Recording requested by and When recorded return to:

City of Merced, a California Charter Municipal Corporation 678 W. 18th Street Merced, CA 95340

(Space Above For Recorder's Use)

(RECORD AT NO FEE PURSUANT TO CA GOVERNMENT CODE SECTION 27383)

AGREEMENT FOR USE OF CITY RIGHT OF WAY

THIS AGREEMENT FOR USE OF CITY RIGHT OF WAY ("Agreement") is made this _____ day of _____, 2023, by and between ATHOULA GROUP, LLC, a California Limited Liability Company ("Owner") and the CITY OF MERCED, a California Charter Municipal Corporation ("City"). Owner and City are sometimes referred to collectively herein as the "Parties" and individually as a "Party."

RECITALS:

The following recitals are a substantive portion of this Agreement:

- A. Owner holds fee title to the real property at and commonly known as 443 West 18th Street, Merced, California, APN 031-064-015, and more specifically described on the attached Exhibit "A" (the "Property").
- B. City holds a public service easement as described on the attached Exhibit "B" (the "City Right of Way").
- C. The Owner desires to construct and maintain certain improvements within the City Right of Way, including a grease interceptor and the necessary plumbing as described on Exhibit "C" and delineated on Exhibit "D" (the "Encroachments").
- **NOW, THEREFORE**, in furtherance of the foregoing Recitals, and for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Owner and City hereby agree as follows:

- 1. Grant of Use and Nature of Agreement. City grants Owner, its successors, assigns, licensees, suppliers, customers, tenants and employees the right to use the City Right of Way, including for the use, installation, repair and maintenance of the Off-Site Improvements as set forth more specifically in Exhibit "C" attached hereto. In so doing, and notwithstanding anything to the contrary in this Agreement, or pursuant to the course of dealings between the Parties, City expressly does not and shall not be deemed to have abandoned the City's Right of Way or waived any rights thereunder, and Owner, its heirs, successors, and assigns derive no basis for a claim of prescriptive, contractual, or other rights to maintain the Off-Site Improvements or otherwise utilize the City Right of Way except as expressly provided in this Agreement. This grant of right to use does not constitute a deed or grant of an easement or any other real property interest by the City.
- 2. <u>Term of Agreement</u>. City may terminate this Agreement with or without cause upon thirty (30) days advance written notice. If the City vacates the City Right of Way in accordance with California law, then this Agreement shall terminate and be of no further force and effect. Upon termination of this Agreement, and upon written request by the City, the Owner shall remove all Off-Site Improvements from the City's Right of Way and restore the Property back to its natural state existing prior to use by the Owner.
- 3. <u>Use of City Right of Way</u>. This grant of permission shall be subject to and subordinate to the prior continuing right of the City to use the City Right of way for public services. Any Off-Site Improvements shall not interfere with the City's existing utilities or use.
- 4. <u>Damage to City Right of Way</u>. Owner shall be solely responsible for any damage to City streets, sidewalks, curbs, utilities, or other City owned property due to the installation, maintenance, repair, or removal of its Off-Site Improvements in the City Right of Way, and shall repair, replace, and restore in kind the said damaged facilities at its sole expense.
- 5. <u>Maintenance of Off-Site Improvements</u>. Owner shall be solely responsible for any maintenance and/or repairs to the Encroachment. Owner shall maintain the Off-Site Improvements and surrounding area in good and safe condition and free from damage, to the reasonable satisfaction of the City.

