

DEVELOPMENT AGREEMENT

This Development Agreement (the Agreement) is made this ____ day of _____, 2017, by and between the CITY OF FRESNO, a municipal corporation, (the City) and HIGH AND MIGHTY FARMS, INC., a California corporation; COURTHOUSE CALIFORNIA, LLC., an Arizona limited liability company; and NANCY M. DUNLAP, TRUSTEE OF THE RUTH MARTORI NON-QTIP MARITAL TRUST, dated July 26, 1994 (collectively, the Developer). City and 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, while the City is not limited to the Development Agreement Laws to enter into development agreements, 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. The following applications were filed with the City in connection with the planning of a 73.2 acre area in the City is bounded generally by South Fowler Avenue on the east, East Church Avenue on the south and South Sunnyside Avenue on the west, whose legal description is attached hereto as Exhibit "A" (the Oaks Project Area) for the development of a mixed-use master planned project that would include Community Commercial & Office as well as single and multi-family housing uses consistent with the Oaks Project Approvals and the Subsequent Maps (as those terms are defined below (the Oaks Project):

B(1) An application for this Development Agreement (the DA Application).

B(2) An application filed for General Plan Amendments (the Initial Plan Amendment Application) to the Fresno General Plan for areas within the Oaks Project Area. The Initial Plan Amendment Application proposed to effectuate the following changes (as more particularly set forth in the Plan Amendment Application): redesignate 6.05 acres of Open Space/Neighborhood Park (with a dual designation of Urban Neighborhood), 14.98 acres of Urban Neighborhood, 34.78 acres of Medium Density Residential, and 21.82 acres of Medium Low Density Residential to ±18 acres of Urban Neighborhood, ±50 acres of Medium Density Residential, ±7 acres of Community Commercial, and ±3 acres of Open Space/Neighborhood Park.

B(3) An application for zone district changes (the Initial Zone Change Application) for areas within the Oaks Project (as more particularly described in the Zone Change Applications) from 21.05 acres of RM-2, 21.82 acres of RS-4, and 34.78

acres of RS-5 to ±18 acres of RM-2, ±50 acres of RS-5, ±7 acres of CC, and ±3 acres of PR.

B(4) An application for a Vesting Parcel Map for the Oaks Project Area (the Parcel Map Application) pursuant to Section 15-3401 and Section 15-3501 et seq. of the Fresno Municipal Code (the Oaks Parcel Map), which includes: without limitation the subdivision of the Oaks Project Area into four separate legal parcels (plus a Remainder Parcel) (the Permitted Parcels). The Oaks Parcel Map is depicted on attached Exhibit "B".

B(5) A Vesting Tentative Tract Map (the Tentative Tract Map Application) concerning parcel D of the Parcel Map Application, proposing 208 single family residential lots and a 2.6 acre public park on an approximately 39.6 acres of property, and two Phases of development. The subdivision proposed by the Tentative Tract Map Application is depicted on the Oaks Tract Map attached as Exhibit "C".

B(6) The DA Application, the Plan Amendment Application, the Zone Change Application, the Parcel Map Application, and the Tentative Tract Map Application are hereinafter sometimes collectively referred to as the Oaks Project Applications.

B(7) The Developer further intends to subsequently file applications for additional Subdivision Maps for other portions of the Oaks Project Area, consistent with the uses and densities listed on Exhibit "D-1" and depicted on "D-2" (the Vested Uses), and otherwise consistent with the Applicable Rule (as that term is defined below) (the Subsequent Maps).

C. On April 19, 2017, at a duly noticed public meeting and after due review and consideration of (i) the report of City staff on the Oaks Project Applications, (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) adopt an MND pursuant to CEQA Guidelines Section 15074; (2) approve the Initial Oaks Park Applications, subject to the express conditions of approval set forth therein (collectively, the Conditions of Approval); and (3) approve this Agreement, subject, however, to the further recommendation that ±13 acres of Urban Neighborhood land use designation and ±13 acres of RM-2 zoning that the Oaks Project Applications requested to be allocated to Parcel C (as defined in Section 1.1 below) be revised to ±13 acres of Medium Density Residential land use designation and ±13 acres of RS-5 zoning (the PC Proposed Land Use Revisions). Subsequent thereto the Developer modified the Oaks Project Applications to conform to the PC Proposed Land Use Revisions pursuant to the terms of a Modified Plan Amendment Application and a Modified Zoning Change Application. As a result, consistent with the PC Proposed Land Use Revisions, the elements of the Oaks Park Applications described in Recitals B(2) and B(3) above, now encompass the following:

C(1) An application for General Plan Amendments (the Revised Plan Amendment Application) to the Fresno General Plan for areas within the Oaks Project Area to effectuate the following changes (as more particularly set forth in the Revised Plan Amendment Application): redesignate 6.05 acres of Open Space/Neighborhood Park (with a dual designation of Urban Neighborhood), 14.98 acres of Urban Neighborhood, 34.78 acres of Medium Density Residential, and 21.82 acres of Medium Low Density Residential to ±5 acres of Urban Neighborhood, ±63 acres of Medium Density Residential, ±7 acres of Community Commercial, and ±3 acres of Open Space/Neighborhood Park (the Plan Amendments).

C(2) An application for zone district changes (the Revised Zone Change Application) for areas within the Oaks Project (as more particularly described in the Zone Change Applications) from 21.05 acres of RM-2, , 21.82 acres of RS-4, and 34.78 acres of RS-5 to ±5 acres of RM-2, ±63 acres of RS-5, ±7 acres of CC, and ±3 acres of PR (the "Zone Amendment").

D. All required fees and costs have been paid for the filing, and the City's processing of, the Oaks Applications.

E. Subsequent to the filing of the Oaks Project Applications, an Initial Study and a Notice of Intent to Adopt Mitigated Negative Declaration, dated October 2, 2016, was prepared and circulated (the MND) pursuant to the requirements of the California Environmental Quality Act (California Public Resources Code Section 21000 e seq.) and the Guidelines thereunder (14 California Code of Regulations Section 15000, et seq.) (collectively, CEQA), and an update to such Initial Study and MND dated _____ were further prepared and circulated pursuant to CEQA to incorporate the changes in the Project resulting from the PC Proposed Land Use Revisions.

F. 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 Oaks Project Area; and (2) memorialize certain other agreements made between the City and Developer with respect to the Oaks Project Area. The City and Developer acknowledge the development and construction of the Oaks Project is a large-scale undertaking involving major investments by Developer, with development occurring over a period of years. Certainty that the Oaks 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 Developer and will provide the Parties certainty with respect to implementation of the policies set forth in the Fresno General Plan (as amended by the Plan Amendments), and the Existing City Requirements.

G. 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. For the reasons recited herein, the City and Developer have determined the Oaks Project is a development for which this Agreement is appropriate. This Agreement will eliminate uncertainty regarding Oaks

Project and certain subsequent development approvals, thereby encouraging planning for, investment in and commitment to use and develop the Oaks Project Area. Continued use and development of the Oaks 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; and, (5) Meet the goals of the Fresno General Plan to create "Complete Neighborhoods" that will reduce vehicle trips and serve all segments of the City. It is based upon these benefits to the City that the City is agreeable to proceeding with the proposed Plan Amendments, Zoning Amendments and the approval of the Oaks Project Applications and Subsequent Maps to facilitate the Oaks Project.

H. 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 Oaks Project; (2) secure orderly development and progressive fiscal benefits for public services, improvements and facilities planning for the Oaks Project Area and neighboring areas; and (3) fulfill and implement adopted City plans, goals, policies and objectives.

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

J. On _____, at a duly noticed public meeting and after due review and consideration of (i) the report of City staff on the modified Oaks Project Applications, (ii) the recommendations of the Planning Commission, (iii) all other evidence heard and submitted at the duly noticed public hearing conducted and closed on _____, and (iv) all other appropriate documentation and circumstances, the City Council introduced and subsequently on _____, 2017, adopted resolutions to: (a) adopt the updated MND pursuant to CEQA Guidelines Section 15074; (b) adopt a resolution and approve the Plan Amendment for the Oaks Project Area; (c) introduce and adopt an ordinance to approve the Zone Amendment for the Oaks Project Area; (d) introduce and adopt ordinances to approve this Agreement; and (e) authorize 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.

K. On April 19, 2017, the Planning Commission of the City recommended approval the Parcel Map Application and the Tentative Tract Map Application, subject to the express conditions of approval set forth therein and subject to the applicable appeal periods for each of the approvals.

L. The Oaks Project Applications, in the form as approved in the manner described in Recital Paragraphs J through L, are referred to herein as the Oaks Approvals.

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 Developer agree as follows:

AGREEMENT

ARTICLE 1. INTERESTS OF DEVELOPER

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

"Parcel A" means certain unimproved real property consisting of approximately 4.2 net acres, which is delineated as Parcel A on the Oaks Parcel Map.

