	\$886.00	\$5,121.97	[7]
Citywide Regional Street Charge	Comm. Retail	0.53	AC	\$9,461.40	\$5,014.54	[6]
New Growth Area Major Street Charge	Comm. Retail	0.53	AC	\$30,426.00	\$16,125.78	[6] [8]
Citywide Traffic Signal Charge	Comm. Retail	5,781	Sq.Ft.	\$11,406.00	\$65,938.09	[6] [8]

<b>Total Citywide/Regional Impact Fees</b>	<b>\$95,680.54</b>
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<b>Total Fees and Charges</b>	<b>\$123,431.54</b>
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# CITY OF FRESNO

## DEVELOPMENT AND IMPACT FEE ESTIMATE

### **NOTES:**

Within the City of Fresno's sphere of influence there are other sewer and water utility providers. If the project is within one of those districts, the developer must provide confirmation from the representative Districts that all conditions for sewer and/or water connections and services have been satisfied, prior to issuance of a Building Permit.

**Outside agencies developer impact fees:** It is the developer's responsibility to contact those agencies for their fee estimates. These agencies include but are not limited to; Fresno County, Council of Fresno County Governments (FCOG), Fresno Metropolitan Flood Control District (FMFCD), various School Districts that serve the City of Fresno, etc.

**NOTICE OF 90-DAY PROTEST PERIOD** (GOVERNMENT CODE §66020(d)(1))

*A protest filed pursuant to subdivision and/or development (a) shall be filed at the time of approval or conditional approval of the development or within 90 days after the date of the imposition of the fees, dedications, reservations, or other exactions to be imposed on a development project. Each local agency shall provide to the project applicant a notice in writing at the time of the approval of the project or at the time of the imposition of the fees, dedications, reservations, or other exactions, a statement of the amount of the fees or a description of the dedications, reservations, or other exactions, and notification that the 90-day approval period in which the applicant may protest has begun.*

- The Board of Directors of the Fresno County Regional Transportation Mitigation Fee Agency approved Resolution No. 2009-01 requiring the payment of Regional Transportation Mitigation Fee. The effective date of this resolution is January 1, 2010. Please contact the Council of Fresno County Governments (FCOG) at (559) 233-4148 to determine this fee obligation. Confirmation by the FCOG is required before the City of Fresno can issue the Certificate of Occupancy.
- On December 8, 2016, Fresno City Council adopted Resolution No. 2016-258, effective July 1, 2018, administratively updating the impact fees adjusted by this resolution annually to the percentage change in the 20-City Construction Cost Index as reported in the Engineering News Record (ENR) for the 12-month period ending of May of the year of adjustment.
- Payment of Fresno Metropolitan Flood Control District (FMFCD) impact fees may be required. Please contact FMFCD at (559) 456-3292 to determine fee obligation.
- Payment of applicable school district fees is required prior to issuance of Building Permit. Please contact the respective school district to satisfy your fee obligation. Confirmation by the respective school district is required before the City of Fresno can issue building permits

**[1] Fees for Water Service Connections and/or Meters, and Water Capacity due at time of development. Charges based on service and/or meter sizes, (Rates as established by the Master Fee Schedule), determined by the Developer.**

**[2] Sewer House branches to be installed by Developer at the Developer's cost.**

**[3] Upon occupancy of the project, the subdivider shall pay the appropriate sewer facility charge pursuant to the Simple Tiered Equity Program (STEP) as determined by the City of Fresno Department of Finance, Utilities Billing & Collection Division (559-621-6765).**

**[4] The Wastewater Facilities Charge (WWFC) is applicable to single family, duplex, and triplex developments. (FMC 6-302(i)); For Condominium conversions, WWFC may stay in the S.T.E.P. if the project continues to be master metered for water. If the condominiums are individually metered, the developer will pay the pro-rated portion of these fees.**

**[5] The Trunk Sewer Charge is applicable to single family, duplex, and triplex developments. (FMC 6-302(i)); For Condominium conversions, Trunk Sewer Charges may stay in the S.T.E.P. if the project continues to be master metered for water. If the condominiums are individually metered, the developer will pay the pro-rated portion of these fees.**

**[6] Due at Building Permit**

**[7] Due with Certificate of Occupancy**

**[8] Construction Fee Credits may be applicable. Contact the Public Works Engineering Services Division at (559) 621-8685 for more information.**

**[9] Parks fee applicable only to residential developments**

**[10] Fee not applicable on replacement or reconstruction of an existing structure that has been destroyed or demolished provided that the Building Permit for new construction is obtained within one year after the building is destroyed or demolished, and there is no change in the land use designation. (Res. Nos. 2005-428, 429)**

**[11] Subject to the acceptance date of the vesting tentative map, fee may not be applicable until 2-years after the date of Final Map recordation; when applicable, fee is due at Building Permit for all un-developed lots at the fee rate then in effect.**

**Prepared and Reviewed By: Frank Saburit**

**Date: June 6, 2023**

**(559) 621-8797**

**City of Fresno Public Works Department  
Land Division & Engineering**



## DEPARTMENT OF PUBLIC UTILITIES

### MEMORANDUM

**DATE:** June 19, 2023

**TO:** STEVEN MARTINEZ – Planner II  
Planning & Development Department – Current Planning

**FROM:** DEJAN PAVIC, PE, Projects Administrator  
Department of Public Utilities – Utilities Planning & Engineering

**SUBJECT: DPU CONDITIONS OF APPROVAL FOR P23-00835 WEST CREEK  
STARBUCKS – APN 479-050-14**

#### **General Requirements**

1. Engineered improvement plans, prepared by a Registered Civil Engineer, if necessary, shall be submitted for Department of Public Utilities review and approval.
2. All Department of Public Utilities facilities shall be constructed in accordance with The Department of Public Works standards, specifications, and policies.
3. Street easements and/or deeds shall be recorded prior to approval of improvement plans.
4. A street work permit is required for any work in the Right-of-Way.
5. All underground utilities shall be installed prior to permanent street paving.

#### **Water Service Requirements**

The nearest water mains to serve the Project are a 12-inch water main located in South Martin Luther King Boulevard and a 12-inch water main located in East Church Avenue. Water facilities are available to provide service to the Project subject to the following requirements:

1. On-site water facilities shall be private.
2. Installation of new water service(s) and meter box(es) shall be required.
3. The applicant shall be financially responsible for the abandonment of any unused water services previously installed to the property.
4. Destroy any existing on-site well(s) in compliance with the State of California Well Standards, Bulletins 74-81 and 74-90, or current revisions, issued by California

Department of Water Resources, Fresno County standards, and City of Fresno standards. Applicant shall comply with Fresno Municipal Code (FMC) Section 6-518, as may be amended from time to time.

### **Water Supply Requirements**

1. The applicant shall be required to pay Water Capacity Fee charges for the installation of new water services and meters to serve the Project.
  - a. The Water Capacity Fee charge assessed to the applicant shall be based on the number and size of service connections and water meters required to serve the Project.
  - b. The Water Capacity Fee charges by meter size are defined in the City's Master Fee Schedule (MFS).
  - c. The City reserves the right to require an applicant to increase or decrease the size of a water meter for the Project to ensure that it is properly sized to accommodate fire protection requirements, and to allow for accurate volumetric flow measurements at low- and high-flow conditions.
  - d. The Water Capacity Fee Charge for any new or expanded service connection shall be payable prior to the issuance of a building permit at the fee level in effect on the date such permit is issued.
2. The applicant shall be required to pay all other water-related fees and charges in accordance with the City's MFS and FMC, and/or the Development Agreement dated March 5, 2020.

### **Sewer Requirements**

The nearest sanitary sewer main to serve the Project is an 8-inch sewer main located in South Martin Luther King Boulevard. Sanitary sewer facilities are available to provide service to the Project subject to the following requirements:

1. Connection to the two (2) 30-inch trunks in East Church Avenue is not permitted.
2. Installation of new sewer service branch(es) shall be required.
3. On-site sanitary sewer facilities shall be private.
4. All existing on-site private septic systems (including septic tanks) shall be destroyed and abandoned in compliance with the State of California standards, Fresno County standards, and City of Fresno standards, as may be amended from time to time. All sewer connections and sewer main extensions shall comply with FMC Section 6-303(a), as may be amended from time to time.

5. The applicant shall be financially responsible for abandonment of any unused sewer services previously installed to the property.

### **Sanitary Sewer Fees**

The following Sewer Connection Charges are due and shall be paid for the Project (in accordance with the City's MFS and FMC, and/or the Development Agreement dated March 5, 2020):

1. Lateral Sewer Charge.
2. Oversize Sewer Charge.
3. Wastewater Facility Sewer Charge (Non-Residential).
4. Upon connection of this Project to the City Sewer System the owner shall be subject to payment of Sewer Facility Charges per FMC Sections 6-304 and 6-305. Sewer Facility Charges consist of two components: A Wastewater Facilities Charge and Trunk Sewer Charge, where applicable.
5. Sewer Facility Charges are collected after occupancy on a monthly basis, based on metered usage (water or sewer effluent). The applicant may contact the Department of Public Utilities/Wastewater-Environmental Control at (559) 621-5153 to receive an estimated cost of the Sewer Facility Charges applicable to the Project (based on a constant sewer discharge and loading (Biochemical Oxygen Demand [BOD] and Total Suspended Solids [TSS] levels anticipated) at the current rates in effect at that time, per City of Fresno MFS. The applicant shall provide data regarding estimated sewer discharge rates (flow) and loading (BOD/TSS levels) required for calculating the estimated charges.

### **Solid Waste Requirements**

The following are Solid Waste Requirements for the purpose of establishing City solid waste service policies for office/commercial space. These service requirements apply to all office/commercial complexes within the City of Fresno.

1. This location is serviced by a Commercial Solid Waste Franchisee. For service information, please contact Mid Valley Waste Disposal at (559) 237-9425
2. All office/commercial complexes are required to subscribe for recycling services, per FMC 9-405.1. Recycling services may be provided by the City of Fresno or any private recycling service provider. Recycling services must include, at the minimum, cardboard, newspaper, paper, glass, plastics, beverage containers, and metal recycling.

DPU CONDITIONS OF APPROVAL FOR P23-00835 WEST CREEK STARBUCKS

APN 479-050-14

June 19, 2023

Page 4 of 4

3. All trash and recyclable material must be placed in approved containers, per FMC 9-404. At no time may trash and recyclable material be placed on the ground or pavement.
4. Bin enclosures, if provided on site, must be used exclusively for the storage of trash and recycling bins, per The Public Works Standard Specifications P-33 and P-34.
5. This location will require 1 (one) 3-cell trash enclosure, designed to accommodate separate facilities containing 2 (two) – 4-cu. yd. bins, one for trash, one for recycling collection, and one for grease collection storage to be constructed to current (Public Works Standard Specifications) Solid Waste Standards (P-33, P-34, and P-95) to be serviced weekly.
6. Service Route Permits and Location Permits are required for all private trash company services within the City of Fresno per FMC 9-408. All private company trash service arrangements must be pre-approved through Solid Waste Management Division.
7. The applicant will need to provide a 44-foot (centerline) turning radius at all corners and a T-turnaround (or hammerhead) area where the solid waste vehicle is to turn around.
8. Americans with Disability Act (ADA) requirement for office/commercial complexes (developments):

The applicant shall install (construct) a trash enclosure(s) for the Project that complies with the City's ADA requirements as defined in the City's Standard Drawings, Details and Specifications. The certificate of occupancy for the Project shall be withheld until the applicant installs (constructs) the trash enclosure(s) in accordance with the City's ADA requirements.

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## DEPARTMENT OF PUBLIC WORKS

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**TO:** Steven Martinez, Planner II  
Planning & Development Department

**FROM:** Adrian Gonzalez, Senior Engineering Technician  
Public Works, Land Planning Section

**DATE:** July 6, 2023

**SUBJECT:** P23-00835; 820 East Church Avenue (APN: 479-050-14) located on the southwest corner of South Martin Luther King Jr Boulevard and East Church Avenue. The Department of Public Works offers the following comments regarding the requirements for landscaping and irrigation in the street rights-of-way, landscape easements, outlots and median islands:

### GENERAL REQUIREMENTS

#### STREET TREE REQUIREMENTS

1. The subdivider is required to provide street trees on all public street frontages per Fresno Municipal Code and for the dedication of planting and buffer landscaping easements as determined by the Planning Department. Street trees shall be planted at the minimum rate of one tree for each 40' of street frontage or one tree per home (whichever is greater) by the Developer. The subdivider is required to provide irrigation for all street trees. The irrigation system shall comply with AB 1881.
2. Street Tree Planting by Developer: For those lots having internal street tree frontage available for street tree planting, the developer shall plant one tree for each 40' of street frontage, or one tree per lot having street frontage, whichever is greater. Tree planting shall be within a 10' Public Planting and Utility Easement.
  - a. Street tree inspection fees shall be collected for each 40' of public street frontage or one tree per lot whichever is greater.
  - b. Street trees shall be planted in accordance with the City of Fresno, Department of Public Works "Standard Specifications."
  - c. Landscape plans for all public use areas, such as parkways, buffers, medians and trails, shall be reviewed and approved by the Department of Public Works, Engineering Services. A street tree planting permit shall be required for all residential street tree planting.
  - d. Performance and payment securities, paid with final map, will be released when all landscaping installed on public and/or city-controlled property is in conformance with the Specifications of the City of Fresno.
  - e. Upon acceptance of the required work, warranty security shall be furnished to or retained by the city for guaranty and warranty of the work for a period of ninety days following acceptance.
  - f. There are no designated street trees for any of the streets on this project. Choose appropriate trees from the list of Approved Street Trees.  
<https://www.fresno.gov/publicworks/developer-doorway/#tab-5>

## **BUFFER LANDSCAPING & MAINTENANCE REQUIREMENTS**

1. The subdivider shall provide long term maintenance for all proposed landscaped areas by either petitioning for annexation in the Community Facilities District or by forming a Homeowner's Association.
2. Maintenance Service Through Annexation into the Community Facilities District. Landscape and Irrigation plans are required and shall be submitted to the Department of Public Works for review and approval prior to Council approval of the final map. Plans shall be numbered to conform to and be included in the Department of Public Works Street construction plan set for the final map. Fees are applicable when the subdivider elects to have landscaping maintained by annexing into the City's Community Facilities District.
  - a. Landscaping shall comply with Landscape Buffer Development Standards approved by the City Council on October 2, 1990. Landscape and irrigation plans shall comply with AB1881, water efficient landscaping.
  - b. Should the proposed landscape buffers and/or parkway strips be located next to an existing buffer and/or parkway strip, the planting concept shall simulate the adjacent landscape design to present a more uniform appearance on the street. Variances in the landscape concept will be acceptable, but the design of the new landscape buffer and/or parkway strip shall strive to mimic the existing as much as possible.
  - c. Landscape plans shall indicate grades on a cross-section detail to include fencing or wall details. All fencing shall be placed outside the landscape easement. Maximum slopes shall not exceed 4:1 with 1 foot of level ground between the slope and the back of the sidewalk and/or face of fence. Erosion control measures shall be implemented on all slopes of 4:1, including the use of synthetic erosion control netting in combination with ground cover species approved by the Department of Public Works/Engineering Services Division.
  - d. The water meter(s) serving the buffer landscaping shall be sized for the anticipated service flows.
  - e. No private flags, signs or identification of any kind shall be permitted in the right-of-way, within the City - controlled easement or on the fence or wall facing the street.
  - f. Landscaping in the right-of-way and landscape setback adjacent to water well sites shall be the responsibility of the City of Fresno Water Division and may not be included in the CFD.

## **MEDIAN ISLAND LANDSCAPE REQUIREMENTS**

1. When median islands front onto the proposed development project, applicants shall submit Plans to the Public Works/Engineering Services showing the location and configuration of all median islands fronting the proposed project.
2. The Public Works Department will review and evaluate existing median island(s) for a determination of all required improvements prior to approval of Final Map.
3. Landscape and irrigation is required on all new construction of median islands and shall be applied in accordance with the City of Fresno, Public Works Department Standards & Specifications and AB 1881. The Public Works Department requires all proposed median islands to be constructed with a one-foot-wide colored concrete strips, flush along curb edge, in a 12 inch by 12 inch brick slate pattern.

4. Trees shall not be planted in sections which are less than eight (8) feet wide unless approved by the Public Works Department. Sections less than eight (8) feet shall be capped with concrete as an integral part of the off-site improvements, whether the median is landscaped or not.

### **OUTLOTS**

1. Outlots which are utilized for water well purposes **will not** be included in the CFD. The Water Division Department in Public Utilities will provide the maintenance of all plant material on the well site.

### **TRAIL REQUIREMENTS**

1. The trail shall be constructed in accordance with the "Master Trails Manual" and the Public Works Department standards. The subdivider is responsible for the trail construction. The subdivider is responsible for all landscape and irrigation improvements for and within the trail. Construction plans shall be submitted and shall include landscaping and automatic drip irrigation design. Trail cross-sections will be required with submittal of Street Plans and Landscaping/Irrigation Plans for review and approval. These plans shall be in compliance with current City standards and approved by the Department of Public Works. Landscaping within the regional/multipurpose trail shall include large, medium and low-growing shrubs planted from 3 to 6 feet apart depending on variety, and trees spaced approximately 25 to 45 feet apart to provide 50% shade coverage onto the planting area and pathway. Landscaping adjacent to walls or fences shall comply with "Landscaped Buffer Development Standards." All planting areas shall be irrigated with an automatic system.

Please submit all landscape and irrigation plans to: [dpwplansubmittal@fresno.gov](mailto:dpwplansubmittal@fresno.gov) for plan review, to the scale of 1" =20', prior to the installation of any landscaping within the right-of-way.



**DATE:** July 6, 2023

**TO:** Steven Martinez, Planner II  
Planning & Development Department

**FROM:** Adrian Gonzalez, Senior Engineering Technician  
Public Works Department, Land Planning Section

**SUBJECT:** PUBLIC WORKS CONDITIONS OF APPROVAL FOR DEVELOPMENT PERMIT P23-00835 REGARDING MAINTENANCE REQUIREMENTS

**ADDRESS:** 820 East Church Avenue

**APN:** 479-050-14

The Public Works Department has completed its review and the following requirements are to be placed on this development as a condition of approval by the Public Works Department. These requirements are based on City records, standards and the proposed improvements depicted for this development on the exhibits submitted.

<b>ATTENTION:</b>			
The item (s) below requires a separate process with additional costs and timelines. To avoid delays with the approval of this development, the following item (s) shall be submitted to the Public Works Department and accepted for processing <b>prior</b> to Building Permit approval.			
<b>X</b>	<b>CFD 9 Annexation Request Package</b>	Adrian Gonzalez	(559) 621-8693 <a href="mailto:Luis.Gonzalez@fresno.gov">Luis.Gonzalez@fresno.gov</a>
<b>X</b>	<b>Private Maintenance Covenant</b>		

Requirements not addressed due to omission or misrepresentation of information, on which this review process is dependent, will be imposed whenever such conditions are disclosed and shall require a revision of this letter.

Any change affecting the items in these conditions requires revision of this letter.

INCOMPLETE Community Facilities District (“CFD”) Annexation Request submittals may cause delays to the annexation process and project approval. The annexation process takes from three to four months and SHALL be submitted for processing prior to Building Permit approval.

All applicable construction plans for this development are to be submitted to the Public Works Department for review and approval prior to the CFD process. The Landscape and Irrigation Plans are required to be approved prior to the finalization of the CFD process.

## **MAINTENANCE REQUIREMENTS OF PUBLIC IMPROVEMENTS**

The Property Owner for commercial, industrial and multi-family developments shall be responsible for providing maintenance for certain required public improvements located within and adjacent to the public streets on the perimeter associated with their development and as approved by the Public Works Department.

### **1. The Property Owner's Maintenance Requirements**

The long term maintenance and operating costs, including repair and replacement, of certain required public improvements ("Services") associated with all new Commercial, Industrial and Multi-Family developments are the ultimate responsibility of the Property Owner. The property owner shall provide Services either by a mechanism approved by the Public Works Department or by annexing to the City of Fresno's Community Facilities District No. 9 ("CFD No. 9").

The following public improvements (existing and proposed) are eligible for Services by CFD No. 9 as associated with this development:

- All landscaped areas, trees and irrigation systems, as approved by the Public Works Department, within public street rights-of-way, required public trail easements, and landscape easements located between required sound walls and adjacent to public streets; including without limitation, median islands (1/2 if frontage is only on one side) and parkways. **(Major and Local Public Streets)**
- All amenities such as benches, drinking fountains, trash receptacles, City required fencing and low voltage lighting, as approved by the Public Works Department for officially designated and required public trails.
- Tree trimming only of required street trees within public street easements along **Major and Local Public Street** frontages.
- Concrete curb and gutters, valley gutters, sidewalks, curb ramps, median capping and maintenance bands (1/2 if frontage is only on one side), and traffic calming structures in the street rights-of-way. **(Major Public Streets)**
- Concrete curb and gutters, valley gutters, sidewalks, curb ramps, traffic calming structures, median island curbing and hardscape, street paving and street name signage. **(Local Public Streets)**

- All costs associated with the street lights (including repair and replacement) within public street rights-of-way. **(Major and Local Public Streets)**

**2. The Property Owner may choose to do one or both of the following:**

- I. The Property Owner may petition the City of Fresno to request annexation to CFD No. 9 by completing and submitting an Annexation Request Package to the Public Works Department, Land Section for review and approval. The Annexation Request Form is available, along with current costs, on-line at the City's website at <http://www.fresno.gov>, under the Public Works Department, Developer Doorway.
  - **Proceedings to annex territory to CFD No. 9 SHALL NOT commence** unless this development is within the City limits and all construction plans (this includes Street, Street Light, Signal and Landscape and Irrigation plans as applicable) are considered technically correct.
  - The annexation process will be put on **HOLD** and the developer notified if all of the requirements for processing are not in compliance. **Technically Correct shall mean that the facilities and quantities to be maintained by CFD No. 9 are not subject to change after acceptance for processing.**
  - The annexation process takes from three to four months and **SHALL** be completed prior to building permit approvals. The review and approval of Landscape and Irrigation Plans are required to be approved by the Public Works Department prior to the completion of the annexation process.
  - Public improvements not listed above will require special approval by the Public Works Department Director or his designee.

**-OR-**

- II. The Property Owner may provide for Services privately for the above maintenance requirements. All City maintenance requirements not included for annexation to CFD No. 9 for Services **SHALL** be included in a Private Maintenance Covenant for the required Services associated with this development or as approved by the City Engineer.

Any change to this development that would affect these conditions shall require a revision of this letter.

For any questions regarding these conditions please contact me at (559) 621-8693 / [Luis.Gonzalez@fresno.gov](mailto:Luis.Gonzalez@fresno.gov)



June 13, 2023

Re: P23-00835  
820 E Church Ave

Dear City of Fresno,

Thank you for providing PG&E the opportunity to review the proposed plans for P23-00835 dated 5/26/2023. Our review indicates the proposed improvements do not appear to directly interfere with existing PG&E facilities or impact our easement rights.

Please note this is our preliminary review and PG&E reserves the right for additional future review as needed. This letter shall not in any way alter, modify, or terminate any provision of any existing easement rights. If there are subsequent modifications made to the design, we ask that you resubmit the plans to the email address listed below.

If the project requires PG&E gas or electrical service in the future, please continue to work with PG&E's Service Planning department: <https://www.pge.com/cco/>.

As a reminder, before any digging or excavation occurs, please contact Underground Service Alert (USA) by dialing 811 a minimum of 2 working days prior to commencing any work. This free and independent service will ensure that all existing underground utilities are identified and marked on-site.

If you have any questions regarding our response, please contact the PG&E Plan Review Team at [pgeplanreview@pge.com](mailto:pgeplanreview@pge.com).

Sincerely,

PG&E Plan Review Team  
Land Management

June 26, 2023

Steven Martinez  
City of Fresno  
Planning and Development Department  
2600 Fresno Street, Third Floor, Room 3043  
Fresno, CA 93721-3604

**Project: P23-00835-Conditional Use Permit-MLK and church Retail**

**District CEQA Reference No: 20230487**

Dear Mr. Martinez:

The San Joaquin Valley Air Pollution Control District (District) has reviewed the Conditional Use Permit (CUP) application from the City of Fresno (City) for the MLK and Church Retail project. Per the CUP, the project consists of a 6,663 square foot building for a 3,063 square foot drive-thru restaurant and a 3,600 square foot office (Project). The Project is located at 820 East Church Avenue, Fresno, CA. The Project lies within one of the communities in the state selected by the California Air Resources Board (CARB) for investment of additional air quality resources and attention under Assembly Bill (AB) 617 (Garcia) in an effort to reduce air pollution exposure in impacted disadvantaged communities.

The District offers the following comments regarding the Project:

**1) Assembly Bill 617**

AB 617 requires CARB and air districts to develop and implement Community Emission Reduction Programs (CERPs) in an effort to reduce air pollution exposure in impacted disadvantaged communities, like those in which the Project is located. The South Central Fresno AB 617 community is one of the statewide communities selected by CARB for development and implementation of a CERP.

Following extensive community engagement and collaboration with the Community Steering Committee, the CERP for the South Central Fresno Community was adopted by the District's Governing Board in September 2019 and by CARB in February 2020.

**Samir Sheikh**  
Executive Director/Air Pollution Control Officer

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**Northern Region**  
4800 Enterprise Way  
Modesto, CA 95356-8718  
Tel: (209) 557-6400 FAX: (209) 557-6475

**Central Region (Main Office)**  
1990 E. Gettysburg Avenue  
Fresno, CA 93726-0244  
Tel: (559) 230-6000 FAX: (559) 230-6061

**Southern Region**  
34946 Flyover Court  
Bakersfield, CA 93308-9725  
Tel: (661) 392-5500 FAX: (661) 392-5585

During the development of the CERP, the Community Steering Committee expressed concerns regarding the proximity of emission sources to nearby sensitive receptors like schools, homes, day care centers, and hospitals, and the potential future industrial development within the community that may exacerbate the cumulative exposure burden for community residents. The Community Steering Committee also expressed the desire for more meaningful avenues of engagement surrounding the land-use decisions in the area. As these issues can most effectively be addressed through strong partnerships between community members and local land-use agencies. Furthermore, the District recommends the City assess the emission reductions measures and strategies included in the CERP and address them in the environmental assessment as appropriate, to align the City work with the air pollution and exposure reduction strategies and measures outlined in the CERP.

For more information regarding the CERP approved for South Central Fresno, please visit the District's website at:

<http://community.valleyair.org/selected-communities/south-central-fresno>

## **2) Project Related Emissions**

At the federal level under the National Ambient Air Quality Standards (NAAQS), the District is designated as extreme nonattainment for the 8-hour ozone standards and serious nonattainment for the particulate matter less than 2.5 microns in size (PM<sub>2.5</sub>) standards. At the state level under California Ambient Air Quality Standards (CAAQS), the District is designated as nonattainment for the 8-hour ozone, PM<sub>10</sub>, PM<sub>2.5</sub> standards.

Based on information provided to the District, Project specific annual criteria pollutant emissions from construction and operation are not expected to exceed any of the significance thresholds as identified in the District's Guidance for Assessing and Mitigating Air Quality Impacts (GAMAQI):  
<https://www.valleyair.org/transportation/GAMAQI.pdf>.

### **2a) Construction Emissions**

The District recommends, to reduce impacts from construction-related diesel exhaust emissions, the Project should utilize the cleanest available off-road construction equipment, including the latest tier equipment.

## **3) Health Risk Screening/Assessment**

The City should evaluate the risk associated with the Project for sensitive receptors (residences, businesses, hospitals, day-care facilities, health care facilities, etc.) in the area and mitigate any potentially significant risk to help limit exposure of sensitive receptors to emissions.

To determine potential health impacts on surrounding receptors (residences, businesses, hospitals, day-care facilities, health care facilities, etc.) a Prioritization and/or a Health Risk Assessment (HRA) should be performed for the Project. These health risk determinations should quantify and characterize potential Toxic Air Contaminants (TACs) identified by the Office of Environmental Health Hazard Assessment/California Air Resources Board (OEHHA/CARB) that pose a present or potential hazard to human health.

Health risk analyses should include all potential air emissions from the project, which include emissions from construction of the project, including multi-year construction, as well as ongoing operational activities of the project. Note, two common sources of TACs can be attributed to diesel exhaust emitted from heavy-duty off-road earth moving equipment during construction, and from ongoing operation of heavy-duty on-road trucks.

Prioritization (Screening Health Risk Assessment):

A "Prioritization" is the recommended method for a conservative screening-level health risk assessment. The Prioritization should be performed using the California Air Pollution Control Officers Association's (CAPCOA) methodology.

The District recommends that a more refined analysis, in the form of an HRA, be performed for any project resulting in a Prioritization score of 10 or greater. This is because the prioritization results are a conservative health risk representation, while the detailed HRA provides a more accurate health risk evaluation.

To assist land use agencies and project proponents with Prioritization analyses, the District has created a prioritization calculator based on the aforementioned CAPCOA guidelines, which can be found here:

[http://www.valleyair.org/busind/pto/emission\\_factors/Criteria/Toxics/Utilities/PRIORITIZATION-CALCULATOR.xls](http://www.valleyair.org/busind/pto/emission_factors/Criteria/Toxics/Utilities/PRIORITIZATION-CALCULATOR.xls)

Health Risk Assessment:

Prior to performing an HRA, it is strongly recommended that land use agencies/ project proponents develop and submit for District review a health risk modeling protocol that outlines the sources and methodologies that will be used to perform the HRA. This step will ensure all components are addressed when performing the HRA.

A development project would be considered to have a potentially significant health risk if the HRA demonstrates that the project-related health impacts would exceed the District's significance threshold of 20 in a million for carcinogenic risk, or 1.0 for either the Acute or Chronic Hazard Indices.

A project with a significant health risk would trigger all feasible mitigation measures. The District strongly recommends that development projects that result in a significant health risk not be approved by the land use agency.

The District is available to review HRA protocols and analyses. For HRA submittals please provide the following information electronically to the District for review:

- HRA (AERMOD) modeling files
- HARP2 files
- Summary of emissions source locations, emissions rates, and emission factor calculations and methodologies.

For assistance, please contact the District's Technical Services Department by:

- E-Mailing inquiries to: [hramodeler@valleyair.org](mailto:hramodeler@valleyair.org)
- Calling (559) 230-5900

*Recommended Measure:* Development projects resulting in TAC emissions should be located an adequate distance from residential areas and other sensitive receptors in accordance to CARB's Air Quality and Land Use Handbook: A Community Health Perspective located at <https://ww2.arb.ca.gov/our-work/programs/resource-center/strategy-development/land-use-resources>.

#### **4) Ambient Air Quality Analysis**

An Ambient Air Quality Analysis (AAQA) uses air dispersion modeling to determine if emissions increases from a project will cause or contribute to a violation of State or National Ambient Air Quality Standards. The District recommends an AAQA be performed for the Project if emissions exceed 100 pounds per day of any pollutant. An acceptable analysis would include emissions from both project-specific permitted and non-permitted equipment and activities. The District recommends consultation with District staff to determine the appropriate model and input data to use in the analysis.

Specific information for assessing significance, including screening tools and modeling guidance, is available online at the District's website: [www.valleyair.org/ceqa](http://www.valleyair.org/ceqa).

#### **5) Under-fired Charbroilers**

The Project may have restaurants with under-fired charbroilers. Such charbroilers may pose the potential for immediate health risk, particularly when located in densely populated areas or near sensitive receptors.

Since the cooking of meat can release carcinogenic PM<sub>2.5</sub> species, such as polycyclic aromatic hydrocarbons, controlling emissions from new under-fired charbroilers will have a substantial positive impact on public health. The air quality impacts on neighborhoods near restaurants with under-fired charbroilers can be

significant on days when meteorological conditions are stable, when dispersion is limited and emissions are trapped near the surface within the surrounding neighborhoods. This potential for neighborhood-level concentration of emissions during evening or multi-day stagnation events raises air quality concerns.

Furthermore, reducing commercial charbroiling emissions is essential to achieving attainment of multiple federal PM<sub>2.5</sub> standards. Therefore, the District recommends that the environmental assessment include a measure requiring the assessment and potential installation, as technologically feasible, of particulate matter emission control systems for new large restaurants operating under-fired charbroilers.

The District is available to assist the City and project proponents with this assessment. Additionally, the District is currently offering substantial incentive funding that covers the full cost of purchasing, installing, and maintaining the system during a demonstration period covering two years of operation. Please contact the District at (559) 230-5800 or [technology@valleyair.org](mailto:technology@valleyair.org) for more information, or visit: <http://valleyair.org/grants/rctp.htm>

## **6) Vegetative Barriers and Urban Greening**

There is a middle school located next to the project on the east side and residential units located north and south of the Project. The District suggests the City consider the feasibility of incorporating vegetative barriers and urban greening as a measure to further reduce air pollution exposure on sensitive receptors (e.g., middle school, residential units).

While various emission control techniques and programs exist to reduce air quality emissions from mobile and stationary sources, vegetative barriers have been shown to be an additional measure to potentially reduce a population's exposure to air pollution through the interception of airborne particles and the uptake of gaseous pollutants. Examples of vegetative barriers include, but are not limited to the following: trees, bushes, shrubs, or a mix of these. Generally, a higher and thicker vegetative barrier with full coverage will result in greater reductions in downwind pollutant concentrations. In the same manner, urban greening is also a way to help improve air quality and public health in addition to enhancing the overall beautification of a community with drought tolerant, low-maintenance greenery.

## **7) Clean Lawn and Garden Equipment in the Community**

Since the Project consists of a commercial development, gas-powered commercial lawn and garden equipment have the potential to result in an increase of NO<sub>x</sub> and PM<sub>2.5</sub> emissions. Utilizing electric lawn care equipment can provide residents with immediate economic, environmental, and health benefits. The District recommends the Project proponent consider the District's Clean Green Yard Machines (CGYM) program which provides incentive funding for replacement of existing gas powered

lawn and garden equipment. More information on the District CGYM program and funding can be found at: <http://www.valleyair.org/grants/cgym.htm> and <http://valleyair.org/grants/cgym-commercial.htm>.

## **8) On-Site Solar Deployment**

It is the policy of the State of California that renewable energy resources and zero-carbon resources supply 100% of retail sales of electricity to California end-use customers by December 31, 2045. While various emission control techniques and programs exist to reduce air quality emissions from mobile and stationary sources, the production of solar energy is contributing to improving air quality and public health. The District suggests that the City consider incorporating solar power systems as an emission reduction strategy for the Project.

## **9) Electric Vehicle Chargers**

To support and accelerate the installation of electric vehicle charging equipment and development of required infrastructure, the District offers incentives to public agencies, businesses, and property owners of multi-unit dwellings to install electric charging infrastructure (Level 2 and 3 chargers). The purpose of the District's Charge Up! Incentive program is to promote clean air alternative-fuel technologies and the use of low or zero-emission vehicles. The District recommends that the City and project proponents install electric vehicle chargers at project sites, and at strategic locations.

Please visit [www.valleyair.org/grants/chargeup.htm](http://www.valleyair.org/grants/chargeup.htm) for more information.

## **10) District Rules and Regulations**

The District issues permits for many types of air pollution sources, and regulates some activities that do not require permits. A project subject to District rules and regulations would reduce its impacts on air quality through compliance with the District's regulatory framework. In general, a regulation is a collection of individual rules, each of which deals with a specific topic. As an example, Regulation II (Permits) includes District Rule 2010 (Permits Required), Rule 2201 (New and Modified Stationary Source Review), Rule 2520 (Federally Mandated Operating Permits), and several other rules pertaining to District permitting requirements and processes.

The list of rules below is neither exhaustive nor exclusive. Current District rules can be found online at: [www.valleyair.org/rules/1ruleslist.htm](http://www.valleyair.org/rules/1ruleslist.htm). To identify other District rules or regulations that apply to future projects, or to obtain information about District permit requirements, the project proponents are strongly encouraged to contact the District's Small Business Assistance (SBA) Office at (559) 230-5888.

### **10a) District Rules 2010 and 2201 - Air Quality Permitting for Stationary Sources**

Stationary Source emissions include any building, structure, facility, or installation which emits or may emit any affected pollutant directly or as a fugitive emission. District Rule 2010 (Permits Required) requires operators of emission sources to obtain an Authority to Construct (ATC) and Permit to Operate (PTO) from the District. District Rule 2201 (New and Modified Stationary Source Review) requires that new and modified stationary sources of emissions mitigate their emissions using Best Available Control Technology (BACT).

This Project may be subject to District Rule 2010 (Permits Required) and Rule 2201 (New and Modified Stationary Source Review) and may require District permits. Prior to construction, the Project proponent should submit to the District an application for an ATC. For further information or assistance, the project proponent may contact the District's SBA Office at (559) 230-5888

### **10b) District Rule 9510 - Indirect Source Review (ISR)**

The Project is subject to District Rule 9510 because it will receive a project-level discretionary approval from a public agency and will equal or exceed 2,000 square feet of commercial use.

The purpose of District Rule 9510 is to reduce the growth in both NO<sub>x</sub> and PM emissions associated with development and transportation projects from mobile and area sources; specifically, the emissions associated with the construction and subsequent operation of development projects. The ISR Rule requires developers to mitigate their NO<sub>x</sub> and PM emissions by incorporating clean air design elements into their projects. Should the proposed development project clean air design elements be insufficient to meet the required emission reductions, developers must pay a fee that ultimately funds incentive projects to achieve off-site emissions reductions.

Per Section 5.0 of the ISR Rule, an Air Impact Assessment (AIA) application is required to be submitted no later than applying for project-level approval from a public agency. As of the date of this letter, the District has not received an AIA application for this Project. Please inform the project proponent to immediately submit an AIA application to the District to comply with District Rule 9510 so that proper mitigation and clean air design under ISR can be incorporated into the Project's design.

Information about how to comply with District Rule 9510 can be found online at: <http://www.valleyair.org/ISR/ISRHome.htm>.

The AIA application form can be found online at:  
<http://www.valleyair.org/ISR/ISRFormsAndApplications.htm>.

District staff is available to provide assistance and can be reached by phone at (559) 230-5900 or by email at [ISR@valleyair.org](mailto:ISR@valleyair.org).

### **10c) District Rule 4002 (National Emissions Standards for Hazardous Air Pollutants)**

In the event an existing building will be renovated, partially demolished or removed, the Project may be subject to District Rule 4002. This rule requires a thorough inspection for asbestos to be conducted before any regulated facility is demolished or renovated. Information on how to comply with District Rule 4002 can be found online at:  
<http://www.valleyair.org/busind/comply/asbestosbultn.htm>.

### **10d) District Rule 4601 (Architectural Coatings)**

The Project will be subject to District Rule 4601 since it is expected to utilize architectural coatings. Architectural coatings are paints, varnishes, sealers, or stains that are applied to structures, portable buildings, pavements or curbs. The purpose of this rule is to limit VOC emissions from architectural coatings. In addition, this rule specifies architectural coatings storage, cleanup and labeling requirements. Additional information on how to comply with District Rule 4601 requirements can be found online at:  
<http://www.valleyair.org/rules/currnrules/r4601.pdf>

### **10e) District Regulation VIII (Fugitive PM10 Prohibitions)**

The project proponent may be required to submit a Construction Notification Form or submit and receive approval of a Dust Control Plan prior to commencing any earthmoving activities as described in Regulation VIII, specifically Rule 8021 – *Construction, Demolition, Excavation, Extraction, and Other Earthmoving Activities*.

Should the project result in at least 1-acre in size, the project proponent shall provide written notification to the District at least 48 hours prior to the project proponents intent to commence any earthmoving activities pursuant to District Rule 8021 (Construction, Demolition, Excavation, Extraction, and Other Earthmoving Activities). Also, should the project result in the disturbance of 5-acres or more, or will include moving, depositing, or relocating more than 2,500 cubic yards per day of bulk materials, the project proponent shall submit to the District a Dust Control Plan pursuant to District Rule 8021 (Construction, Demolition, Excavation, Extraction, and Other Earthmoving Activities). For

additional information regarding the written notification or Dust Control Plan requirements, please contact District Compliance staff at (559) 230-5950.

The application for both the Construction Notification and Dust Control Plan can be found online at:

<https://www.valleyair.org/busind/comply/PM10/forms/DCP-Form.docx>

Information about District Regulation VIII can be found online at:

[http://www.valleyair.org/busind/comply/pm10/compliance\\_pm10.htm](http://www.valleyair.org/busind/comply/pm10/compliance_pm10.htm)

#### **10f) Other District Rules and Regulations**

The Project may also be subject to the following District rules: Rule 4102 (Nuisance) and Rule 4641 (Cutback, Slow Cure, and Emulsified Asphalt, Paving and Maintenance Operations).

#### **11) District Comment Letter**

The District recommends that a copy of the District's comments be provided to the Project proponent.

If you have any questions or require further information, please contact Cherie Reed by e-mail at [Cherie.Reed@valleyair.org](mailto:Cherie.Reed@valleyair.org) or by phone at (559) 230-5940.

Sincerely,

Brian Clements  
Director of Permit Services



For: Mark Montelongo  
Program Manager



2907 S. Maple Avenue  
Fresno, California 93725-2208  
Telephone: (559) 233-7161  
Fax: (559) 233-8227

**CONVEYANCE. COMMITMENT. CUSTOMER SERVICE.**

June 9, 2023

Steven Martinez  
Development and Resource Management  
City of Fresno  
2600 Fresno Street, Third Floor  
Fresno, CA 93721

RE: Conditional Use Permit Application No. P23-00835  
S/W Church Avenue and Martin Luther King Jr. Boulevard

Dear Mr. Martinez:

The Fresno Irrigation District (FID) has reviewed the Conditional Use Permit Application No. P23-00835 for which the applicant proposes the construction of a multi-tenant shell building with drive-thru and fully develop the site with a parking lot, landscaping, trash enclosures, and pad for future building, APN: 479-050-14. FID has the following comments:

1. FID does not own, operate, or maintain any facilities located on the subject property, as show on the attached FID exhibit map.
2. For informational purposes, FID's active Braly No. 14 runs westerly and crosses Martin Luther King Jr. Boulevard approximately 1,700 feet north of the subject property, as shown on the attached FID exhibit map. Should this project include any street and/or utility improvements along Martin Luther King Jr. Boulevard or in the vicinity of this facility, FID requires it review and approve all plans.

Thank you for submitting this for our review. We appreciate the opportunity to review and comment on the subject documents for the proposed project. If you have any questions, please feel free to contact Chris Lundeen at (559) 233-7161 extension 7410 or [clundeen@fresnoirrigation.com](mailto:clundeen@fresnoirrigation.com).

Sincerely,

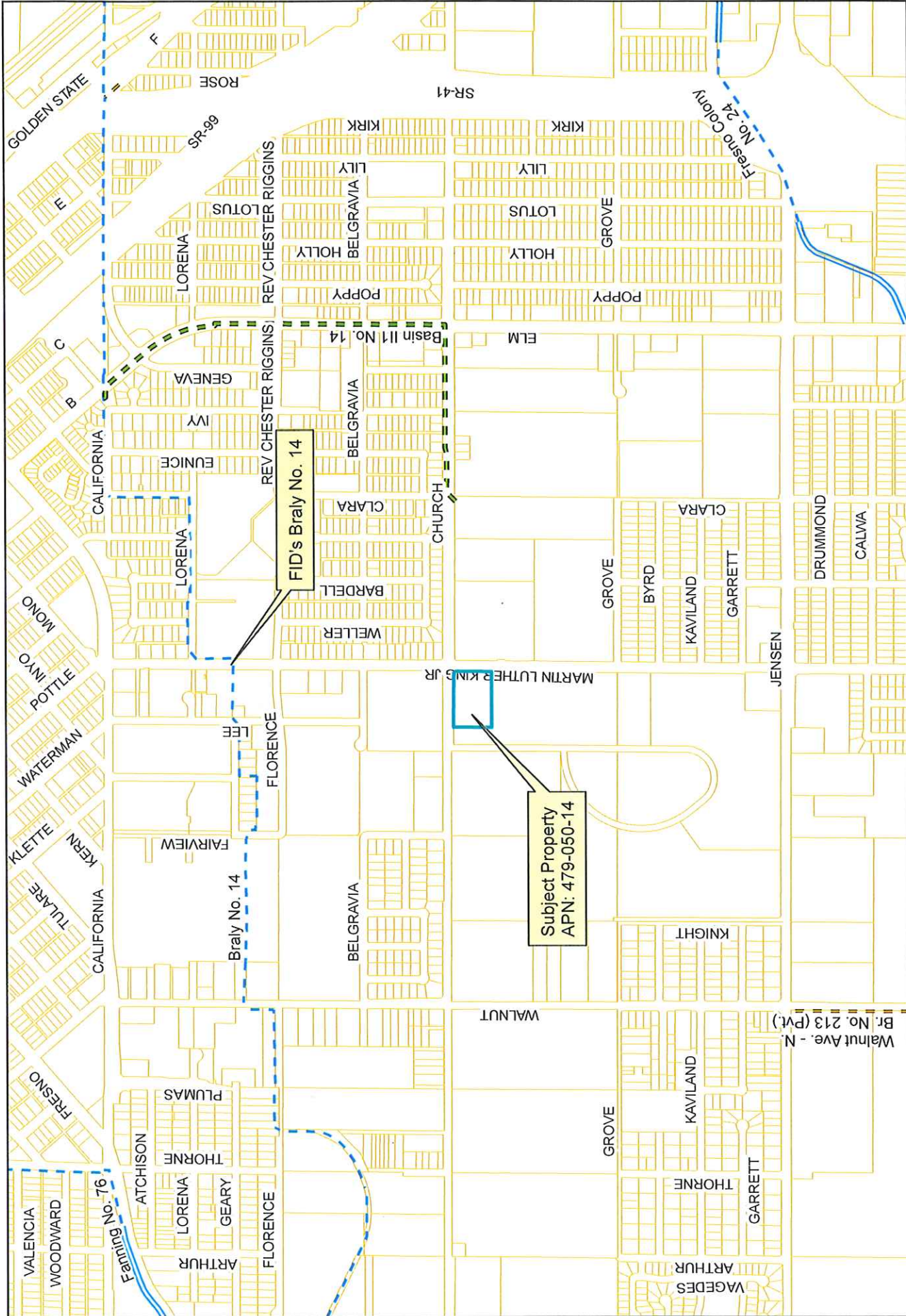
Laurence Kimura, P.E.  
Chief Engineer

Attachment

G:\Agencies\FresnoCity\Conditional Use Permit\P23-00835\P23-00835 FID Comment.doc

**BOARD OF DIRECTORS**

President RYAN JACOBSEN Vice-President JERRY PRIETO, JR. CHRISTOPHER WOOLF  
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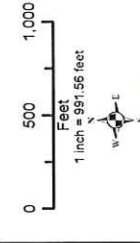


FRESNO IRRIGATION DISTRICT

- Legend**
- FID Canal
  - FID Pipeline
  - Private Canal
  - Private Pipeline
  - Abandoned Canal
  - Abandoned Pipeline
  - Stream Group
  - Other-Creek/River
  - Other-Pipeline
  - Railroad
  - Streets & Hwys
  - Parcel
  - FMFCD Acquired Basins
  - FMFCD Proposed Basins

This map was produced by the Fresno Irrigation District and is provided for reference and informational purposes only and is not intended to show map scale accuracy or all inclusive map features, nor for legal purposes. FID makes no statements regarding the accuracy of this map as the features shown are in their approximate location. Please contact the FID Engineering Dept. at (559) 233-7161 for further information on FID facilities.

Path: G:\Figs\20230216 FID Compact.mxd  
 Spatial Reference  
 Name: NAD 1983 StatePlane California IV FIPS 0404



## Chris Lundeen

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**From:** do\_not\_reply@fresno.gov  
**Sent:** Friday, May 26, 2023 11:51 AM  
**To:** Engineering Review  
**Subject:** Planning Application P23-00835 - Task Assigned

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

A task associated with Planning Application P23-00835 has been assigned for your review. You can review details online.

Application Description: Conditional Use Permit Application No. P23-00835 was filed by Robert Vermeltfoort of Vermeltfoort Architects, Inc. and pertains to the ± 2.98 acres located at 820 E CHURCH AVE, FRESNO, CA 93706. The applicant proposes to construct a ± 5,781 sq.ft. multi-tenant shell building with drive-thru; and fully develop the site with a 168-car parking lot, landscaping, trash enclosures, and pad for a future building. The parcel is zoned CC. NOTE FOR REVIEWERS: Project is within the boundaries of West Creek Village and subject to the Development Agreement. Please review the document under the documents tab. Related Applications: A-17-007, ANX-17-005, R-17-010, TMP-17-06 If there are any questions, please contact Steven.Martinez@fresno.gov.  
Task Information: Irrigation District

A handwritten signature in red ink, appearing to read "Dane G. [unclear]", is written over a horizontal red line.



FRESNO METROPOLITAN FLOOD CONTROL DISTRICT  
NOTICE OF REQUIREMENTS

**PUBLIC AGENCY**

STEVEN MARTINEZ  
PLANNING & DEVELOPMENT DEPARTMENT  
CITY OF FRESNO  
2600 FRESNO STREET  
FRESNO, CA 93721-3604

**DEVELOPER**

ROBERT VERMELTFOORT, VAI  
8525 N. CEDAR AVE., SUITE 106  
FRESNO, CA 93720

PROJECT NO: **2023-00835**

ADDRESS: **820 E. CHURCH AVE.**

APN: **479-050-14**

SENT: **June 21, 2023**

Drainage Area(s)	Preliminary Fee(s)	Development Review Service Charge(s)	Fee(s)	
TT	\$18,272.00	NOR Review	\$71.00	To be paid prior to release of District comments to Public Agency and Developer.
		Grading Plan Review	\$363.00	Amount to be submitted with first grading plan submittal.
<b>Total Drainage Fee: \$18,272.00</b>		<b>Total Service Charge: \$434.00</b>		

The proposed development will generate storm runoff which produces potentially significant environmental impacts and which must be properly discharged and mitigated pursuant to the California Environmental Quality Act and the National Environmental Policy Act. The District in cooperation with the City and County has developed and adopted the Storm Drainage and Flood Control Master Plan. Compliance with and implementation of this Master Plan by this development project will satisfy the drainage related CEQA/NEPA impact of the project mitigation requirements.

Pursuant to the District’s Development Review Fee Policy, the subject project shall pay review fees for issuance of this Notice of Requirements (NOR) and any plan submittals requiring the District’s reviews. The NOR fee shall be paid to the District by Developer before the Notice of Requirement will be submitted to the City. The Grading Plan fee shall be paid upon first submittal. The Storm Drain Plan fee shall be paid prior to return/pick up of first submittal.

The proposed development shall pay drainage fees pursuant to the Drainage Fee Ordinance prior to issuance of a building permit at the rates in effect at the time of such issuance. The fee indicated above is valid through 3/07/24 based on the site plan submitted to the District on 5/26/23 Contact FMFCD for a revised fee in cases where changes are made in the proposed site plan which materially alter the proposed impervious area.

Considerations which may affect the fee obligation(s) or the timing or form of fee payment:

- a.) Fees related to undeveloped or phased portions of the project may be deferrable.
- b.) Fees may be calculated based on the actual percentage of runoff if different than that typical for the zone district under which the development is being undertaken and if permanent provisions are made to assure that the site remains in that configuration.
- c.) Creditable storm drainage facilities may be constructed, or required to be constructed in lieu of paying fees.
- d.) The actual cost incurred in constructing Creditable drainage system facilities is credited against the drainage fee obligation.
- e.) When the actual costs incurred in constructing Creditable facilities exceeds the drainage fee obligation, reimbursement will be made for the excess costs from future fees collected by the District from other development.
- f.) Any request for a drainage fee refund requires the entitlement cancellation and a written request addressed to the General Manager of the District within 60 days from payment of the fee. A non refundable \$300 Administration fee or 5% of the refund whichever is less will be retained without fee credit.

**FR  
CUP No. 2023-00835**

FRESNO METROPOLITAN FLOOD CONTROL DISTRICT  
NOTICE OF REQUIREMENTS

Page 2 of 4

FR  
CUP No. 2023-00835

Approval of this development shall be conditioned upon compliance with these District Requirements.

1.  a. Drainage from the site shall  
 b. Grading and drainage patterns shall be as identified on Exhibit No. 1.  
 c. The grading and drainage patterns shown on the site plan conform to the adopted Storm Drainage and Flood Control Master Plan.
  
2. The proposed development shall construct and/or dedicate Storm Drainage and Flood Control Master Plan facilities located within the development or necessitated by any off-site improvements required by the approving agency:  
 Developer shall construct facilities as shown on Exhibit No. 1 as  
 None required.
  
3. The following final improvement plans and information shall be submitted to the District for review prior to final development approval:  
 Grading Plan  
 Street Plan  
 Storm Drain Plan  
 Water & Sewer Plan  
 Final Map  
 Drainage Report (to be submitted with tentative map)  
 Other  
 None Required
  
4. Availability of drainage facilities:  
 a. Permanent drainage service is available provided the developer can verify to the satisfaction of the City that runoff can be safely conveyed to the Master Plan inlet(s).  
 b. The construction of facilities required by Paragraph No. 2 hereof will provide permanent drainage service.  
 c. Permanent drainage service will not be available. The District recommends temporary facilities until permanent service is available.  
 d. See Exhibit No. 2.
  
