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THE CITY OF MERCED

PRE-ANNEXATION AND DEVELOPMENT AGREEMENT BY AND BETWEEN

THE CITY OF MERCED

AND

VIRGINIA SMITH TRUST

RELATING TO
THE VST SPECIFIC PLAN

(The "DEVELOPMENT AGREEMENT")

As Adopted by the Merced City Council
on Jan 16 by Ordinance No. 2561

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PRE-ANNEXATION AND DEVELOPMENT AGREEMENT
BY AND BETWEEN THE CITY OF MERCED AND
VIRGINIA SMITH TRUST RELATING TO THE VST DEVELOPMENT PLAN

THIS PRE-ANNEXATION AND DEVELOPMENT AGREEMENT is entered into this 26th day of March, 2024 ("**Execution Date**"), by and between the CITY OF MERCED, a municipal corporation and charter city ("**City**") and VIRGINIA SMITH TRUST, a trust established by the Testamentary Trust under the Will of Virginia Smith, deceased, and administered by the Merced County Office of Education Board of Trustees as Trustee ("**VST**" or "**Developer**"), hereinafter referred to as the "**Development Agreement**." For purposes of this Development Agreement, the City and VST are individually referred to as a "**Party**" and collectively as the "**Parties**."

RECITALS AND DEFINITIONS

A. The "**Project**," as referenced in this Development Agreement, consists of the development of housing, neighborhood commercial buildings, parks, agricultural and open space uses, and various public infrastructure facilities on unincorporated land located within the County of Merced ("**County**") University Community Plan North subarea of the University Community Plan area within the City's Sphere of Influence and east of Lake Road, as more particularly described and defined in Section 2.01 below.

B. The "**Property**," as referenced in this Development Agreement, consists of approximately 654 gross acres of land, identified as Assessor's Parcel Numbers (APN) 60-010-004 and 60-020-048. The Property is more fully shown on **Exhibit A** attached hereto and incorporated herein by this reference. **Exhibit B** attached hereto sets forth the legal description for the Property. VST represents and warrants to City that as of the Execution Date, VST has a legal or equitable interest in the Property.

C. Upon the effective date of the City ordinance approving this Development Agreement, this Development Agreement becomes effective, as defined in Section 1.02 below, as to the Property and the City will record it against the Property.

D. The County adopted the University Community Plan ("**UCP**") in 2001. The Property is part of the University Community Plan area (the "**UCP Area**"). On December 9, 2014, City adopted an update to the Land Use and Circulation Elements of the City's General Plan that included the UCP Area. The City's General Plan designates the Property for a variety of land uses including residential, neighborhood commercial, open space, and agricultural, and provides for the development of these uses so as to benefit the City and its residents.

E. City, County and VST have engaged in a cooperative and successful relationship to establish the UCP and the UCP North subarea in particular pursuant to the Memorandum of Understanding Between the County of Merced and the City of Merced Relating to the Referral and Review Pursuant to Government Code Section 65919 of Potential Entitlement Applications by the Virginia Smith Trust entered into June 8, 2021, attached hereto and incorporated herein as **Exhibit C** (the "**County/City Memorandum of Understanding**"). . The City of Merced has adopted the Merced County UCP as a general guide for the development of the UCP area, which area is within the City's Sphere of Influence, its Specific Urban Development Plan (SUDP)

boundary, and within a priority annexation area. The Merced County Board of Supervisors approved a modification of the UCP and adopted a Specific Plan ("VST Specific Plan") that conforms with the policies of the UCP and the County General Plan, as amended, on October 17, 2023. On October 17, 2023, the County certified the Final Subsequent Environmental Impact Report and adopted the associated Mitigation Monitoring and Reporting Plan (including all mitigation measures therein) for the project based on the 2004 UCP Final EIR (SCH: 2001021056) (the "**Final SEIR**"), adopted amendments to the County General Plan and UCP, adoption of the VST Specific Plan and rezoning, and the Development Agreement by and between the County of Merced and Virginia Smith Trust Relating to the VST Specific Plan (the "**County Development Agreement**"). The Parties have worked cooperatively with the County to implement the following entitlements and approvals::

(1) The Final SEIR and Mitigation Monitoring and Reporting Program which were certified and adopted, respectively, by Resolution No. 24-13, on (2024-13) Jan 16, 2024.

(2) Amendments to the City's General Plan, including amendment of Urban Expansion Policy 1.4b referring the to the amended UCP, and various technical amendments to City General Plan to conform to the amended UCP and VST Specific Plan, as adopted by Resolution No. 24-14, adopted on Jan 16, (2024-14) 2024.

(3) Pre-zoning of the Property as shown in the VST Specific Plan, adopted by Ordinance No. 2560, adopted Jan 16, 2024.

(4) The Specific Plan and Development Plan approved by Resolution No. 24-2024-14, adopted on Jan 16, 2024.

(5) Annexation of the Property to the City of Merced, Res 2024-15.

(6) Ordinance No. 2561 dated Jan 16, 2024 adopting this Development Agreement ("the **Adopting Ordinance**").

(7) The conditions of approval of each of the foregoing.

These approvals described in this Recital E, together with the Final Subsequent Environmental Impact Report and related Findings, Statement of Overriding Considerations and Mitigation Monitoring and Reporting Plan described in Recital F below, are referred to herein, collectively, as the "**Approvals**" or "**Project Approvals**."

F. Before approving the Project Approvals described in Recital E above, the Merced City Council: (i) reviewed and considered the significant environmental impacts of the Project and several alternatives to the Project, as described in that certain Final Subsequent Environmental Impact Report for the Project (the "**Final SEIR**"); reviewed the recommendations of the City of Merced Planning Commission on the General Plan Amendment, Annexation and Development; and, (iii) adopted Resolution No. #4127 on December 20, 2023 relying on the Final SEIR certified by the Merced County Board of Supervisors, making Findings Concerning Mitigation Measures and Alternatives (the "**Findings**"), adopting a Statement of Overriding Considerations, and adopting a Mitigation Monitoring and Reporting

Plan (the "**MMRP**"), all in accordance with the provisions of the California Environmental Quality Act, California Public Resources Code Section 21000, *et seq.* ("**CEQA**").

G. One of the principal purposes of this Development Agreement and the executed Development Agreement with Merced County is to further the cooperative relationship between the County, City and VST for the benefit of all residents of the County and City during the implementation of the Project. The City and VST are Parties to this Development Agreement to ensure the requirements of the Development Agreement Statute (California Government Code Section 65864, *et. seq.*) are satisfied. As more fully set forth below, this Development Agreement contains both covenants of a personal nature and covenants and/or servitudes that run with title to the Property.

H. This Development Agreement is intended to achieve the following purposes:

(1) that the City shall be kept and/or made "whole" by VST as to the fiscal impacts associated with the planning, development, maintenance and operation of the Property including, among other things, the costs to the City of providing the Project with public services and facilities (or interim public services and facilities if development occurs before annexation), the payment of City's costs associated with the implementation of this Development Agreement, the Project Approvals, all other planning and environmental efforts described and envisioned by this Development Agreement, the Subsequent Approvals (as defined in Section 2.03 below) and the Project, and the mitigation of the Project's environmental impacts;

(2) that once this Development Agreement has taken legal effect, VST shall have a full and vested right, throughout the term of this Development Agreement, to the Rights and Obligations as to the Property;

(3) that this Development Agreement is intended to reduce the uncertainty in planning and implementation for and, and to secure the orderly development of, the Project, ensure a desirable and functional community environment, provide effective and efficient development of public facilities, infrastructure and services appropriate for the development of the Project, ensure maximum effective utilization of resources within the County and City, and provide other significant benefits to the City and its residents;

(4) to secure Project features and Project Approval conditions above and beyond those that may be imposed by the City under applicable zoning and development regulations and the Final SEIR;

(5) to provide Developer with a reliable and definitive form of reimbursement for offsite and onsite infrastructure beyond its fair share as defined in the VST Specific Plan;

(6) that this Development Agreement is intended to be consistent with and to implement the City's General Plan, and more particularly achieve the Urban Growth Policies as set forth in Policy 1.4 of the Urban Growth and Expansion Element of the City's General Plan;

(7) that the development of the Project will enable the City to provide opportunities to house and provide services to UC Merced students and staff that are currently located outside the community or more distant from the university, and to locate existing staff and students closer to the university in order to complete a vibrant university community adjacent to the campus;

(8) that the Project will enable the County and the City and the region to substantially reduce regional vehicle miles travelled (Specific Plan, pp. 20, 36; Draft SEIR, pp. 2-25, 4-5), greenhouse gas emissions (Specific Plan, p. 84; Draft SEIR, p. 3.4-21), and to capture sales taxes that are being leaked to other communities because of the jobs-housing imbalance associated with university staff and students located outside of the City (Specific Plan, p. 124);

(9) that the development of the Project would result in the capture of an estimated 1,000 households that commute to jobs in Merced and UC Merced in particular, resulting in the reduction of Countywide vehicle miles traveled for those trips by approximately 9.2 million miles per year (Specific Plan, p. 36; Draft SEIR, pp. 3.7-18—19);

(10) that the Project will provide housing opportunities at densities that the State Department of Housing Community Development considers suitable for lower and moderate-income households in the City and County, consisting of 1,500 units, and including approximately 400 to 500 units that will be deed-restricted affordable units as described in the VST Specific Plan (Specific Plan, pp. 19, 39);

(11) that the development of the Project will generate and estimated $18.4 million of tax revenue for use by the County, City, public school districts, as well as other special districts, that all provide essential public services to County and City residents (Specific Plan, p. 124, append. N; Draft SEIR, pp. 1-20—23);

(12) that the development of the Project will maximize the value of the endowment within the land use regulations contained in the UCP and VST Specific Plan so that the benefits to eligible students are maximized and the Project will generate an endowment that will generate approximately $8-10 million annually in scholarships and grants, which will be used for college scholarships to eligible Merced County students (Specific Plan, pp. 13; Draft SEIR, pp. ES-3, 2-4, 2-11);

(13) that the Project's Conditions, Covenants and Restrictions (CCRs) to be adopted by VST will include a Community Benefits assessment on property sales which will generate between $350,000 and $500,000 annually to fund Merced County Office of Education Foundation programs, including early childhood development, education and enrichment, and to fund vocational education programs and scholarships that will greatly benefit County and City residents (Specific Plan, p. 141); and

(14) that the value of the City's obligations to the Developer pursuant to this Development Agreement are anticipated to be less than the benefits provided to the community as a whole and to the City in particular (Specific Plan, p. 124);

(15) Development Agreement complies with requirements of City Council Resolution 2005-101.

The Rights and Obligations of the Parties to this Development Agreement shall be construed and interpreted so as to give full effect to each and all of these purposes.

I. As used in this Development Agreement, "**Rights**" shall mean all of the vested and other rights and benefits of the Development Agreement, and the term "**Obligations**" shall mean all of the duties, obligations, responsibilities and other burdens of the Development Agreement.

J. It is intended by the Parties that the provision of Government Code Section 65865.3 shall operate such that following the anticipated annexation, the County and City shall have the rights and obligations set forth in Articles 1-15, below. In light of this anticipated change, the term, "**Approving Authority**" shall refer to the County during the period of time before annexation and to the City after annexation. Until such time as annexation occurs, the City has the authority to enter into this Development Agreement because the Property is located within the City's Sphere of Influence. This Development Agreement is intended to supplement the County Development Agreement and further define the City's rights and obligations with respect to the Property.

K. As used in this Development Agreement, the terms, phrases and words shall have the meanings and be interpreted as set forth in this Development Agreement (the meaning given the term in the singular shall include the term in the plural and vice versa) unless the context clearly indicates the Parties intended another meaning. To the extent that any capitalized terms contained in this Development Agreement are not defined within it, then such terms shall have the meaning ascribed to them in the Applicable Laws, other applicable law or, if no meaning is given a term in any of those sources, the common understanding of the term shall control.

AGREEMENT

NOW, THEREFORE, in consideration of the promises, covenants and provisions set forth in this Development Agreement, the Parties hereby agree as follows:

ARTICLE 1. GENERALLY

Section 1.01. Definition of "VST". As used herein, "**VST**" means Virginia Smith Trust, as that business entity existed on the Effective Date and any permitted successor, assign, or transferee of Virginia Smith Trust.

Section 1.02. Effective Date. This Development Agreement is entered into by and between the City and VST and takes legal effect on Mar 7, 2024, the date that City's adoption of Ordinance No. -2561 approving the Development Agreement takes legal effect ("**Effective**

Date"). The terms and conditions of this Development Agreement shall be for the benefit of or a burden upon the Property, shall run with title to the Property, and shall be binding upon VST and its permitted successors, assigns and transferees during their respective ownerships of any portion of the Property.

Section 1.03. Term.

Section 1.03.1. In General.

(a) The term of this Development Agreement shall commence upon the Effective Date and shall continue until, and terminate upon, the earliest of the following dates ("**Termination Date**"):

(1) 12:01 a.m. on the Thirtieth (30th) year anniversary of the Effective Date, Mar 7, 2054, unless VST requests, and the Approving Authority approves an extension of the Term for an additional 10-year period, in which case the Termination Date shall be 12:01 on the anniversary of the Effective Date, 2064. Such request for extension shall be submitted, in writing, to the Approving Authority at least 180 days, but no earlier than 365 days, before the 2054 Termination Date. The Approving Authority may deny the request if VST is not in compliance with all of its Obligations under this Development Agreement.

(2) This Development Agreement shall be terminated with respect to the property included in a recorded final subdivision map creating residential lots on any portion of the Property, provided that no further on-site or off-site infrastructure is required and no conditions remain to be satisfied before building permits can be issued for the development of lots depicted on that map. No further instrument or document shall be required for such termination provided that concurrently with or following recordation of such a subdivision map as to any portion of the Property, VST may request in writing of the City Development Services Director following Annexation, as may be appropriate, shall not unreasonably withhold a certificate of termination of this Agreement, in recordable form, solely as to the property included in such a final recorded map which meets the foregoing requirements. Upon the recordation of such a certificate, this Development Agreement shall terminate as to the land covered by such final map. If VST does not request or the City Development Services Director does not issue such a certificate, this Development Agreement shall continue to apply to any lot depicted on such a subdivision map until this Development Agreement otherwise expires or terminates according to its terms.

(b) This Development Agreement shall be of no further force, effect or operation upon the Termination Date. Subject to the provisions of Section 8.04 below, in no event shall the expiration or termination of this Development Agreement result in expiration or termination of any Approval without further action by City.

Section 1.04. Execution and Recordation of Agreement.

Section 1.04.1. Execution and Recordation. VST and City shall execute this Development Agreement in conformance with Section 15.15 of this Agreement, within five (5) business days of date of adoption of the Adopting Ordinance referenced in Recital E above. Within 10 days of execution, City shall record this agreement with the Merced County Recorder..

Section 1.04.2. Recordation. City shall deliver this Agreement to the County Recorder for recordation within 10 days following its execution.

ARTICLE 2. DESCRIPTION OF THE PROJECT

Section 2.01. In General. As used herein, "**Project**" means the development of the Property as described in the "Project Approvals" (defined in Section 2.02 below), including all on-site and off-site "**Project Facilities and Infrastructure**" (defined in Section 5.02.1 below) contemplated as part of the development of the Specific Plan and in accordance with the Phases identified in the VST Specific Plan and described in **Exhibit H**, attached hereto and incorporated herein by this reference. As set forth on pages 23 through 31 of the VST Specific Plan, the VST Specific Plan plans for the development of 425 acres of residential land uses, 113 acres of open space and parks, 20 acres for a K-8 elementary school, 44 acres for commercial development, and 79 acres for roads and other improvements with approximately 3,900 residential units (4,400 total units including anticipated density bonus units) and 862,000 square feet of commercial buildings. The 862,000 square feet of commercial development consists of 585,500 square feet of Village Mixed Use, 104,500 square feet of Neighborhood Commercial/Retail uses, and 175,000 square feet of Community Commercial retail uses. Low-, medium-, medium-high, and high-density residential development projects would be constructed along planned collector and residential roadways. A community recreation center would be provided, as well as a charter school, along with 39 mini-parks and pocket parks, two community parks (one for each development phase), and a 36-acre regional sports park.

Section 2.02. Project Approvals. As used herein, "**Project Approvals**" include, but are not limited to: (i) those provisions of the City General Plan that relate to or affect the Property, as the City General Plan existed on the Effective Date and as it may be amended from time to time consistently with this Development Agreement (the "**General Plan**"), (ii) those provisions of the Development Plan (including the Design Guidelines) that relate to or affect the Property, as incorporated into and specified in the Specific Plan, existing on the Effective Date and as it may be amended from time to time consistently with this Development Agreement (the "**Development Plan**"), (iii) the zoning of the Property, existing on the Effective Date and as it may be amended from time to time consistently with this Development Agreement thereafter (the "**Zoning**") and (iv) the other entitlements listed in Recital E above; provided that "**Project Approvals**" shall not mean or include amendments to the General Plan, UCP, or Zoning of the

Property that conflict with the Project Approvals as they existed on the Effective Date unless VST consents in writing to such conflicting amendments.

Section 2.03. Subsequent Approvals. As used herein, "**Subsequent Approvals**" mean those permits and approvals (other than the Project Approvals and amendments thereto) necessary or desirable for the development of the Project including, without limitation, those identified in Section 2.04 below.

Section 2.04. Subsequent Approval Documents. The "Subsequent Approvals" defined in Section 2.03 above include, but are not limited to the approvals identified in the Specific Plan chapter entitled, "**Plan Administration**" and include: (i) subdivision maps, parcel maps, and related or similar approvals issued under the California Subdivision Map Act, (ii) architectural review, (iii) building permits, (iv) any other discretionary or ministerial permits or approvals of County necessary or appropriate for build-out of the Project and Property, and (v) any amendments to any of the foregoing necessary or appropriate for the development of the Project.

Section 2.05. Approvals. Project Approvals, amendments to Project Approvals, and Subsequent Approvals are sometimes referred to in this Development Agreement collectively as the "**Approvals**" and each individually as an "**Approval.**"

ARTICLE 3. DEVELOPMENT OF PROJECT IN GENERAL

Section 3.01. Consideration to VST. The Parties acknowledge and agree that City's agreement to perform and abide by their respective covenants and Obligations set forth herein is material consideration for VST's agreement to perform and abide by the covenants and Obligations of VST set forth herein.

Section 3.02. Consideration to City. The Parties acknowledge and agree that VST's agreement to perform and abide by the covenants and Obligations of VST set forth herein is material consideration for City's agreement to perform and abide by the covenants and Obligations of City set forth herein.

Section 3.03. Rights of VST Generally. VST shall have a fully vested right to develop the Project and to use the Property in a manner consistent with this Development Agreement and Applicable Law.

Section 3.03.1. Vested Rights to Develop Project. During the Term of this Development Agreement, the Developer shall have a vested right to develop the Property to the full extent permitted by the Project Approvals and this Development Agreement. Except as provided within this Development Agreement, the Project Approvals shall exclusively control the development of the Property, including the uses of the Property, the density or intensity of use, the maximum height and size of proposed buildings, the provisions for reservation or dedication of land for public purposes and the design, improvement and construction standards and specifications applicable to the Project. The maximum number of residential units authorized to be constructed hereunder and the approximate acreage of commercial development, without regard to any density bonus or incentive or concession pursuant to Government Code Sections 65915-65918 or other similar legislation or regulation, is approximately 4,400 total units after application of

anticipated density bonuses and approximately 862,000 square feet of commercial/mixed use development as described in the Specific Plan, with 2,900 dwelling units in Phase 1 and 1,500 dwelling units in Phase 2 . In furtherance of the foregoing, the Developer retains the right to apportion the uses, intensities and densities, between itself and any other owners of the Property, upon the sale, transfer or assignment of any portion of the Property, so long as such apportionment is consistent with the Project Approvals and this Development Agreement. The Project shall be developed in sequential phases as described in the Specific Plan and in accordance with **Exhibit H** as further referenced below in Section 6.01.2 of this Development Agreement.

Section 3.03.2. Vested Rights to Project Approvals. Subject to the City's exercise of its police power authority and discretion, the Developer shall have a vested right to develop the Property consistent with the Project Approvals, including, but not limited to the vested right to (i) receive from the City all future development approvals for the Property that are consistent with and implement the Project Approvals and this Development Agreement; (ii) not to have such approvals be conditioned or delayed for reasons which are inconsistent with the Project Approvals or this Development Agreement unless there is a immediate public health and safety reason affecting the ability to proceed with the Project Approvals; and (iii) to develop the Property in a manner consistent with such approvals in accordance with the Project Approvals and this Development Agreement. All future development approvals for the Property, including without limitation general plan amendments, zoning changes, or parcel maps or tract maps, shall upon approval of the City be vested in the same manner as provided in this Development Agreement as for the Project Approvals.

Section 3.03.3. City Obligations Prior to Annexation. Prior to and upon Annexation, City shall abide by its Obligations as to Project Facilities and Infrastructure (as defined in Section 5.02 of this Agreement) that are located within and subject to City jurisdiction. Upon Annexation, the terms of this Development Agreement shall be operative in accordance with Government Code Section 65865.3 and City shall assume all Obligations of the County in accordance with this Development Agreement. Notwithstanding the foregoing, City and VST understand that County shall retain its Rights and Obligations with respect to the Project Facilities and Infrastructure (as defined in Section 5.02 of this Agreement) that are located within and exclusively subject to County jurisdiction, including but not limited to County obligations concerning Campus Parkway.

Section 3.04. Rights of City Generally. City shall have a right to regulate development of the Project and use of the Property in a manner consistent with this Development Agreement, the VST Specific Plan and Applicable Law. City assumes County's rights and obligations under the County Development Agreement, except for County's commitment to complete certain specified segments of Campus Parkway set forth in Section 7.10 of the County Development Agreement and Section 7.10 of this Development Agreement, upon annexation to the City of Merced pursuant to Section 3.07 of this Development Agreement. In the event of a conflict between this Development Agreement and the County Development Agreement, VST's vested rights set forth in Articles 1, 2, 3, 4 and 8 of the County Development Agreement shall control. The City's rights and obligations set forth in Articles 5, 6 and 7 of this Agreement shall control

over conflicting provisions in the County Development Agreement; provided however, that the County's rights and obligations set forth in Section 7.11 of the County Development Agreement shall control over conflicting provisions in this Development Agreement. All other rights and obligations set forth in Articles 9, 10, 11, 13, 14 and 15 of this Development Agreement shall take effect upon Annexation.

Section 3.05. Project Parameters. The permitted uses of the Property, the density and intensity of use of the Property, the maximum height and size of buildings included in the Project, and provisions for the reservation and dedication of land (collectively, the "**Project Parameters**") shall be as set forth herein and in the Project Approvals.

Section 3.06. Pre-Annexation Obligations and Commitments.

Section 3.06.1. Commitment to Initiate Annexation Proceedings. Prior to the Effective Date of this Development Agreement, the City and Developer initiated proceedings under the Cortese-Knox-Hertzberg Act (California Government Codes Sections 56000, *et seq.*), including Section 56748 relating to annexation of eligible properties adjacent to UC Merced for the annexation of the Property (the "**Annexation**"). City and Developer agree to take such subsequent actions as may be reasonably required to complete the Annexation of the Property under such conditions as are imposed by the Merced County Local Agency Formation Commission ("**LAFCO**") and reasonably acceptable to Developer and the City. The City and Developer acknowledge that it is their mutual intent to accomplish the annexation of the Property as soon as possible. The City and Developer shall determine the timing of such annexation to coincide with the Developer's development of the Property, the annexation of UC Merced and in a manner that is mutually acceptable to both Developer and the City. Absent amendment of this Agreement, the City and Developer shall work in good faith to process approvals Annexation of all the Property shall be completed within one (1) year of the Effective Date, subject to the City Council's and LAFCO's discretion. If Annexation does not take effect within one (1) year of the Effective Date, then VST and City agree to work in good faith to negotiate an Out of Boundary Service Agreement for the use of City utilities and services, and the establishment of the Financing Mechanisms described herein in accordance with the City General Plan, subject to the City Council's discretion and any applicable LAFCO approvals. Notwithstanding the foregoing, in the event that the Parties agree to an Out of Boundary Service Agreement for utilities and services other than the provision of sewer and water, then the City agrees to initiate negotiations for an amendment to the County/City Tax Sharing Agreement. In such event, the County would adopt applicable Financing Mechanisms in accordance with the terms of the County Development Agreement.

Section 3.06.2. Effectiveness of Project Approvals. The parties acknowledge and agree that the Project Approvals are material to the City's agreement to annex the Property to the City and that the City is relying on the Project Approvals being implemented through to construction as a condition to agreeing to the Annexation. As a condition precedent to completion of Annexation, the Parties agree that they shall not take any action to modify or overturn the Project Approvals, or impede their

implementation, nor take any other action inconsistent with the Project Approvals and the effectiveness of this Agreement as a development agreement.

Section 3.06.3. Developer's Obligation to Prepare Annexation Application. Developer shall prepare the Annexation Application in accordance with LAFCO's rules and procedures including the following information: (i) a statement of the nature of each proposal; (ii) maps and legal description of proposed boundary change; (iii) any data and information requested by LAFCO; (iv) environmental documents; (v) necessary fees. As part of the VST Specific Plan to support the Annexation Application, VST has prepared a plan for extending City public services into the territory to be annexed, consistent with Government Code Section 56653(b), that includes: (i) enumeration and description of the services currently provided or to be extended to the affected territory; (ii) level and range of those services; (iii) an indication of when those services can feasibly be extended to the affected territory, (iv) if new services are proposed; (v) identification of improvements or upgrading of structures, roads, sewer or water facilities, or other conditions the City would impose or require within the affected territory if the change of organization or reorganization is completed; and (vi) information with respect to how those services will be financed. The Parties agree that the plan for public services is adequate for the purposes of the LAFCo Annextion Application.

Section 3.06.4. City's Duty to Cooperate. In reliance upon the representations and covenants herein, the Parties agree to support the Annexation of the Property to the City, including to cooperate in: (i) providing for the orderly transfer of jurisdiction over the Project from the County to the City to avoid duplication of effort and any delay in processing occasioned by the Annexation; and (ii) completing the Annexation, subdivision and development as contemplated by this Development Agreement. City shall cooperate and assist in the processing of the Annexation before LAFCO by timely taking the following actions:

(i) Providing all information reasonably required or requested by LAFCO with respect to the Annexation including, without limitation, a Plan of Services providing information to LAFCO with respect to the provision of municipal services to the Property by the City; and

(ii) Providing a written statement of support for the Annexation to LAFCO prior to the LAFCO public hearing.