"Parcel B" means certain unimproved real property, consisting of approximately 10.8 net acres, which is delineated as Parcel B on the Oaks Parcel Map.

"Parcel C" means certain unimproved real property, consisting of approximately 12 net acres, which is delineated as Parcel C on the Oaks Parcel Map.

"Parcel D" means certain unimproved real property, consisting of approximately 39.6 net acres, which is delineated as Parcel D on the Oaks Parcel Map. Parcel D is the property that is the subject of the Oaks Tract Map.

"The Remainder Parcel" means that certain unimproved real property, consisting of approximately 6.6 net acres, which is delineated as Remainder on the Oaks Parcel Map.

Section 1.2 Recordation of Agreement. Within ten business days following mutual execution of this Agreement by the City and Developer, the City shall cause this Agreement to be recorded in the official records of Fresno County, California (the Official Records) with respect to the Oaks Parks Area. Following the recordation of this Agreement in the Official Records, the City shall deliver to Developer a conformed copy of this Agreement evidencing the recording information.

Section 1.3 Binding Covenants. The Developer represents it has a legal or equitable interest in the Oaks Project Area and all other persons holding legal title in the Oaks Project Area are bound by this Agreement. It is intended and determined that the provisions of this Agreement shall constitute covenants which shall run with the Oaks Project Area property, and the burdens and benefits hereof shall bind an 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 thirteen (13) years following the Effective Date; provided that such period shall be extended for any events of Force Majeure pursuant to Section 12.1 and during the pendency of any legal action challenging: (a) approval of any of the Oaks Project Applications (including adoption of this Agreement); (b) the certification by the City Council of the MND, or (c) the approval of any Subsequent Maps. Any extension based upon an event described in this Section 2.2 shall be granted pursuant to the procedures set forth Section 12.2.

Section 2.3 Effect of Termination. Termination of this Agreement shall not: (a) alter, impair or otherwise affect any City Permits or earned credits for the Oaks Project that were issued by the City prior to the date of Termination; or (b) prevent, impair or delay Developer from (i) commencing, performing or completing the construction of any buildings or improvements in the Oaks Project 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 Oaks Project, 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 in the Oaks Project by Developer.

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 approved Oaks Project Applications; (b) the terms and conditions of this Agreement; and (c) the Existing City Requirements. In addition, for construction of the Community Park Amenity (defined below) the Applicable Rules include the

Community Park Specifications (defined below). In addition, with respect to the Oaks Tract 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 Oaks Project, other than: (a) the Plan Amendment; (b) the Zoning Amendment; (c) the Oaks Project Approvals; (d) Subsequent Maps; and, (d) Future Discretionary Approvals (as hereinafter defined) that the 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 of the City 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.

"Developer Approved Changes" means those amendments, revisions or additions to the City Requirements adopted or enacted after the Adoption Date that: (a) Developer elects, in its sole discretion, to have applied to the development and occupancy of the Oaks Project and the Oaks Project Area during the Term of this Agreement; and (b) the Planning 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.

"Permitted Rules Revisions" collectively means the following: (a) any Minor Changes to this Agreement that are proposed by Developer and approved by the City in accordance with Section 3.3; (b) any Future Discretionary Approvals applied for by 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 Developer pursuant to Section 15.2. Notwithstanding the foregoing, Permitted Rules Revisions shall not include any new construction plans or specifications for the Community Park (defined below) beyond those set forth in the Community Park Specifications defined below, unless such change in specification is the result of a change in state or federal law concerning improvements associated with public health and safety.

"Planning 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 in the Oaks Project: (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 in the Oaks Project.

Section 3.2 Applicable Rules.

(a) Except for the Permitted Rules Revisions and any Developer Approved Changes, Developer shall have the right to develop and occupy the Oaks Project (including the filing and attainment of approval of further Subdivision Maps) during the Term in accordance with the Applicable Rules. In the event of any conflict between the provisions in this Agreement, the Oaks Approvals and the Existing City Requirements, such conflict shall be resolved in the following order of priority: (a) first, this Agreement; (b) then, the Oaks Approvals; and (c) finally, the Existing City Requirements. Notwithstanding the foregoing, the Developer agrees to impose, for the benefit of the City, a use restriction on The Remainder Parcel that prohibits uses on such parcel as detailed on Exhibit "D-1".

(b) Except for the Permitted Rules Revisions and any 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 Oaks Project or the Oaks Project Area or (ii) modify or impair the rights of Developer under this Agreement during the Term without the 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 Oaks Project may demonstrate refinements and changes are appropriate with respect to the details and performance of the Parties under this Agreement. The Parties desire that Developer retain a certain degree of flexibility with respect to the details of the development of the Oaks Project 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 Developer finds that Minor

Changes (as hereinafter defined) are necessary or appropriate, then, upon written request by Developer, the Parties shall, unless otherwise required by Laws, effectuate such changes or adjustments through administrative amendments executed by the 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 Developer.

(b) The term "Minor Changes" collectively means: (a) minor deviations to the Oaks Approvals that are permitted under the Existing City Requirements and are reasonably approved by the Planning Director; (b) changes or modifications to the Oaks Parcel Map that are implemented by Developer prior to recordation by Developer of the final Oaks Parcel Map in the Official Records, provided that (i) the total number of Permitted Parcels established by the Oaks Parcel Map does not exceed four Parcels plus one remainder parcel and (ii) the changes and modifications are approved by the Planning Director, which approval shall not be unreasonably withheld or denied, or (c) changes or modifications to the Oaks Tract Map that are implemented by Developer prior to recordation by Developer of the final Oaks Tract Map in the Official Records, provided that (i) the total number of Permitted Parcels established by the Oaks Tract Map shall not exceed the total set forth in the Exhibit "D-1" listing of Vested Uses and (ii) the changes and modifications are approved by the Planning Director, which approval shall not be unreasonably withheld or denied.

(c) In effecting any Minor Changes, the City shall cooperate with the Developer, provided the aggregate total density and intensity of the Oaks Project are not increased, the permitted uses are not modified from those in the Oaks 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 substantive amendment which 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 Oaks Approval.

Section 3.4 Future Discretionary Approvals. Nothing in this Agreement is intended, should be construed or shall operate to preclude or otherwise impair the rights of Developer from applying to the City during the Term of this Agreement for any of the following new approvals with respect to any proposed buildings and improvements in the Oaks Project (collectively, the Future Discretionary Approvals): (a) any new variance, Development Permit, or Conditional Use Permit that is required under the Existing City Requirements; 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 Developer in accordance with the City Requirements then in effect. The approval by the City of an application by Developer for a Future Discretionary Approval shall not require an amendment of this Agreement.

Section 3.5 Authorized Code Revisions. This Agreement shall not prevent the City from applying to the Oaks Project 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 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 Oaks Project 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 Developer by this Agreement.

(d) Mandatory regulations of the State and the United States of America applicable to the Oaks Project, provided that, to the maximum extent possible, such regulations shall be construed and applied in a manner to preserve to the Developer the substantive benefits conferred to 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 is intended, should be construed nor shall require Developer to proceed with the construction of any improvements in the Oaks Project Area. The decision to proceed or to forbear or delay in proceeding with the implementation or construction of the Oaks Project or any buildings or improvements on the Oaks Project Area shall be in the sole discretion of Developer and the failure of Developer to proceed with construction of the Oaks Project or any such buildings or improvements on the Oaks Project Area shall not: (a) give rise to any rights of the City to terminate this Agreement; or, (b) constitute an Event of Default (as hereinafter defined) or give rise to any liability, claim for damages or cause of action against Developer.

Section 3.7 Hold on Certificate of Occupancy. Except as otherwise provided in Section 5.2(d), the City reserves the right to place a hold on the issuance of a Certificate of Occupancy for a building in the Oaks Project in the event the Existing City Requirements or Conditions of Approval with respect to that building have not been

substantially completed by 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 Developer requests the City approve and record a Final Map for all or some of the parcels delineated in the approved Oaks Tentative Tract Map or subsequent Subdivision Maps that conform to the uses and densities detailed in Exhibits "D-1" and "D-2" (the Applicable Parcels), Developer has not complied with the applicable conditions of approval for a Final Map, as reasonably determined by the City Engineer, 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.

ARTICLE 4. CITY PERMITS AND SUBSEQUENT MAPS

Section 4.1 Review and Processing of City Permits. Except as otherwise expressly provided in this Agreement, all City Permits required for the construction and development of the Oaks Project and any buildings and improvements therein which comply with the requirements of the Applicable Rules: (a) shall be issued over-the-counter by the Planning 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 foregoing, the City shall not impose new construction plans or specifications for the Community Park Amenity beyond those set forth in the Community Park Specifications defined below, unless such change in specification is imposed based upon a circumstance that would otherwise satisfy the standards for an Authorized Code Revision.