5. The proposed development:  
 Appears to be located within a 100 year flood prone area as designated on the latest Flood Insurance Rate Maps available to the District, necessitating appropriate floodplain management action. (See attached Floodplain Policy.)  
 Does not appear to be located within a flood prone area.
  
6.  The subject site contains a portion of a canal or pipeline that is used to manage recharge, storm water, and/or flood flows. The existing capacity must be preserved as part of site development. Additionally, site development may not interfere with the ability to operate and maintain the canal or pipeline.

FRESNO METROPOLITAN FLOOD CONTROL DISTRICT  
NOTICE OF REQUIREMENTS

Page 3 of 4

FR  
CUP  
No. 2023-00835

7. The Federal Clean Water Act and the State General Permits for Storm Water Discharges Associated with Construction and Industrial Activities (State General Permits) require developers of construction projects disturbing one or more acres, and discharges associated with industrial activity not otherwise exempt from National Pollutant Discharge Elimination System (NPDES) permitting, to implement controls to reduce pollutants, prohibit the discharge of waters other than storm water to the municipal storm drain system, and meet water quality standards. These requirements apply both to pollutants generated during construction, and to those which may be generated by operations at the development after construction.
- a. State General Permit for Storm Water Discharges Associated with Construction Activities, effective July 1, 2010, as amended. A State General Construction Permit is required for all clearing, grading, and disturbances to the ground that result in soil disturbance of at least one acre (or less than one acre) if part of a larger common plan of development or sale). Permittees are required to: submit a Notice of Intent and Permit Registration Documents to be covered and must pay a permit fee to the State Water Resources Control Board (State Board), develop and implement a storm water pollution prevention plan, eliminate non-storm water discharges, conduct routine site inspections, train employees in permit compliance, and complete an annual certification of compliance.
  - b. State General Permit for Storm Water Discharges Associated with Industrial Activities, April, 2014 (available at the District Office). A State General Industrial Permit is required for specific types of industries described in the NPDES regulations or by Standard Industrial Classification (SIC) code. The following categories of industries are generally required to secure an industrial permit: manufacturing; trucking; recycling; and waste and hazardous waste management. Specific exemptions exist for manufacturing activities which occur entirely indoors. Permittees are required to: submit a Notice of Intent to be covered and must pay a permit fee to the State Water Resources Control Board, develop and implement a storm water pollution prevention plan, eliminate non-storm water discharges, conduct routine site inspections, train employees in permit compliance, sample storm water runoff and test it for pollutant indicators, and annually submit a report to the State Board.
  - c. The proposed development is encouraged to select and implement storm water quality controls recommended in the Fresno-Clovis Storm Water Quality Management Construction and Post-Construction Guidelines (available at the District Office) to meet the requirements of the State General Permits, eliminate the potential for non-storm water to enter the municipal storm drain system, and where possible minimize contact with materials which may contaminate storm water runoff.
8. A requirement of the District may be appealed by filing a written notice of appeal with the Secretary of the District within ten days of the date of this Notice of Requirements.
9. The District reserves the right to modify, reduce or add to these requirements, or revise fees, as necessary to accommodate changes made in the proposed development by the developer or requirements made by other agencies.
10.   X   See Exhibit No. 2 for additional comments, recommendations and requirements.



Debbie Campbell  
Design Engineer, RCE

Digitally signed by Debbie Campbell Date: 6/21/2023 2:24:43 PM



Shauna L. Espinoza Mendoza  
Engineer III, RCE

Digitally signed by Shauna L. Espinoza Mendoza Date: 6/19/2023 8:55:22 AM

FRESNO METROPOLITAN FLOOD CONTROL DISTRICT  
NOTICE OF REQUIREMENTS

Page 4 of 4

CC:

JIM SHEHADEY, JST

405 N. PALM AVENUE

FRESNO, CA 93701

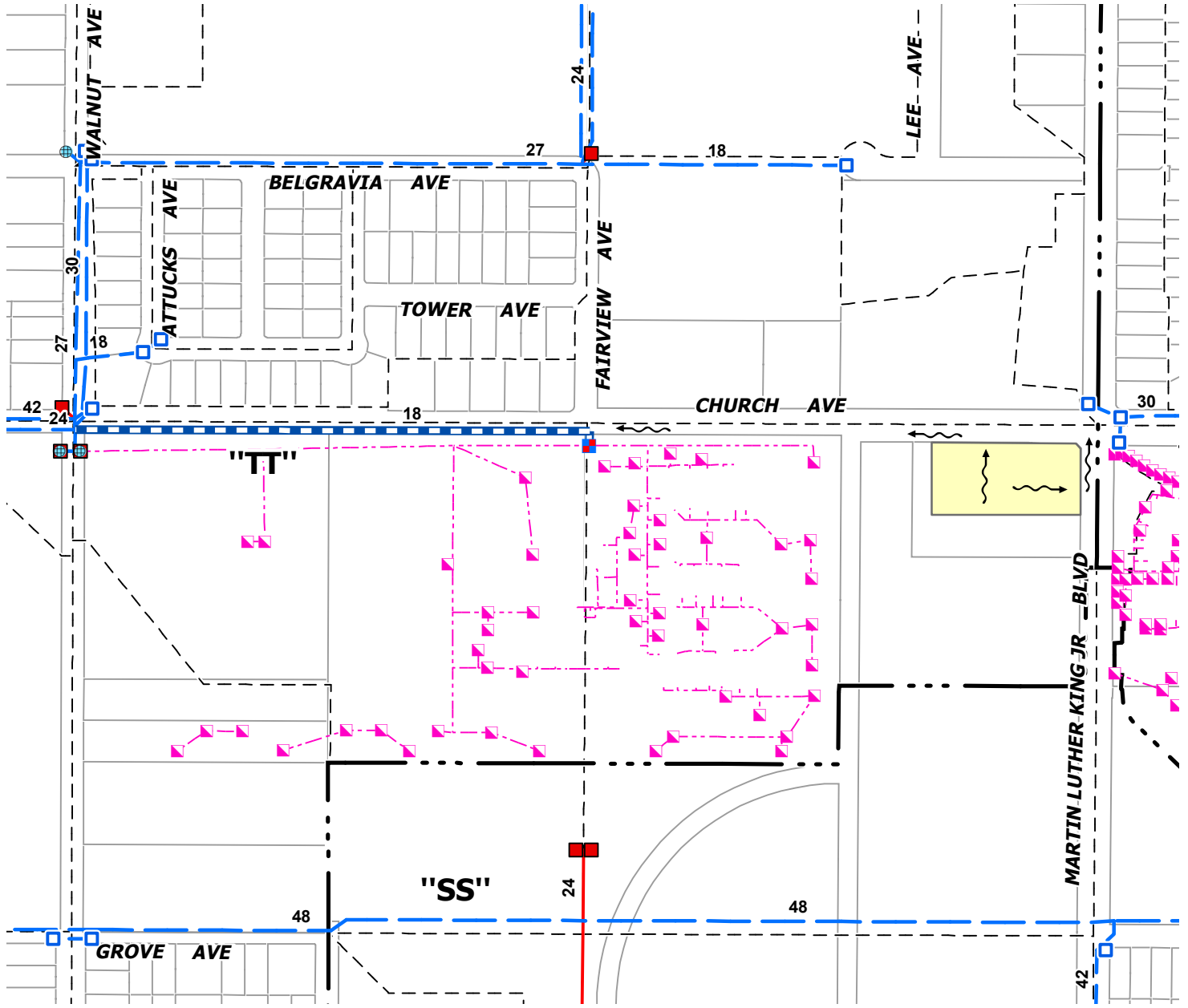
2500 MLK LLC

405 N. PALM AVE.

FRESNO, CA 93701

**FR CUP No. 2023-00835**

NOTE: THIS MAP IS SCHEMATIC. DISTANCES, AMOUNT OF CREDITABLE FACILITIES, AND LOCATION OF INLET BOUNDARIES ARE APPROXIMATE.



**LEGEND**

- Existing Master Plan Facilities
- Future Master Plan Facilities
- Existing Private Facilities
- Inlet Boundary
- Drainage Area Boundary
- Master Plan Facilities To Be Constructed By City Of Fresno- Pipeline(Size Shown) & Inlet
- Existing Temporary Inlet
- Direction Of Drainage
- Limits Of FR CUP 2023-00835



**FR CUP 2023-00835**  
**DRAINAGE AREA "TT"**

**EXHIBIT NO. 1**  
**FRESNO METROPOLITAN FLOOD CONTROL DISTRICT**



## **OTHER REQUIREMENTS**

### **EXHIBIT NO. 2**

At this time, the City of Fresno is proposing to install the Master Plan facilities shown on Exhibit No. 1 as part of a City of Fresno project to widen Church Avenue. If those facilities are completed prior to development of this site, permanent drainage service will be available. If those facilities are not constructed prior to development of the site, the District recommends temporary facilities until permanent service is available.

In an effort to improve storm runoff quality, outdoor storage areas shall be constructed and maintained such that material that may generate contaminants will be prevented from contact with rainfall and runoff and thereby prevent the conveyance of contaminants in runoff into the storm drain system.

The District encourages, but does not require that roof drains from non-residential development be constructed such that they are directed onto and through a landscaped grassy swale area to filter out pollutants from roof runoff.

Runoff from areas where industrial activities, product, or merchandise come into contact with and may contaminate storm water must be treated before discharging it off-site or into a storm drain. Roofs covering such areas are recommended. Cleaning of such areas by sweeping instead of washing is to be required unless such wash water can be directed to the sanitary sewer system. Storm drains receiving untreated runoff from such areas shall not be connected to the District's system. Loading docks, depressed areas, and areas servicing or fueling vehicles are specifically subject to these requirements. The District's policy governing said industrial site NPDES program requirements is available on the District's website at: [www.fresnofloodcontrol.org](http://www.fresnofloodcontrol.org) or contact the District's Environmental Department for further information regarding these policies related to industrial site requirements.

# **City of Fresno Notes and Requirements for Entitlement Applications**

(Note: Please only use the notes that apply to your project.)

## **GENERAL**

1. Approval of this special permit may become null and void in the event that development is not completed in accordance with all the conditions and requirements imposed on this special permit, the Citywide Development Code, and all Public Works Standards and Specifications. *This special permit is granted, and the conditions imposed, based upon the Operational Statement provided by the applicant. The Operational Statement is material to the issuance of this special permit. Unless the conditions of approval specifically require operation inconsistent with the Operational Statement, a new or revised special permit is required if the operation of this establishment changes or becomes inconsistent with the Operational Statement.* Failure to operate in accordance with the conditions and requirements imposed may result in revocation of the special permit or any other enforcement remedy available under the law. The Planning and Development Department shall not assume responsibility for any deletions or omissions resulting from the special permit review process or for additions or alterations to construction plans not specifically submitted and reviewed and approved pursuant to this special permit or subsequent amendments or revisions.
2. Approval of this special permit shall be considered null and void in the event of failure by the applicant and/or the authorized representative, architect, engineer, or designer to disclose and delineate all facts and information relating to the subject property and the proposed development including, but not limited to, the following:
  - a) All existing and proposed improvements including but not limited to buildings and structures, signs and their uses, trees, walls, driveways, outdoor storage, and open land use areas on the subject property and all of the preceding which are located on adjoining property and may encroach on the subject property.
  - b) All public and private easements, rights-of-way and any actual or potential prescriptive easements or uses of the subject property; and,
  - c) Existing and proposed grade differentials between the subject property and adjoining property zoned or planned for residential use.
3. No land shall be used, and no structure shall be constructed, occupied, enlarged, altered, demolished, or moved in any zoning district, except in accordance with the provisions of this Code. Specific uses of land, buildings, and structures listed as prohibited in any zoning district are hereby declared to be detrimental to the public health, safety, and welfare.
4. Development shall take place in accordance with the Standards, Specifications, and Standard Drawings of the City of Fresno Public Works Department; <https://www.fresno.gov/publicworks/wp-content/uploads/sites/17/2016/09/CityofFresnoStandardSpecifications2016January.pdf>

## City of Fresno Notes and Requirements For Entitlement Applications

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5. Development shall take place in accordance with all city, county, state and federal laws and regulations.
6. Owners and persons having ownership interest in businesses operating in the City of Fresno are required by the Fresno Municipal Code to obtain a Business Tax Certificate. Contact the City of Fresno Finance Department's Business Tax Division at (559) 621-6880 for more information. Information and an application form are available at the following website:  
<http://www.fresno.gov/Government/DepartmentDirectory/Finance/BusinessLicenseandTax/businessstaxapplicaiton.htm>
7. All proposed building(s) or structure(s) constructed on the property must comply with the prevailing California Building Code Standards.
8. Any building modifications and/or additions not included with this application are not approved with this special permit and would be subject to a new special permit.
9. A permit granted under the Fresno Municipal Code shall automatically expire if it is not exercised or extended within three years of its issuance. Refer to Section 15-5013, Expiration of Planning Entitlements, for more information about the exercise of rights.

### **FENCES/WALLS, LANDSCAPING, PARKING**

10. Nothing in this Development Code shall be deemed to prohibit the erection of temporary fencing around construction sites in compliance with the Building Code and other applicable provisions of the Fresno Municipal Code.
11. Future fences shall be reviewed and approved by the Planning and Development Department prior to installation.
12. Fences, hedges, and walls shall be maintained in good repair, including painting, if required, and shall be kept free of litter or advertising. Where hedges are used as screening, trimming or pruning shall be employed as necessary to maintain the maximum allowed height. Fences shall be maintained and shall stand upright and shall not lean.
13. All planting and other landscape elements shall be permanently maintained in good growing condition. Such maintenance shall include, where appropriate, pruning, mowing, weeding, cleaning, fertilizing, and regular watering. Wherever necessary, plantings shall be replaced with other plant materials to insure continued compliance with applicable landscaping requirements. Yards shall be maintained free of refuse, debris, rubbish, or other accumulated matter and/or materials, and shall be maintained clean. Grass shall not exceed six inches in height.
14. New landscaping shall have an automatic irrigation system designed to provide adequate and efficient coverage of all plant material. Irrigation systems shall comply with the requirements of the California Green Building Standards Code and/or the

## City of Fresno Notes and Requirements For Entitlement Applications

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California Model Water Efficient Landscape Ordinance and/or the California Plumbing Code as may be amended.

15. Trees shall be maintained by property owners to be free from physical damage or injuring arising from lack of water, chemical damage, accidents, vandalism, insects, and disease. Any tree showing such damage shall be replaced with another tree.
16. No tree for which a Tree Removal Permit is required shall be removed until all conditions of the permit have been satisfied and the decision has become final. In addition, tree(s) approved for removal in conjunction with a development application shall not be removed before the issuance of a Building Permit or unless all of the conditions of approval of the development applications are satisfied.
17. The review authority shall issue a Tree Removal Permit if any of the following general criteria is met: **a)** The tree(s) is irreparably diseased or presents a danger of falling that cannot be controlled or remedied through reasonable preservation and/or preventative procedures and practices so that the public health or safety requires its removal. **b)** The tree(s) can potentially cause substantial damage to existing or proposed main structure(s) (e.g. dwellings, other main structures, or public infrastructure) or interfere with utility services and cannot be controlled or remedied through reasonable relocation or modification of the structure or utility services. **c)** The retention of the tree(s) restricts the economic enjoyment of the property or creates an unusual hardship for the property owner by severely limiting the use of the property in a manner not typically experienced by owners of similarly zoned and situated properties, and the applicant has demonstrated to the satisfaction of the Review Authority that there are no reasonable alternatives to preserve the tree(s).
18. Landscaping must be in place before issuance of the certificate of occupancy. A Hold on Occupancy shall be placed on the proposed development until such time that landscaping has been approved and verified for proper installation by the Current Planning Division. **(Include this note on the landscape plan.)**
19. Future tenant improvements shall be reviewed and approved by the Planning and Development Department to ensure that adequate off-street parking is provided.
20. Trees required for parking lots are in addition to trees required elsewhere on the site as prescribed in other sections of the Fresno Municipal Code.
21. Parking lots, including landscaped areas, driveways, and loading areas, shall be maintained free of refuse, debris, or other accumulated matter and shall be kept in good repair at all times.
22. A minimum number of accessible parking stalls are required for the proposed project per State of California Building Code.

## City of Fresno Notes and Requirements For Entitlement Applications

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23. All accessible stalls shall be marked with the international symbol of spaces and a warning that vehicles in violation of Section 10-1017 of the Fresno Municipal Code shall be towed away. The international symbol and tow-away warning shall be posted conspicuously on seven-foot poles. **(Include this note on the site plan.)**
24. Applicants are encouraged to provide shared vehicle and pedestrian access between adjacent properties for convenience, safety, and efficient circulation. A joint access covenant shall be required. **(Include this note on the site plan.)**
25. All general standards of Section 15-2015 of the Fresno Municipal Code shall apply when lighting is provided to illuminate parking, sales or display areas. **Depict all proposed lights on the site plan.**
26. Bicycle parking spaces shall be supplied according to Table 15-2429-D: Required On-Site Bicycle Parking Spaces of the Fresno Municipal Code. Each bicycle parking space shall be a minimum of 30 inches in width and eight feet in length and shall be accessible without moving another bicycle. At least 30 inches of clearance shall be provided between bicycle parking spaces and adjacent walls, poles, landscaping, street furniture, drive aisles, and pedestrian ways and at least five feet from vehicle parking spaces to allow for the maneuvering of bikes. Overhead clearance shall be a minimum of seven feet. A minimum five foot aisle between each row of bicycle parking shall be provided for bicycle maneuvering beside or between each row, when multiple rows are proposed. Bicycle parking spaces shall not encroach into pedestrian ways, landscaped areas, or other required open spaces, and shall be located proximal to structures.
27. All general provisions of Section 15-2403 of the Fresno Municipal Code shall apply to all parking areas.
28. The parking lot is required to meet the *City of Fresno's Parking Manual, Public Works Standards (P-21, P-22, and P-23) and Specifications* (<https://www.fresno.gov/publicworks/wp-content/uploads/sites/17/2016/09/Parking-Manual.pdf>). Parking must also comply with the California Building Code's accessibility requirements and the Fire and Solid Waste Department's minimum turning templates. Contact the Planning and Development Department for Parking Manual questions.

### **SIGNAGE**

29. All future signs shall be architecturally compatible with the proposed building(s). Provide a set of drawings, with descriptive information, including, materials, design and colors to allow for a preliminary assessment of the future signage. It is recommended that you provide a copy of the signage early in the project process to allow for staff comment.
30. Signs, other than directional signs, if applicable, are not approved for installation as part of this special permit. **(Include this note on the site plan.)**

## City of Fresno Notes and Requirements For Entitlement Applications

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31. All proposed signs shall conform to the current sign ordinance. The submittal checklist for signs is available online at <https://www.fresno.gov/darm/planning-development/applications-forms-fees/#tab-14>
32. Window signs limited to the hours of operation, address, occupancy, and emergency information, subject to the following standards: **a)** Operational windows signs shall not be mounted or placed on windows higher than the second story. **b)** The maximum area of exempt window signage shall not exceed three square feet in area.
33. Banners, streamers, moving signs, and inflatables (including air dancers, balloons, and similar objects) are allowed subject to Temporary Use Permit approval for establishments within Non-Residential Districts. Signs of this type do not count toward total maximum sign area. No sign per this section shall be displayed for more than 30 days, and a period of 30 days must lapse before displaying another sign. Signs shall not be displayed for more than 60 total days during a calendar year.
34. Every sign displayed within the city, including exempt signs, shall be maintained in good physical condition and shall comply with adopted regulations. All defective or broken parts shall be replaced. Exposed surfaces shall be kept clean, in good repair, and painted where paint is required.

### **MISCELLANEOUS**

35. Noise levels shall not exceed the decibel levels described in Section 15-2506 of the FMC at anytime, measured at the nearest subject property line.
36. No vibration shall be produced that is transmitted through the ground and is discernible without the aid of instruments by a reasonable person at the lot lines of the site. Vibrations from temporary construction, demolition, and vehicles that enter and leave the subject parcel (e.g., construction equipment, trains, trucks, etc.) are exempt from this standard.
37. Lights shall be placed to deflect light away from adjacent properties and public streets, and to prevent adverse interference with the normal operation or enjoyment of surrounding properties. Direct or sky-reflected glare from floodlights shall not be directed into any other property or street. Except for public street lights and stadium lights, no light, combination of lights, or activity shall cast light onto a residentially zoned property, or any property containing residential uses, exceeding one-half foot-candle.
38. No use shall be operated such that significant, direct glare, incidental to the operation of the use is visible beyond the boundaries of the lot where the use is located. Windows shall not cause glare that may disrupt adjoining properties, traffic on adjacent streets, etc. Glare or heat reflected from building materials shall be mitigated so as to not disrupt surrounding properties.

## City of Fresno Notes and Requirements For Entitlement Applications

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39. The address listed in the conditions of approval is the 'Official Address' given to the building. If you would like separate suite or unit numbers for a building, provide a floor plan and contact the City of Fresno Planning and Development Department for 'Official Addresses'. **Only those addresses assigned by the City of Fresno will be recognized as 'Official Addresses'**. The United States Post Office will only recognize addresses assigned by the City of Fresno. If a non-official address is given to a building and or/separate suites, the City of Fresno has the authority to charge a fee and have those addresses corrected. In addition, the United States Post Office will cease mail delivery to those addresses that are not 'Official Addresses'.
40. All projects, including projects that involve less than one acre of property, are required to comply with the City of Fresno's Urban Storm Water Quality Management and Discharge Control Ordinance, Fresno Municipal Code (FMC) Chapter 6, Article 7 (FMC Sections 6-701 *et seq.*)

When a project involves one acre or more of construction activity (including, but not limited to, grading) the developer is required to obtain a stormwater discharge permit for construction, with a Notice of Intent (NOI) filed **prior to** commencement of any grading construction activity. Contact the Fresno office of the California Regional Water Quality Control Board at (559) 445-6281 regarding the required NOI and stormwater discharge permit. Additional information on California's construction stormwater regulation may be obtained from the Water Board via the internet:

[www.waterboards.ca.gov/water\\_issues/programs/stormwater/construction.shtml](http://www.waterboards.ca.gov/water_issues/programs/stormwater/construction.shtml).

Helpful information for preparing and implementing stormwater pollution prevention plans may also be obtained from the California Stormwater Quality Association via its website, [www.casqa.org](http://www.casqa.org)

When a project involves specified nonresidential activities (certain commercial and industrial activities), an ongoing industrial stormwater discharge permit is also required. Contact the Fresno office of the California Regional Water Quality Control Board at (559) 445-6281 to find out whether your project/business requires an industrial stormwater discharge permit, and to obtain details on securing this permit. Additional information on industrial stormwater regulations may be obtained from the following website: [www.waterboards.ca.gov/water\\_issues/programs/stormwater/industrial.shtml](http://www.waterboards.ca.gov/water_issues/programs/stormwater/industrial.shtml),

The California Stormwater Quality Association has additional information on preparing stormwater pollution prevention plans for industrial activities ([www.casqa.org](http://www.casqa.org)).

41. Screen all roof-mounted equipment from the view of public rights-of-way. **Depict all mechanical equipment on site plan and elevations.**
42. If archaeological and/or animal fossil material is encountered during project surveying, grading, excavating, or construction, work shall stop immediately. **(Include this note on the site plan.)**

## City of Fresno Notes and Requirements For Entitlement Applications

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43. If there are suspected human remains, the Fresno County Coroner shall be immediately contacted. If the remains or other archaeological material is possibly Native American in origin, the Native American Heritage Commission (Phone: (916) 653-4082) shall be immediately contacted, and the California Archaeological Inventory/Southern San Joaquin Valley Information Center (Phone: (805) 644-2289) shall be contacted to obtain a referral list of recognized archaeologists. An archeological assessment shall be conducted for the project, the site shall be formally recorded, and recommendations made to the City as to any further site investigation or site avoidance/preservation. **(Include this note on the site plan.)**
44. If animal fossils are uncovered, the Museum of Paleontology, U.C. Berkeley shall be contacted to obtain a referral list of recognized paleontologists. An assessment shall be conducted by a paleontologist and, if the paleontologist determines the material to be significant, it shall be preserved. **(Include this note on the site plan.)**
45. Connection to a municipal water system is required unless approved measures are included in the project conditions of approval for an alternative water supply.
46. Connection to a municipal City of Fresno sewer system is required unless approved measures are included in the project conditions for alternative wastewater treatment facilities.
47. City of Fresno water and sewer connection charge obligations applicable to this project will be computed during the building construction plan check process and shall be payable at time of issuance of building permit unless other arrangements have been approved to defer such payments to a later date. For information relating to water and sewer service requirements and connection charges, contact Frank Saburit at (559) 621-8797.
48. Open street cuts are not permitted; all utility connections must be bored.
49. CROSS-CONNECTION CONTROL. A backflow prevention device may be required on the water service. Contact the Department of Public Utilities, Water Division (559) 621-5300 for requirements relating to approved devices, locations, testing and acceptance. This requirement must be satisfied prior to final occupancy.
50. This project was reviewed by the Fire Department only for requirements related to water supply, fire hydrants, and fire apparatus access to the building(s) on site. Review for compliance with fire and life safety requirements for the building interior and its intended use are reviewed by both the Fire Department and the Building and Safety Section of the Planning and Development Department when a submittal for building plan review is made as required by the California Building Code by the architect or engineer of record for the building.
51. Open storage (outside an enclosed building) shall be limited to vehicles, boats, recreational vehicles, and trailers. Outdoor storages areas shall be screened from

## City of Fresno Notes and Requirements For Entitlement Applications

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public view by building façades or solid fences. At the discretion of the Review Authority, the treatment of the ground surface of the open storage area may be gravel or other materials as prescribed by the San Joaquin Valley Air Pollution Control District, the Public Works Department, the Fire Department, and the Fresno Metropolitan Flood Control District. All open storage must be depicted on the site plan and described in operation. If it is not, it is not allowed on the site.

52. If video surveillance cameras are required or installed, provide signs under the surveillance cameras which notify the public that the subject property is monitored by video surveillance.

### **FEES**

(Not all fees will be applicable to all projects. Please reach out to Frank Saburit at (559) 621-8797 for fee questions.)

53. NOTICE TO PROJECT APPLICANT: In accordance with the provisions of Government Code Section 66020(d)(1), the imposition of fees, dedication, reservations or exactions for this project are subject to protest by the project applicant at the time of approval or conditional approval of the development or within 90 days after the date of imposition of fees, dedications, reservation, or exactions imposed on the development project. This notice does not apply to those fees, dedications, reservations, or exactions which were previously imposed and duly noticed; or, where no notice was previously required under the provisions of Government Code Section 66020(d)(1) in effect before January 1, 1997.

#### 54. CITYWIDE DEVELOPMENT IMPACT FEES

- a) Traffic Signal Charge (FMC Section 12-4.1101 to 12-4.1103) This project shall pay its Traffic Signal Mitigation Impact Fee at the time of building permit based on the trip generation rate(s) as set forth in the latest edition of the Master Fee Schedule. Refer to the adopted Master Fee Schedule for fee rate. This fee shall be paid at time of building permit.
- b) Fire Facilities Fee (FMC Section 12-4.901 to 12-4.906) (based on building square footage, or residential units)
- c) Police Facilities Fee (FMC Section 12-4.801 to 12-4.806) (based on building square footage, or residential units)
- d) Parks Facilities Fee (FMC Section 12-4.701 to 12-4.706) (based on the number of residential units)

#### 55. CITYWIDE REGIONAL AND NEW GROWTH MAJOR STREET IMPACT FEES (FMC Section 12-4.1006)

- a) Street Impact Fees shall be due and payable at the time of building permit issuance unless otherwise required by State law.
- b) Street Impact Fees will be a condition on all development entitlements granted.

## City of Fresno Notes and Requirements For Entitlement Applications

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### 56. FRESNO COUNTY FACILITY IMPACT FEE

Fresno County adopted a Facilities Impact Fee, but the requirement to pay this fee was subsequently suspended by Fresno County. If the fee has been reinstated at the time of issuance of building permits for this project, or an alternative fee system has been adopted by Fresno County, proof of payment or payment of this fee will be required for issuance of building permits.

### 57. REGIONAL TRANSPORTATION MITIGATION FEE (RTMF)

Pay the RTMF fee to the Joint Powers Agency located at 2035 Tulare Street, Suite 201, Fresno, CA 93721; (559) 233-4148, ext. 200; [www.fresnocog.org](http://www.fresnocog.org). The RTMF form shall be signed by a Building and Safety Services staff member prior to issuance of building permits. Proof of payment shall be provided prior to issuance of occupancy.

### 58. SCHOOL FEES

School fees must be paid, if required, prior to the issuance of building permits. Contact the applicable school district to obtain fee amount. Provide proof of payment (or no fee required) prior to the issuance of building permits.

### 59. FRESNO METROPOLITAN FLOOD CONTROL DISTRICT (FMFCD) FEES

- a) A FMFCD Development Fee is required for review of proposed development projects, including applications for plan amendments, rezones, special permits, subdivisions, and grading plans. This fee is based on project acreage and must be paid directly to FMFCD in order for that agency to review projects and provide a Notice of Requirements. For more information, contact the FMFCD at (559) 456-3292.
- b) FMFCD drainage fees are due, if required, prior to issuance of building permits and are payable at the rate in place at the time of building permit issuance. Unpaid drainage fee obligations that were unpaid for a prior project at the site of a new project must be satisfied by the developer of the new project. Drainage fees may be paid at the Planning and Development Department prior to, or at the time of building permit issuance. They may also be paid directly to FMFCD, and proof of payment provided to the City, in order to obtain construction permits.

### 60. SEWER CONNECTION CHARGES (FMC Section 6-304(a)). The following sewer connection charges may be required and will be payable at the fee rate listed in the Master Fee Schedule at the time payment is due. New sewer connection charges adopted by the Council prior to the issuance of building permits may also be applied.

- a) Lateral Sewer Charge (based on property frontage to a depth of 100')
- b) Oversize Sewer Charge (based on property frontage to a depth of 100')

## City of Fresno Notes and Requirements For Entitlement Applications

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- c) Wastewater Facilities Charge
- d) Trunk Sewer Charge

*Effective January 9, 1999, Ordinance No. 98-97 also amended certain sewer connection charges. Fresno Municipal Code Article 15, Section 12 provides property owners the incentives and deletes certain sewer connection charges pursuant to the Simple Tiered Equity Program (STEP) and the Employment Development Program (EDP). For additional information on the STEP and EDP, contact the Department of Public Utilities, Wastewater Division - Environmental Services Section at (559) 621-5153.*

- 61. WATER CONNECTION CHARGES: (FMC Sections 6-501 to 6-507). The following water connection charges may be required and will be payable at the fee rate listed in the Master Fee Schedule at the time payment is due. New water connection charges adopted by the Council **prior to** issuance of building permits may also be applied.
  - a) Frontage Charge (based on property frontage)
  - b) Service Charges (based on service size required by applicant)
  - c) Meter Charges (based on service need)
  - d) Water Capacity fee (based on size of meter)
- 62. Deferment of the payment of Citywide development impact fees for Fire, Police, Parks, Streets, and Traffic Signals is available for projects located within the Downtown Priority Areas in accordance with the provisions of City of Fresno Resolutions Nos. 2009-265 and 2010-19.

### **PUBLIC WORKS DEPARTMENT GENERAL NOTES** **(to be added to the site plan)**

- 63. Any survey monuments within the area of construction shall be preserved or reset by a person licensed to practice land surveying in the State of California.
- 64. Repair all damaged and/or off-grade concrete street improvements as determined by the Construction Management Engineer, prior to occupancy.
- 65. Two working days before commencing excavation operations within the street right-of-way and/or utility easements, all existing under-ground facilities shall have been located by underground services.
- 66. The performance of any work within the public street right-of-way requires a street work permit prior to commencement of work. All required street improvements must be completed and accepted by the City prior to occupancy.

## City of Fresno Notes and Requirements For Entitlement Applications

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67. Contact the Public Works Department, Traffic Engineering at (559) 621-8800, 10 working days prior to any offsite concrete construction.
68. For Standard Drawings visit <https://www.fresno.gov/publicworks/wp-content/uploads/sites/17/2016/09/CityofFresnoStandardDrawings2016Feb.pdf>
69. For Traffic Planning's website with useful links, additional notes, sample of legend, Parking Manual and Traffic Study Checklist visit <https://www.fresno.gov/publicworks/traffic-engineering/#tab-2>
70. Traffic Planning Checklist link: <https://www.fresno.gov/publicworks/wp-content/uploads/sites/17/2019/04/Traffic-Planning-Checklist-04-19.pdf>
71. For Traffic Study questions please contact Jill Gormley at (559) 621-8792 or via email at [Jill.Gormley@fresno.gov](mailto:Jill.Gormley@fresno.gov).

*Updated: 9/14/2020*

**EXHIBIT B**

**City of Fresno General Plan and Development Code Update Mitigation and Monitoring Reporting Program (MMRP) for Environmental Assessment No.**

**A-17-007/ R-17-010/ TPM-17-06/ANX-17-005**

**Conducted for Application No(s). A-17-007/ R-17-010/ TPM-17-06/ANX-17-005, August 2, 2017**

**PURSUANT TO CERTIFIED MASTER ENVIRONMENTAL IMPACT REPORT (MEIR) SCH No. 2012111015**

This mitigation measure monitoring and reporting checklist was prepared pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15097 and Section 21081.6 of the Public Resources Code (PRC). It was certified as part of the Fresno City Council's approval of the MEIR for the Fresno General Plan update (Fresno City Council Resolution 2014-225, adopted December 18, 2014).

- A** - Incorporated into Project
- B** - Mitigated
- C** - Mitigation in Progress
- D** - Responsible Agency Contacted
- E** - Part of City-wide Program
- F** - Not Applicable

Letter designations to the right of each MEIR mitigation measure listed in this Exhibit note how the mitigation measure relates to the environmental assessment of the above-listed project, according to the key found at right and at the bottoms of the following pages:

The timing of implementing each mitigation measure is identified in in the checklist, as well as identifies the entity responsible for verifying that the mitigation measures applied to a project are performed. Project applicants are responsible for providing evidence that mitigation measures are implemented. As lead agency, the City of Fresno is responsible for verifying that mitigation is performed/completed.

MITIGATION MEASURE	WHEN IMPLEMENTED	COMPLIANCE VERIFIED BY	A	B	C	D	E	F
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**Section 5.1 - Aesthetics:**

<b>MM AES-1.</b> Lighting systems for street and parking areas shall include shields to direct light to the roadway surfaces and parking areas. Vertical shields on the light fixtures shall also be used to direct light away from adjacent light sensitive land uses such as residences.  <b>Verification comments:</b>	Prior to issuance of building permits	Public Works Department (PW) and Development & Resource Management Dept. (DARM)	X					

MITIGATION MEASURE	WHEN IMPLEMENTED	COMPLIANCE VERIFIED BY	A	B	C	D	E	F
<b>Aesthetics (continued):</b>								
<p><b>MM AES-2:</b> Lighting systems for public facilities such as active play areas shall provide adequate illumination for the activity; however, low intensity light fixtures and shields shall be used to minimize spillover light onto adjacent properties.</p> <p><b>Verification comments:</b></p>	Prior to issuance of building permits	DARM.	X					
<p><b>MM AES-3:</b> Lighting systems for non-residential uses, not including public facilities, shall provide shields on the light fixtures and orient the lighting system away from adjacent properties. Low intensity light fixtures shall also be used if excessive spillover light onto adjacent properties will occur.</p> <p><b>Verification comments:</b></p>	Prior to issuance of building permits	DARM						X
<p><b>MM AES-4:</b> Lighting systems for freestanding signs shall not exceed 100 foot Lamberts (FT-L) when adjacent to streets which have an average light intensity of less than 2.0 horizontal footcandles and shall not exceed 500 FT-L when adjacent to streets which have an average light intensity of 2.0 horizontal footcandles or greater</p> <p><b>Verification comments:</b></p>	Prior to issuance of building permits	DARM						X

A - Incorporated into Project  
 B - Mitigated

C - Mitigation in Process  
 D - Responsible Agency Contacted

E - Part of City-Wide Program  
 F - Not Applicable

MITIGATION MEASURE	WHEN IMPLEMENTED	COMPLIANCE VERIFIED BY	A	B	C	D	E	F
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**Aesthetics** (continued):

<p><b>MM AES-5:</b> Materials used on building facades shall be non-reflective.</p> <p><b>Verification comments:</b></p>	<p>Prior to development project approval</p>	<p>DARM</p>	<p>X</p>					
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**Section 5.3 - Air Quality:**

<p><b>MM AIR-1:</b> Projects that include five or more heavy-duty truck deliveries per day with sensitive receptors located within 300 feet of the truck loading area shall provide a screening analysis to determine if the project has the potential to exceed criteria pollutant concentration based standards and thresholds for NO2 and PM2.5. If projects exceed screening criteria, refined dispersion modeling and health risk assessment shall be accomplished and if needed, mitigation measures to reduce impacts shall be included in the project to reduce the impacts to the extent feasible. Mitigation measures include but are not limited to:</p> <ul style="list-style-type: none"> <li>• Locate loading docks and truck access routes as far from sensitive receptors as reasonably possible considering site design limitations to comply with other City design standards.</li> <li>• Post signs requiring drivers to limit idling to 5 minutes or less.</li> </ul> <p><b>Verification comments:</b></p>	<p>Analysis to be completed prior to-development project approval; posting of signs to be completed prior to use of truck unloading/ loading areas</p>	<p>DARM</p>	<p>X</p>					
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**A** - Incorporated into Project  
**B** - Mitigated

**C** - Mitigation in Process  
**D** - Responsible Agency Contacted

**E** - Part of City-Wide Program  
**F** - Not Applicable

MITIGATION MEASURE	WHEN IMPLEMENTED	COMPLIANCE VERIFIED BY	A	B	C	D	E	F
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**Air Quality** *(continued)*:

<p><b>MM AIR-2:</b> Projects that result in an increased cancer risk of 10 in a million or exceed criteria pollutant ambient air quality standards shall implement site-specific measures that reduce toxic air contaminant (TAC) exposure to reduce excess cancer risk to less than 10 in a million. Possible control measures include but are not limited to:</p> <ul style="list-style-type: none"> <li>• Locate loading docks and truck access routes as far from sensitive receptors as reasonably possible considering site design limitations to comply with other City design standards.</li> <li>• Post signs requiring drivers to limit idling to 5 minutes or less</li> <li>• Construct block walls to reduce the flow of emissions toward sensitive receptors</li> <li>• Install a vegetative barrier downwind from the TAC source that can absorb a portion of the diesel PM emissions</li> <li>• For projects proposing to locate a new building containing sensitive receptors near existing sources of TAC emissions, install HEPA filters in HVAC systems to reduce TAC emission levels exceeding risk thresholds.</li> <li>• Install heating and cooling services at truck stops to eliminate the need for idling during overnight stops to run onboard systems.</li> </ul> <p style="text-align: right;"><i>(continued on next page)</i></p>	<p>Control measures to be incorporated into project design prior to development project approval</p>	<p>DARM</p>	<p>X</p>					
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**B** - Mitigated

**C** - Mitigation in Process  
**D** - Responsible Agency Contacted

**E** - Part of City-Wide Program  
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MITIGATION MEASURE	WHEN IMPLEMENTED	COMPLIANCE VERIFIED BY	A	B	C	D	E	F
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**Air Quality** (continued):

<p><b>MM AIR-2</b> (continued from previous page):</p> <ul style="list-style-type: none"> <li>For large distribution centers where the owner controls the vehicle fleet, provide facilities to support alternative fueled trucks powered by fuels such as natural gas or bio-diesel</li> <li>Utilize electric powered material handling equipment where feasible for the weight and volume of material to be moved.</li> </ul> <p><b>Verification comments:</b></p>	<p>[see previous page]</p>	<p>[see previous page]</p>						
<p><b>MM AIR-3:</b> Require developers proposing projects on ARB's list of projects in its Air Quality and Land Use Handbook (Handbook) warranting special consideration to prepare a cumulative health risk assessment when sensitive receptors are located within the distance screening criteria of the facility as listed in the ARB Handbook or newer regulatory criteria that may be adopted by the San Joaquin Valley Air Pollution Control District (SJVAPCD)..</p> <p><b>Verification comments:</b></p>	<p>Prior to development project approval</p>	<p>DARM</p>	<p>X</p>					

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MITIGATION MEASURE	WHEN IMPLEMENTED	COMPLIANCE VERIFIED BY	A	B	C	D	E	F
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**Air Quality** (continued):

<p><b>MM AIR-4:</b> Require developers of projects containing sensitive receptors to provide a cumulative health risk assessment at project locations exceeding ARB Land Use Handbook distance screening criteria or newer regulatory criteria that may be adopted by the San Joaquin Valley Air Pollution Control District (SJVAPCD).</p> <p><b>Verification comments:</b></p>	<p>Prior to development project approval</p>	<p>DARM</p>	<p>X</p>					
<p><b>MM AIR-5:</b> Require developers of projects with the potential to generate significant odor impacts as determined through review of SJVAPCD odor complaint history for similar facilities and consultation with the SJVAPCD to prepare an odor impact assessment and to implement odor control measures recommended by the SJVAPCD or the City to the extent needed to reduce the impact to less than significant.</p> <p><b>Verification comments:</b></p>	<p>Prior to development project approval</p>	<p>DARM</p>	<p>X</p>					

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**C** - Mitigation in Process  
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**E** - Part of City-Wide Program  
**F** - Not Applicable

MITIGATION MEASURE	WHEN IMPLEMENTED	COMPLIANCE VERIFIED BY	A	B	C	D	E	F
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**Biological Resources:**

<p><b>MM BIO-1:</b> Construction of a proposed project should avoid, where possible, vegetation communities that provide suitable habitat for a special-status species known to occur within the Planning Area. If construction within potentially suitable habitat must occur, the presence/absence of any special-status plant or wildlife species must be determined prior to construction, to determine if the habitat supports any special-status species. If a special-status species are determined to occupy any portion of a project site, avoidance and minimization measures shall be incorporated into the construction phase of a project to avoid direct or incidental take of a listed species to the greatest extent feasible.</p> <p><b>Verification comments:</b></p>	<p>Prior to development project approval and during the construction phase of the project</p>	<p>DARM</p>	<p>X</p>					
<p><b>MM BIO-2:</b> Direct or incidental take of any state or federally listed species should be avoided to the greatest extent feasible. If construction of a proposed project will result in the direct or incidental take of a listed species, consultation with the resources agencies and/or additional permitting may be required. Agency consultation through the California Department of Fish and Wildlife (CDFW) 2081 and U.S. Fish and Wildlife Service (USFWS) Section 7 or Section 10 permitting processes must take place prior to any action that</p> <p style="text-align: right;"><i>(continued on next page)</i></p>	<p>Prior to development project approval</p>	<p>DARM</p>	<p>X</p>					

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MITIGATION MEASURE	WHEN IMPLEMENTED	COMPLIANCE VERIFIED BY	A	B	C	D	E	F
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**Biological Resources** *(continued):*

<p><b>MM BIO-2</b> <i>(continued from previous page)</i>                      may result in the direct or incidental take of a listed species. Specific mitigation measures for direct or incidental impacts to a listed species will be determined on a case-by-case basis through agency consultation.</p> <p><b>Verification comments:</b></p>	<p><i>[see previous page]</i></p>	<p><i>[see previous page]</i></p>						
<p><b>MM BIO-3:</b> Development within the Planning Area should avoid, where possible, special-status natural communities and vegetation communities that provide suitable habitat for special-status species. If a proposed project will result in the loss of a special-status natural community or suitable habitat for special-status species, compensatory habitat-based mitigation is required under CEQA and the California Endangered Species Act (CESA). Mitigation will consist of preserving on-site habitat, restoring similar habitat or purchasing off-site credits from an approved mitigation bank. Compensatory mitigation will be determined through consultation with the City and/or resource agencies. An appropriate mitigation strategy and ratio will be agreed upon by the developer and lead agency to reduce project impacts to special-status natural communities to a less than significant</p> <p style="text-align: right;"><i>(continued on next page)</i></p>	<p>Prior to development project approval</p>	<p>DARM</p>	<p>X</p>					

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**C** - Mitigation in Process  
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MITIGATION MEASURE	WHEN IMPLEMENTED	COMPLIANCE VERIFIED BY	A	B	C	D	E	F
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**Biological Resources** *(continued):*

<p><b>MM BIO-3</b> <i>(continued from previous page):</i>                      level. Agreed-upon mitigation ratios will depend on the quality of the habitat and presence/absence of a special-status species. The specific mitigation for project level impacts will be determined on a case-by-case basis.</p> <p><b>Verification comments:</b></p>	<p><i>[see previous page]</i></p>	<p><i>[see previous page]</i></p>						
<p><b>MM BIO-4:</b> Proposed projects within the Planning Area should avoid, if possible, construction within the general nesting season of February through August for avian species protected under Fish and Game Code 3500 and the Migratory Bird Treaty Act (MBTA), if it is determined that suitable nesting habitat occurs on a project site. If construction cannot avoid the nesting season, a pre-construction clearance survey must be conducted to determine if any nesting birds or nesting activity is observed on or within 500-feet of a project site. If an active nest is observed during the survey, a biological monitor must be on site to ensure that no proposed project activities would impact the active nest. A suitable buffer will be established around the active nest until the nestlings have fledged and the nest is no longer active. Project activities</p> <p style="text-align: right;"><i>(continued on next page)</i></p>	<p>Prior to development project approval and during construction activities</p>	<p>DARM</p>	X					

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MITIGATION MEASURE	WHEN IMPLEMENTED	COMPLIANCE VERIFIED BY	A	B	C	D	E	F
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**Biological Resources** (continued):

<p><b>BIO-4</b> (continued from previous page):                      may continue in the vicinity of the nest only at the discretion of the biological monitor.  <b>Verification comments:</b></p>	<p>[see previous page]</p>	<p>[see previous page]</p>						
<p><b>MM BIO-5:</b> If a proposed project will result in the removal or impact to any riparian habitat and/or a special-status natural community with potential to occur in the Planning Area, compensatory habitat-based mitigation shall be required to reduce project impacts. Compensatory mitigation must involve the preservation or restoration or the purchase of off-site mitigation credits for impacts to riparian habitat and/or a special-status natural community. Mitigation must be conducted in-kind or within an approved mitigation bank in the region. The specific mitigation ratio for habitat-based mitigation will be determined through consultation with the appropriate agency (i.e., CDFW and/or USFWS) on a case-by-case basis.  <b>Verification comments:</b></p>	<p>Prior to development project approval</p>	<p>DARM</p>					X	

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**E** - Part of City-Wide Program  
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MITIGATION MEASURE	WHEN IMPLEMENTED	COMPLIANCE VERIFIED BY	A	B	C	D	E	F
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**Biological Resources** *(continued)*:

<p><b>MM BIO-6:</b> Project impacts that occur to riparian habitat may also result in significant impacts to streambeds or waterways protected under Section 1600 of Fish and Wildlife Code and Section 404 of the CWA. CDFW and/or consultation with the U.S. Army Corps of Engineers (USACE) and the Regional Water Quality Control Board (RWQCB), determination of mitigation strategy, and regulatory permitting to reduce impacts, shall be implemented as required for projects that remove riparian habitat and/or alter a streambed or waterway.</p> <p><b>Verification comments:</b></p>	<p>Prior to development project approval</p>	<p>DARM</p>						<p>X</p>
<p><b>MM BIO-7:</b> Project-related impacts to riparian habitat or a special-status natural community may result in direct or incidental impacts to special-status species associated with riparian or wetland habitats. Project impacts to special-status species associated with riparian habitat shall be mitigated through agency consultation, development of a mitigation strategy, and/or issuing incidental take permits for the specific special-status species, as determined by the CDFW and/or USFWS.</p> <p><b>Verification comments:</b></p>	<p>Prior to development project approval</p>	<p>DARM</p>						<p>X</p>

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MITIGATION MEASURE	WHEN IMPLEMENTED	COMPLIANCE VERIFIED BY	A	B	C	D	E	F
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**Biological Resources** *(continued)*:

<p><b>MM BIO-8:</b> If a proposed project will result in the significant alteration or fill of a federally protected wetland, a formal wetland delineation conducted according to U.S. Army Corps of Engineers (USACE) accepted methodology is required for each project to determine the extent of wetlands on a project site. The delineation shall be used to determine if federal permitting and mitigation strategy are required to reduce project impacts. Acquisition of permits from USACE for the fill of wetlands and USACE approval of a wetland mitigation plan would ensure a “no net loss” of wetland habitat within the Planning Area. Appropriate wetland mitigation/creation shall be implemented in a ratio according to the size of the impacted wetland. .</p> <p><b>Verification comments:</b></p>	<p>Prior to development project approval</p>	<p>DARM</p>						<p>X</p>
<p><b>MM BIO-9:</b> In addition to regulatory agency permitting, Best Management Practices (BMPs) identified from a list provided by the USACE shall be incorporated into the design and construction phase of the project to ensure that no pollutants or siltation drain into a federally protected wetland. Project design features such as fencing, appropriate drainage and</p> <p style="text-align: right;"><i>(continued on next page)</i></p>	<p>Prior to development project approval; but for long-term operational BMPs, prior to issuance of occupancy</p>	<p>DARM</p>	<p>X</p>					

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**F** - Not Applicable

MITIGATION MEASURE	WHEN IMPLEMENTED	COMPLIANCE VERIFIED BY	A	B	C	D	E	F
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**Biological Resources** *(continued):*

<p><b>MM BIO-9</b> <i>(continued from previous page):</i>                  incorporating detention basins shall assist in ensuring project-related impacts to wetland habitat are minimized to the greatest extent feasible.   <b>Verification comments:</b></p>	<p><i>[see previous page]</i></p>	<p><i>[see previous page]</i></p>						
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**Section 5.5 - Cultural Resources:**

<p><b>MM CUL-1:</b> If previously unknown resources are encountered before or during grading activities, construction shall stop in the immediate vicinity of the find and a qualified historical resources specialist shall be consulted to determine whether the resource requires further study. The qualified historical resources specialist shall make recommendations to the City on the measures that shall be implemented to protect the discovered resources, including but not limited to excavation of the finds and evaluation of the finds in accordance with Section 15064.5 of the CEQA Guidelines and the City’s Historic Preservation Ordinance.                   If the resources are determined to be unique historical resources as defined under Section 15064.5 of the CEQA Guidelines, measures shall be identified by the monitor and   <i>(continued on next page)</i></p>	<p>Prior to commencement of, and during, construction activities</p>	<p>DARM</p>	X					
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**A** - Incorporated into Project  
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**C** - Mitigation in Process  
**D** - Responsible Agency Contacted

**E** - Part of City-Wide Program  
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MITIGATION MEASURE	WHEN IMPLEMENTED	COMPLIANCE VERIFIED BY	A	B	C	D	E	F
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**Cultural Resources** *(continued):*

<p><b>MM CUL-1</b> <i>(continued from previous page)</i></p> <p>recommended to the Lead Agency. Appropriate measures for significant resources could include avoidance or capping, incorporation of the site in green space, parks, or open space, or data recovery excavations of the finds.</p> <p>No further grading shall occur in the area of the discovery until the Lead Agency approves the measures to protect these Any historical artifacts recovered as a result of mitigation shall be provided to a City-approved institution or person who is capable of providing long-germ preservation to allow future scientific study.</p> <p><b>Verification comments:</b></p>	<p><i>[see previous page]</i></p>	<p><i>[see previous page]</i></p>						
<p><b>MM CUL-2:</b> Subsequent to a preliminary City review of the project grading plans, if there is evidence that a project will include excavation or construction activities within previously undisturbed soils, a field survey and literature search for prehistoric archaeological resources shall be conducted. The following procedures shall be followed.</p> <p>If prehistoric resources are not found during either the field survey or literature search, excavation and/or construction activities can commence. In the event that buried prehistoric</p> <p style="text-align: right;"><i>(continued on next page)</i></p>	<p>Prior to commencement of, and during, construction activities</p>	<p>DARM</p>	X					

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**F** - Not Applicable

MITIGATION MEASURE	WHEN IMPLEMENTED	COMPLIANCE VERIFIED BY	A	B	C	D	E	F
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**Cultural Resources** *(continued):*

<p><b>MM CUL-2</b> <i>(continued from previous page)</i></p> <p>archaeological resources are discovered during excavation and/or construction activities, construction shall stop in the immediate vicinity of the find and a qualified archaeologist shall be consulted to determine whether the resource requires further study. The qualified archaeologist shall make recommendations to the City on the measures that shall be implemented to protect the discovered resources, including but not limited to excavation of the finds and evaluation of the finds in accordance with CEQA Guidelines Section 15064.5.</p> <p>If the resources are determined to be unique prehistoric archaeological resources as defined under Section 15064.5 of the CEQA Guidelines, mitigation measures shall be identified by the monitor and recommended to the Lead Agency. Appropriate measures for significant resources could include avoidance or capping, incorporation of the site in green space, parks, or open space, or data recovery excavations of the finds. No further grading shall occur in the area of the discovery until the Lead Agency approves the measures to protect these resources. Any prehistoric archaeological artifacts recovered as a result of mitigation shall be provided to a City-approved institution or person who is capable of</p> <p style="text-align: right;"><i>(continued on next page)</i></p>	<p><i>[see previous page]</i></p>	<p><i>[see previous page]</i></p>						
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**A** - Incorporated into Project  
**B** - Mitigated

**C** - Mitigation in Process  
**D** - Responsible Agency Contacted

**E** - Part of City-Wide Program  
**F** - Not Applicable

MITIGATION MEASURE	WHEN IMPLEMENTED	COMPLIANCE VERIFIED BY	A	B	C	D	E	F
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Cultural Resources (continued):