ARTICLE 4. APPLICABLE LAW

Section 4.01. In General.

Section 4.01.1. Applicable Law Defined. Except as the Parties may otherwise agree, the rules, regulations and official policies applicable to the Project and the Property during the Term of this Development Agreement shall be those set forth in this Development Agreement and, except as otherwise set forth herein, the rules, regulations and official policies of City (including the plans, municipal codes, ordinances, resolutions

and other local laws, regulations, capital facilities fees and policies of City) in force and effect on the Effective Date (collectively, "**Applicable Law**").

Section 4.01.2. Approvals as Applicable Law. Applicable Law shall include, without limitation, Approvals as they may be issued from time to time consistently with this Agreement.

Section 4.02. Application of Other City Laws.

Section 4.02.1. No Conflicting City Laws.

(a) Upon Annexation, City may apply to the Project and the Property any rule, regulation or official policy of City (including any plan, municipal code, ordinance, resolution or other local law, regulation, capital facility fee or policy of City) (each a "**City Law**") that does not conflict with Applicable Law or this Development Agreement. City shall not, however, without the written consent of VST apply to the Project or the Property (whether by initiative, referendum, imposition of mitigation measures under CEQA or otherwise) any City Law that is in conflict with Applicable Law or this Development Agreement. Notwithstanding the foregoing, City Laws and regulations shall apply unless this Development Agreement provides that another Law or regulation shall apply to the Project in accordance with the County/City Memorandum of Understanding and Applicable UCP policies.

(b) If City attempts to apply to the Project a City Law which Developer believes conflicts with Applicable Law or this Development Agreement, VST shall give City written notice describing the legal and factual basis for VST's position. The City and VST shall meet and confer within 30 days of City's receipt of such written notice to seek to resolve any disagreement. If no mutually acceptable solution can be reached, either Party may take such action as may be permitted under Article 11 below.

(c) Notwithstanding the foregoing, the City and VST acknowledge and agree that upon Annexation, no new conditions would be permitted to be imposed on the Project through future City staff discretionary reviews.

Section 4.03. Uniform Codes and Standard Specifications.

Section 4.03.1. Uniform Codes. Nothing herein shall prevent City from applying to the Project standards contained in uniform building, construction, fire or other uniform codes, as the same may be adopted or amended from time to time by City, provided that the provisions of any such uniform code shall:

(1) Apply to the Project only to the extent that such code is in effect on a City-wide basis; and

(2) With respect to those portions of any such uniform code that have been adopted by City without amendment, be interpreted and applied consistently with the generally prevailing interpretation and application of such code in California.

Section 4.03.2. City Application of City Standards. In accordance with the terms of the County/City Memorandum of Understanding and this Development Agreement, the City shall apply to the Project the City's standards and specifications for public improvements (*e.g.*, streets, storm drainage, parking lots, and driveway widths) adopted or amended from time to time by the City, provided that such standards and specifications shall apply to the Project and the Property only to the extent that they are in effect on a City-wide basis, provided that such City standards and specifications are consistent with the standards and requirements in the Specific Plan, and provided that City may lawfully do so. City agrees to impose the Specific Plan design standards as in conformance with the City General Plan and the City's Improvement Standards. City agrees to impose the road sections and design standards applicable to City streets as set forth in the Specific Plan.

Section 4.03.3. Development Standards in Excess of Adopted City Building Code. The VST Specific Plan contains requirements that exceed certain standards in the City's adopted buillding codes. Upon Annexation, City agrees to enforce the standards in the Specific Plan relating to energy conservation, onsite energy production, use of electricity only for residential buildings, if deemed necessary for the effective implementation of the Project design features and the Project Mitigation Measures, and to the extent allowed as a matter of law.

Section 4.03.4. City Building Permits. Upon Annexation, City shall require all building permits to comply with the UCP Update, Specific Plan, Final SEIR, design regulations, and other building design requirements adopted with the Project Approvals, including as to all public buildings constructed on the Property. City shall expedite the processing of Project building plans, and engineering improvement plans.

Section 4.04. State and Federal Law.

Section 4.04.1. Change in City Law. Nothing herein shall prevent City from applying to the Project or the Property any change in City Law required by: (i) state or federal law; or (ii) any governmental agency that, due to the operation of state law (and not the act of City through a memorandum of understanding, joint exercise of powers or other agreement entered into after the Effective Date), has binding legal authority on City.

Section 4.04.2. Compliance with Applicable Laws. If the application of such changes prevents or precludes performance of one or more provisions of this Development Agreement, City and VST shall take any and all such actions as may be necessary or appropriate to ensure the provisions of this Development Agreement shall be implemented to the maximum extent practicable.

ARTICLE 5. FINANCIAL COMMITMENTS OF, CITY AND VST

Section 5.01. In General.

This Article 5 establishes a framework for the imposition and allocation to the extent permitted by law of fees, taxes, assessments and other revenues to be generated and/or paid by

the Project and/or the Property. The provisions of this Article 5 are intended to prevent the Project from resulting in negative fiscal impacts on the City as determined by the fiscal impact analysis prepared for the Project; to facilitate the construction, operation and maintenance of infrastructure and facilities to avoid or limit the physical impacts of development; and to assist in the development of the Project so as to provide long-term fiscal and other benefits to City, including increased employment opportunities, an increased tax base and revenues to City, and an enhanced quality of life for the City's residents.

Section 5.02. Basic Purposes.

Section 5.02.1. General.

(a) This Article 5 is intended to serve three basic purposes: first, that there shall be no cost to City for the construction of the fair share allocation of public facilities and infrastructure needed to serve the Project or the Property or for the provision of municipal services to the Project or the Property as discussed in the Specific Plan ("**fair share**"), including the operation and maintenance of facilities and infrastructure to serve the Project (collectively, the "**Project Facilities and Infrastructure**"); second, that the Project shall establish financing mechanisms for the cost of public services and the maintenance of public facilities (collectively, the "**Financing Mechanisms**"); and, third, that the City shall establish reliable and predictable mechanisms for the reimbursement of Developer's costs of construction of infrastructure that exceeds its fair share contribution, the reimbursement of Developer's cost of construction of infrastructure that is financed by City Public Facilities Impact Fees, Sewer System Facilities Charges, Water Capital Facility Charges, or Specific Plan impact fees, including but not limited to the reimbursement of Developer's costs through direct payments, building permit fee credits or other third party payment of applicable impact fees, in accordance with the Specific Plan.

(b) The cost of providing Project Facilities and Infrastructure to the Project or the Property shall be consistent with the following principles: Except as otherwise specifically permitted by this Development Agreement and not in limitation of any other provisions hereof, (i) there shall be a reasonable relationship between any municipal cost required to be borne by the Project and the type of development within the Project to which such cost is attributable; (ii) there shall be a reasonable relationship between the need to incur any such municipal cost and the type of development within the Project to which such cost is attributable; (iii) no municipal cost required to be borne by the Project shall exceed the estimated reasonable cost of providing the service or facility to which such municipal cost relates; (iv) any municipal cost borne by the Project for Project Facilities and Infrastructure in excess of the Project's "fair share" cost, City from impact fee program reserves funded by impact fees paid by other properties that benefit from said improvements; and (v) with respect to any fee Developer is required to pay in order to finance Project Facilities and Infrastructure, there shall be a reasonable relationship between the amount of the fee and the cost of the Project Facilities and Infrastructure funded by such fee.

(c) As used herein, the term "Project Facilities and Infrastructure" shall include public facilities and infrastructure only to the extent they serve the Project, and shall not include public facilities or infrastructure to the extent such facilities or infrastructure

serve projects or areas other than the Project or the Property, unless the public facilities and infrastructure serving the Project or Property are required to be oversized to serve other projects or areas in accordance with the provisions of Section 6.02.2 below.

Section 5.02.2. Financing of Infrastructure; Operation and Maintenance. Prior to or concurrent with the recordation of the first final vesting tentative subdivision map(s), City shall establish and form Financing Mechanisms to finance Project Facilities and Infrastructure and Project-related services or the operation and maintenance portion of the Project Facilities and Infrastructure, such as a Mello-Roos District ("**CFD**"), Landscaping and Lighting Districts, or other Maintenance Assessment Districts, in accordance with the following principles:

(a) A community facilities district ("**CFD**") shall cover the cost of maintaining and operating all parks (but not the Community Recreation Center), trails, open space, parkway strips, street trees, street lights, park facilities, storm drainage facilities, bioswale, medians and roundabouts. The City shall establish a special CFD for the Project site. (Specific Plan, p. 120.)

(b) Any costs associated with such mechanism shall be borne by the Project, which may be reimbursed by the financing mechanism.

(c) Reserved.

(d) A Master Homeowner's Association, established under the Davis-Sterling Act of 2014 (Cal. Code Regs. § 2792.32(a).) shall be used for the operation and maintenance of the Community Recreation Center and any private common area appurtenant to the entire Specific Plan area. Other Homeowners Associations or Property Owners Associations shall be formed for the maintenance of any private common area attributable to an individual component of the Project.

(e) The City's Sewer and Water funds, and the Project sewer and water rates shall be used for the operation, maintenance and replacement of all water and sewer facilties, including the water well, water transmission lines, water distribution lines, service laterals (to the property line), sewer pump station, sewer collection lines, sewer force main, pressure sustaining valves, etc.

Section 5.03. Establishment of Financing Mechanisms.

Section 5.03.1. Procedures for Establishment. The establishment of any mechanism to finance the operation or maintenance of Project Facilities and Infrastructure (each a "**Financing Mechanism**") shall be initiated upon VST's written request to the City's Finance Director. Such request shall outline the purposes for which the Financing Mechanism is to be established and the general terms and conditions upon which the establishment of the Financing Mechanism will be based. City's consideration of VST's request shall be consistent with the criteria set forth in Section 5.02 above. If VST requests the City form a Mello-Roos Community Facilities District to finance the operation or maintenance of Project Facilities and Infrastructure, City shall use its best efforts to cause such district to be formed and special taxes to be levied to the extent

permitted by Applicable Law, provided that all formation costs shall be borne by Developer.

Section 5.03.2. Nature of City Participation. City's participation in the formation of any Financing Mechanism approved by City (and its operation thereafter) and in the issuance of any Project Debt approved by the City shall include all of the usual and customary public agency functions associated with such tasks including, without limitation, the formation and administration of special districts; the issuance of Project Debt; the monitoring and collection of fees, taxes, assessments and charges such as utility charges; the creation and administration of enterprise funds; the enforcement of debt obligations and other functions or duties authorized or mandated by Applicable Law.

Section 5.04. Imposition of and Increases in Fees, Taxes, Assessments and Other Charges.

Section 5.04.1. Taxes and Assessments. During the Term of this Development Agreement, VST shall be bound to and shall not protest, challenge or cause to be protested or challenged, any City tax in effect on the Effective Date.

(a) City may apply to the Project or the Property any tax not in effect on the Effective Date only if such tax is:

(1) A tax, assessment or fee levied on developed property only (and not on properties for which no final map has been recorded) in connection with the establishment or implementation of a Financing Mechanism in accordance with the provisions of Sections 5.02 or 5.03, above;

(2) A tax, assessment or fee to which VST agrees; or

(3) A tax, assessment or fee levied on a City-wide basis that does not have a disproportionate impact on the Project (*e.g.*, taxes levied to support general obligation bonds, business license taxes).

(b) City may increase any tax applicable to the Project or the Property (whether in force and effect as of the Effective Date or not in force and effect as of the Effective Date but imposed against the Project in accordance with this subsection (b)); *provided, however*, that any taxes or assessments levied or imposed by or through any Financing Mechanism shall be imposed only to the extent necessary to ensure the adequate operation, maintenance, depreciation and replacement of Project Facilities and Infrastructure.

(c) No assessment shall be imposed on the Project or the Property other than through a Financing Mechanism as set forth in Section 5.03.

(d) No new debt shall be issued that affects the Project or the Property without VST's approval, unless the approvals otherwise conform with the requirements of Articles XIII C and D of the California Constitution and any requisite voter approval is achieved, in which case the City may issue debt even if VST votes against the matter.

Section 5.04.2. Processing and Plan Check Fees. Developer shall pay those planning, engineering, building permit, inspection and plan check fees and charges, but excluding sewer and water impact fees governed by Section 5.04.2(c) required by City for processing applications and requests for Subsequent Approvals under the applicable regulations in effect at the time such applications and requests are submitted to City. Except as otherwise specifically stated below, any financial obligation imposed against or applied to the Project shall be consistent with the provisions of controlling California law, including California Government Code Section 66000, *et seq.*, California Constitution, Article XIII A and its implementing statutes. VST shall pay City reasonable staff and consultant time and other reasonable costs (including reasonable consultant costs) associated with City's approval and implementation of this Development Agreement and the Project. Notwithstanding the foregoing, Developer shall pay the costs of submitting planning, engineering and design plans to an outside contractor for expedited review, if City makes this option available.

Section 5.04.3. Project Development/Construction Fees. Fees, taxes, assessments and other charges in effect upon the adoption of the Development Agreement related to development and construction of the Project shall be imposed on the Project.

Section 5.04.4. City Development Impact Fees. Consistent with the terms of the Development Agreement, City shall have the right to impose only such development fees ("**Development Fees**") as have been adopted by the City as of the Effective Date, as set forth in **Exhibit D** attached hereto and incorporated herein by this reference. Such Development Fees shall include VST Specific Plan impact fees for parks and traffic impacts as identified on **Exhibit E** attached hereto and incorporated herein by this reference. The Development Fees shall be paid at the time and in the manner set forth in **Exhibit F** which outlines the "Timing of Payment of Impact Fees; Adjustments" attached hereto and incorporated herein by this reference. This Section 5.04.04 shall not prohibit City from imposing on Developer any fee or obligation that is imposed by a regional agency or the State of California in accordance with state or federal obligations and required to be implemented by City.

Section 5.04.5. Amendment of Development Fees. Prior to the recording of the first final map for the project, City shall amend its Development Fees to implement the special parks and traffic fees for the VST project in accordance with the Specific Plan. If City amends any existing Development Impact Fee ("**DIF**") program to include additional projects or costs for the benefit of the Project (either new projects or increased costs for projects included in the analysis supporting existing fees) for improvements necessary to satisfy Project requirements, Developer will be required to pay the amended fees. In such event,credits applied towards Project Facilities and Infrastructure costs advanced by Developer shall made by direct payments to developer under a reimbursement agreement, or, at developers option, to building permits are issued or fees are otherwise due and shall arise only from Developer-funded construction of infrastructure or community facilities included in the project list on which a particular fee was based. Credits applied when building permits are issued or fees are otherwise due

pursuant to this section shall be adjusted for inflation consistently with such adjustments of the fees against which credits are allowed.

Section 5.04.6. Fee Credits and Reimbursements. City acknowledges that Developer may dedicate property and install infrastructure improvements beyond its "fair share" cost, and/or install improvements that are funded from the City's PFFP and the Specific Plan impact fees. The City agrees to grant fee credits and reimbursements, funded by Development Impact Fees, Sewer System Facilities Charges, Water Capital Facility Charges, or Specific Plan impact fees or other sources paid by Developer and other developers, including, but not limited to traffic impact fees, park fees, fire fees, police fees, and sewer and water Facility fees. If and to the extent that the Developer constructs or installs any infrastructure and/or facilities that have a capacity or size in excess of the Project Infrastructure and Facilities required to serve the Project or mitigate its impacts, or installs Project Infrastructure and Facilities that are funded with PFFP fees or Specific Plan fees and one or more undeveloped properties will be benefitted by such infrastructure and facilities as provided by City Municiple Code Section 15.08.130, the City shall enter into a reimbursement agreement with the Developer, in a form mutually acceptable to City and Developer, which provides for the reimbursement of all excess costs and expenses incurred by the Developer in constructing such improvements in accordance with Government Code Section 66485, *et seq*. and in accordance with Section 5.05.3 below.

Section 5.04.7. Public Facility Financing Plan Fees. Upon annexation, the Project shall be subject to City Public Facility Financing Plan (PFFP) fees for fire, police, public works and information technology adopted as of the Effective Date of this Development Agreement to the extent provided in the Specific Plan as set forth in **Exhibit D**. City agrees to amend the PFFP for the Project to provide for traffic and park fees consistent with the Specific Plan.

Section 5.04.8. Water and Sewer Rates. The City's rates for monthly retail utility service (*e.g.*, water and sewer) may be applied to the Project and increased from time to time during the term of this Development Agreement; *provided, however*, that any such increase shall be imposed on the Project only to the extent permitted by law.

Section 5.04.9. Water and Sewer Facility Fees. VST shall pay Sewer Facility Fees in accordance with Chapter 15.16 of the City of Merced Municipal Code (the "Municipal Code") in effect as of the effective date of issuance of building permits. Such Sewer Facility Fees shall include the treatment plant component fees identified in Section 15.16.040 (the "**Treatment Plant Component Fees**") and sewer collection system fees component in Section 15.16.070 applicable to properties north of Bear Creek and outside of the North Merced Sewer Assessment District (the "**Sewer Collection System Fees**"). VST shall also pay the applicable Water System Capital Facilities Fees set forth in City of Merced Municipal Code Section 15.36.160 (the "**Water System Capital Facilities Fees**"). City and VST agree that current Sewer Collection System fees applicable to VST are adequate to fund VST's share of the existing sewer collection

system, and its share of the interim and long-term improvements in the Sewer Master Plan. Other Commitments of, City and VST Related to Financing.

Section 5.04.10. Arrangements with Other Governmental Agencies. City and VST acknowledge and agree that City may from time to time enter into joint exercise of power agreements, memoranda of understanding or other agreements with other governmental agencies consistent with and to further the purposes of this Development Agreement.

Section 5.04.11. Other Funding Sources.

(a) City and VST agree that either party may pursue outside sources of funding for the construction, operation and maintenance of Project Facilities and Infrastructure including, in particular, facilities and infrastructure which serve the region, and that both parties will cooperate in furtherance of pursuing such outside sources of funding.

(b) Any obligation of VST under this Development Agreement to fund or otherwise bear the costs of the construction of improvements, the provision of services or any other item, whether or not the sole obligation of VST, may be satisfied through the use of funds provided by, from or through any third-party (including other governmental) sources.

Section 5.04.12. Reimbursement.

(a) In accordance with the PFFP fees, DIF fees, Sewer Collection System Fees, Water System Capital Facilities Fees, and other fees established by in the Municipal Code, City shall reimburse the actual hard and soft costs associated with VST's funding or construction of that portion of any oversized, accelerated improvements, or improvements financed with utility fees or PFFP fees, or facilities that is attributable to a project or area other than the Project or Property in the manner required by this section. For purposes of this Section 5.05.3, City shall reimburse VST the full cost of:

i. the land and improvements for the sewer lift station and pump station on Lot 19, and the force main from Cardella Road to Bellevue Road;

ii. the oversizing cost for the 16-inch, 12-inch and 10-ince looped transmission lines from the water well on Lot 35 to Lake Road;

iii. for the oversizing cost of the 16-inch transmission line in Lake Road and the tie-in to Bellevue Road;

iv. the pressure sustaining valve;

v. Cost of land and improvements for the proposed fire station, well site, police station site, park land, and the Campus Parkway right of way as provided in Specific Plan;

vi. Cost of parks, park facilities, linear parks and open space funded from the Specific Plan Park Fee;

vii. The cost of any facilities that are used by subsequent applicants and developers benefitted by such infrastructure and facilities as provided by City Municiple Code Section 15.08.130.

(b) City shall enter into future Public Facilities Reimbursement Agreements in accordance with City Administrative Resolution A-3 for the reimbursements from City utility funds, the Public Facility Financing Plan fee program, and the Specific Plan impact fees.

i. Hard and soft costs eligible for reimbursement shall include the following, without limitation: reasonable direct costs of construction and materials, soft costs including payment and performance bonds, architecture and engineering fees, and professional fees. Such reimbursement shall be based on a fair share allocation of costs determined by calculating the pro rata share of the capacity in such improvements that is attributable to other projects or properties as reflected in the allocation percentages in **Exhibit D**, which reimbursement shall be provided timely in accordance with applicable law, following City's collection of funds from the sources identified in subsection 5.05.3(b)(1)–(4) below. VST and City acknowledge that the amounts specified in **Exhibit D** for each improvement are estimates only and that total reimbursable costs shall be based on VST's actual costs as set forth in this Section 5.05.3.

1. City shall reimburse VST for VST's construction of the Public Facilities and Infrastructure by allocating:100% of the Citywide PFFP impact fees, Specific Plan fees, Water fees and sewer fees generated by the Project and within the Specific Plan area and such costs may be subject to prevailing wage in accordance with applicable law.

2. 100% of the reserves for Specific Plan Park Fees.

3. The Specific Plan Traffic Fee as specified in Financing, Services and Governance Chapter of the Specific Plan, and more particularly Table 10 of the Specific Plan.

4. Existing and future reserves in the Citywide PFFP Development Impact Fees specified from the Citywide Public Facility impact fees.

5. Development Impact Fees paid to the City on behalf of other developments that benefit from the Public Faculties and Infrastructure installed by VST, and which funds are

not committed to repayment obligations under prior Reimbursement Agreements.

6. Development Impact Fees paid to City from developers who contribute to the impact associated with the improvements installed by VST; and

7. Taxes or assessments in a Community Facilities District, if such fees are established for the construction of Public Facilities.

8. For purposes of a separate reimbursement agreement, backbone infrastructure constructed by VST that is larger than the minimum size or standard as identified in the Standard Specifications and Engineering Design Standards may be considered to be oversized and shall be subject to prior review and approval by the City prior to being included in a separate reimbursement agreement.

(c) Under no circumstances shall the City be obligated to reimburse VST from resources other than the Public Facility Impact Fees, Specific Plan fees, water fees, sewer system collection fees, or proceeds from the CFD, nor from funds it does not yet possess, or from funds which may not be lawfully used for that purpose.

(d) Failure or error by the City to collect funds from the sources identified in subsection 5.05.3(f) below shall not relieve the City from any obligation to reimburse VST. The City shall reimburse VST pursuant to the terms of this Agreement with respect to all such funds actually collected by the City. Failure by the City to reimburse VST after the City collects such funds shall entitle VST to exercise its remedies in accordance with Article 12.

(e) For any improvement subject to reimbursement under this section, VST shall provide City with evidence of the actual hard and soft costs of each of the improvements in the form of receipted bills, canceled checks, and contracts. Approval of reimbursement may occur in phases as projects are accepted by City. Regardless of VST's claimed costs incurred in constructing the reimbursable improvements, City has the authority, through its Finance Director or designee, in the exercise of his or her reasonable discretion, to determine the amount subject to possible reimbursement for each improvement.

(f) In the event any owner or developer pays all or a portion of the fees or assessments identified in subsection 5.05.3(b)(1)–(4) above under protest, the City shall not be required to make reimbursements under this Development Agreement until the limitation period for instituting court action to seek a refund of such funds paid under protest has passed, and no court action ("**Action**") has been instituted. If an Action is instituted seeking refund of funds paid under protest, or to prevent the City from collecting such funds, or challenging any provision of this Development Agreement, the City shall not pay over such funds to VST until the Action has been finalized and the authority of the City to collect such funds and reimburse

the Developer has been sustained. The City shall promptly notify VST in writing of the Action. The City shall reasonably support Developer's efforts to participate as a party to the Action, to defend the Action or settle the Action. Furthermore, the City shall have the right to tender defense of the Action to VST. If, within 15 days of the City's mailing a notice in compliance with Section 15.08 below requesting that VST defend the Action, should VST thereafter fail to undertake the defense of the Action at VST's sole cost and expense, the City may stipulate to return of the funds collected under protest, to cease collecting such funds, or enter into any other settlement of the Action acceptable to the City, and VST shall lose any right to reimbursement under this Development Agreement of the amount contested in the Action. VST shall further reimburse the City for its costs and attorneys' fees incurred in defense of the Action, including reasonable payment for legal services performed by the City's City Attorney, and for any liability the City incurred in the Action. In addition, if the City fails to impose a requirement upon development projects to pay their respective prorated share of the improvements specified in **Exhibit F** or fails to collect such funds, VST may exercise all of its legal rights to attempt to collect such funds from the owners or developers of the benefitted properties, which legal rights shall not be interpreted to include an action against the City. In the event VST attempts to collect such funds from such owners or developers, the City shall assign to VST all of its rights to collect such funds under this Development Agreement.

(g) The City reserves the right to offset any funds it collects from the sources identified in this Section 5.03.3 against any unpaid fees, debts or obligations of VST owed to the City. The City shall provide VST with notice, in accordance with Section 15.08 and Article 12, of its intent to offset any collected funds against unpaid fees, debts or obligations described in the notice, and provide VST with a reasonable opportunity to cure such unpaid fees, debts, or obligations.

(h) VST's rights to reimbursement under this Section 5.05.3 shall survive termination of this Development Agreement for a period of 15 years from the date of termination or until Developer has been fully reimbursed, whichever occurs first.

ARTICLE 6. DEVELOPER OBLIGATIONS REGARDING PROJECT FACILITIES AND INFRASTRUCTURE

Section 6.01. Backbone Infrastructure Phasing Plan. The Project Backbone Infrastructure is planned to be designed and constructed in six (6) phases in accordance with the discussion of infrastructure phasing set forth in the Specific Plan. Phasing of "Backbone" and "Offsite" Infrastructure, construction and dedication of Project Facilities and Infrastructure, and dedications shall be consistent with the Project Approvals.

Section 6.01.1. Development Plan Phasing Plan. The improvements described in the VST Specific Plan Infrastructure Plan and **Exhibit G** attached hereto and incorporated herein constitute the "**Project Backbone and Offsite Infrastructure**." The Parties acknowledge that further analysis may result in a more cost-effective approach to the provision of such infrastructure to adequately serve development within the Plan Area, and that they may be revised accordingly by agreement of the Parties.

Section 6.01.2. Phasing Plan. The VST Specific Plan Phasing Plan is discussed in the Specific Plan on pages 37 through 40 (the "**Phasing Plan**") and attached to this Agreement and incorporated herein as **Exhibit H**.

Section 6.01.3. Phasing Plan Amendments. The Phasing Plan may be amended by agreement of the Parties to take advantage of new technologies, to respond to changes in the underlying land use assumptions, actual absorption and sale of various residential and commercial building types, or for such other reasons as the Parties may agree. Amendments to the Phasing Plan may be considered a "**Minor Amendment**" of the Specific Plan if they meet the criteria set forth in the Plan Administration Chapter of the Specific Plan. If the Phasing Plan is amended there shall be concurrent agreement with the County and Developer on the phasing of the Backbone and Offsite infrastructure.