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, 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 on the Oaks Project over and above the Required Development Fees (as hereinafter defined), (ii) such policies, ordinances and standards shall not impose any Exaction on the Oaks Project 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 Developer of the construction of the Off-Site Improvements or substantially increase the time required by Developer for the construction of the Off-Site Improvements.

Section 4.3 Review and Processing of Subsequent Maps. Except as otherwise expressly provided in this Agreement, for all Subsequent Maps required for the Oaks 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.

Section 4.4 Duration of City Permits and Oaks Approvals. Notwithstanding any provisions in the Oaks Approvals, Subsequent Maps, the City Permits, the Existing City Requirements and the Permitted Rules Revisions that may establish earlier expiration dates for the Oaks Approvals, Subsequent Maps, 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, the Oaks Approvals, Subsequent Maps, and any City Permits for the Oaks Project shall remain valid and effective throughout the Term.

ARTICLE 5. 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 Subsequent Maps.

"City Development 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 Oaks Approvals or any City Permits or Subsequent Maps: (a) to defray, offset or otherwise cover the cost of public services, improvements or facilities; or (b) that are imposed for a public purpose.

"Community Park" means the 2.6 acre parcel depicted as Outlot A of the Oaks Tract Map.

"Community Park Amenities" means the improvements to be developed as part of the Community Park, as detailed in Section 5.2(c) below.

"Community Park Specifications" means the plans, specifications, drawings, and illustrations included as Exhibit "E" concerning the development of the Community Park, including the Community Park Amenity elements detailed on Exhibit "E". Also included as part of Exhibit "E" is an estimate of the current anticipated costs of constructing the Community Park in accordance with the Community Park Specifications and required land dedications.

"Exaction" means any exactions or mitigation measures, other than the payment of City Development Fees and City Application Fees imposed by the City or any

City Agency, as a condition of, or in connection with, the Oaks Approvals or Subsequent Maps. "Exactions" includes, without limitation: (a) a requirement for the dedication of any portion of the Oaks Project Area to the City or any City Agency; (b) an obligation for the construction of any on-site or off-site improvements, including any Off-Site Improvements; (c) an obligation to provide services; or (d) the requirement to dedicate any easements, rights or privileges with respect to the Oaks Project or any portion thereof to the City or any City Agency.

"Open Space Standards" means the Minimum On-Site Open Space standards established in Section 15-3701-J and 12-4.705 of the Fresno Municipal Code, or any subsequent ordinance or State statute addressing comparable standards or requirements.

"Phase II Trail Amenity" means the improvements to be developed as part of the trail components of the Community Park in Phase II of the Oaks Tract Map, as detailed in Section 5.2(c) below.

Section 5.2 Exactions (Including Off-Site Improvements).

(a) Oaks Tract Map Exactions. All of the Exactions that Developer shall be required to perform or caused to be performed in connection with the development, construction, use and occupancy of the portion of the Oaks Project that comprises the Oaks Tract Map, during the term of the Agreement (collectively, the Required Tract Map Exactions), and the timing requirements for the performance of such Required Tract Map Exactions, are set forth in the Conditions of Approval adopted by the City Council on May 25, 2017 for Vesting Tentative Tract Map No. 6165/UGM, which are incorporated herein by this reference and which include the development and dedication of the Community Park and related amenities more particularly detailed in Section 5.2(c) below. The Required Tract 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 Oaks Tract Map.

(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 portion of the Oaks Project that comprise Parcels A, B, C and the Remainder Parcel, except pursuant to the application of the Applicable Rules on Subsequent Maps (the "Required Other Exactions").

(c) Community Park Development and Dedication.

(i) Phase I Community Park Amenity. As an element of Phase I of the Oaks Tract Map, Developer shall develop the Community Park Amenity (except for the Phase II Trail Amenity), on an approximately 2.6 acre portion of the Outlot A depicted on the Oaks Tract Map, consistent with Community Park Specifications. Upon City's final approval of the completion of construction of the Community Park Amenity (which final approval shall not be unreasonably

withheld or conditioned), the Developer shall dedicate the Community Park to the City (except for that portion on which Developer is to construct the Phase II Trail Amenity).

(ii) Phase II Trail Amenity. As an element of Phase II of the Oaks Tract Map, Developer shall develop an approximately 0.4 acre trail amenity linking to the Community Park, consistent with the Community Park Specifications. Upon City's final approval of the completion of construction of the Phase II Trail Amenity (which final approval shall not be unreasonably withheld or conditioned), the Developer shall dedicate the remainder of the Community Park to the City.

(d) Off-Site Acquisition. City acknowledges and agrees in the event the performance by Developer of any off-site improvements listed as a Required Tract Map Exaction or a Required Other Exaction (collectively, the Off-Site Improvements) requires construction or installation on land in which neither the City or 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 Developer and, upon such acquisition, the City shall make such Required ROW available to Developer for the construction and installation of such Off-Site Improvements; and (b) provided that Developer performs its obligations under this Subsection, 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 Developer for the construction and improvement of such Off-Site Improvements. The City shall neither postpone nor refuse approval of the Final Oaks Tract Map or a Final Subsequent Map (a Final Map), nor of any City Permits, because Developer has failed to construct or install any or all of the Off-Site Improvements if neither 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 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 located outside of the Oaks Project Area that (i) is not owned by the City, any City Agency or 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. The Parties acknowledge and agree that the Community Park Amenity shall not be construed as an Off-Site Improvement.

(e) 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 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.

(f) Prevailing Wages. Developer shall: (a) be required to pay, and shall cause its contractor and subcontractors to pay, prevailing wages for the construction of (i) the Community Park Amenity and Phase II Trail Amenity, and (ii) those Off-Site Improvements that are "public works" under California Labor Code Section 1720(a) (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. 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 PW Improvements, Developer shall, or shall cause its contractor to, post at the Oaks Project Area the applicable prevailing rates of per diem wages. 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 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.

(g) Transfer of Off-Site Improvements. Upon completion by Developer of any Off-Site Improvements and upon City's acceptance of the work performed, the Off-Site Improvements shall be conveyed and transferred by 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 Satisfaction of Open Space Standards. In consideration of the development and dedication of the Community Park and related amenities, City waives the application of any Open Space Standards upon the development of the Oaks Tract Map and upon development of Vested Uses for Parcels A, B and C.

Section 5.4 City Development Fees.

(a) In General. All of the City Development Fees that Developer shall be required to pay to the City and all City Agencies in connection with the development, construction, use and occupancy of the Oaks Project (collectively, the Required Development Fees), and the timing requirements for the payment of such Required Development Fees, are determined as set forth below and pursuant to Section 5.4(b):

(i) With respect to development of the Oaks Tract Map, during the Term of this Agreement the amount of each of the Required Developer Fees that Developer shall be required to pay shall be the lesser of: (i) the Required Development Fees then charged when the application for the Vesting Tentative Tract Map for the Oaks Tract Map was determined to be complete pursuant to Government Code Section 65349, which the Parties agree was September 21, 2016; or, (ii) the amount then charged by the City or the applicable City Agency for the Required Development Fee at the time that the Required Development Fee for the Oaks Tract Map is required to be paid by Developer.

(ii) As to Parcel A and Parcel B, for a period that is the greater of: (i) four years from the recordation of the final Oaks Parcel Map; or, (ii) the vesting period established for vesting maps under the California Subdivision Map Act (as amended from time to time), the amount of each of the Required Developer Fees that Developer shall be required to pay with respect to the development of such Parcels shall be the lesser of: (x) the Required Development Fees then charged when the application for the Vesting Parcel Map for the Oaks Parcel Map was determined to be complete pursuant to Government Code Section 65349, which the Parties agree was September 27, 2016; or, (y) the amount then charged by the City or the applicable City Agency for the Required Development Fee at the time that the Required Development Fee for such Parcels is required to be paid by Developer.

(iii) As to Parcel C and The Remainder Parcel, for a period that is the greater of: (i) two years from the recordation of the final Oaks Parcel Map; or, (ii) the vesting period established for vesting maps under the California Subdivision Map Act (as amended from time to time), the amount of each of the Required Developer Fees that Developer shall be required to pay with respect to the development of such Parcels shall be the lesser of: (i) the Required Development Fees then charged when the application for the Vesting Parcel Map for the Oaks Parcel Map was determined to be complete pursuant to Government Code Section 65349, which the Parties agree was September 27, 2016; or, (ii) the amount then charged by the City or the applicable City Agency for the Required Development Fee at the time that the Required Development Fee for such Parcels is required to be paid by Developer.

(iv) The Parties acknowledge and agree that the vesting period under the California Subdivision Map Act is presently governed by Government Code Section 66452.6, and is generally a period of 24 months.

(v) For convenience of reference, the Required Development Fees determined pursuant to this Subsection (a) (i), (ii) and (iii) are listed on Exhibit "F" to this Agreement.