<p><b>MM CUL-2</b> (further continued from previous two pages)</p> <p>providing long-term preservation to allow future scientific study.</p> <p>If prehistoric resources are found during the field survey or literature review, the resources shall be inventoried using appropriate State record forms and submit the forms to the Southern San Joaquin Valley Information Center. The resources shall be evaluated for significance. If the resources are found to be significant, measures shall be identified by the qualified archaeologist. Similar to above, appropriate mitigation measures for significant resources could include avoidance or capping, incorporation of the site in green space, parks, or open space, or data recovery excavations of the finds.</p> <p>In addition, appropriate mitigation for excavation and construction activities in the vicinity of the resources found during the field survey or literature review shall include an archaeological monitor. The monitoring period shall be determined by the qualified archaeologist. If additional prehistoric archaeological resources are found during excavation and/or construction activities, the procedure</p> <p style="text-align: right;"><i>(continued on next page)</i></p>	<p>[see Page 14]</p>	<p>[see Page 14]</p>						
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Cultural Resources (continued):

**A** - Incorporated into Project  
**B** - Mitigated

**C** - Mitigation in Process  
**D** - Responsible Agency Contacted

**E** - Part of City-Wide Program  
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MITIGATION MEASURE	WHEN IMPLEMENTED	COMPLIANCE VERIFIED BY	A	B	C	D	E	F
<p><b>MM CUL-2</b> (further continued from previous three pages)                      identified above for the discovery of unknown resources shall be followed. .  <b>Verification comments:</b></p>	<p>[see Page 14]</p>	<p>[see Page 14]</p>						
<p><b>MM CUL-3:</b> Subsequent to a preliminary City review of the project grading plans, if there is evidence that a project will include excavation or construction activities within previously undisturbed soils, a field survey and literature search for unique paleontological/geological resources shall be conducted. The following procedures shall be followed:                       If unique paleontological/geological resources are not found during either the field survey or literature search, excavation and/or construction activities can commence. In the event that unique paleontological/geological resources are discovered during excavation and/or construction activities, construction shall stop in the immediate vicinity of the find and a qualified paleontologist shall be consulted to determine whether the resource requires further study. The qualified paleontologist shall make recommendations to the City on the   <i>(continued on next page)</i></p>	<p>Prior to commencement of, and during, construction activities</p>	<p>DARM</p>	X					

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MITIGATION MEASURE	WHEN IMPLEMENTED	COMPLIANCE VERIFIED BY	A	B	C	D	E	F
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**Cultural Resources** *(continued):*

<p><b>MM CUL-3</b> <i>(continued from previous page)</i></p> <p>measures that shall be implemented to protect the discovered resources, including but not limited to, excavation of the finds and evaluation of the finds. If the resources are determined to be significant, mitigation measures shall be identified by the monitor and recommended to the Lead Agency. Appropriate mitigation measures for significant resources could include avoidance or capping, incorporation of the site in green space, parks, or open space, or data recovery excavations of the finds. No further grading shall occur in the area of the discovery until the Lead Agency approves the measures to protect these resources. Any paleontological/geological resources recovered as a result of mitigation shall be provided to a City-approved institution or person who is capable of providing long-term preservation to allow future scientific study.</p> <p>If unique paleontological/geological resources are found during the field survey or literature review, the resources shall be inventoried and evaluated for significance. If the resources are found to be significant, mitigation measures shall be identified by the qualified paleontologist. Similar to above, appropriate mitigation measures for significant resources could include avoidance or capping, incorporation of the site in green space, parks, or open space, or data recovery</p> <p style="text-align: right;"><i>(continued on next page)</i></p>	<p><i>[see previous page]</i></p>	<p><i>[see previous page]</i></p>						
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**Cultural Resources** *(continued):*

<p><b>MM CUL-3</b> <i>(further continued from previous two pages)</i></p> <p>excavations of the finds. In addition, appropriate mitigation for excavation and construction activities in the vicinity of the resources found during the field survey or literature review shall include a paleontological monitor. The monitoring period shall be determined by the qualified paleontologist. If additional paleontological/geological resources are found during excavation and/or construction activities, the procedure identified above for the discovery of unknown resources shall be followed.</p> <p><b>Verification comments:</b></p>	<p>[see Page 16]</p>	<p>[see Page 16]</p>						
<p><b>MM CUL-4:</b> In the event that human remains are unearthed during excavation and grading activities of any future development project, all activity shall cease immediately. Pursuant to Health and Safety Code (HSC) Section 7050.5, no further disturbance shall occur until the County Coroner has made the necessary findings as to origin and disposition pursuant to PRC Section 5097.98(a). If the remains are determined to be of Native American descent, the coroner shall within 24 hours notify the Native American Heritage Commission (NAHC). The NAHC shall then contact the most</p> <p style="text-align: right;"><i>(continued on next page)</i></p>	<p>Prior to commencement of, and during, construction activities</p>	<p>DARM</p>	X					

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MITIGATION MEASURE	WHEN IMPLEMENTED	COMPLIANCE VERIFIED BY	A	B	C	D	E	F
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**Cultural Resources** *(continued):*

<p><b>MM CUL-4</b> <i>(continued from previous page)</i></p> <p>likely descendent of the deceased Native American, who shall then serve as the consultant on how to proceed with the remains.</p> <p>Pursuant to PRC Section 5097.98(b), upon the discovery of Native American remains, the landowner shall ensure that the immediate vicinity, according to generally accepted cultural or archaeological standards or practices, where the Native American human remains are located is not damaged or disturbed by further development activity until the landowner has discussed and conferred with the most likely descendants regarding their recommendations, if applicable, taking into account the possibility of multiple human remains. The landowner shall discuss and confer with the descendants all reasonable options regarding the descendants' preferences for treatment.</p> <p><b>Verification comments:</b></p>	<p><i>[see previous page]</i></p>	<p><i>[see previous page]</i></p>						
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MITIGATION MEASURE	WHEN IMPLEMENTED	COMPLIANCE VERIFIED BY	A	B	C	D	E	F

**Section 5.8 - Hazards and Hazardous Materials**

<p><b>MM HAZ-1:</b> Re-designate the existing vacant land proposed for low density residential use, located northwest of the intersection of East Garland Avenue and North Dearing Avenue and within Fresno Yosemite International Airport Zone 1-RPZ, to Open Space.</p> <p><b>Verification comments:</b></p>	<p>Prior to development approvals</p>	<p>DARM</p>						<p>X</p>
<p><b>MM HAZ-2:</b> Limit the proposed low density residential at (1 to 3 dwelling units per acre) located northwest of the airport, and located within Fresno Yosemite International Airport Zone 3-Inner Turning Area, to 2 dwelling units per acre or less.</p> <p><b>Verification comments:</b></p>	<p>Prior to development approvals</p>	<p>DARM</p>						<p>X</p>
<p><b>MM HAZ-3:</b> Re-designate the current area located within Fresno Yosemite International Airport Zone 5-Sideline northeast of the airport to Public Facilities-Airport or Open Space.</p> <p><b>Verification comments:</b></p>	<p>Prior to development approvals</p>	<p>DARM</p>						<p>X</p>

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**D** - Responsible Agency Contacted

**E** - Part of City-Wide Program  
**F** - Not Applicable

MITIGATION MEASURE	WHEN IMPLEMENTED	COMPLIANCE VERIFIED BY	A	B	C	D	E	F
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**Hazards and Hazardous Materials** *(continued)*:

<p><b>MM HAZ-4:</b> Re-designate the current vacant lots located at the northeast corner of Kearney Boulevard and South Thorne Avenue to Public Facilities-Airport or Open Space.</p> <p><b>Verification comments:</b></p>	<p>Prior to development approvals</p>	<p>DARM</p>						<p>X</p>
<p><b>MM HAZ-5:</b> Prohibit residential uses within Safety Zone 1 northwest of the Hawes Avenue and South Thorne Avenue intersection.</p> <p><b>Verification comments:</b></p>	<p>Prior to development approvals</p>	<p>DARM</p>						<p>X</p>
<p><b>MM HAZ-6:</b> Establish an alternative Emergency Operations Center in the event the current Emergency Operations Center is under redevelopment or blocked.</p> <p><b>Verification comments:</b></p>	<p>Prior to redevelopment of the current Emergency Operations Center</p>	<p>Fresno Fire Department and Mayor/ City Manager's Office</p>						<p>X</p>

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**Section 5.9 - Hydrology and Water Quality:**

<p><b>MM HYD-1:</b> The City shall develop and implement water conservation measures to reduce the per capita water use to 215 gallons per capita per day.</p> <p><b>Verification comments:</b></p>	<p>Prior to water demand exceeding water supply</p>	<p>Department of Public Utilities (DPU)</p>					X	
<p><b>MM HYD-2:</b> The City shall continue to be an active participant in the Kings Water Authority and the implementation of the Kings Basin IRWMP.</p> <p><b>Verification comments:</b></p>	<p>Ongoing</p>	<p>DPU</p>					X	
<p><b>MM HYD-5.1:</b> The City and partnering agencies shall implement the following measures to reduce the impacts on the capacity of existing or planned storm drainage Master Plan collection systems to less than significant.</p> <ul style="list-style-type: none"> <li>Implement the existing Storm Drainage Master Plan (SDMP) for collection systems in drainage areas where the amount of imperviousness is unaffected by the change in land uses.</li> </ul> <p style="text-align: right;"><i>(continued on next page)</i></p>	<p>Prior to exceedance of capacity of existing stormwater drainage facilities</p>	<p>Fresno Metropolitan Flood Control District (FMFCD), DARM, and PW</p>	X				X	

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**Hydrology and Water Quality** *(continued)*:

<p><b>HYD-5.1</b> <i>(continued from previous page)</i></p> <ul style="list-style-type: none"> <li>Update the SDMP in those drainage areas where the amount of imperviousness increased due to the change in land uses to determine the changes in the collection systems that would need to occur to provide adequate capacity for the stormwater runoff from the increased imperviousness.</li> <li>Implementation of the updated SDMP to provide stormwater collection systems that have sufficient capacity to convey the peak runoff rates from the areas of increased imperviousness.</li> </ul> <p>Require developments that increase site imperviousness to install, operate, and maintain FMFCD approved on-site detention systems to reduce the peak runoff rates resulting from the increased imperviousness to the peak runoff rates that will not exceed the capacity of the existing stormwater collection systems.</p> <p><b>Verification comments:</b></p>	<p><i>[see previous page]</i></p>	<p><i>[see previous page]</i></p>						
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**Hydrology and Water Quality** *(continued)*:

<p><b>MM HYD-5.2:</b> The City and partnering agencies shall implement the following measures to reduce the impacts on the capacity of existing or planned storm drainage Master Plan retention basins to less than significant:</p> <p>Consult the SDMP to analyze the impacts to existing and planned retention basins to determine remedial measures required to reduce the impact on retention basin capacity to less than significant. Remedial measures would include:</p> <ul style="list-style-type: none"> <li>• Increase the size of the retention basin through the purchase of more land or deepening the basin or a combination for planned retention basins.</li> <li>• Increase the size of the emergency relief pump capacity required to pump excess runoff volume out of the basin and into adjacent canal that convey the stormwater to a disposal facility for existing retention basins.</li> <li>• Require developments that increase runoff volume to install, operate, and maintain, Low Impact Development (LID) measures to reduce runoff volume to the runoff volume that will not exceed the capacity of the existing retention basins.</li> </ul> <p><b>Verification comments:</b></p>	<p>Prior to exceedance of capacity of existing retention basin facilities</p>	<p>FMFCD, DARM, and PW</p>	<p>X</p>				<p>X</p>	
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**Hydrology and Water Quality** *(continued)*:

<p><b>MM HYD-5.3:</b> The City and partnering agencies shall implement the following measures to reduce the impacts on the capacity of existing or planned storm drainage Master Plan urban detention (stormwater quality) basins to less than significant.</p> <p>Consult the SDMP to determine the impacts to the urban detention basin weir overflow rates and determine remedial measures required to reduce the impact on the detention basin capacity to less than significant. Remedial measures would include:</p> <ul style="list-style-type: none"> <li>• Modify overflow weir to maintain the suspended solids removal rates adopted by the FMFCD Board of Directors.</li> <li>• Increase the size of the urban detention basin to increase residence time by purchasing more land. The existing detention basins are already at the adopted design depth.</li> <li>• Require developments that increase runoff volume to install, operate, and maintain, Low Impact Development (LID) measures to reduce peak runoff rates and runoff volume to the runoff rates and volumes that will not exceed the weir overflow rates of the existing urban detention basins.</li> </ul> <p><b>Verification comments:</b></p>	<p>Prior to exceedances of capacity of existing urban detention basin (stormwater quality) facilities</p>	<p>FMFCD, DARM, and PW</p>	<p>X</p>				<p>X</p>	
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**Hydrology and Water Quality** *(continued)*:

<p><b>MM HYD-5.4:</b> The City shall implement the following measures to reduce the impacts on the capacity of existing or planned storm drainage Master Plan pump disposal systems to less than significant.</p> <ul style="list-style-type: none"> <li>• Consult the SDMP to determine the extent and degree to which the capacity of the existing pump system will be exceeded.</li> <li>• Require new developments to install, operate, and maintain FMFCD design standard on-site detention facilities to reduce peak stormwater runoff rates to existing planned peak runoff rates.</li> <li>• Provide additional pump system capacity to maximum allowed by existing permitting to increase the capacity to match or exceed the peak runoff rates determined by the SDMP-update.</li> </ul> <p><b>Verification comments:</b></p>	<p>Prior to exceedance of capacity of existing pump disposal systems</p>	<p>FMFCD, DARM, and PW</p>					X	
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**Hydrology and Water Quality** (continued):

<p><b>MM HYD-5.5:</b> The City shall work with FMFCD to develop and adopt an update to the SDMP for the Southeast Development Area that is would be adequately designed to collect, convey and dispose of runoff at the rates and volumes which would be generated by the planned land uses in that area.</p> <p><b>Verification comments:</b></p>	<p>Prior to development approvals in the Southeast Development Area</p>	<p>FMFCD, DARM, and PW</p>					X	
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**Section 5.13 - Public Services:**

<p><b>MM PS-1:</b> As future fire facilities are planned, the fire department shall evaluate if specific environmental effects would occur. Typical impacts from fire facilities include noise, traffic, and lighting. Typical mitigation to reduce these impacts includes:</p> <ul style="list-style-type: none"> <li>• <i>Noise:</i> Barriers and setbacks on the fire department sites.</li> <li>• <i>Traffic:</i> Traffic devices for circulation and a “keep clear zone” during emergency responses.</li> <li>• <i>Lighting:</i> Provision of hoods and deflectors on lighting fixtures on the fire department sites.</li> </ul> <p><b>Verification comments:</b></p>	<p>During the planning process for future fire department facilities</p>	<p>DARM</p>					X	
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**Public Services** *(continued)*:

<p><b>MM PS-2:</b> As future police facilities are planned, the Police Department shall evaluate if specific environmental effects would occur. Typical impacts from police facilities include noise, traffic, and lighting. Typical mitigation to reduce potential impacts from police department facilities includes:</p> <ul style="list-style-type: none"> <li>• <i>Noise:</i> Barriers and setbacks on the police department sites.</li> <li>• <i>Traffic:</i> Traffic devices for circulation.</li> <li>• <i>Lighting:</i> Provision of hoods and deflectors on lighting fixtures on the Police Department sites.</li> </ul> <p><b>Verification comments:</b></p>	<p>During the planning process for future Police Department facilities</p>	<p>DARM</p>					X	
<p><b>MM PS-3:</b> As future public and private school facilities are planned, school districts shall evaluate if specific environmental effects would occur with regard to public schools, and DARM shall evaluate other school facilities. Typical impacts from school facilities include noise, traffic, and lighting. Typical mitigation to reduce potential impacts from school facilities includes:</p> <p style="text-align: right;"><i>(continued on next page)</i></p>	<p>During the planning process for future school facilities</p>	<p>DARM, local school districts, and the Division of the State Architect</p>					X	

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MITIGATION MEASURE	WHEN IMPLEMENTED	COMPLIANCE VERIFIED BY	A	B	C	D	E	F
<b>Public Services (continued):</b>								
<p><b>MM PS-3</b> (continued from previous page)</p> <ul style="list-style-type: none"> <li>• <i>Noise:</i> Barriers and setbacks placed on school sites.</li> <li>• <i>Traffic:</i> Traffic devices for circulation.</li> <li>• <i>Lighting:</i> Provision of hoods and deflectors on lighting fixtures for stadium lights.</li> </ul> <p><b>Verification comments:</b></p>	[see previous page]	[see previous page]						
<p><b>MM PS-4:</b> As future parks and recreational facilities are planned, the City shall evaluate if specific environmental effects would occur. Typical impacts from parks and recreational facilities include noise, traffic, and lighting. Typical mitigation to reduce potential impacts from these facilities includes:</p> <ul style="list-style-type: none"> <li>• <i>Noise:</i> Barriers and setbacks placed on school sites.</li> <li>• <i>Traffic:</i> Traffic devices for circulation.</li> <li>• <i>Lighting:</i> Provision of hoods and deflectors on lighting fixtures for outdoor play area/field lights.</li> </ul> <p><b>Verification comments:</b></p>	During the planning process for future park and recreation facilities	DARM					X	

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**Public Services** (continued):

<p><b>MM PS-5:</b> As future court, library, detention, and hospital facilities are planned, the appropriate agencies and DARM, when the City has jurisdiction, shall evaluate if specific environmental effects would occur. Typical impacts from court, library, detention, and hospital facilities include noise, traffic, and lighting. Typical mitigation to reduce these potential impacts includes:</p> <ul style="list-style-type: none"> <li>• <i>Noise:</i> Barriers and setbacks placed on school sites.</li> <li>• <i>Traffic:</i> Traffic devices for circulation.</li> <li>• <i>Lighting:</i> Provision of hoods and deflectors on outdoor lighting fixtures</li> </ul> <p><b>Verification comments:</b></p>	<p>During the planning process for future detention, court, library, and hospital facilities</p>	<p>DARM, to the extent that agencies approving/ constructing these facilities are subject to City of Fresno regulation</p>					X	
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**Section 5.15 - Utilities and Service Systems**

<p><b>MM USS-1:</b> The City shall develop and implement a wastewater master plan update.</p> <p><b>Verification comments:</b></p>	<p>Prior to wastewater conveyance and treatment demand exceeding capacity</p>	<p>DPU</p>					X	
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**Utilities and Service Systems** *(continued)*:

<p><b>MM USS-2:</b> Prior to exceeding existing wastewater treatment capacity, the City shall evaluate the wastewater system and shall not approve additional development that contributes wastewater to the wastewater treatment facility that could exceed capacity until additional capacity is provided. By approximately the year 2025, the City shall construct the following improvements:</p> <ul style="list-style-type: none"> <li>• Construct an approximately 70 MGD expansion of the Regional Wastewater Treatment and Reclamation Facility and obtain revised waste discharge permits as the generation of wastewater is increased.</li> <li>• Construct an approximately 0.49 MGD expansion of the North Facility and obtain revised waste discharge permits as the generation of wastewater is increased.</li> </ul> <p><b>Verification comments:</b></p>	<p>Prior to exceeding existing wastewater treatment capacity</p>	<p>DPU</p>					<p>X</p>	
<p><b>MM USS-3:</b> Prior to exceeding existing wastewater treatment capacity, the City shall evaluate the wastewater system and shall not approve additional development that contributes wastewater to the wastewater treatment facility that could exceed capacity until additional capacity is provided.</p> <p><i>(continued on next page)</i></p>	<p>Prior to exceeding existing wastewater treatment capacity</p>	<p>DPU</p>					<p>X</p>	

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**Utilities and Service Systems** *(continued)*:

<p><b>MM USS-3</b> <i>(continued from previous page)</i>:                      After approximately the year 2025, the City shall construct the following improvements:</p> <ul style="list-style-type: none"> <li>• Construct an approximately 24 MGD wastewater treatment facility within the Southeast Development Area and obtain revised waste discharge requirements as the generation of wastewater is increased.</li> <li>• Construct an approximately 9.6 MGD expansion of the Regional Wastewater Treatment and Reclamation Facility and obtain revised waste discharge permits as the generation of wastewater is increased.</li> </ul> <p><b>Verification comments:</b></p>	<p><i>[see previous page]</i></p>	<p><i>[see previous page]</i></p>						
<p><b>MM USS-4:</b> Prior to construction, a Traffic Control/Traffic Management Plan to address traffic impacts during construction of water and sewer facilities shall be prepared and implemented, subject to approval by the City (and Fresno County, when work is being done in unincorporated area roadways). The plan shall identify hours of construction and for deliveries, haul routes, access and parking restrictions, pavement markings and signage; and it shall include the</p> <p style="text-align: right;"><i>(continued on next page)</i></p>	<p>Prior to construction of water and sewer facilities</p>	<p>PW for work in the City; PW and Fresno County Public Works when unincorporated area roadways are involved</p>					X	

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**Utilities and Service Systems** (continued):

<p><b>MM USS-4</b> (continued from previous page): notification plan, and coordination with emergency service providers and schools.</p> <p><b>Verification comments:</b></p>	<p><i>[see previous page]</i></p>	<p><i>[see previous page]</i></p>						
<p><b>MM USS-5:</b> Prior to exceeding capacity within the existing wastewater collection system facilities, the City shall evaluate the wastewater collection system and shall not approve additional development that would generate additional wastewater and exceed the capacity of a facility until additional capacity is provided. By approximately the year 2025, the following capacity improvements shall be provided.</p> <ul style="list-style-type: none"> <li>Orange Avenue Trunk Sewer: This facility shall be improved between Dakota and Jensen Avenues. Approximately 37,240 feet of new sewer main shall be installed and approximately 5,760 feet of existing sewer main shall be rehabilitated. The size of the new sewer main shall range from 27 inches to 42 inches in diameter. The associated project designations in the 2006 Wastewater Master Plan are RS03A, RL02, C01-REP, C02-REP, C03-REP, C04-REP, C05-REP, C06-REL and C07-REP.</li> </ul> <p style="text-align: right;"><i>(continued on next page)</i></p>	<p>Prior to exceeding capacity within the existing wastewater collection system facilities</p>	<p>DPU</p>				X		

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**Utilities and Service Systems** *(continued)*:

<p><b>MM USS-5</b> <i>(continued from previous page)</i></p> <ul style="list-style-type: none"> <li>• Marks Avenue Trunk Sewer: This facility shall be improved between Clinton Avenue and Kearney Boulevard. Approximately 12,150 feet of new sewer main shall be installed. The size of the new sewer main shall range from 33 inches to 60 inches in diameter. The associated project designations in the 2006 Wastewater Master Plan are CM1-REP and CM2-REP.</li> <li>• North Avenue Trunk Sewer: This facility shall be improved between Polk and Fruit Avenues and also between Orange and Maple Avenues. Approximately 25,700 feet of new sewer main shall be installed. The size of the new sewer main shall range from 48 inches to 66 inches in diameter. The associated project designations in the 2006 Wastewater Master Plan are CN1-REL1 and CN3-REL1.</li> <li>• Ashlan Avenue Trunk Sewer: This facility shall be improved between Hughes and West Avenues and also between Fruit and Blackstone Avenues. Approximately 9,260 feet of new sewer main shall be installed. The size of the new sewer main shall range from 24 inches</li> </ul> <p style="text-align: right;"><i>(continued on next page)</i></p>	<p><i>[see previous page]</i></p>	<p><i>[see previous page]</i></p>						
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**Utilities and Service Systems** *(continued)*:

<p><b>MM USS-5</b> <i>(further continued from previous two pages)</i>: to 36 inches in diameter. The associated project designations in the 2006 Wastewater Master Plan are CA1-REL and CA2-REP. <b>Verification comments:</b></p>	[see Page 34]	[see Page 34]						
<p><b>MM USS-6</b>: Prior to exceeding capacity within the existing 28 pipeline segments shown in Figures 1 and 2 in MEIR Appendix J-1, the City shall evaluate the wastewater collection system and shall not approve additional development that would generate additional wastewater and exceed the capacity of one of the 28 pipeline segments until additional capacity is provided. <b>Verification comments:</b></p>	Prior to exceeding capacity within the existing 28 pipeline segments shown in Figures 1 and 2 in Appendix J-1 of the MEIR	DPU					X	
<p><b>MM USS-7</b>: Prior to exceeding existing water supply capacity, the City shall evaluate the water supply system and shall not approve additional development that would demand additional water until additional capacity is provided. By approximately the year 2025, the following capacity improvements shall be provided.  <i>(continued on next page)</i></p>	Prior to exceeding existing water supply capacity	DPU					X	

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**Utilities and Service Systems** *(continued)*:

<p><b>USS-7</b> <i>(continued from previous page)</i></p> <ul style="list-style-type: none"> <li>• Construct an approximately 80 million gallon per day (MGD) surface water treatment facility near the intersection of Armstrong and Olive Avenues, in accordance with Chapter 9 and Figure 9-1 of the City of Fresno Metropolitan Water Resources Management Plan Update (2014 Metro Plan Update) Phase 2 Report, dated January 2012.</li> <li>• Construct an approximately 30 MGD expansion of the existing northeast surface water treatment facility for a total capacity of 60 MGD, in accordance with Chapter 9 and Figure 9-1 of the 2014 Metro Plan Update.</li> <li>• Construct an approximately 20 MGD surface water treatment facility in the southwest portion of the City, in accordance with Chapter 9 and Figure 9-1 of the 2014 Metro Plan Update.</li> </ul> <p><b>Verification comments:</b></p>	<p><i>[see previous page]</i></p>	<p><i>[see previous page]</i></p>						
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**Utilities and Service Systems** *(continued)*:

<p><b>MM USS-8:</b> Prior to exceeding capacity within the existing water conveyance facilities, the City shall evaluate the water conveyance system and shall not approve additional development that would demand additional water and exceed the capacity of a facility until additional capacity is provided. The following capacity improvements shall be provided by approximately 2025.</p> <ul style="list-style-type: none"> <li>• Construct 65 new groundwater wells, in accordance with Chapter 9 and Figure 9-1 of the 2014 Metro Plan Update.</li> <li>• Construct a 2.0 million gallon potable water reservoir (Reservoir T2) near the intersection of Clovis and California Avenues, in accordance with Chapter 9 and Figure 9-1 of the 2014 Metro Plan Update.</li> <li>• Construct a 3.0 million gallon potable water reservoir (Reservoir T3) near the intersection of Temperance and Dakota Avenues, in accordance with Chapter 9 and Figure 9-1 of the 2014 Metro Plan Update.</li> </ul> <p style="text-align: right;"><i>(continued on next page)</i></p>	<p>Prior to exceeding capacity within the existing water conveyance facilities</p>	<p>DPU</p>					X	
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**Utilities and Service Systems** *(continued)*:

<p><b>MM USS-8</b> <i>(continued from previous page)</i></p> <ul style="list-style-type: none"> <li>• Construct a 3.0 million gallon potable water reservoir (Reservoir T4) in the Downtown Planning Area, in accordance with Chapter 9 and Figure 9-1 of the 2014 Metro Plan Update.</li> <li>• Construct a 4.0 million gallon potable water reservoir (Reservoir T5) near the intersection of Ashlan and Chestnut Avenues, in accordance with Chapter 9 and Figure 9-1 of the 2014 Metro Plan Update.</li> <li>• Construct a 4.0 million gallon potable water reservoir (Reservoir T6) near the intersection of Ashlan Avenue and Highway 99, in accordance with Chapter 9 and Figure 9-1 of the 2014 Metro Plan Update.</li> <li>• Construct 50.3 miles of regional water transmission mains ranging in size from 24-inch to 48-inch diameter, in accordance with Chapter 9 and Figure 9-1 of the 2014 Metro Plan Update.</li> <li>• Construct 95.9 miles of 16-inch diameter transmission grid mains, in accordance with Chapter 9 and Figure 9-1 of the 2014 Metro Plan Update.</li> </ul> <p><b>Verification comments:</b></p>	<p><i>[see previous page]</i></p>	<p><i>[see previous page]</i></p>						
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**A** - Incorporated into Project  
**B** - Mitigated

**C** - Mitigation in Process  
**D** - Responsible Agency Contacted

**E** - Part of City-Wide Program  
**F** - Not Applicable

MITIGATION MEASURE	WHEN IMPLEMENTED	COMPLIANCE VERIFIED BY	A	B	C	D	E	F
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**Utilities and Service Systems** *(continued)*:

<p><b>MM USS-9:</b> Prior to exceeding capacity within the existing water conveyance facilities, the City shall evaluate the water conveyance system and shall not approve additional development that would demand additional water and exceed the capacity of a facility until additional capacity is provided. The following capacity improvements shall be provided after approximately the year 2025 and additional water conveyance facilities shall be provided prior to exceedance of capacity within the water conveyance facilities to accommodate full buildout of the General Plan Update.</p> <ul style="list-style-type: none"> <li>• Construct a 4.0 million gallon potable water reservoir (SEDA Reservoir 1) within the northern part of the Southeast Development Area.</li> <li>• Construct a 4.0 million gallon potable water reservoir (SEDA Reservoir 2) within the southern part of the Southeast Development Area.</li> </ul> <p>Additional water conveyance facilities shall be provided prior to exceedance of capacity within the water conveyance facilities to accommodate full buildout of the General Plan Update.</p> <p><b>Verification comments:</b></p>	<p>Prior to exceeding capacity within the existing water conveyance facilities</p>	<p>DPU</p>					X	
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**A** - Incorporated into Project  
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**C** - Mitigation in Process  
**D** - Responsible Agency Contacted

**E** - Part of City-Wide Program  
**F** - Not Applicable

MITIGATION MEASURE	WHEN IMPLEMENTED	COMPLIANCE VERIFIED BY	A	B	C	D	E	F
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**Utilities and Service Systems - Hydrology and Water Quality**

<p><b>USS-10:</b> In order to maintain Fresno Irrigation District canal operability, FMFCD shall maintain operational intermittent flows during the dry season, within defined channel capacity and downstream capture capabilities, for recharge.</p> <p><b>Verification comments:</b></p>	<p>During the dry season</p>	<p>Fresno Irrigation District (FID)</p>					X	

**Utilities and Service Systems - Biological Resources:**

<p><b>USS-11:</b> When FMFCD proposes to provide drainage service outside of urbanized areas:</p> <p>(a) FMFCD shall conduct preliminary investigations on undeveloped lands outside of highly urbanized areas. These investigations shall examine wetland hydrology, vegetation and soil types. These preliminary investigations shall be the basis for making a determination on whether or not more in-depth wetland studies shall be necessary. If the proposed project site does not exhibit wetland hydrology, support a prevalence of wetland vegetation and wetland soil types then no further action is required.</p> <p style="text-align: right;"><i>(continued on next page)</i></p>	<p>Prior to development approvals outside of highly urbanized areas</p>	<p>California Regional Water Quality Control Board (RWQCB), and USACE</p>						X

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**Utilities and Service Systems - *Biological Resources* (continued):**

<p><b>MM USS-11</b> <i>(continued from previous page):</i></p> <p>(b) Where proposed activities could have an impact on areas verified by the USACE as jurisdictional wetlands or waters of the U.S. (urban and rural streams, seasonal wetlands, and vernal pools), FMFCD shall obtain the necessary Clean Water Act, Section 404 permits for activities where fill material shall be placed in a wetland, obstruct the flow or circulation of waters of the United States, impair or reduce the reach of such waters. (As part of FMFCD's Memorandum of Understanding, with CDFW, Section 404 and 401 permits would be obtained from the USACE and RWQCB for any activity involving filling of jurisdictional waters.) At a minimum, to meet "no net loss policy," the permits shall require replacement of wetland habitat at a 1:1 ratio.</p> <p>(c) Where proposed activities could have an impact on areas verified by the USACE as jurisdictional wetlands or waters of the U.S. (urban and rural streams, seasonal wetlands, and vernal pools), FMFCD shall submit and implement a wetland mitigation plan based on the wetland acreage verified by the USACE. The wetland mitigation plan shall be prepared by a qualified biologist or wetland scientist experienced in wetland creation, and shall include the following or equally effective elements:</p> <p style="text-align: right;"><i>(continued on next page)</i></p>	<p><i>[see previous page]</i></p>	<p><i>[see previous page]</i></p>						
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**A** - Incorporated into Project  
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**C** - Mitigation in Process  
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**E** - Part of City-Wide Program  
**F** - Not Applicable

MITIGATION MEASURE	WHEN IMPLEMENTED	COMPLIANCE VERIFIED BY	A	B	C	D	E	F
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**Utilities and Service Systems - *Biological Resources* (continued):**

<p><b>MM USS-11</b> <i>(further continued from previous two pages)</i></p> <ul style="list-style-type: none"> <li>i. Specific location, size, and existing hydrology and soils within the wetland creation area.</li> <li>ii. Wetland mitigation techniques, seed source, planting specifications, and required buffer setbacks. In addition, the mitigation plan shall ensure adequate water supply is provided to the created wetlands in order to maintain the proper hydrologic regimes required by the different types of wetlands created. Provisions to ensure the wetland water supply is maintained in perpetuity shall be included in the plan.</li> <li>iii. A monitoring program for restored, enhanced, created, and preserved wetlands on the project site. A monitoring program is required to meet three objectives; 1) establish a wetland creation success criteria to be met; 2) to specify monitoring methodology; 3) to identify as far as is possible, specific remedial actions that will be required in order to achieve the success criteria; and 4) to document the degree of success achieved in establishing wetland vegetation.</li> </ul> <p style="text-align: right;"><i>(continued on next page)</i></p>	<p><i>[see Page 41]</i></p>	<p><i>[see Page 41]</i></p>						
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**A** - Incorporated into Project  
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**C** - Mitigation in Process  
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MITIGATION MEASURE	WHEN IMPLEMENTED	COMPLIANCE VERIFIED BY	A	B	C	D	E	F
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**Utilities and Service Systems - *Biological Resources* (continued):**

<p><b>MM USS-11</b> <i>(further continued from previous three pages)</i></p> <p>(d) A monitoring plan shall be developed and implemented by a qualified biologist to monitor results of any on-site wetland restoration and creation for five years. The monitoring plan shall include specific success criteria, frequency and timing of monitoring, and assessment of whether or not maintenance activities are being carried out and how these shall be adjusted if necessary. If monitoring reveals that success criteria are not being met, remedial habitat creation or restoration should be designed and implemented by a qualified biologist and subject to five years of monitoring as described above.</p> <p>Or</p> <p>(e) In lieu of developing a mitigation plan that outlines the avoidance, purchase, or creation of wetlands, FMFCD could purchase mitigation credits through a Corps approved Mitigation Bank.</p> <p><b>Verification comments:</b></p>	<p><i>[see Page 41]</i></p>	<p><i>[see Page 41]</i></p>						
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MITIGATION MEASURE	WHEN IMPLEMENTED	COMPLIANCE VERIFIED BY	A	B	C	D	E	F
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**Utilities and Service Systems - *Biological Resources* (continued):**

<p><b>MM USS-12:</b> When FMFCD proposes to provide drainage service outside in areas that support seasonal wetlands or vernal pools:</p> <p>(a) During facility design and prior to initiation of ground disturbing activities in areas that support seasonal wetlands or vernal pools, FMFCD shall conduct a preliminary rare plant assessment. The assessment will determine the likelihood on whether or not the project site could support rare plants. If it is determined that the project site would not support rare plants, then no further action is required. However, if the project site has the potential to support rare plants; then a rare plant survey shall be conducted. Rare plant surveys shall be conducted by qualified biologists in accordance with the most current CDFW/USFWS guidelines or protocols and shall be conducted at the time of year when the plants in question are identifiable.</p> <p>(b) Based on the results of the survey, prior to design approval, FMFCD shall coordinate with CDFW and/or implement a Section 7 consultation with USFWS, shall</p> <p style="text-align: right;"><i>(continued on next page)</i></p>	<p>During FMFCD facility design and prior to initiation of ground disturbing activities in areas that support seasonal wetlands or vernal pools</p>	<p>California Department of Fish &amp; Wildlife (CDFW) and U.S. Fish and Wildlife Service (USFWS)</p>						X
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**D** - Responsible Agency Contacted

**E** - Part of City-Wide Program  
**F** - Not Applicable

MITIGATION MEASURE	WHEN IMPLEMENTED	COMPLIANCE VERIFIED BY	A	B	C	D	E	F
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**Utilities and Service Systems - *Biological Resources* (continued):**

<p><b>MM USS-12</b> <i>(continued from previous page)</i></p> <p>determine whether the project facility would result in a significant impact to any special status plant species. Evaluation of project impacts shall consider the following:</p> <ul style="list-style-type: none"> <li>• The status of the species in question (e.g., officially listed by the State or Federal Endangered Species Acts).</li> <li>• The relative density and distribution of the on-site occurrence versus typical occurrences of the species in question.</li> <li>• The habitat quality of the on-site occurrence relative to historic, current or potential distribution of the population.</li> </ul> <p>(c) Prior to design approval, and in consultation with the CDFW and/or the USFWS, FMFCD shall prepare and implement a mitigation plan, in accordance with any applicable State and/or federal statutes or laws, that reduces impacts to a less than significant level.</p> <p><b>Verification comments:</b></p>	<p><i>[see previous page]</i></p>	<p><i>[see previous page]</i></p>						
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**C** - Mitigation in Process  
**D** - Responsible Agency Contacted

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MITIGATION MEASURE	WHEN IMPLEMENTED	COMPLIANCE VERIFIED BY	A	B	C	D	E	F
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**Utilities and Service Systems - *Biological Resources* (continued):**

<p><b>MM USS-12</b> <i>(further continued from previous two pages)</i></p> <ul style="list-style-type: none"> <li>The habitat quality of the on-site occurrence relative to historic, current or potential distribution of the population.</li> </ul> <p>(c) Prior to design approval, and in consultation with the CDFW and/or the USFWS, FMFCD shall prepare and implement a mitigation plan, in accordance with any applicable State and/or federal statutes or laws, that reduces impacts to a less than significant level.</p> <p><b>Verification comments:</b></p>	<p><i>[see Page 45]</i></p>	<p><i>[see Page 45]</i></p>						
<p><b>MM USS-13:</b> When FMFCD proposes to provide drainage service outside in areas that support seasonal wetlands or vernal pools:</p> <p>(a) During facility design and prior to initiation of ground disturbing activities in areas that support seasonal wetlands or vernal pools, FMFCD shall conduct a preliminary survey to determine the presence of listed vernal pool crustaceans.</p> <p><i>(continued on next page)</i></p>	<p>During facility design and prior to initiation of ground disturbing activities in areas that support seasonal wetlands or vernal pools</p>	<p>CDFW and USFWS</p>						X

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**D** - Responsible Agency Contacted

**E** - Part of City-Wide Program  
**F** - Not Applicable

MITIGATION MEASURE	WHEN IMPLEMENTED	COMPLIANCE VERIFIED BY	A	B	C	D	E	F
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**Utilities and Service Systems - *Biological Resources* (continued):**

<p><b>MM USS-13</b> <i>(continued from previous page)</i></p> <p>(b) If potential habitat (vernal pools, seasonally inundated areas) or fairy shrimp exist within areas proposed to be disturbed, FMFCD shall complete the first and second phase of fairy shrimp presence or absence surveys. If an absence finding is determined and accepted by the USFWS, then no further mitigation shall be required for fairy shrimp.</p> <p>(c) If fairy shrimp are found to be present within vernal pools or other areas of inundation to be impacted by the implementation of storm drainage facilities, FMFCD shall mitigate impacts on fairy shrimp habitat in accordance with the USFWS requirements of the Programmatic Biological Opinion. This shall include on-site or off-site creation and/or preservation of fairy shrimp habitat at ratios ranging from 3:1 to 5:1 depending on the habitat impacted and the choice of on-site or off-site mitigation. Or mitigation shall be the purchase of mitigation credit through an accredited mitigation bank.</p> <p><b>Verification comments:</b></p>	<p><i>[see previous page]</i></p>	<p><i>[see previous page]</i></p>						
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**C** - Mitigation in Process  
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MITIGATION MEASURE	WHEN IMPLEMENTED	COMPLIANCE VERIFIED BY	A	B	C	D	E	F
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**Utilities and Service Systems - *Biological Resources* (continued):**

<p><b>MM USS-14:</b> When FMFCD proposes to construct drainage facilities in an area where elderberry bushes may occur:</p> <p>(a) During facility design and prior to initiation of construction activities, FMFCD shall conduct a project-specific survey for all potential Valley Elderberry Longhorn Beetle (VELB) habitats (elderberry shrubs), including a stem count and an assessment of historic or current VELB habitat.</p> <p>(b) FMFCD shall avoid and protect all potential identified VELB habitat where feasible.</p> <p>(c) Where avoidance is infeasible, develop and implement a VELB mitigation plan in accordance with the most current USFWS mitigation guidelines for unavoidable take of VELB habitat pursuant to either Section 7 or Section 10(a) of the Federal Endangered Species Act. The mitigation plan shall include, but might not be limited to, relocation of elderberry shrubs, planting of elderberry shrubs, and monitoring of relocated and planted elderberry shrubs.</p> <p><b>Verification comments:</b></p>	<p>During facility design and prior to initiation of construction activities</p>	<p>CDFW and USFWS</p>						<p>X</p>
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**A** - Incorporated into Project  
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**C** - Mitigation in Process  
**D** - Responsible Agency Contacted

**E** - Part of City-Wide Program  
**F** - Not Applicable

MITIGATION MEASURE	WHEN IMPLEMENTED	COMPLIANCE VERIFIED BY	A	B	C	D	E	F
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**Utilities and Service Systems - *Biological Resources* (continued):**

<p><b>MM USS-15:</b> Prior to ground disturbing activities during nesting season (March through July) for a FMFCD drainage facility project that supports bird nesting habitat, FMFCD shall conduct a survey of trees. If nests are found during the survey, a qualified biologist shall assess the nesting activity on the project site. If active nests are located, no construction activities shall be allowed within 250 feet of the nest until the young have fledged. If construction activities are planned during the no n-breeding period (August through February), a nest survey is not necessary.</p> <p><b>Verification comments:</b></p>	<p>Prior to ground disturbing activities during nesting season (March through July) for a project that supports bird nesting habitat</p>	<p>CDFW and USFWS</p>						X
<p><b>MM USS-16:</b> When FMFCD proposes to construct drainage facilities in an area that supports burrowing owl nesting habitat:</p> <p>(a) FMFCD shall conduct a pre-construction breeding-season survey (approximately February 1 through August 31) of proposed project sites in suitable habitat (e.g., canal berms, open grasslands with suitable burrows) during the same calendar year that construction is planned to begin. If phased construction procedures are planned for the proposed project, the results of the</p> <p style="text-align: right;"><i>(continued on next page)</i></p>	<p>Prior to, and during, the breeding season (approximately February 1 through August 31) of the same calendar year that construction is planned to begin</p>	<p>CDFW and USFWS</p>						X

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**E** - Part of City-Wide Program  
**F** - Not Applicable

MITIGATION MEASURE	WHEN IMPLEMENTED	COMPLIANCE VERIFIED BY	A	B	C	D	E	F
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**Utilities and Service Systems - *Biological Resources* (continued):**

<p><b>MM USS-16</b> <i>(continued from previous page)</i></p> <p>above survey shall be valid only for the season when it is conducted</p> <p>(b) During the construction stage, FMFCD shall avoid all burrowing owl nest sites potentially disturbed by project construction during the breeding season while the nest is occupied with adults and/or young. The occupied nest site shall be monitored by a qualified biologist to determine when the nest is no longer used. Avoidance shall include the establishment of a 160-foot diameter non-disturbance buffer zone around the nest site. Disturbance of any nest sites shall only occur outside of the breeding season and when the nests are unoccupied based on monitoring by a qualified biologist. The buffer zone shall be delineated by highly visible temporary construction fencing.</p> <p>Based on approval by CDFW, pre-construction and pre-breeding season exclusion measures may be implemented to preclude burrowing owl occupation of the project site prior to project-related disturbance. Burrowing owls can be passively excluded from potential nest sites in the construction area, either by closing the burrows or placing one-way doors in the</p> <p style="text-align: right;"><i>(continued on next page)</i></p>	<p><i>[see previous page]</i></p>	<p><i>[see previous page]</i></p>						
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**E** - Part of City-Wide Program  
**F** - Not Applicable

MITIGATION MEASURE	WHEN IMPLEMENTED	COMPLIANCE VERIFIED BY	A	B	C	D	E	F
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**Utilities and Service Systems - *Biological Resources* (continued):**

<p><b>MM USS-16</b> <i>(further continued from previous two pages)</i></p> <p>burrows according to current CDFW protocol. Burrows shall be examined not more than 30 days before construction to ensure that no owls have recolonized the area of construction. For each burrow destroyed, a new burrow shall be created (by installing artificial burrows at a ratio of 2:1 on protected lands nearby).</p> <p><b>Verification comments:</b></p>	<p><i>[see Page 49]</i></p>	<p><i>[see Page 49]</i></p>						
<p><b>MM USS-17:</b> When FMFCD proposes to construct drainage facilities in the San Joaquin River corridor:</p> <p>(a) FMFCD shall not conduct instream activities in the San Joaquin River between October 15 and April 15. If this is not feasible, FMFCD shall consult with the National Marine Fisheries Service and CDFW on the appropriate measures to be implemented in order to protect listed salmonids in the San Joaquin River.</p> <p>(b) Riparian vegetation shading the main-channel that is removed or damaged shall be replaced at a ratio and quantity sufficient to maintain the existing shading of the channel. The location of replacement trees on or within</p> <p style="text-align: right;"><i>(continued on next page)</i></p>	<p>During instream activities conducted between October 15 and April 15</p>	<p>National Marine Fisheries Service (NMFS), CDFW, and Central Valley Flood Protection Board (CVFPB)</p>						X

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**F** - Not Applicable

MITIGATION MEASURE	WHEN IMPLEMENTED	COMPLIANCE VERIFIED BY	A	B	C	D	E	F
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**Utilities and Service Systems / Biological Resources (continued):**

<p><b>MM USS-17</b> (continued from previous page)</p> <p>FMFCD berms, detention ponds or river channels shall be approved by FMFCD and the Central Valley Flood Protection Board.</p> <p><b>Verification comments:</b></p>	<p>[see previous page]</p>	<p>[see previous page]</p>						
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**Utilities and Service Systems – Recreation / Trails:**

<p><b>MM USS-18:</b> When FMFCD updates its District Service Plan:</p> <p>Prior to final design approval of all elements of the District Services Plan, FMFCD shall consult with Fresno County, City of Fresno, and City of Clovis to determine if any element would temporarily disrupt or permanently displace adopted existing or planned trails and associated recreational facilities as a result of the proposed District Services Plan. If the proposed project would not temporarily disrupt or permanently displace adopted existing or planned trails, no further mitigation is necessary. If the proposed project would have an effect on the trails and associated facilities, FMFCD shall implement the following:</p> <p style="text-align: right;"><i>(continued on next page)</i></p>	<p>Prior to final design approval of all elements of the FMFCD District Service Plan</p>	<p>DARM, PW, City of Clovis, and County of Fresno</p>					X	
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**A** - Incorporated into Project  
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**C** - Mitigation in Process  
**D** - Responsible Agency Contacted

**E** - Part of City-Wide Program  
**F** - Not Applicable

MITIGATION MEASURE	WHEN IMPLEMENTED	COMPLIANCE VERIFIED BY	A	B	C	D	E	F
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**Utilities and Service Systems – Recreation / Trails (continued):**

<p><b>MM USS-18</b> (continued from previous page)</p> <p>(a) If short-term disruption of adopted existing or planned trails and associated recreational facilities occur, FMFCD shall consult and coordinate with Fresno County, City of Fresno, and City of Clovis to temporarily re-route the trails and associated facilities.</p> <p>(b) If permanent displacement of the adopted existing or planned trails and associated recreational facilities occur, the appropriate design modifications to prevent permanent displacement shall be implemented in the final project design or FMFCD shall replace these facilities.</p> <p><b>Verification comments:</b></p>	<p>[see previous page]</p>	<p>[see previous page]</p>						
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**Utilities and Service Systems – Air Quality:**

<p><b>MM USS-19:</b> When District drainage facilities are constructed, FMFCD shall:</p> <p>(a) Minimize idling time of construction equipment vehicles to no more than ten minutes, or require that engines be shut off when not in use.</p> <p style="text-align: right;"><i>(continued on next page)</i></p>	<p>During storm water drainage facility construction activities</p>	<p>Fresno Metropolitan Flood Control District and SJVAPCD</p>					X	
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**Utilities and Service Systems – Air Quality (continued):**

<p><b>MM USS-19</b> (continued from previous page)</p> <p>(b) Construction shall be curtailed as much as possible when the Air Quality Index (AQI) is above 150. AQI forecasts can be found on the SJVAPCD web site.</p> <p>(c) Off-road trucks should be equipped with on-road engines if possible.</p> <p>(d) Construction equipment should have engines that meet the current off-road engine emission standard (as certified by the California Air Resources Board), or be re-powered with an engine that meets this standard.</p> <p><b>Verification comments:</b></p>	<p>[see previous page]</p>	<p>[see previous page]</p>						
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**Utilities and Service Systems – Adequacy of Storm Water Drainage Facilities:**

<p><b>MM USS-20:</b> Prior to exceeding capacity within the existing storm water drainage facilities, the City shall coordinate with FMFCD to evaluate the storm water drainage system and shall not approve additional development that would convey additional storm water to a facility that would experience an exceedance of capacity until the necessary additional capacity is provided.</p> <p><b>Verification comments:</b></p>	<p>Prior to exceeding capacity within the existing storm water drainage facilities</p>	<p>FMFCD, PW, and DARM</p>	X				X	

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**D** - Responsible Agency Contacted

**E** - Part of City-Wide Program  
**F** - Not Applicable

MITIGATION MEASURE	WHEN IMPLEMENTED	COMPLIANCE VERIFIED BY	A	B	C	D	E	F
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**Utilities and Service Systems – Adequacy of Water Supply Capacity:**

<p><b>USS-21:</b> Prior to exceeding existing water supply capacity, the City shall evaluate the water supply system and shall not approve additional development that demands additional water until additional capacity is provided. By approximately the year 2025, the City shall construct an approximately 25,000 AF/year tertiary recycled water expansion to the Fresno-Clovis Regional Wastewater Reclamation Facility in accordance with the 2013 Recycled Water Master Plan and the 2014 City of Fresno Metropolitan Water Resources Management Plan update.</p> <p>Implementation of Mitigation Measure USS-5 is also required prior to approximately the year 2025.</p> <p><b>Verification comments:</b></p>	<p>Prior to exceeding existing water supply capacity</p>	<p>DPU and DARM</p>					X	
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**Utilities and Service Systems – Adequacy of Landfill Capacity:**

<p><b>USS-22:</b> Prior to exceeding landfill capacity, the City shall evaluate additional landfill locations, and shall not approve additional development that could contribute solid waste to a landfill that is at capacity until additional capacity is provided.</p> <p><b>Verification comments:</b></p>	<p>Prior to exceeding landfill capacity</p>	<p>DPU and DARM</p>					X	
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A - Incorporated into Project  
B - Mitigated

C - Mitigation in Process  
D - Responsible Agency Contacted

E - Part of City-Wide Program  
F - Not Applicable

**Recording Requested by:**

City of Fresno  
No Fee-Gov't. Code Sections  
6103 and 27383

**When Recorded, Mail to:**

City Clerk  
City of Fresno  
2600 Fresno Street  
Fresno, CA 93721-3623

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SPACE ABOVE THIS LINE FOR RECORDER'S USE

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**DEVELOPMENT AGREEMENT**

**BY AND BETWEEN THE CITY OF FRESNO, A MUNICIPAL CORPORATION AND 2500  
MLK, LLC. A CALIFORNIA LIMITED LIABILITY COMPANY**

## DEVELOPMENT AGREEMENT

This Development Agreement (the Agreement) is made this 5<sup>th</sup> day of MARCH, 2020, by and between the CITY OF FRESNO, a municipal corporation, (the City) and 2500 MLK, LLC, a California limited liability company (the Master Developer). City and Master Developer are hereinafter sometimes collectively referred to as the "Parties" and each may be referred to as a "Party".

### RECITALS

A. Pursuant to Sections 65864 through 65869.5 of the California Government Code (the Development Agreement Laws), the City is authorized to enter into binding development agreements with Persons (as hereinafter defined) having legal or equitable interest in real property for the development of such real property. As a Charter City, the City may not be limited to the Development Agreement Laws to enter into development agreements. Nevertheless, the City has elected to enter this Agreement under the Development Agreement Laws and in accordance with Fresno Municipal Code Sections 15-6001 et seq.

B. Master Developer owns the real property legally described on attached Exhibit A-1, which is referred to herein as the "Master Developer Property", and comprises an area that is approximately 89.68 gross acres within the West Creek Village Project Area described below.

C. Master Developer conveyed to State Center Community College District (SCCCD) the real property described on Exhibit A-2, referred to herein as the Fresno City College-West Fresno Satellite Parcel.

D. The property described on Exhibits A-1 and A-2 is referred to herein collectively as the West Creek Village Project Area (formerly known as the MLK Activity Center Project Area). The West Creek Village Project Area is an approximately 115 acre area in the City, bounded generally by Martin Luther King Blvd. on the east, East Church Avenue on the north, South Knight Avenue on the west, and East Jensen Avenue on the south.