Section 6.02. Construction and Dedication of Project Facilities and Infrastructure.

Section 6.02.1. Construction and Funding of Project Facilities and Infrastructure by VST. The City may, in any manner consistent with the terms and provisions of this Development Agreement, require VST to construct or fund the construction of any Project Facilities and Infrastructure when needed to satisfy the Public Infrastructure by Phase, as set forth in **Exhibit I** attached hereto and incorporated herein.

Section 6.02.2. Oversizing of Project Facilities and Infrastructure.

(a) In addition to requiring VST to construct or fund the construction of Project Facilities and Infrastructure, City may require any Project Facilities and Infrastructure constructed or funded by VST under Section 6.01 above to be oversized to serve projects or areas other than the Project or the Property; provided that:

(i) City shall establish a Financing Mechanism to provide additional funding to VST to finance such oversizing; and

(ii) City shall timely reimburse the costs associated with VST's funding or construction of that portion of any such oversized improvements that is attributable to projects or areas other than the Project or the Property, pursuant to section 5.05.3 of this Development Agreement.

Section 6.03. Dedications.

Section 6.03.1. VST Dedication. To the extent rights-of-way or other interests in real property owned by VST within the Property are needed for the construction, operation or maintenance of Project Facilities and Infrastructure, VST shall dedicate or otherwise convey such rights-of-way or other interest in real property to City, or as necessary to County in accordance with the County Development Agreement as part of each Final Map which includes such areas to be dedicated. Such rights-of-way shall be dedicated or otherwise conveyed in the widths set forth in the VST Specific Plan.

Section 6.03.2. Free from Liens and Hazardous Materials. Any public improvements constructed by VST and conveyed to City, and any right-of-way or other real property conveyed to City shall be dedicated or otherwise conveyed (i) free and clear of any liens unacceptable to the City and (ii) except as otherwise agreed to by City, in a condition free of any hazardous materials. Nothing herein shall prevent City's right to pursue a claim against third parties under applicable law.

ARTICLE 7. OTHER COMMITMENTS OF CITY AND VST

Section 7.01. Mutual Cooperation for Other Governmental Permits. City and VST, as appropriate, shall each be responsible to apply to other governmental or quasi-governmental agencies for necessary permits and approvals for development and use of the Property (*e.g.*, agencies having jurisdiction over water supply; wastewater treatment, reuse and disposal; access to the Property; wetlands-related and other biological issues). City and VST each shall take any and all actions as may be necessary or appropriate to process successfully such permits and approvals, provided such permits and approvals are consistent with the VST Specific Plan and agreed by the City and VST to be reasonably necessary or desirable for the construction, maintenance or operation of the Project.

Section 7.02. Timing of Development.

Section 7.02.1. Timing Requirements.

(a) VST shall comply with the terms and conditions of the Project Approvals and this Development Agreement. The Parties acknowledge that the rate at which phases of the Project develop depends upon numerous factors and market conditions that are not entirely within VST's or the City's control such as market demand, interest rates, absorption rates, completion schedules, availability of labor, and other factors. The Parties wish to avoid the result of *Pardee Construction Co. v. City of Camarillo*, 37 Cal.3d 465 (1984), where the failure of the parties therein to consider and expressly provide for the timing of development resulted in the court's determination that a later-adopted initiative restricting the timing of development prevailed over the parties' agreement. Accordingly, the Parties acknowledge that VST shall have the right to develop the Project at such time VST deems appropriate in the exercise of its subjective business judgment except as provided in this section below and the City shall not attempt to limit or restrict the timing of development of the Project except in accordance with the terms of this Development Agreement.

(b) VST shall complete the Backbone and Offsite Infrastructure for the Project and in the sequence depicted in **Exhibit G**, including the installation of those certain improvements required under either the VST Specific Plan or Final SEIR. Notwithstanding the foregoing, VST may proceed with the development of any portion of the Project, or make any financial commitment associated with any such development when, in VST's sole and absolute discretion, VST determines that it is in VST's best financial or other interest to do so. The foregoing sentence shall not, however, limit any obligation of VST under this Development Agreement with respect to any development activities that VST chooses to undertake hereunder.

(c) VST shall pursue buildout of the Project in conformance with the Specific Plan Phasing Plan. The Parties acknowledge that, except as expressly required by Section 1.03.1(a)(2), the actual timing of buildout will vary from year to year due to a variety of factors such as market demand, economic conditions, etc.

Section 7.03. Dedication of Park Lands. VST shall dedicate and develop parkland in excess of that ordinarily required by the City. VST shall provide at least 97.8 acres of public parks (the "**Public Parks**") as part of the Project, or at a rate of at least 6 acres per 1,000 persons. Developer shall construct two community parks, 39 pocket parks and miniparks, a Community Recreation Center, and a Regional Sports Park as part of the Public Parks described on page 5 of the Specific Plan. The Public Parks shall be developed in a manner consistent with the VST Specific Plan, and shall be reviewed and approved by the City Manager or Development Services Director. Notwithstanding the foregoing, City shall compensate VST for certain land dedications and in the amounts specified in the Specific Plan. City shall reimburse VST for the dedication of Park Land required as part of VST's construction of certain community and neighborhood park facilities in accordance with the amounts specified in Table 12 of the Specific Plan.

Section 7.04. Dedication of Open Space. To meet the open space objectives of the UCP Update and VST Specific Plan, VST shall dedicate 15.5 acres of linear parks and trails in accordance with the Specific Plan as set forth on page 5.

Section 7.05. Schools. The Merced County Office of Education ("**MCOE**") has acquired a 15-acre site for a K-8 public school designed to accommodate up to 950 students. MCOE has reserved the school site for MCOE to determine an eligible school district to use the school site. The K-8 school site is located in Phase 1E of the VST Project and shall be conveyed to a school district in adequate time to accommodate an initial enrollment of at least 600 students. MCOE has also reserved a 5-acre site at the southwest corner of Center Street and Meyers Gate Road for a Merced Scholars Charter School that will be operated by MCOE as a university preparatory school for up to 300 students as further described on page 29 of the Specific Plan. No additional school facilities shall be required for the Project. Developers shall pay all school district school mitigation fees as mitigation for school impacts.

Section 7.06. Affordable Housing and Workforce Housing and Related Programs. VST shall provide affordable housing for the Project in accordance with the Affordable Housing Plan attached hereto and incorporated herein as **Exhibit K**. VST shall also provide workforce housing and shall implement the local preference "**UC Workers First**" program, and owner occupancy restrictions as described in **Exhibit K**, to the extent allowed by law. For purposes of this Section 7.06, City finds the Affordable Housing Plan complies with and exceeds the City's RHNA Housing Production Plan and requirements set forth in City Council Resolution No. 2023-83. In order to achieve the objectives of the Affordable Housing Plan in **Exhibit K** the City agrees to process density bonus applications in conformance with State Density Bonus Law and City Municipal Code Chapter 20.56. In particular, the parties agree one option to achieving the affordable housing plan described in **Exhibit K** would be the dedication of 10.7 acres of land for 300 R-4 units for Extremely Low, Very Low and Low Income households qualifies the 1,489-unit R-4 portion of the project for a 25 percent density bonus under Merced Municipal Code Section 20.56.030. This density bonus shall be assigned to the remaining 42.4-acre R-4 portion

of the development. This density bonus shall be in addition to project-specific density bonuses, up to an overall maximum of 35 percent for the R-4 development. Project-specific density bonsus are proposed for the Mixed Use Village Center, with 25 Very Low Income units proposed for a 50% density bonus, and 50% density bonus on the 10.7 acres of land dedicated for the 300 Extremely Low, Very Low and Low Income units. Another option, as described in **Exhibit K**, is to provide for on-site affordable housing and to pay in-lieu fees under the City's Affordable Housing In Lieu Fee program pursuant to the City's November 20, 2023 Regional Housing Needs Allocation Unit Production Policy. Developer reserves the right to use either alternative, or another alternative acceptable to City and Developer to meet its affordable housing obligations established by adopted City policies and regulations.

Section 7.07. Energy.

Section 7.07.1. Energy Conservation and Climate Action Plan. VST shall comply with the City's Energy Conservation Goals and its Climate Action Plan by implementing energy conservation measures set forth in the Specific Plan that are significantly above City standards and norms by providing for solar PV energy generation for 100 percent of onsite electrical demand as described in Section 13 of the Development Plan and evaluated on page 2-25 and 3.8-19 of the Draft SEIR. The Project shall also include energy efficiency standards in excess of the current Building Code as set forth on page 3.1-11 of the Draft SEIR.

Section 7.07.2. Sustainability Features. Developer shall provide sustainability features including: (i) housing that meets the 2020 net zero building and energy codes, (ii) implementing any future city-wide policy regarding zero carbon emissions, (iii) solar electric panels, (iv) integrated power outlets for electric vehicles and electric bicycles, and (v) no natural gas will be provided to residential neighborhoods, and (v) work-at-home options with high-speed internet connectivity as described in Section 13 of the Development Plan and pages 2-25 and 3.1-20 of the Draft SEIR.

Section 7.08. Water.

Section 7.08.1. SGMA. VST shall comply with the California Water Code and the regulations imposed by the City before or after the Effective Date in its capacity as the Groundwater Sustainability Agency pursuant to the Sustainable Groundwater Management Act ("**SGMA**"). The VST project shall include water conservation features as described in Section 13.3 of the Specific Plan and on page 3.1-19 of the Draft SEIR to achieve a residential water consumption rate of 100 gallons per day per person or less.

Section 7.08.2. Water System. VST shall install water system improvements necessary to serve the Project as shown in **Exhibit L**. The City shall install the water well on Lot 8 ("Water Well") in accordance with Section 7.08.03 as set forth on page 37 of the VST Specific Plan.

Section 7.08.3. Well Site Dedication. VST shall offer to dedicate to the City a well site for future municipal use in conformance with the Water Master Plan. Such well shall be on a 0.20-acre Lot 35 as shown on the VST Project large parcel subdivision map.

VST shall convey the well site to the City in Phase 1 with adequate time for the City to commence construction on the Water Well no later than January 1, 2025. Prior to conveyaance of the well site property to the City, City shall pay VST the amount of Thirty Thousand Dollars ($30,000) for VST's costs of conveying to City the improved well site based on $140,000 per improved acre which amount was determined in the City PFFP.

Section 7.08.4. Reservation of Water Rights. Except as provided in Section 7.08.03, VST reserves all groundwater rights necessary to irrigate agricultural or open space land with ground or well water, to the extent that such reservation and action does not violate Applicable Law and so long as such water meets or exceeds all applicable water quality standards. VST shall have the option, but shall not be required, to connect to the City's water system to irrigate agricultural/open space land with reclaimed water.

Section 7.08.5. Reservation of Water Supply. In exchange for VST's provision of the Water System Improvements set forth in this Section 7.08, City shall reserve sufficient water capacity and adequate surface water resources to support the buildout of the Project at the current projected water use level associated with the Specific Plan as set forth in the Final SEIR and Water Supply Assessment. In furtherance of this commitment, City shall reserve capacity for the Project equal to 1.25 mgd, plus peak period needs and any necessary fire flow for project land uses.

Section 7.09. Storm Drain Facilities. Before recordation of the first Final Subdivision Map, parcel map, or issuance of abuilding permit for a use that does not require a map, VST shall cause to be provided storm drain facilities adequate to accommodate the storm water runoff from the area subject to the Final Subdivision Map or building permit, compliance with County's Drainage Manual, and compliance with University Community Plan's stormwater management and infrastructure policies.

Section 7.10. Fire Station and Police Substation. VST shall dedicate 0.71-acre Lot 8 of the large lot conveyance map for a Fire Station and a Police Substation located in Phase 1A and east of Campus Parkway on Virginia Smith Parkway as part of Phase 1. VST shall provide public utilities to the site, including road frontages and utility stubs. (Specific Plan, p. 37.) The City is responsible to construct all onsite facilities City shall reimburse VST the amount of One Hundred Thousand Dollars ($100,000) for the cost of the land and improvements in a one time payment due upon substantial completion, in accordance with the One Hundred and Forty Thousand Dollars ($140,000) per acre in PFFP Fire Facility Costs allocated to land and site improvements shown in Table 10 of the 2021 EPS City of Merced Public Facilities Financing Plan and Impact Fee Update.

Section 7.11. Traffic and Circulation Improvements. VST shall construct or fund the traffic and circulation improvements as identified in the Final SEIR, the VST Specific Plan and Development Plan, subject to approval by the City Engineer unless such improvement is subject to another agency's approval authority. City and VST acknowledge that these improvements are necessary to mitigate project impacts, improve access to and from the Project, relieve existing or

future traffic deficiencies, and bring such intersections into compliance with the City General Plan policies in advance of impacts associated with the Project.

Section 7.11.1. Campus Parkway Improvements. VST shall, at its own expense and without reimbursement from City (except as provided in the Specific Plan and Table 10 thereof) construct Segment 4, which is the onsite portion of Campus Parkway from the northern VST property line (Meyers Gate Road) to the southern VST property line (Cardella), as illustrated in **Exhibit M** attached hereto and incorporated herein by reference. City expressly concurs with and approves the roadway alignment, profile and design for the VST portion of Campus Parkway shown in **Exhibit M**. VST shall construct "Phase 1" of the onsite portion of Campus Parkwayon the VST property in conjunction with the development of Phase 1A of the Specific Plan as illustrated on **Exhibit J**, which shall include the full road and improvement section in Phase 1A, the three roundabouts (subject to County acquisition of right of way from UC and Hunt), and the median and No. 1 through lanes on Phase 1B. All other improvements to Campus Parkway, including the County's obligation to acquire any necessary right-of-way for any improvements to be constructed by VST, and the County's obligation to construct the remaining portions of Campus Parkway shall be governed by the County Development Agreement.

Section 7.11.3. Satisfaction of Bellevue Road Fair Share Obligations. Under the terms of the City Transportation Improvement Agreement, UC Merced, on behalf of itself and the University Community properties, is to advance 83 percent of the costs of the expansion of Bellevue Road from two to four lanes. UC Merced is entitled to reimbursement for the 17 percent of the total costs in excess of the amounts to be advanced from property owners along Bellevue Road that later develop their properties, and to reimbursement of a portion of the 83 percent advanced on behalf of the University Community Properties if these properties subsequently are developed and annexed to the City. VST's property is included in the definition of University Properties. The VST Traffic Study in Appendix F of the Specific Plan determined that VST's share of the 26,400 additional traffic on Bellevue at buildout is 3,862 daily trips, or 14.6%. The traffic impact fee for VST includes this allocation, and City shall reimburse UC Merced for VST's share of Bellevue Road from traffic fees collected from the VST project, in accordance with Table 10 of the Specific Plan.

The cost of widening Bellevue Road from two lanes to four lanes from G Street to Lake Road/Campus Parkway is estimated to be $11.14 million using the costs and methodology in the City of Merced 2022 Public Facilities Financing Plan and Impact Fee Study ($1,052.86 per lineal foot for two miles), VST's fair share of widening Bellevue Road is therefore $1,626,542. The Specific Plan traffic fee includes an allocation of $1,626,542 to reimburse UC for advancing funds to the City for the improvement of Bellevue Road from two lanes to four lanes. The City concludes that adoption of the Specific Plan Traffic Fee satisfies the requirement for VST to pay its fair share of Bellevue Road, and, further, satisfies the City's obligations to adopt a reimbursement mechanism for UC prior to annexation. The parties acknowledge that the above-mentioned costs are subject to inflation and the actual cost of construction.

Section 7.12. Bicycle and Multimodal Transportation Improvements. VST shall construct or fund the bicycle and multimodal transportation improvements as established in the Final SEIR and Development Plan as further described in **Exhibit N** attached hereto and incorporated herein. City and VST acknowledge that these improvements are necessary to mitigate project impacts, improve access to and from the Project, encourage multimodal transportation, relieve existing or future traffic deficiencies, and bring such intersections into compliance with the General Plan in advance of impacts associated with the Project.

Section 7.13. Sewer. The Parties agree that City sewer treatment capacity and sewage collection capacity shall be made available to the Project both prior to and upon Annexation. In order to ensure adequate sewage treatment and sewage collection capacity for the Project, and to ensure that the Project's use of such capacity does not limit the ability of City to serve properties that are already entitled to wastewater treatment and sewage collection capacity by virtue of their inclusion in the North Merced Sewer Assessment District and/or by virtue of an approved tentative subdivision map for the development, VST shall provide the following improvements set forth in the VST Specific Plan and SEIR:

Section 7.13.1. Bellevue Trunk Line and Sewer Collection System Capacity. The City has reserved capacity for UC Merced, and City shall allocate 750,000 gallons per day to VST that is currently reserved for UC Merced. VST shall acquire such capacity through payment of Sewer Facility Charges prior to issuance of building permits. The capacity reservation reflects all of the flows anticipated from the development of 2,800 dwelling units , 35.5 acres of commercial development, and construction of a 900-student elementary school in Phase 1, and twenty-five percent of the anticipated flows from development of 1,400 dwelling units and 3.6 acres Phase 2 using the sewer flow factors from Sewer Master Plan. Additional sewer allocations shall be made if necessary as provided in 7.13.2 herein.

Section 7.13.2. Interim Sewer System Improvements. City is undertaking certain "interim" maintenance and capacity enhancing improvements, including modification to the Bellevue Ranch pump station and R Street force main, replacement of the 48" West Street sewer interceptor with a 60" sewer starting at V Street and West Ave, and construction of a new 48-inch parallel sewer and creek crossing starting at Bear Creek Court and ending at V Street and West Avenue and terminating at the City Wastewater Treatment Plant. These improvements have been determined to provide additional sewer system capacity of 34,600 equivalent dwelling units (EDU), including 9,000 EDUs for "Pre-Annexation Areas", including VST. The City included these improvements in the City's adopted 2023/24 Capital Improvement Program and they are expected to be completed by 2025. The City determined that these improvements will provide adequate sewer capacity for the Project, nd the committed projects in North Merced. Upon the start of Phase 1E of the project and prior to commencing construction of Phase 2 of the VST Project, VST shall evaluate the capacity of the sewer collection and construct, if the City has not constructed by that date, a 30" supplemental bypass sewer trunk line within the V Street right of way between 16th Street and 6th Street, as shown in **Exhibit O** ("**Bypass Sewer Trunk Line**") attached hereto and incorporated herein in this Development Agreement. VST shall construct the Bypass Sewer Trunk Line no later than upon the commencement of Phase 2 Project.

The Project in-tract sewer system included in the VST Project tentative subdivision map shall be designed to provide gravity flow to Cardella and Lake Road, and eventual connection to the planned Cardella Road trunk line as shown in the VST Specific Plan Sewer Master Plan. Prior to construction of the extension of the Cardella Road Trunk line as provided in the Sewer Master Plan (by others), effluent from the Project shall be conveyed by force main from the Project site to the Bellevue Avenue Trunk Line.

Section 7.13.3. Reservation of Capacity. City shall reserve sewer collection system and treatment plant capacity in conformance with 7.13.1. Such sewer capacity shall be made available prior to recordation of each phased Final Map covering the respective Project sub-phase.

City shall also reserve adequate capacity for the remainder of Phase 2 of the VST Specific Plan subject only to an updated sewer study prepared concurrent with the Phase 2 tentative subdivision map demonstrating that adequate sewer capacity will be available for Phase 2 of the Project, and subject to the improvements specified in Section 7.13.2.

Section 7.13.4. No Capacity Restrictions. The Parties acknowledge that the peak flow pattern of residential sewer flows is the constraing factor in the sewer collection system. The City agrees that there shall be no restrictions on the use of available sewer capacity for non-residential or mixed use commercial development in Phases 1 and 2 of the Project.

Section 7.14. Miscellaneous.

Section 7.14.1. Master HOA and Covenants, Conditions, and Restrictions (CC&Rs). Developer shall form a Master Homeowners Association (the Master HOA) for the purpose of design review, financing and operating the clubhouse, and as a governance entity to interface with the City. Special HOA subcommittees shall be formed for design review, parks maintenance and operation, and recreation programs at the community recreation center. The Master HOA shall own and operate the clubhouse (but not the adjacent City park) for the benefit of project residents. County agrees that the sole responsibility of the Master HOA will be for the maintenance and operation of the clubhouse; *provided, however*, that the Master HOA shall have the right but not the obligation to perform parks and landscaping maintenance in the event that the CFD is dissolved by the district voters, or if the district voters are dissatisfied with the maintenance of the facilities. City shall consult with the Master HOA each year regarding the adequacy of such maintenance and operation.

Prior to City approval of a Final Map or issuance of a building permit for a land use that does not require a final map, the CC&R disclosure statement shall be provided to the City for review and approval.

Section 7.14.2. Ownership and Maintenance of Public Improvements and Facilities. The City and Developer agree that there shall be no reliance on the HOA to

maintain public facilities, except where there is private Common Area that cannot be maintained by a Mello Roos District, Landscaping and Lighting Act Assessment District, or other mechanism. Notwithstanding the foregoing, unless otherwise mutually agreed, the City shall own and maintain, or cause to be maintained, the following public improvements:

(a) Potable water system and water tank within public properties or public easements;

(b) Sanitary sewer system within public properties or public easements;

(c) Recycled water system within public properties or public easements, if such system exists;

(d) Storm drain system, including continuous deflective separation (CDS) vaults or other BMP facilities, within public properties or public easements;

(e) Public roadways;

(f) Public parks; and,

(g) Public access, landscape, and utility easements.

Section 7.14.3. Public Utilities Easements. All land subject to public utilities easements (PUEs); public water, sewer, or storm drain easements; and public access easements shall be open and accessible to the City at all times.

Section 7.14.4. Design Review of Major Surface Facilities. Design Review shall be completed for all major surface public facilities for which it is required before construction.

Section 7.14.5. Design and Construction Standards for Sewer and Water Facilities. All Project Infrastructure and Facilities such as sewer, water and recycled water facilities shall conform to the City of Merced Design and Construction Standards in effect for the Project as they exist on the date of approval of the VTM. The submittal shall include all pertinent engineering analysis and design calculations. The plans shall be subject to the City Director of Public Works' review and approval.

Section 7.14.6. Establishment of Community Educational Enhancement Fee. Prior to the recordation of the first Parcel Map or first Final Map, City agrees to cooperate with County and VST, as and if necessary, to establish and adopt through master conditions, covenants and restrictions for all Specific Plan properties and levy a Community Educational Enhancement Fee on property sales and resales (including residential and commercial property) in the VST Plan Area equal to 0.375% of the sales price, or an equivalent fixed fee per unit (the "**Community Educational Enhancement Fee**"), subject to the City Council's discretion. The Community Educational Enhancement Fee shall be payable to the Merced County Office of Education Foundation

for the provision of childhood education and enrichment, scholarships for Merced College, vocational certificate programs, employee training programs, and other activities that may not be eligible under the VST or CST scholarship programs, and shall provide funding for MCOE Foundation's STEM program, MCOE Foundation's Camp Green Meadows program, performing arts program, and funding for the MCOE "University" charter schools that are planned for the VST site.

ARTICLE 8. CONSIDERATION OF PERMITS AND APPROVALS

Section 8.01. In General.

Section 8.01.1. Review and Action Generally. Upon VST's submission of any complete application for an Approval together with any fees permitted under Article 5 and required by the City in accordance with Applicable Law, City shall use its best efforts to commence and complete promptly and diligently all steps necessary to act on the application. VST promptly shall provide to City all information reasonably requested by City for its consideration of any such application.

Section 8.01.2. Applicable Law. Except as otherwise specifically provided in this Article 8, all applications for Approvals submitted by VST shall be considered by City in accordance with Applicable Law. To the extent an approval would amend Applicable Law as set forth in Section 4.01.1, the aspect of Applicable Law to be amended by the approval shall not apply to the City's consideration of the application.

Section 8.02. General Plan Amendments. The parties anticipate that VST may request amendments to the General Plan to respond to changing circumstances and conditions. In accordance with Policy 1.4b of the Urban Boundaries Element of the General Plan, City shall revise all of its various planning documents to accommodate the incorporation of the amended University Community into the City of Merced. These include not only the General Plan, but also plans for wastewater treatment, water, storm drainage, parks, fire protection, and other services.

Section 8.03. CEQA Compliance. When conducting an environmental review of any application for an Approval, City shall review the MMRP to determine if any mitigation measure contained in the MMRP as to the portion of the Property subject to this Development Agreement should be incorporated into the design of, or added as a condition of approval to the tentative map.

Section 8.04. Life of Approvals. Any Approval issued by City, including vesting tentative subdivision or parcel maps as defined in Section 8.05 below, shall continue in effect without expiration until the later of: (i) the expiration or earlier termination of this Development Agreement or (ii) the date upon which such Approval would otherwise expire under the laws of the State of California.

Section 8.05. Vesting Maps. The ordinances, standards and policies applicable to any vesting tentative map, vesting parcel map, vesting subdivision map or any other type of vesting map ("**Vesting Map**") under California Government Code section 66474.2, and the ordinances, policies and standards vested under any Vesting Map pursuant to California Government Code

Section 66498.1(b) shall be those established as Applicable Law under this Agreement. If this Development Agreement terminates before the expiration of any Vesting Map or the vested rights provided thereby, such termination of this Development Agreement shall not affect VST's right to proceed with development under such Vesting Map in accordance with the ordinances, policies and standards so vested under the Vesting Map. Notwithstanding the foregoing, no Vesting Map shall extend Applicable Law beyond the Term of this Development Agreement (and the rules, regulations and official policies of the County applicable to that portion of the Property covered by such Vesting Map shall become those in effect as of the expiration of such term) except as otherwise agreed by City and VST; *provided, however*, that City and VST may agree to an extension of the Term of this Development Agreement with respect to the area covered by any such Vesting Map.

Section 8.06. Need for Flexibility. The provisions of this Development Agreement require a close degree of cooperation between the City and VST. Implementation of the Project may require minor modifications of the details of the Development Plan and affect the performance of the Parties to this Development Agreement. The anticipated refinements of the Project and the development of the Property may require that appropriate clarifications and refinements are made to this Development Agreement and the Project Approvals with respect to the details of the performance of the City and the Developer. The City Manager, or designee, may make refinements to the Specific Plan and development plan in conformance with the amendment provisions contained in the Specific Plan.

ARTICLE 9. AMENDMENTS

Section 9.01. Amendments of Agreement.