(b) For the duration of the vesting periods specified in Subsection (a) above, except for the Required Development Fees listed on Exhibit "F" to this Agreement, no City Development Fees shall be imposed by the City or any City Agency

during the Term of this Agreement in connection with: (a) the development, construction, use or occupancy of the Oaks Project; or (b) any application filed for any City Permit for the development, construction, use or occupancy of the Oaks Project. In addition, in consideration of the requirement to dedicate lands and develop the Community Park Amenity, payment of Quimby Parkland Dedication Fees or Park Facility Impact Fees shall be deferred until occupancy permits are obtained and payment of payment of Quimby Parkland Dedication Fees or Park Facility Impact Fees shall be subject to the application of the Park Fee Credits described in Section 5.5 below. In addition, no further dedication of lands for park or recreation purposes shall be imposed upon the development, construction, use or occupancy of the Oaks Project.

(c) Non-City Fees. Notwithstanding the provisions of Section 5.4(a), Developer shall be responsible for paying: (a) any fees 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.

Section 5.5 Park Fee Credits.

(a) Quimby Fee Credit. In consideration of the dedication of the three (3) acres of land for the development of the Community Park Amenity described in Section 5.2(c), Developer shall be provided a credit against future payment of Quimby Parkland Dedication Fees in the amount of Three Hundred Sixty Thousand Dollars (\$360,000.00) (the Quimby Fee Credit) (which credit is based on a valuation of such land at One Hundred Twenty Thousand Dollars (\$120,000.00) per acre.

(b) Park Facility Impact Fee Credit. in consideration of the development of the Community Park Amenity (including both the Phase I Community Park Amenity and the Phase II Trail Amenity), Developer shall be provided a credit against future payment of Park Facility Impact Fees in the amount of the lesser of: (i) the Cost of Construction of the Community Park Amenity (determined pursuant to Section 5.5(d) below); or, (ii) all Park Facility Impact Fees that may otherwise be assessed by the City for the development of the Oaks Project (the Park Facility Impact Fee Credit).

(c) Application of Fee Credits. All Quimby Fee Credits and Park Facility Impact Fee Credits shall be applied to future development of the Oaks Project Area, provided, however, that any Transferee (as defined below) of any rights under this Agreement shall only be entitled to the benefit of applicable Quimby Fee Credits and/or Park Facility Impact Fee Credits for Oaks Project Area developed by such Transferee if the Assumption Agreement described in Section 11.2(b) makes a specific assignment of an allocation of Quimby Fee Credits and/or Park Facility Impact Fee Credits to such Transferee.

(d) Cost of Construction of the Community Park Amenity. The Cost of Construction of the Community Park Amenity shall be determined in accordance with the following procedures. Within ninety (90) days of acceptance by the City of the relevant Phase of the Community Park Amenity, Developer shall submit to the City in electronic or hard copy format the permanent reproducible as-built or record plans of the accepted Community Park Amenity Phase, along with the project accounting reflecting final construction costs paid for such improvements. Such construction costs may also include reasonable engineering, architectural and design fees.

Section 5.6 City Application Fees. 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 5.7 City Preparation Costs. 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 Developer's liability for the city Preparation Costs is capped at the sum of \$26,530.00, and the City shall reimburse 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.

ARTICLE 6. ACTIONS BY CITY

Section 6.1 Other Governmental Permits. The City agrees to cooperate with Developer in Developer's endeavors to obtain permits and approvals as may be required from other governmental or quasi-governmental agencies having jurisdiction over the Oaks 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 transportation facilities 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 Developer.

Section 6.2 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 Developer.

Section 6.3 Indemnification.

(a) Third Party Actions. Except as provided in the last two sentences of this Section, to the furthest extent allowed by law, 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 Oaks Approvals or Subsequent Maps; or (b) claims or alleges a violation of CEQA or another law in connection with the certification of the MND by the City Council or the grant, issuance or approval by the City of any or all of this Agreement and the Oaks Approvals or Subsequent Maps. Developer's obligations under this Section 6.3(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 6.3(a) shall survive the termination of this Agreement. Notwithstanding the foregoing, Developer shall have no indemnification responsibilities under this provision with respect to any Third Party Action whose factual predicates arise from the fact that the general plan land use designations and zoning for Parcel C was revised consistent with the PC Proposed Land Use Revisions detailed in Recital Paragraph C. The foregoing sentence shall apply regardless of whether such Third Party Action is based upon allegations of violations of California Housing Element law, State or Federal Fair Housing Laws, or a CEQA claim associated with such matters.

(b) Damage Claims. The nature and extent of Developer's obligations to indemnify, defend and hold harmless the City with regard to events or circumstances not addressed in Section 6.3(a) shall be governed by this Section 6.3(b). To the furthest extent allowed by law, 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, 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 or the performance of any or all work to be done by 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). 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 Developer should subcontract all or any portion of the services to be performed under this Agreement, 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 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 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 6.3 shall survive termination or expiration of this Agreement.

Section 6.4 Insurance. From the date that a building permit is pulled for the construction of the Community Park Amenity or any Off-Site Improvements to be constructed pursuant to the terms of this Agreement until the date of City's final formal acceptance of the such improvements (the Insurance Period), 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:

(a) 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 \$1,000,000 per occurrence for bodily injury and property damage, \$1,000,000 per occurrence for personal injury, \$2,000,000 general aggregate and \$2,000,000 aggregate for products and completed operations and 25,000,000 general aggregate.

(b) 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 \$1,000,000 per accident for bodily injury and property damage.

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

(d) 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.

(e) In the event 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).

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

(g) 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, 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, Developer shall file with City a new certificate and all applicable endorsements for such policy(ies).

(h) 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 Developer's insurance shall be primary and no contribution shall be required of City. Any Workers' Compensation insurance policy shall contain a waiver of subrogation as to City, its officers, officials, agents, employees and volunteers. 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. 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.

(i) If at any time during the Insurance Period, 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 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 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 6.4 are material terms of this Agreement.

(j) If Developer should hire a general contractor to provide all or any portion of the services or work to be performed under this Agreement, Developer shall require the general contractor 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 the general contractor's certificates and endorsements shall be on file with Developer and City prior to the commencement of any work by the general contractor.

(k) 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, 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 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. Subcontractors' certificates and endorsements shall be on file with the general contractor, Developer and City prior to the commencement of any work by the subcontractor. Developer's failure to comply with these requirements shall constitute an "Event of Default" as that term is defined in Section 9.1.

ARTICLE 7. BENEFITS

Section 7.1 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 Oaks Project 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 Oaks Project 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 Tract Map Exactions or Required Other Exactions in the vicinity of the Oaks 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 and the Fresno General Plan (as amended by the Plan Amendments). Without limiting the generality of the foregoing, this Agreement helps assure the timely construction and dedication of the Community Park, which is an important amenity in achieving the General Plan goals of a Complete Neighborhood development with respect to the Oaks Project.

Section 7.2 Benefits to the Developer. The Developer has expended and will continue to expend substantial amounts of time and money on the planning and development of the Oaks Project. In addition, the Developer will expend substantial amounts of time and money for the construction of the Off-Site Improvements and other Required Exactions and for the payment of the Required Development Fees in connection with the Oaks Project, including the Community Park development. The Developer would not make such expenditures except in reliance upon this Agreement. The benefit to the Developer under this Agreement consists of the assurance the City will preserve the rights of Developer to develop the Oaks Project Area as planned and as set forth in the Oaks Approvals and this Agreement, and the right to obtain credit for certain costs of the Community Park development against subsequent Required Development Fees and Required Exactions associated with park development.

ARTICLE 8. ANNUAL REVIEW OF COMPLIANCE

Section 8.1 Annual Review. City and Developer shall annually review this Agreement, and all actions taken pursuant to the terms of this Agreement with respect to the Oaks Project in accordance with the provisions of California Government Code Section 65865.1, Fresno Municipal Code Section 15-6008, and this ARTICLE 8. The Parties recognize this Agreement and the Oaks 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, 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 8.2 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, Developer shall apply for annual review of this Agreement. Developer shall submit with such application a report to the Planning Director describing Developer's good faith compliance with the terms of this Agreement during the preceding year (the Developer Report). The 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 8.3 Finding of Compliance. Within thirty days after Developer submits the Developer Report under Section 8.2, the Planning Director shall review Developer's submission to ascertain whether Developer has demonstrated good faith compliance with the material terms of this Agreement. If the Planning Director finds and determines that 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 Developer Report, the annual review shall be deemed concluded. If the Planning Director initially determines that the Developer Report is inadequate in any respect, he or she shall provide written notice to that effect to Developer, and 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 Planning Director concludes that Developer has not demonstrated good faith compliance with the material terms of this Agreement, he or she shall so notify 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 Planning Director and the contentions of Developer with respect thereto (the Staff Report).