- 6. <u>Hazardous Materials</u>. Owner agrees that Owner shall not bring onto the City Right of Way, or store or dispose of on the City Right of Way, nor knowingly allow others to bring onto, store or dispose on the City Right of Way, any hazardous material of any kind.
- 7. <u>Insurance Requirements</u>. Owner shall maintain a Commercial General Liability insurance policy against claims and liabilities for personal injury, death, or property damage providing protection in the minimum amount of: (i) one million dollars (\$1,000,000.00) for bodily injury or death to any one person for any one accident or occurrence and at least one million dollars (\$1,000,000.00) for property damage, or (ii) the maximum amount of such liability insurance available to Owner under Owner's combined insurance policies (including any excess or "umbrella" policies) actually maintained by Owner, whichever is greater.
 - 7.1 The City, its officers, officials, employees, agents, and volunteers, are to be covered as additional insureds on Owner's Commercial General Liability insurance policy.
 - 7.2 Owner waives any and all rights of subrogation against the City and the City's elected or appointed officials, boards, agencies, officers, agents, employees, and volunteers, which any insurer of Owner may acquire against the City.
 - 7.3 For any and all claims related to this Agreement, Owner's insurance shall be primary non-contributing.
 - 7.4 Owner shall furnish City with copies of all policies or certificates as outlined herein, whether new or modified, promptly upon receipt. No policy subject to the Owner's agreement with the City shall be canceled or materially changed except after thirty (30) days' notice by the insurer to City. Certificates, including renewal certificates, may be mailed or delivered to the City at 627 W. 18th Street, Merced, California 95340.
- 8. <u>Defense and Indemnification.</u> Owner shall indemnify, protect, hold harmless, and defend the City from any and all loss, cost, liability or expense, and from any judgments or damages to any person or property arising or resulting, directly or indirectly, from the condition of the Off-Site Improvements, or in connection with the installation and/or maintenance of the Off-Site Improvements.

- 9. <u>Representations and Warranties</u>. The Owner hereby represents and warrants that Owner has full power and authority to execute and deliver this Agreement and to make and accept the obligations contemplated hereunder.
- 10. <u>Compliance With Laws</u>. Each of the Parties shall at all times comply fully with all applicable governmental laws, ordinances, rules, codes, regulations, and permit requirements pertaining to the use of the City Right of Way and maintenance and repair of the Interceptors.
- 11. <u>Waiver</u>. The failure of any of the Parties or their successors to enforce any of the terms and provisions set forth herein shall not constitute a waiver of the right to enforce the same thereafter.
- 12. <u>Entire Agreement</u>. This Agreement constitutes the entire integrated agreement of the Parties with respect to the subject matter of this Agreement. This Agreement may not be amended or terminated except by a writing signed by authorized signatories of all Parties.
- 13. <u>Construction</u>. The section headings have been inserted for convenience only, and shall not be considered or referred to in resolving questions of interpretation or construction. Wherever the context hereof may so require, the singular shall include the plural and the masculine shall include the feminine and neuter. This Agreement shall be interpreted pursuant to its plain and ordinary meaning, as though prepared by both Parties, and in accordance with the laws of the State of California.
- 14. <u>Successors and Assigns</u>. The rights and obligations of the Parties hereunder shall be binding on and inure to the benefit of the Parties hereto and the successors and assigns of the Parties hereto. These obligations shall run with the land.
- 15. <u>Recordation of Agreement</u>. Any of the Parties may cause this Agreement or a memorandum thereof to be recorded in the Office of the County Recorder of Merced County, California.
- 16. <u>Governing Law and Venue</u>. The provisions of this Agreement shall be governed by and construed in accordance with the laws of the State of

California. Venue for any legal action arising out of this Agreement shall be the Superior Court of the County of Merced, California.

- 17. <u>Attorneys' Fees</u>. Should it become necessary to take steps to enforce the terms of this Agreement, the prevailing party shall be entitled to recover its attorneys fees and costs related to the enforcement of this Agreement.
- 18. <u>Counterparts.</u> This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

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

	CITY OF MERCED A California Charter Corporation	Municipal
	BY:City Manager	
ATTEST:		
BY:City Clerk		

APPROVED AS TO FORM:

BY: 6-6-2023
City Attorney Date

ACKNOWLEDGMENT

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

State of California	
County of	
On, 20, before me, a Notary Public, Personally appeared	
subscribed to the within instrument and ack his/her/their authorized capacity(ies), and	ctory evidence to be the person(s) whose name(s) is/are knowledged to me that he/she/they executed the same in that by his/her/their signature(s) on the instrument the the person(s) acted, executed the instrument.
I certify under PENALTY OF PERJURY under the is true and correct.	e laws of the State of California that the foregoing paragraph
WITNESS my hand and official seal.	
Signature	
Notary Public	(seal)

ACCOUNT DATA:	
BY:Verified by Finance Officer	
	PROPERTY OWNER
	BY: Signature Print Name
	Title Member
	ADDRESS: 20 West 18th Strue MERCED, CA 95340
	TELEPHONE: 209-5.80-4893

ACKNOWLEDGMENT

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

State of California
County of Merceol
On June 8, 2025 before me, R. Alejo, Notary Public
a Notary Public, Personally appeared
- Zaya Davood -
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the
(his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature

Notary Public

(seal)

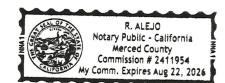


EXHIBIT A

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF MERCED, COUNTY OF MERCED, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

PARCEL 1:

ALL OF LOT 11 IN BLOCK 146, ACCORDING TO MAP ENTITLED, "SUPPLEMENTAL MAP TO TOWN OF MERCED", ORIGINALLY RECORDED MARCH 4, 1889, IN VOL. 1 OF MAPS, PAGE 12, AND NOW APPEARS IN VOL. 2 OF MAPS, PAGE 12, MERCED COUNTY RECORDS.

EXHIBIT B

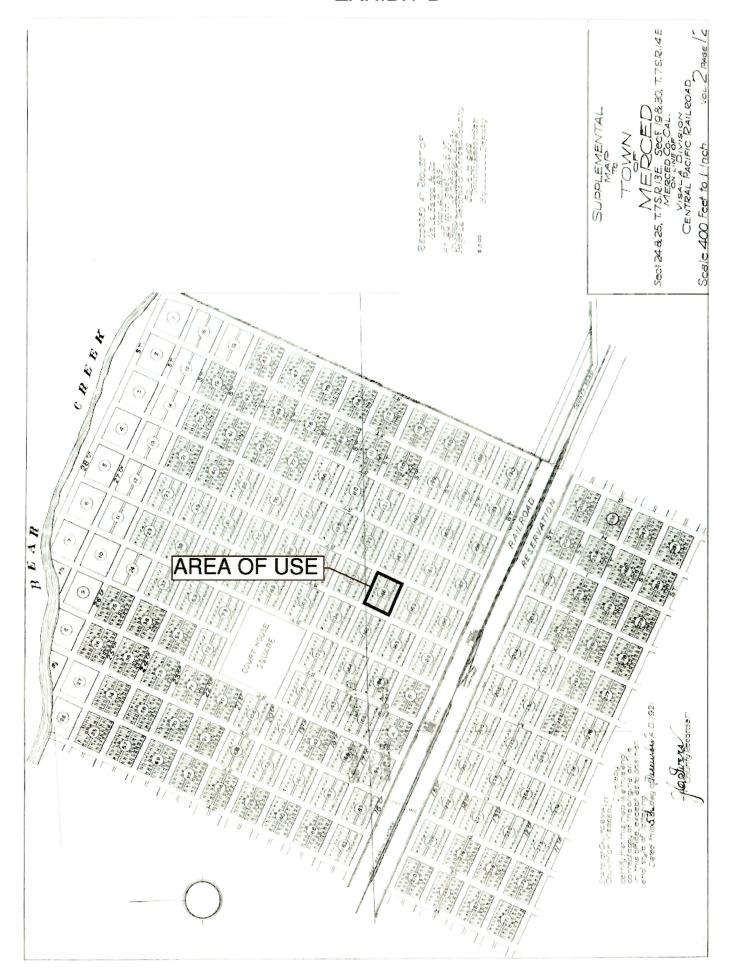


EXHIBIT C OFF-SITE IMPROVEMENTS

EXHIBIT 'A'

Grease Interceptor Location Within Alley

All that portion of the 20-foot-wide alley in Block 146 as shown on the Supplemental Map to Town of Merced recorded in Volume 2 of Official Plats at Page 12, Merced County Records, lying in Section 30, Township 7 South, Range 14 East, Mount Diablo Base and Meridian, in the City of Merced, County of Merced, State of California, described as follows:

Beginning at a point on the northeasterly line of Lot 11 in said Block 146 that lies S 65°20′00″ E 21.74 feet from the most northerly corner of said Lot 11, said northeasterly line also being the southwesterly line of said alley; thence S 65°20′00″ E 12.00 feet along said northeasterly line; thence N 24°40′00″ E 3.50 feet; thence N 65°20′00″ W 12.00 feet' thence S 24°40′00″ W 3.50 feet to the point of beginning.

The area described is intended to contain that portion of the grease interceptor as installed within said alley near the northeasterly line of said Lot 11.