Section 9.01.1. General. This Development Agreement may be amended from time to time only upon the mutual written consent of City and Developer and in compliance with, as applicable, Section 20.86.140 of the Municipal Code; *provided, however*, that in connection with the transfer of any portion of Developer's Rights and/or Obligations under this Development Agreement to another person, entity, or organization pursuant to the provisions of Article 11 below, Developer, such transferee, and City may agree that the signature of such transferee may be required to amend this Development Agreement insofar as such amendment would materially alter the Rights and/or Obligations of such transferee hereunder. In no event shall the signature or consent of any "Non-Assuming Transferee" (as defined in Section 11.03 below) be required to amend this Agreement.

Section 9.01.2. Future Approvals Do Not Require Amendments to Agreement. Except as the Parties may otherwise agree, no amendment of this Development Agreement shall be required in connection with the issuance of any Approval or an amendment to the MMRP. Any Approval issued after the Effective Date as to a portion of the Property shall be incorporated automatically into this Development Agreement and vested hereby. City shall not, however, amend or issue any Approval unless VST requests such an amendment or issuance from City unless otherwise permitted by this Development Agreement.

ARTICLE 10. MITIGATION MONITORING AND REPORTING PROGRAM EVALUATION; DEVELOPMENT AGREEMENT REVIEW

Section 10.01. Mitigation Monitoring and Reporting Program Evaluation.

Section 10.01.1. In General. During its Annual Review, City shall evaluate (the "**MMRP Evaluation**") whether the mitigation measures adopted by City in connection with its approval of the Project Approvals are being implemented as set forth in the MMRP.

Section 10.01.2. MMRP Implementation. As set forth in the MMRP, City shall consider in connection with any application for an Approval the extent to which mitigation measures described in the MMRP should be incorporated into the design of the project under consideration or set forth in conditions to the City's approval of the application. During an MMRP Evaluation, the City shall evaluate its overall success over the prior year in implementing such mitigation measures, as set forth above.

Section 10.01.3. Enforcement. VST shall be responsible only for those mitigation measures the City requires to be incorporated into the design of the Project, including those that are attached as conditions to any Approval. Failure to comply with any such design requirement or any condition of approval shall be enforced in any manner authorized by Applicable Law.

Section 10.02. Development Agreement Review.

Section 10.02.1. In General. The City Manager, Development Services Director or a designeewill be responsible for conducting the Development Agreement Review. The Development Agreement Review shall be conducted concurrently with MMRP Evaluation, pursuant to Article 9 above and this Section 10.02. In connection with the Development Agreement Review, VST shall provide information as reasonably requested by City.

Section 10.02.2. Director's Findings of Compliance. If the Director of Development Services finds good faith compliance by VST with this Agreement, the City Manager shall issue a "Finding of Development Agreement Compliance," which shall be in recordable form and may be recorded by VST or any "Mortgagee" (as defined in Section 13.01 below). Issuance of a Finding of Development Agreement Compliance shall finally determine the Development Agreement Review for the applicable period.

Section 10.02.3. Finding of Development Agreement Noncompliance. If the City Manager finds that VST and/or a Transferee has not complied in good faith with this Agreement, the City Manager shall proceed as specified in Section 20.86.130(E) of the Municipal Code.

ARTICLE 11. DEFAULT, REMEDIES, TERMINATION OF DEVELOPMENT AGREEMENT

Section 11.01. Defaults.

Section 11.01.1. Notice and Cure. Any failure by a Party to perform any term or provision of this Agreement, which failure continues uncured for 60 days following written notice of such failure from the other Party (unless such period is extended by written mutual consent), shall constitute a default under this Agreement. Any such notice shall specify the nature of the alleged failure and, where appropriate, how such alleged failure may be cured. If the nature of the alleged failure is such that it cannot reasonably be cured within 60 days, then commencement of the cure within that time, and diligent prosecution to completion of the cure thereafter, shall be timely. If the alleged failure is cured, then no default shall exist and the noticing Party shall take no further action and acknowledge the cure in writing to the other Party. If the alleged failure is not cured, then a default shall exist under this Development Agreement and the noticing Party may exercise any of the remedies available under Sections 11.02 through 11.04 below.

No failure or delay in giving notice of default shall constitute a waiver of default; *provided, however*, that the provision of notice and opportunity to cure is a prerequisite to the enforcement or correction of any default.

Section 11.01.2. Actions during Cure Period. During any cure period specified under Section 11.01.1 and before delivery of a notice of failure or default, the Party charged shall not be considered in default of this Development Agreement. If there is a dispute as to the existence of a default, the Parties shall otherwise continue to perform their obligations hereunder, to the maximum extent practicable in light of the disputed matter, pending its resolution or formal termination of the Development Agreement.

City shall continue to process in good faith applications for Approvals during any cure period, but need not approve any such application if it relates to a development project as to which there is an alleged default hereunder.

Section 11.02. Remedies of Non-Defaulting Party.

Section 11.02.1. In General. If any Party is in default under the terms of this Agreement, the non-defaulting Party may elect, in its sole and absolute discretion, to pursue any of the following courses of action: (i) waive such default; (ii) in City's case, pursue administrative remedies as provided in Section 11.02.3 below, (iii) pursue judicial remedies as provided for in Section 11.02.4 below; and / or (iii) terminate this Development Agreement as and to the extent permitted by Section 11.03.4, below and consistently with Section 20.86of the Municipal Code. In no event shall City modify this Development Agreement as a result of a default by a defaulting Party except in accordance with the provisions of Section 9.01 above.

Section 11.02.2. Severability of Default. City acknowledges that the development of the Project may be carried out by more than one person, entity or organization under this Development Agreement (*e.g.*, portions of VST's interest in the

Property and this Development Agreement may be transferred to another person, entity or organization, a "Transferee" under Article 13 below). Accordingly, (i) if City determines to terminate or exercise any other remedy under this Development Agreement due to a default by VST or any Transferee (hereinafter "**Defaulting Developer**"), such termination or other remedy shall apply only with respect to the Rights and Obligations of such Defaulting Developer, (ii) City shall, to the extent possible, refrain from seeking any termination of this Development Agreement or other remedy if such remedy would affect materially the ability of a non-defaulting Developer and / or a Transferee (hereinafter "**Non-Defaulting Developer**") to realize the Rights provided hereunder, and (iii) any termination of this Development Agreement as to any Defaulting Developer shall be deemed to terminate only those Rights and Obligations arising hereunder between City and such Defaulting Developer. The Parties acknowledge and agree that, in accordance with Article 13 below, more than one Transferee may be responsible for certain actions required or forbidden by this Agreement, and that more than one Transferee therefore may be in default with respect thereto. The Parties further acknowledge and agree that, notwithstanding the provisions of (ii) in this Section above, in certain instances it may not be possible for City to exercise remedies against the Defaulting Developer of one portion of the Project without affecting in some way a Non-Defaulting Developer of the same or of some other portion of the Project.

Section 11.02.3. Administrative Remedies. Except as otherwise specifically stated in this Development Agreement, City may exercise any and all administrative remedies to the extent necessary or appropriate to secure compliance with this Agreement. Such administrative remedies may include, among others, withholding building permits, certificates of occupancy or other Approvals relating to that portion of the Project in default of this Agreement.

Section 11.02.4. Judicial Remedies. Except as otherwise specifically stated in this Agreement, either Party may, in addition to any other rights or remedies, institute legal action to cure, correct, or remedy any default, enforce any covenant or agreement herein, enjoin any threatened or attempted violation hereof, enforce by specific performance the Obligations and Rights of the Parties hereto or obtain any other remedy consistent with this Agreement; *provided, however*, that in no event shall any person be entitled hereunder to monetary damages for any cause, including breach of contract by a Party to this Agreement *provided, however*, that City may enforce payment obligations under Applicable Law, including this Agreement. Nothing in this section shall be deemed to limit either Party's rights under the Government Claims Act, Government Code Section 810, *et seq.* For purposes of instituting a legal action under this Agreement, any City Council determination under this Development Agreement shall be deemed final agency action unless expressly stated otherwise.

Section 11.03. Termination Due to Default.

Section 11.03.1. In General. Either Party may terminate this Development Agreement pursuant to Section 11.04.2 below in the event of a default by the other Party, provided: (i) such default is prejudicial to the interests of the non-defaulting Party and is neither minor nor technical and (ii) in the case of any termination by City, City first shall

have exercised any and all administrative or other remedies short of filing suit available to secure VST's compliance with this Agreement. Notwithstanding (ii) of this Section above, City shall not be required, as a prerequisite to initiating the termination of this Agreement, to exercise its administrative and other non-judicial remedies for more than 180 days or, if the Parties are making reasonable progress towards resolution of the matter claimed to be a default hereunder, such longer period to which the Parties may agree. Termination of this Development Agreement by VST or a Transferee as to any portion or portions of the Property shall not affect the Rights or Obligations of VST or any other Transferee as to any other portion or portions of the Property.

Section 11.03.2. Procedures for Termination. Before any proposed termination of this Development Agreement pursuant to this Section 11.04, and following the 180-day period specified in Section 11.04.1 above to the extent applicable, a non-defaulting Party intending to seek termination of this Development Agreement shall deliver to the defaulting Party (or Parties) a written "Preliminary Notice of Intent to Terminate" this Agreement, and all Parties shall meet and confer in good faith effort to agree upon an alternative to termination that will afford the non-defaulting Party the benefit of its bargain in this Agreement. If those discussions are not successful in resolving the dispute, the non-defaulting Party desiring to terminate this Development Agreement shall deliver to the defaulting Party a written "Final Notice of Intent to Terminate" this Agreement.

Section 11.03.3. Notice of Intent. Within 60 days after the City delivers a Final Notice of Intent to Terminate to a defaulting Party, the City Council shall review the matter as set forth in California Government Code Sections 65865, 65867, and 65868. Termination shall be effective 30 days after such City Council review, unless the default is sooner resolved to the mutual satisfaction of the Parties.

Section 11.03.4. Termination. Within 60 days after VST delivers a Final Notice of Intent to Terminate to City, the City shall consider whether City should take any further curative action. Termination shall be effective 30 days following such Board of Supervisors consideration (or 90 days following delivery by VST of a Final Notice of Intent to Terminate if the Board of Supervisors fails to complete its consideration by that date), unless the default is sooner resolved to the mutual satisfaction of the Parties.

ARTICLE 12. INTENTIONALLY OMITTED

ARTICLE 13. ASSIGNMENT, TRANSFER AND NOTICE

Section 13.01. Assignment of Interests, Rights and Obligations. VST may transfer or assign ("**Transfer**") all or any portion of its Rights and Obligations under this Development Agreement as to any portion of the Property (the "**Transferred Property**") to any person acquiring an interest in such Transferred Property, including, without limitation, purchasers or ground lessees of lots, parcels or facilities on such portion of the Property (a "**Transferee**"). Any such Transfer shall relieve the transferring party (a "**Transferor**") of any and all Rights and Obligations under this Development Agreement insofar as they pertain to the Transferred Property, as provided in this Article 13.

Section 13.02. Transfers In General.

Section 13.02.1. In General. In connection with any Transfer of all or any portion of the Project or the Property, other than a transfer or assignment to a "Non-Assuming Transferee" as described in Section 13.03 below, or a "Mortgagee" as defined in Section 14.01 below, the Transferor and the Transferee may enter into a written agreement regarding their respective Rights and Obligations in and under this Development Agreement (a "**Transfer Agreement**"). Any such Transfer Agreement may contain provisions: (i) releasing the Transferor from any Rights and Obligations under this Development Agreement that relate to the Transferred Property, provided the Transferee expressly assumes all such Rights and Obligations, (ii) transferring to the Transferee rights to improve the portion of the Property transferred and any other Rights and Obligations of the Transferor arising under this Agreement, and (iii) addressing any other matter deemed necessary or appropriate in connection with the Transfer.

Section 13.02.2. City Review of Release Provisions. A Transferor shall have the right, but not the obligation, to seek City's consent to those provisions of any Transfer Agreement purporting to release such Transferor from any Rights and Obligations arising under this Development Agreement (the "**Release Provisions**"). If a Transferor fails to seek City's consent or City does not consent to any such Release Provisions, then such Transferor may nevertheless transfer to the Transferee any and all Rights and Obligations of such Transferor arising under this Development Agreement (as described in Sections 13.02.1(i) and (ii) above) but, with respect to City, shall not be released from those Rights and Obligations described in the Release Provisions to which City has not consented. If City consents to any Release Provisions, then: (i) the Transferor shall be free from any and all Rights and Obligations accruing on or after the date of any Transfer with respect to those Rights and Obligations described in such Release Provisions and (ii) no default hereunder by Transferee with respect to any Rights and Obligations from which the Transferor has been released shall be attributed to the Transferor, nor may such Transferor's rights hereunder be canceled or diminished in any way by any such default. City may consent, or conditionally consent, to all, none, or some of the Release Provisions.

Section 13.02.3. City Consent to Release. City shall review and consider promptly, reasonably and in good faith any request by a Transferor for City's consent to any Release Provisions. City's consent to any such Release Provisions may be withheld only if: (i) reliable evidence supports a conclusion that the Transferee will be unable to perform the Rights and Obligations proposed to be assumed by the Transferee pursuant to the Transfer Agreement, (ii) the Rights and Obligations are not reasonably allocable among particular portions of the Project and Property, such as the Transferred Property, (iii) the Transferor or Transferee fails to provide acceptable security, as and if reasonably requested by City, to ensure the performance of the Rights and Obligations proposed to be assumed by the Transferee pursuant to the Transfer Agreement, or (iv) the Transferor or Transferee fail to provide information reasonably requested by the City to assist it in making the determinations described in this paragraph. In no event shall City unreasonably withhold consent to any Release Provisions. City shall respond within 30 days to any request by a Transferor for consent to any Release Provisions.

Section 13.02.4. City Refusal to Release. Subject to the provisions of subsection (b) above, because and to the extent certain obligations arising under this Development Agreement may not reasonably be allocable among portions of the Project, City may refuse to release the Transferor of one portion of the Project from such Rights and Obligations under this Development Agreement even though the Rights and Obligations are being or have been assumed by the Transferee of some other portion of the Project.

Section 13.03. Non-Assuming Transferees. Except as otherwise required by a Transferor, the Obligations of a Transferor shall not apply to any purchaser of any property that has been established as a single legal parcel for nonresidential use that does not require any further on-site or off-site infrastructure. The Transferee in such a transaction and the successors and assigns of such a Transferee ("**Non-Assuming Transferees**") shall be deemed to have no Obligations under this Agreement, but shall continue to benefit from the Rights provided by this Development Agreement for the duration of its term. Nothing in this section shall exempt any Transferred Property transferred to a Non-Assuming Transferee from payment of applicable fees, taxes and assessments or compliance with applicable conditions of an Approval or with Applicable Law.

ARTICLE 14. MORTGAGEE PROTECTION

Section 14.01. In General. The provisions of this Development Agreement shall not limit VST's right to encumber the Property or any portion thereof, or any improvement thereon by any mortgage, deed of trust or other device securing financing with respect to such portion. City acknowledges that lenders providing such financing and other "Mortgagees" (defined below) may require certain interpretations and modifications of this Development Agreement and agrees upon request, from time to time, to meet with VST and representatives of such lenders to negotiate in good faith any such request for an interpretation or modification. City shall not unreasonably withhold its consent to any such requested interpretation or modification provided such interpretation or modification is consistent with the intent and purposes of this Agreement. Any person holding a mortgage, deed of trust or other security instrument on all or any portion of the Property made in good faith and for value (each, a "**Mortgagee**"), shall be entitled to the rights and privileges of this Article 14.

Section 14.02. Impairment of Mortgage or Deed of Trust. Except as otherwise specifically stated in the terms of any security instrument held by a Mortgagee, no default under this Development Agreement shall defeat, render invalid, diminish, or impair the lien of any mortgage or deed of trust on the Property made, or other interest in the Property acquired, by any Mortgagee in good faith and for value.

Section 14.03. Notice of Default to Mortgagee. If a Mortgagee has submitted a written request to City as specified herein for notice, City shall use its best efforts to provide to such Mortgagee written notification of any failure or default by VST in the performance of VST's obligations under this Agreement, which notification shall be provided to such Mortgagee when such notification is delivered to VST.

Section 14.04. Right of Mortgagee to Cure. Any Mortgagee shall have the right, but not the obligation, to cure any failure or default by VST during the cure period allowed VST under this Agreement, plus an additional 90 days if, to cure such failure or default, the Mortgagee must obtain possession of the property as by seeking appointment of a receiver or other legal process. Any Mortgagee that undertakes to cure any such failure or default shall provide written notice to City of that fact; provided that no initiation of any such efforts by a Mortgagee shall obligate such Mortgagee to complete or succeed in any such curative efforts.

Section 14.05. Liability for Past Defaults or Obligations. Subject to the foregoing, any Mortgagee, including the successful bidder at a foreclosure sale, who comes into possession of the Project or the Property or any part thereof, shall take such property subject to the Rights and Obligations of this Development Agreement and in no event shall any such property be released from any Obligations. Nothing in this Article 14 shall prevent City from exercising any remedy it may have for a default under this Agreement; *provided, however*, that in no event shall such Mortgagee be liable personally for any defaults or monetary obligations of VST arising before such Mortgagee acquires or possesses such property.

ARTICLE 15. GENERAL PROVISIONS

Section 15.01. Incorporation of Recitals and Exhibits. The Recitals set forth above and the **Exhibits A - O** attached hereto are incorporated herein as though set forth in full.

Section 15.02. Project is a Private Undertaking. The development VST proposes to undertake is a private development, and VST shall exercise full dominion and control over the Project subject only to VST's limitations and Obligations contained in this Agreement.

Section 15.03. Cooperation in the Event of Legal Challenge.

Section 15.03.1. In General. If any person not party to this Development Agreement institutes any administrative, legal or equitable action or other proceeding challenging the validity of any provision of this Agreement, any Approval or the sufficiency of any review of this Development Agreement or any Approval under CEQA (each a "**Third-Party Challenge**"), the Parties promptly shall meet and confer as to the most appropriate response to such Third-Party Challenge; *provided, however*, that any such response shall be consistent with Sections 15.03.2 and 15.03.3 below.

Section 15.03.2. Tender to and Conduct of Defense by VST. VST shall indemnify City against any and all fees and costs arising out of the defense of such Third-Party Challenge and VST shall cooperate with City in the defense and / or settlement of such Third-Party Challenge and may take any and all actions it deems necessary and appropriate in its sole discretion in connection therewith; *provided, however*, that VST shall seek and secure City's consent to any settlement of such Third-Party Challenge, which consent shall not unreasonably be withheld or delayed.

Section 15.03.3. Defense by City. If VST should fail to accept City's tender of defense as set forth in Section 15.03.2, City shall defend such Third-Party Challenge and control the defense and/or settlement of such Third-Party Challenge as City decides (in its sole discretion), and City may take any and all actions it deems necessary and

appropriate (in its sole discretion) in connection therewith; *provided, however*, that City shall seek and secure VST's consent to any settlement of such Third-Party Challenge, which consent shall not unreasonably be withheld or delayed. VST shall indemnify City against any and all fees and costs arising out of the City's defense of such Third-Party Challenge. Notwithstanding the foregoing, if VST determines for any reason that it no longer intends to develop the Project, then it may deliver notice of such determination to City and shall not be liable for any defense costs incurred by City more than 90 days following the delivery of such notice.

Section 15.04. Defense and Indemnity. VST shall defend and indemnify City from and against any and all damages, claims, costs and liabilities arising out of the personal injury or death of any person, or damage to the property of any person, to the extent such damages, claims, costs or liabilities result from the construction of the Project by VST or by VST's contractors, subcontractors, agents or employees, except as caused by the negligence or willful misconduct of City, its officers, employees, contractors, consultants or agents. Nothing in this Section 15.04 shall be construed to mean that VST shall defend or indemnify City from or against any damages, claims, costs or liabilities arising from, or alleged to arise from, activities associated with the maintenance or repair by City or any other public agency of improvements that have been offered for dedication and accepted by City or such other public agency. City and VST may from time to time enter into subdivision improvement agreements, as authorized by the Subdivision Map Act, which agreements may include defense and indemnity provisions different from those contained in this Section 15.04. If any conflict appears between such provisions in any such subdivision improvement agreement and the provisions set forth above, the provisions of such subdivision improvement agreement shall prevail.

Section 15.05. Governing Law; Attorneys' Fees. This Development Agreement shall be construed and enforced in accordance with the laws of the State of California. Venue for any dispute arising under this Agreement lies in the County of Merced and VST hereby consents to personal jurisdiction there for that purpose. The Parties will cooperate to facilitate venue for any Third-Party Challenge set forth in Section 15.03 above in Merced County. The terms and provisions of this Section 15.05 shall survive any termination of this Agreement.

Section 15.06. Force Majeure. Performance by any Party of its Obligations hereunder shall be excused during any period of "**Permitted Delay**" as hereinafter defined. For purposes hereof, Permitted Delay shall include delay beyond the reasonable control of the Party claiming the delay (and despite the good faith efforts of such Party) including, but not limited to: (i) acts of God, (ii) pandemics, civil commotion and acts of terrorism, (iii) riots, (iv) strikes, picketing or other labor disputes, (v) shortages of materials or supplies, (vi) damage to work in progress by reason of fire, floods, earthquake or other casualties, (vii) failure, delay or inability of the other Parties to act, (viii) as to VST only, the failure, delay or inability of City to provide adequate levels of public services, facilities or infrastructure to the Property, (ix) as to City only, with respect to completion of the Annual Review or processing applications for Approvals, the failure, delay or inability of VST to provide adequate information or substantiation as reasonably required to complete the Annual Review or process applications for Approvals; (x) delay caused by restrictions imposed or mandated by governmental entities other than the City; (xi) enactment of conflicting state or federal laws or regulations, (xii) judicial decisions or similar legal incapacity to perform, and (xiii) litigation brought by a third party attacking the validity of this

Agreement. Any Party claiming a Permitted Delay shall notify the other Party (or Parties) in writing of such delay within 30 days after the commencement of the delay, which notice ("**Permitted Delay Notice**") shall include the estimated length of the Permitted Delay. A Permitted Delay shall be deemed to occur for the time set forth in the Permitted Delay Notice unless a Party receiving the Permitted Delay Notice objects in writing within 10 days after receiving the Permitted Delay Notice. Upon such an objection, the Parties shall meet and confer within 30 days after the date of the objection in a good faith effort to resolve their disagreement as to the existence and length of the Permitted Delay. If no mutually acceptable solution can be reached, any Party may take action as may be permitted under Article 12 above.

Section 15.07. Waiver.

Section 15.07.1. Legal Rights. VST acknowledges and agrees that the terms and provisions of this Development Agreement specifically permit City in some instances to impose requirements upon the Project that City would not otherwise be able to impose due to a lack of nexus, rough proportionality or reasonable relationship between the Project and such requirement or other reasons. To the extent any such requirement is imposed by City upon the Project consistently with the terms and provisions of this Agreement, VST waives any right to challenge judicially the imposition of such requirement by City. Except as otherwise provided in this Section 15.07.1, City shall comply with Applicable Law.

Section 15.07.2. Other Rights. While Section 15.07.1 prohibits VST from challenging judicially certain City requirements imposed consistently with this Agreement, nothing in this Development Agreement shall be deemed to abrogate or limit, nor be deemed to be a waiver by VST of, any right of VST (whether arising under the United States Constitution, the California Constitution or otherwise) to request City to refrain from imposing upon VST, the Project or the Property any requirement that this Development Agreement permits City so to impose or otherwise petition City with respect to any matter related to the Project or the Property.

Section 15.08. Notices. Any notice or communication required hereunder between the Parties must be in writing, and may be given either personally, by facsimile (with original forwarded promptly by regular U.S. Mail) or by Federal Express or other similar courier promising overnight delivery. If personally delivered, a notice or communication shall be deemed to be given and received when delivered to the Party to whom addressed. If given by facsimile transmission, a notice or communication shall be deemed to be given and received upon receipt of the entire document by the receiving Party's facsimile machine. Notices transmitted by facsimile after 5:00 p.m. on a business day or on a Saturday, Sunday or holiday shall be deemed to have been given and received on the next business day. If given by Federal Express or similar courier, a notice or communication shall be deemed to be given and received when delivered as shown on a receipt issued by the courier. Such notices or communications shall be given to the Parties at their addresses set forth below:

If to City, to:	City Manager/City Clerk City of Merced 678 West 18th Street Merced, CA 95340
With a courtesy copy to:	City Attorney's Office City of Merced 678 West 18th Street Merced, CA 95340
If to VST, to:	Smith Family Scholarship Board and Trustees Merced County Office of Education 632 West 13th Street, Room C-1 Merced, CA 95341
With a courtesy copy to:	Steve M. Tietjen, Ed.D. Merced County Office of Education 632 West 13th Street, Room C-1 Merced, CA 95341

Any Party may at any time, change its address or facsimile number for notice by giving 10 days' written notice to the others.

Section 15.09. No Joint Venture or Partnership. Nothing in this Development Agreement or in any document executed in connection with it shall be construed as creating a joint venture, partnership or any agency relationship between City and VST. City shall not be responsible for public improvements unless and until they are accepted by City in the manner required by law.

Section 15.10. Severability. If any provision of this Development Agreement is held invalid, void or unenforceable but the remainder of this Development Agreement can be enforced without failure of material consideration to any Party, then this Development Agreement shall not be affected and shall remain in full force and effect, unless amended by mutual consent of the Parties.

Section 15.11. Estoppel Certificate. Any Party and any Mortgagee may, at any time, and from time to time, deliver written notice to the other Party or Parties requesting such Party or Parties to certify in writing that, to the knowledge of the certifying Party: (i) this Development Agreement is in full force and effect and a binding obligation of the Parties, (ii) this Development Agreement has not been amended or modified either orally or in writing, and if so amended, identifying the amendments, and (iii) as of the date of the last Annual Review, the requesting Party (or any Party specified by a Mortgagee) is not in default in the performance of its obligations under this Agreement, or if in default, to describe therein the nature and amount of any such defaults. A Party receiving a request hereunder shall execute and return such certificate or give a written, detailed response explaining why it will not do so within 30 days of receipt of a request. Each Party acknowledges that such a certificate may be relied upon by third parties acting in good faith. A certificate provided by City establishing the status of this Development

Agreement shall be in recordable form and may be recorded at the expense of the recording Party.

Section 15.12. Further Assurances. Each Party shall execute and deliver to the other Party or Parties all such other further instruments and documents and take all such further actions as may be reasonably necessary to carry out this Development Agreement and the Approvals and to provide and secure to the other Party or Parties the full and complete enjoyment of their Rights hereunder.

Section 15.13. Construction.