Section 8.4 Hearing Before City Council to Determine Compliance. After submission of the Staff Report of the Planning Director, the City Council shall conduct a noticed public hearing to determine the good faith compliance by Developer with the material terms of this Agreement. At least sixty days prior to such hearing, the Planning Director shall provide to the City Council, Developer, and to all other interested Persons requesting the same, copies of the Staff Report and other information concerning Developer's good faith compliance with the material terms of this Agreement and the conclusions and recommendations of the Planning Director. At such public hearing, 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 Developer's good faith compliance with the material terms of this Agreement. If, after receipt of any written or oral response of 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 Developer has not complied in good faith with the material terms of this Agreement, then the City Council shall specify to Developer the respects in which Developer has failed to comply, and shall also specify a reasonable time for 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 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 12.1, 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 Developer of a determination of noncompliance by Developer hereunder, or of a failure

by 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 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 8.5 Meet and Confer Process. If either the Planning Director or the City Council makes a determination that Developer has not demonstrated good faith substantial compliance with the material terms of this Agreement, the Planning Director and or designated City Council representatives may initiate a meet and confer process with 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 Planning Director or City Council has determined that 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 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. 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 8.6 Certificate of Compliance. If the Planning Director (or the City Council, if applicable) finds good faith substantial compliance by Developer with the material terms of this Agreement, the Planning Director shall issue a certificate of compliance within ten days thereafter, certifying 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. Developer shall have the right to record the certificate of compliance in the Official Records.

Section 8.7 Effect of City Council Finding of Noncompliance; Rights of Developer. If the City Council determines that Developer has not substantially complied in good faith with the material terms of this Agreement pursuant to Section 8.4 and takes any of the actions specified in ARTICLE 9 with respect to such determination of noncompliance, 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 15.5.

Section 8.8 City Costs. In the event that the Planning Director concludes in its Staff Report pursuant to Section 8.3 of this Agreement, that Developer is not in good faith compliance with the material terms of this Agreement, then 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 8.4 and Section 8.5 of this Agreement. Pursuant to this section, Developer shall remit payment to the City within thirty days of receiving an invoice from the City for its costs. Notwithstanding the foregoing, Developer shall have the right to contest any determination by the Planning Director (pursuant to Section 8.4) or the City Council (pursuant to Section 8.7) that Developer is not in good faith compliance with the material terms of this Agreement, and if Developer prevails in such contest: (a) Developer shall have no reimbursement obligation under this Section 8.8; and (b) any monies previously reimbursed by Developer to the City pursuant to this Section 8.8 shall be returned to Developer by the City within thirty days after the conclusion of the contest.

ARTICLE 9. EVENTS OF DEFAULT; REMEDIES; ESTOPPEL CERTIFICATES

Section 9.1 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 9.1(a) shall satisfy the requirements of ARTICLE 14 of this Agreement and shall include a provision in at least fourteen face 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 9.2 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 9.3 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 9.4 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 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 10. MORTGAGEE PROTECTION

Section 10.1 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 Developer conveys or pledges as security its interest in the Oaks Project or the Oaks Project Area, or a portion thereof, or interest therein, or any buildings or improvements thereon for the purpose of (i) financing the acquisition of the Oaks Project Area or the development of the Oaks Project, or any portion thereof; (ii) refinancing any of the foregoing, or (iii) obtaining financing proceeds by encumbering the Oaks Project or the Oaks Project Area or a portion thereof; and (b) a sale and leaseback arrangement, in which Developer sells and leases back concurrently therewith its interest in the Oaks Project, or a portion thereof, or interest therein, or improvements thereon for the purpose of (i) financing the acquisition of the Oaks Project Area, or the development of the Oaks Project, or any portion thereof; (ii) refinancing any of the foregoing, or (iii) obtaining financing proceeds by encumbering the Oaks Project or the Oaks Project Area 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 10.2 Mortgagee Protection. This Agreement and any covenants entered into between the Developer and City required for the approval of any Oaks Approvals shall be superior and senior to the conveyance of any Mortgage encumbering any interest in the Oaks Project or the Oaks Project Area. 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 10.3, 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 Oaks Project, the Oaks Project Area or any portion thereof or interest therein or improvement thereon, by foreclosure, trustee's sale, deed in lieu of foreclosure, or otherwise.

Section 10.3 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 Oaks Project Area, or to otherwise have the benefit of any rights of 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 11.5. 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 10.4 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 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 Developer, any Notice of Default thereafter given to Developer. From and after the delivery of a Notice Request to the City by a Mortgagee, no Notice of Default delivered

to the 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 10.4, 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 Developer encumbered by such Mortgagee's Mortgage and such Mortgagee becomes a Transferee pursuant to Section 11.5, 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 11.5.

Section 10.5 Priority of Mortgages. For purposes of exercising any remedy of a Mortgagee pursuant to this ARTICLE 10 or for becoming a Transferee in the manner specified in Section 11.5, 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 10.6 Collateral Assignment. As additional security to a Mortgagee under a Mortgage on the Oaks Project, the Oaks Project Area or any portion thereof, Developer shall have the right, without the consent of the City, to execute a collateral assignment of 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 10.7 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 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 11. TRANSFERS

Section 11.1 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 Developer of this Agreement, or any right, duty or obligation of 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 Oaks Project Area to the City or another governmental agency; (b) a Mortgage; (c) ground leases, leases, subleases, licenses and operating agreements entered into by Developer with tenants or occupants of the Oaks Project 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 Oaks Project, 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 Oaks Project Area 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 11.2 Conditions Precedent to Developer Right to Transfer. Except as otherwise provided in this ARTICLE 11, 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 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 Developer or the Transferee under the Transfer.

(b) Prior to the effective date of the proposed Transfer, 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 Quimby Parkland Dedication Fee Credits and/or Park Facility Impact Fee Credits assigned to such Transferee, if any); (b) the obligations of 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 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 11.3 Transfer to Affiliate. Notwithstanding the provisions of Section 11.2, Developer shall have the right to Transfer all of its rights, duties and obligations under this Agreement to an Affiliate of Developer. Such Affiliate shall become a Transferee upon: (a) the acquisition by such Affiliate of the affected interest of 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 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 Developer and recognizing that Transfers to Affiliates will facilitate Developer's ability to develop the Oaks Project consistent with this Agreement, the City hereby consents to any Transfer to an Affiliate in accordance with this Section 11.3 and no further consent of the City shall be required for any Transfer by Developer to an Affiliate.

Section 11.4 Transfer to Lennar Homes. Notwithstanding the provisions of Section 11.2, Developer shall have the right to Transfer the rights, duties and obligations under this Agreement pertaining to the development of the Oaks Tract Map to Lennar Homes of California, Inc. (Lennar). Lennar shall become a Transferee upon: (a) the acquisition by Lennar Homes of the property that comprises Parcel D of the Oaks Parcel Map; (b) delivery to the City of an Assumption Agreement executed by Lennar pursuant to which Lennar assumes, from and after the date that Lennar so acquires its interest, the applicable rights, duties and obligations of Developer under this

Agreement. By virtue of its demonstrated status and recognizing that Transfers to Lennar will facilitate Developer's ability to develop the Oaks Project consistent with this Agreement, the City hereby consents to any Transfer to Lennar in accordance with this Section 11.4, and no further consent of the City shall be required for any Transfer by Developer to Lennar.

Section 11.5 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 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 Developer under this Agreement. No further consent of the City shall be required for any such Transfer to a Mortgagee.

Section 11.6 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 11.2(b), Section 11.3 and Section 11.5. When and if Developer Transfers all of its rights, duties and obligations under this Agreement in accordance with Section 11.2(b), Section 11.3 and Section 11.5. Developer shall be released from any and all obligations accruing after the date of the Transfer under this Agreement. If Developer effectuates a Transfer as to only some but not all of its rights, duties and obligations under this Agreement, Developer shall be released only from its obligations accruing after the date of the Transfer which the Transferee assumes in the Assumption Agreement.

ARTICLE 12.
ENFORCED DELAY; EXTENSION OF TIME OF PERFORMANCE;
EXCUSED PERFORMANCE

Section 12.1 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 Oaks 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 12.2 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 13.
PROJECT APPROVALS INDEPENDENT

Section 13.1 Except to the extent otherwise recognized by CEQA, all City Permits which may be granted pursuant to this Agreement, and all Plan Amendments, Zoning Amendments and Oaks Approvals which have been issued or granted by the City with respect to the Oaks Project Area and the Oaks 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 Plan Amendments, Zoning Amendments, Oaks Approvals or approved Subsequent Maps. In such cases, such City Permits and Plan Amendments, Zoning Amendments, Oaks Approvals and Subsequent Maps 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, and all Plan Amendments, Zoning Amendments, Oaks Approvals and Subsequent Maps which have been issued or granted by the City with respect to the Oaks Project Area and the Oaks Project, so long as such conditions are consistent with the terms of this Agreement.