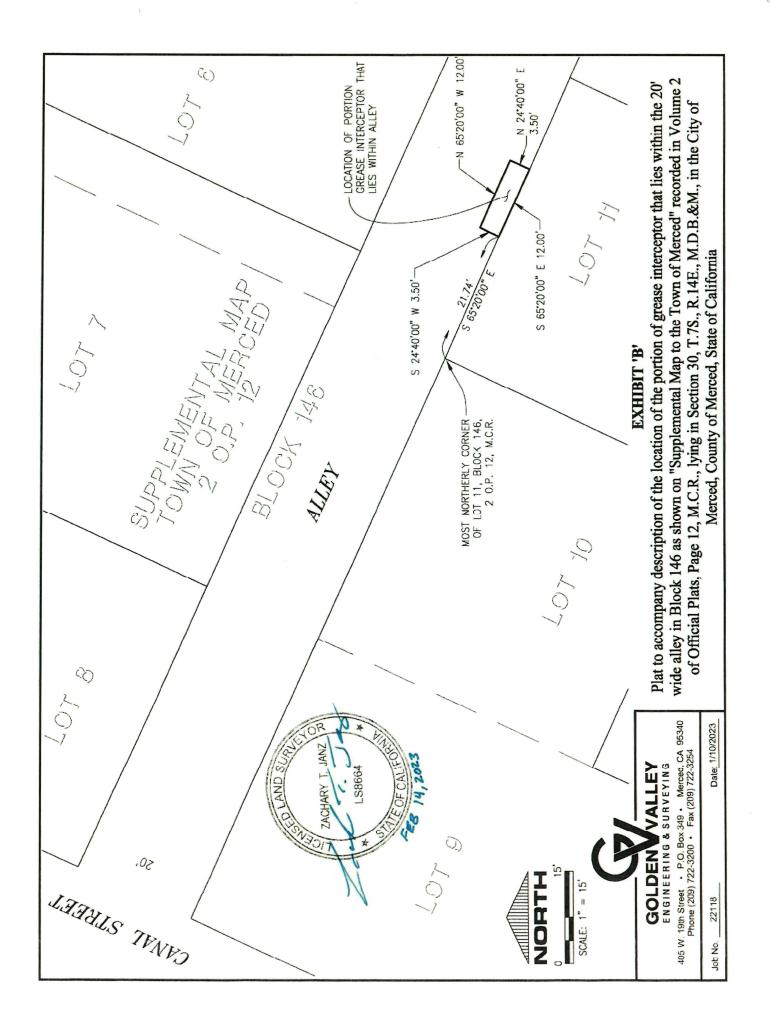
Containing 42.00 square feet, more or less.