E. The following entitlements (the Prior West Creek Village Approvals) were previously adopted by the City in connection with the planning of a West Creek Village Project Area for the development of a master planned project comprising Medium Density Residential for 54.48 acres, Community Commercial for 2.4 acres, Regional Commercial for 22.52 acres, Park for 9.63 acres and Public Facility - College designation for 26.55 acres: (i) Plan Amendment No. A-17-007 (Resolution No. 2017-231); (ii) Prezone Application No. R-17-010 (Ordinance No. 2017-43/Bill No. B-43); and, (iii) Tentative Parcel Map No. TPM-17-06 (Resolution No. 2017-232).

F. The Prior West Creek Village Approvals were approved by the Fresno City Council on August 24, 2017, at a duly noticed public meeting and after due review and consideration of: (i) the report of City staff on the Prior West Creek Village Approvals; (ii)

the recommendations of the Planning Commission; (iii) all other evidence heard and submitted at the duly noticed public hearing conducted August 24, 2017; and, (iv) all other appropriate documentation and circumstances, subject to the express conditions of approval set forth therein.

G. The Prior West Creek Village Approvals were further supported by the approval of MND (EA No. A-17-007/R-17-010/TPM-17-06/ANX-17-005) pursuant to the requirements of the California Environmental Quality Act (California Public Resources Code Section 21000 et seq.) and the Guidelines thereunder (14 California Code of Regulations Section 15000, et seq.) (collectively, CEQA). A Notice of Determination in support of that MND was filed with, and posted by, the Fresno County Clerk on August 25, 2017.

H. The West Creek Village Project Area was annexed to the City pursuant to proceedings conducted by the Fresno Local Agency Formation Commission, pursuant to the Jensen-Martin Luther King No. 4 Reorganization (LAFCO File No. R0-17-7).

I. Among the Conditions of Approval imposed by the City for the approval of Tentative Parcel Map No. TPM-17-06 (the Parcel Map COA(s) is a requirement that the Master Developer enter into a Development Agreement with the City. This Development Agreement satisfies that Parcel Map COA.

J. Development of public improvements within the boundary of the West Creek Village Project Area is the subject of funding to be obtained through the City of Fresno pursuant to Transformative Climate Communities (TCC) Program established by Assembly Bill (AB) 2722, administered by the Strategic Growth Council (SGC); namely, (i) a \$4,500,000.00 funding request for development of a Park Amenity (defined below), and, (ii) a \$16,900,000.00 funding request for development of the Fresno City College–West Fresno Satellite Project (collectively, the TCC Project Funds). The TCC Project Funds were sought pursuant to applications the City filed as the lead applicant with the SGC. To attain TCC Project Funds, the City committed to a match of such funds by developing the Perimeter Off-Sites (defined below), which the City estimated to the SGC would require expenditures by the City in the amount of \$11,600,000.00.

K. Subsequent to attaining the Prior West Creek Village Approvals, Master Developer engaged an architect and land planner to the entitlements for the Prior West Creek Village Approvals, and to recommend certain refinements and enhancements to such entitlements. Those evaluations resulted in the West Creek Village Master Plan, a copy of which is on file with the City.

L. To implement the West Creek Village Master Plan, Master Developer has filed new applications to implement desired revisions to the Prior West Creek Village Approvals, which are detailed below (the "Subsequent Approvals"):

- (i) Plan Amendment Application No. P18-03290; and,
- (ii) Rezone application No. P18-03290.

M. The Subsequent Approvals establish the following land use designations for the Master Developer's Property (referenced acreages are gross acres): Community Park for 11.74 acres; Medium High Density Residential, for 21.32 acres; Medium Density Residential for 26.58 acres; Community Commercial for 3.08 acres; and, Regional Commercial for 26.96 acres.

N. The Subsequent Approvals further establish the following zone districts for the Master Developer's Property (referenced acreages are gross acres): PR for 11.74 acres; RM-1 Residential Multi Family, for 21.32 acres; RS-5 Residential Single Family for 26.58 acres; CC - Community Commercial for 3.08 acres; and, CR Regional Commercial for 26.96 acres.

O. The West Creek Village Project means the development of Master Developer's Property consistent with the land uses and zonings designated in the Prior West Creek Village Approvals, as revised by the Subsequent Approvals. The Prior West Creek Village Approvals, as revised by the Subsequent Approvals, are referred to herein as the West Creek Village Approvals.

(i) Master Developer has filed an additional application consistent with the Subsequent Approvals to amend the previous Tentative Parcel Map No. TPM-17-06. This application, Tentative Parcel Map Application No. 2019-02 will be assessed pursuant to CEQA and processed consistent with the procedures set forth in the Fresno Municipal Code and this Agreement subsequent to any action on the Subsequent Approvals and this Agreement.

P. The West Creek Village Project is a vital tool for implementing the objectives and policies of the Southwest Fresno Specific Plan, adopted by Council on October 26, 2017. Specifically, it directly implements Policy LU-1. 1 which calls for the establishment of a magnet core at the West Creek Village Project Site designed to attract a significant amount of new development. It implements Goal LU-5 which calls for a diverse range of housing types in Southwest Fresno, preserving Southwest Fresno's character as a primarily single-family residential community while providing higher-density housing in high activity areas. Through the commercial portions of the West Creek Village Project, it implements Policy LU-6. 1 which calls for encouragement of larger regional retail development at key locations, including the West Creek Village Project Site. Through the inclusion of the Park Amenity, it directly implements Goal PF-2 of increasing the overall amount of usable parkland within Southwest Fresno by adding a new park over 11 gross acres. It directly implements Policy PF-6. 3 by facilitating a new community college campus within the West Creek Village Project Area. By implementing these vital goals and policies in the Southwest Fresno Specific Plan, the West Creek Village Project provides substantial benefit to the City and its residents.

Q. Master Developer filed the DA Application for approval of this Agreement in order to: (1) vest the land use and zoning policies established in the Existing City Requirements (as hereinafter defined) as of the Adoption Date (as hereinafter defined)

of this Agreement for the duration of the Term (as hereinafter defined) with respect to the West Creek Village Project; and, (2) memorialize certain other agreements made between the City and Master Developer with respect to the West Creek Village Project Area. The City and Master Developer acknowledge the development and construction of the West Creek Village Project is a large-scale undertaking involving major investments by Master Developer, with development occurring over a period of years. Certainty that the West Creek Village Project can be developed and used in accordance with the Existing City Requirements as of the Adoption Date of this Agreement, will benefit the City and Master Developer and will provide the Parties certainty with respect to implementation of the policies set forth in the Fresno General Plan, the Southwest Fresno Specific Plan, and the Existing City Requirements.

R. On February 5, 2020, at a duly noticed public meeting and after due review and consideration of: (i) the report of City staff on the Subsequent Approvals and this Development Agreement; (ii) all other evidence heard and submitted at the public hearing; and, (iii) all other appropriate documentation and circumstances, the Planning Commission of the City adopted resolutions recommending the City Council: (1) approve an Addendum to the MND on the basis that the Subsequent Approvals and this Agreement necessitate some changes and additions to the project pursuant to CEQA Guidelines Section 15164, but none of the conditions described in CEQA Guidelines Section 15162 calling for a further negative declaration (or an EIR) have occurred; (2) approve Plan Amendment No. P18-03290 /Rezone No. P18-03290; and, (3) adopt this Development Agreement; and, (4) approve the filing of a Notice of Determination to confirm that the adoption of this Development Agreement is in furtherance of the project described in the Addendum to the MND.

S. On February 13, 2020, at a duly noticed public meeting and after due review and consideration of: (i) the Subsequent Approvals; (ii) this Agreement; (iii) the recommendations of the Planning Commission; (iv) all other evidence heard and submitted at the duly noticed public hearing conducted and closed on February 13, 2020; and, (v) all other appropriate documentation and circumstances, the City Council: (a) adopted a resolution approving an Addendum to the MND on the basis that the Subsequent Approvals and this Agreement necessitate some changes and additions to the project pursuant to CEQA Guidelines Section 15164, but none of the conditions described in CEQA Guidelines Section 15162 calling for a further negative declaration (or an EIR) have occurred, (b) adopted Resolution No. 2020-028 approving Plan Amendment No. P18-03290; (c) adopted Ordinance No. 2020-005 approving Rezone No. P18-03290; (d) introduced and subsequently on February 27, 2020, adopted an ordinance to approve this Agreement; and, (e) authorized the City Manager to finalize and execute this Agreement on behalf of the City (collectively, the City Council Resolutions and Ordinances) consistent with Council action; and, (f) directed City Staff to file a Notice of Determination to confirm that the adoption of this Development Agreement is in furtherance of the project described in the Addendum to the MND.

*[Handwritten signatures in blue ink: J.S., S.H., and A.H.]*

T. The City has determined this Agreement furthers the public health, safety, and general welfare, and the provisions of this Agreement are consistent with the goals and policies of the Fresno General Plan and the Southwest Fresno Specific Plan. For the reasons recited herein, the City and Master Developer have determined the West Creek Village Project is a development for which this Agreement is appropriate. This Agreement will eliminate uncertainty regarding the West Creek Village Project and certain subsequent development approvals, thereby encouraging planning for, investment in and commitment to use and develop the West Creek Village Project Area. Continued use and development of the West Creek Village Project Area is anticipated to, in turn, provide the following substantial benefits and contribute to the provision of needed infrastructure for area growth, thereby achieving the goals and purposes for which the Development Agreement Laws were enacted: (1) Provide for the development of unused land; (2) Provide increased tax revenues for the City; (3) Provide for jobs and economic development in the City; (4) Provide infrastructure improvements; (5) Meet the goals of the Fresno General Plan and the Southwest Fresno Specific Plan to create Complete Neighborhoods that will reduce vehicle trips and serve all segments of the City; and, (6) implement important projects associated with the City's intended investment of TCC Project Funds. It is based upon these benefits to the City that the City is agreeable to approval of this Agreement for the West Creek Village Project.

U. The City has further determined it is appropriate to enter into this Agreement to: (1) provide certainty to encourage investment in the comprehensive development and planning of the West Creek Village Project; (2) secure orderly development and progressive fiscal benefits for public services, improvements and facilities planning for the West Creek Village Project Area and neighboring areas; and, (3) fulfill and implement adopted City plans, goals, policies and objectives.

V. This Agreement will survive beyond the term or terms of the present City Council.

NOW, THEREFORE, with reference to the above Recitals, and in consideration of the mutual covenants and agreements contained in this Agreement, the City and the Master Developer agree as follows:

## AGREEMENT

### ARTICLE 1. INTERESTS OF MASTER DEVELOPER

Section 1.1 Definitions. For purposes of this Agreement, the following terms shall have the meanings set forth below:

"The Fresno City College-West Fresno Satellite Parcel" means that certain unimproved real property consisting of approximately 26.06 gross acres of land described on Exhibit A-2 and illustrated on Exhibit C.

"The Park Amenity Site" means that certain unimproved real property, consisting of approximately 10.00 gross acres to be conveyed to the City

pursuant to Section 6.1 and to be developed by the City with the Park Amenity. The presently intended area of the Park Amenity Site, as reflected by the Minor Amendments, is illustrated on Exhibit C.

"The Church Avenue Commercial Site" means that certain unimproved real property, consisting of approximately 3.08 gross acres illustrated on Exhibit C.

"The Jensen Avenue Commercial Site" means that certain unimproved real property, consisting of approximately 26.93 gross acres illustrated on Exhibit C.

"The West Creek Village Residential Property" means that certain unimproved real property consisting of approximately 47.92 gross acres that are delineated as Medium High Density Residential or Medium Density Residential, on Exhibit C.

Section 1.2 Recordation of Agreement. Within ten (10) business days following mutual execution of this Agreement by the City and Master Developer, the City shall cause this Agreement to be recorded in the official records of Fresno County, California (the Official Records) with respect to Master Developer's Property described on Exhibit A-1. Following the recordation of this Agreement in the Official Records, the City shall deliver to Master Developer a conformed copy of this Agreement evidencing the recording information.

Section 1.3 Binding Covenants. The Master Developer represents that it has a legal or equitable interest in the Master Developer's Property and all other persons holding legal title in the Master Developer's Property are bound by this Agreement. It is intended and determined that the provisions of this Agreement shall constitute covenants that shall run with the Master Developer's Property, and the burdens and benefits hereof shall bind and inure to all successors in interest to the Parties.

## ARTICLE 2. TERM OF AGREEMENT

Section 2.1 Definitions. For purposes of this Agreement, the following shall have the meanings set forth below:

"Adoption Date" means the date on which the City Council adopted the ordinance approving this Agreement and authorizing the City Manager to execute this Agreement on behalf of the City.

"Effective Date" means the later of: (a) thirty days after the Adoption Date; or, (b) if a referendum petition is timely and duly circulated and filed with respect to this Agreement, the date the election results on the ballot measure by City voters approving this Agreement are certified by the City Council in the manner provided in the Elections Code.

"Laws" means the Constitution and laws of the State, the Constitution of the United States, and any codes, statutes, regulations, or executive mandates thereunder, and any court decision, State or federal, thereunder.

"State" means the State of California.

"Terminate" means the expiration of the Term of this Agreement, whether by the passage of time or by any earlier occurrence pursuant to any provision of this Agreement. The term "Terminate" includes any grammatical variant thereof, including "Termination" or "Terminated".

Section 2.2 Term. The term of this Agreement (the Term) shall commence on the Effective Date and shall continue for a period of ten (10) years following the Effective Date; provided that such period shall be extended for any events of Force Majeure pursuant to Section 13.1 and during the pendency of any legal action challenging: (a) approval of this Agreement; (b) the finding of the City Council that this Agreement is a project in furtherance of the project evaluated in the MND; or, (c) the approval of the Future Discretionary Approvals defined below in section 3.4. Any extension based upon an event described in this Section 2.2 shall be granted pursuant to the procedures set forth Section 13.2. Master Developer shall also have the option to extend the Term for one additional period of ten (10) years, upon written request to the City Manager, the approval of which shall be processed in a timely manner and shall not be unreasonably withheld. Master Developer shall also have the option to thereafter subsequently extend the Term for one additional period of five (5) years, upon written request to the City Manager, the approval of which shall be processed in a timely manner and shall not be unreasonably withheld. If Master Developer chooses to extend the term pursuant to either of the preceding sentences, then the fees applicable to any development conducted during the Term of such extension shall be based upon the Master Fee Schedule and Fresno Municipal Code in effect at the time the extension is approved (except for such fees that may be otherwise vested pursuant to a Subsequent Map).

Section 2.3 Effect of Termination. Termination of this Agreement shall not: (a) alter, impair or otherwise affect any City Permits for the Master Developer's Property issued by the City prior to the date of Termination; or, (b) prevent, impair or delay Master Developer from (i) commencing, performing or completing the construction of any buildings or improvements in the Master Developer's Property or, (ii) obtaining any certificates of occupancy or similar approvals from the City for the use and occupancy of completed buildings or improvements in the Master Developer's Property, that were authorized pursuant to City Permits for such construction issued by the City prior to the date of Termination. Nothing herein shall preclude the City, in its discretion, from taking any action authorized by Laws or Existing City Requirements to prevent, stop or correct any violation of Laws or Existing City Requirements occurring before, during or after construction of the buildings and improvements on the Master Developer's Property.

ARTICLE 3.  
DEVELOPMENT OF THE PROJECT

Section 3.1 For purposes of this Agreement, the following shall have the meanings set forth below:

"Applicable Rules" collectively means: (a) the terms and conditions of the West Creek Village Approvals, as amended by this Agreement; (b) the terms and conditions of this Agreement; and, (c) the Existing City Requirements. In addition, with respect to the Amended Tentative Parcel Map and all Subsequent Maps, such maps shall comply with all applicable requirements of Government Code Section 66473.7.

"City Agency" means any office, board, commission, department, division or agency of the City.

"City Permits" collectively means any and all permits or approvals that are required under the City Requirements in order to develop, use and operate the Master Developer's Property, other than: (a) Subsequent Maps; and, (b) Future Discretionary Approvals (as defined below) that the Master Developer may elect to obtain from the City pursuant to Section 3.4. "City Permits" specifically include, without limitation, building permits and Technical City Permits.

"City Requirements" collectively means all of the following that are in effect from time to time: (a) the Charter of the City of Fresno; (b) the Fresno Municipal Code; and, (c) all rules, regulations and official plans and policies, including the Fresno General Plan and the Southwest Fresno Specific Plan governing development, subdivision and zoning. The City Requirements include, without limitation, requirements governing building height, maximum floor area, permitted and conditionally permitted uses, floor area ratios, maximum lot coverage, building setbacks and stepbacks, parking, signage, landscaping, Exactions (as hereinafter defined) and dedications, growth management, environmental consideration, grading, and construction.

"Master Developer Approved Changes" means those amendments, revisions or additions to the City Requirements adopted or enacted after the Adoption Date that: (a) Master Developer elects, in its sole discretion, to have applied to the development and occupancy of the Master Developer's Property (or a portion thereof) during the Term of this Agreement; and (b) the Director approves such application, which approval shall not be unreasonably withheld.

"Existing City Requirements" means the City Requirements that are in effect as of the Adoption Date of this Agreement.

"Final Map" means a Final Parcel Map or a Final Subsequent Map.

"Permitted Rules Revisions" collectively means the following: (a) any Minor Changes to this Agreement that are proposed by Master Developer and approved by the City in accordance with Section 3.3; (b) any Future Discretionary Approvals applied for by Master Developer and approved by the City pursuant to Section 3.4; (c) any Authorized Code Revisions under Section 3.5 that are uniformly applied on a City-wide basis; and (d) written amendments to this Agreement mutually executed by City and Master Developer pursuant to Section 16.2.

"Director" means the Director of the Development and Resources Management Department of the City of Fresno.

"Subdivision Maps" means Vesting Tentative Subdivision Maps, Tentative Subdivision Maps, and Final Subdivision Maps, as those terms are defined in the Subdivision Map Act (Government Code Section 66410 et seq).

"Technical City Permits" collectively means any of the following technical permits issued by the City or any City Agency in connection with any building or improvement of Master Developer's Property: (a) demolition, excavation and grading permits; (b) foundation permits; (c) permits for the installation of underground lines and facilities for utilities, including without limitation, water, sewer, storm drain and dry utilities (electrical, gas, phone and cable); (d) any encroachment permits; and, (e) any street improvement permits, including without limitation, permits for street lighting and traffic signals. "Technical City Permits" specifically excludes building permits from the City or any City Agency for the construction of particular buildings or improvements of Master Developer's Property.

### Section 3.2 Applicable Rules.

(a) Except for the Permitted Rules Revisions and any Master Developer Approved Changes, Master Developer shall have the right to develop and occupy the Master Developer's Property during the Term in accordance with the Applicable Rules. In the event of any conflict between the provisions in this Agreement, the West Creek Village Approvals and the Existing City Requirements, such conflict shall be resolved in the following order of priority: (a) first, this Agreement; (b) then, the West Creek Village Approvals; and (c) finally, the Existing City Requirements.

(b) Except for the Permitted Rules Revisions and any Master Developer Approved Changes, no amendment to, revision of, or addition to any of the City Requirements that is adopted or enacted after the Adoption Date shall (i) be effective or enforceable by the City with respect to the Master Developer's Property or (ii) modify or impair the rights of Master Developer under this Agreement during the Term without the Master Developer's written approval, whether such amendment, revision or addition is adopted or approved by: (a) the City Council; (b) any City Agency; or (c) by the people of the City through charter amendment, referendum or initiative measure.

### Section 3.3 Minor Changes.

(a) The Parties acknowledge further planning and development of the Master Developer's Property may demonstrate refinements and changes are appropriate with respect to the details and performance of the Parties under this Agreement. The Parties desire that Master Developer retain a certain degree of flexibility with respect to the details of the development of the Master Developer's Property and with respect to those items covered in general terms under this Agreement, pursuant to the authorities established by Fresno Municipal Code Section 15-6009-B. Therefore, if and when Master Developer finds that Minor Changes (as hereinafter defined) are necessary or appropriate, then, upon written request by Master Developer, the Parties shall, unless otherwise required by Laws, effectuate such changes or adjustments through administrative amendments executed by the Master Developer and the City Manager or his or her designee, which, after execution, shall be attached hereto as addenda and become a part hereof; and may be further changed and amended from time to time as necessary, with approval by the City Manager and the Master Developer.

(b) The term "Minor Changes" collectively means: (a) minor deviations to the West Creek Village Approvals that are permitted under the Existing City Requirements and are reasonably approved by the Director; (b) changes or modifications to Amended Tentative Parcel Map No. TPM-17-06 that are implemented by Master Developer prior to recordation by Master Developer of the final parcel map associated with Amended Tentative Parcel Map No. TPM-17-06 (the West Creek Village Parcel Map) in the Official Records, provided that: (i) the total number of Permitted Parcels established by the West Creek Village Parcel Map does not exceed four Parcels plus one remainder parcel; and, (ii) the changes and modifications are approved by the Director, which approval shall not be unreasonably withheld or denied.

(c) In effecting any Minor Changes, the City shall cooperate with the Master Developer, provided the aggregate total density and intensity of the Master Developer's Property are not increased, the permitted uses are not modified from those in the West Creek Village Approvals and any changes are in accordance with the Existing City Requirements. Minor Changes shall not be deemed an amendment to this Agreement under California Government Code Section 65868 but are ministerial clarifications and adjustments, and unless otherwise required by law, no such administrative amendments shall require prior notice or hearing by the Planning Commission and City Council. All changes not considered Minor Changes will be considered Major Changes and shall require Council approval. Any amendment or change requiring a subsequent or supplemental environmental impact report pursuant to CEQA shall not be considered a Minor Change, but shall be considered a substantive amendment that shall be reviewed and approved by the Planning Commission or the City Council as determined by the applicable provisions of the Fresno Municipal Code relating to the hearing and approval procedures for the specific West Creek Village Approval.

#### Section 3.4 Future Discretionary Approvals.

(a) In General. Nothing in this Agreement is intended, should be construed or shall operate to preclude or otherwise impair the rights of Master Developer from applying to the City during the Term of this Agreement for any of the following new approvals with respect to any proposed subdivision, buildings, and improvements in the West Creek Village Project Area (collectively, the Future Discretionary Approvals): (a) any new variance, Development Permit, Conditional Use Permit, Parcel Map, Tract Map or Rezoning, or Plan Amendment that is required under the Existing City Requirements, or desired by Master Developer; and, (b) any other approval (i) which is not otherwise addressed or set forth in this Agreement and (ii) which the Existing City Requirements mandate must be reviewed and approved by the Planning Commission or City Council. The City shall process, review and approve or disapprove any application for a Future Discretionary Approval filed by Master Developer in accordance with the City Requirements then in effect. Master Developer may be required dedicate right of way necessary to improve streets within the West Creek Village Project area as a condition of approval for a Future Discretionary Approval consistent with City Requirements then in effect. Future Discretionary approvals must comply with the requirements of the California Environmental Quality Act (CEQA). The approval by the City of an application by Master Developer for a Future Discretionary Approval shall not require an amendment of this Agreement, unless requested by Master Developer.

(b) Consistency with Cortese-Knox-Hertzberg Act. Notwithstanding the above, the Parties understand and agree that to the extent modification to parcel boundaries requires rezoning any part of the West Creek Village Project Area, such rezoning shall be processed consistent with the requirements of California Government Code Section 56375(e).

Section 3.5 Authorized Code Revisions. This Agreement shall not prevent the City from applying to the development of Master Developer's Property the following rules, regulations and policies adopted or enacted after the Adoption Date, if uniformly applied on a City-wide basis (collectively, the Authorized Code Revisions):

(a) Procedural regulations relating to hearing bodies, petitions, applications, notices, findings, records, hearings, reports, recommendations, appeals and any other matter of procedure, provided that such changes in procedural regulations do not have the effect of materially interfering with the substantive benefits conferred to Master Developer by this Agreement.

(b) Regulations which are not in conflict with this Agreement and which would not, alone or in the aggregate, cause development of the Master Developer's Property to be materially different, more burdensome, time consuming or expensive.

(c) Regulations which are necessary to avoid serious threats to the public health and safety, provided that, to the maximum extent possible, such regulations shall be construed and applied in a manner to preserve the substantive benefits conferred to Master Developer by this Agreement.

(d) Mandatory regulations of the State and the United States of America applicable to the Master Developer's Property, provided that, to the maximum extent possible, such regulations shall be construed and applied in a manner to preserve to the Master Developer the substantive benefits conferred to Master Developer by this Agreement.

(e) City Requirements imposing life safety, fire protection, mechanical, electrical and/or building integrity requirements with respect to the design and construction of buildings and improvements, including the then current applicable building codes.

Section 3.6 No Obligation to Develop. Nothing in this agreement should be construed nor shall require Master Developer to proceed with the construction of any improvements on the Master Developer's Property. The decision to proceed or to forbear or delay in proceeding with the implementation or construction on Master Developer's Property or any building or improvements on Master Developer's Property shall be in the sole discretion of Master Developer and the failure of Master Developer to proceed with construction on Master Developer's Property or any such buildings or improvements on Master Developer's Property shall not: (a) give rise to any rights of the City to terminate this agreement; or, (b) constitute and Event of Default (as hereinafter defined) or give rise to any liability, claim for damages or cause of action against Master Developer.

Section 3.7 Hold on Certificate of Occupancy. Except as otherwise provided in this Agreement the City reserves the right to place a hold on the issuance of a Certificate of Occupancy for a building on the Master Developer's Property in the event the Existing City Requirements or Conditions of Approval with respect to that building have not been substantially completed by Master Developer or in the interest of preserving health and safety as reasonably determined by the Director.

Section 3.8 Final Map. Pursuant to the requirements of the Subdivision Map Act and the City's Parcel Map Ordinance, if at the time the Master Developer requests the City approve and record a Final Map for all or some of the parcels delineated in Amended Tentative Parcel Map No. TPM-17-06 or subsequent Subdivision Maps that conform to the uses and densities detailed in Exhibits B and C (the Applicable Parcels), Master Developer has not complied with the applicable conditions of approval for a Final Map, as reasonably determined by the City Engineer, Master Developer shall execute a Subdivision Agreement with respect to the Applicable Parcels, provided that the Subdivision Agreement shall not impose City Development Fees or Exactions beyond those provided for in Section 5.2 and Section 5.4 below, and provided that the obligations of the Master Developer under the Subdivision Agreement shall acknowledge the obligations of the City established in ARTICLE 6 that pertain to the applicable conditions of approval of such Final Map. In addition, any Subdivision Agreement shall not impose security requirements with respect to improvements to be constructed by the City pursuant to ARTICLE 6.

Section 3.9 Compliance with West Creek Village Approvals. Master Developer covenants and agrees to comply with all conditions of approval for the West Creek Village Approvals, including compliance with all required mitigation measures set forth in EA No. A-17-007/R-17-010/TPM-17-06/ANX-17-005, except as modified by this Agreement.

(a) Density Limitation. Master Developer covenants and agrees to develop Master Developer's Property within the density limits articulated by the West Creek Village Approvals and shall not exceed the number of residential units which are set forth in those approvals as a total of 481 residential units comprised of 92 single-family detached, 25 single-family attached, 264 multi-family, and 100 lofts over ground floor retail.

(i) Notwithstanding Fresno Municipal Code Section 15-310-C relating to density transfers, Master Developer shall not be required to obtain a Planned Development Permit to transfer the number of units per acre for one zone district to another zone district within the West Creek Village Project Area so long as the total residential units do not exceed the limits described in Section 3.9(a), above.

(ii) Nothing in this Section shall preclude Master Developer from applying for and seeking approval of an amendment to this Section pursuant to Section 16.2 of this Agreement. However, amendment of this Section shall not be processed as a Minor Change pursuant to Section 3.3.

#### ARTICLE 4. CITY PERMITS AND SUBSEQUENT APPROVALS

Section 4.1 Review and Processing of City Permits. Except as otherwise expressly provided in this Agreement or by applicable law, all City Permits required for the construction and development of the Master Developer's Property and any buildings and improvements thereon which comply with the requirements of the Applicable Rules: (a) shall be issued over-the-counter by the Director or the director of the other applicable City Agency having responsibility for the issuance of such City Permits; (b) shall not require the approval of the Planning Commission, City Council or any other City board or commission; and (c) shall not require a public hearing. Notwithstanding the above, any approval required to be subject to a public hearing or the approval of the Planning Commission, City Council or any other City board or commission by either the Fresno Municipal Code or applicable state or federal law, shall be required to follow the procedures set forth in that applicable law.

Section 4.2 Review and Processing of City Permits for Off-Site Improvements. City Permits required for Off-Site Improvements (as hereinafter defined), including, but not limited to, construction plans for the streets, sidewalks, street lighting, median landscaping, sewer lines, water lines, recycled/reclaimed water mains and system and traffic signals, must comply with the requirements of the Applicable Rules; provided the City may impose policies, ordinances and standards in effect at the time the applications for City Permits for the Off-Site Improvements are submitted to the City, if and only if, all

of the following conditions are met: (i) such policies, ordinances and standards shall not impose any new City Development Fees (as hereinafter defined) or increase the amount of any City Development Fees for development of Master Developer's Property over and above the Required Development Fees (as hereinafter defined); (ii) such policies, ordinances and standards shall not impose any Exaction on the Master Developer's Property other than the Required Exactions (as hereinafter defined); and, (iii) in the reasonable determination of the City Engineer, such policies, ordinances and standards shall not substantially increase the costs to Master Developer of the construction of the Off-Site Improvements or substantially increase the time required by Master Developer for the construction of the Off-Site Improvements. The foregoing provisions shall not be interpreted in a manner to diminish or otherwise affect the obligations of the City to construct Off-Site Improvements established in ARTICLE 6.

Section 4.3 Review and Processing of Subsequent Maps and Duration of Subsequent Maps. Except as otherwise expressly provided in this Agreement, for all Subsequent Maps required for the West Creek Village Project which comply with the Vested Uses and the requirements of the Applicable Rules, the City shall endeavor to process and schedule final approval of such applications within the following time frames: where the CEQA compliances are based on: (a) the approved MND or an addendum thereto, ninety (90) days; (b) a subsequent MND or Negative Declaration, one hundred twenty (120) days; and, (c) an EIR, one hundred eighty (180) days. In addition, the term of vesting established by all Subsequent Maps shall be the longer of the Term of this Agreement, or the term of such Subsequent Map as otherwise established by for such Map by the Subdivision Map Act (Government Code Section 66410 et seq).

Section 4.4 Duration of City Permits and West Creek Village Approvals. Notwithstanding any provisions in the West Creek Village Approvals, Future Discretionary Approvals, the City Permits, the Existing City Requirements and the Permitted Rules Revisions that may establish earlier expiration dates for the West Creek Village Approvals, Future Discretionary Approvals, or the City Permits, the Parties mutually acknowledge and agree, pursuant to the provisions of California Government Code Sections 66452.6(a) and 65863.9, that any Future Discretionary Approvals and any City Permits for development of Master Developer's Property shall remain valid and effective throughout the Term.

## ARTICLE 5. PHASING, EXACTIONS, AND CITY DEVELOPMENT FEES

Section 5.1 Definitions. For purposes of this Agreement, the following terms shall have the meanings set forth below:

"City Application Fees" means fees levied or assessed by the City and any City Agency to review and process applications for City Permits and Future Discretionary Approvals.

"City Development Impact Fees" means any and all fees and assessments, other than City Application Fees, charged or required by the City or any City Agency as a condition of, or in connection with, the development of Master Developer's

Property consistent with the West Creek Village Approvals or any City Permits or Future Discretionary Approvals: (a) to defray, offset or otherwise cover the cost of public services, improvements or facilities; or (b) that are imposed for a public purpose.

"Park Amenity Site" means the land described in Section 1.1, to be acquired by the City pursuant to 6.1(a).

"Park Amenity" means the improvements to be developed as part of the Park Amenity Site, as detailed in Section 6.1 below.

"Exaction" means any exactions or mitigation measures, other than the payment of City Development Impact Fees and City Application Fees imposed by the City or any City Agency, as a condition of, or in connection with the development of Master Developer's Property consistent with the West Creek Village Project or any Future Discretionary Approvals. Exactions includes, without limitation: (a) a requirement for the dedication of any portion of the Master Developer's Property to the City or any City Agency; (b) an obligation for the construction of any on-site or off-site improvements; (c) an obligation to provide services; or, (d) the requirement to dedicate any easements, rights or privileges with respect to the Master Developer's Property or any portion thereof to the City or any City Agency.

#### Section 5.2 Exactions (Including Off-Site Improvements).

(a) Parcel Map Exactions. All of the Exactions that Master Developer shall be required to perform or cause to be performed in connection with the development, construction, use and occupancy of the Master Developer's Property pursuant to the requirements of the Amended Tentative Parcel Map No. TPM-17-06, during the term of the Agreement (collectively, the Parcel Map Exactions), and the timing requirements for the performance of such Parcel Map Exactions, are set forth in the Conditions of Approval adopted by the City Council on August 24, 2017 with respect to 2017 Vesting Tentative Parcel Map No. 2017-06, subject to the updated Fire Impact Fees set forth in Council Resolution No. 2019-125 made applicable by the findings set forth in Council Resolution 2019-126. Those Conditions of Approval are incorporated herein by this reference. The Parcel Map Exactions include, without limitation, all Conditions of Approval imposed by the City to fully mitigate adverse impacts resulting from, and reasonably related to, the development of the improvements associated with the West Creek Village Project, all mitigation measures required by EA No. A-17-007/R-17-101/TPM-17-06/ANX-17-005, a Mitigated Negative Declaration, and the updated Fire Impact Fees set forth in Council Resolution No. 2019-125 made applicable by the findings set forth in Council Resolution 2019-126. A table describing certain exactions and their required timing is referred to generally as the Exactions Table and is attached to this Agreement as Exhibit D. Notwithstanding the foregoing, Master Developer shall not be required to perform those Parcel Map Exactions that are designated in Section 6.1 or Exhibit D to be obligations of the City. In the event of a conflict between this Agreement and Exhibit D, this Agreement shall prevail.

(b) Other Exactions. No Off-Site Improvements or other Exactions shall be imposed by the City in connection with the development, construction, use and occupancy of the Master Developer's Property except pursuant to the application of the Applicable Rules and Existing City Requirements on Future Discretionary Approvals including, but not limited to, Subsequent Maps or subsequent Special Permits (the Required Other Exactions). Notwithstanding any provision in this Agreement to the contrary, if any Future Discretionary Approval provides for uses, densities, or development patterns not contemplated by this Agreement or the West Creek Village Master Plan, which will generate the need for additional exactions related to transportation infrastructure or the installation of utilities, such additional exactions shall be imposed consistent with the Existing City Requirements in place at the time of application.

(c) Off-Site Acquisition. City acknowledges and agrees in the event the performance by Master Developer of any off-site improvements listed as a Parcel Map Exactions or a Required Other Exaction (collectively, the Off-Site Improvements) requires construction or installation on land in which neither the City or Master Developer has sufficient legal title or interest to allow such construction or installation to be performed, then: (a) City shall acquire the necessary Required ROW (as hereinafter defined) in accordance with the provisions of this Subsection of this Agreement at the sole cost of Master Developer and, upon such acquisition, the City shall make such Required ROW available to Master Developer for the construction and installation of such Off-Site Improvements; and, (b) provided that Master Developer performs its obligations under this Subsection, Master Developer shall not be required to construct or install such Off-Site Improvements until: (i) City acquires title or interest in such Required ROW sufficient to allow such construction or installation to be performed, and, (ii) City promptly makes such Required ROW available to Master Developer for the construction and improvement of such Off-Site Improvements. The City shall neither postpone nor refuse approval of a Final Map, nor of any City Permits, because Master Developer has failed to construct or install any or all of the Off-Site Improvements if neither Master Developer nor City has sufficient title or interest in the Required ROW to permit such Off-Site Improvements to be constructed or installed so long as Master Developer has provided the improvement security required by the Subdivision Agreement for the such Final Map or, with regard to other City permits has otherwise provided appropriate improvement Security, as determined by the City Engineer, to ensure improvements are constructed once the right-of-way is acquired. The term Required ROW means all land that: (i) is not owned by the City, any City Agency or Master Developer as of the Adoption Date of this Agreement; and, (ii) is necessary for the construction or installation of any Off-Site Improvements pursuant to this Agreement. Required ROW may take the form of easement areas, rights-of-way and other land interests.

(d) Construction Standards. All Off-Site Improvements shall be designed and constructed in accordance with the Applicable Rules (subject to any Permitted Rules Revisions). Engineered improvement plans for street improvements, signing, striping, traffic signals, storm drains, sewer and water facilities shall be prepared by a Registered Civil Engineer. Street lighting and traffic signal plans may alternatively be prepared by a Registered Electrical Engineer. Landscaping, planting and irrigation

plans for areas within the public right-of-way shall be prepared by a Registered Civil Engineer or Licensed Landscape Architect. Plans shall be submitted for Department of Public Works and Department of Public Utilities review and approval. The Master Developer shall pay all plan check and inspection fees in accordance with the City of Fresno Master Fee Schedule at the time of plan submittal.

(e) Prevailing Wages. Master Developer shall: (a) be required to pay, and shall cause its contractor and subcontractors to pay, prevailing wages for the construction of those works that are public works under California Labor Code Section 1720(a) (unless exempted pursuant to California Labor Code Section 1720(c)) (collectively, the PW Improvements); and, (b) comply with the other applicable provisions of Labor Code Sections 1720 et seq. and implementing regulations of the Department of Industrial Relations. Master Developer shall or shall cause its contractor and subcontractors to keep and retain such records as are necessary to determine that prevailing wages have been paid as required by law. During the construction of the Public Work Improvements, Master Developer shall, or shall cause its contractor to, post at the Master Developer's Property the applicable prevailing rates of per diem wages. Master Developer shall indemnify, hold harmless and defend (with counsel reasonably acceptable to the City) the City 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 Master Developer, 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 the implementing regulations of the Department of Industrial Relations in connection with construction of the PW Improvements. Master Developer shall also indemnify, hold harmless, and defend (with counsel reasonably acceptable to the City) the City against any claim brought pursuant to California Labor Code Section 1781 for work related to the development of Master Developer's property under this Agreement. The Parties acknowledge and agree that the City is making no representation that development of Master Developer's Property is not a public work subject to prevailing wage and that no City employee or representative is authorized to make such a representation.

(f) Transfer of Off-Site Improvements. Upon completion by Master Developer of any Off-Site Improvements not to be constructed by the City pursuant to ARTICLE 6, and upon City's acceptance of the work performed, the Off-Site Improvements shall be conveyed and transferred by Master Developer to the City, and the City shall accept the Off-Site Improvements and thereafter assume responsibility for the ownership, operation, repair and maintenance thereof.

### Section 5.3 City Development Fees.

(a) In General. Development of the Master Developer's Property shall qualify for the incentives provided by the Southwest Revitalization Incentive Program, as adopted by the City on March 21, 2019. The parties acknowledge and agree that pursuant to the Southwest Revitalization Incentive Program, not less than the following reductions in the City Development Impact Fees shall be provided. In addition, the parties acknowledge that the reductions provided by this Section shall not limit or

constrain the ability for Master Developer, or other developers, to apply for and obtain additional reductions for other discrete development projects conducted on the Master Developer's Property. In addition, notwithstanding the below stated minimum reductions, if the time that the Required Development Fee is required to be paid by Developer the amount then charged by the City or the applicable City Agency for the Required Development Impact Fee is less than the amount determined below, the lesser amount shall be charged.

**For Single Family Residential Projects:**

1. Water Capacity Fee	Reduced to 50% of the Master Fee Schedule rate on August 24, 2019, plus the annual adjustments permitted by Resolution 2017-99
2. Water Frontage Charge	Reduced to 75% of Master Fee Schedule rate on August 24, 2017, plus the annual adjustments permitted by Resolution 2017-99.
3. Sewer Lateral Charge	Reduced to 75% of Master Fee Schedule rate on August 24, 2017,
4. Wastewater Facilities	Reduced to 75% of Master Fee Schedule rate on August 24, 2017,
5. Parkland Dedication In-Lieu Fee	Reduced to 75% of Master Fee Schedule rate on August 24, 2017, plus the annual adjustments permitted by Resolution 2017-99.
6. Citywide Park Facility	Reduced to 75% of Master Fee Schedule rate on August 24, 2017, plus the annual adjustments permitted by Resolution 2017-99.
7. Citywide Fire Facilities	The Master Fee Schedule rate on August 19, 2019, plus the annual adjustments permitted by Resolution 2017-99.
8. Citywide Police Facility	The Master Fee Schedule rate on August 24, 2017, plus the annual adjustments permitted by Resolution 2017-99.
9. Citywide Regional Street	Reduced to 25% of Master Fee Schedule rate on August 24, 2017, plus the annual adjustments permitted by Resolution 2017-99.
10. New Growth Street	Reduced to 25% of Master Fee Schedule rate on August 24, 2017, plus the annual adjustments

permitted by Resolution 2017-99.

- 11. Citywide Traffic Signal      Reduced to 25% of Master Fee Schedule rate on August 24, 2017, plus the annual adjustments permitted by Resolution 2017-99.

**For Multi-Family Residential Projects:**

- 1. Water Capacity Fee      Reduced to 50% of the Master Fee Schedule rate on August 24, 2017, plus the annual adjustments permitted by Resolution 2017-99.
- 2. Water Frontage Charge      Reduced to 75% of Master Fee Schedule rate on August 24, 2017, plus the annual adjustments permitted by Resolution 2017-99.
- 3. Sewer Lateral Charge      Reduced to 75% of Master Fee Schedule rate on August 24, 2017.
- 4. Wastewater Facilities      Reduced to 75% of Master Fee Schedule rate on August 24, 2017.
- 5. Parkland Dedication In-Lieu Fee      Reduced to 75% of Master Fee Schedule rate on August 24, 2017, plus the annual adjustments permitted by Resolution 2017-99.
- 6. Citywide Park Facility      Reduced to 75% of Master Fee Schedule rate on August 24, 2017, plus the annual adjustments permitted by Resolution 2017-99.
- 7. Citywide Fire Facilities      The Master Fee Schedule rate on August 19, 2019, plus the annual adjustments permitted by Resolution 2017-99.
- 8. Citywide Police Facility      The Master Fee Schedule rate on August 24, 2017, plus the annual adjustments permitted by Resolution 2017-99.
- 9. Citywide Regional Street      Reduced to 25% of Master Fee Schedule rate on August 24, 2017, plus the annual adjustments permitted by Resolution 2017-99.
- 10. New Growth Street      Reduced to 25% of Master Fee Schedule rate on August 24, 2017, plus the annual adjustments permitted by Resolution 2017-99.
- 11. Citywide Traffic Signal      Reduced to 25% of Master Fee Schedule rate on August 24, 2017, plus the annual adjustments

permitted by Resolution 2017-99.

**For Commercial/Retail Projects:**

- |                                    |                                                                                                                                 |
|------------------------------------|---------------------------------------------------------------------------------------------------------------------------------|
| 1. Water Capacity Fee              | Reduced to 50% of the Master Fee Schedule rate on August 24, 2017, plus the annual adjustments permitted by Resolution 2017-99. |
| 2. Water Frontage Charge           | Reduced to 75% of Master Fee Schedule rate on August 24, 2017, plus the annual adjustments permitted by Resolution 2017-99.     |
| 3. Sewer Lateral Charge            | Reduced to 75% of Master Fee Schedule rate on August 24, 2017.                                                                  |
| 4. Wastewater Facilities           | Reduced to 75% of Master Fee Schedule rate on August 24, 2017.                                                                  |
| 5. Parkland Dedication In-Lieu Fee | Not Applicable                                                                                                                  |
| 6. Citywide Park Facility          | Not Applicable                                                                                                                  |
| 7. Citywide Fire Facilities        | The Master Fee Schedule rate on August 19, 2019, plus the annual adjustments permitted by Resolution 2017-99.                   |
| 8. Citywide Police Facility        | The Master Fee Schedule rate on August 24, 2017, plus the annual adjustments permitted by Resolution 2017-99.                   |
| 9. Citywide Regional Street        | Reduced to 60% of Master Fee Schedule rate on August 24, 2017, plus the annual adjustments permitted by Resolution 2017-99.     |
| 10. New Growth Street              | Reduced to 60% of Master Fee Schedule rate on August 24, 2017, plus the annual adjustments permitted by Resolution 2017-99.     |
| 11. Citywide Traffic Signal        | Reduced to 60% of Master Fee Schedule rate on August 24, 2017, plus the annual adjustments permitted by Resolution 2017-99.     |

With the exception of the Fire Impact Fee, as set forth at the end of this paragraph, any City Development Impact Fees or other Exactions not specifically stated above, shall be the lesser of: (i) the City Development Impact Fees then charged when the application for the Vesting Tentative Parcel Map No. 2017-06 was determined to be complete pursuant to Government Code Section 65349, which the Parties agree was August 24,

2017 (plus the annual adjustments permitted by Resolution No. 2017-99); or, (ii) the amount then charged by the City or the applicable City Agency for the City Development Impact Fees at the time that the Required Development Fee is required to be paid by Developer. Notwithstanding the above, Master Developer shall pay the updated Fire Impact Fees set forth in Council Resolution No. 2019-125 made applicable by the findings set forth in Council Resolution 2019-126

For convenience of reference, the City Development Fees rate on August 24, 2017, as well as the timing of payment, are listed on Exhibit E to this Agreement. Resolution No. 2017-99 provides that City Development Impact Fees are subject to annual adjustment every July 1, beginning July 1, 2019, based on the 20-City Construction Cost Index as reported in the Engineering News Record for the 12-month period ending in May of the year of adjustment

(b) Limitation on Additional City Development Impact Fees. Except for the City Development Impact Fees described in subsection (a) above, no City Development Impact Fees shall be imposed by the City or any City Agency during the Term of this Agreement in connection with: (i) the development, construction, use or occupancy of the Master Developer's Property; or, (ii) any application filed for any City Permit for the development, construction, use or occupancy of the Master Developer's Property. Notwithstanding any provision in this Agreement to the contrary, if any Future Discretionary Approval provides for uses, densities, or development patterns not contemplated by this Agreement or the West Creek Village Master Plan that will generate the need for additional City Development Impact Fees to defray, offset, or otherwise cover the cost of public services, improvements, or facilities, such additional City Development Impact Fees shall be imposed consistent with the Existing City Requirements in place at the time of application.

(c) Community Facilities District for Funding Services. Master Developer covenants and agrees that, as a condition to the issuance of an Occupancy permit for the development of a relevant portion of the Master Developer's Property, Master Developer shall have coordinated to assure either of the following: (i) The West Creek Village shall be annexed into Community Facilities District No. 9 for multi-family and commercial uses, and Community Facilities Districts No. 11 for single family residential uses (collectively "CFD Annexations"). The CFD Annexations shall be for the continued maintenance of the Park Amenity and may be utilized for additional landscape maintenance on public property within the Master Developer's Property. The City and Master Developer agree to consider the feasibility of the Master Developer or its assignee maintaining the CFD area through a CFD Maintenance Agreement; or, (ii) the Master Developer shall establish a stand-alone Community Facilities District, whose improvements may be maintained pursuant to service agreements arranged by the Master Developer, and which shall be guaranteed by service maintenance agreements. It is further the intent that any stand-alone CFD Community Facilities District that is formed may, at the election of Master Developer, provide for enhanced security and enhanced program activities, to benefit the Park Amenity.

(d) Non-City Fees. Notwithstanding the provisions of Section 5.3(a), Master Developer shall be responsible for paying: (a) any fees Master Developer is obligated to directly pay to any Federal, State, County or local agency (other than any City Agency) under applicable Federal, State, County or local law; and, (b) any fees the City is legally required to collect for other State or Federal agencies pursuant to: (i) State or Federal law or (ii) any City agreement or City ordinance the City is legally mandated or required to adopt or enter into to comply with State or Federal law or a judgment of a court of law, but only to the extent necessary to satisfy such compliance.

(e) Quimby Act Requirements. The Parties agree that the Master Developer shall have no obligation for the dedication of land to comply with any requirements of Fresno Municipal Code Section 14-4.705 or Fresno Municipal Code Section 15-3701. Master Developer shall nevertheless remain obligated to pay the Parkland Dedication In-Lieu Fee described in Fresno Municipal Code Section 14-4.705 or Fresno Municipal Code Section 15-3701 for development of the West Creek Village Project, subject, however, to the reduction in such fees provided by the Southwest Revitalization Incentive Program described in Section 5.3(a) above. In addition, the parties agree that the Park Amenity acreage constitutes land dedicated for park or recreational purposes pursuant to the dedication requirements set forth in FMC 15-3701-J. Therefore, in determining the amount of any Parkland Dedication In-Lieu Fees, Master Developer shall be given a credit against any liability for payment of Parkland Dedication In-Lieu Fees based on the value of the Park Amenity dedicated by the Master Developer to the City (the "Parkland In-Lieu Fee Credits"), determined in accordance with the following: one-half of the product of the gross acreage of the Park Amenity multiplied by the per acre value of the gross acres of the Park Amenity determined by the appraisal described in Section 6.1(a) below. Master Developer may assign rights to use of the Parkland In-Lieu Fee Credits in accordance with the provisions of Section 12.2 below.

Section 5.4 City Application Fees. Master Developer shall pay to the City the City Application Fees chargeable in accordance with the City's Master Fee Schedule that is in effect at the time the relevant application for a City Permit is made; provided such City Application Fees are uniformly imposed by the City and any City Agency at similar stages of project development on all similar applications for development in the City.

Section 5.5 City Preparation Costs. Master Developer has paid the City the sum of \$26,530.00 which amount the City has determined to be the reasonable costs to be incurred by the City to negotiate, prepare and execute this Agreement (collectively, the City Preparation Costs). The Master Developer's liability for the city Preparation Costs is capped at the sum of \$26,530.00, and the City shall reimburse Master Developer for any unused portion of the previously paid City Preparation Costs (which such unused portion based upon actually consumed staff time and City Attorney time, based upon reasonable imputed hourly rates).

Section 5.6 No Impact on City Obligations. The foregoing provisions of this ARTICLE 5 shall not be interpreted in a manner to diminish or otherwise affect the obligations of the City to construct Off-Site Improvements established in ARTICLE 6.

Section 5.7 Phasing. Development of the Master Developer Property will include four general components (each a Phase). Notwithstanding such presently intended Phases, any development required or permitted to be conducted by Master Developer detailed below may be conducted in any order of priority, and one or more of such Phases may be developed concurrently with any other Phase (or portion of any Phase):

Phase I: Church Avenue Commercial Site: Development of the Church Avenue Commercial Site.

Phase II Residential Development: Development of the portions of the West Creek Village Residential Property located to the east of the Park Amenity Site and south or west of the Church Avenue Commercial Site (as delineated on the West Creek Village Master Plan).

Phase III Jensen Avenue Commercial Site: Development of the Jensen Avenue Commercial site.

Phase IV Residential Development. Development of the portions of the West Creek Village Residential Property located to north of the Elementary School site.

## ARTICLE 6. ACTIONS BY CITY

### Section 6.1 Park Amenity

(a) Acquisition of the Park Amenity Site. The City shall acquire from Master Developer, and Master Developer shall sell to City, the Park Amenity Site, subject to availability of the TCC Project Funds allocated for the Park Amenity. The entirety of the Park Amenity Site is 10.00 gross acres. The City shall purchase the Park Amenity Site acreage, and Master Developer agrees to accept a cash payment for One Million Dollars (\$1,000,000.00), which amount reflects one-half of the value of such acreage established by the Appraisal Report prepared by a California certified general appraiser attached hereto as Exhibit "G". Master Developer further agrees to accept Parkland In-Lieu Fee Credits for the remaining value of the acreage, in the amount of One Million Dollars (\$1,000,000.00). City's acquisition of the Park Amenity Site is further subject to the following conditions precedent: (i) The City and Master Developer shall confirm in writing their joint approval of the size and configuration of the Park Amenity Site; (ii) the City shall be in receipt of sufficient TCC Project Funds, or other grant funds sufficient to fund the purchase price of the Park Amenity Site; and, (iii) the City and the Master Developer shall enter into a purchase and sale agreement, consistent with the above terms, and other commercially standard terms, providing for the sale of the Park Amenity Site, free from any consensual monetary encumbrances, pursuant to an escrow established with Fidelity Title Insurance Company as the Escrow Holder, and subject to such other terms and conditions as reasonably required by the Escrow Holder. In addition, the parties acknowledge that a 1.75 acre portion of the Park and Recreation zoned lands within the Master Developer Property is not a part of the Park Amenity Site

being sold to the City. It is the intention of the Master Developer to convey such 1.75 acre site to a non-profit entity to develop a Community Administration and Arts Buildings, to be used by such non-profit to implement several community programs and services.

(b) Temporary Ponding Basin.

(i) Designation of Temporary Ponding Basin Site. To facilitate development of the Park Amenity Site, Master Developer covenants to provide the City a temporary easement for the development of a temporary ponding basin. Such temporary ponding basin may be necessitated by the fact that the Park Amenity Site is planned to be served by future master plan facilities within Fresno Metropolitan Flood Control District (FMFCD) Drainage Area "SS", per the adopted FMFCD Storm Drainage and Flood Control Master Plan (Exhibit "H"), and the storm drain pipelines have not yet been constructed to Basin "SS". The site of the temporary easement for the temporary ponding basin (the "Temporary Basin"), shall be located on a portion of the Master Developer Property that shall be designated by Master Developer, in consultations with the City, and shall be on a site that will support the Temporary Basin sized to handle the capacities required for the Park Amenity Site (the "City Required Capacities") and the development of such other portions of the Master Developer Property as the Master Developer shall determine (the "Master Developer's Required Capacities").