ARTICLE 14.
NOTICES

Section 14.1 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 14.2; 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: Bruce Rudd, 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 Developer: Citadel Development Group, Inc.
1589 West Shaw Avenue, Suite 8
Fresno, CA 93711
Attention: Brian Yengoyan

Section 14.2 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 15. GENERAL PROVISIONS

Section 15.1 City's Reservation of Authority. The Parties acknowledge and agree the intent of this Agreement is to protect the vested rights granted to 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 15.2 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 Developer, or their respective successors in interest in accordance with the provisions of Section 65868 of the California Government Code.

Section 15.3 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 15.4 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 Oaks Project Area 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 15.5 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 15.6 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 15.7 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 15.8 Limitation of Legal Acts. Except as provided in Section 15.7, 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 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 15.9 Validation. If so requested in writing by the 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 Developer shall be at the sole cost of the Developer.

Section 15.10 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 Developer under this Agreement.

Section 15.11 Incorporation of Attachments. All recitals and attachments to this Agreement, including all Exhibits referenced herein, and all subparts thereto, are incorporated herein by this reference.

Section 15.12 Negation of Partnership. The Parties specifically acknowledge the Oaks Project 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 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 Developer may have or acquire against any third Person with respect to the terms, covenants or conditions of this Agreement.

Section 15.13 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 Oaks Project Area 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 Oaks Project Area as private property.

Section 15.14 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 15.15 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 15.16 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 15.17 Days. Unless otherwise specified in this Agreement, the term "days" means calendar days.

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

CITY

CITY OF FRESNO,
a municipal corporation

By: _____
Bruce Rudd, City Manager

Dated: _____

ATTEST:
YVONNE SPENCE, CMC
City Clerk

By: _____
Deputy

APPROVED AS TO FORM:
DOUGLAS T. SLOAN
City Attorney

By: _____
TRACY N. PARVANIEN

Dated: _____

DEVELOPER

COURTHOUSE CALIFORNIA, LLC.,
an Arizona Limited Liability Company

By: _____

Its: _____

Dated: _____

Its: _____

Dated: _____

HIGH AND MIGHTY FARMS, INC., a
California Corporation

By: _____

Its: _____

Dated: _____

NANCY M. DUNLAP, Trustee of the
RUTH MARTORI NON-QTIP MARTIAL
TRUST, Dated July 26, 1994

Dated: _____

Exhibit "A"
Legal Description of
Oaks Project Area

Legal Description

The south half of the northeast quarter of Section 16, Township 14 South, Range 21 East, Mount Diablo Base and Meridian, according to the Official Plat of the survey of said land on file in the Bureau of Land Management.

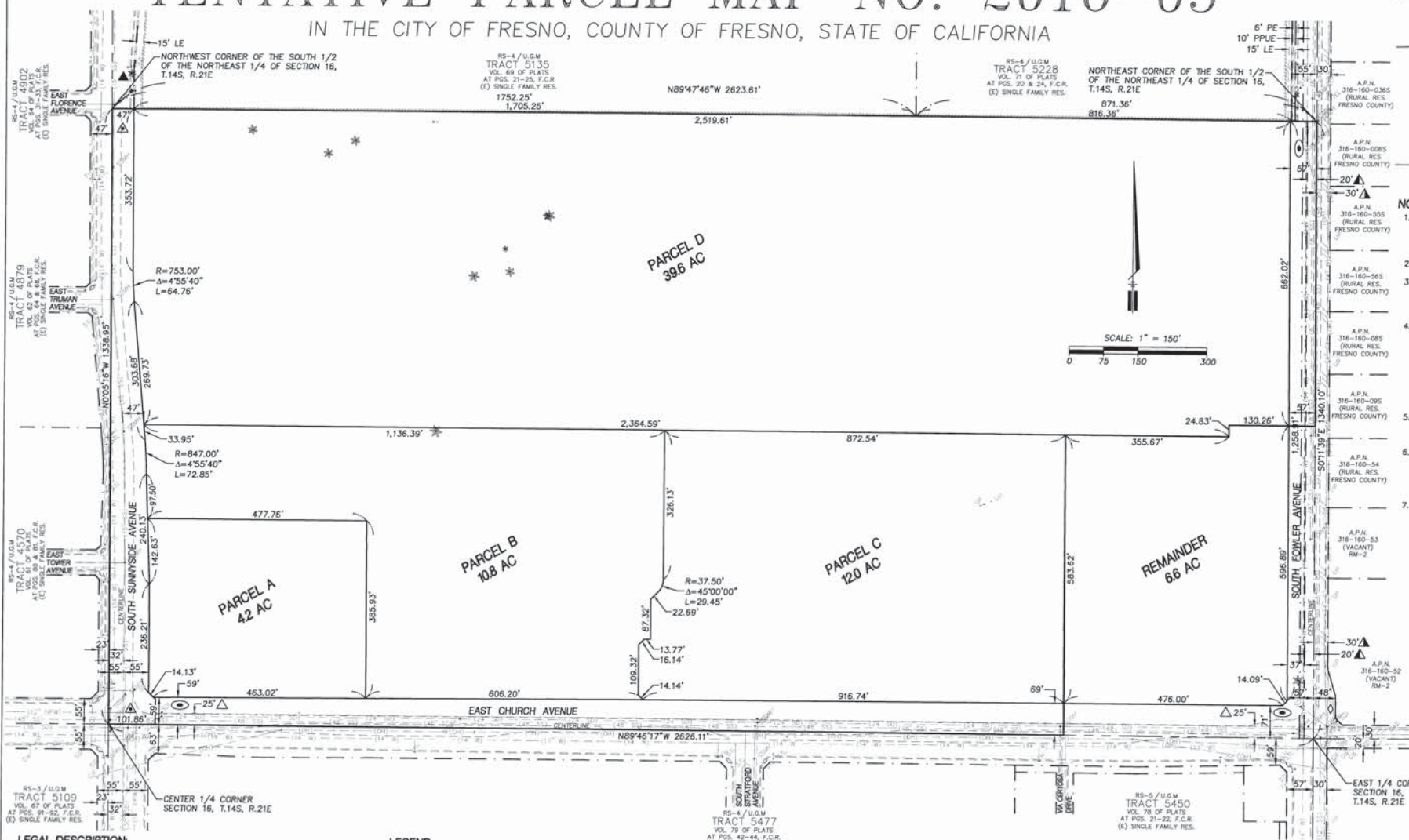
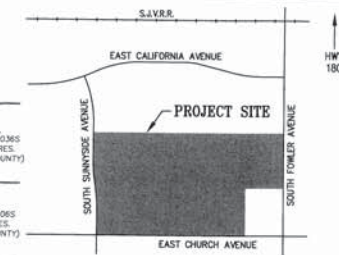
APN: 316-022-21

Exhibit "B"
Oaks Parcel Map

TENTATIVE PARCEL MAP NO. 2016-05

IN THE CITY OF FRESNO, COUNTY OF FRESNO, STATE OF CALIFORNIA

VICINITY MAP:



- NOTES:**
- EXISTING ABOVE GROUND USES OR STRUCTURES SUCH AS BUILDING, WATER WELLS, POWER LINES, TOWERS, ETC., WITHIN THE PROPOSED SUBDIVISION TO BE REMOVED.
 - THIS AREA IS NOT SUBJECT TO FLOOD INUNDATION.
 - EXISTING UNDERGROUND FEATURES SUCH AS WELLS, CESSPOOLS, SEWERS, CULVERTS, STORM DRAIN, AND OTHER UNDERGROUND STRUCTURES WITHIN THE PROPOSED SUBDIVISION TO BE REMOVED.
 - THE DESIGN OF THE PROPOSED PARCEL MAP SHALL PROVIDE TO THE EXTENT FEASIBLE FOR FUTURE PASSIVE OR NATURAL HEATING OR COOLING OPPORTUNITIES AND OTHER MEASURES THAT CONSERVE NONRENEWABLE ENERGY RESOURCES. THIS SUBDIVISION HAS BEEN DESIGNATED WITH 73% OF THE LOTS ORIENTED IN A NORTH TO SOUTH ORIENTATION TO TAKE ADVANTAGE OF NATURAL HEATING AND COOLING OPPORTUNITIES.
 - THIS SITE IS IN FLOOD ZONE "X" AND IS NOT FLOOD PRONE, PER THE FLOOD INSURANCE RATE MAPS.
 - ALL PROPOSED SEWER, WATER, STORM DRAIN, CURB, GUTTER, SIDEWALK, PAVEMENT, STREET TREES, AND STREET LIGHT IMPROVEMENTS ARE TO BE DONE IN ACCORDANCE WITH CITY OF FRESNO STANDARD SPECIFICATIONS.
 - SURROUNDING LAND USES:
 NORTH - SINGLE FAMILY RES. - R-1-7500
 EAST - SINGLE FAMILY RES. - R-1-7500
 SOUTH - SINGLE FAMILY RES. - R-1-7500
 WEST - SINGLE FAMILY RES. - R-1-7500

EXISTING TREES TO BE REMOVED
 NONE

EXISTING BUILDINGS
 NONE

EXISTING USE
 VACANT LAND

EXISTING ZONING
 RS-5 / RM-2 / UGM

PROPOSED USE
 SINGLE FAMILY RESIDENTIAL

PROPOSED ZONING
 RS-5 / RM-2 / UGM

SOURCE OF WATER
 CITY OF FRESNO

SOURCE OF SEWAGE DISPOSAL
 CITY OF FRESNO

SOURCE OF ELECTRICITY
 PG&E

SOURCE OF GAS
 PG&E

SOURCE OF CABLE T.V.
 COMCAST

SOURCE OF TELEPHONE
 AT&T

ASSESSOR'S PARCEL NUMBER
 316-022-21

SITE AREA
 GROSS 72.47 AC.
 NET 66.57 AC.