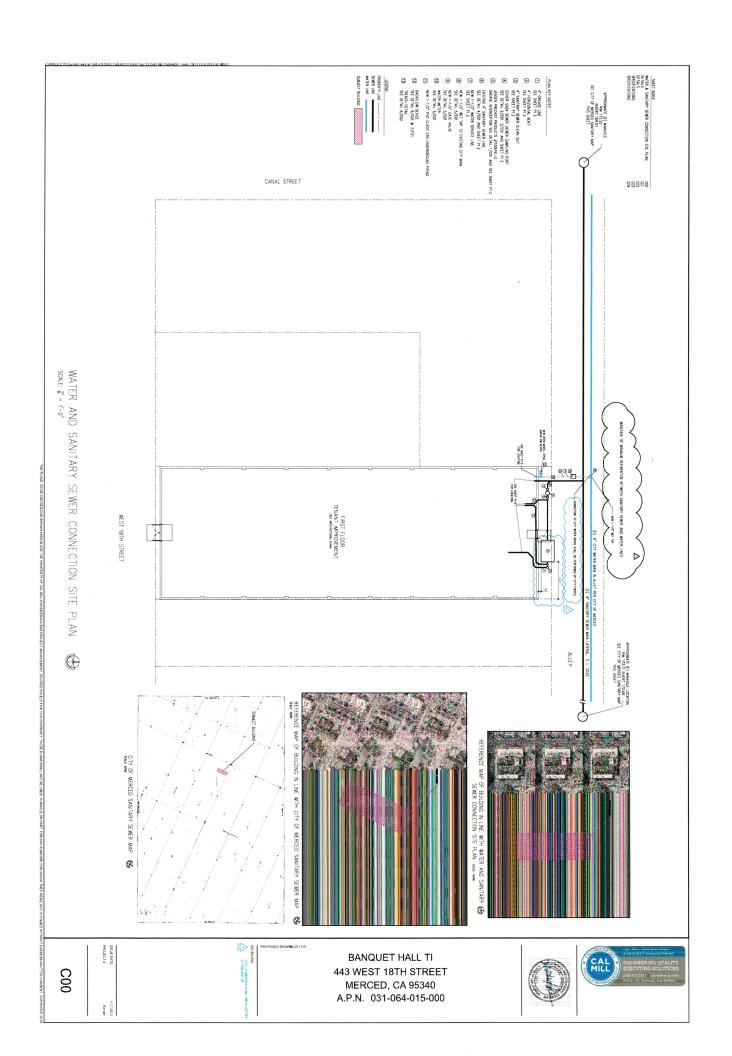
ZACHARY T. JANZ 20
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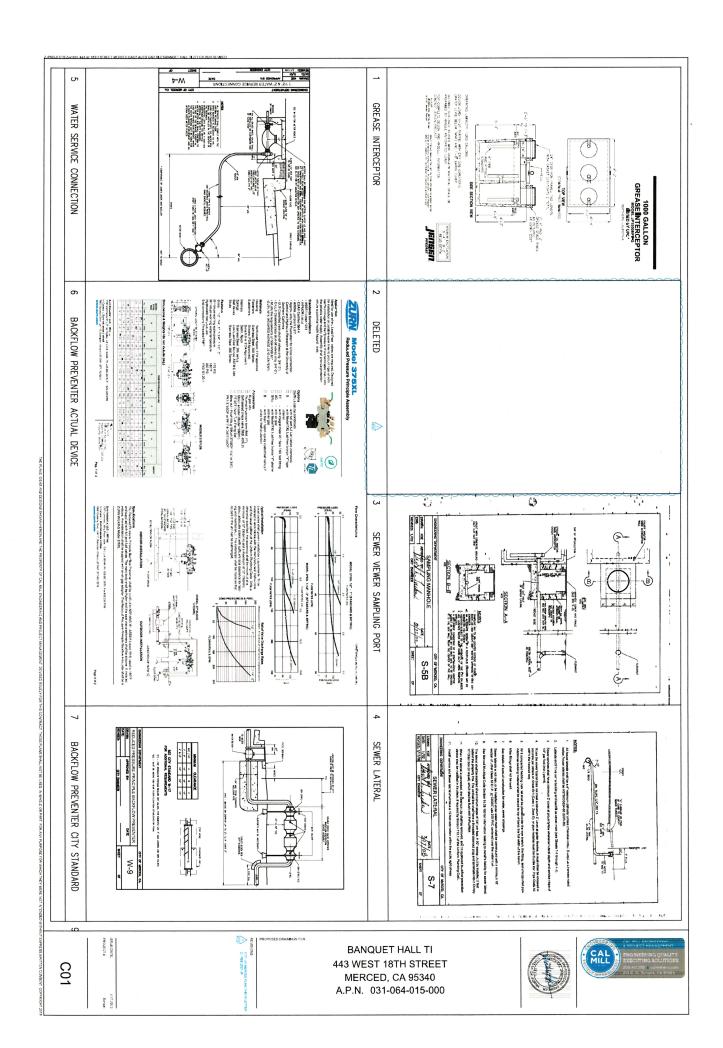
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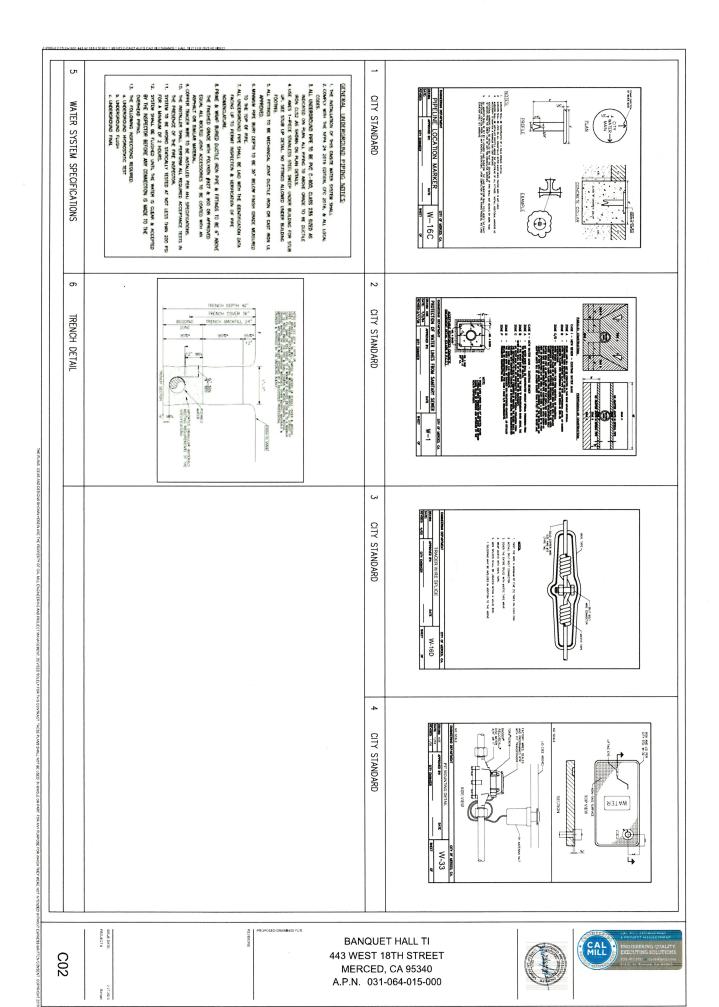
LS8664