Section 15.13.1. All Parties have been represented by counsel in the preparation of this Development Agreement and no presumption or rule that ambiguity shall be construed against a drafting party shall apply to its interpretation or enforcement. Captions on sections and subsections are provided for convenience only and shall not be deemed to limit, amend or affect the meaning of the provision to which they pertain. If any conflict appears between this Development Agreement and the rules, regulations or official policies of City, the provisions of this Development Agreement shall prevail and be deemed to have amended any such conflicting rules, regulation or official policy as of the Effective Date.

Section 15.13.2. The Parties intend this Agreement to be consistent with the requirements of Chapter 20.86 of the Municipal Code and it shall be construed consistently with that intent. Should any conflict arise between this Agreement and that Chapter 20.86 as it exists on the Effective Date, that Chapter 20.86 shall control.

Section 15.14. Other Miscellaneous Terms. In construing this Agreement, the singular includes the plural; the masculine gender includes the feminine and the neuter; "shall" is mandatory; "may" is permissive.

Section 15.15. Counterpart Execution. This Development Agreement may be executed in any number of counterparts and shall be deemed duly executed when each of the Parties has executed such a counterpart.

Section 15.16. Time. Time is of the essence of each and every provision of this Agreement.

Section 15.17. Good Faith/Fair Dealing. The Parties agree that a covenant of good faith and fair dealing shall apply to all actions of the Parties. As used herein, this covenant shall mean that the Parties shall act reasonably, and no Party shall do anything which shall have the effect of destroying or injuring the rights of any other Party to receive the benefit of its bargain in this Agreement. Nothing in this Section 15.17 shall detract from the principle of Section 12.02.4 that neither Party shall be entitled to damages for breach of this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Development Agreement as of the Execution Date above.

CITY OF MERCED
A California Charter Municipal Corporation

BY: _____
D. Scott McBride
City Manager

ATTEST:
D, SCOTT MCBRIDE, CITY CLERK

BY: _____
Assistant/Deputy City Clerk

APPROVED AS TO FORM:
CRAIG J. CORNWELL, CITY ATTORNEY

BY: _____ 4/11/24
City Attorney Date

768
ACCOUNT DATA:
M. VENUS RODRIGUEZ, FINANCE OFFICER

BY: _____
Verified by Finance Officer #8692
No funds to encumber. VC 3/22/24
FC 3/22/24

{Signatures continued on next page}

VIRGINIA SMITH TRUST
ADMINISTERED BY THE
MERCED COUNTY OFFICE OF
EDUCATION BOARD OF TRUSTEES AS
TRUSTEE

BY: _____
(Signature)

Steve M. Tietjen
(Typed Name)

Its: Executive Director
(Title)

BY: _____
(Signature)

_____
(Typed Name)

Its: _____
(Title)

Taxpayer I.D. No. _____

ADDRESS: _____

_____

TELEPHONE: _____
FAX: _____
E-MAIL: _____

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT **CIVIL CODE § 1189**

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 Merced)

On March 26, 2024 (Date) before me, Alejandra Medina, Notary Public (Here Insert Name and Title of the Officer),

personally appeared David Scott McBride (Name(s) of Signer(s)),

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

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

WITNESS my hand and official seal.

ALEJANDRA MEDINA
Notary Public - California
Merced County
Commission # 2473260
My Comm. Expires Nov 21, 2027

Signature Alejandra Medina
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____ Document Date: _____

Number of Pages: _____ Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☐ Other: _____
Signer Is Representing: _____

Signer's Name: _____
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☐ Other: _____
Signer Is Representing: _____

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CALIFORNIA ACKNOWLEDGMENT **CIVIL CODE § 1189**

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 Merced

On March 7, 2024 (*Date*) before me, Kayla Abarca, Notary Public (*Here Insert Name and Title of the Officer*),

personally appeared Steve M. Tietjen (*Name(s) of Signer(s)*),

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

KAYLA ABARCA
Notary Public - California
Merced County
Commission # 2422371
My Comm. Expires Oct 20, 2026

Place Notary Seal and/or Stamp Above

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 _____
Signature of Notary Public

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____
☐ Corporate Officer – Title(s): _____
☐ Partner – ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☐ Other: _____
Signer is Representing: _____

Signer's Name: _____
☐ Corporate Officer – Title(s): _____
☐ Partner – ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☐ Other: _____
Signer is Representing: _____

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EXHIBITS

A	Property Exhibit
B	Legal Description
C	County/City Memorandum of Understanding
D	City PFFP Impact Fees Applicable to the Project
E	Specific Plan Impact Fees Applicable to the Project
F	Timing of Payment of Impact Fees; Adjustments
G	Project Backbone and Offsite Infrastructure
H	Phasing Plan
I	Public Infrastructure by Phase
J	Campus Parkway Connection Right of Way and Improvements
K	Affordable Housing Plan
L	Water System Master Plan
M	Onsite Campus Parkway to be Constructed by VST
N	Bicycle and Multimodal Transportation Improvements
O	V Street Bypass Sewer Trunk Line

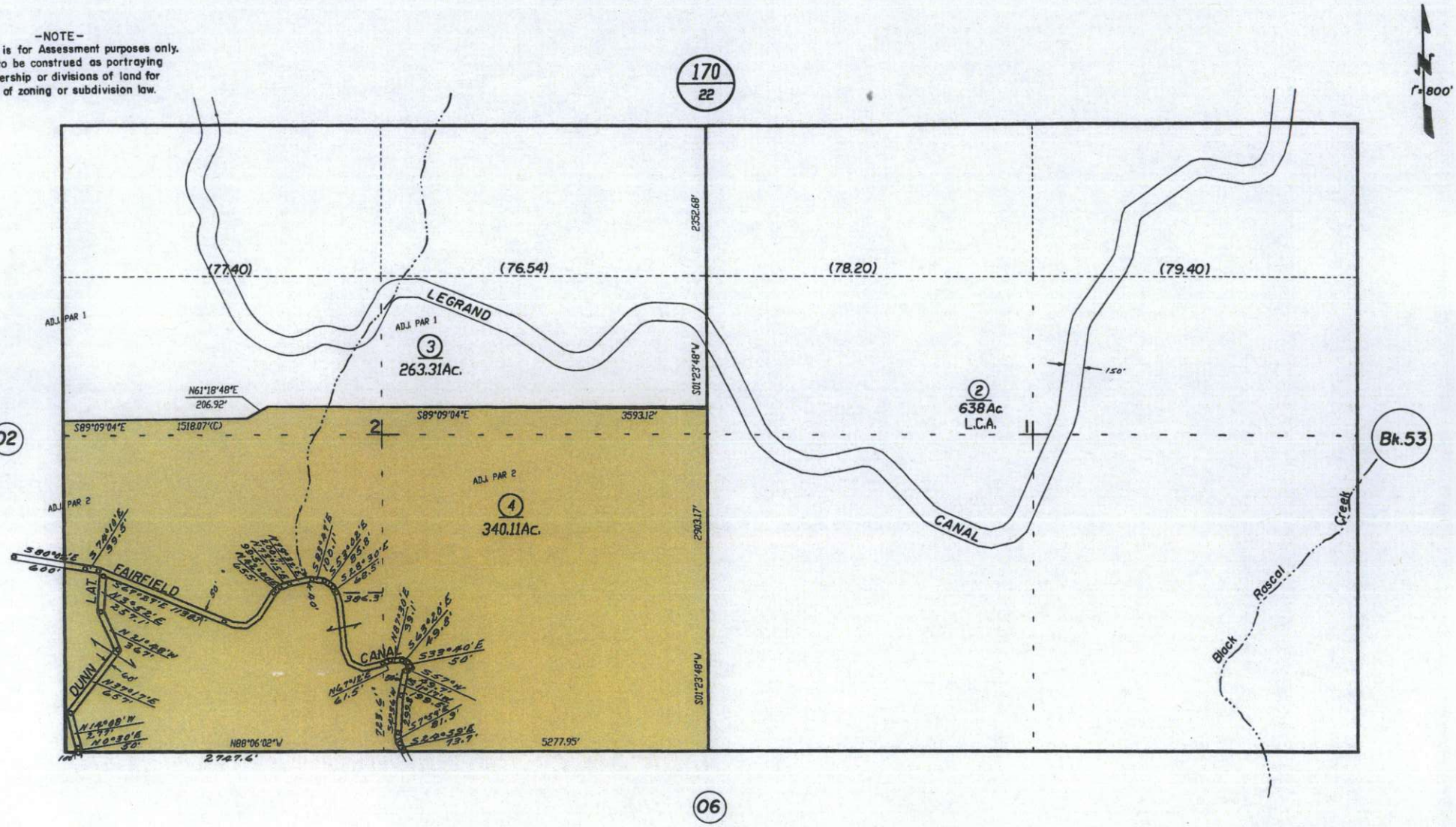
EXHIBIT A

Property Exhibit

T. 7S., R.14E., M.D.B. & M.

Tax Rate Area 110-06 **60-01**

-NOTE-
This map is for Assessment purposes only. It is not to be construed as portraying legal ownership or divisions of land for purposes of zoning or subdivision law.



NOTE—Assessor's Block Numbers shown in Ellipses
Assessor's Parcel Numbers shown in Circles

Assessor's Map Bk.60-Pg.01
County of Merced, Calif.
1959

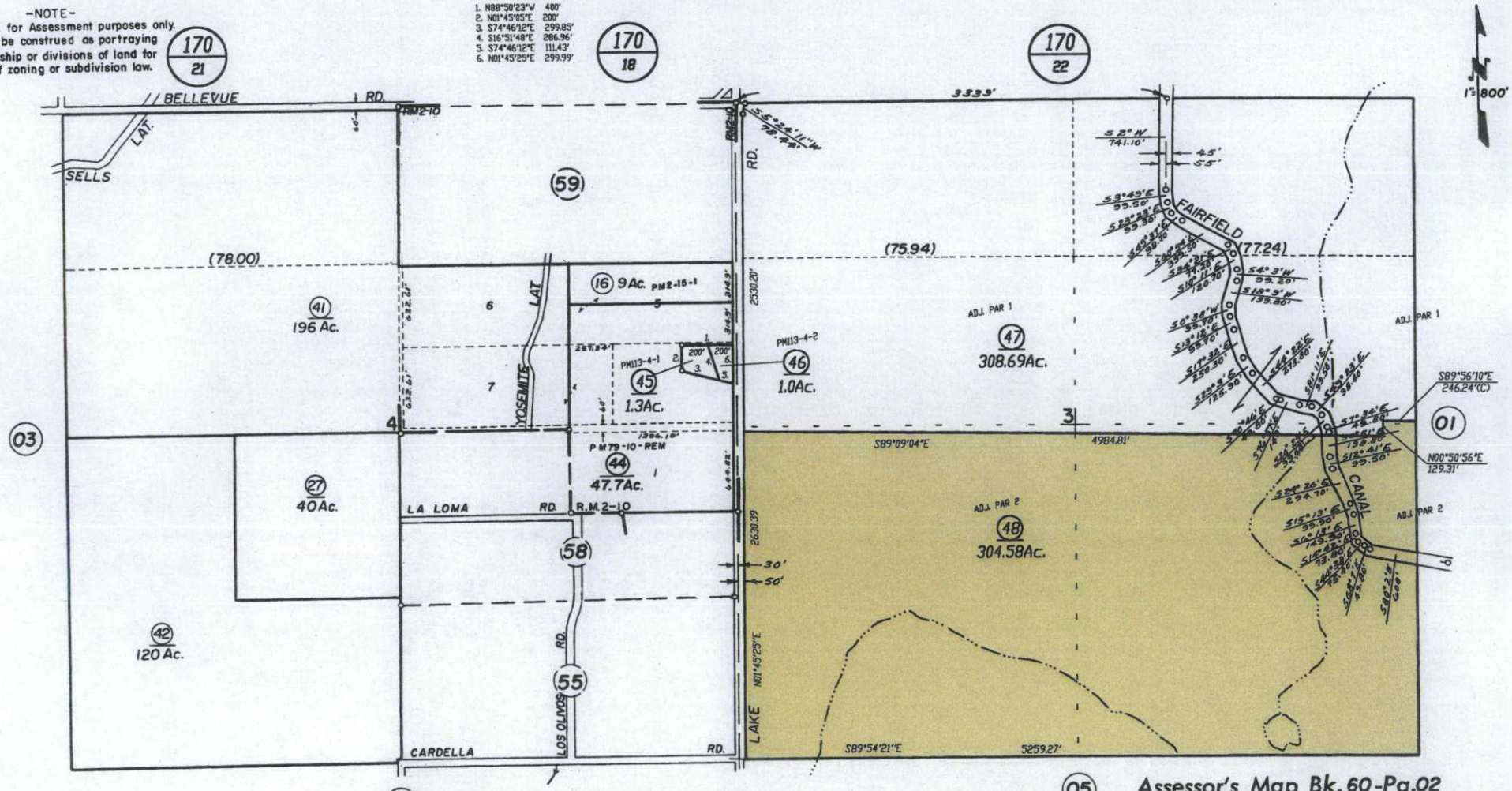
REVISED 8-67
12-30-01
12-30-16

T.7S., R.14E., M.D.B. & M.

Tax Rate Area 83-02 83-28 **60-02**

-NOTE-
This map is for Assessment purposes only. It is not to be construed as portraying legal ownership or divisions of land for purposes of zoning or subdivision law.

1. N88°50'23"W 400'
2. N01°45'05"E 200'
3. S74°46'12"E 299.85'
4. S16°51'48"E 286.96'
5. S74°46'12"E 111.43'
6. N01°45'25"E 299.99'



Addition to Yosemite Colony R.M. Bk. 2, Pg. 10 .

REVISED 5-65
8-67
12-68
7/73
1/74
8/81
10-18-13
12-31-16

NOTE—Assessor's Block Numbers shown in Ellipses
Assessor's Parcel Numbers shown in Circles

Assessor's Map Bk. 60-Pg. 02
County of Merced, Calif.
1959

EXHIBIT B

Legal Description

Exhibit B

PROPERTY DESCRIPTION

That portion of Sections 2 and 3, Township 7 South, Range 14 East, Mount Diablo Base and Meridian, in the County of Merced, State of California, described as follows:

Beginning at a point on the South line of said Section 3 which lies S. 89 deg. 54' 21" E. 50.02 feet from the Southwest corner of said Section 3, said point being at the Southeast corner of that parcel granted to Merced County by Deed recorded in Volume 2288 of Official Records of Merced County, at Page 783; thence N. 01 deg. 45' 25" E. 2620.39 feet, along the East line of said parcel granted to Merced County, being parallel with the West line of said Section 3; thence S. 89 deg. 09' 04" E. 4984.81 feet; thence N. 00 deg. 50' 56" E. 129.31 feet; thence S. 89 deg. 56' 10" E. 1764.31 feet; thence N. 61 deg. 18' 48" E. 206.92 feet; thence S. 89 deg. 09' 04" E. 3593.12 feet to the East line of said Section 2; thence S. 01 deg. 23' 48" W. 2903.17 feet, along said East line, to the Southeast corner of said Section 2; thence N. 88 deg. 06' 02" W. 5277.95 feet, along the South line of said Section 2 to the Southwest corner of said Section 2; thence N. 89 deg. 54' 21" W. 5259.27 feet, along the South line of said Section 3, to the point of beginning.

Also being shown as "Adjusted Parcel 2" by Certificate of Compliance No. 16009 for Property Line Adjustment No. 16014 recorded October 19, 2016 as Series No. 2016035817 of Official Records, Merced County.

Assessor's Parcel No.: 060-010-004-000; 060-020-048-000

EXHIBIT C

County/City Memorandum of Understanding

MEMORANDUM OF UNDERSTANDING ("MOU")

BETWEEN
THE COUNTY OF MERCED AND THE CITY OF MERCED
RELATING TO THE REFERRAL AND REVIEW PURSUANT TO GOVERNMENT CODE §65919 OF POTENTIAL ENTITLEMENT APPLICATIONS BY THE VIRGINIA SMITH TRUST

THIS AGREEMENT is entered into this 8th day of June, 2021 by and between the COUNTY OF MERCED, hereinafter "County," and the CITY OF MERCED, hereinafter "City" each individually a "Party" and collectively the "Parties."

WHEREAS, the County of Merced, a political subdivision of the State of California, has jurisdiction and land use authority over any development project proposed in an unincorporated area of the County; and,

WHEREAS, the City of Merced, a municipal corporation of the State of California, has a specific interest in any development project within its Sphere of Influence; and,

WHEREAS, the County adopted the University Community Plan (UCP) in 2004, and General Plan in 2013. The City adopted its General Plan in 2012. Together these plans comprise the guiding land use policies applicable to potential entitlement applications ("Potential Applications") by the Virginia Smith Trust ("VST") to facilitate the development of housing, neighborhood commercial uses, parks, public facilities, and various public infrastructure facilities ("Possible Project") on property adjacent to the University of California, Merced ("UC Merced"), in the UCP North subarea, within the City Sphere of Influence ("SOI") and Specific Urban Development Plan ("SUDP") ("Possible Project Site"); and,

WHEREAS, the County and City have executed a Property Tax Sharing Agreement that applies to the Possible Project Site and that would, upon potential future annexation to the City, provide adjustments to the allocation of property taxes, assist in aligning the interests of both jurisdictions, and facilitate sound planning and the provision of services as a result of potential future development; and,

WHEREAS, if UC Merced is later annexed to the City, there may be an opportunity for the owners of adjacent land, including the Possible Project Site, to seek annexation to the City; and

WHEREAS, in consideration of potential future annexation of the Possible Project Site, the City of Merced, Merced County Local Agency Formation Commission, and other responsible agencies may elect to rely on planning or environmental analysis and studies related to Potential Applications for the Possible Project; and

WHEREAS, given the interest of both Parties in any proposed development located on the Possible Project Site, the County and City desire to coordinate efforts for analyzing the Possible Project for consistency with applicable plans and policies; and,

MERCED COUNTY CONTRACT NO 2021116

WHEREAS, in order to memorialize a framework for future cooperative efforts between the City and the County in reviewing and considering Potential Applications for development of the Possible Project, the Parties enter into this MOU as follows:

1. **DEFINITION OF THE POSSIBLE PROJECT SITE:** The Possible Project Site consists of approximately 654 acres of land owned by VST located east of Lake Road and immediately south of the UC Merced Campus and identified as APNs 60-010-004 and 60-020-048, as described in **Attachment A.** The Possible Project Site is located in unincorporated Merced County in the University Community Plan North subarea of the University Community Plan area and within the City SOI and SUDP and is designated for residential mixed-use development as part of the UCP.

2. **PURPOSE:** The County and the City have adopted policies in their respective General Plans to cooperate in the review of entitlement applications within the UCP area, the City SOI, and the SUDP. This MOU outlines how those policies will be implemented should the County receive Potential Applications for the Possible Project. Notably, pursuant to State and local guidelines, the Possible Project would be required to satisfy the requirements of the California Environmental Quality Act (CEQA) and other applicable City and County requirements. Development of the properties within the UCP, including the Possible Project Site, was previously analyzed in the UCP Environmental Impact Report (EIR) at a program level by Merced County in 2004. The Potential Applications for the Possible Project would entail additional environmental review for specific project-level approvals. The City's General Plan Policy UE-1.4 would govern potential future annexation of the Possible Project Site into the City. Such annexation could be considered concurrently with any amendment to the University Community Plan to include a Specific Plan, or concurrently with other Project Applications as described in this MOU.

   The County and the City agree upon a procedure for referral by the County to the City or by the City to the County of proposed actions and for comment upon those proposals in accordance with Government Code §65919.1, and to provide an orderly and clear approach to the review and analysis of Potential Applications for the Possible Project, including the possible implementation of the Specific Plan approval process prescribed by the UCP and the Urban Expansion policies of the City of Merced 2030 General Plan, to further the cooperative relationship between the County, City, and VST, and to support potential future development of the Possible Project Site. This MOU does not commit the Parties to approval of Potential Applications for the Possible Project, as any such approvals would be within the sole discretion of the Parties' governing bodies.

3. **EFFECTIVE DATE:** This MOU is entered into by and between the County and City and takes effect on June 8, 2021, ("Effective Date").

4. **TERM:** The term of this MOU shall commence upon the Effective Date and shall terminate if and when the Parties' governing bodies have taken final action on Potential Applications for the Possible Project, or as otherwise provided herein.

5. **COOPERATION:** City and County intend to engage in a cooperative relationship to process any Potential Applications for the Possible Project, as described in Section 7. In fur-

therance of the processing of Potential Applications, the County and City desire to specify their respective responsibilities for review, coordination, preparation of environmental documents, and other matters. This Agreement is specifically intended to establish a process to comply with Section 3.3 of the Implementation Plan of the UCP, and Policy UE-1.4 of the City's Urban Expansion policies related to the UCP area. Per these policies and other applicable policies, the issues to be addressed prior to any future development of the Possible Project Site would include:

i. Connection of the Possible Project to the City of Merced water distribution system, the timing of related improvements, and the Possible Project's fair share of costs for the improvements (UCP Implementation Policy 3.3).

ii. Connection of the Possible Project to the City's wastewater treatment and collection system, including the amount and timing of effluent to be collected and treated by the City, the alignment, extent and timing of necessary offsite collection improvements, and the Project's fair share of costs for these improvements (UCP Implementation Policy 3.3, UE Policy UE-1.4.a, Public Services and Facilities Policy 4.1.c).

iii. A determination of the appropriate land uses, densities, and improvements that should link and serve as transitions between the City's urban area and the University Community (UCP Implementation Policy 3.3).

iv. The process for the possible future annexation of the UC Campus to the City, including evaluating various corridors for possible annexation in order to bridge the gap between the current City limits and the Campus boundary (City Urban Expansion Policy UE-1.4.a).

v. Phasing and servicing of any development through the use of annexation agreements and phased annexations (or phasing within a Specific Plan), not through the creation of a County services district, either as an interim or permanent measure (City Urban Expansion Policy UE-1.4.b).

vi. Implementation of the adopted UCP as a general conceptual framework for development of the UCP project area (including the revised 2009 external boundaries for the University and the University Community North) and development of a special planning process to implement the UCP to be funded by applicants, developers and the County, and not City residents (City Urban Expansion Policies-1.4.b, City Land Use Element Policy 3.7.3).

vii. Revision of all City planning documents to accommodate the possible incorporation of the University Community into the City of Merced. These include not only the General Plan, but also plans for wastewater treatment, water, storm drainage, parks, fire protection, and other services

(City Urban Expansion Policy UE-1.4.b).

viii. Work with the County to implement Campus Parkway (City Transportation and Circulation Element Policy 1.2.d).

ix. Coordination of bicycle planning with the University in UC's Long-Range Development Plan, and the County's University Community Plan (City Transportation and Circulation Element Policy 2.6.a).

x. Implementation of the City's Urban Design goals and policies.

6. **POTENTIAL ENTITLEMENT APPLICATIONS:** The County and City intend to exercise their respective land use authorities as Lead or Responsible Agency for the consideration of any Potential Applications for the Possible Project, which may include the following:

i. California Environmental Quality Act (CEQA) Compliance – including preparation of an Initial Study and subsequent environmental document that analyzes the potential impacts of the Possible Project – by County – Lead Agency.

ii. An Amendment to the UCP by County, and consideration of the Amended UCP as a General Plan Amendment by County – Lead Agency and City – Responsible Agency.

iii. A Specific Plan as defined in and in conformance with the requirements of the Amended UCP – by County– Lead Agency and City – Responsible Agency.

iv. Preparation, execution, and adoption of cooperative agreements with the City of Merced, Merced Irrigation District, Weaver Union School District, Merced City Schools and other jurisdictions called for in the Amended UCP, or as required by documents for Potential Entitlement Applications – by County– Lead Agency and City – Responsible Agency.

v. Vesting Tentative Tract Map for Phase 1 – by County – Lead Agency.

vi. Consideration of Possible Annexation. The Parties recognize that the passage of AB 3312 (Chapter 56, Statutes of 2020) may enable the UC Merced Campus and immediately adjacent properties, after January 1, 2021, to be annexed to the City of Merced through normal annexation procedures. Such possible annexation could facilitate the provision of public services to the Possible Project Site. Prior to commencing any formal annexation process, the City would process a revised Pre-Annexation Application for the Possible Project Site. Any proposed formal annexation would be subject to approval by the City Council and subject to CEQA. Any such proposal would also be subject to considera-

tion and possible approval action by the Merced Local Agency Formation Commission (LAFCO) – by City – Lead Agency.

vii. Pre-Annexation Development Agreement – by City – Lead Agency.

7. ROLES & RESPONSIBILITIES:

CEQA:

Lead Agency: County would be designated as the Lead Agency for Potential Applications for the Possible Project, except for any future potential annexation of the Possible Project Site and related pre-annexation development agreement, for which City would be designated as the Lead Agency. The lead agency is responsible for preparing, processing and securing all necessary environmental documents required by CEQA, as amended.

Responsible Agency: City may be designated as a Responsible Agency for Potential Applications for the Possible Project, except for Annexation and Pre-Annexation Development agreement, for which County would be designated a Responsible Agency. Should County receive Potential Applications for the Possible Project, County would share all administrative draft documents, studies, and environmental reports with City prior to releasing the documents for public review, including but not limited to the Environmental Checklist to determine additional issues to cover in a supplemental environmental analysis, the administrative draft EIR, and the administrative draft of the Final EIR. County would be responsible for determining, in its independent judgment and discretion per CEQA Guidelines Sections 15084(e) and 15090, that the environmental documents were adequate and represented the independent judgement of the County; however, the County would give due consideration to any comments made by the City on the administrative draft documents and would integrate such comments and requested revisions to the extent feasible.

Project Planner(s). The County Planning Department would perform all tasks necessary to review and process the Potential Applications and would prepare all notices, staff reports, and community outreach related to obtaining County entitlements. The City Planning Department would perform all tasks necessary to review and process any potential entitlement applications and prepare all notices and staff reports related to obtaining City entitlements, should the Possible Project Site be later annexed into the City.

Meetings. The County agrees to establish a Project and Technical Review Team and initiate a process for the review of Potential Applications. The Technical Review Team would meet monthly for the purpose of reviewing interim work products, reviewing technical reports, and reviewing any issues related to the Possible Project.

Review and Approval Process: The Parties intend to implement procedures for referral and review of Potential Application documents above and beyond the minimum procedures required by California Government Code Section 65919 *et seq*. Such procedures shall be determined on case-by-case basis and mutually agreeable by the Project and Technical Review Team Members.