(ii) If the site of the temporary ponding basin provided by the Developer is not immediately adjacent to the Park Amenity, then the Developer shall dedicate the necessary easements to the Fresno Metropolitan Flood Control District for the required segments of master plan pipe to convey the storm water to the temporary ponding basin. The Developer shall either construct the FMFCD storm drain pipeline as set forth in the FMFCD master plan, or reimburse the City its actual costs for construction of the pipeline.

(iii) Development of Temporary Ponding Basin Use. If Master Developer requires development of the Temporary Basin before there is a need to support the City Required Capacities, it shall design, develop and maintain the Temporary Basin at the designated site, including such portion of the Master Developer's Required Capacities as it may determine and which it may add to from time to time. When the City Required Capacities are required, the City shall design, develop the Temporary Basin, or develop additional capacities to the then existing Temporary Basin, necessary to support the City Required Capacities. Before commencing its development or expansion of the Temporary Basin, the City shall also consult with the Master Developer to determine whether Master Developer desires to coordinate to have any portions of the Master Developer's Required Capacities concurrently designed and developed with the City Required Capacities and City shall include such elements of the Master Developer's Required Capacities in its design and development activities. In that event, Master Developer shall reimburse the City a prorated portion of the costs of the design and development of the Temporary Basin conducted by or on behalf of the City, based on the relative percentages of the City Required Capacities and the portion of the Master Developer's Required Capacities that are included in such City activities. Master Developer shall also retain the right to further develop the Temporary Basin to

incorporate any further portions of the Master Developer's Required Capacities that it may require from time to time, which shall be designed and developed at its sole cost and expense.

(iv) Maintenance of Temporary Ponding Basin. Until such time as the City constructs the City Required Capacities, Master Developer shall maintain any Temporary Ponding Basin that it initially develops. After City constructs the City Required Capacities, it shall undertake maintenance of the Temporary Ponding Basin. Master Developer shall, on an annual basis, reimburse City for a portion of the maintenance costs reasonably documented by the City, based on the relative percentages of the City Required Capacities and the portion of the Master Developer's Required Capacities that are then incorporated into the Temporary Ponding Basin.

(v) Decommissioning of Ponding Basin. At such time as the Temporary Basin is no longer needed due to the FMFCD development of required storm drain pipelines, or the availability of options to support the City's Required Capacities, Master Developer shall provide the City written notice of such circumstance. City shall thereupon, within one year following receipt of such notice, backfill the Temporary Basin to 95% relative compaction, remove any perimeter fencing, and conduct a Phase I environmental survey (and any follow on evaluations or remediation recommended by such Phase I environmental survey) (the "Decommissioning Activities") after which time the temporary easement will be extinguished. Master Developer shall reimburse City for a portion of the Decommissioning Activities reasonably documented by the City, based on the relative percentages of the City Required Capacities and the portion of the Master Developer's Required Capacities that are then incorporated into the Temporary Ponding Basin.

(vi) Termination of City Easement. The nonexclusive easement granted to the City to support its use of the Temporary Ponding Basin shall remain in full force and effect until the Decommissioning Activities are completed.

(c) Development of the Park Amenity. Upon acquisition of the Park Amenity Site, the City shall commence and diligently pursue development of the Park Amenity subject to the availability of TCC Project Funds associated with the proposed Park Amenity and issued for its construction. The City will make its best effort to secure the match for the development of the Park Amenity, and will submit additional grant applications as available to pursue funding to complete the Park Amenity. The Park Amenity shall be completed not later than the period required to secure and retain TCC Project Funds for the Park Amenity project, but in all events the City shall expend all TCC Project Funds granted for the Park Amenity no later than five (5) years from the date of the grant execution of April 2, 2019. The Park Amenity shall incorporate such amenities as the City shall determine in its reasonable judgment, in cooperative consultation with the Master Developer and community residing in the Southwest Fresno Specific Plan boundaries. In addition, the City shall provide the Master Development the opportunity to have a representative participate in the selection committee that the City engages to conduct an evaluation of architects, engineers and/or planners, selected

pursuant to any RFQ process that the City conducts to facilitate any concept plans concerning the design of the Park Amenity.

(d) Park Access and Loop Road. The Park Access and Loop Road shall include construction of a local street that connects the Park Amenity Site to Church Avenue and a local street that loops around the perimeter of the Park Amenity Site in the following phases, as illustrated on attached Exhibit F-1, and whose specifications are detailed on attached Exhibit F-2. Master Developer shall dedicate Right of Way to the City sufficient to develop the Park Access and Loop Road at no cost to City. The Right of Way dedication shall be in addition to the Park Amenity Site and shall not be included in calculating the gross acreage of the Park Amenity Site. The first phase of the Park Amenity development shall include construction of a local street that connects the Park Amenity Site to Church Avenue (Initial Phase Park Access Road). A second phase of the Park Access Road (Second Phase Park Access Road) shall be developed by the City, at such time as the Master Developer has commenced construction of either the Phase 1 Church Avenue Commercial Site or the Phase II Residential Development. A third phase of the Park Access Road (Third Phase Park Access Road), which shall complete a loop around the Park Amenity, shall be developed by City at such time as the Master Developer has commenced construction of either the Phase III Jensen Avenue Commercial Site or the Phase IV Residential Development. The Initial Phase Park Access Road construction shall include installation of public utilities, including dry utilities to the site of the Park Amenity. In addition, all phases of the Park Access and Loop Road shall include installation of underground utilities detailed on Exhibit F-2 (including dry utilities), which are intended to provide capacities sufficient to provide services required for the Park Amenity Site and other elements of the intended development of the West Creek Village Project Area. Notwithstanding any of the above, this provision is contingent upon appropriation of funds by City, sufficient for City to complete all phases of the Park Access Road that are the obligation of the City. Should sufficient funds not be appropriated, this provision shall be unenforceable until such time as sufficient funds are appropriate and shall not constitute default or breach on the part of the City. However, the City will make its best efforts to diligently pursue funding in the interests of completing the Park Access Road. In addition, the City Manager shall, in each fiscal period that a phase of the Park Access Road is then intended to be developed, develop and provide to the Mayor, a proposed budget that includes a proposed appropriation of the funds to complete such phase of the Park Access Road.

(e) Master Developer's Contribution to Park Amenity. Master Developer covenants that it shall contribute to the City, one-third of the Costs of Completing the Park Access and Loop Road inclusive of all phases, with the remaining two-thirds of the cost contributed by City. For purposes of this Agreement, the Costs of Completing the Park Access Road shall be the actual costs the City incurs in completing such improvements, including installation of wet and dry utilities. The contribution of Master Developer under this provision shall be paid to the City within ninety (90) days of each phase of the Park Access Road, after the City confirms in writing to Master Developer that all improvements detailed for that phase have been completed and accepted by the City, together with documentation reasonably required by the Master Developer to confirm the Costs of Completing the Park Access and Loop Road. Should State Center

Community College District (SCCCD) contribute funds toward the cost of completing the Park Access and Loop Road, Master Developer and City's contributions shall be reduced proportionately, with Master Developer receiving a reduction in contribution obligation of one-third of SCCC'D's contribution and City receiving a reduction in contribution obligation of two-thirds of SCCC'D's contribution. SCCC'D's contribution shall be used to fund future phases of the Park Access and Loop Road.

(f) Wet and Dry Utilities. As described in Sections 6.1(d) and 6.1(e), the Park Access Road shall include certain wet and dry utilities. The facilities to be included in the City's capital improvement project, toward which the Master Developer shall contribute a one-third share of the costs, are as follows: water mains and sewer mains in each street, sized to serve the future development as described in the land use entitlements, including a sewer house branch and water service to the Park Amenity, sewer manholes, water valves and fire hydrants where appropriate; joint trench conduits for PG&E (electric and gas), AT&T telecommunications and cable, sized to serve the future development as described in the land use entitlements, and electrical conductors of sufficient size to serve the Park Amenity. Future obligations to be designed, constructed and paid for exclusively by the Master Developer are as follows: utility services for each lot (i.e. sewer house branches, water services, gas services, electrical and telecommunications), vaults, pedestals, transformers, cable, conductor, valves and any equipment not needed to serve the Park Amenity; and any system upgrades required by the utility companies as part of serving the new development's application for service. All costs associated with master planning for dry utility infrastructure shall be borne by the Master Developer.

(g) Water Supply Requirements. City further covenants and agrees that the improvements it is to conduct in aid of the Park Amenity and the Fresno City College-West Fresno Satellite Project include development of the water supply facilities referenced as items 2 and 3 in the Memorandum dated July 12, 2019 from the City of Fresno Department of Public Utilities to the City of Fresno Development Department, which is included in the Conditions of Approval for Tentative Parcel Map No. TPM-17-06. The City shall commence and diligently pursue development of such water supply facilities concurrent with the development of the Park Amenity as more particularly described in the Exactions Table attached as Exhibit D. The remaining Water Requirements set forth in the July 12, 2019 Department of Public Utilities Memorandum for Water Requirements remain the responsibility of Master Developer, except as modified by this Agreement (including Exhibit D) or to the extent such improvements are included within the work required for the Park Access Road improvements.

(h) Sewer Requirements. City further covenants and agrees that the improvements it is to conduct in aid of the Park Amenity and the Fresno City College-West Fresno Satellite Project include development of the sanitary sewer facilities set forth in the Memorandum dated July 12, 2019 from the City of Fresno Department of Public Utilities to the City of Fresno Development Department, which is included in the Conditions of Approval for Tentative Parcel Map No. TPM-17-06; except as modified by this Agreement (including Exhibit D), or to the extent such improvements are included within the work required for the Park Access Road improvements.

(i) City Construction of Perimeter Off-Sites. City further covenants and agrees that the improvements it is to conduct in aid of the Park Amenity and the Fresno City College-West Fresno Satellite Project include development of the following off-site improvements: (i) those detailed in Exhibit "A" to the Memorandum dated July 13, 2017 from the City of Fresno Department of Public Works to the City of Fresno Development Department included in the Conditions of Approval for Tentative Parcel Map No. TPM-17-06; (ii) the Existing Plus Project mitigation/improvements and the Class 1 Trail along the south side of Church Avenue described in the Memorandum dated July 19, 2017 from the City of Fresno Department of Public Works to the City of Fresno Development Department included in the Conditions of Approval for Tentative Parcel map No. TPM-17-06; (iii) the improvements allocated to the City on Exhibit D, (collectively, the "Perimeter Off-Sites"). Master Developer shall dedicate sufficient Right of Way necessary to construct the Perimeter Off-Sites to City, at no cost to City upon execution of this Agreement. Following receipt and appropriation of funds sufficient to construct the Perimeter Off-Sites, the City shall diligently pursue development of such Perimeter Off-Sites, except for those items that are specifically allocated to Master Developer on Exhibit D.

Section 6.2 Community Facilities District for Financing Master Developer Improvements. City acknowledges that Master Developer may desire to pursue a Community Facilities District or an Assessment District for the purpose of funding the construction of public improvements required as a condition of development of Master Developer's Property, or to incorporate additional public improvements to the Park Amenity as may be agreed upon by Master Developer and City. To facilitate the financing of such improvements, the Master Developer may desire to use of the Statewide Community Infrastructure Program (SCIP) established by the California Statewide Communities Development Authority (CSCDA). City will apply to become a SCIP participating agency, on terms and conditions required by CSCDA, to facilitate Master Developer's access to and use of SCIP financing of such public improvements, provided that the City shall have no duty or obligation for payment of any financings obtained through the SCIP program.

Section 6.3 Not In Aid of Private Development. The Parties acknowledge and agree that the construction by the City of the improvements described in, Section 6.1, or Exhibit D, and the use of the TCC Project Funds in support of such improvements, are development of a public project to support the Park Amenity, the Fresno City College-West Fresno Satellite Project and the Perimeter Off-Sites. Such work of improvement is separate from development of Master Developer's Property. No part of the work that is intended to be done in support of such separate public projects are intended by the Parties as work done in aid of the any elements of the development of the West Creek Village Project to be developed by the Master Developer. All components of the West Creek Village Project to be developed by the Master Developer constitute a private project development that is independent and separate from such public improvements.

Section 6.4 Letters of Support for Major Retailers. City will provide such letters of support as Master Developer shall reasonably request on a City approved template, to facilitate the marketing of the West Creek Village Project Area for development (or

leasing) by commercial enterprises to provide jobs and improve the extent of services and retail options available to the communities surrounding the West Creek Village Project Area.

Section 6.5 Other Governmental Permits. City agrees to cooperate with Master Developer in Master Developer's endeavors to obtain permits and approvals as may be required from other governmental or quasi-governmental agencies having jurisdiction over the West Creek Village Project Area or portions thereof (such as, for example, but not by way of limitation, public utilities or utility districts and agencies having jurisdiction over storm water transportation facilities, annexation and air quality issues) so long as the cooperation by the City will not require the City to incur any cost, liability or expense without adequate indemnity against or right of reimbursement therefore from Master Developer.

Section 6.6 Cooperation in Dealing with Legal Challenge. If any action or other proceeding is instituted by a third party or parties, other governmental entity or official challenging the validity of any provision of this Agreement (collectively, a Third Party Action), the Parties shall cooperate in the defense of the Third Party Action to the maximum extent reasonably possible under the circumstances. The City shall timely take all actions which are necessary or required to uphold the validity and enforceability of this Agreement. The City shall not enter into any settlement with respect to a Third Party Action without the prior written consent of Master Developer.

## ARTICLE 7. INDEMNITY AND INSURANCE

### Section 7.1 Indemnification.

(a) Third Party Actions. Except as provided in the last two sentences of this Section, to the furthest extent allowed by law, Master Developer shall indemnify, hold harmless and defend City and each of its officers, officials, employees, agents and volunteers from any and all loss, liability, fines, penalties, forfeitures, damages and costs (including attorney's fees, litigation expenses and administrative record preparation costs) arising from, resulting from, or in connection with any Third Party Action (as hereinafter defined). The term "Third Party Action" collectively means any legal action or other proceeding instituted by: (i) a third party or parties; or, (ii) a governmental body, agency or official other than the City or a City Agency, that: (a) challenges or contests any or all of this Agreement, the West Creek Village Approvals or Subsequent Maps; or, (b) claims or alleges a violation of CEQA or another law in connection with the certification of the Addendum to the MND by the City Council or the grant, issuance or approval by the City of any or all of this Agreement and the West Creek Village Approvals or Subsequent Maps. Master Developer's obligations under this Section 7.1(a) shall apply regardless of whether City or any of its officers, officials, employees, agents or volunteers are actively or passively negligent, but shall not apply to any loss, liability, fines, penalties forfeitures, costs or damages caused solely by the active negligence or willful misconduct of the City or any of its officers, officials, employees, agents or

volunteers. The provisions of this Section 7.1(a) shall survive the termination of this Agreement.

(b) Damage Claims. The nature and extent of Master Developer's obligations to indemnify, defend and hold harmless the City with regard to events or circumstances not addressed in Section 7.1(a) shall be governed by this Section 7.1(b). To the furthest extent allowed by law, Master Developer shall indemnify, hold harmless and defend City and each of its officers, officials, employees, agents and volunteers from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including but not limited to personal injury, death at any time and property damage) incurred by City, Master Developer or any other person, and from any and all claims, demands and actions in law or equity (including attorney's fees and litigation expenses), arising or alleged to have arisen directly or indirectly out of performance of this Agreement by Master Developer, or the performance of any or all work to be done by Master Developer or its contractors, agents, successors and assigns pursuant to this Agreement (including, but not limited to design, construction and/or ongoing operation and maintenance of Off-Site Improvements unless and until such Off-Site Improvements are dedicated to and officially accepted by the City). Master Developer's obligations under the preceding sentence shall apply regardless of whether City or any of its officers, officials, employees or agents are passively negligent, but shall not apply to any loss, liability, fines, penalties, forfeitures, costs or damages caused by the active or sole negligence, or the willful misconduct, of City or any of its officers, officials, employees, agents or volunteers.

(c) If Master Developer should subcontract all or any portion of the services to be performed under this Agreement, Master Developer shall require each subcontractor to indemnify, hold harmless and defend City and each of its officers, officials, employees, agents and volunteers in accordance with the terms of the preceding paragraph. The Master Developer further agrees that the use for any purpose and by any person of any and all of the streets and improvements required under this Agreement, shall be at the sole and exclusive risk of the Master Developer, at all times prior to final acceptance by the City of the completed street and other improvements, unless any loss, liability, fines, penalties, forfeitures, costs or damages arising from said use were caused by the active or sole negligence or the willful misconduct, of the City or any of its officers, officials, employees, agents or volunteers.

(d) Notwithstanding the preceding paragraph, to the extent that Subcontractor is a "design professional" as defined in Section 2782.8 of the California Civil Code and performing work hereunder as a "design professional" shall, in lieu of the preceding paragraph, be required to indemnify, hold harmless and defend City and each of its officers, officials, employees, agents and volunteers to the furthest extent allowed by law, from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in Agreement, tort or strict liability, including but not limited to personal injury, death at any time and property damage), and from any and all claims, demands and actions in law or equity (including reasonable attorney's fees and litigation expenses) that arise out of, pertain to, or relate to the negligence, recklessness or willful misconduct

of the design professional, its principals, officers, employees, agents or volunteers in the performance of this Agreement.

(e) This Section 7.1 shall survive termination or expiration of this Agreement.

(f) The fact that insurance is obtained by Master Developer and its contractors shall not be deemed to release or diminish the liability of Master Developer, including, without limitation, liability under the indemnity provisions of this Agreement. The duty to indemnify City shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by Master Developer and its contractors. Approval or purchase of any insurance contracts or policies shall in no way relieve from liability nor limit the liability of Master Developer, vendors, suppliers, invitees, contractors, sub-contractors, subcontractors, or anyone employed directly or indirectly by any of them.

Section 7.2 Insurance. Insurance shall be paid for and maintained in full force and effect all policies of insurance described in this section in two phases as set forth in the manner below:

(a) Phase 1 Insurance. Prior to the date that the first building permit application is submitted for the construction by Master Developer of any portion of the West Creek Village Project Area, and prior to such time as construction activity is commenced (the Phase 1 Insurance Period), Master Developer shall pay for and maintain in full force and effect all policies of insurance described in this section with an insurance company(ies) either (i) admitted by the California Insurance Commissioner to do business in the State of California and rated not less than "A- VII" in Best's Insurance Rating Guide, or (ii) authorized by City's Risk Manager. The following policies of insurance are required:

(1) COMMERCIAL GENERAL LIABILITY insurance which shall be at least as broad as the most current version of Insurance Services Office (ISO) Commercial General Liability Coverage Form CG 00 01 and shall include insurance for bodily injury, property damage and personal injury with coverage for premises and operations (including the use of owned and non-owned equipment), products and completed operations, contractual liability (including indemnity obligations under this Agreement), with limits of liability of not less than \$2,000,000 per occurrence for bodily injury and property damage, \$2,000,000 per occurrence for personal and advertising injury, and \$2,000,000 aggregate for products and completed operations and \$5,000,000 general aggregate applying separately to the work performed under this agreement.

(2) COMMERCIAL AUTOMOBILE LIABILITY insurance which shall be at least as broad as the most current version of Insurance Services Office (ISO) Business Auto Coverage Form CA 00 01 and shall include coverage for all owned, hired, and non-owned automobiles or other licensed vehicles (Code 1 B Any Auto), with combined single limits of liability of not less than \$2,000,000 per accident for bodily injury and property damage.

(3) WORKERS' COMPENSATION insurance as required under the California Labor Code.

(4) EMPLOYERS' LIABILITY with minimum limits of liability of not less than \$1,000,000 each accident, \$1,000,000 policy limit and \$1,000,000 for each employee.

(5) In the event Master Developer purchases an Umbrella or Excess insurance policy(ies) to meet the "Minimum Limits of Insurance," this insurance policy(ies) shall "follow form" and afford no less coverage than the primary insurance policy(ies). In addition, such Umbrella or Excess insurance policy(ies) shall also apply on a primary and non-contributory basis for the benefit of the CITY, its officers, officials, employees, agents and volunteers.

(6) Master Developer shall be responsible for payment of any deductibles contained in any insurance policies required hereunder and Master Developer shall also be responsible for payment of any self-insured retentions.

(7) The above-described policies of insurance shall be endorsed to provide an unrestricted thirty-calendar day written notice in favor of City of policy cancellation of coverage, except for the Workers' Compensation policy, which shall provide a ten calendar day written notice of such cancellation of coverage. In the event any policies are due to expire during the term of this Agreement, Master Developer shall provide a new certificate evidencing renewal of such policy not less than fifteen calendar days prior to the expiration date of the expiring policy(ies). Upon issuance by the insurer, broker, or agent of a notice of cancellation in coverage, Master Developer shall file with City a new certificate and all applicable endorsements for such policy(ies).

(8) The General Liability and Automobile Liability insurance policies shall be written on an occurrence form and shall name City, its officers, officials, agents, employees and volunteers as an additional insured. Such policy(ies) of insurance shall be endorsed so Master Developer's insurance shall be primary and no contribution shall be required of City. Any General Liability,

Automobile Liability, and Workers' Compensation insurance policy shall contain a waiver of subrogation as to City, its officers, officials, agents, employees and volunteers. Master Developer shall have furnished City with the certificate(s) and applicable endorsements for all required insurance prior to start of construction of any phase of development. Master Developer shall furnish City with copies of the actual policies upon the request of City's Risk Manager at any time during the life of the Agreement or any extension, and this requirement shall survive termination or expiration of this Agreement.

(9) If at any time during the Phase 1 Insurance Period, Master Developer fails to maintain the required insurance in full force and effect, the Director of Public Works, or his/her designee, may order that the Master Developer, or its contractors or subcontractors, immediately discontinue any further work under this Agreement and take all necessary actions to secure the work site to insure that public health and safety is protected. All payments due or that become due to Master Developer shall be withheld until notice is received by City that the required insurance has been restored to full force and effect and that the premiums therefore have been paid for a period satisfactory to City. The insurance requirements set forth in this Section 7.2 are material terms of this Agreement.

(b) Phase 2 Insurance. From the date that a building permit application is submitted for the construction by Master Developer of any portion of the West Creek Village Project Area, until the date of City's final formal acceptance of the such improvements (the Phase 2 Insurance Period), Master Developer shall pay for and maintain in full force and effect all policies of insurance described in this section with an insurance company(ies) either (i) admitted by the California Insurance Commissioner to do business in the State of California and rated not less than "A- VII" in Best's Insurance Rating Guide, or (ii) authorized by City's Risk Manager. No building permit shall be issued by the City for any portion of the West Creek Village Project Area unless and until the City determines in writing that Master Developer has satisfied the requirement set forth below regarding Phase 2 Insurance. The following Phase 2 policies of insurance are required:

(1) COMMERCIAL GENERAL LIABILITY insurance which shall be at least as broad as the most current version of Insurance Services Office (ISO) Commercial General Liability Coverage Form CG 00 01 and shall include insurance for bodily injury, property damage and personal injury with coverage for premises and operations (including the use of owned and non-owned equipment), products and completed operations, contractual liability (including indemnity obligations under this Agreement), with limits of liability of

not less than \$5,000,000 per occurrence for bodily injury and property damage, \$5,000,000 per occurrence for personal and advertising injury, and \$5,000,000 aggregate for products and completed operations and \$10,000,000 general aggregate applying separately to the work performed under this agreement.

(2) COMMERCIAL AUTOMOBILE LIABILITY insurance which shall be at least as broad as the most current version of Insurance Services Office (ISO) Business Auto Coverage Form CA 00 01 and shall include coverage for all owned, hired, and non-owned automobiles or other licensed vehicles (Code 1 B Any Auto), with combined single limits of liability of not less than \$5,000,000 per accident for bodily injury and property damage.

(3) WORKERS' COMPENSATION insurance as required under the California Labor Code.

(4) EMPLOYERS' LIABILITY with minimum limits of liability of not less than \$1,000,000 each accident, \$1,000,000 policy limit and \$1,000,000 for each employee.

(5) In the event Master Developer purchases an Umbrella or Excess insurance policy(ies) to meet the "Minimum Limits of Insurance," this insurance policy(ies) shall "follow form" and afford no less coverage than the primary insurance policy(ies). In addition, such Umbrella or Excess insurance policy(ies) shall also apply on a primary and non-contributory basis for the benefit of the CITY, its officers, officials, employees, agents and volunteers.

(6) Master Developer shall be responsible for payment of any deductibles contained in any insurance policies required hereunder and Master Developer shall also be responsible for payment of any self-insured retentions.

(7) The above-described policies of insurance shall be endorsed to provide an unrestricted thirty-calendar day written notice in favor of City of policy cancellation of coverage, except for the Workers' Compensation policy, which shall provide a ten calendar day written notice of such cancellation of coverage. In the event any policies are due to expire during the term of this Agreement, Master Developer shall provide a new certificate evidencing renewal of such policy not less than fifteen calendar days prior to the expiration date of the expiring policy(ies). Upon issuance by the insurer, broker, or agent of a notice of cancellation in coverage, Master Developer shall file with City a new certificate and all applicable endorsements for such policy(ies).

(8) The General Liability and Automobile Liability insurance policies shall be written on an occurrence form and shall name City, its officers, officials, agents, employees and volunteers as an additional insured. Such policy(ies) of insurance shall be endorsed so Master Developer's insurance shall be primary and no contribution shall be required of City. Any General Liability, Automobile Liability, and Workers' Compensation insurance policy shall contain a waiver of subrogation as to City, its officers, officials, agents, employees and volunteers. Master Developer shall have furnished City with the certificate(s) and applicable endorsements for all required insurance prior to start of construction of any phase of development. Master Developer shall furnish City with copies of the actual policies upon the request of City's Risk Manager at any time during the life of the Agreement or any extension, and this requirement shall survive termination or expiration of this Agreement.

(9) If at any time during the Phase 2 Insurance Period, Master Developer fails to maintain the required insurance in full force and effect, the Director of Public Works, or his/her designee, may order that the Master Developer, or its contractors or subcontractors, immediately discontinue any further work under this Agreement and take all necessary actions to secure the work site to insure that public health and safety is protected. All payments due or that become due to Master Developer shall be withheld until notice is received by City that the required insurance has been restored to full force and effect and that the premiums therefore have been paid for a period satisfactory to City. The insurance requirements set forth in this Section 7.2 are material terms of this Agreement.

(10) If Master Developer should hire a general contractor to provide all or any portion of the services or work to be performed under this Agreement, Master Developer shall require the general contractor to provide indemnity and insurance protection in favor of City, its officers, officials, employees, volunteers and agents in accordance with the terms of each of the preceding paragraphs, except that the general contractor's certificates and endorsements shall be on file with Master Developer and City prior to the commencement of any work by the general contractor.

(11) If the general contractor should subcontract all or a portion of the services or work to be performed under this Agreement to one or more subcontractors, Master Developer shall require the general contractor to require each subcontractor to provide insurance protection in favor of City, its officers, officials, employees, volunteers and agents in accordance with the terms of each of the preceding paragraphs, except that each subcontractor shall be

required to pay for and maintain Commercial General Liability insurance with limits of liability of not less than \$1,000,000 per occurrence for bodily injury and property damage, \$1,000,000 per occurrence for personal and advertising injury, \$2,000,000 aggregate for products and completed operations and \$2,000,000 general aggregate and Commercial Automobile Liability insurance with limits of liability of not less than less than \$1,000,000 per accident for bodily injury and property damage. All other terms are required in accordance with the terms of each of the preceding paragraphs, except that subcontractors' certificates and endorsements shall be on file with the general contractor, Master Developer and City prior to the commencement of any work by the subcontractor. Master Developer's failure to comply with these requirements shall constitute an "Event of Default" as that term is defined in Section 10.1.

(c) City Manager or designee reserves the right to impose higher insurance limits on elements of the development of the West Creek Village Project in conjunction with conditions established in Subdivision Improvement Agreements adopted by the City for such development, provided such insurance requirements are not more burdensome than those then applied by the City for similar subdivision development.

## ARTICLE 8. BENEFITS

Section 8.1 Benefits to the City. The City has extensively reviewed the terms and conditions of this Agreement and, in particular, has specifically considered and approved the impact and benefits of the West Creek Village upon the regional welfare. The terms and conditions of this Agreement have been found by the City to be fair, just and reasonable, and to provide appropriate benefits to the City. This Agreement and the development of the West Creek Village will serve the best interests, and the public health, safety, and welfare of the residents and invitees, of the City and the general public. This Agreement will help provide effective and efficient development of Off-Site Improvements and other Required Parcel Map Exactions or Required Other Exactions in the vicinity of the West Creek Village Project Area; help maximize effective utilization of resources within the City; increase City tax revenues; and provide other substantial public benefits to the City and its residents by achieving the goals and purposes of the Development Agreement Laws, the Charter of the City of Fresno, the Fresno Municipal Code, the Fresno General Plan (as amended by the Plan Amendments) and the Southwest Fresno Specific Plan (as amended by the proposed Plan Amendments). Without limiting the generality of the foregoing, this Agreement helps assure the timely construction and dedication of the Park Amenity, which is an important amenity in achieving the General Plan and Southwest Fresno Specific Plan goals of a Complete Neighborhood development with respect to the West Creek Village Project Area, and which key objective and policies of the Southwest Fresno Specific Plan.

Section 8.2 Benefits to the Master Developer. The Master Developer has expended and will continue to expend substantial amounts of time and money on the planning and development of Master Developer's Property within the West Creek Village Project Area. In addition, the Master Developer will expend substantial amounts of time and money for the construction of the certain Required Exactions and for the payment of the City Development Impact Fees in connection with the West Creek Village Project. The Master Developer would not make such expenditures except in reliance upon this Agreement. The benefit to the Master Developer under this Agreement consists of the assurance the City will preserve the rights of Master Developer to develop the Master Developer's Property as planned and as set forth in the West Creek Village Approvals and this Agreement.

## ARTICLE 9. ANNUAL REVIEW OF COMPLIANCE

Section 9.1 Annual Review. City and Master Developer shall annually review this Agreement, and all actions taken pursuant to the terms of this Agreement with respect to the West Creek Village Project in accordance with the provisions of California Government Code Section 65865.1, Fresno Municipal Code Section 15-6008, and this ARTICLE 9. The Parties recognize this Agreement and the West Creek Village Approvals and City Permits referenced herein contain extensive requirements (i.e., construction standards, landscape standards, etc.) and that evidence of each and every requirement would be a wasteful exercise of the Parties' resources. Accordingly, Master Developer shall be deemed to have satisfied its duty of demonstration if it presents evidence satisfactory to the City of its good faith compliance, as that term is used in Government Code, Section 65865.1, with the material provisions of this Agreement.

Section 9.2 Master Developer Report. Not later than the first anniversary date of the Effective Date, and not later than each anniversary date of the Effective Date thereafter during the Term, Master Developer shall apply for annual review of this Agreement. Master Developer shall submit with such application a report to the Director describing Master Developer's good faith compliance with the terms of this Agreement during the preceding year (the Master Developer Report). The Master Developer Report shall include a statement that the report is submitted to City pursuant to the requirements of California Government Code Section 65865.1.

Section 9.3 Finding of Compliance. Within thirty days after Master Developer submits the Master Developer Report under Section 9.2, the Director shall review Master Developer's submission to ascertain whether Master Developer has demonstrated good faith compliance with the material terms of this Agreement. If the Director finds and determines that Master Developer has in good faith complied with the material terms of this Agreement, or does not determine otherwise within thirty days after delivery of the Master Developer Report, the annual review shall be deemed concluded. If the Director initially determines that the Master Developer Report is inadequate in any respect, he or she shall provide written notice to that effect to Master Developer, and Master Developer may supply such additional information or evidence as may be necessary to demonstrate good faith compliance with the material terms of this Agreement. If the Director

concludes that Master Developer has not demonstrated good faith compliance with the material terms of this Agreement, he or she shall so notify Master Developer prior to the expiration of the thirty day period herein specified and prepare a staff report to the City Council with respect to the conclusions of the Director and the contentions of Master Developer with respect thereto (the Staff Report).

Section 9.4 Hearing Before City Council to Determine Compliance. After submission of the Staff Report of the Director, the City Council shall conduct a noticed public hearing to determine the good faith compliance by Master Developer with the material terms of this Agreement. At least sixty days prior to such hearing, the Director shall provide to the City Council, Master Developer, and to all other interested Persons requesting the same, copies of the Staff Report and other information concerning Master Developer's good faith compliance with the material terms of this Agreement and the conclusions and recommendations of the Director. At such public hearing, Master Developer and any other interested Person shall be entitled to submit evidence, orally or in writing, and address all the issues raised in the Staff Report on, or with respect or germane to, the issue of Master Developer's good faith compliance with the material terms of this Agreement. If, after receipt of any written or oral response of Master Developer, and after considering all of the evidence at such public hearing, the City Council finds and determines, on the basis of substantial evidence, that Master Developer has not complied in good faith with the material terms of this Agreement, then the City Council shall specify to Master Developer the respects in which Master Developer has failed to comply, and shall also specify a reasonable time for Master Developer to meet the terms of compliance, which time shall be not less than thirty days after the date of the City Council's determination, and shall be reasonably related to the time adequate to bring Master Developer's performance into good faith compliance with the material terms of this Agreement. If the areas of noncompliance specified by the City Council are not corrected within the time limits prescribed by the City Council hereunder, subject to Force Majeure pursuant to Section 13.1, then the City Council may by subsequent noticed public hearing extend the time for compliance for such period as the City Council may determine (with conditions, if the City Council deems appropriate), Terminate or modify this Agreement, or take such other actions as may be specified in the Development Agreement Laws. Any notice to Master Developer of a determination of noncompliance by Master Developer hereunder, or of a failure by Master Developer to perfect the areas of noncompliance hereunder, shall specify in reasonable detail the grounds therefor and all facts demonstrating such noncompliance or failure, so that Master Developer may address the issues raised in the notice of noncompliance or failure on a point-by-point basis in any hearing held by the City Council hereunder.

Section 9.5 Meet and Confer Process. If either the Director or the City Council makes a determination that Master Developer has not demonstrated good faith substantial compliance with the material terms of this Agreement, the Director and or designated City Council representatives may initiate a meet and confer process with Master Developer pursuant to which the Parties shall meet and confer in order to determine a resolution acceptable to both Parties of the bases upon which the Director or City Council has determined that Master Developer has not demonstrated good faith substantial compliance with the material terms of this Agreement. If, as a result of such

meet and confer process, the Parties agree on a resolution of the bases related to the determination that Master Developer has not demonstrated good faith substantial compliance with the material terms of this Agreement, the results and recommendations of the meet and confer process shall be presented to the City Council for review and consideration at its next regularly scheduled public meeting, including consideration of such amendments to this Agreement as may be necessary or appropriate to effectuate the resolution achieved through such meet and confer process. Master Developer shall be deemed to be in good faith substantial compliance with the material terms of this Agreement, only upon City Council acceptance of the results and recommendations of the meet and confer process.

Section 9.6 Certificate of Compliance. If the Director (or the City Council, if applicable) finds good faith substantial compliance by Master Developer with the material terms of this Agreement, the Director shall issue a certificate of compliance within ten days thereafter, certifying Master Developer's good faith compliance with the material terms of this Agreement through the period of the applicable annual review. Such certificate of compliance shall be in recordable form and shall contain such information as may be necessary in order to impart constructive record notice of the finding of good faith compliance hereunder. Master Developer shall have the right to record the certificate of compliance in the Official Records.

Section 9.7 Effect of City Council Finding of Noncompliance; Rights of Master Developer. If the City Council determines that Master Developer has not substantially complied in good faith with the material terms of this Agreement pursuant to Section 9.4 and takes any of the actions specified in ARTICLE 10 with respect to such determination of noncompliance, Master Developer shall have the right to contest any such determination of noncompliance by the City Council pursuant to a legal action filed in accordance with Section 16.5.

Section 9.8 City Costs. In the event that the Director concludes in its Staff Report pursuant to Section 9.3 of this Agreement, that Master Developer is not in good faith compliance with the material terms of this Agreement, then Master Developer shall reimburse the City for all of the City's reasonable costs, (including but not limited to, staff time, attorney's fees, and administrative costs) incurred in connection with Section 9.4 and Section 9.5 of this Agreement. Pursuant to this section, Master Developer shall remit payment to the City within thirty days of receiving an invoice from the City for its costs. Notwithstanding the foregoing, Master Developer shall have the right to contest any determination by the Director (pursuant to Section 9.4) or the City Council (pursuant to Section 9.7) that Master Developer is not in good faith compliance with the material terms of this Agreement, and if Master Developer prevails in such contest: (a) Master Developer shall have no reimbursement obligation under this Section 9.8; and (b) any monies previously reimbursed by Master Developer to the City pursuant to this Section 9.8 shall be returned to Master Developer by the City within thirty days after the conclusion of the contest.

ARTICLE 10.  
EVENTS OF DEFAULT; REMEDIES; ESTOPPEL CERTIFICATES

Section 10.1 Events of Default.

(a) The failure by a Party to perform any material term or provision of this Agreement (including but not limited to the failure of a Party to approve a matter or take an action within the applicable time periods governing such performance under this Agreement) shall, subject to the provisions of this Agreement, constitute an "Event of Default", if: (a) such defaulting Party does not cure such failure within thirty days following delivery of a Notice (as hereinafter defined) of default from the other Party (Notice of Default), where such failure is of a nature that can be cured within such thirty day period; or (b) where such failure is not of a nature which can be cured within such thirty day period, the defaulting Party does not within such thirty day period commence substantial efforts to cure such failure, or thereafter does not within a reasonable time prosecute to completion with diligence and continuity the curing of such failure. Any Notice of Default given hereunder shall specify in reasonable detail the nature of the failures in performance by the defaulting Party and the manner in which such failures of performance may be satisfactorily cured in accordance with the terms and conditions of this Agreement.

(b) Any Notice of Default to the defaulting Party pursuant to Section 10.1(a) shall satisfy the requirements of ARTICLE 15 of this Agreement and shall include a provision in at least fourteen point bold type as follows: "YOU HAVE FAILED TIMELY TO PERFORM OR RENDER AN APPROVAL OR TAKE AN ACTION REQUIRED UNDER THE DEVELOPMENT AGREEMENT: [SPECIFY IN DETAIL]. YOUR FAILURE TO COMMENCE TIMELY PERFORMANCE AND COMPLETE SUCH PERFORMANCE AS REQUIRED UNDER THE AGREEMENT OR RENDER SUCH APPROVAL TO TAKE SUCH ACTION WITHIN THIRTY (30) DAYS AFTER THE DATE OF THIS NOTICE SHALL ENTITLE THE UNDERSIGNED TO TAKE ANY ACTION OR EXERCISE ANY RIGHT OR REMEDY TO WHICH IT IS ENTITLED UNDER THE AGREEMENT AS A RESULT OF THE FOREGOING CIRCUMSTANCES. "

Section 10.2 Remedies. Upon the occurrence of an Event of Default, each Party shall have the right, in addition to all other rights and remedies available under this Agreement, to: (a) bring any proceeding in the nature of specific performance, injunctive relief or mandamus; and/or, (b) bring any action at law or in equity as may be permitted by laws of the State of California or this Agreement.

Section 10.3 Waiver- Remedies Cumulative. Failure by a Party to insist upon the strict or timely performance of any of the provisions of this Agreement by the other Party, irrespective of the length of time for which such failure continues, shall not constitute a waiver of such Party's right to demand strict compliance by such other Party in the future. No waiver by a Party of any failure of performance, including an Event of Default, shall be effective or binding upon such Party unless made in writing by such Party, and no such waiver shall be implied from any omission by a Party to take any action with respect to such failure. No express written waiver shall affect any other action or

inaction, or cover any other period of time, other than any action or inaction and/or period of time specified in such express waiver. One or more written waivers under any provision of this Agreement shall not be deemed to be a waiver of any subsequent action or inaction. Nothing in this Agreement shall limit or waive any other right or remedy available to a Party to seek injunctive relief or other expedited judicial and/or administrative relief to prevent irreparable harm.

Section 10.4 Estoppel Certificate. Either Party may, at any time, and from time to time, deliver written notice to the other Party requesting such other Party to certify in writing: (a) that this Agreement is in full force and effect and a binding obligation of the Parties; (b) that this Agreement has not been amended or modified either orally or in writing, and if so amended, identifying the amendments; (c) to the knowledge of such other Party, neither Party has committed an Event of Default under this Agreement, or if an Event of Default has to such other Party's knowledge occurred, to describe the nature of any such Event of Default; and (d) such other certifications that may be reasonably requested by the other Party or a Mortgagee (as hereinafter defined). A Party receiving a request hereunder shall execute and return such certificate within twenty days following the receipt thereof; and if a Party fails so to do within such twenty day period, the information in the requesting Party's notice shall conclusively be deemed true and correct in all respects. The City Manager, as to the City, shall execute certificates requested by Master Developer hereunder. Each Party acknowledges a certificate hereunder may be relied upon by Transferees (as hereinafter defined) and Mortgagees (as hereinafter defined). No Party shall, however, be liable to the requesting Party, or other Person requesting or receiving a certificate hereunder, on account of any information therein contained, notwithstanding the omission for any reason to disclose correct and/or relevant information, but such Party shall be estopped with respect to the requesting Party, or such third Person, from asserting any right or obligation, or utilizing any defense, which contravenes or is contrary to any such information.

## ARTICLE 11. MORTGAGEE PROTECTION

Section 11.1 Definitions. For purposes of this Agreement, the following terms shall have the meanings set forth below:

"Mortgage" means: (a) a mortgage or deed of trust, or other transaction, in which Master Developer conveys or pledges as security its interest in the Master Developer's Property, or a portion thereof, or interest therein, or any buildings or improvements thereon for the purpose of (i) financing the acquisition of the Master Developer's Property or the development of the Master Developer's Property, or any portion thereof; (ii) refinancing any of the foregoing, or (iii) obtaining financing proceeds by encumbering the Master Developer's Property or a portion thereof; and (b) a sale and leaseback arrangement, in which Master Developer sells and leases back concurrently therewith its interest in the Master Developer's Property, or a portion thereof, or interest therein, or improvements thereon for the purpose of (i) financing the acquisition of the Master Developer's Property , or the development of the Master Developer's Property, or any portion

thereof; (ii) refinancing any of the foregoing, or (iii) obtaining financing proceeds by encumbering the Master Developer's Property or a portion thereof.

"Mortgagee" means: (a) the holder of the beneficial interest under a Mortgage; (b) the lessor under a sale and leaseback Mortgage; and (c) any successors, assigns and designees of the foregoing.

Section 11.2 Mortgagee Protection. This Agreement and any covenants entered into between the Master Developer and City required for the approval of any West Creek Village Approvals shall be superior and senior to the conveyance of any Mortgage encumbering any interest in the Master Developer's Property. No Event of Default shall defeat, render invalid, diminish or impair the conveyance of any Mortgage made for value, but, subject to the provisions of Section 11.3, all of the terms and conditions contained in this Agreement shall be binding upon and effective against any Person (including any Mortgagee) who acquires title to the Master Developer's Property or any portion thereof or interest therein or improvement thereon, by foreclosure, trustee's sale, deed in lieu of foreclosure, or otherwise.

Section 11.3 Mortgagee Not Obligated; Mortgagee as Transferee. No Mortgagee shall have any obligation or duty under this Agreement whatsoever, except that nothing contained in this Agreement shall be deemed to permit or authorize any Mortgagee to undertake any new construction or improvement in the Master Developer's Property, or to otherwise have the benefit of any rights of Master Developer, or to enforce any obligation of the City, under this Agreement, unless and until such Mortgagee elects to become a Transferee in the manner specified in Section 12.5Section 12.4. Any Mortgagee that affirmatively elects to become a Transferee shall be later released from all obligations and liabilities under this Agreement upon the subsequent Transfer by the Mortgagee of its interest as a Transferee to another Person.

Section 11.4 Notice of Default to Mortgagee; Right of Mortgagee to Cure. If the City receives notice from a Mortgagee requesting a copy of any Notice of Default given Master Developer hereunder and specifying the address for service thereof (a Notice Request), then the City shall deliver to such Mortgagee, concurrently with service thereon to Master Developer, any Notice of Default thereafter given to Master Developer. From and after the delivery of a Notice Request to the City by a Mortgagee, no Notice of Default delivered to the Master Developer shall be effective unless and until a copy of such Notice of Default is also delivered to the Mortgagee. Such Mortgagee shall have the right (but not the obligation) to cure or remedy, or to commence to cure or remedy, the Event of Default claimed within the applicable time periods for cure specified in this Agreement. If, however, the Event of Default or such noncompliance is of a nature which can only be remedied or cured by such Mortgagee upon obtaining possession of the Project, or portion thereof, such Mortgagee shall seek to obtain possession with diligence and continuity (but in no event later than 180 days after a copy of the Notice of Default is given to Mortgagee) through a receiver or otherwise, and shall thereafter remedy or cure such Event of Default or noncompliance promptly and with diligence and dispatch after obtaining possession. Other than an Event of Default or noncompliance (i) for failure to pay money or (ii) that is reasonably susceptible of remedy or cure prior to a

Mortgagee obtaining possession, so long as such Mortgagee is pursuing cure of the Event of Default or noncompliance in conformance with the requirements of this Section 11.4, the City shall not exercise any right or remedy under this Agreement on account of such Event of Default or noncompliance. When and if a Mortgagee acquires the interest of Master Developer encumbered by such Mortgagee's Mortgage and such Mortgagee becomes a Transferee pursuant to Section 12.5, then such Mortgagee shall promptly cure all monetary or other Events of Default or noncompliance then reasonably susceptible of being cured by such Mortgagee to the extent such that such Events of Default or noncompliance are not cured prior to such Mortgagee becoming a Transferee pursuant to Section 12.5.

Section 11.5 Priority of Mortgages. For purposes of exercising any remedy of a Mortgagee pursuant to this ARTICLE 11 or for becoming a Transferee in the manner specified in Section 12.5, the applicable laws of the State of California shall govern the rights, remedies and priorities of each Mortgagee, absent a written agreement between Mortgagees otherwise providing.

Section 11.6 Collateral Assignment. As additional security to a Mortgagee under a Mortgage on the Master Developer's Property or any portion thereof, Master Developer shall have the right, without the consent of the City, to execute a collateral assignment of Master Developer's rights, benefits and remedies under this Agreement in favor of the Mortgagee (a Collateral Assignment) on the standard form provided by the Mortgagee.

Section 11.7 Interpretations and Modifications. The City acknowledges that prospective Mortgagees may request certain interpretations and modifications of this Agreement during the Term, and agrees upon request, from time to time, to meet with Master Developer and representatives of such Mortgagees to discuss in good faith any such request for interpretation or modification. The City shall not unreasonably withhold its consent to any such requested interpretation or modification which the City reasonably determines is consistent with the intent and purposes of this Agreement.

## ARTICLE 12. TRANSFERS

Section 12.1 Definitions. For purposes of this Agreement, the following terms shall have the meanings set forth below:

"Affiliate" means any Person directly or indirectly Controlling, Controlled by or under Common Control with Owner.

"Control" means the ownership (direct or indirect) by one Person of an interest in the profits and capital and the right to manage and control the day to day affairs of another Person. The term "Control" includes any grammatical variation thereof, including "Controlled" and "Controlling".

"Common Control" means that two Persons are both controlled by the same other Person.

"Person" means an individual, partnership, firm, association, corporation, trust, governmental agency, administrative tribunal or other form of business or legal entity.

"Transfer" means the sale, assignment, or other transfer by Master Developer of this Agreement, or any right, duty or obligation of Master Developer under this Agreement, including by foreclosure, trustee sale, or deed in lieu of foreclosure, under a Mortgage, but excluding: (a) a dedication of any portion of the Master Developer's Property to the City or another governmental agency; (b) a Mortgage; (c) ground leases, leases, subleases, licenses and operating agreements entered into by Master Developer with tenants or occupants of the Master Developer's Property for occupancy of space in any buildings or improvements (together with any appurtenant tenant rights and controls customarily included in such leases or subleases) in the Master Developer's Property, and any assignment or transfer of any such ground lease, lease, sublease, license or operating agreement by either party thereto; (d) any sale of a building pad and surrounding area in the Master Developer's Property to a future retail or restaurant occupant (or its affiliated entity) for the intended purpose of the development and occupancy of a building or improvement thereon; and (e) any Collateral Assignment of this Agreement to a Mortgagee.

"Transferee" means the Person to whom a Transfer is effected.

Section 12.2 Conditions Precedent to Master Developer Right to Transfer. Except as otherwise provided in this ARTICLE 12, Master Developer shall only have the right to effect a Transfer subject to and upon fulfillment of the following conditions precedent:

(a) No Event of Default by Master Developer shall be outstanding and uncured as of the effective date of the proposed Transfer, unless the City Council has received adequate assurances satisfactory to the City Council that such Event of Default shall be cured in a timely manner either by Master Developer or the Transferee under the Transfer.

(b) Prior to the effective date of the proposed Transfer, Master Developer or the proposed Transferee has delivered to the City an executed and acknowledged assignment and assumption agreement (the Assumption Agreement) in recordable form. Such Assumption Agreement shall include provisions regarding: (a) the rights and interest proposed to be Transferred to the proposed Transferee (including, the extent, of any rights to the use of Parkland In-Lieu Fee Credits assigned to such Transferee, if any. However transfer of Parkland In-Lieu Fee Credits shall be limited to development within the Master Developer's Property and only upon written acknowledgement from Master Developer);(b) the obligations of Master Developer under this Agreement that the proposed Transferee will assume; and, (c) the proposed Transferee's acknowledgment that such Transferee has reviewed and agrees to be bound by this Agreement. The Assumption Agreement shall also include the name, form

of entity, and address of the proposed Transferee, and shall provide that the Transferee assumes the obligations of Master Developer to be assumed by the Transferee in connection with the proposed Transfer. The Assumption Agreement shall be recorded in the Official Records concurrently with the consummation of the Transfer.

(c) Prior to the effective date of the proposed Transfer, City consents in writing to the Transfer. City's consent shall not be unreasonably withheld. Factors the City may consider in determining whether to consent to the transfer include the financial capacity of the proposed Transferee to comply with all of the terms of the Agreement and the history, if any, of compliance of Transferee, its principals, officers or owners with the provisions of federal or state law, the Fresno Municipal Code or agreements with the City relating to development projects within the City of Fresno.

Section 12.3 Transfer to Affiliate. Notwithstanding the provisions of Section 12.2, Master Developer shall have the right to Transfer all of its rights, duties and obligations under this Agreement to an Affiliate of Master Developer. Such Affiliate shall become a Transferee upon: (a) the acquisition by such Affiliate of the affected interest of Master Developer under this Agreement; (b) delivery to the City of an Assumption Agreement executed by the Affiliate pursuant to which the Affiliate assumes, from and after the date such Affiliate so acquires its interest, the applicable rights, duties and obligations of Master Developer under this Agreement and (c) delivery to the City of documents and other evidence establishing, to the reasonable satisfaction of the City, the Affiliate's financial capacity to meet all of its duties and obligations under this Agreement. By virtue of its demonstrated status as an Affiliate of Master Developer and recognizing that Transfers to Affiliates will facilitate Master Developer's ability to develop the Master Developer's Property consistent with this Agreement, the City hereby consents to any Transfer to an Affiliate in accordance with this Section 12.3 and no further consent of the City shall be required for any Transfer by Master Developer to an Affiliate.

Section 12.4 Transfer to Vanguard Construction Services, Inc. Notwithstanding the provisions of Section 12.2, Master Developer shall have the right to Transfer the rights, duties and obligations under this Agreement pertaining to the development of all, or any portion of, West Creek Village Residential Property to Vanguard Construction Services, Inc. (Subdivider). Subdivider shall become a Transferee upon: (a) the acquisition by Subdivider of the property that comprises all, or any portion of, West Creek Village Residential Property; (b) delivery to the City of an Assumption Agreement executed by Subdivider pursuant to which Subdivider assumes, from and after the date that Subdivider acquires its interest, the applicable rights, duties and obligations of Master Developer under this Agreement. By virtue of its demonstrated status and recognizing that Transfers to Subdivider will facilitate Master Developer's ability to develop the West Creek Village Residential Property consistent with this Agreement, the City hereby consents to any Transfer to Subdivider in accordance with this Section 12.4, and no further consent of the City shall be required for any Transfer by Master Developer to Subdivider.

Section 12.5 Mortgagee as Transferee. No Mortgage (including the execution and delivery thereof to the Mortgagee) shall constitute a Transfer. A Mortgagee shall be

a Transferee only upon: (a) the acquisition by such Mortgagee of the affected interest of Master Developer encumbered by such Mortgagee's Mortgage; and (b) delivery to the City of an Assumption Agreement executed by the Mortgagee pursuant to which the Mortgagee assumes assuming, from and after the date such Mortgagee so acquires its interest, the applicable rights, duties and obligations of Master Developer under this Agreement. No further consent of the City shall be required for any such Transfer to a Mortgagee.

Section 12.6 Effect of Transfer. A Transferee shall become a Party to this Agreement only with respect to the interest transferred to it under the Transfer and then only to the extent set forth in the Assumption Agreement delivered under Section 12.2(b), Section 12.3 and Section 12.4. When and if Master Developer Transfers all of its rights, duties and obligations under this Agreement in accordance with Section 12.2(b), Section 12.3 and Section 12.4. Master Developer shall be released from any and all obligations accruing after the date of the Transfer under this Agreement. If Master Developer effectuates a Transfer as to only some but not all of its rights, duties and obligations under this Agreement, Master Developer shall be released only from its obligations accruing after the date of the Transfer which the Transferee assumes in the Assumption Agreement.