JN: 22118 February 14, 2023









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DATE

DATE W-15 CITY OF MERCED, CA. W-22 WATER SYSTEM — CONSTRUCTION SPECIFICATIONS

GOARDS. 12(20) APPROTO BY

GREEDS, 3/17/200 ONY DAWLET Plugs. All plugs installed in fees or pipe ends shall be secured in place by means of approved mechanical devices. Concrete Thrust Blocks, Concrete thrust blocks shall be provided at all bends, less, dead-ends and the hyberts, and other points as specified by the Engineer. Thrust blocks shall be constituted in accordance with the Standard Deals and each be proved against indisturbed but Clare shall be taken to maure that no concrete will cover bot heads on fittings when thrust blocks are installed. Bedding and Compaction. See Drawings T-1 through T-3 Terenching. All tenches shall be of sufficient depth to provide a minimum cover of 30 notices reasured from the spripe to the forming prace level. Greater depth of cover state the provides so shown on the drawings or to clear the top of any valve stem or other water appurientances. Every precaution shall be taken to protect the pipe against the enhance of foreign material before the pipe is placed in the new line. At the close of the day's work, or whenever workness are absent from the (po sign the last section of page shall be phapped capped or otherwise rightly closed to prevent the entry of foreign mater of any mature. When the pipe is laid, it shall be free as possible of all foreign matter. If in the opinion of the City Engineer or his floid representable, the pipe contains did that will not be removed during the flushing operation. The indirect of the pipe shall be cleared and shabbod as necessary, with an artificial-time solution as approved by the City Engineer. Fire hydraet alkinatives include, MUELLER 48) H^{**} and the CLON*F-997* Wai Barrel Fire Hydraets. All well bare hydraets shall have a LONG BEACH ron Works "LB400" break-off check valvie, or approved equal. The Hydrath, Fren Indexes and conform to ANNA Specifications CSD and while the ANNS DRESS AND ANN of the Property that the Annotation and the ANNS DRESS AND ANN of the Property that the Annotation and weer necessary to deflect the pipe from a straight time either in the vertical or horzontal plans to obstructions, or where long radius curves are permitted, the degree of deflection at junts shall be wed by the City Engrees: DOMESTIC FLOW Mommun file flow shall be an excommended by the latest sollive oil is 0. Fire Suppression Relay Schemel, except that for single-fromly oil apple not oner to store in height in an existing developed one resurce 500° opp mommun and in risk development require. 1000 opp mommun with whom he related to press the solling of the solling o ndte: for converdal and industrial service there shall be separate fre and donestic service from the city main. tomestic for shall be determined from the maximum potential population of the logisest liard use of the area served. Design domestic flow shall be the pick hour femand using Chart 1 of PLC General Order No. 103, ClaS. Flow rate shall not exceed to fail in any pipe of maximum domestic flow. If Duttle fan Pije (DI P) is required in a main water line, for example due to stilly conflict, the DLP a thail be accomplished utilizing 45—depte stillings, and a fire hydront shall be connected at the law point in the line to allow blew off of sand build up thail be connected at the law point in the line to allow blew off of sand build up. Fige testing of hydroits shall be done in accordance with the latest estion of "Simplified Water Supply Testing for Fire Departments and Insurance Engineers" available from American Mutual Insurance Allones, 20 Nach Wacser Dring, Discopp, Illinos 60605 A copy is available for review of the Fire Department and the Engineering Department. When disinfecting new water mains there must be an air-gap at the point of discharge to the memble, catch bosin or gutter to protect the entire system, even if the discharge line is a temporary hose, regardless of whether there is a double check volve assembly in place. Nothing in these Standards or on the Plans and Specifications shall relieve the contractor from failure to foliow State and Federal health standards and requirem SYSTEM - CONSTRUCTION SPECIFICATIONS
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DAME: MATER SYSTEM — CONSTRUCTION SPECIFICATIONS