RECEIVED
 SEP 21 2016
 DRAIN - DEVELOPMENT SERVICES
 CITY OF FRESNO

YAMABE & HORN ENGINEERING, INC.
 2895 N. BURL AVE.
 SUITE 101
 FRESNO, CA 93727
 TEL (559) 244-3123
 FAX (559) 244-3120

LEGAL DESCRIPTION:
 THE SOUTH HALF OF THE NORTHWEST QUARTER OF SECTION 16, TOWNSHIP 14 SOUTH, RANGE 21 EAST, MOUNT DIABLO BASE AND MERIDIAN, ACCORDING TO THE OFFICIAL PLAT OF THE SURVEY OF SAID LAND ON FILE IN THE BUREAU OF LAND MANAGEMENT.

APN: 316-022-21

BASIS OF BEARINGS:
 ALL BEARINGS, DISTANCES AND AREAS PER ORR CALCULATED FROM RECORD DATA PER THIR MAP OF TRACT NO. 5135 RECORDED IN VOLUME 69 OF PLATS AT PAGES 21 - 25, FRESNO COUNTY RECORDS.

PREPARED BY:
 YAMABE & HORN ENGINEERING, INC.
 2895 N. BURL AVE., STE. 101
 FRESNO, CALIFORNIA 93727
 (559) 224-3123

SUBDIVIDER/OWNER:
 HIGH & MIGHTY FARMS, INC.
 4650 N. DEL MAR AVE.
 FRESNO, CALIFORNIA 93722
 PH. (559) 226-2272

LEGEND:

PPUE	PLANTING & PUBLIC UTILITY EASEMENT NOW OFFERED FOR DEDICATION FOR PUBLIC USE.	◇	PREVIOUSLY GRANTED EASEMENT FOR PUBLIC STREET & UTILITY PURPOSES PER THE EASEMENT DEED RECORDED JUNE 9, 2009 AS DOCUMENT NO. 2009-0077844, O.R.F.C.	FH	FIRE HYDRANT	○	POWER POLE
LE	LANDSCAPE EASEMENT NOW OFFERED FOR DEDICATION	△	PREVIOUSLY GRANTED EASEMENT FOR PUBLIC USE PER DEED RECORDED APRIL 16, 1887 IN BOOK 61, PAGE 32 OF DEEDS, O.R.F.C.	GW	GUY WIRE	○	DRAIN INLET
—	INDICATES DIRECTION OF DRAINAGE FLOW.	▲	PREVIOUSLY GRANTED EASEMENT FOR PUBLIC USE PER DEED RECORDED OCTOBER 15, 1887 IN BOOK 61, PAGE 573 OF DEEDS, O.R.F.C.	SDI	STORM DRAIN INLET	○	SANITARY SEWER MANHOLE
△	PREVIOUSLY GRANTED EASEMENT FOR PUBLIC STREET PURPOSES PER THE EASEMENT DEED RECORDED JANUARY 26, 1995 AS DOCUMENT NO. 98009905, O.R.F.C.	▲	PREVIOUSLY GRANTED EASEMENT FOR PUBLIC USE PER DEED RECORDED FEBRUARY 27, 1992 AS DOCUMENT NO. 92023600, O.R.F.C.	SDMH	STORM DRAIN MANHOLE	○	STORM DRAIN MANHOLE
△	PREVIOUSLY GRANTED EASEMENT FOR SEWER MAIN PURPOSES PER THE EASEMENT DEED RECORDED FEBRUARY 27, 1992 AS DOCUMENT NO. 92023600, O.R.F.C.	○	PREVIOUSLY DEDICATED FOR PUBLIC STREET & UTILITY PURPOSES PER THE MAP OF TRACT NO. 5135 RECORDED IN VOLUME 69 OF PLATS AT PAGES 21-25, F.C.R.	SSMH	SANITARY SEWER MANHOLE	○	EXISTING STREETLIGHT
▲	PREVIOUSLY DEDICATED FOR PUBLIC STREET & UTILITY PURPOSES PER THE MAP OF TRACT NO. 5135 RECORDED IN VOLUME 69 OF PLATS AT PAGES 21-25, F.C.R.	○	O.R.F.C. OFFICIAL RECORDS FRESNO COUNTY	SP	IRRIGATION STANDPIPE	○	INDICATES RELINQUISHMENT OF DIRECT VEHICULAR ACCESS RIGHTS
		○	F.C.R. FRESNO COUNTY RECORDS	STL	STREETLIGHT	○	EXISTING SANITARY SEWER
				OH	OVERHEAD ELECTRICAL	○	EXISTING WATER
				PP	POWER POLE	○	EXISTING NON-POTABLE WATER
				UP	UTILITY POLE	○	EXISTING STORM DRAIN
				TEL	TELEPHONE POLE	○	EXISTING EDGE OF PAVEMENT
				TT	TRANSMISSION TOWER	○	EXISTING CMU WALL

2895 N. BURL AVE.
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 FRESNO, CA 93727

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Exhibit "C"
Oaks Tract Map

Exhibit "D-1"
Listing of Vested Uses

Parcel A of Oaks Parcel Map	130 units of multi-family Residential Care Facility in an RM-2 Zone (with or without memory care).
Parcel B of Oaks Parcel Map	90 units of single family residence (either attached or detached) in an RS-5 Zone.
Parcel C of Oaks Parcel Map	143 units of single family residence (either attached or detached) in an RS-5 Zone.
Remainder Parcel of Oaks Parcel Map	Uses permitted as a matter of right in a CC Zone District, subject, however, to the use restrictions detailed below.
Oaks Tract Map Parcel (Parcel D of Oaks Parcel Map)	208 single family residences in an RS-5 Zone.

Use Restrictions Imposed on Remainder Parcel of Oaks Parcel Map:

LIQUOR STORES
PAYDAY/CHECK CASHING STORES
ADULT ORIENTED BUSINESS
AUTO BODY & AUTO REPAIR SHOPS
CAR WASHES
TATTOO & BODY MODIFICATION PARLORS
PIPE & SMOKE SHOPS
VAPE SHOPS
DISCOUNT CIGARETTE & TOBACCO SHOPS
BARS & NIGHTCLUBS
GUN/FIREARM SHOPS
GAS STATIONS & MINI MARTS
VIDEO GAME ARCADES