ARTICLE 13.  
ENFORCED DELAY; EXTENSION OF TIME OF PERFORMANCE;  
EXCUSED PERFORMANCE

Section 13.1 Force Majeure. In addition to specific provisions of this Agreement, performance by any Party hereunder shall not be deemed to be in default where delays or failures to perform are due to war, insurrection, strikes, walk-outs, riots, floods, earthquakes, the discovery and remediation of hazardous waste or significant geologic, hydrologic, archaeologic or paleontologic problems on the West Creek Village Project Area, fires, casualties, acts of God, shortages of labor or material, governmental restrictions imposed or mandated by governmental entities other than the City, enactment of conflicting state or federal statutes or regulations, judicial decisions, litigation not commenced by a Party to this Agreement claiming the enforced delay, or any other basis for excused performance which is not within the reasonable control of the Party to be excused. Causes for delay as set forth above are collectively referred to as Force Majeure.

Section 13.2 Notice. If Notice (as hereinafter defined) of such delay or impossibility of performance is provided to a Party within thirty days after the commencement of such delay or condition of impossibility, an extension of time for such cause shall not be unreasonably denied by such Party. The extension shall be for the period of the enforced delay, or longer as may be mutually agreed upon by the applicable Parties in writing. Any performance rendered impossible shall be excused in writing by the Party so notified.

ARTICLE 14.  
PROJECT APPROVALS INDEPENDENT

Section 14.1 Except to the extent otherwise recognized by CEQA, all City Permits which may be granted pursuant to this Agreement, and all Approved Entitlements and TCC Project Funds which have been issued to or granted by the City with respect to the West Creek Village Project Area and the West Creek Village Project, constitute independent actions and approvals by the City. If any provision of this Agreement or the application of any provision of this Agreement to a particular situation is held by a court of competent jurisdiction to be invalid or unenforceable, or if this Agreement is Terminated for any reason, then such invalidity, unenforceability or Termination of this Agreement, or any part hereof, shall not affect the validity or effectiveness of any such City Permits or the West Creek Village Approvals or Future Discretionary Approvals. In such cases, such City Permits, West Creek Village Approvals and Future Discretionary Approvals will remain in effect pursuant to their own terms, provisions, and conditions of approval. As such, the City may place conditions of approval on all City Permits which may be granted pursuant to this Agreement, the West Creek Village Approvals and Future Discretionary Approvals which have been issued or granted by the City with respect to the Master Developer's Property, so long as such conditions are consistent with the terms of this Agreement.

ARTICLE 15.  
NOTICES

Section 15.1 Form of Notices; Addresses. All notices and other communications (the Notices) required or permitted to be given by any Party to another Party pursuant to this Agreement shall be properly given only if the Notice is: (a) made in writing (whether or not so stated elsewhere in this Agreement); (b) given by one of the methods prescribed in Section 15.2; and (c) sent to the Party (to which it is addressed at the address set forth below (with a copy to the appropriate entity as indicated below) or at such other address as such Party (or the addressee required to be sent a copy) may hereafter specify by at least five calendar days' prior written notice:

If to City:                   City of Fresno  
                                          City Hall  
                                          2600 Fresno Street  
                                          Fresno, CA 93721-3600  
                                          Attention: Wilma Quan-Schecter, City Manager  
                                          Facsimile: (559) 621-7776

And to:                        City Attorney  
                                          City of Fresno  
                                          City Hall  
                                          2600 Fresno Street  
                                          Fresno, CA 93721-3600  
                                          Attention: Doug Sloan, City Attorney  
                                          Facsimile: (559) 488-1084

If to Master Developer:

2500 MLK, LLC  
405 North Palm Avenue  
Fresno, CA 93701  
Attention: Stephen J. Shehadey  
Facsimile: (559) 266-3115

Section 15.2 Methods of Delivery. Notices may be either: (a) delivered by hand; delivered by a nationally recognized overnight courier that maintains evidence of receipt; or sent by facsimile transmission with a confirmation copy delivered the following day by a nationally recognized overnight courier which maintains evidence of receipt. Notices shall be effective on the date of receipt.

## ARTICLE 16. GENERAL PROVISIONS

Section 16.1 City's Reservation of Authority. The Parties acknowledge and agree the intent of this Agreement is to protect the vested rights granted to Master Developer herein to the maximum extent allowed by law. Except for the limitations on the exercise by the City of its police power which are provided in this Agreement or which are construed in accordance with the immediately preceding sentence, the Parties further acknowledge and agree that: (a) the City reserves all of its police power and or statutory or other legal powers or responsibilities; and (b) this Agreement shall not be construed to limit the authority or obligation of the City to hold necessary public hearings, to limit the discretion of the City or any of its officers or officials with regard to rules, regulations, ordinances, laws, and entitlement of use which require the exercise of discretion by the City or any of its officers or officials. This Agreement shall not be construed to limit the obligations of the City to comply with CEQA or any other federal or state law.

Section 16.2 Amendment or Cancellation. Subject to meeting the notice and hearing requirements of Section 65867 of the California Government Code (and compliance with the procedures set forth in Fresno Municipal Code Section 15-6009(B), this Agreement may be amended from time to time, or canceled in whole or in part, by mutual written consent of the City and Master Developer, or their respective successors in interest in accordance with the provisions of Section 65868 of the California Government Code.

Section 16.3 Waiver. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the Party against whom enforcement of a waiver is sought and referring expressly to this Section. No waiver of any right or remedy in respect of any occurrence or event shall be deemed a waiver of any right or remedy in respect of any other occurrence or event.

Section 16.4 Successor and Assigns. The provisions of this Agreement shall be binding upon and inure to the benefit of the Parties, and any subsequent owners of all or any portion of the Master Developer's Property and their respective successors and

assigns. Any successors in interest to the City shall be subject to the provisions set forth in Sections 65865. 4 and 65868. 5 of the California Government Code.

Section 16.5 Interpretation and Governing State Law. This Agreement and any dispute arising hereunder shall be governed and interpreted in accordance with the laws of the State of California. This Agreement shall be construed as a whole according to its fair language and common meaning to achieve the objective and purposes of the Parties hereto, and the rule of construction to the effect that ambiguities are to be resolved against the drafting Party shall not be employed in interpreting this Agreement, both Parties having been represented by counsel in the negotiation and preparation hereof. All legal actions brought to enforce the terms of this Agreement shall be brought and heard in the Superior Court of the State of California, County of Fresno.

Section 16.6 No Third Party Beneficiaries. This Agreement is made and entered into for the sole protection and benefit of the Parties and their successors and assigns. No other Person shall have any right of action based upon any provision of this Agreement.

Section 16.7 Attorneys' Fees. If either Party commences any action for the interpretation, enforcement, termination, cancellation or rescission hereof, or for specific performance of the breach hereof, the prevailing Party shall be entitled to its reasonable attorneys' fees and litigation expenses and costs, and any judgment, order or decree rendered in such action, suit or proceeding shall include an award thereof. Attorneys' fees under this Section shall include attorneys' fees on any appeal and any post-judgment proceedings to collect or enforce the judgment. This provision is separate and several and shall survive the merger of this Agreement into any judgment on this Agreement.

Section 16.8 Limitation of Legal Acts. Except as provided in Section 16.7, in no event shall the City, or its officers, agents or employees, be liable in damages for any breach or violation of this Agreement, it being expressly understood and agreed the Master Developer's sole legal remedy for a breach or violation of this Agreement by the City shall be a legal action in mandamus, specific performance or other injunctive or declaratory relief to enforce the provisions of this Agreement.

Section 16.9 Validation. If so requested in writing by the Master Developer, the City agrees to initiate appropriate procedure under California Code of Civil Procedure Section 860 et seq. , in order to validate this Agreement, and the obligations thereunder. Any validation undertaken at the request of the Master Developer shall be at the sole cost of the Master Developer.

Section 16.10 Successor Statutes Incorporated. All references to a statute or ordinance, shall incorporate any, or all, successor statute or ordinance enacted to govern the activity now governed by the statute or ordinance, noted herein to the extent, however, that incorporation of such successor statute or ordinance does not adversely affect the benefits and protections granted to the Master Developer under this Agreement.

Section 16.11 Incorporation of Attachments. Each and all recitals and attachments to this Agreement, including all Exhibits referenced herein, and all subparts thereto, are incorporated herein by this reference as though set forth herein verbatim.

Section 16.12 Negation of Partnership. The Parties specifically acknowledge the development of Master Developer's Property is a private development, that neither Party is acting as the agent of the other in any respect hereunder, and each Party is an independent contracting entity with respect to the terms, covenants and conditions contained in this Agreement. None of the terms or provisions of this Agreement shall be deemed to create a partnership between or among the Parties in the businesses of Master Developer, the affairs of the City, or otherwise, or cause them to be considered joint venturers or members of any joint enterprise. This Agreement is not intended and shall not be construed to create any third party beneficiary rights in any Person who is not a Party or a Transferee; and nothing in this Agreement shall limit or waive any rights Master Developer may have or acquire against any third Person with respect to the terms, covenants or conditions of this Agreement.

Section 16.13 Not A Public Dedication. Except for Required Exactions specifically set forth in this Agreement and then only when made to the extent so required, nothing herein contained shall be deemed to be a gift or dedication of the Master Developer's Property or any buildings or improvements constructed in the Project, to the general public, for the general public, or for any public use or purpose whatsoever, it being the intention and understanding of the Parties that this Agreement be strictly limited to and for the purposes herein expressed for the development of the Master Developer's Property as private property.

Section 16.14 Severability. Invalidation of any of the provisions contained in this Agreement, or of the application thereof to any Person, by judgment or court order, shall in no way affect any of the other provisions hereof or the application thereof to any other Person or circumstance and the same shall remain in full force and effect, unless enforcement of this Agreement as so invalidated would be unreasonable or grossly inequitable under all the circumstances or would frustrate the purposes of this Agreement.

Section 16.15 Counterparts. This Agreement may be executed in two or more identical counterparts, each of which shall be deemed to be an original and each of which shall be deemed to be one and the same instrument when each Party signs each such counterpart.

Section 16.16 Signature Pages. For convenience, the signatures of the Parties to this Agreement may be executed and acknowledged on separate pages which, when attached to this Agreement, shall constitute this as one complete Agreement.

Section 16.17 Days. Unless otherwise specified in this Agreement, the term "days" means calendar days.

[Remainder of Page Intentionally Left Blank]



IN WITNESS WHEREOF, the Parties hereto have duly executed this Agreement.

CITY

CITY OF FRESNO,  
a municipal corporation

By:   
Wilma Quan City Manager

Dated: 3/24/2020

ATTEST:  
YVONNE SPENCE, CMC  
City Clerk

By:   
Deputy


APPROVED AS TO FORM:  
DOUGLAS T. SLOAN  
City Attorney

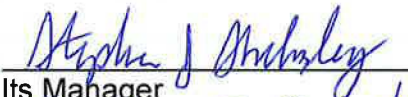
By:   
DEPUTY


Dated: 3/21/2020


MASTER DEVELOPER

2500 MLK, LLC,  
a California Limited Liability Company

By:   
Its Manager  
JOHN L. SHEHADEH  
Printed Name

By:   
Its Manager  
Stephen J. Shehadeh  
Printed Name

By:   
Its Manager  
James L. Shehadeh  
Printed Name

By:   
Its Manager  
Silvesta McHall  
Printed Name

## ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California  
County of Fresno)

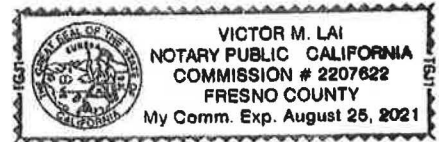
On March 16, 2020 before me, Victor M. Lai, Notary Public  
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

Signature Victor M. Lai (Seal)



Clear Form

Print Form

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State of California  
County of Fresno)

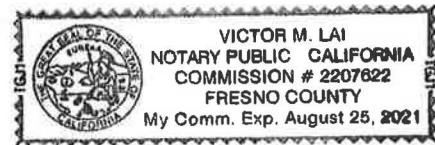
On March 16, 2020 before me, Victor M. Lai, Notary Public  
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

Signature Victor M. Lai (Seal)



Clear Form

Print Form

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State of California  
County of Fresno )

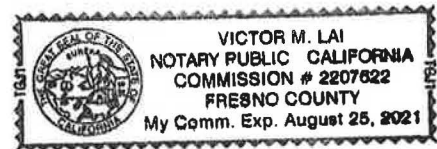
On March 16, 2020 before me, Victor M. Lai, Notary Public  
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

Signature Victor M. Lai (Seal)



Clear Form

Print Form

## ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California  
County of Fresno )

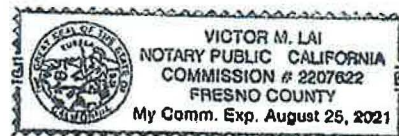
On March 16, 2020 before me, Victor M. Lai, Notary Public  
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

Signature *Victor M. Lai* (Seal)



Dear Interested Parties:

A hardcopy of this document (and exhibits) can be requested from the City of Fresno's Planning and Development Department at 2600 Fresno Street, 3<sup>rd</sup> fl., Room 3043, Fresno, CA 93721-3604.

Exhibits attached in this document, and filed with the City of Fresno, include the following:

- A-1      Legal Description of West Creek Village Project Area Owned By Master Developer
- A-2      Legal Description of Fresno City College – West Fresno Satellite Parcel
- B         Vested Uses\* Table
- C         Land Use Map of West Creek Village Project
- D         Extractions Table
- E         Required Development Fees
- F-1      Depiction of Loop Road
- F-2      Preliminary Engineers Estimate
- G         Appraisal
- H         FMFCD Storm Drainage and Flood Control Master Plan for Drainage Area "SS"

Exhibit A-1  
Legal Description of  
West Creek Village Project Area  
Owned by Master Developer

Those parcels of real property situated in the County of Fresno, State of California described as follows:

PARCEL 1

Lot 39 in Section 16, Township 14 South, Range 20 East, Mount Diablo Base and Meridian, in the County of Fresno, State of California, according to the map thereof recorded in Volume 2 of Plats at page 8, Fresno County Records.

Lots 37 and 38 in Section 16, Township 14 South, Range 20 East, Mount Diablo Base and Meridian, in the County of Fresno, State of California, according to the map thereof recorded in Volume 2 of Plats at page 8, Fresno County Records.

The above described property excludes, however, that portion of Lots 38 & 39 of the Fresno Colony Tract, according to the map recorded in Book 2 of Plats, at Page 8, Fresno County Records, lying within the Southwest Quarter of Section 16, Township 14 South, Range 20 East, Mount Diablo Base and Meridian, according to the Official Plat thereof, in the County of Fresno, State of California, being more particularly described as follows.

The North half and the North one third of the South half of Lots 38 and 39 of said Tract. Containing an area of 26.06 acres, more or less.

PARCEL 2: APN 479-060-02

The North half of Lot 51 of Fresno Colony, according to the map thereof recorded in Book 2 Page 8 of Plats, Fresno County Records.

PARCEL 3: APN 479-060-03

The North half of Lot 52 of Fresno Colony, according to the map thereof recorded in Book 2 Page 8 of Plats, Fresno County Records.

PARCEL 4: APN 479-060-10

The South half of Lot 51 of Fresno Colony, according to the map thereof recorded in Book 2 Page 8 of Plats, Fresno County Records.

Excepting therefrom the South 20 feet thereof.

For the purpose of this Description, the South boundary of said Lot 51 is assumed to be 30 feet North of the South Boundary of Section 16, Township 14 South, Range 20 East, Mount Diablo Base and Meridian.

PARCEL 5: APN: 479-060-11

Lot 50 of Fresno Colony, according to the map thereof recorded in Book 2 Page 8 of Plats, Fresno County Records. Excepting therefrom the South 20 feet thereof.  
For the purposes of this Description, the South boundary of said Lot 50 is assumed to be 30 feet North of the South Boundary of Section 16, Township 14 South, Range 20 East, Mount Diablo Base and Meridian.

PARCEL 6: APN: 479-060-09

The South half of Lot 52 of Fresno County, according to the Map thereof recorded in Book 2 Page 8 of Plats, Fresno County Records.

Excepting therefrom the Southeast quarter of said South half.

Also excepting therefrom the South 20 feet thereof.

For the purposes of this Description, the South boundary of said Lot 52 is assumed to be 30 feet North of the South boundary of Section 16, Township 14 South, Range 20 East, Mount Diablo Base and Meridian.

PARCEL 7: APN: 479-060-08

The Southeast quarter of the South half of Lot 52 of Fresno Colony, according to the map thereof recorded in Book 2 Page 8 of Plats, Fresno County Records.

Excepting therefrom the South 20 feet thereof.

For the purposes of this Description, the South boundary of said Lot 52 is assumed to be 30 feet North of the South boundary of Section 16, Township 14 South, Range 20 East, Mount Diablo Base and Meridian.

Exhibit A-2  
Legal Description of  
Fresno City College–West Fresno Satellite Parcel

That portion of Lots 38 & 39 of the Fresno Colony Tract, according to the map recorded in Book 2 of Plats, at Page 8, Fresno County Records, lying within the Southwest Quarter of Section 16, Township 14 South, Range 20 East, Mount Diablo Base and Meridian, according to the Official Plat thereof, in the County of Fresno, State of California, being more particularly described as follows.

The North half and the North one third of the South half of Lots 38 and 39 of said Tract. Containing an area of 26. 06 acres, more or less.

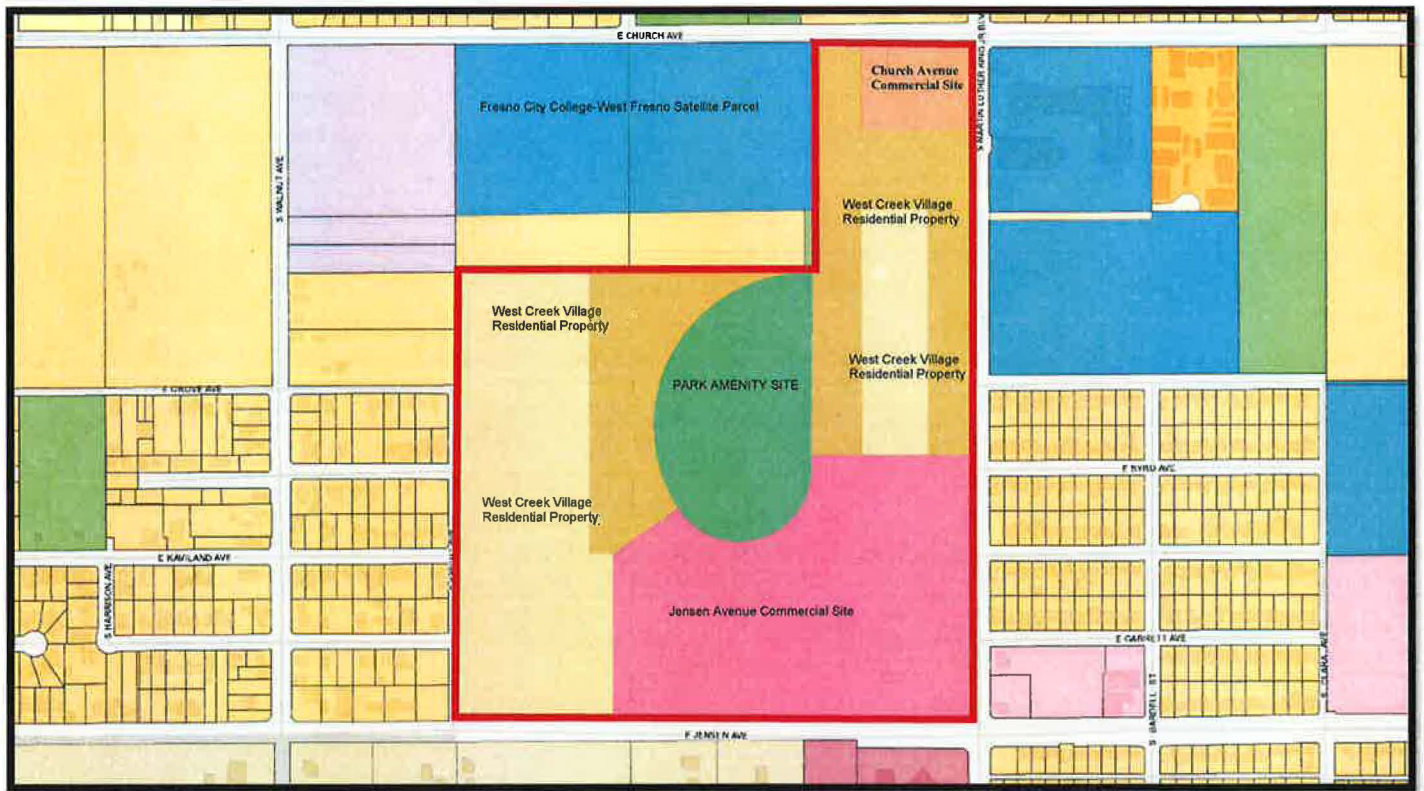
**Exhibit B  
Vested Uses\* Table**

Parcel 1 of Tentative Parcel Map Application No. 2019-02	Uses Permitted as a matter of right in a CC Zone District
Parcel 2 of Tentative Parcel Map Application No. 2019-02	Uses Permitted as a matter of right in an RS-5 District as to 7.12 gross acres, and Uses Permitted as a matter of right in an RM-1 District, as to gross 13.10 acres
Parcel 3 of Tentative Parcel Map Application No. 2019-02	Uses Permitted as a matter of right in an RS-5 District as to 20.20 gross acres, and Uses Permitted as a matter of right in an RM-1 District, as to gross 7.44 acres
Parcel 4 of Tentative Parcel Map Application No. 2019-02	Uses Permitted as a matter of Right in a CR Zone District
Existing Parcel APN 479-060-08	Uses Permitted as a matter of right in a CR Zone District

\*The total number of residential units to be developed in Parcels 2 and 3 are based on the assumption that a portion of Parcel 3 shall be acquired for use as an elementary school site. The combined total residential units developed on the Master Developer's Property shall be consistent with the provisions set forth in Section 3.9(a) of the Development Agreement

Exhibit C  
Land Use Map of West Creek Village Project

# EXHIBIT C



-  **CC- Community Commercial**
-  **CR - Regional Commercial**
-  **RM-1 - Residential Multi Family**
-  **PR - Park and Recreation**
-  **RS-5 - Residential Single Family**

Exhibit D  
Exactions Table

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**EXHIBIT D**

**EXACTIONS: OFF-SITE IMPROVEMENTS  
AND DEDICATIONS**

Development of the West Creek Village Project under the Agreement shall be subject to the following impacts fees, dedications and improvements and other agency fees, dedications and improvements pursuant to the terms, conditions and requirements provided in this Exhibit. Unless otherwise expressly provided in this Exhibit, all public facilities shall be constructed to standards and pursuant to procedures adopted by the City and existing at the time the plans are submitted to the City for approval.

**A. CITY DEDICATIONS; IMPROVEMENTS AND REQUIREMENTS**

<b>No.</b>	<b>DEDICATION AND/OR IMPROVEMENT</b>	<b>CITY DEP'T</b>	<b>TIME OF COMPLETION</b>	<b>SUBJECT TO REIMBURSEMENT/ CREDIT</b>
1	The Project will provide the following street improvements:  (1) Jensen Avenue, from MLK Blvd to Knight Avenue. The City will install curb, gutter, asphalt paving, street lights, and Class I trail with landscaping per City of Fresno Standard Plans P-51, and P-60. Developer will install concrete block walls where required, which installation will be deferred until development of adjacent properties or as part of improvements mandated under	DPW <sup>[5]</sup>	(1) Upon receipt and City Council appropriation of Federal Transportation Grant Funding.	Only improvements and work constructed by the Developer are eligible for any reimbursement or credits and are available from the Citywide Traffic and Street fee program. No other credits and/or reimbursements are allowed. City-constructed improvements will

<sup>[5]</sup> City of Fresno Department of Public Works

No.	DEDICATION AND/OR IMPROVEMENT	CITY DEP'T	TIME OF COMPLETION	SUBJECT TO REIMBURSEMENT/ CREDIT
	<p>subdivision map conditions of approval. Developer will install any power or communication utility systems needed to serve new development.</p> <p>(2) MLK Blvd from Church Avenue to Jensen Avenue. The City will install curb, gutter, asphalt paving, street lights and sidewalks per City of Fresno Standard Plan P-53. Developer will install block walls and landscaping where required, which installation will be deferred until development of adjacent properties or as part of improvements mandated under subdivision map conditions of approval.. Developer will install any power or communication utility systems required to serve new development.</p> <p>(3) Church Avenue, MLK Blvd to Walnut. The City will install curb, gutter, street lights, asphalt paving and Class I trail with landscaping in accordance with City of Fresno Standard Plans P-53, and P-60. The City will convert the existing overhead utility wires to an underground system. Developer will install concrete block walls where required, which installation will be deferred until</p>		<p>(2) Upon receipt and City Council appropriation of Federal Transportation Grant Funding.</p> <p>(3) Upon receipt and City Council appropriation of Federal Transportation Grant Funding.</p> <p>(4) Interior roadways shall be completed with each phase of the tentative map. Units cannot be occupied until two points of access</p>	<p>not result in any fee credit for the Developer.</p> <p>(4) No.</p>

No.	DEDICATION AND/OR IMPROVEMENT	CITY DEP'T	TIME OF COMPLETION	SUBJECT TO REIMBURSEMENT/ CREDIT
	<p>development of adjacent properties or as part of improvements mandated under subdivision map conditions of approval.. The Developer shall dedicate necessary right of way for all of the above improvements.</p> <p>(4) The Developer shall construct roadway improvements in the interior of the West Creek Village Project site and shall submit all improvement plans to the Department of Public Works for review and approval.</p> <p>(5) City shall construct access road to park and loop road surrounding park. Developer shall reimburse City for one-third of total cost.</p>		<p>are provided.</p> <p>(5) Loop road and access road to be completed as funds are allocated in City budget.</p>	
2	<p>All new utility wires are to be installed underground. City will convert existing overhead utility wires along Church Avenue with Rule 20 PG&amp;E funds) in accordance with Fresno Municipal Code Sections 15-4114 and 15-2017 and Resolution No. 78-522/88-229. Existing overhead utility lines on Jensen Avenue are high-voltage and are allowed to</p>	DPW	<p>City conversion of existing lines on Church Avenue will be completed by PG&amp;E when their schedule allows.</p>	No

No.	DEDICATION AND/OR IMPROVEMENT	CITY DEP'T	TIME OF COMPLETION	SUBJECT TO REIMBURSEMENT/ CREDIT
	remain overhead.			
3	Developer shall install ADA-compliant curb ramps at all corners in accordance with City of Fresno Public Works Standards (in the form existing at time plans are submitted to City). (See Note on Attachment 1.)	DPW	Prior to issuance of any building permits.	No.
4	The Developer agrees to have the West Creek Village Project Area annexed into Community Facilities District No. 9 for multi-family and commercial uses and Community Facilities District No. 11 for single family residential uses, except Developer may establish a stand-alone Community Facilities District in accordance with Section 5.3(c) of the Development Agreement . The Developer may include in the CFD the funding for maintenance of certain agreed upon On-Site and/or Off-Site Public Improvements. The CFD annexations shall include the maintenance of any median island landscaping installed by the Project along Martin Luther King Jr. Boulevard, East Church Avenue, and East Jensen Avenue, including median island	DPW	Prior to approval of any final maps, prior to issuance of any building permits, and prior to the sale of any portion of the Subject Property.	

<b>No.</b>	<b>DEDICATION AND/OR IMPROVEMENT</b>	<b>CITY DEP'T</b>	<b>TIME OF COMPLETION</b>	<b>SUBJECT TO REIMBURSEMENT/ CREDIT</b>
	<p>plant replacement costs. The CFD annexation shall also include appropriate shares for maintenance of the new Park Amenity</p> <p>The Developer agrees to maintain on its own all landscaping within the site as a requirement of the Agreement if such landscaping is not included in a CFD, including any landscaping within the commercial areas proposed at Church and MLK and along Jensen Avenue.</p>		<p>Non-CFD maintenance shall be perpetual and ongoing after construction of relevant improvement.</p>	

No.	DEDICATION AND/OR IMPROVEMENT	CITY DEP'T	TIME OF COMPLETION	SUBJECT TO REIMBURSEMENT/ CREDIT
5	The first order of work shall include a minimum of two points of vehicular access to the major streets for <u>any</u> phase of this development.	DPW	Upon completion of first public works of improvement.	No.
6	<p>The Project shall comply with water and sewer requirements set forth in the Department of Public Utilities/Utilities Planning and Engineering Memorandum dated July 12, 2017 as set forth more particularly below<sup>[1]</sup>:</p> <p>(1) The City will replace the 10-inch water main in South Martin Luther King Jr. Boulevard between East Jensen and East Church with a 12-inch water main (including fire hydrants).</p> <p>(2) The City will transfer existing water services from the 10-inch water main to the proposed 12-inch water main.</p> <p>(3) The Developer shall install an 8-inch water main (including City fire hydrants) in East Grove Avenue between South</p>	DPU <sup>[2]</sup>	<p>(1) Concurrent with City installed street improvements</p> <p>(2) Concurrent with City installed street improvements.</p>	<p>(1) No</p> <p>(2) No</p>

<sup>[1]</sup> A full and complete list of water and sewer requirements is set forth in the Department of Public Utilities Memorandum dated July 12, 2017, included as an exhibit to the Conditions of Approval for TPM-17-06. Development requirements not specifically articulated in this exhibit can be found in to the Conditions of Approval for TPM-17-06.

<sup>[2]</sup> City of Fresno Department of Public Utilities

<b>No.</b>	<b>DEDICATION AND/OR IMPROVEMENT</b>	<b>CITY DEP'T</b>	<b>TIME OF COMPLETION</b>	<b>SUBJECT TO REIMBURSEMENT/ CREDIT</b>
	<p>Walnut Avenue and South Martin Luther King Jr, Boulevard.</p> <p>(4) The Developer shall install an 8-inch water main (including City fire hydrants) in South Fairview Avenue between South Jensen Avenue and East Grove Avenue</p> <p>(5) The Developer shall install water services and meter boxes.</p> <p>(6) The Developer shall demolish any on-site wells in compliance with the State of California Department of Water Resources and City of Fresno Standards.</p> <p>(7) The Project shall direct all sewer connections located north of Grove Avenue to one of the 30-inch trunk lines in Church Avenue.</p> <p>(8) The Project shall direct all sewer connections located south of Grove Avenue to the Jensen Avenue trunk line.</p> <p>(9) The Developer shall abandon the 14-inch fiberglass reinforced concrete non-active sewer pipe and the abandoned pipe shall be removed. The existing main shall</p>			

<b>No.</b>	<b>DEDICATION AND/OR IMPROVEMENT</b>	<b>CITY DEP'T</b>	<b>TIME OF COMPLETION</b>	<b>SUBJECT TO REIMBURSEMENT/ CREDIT</b>
	<p>be capped at the intersection of Grove Avenue and Knight Avenue on the west end, and Grove Avenue and Martin Luther King Jr. Boulevard on the east end.</p> <p>(10) The Project shall vacate the 20-foot utility easement at the Grove Avenue alignment between Knight Avenue and Martin Luther King Jr. Boulevard. Prior to vacating the easement, the Developer shall contact the Fresno Metropolitan Flood Control District regarding the 48-inch concrete storm drain co-located in the easement with the 14-inch fiberglass reinforced concrete pipe.</p> <p>(11) The Developer shall cause all street easements and deeds to be recorded.</p> <p>(12) The Project shall install all underground utilities.</p> <p>(13) The Developer's engineer shall prepare a preliminary sewer design layout and shall submit the same to the Department of Public Utilities for review and conceptual-level approvals.</p>			

<b>No.</b>	<b>DEDICATION AND/OR IMPROVEMENT</b>	<b>CITY DEP'T</b>	<b>TIME OF COMPLETION</b>	<b>SUBJECT TO REIMBURSEMENT/ CREDIT</b>
	<p>(14) The Developer shall submit engineered improvement plans prepared by a registered professional civil engineer for all proposed additions to the City's public sewer system, for review and approval by the Department of Public Utilities.</p> <p>(15) All public sanitary sewer facilities shall be constructed in accordance with City standards, specifications, and policies.</p> <p>(16) The Developer shall construct the sanitary sewer connection to the existing rehabbed 48-inch sewer trunk located in East Jensen Avenue by machine coring and epoxy coating the area of the 48-inch sewer trunk.</p>			

No.	DEDICATION AND/OR IMPROVEMENT	CITY DEP'T	TIME OF COMPLETION	SUBJECT TO REIMBURSEMENT/ CREDIT
7	The Developer shall incorporate the use of recycled water for landscape irrigation and non-potable water demands in street-right of way landscaping. To facilitate the use of recycled water, the City will extend recycled water facilities to the project and will install a 12-inch diameter recycled water main in South Martin Luther King Jr. Boulevard from East Church Avenue to East Grove Avenue.	DPU		
8	<p><b><u>General Sanitary Sewer Requirements</u></b></p> <p>(1) Sanitary sewer facilities installed on-site or within private streets shall be private. It is the responsibility of the Developer or its successors in interest to repair and maintain all sewer facilities deemed private.</p>	DPU	(1) After construction of facilities; ongoing obligation.	(1) No.
	(2) Engineered sanitary sewer facility improvement plans prepared by a registered civil engineer shall be submitted to the City of Fresno Department of Public Utilities for review and approval of proposed public sewer facilities. Those plans must adhere to the requirements in		(2) Prior to issuance of building permits.	(2) N/A

No.	DEDICATION AND/OR IMPROVEMENT	CITY DEP'T	TIME OF COMPLETION	SUBJECT TO REIMBURSEMENT/ CREDIT
	<p>this Exhibit and be approved by the Director or his designee prior to issuance of building permits. It is the project's responsibility to coordinate and eliminate elevation and alignment conflicts with other utilities. Separation requirements per the California Department of Health are strictly enforced.</p>			
	<p>(3) For construction of off-site sewer improvements, the project shall comply with City of Fresno ordinances and conditions in effect at the time of construction and shall pay processing fees in effect at the time plans are submitted to the City.</p>		<p>(3) At submittal of off-site construction plans.</p>	<p>(3) N/A.</p>
	<p>(4) Residential units shall be provided with separate water services and meters from non-residential uses within the same building. All water services shall be metered and approved backflow devices installed when required.</p>		<p>(4) Prior to Certificate of occupancy.</p>	<p>(4) No.</p>

No.	DEDICATION AND/OR IMPROVEMENT	CITY DEP'T	TIME OF COMPLETION	SUBJECT TO REIMBURSEMENT/ CREDIT
	(5) All landscaping and outdoors water uses shall be supplied through water services and meters installed for irrigation purposes only and shall be separated from services used to supply domestic uses within a building. Landscaping and non-potable water uses shall utilize recycled water.		(5) Prior to Certificate of Occupancy.	(5) No.
	(6) In addition to and without limiting any other requirement in this Exhibit, the public sewer system improvements including off-site shall be constructed in its entirety (without phasing) and are to be completely constructed and fully operational prior to occupancy of the first building.		(6) N/A	(6) N/A
9	<p>All solid waste enclosures and facilities shall be constructed to Public Works Standards P-33 and P-34 and shall be included on improvements plans to be approved prior to issuance of building permits.</p> <p>If compactors are to be used, these figures will change. Compactors required 60' clearance in front and 3' clearance on</p>	DPU	Prior to Certificate of Occupancy for each building.	No.

<b>No.</b>	<b>DEDICATION AND/OR IMPROVEMENT</b>	<b>CITY DEP'T</b>	<b>TIME OF COMPLETION</b>	<b>SUBJECT TO REIMBURSEMENT/ CREDIT</b>
	either side for loading and unloading.			

Exhibit E  
Required Development Fees

**With respect to the Master Developer's Property development, the Required Fees payable pursuant to Section 5. 4(a) (if any) are as follows:**

*Improvements and payments shall not be required on or in front of any undeveloped portion of a net acreage of ten acres or more which exists after the division of land. All improvements and payments to be completed with development.*

**SEWER CONNECTION CHARGES**

**FEE RATE**

b. Lateral Sewer Charge [1]	\$0. 10/sq. ft. (to 100' depth)
c. Oversize Charge [1]	\$0. 05/sq. ft. (to 100' depth)
d. Trunk Sewer Charge [2]	N/A
e. Wastewater Facilities Charge	S. T. E. P. **
f. House Branch Sewer Charge [2]	N/A

**WATER CONNECTION CHARGES**

**FEE RATE**

g. Service Connection Charge	Fee based on service(s) and meter(s) sizes specified by owner; fee for service(s) and Meter(s) established by the Master Fee Schedule existing on August 24, 2017.
h. Frontage Charge [1]	\$6.50/lineal foot
i. Water Capacity fee	Fee based on meter(s) sizes specified by owner; fee established by the Master Fee Schedule existing on August 24, 2017.

**Exhibit E**  
**Required Development Fees (cont. )**

CITYWIDE DEVELOPMENT IMPACT FEES	FEE RATE
j. Fire Facilities Impact Fee – Citywide [4]	
- Commercial Retail	\$662.00/1000 sq. ft. †
- Residential, SFR	\$1,893.00/living unit
- Residential, MFR	\$1,429.00/living unit
k. Park Facility Impact Fee – Citywide [4]	
- Residential, SFR	\$3,923.00/living unit
- Residential, MFR	\$2,989.00/living unit
l. Parkland Dedication In-Lieu Fee [2]	
- Commercial Retail	N/A
- Residential, SFR	\$1,185.00/living unit
- Residential, MFR	\$894.00/living unit
m. Citywide Regional Street Fee [3]	
- Commercial Retail	\$13,846.00/adj. acre
- Residential, SFR	\$7,830.00/adj. acre
- Residential, Multi-Family	\$14,204.00/adj. acre
n. New Growth Area Major Street Fee [3]	
- Commercial Retail	\$38,910/adj. acre
- Residential, SFR	\$21,555.00/adj. acre
- Residential, Multi-Family	\$41,889.00/adj. acre
o. Police Facilities Impact Fee – Citywide [4]	
- Commercial Retail	\$641.00/1000 sq. ft. †
- Residential, SFR	\$602.00/living unit
- Residential, MFR	\$454.00/living unit
p. Traffic Signal Charge [1]	
- Commercial Retail	Based on Actual Use†
- Residential, SFR	\$488.00/living unit
- Residential, MFR	\$341.00/living unit

**Notes:**

On July 22, 2008, the Fresno County Board of Supervisors passed Ordinance No. 2008 – 023 requiring the payment of County Public Impact Facilities Impact Fees. The effective date of this ordinance is September 20, 2008. Contact the County of Fresno, Public Works and Planning Department to determine payment of this fee obligation. Confirmation by the County of Fresno is required before the City of Fresno can issue building permits.

The Board of Directors of the Fresno County Regional Transportation Mitigation Fee Agency approved Resolution No. 2009 – 01 requiring the payment of Regional Transportation Mitigation Fee. The effective date of this resolution is

January 1, 2010. Contact the Council of Fresno County Governments (FCOG) to determine this fee obligation. Confirmation by the FCOG is required before the City of Fresno can issue building permits.

\*\* Upon occupancy of the project, the subdivider shall pay the appropriate sewer facility charge pursuant to the Simple Tiered Equity Program (STEP) as determined by the Department of Public Utilities, Wastewater Division, Environmental Services Section (559-621-5153), but applying the fees for the STEP existing on August 24, 2017

[1] Deferrable through Fee Deferral Covenant.

[2] Due at Final Map.

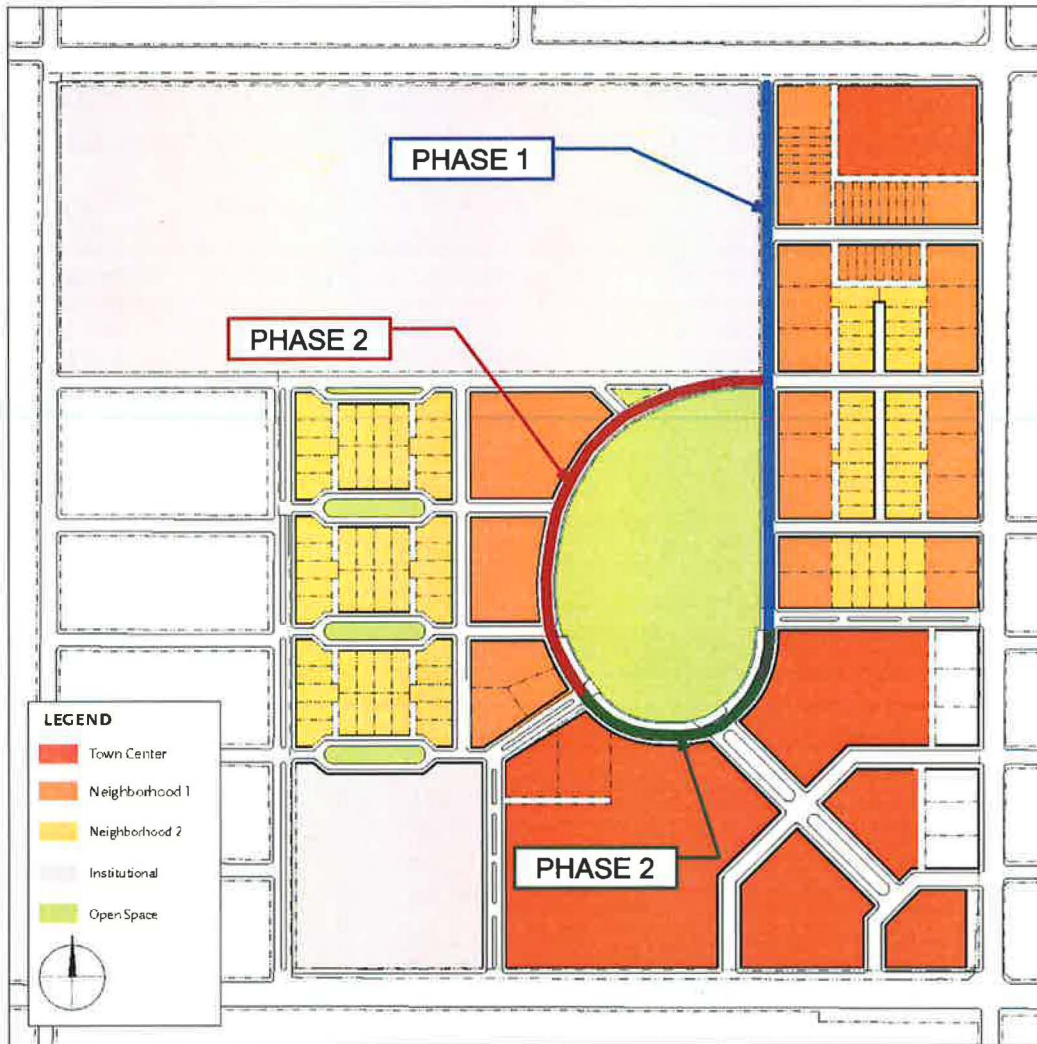
[3] Due at Building Permit.

[4] Due at Certificate of Occupancy.

† Building areas to be calculated to the nearest square foot. Traffic Signal fee is subject to review and conditions of approval from Transportation Planning through the entitlement review process based on Average Daily Trips of the proposed project. Average Daily Trips to be determined by Traffic Engineering. However, in all instances, the fee allocated shall be based on the fees and policies existing on August 24, 2017.

Exhibit F-1: Depiction of Loop Road  
Exhibit F-2: Preliminary Engineers Estimate

# EXHIBIT F-1



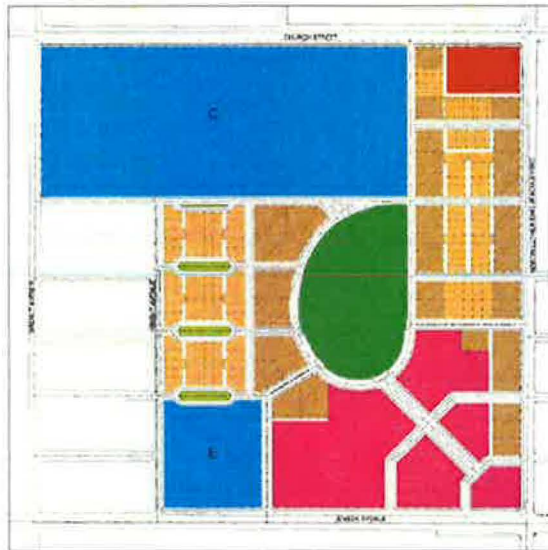
**Exhibit F-2**

BY: MLA		DATE	12/2/2018		SHEET	1	OF	2
CHK'D	DATE	PROJ ID	FUND	CRG				
SUBJECT <b>MLK WEST CREEK VILLAGE PROJECT: ROAD AROUND PARK</b>								
<b>BUILD OUT (CIP RATES)</b>								
<b>PRELIMINARY ENGINEER'S ESTIMATE</b>								
ITEM	NO.	QUANTIT	UNIT	DESCRIPTION OF WORK:	UNIT COST	TOTAL		
	1	1	L.S.	Mobilization				
	2	1	L.S.	Traffic Control				
	3	1	L.S.	Clear and Grub				
	4	1	L.S.	SWPPP Preparation and Implementation				
	5	1	L.S.	Dust Control Pollution Prevention				
	6	2.17	C.Y.	Excavation and Subgrade Prep				
	7	1,827	TON	2.5" Min Asphalt Concrete				
	8	2,675	TON	4" Min Class 2 Aggregate Base				
	9	1,000	L.F.	12" Sewer Line				
	10	2	EA	Sewer Manhole (Per PW STD S-3)				
	11	2,700	L.F.	12" PVC Water Main				
	12	2,700	L.F.	4" or 6" Natural Gas Line				
	13	2,700	L.F.	Dry Utilities (Joint Trench)				
	14	5,400	L.F.	6" High Curb and Gutter				
	15	10	EA	Streetlights				
	16	1	L.S.	Signing and Striping (Interior)				
	17	20	EA	Curb Ramp				
	18	2,700	L.F.	24" RCP (FMFCD)				
	19	2	EA	FMFCD Type D Inlet				
	20	2,700	L.F.	18" Masterplan Pipe (FMFCD)				
	21	2	EA	FMFCD Type A, Case I Manhole				
	22	2,700	L.F.	12" Recycled Water Line				
<p><small>NOTE:                      This PRELIMINARY estimate is an approximation of the probable cost of the proposed work here for review purposes only. The City has received the bid for work. It is not intended to be used as the final cost of the project. It is intended to represent a general magnitude of the cost of a competitively bid project. It is not intended to represent the cost of project completed by City crews. Approval of the estimate, plans, and specifications must be made by the City prior to the preparation of FINAL engineer's estimate.</small></p>								

Exhibit G  
Appraisal for Land Value of the Park Amenity Site

# EXHIBIT G

**APPRAISAL REPORT  
OF A**



**Proposed 9.99 Acre Park  
Part of the Planned West Creek Village  
SW corner of Martin Luther King Boulevard @ E Church Avenue  
Fresno (City and County), CA 93706**

**DATE OF VALUE**

August 1, 2018 – Hypothetical Value

**PREPARED FOR**

**2500 MLK LLC**  
PO Box 6317  
Fresno, CA 93703

**PREPARED BY**

Adam J. Hardej, Jr., MAI  
President & Chief Appraiser  
**BAAR Realty Advisors**  
BAAR File No: 07-18-0448

October 2, 2018

**2500 MLK LLC**  
PO Box 6317  
Fresno, CA 93703

RE: **Proposed 9.99 Acre Park**  
**Part of the Planned West Creek Village**  
SW corner of Martin Luther King Boulevard @ E Church Avenue  
Fresno (City and County), CA 93706  
BAAR File No.: 07-18-0448

To Whom It May Concern:

At your request and authorization, BAAR Realty Advisors (BAAR) has prepared an Appraisal Report of the hypothetical market value of the fee simple interest in the above-referenced real property. The subject property is more fully described, legally and physically, within the enclosed report.

Data, information, and calculations leading to the value conclusion are incorporated in the report following this letter. The report, in its entirety, including all assumptions and limiting conditions, is an integral part of and inseparable from this letter.

#### HYPOTHETICAL MARKET VALUE

Based on research and analysis contained in this report, it is estimated that the hypothetical market value of the fee simple interest in the subject property, "as proposed" on August 1, 2018 was:

**TWO MILLION DOLLARS**  
**\$2,000,000**

The following appraisal sets forth the most pertinent data gathered, the techniques employed, and the reasoning leading to the opinion of value. The analyses, opinions and conclusions were developed based on, and this report has been prepared in conformance with, our interpretation of the guidelines and recommendations set forth in the Uniform Standards of Professional Appraisal Practice (USPAP), the requirements of the Code of Professional Ethics and Standards of Professional Appraisal Practice of the Appraisal Institute, and The Financial Institution Reform, Recovery, and Enforcement Act of 1989 (FIRREA), Title XI Regulations.

It has been a pleasure to assist you in this assignment. If you have any questions concerning the analysis, or if BAAR can be of further service, please do not hesitate to contact us.

Respectfully Submitted,

**BAAR REALTY ADVISORS**



Adam J. Hardej, Jr., MAI  
President & Chief Appraiser  
CA Certified General Appraiser  
Lic#AG018716



Luis R. Lorca  
Regional Manager & Senior Appraiser  
CA Certified General Appraiser  
Lic#AG030345

**CERTIFICATION OF THE APPRAISER**

We certify that to the best of our knowledge and belief:

1. The statements of fact contained in this report are true and correct.
2. The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and are our personal, unbiased professional analyses, opinions, and conclusions.
3. We have no present or prospective interest in the property that is the subject of this report and have no personal interest or bias with respect to the parties involved.
4. Our compensation is not contingent upon the reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value estimate, the attainment of a stipulated result, or the occurrence of a subsequent event, such as the approval of a loan.
5. Our analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Uniform Standards of Professional Appraisal Practice of The Appraisal Foundation and the requirements of the Code of Professional Ethics and the Standards of Professional Appraisal Practice of the Appraisal Institute. In addition, this report conforms to the requirements of the Financial Institution Reform, Recovery, and Enforcement Act (FIRREA).
6. The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.
7. Adam J. Hardej Jr., has completed the requirements of the continuing education program of the Appraisal Institute.
8. Luis Lorca made an inspection of the property that is the subject of this report. Adam J. Hardej Jr. has not inspected the subject.
9. No one else has provided professional assistance to the persons signing this report.
10. Adam J. Hardej, Jr. and Luis Lorca have extensive experience in the appraisal/review of similar property types.
11. We have performed professional services, as an appraiser, regarding the property that is the subject of this report within the three-year period immediately preceding acceptance of this assignment.



Adam J. Hardej, Jr., MAI  
President & Chief Appraiser  
AG018716



Luis R. Lorca  
Regional Manager & Senior Appraiser  
AG030345

**SUMMARY OF SALIENT FACTS**

<b>Location:</b>	Proposed 9.99 Acre Park, Part of the Planned West Creek Village located at SW corner of Martin Luther King Boulevard @ E Church Avenue Fresno (City and County), CA 93706
<b>Parcel Number:</b>	Not currently assigned or subdivided
<b>Property Description:</b>	The subject is part of a large proposed development know as West Creek Village. The subject will represent a 9.99 acre park that will be contained in the middle of the development, which will consist of single and multi-family development, commercial development, and the southwestern campus of Fresno Community College.
<b>Highest and Best Use</b>	
<i>As Though Vacant:</i>	Mixed development as currently proposed including the subject parkland acreage.
<i>As Improved:</i>	N/Ap.
<b>Property Rights Appraised:</b>	Fee Simple
<b>Date of Value:</b>	August 1, 2018 – As Is
<b>Land Area</b>	
<i>Gross:</i>	9.99 Acres or 435,164 SF
<b>Exposure/Marketing Time:</b>	12 months or less.
<b>Valuation (As Is)</b>	
<i>Income Approach:</i>	Not applicable
<i>Sales Comparison Approach:</i>	\$2,000,000
<i>Cost Approach:</i>	Not applicable
<b>Final Value</b>	
<b>Conclusion:</b>	<b>\$2,000,000 -- As Is Value</b>

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ADDENDA

- Assumptions and Limiting Conditions
- Specific Assumptions and Limiting Conditions
- Appraiser Qualifications / License

## INTRODUCTION

### PROPERTY IDENTIFICATION

The subject is located at the SW corner of Martin Luther King Boulevard @ E Church Avenue. Fresno (City and County), CA 93706. The subject is part of a large proposed development know as West Creek Village. The subject will represent a 9.99 acre park that will be contained in the middle of the development, which will consist of single and multi-family development, commercial development, and the western campus of Fresno Community College. The subject parcel does not yet exist and does not currently have an assessor's parcel number.

The subject will be part of the West Creek Village development that will include the following area.

**A. The Town Center.** A pedestrian-friendly, transit-oriented, mixed-use center located at the southeast corner of the site near Jensen Avenue and Martin Luther King, Jr. Boulevard. The Town Center provides a lively residential, retail, and restaurant mix, and is proposed in two parts: one centered on a conventional car accessed grocery store, and the other on a walkable "Main Street."