DAME: ONT DEBERT

ONT DEBERT billy collect. We have at constant of any lead to a first supplying between color and to discuss the color of OPERATION OF VALVES. The contractor will not be permitted to operate any valves in the easing system. The City of Marcad Water Department and be notified of the requirements, and they will operate the enterabry valves upon require. <u>DEMNETCHES</u>: The contextor with not make controlled to the soliding what mosts they controlled on a shifting nearested most on the occordance to CIV forther at the separate of the opposited. Only other controlled will be made to the satisfied gathern will the new system has been approved or provided believe believe used. Then provided provided them used "Entitled pool" Self-sized to the full length in the trench, enter "Entitled pool" Self-sized to its full length in the trench, recept on the final section of their looker or their justice. **DINTS.** The type of joints to be used on the respective kinds of pipe, and on valves. Attrigational shall be compression type joints installed in occordance with the manufacturer's directions. SACKFLOW PREVENTERS. Fig.L. DESTRUCTION. Any well density must be obordaned in accordance with Colifornia beariness of Water Resource Bushess No. 274-38, or install on approad reduced pressure socialize preventer in accordance with City Standards prior to connection to the City water Accordance piema
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 ent to be supplied shall be on the current list of approved backfow prevention device siles on file with the City Engineer. Complete assembly required (No Substitutions). W-17 W-25

ISSUE DATE PROJECT #

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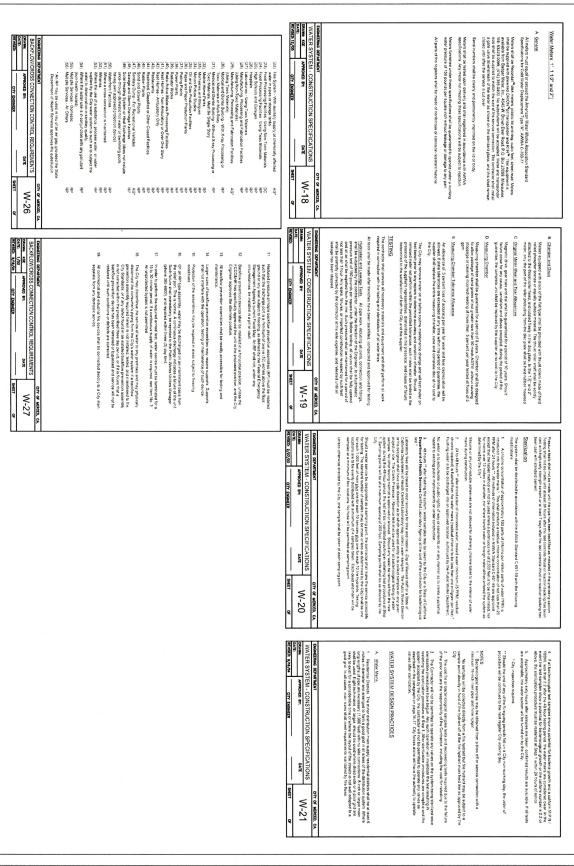
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BANQUET HALL TI 443 WEST 18TH STREET MERCED, CA 95340 A.P.N. 031-064-015-000





CITY OF MERCED WATER SYSTEM SPECIFICATIONS



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CITY OF MERCED

WATER SYSTEM SPECIFICATIONS

2.27.2023 Banqac

BANQUET HALL TI 443 WEST 18TH STREET MERCED, CA 95340 A.P.N. 031-064-015-000