8. **APPLICABLE LAWS AND STANDARDS**: The County would process any Potential Applications based on the County's applicable rules, regulations, ordinances, and policies in effect at the time said Potential Applications were deemed complete. The County would require any Possible Project to comply with the following development standards of the City and as otherwise established in the UCP:

    i. Improvement Standards for the City of Merced related to the design of public infrastructure in effect at the time of filing of the Vesting Tentative Map for Phase I.

    ii. City standards for the development of parks and recreation facilities.

    iii. Architectural review and approval as defined in the Specific Plan.

    iv. City General Plan standards and policies for the level of service on City roadways for Project roadways and City roadways affected by the Project.

    v. Compliance with the City's Active Transportation Plan.

    vi. Compliance with the City Water Master Plan and Sewer Master Plan.

    vii. Compliance with any adopted pre-annexation agreement between the City and VST.

    Infrastructure Design Elements: The Parties also agree that the planning and development of Campus Parkway, Bellevue Road, and the Merced-Atwater Expressway in general is of concern to the City and County. County agrees to consult with City on the design and development options for the completion of Campus Parkway between Yosemite Avenue and Bellevue Road.

9. **INDEMNIFICATION:** City and County shall include the following indemnification language in any and all Potential Applications related to the Possible Project and/or Possible Project Site and as a condition of approval for all entitlements related to the Possible Project and/or Possible Project Site:

    The developer/applicant shall indemnify, protect, defend (with counsel selected by the City and/or County), and hold harmless the City and County, and any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof, from any and all claims, actions, suits, proceedings, or judgments against the City and/or County, or any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof to attack, set aside, void, or annul, an approval and/or any and all conditions of approval of the City and/or County, or any agency or instrumentality thereof, advisory agency, appeal board, or legislative body, including actions approved by the voters of the City and/or County, concerning the project and the approvals and/or any and all conditions of approval granted herein. In addition, developer/applicant shall indemnify, protect, defend (with counsel selected by the

City and/or County), and hold harmless the City and County, and any officers, officials, employees, or agents thereof from any and all claims, actions, suits, proceedings, or judgments directly or indirectly related to the project. Furthermore, developer/applicant shall indemnify, protect, defend, and hold harmless the City and County, or any agency or instrumentality thereof, against any and all claims, actions, suits, proceedings, or judgments against any governmental entity in which developer/applicant's project is subject to that other governmental entity's approval and a condition of such approval is that the City and/or County indemnify and defend such governmental entity. City and/or County shall promptly notify the developer/applicant of any claim, action, suits, or proceeding. Developer/applicant shall be responsible to immediately prefund the litigation cost of the City and/or County, including, but not limited to, City's and/or County's attorney's fees and costs. If any claim, action, suits, or proceeding is filed challenging this approval, the developer/applicant shall be required to execute a separate and formal defense, indemnification, and deposit agreement that meets the approval of the City Attorney and/or County Counsel and to provide all required deposits to fully fund the City's and/or County's defense immediately but in no event later than five (5) days from that date of a demand to do so from City and/or County. In addition, the developer/applicant shall be required to satisfy any monetary obligations imposed on City and/or County by any order or judgment.

10. **NOTICES:** All notices, requests, demands or other communications under this MOU shall be in writing. Notice shall be sufficiently given for all purposes as follows:

A. Personal Delivery. When personally delivered to the recipient, notice is effective upon delivery.

B. First Class Mail. When mailed first class to the last address of the recipient known to the Party giving notice, notice is effective three mail delivery days after deposit in a United States Postal Service office or mailbox.

C. Certified Mail. When mailed by certified mail, return receipt requested, notice is effective upon receipt, if delivery is confirmed by a return receipt.

D. Overnight Delivery. When delivered by an overnight delivery service, charges prepaid or charged to the sender's account, notice is effective on delivery, if delivery is confirmed by the delivery service.

Any correctly addressed notice that is refused, unclaimed or undeliverable because of an act or omission of the Party to be notified shall be deemed effective as of the first date that the notice was refused, unclaimed or deemed undeliverable by the postal authorities, messengers or overnight delivery service.

Information for notice to the Parties to this MOU at the time of endorsement of this MOU is as follows:

County of Merced
Mark Hendrickson
2222 "M" Street

City of Merced
Development Services Div.
678 W. 18th St.

Merced, CA 95340
Phone: (209) 385-7686
Mark.Hendrickson@countyofmerced.com

Merced, CA 95340
Phone: (209) 385-6858
planningweb@cityofmerced.org

Any Party may change its address by giving the other Party notice of the change in any manner permitted by this MOU.

11. MISCELLANEOUS:

A. No Waiver. Any waiver with respect to any provision of this MOU shall not be effective unless in writing and signed by the Party against whom it is asserted. The waiver of any provision of this MOU by a Party shall not be construed as a waiver of a subsequent breach or failure of the same term or condition or as a waiver of any other provision of this MOU.

B. Counterparts. This MOU may be executed in identical counterpart copies, each of which shall be an original, but all of which taken together shall constitute one and the same agreement.

C. Authority. Each Party to this MOU warrants to the other that it has the right and authority to enter into and to perform its obligations under this MOU, without the consent of any third party, and that the person signing below is authorized to bind such Party.

D. No Third-Party Beneficiary. This MOU confers no rights on any person or entity that is not a Party hereto and there are no third-party beneficiaries of this Agreement.

E. Exhibits. The exhibits referenced herein and/or attached hereto are a part hereof and incorporated herein by this reference.

F. Electronic Signatures. This MOU may be executed by electronic signatures (e.g., using DocuSign or e-SignLive) or signatures transmitted in portable document format ("pdf"), and copies of this MOU executed and delivered by means of electronic or pdf signatures shall have the same force and effect as copies hereof executed and delivered with original manually executed signatures. The Parties may rely upon electronic and pdf signatures as if such signatures were manually executed originals and agree that an electronic or pdf signature page may be introduced into evidence in any proceeding arising out of or related to this MOU as if it were an original manually executed signature page.

G. Relationship of Parties. City and County are not and shall not be considered joint venturers nor partners, and neither shall have power to bind or obligate the other. This MOU creates the framework for a cooperative relationship between the Parties with respect to the Possible Project, but does not create enforceable rights with respect thereto. This MOU, notwithstanding anything to the contrary herein above or hereinafter set forth, may be terminated by either Party at any time without cause or

legal excuse by providing the other Party with thirty (30) calendar days written notice of such termination.

H. Compliance with Law. The Parties shall at all times act in accordance with State and local law in their implementation of this MOU; such governing law shall take precedence over any provisions of this MOU that may be in conflict with such law.

I. Entire Agreement. This MOU supersedes all previous oral and written agreements between and representations by or on behalf of the Parties and constitutes the entire agreement of the Parties with respect to the subject matter hereof. This MOU may not be amended, except by a written agreement executed by both Parties.

IN WITNESS WHEREOF, the parties hereto, or their duly authorized representatives, have affixed their hands.

CITY OF MERCED

A California Charter Municipal Corporation

BY: Stephanie R. Dietz
City Manager

Date: 7/1/2021

ATTEST:
STEPHANIE R. DIETZ, CITY CLERK

BY: [signature]
Assistant/Deputy City Clerk

APPROVED AS TO FORM:

BY: [signature]
City Attorney

301634
ACCOUNT DATA:

BY: [signature]
Verified by Finance Officer

No funds to encumber. mg 6/30/21
FL 7/1/21

COUNTY OF MERCED

A Political Subdivision of the State of California

BY: [signature]
Daron McDaniel, Chairman
Board of Supervisors

Date: JUN 8 2021

APPROVED AS TO LEGAL FORM
FORREST W. HANSEN
MERCED COUNTY COUNSEL

BY: Michael E. Profant
Michael E. Profant, Deputy

CITY OF MERCED, CALIFORNIA
INCORPORATED APRIL 1, A.D. 1889

ATTACHMENT A

PROPERTY DESCRIPTION

That portion of Sections 2 and 3, Township 7 South, Range 14 East, Mount Diablo Base and Meridian, in the County of Merced, State of California, described as follows:

Beginning at a point on the South line of said Section 3 which lies S. 89 deg. 54' 21" E. 50.02 feet from the Southwest corner of said Section 3, said point being at the Southeast corner of that parcel granted to Merced County by Deed recorded in Volume 2288 of Official Records of Merced County, at Page 783; thence N. 01 deg. 45' 25" E. 2620.39 feet, along the East line of said parcel granted to Merced County, being parallel with the West line of said Section 3; thence S. 89 deg. 09' 04" E. 4984.81 feet; thence N. 00 deg. 50' 56" E. 129.31 feet; thence S. 89 deg. 56' 10" E. 1764.31 feet; thence N. 61 deg. 18' 48" E. 206.92 feet; thence S. 89 deg. 09' 04" E. 3593.12 feet to the East line of said Section 2; thence S. 01 deg. 23' 48" W. 2903.17 feet, along said East line, to the Southeast corner of said Section 2; thence N. 88 deg. 06' 02" W. 5277.95 feet, along the South line of said Section 2 to the Southwest corner of said Section 2; thence N. 89 deg. 54' 21" W. 5259.27 feet, along the South line of said Section 3, to the point of beginning.

Also being shown as "Adjusted Parcel 2" by Certificate of Compliance No. 16009 for Property Line Adjustment No. 16014 recorded October 19, 2016 as Series No. 2016035817 of Official Records, Merced County.

Assessor's Parcel No.: 060-010-004-000; 060-020-048-000

EXHIBIT D

City PFFP Impact Fees
Applicable to the Project

Land Use Type	Unit			City Impact Fees				
				Fire	Police	Public Works	IT	Total
Residential								
R-1 Low (12,500)	Dwelling Unit			$ 1,658	$ 1,263	$ 190	$ 147	$ 3,258
R-1 Low-Medium (7000)	Dwelling Unit			$ 1,658	$ 1,263	$ 190	$ 147	$ 3,258
R-1 Medium	Dwelling Unit			$ 1,658	$ 1,263	$ 190	$ 147	$ 3,258
R-1 Medium Cluster	Dwelling Unit			$ 1,658	$ 1,263	$ 190	$ 147	$ 3,258
R-2 (Cluster)	Dwelling Unit			$ 1,658	$ 1,263	$ 190	$ 147	$ 3,258
R-3 Medium High	Dwelling Unit			$ 1,316	$ 1,003	$ 151	$ 117	$ 2,587
R-4 High	Dwelling Unit			$ 1,316	$ 1,003	$ 151	$ 117	$ 2,587
Town Center Mixed Use	Dwelling Unit			$ 1,316	$ 1,003	$ 151	$ 117	$ 2,587
Commercial								
Retail Mixed	SF			$ 1.30	$ 0.99	$ 0.15	$ 0.12	$ 2.56
Office	SF			$ 1.48	$ 1.13	$ 0.17	$ 0.13	$ 2.91
NC/Retail	SF			$ 1.30	$ 0.99	$ 0.15	$ 0.12	$ 2.56
Community Commercial	SF			$ 1.30	$ 0.99	$ 0.15	$ 0.12	$ 2.56
Elementary School	Students							
Parks	Acres							

EXHIBIT E

Specific Plan Impact Fees Applicable to the Project

Land Use Type	Unit	Specific Plan Impact Fees	
		Traffic	Parks
Residential			
R-1 Low (12,500)	Dwelling Unit	$ 1,251	$ 8,489
R-1 Low-Medium (7000)	Dwelling Unit	$ 1,251	$ 8,489
R-1 Medium	Dwelling Unit	$ 1,251	$ 8,489
R-1 Medium Cluster	Dwelling Unit	$ 1,251	$ 8,489
R-2 (Cluster)	Dwelling Unit	$ 1,251	$ 8,489
R-3 Medium High	Dwelling Unit	$ 1,251	$ 5,306
R-4 High	Dwelling Unit	$ 695	$ 5,306
Town Center Mixed Use	Dwelling Unit	$ 580	$ 3,979
Commercial			
Retail Mixed	SF	$ 3.86	$ 1.40
Office	SF	$ 1.64	$ 1.40
NC/Retail	SF	$ 3.86	$ 1.40
Community Commercial	SF	$ 3.86	$ 1.40
Elementary School	Students	$ 319	$ -
Parks	Acres	$ 526	$ -

EXHIBIT F

Timing and Payment of Impact Fees; Adjustments

Timing and Payment of Impact Fees

1. City PFFP Impact Fees and Specific Plan Impact Fees shall be paid in time, manner and with the adjustments described in City of Merced Administrative Policies and Procedures regarding "Public Facilities Impact Fees and Administrative Policy" A-32 dated December 19, 2022 and attached hereto at Attachment 1.

2. Credits and adjustments to City PFFP Impact Fees and Specific Plan Impact Fees for affordable housing units and projects shall be in conformance with the "Affordable Housing Project Impact Fee Schedule of Adjustments" attached hereto as Attachment 2.

RESOLUTION NO. 2022-____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MERCED, CALIFORNIA AMENDING ADMINISTRATIVE POLICY AND PROCEDURE A-32 REGARDING PUBLIC FACILITIES IMPACT FEES

WHEREAS, the administrative guidelines for the calculation, reimbursement, credit or deferred payment of Public Facilities Impact Fees are adopted by City Council Resolution pursuant to Section 17.62.080 of the Merced Municipal Code; and,

WHEREAS, the Public Facilities Impact Fees Administrative Policy and Procedure A-32 was previously approved by City Council Resolution 98-40 and amended by Resolution Nos. 98-73, 98-87, 2003-93, 2005-113, 2021-82, 2021-93, and 2022-07; and,

WHEREAS, A comprehensive update of the Public Facilities Financing Plan and Public Facilities Impact Fee Program in 2022 necessitates certain updates to the Administrative Policy to be consistent with the modified Public Facilities Impact Fee Ordinance.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MERCED DOES HEREBY RESOLVE AND ORDER AS FOLLOWS:

SECTION 1. The City's Administrative Policy and Procedure A-32, as shown in Exhibit "A" attached hereto, is hereby adopted and incorporated herein by reference.

SECTION 2. Said Administrative Policy and Procedure repeals and replaces the previously adopted Administrative Policy and Procedure and establishes guidelines and procedures necessary to implement the provisions of the City's Public Facilities Impact Fee Ordinance.

SECTION 3. This Resolution shall be effective on December 19, 2022.

ATTACHMENT 1

PASSED AND ADOPTED by the City Council of the City of Merced at a regular meeting held on the _____ day of _____ 2022, by the following vote:

AYES: Council Members:

NOES: Council Members:

ABSENT: Council Members:

ABSTAIN: Council Members:

APPROVED:

_____
Mayor

ATTEST:
STEPHANIE DIETZ, CITY CLERK

BY:_____
Assistant/Deputy City Clerk

(SEAL)

APPROVED AS TO FORM:

_____ 11/30/22
City Attorney Dated

ADMINISTRATIVE POLICIES AND PROCEDURES

SUBJECT: PUBLIC FACILITIES IMPACT FEES AND ADMINISTRATIVE POLICY

EFFECTIVE: December 19, 2022 (Replaces policy dated March 26, 2022)

PURPOSE:

The purpose of this Administrative Policy is to establish a procedure for the Public Facilities Financing Plan and Fee Program.

POLICY:

The City Manager was granted authority by the Merced City Council on July 21, 2003 to establish this policy and procedure. This Policy supersedes and replaces the previous Policy with an effective date of March 26, 2022.

PROCEDURES:

PAYMENT OF PUBLIC FACILITIES FEES

Public facilities fees shall be charged and paid at the time of issuance of the certificate of occupancy. The fee shall be determined by the fee schedule in effect on the date of building permit issuance. If a Mello-Roos, assessment district, or other arrangement of such a nature has been made, only the portion of the fee not covered by the district shall be assessed. If a specific use is not addressed in the fee schedule or definitions contained in this document, the fee will be determined by the Development Services Department as described in Merced Municipal Code Section 17.62.100.

Fees not paid at certificate of occupancy shall require an agreement as specified in Government Code Section 66007, Subsection (C). Should any interpretation or disagreement arise which is not addressed by this administrative policy, the City Manager or designee shall have the authority to render a decision. The City Manager or designee has authority to authorize credits and reimbursements be paid to developers as outlined in this policy. Such decisions shall be in writing.

DEFINITIONS

1. Retail Commercial

"Retail Commercial" includes a wide range of retail and service uses, both freestanding and in shopping centers including, but not limited to, supermarkets, drugstores, department stores, general merchandise, specialty retail stores, discount stores, hardware/paint stores, garden centers or nurseries, wholesale markets, apparel stores, furniture stores, video arcades and car sales. This category includes banks/savings and loans, restaurants of all types, and auto-oriented uses.

2. Industrial

Facilities in which the primary activity is the production of finished items through manufacture, fabrication, processing, packaging, or treatment of raw materials or parts, except heavy industrial uses. Uses, which are considered to be in this category, include uses such as those listed below:

A) Electronics assembly, paper products
B) Metal fabricator
C) Bottling plant
D) Cabinet shop
E) Machine shop
F) Sheet metal shop
G) Welding shop
H) Wholesale business
I) Printing plant
J) Material testing labs manufacturer
K) Warehouse
L) Corporation yard, freight yard
M) Equipment rental yard
N) Moving and storage service
O) Bulk feed storage
P) Lumber yard
Q) Cannery/Food Processing

3. Mixed Uses

When a development proposal contains more than an incidental mixture of uses, the general types of uses should be segregated and treated separately for the purpose of calculating development fees.

4. Office

Includes professional offices, business parks, business or administrative offices, insurance sales, research centers, and medical or dental services, and other health-related services (excluding hospitals).

5. Residential Single Family

Typically single family detached homes on individual lots, such as in residential subdivisions, but could also be in planned developments. Density of development may vary, but is typically six dwellings per acre or less.

6. Public Facilities Impact Fee, But Not Including Sewer and Water Charges

The term "Public Facilities Impact Fee" shall mean the fee charged new construction, including, in some cases, the expansion of and/or the addition to an existing structure to mitigate an unfunded portion of the determined impact of the development. For the purpose of this policy, Public Facilities Impact Fees shall not include sewer and water charges as defined in Chapter 15 of the Merced Municipal Code.

7. Residential Multiple Family

Includes two- and multiple-family dwelling units of several types, including high and low rise apartments, high and low rise condominiums, and multi-family residential planned unit developments. This category also applies to mobile homes in mobile home parks.

8. Institutional

Includes nonprofit or quasi-public uses, such as a religious institution, library, public or private school or college, nonprofit cultural or community centers, hospitals, residential care facilities, charitable organizations, or government-owned or government-operated structures used for public purposes. Note that federal, state, county, and City owned facilities are exempt from the City's impact fees. Fees for these uses will be determined on a case-by-case basis by the Director of Development

Services based on his/her determination of the similar nature of the use to one of the other land use categories.

9. Lodging

Includes hotels, motels, and other commercial operations which provide lodging for a fee, with or without cooking facilities, in individual rooms or suites. Includes extended stay hotels/motels, but does not include residential care facilities.

EXEMPTIONS

Fees shall not be imposed on any of the following:

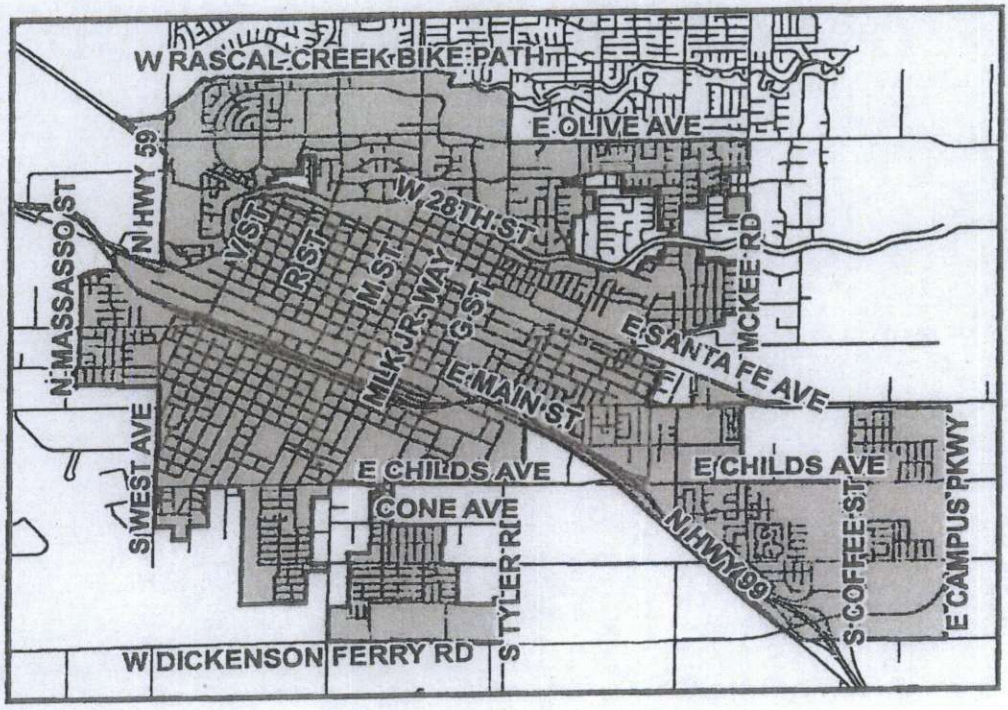
1. Any alteration or addition to a ***residential*** structure except to the extent that additional units or guestrooms are created.
2. Any alteration or addition to a ***non-residential*** structure if the square footage of the structure is increased less than 10 percent, unless the alteration or addition changes the use of the structure to a higher intensity category, or results in the generation of additional peak hour trips (PHT).
3. Any replacement or reconstruction of an ***existing residential*** structure that has become destroyed or demolished, provided that the building permit for reconstruction is obtained within fifteen (15) years after the building was demolished, except to the extent that additional units or guest rooms are created.
4. Any replacement or reconstruction of an ***existing non-residential*** structure that has been destroyed or demolished, provided that the building permit for reconstruction is obtained within fifteen (15) years after the building was demolished, unless the replacement or reconstruction increases the square footage of the structure 10 percent or more or changes the use of the structure to a higher intensity category or results in the generation of additional peak hour trips (PHT). Whenever the alteration, addition, replacement, or reconstruction is not exempt, the fee shall be imposed only on the additional units of guest rooms, square footage, change in use to a higher intensity category, or additional peak hour trips (PHT) generated.

SPECIAL FEES

Fees for the following land uses shall be:

1. ACCESSORY DWELLING UNITS (ADUs): Per MMC 20.42.040(D)(3), A new accessory dwelling unit shall be required to pay all applicable fees, including impact fees. However, no impact fees shall be imposed on ADUs of less than 750 square feet. For an ADU larger than 750 square feet, any impact fee shall be charged proportionately in relation to the square footage of the single-family dwelling on the property.

2. INFILL DEVELOPMENT AND OPPORTUNITY ZONES: Within the central area of the City and the Opportunity Zones, within the area below (see map below), impact fees shall be 50 percent of the standard fee based on their impact on public facilities.



Infill Development and Opportunity Zones

3. AFFORDABLE HOUSING: Fees for affordable housing projects shall be determined on a case-by-case basis depending on the level of affordability, number of affordable units, etc. The determination shall be made by the Director of Development Services but can be appealed to the City Council per the provisions of MMC 17.62.050.

4. SINGLE-FAMILY HOMES SMALLER THAN THE AVERAGE HOME SIZE IN MERCED: The average single-family home size in Merced based on building permits issued in 2021 was 1,920 square feet. For homes that are at least 10 percent below that average size, a fee shall be charged proportional to the percent below the average single-family home size.

DEFERRED PAYMENT

If the total amount of public facilities fees due and payable at the time of issuance of a certificate of occupancy for a non-residential or multi-family project exceeds $50,000, the property owner may enter into a Deferred Payment Agreement with the City to pay twenty-five percent (25%) of those fees at the time the certificate of occupancy is issued with the remaining seventy-five percent (75%) to be paid in equal installments over the next five (5) years (or less at the developer's option).

REPAYMENT TERMS

1) INTEREST: The unpaid balance of the fees shall be subject to interest and collection charges. The annual interest rate will be equal to the 11th District Cost of Funds plus two percent (2%) [200 basis points] adjusted every July.

2) DUE ON TRANSFER: The unpaid balance, together with accrued interest, shall be due and payable in full upon the sale or any other transfer of the property.

3) RECORDING AND PROCESSING FEES: All such fees shall be paid by the owner or applicant.

SECURITY

The developer shall, as security for repayment, execute a promissory note or bond evidencing the obligation and terms of repayment. In addition to the promissory note or bond, the developer may be required, at the discretion of the City, to provide additional security of a type and amount determined by the City.

PROCESSING DEFERRED FEE REQUESTS

A developer who requests the deferral of public facilities fees shall make application to the Development Services Department, for review, processing, and determination of eligibility. Such requests shall have a processing fee of Eight Hundred Seventy-One Dollars ($871.00) in 2022, adjusted each January 1, per the Consumer Price Index (CPI).

CREDIT OR REIMBURSEMENT

If the developer constructs improvements that are part of the public facility fee program and required by the City, the following shall apply:

1. If the actual cost of the improvement is equal to or less than the total amount of fees to be paid, the developer will receive a credit in an amount equal to the actual cost of the improvements (but in no event in excess of the City Engineer's estimate). No credit shall be given until and unless the improvement is constructed and accepted by City or until developer provides security for the improvement in the same manner as security for subdivision improvements.
2. If the actual cost of the improvements is greater than the total amount of fees to be paid, a reimbursement agreement with the City shall be established. No reimbursement shall be given until and unless the improvement is constructed and accepted by City.
3. Developers shall be reimbursed on a first in time basis and based on the availability of public facility fee program funds. First in time shall be determined by when the public improvement is completed and accepted by City.

4. Of the fees collected for projects, one-half shall be dedicated to repayment for developer installed improvements and one-half shall be earmarked for improvements to be installed by the City. In its discretion, the City may use any or all of the fees to reimburse developers.

5. City shall be under no obligation to reimburse developers except from the one-half of the fees collected, and no reimbursement shall be owed until fees for said purpose have been collected and until the installing developer has filed a written request for reimbursement with the City Clerk. In no event shall reimbursement be made to the installing developer after the tenth anniversary of the date the public improvement was accepted by the City.

6. Reimbursements, if any, shall not bear interest.

7. Unused Park and Recreation Facilities Fee credits granted per the now repealed Merced Municipal Code Section 17.38 can be applied toward the Public Facilities Impact Fees.

8. To be eligible for credit or reimbursement, all public improvements that are part of the public facility fee program shall be paid at prevailing wages. That includes any portion of the public improvement which is not eligible for reimbursement (i.e. curb, gutter, sidewalk, landscaping, etc.)