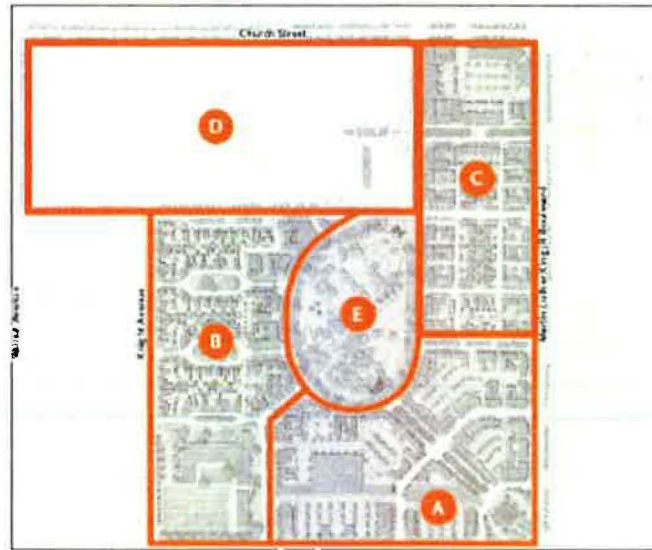
**B. Neighborhood West.** Located west of Central Park, this neighborhood is built around a series of greens. It is composed primarily of single-family houses with multi-family housing facing Central Park. Neighborhood West also hosts an elementary school at the corner of Jensen Avenue and Knight Avenue.

**C. Neighborhood East.** Located east of Central Park, this neighborhood provides multifamily housing along MLK Jr. Boulevard and the perimeter of Central Park. The middle portion of these blocks accommodate rosewalks (single-family houses built along both sides of a common green). At the corner of Church Avenue and MLK, Jr. Boulevard is a Commercial Center, which provides neighborhood-serving retail and services for Southwest Fresno residents.

**D. The Campus.** Located along the northern edge of the site is the State Center Community College District's (SCCCD) proposed Southwest Fresno campus. Campus buildings are built around a series of quadrangles with parking located behind buildings.

**E. Central Park (Subject).** This is a large community park located at the center of West Creek Village that accommodates a variety of passive and active uses, ranging from multi-purpose sports courts, to splash plazas, to open fields, to picnic tables and shelters.

The following map details the zones indicated above.



A significant component to the proposed development is the funding provided to the State Center Community College District, who will develop the expanded Fresno Community College West Extension on the site. On January 29, 2018, the California Strategic Growth Council (CSGC) unanimously approved a \$70 million competitive grant to improve the City of Fresno through community-led development and infrastructure projects. Included in this amount is \$16.9 million allocated to onsite infrastructure associated with a proposed satellite college campus that will be constructed on the subject property. This would augment a \$40 million commitment from the State Center Community College District to construct the campus. The resulting \$56.9 million will be used to develop the infrastructure of the overall development along with the campus. These funds have a significant contributory value to the subject's pending parcels as the off-site will be constructed at a cost to the SCCCD and not the subject or any other owner. In addition, the City of Fresno has committed to spending \$11.7 million to improve the surrounding street, primarily Church Street, MLK Jr. Blvd. and Jensen Avenue. Improvements include street widening, curbs, gutters, water, sewer, and electrical improvements to support the West Creek Village development.

**OWNERSHIP AND PROPERTY HISTORY**

The subject parcel is proposed and does not yet exist. The parcel is part of the larger development noted above. The proposed development will be formed from the 13 parcels detailed in the table below. As can be seen, the parcels are vested to varying entities.

LARGER LAND AREA DETAIL							
#	Location	Owner	APN	Acreage	Sq. Ft.	Sale Date	Price
1	2423 S Walnut Avenue	State Ctr Cmnty Clg District	479-050-01	10.23	445,619	Feb-18	\$1,351,000
2	E Church Avenue	State Ctr Cmnty Clg District	479-050-02	20.00	871,200	Aug-14	\$3,515,500
3	2458 S MLK Jt Blvd	State Ctr Cmnty Clg District	479-050-03	39.08	1,702,350	Aug-14	Inc. Parcel 2
6	2461 S Walnut Avenue	State Ctr Cmnty Clg District	479-050-06	1.64	71,438	Feb-18	Inc. Parcel 1
7	E Church Ave @ MLK	State Ctr Cmnty Clg District	479-050-07	1.42	61,659	Feb-18	Inc. Parcel 1
8	Jensen Avenue	2500 MLK LLC	479-060-02	9.73	423,839	May-17	\$2,500,000
9	2540 S MLK Jr Blvd	2500 MLK LLC	479-050-03	9.50	413,820	May-17	Incl Parcel 8
10	2588 S MLK Jr Blvd	Cam Vong, et al	479-050-08	2.17	94,500	N/Av.	***
11	831 E Jensen Ave	Cam Vong, et al	479-050-09	6.97	303,613	N/Av.	***
12	E Jensen Avenue	2500 MLK LLC	479-050-10	9.25	402,930	May-17	Inc Parcel 1
13	571 E Jensen Avenue	Cam Vong, et al	479-050-11	19.25	838,530	N/Av.	***
Totals				129.24	5,629,498		

The subject's proposed parcel will contain 9.99 acres and will be donated by 2500 MLK LLC to the State Center Community College District that is an existing owner and will develop the proposed campus.

There have been no other prior transfers of the subject in the prior three years. The subject has not been otherwise been listed for sale in the prior 36 months per review of Costar, Loopnet, and MLS.

**DATES OF INSPECTION AND VALUATION**

The site was last inspected on August 1, 2018, the date of the as is value is the date of inspection.

**LEGAL DESCRIPTION**

The legal description can be found in the Preliminary Report, a copy of which was not provided for review.

**PURPOSE OF THE APPRAISAL**

The purpose of this appraisal is to estimate the market value of the fee simple interest in the subject property, in "as proposed" condition. Market value is defined as follows:

Market value is one of the central concepts of the appraisal practice. Market value is differentiated from other types of value in that it is created by the collective patterns of the market. Market value means the most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition are the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

1. Buyer and seller are typically motivated;
2. Both parties are well informed or well advised, and acting in what they consider their own best interests;
3. A reasonable time is allowed for exposure in the open market;

4. Payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and
5. The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.<sup>1</sup>

#### **INTENDED USE OF REPORT**

This appraisal is to determine land value for purposes of a land sale and gift from 2500 MLK to the City of Fresno.

#### **INTENDED USERS OF REPORT**

This appraisal is intended for exclusive use by 2500 MLK LLC and the City of Fresno. Use of this appraisal by others is prohibited.

#### **PROPERTY RIGHTS APPRAISED**

The value estimated represents the fee simple interest.

#### **APPRAISAL DEVELOPMENT AND REPORTING PROCESS**

The following steps were completed by BAAR for this assignment:

1. Analyzed regional, city, neighborhood, site, and improvement data.
2. Inspected the subject and the neighborhood.
3. Reviewed data regarding taxes, zoning, utilities, easements, and city services.
4. Considered comparable improved sales, comparable improved building rental information, and comparable site sales. Confirmed data with principals, managers, or real estate agents representing principals, unless otherwise noted.
5. Analyzed the data to arrive at conclusions via each approach to value used in this report.
6. Reconciled the results of each approach to value employed into a probable range of market data and finally an estimate of value for the subject, as defined herein.
7. Estimated a reasonable exposure time associated with the value estimate.

The subject site and improvement descriptions are based on a personal inspection of the property, knowledge of construction techniques, and review of the relevant plat maps. The inspection is not a substitute for thorough engineering studies. To develop the opinion of value, BAAR performed a complete and thorough appraisal process considering all approaches to value. This report fully conforms to appraisal guideline as defined by the Uniform Standards of Professional Appraisal Practice as of January 1, 2018.

This is an Appraisal Report which is intended to comply with the reporting requirements set forth under Standards Rule 2-2(a) of the Standards of Professional Appraisal Practice. In this

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<sup>1</sup> The definition of market value is taken from: The Office of the Comptroller of the Currency under 12 CFR, Part 34, Subpart C-Appraisals, §34.42(f), August 24, 1990. This definition is compatible with the definition of market value contained in *The Dictionary of Real Estate Appraisal*, Third Edition, and the Uniform Standards of Professional Appraisal Practice adopted by the Appraisal Standards Board of The Appraisal Foundation, 1992 edition. This definition is also compatible with the OTS, RTC, FDIC, NCUA, and the Board of Governors of the Federal Reserve System definition of market value.

appraisal, BAAR has considered all known applicable approaches to value, but utilized only the sales comparison approach per the scope of work identified by the client. The value conclusion reflects all known information about the subject property, market conditions, and available data.

This Appraisal Report incorporates a practical/detailed explanation of the data, reasoning and analysis that were used to develop the opinion of value. It also includes detailed descriptions of the subject property and the market for the subject property type. All data considered significant that was requested for this assignment was received by BAAR.

### **PERSONAL PROPERTY**

No items of personal property are included in this valuation.

### **EXTRAORDINARY ASSUMPTIONS AND HYPOTHETICAL CONDITIONS**

The subject is a proposed 9.99 acre parkland parcel that is part of a larger development that does not currently exist. As such, the subject is valued under the Hypothetical Condition that it has been subdivided into its proposed 9.99 acre site along with the existing parcels. The subject is further valued under the Hypothetical Condition that the proposed development will occur as planned.

Any changes to these Hypothetical Conditions may lead to alternate values applying.

There are no Extraordinary Assumptions within the report.

### **EXPOSURE/MARKETING TIME**

Based upon a review of recent sales transactions in the subject market area and interviews with market participants, along with inspection and evaluation of the subject property, the estimated length of time the property interest being appraised would have been offered on the market prior to the hypothetical consummation of a sale at Market Value As Is as of the date of value of this appraisal is estimated to be twelve (12) months. I forecast that this is a reasonable time of exposure under current market conditions to sell the subject at the appraised value. It is also necessary to estimate the appropriate "exposure time" which is defined as the amount of time from when a property is available for sale to the date on which it enters escrow. Based on a review of the above data, the "exposure time" and "marketing time" for the subject property are estimated to be the same.

## AREA ANALYSIS

The dynamic nature of economic relationships within a market area has a direct bearing on real estate values and the long-term quality of a real estate investment. In the market, the value of a property is not based on the price paid for it in the past or the cost of its creation, but on what buyers and sellers perceive it will provide in the future. Consequently, the attitude of the market toward a property within a specific neighborhood or market area reflects the probable future trend of that area.

Since real estate is an immobile asset, economic trends affecting its location quality in relation to other competing properties within its market area will also have a direct effect on its value as an investment. To accurately reflect such influences, it is necessary to examine the past and probable future trends, which may affect the economic structure of the market and evaluate their impact on the market potential of the subject. This section of the report is designed to isolate and examine the discernible economic trends in the region and neighborhood, which influence and create value for the subject property.

### REGIONAL ANALYSIS

#### THE CENTRAL VALLEY

The Central Valley is 450 miles long, 40 to 60 miles wide, and contains 42,000 square miles. Geographically, the Central Valley can be divided into the northern Sacramento Valley (made up of ten counties) and the southern San Joaquin Valley (made up of eight counties).

As of 2011, the estimated population of the Central Valley was in excess of 6.5 million people, or about one-sixth of the state's population. The largest cities include: Fresno, Sacramento, Bakersfield, Stockton and Modesto, all with populations in excess of 200,000. Population growth has resulted from a combination of natural increase and migration. The Central Valley contains an abundance of undeveloped land, which is low in price relative to that in the more developed coastal areas. On the negative side, much of the land is prime agriculture land and there has been increasing resistance to the loss of farmland for development.

Much of the Central Valley is agricultural land and therefore has a seasonal employment base. State Government is the largest employer in the region. Other large employers include Sutter Health, Kaiser Permanente, Mercy Healthcare, Raley's Supermarkets, Hewlett-Packard, Pacific Bell, Packard Bell, Intel, UPS, Bank of America, NEC Electronics, US Computer Systems, Blue Diamond Growers, Campbell Soup Company, and the Sacramento Bee Newspapers. The economy has become increasingly diverse as technology companies seek lower cost locations as compared to the San Francisco Bay Area. This region also has a fairly well educated population base as compared to other regions within the State, but includes a large, unskilled migrant farm worker segment.

REGIONAL MAP



Compiled by: BAAR

## FRESNO COUNTY

The Greater Fresno region is typically defined as all of Fresno County, Madera, Firebaugh and Chowchilla in Madera County; Hanford, Lemoore in Kings County; and Dinuba, Monson and Travers in Tulare County. This region is part of California's Central Valley, the nation's leading agricultural area with more than eleven million acres of irrigated land. The City of Fresno is located approximately 200 miles southeast of San Francisco and 225 miles north of Los Angeles.

Fresno is located in California's fertile central valley where agriculture is the main force of the area's economy; its agriculture output serves both the San Francisco and Los Angeles markets. Over 500 trucking and warehouse facilities support the areas operations as well as two railways. According to recent estimates, the Fresno Metropolitan Area has a population of 942,904.

Fresno has strong residential occupancy rates. Current occupancy rates are above 95% based on our discussions with local property managers and investors. Rental rates increased in recent years. Signs of market distress in the residential housing sector have appeared with median home prices in decline, notices of default and foreclosures at, or near, ten-year highs. Multi-family residential rental rates appear to be stable with moderate increases foreseen in the near future.

Two major freeways serve the Fresno region: Interstate 99 connects Sacramento to the north and Bakersfield, and other cities to the south. Interstate 5, located 35 miles west of the subject, is the main north-south route through the interior of California; it travels from Mexico to Canada. Highway 180 serves as the main east-west freeway in the Fresno area.

Fresno County's unemployment rate was at 8.1% as of December 2017. The relatively high unemployment rate is typical of the Central Valley where employment is heavily dependent to agriculture related jobs, which tend to be seasonal. The economic profile for Fresno County shows a broad range of employment opportunities in growing industries such as call centers and back office operations, light assembly, packaging, and distribution/warehousing. Other thriving sectors include medical, financial and technological support services.

## ECONOMY

Fresno County's agricultural industry contributes around \$6 billion annually to the California economy and supports roughly 20% of all local jobs. The metro remains one of the top producing agricultural regions in the nation. However, the region's reliance on agriculture also exposes it to fluctuations in the market and external forces such as the weather. The drought that hit California over the last several years caused farmers to increasingly tap into their well water reserves, which increased not only expenses for drilling deeper wells but also the energy costs of pumping. Low water availability also leads to a reduction in crops, meat production, lower wages for employees, and higher food prices for consumers.

While employment growth is outperforming the national benchmark, the unemployment rate was still about double the national mark as of 18Q1. The Trade, Transportation, and Utilities sector continues to experience steady job growth, buoyed by the fact that the economy in Fresno is wedded to the agricultural industry. However, white-collar sectors haven't been so fortunate. In fact, office-using employment still hasn't returned to the prerecession peak, and the Financial Activities and Professional and Business Services sectors actually shed jobs in the last 12 months.

**FRESNO EMPLOYMENT BY INDUSTRY IN THOUSANDS**

NAICS Industry	Current Jobs		Current Growth		10 Yr Historical		5 Yr Forecast	
	Jobs	LQ	Market	US	Market	US	Market	US
Manufacturing	27	0.9	1.37%	-0.41%	-0.12%	-1.14%	-0.57%	-1.19%
Trade, Transportation and Utilities	68	1.1	2.07%	0.38%	1.32%	0.29%	0.35%	0.41%
Retail Trade	40	1.1	1.05%	-0.21%	0.93%	0.20%	0.36%	0.44%
Financial Activities	14	0.7	-0.47%	0.99%	-0.91%	0.23%	0.73%	0.73%
Government	75	1.4	2.80%	0.16%	0.64%	-0.02%	0.69%	0.65%
Natural Resources and Mining	0	0.2	17.16%	5.41%	12.24%	-0.46%	-	-
Education and Health Services	68	1.2	2.84%	1.79%	3.15%	2.08%	1.67%	1.27%
Professional and Business Services	31	0.6	-3.36%	2.49%	0.12%	1.55%	1.00%	1.48%
Information	4	0.6	0.09%	-1.32%	-1.67%	-1.05%	0.21%	0.29%
Leisure and Hospitality	33	0.9	3.81%	1.97%	1.50%	1.73%	1.10%	1.27%
Other Services	13	0.9	3.13%	0.93%	1.45%	0.44%	0.43%	0.40%
<b>Total Employment</b>	<b>347</b>	<b>1.0</b>	<b>1.90%</b>	<b>1.30%</b>	<b>0.97%</b>	<b>0.64%</b>	<b>0.83%</b>	<b>0.83%</b>

Source: Moody's Analytics  
LQ = Location Quotient

**POPULATION**

Fresno's population is estimated at 512,000, up from 467,600 in 2010. The greater Metropolitan Fresno area has a population estimated at 1.1 million.

Year	Population	Growth	Growth Rate
2016	522,053	3,550	0.68%
2015	518,503	4,127	0.80%
2014	514,376	5,405	1.06%
2013	508,971	3,710	0.73%
2012	505,261	4,364	0.87%
2011	500,897	6,232	1.26%
2010	494,665	67,013	15.67%

**INCOME**

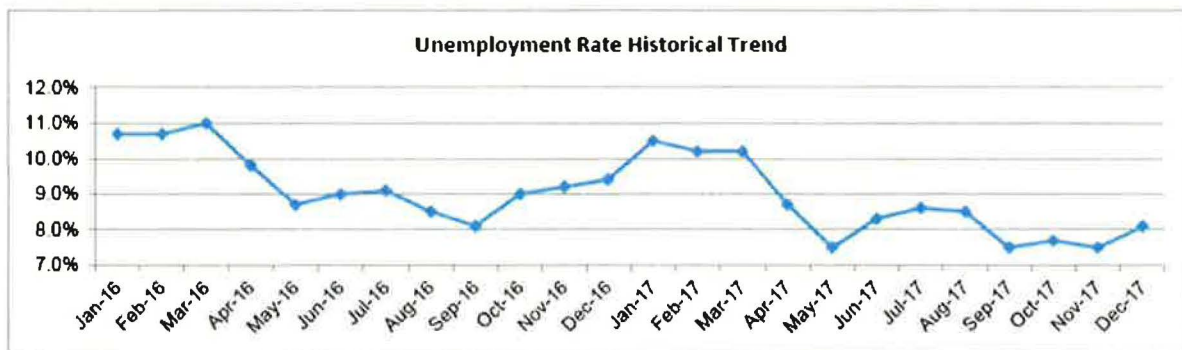
Fresno’s average household income is \$63,256, which is slightly higher than Fresno County at \$62,865 and the surrounding cities of Chowchilla, Kerman, Kingsburg, and Madera but lower than the nearby city of Clovis, which has the highest average income of \$74,391.

**LAND USE**

Fresno County has a large amount of land available for future residential, commercial, industrial, and business park development. Approximately 51% of Fresno’s current land inventory is available for development. About 46% is not available for development and a little over 2% of the land inventory has already been urbanized. As indicated above, there is still a substantial portion of land available, and we do not anticipate a shortage of land for development in the foreseeable future within Fresno County.

**EMPLOYMENT**

The unemployment rate in the Fresno County was 8.1 percent in December 2017, up from a revised 7.5 percent in November 2017, and below the year-ago estimate of 9.4 percent. This compares with an unadjusted unemployment rate of 4.2 percent for California and 3.9 percent for the nation during the same period.



Fresno serves as the economic hub of Fresno County and California's San Joaquin Valley. The unincorporated area and rural cities surrounding Fresno remain predominantly tied to large-scale agricultural production. Sony Music Distribution/Sony Computer Entertainment is in Fresno, CA. According to the City's 2011 Comprehensive Annual Financial Report, the top employers in the city are:

#	Employer	# of Employees
1	Community Medical Centers	6,000
2	City of Fresno	3,790
3	Saint Agnes Medical Center	2,800
4	Kaiser Permanente	2,160
5	Pelco by Schneider Electric	2,029
6	Children's Hospital	1,996
7	Ruiz Foods, Inc	1,729
8	Chukchansi Gold Resort/Casino	1,385
9	Tachi Palace Hotel & Casino	1,200
10	Foster Farms	1,100

While the near term outlook for the region is guarded, the long-term outlook is more optimistic. As the economy continues to recover from the recent recession, the region should benefit from the recovery; however, near term growth for the region is projected to be limited.

#### 2010 CENSUS DATA

The 2010 United States Census reported that Fresno had a population of 494,665. The population density was 4,404.5 people per square mile. The Census reported that 485,798 people (98.2% of the population) lived in households, 4,315 (0.9%) lived in non-institutionalized group quarters, and 4,552 (0.9%) were institutionalized.

There were 158,349 households, out of which 68,511 (43.3%) had children under the age of 18 living in them, 69,284 (43.8%) were opposite-sex married couples living together, 30,547 (19.3%) had a female householder with no husband present, 11,698 (7.4%) had a male householder with no wife present. There were 12,843 (8.1%) unmarried opposite-sex partnerships, and 1,388 (0.9%) same-sex married couples or partnerships. 35,064 households (22.1%) were made up of individuals and 12,344 (7.8%) had someone living alone who was 65 years of age or older. The average household size was 3.07. There were 111,529 families (70.4% of all households); the average family size was 3.62.

The population was spread out with 148,823 people (30.1%) under the age of 18, 62,601 people (12.7%) aged 18 to 24, 135,076 people (27.3%) aged 25 to 44, 102,064 people (20.6%) aged 45 to 64, and 46,101 people (9.3%) who were 65 years of age or older. The median age was 29.3 years. For every 100 females there were 96.7 males. For every 100 females age 18 and over, there were 93.5 males.

There were 171,288 housing units at an average density of 1,525.2 per square mile, of which 77,757 (49.1%) were owner-occupied, and 80,592 (50.9%) were occupied by renters. The homeowner vacancy rate was 2.6%; the rental vacancy rate was 7.6%. 235,430 people (47.6%

of the population) lived in owner-occupied housing units and 250,368 people (50.6%) lived in rental housing units.

### HOUSING

More than half of Fresno's housing stock, or 54.82%, is owner-occupied as compared to 41.28% renter-occupied properties. This is suggestive of a housing market where the relative affordability of the market combines with a favorable economic environment has allowed residents to purchase homes.

The median home value in Fresno is \$230,600. Fresno home values have gone up 7.6% over the past year and Zillow predicts they will rise 6.5% within the next year. The median list price per square foot in Fresno is \$161, which is lower than the Fresno Metro average of \$166. The median price of homes currently listed in Fresno is \$284,500 while the median price of homes that sold is \$245,300. The median rent price in Fresno is \$1,300, which is lower than the Fresno Metro median of \$1,368.



### CITY OF FRESNO

The subject property is located in Fresno, approximately 175 miles southeast of San Francisco on Highway 99. The city of Fresno encompasses roughly 100 square miles and is the largest community in the southern San Joaquin Valley with a population of approximately 501,362 as of July 2011. Fresno is nestled along Highway 99 in Fresno County and is considered by Forbes Magazine to be the 89th out of 200 cities for the Forbes 2000 "Best Places" list and was awarded an All-American City Award for 2000. Located in the center of the world's richest agricultural region, Fresno is larger than both St. Louis and Atlanta.

Fresno is culturally diverse with over 85 languages spoken in the schools due to the influx of immigrant groups. Fresno is also in the midst of rapid growth, having doubled in size in less than 20 years. The greatest development emphasis is in the northern sector although most properties, including the subject's area, are experiencing modest growth.

Agriculture is the predominant industry within the Fresno area. The area is also known as a distribution hub for trucking and warehousing firms. Two railways operate intermodal facilities in Fresno County and serve all points north, south and east. The nation's largest parcel carriers, UPS, FedEx and DHL, all operate out of the Fresno-Yosemite International Airport.

#### POPULATION

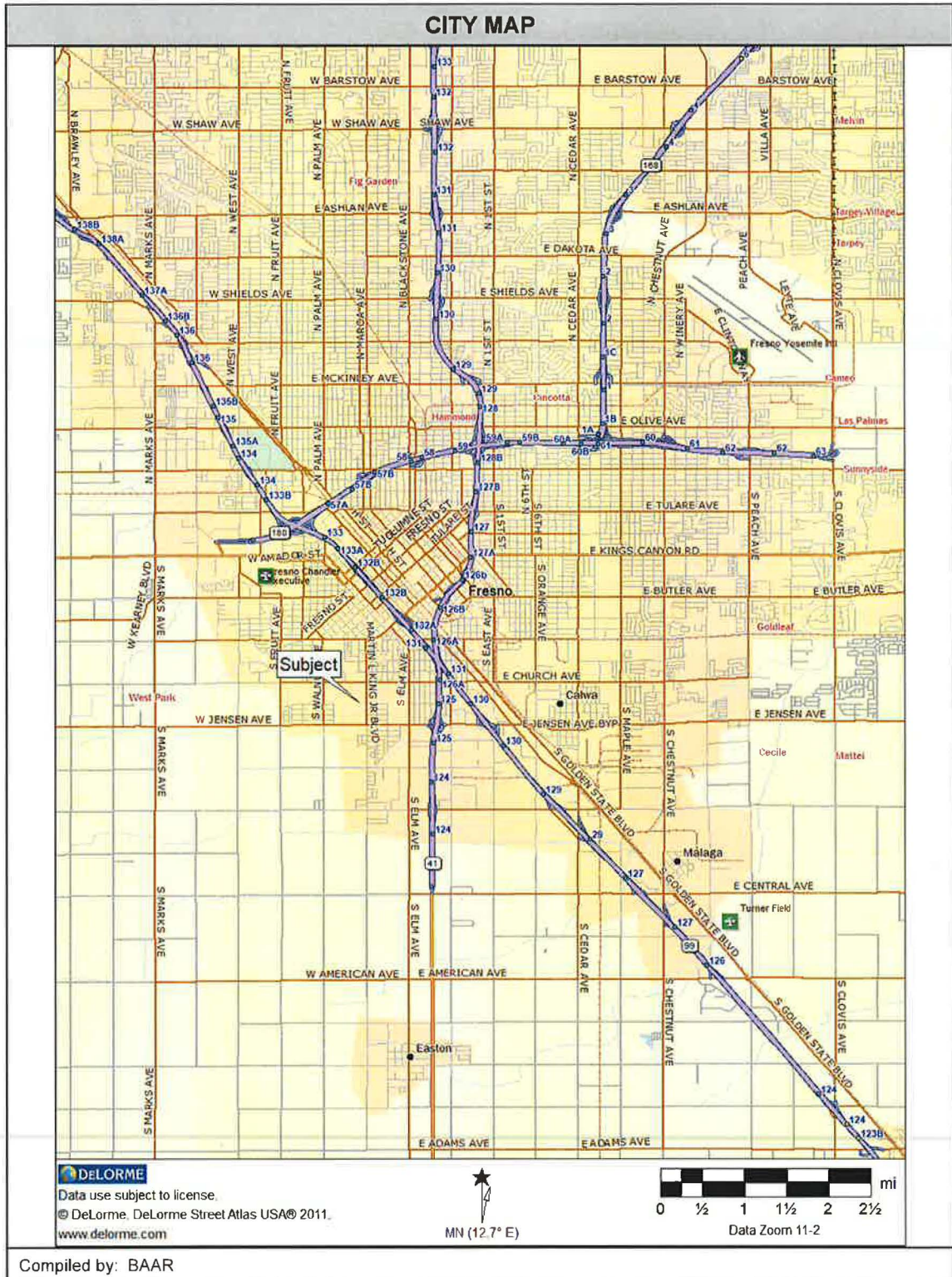
Between July 2012 and July 2013, Fresno County's population grew just over 1%, which is the county's highest growth rate in three years. Fresno is growing faster than the state of California as a whole, and faster than other counties. The growth in the area is attributed to a growing Hispanic population, which makes up a first-time majority in Fresno. Between 2000 and 2010, the city of Fresno grew a whopping 41% as more Californians move inland to get away from the high cost of living on the coast.

<b>Year</b>	<b>Population</b>	<b>Growth</b>	<b>Growth Rate</b>
2016	522,053	3,550	0.68%
2015	518,503	4,127	0.80%
2014	514,376	5,405	1.06%
2013	508,971	3,710	0.73%
2012	505,261	4,364	0.87%
2011	500,897	6,232	1.26%
2010	494,665	67,013	15.67%

#### SUMMARY

In summary, Fresno County and the City of Fresno are in the stable stage of their life cycles, following a period of rapid growth from 1990 through 2005. Because of significantly lower land prices, traditional agricultural areas are in transition to more intensive residential development. Growth will continue in unincorporated portions of the county, although parcels of agricultural land will continue to be protected by Williamson Act Contracts and land preservation zones. Fresno has a sufficiently diversified economy to support continued growth.

Although the economy of the San Joaquin Valley has been negatively affected by the recent national and local recessions, the long-term economic outlook for this area is good. Cities and outlying areas are still experiencing population growth. Unemployment rates can be higher, but as the economy shifts from primarily agricultural to primarily service sector, these rates should moderate. While the near term outlook for the region is guarded, the long-term outlook is more optimistic. When the economy begins to recover from the current recession, the region should benefit from the recovery; however, near term growth for the region is limited.



**NEIGHBORHOOD INFLUENCES**

The subject is located in the southwestern portion of the City of Fresno. The area was historically agricultural in nature but has slowly been developed with a mix of residential, limited commercial, and industrial uses. The neighborhood has historically constituted the lowest priced within the city. The city is efforting to revitalize the area. The City of Fresno and the Southwest Fresno Community has incorporated and integrated several plans and affiliations into one concerted effort and specific plan for Southwest Fresno. The number one driving force behind the current effort to transform and revitalize Southwest Fresno is the Southwest Fresno Specific Plan (SWFSP). The SWFSP marks a historic planning and development milestone for the Southwest Fresno Community. With ample land available for development and a prime location next to Fresno’s downtown, Southwest Fresno has an enormous potential for positive change.

The subject is located just west of Highways 41 and 99, which provide regional access to larger freeways and surrounding communities. The properties in the area have average market appeal and average market acceptance. We estimate that the vacancy rate in the immediate area is between 4% and 8% for residential uses. The neighborhood as well as its infrastructure is suburban. The streets are largely improved with concrete curbs and gutters, streets are paved with asphalt, and all utilities and city services are available to the neighborhood. The properties in the area generally reflect fair to average levels of maintenance and condition and the market appeal and acceptance of the properties is average. The neighborhood is in the stable stage of its life cycle.

<b>NEIGHBORHOOD RATINGS</b>					
	Ex	Gd	Av	Fr	Pr
MAINTENANCE / CONDITION			X		
PROPERTY COMPATIBILITY			X		
APPEAL / APPEARANCE			X		
PROTECTION / ADVERSE INFLUENCE			X		
DEVELOPMENT POTENTIAL			X		
RENTAL DEMAND			X		
TRANSPORTATION / ACCESS		X			
POLICE / FIRE PROTECTION			X		

**Conclusion**

The neighborhood has features and qualities, which contribute to a positive demand for real estate. All utilities are available throughout the neighborhood and the improvements in the area are generally in average condition. The streets and other public areas are also in average condition, and parking is adequate. The subject property benefits from the features of the neighborhood. The subject is conveniently located and sufficiently supported by nearby uses.



MARKET OVERVIEW

Fresno is located in the middle of the Central Valley, and is one of the region's most populous metros, with approximately 1 million residents. Encompassing Fresno County, a significant portion of economic activity in the area, like most Central Valley metros, is tied to agriculture. While job growth has outperformed the national average since 2012, non-agricultural employment is heavily concentrated in government, education and health services, sectors that typically do not offer robust income growth, but do soften market volatility.

Multifamily fundamentals have been strong, as both vacancy and rent growth are outperforming the national averages. In fact, vacancies here have historically been limited, and 2018 has seen the mark trend in line with the metro's all-time low, as demand continued to outpace a limited number of deliveries. The lack of substantial income gains, combined with a median household income well below the statewide median, has traditionally limited rent growth. The past several years, however, have been exceptions. New construction, while more active here than in neighboring secondary metros, has been measured, helping to avoid a supply-driven rise in vacancies. Investors have taken note of the metro's strong fundamentals—annual sales volume has easily surpassed the \$116 million historical average the past four consecutive years and has done so again in 2018.

KEY INDICATORS

Current Quarter	Units	Vacancy Rate	Asking Rent	Effective Rent	Absorption Units	Delivered Units	Under Constr Units
4 & 5 Star	3,209	2.7%	\$1,377	\$1,363	5	0	356
3 Star	18,057	3.5%	\$1,037	\$1,027	34	0	168
1 & 2 Star	30,638	3.6%	\$829	\$824	34	0	0
<b>Market</b>	<b>51,904</b>	<b>3.5%</b>	<b>\$948</b>	<b>\$940</b>	<b>73</b>	<b>0</b>	<b>524</b>

Annual Trends	12 Month	Historical Average	Forecast Average	Peak	When	Trough	When
Vacancy Change (YOY)	-0.3%	5.5%	4.3%	7.5%	2004 Q2	3.5%	2018 Q3
Absorption Units	171	261	66	1,285	2005 Q3	(632)	2001 Q4
Delivered Units	16	288	194	758	2006 Q1	16	2018 Q2
Demolished Units	0	18	4	277	2014 Q1	0	2018 Q2
Asking Rent Growth (YOY)	4.1%	2.2%	1.4%	8.3%	2001 Q1	-5.3%	2009 Q4
Effective Rent Growth (YOY)	4.2%	2.1%	1.5%	8.3%	2001 Q1	-5.5%	2009 Q4
Sales Volume	\$374 M	\$115.9 M	N/A	\$375.0 M	2018 Q2	\$11.7 M	2010 Q1

VACANCY

Fresno offers the largest concentration of multifamily inventory among Central Valley metros but little high-end product. Renters make up nearly half of Fresno's population, despite home prices that are much more affordable compared to most other metros in California.

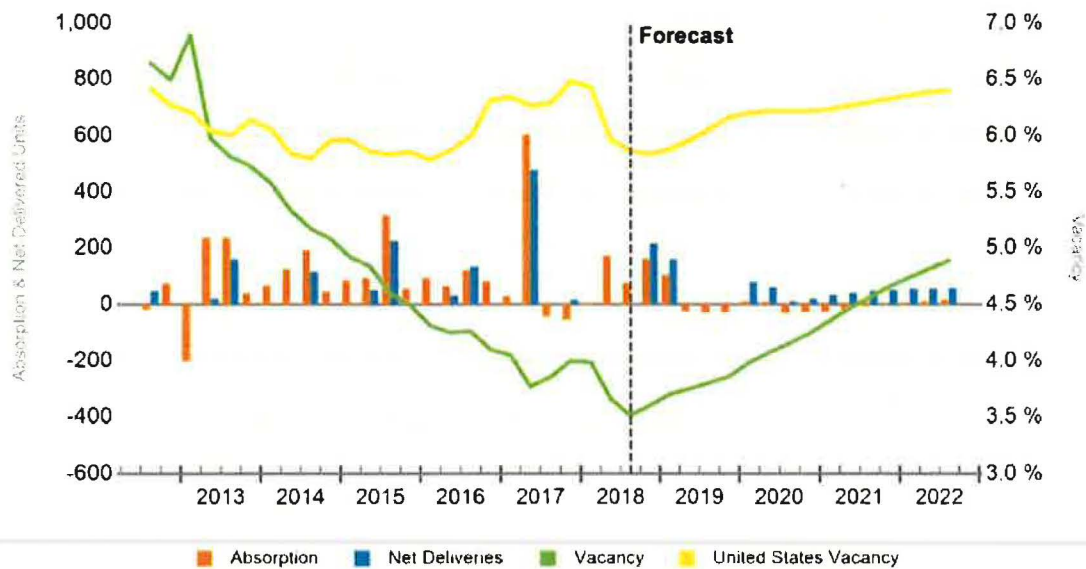
Even still, home ownership is out of reach for many residents. While the median single family home is about \$260,000, Fresno's median household income is only around \$51,000, roughly

20% below the state average. Furthermore, high-earning households are relatively scarce: Less than 20% of metro households earn \$100,000 or more annually.

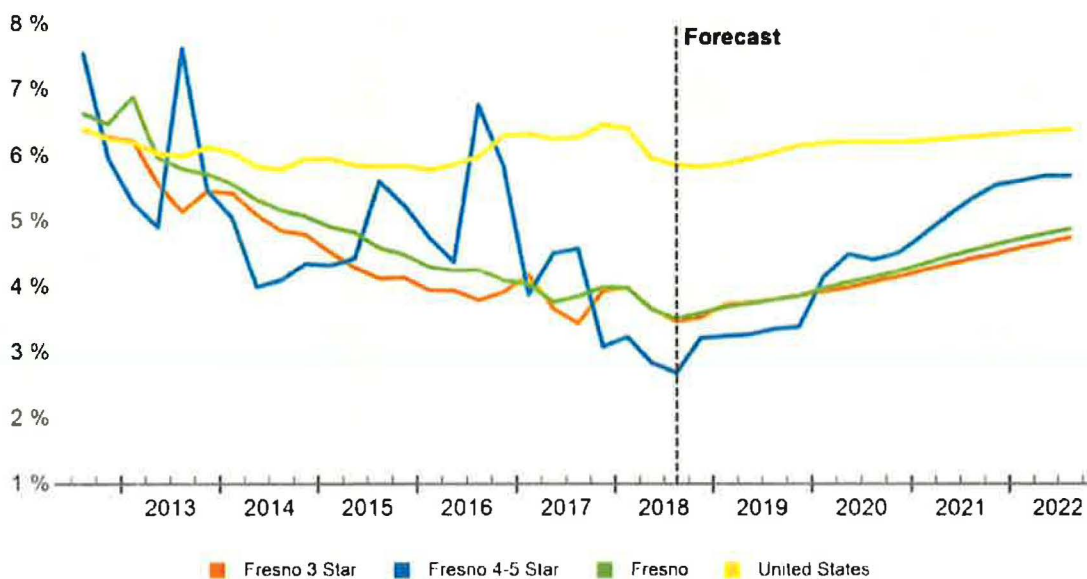
Major metro employers include Cargill, Foster Farms and Zacky Farms, as the metro consistently ranks among the nation’s leaders for job growth in food manufacturing and processing. Another employer that has historically had a large presence in Fresno is the Internal Revenue Service (IRS). However, the IRS plans to shutter its 532,000 SF tax-processing center in 2021, which will result in the elimination of 3,000 jobs. One factor that does not help Fresno’s employment rate or income levels is location. On the one hand, the metro is near the geographical center of California and roughly 200 miles from each Los Angeles, San Francisco and Sacramento. Conversely, Fresno’s distance does not allow for “super-commuters” (a commute that is 90 minutes or more one way) to take advantage of the abundance of higher-paying jobs in other major metros. Residents of Central Valley locales like Stockton and Modesto have the opportunity to commute to Bay Area metros for example, but Fresno is too far removed from California’s major cities.

As a result of steady demand and limited new construction this cycle, vacancies in Fresno have been tight in recent years. From 2014-17, vacancies averaged less than 5%. And occupancy levels have further increased in 2018. Indeed, in 18Q3, vacancy reached an all-time metro low of only 3.5%, or more than 200 basis points below the national average. The vacancy rate is currently 3.5%.

**ABSORPTION, NET DELIVERIES & VACANCY**



VACANCY RATE



RENT

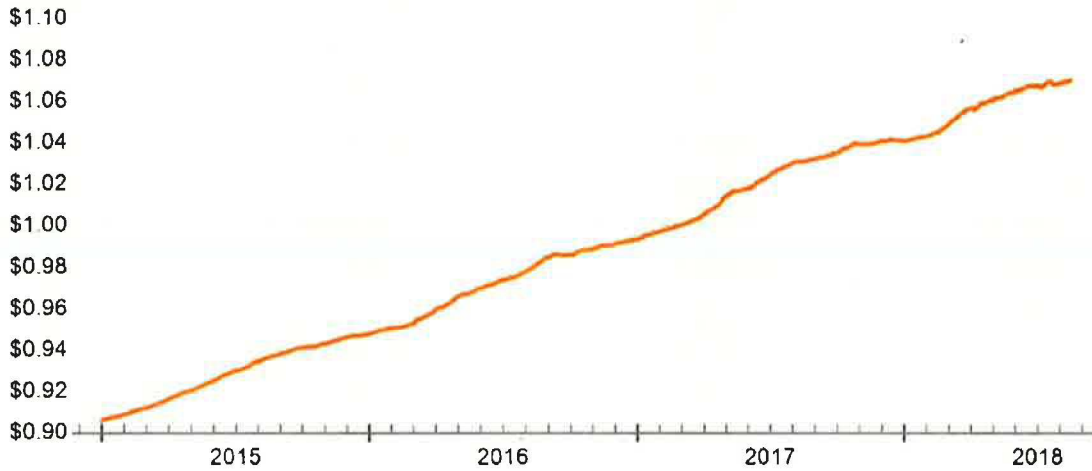
Healthy rent growth was slow to reach Fresno this cycle. While the metro only suffered one year of rent losses in the wake of the Great Recession, sluggish wage growth and the prevalence of low-paying jobs tied to the agriculture industry limited gains to less than 2% annually from 2010–14. On the other hand, the average Fresno rent only consumes a little more than 20% of the median income, which has given landlords room to push rents in recent years without burdening renters. Rent growth has consistently averaged around 5% since 2015, and gains were about in line with that mark as of 18Q3. Rent growth is currently 4.1%.

The average asking rent in Fresno is \$950/month. Rates receive little boost from high-end product, as only about 5% of metro inventory is 4 & 5 Star-rated. Asking rents are about 20% lower than Stockton’s but roughly in line with Visalia’s and Bakersfield’s. While Stockton benefits from its proximity to the Bay Area and the exorbitant housing costs there, which have led to a steady exodus of Bay Area residents to nearby metros, the remoteness of Fresno, Visalia, and Bakersfield, however, precludes them from siphoning demand from major metros.

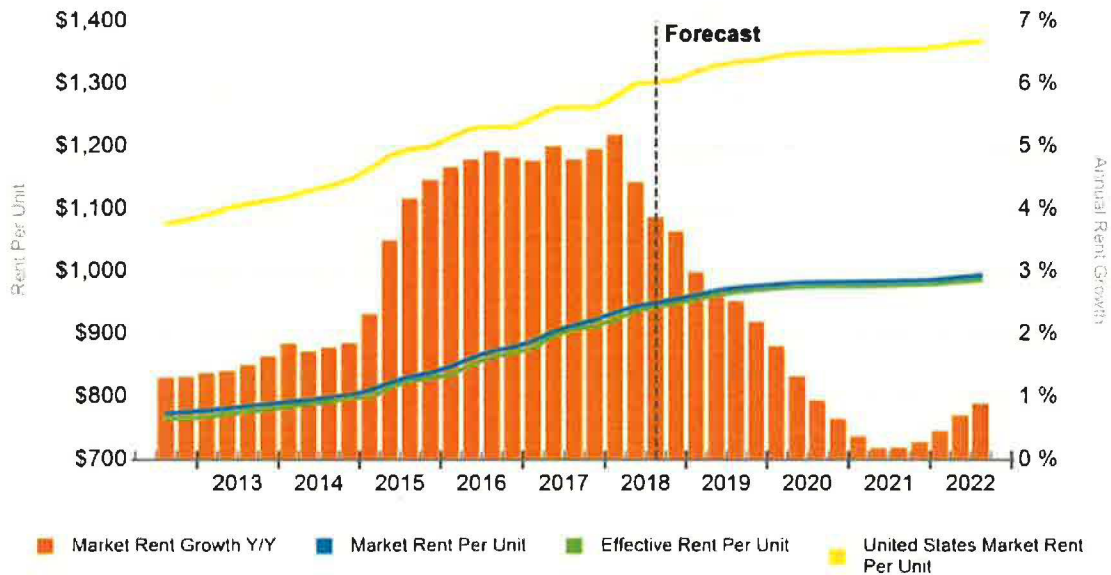
North Fresno and East Fresno command some of the highest rents among the metro’s submarkets. North Fresno’s highly rated school system is a major draw for families, as is the easy access to employment nodes along two major highways, and East Fresno also benefits from being located near a variety of healthcare employers. South Fresno, home to the metro’s burgeoning downtown area, has one of the lowest asking rents in the metro. The submarket

experienced limited demand over the past year and has a vacancy rate that is among the highest in the metro.

DAILY ASKING RENT PER SF



MARKET RENT PER UNIT & RENT GROWTH



CONSTRUCTION

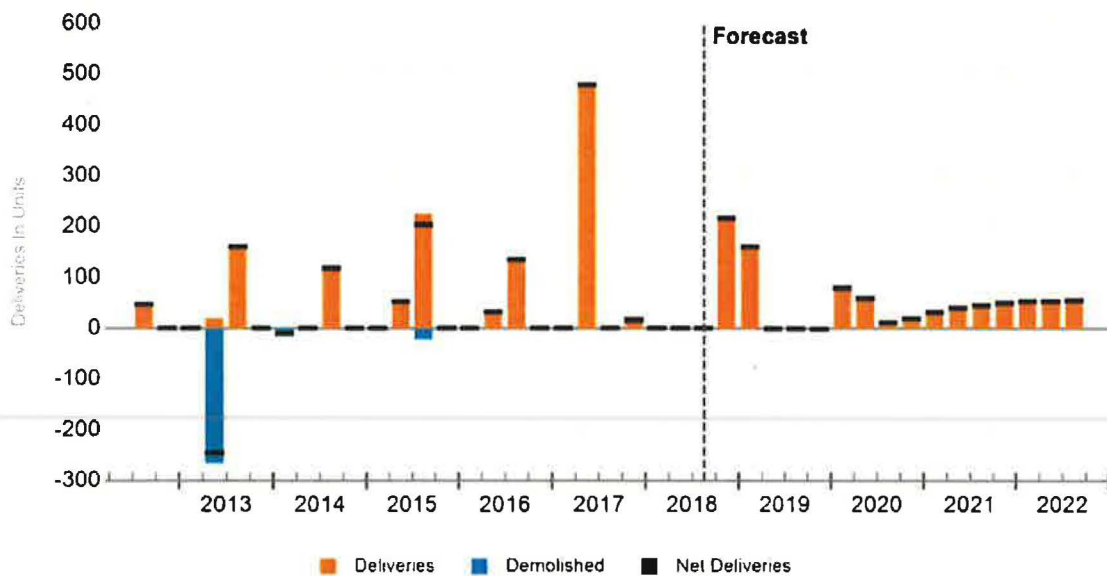
Developers have been confident enough in fundamentals to bring a steady, albeit modest, number of projects to Fresno. New supply has been added every year since 2005, and the largest amount of new construction this cycle occurred in 2017, when nearly 500 units delivered. Since 2010, metro inventory has increased by about 3% cumulatively.

As of August 2018, around 500 units were under construction. One of the most significant projects is Vintage Park, a 160-unit community in the North Fresno Submarket, which broke ground in 2017 and may deliver as soon as 18Q4. The project will include amenities such as granite countertops, walk-in closets, and in-unit washer/dryers.

Much of 2017’s new inventory was the result of one project. The 4 Star 350-unit Dominion Courtyard Villas delivered in the North Fresno Submarket, with the first phase of units coming on line in May and the remainder in November. The Ellis Enterprises’ developed community boasts large units targeted at family households searching for access to North Fresno's school districts, and high-end amenities that are uncommon in the metro. Asking rents are nearly double the metro average but lease up has been outstanding—the project was more than 95% occupied as of August 2018. Dominion Courtyard Villas’ biggest draw is its proximity to the top schools in the highly rated Clovis Unified School District. Furthermore, the property is only about a 10-minute drive from California State University, Fresno, and is directly between Highway 41 and Highway 168, which both lead to nearby employment nodes.

Nearly half of new construction this cycle has been concentrated in the downtown area. For example, The Lede, a 3 Star 85-unit garden-style community developed by Granville Homes, delivered in the fall of 2016. The asset stabilized within two quarters of completion as demand from young professionals in the urban core continues to grow. Granville Homes has been one of the most active developer’s downtown, bringing six multifamily properties totaling roughly 250 units to the revitalized area since 2011. Granville Homes sold its portfolio of downtown assets in April 2017, including two projects that were under construction on L Street.

**DELIVERIES & DEMOLITIONS**



SALES

Fresno has received its share of investment activity this cycle, with sales volume topping \$200 million on two occasions, or about double the metro’s long-term average. Little out-of-state capital finds its way here, and many buyers are metro-based. Inventory turnover has been robust in recent years, averaging almost 7% from 2014-17. By comparison, inventory turnover averaged about 3% from 2010-13.

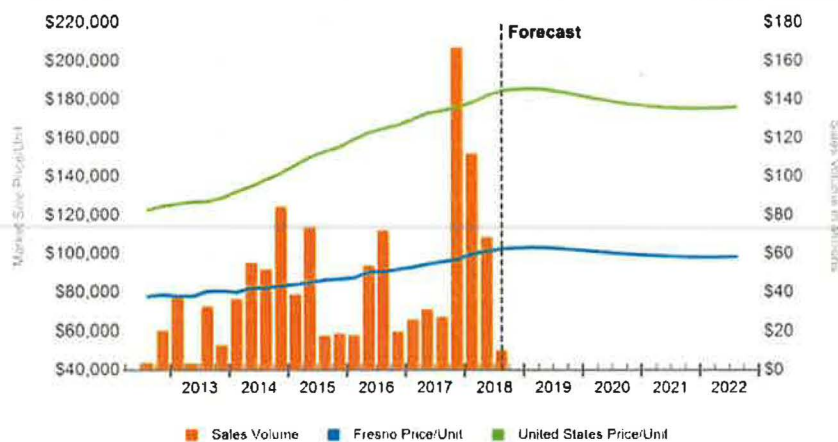
Pricing has jumped considerably in recent years. From 2013-16, the average price was about \$60,000/unit. However, in 2017, the average price/unit increased to approximately \$84,000, or a roughly 40% increase from the pace of the prior few years. The strength has continued in 2018—pricing has been about in line with last year's mark.

One of the most noteworthy trades of late was the March 2018 trade of Jackson Park Place. The 3 Star 376-unit community was acquired by Fresno-based Golden State Financial Corporation for \$51.5 million (\$137,000/unit) at a reported cap rate of 5.7%. The North Fresno Submarket-located property was 96% leased, with asking rents about 25% higher than the submarket average at the time of sale.

After sales got off to a slow start in 2017, volume leaped considerably in Q4 as a result of a large portfolio sale. In November, Los Angeles-based JRK Property Holdings acquired the 3 Star Dominion Heights Apartments and the 4 Star Crown Point & Cascades Apartments from Redwood City-based Demmon Partners for \$98.8 million (\$161,000/unit) at a reported cap rate of 5.5%. Located in the North Fresno Submarket, the properties combine for 614 units and were 100% occupied at the time of sale.

Sales transactions here typically average around the \$2.5 million mark, and one recent example is Manchester Arms, located in the North Fresno Submarket. In April 2018, the 2 Star 42-unit property was acquired by an individual investor for \$2.45 million (\$58,000/unit) at a reported cap rate of 8.5%.

SALES VOLUME & MARKET SALE PRICE PER UNIT



**SITE ANALYSIS**

The Description of the site can be detailed as follows:

<b><i>Location:</i></b>	The subject is located at the SW corner of Martin Luther King Boulevard @ E Church Avenue. Fresno (City and County), CA 93706. The subject is part of a large proposed development know as West Creek Village. The development will consist of single and multi-family development, commercial development, parkland, and the western campus of Fresno Community College.
<b><i>Parcel Number:</i></b>	Not assigned yet (see comments above)
<b><i>Land Area<sup>1</sup></i></b>	9.99 Acres – 435,164 SF
<b><i>Shape and Frontage:</i></b>	The subject parcel will represent a nearly oval site in the middle of the West Creek Village development. The parcel will have no direct street frontage. The subject of this appraisal will be portion of the site that will be dedicated as parkland. Refer to the aerial and plat maps provided below.
<b><i>Topography and Drainage:</i></b>	The site has a flat topography. Our investigation did not reveal any significant drainage problems.
<b><i>Soils:</i></b>	No soils report was provided. The soils are adequate for the existing grazing land and vineyard use.
<b><i>Easements and Encroachments:</i></b>	The Preliminary Report would contain reference to easements of record but was not provided for review. There does not appear to be any adverse easements or encroachments that would diminish the utility or marketability of the subject property. This valuation assumes that the fair market value of the subject property is not adversely affected by any easements, encroachments or other special conditions.
<b><i>Covenants, Conditions, and Restrictions:</i></b>	No private deeds or restricting covenants affecting development, other than zoning, were found to affect the site.

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<sup>1</sup> Source: Plat Map

**Utilities:** Combination of Public and Private. All utilities are or will be brought to the site.

**Flood Zone:** According to maps published by the Federal Emergency Management Agency (FEMA), the subject lies in an unshaded flood Zone X, panel 06019C2110H, dated February 18, 2009. Zone X is defined as "areas determined to be outside 500-year floodplain determined to be outside the 1% and 0.2% annual chance floodplains." Mandatory flood insurance purchase requirements do not apply, but coverage is available.

**Environmental Issues:** No evidence of hazardous waste or toxic materials was visible. The value estimate rendered in this report is predicated on the assumption that there is no hazardous material on or in the property that would cause a loss in value. No evidence of hazardous waste or toxic materials was visible. BAAR has no knowledge of the existence of these substances on or in the subject property. However, BAAR is not qualified to detect hazardous waste or toxic materials.