Exhibit "D-2"
Depiction of Vested Uses

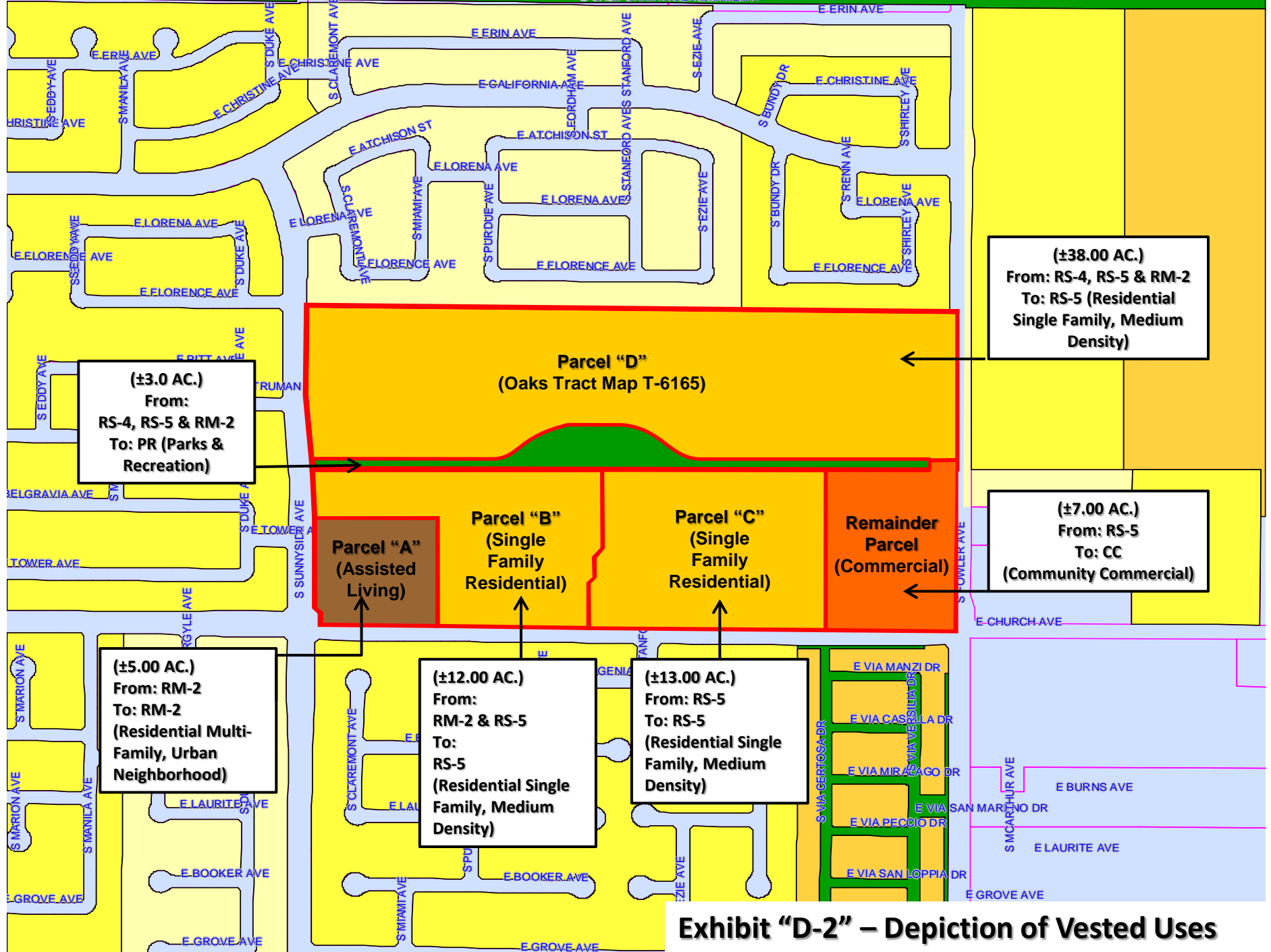


Exhibit "D-2" – Depiction of Vested Uses

Exhibit "E"
 Community Park Specifications and
 Estimate of Construction Costs of
 Community Park Amenities

Community Park Specifications:

- Exercise Equipment from Landscape Structure's Healthbeat Equipment Line
- Approximately 20 Twelve-foot Light Poles in park area.
- Approximately 6 Bench
- One Drinking Fountain
- Approximately 4 Trash Cans
- A Circular Half Court Basketball Hardtop
- Approximately 2,500 feet of 10' wide Asphalt Trail lined with Valley Oak Trees
- Approximately 45,000 square feet of Warm Season Turf
- Approximately 30,000 square feet of ASTD Groundcover
- Approximately 103 Valley Oak Trees
- Various Small Accent Trees
- Various Medium Evergreen Trees
- Various Deciduous Patio Trees
- Various Ornamental Grasses

The Oaks Projected Park Budget Phase 1 (Approximately 2.6ac)	
Item	Amount
Irrigation System	\$190,000
Landscape Installation	\$103,000
Soil Amendments	\$20,000
Fitness Stations	\$37,500
Site Furnishing	\$38,000
Landscape Maintenance	\$6,000
Hardscape	\$180,000
Electrical	\$125,000
Subtotal	\$699,500
Contingency (8%)	\$55,960
Design & Engineering	\$38,000
Total Construction Budget	\$793,460

The Oaks Projected Park Budget Phase 2 (Approximately .4ac)	
Item	Amount
Irrigation System	\$28,359
Landscape Installation	\$20,419
Soil Amendments	\$3,403
Fitness Stations	\$0
Site Furnishing	\$2,269
Landscape Maintenance	\$1,134
Hardscape	\$28,359
Electrical	\$29,494
Subtotal	\$113,437
Contingency (8%)	\$9,075
Design & Engineering	\$0
Total Construction Budget	\$122,512

Exhibit "F"
Required Development Fees

With respect to the Oaks Tract Map development, the Required Fees payable pursuant to Section 5.4(a)(i) 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.

<u>SEWER CONNECTION CHARGES</u>	<u>FEE RATE</u>
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] Service Area: Fowler	\$344/living unit
e. Wastewater Facilities Charge [3]	\$2,119/living unit
f. Fowler Trunk Sewer Interim Fee Surety [1]	N/A
g. House Branch Sewer Charge [2]	N/A
<u>WATER CONNECTION CHARGES</u>	<u>FEE RATE</u>
h. 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.
i. Frontage Charge [1]	\$6.50/lineal foot
j. Transmission Grid Main Charge [1]	\$643/gross acre (parcels 5 gross acres or more)
k. Transmission Grid Main Bond Debt [1] Service Charge	\$243/gross acre (parcels 5 gross acres or more)
l. UGM Water Supply Fee [2] Service Area: 501s	\$1,738/living unit
m. Well Head Treatment Fee [2] Service Area: 501	\$79/living unit

Exhibit "F"
Required Development Fees (cont.)

n. Recharge Fee [2] Service Area: 501	\$56/living unit
o. 1994 Bond Debt Service [1] Service Area: 501	\$93/living unit

<u>CITYWIDE DEVELOPMENT IMPACT FEES</u>	<u>FEE RATE</u>
p. Fire Facilities Impact Fee – Citywide [4]	\$539/living unit
q. Park Facility Impact Fee – Citywide [4]	\$2278/living unit
r. Quimby Parkland Dedication Fee [2]	\$1120/living unit
s. Citywide Regional Street Fee [3]	\$8,361/adj. acre
t. New Growth Area Major Street Fee [3]	\$18,790/adj. acre
u. Police Facilities Impact Fee – Citywide [4]	\$624/living unit
v. Traffic Signal Charge [1]	\$450.94/living unit
w. Street Acquisition/Construction Charge [2]	N/A

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.

[1] Deferrable through Fee Deferral Covenant.

[2] Due at Final Map.

[3] Due at Building Permit.

[4] Due at Certificate of Occupancy.

Exhibit "F"
Required Development Fees (cont.)

With respect to the Oaks Parcel Map development, the Required Fees payable pursuant to Section 5.4(a)(ii) and (iii) 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.

<u>SEWER CONNECTION CHARGES</u>	<u>FEE RATE</u>
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] Service Area: Fowler	
- Residential (SFR, Duplex, Triplex) [2]	\$344/living unit
- Commercial, Industrial, Residential (4+ units) [4]	S.T.E.P.**
e. Wastewater Facilities Charge [3]	
- Residential (SFR, Duplex, Triplex) [2]	\$2,119/living unit
- Commercial, Industrial, Residential (4+ units) [4]	S.T.E.P.**
f. House Branch Sewer Charge [2]	N/A
<u>WATER CONNECTION CHARGES</u>	<u>FEE RATE</u>
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.
h. Frontage Charge [1]	\$6.50/lineal foot
i. Transmission Grid Main Charge [1]	\$643/gross acre (parcels 5 gross acres or more)
j. Transmission Grid Main Bond Debt Service Charge [1]	\$243/gross acre (parcels 5 gross acres or more)
k. UGM Water Supply Fee [2] Service Area: 501-S	\$1,738/living unit
l. Well Head Treatment Fee [2] Service Area: 501	\$79/living unit

Exhibit "G"
Required Development Fees (cont.)

m. Recharge Fee [2] Service Area: 501	\$56/living unit
n. 1994 Bond Debt Service [1] Service Area: 501	\$93/living unit
CITYWIDE DEVELOPMENT IMPACT FEES	FEE RATE
<hr/>	
o. Fire Facilities Impact Fee – Citywide [4]	
- Residential, SFR	\$539.00/living unit
- Residential, MFR	\$439.00/living unit
p. Park Facility Impact Fee – Citywide [4]	
-	
- Residential, SFR w/ Quimby obligation satisfied	\$2,663.00/living unit
- Residential, MFR w/ Quimby obligation satisfied	\$1,853.00/living unit
q. Quimby Parkland Dedication Fee [2]	
- Residential, SFR	\$1,120.00/living unit
- Residential, MFR	\$911.00/living unit
r. Police Facilities Impact Fee – Citywide [4]	
- Residential, SFR	\$624.00/living unit
- Residential, MFR	\$508.00/living unit
s. Citywide Regional Street Fee [3]	
- Residential	\$8,361.00/adj. acre
- Residential, Multi-Family	\$15,663.00/adj. acre
t. New Growth Area Major Street Fee [3]	
- Residential	\$18,790.00/adj. acre
- Residential, Multi-Family	\$36,709.00/adj. acre
u. Traffic Signal Charge [1]	
- Residential	\$450.94/living unit
- Residential, Multi-Family	\$306.97/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).

[1] Deferrable through Fee Deferral Covenant.

[2] Due at Final Map.

[3] Due at Building Permit.

[4] Due at Certificate of Occupancy.