RIGHT-OF-WAY DEDICATION AND REIMBURSEMENT

Unless provided otherwise by development agreement, condition of approval, mitigation measure, or by city standards, the developer will be eligible for credit/reimbursement for the cost of any additional right-of-way required for street improvements in excess of the first 37 feet (or other collector standard) required for a one-half street section measured from the ultimate right-of-way line. In calculating the value of the right-of-way, the value will be determined by the City Engineer. If the developer objects to the determined fair market value, he/she may appeal to the City Council. The burden of proof shall lie with the developer. Any right-of-way required to accommodate access to a given parcel such as "deceleration lanes" will be dedicated at the developer's expense and is not subject to credit/reimbursement.

STREET CONSTRUCTION PAVING REIMBURSEMENT

The first 24 feet of paving adjacent to the curb line plus all paving required to accommodate deceleration lanes and driveways are a developer responsibility and are not subject to credit/reimbursement. The developer will be eligible for credit/reimbursement for the remainder of the street section outside of the first 24 feet of paving on either side of the street.

TRAFIC SIGNAL REIMBURSEMENT

Unless provided otherwise by development agreement or by use permit, the developer will be eligible for 100 percent credit/reimbursement for installation of traffic signals at the intersection of two arterial streets, and for 50 percent reimbursement at an intersection of an arterial and collector street.

ARTERIAL BRIDGE REIMBURSEMENT

Unless provided otherwise by development agreement or by use permit, the developer will be eligible for 100 percent credit/reimbursement for construction of arterial bridges.

APPROVED:

_____

Stephanie R. Dietz
City Manager

RECORDING REQUESTED BY:

City of Merced, A California charter municipal corporation

WHEN RECORDED MAIL TO:

City Clerk
City of Merced
678 West 18th Street
Merced, California 95340

(Above for Recorder's Use Only)

AGREEMENT AFFECTING REAL PROPERTY & CREATING A LIEN TO SECURE DEFERRED PAYMENT OF CITY PUBLIC FACILITY FINANCING PLAN IMPACT FEES

THIS AGREEMENT is made this _____ day of _____, 20__, by and between _____[Requestor], a(n) _____ [describe entity (individual, partnership, LLP, corporation, etc.)] (hereinafter referred to as "Grantor") and the CITY OF MERCED, a California charter municipal corporation (hereinafter referred to as "Grantee").

WHEREAS, Grantor has applied to the Grantee for a building permit on the property known as _____ [Property Address or APN's], and more fully described on Exhibit "A" attached hereto; and,

WHEREAS, Grantor has further applied for deferral of certain Public Facility Financing Plan ("PFFP") fees in accordance with Section 17.62.050 of the Merced Municipal Code and the Administrative Procedures adopted pursuant thereto, said fees being more fully described on Exhibit "B" attached hereto.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and agreed, the parties hereto do hereby agree as follows:

1. **PFFP FEE OBLIGATION.** Grantor acknowledges and unconditionally agrees that it owes the Grantee the total sum of $_____ for PFFP fees.

2. **PFFP DOWN PAYMENT AND REPAYMENT SCHEDULE.** The Grantor agrees to pay twenty-five percent (25%) of the PFFP fees at the time the building permit is issued with the remaining seventy-five percent (75%) to be paid in equal monthly installments over the next five (5) years (or less at the Grantor's option).

3. **PFFP REPAYMENT TERMS AND CONDITIONS.**

A. PAYMENT FREQUENCY: Grantor shall make monthly payments on the remaining deferred PFFP fee obligation, the amount paid annually being at least one-quarter of the total deferred PFFP fee obligation, plus interest as described below. Payments shall be made on or before the first of each month and shall be made to the City of Merced, Finance Department, PFFP Fee Deferral for _____, [Reference to Fee Deferral Project] and made at 678 West 18th Street, Merced, California 95340. Grantee shall endeavor to send Grantor an invoice for payment at least thirty (30) days before the payment is due. However, Grantor unconditionally agrees to make said payment by the payment due date even if no invoice is received thereby. A late fee of five percent (5%) of the total fee payment shall be imposed for all late payments made.

B. INTEREST: The unpaid balance of the fees shall be subject to interest and collection charges. The annual interest rate will be equal to the 11th

District Cost of Funds plus two percent (2%) [200 basis points] adjusted every July.

C. DUE ON TRANSFER: The unpaid deferred PFFP fee balance, together with accrued interest, and late fees shall be due and payable in full upon the sale or any other transfer of the property.

D. RECORDING AND PROCESSING FEES: All such fees shall be paid by the Grantor.

4. **LIEN CREATED.** Grantor hereby grants to Grantee a lien against the real property described in Exhibit "A."

5. **LIEN AS SECURITY FOR DEFERRED PFFP FEES.** The lien created herein in the real property described in Exhibit "A" is intended to guarantee the payment in full, plus accrued interest, late fees, and the cost of collection of the deferred PFFP fees.

6. **LIEN PRECEDENCE.** The lien created herein shall be superior to all other liens or encumbrances against the real property described in Exhibit "A."

7. **GRANTEE'S AUTHORITY TO FORECLOSE ON LIEN.** The condition of this lien is such that if the above-named Grantor, its or their heirs or executors, administrators, successors, transferees, or assigns shall in all things stand to and abide by, and truly keep and perform the covenants, conditions, and provisions in this Agreement and any alteration thereof made therein and provided, on its or their part, to be kept and performed at the time and in the manner therein specified, and in all other respects according to their true intent and meaning, and indemnifies and saves harmless the Grantee, its officers, agents and employees as therein stipulated, then the liens shall become null and void upon recording of a release by the Grantee in substantially the form as shown on Exhibit "C" hereto; otherwise the lien shall remain in full force and effect.

8. **GRANTEE'S COSTS TO ENFORCE PAYMENT OBLIGATION INCLUDED IN AMOUNT OF LIEN.** As part of the obligation secured hereby and in addition to the amount stated above, there shall be included cost and reasonable expenses and fees, including reasonable

attorneys' fees and late fees, incurred by Grantee in successfully enforcing such obligations, all to be taxed as costs and included in any judgment rendered.

9. **EXTENSIONS OF TIME SHALL NOT CHANGE OBLIGATION TO PAY, PRIORITY, OR ENFORCEABILITY OF LIEN.** The Grantor hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of this Agreement shall in any manner effect Grantor's obligations with respect to this lien.

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the date first above written.

GRANTOR:

By: _____
(Signature)

Name: _____
(Typed Name)

Title: _____

Address: _____
_____

Telephone: _____

GRANTEE:

CITY OF MERCED
A California Charter Municipal Corporation

BY: _____
City Manager

ATTEST:
CITY CLERK

BY:_____
Deputy City Clerk

APPROVED AS TO FORM:

BY:_____
City Attorney

ACCOUNT DATA:

BY:_____
Verified by Finance Officer

ACKNOWLEDGEMENT

State of California

County of Merced

On _____, 20___, before me, _____,
a Notary Public, personally appeared,_____
_____
_____
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature _____
Notary Public (seal)

EXHIBIT "A"

Legal Description

EXHIBIT "B"

Description of Deferred Fees

EXHIBIT "C"

Form of Notice to Release Lien When Payment is Paid

RECORDING REQUESTED BY:

City of Merced, A California Charter Municipal Corporation

WHEN RECORDED MAIL TO:

City of Merced
City Clerk
678 West 18th Street
Merced, California 95340

Exempt Recording Per Gov't Code Section 6103

(Above for Recorder's Use Only)

RELEASE OF LIEN UPON REAL PROPERTY [DEFERRED PUBLIC FACILITY FINANCING PLAN FEES]

WHEREAS, On _____ ___, 20__, _____ (hereinafter "Grantor") and the City of Merced, a California Charter Municipal Corporation, ("Grantee") entered into that certain Agreement entitled "Agreement Affecting Real Property and Creating a Lien to Secure Deferred Payment of City Public Facility Financing Plan Impact Fees," (the "Agreement"), which Agreement was recorded as Vol. _____, Page _____, *et seq.*, Official Records of Merced County on _____ __, 20__; and,

WHEREAS, Grantor has satisfied the conditions for the release of lien upon the real property described in said Agreement.

NOW THEREFORE, the Grantee hereby releases all of its right, title, and interest to the lien in the real property described in Exhibit "A" attached hereto, and as created by the Agreement referenced above and recorded as Vol. ____, Page _____, *et seq.*, Official Records of Merced County on _____ __, 200_.

///

///

CITY OF MERCED
A California Charter Municipal
Corporation

BY:_____
City Manager

ATTEST:
CITY CLERK

BY:_____
Assistant/Deputy City Clerk

APPROVED AS TO FORM:

BY:_____
City Attorney Date

ACCOUNT DATA:

BY:_____
Verified by Finance Officer

EXHIBIT "A"

LEGAL DESCRIPTION

AGREEMENT TO SECURE DEFERRED PAYMENT OF CITY PUBLIC FACILITY FINANCING PLAN IMPACT FEES

THIS AGREEMENT is made this _____ day of _____, 20__, by and between _____[Requestor], a(n) _____ [describe entity (individual, partnership, LLP, corporation, etc.)] (hereinafter referred to as "Grantor") and the CITY OF MERCED, a California charter municipal corporation (hereinafter referred to as "Grantee").

WHEREAS, Grantor has applied to the Grantee for a building permit on the property known as _____ [Property Address or APN's], and more fully described on Exhibit "A" attached hereto; and,

WHEREAS, Grantor has further applied for deferral of certain Public Facility Financing Plan ("PFFP") fees in accordance with Section 17.62.050 of the Merced Municipal Code and the Administrative Procedures adopted pursuant thereto, said fees being more fully described on Exhibit "B" attached hereto.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and agreed, the parties hereto do hereby agree as follows:

1. **PFFP FEE OBLIGATION**. Grantor acknowledges and unconditionally agrees that it owes the Grantee the total sum of $_____ for PFFP fees.

2. **PFFP DOWN PAYMENT AND REPAYMENT SCHEDULE**. The Grantor agrees to pay twenty-five percent (25%) of the PFFP fees at the time the building permit is issued with the remaining seventy-five percent (75%) to be paid in equal monthly installments over the next five (5) years (or less at the Grantor's option).

3. **PFFP REPAYMENT TERMS AND CONDITIONS.**

A. PAYMENT FREQUENCY: Grantor shall make monthly payments on the remaining deferred PFFP fee obligation, the amount paid annually being at least one-quarter of the total deferred PFFP fee obligation, plus interest as described below. Payments shall be made on or before the first of each month and shall be made to the City of Merced, Finance Department, PFFP Fee Deferral for _____, [Reference to Fee Deferral Project] and made at 678 West 18th Street, Merced, California 95340. Grantee shall endeavor to send Grantor an invoice for payment at least thirty (30) days before the payment is due. However, Grantor unconditionally agrees to make said payment by the payment due date even if no invoice is received thereby. A late fee of five percent (5%) of the total fee payment shall be imposed for all late payments made.

B. INTEREST: The unpaid balance of the fees shall be subject to interest and collection charges. The annual interest rate will be equal to the 11th District Cost of Funds plus two percent (2%) [200 basis points] adjusted every July.

C. DUE ON TRANSFER: The unpaid deferred PFFP fee balance, together with accrued interest, and late fees shall be due and payable in full upon the sale or any other transfer of the property.

D. RECORDING AND PROCESSING FEES: All such fees shall be paid by the Grantor.

4. **SECURITY**. Grantor hereby provides security for the payment of the deferred PFFP Fees and related costs to Grantee the items of security as identified in Exhibit "A."

5. **SECURITY FOR DEFERRED PFFP FEES.** The security identified in Exhibit "A" is intended to guarantee the payment in full, plus accrued interest, late fees, and the cost of collection of the deferred PFFP fees.

6. **Reserved.**

7. **Reserved.**

8. **GRANTEE'S COSTS TO ENFORCE PAYMENT OBLIGATION INCLUDED IN AMOUNT OF SECURITY.** As part of the obligation secured hereby and in addition to the amount stated above, there shall be included cost and reasonable expenses and fees, including reasonable attorneys' fees and late fees, incurred by Grantee in successfully enforcing such obligations, all to be taxed as costs and included in any judgment rendered.

9. **EXTENSIONS OF TIME SHALL NOT CHANGE OBLIGATION TO PAY, PRIORITY, OR ENFORCEABILITY OF LIEN.** The Grantor hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of this Agreement shall in any manner effect Grantor's obligations with respect to this lien.

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the date first above written.

GRANTOR:

By: _____
(Signature)

Name: _____
(Typed Name)

Title: _____

Address: _____
_____

Telephone: _____

GRANTEE:

CITY OF MERCED
A California Charter Municipal
Corporation

BY:_____
City Manager

ATTEST:
CITY CLERK

BY:_____
Deputy City Clerk

APPROVED AS TO FORM:

BY:_____
City Attorney

ACCOUNT DATA:

BY:_____
Verified by Finance Officer

EXHIBIT "A"

Identification of Security

EXHIBIT "B"

Description of Deferred Fees

EXHIBIT "C"

Form of Notice to Release Security When Payment is Paid

CITY OF MERCED

PUBLIC FACILITY FINANCING PLAN

RELEASE OF SECURITY FOR DEFERRED PFFP FEES

WHEREAS, On _____ ___, 20__, _____ (hereinafter "Grantor") and the City of Merced, a California Charter Municipal Corporation, ("Grantee") entered into that certain Agreement entitled "Agreement to Secure Deferred Payment of City Public Facility Financing Plan Impact Fees," (the "Agreement"); and,

WHEREAS, Grantor has satisfied the conditions for the release of the security described in said Agreement.

NOW THEREFORE, the Grantee hereby releases all of its right, title, and interest to the lien in the security described in Exhibit "A" attached hereto, and as created by the Agreement referenced.

CITY OF MERCED
A California Charter Municipal
Corporation

BY:_____
City Manager

ATTEST:
CITY CLERK

BY:_____
Assistant/Deputy City Clerk

APPROVED AS TO FORM:

BY:_____
City Attorney

ACCOUNT DATA:

BY:_____
Verified by Finance Officer

EXHIBIT "A"

DESCRIPTION OF SECURITY

CITY OF MERCED
PROMISSORY NOTE
(CONTAINING ACCELERATION CLAUSE)
(PFFP FEE DEFERRAL)

Amount:_____ _____**, California**

Dated:_____

FOR VALUE RECEIVED, on or before _____ __, ____ [date] the undersigned individual(s) promise(s) to pay without demand therefore the City of Merced, a California charter law municipal corporation, or order at 678 West 18th Street, Merced, California 95340, or at such designate in writing, the principal sum of _____, [amount] ($_____), with annual the interest rate thereon equal to the 11th District cost of funds plus one percent (2%) [200 basis points] adjusted every July.

The undersigned promises and agrees to make monthly installment payments of _____ [amount] ($_____) for a period of time not to exceed five (5) years. Payments to be made to the City of Merced at the above referenced address. Should the Promisor fail to make any two consecutive payments, the entire remaining balance shall become due and payable immediately upon notice to the Promisor from the City or its legal representative. Notwithstanding the above, to any late payment, a late payment fee of five percent (5%) shall be imposed and applied on said payment. Should the late payments fee not be paid, it shall be added to and included within the sum secured by this Promissory Note.

If action is instituted on this Note, the undersigned promises to pay the holder thereof any expenses incurred thereby, including, but not limited to, court costs and such other sums as the Court may fix as reasonable attorney's fees.

It is further acknowledged and agreed that the unpaid balance, plus accrued interest shall be immediately due and payable upon the sale or transfer of the real property located at _____ and as described on Exhibit "A" hereto.

This Note or any portion thereof may be prepaid at any time without penalty.

In agreement thereof, I execute this Note on the ___ day of _____, 20__ in the City of _____, California.

_____
Promisor's Signature

_____
Promisor's Signature

CITY OF MERCED

BY:_____
City Manager

ATTEST:
CITY CLERK

BY:_____
Assistant/Deputy City Clerk

APPROVED AS TO FORM:

BY:_____
City Attorney Date

Affordable Housing Project Impact Fee Schedule of Adjustments			
Income Category	% of AMI		(% fee reduction)
Acutely Low	0-15		100%
Extremely Low	15-30		90%
Very Low	30-50		80%
Low	50-80		60%
Moderate	80-120		40%
Above Moderate	over 120		0%
Community Bldg/Office*			100

Acutely low income: 0-15% of AMI
Extremely low income: 15-30% of AMI
Very low income: 30% to 50% of AMI
Lower income: 50% to 80% of AMI; the term may also be used to mean 0% to 80% of AMI
Moderate income: 80% to 120% of AMI

*The Community Bldg/Office serves the tenants of the apartment complex. Therefore there are no additional impacts. A 100% reduction in impact fees is given for the Community Bldg/Office

ATTACHMENT 2

EXHIBIT G

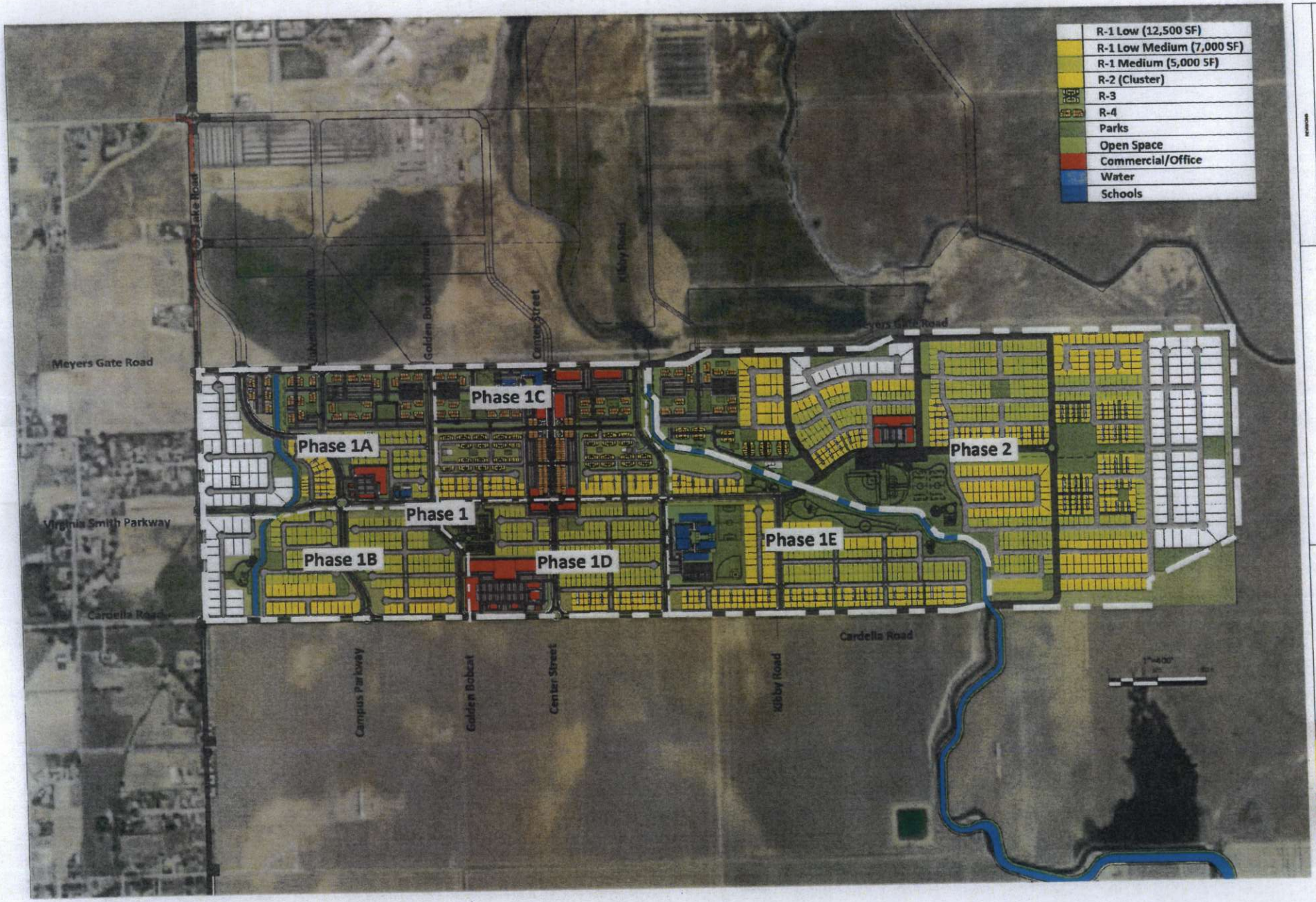
Project Backbone and Offsite Infrastructure

Project Backbone and Offsite Infrastructure

	Phase of Development				
	1A	1B	1C	1D	1E
Circulation Improvements					
Lake Road from Cardella to Virginia Smith		X			
Lake Road (Virginia Smith to Meyers Gate)	X				
Campus Parkway (Virginia Smith to Cardella)		X			
University Avenue (Meyers Gate - Campus Parkway	X				
Campus Parkway (Meyers Gate to Virginia Smith)	X				
Campus Parkway (Virginia Smith to Cardella Road)		X			
Meyers Gate Road (Lake Road to Golden Bobcat)	X				
Meyers Gate Road (Golden Bobcat to Kibby Road)			X		
Golden Bobcat Ave (Meyers Gate Road to Virginia Smith)	X				
Golden Bobcat Ave (Virginia Smith to Cardella Road)		X			
Virginia Smith Parkway (Lake Road - Golden Bobcat Avenue)		X			
Virginia Smith Parkway (Golden Bobcat Avenue - Kibby Road)			X		
Virginia Smith Parkway (Kibby Road - Canal)					X
Main Street (Meyers Gate to Virginia Smith)			X		
Main Street (Virginia Smith - Cardella Road)				X	
Kibby Road (Meyers Gate Road to Virginia Smith)			X		
Kibby Road (Virginia Smith to Cardella Road)				X	
Cardella (Lake Road to Golden Bobcat)		X			
Cardella (Golden Bobcat to Kibby Road)				X	
Cardella (Kibby Road to Canal)					X
Road A from Virginia Smith to Cardella Road					X
Sewer Improvements					
Lift Station and forcemain to existing SS @ Bellevue RD		X			
Gravity Sewer in Cardella from Lift Station to Golden Bobcat		X			
Gravity in Virginia Smith Parkway to Golden Bobcat		X			
Gravity Sewer in Meyers Gate Between Lake Road and Golden Bobcat	X				
Gravity Sewer in University Avenue	X				
Gravity Sewer In Campus Parkway from Meyers Gate to Virginia Smith Parkway.	X				
Gravity Sewer in Golden Bobcat from Meyers Gate to Virginia Smith Parkway	X				
Gravity Sewer in Meyers Gate and Virginia Smith between Golden Bobcat and Kibby Road			X		
Gravity Sewer in Main Street from Meyers Gate to Virginia Smith			X		
Gravity Sewer in Cardella Road from Golden Bobcat to Road A				X	
Gravity in Main Street and Kibby Road from Virginia Smith to Cardella				X	
Gravity in Virginia Smith Parkway and Cardella from Kibby road to Phase 1 east boundary					X
Gravity Sewer in Road A from Virginia Smith Parkway to Cardella Road.					X
Water Improvements					
Water main in Lake Road from Bellevue to Cardella Road		X			
Water main in Virginia Smith Parkway and Cardella from Lake Road to Golden Bobcat		X			
Water main in Campus parkway and Golden Bobcat from Virginia Smith Parkway to Cardella.		X			
Install Water Well on East side of Golden Bobcat Ave.	X				
Water main in Campus parkway and Golden Bobcat from Meyers Gate Road and Virginia Smith	X				
Water main in Meyers Gate from Lake Road to Golden Bobcat	X				
Water main in Meyers Gate Road and Virginia Smith Parkway from Golden Bobcat to Kibby Road			X		
Water main in Main Street and Kibby Road from Meyers Gate Road to Virginia Smith Parkway			X		
Water main in Main Street and Kibby Road from Virginia Smith Parkway to Cardella Road				X	
Water main in Cardella Road from Golden Bobcat Road to Kibby Road				X	
Water main in Virginia Smith Parkway and Cardella Road from Kibby Road to Phase 1 eastern boundary					X
Water main in Road A from Virginia Smith and Cardella Road					X
Storm Drainage Improvements					
Storm Drain infrastructure in Virginia Smith Parkway		X			
Storm Drain Basins along Virginia Smith Parkway between Lake Road and Golden Bobcat		X			
Storm Drain Basins along Campus Parkway and Creek between Virginia Smith Parkway and Cardella	X				
Storm Drain infrastructure in Campus Parkway, University and Golden Bobcat between Meyers Gate Road and Virginia Smith Parkway	X				
Storm Drain Basins along University Avenue and Campus Parkway	X				
Storm Drain infrastructure along Main Street and Kibby Road between Meyers Gate Road and Virginia Smith Parkway			X		
Storm Drain Basins along Virginia Smith and Kibby Road between Golden Bobcat Ave and Kibby			X		
Storm Drain infrastructure along Cardella Road between Kibby Road and Golden Bobcat				X	
Storm Drain Basins along Cardella between Kibby Road and Golden Bobcat				X	
Storm Drain infrastructure along Virginia Smith and Cardella Road between Kibby Road and Phase 1 eastern edge (including bypass line)					X
Storm Drain Basins along Cardella and adjacent to the canal (including outlets to canal)					X