**Adjacent Properties**

**North:** Apartments / Community Center / SFR development

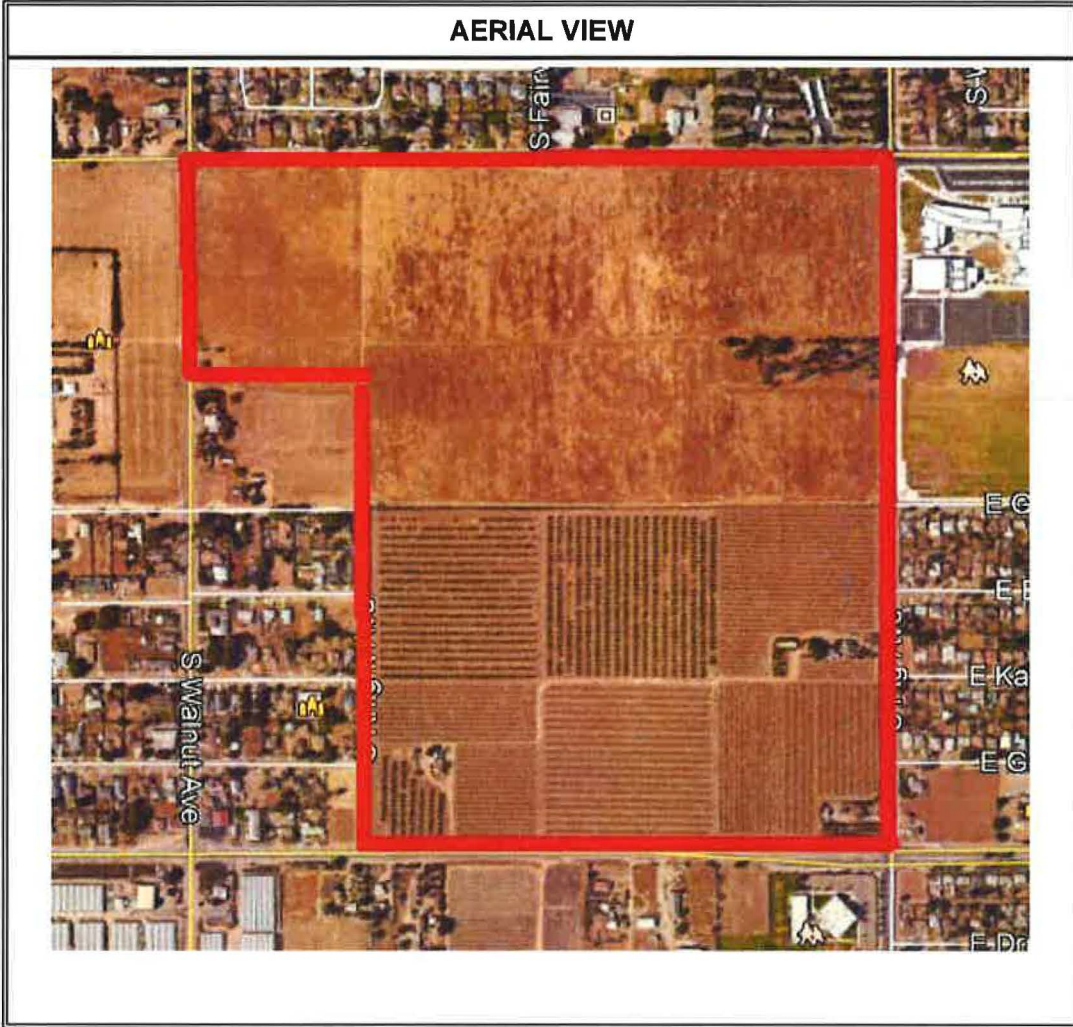
**South:** Farm Land / Low Density Residential

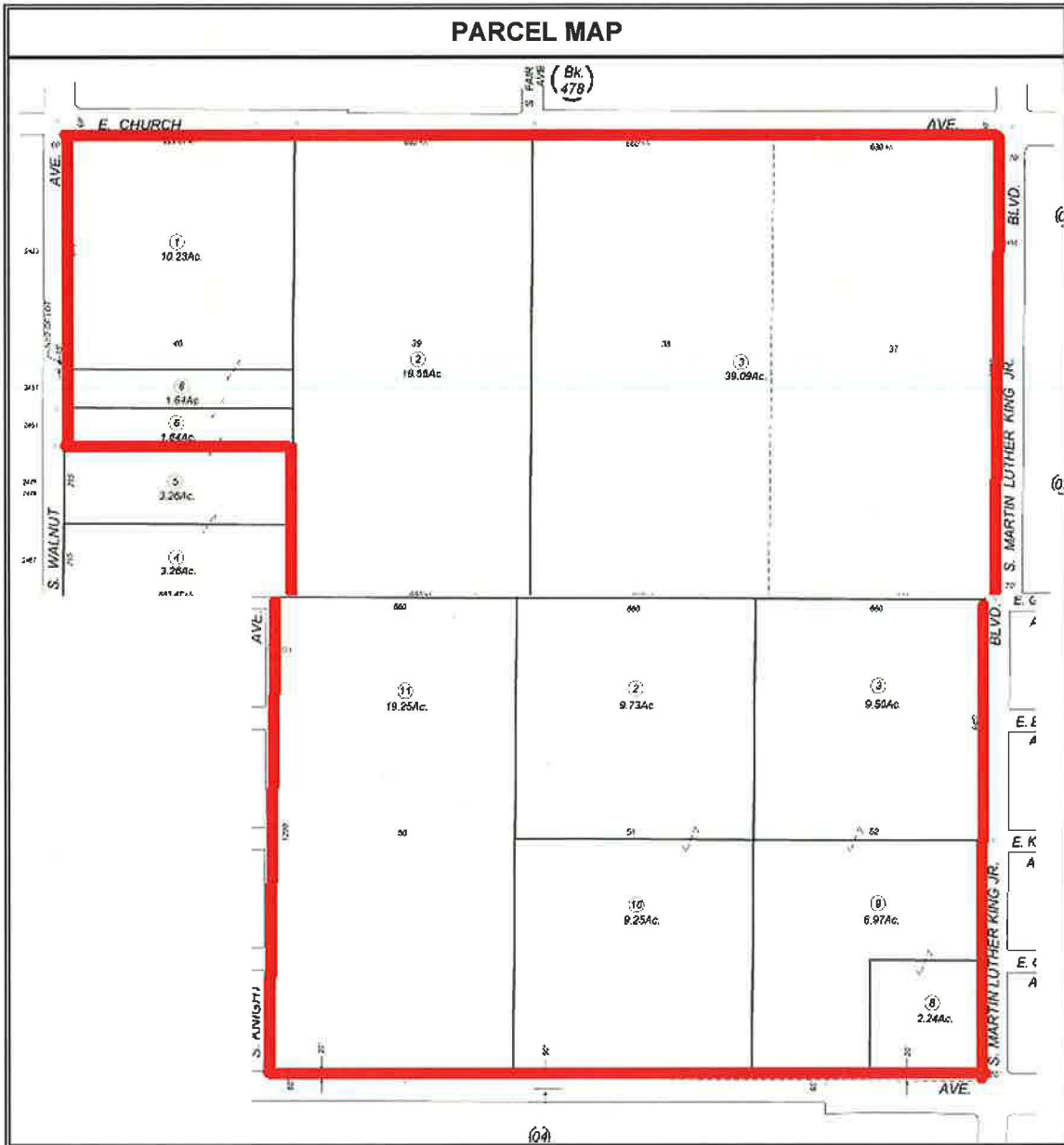
**East:** Gaston Middle School / SFR Subdivision

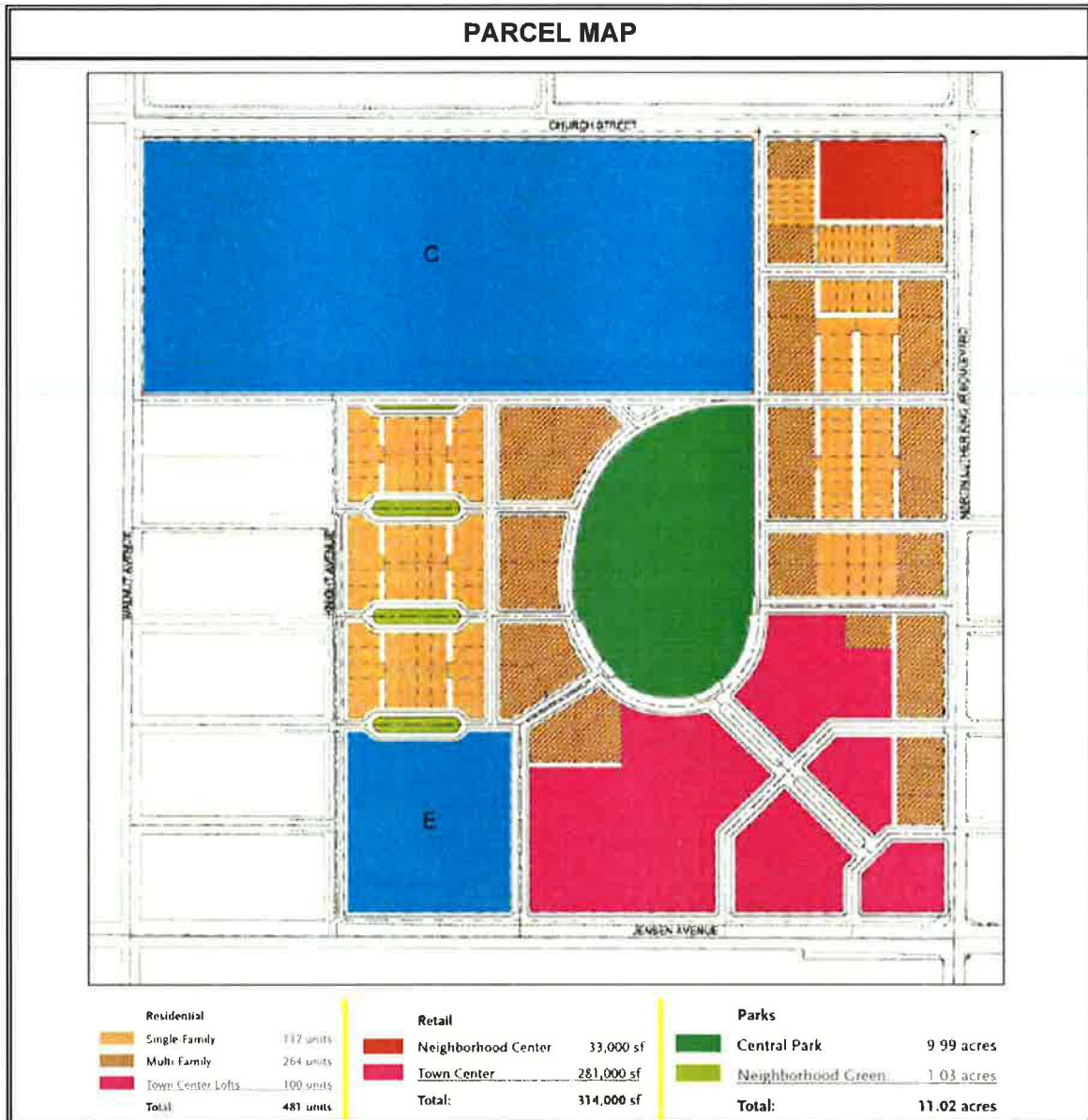
**West:** Farm Land / Low Density SFR

**Conclusion:** The subject is comprised of a proposed 9.99-acre site that will be donated to the Community College district and will represent a central park area of the proposed West Creek Village.

AERIAL VIEW







The subject is denoted as the green parcel

**ZONING ANALYSIS**

The subject's zoning requirements are detailed below.

<b>ZONING SUMMARY</b>	
Current zoning:	RS-5 / Residential Single Family (4,000 SF minimum site area per dwelling)
Legally conforming	Yes
Uses permitted:	SFR, grazing land, multi-family residential, parkland, schools, and other low density uses.
Zoning change	Possibly

**Zoning Analysis and Conclusions**

The purposes of the Residential Single-Family (RS) Districts are to:

- A. Provide for a variety of single-family residences built to urban or suburban standards to suit a spectrum of individual lifestyles and needs, and to ensure availability throughout the city of the range of housing types necessary for all segments of the community, consistent with the General Plan.
- B. Enhance the character of the city's residential neighborhoods, while providing new opportunities for the development of a range of housing types throughout the city.
- C. Ensure that the scale and design of new development and alterations and additions to existing residences are compatible with the scale, mass, and character of their neighborhoods.
- D. Provide for appropriate densities within the ranges established in the General Plan.
- E. Protect the quality of the residential environment and secure the health, safety, and general welfare of the residents.
- F. Provide sites for neighborhood-serving uses such as parks, family day cares, libraries, and community facilities.
- G. Implement and provide appropriate regulations for General Plan classifications of "Low Density Residential," "Medium Low Density Residential," and "Medium Density Residential."

The subject may be rezoned to parkland upon completion of the subdivision.

**TAX AND ASSESSMENT DATA**

The assessment and real property taxes shown on the table below for the current fiscal tax 2017/18-year.

Parcel Number	Not Issued
Land	\$0
Improvements	\$0
Personal Property	\$0
Total Assessed Value	\$0
Tax Rate	0%
Annual Taxes	\$0
Bond Assessments	\$0
Direct Levies	\$19
Total Taxes	\$19
Delinquent Taxes	\$0
Total Taxes	\$19

In the State of California, real estate is assessed at 100 percent of market value as determined by the County Assessor's Office. The maximum tax rate cannot exceed 1 percent of the property's appraised value, plus any special assess. The subject parcel does not yet exist and there is no corresponding APN or assessed value. Since the subject will be dedicated as parkland, it will not be assessed and will not be subject to property taxes. However, there will be direct levies that have been estimated on the table above.

Proposition 13 was passed by voters in June 1978 and substantially changed the taxation of real estate in California. This constitutional amendment rolled back the base year for assessment purposes to the tax year 1975-1976. Annual increases in assessed value are limited to 2 percent per year, regardless of the rate of inflation. Real estate is subject to re-appraisal to current market value upon a change in ownership or new construction. The subject will likely be reassessed after the transfer and subsequent construction.

Within the definition of "market value," the assumption is made that the subject property will be sold on the open market and, thus, the property is reassessed for tax purposes for this appraisal.

## HIGHEST AND BEST USE

In appraisal practice, the concept of highest and best use represents the premise upon which value is based. The four criteria that the highest and best use must meet are:

- legal permissibility;
- physical possibility;
- financial feasibility; and
- maximum profitability.

Highest and best use is applied specifically to the use of a site as vacant. It is recognized that in cases where a site has existing improvements, the concluded highest and best use as if vacant may be different from the highest and best use given the existing improvements (as improved). The existing use will continue, however, until the land value, in its highest and best use, exceeds that total value of the property under its existing use plus the cost of removing or altering the existing structure.

Implied in the highest and best use is recognition of the contribution of a specific use to the community environment or to the community's development goals, in addition to wealth maximization of individual property owners. Also implied is that the conclusion of highest and best use results from the appraiser's judgment and analytical skill, i.e., that the use determined from the analysis represents an opinion, not a fact to be found.

Highest and best use analysis involves assessing the subject both as if vacant and as improved.

### HIGHEST AND BEST USE AS THOUGH VACANT

#### ***Legal Permissibility***

The legally permissible uses were discussed in detail in the site analysis and zoning sections of this report. Overall, based on our review of the zoning restrictions, the site has several residential, civic, and related potential uses. The parcel is part of a larger development and may be rezoned to reflect the pending parkland use. Residential subdivision would be the highest and best use as vacant until the subject is converted for parkland use at what time this will be the highest and best use. The value of the subject herein reflects the single-family residential subdivision value as it is currently zoned.

#### ***Physical Possibility***

The physical characteristics of the subject site were discussed in detail in the site analysis section of this report. Overall, the layout and positioning of the site in southwestern Fresno warrants residential related uses.

#### ***Financial Feasibility***

The test of financial feasibility is put only to those uses, which are legally permissible and physically possible. If the property is capable of generating a sufficient net income to cover the

required rate of return on investment and provide a return to the land, then the usage is financially feasible within a defined price limit.

BAAAR analyzed the financial feasibility of developing the subject site based on current market rental rates. This analysis compares the net operating income produced by appropriate improvements to the economic return on the property's value. In essence, the net income produced by the proposed or new improvements must provide a return to the cost of the improvements.

***Maximum Profitability***

The final test of highest and best use of the site as though vacant is that the use is maximally productive, yielding the highest land value. In the case of the subject as though vacant, the analysis thus far has indicated that agricultural and residential related uses would be most likely.

***Conclusion: Highest and Best Use As Though Vacant***

Based on this discussion, it concluded that the Highest and Best Use of the subject site as vacant would be for residential related development. Overall, based on our review of the zoning restrictions, the site has several residential, civic, and related potential uses. The parcel is part of a larger development and may be rezoned to reflect the pending parkland use. Residential subdivision would be the highest and best use as vacant until the subject is converted for parkland use at what time this will be the highest and best use. The value of the subject herein reflects the single-family residential subdivision value as it is currently zoned.

## **APPRAISAL METHODOLOGY**

The appraisal process is defined as an orderly program by which the problem is planned and the data involved is acquired, classified, analyzed and interpreted into an estimate of value. In this process three basic approaches to value are considered: Income Capitalization Approach, Sales Comparison Approach, and Cost Approach. In appraisal practice, an approach to value is included or omitted based on its applicability to the property type being valued and the quality and quantity of information available.

The final step in the appraisal process is reconciliation -- a process by which BAAR analyzes alternative conclusions and selects a final value estimate from among two or more indications of value. BAAR weighs the relative significance, applicability and defensibility of each approach as it relates to the type of property being appraised.

### **INCOME CAPITALIZATION APPROACH**

The methodology of the Income Capitalization Approach is to determine the income-producing capacity of the property on a stabilized basis by estimating market rent from comparable rentals, making deductions for vacancy and collection losses and building expenses, then capitalizing the net income at a market-derived rate to yield an indication of value. The capitalization rate represents the relationship between net income and value.

The subject will be parkland associated with the larger development known as West Creek Village. As such it will not have income generating potential. The exclusion of this approach is not considered to affect the reliability of the value concluded herein.

### **SALES COMPARISON APPROACH**

The Sales Comparison Approach utilizes sales of comparable properties, adjusted for differences, to indicate a value for the subject property. Valuation is typically accomplished using physical units of comparison such as price per square foot, price per unit, price per floor, etc., or economic units of comparison such as gross rent multiplier. Adjustments are applied to the physical units of comparison derived from the comparable sale. The unit of comparison chosen for the subject is then used to yield a total value. Economic units of comparison are not adjusted, but rather analyzed as to relevant differences with the final estimate derived based on the general comparisons.

The reliability of this approach is dependent upon (a) the availability of comparable sales data; (b) the verification of the sales data; (c) the degree of comparability; (d) the absence of atypical conditions affecting the sales price. The subject is a special use property that has various components. There are adequate sales from various transactions to render a value for the subject. Accordingly, this approach has been included in the analysis.

**THE COST APPROACH**

The Cost Approach is based upon the proposition that the informed purchaser would pay no more for the subject than the cost to produce a substitute property with equivalent utility. This approach is particularly applicable when the property being appraised involves relatively new improvements which represent the highest and best use of the land or when relatively unique or specialized improvements are located on the site and for which there exist few sales or leases of comparable properties.

The subject is currently vacant land and will be converted to parkland upon the completion of the subdivision. There will be park improvements completed by the ownership who will be donated the land. Given the particulars of the subject, the Cost Approach is not applicable. The exclusion of this approach is not considered to affect the reliability of the value concluded herein.

**CONCLUSION**

As noted above, the Sales Approach is the only approach developed in this valuation. This is the most appropriate approach and mirrors how the subject and similar properties are sold in the market. Accordingly, it is the basis for the reconciled value.

### SALES COMPARISON APPROACH

The Sales Comparison Approach provides an estimate of market value based on analyzing transactions of similar properties in the market area. The method is based on the proposition that an informed purchaser would pay no more for a property than the cost of acquiring an existing one with the same utility. When there are an adequate number of sales of truly similar properties with sufficient information for comparison, a range of values for the subject property can be developed.

An investigation was made of sales and offerings of comparable properties in the relative market area of the subject property. The approach is based on the proposition that an informed purchaser would pay no more for a property than the cost of acquiring an existing property with the same utility. This approach is applicable when an active market provides sufficient quantity of reliable data that can be verified from authoritative sources. The sales summarized in the following page were selected as the most meaningful and relevant to the valuation of the subject. A map indicating the location of each comparable sale relative to the subject property is also presented below. The comparables are described in further detail in the following paragraphs.

Adjustments to the per unit sale prices of the comparable properties are made in recognition of their relative differences in terms of dates of sale, locational, and physical characteristic differences.

Various adjustments are applied to the comparable data in correlating it to the subject property. An adjustment grid is presented below. It should be noted that the adjustment process is not intended to be a scientific approach in valuing the property but, rather, a clarification of the adjustment process. The mathematics do not control the final value conclusion, but they do provide guidance as to a range of value within which the value of the subject property would most likely fall.

A significant component to the proposed development is the funding provided to the State Center Community College District, who will develop the expanded Fresno Community College West Extension on the site. On January 29, 2018, the California Strategic Growth Council (CSGC) unanimously approved a \$70 million competitive grant to improve the City of Fresno through community-led development and infrastructure projects. Included in this amount is \$16.9 million allocated to onsite infrastructure associated with a proposed satellite college campus that will be constructed on the subject property. This would augment a \$40 million commitment from the State Center Community College District to construct the campus. The resulting \$56.9 million will be used to develop the infrastructure of the overall development along with the campus. These fund have a significant contributory value to the subject's pending parcels as the off-site will be constructed at a cost to the SCCCD and not the subject or any other owner.

There are various methods for valuing estate land acreage like the subject. The selected indicator is the price per acre. While the subject will be slated for use as parkland, it is currently zoned for multi-family residential and this represents its highest and best use. Accordingly, similarly zoned parcel have been included in the analysis.

SALE 1 is the transfer of land that is contained within 10 parcels. The property was acquired by a hotel operator but the eventual development will include other product types. The buyer paid all cash for the property at just below the list price of \$1,762,500. Like the subject's pending off-site, this comparable had similar development adding to the value. The comparable required an adjustment for the superior location in Clovis. The area has higher predominant values and rents. An adjustment was also applied for the smaller land area consistent with the principle of economies of scale. The final adjusted price per acre is \$209,370.

SALE 2 is the transfer of industrially zoned land that is located east of the subject. The parcel is part of a larger industrial related park. The comparable was acquired by a construction company to use as a yard. An adjustment was necessary for the inferior industrial zoning relative to the subject. Additionally, an adjustment for the inferior off-sites relative to the subject was necessary. The final adjusted price per acre is \$207,447.

SALE 3 is the transfer of land that is located in Clovis northeast of the subject. The buyer paid all cash for the property at just below the list price of \$1,762,500. Like the subject's pending off-site, this comparable had similar development adding to the value. The comparable required an adjustment for the superior location in Clovis. The area has higher predominant values and rents. An adjustment was also applied for the smaller land area consistent with the principle of economies of scale. The final adjusted price per acre is \$193,910.

SALE 4 is the transfer of two contiguous parcels that sold as one economic unit. The property was acquired by an investor/developer. The property is located near Herndon, which is an inferior location relative to the subject. An adjustment for the inferior zoning, which allows for less dense development was necessary. An adjustment for the lack of off-sites and the lack of connected utilities. The final adjusted price per acre is \$182,713.

**SALES APPROACH**

COMPARABLE LAND SALES									
ADDRESS CITY APN	SUBJECT MLK @ Jensen Fresno Pending	SALE 1 2509-2559 Clovis Avenue Clovis 499-540-01, e al		SALE 2 2892 E Dorothy Avenue Fresno 328-200-85S/84S/-30		SALE 3 2362 Herndon Avenue Clovis 550-020-41		SALE 4 SEC Veterans Blvd @ Bullard Fresno 504-081-39S/504-081-40S	
SALE PRICE	***	\$1,725,000		\$1,800,000		\$1,738,500		\$1,145,000	
PRICE/SF	***	\$299,100		\$159,574		\$267,462		\$101,507	
SELLER	***	Clovis Centerpoint LP		Matthew Prickett		Walmsley Trust		Dalena Family	
BUYER	***	CA Clovis St LLC		Donald Pickett		Marc Opolo Ent's Inc		Butter Inv. Group LLC	
DOC #	***	26108		48949		34282		169852	
PROPERTY CONTACT	***	Robert Fena 559-256-2436		Bill Daly 559-490-2500		Patrick Monreal 559-284-9028		Dick Ellsworth 559-447-6247	
RIGHTS CONV'D	Fee Simple	Fee Simple		Fee Simple		Fee Simple		Fee Simple	
ADJ. SALE PRICE	***	\$1,725,000		\$1,800,000		\$1,738,500		\$1,145,000	
FINANCING	***	All Cash		All Cash		All Cash		Conv./Cash	
ADJ. SALE PRICE	***	\$1,725,000		\$1,800,000		\$1,738,500		\$1,145,000	
COND. OF SALE	***	Market		Market		Market		Market	
CONCESSIONS	***	None		None		None		None	
ADJ. SALE PRICE	***	\$1,725,000		\$1,800,000		\$1,738,500		\$1,145,000	
DATE OF SALE	***	December-17		April-17		March-18		December-17	
ADJ. SALE PRICE	***	\$1,725,000		\$1,800,000		\$1,738,500		\$1,145,000	
SITE									
LOCATION	Average	Good	-25%	Average		Good	-25%	Average-	40%
SIZE	435,164	251,224		491,357		283,140		491,357	
ZONING	RS-4	PCC		M-3	15%	R2		R-1	10%
VISIBILITY	Good	Good		Average		Average		Average	
ACREAGE	9.99	5.77	-5%	11.28		6.50	-2.5%	11.28	
IMPROVEMENTS	None	None		None		None		None	
ORIENTATION	Interior	Corner		Interior		Interior		Interior	
STREET FRONTAGE	None	Average		Average		Average		Average	
SHAPE	Oval	Rectangular		Rectangular		Rectangular		Irregular	
OFF SITES	Good	Good		Average	15%	Good		Average	15%
UTILITIES	Available	Available		Available		Available		None	15%
ADJUSTED PRICE	***	\$1,207,500	-30%	\$2,340,000	30%	\$1,260,413	-27.5%	\$2,061,000	80%
ADJUST. PRICE/SF	***	\$209,370		\$207,447		\$193,910		\$182,713	



COMPARABLE PHOTOS



SALE 1



SALE 2



SALE 3



SALE 4

**Value Conclusion**

The comparables are considered to be the best available at the time of this appraisal. With the most similar physical characteristics and features as the subject, they do provide for a reasonable value conclusion. All the comparables represented transfer of fee simple ownership. All of the comparables were financed with conventional or seller financing at market rates. As such, no adjustment for favorable financing is considered warranted. All the sales were deemed as market transactions and no adjustment is warranted. No concessions were noted for the sales.

After adjustment, the sales selected for direct comparison to the subject, range in price from approximately \$182,713 to \$209,370 per usable acre, with an adjusted average of \$198,360. Sales Equal weight is given to all the comparables as they bracket the subject's features. After review and analysis of the comparable sales, we conclude that a unit price for the subject just near the average or **\$200,000 per usable acre** is supportable. Accordingly, the fee simple value of the subject is calculated as follows:

$$\text{\$200,000/Acre} \times 9.99 \text{ Acres} = \text{\$1,998,000}$$

$$\text{Rounded} = \text{\$2,000,000}$$

**Hypothetical Value Conclusion by the Sales Approach**

The opinion of hypothetical value for the subject property, by the Sales Approach, as of August 1, 2018, was:

TWO MILLION DOLLARS

(\$2,000,000)

**RECONCILIATION OF VALUE**

BAAR was instructed to estimate the market value of the leased fee estate in the subject property. The value conclusion for each applicable approach is summarized below.

<b>SUMMARY OF VALUE CONCLUSIONS AS IS LEASED FEE INTEREST</b>	
Cost Approach	Not Applied
Sales Comparison Approach	\$2,000,000
Income Capitalization Approach	Not Applied
Source: BAAR	

The subject was appraised using the Sales Approach only. The Cost Approach is not applicable given the dilapidated improvements and the primary value associated with the land area. The Income Approach is not applicable for the valuation of the subject as it is not a viable income producing property and there is no comparable/similar rental data available. The Sales Approach is given primary weight as it is the only approach that was developed.

**HYPOTHETICAL MARKET VALUE**

Based on the appraisal techniques applied and the results thereof, it is the opinion that the "Hypothetical Value" of the fee simple interest in the subject property in its proposed condition, as of August 1, 2018, subject to the certifications, assumptions, limiting conditions, and estimated exposure period of 12 months, was:

**TWO MILLION DOLLARS**

**(\$2,000,000)**

**ADDENDUM**

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**QUALIFICATIONS OF APPRAISERS / LICENSES  
ASSUMPTIONS AND LIMITING CONDITIONS**

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**APPRAISER RESUME**APPRAISER'S NAME: **Adam J. Hardej, Jr.**FIRM NAME: **BAAR Realty Advisors**

FAX/VM: 800-851-1855

**Employment for the Last Ten Years****BAAR Realty Advisors** – California, Florida, & New England**2001 - Present****PRINCIPAL/OWNER – FULL-SERVICE NATIONAL REAL ESTATE APPRAISAL & CONSULTING FIRM**

- **Appraisal & Consulting**
- **Expert Witness Services**

**Key Global Finance** (WHOLLY-OWNED SUBSIDIARY OF KEYCORP)**1996 - 2001****MANAGING DIRECTOR, VP OF UNDERWRITING AND ACQUISITIONS**

- **Direct national acquisitions, due diligence and underwriting in 20+ states.**

**CB Richard Ellis****1994 - 1996****VICE PRESIDENT, REGIONAL MANAGER (CA, CENTRAL VALLEY) – APPRAISAL & CONSULTING SERVICES-**

- **Member Golf & Lodging specialty Valuation Group**

**Education****MBA, THE HAAS SCHOOL OF BUSINESS, THE UNIVERSITY OF CALIFORNIA, Berkeley, CA****1974 - 1991****BA, Classics / Economics, BOWDOIN COLLEGE, Brunswick, ME****1979 - 1983****Appraisal Courses and Seminars for the last ten years:**

Advanced Land Valuation	7 hrs	3/18	Appraisal Institute
USPAP Update	7 hrs	12/17	MBREA
USPAP Update	7 hrs	12/15	MBREA
USPAP Update	7 hrs	4/14	Appraisal Institute
USPAP Update	7 hrs	3/12	Appraisal Institute
USPAP Update	7 hrs	2/10	Appraisal Institute
USPAP Update	7 hrs	5/08	Appraisal Institute
USPAP Update	7 hrs	2/06	Appraisal Institute
HP12C Course	7 hrs	11/04	Appraisal Institute
Resid. Subdivision Analysis	5 hrs	11/04	Bert Rodgers Schools
URAR Review	14 hrs	10/04	Bert Rodgers Schools
FL Law	3 hrs	10/04	Appraisal Institute
CT Law	3 hrs	9/04	Prof. Valuation & Real Estate School
USPAP	16 hrs	4/04	Appraisal Institute
USPAP	16 hrs	3/02	Appraisal Institute
Economic Outlook	2 hrs	1/01	Appraisal Institute
Seaport Planning	2 hrs	5/00	Appraisal Institute
General Comp Exam	MAI	2/99	Appraisal Institute
Demo Writing Seminar	15 hrs	9/97	Appraisal Institute
Valuation Analysis	40 hrs	6/96	Appraisal Institute
Advanced Applications	40 hrs	9/95	Appraisal Institute
Adv. Income Capitalization	40 hrs	6/94	Appraisal Institute
USPAP, Part B	11 hrs	9/93	Appraisal Institute
Appraisal Procedures	39 hrs	7/93	Appraisal Institute
Basic Income Cap	39 hrs	7/93	Appraisal Institute
USPAP, Part A	16 hrs	11/92	Appraisal Institute

**For the 60-month period, May 1991 - June 1996, I personally completed over 3,386 hours of commercial appraisals.****Professional Licenses & Designations**

- State of California, Certified General Appraiser AG018716
  - Designated Appraiser – ASA & MAI
  - Qualified Expert Witness: Real Estate and Municipal-based Receivables (i.e. tax liens) related cases
-



Business, Consumer Services & Housing Agency  
**BUREAU OF REAL ESTATE APPRAISERS**  
**REAL ESTATE APPRAISER LICENSE**

**Adam J. Hardej**

has successfully met the requirements for a license as a residential and commercial real estate appraiser in the State of California and is, therefore, entitled to use the title:

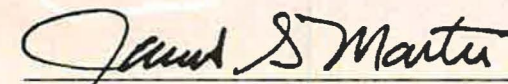
“Certified General Real Estate Appraiser”

This license has been issued in accordance with the provisions of the Real Estate Appraisers' Licensing and Certification Law.

BREA APPRAISER IDENTIFICATION NUMBER: AG 018716

Effective Date: May 7, 2017

Date Expires: May 6, 2019

  
\_\_\_\_\_  
Jim Martin, Bureau Chief, BREA

3034627





Business, Consumer Services & Housing Agency  
**BUREAU OF REAL ESTATE APPRAISERS**  
**REAL ESTATE APPRAISER LICENSE**

**Luis R. Lorca**

has successfully met the requirements for a license as a residential and commercial real estate appraiser in the State of California and is, therefore, entitled to use the title:


“Certified General Real Estate Appraiser”

This license has been issued in accordance with the provisions of the Real Estate Appraisers' Licensing and Certification Law.

BREA APPRAISER IDENTIFICATION NUMBER: AG 030345

Effective Date: March 19, 2017

Date Expires: March 18, 2019

  
\_\_\_\_\_  
Jim Martin, Bureau Chief, BREA

3031807

## **ASSUMPTIONS AND LIMITING CONDITIONS**

1. Unless otherwise specifically noted in the body of the report, it is assumed that title to the property or properties appraised is clear and marketable and that there are no recorded or unrecorded matters or exceptions to total that would adversely affect marketability or value. BAAR is not aware of any title defects nor has it been advised of any unless such is specifically noted in the report. BAAR, however, has not examined title and makes no representations relative to the condition thereof. Documents dealing with liens, encumbrances, easements, deed restrictions, clouds and other conditions that may affect the quality of title have not been reviewed. Insurance against financial loss resulting in claims that may arise out of defects in the subject property's title should be sought from a qualified title company that issues or insures title to real property.

2. It is assumed that improvements have been constructed or will be constructed according to approved architectural plans and specifications and in conformance with recommendations contained in or based upon any soils report(s).

Unless otherwise specifically noted in the body of this report, it is assumed: that any existing improvements on the property or properties being appraised are structurally sound, seismically safe and code conforming; that all building systems (mechanical/electrical, HVAC, elevator, plumbing, etc.) are, or will be upon completion, in good working order with no major deferred maintenance or repair required; that the roof and exterior are in good condition and free from intrusion by the elements; that the property or properties have been engineered in such a manner that it or they will withstand any known elements such as windstorm, hurricane, tornado, flooding, earthquake, or similar natural occurrences; and, that the improvements, as currently constituted, conform to all applicable local, state, and federal building codes and ordinances. BAAR professionals are not engineers and are not competent to judge matters of an engineering nature. BAAR has not retained independent structural, mechanical, electrical, or civil engineers in connection with this appraisal and, therefore, makes no representations relative to the condition of improvements. Unless otherwise specifically noted in the body of the report: no problems were brought to the attention of BAAR by ownership or management; BAAR inspected less than 100% of the entire interior and exterior portions of the improvements; and BAAR was not furnished any engineering studies by the owners or by the party requesting this appraisal. If questions in these areas are critical to the decision process of the reader, the advice of competent engineering consultants should be obtained and relied upon. It is specifically assumed that any knowledgeable and prudent purchaser would, as a precondition to closing a sale, obtain a satisfactory engineering report relative to the structural integrity of the property and the integrity of building systems. Structural problems and/or building system problems may not be visually detectable. If engineering consultants retained should report negative factors of a material nature, or if such are later discovered, relative to the condition of improvements, such information could have a substantial negative impact on the conclusions reported in this appraisal. Accordingly, if negative findings are reported by engineering consultants, BAAR reserves the right to amend the appraisal conclusions reported herein.

3. Unless otherwise stated in this report, the existence of hazardous material, which may or may not be present on the property was not observed by the appraisers. BAAR has no knowledge of the existence of such materials on or in the property. BAAR, however, is not qualified to detect such substances. The presence of substances such as asbestos, urea formaldehyde foam insulation, contaminated groundwater or other potentially hazardous materials may affect the value of the property. The value estimate is predicated on the assumption that there is no such material on or in the property that would cause a loss in value. No responsibility is assumed for any such conditions, or for any expertise or engineering knowledge required to discover them. The client is urged to retain an expert in this field, if desired.

We have inspected, as thoroughly as possible by observation, the land; however, it was impossible to personally inspect conditions beneath the soil. Therefore, no representation is made as to these matters unless specifically considered in the appraisal.

4. All furnishings, equipment and business operations, except as specifically stated and typically considered as part of real property, have been disregarded with only real property being considered in the report unless otherwise stated. Any existing or proposed improvements, on or off-site, as well as any alterations or repairs considered, are assumed to be completed in a workmanlike manner according to standard practices based upon the information submitted to BAAR. This report may be subject to amendment upon re-inspection of the subject property subsequent to repairs, modifications, alterations and completed new construction. Any estimate of Market Value is as of the date indicated; based upon the information, conditions and projected levels of operation.
  5. It is assumed that all factual data furnished by the client, property owner, owner's representative, or persons designated by the client or owner to supply said data are accurate and correct unless otherwise specifically noted in the appraisal report. Unless otherwise specifically noted in the appraisal report, BAAR has no reason to believe that any of the data furnished contain any material error. Information and data referred to in this paragraph include, without being limited to, numerical street addresses, lot and block numbers, Assessor's Parcel Numbers, land dimensions, square footage area of the land, dimensions of the improvements, gross building areas, net rentable
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areas, usable areas, unit count, room count, rent schedules, income data, historical operating expenses, budgets, and related data. Any material error in any of the above data could have a substantial impact on the conclusions reported. Thus, BAAR reserves the right to amend conclusions reported if made aware of any such error. Accordingly, the client-addressee should carefully review all assumptions, data, relevant calculations, and conclusions within 30 days after the date of delivery of this report and should immediately notify BAAR of any questions or errors.

6. The date of value to which any of the conclusions and opinions expressed in this report apply, is set forth in the Letter of Transmittal. Further, that the dollar amount of any value opinion herein rendered is based upon the purchasing power of the American Dollar on that date. This appraisal is based on market conditions existing as of the date of this appraisal. Under the terms of the engagement, we will have no obligation to revise this report to reflect events or conditions, which occur subsequent to the date of the appraisal. However, BAAR will be available to discuss the necessity for revision resulting from changes in economic or market factors affecting the subject.
  7. BAAR assumes no private deed restrictions, limiting the use of the subject property in any way.
  8. Unless otherwise noted in the body of the report, it is assumed that there are no mineral deposit or subsurface rights of value involved in this appraisal, whether they be gas, liquid, or solid. Nor are the rights associated with extraction or exploration of such elements considered unless otherwise stated in this appraisal report. Unless otherwise stated it is also assumed that there are no air or development rights of value that may be transferred.
  9. BAAR is not aware of any contemplated public initiatives, governmental development controls, or rent controls that would significantly affect the value of the subject.
  10. The estimate of Market Value, which may be defined within the body of this report, is subject to change with market fluctuations over time. Market value is highly related to exposure, time promotion effort, terms, motivation, and conclusions surrounding the offering. The value estimate(s) consider the productivity and relative attractiveness of the property, both physically and economically, on the open market.
  11. Any cash flows included in the analysis are forecasts of estimated future operating characteristics are predicated on the information and assumptions contained within the report. Any projections of income, expenses and economic conditions utilized in this report are not predictions of the future. Rather, they are estimates of current market expectations of future income and expenses. The achievement of the financial projections will be affected by fluctuating economic conditions and is dependent upon other future occurrences that cannot be assured. Actual results may vary from the projections considered herein. BAAR does not warrant these forecasts will occur. Projections may be affected by circumstances beyond the current realm of knowledge or control of BAAR.
  12. Unless specifically set forth in the body of the report, nothing contained herein shall be construed to represent any direct or indirect recommendation of BAAR to buy, sell, or hold the properties at the value stated. Such decisions involve substantial investment strategy questions and must be specifically addressed in consultation form.
  13. Also, unless otherwise noted in the body of this report, it is assumed that no changes in the present zoning ordinances or regulations governing use, density, or shape are being considered. The property is appraised assuming that all required licenses, certificates of occupancy, consents, or other legislative or administrative authority from any local, state, nor national government or private entity or organization have been or can be obtained or renewed for any use on which the value estimates contained in this report is based, unless otherwise stated.
  14. This study may not be duplicated in whole or in part without the specific written consent of BAAR nor may this report or copies hereof be transmitted to third parties without said consent, which consent BAAR reserves the right to deny. Exempt from this restriction is duplication for the internal use of the client-addressee and/or transmission to attorneys, accountants, or advisors of the client-addressee. Also exempt from this restriction is transmission of the report to any court, governmental authority, or regulatory agency having jurisdiction over the party/parties for whom this appraisal was prepared, provided that this report and/or its contents shall not be published, in whole or in part, in any public document without the express written consent of BAAR which consent BAAR reserves the right to deny. Finally, this report shall not be advertised to the public or otherwise used to induce a third party to purchase the property or to make a "sale" or "offer for sale" of any "security", as such terms are defined and used in the Securities Act of 1933, as amended. Any third party, not covered by the exemptions herein, who may possess this report, is advised that they should rely on their own independently secured advice for any decision in connection with this property. BAAR shall have no accountability or responsibility to any such third party.
  15. Any value estimate provided in the report applies to the entire property, and any pro ration or division of the title into fractional interests will invalidate the value estimate, unless such pro ration or division of interests has been set forth in the report.
  16. The distribution of the total valuation in this report between land and improvements applies only under the existing program of utilization. Component values for land and/or buildings are not intended to be used in conjunction with any other property or appraisal and are invalid if so used.
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17. The maps, plats, sketches, graphs, photographs and exhibits included in this report are for illustration purposes only and are to be utilized only to assist in visualizing matters discussed within this report. Except as specifically stated, data relative to size or area of the subject and comparable properties has been obtained from sources deemed accurate and reliable. None of the exhibits are to be removed, reproduced, or used apart from this report.
  18. No opinion is intended to be expressed on matters, which may require legal expertise or specialized investigation, or knowledge beyond that customarily employed by real estate appraisers. Values and opinions expressed presume that environmental and other governmental restrictions/conditions by applicable agencies have been met, including but not limited to seismic hazards, flight patterns, decibel levels/noise envelopes, fire hazards, hillside ordinances, density, allowable uses, building codes, permits, licenses, etc. No survey, engineering study or architectural analysis has been made known to BAAR unless otherwise stated within the body of this report. If the Consultant has not been supplied with a termite inspection, survey or occupancy permit, no responsibility or representation is assumed or made for any costs associated with obtaining same or for any deficiencies discovered before or after they are obtained. No representation or warranty is made concerning obtaining these items. BAAR assumes no responsibility for any costs or consequences arising due to the need, or the lack of need, for flood hazard insurance. An agent for the Federal flood Insurance Program should be contacted to determine the actual need for flood Hazard Insurance.
  19. Acceptance and/or use of this report constitutes full acceptance of the Contingent and Limiting Conditions and special assumptions set forth in this report. It is the responsibility of the Client, or client's designees, to read in full, comprehend and thus become aware of the aforementioned contingencies and limiting conditions. Neither the Appraiser nor BAAR assumes responsibility for any situation arising out of the Client's failure to become familiar with and understand the same. The Client is advised to retain experts in areas that fall outside the scope of the real estate appraisal/consulting profession if so desired.
  20. BAAR assumes that the subject property analyzed herein will be under prudent and competent management and ownership; neither inefficient or super-efficient.
  21. It is assumed that there is full compliance with all applicable federal, state, and local environmental regulations and laws unless noncompliance is stated, defined and considered in the appraisal report.
  22. No survey of the boundaries of the property was undertaken. All areas and dimensions furnished are presumed to be correct. It is further assumed that no encroachments to the realty exist.
  23. The *Americans with Disabilities Act* (ADA) became effective January 26, 1992. Notwithstanding any discussion of possible readily achievable barrier removal construction items in this report, BAAR has not made a specific compliance survey and analysis of this property to determine whether it is in conformance with the various detailed requirements of the ADA. It is possible that a compliance survey of the property together with a detailed analysis of the requirements of the ADA could reveal that the property is not in compliance with one or more of the requirements of the ADA. If so, this fact could have a negative effect on the value estimated herein. Since BAAR has no specific information relating to this issue, nor is BAAR qualified to make such an assessment, the effect of any possible non-compliance with the requirements of the ADA was not considered in estimating the value of the subject property.
  24. No consideration has been given in this appraisal as to the value of the property located on the premises considered by the appraiser to be personal property, nor has the appraiser given consideration to the costs of moving or relocating such personal property; only the real property has been considered in this appraisal. Additionally, the comparable data was of real property only, and no personal property was considered with any market data.
  25. The liability of the authors of this appraisal report, BAAR Realty Advisors, and any other employees / contractors of BAAR Realty Advisors is limited to the fee collected for preparation of this appraisal report.
  26. Acceptance of, and/or use of, this appraisal report constitutes acceptance of the above conditions.
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## **SPECIFIC ASSUMPTIONS AND LIMITING CONDITIONS**

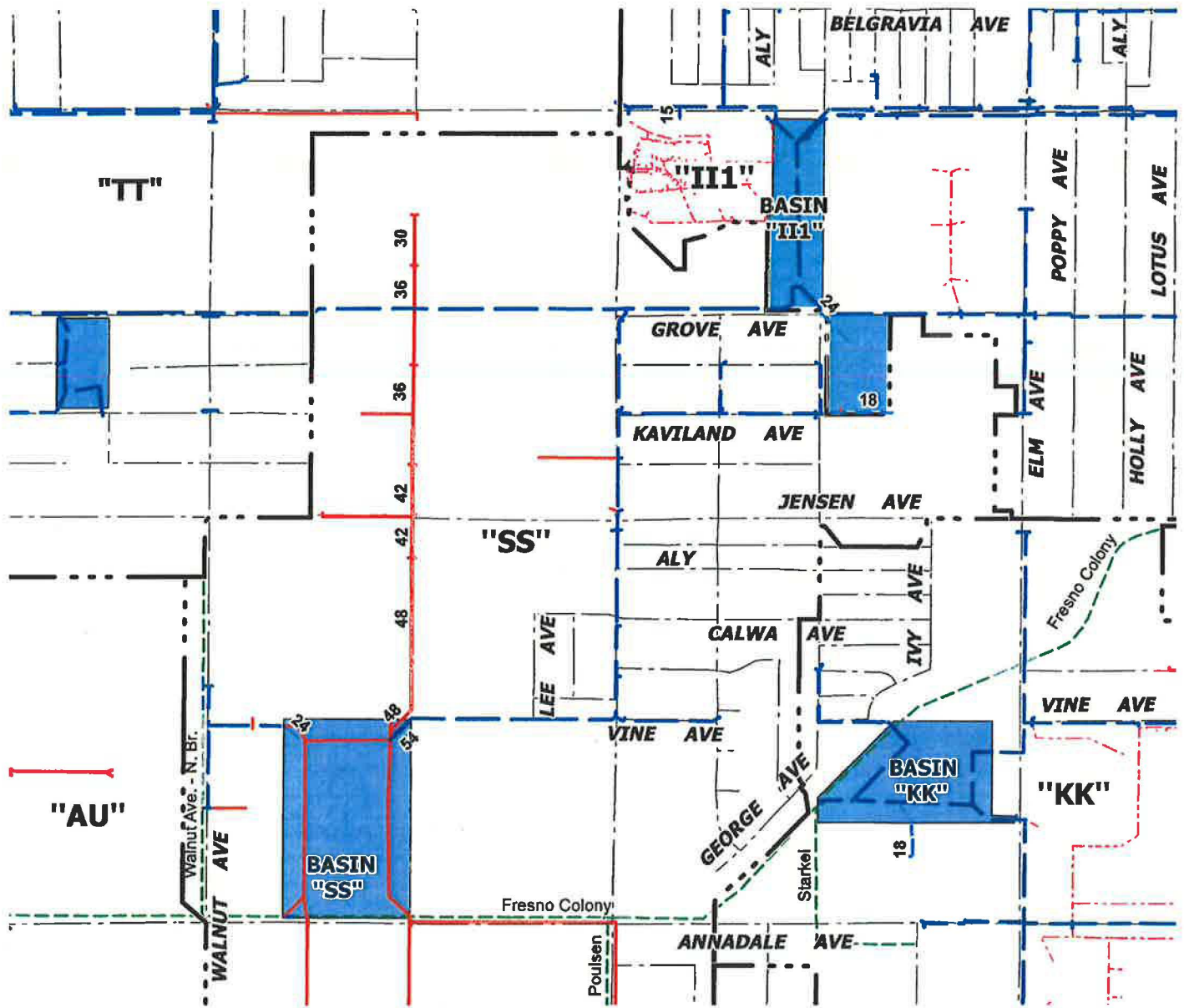
1. The estimate of marketing time is less than 12 months based upon such items as statistical information about days on market; information gathered through sales verification; interviews of marketing participants; and anticipated changes in market conditions. The reasonable marketing time is a function of price, time, use, and anticipated market conditions such as changes in the cost and availability of funds; not an isolated estimate of time alone.
2. This appraisal has been prepared from very limited property data provided by the client. Due to the lack of property specific descriptions and economic data from primary sources, BAAR was required to obtain information from best available sources, which included public records, owners, tenants and others. Every effort has been made to verify all information used within this report; however, it was in some instances necessary for BAAR to make critical assumptions to complete this assignment. BAAR reserves the right to amend its opinion of value at a later date should information become available which would significantly change the stated opinion of values.

All value opinions expressed herein are as of the date of value. In some cases, facts or opinions are expressed in the present time. All opinions are expressed as of the date of value, unless specifically noted. The research and preparation of this appraisal took place in August and September 2018. The effective date of valuation is August 1, 2018 for the as is value. There are no events that must occur between the date of last inspection of the subject property and the date of valuation in order to conclude the value reported herein. Thus the reported value is predicated on the specific assumption that the status of the property as of the date of valuation is not materially different that it was on the date of BAAR last inspection of the subject property. The appraisal is based on real estate and economic conditions as best perceived as of the date of the report.




3. The report and parts thereof and any additional material submitted, may not be used in any prospectus or printed material used in conjunction with the sale of securities or participation interests in Public Offering as defined under U.S. Security laws. Further, neither all nor any part of this appraisal report shall be disseminated to the general public by the use of advertising media, public relations media, news media, sales media, or other media for public communication without the prior consent of BAAR. The use of all or any part of this report in connection with real estate tax shelters, syndication of interests in real estate, the offering of securities, shares or partnership interests in real estate or any other public or private offering without the specific written consent of BAAR is not authorized. Neither the whole, nor any part of this report, nor any reference thereto may be included in any document, statement, appraisal or circular without the signatories' prior written approval of the form and context in which it is to appear.
  4. Any "after tax" income or investment analysis and resultant measures of return on investment are intended to reflect only the possible and general market considerations, whether as part of estimating value or estimating possible returns on investment at an assumed value or Price paid. Any stated conclusion referred to as "Investment Value" should not be construed as being representative of "Market Value" since the prospectus of the Client may be based upon individual investment requirements, as distinguished from the concept of market value, which is impersonal and detached. Market value and investment value may coincide when a client's investment criteria are consistent with prevailing market trends and conditions. In this instance, the two value estimates may be numerically identical, but the two types of value are not interchangeable. BAAR does not claim expertise in tax matters and advises the client to seek competent tax advice from a qualified income tax advisor.
  5. The reasonable exposure time is 12 months based on current market conditions. The reasonable exposure time inherent in the market value concept is always presumed to precede the effective date of the appraisal. We also recognize the exposure time is different for various types of real estate and under various market conditions and that the reasonable exposure time should always incorporate the answer to the question, "For what kind of real estate at what value range?" rather than appear as a statement of an isolated time period.
  6. This study is not being prepared for use in connection with litigation. Accordingly, no rights to expert testimony, pretrial or other conferences, deposition, or related services are included with this appraisal. If, as a result of this undertaking, BAAR or any of its principals, its appraisers or consultants are requested or required to provide any litigation services, such shall be subject to the provisions of BAAR engagement letter or, if not specified therein, subject to the reasonable availability of BAAR and/or said principals or appraisers at the time and shall further be subject to the party or parties requesting or requiring such services paying the then-applicable professional fees and expenses of BAAR either in accordance with the provisions of the engagement letter or arrangements at the time, as the case may be.
  7. All data considered significant that was requested for this assignment was received by BAAR.
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Exhibit H  
FMFCD Storm Drainage and Flood Control Master Plan  
For Drainage Area "SS"

NOTE: THIS MAP IS SCHEMATIC. DISTANCES, AMOUNT OF CREDITABLE FACILITIES, AND LOCATION OF INLET BOUNDARIES ARE APPROXIMATE.



## LEGEND

-  Existing Master Plan Facilities
-  Future Master Plan Facilities
-  Drainage Area Boundary



1" = 1000'

## SS MASTER PLAN DRAINAGE AREA "SS"

### EXHIBIT NO. 1

## FRESNO METROPOLITAN FLOOD CONTROL DISTRICT