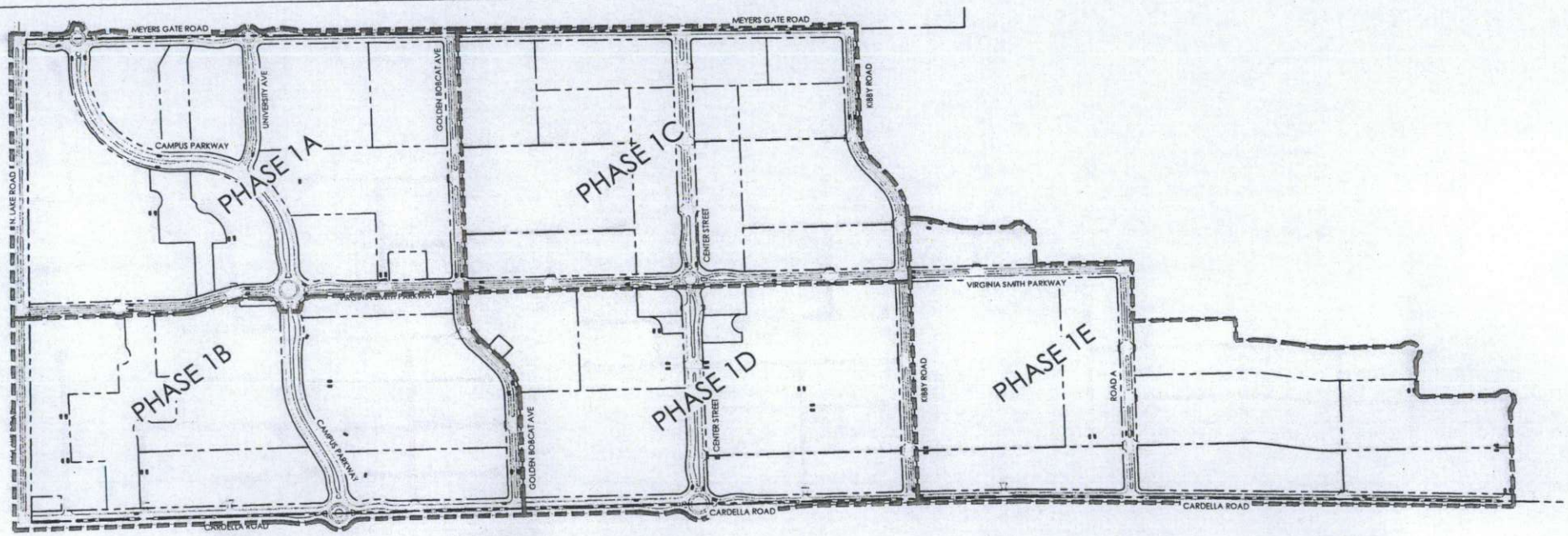
EXHIBIT H

Phasing Plan


R-1 Low (12,500 SF)
R-1 Low Medium (7,000 SF)
R-1 Medium (5,000 SF)
R-2 (Cluster)
R-3
R-4
Parks
Open Space
Commercial/Office
Water
Schools
Meyers Gate Road
Phase 1C
Phase 1A
Phase 1
Phase 1B
Phase 1D
Phase 1E
Phase 2
Virginia Smith Parkway
Cardella Road
Campus Parkway
Golden Bobcat
Center Street
Kibby Road

Phases

A



CIRCULATION

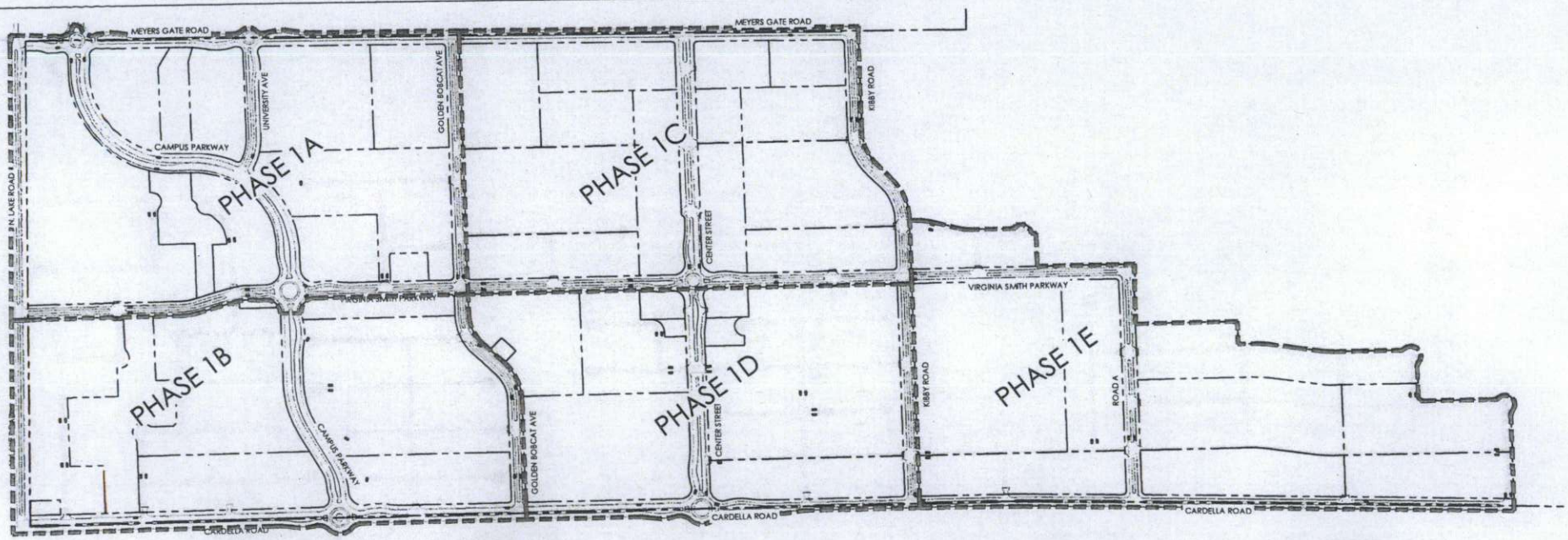
Individual Improvements	Phase of Development				
	1A	1B	1C	1D	1E
Lake Road from Cardella to Meyers Gate	x				
Lake Road - Virginia Smith to Meyers Gate	x				
Campus Parkway - Virginia Smith to Cardella		x			
University Avenue - Meyers Gate to Campus Parkway	x				
Campus Parkway - Meyers Gate to Virginia Smith	x				
Campus Parkway - Virginia Smith to Cardella		x			
Meyers Gate Road - Lake Road to Golden Bobcat	x				
Meyers Gate Road - Golden Bobcat to Kibby Road			x		
Golden Bobcat Ave - Meyers Gate Road to Virginia Smith	x				
Golden Bobcat Ave - Virginia Smith to Cardella Road		x			
Virginia Smith Parkway - Lake Road - Golden Bobcat Avenue			x		
Virginia Smith Parkway - Golden Bobcat Avenue - Kibby Road				x	
Virginia Smith Parkway - Kibby Road - Cardella					x
Center Street - Meyers Gate to Virginia Smith			x		
Center Street - Virginia Smith - Cardella Road				x	
Kibby Road - Meyers Gate Road to Virginia Smith					x
Kibby Road - Virginia Smith to Cardella Road					x
Cardella - Lake Road to Golden Bobcat					x
Cardella - Golden Bobcat to Kibby Road					x
Cardella - Kibby Road to Cardella					x
Cross Access - Virginia Smith to Cardella Road					x

SEWER

Individual Improvements	Phase of Development				
	1A	1B	1C	1D	1E

EXHIBIT I

Public Infrastructure by Phase



CIRCULATION

Individual Improvements	Phase of Development 1A	1B	1C	1D	1E
Lake Road from Cornelia to Virginia Smith		X			
Lake Road (Virginia Smith to Meyers Gate)	X				
Campus Parkway (Virginia Smith to Cardella)		X			
University Avenue (Meyers Gate - Campus Parkway	X				
Campus Parkway (Meyers Gate to Virginia Smith)	X				
Campus Parkway (Virginia Smith to Cardella Road)		X			
Meyers Gate Road (Lake Road to Golden Bobcat)	X				
Meyers Gate Road (Golden Bobcat to Kibby Road)			X		
Golden Bobcat Ave (Meyers Gate Road to Virginia Smith)	X				
Golden Bobcat Ave (Virginia Smith to Cardella Road)		X			
Virginia Smith Parkway (Lake Road - Golden Bobcat Avenue)		X			
Virginia Smith Parkway (Golden Bobcat Avenue - Kibby Road)			X		
Virginia Smith Parkway (Kibby Road - Center Street)			X		X
Main Street (Meyers Gate to Virginia Smith)			X		
Main Street (Virginia Smith - Cardella Road)				X	
Kibby Road (Meyers Gate Road to Virginia Smith)			X		
Kibby Road (Virginia Smith to Cardella Road)				X	
Cardella (Lake Road to Golden Bobcat)		X			
Cardella (Golden Bobcat to Kibby Road)					X
Cardella (Kibby Road to Center)					X
Road A from Virginia Smith to Cardella Road					X

WATER

Individual Improvements	Phase of Development 1A	1B	1C	1D	1E
Water main in Lake Road from Bellevue to Carleton Road		X			
Water main in Virginia Smith Parkway and Cardella from Lake Road to Golden Bobcat		X			
Water main in Campus parkway and Golden Bobcat from Virginia Smith Parkway to Cardella		X			
Fright Water Main on East side of Golden Bobcat Ave.	X				
Water main in Campus parkway and Golden Bobcat from Meyers Gate Road and Virginia Smith	X				
Water main in Meyers Gate from Lake Road to Golden Bobcat	X				
Water main in Meyers Gate Road and Virginia Smith Parkway from Golden Bobcat to Kibby Road			X		
Water main in Main Street and Kibby Road from Meyers Gate Road to Virginia Smith Parkway			X		
Water main in Main Street and Kibby Road from Virginia Smith Parkway to Cardella Road				X	
Water main in Cardella Road from Golden Bobcat Road to Kibby Road				X	
Water main in Virginia Smith Parkway and Cardella Road from Kibby Road to Phase 1 eastern boundary					X
Water main in Road A from Virginia Smith and Carleton Road					X

STORM DRAIN

Individual Improvements	Phase of Development 1A	1B	1C	1D	1E
Storm Drain extension Lake to Virginia Smith Parkway		X			
Storm Drain Basin along Virginia Smith Parkway between Kibby Road and Golden Bobcat		X			
Storm Drain Basin along Campus Parkway and Creek between Virginia Smith Parkway and Cardella	X				
Storm Drain extension Lake to Campus Parkway, University and Golden Bobcat between Meyers Gate Road and Virginia Smith Parkway	X				
Storm Drain Basin along the Kibby Avenue and Campus Parkway	X				
Storm Drain extension Lake along Meyers Gate Road between Meyers Gate Road and Virginia Smith Parkway			X		
Storm Drain Basin along Virginia Smith and Kibby Road between Center Street and Kibby			X		
Storm Drain extension Lake along Cardella Road between Kibby Road and Golden Bobcat				X	
Storm Drain Basin along Cardella between Kibby Road and Golden Bobcat				X	
Storm Drain extension Lake along Virginia Smith and Cardella Road between Kibby Road and Phase 1 eastern boundary					X
Storm Drain Basin along Carleton connection to the creek (Mitigation to come)					X

SEWER

Individual Improvements	Phase of Development 1A	1B	1C	1D	1E
Lift Station and Force main to existing SS + Belleview RD		X			
Gravity Sewer in Cardella from Lift Station to Golden Bobcat		X			
Gravity Sewer in Virginia Smith Parkway to Golden Bobcat		Y			
Gravity Sewer in Meyers Gate Between Lake Road and Golden Bobcat	X				
Gravity Sewer in University Avenue	X				
Gravity Sewer in Campus Parkway from Meyers Gate to Virginia Smith Parkway	X				
Gravity Sewer in Golden Bobcat from Meyers Gate to Virginia Smith Parkway	X				
Gravity Sewer in Meyers Gate and Virginia Smith between Golden Bobcat and Kibby Road			X		
Gravity Sewer in Main Street from Meyers Gate to Virginia Smith			X		
Gravity Sewer in Cardella Road from Golden Bobcat to Road A				X	
Gravity Sewer in Main Street and Kibby Road from Virginia Smith to Cardella				X	
Gravity in Virginia Smith Parkway and Cardella from Kibby road to Phase 1 east boundary					X
Gravity Sewer in Road A from Virginia Smith Parkway to Cardella Road					X

0 250 500 750 feet
1"=250'

August 29, 2022

CONFORMANCE MAP
VIRGINIA SMITH LAND TRUST

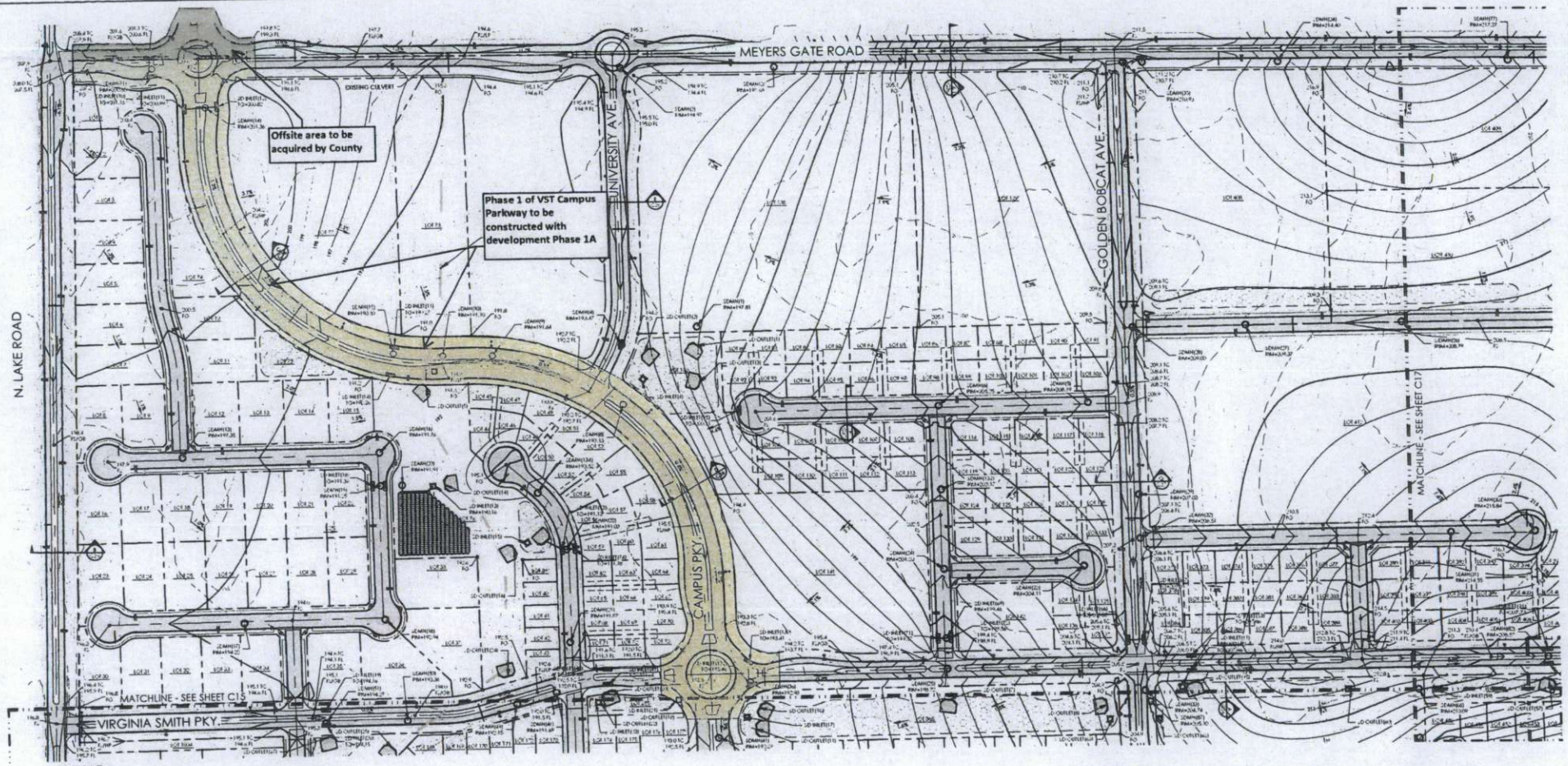
C38

VIRGINIA SMITH TRUST

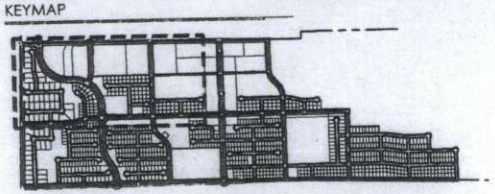
rrm design group

EXHIBIT J

Campus Parkway Connection Right of Way and Improvements



KEYMAP



LEGEND

- TRACT BOUNDARY
- PROPOSED PROPERTY LINE
- PROPOSED EASEMENT/SETBACK
- PROPOSED RW
- PROPOSED UNDERGROUND STORAGE CHAMBERS. SEE STORMWATER SHEETS FOR DMA'S AND RETAINED VOLUMES
- PROPOSED BIO-RETENTION AREA
- PROPOSED OUTLET WITH RIP-RAP
- PROPOSED STORM DRAIN MANHOLE
- PROPOSED INLET/ RISER

0 100 200 300 feet
1"=100'

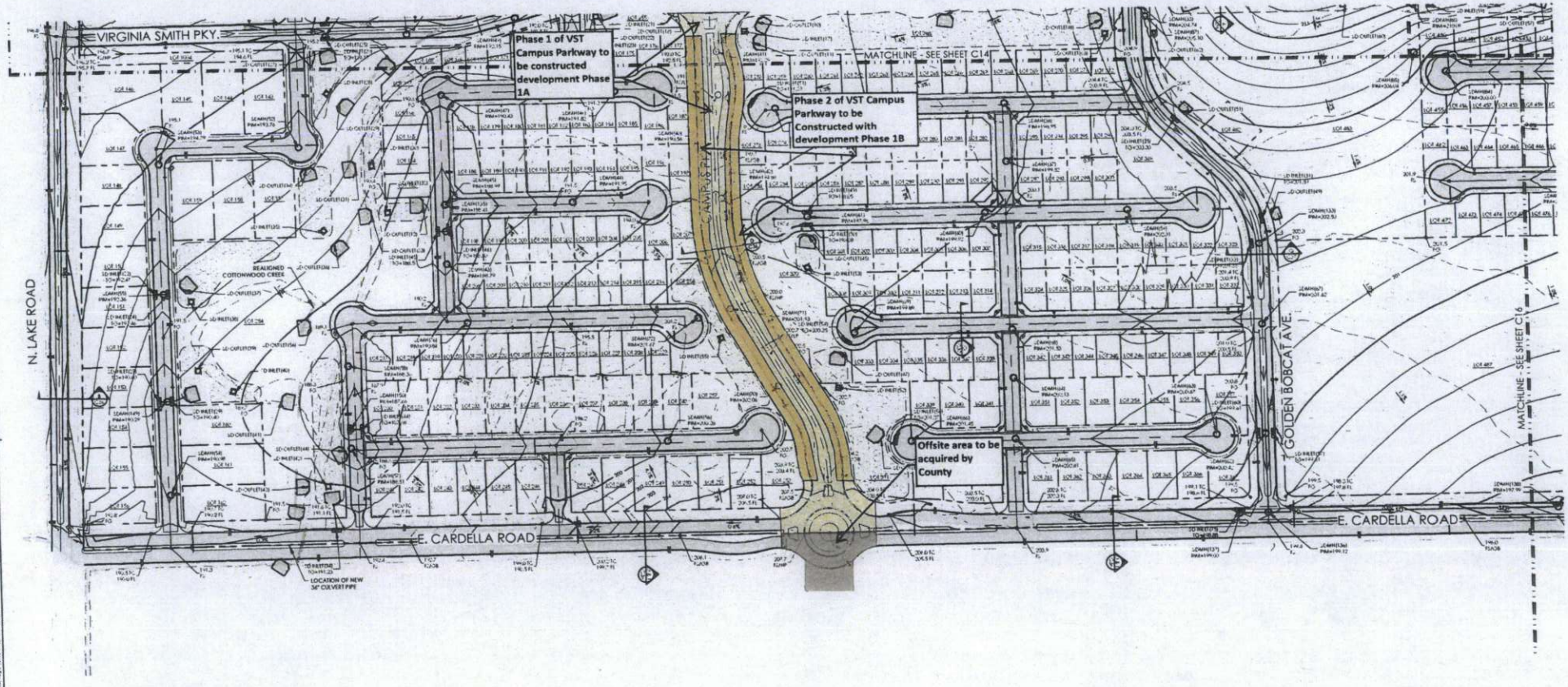
August 29, 2022

VIRGINIA SMITH TRUST

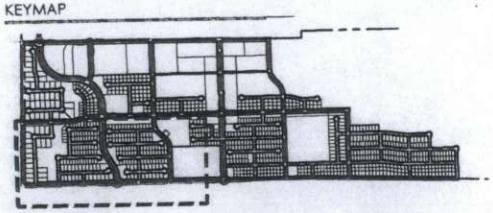
rrm design group

PRELIMINARY GRADING PLAN
VIRGINIA SMITH LAND TRUST

C14



KEYMAP



LEGEND

- TRACT BOUNDARY
- PROPOSED PROPERTY LINE
- PROPOSED EASEMENT/SETBACK
- PROPOSED RW
- PROPOSED UNDERGROUND STORAGE CHAMBERS. SEE STORMWATER SHEETS FOR DMA'S AND RETAINED VOLUMES
- PROPOSED BIO-RETENTION AREA
- PROPOSED OUTLET WITH RIP-RAP
- PROPOSED STORM DRAIN MANHOLE
- PROPOSED INLET/ RISER

0 100 200 300 feet
1"=100'

August 29, 2022

PRELIMINARY GRADING PLAN
VIRGINIA SMITH LAND TRUST

C15

VST VIRGINIA SMITH TRUST

rrm design group

EXHIBIT K

Affordable Housing Plan

Virginia Smith Trust Property

Affordable Housing Plan

In the larger scheme, the housing stock in Merced is adequate and affordable. Prices are still somewhat depressed from over-supply and the effects of the Great Recession. Apartments provide an affordable alternative to home ownership. However, it is still believed that programs should be provided to create workforce housing, increase the supply of housing available to UC employees and students, and provide preferences and incentives for individuals who work on campus at UC Merced. There should also be owner-occupancy restrictions in the single-family detached units to eliminate or substantially reduce the potential for converting single family neighborhoods to tracts of investor-owned rental for students (Isla Vista), and a special Workforce Housing Incentive Program should be established (basically a first time homebuyers program) which will provide deed-restricted units for workforce housing eligible households (households earning 121-160% of the Area Median income). This workforce housing program seeks to target the Project to all UC employees, reduce the influence of investors in the limitation of housing choice and availability, provide a down payment assistance program for Workforce In- come families, and provide a certain number of units that will be deed-restricted. Finally, VST and its builders will team up with affordable housing providers to provide lots for "sweat equity" self-help housing. There are two options for the VST Affordable Housing Program involving solely onsite construction and a "hybrid" that includes in lieu fees and onsite production of units. The common elements of the program are as follows:

1. **Local Preference ("UC Workers First")**. The UC and University Community Plan areas have been planned as an integrated unit for the last 25 years. The hope has always been that the UCP properties, including VST, would provide the residential and commercial support for UC's students and staff. It is known that many of the UC's staff live outside of the community and students are being accommodated inside the City at other locations. These commute trips result in an estimated 17.7 million vehicle miles (VMT) traveled each year by students and staff using passenger cars to and from the university. If VST can capture 35 percent of the current students, and 50% of the current staff, all vehicle trips will be shortened, and there will be a significant shift to non-vehicle modes of transportation resulting in a VMT reduction of approximately 9 million miles per year.

   Incentives will be established to provide priority for existing UC staff and students as follows:

   a. Each development phase of VST is to maintain the interest list and shall separate and prioritize names of local employees based on interest in product type.

   b. When housing units are to become available, usually 270-360 days prior to certificate of occupancy (assuming a 180-day construction period), the builder shall notify those UC staff on the reservation list of the opportunity to purchase a residence starting with the "top of the list."

Those individuals shall have approximately 60 days to get pre-qualified to purchase the residence and to provide the builder with proof that the individual is a UC employee (i.e. paycheck or bonafide offer of employment from a local employer.)

c. If an individual fails to get pre-qualified or fails to provide the builder with proof of UC employment within the time periods above, then the builder may remove or put that name at the end of the interest list.

d. UC staff and employees shall be provided with an incentive package worth $2,000, including reductions off base price, option allowances, free bikes for transportation, allowance for closing costs, allowance for upgrades, or similar incentives at the discretion of the builder. This incentive would apply to all UC staff regardless of income.

2. **Owner-Occupancy Restrictions**. Establishing a stable and desirable neighborhood for UC staff will require some segmentation and separation of the student rentals and the ownership units. Builders will agree to include restrictions in the purchase agreement and Covenants Conditions and Restrictions (CC&Rs) for the R-1 single family detached units and at least 75% of the R-2 units to restrict these units for owner-occupancy only for the first five years after sale. In the case of units with Accessory Dwelling Units (ADUs), the Principal Dwelling or the ADU will need to be occupied by the property owner. The final form of these agreements will be determined at the time of development of the first final map, and will provide for appropriate monitoring and enforcement.

3. **Down Payment Assistance Program**. The project would provide a matching down payment assistance (DPA) ranging from $2,500 to $5,000 as a "silent second" on the initial sale of 50 of the R-1 and R-2 homes. These units would have to be occupied by a UC staff with incomes within the "Moderate Income Limit" for Merced County as determined by State Housing and Community Development Department (HCD). These units would be occupied by a household for a minimum of ten (10) years; if resold within this ten-year period, the units would need to be sold to another income qualifying Workforce Housing buyer and the 10-year deed restriction would reset to 10 more years with the new buyer of the home. The DPA loan would be re- paid upon sale of the unit or refinancing, and the proceeds would be placed in a revolving loan fund to assist future workforce, moderate, or lower income home buyers in the VST project. Unlike a reduction in price that would be captured by a future seller at the end of the affordability term, this assistance would continue throughout the life of the funds to assist buyers in the development.

4. **Self Help Housing**. VST would provide 25 to 50 improved R-2 lots for Self Help housing for Low and Very Low Income families. Floor plans, exterior elevations and finishes would be established by a master builder with the same basic specifications and finish qualities of market rate homes that are con- structed by a builder for the balance of the development. Sites will be provided in conformance with Table 2 of the Specific Plan. Under the "Onsite" option, 25 sites would be provided for Low Income families. Under the "Hybrid" option, 25 sites would be provided for Low Income families and 25 sites would be provided for Very Low Income families.

5. **Multifamily Construction Program.** Under the "Onsite" option, the project will provide improved sites that are adequate for up to 450 dwelling units, with sites for at least 350 units Phases 1A through 1E and 100 units in Phase 2. These sites will be provided to affordable housing providers and will be developed with a combination of market rate units, 150 deed-restricted Moderate Income units, 100 units for Extremely Low Income households, 100 units for Very Low Income House-holds, and 100 units for Low Income Households. In total this program will result in 450 units that will be enforceably restricted. In addition there would be 25 units for Very Low Income households in the Village Center Mixed Use area. Sites would be provided in conformance with Table 2 of the Specific Plan. Under the Hybrid option the project will provide improved sites that are adequate for up to 200 dwelling units, with sites for at least 100 units Phases 1A through 1E and 100 units in Phase 2. These sites will be provided to affordable housing providers and will be developed with a combination of market rate units, 50 deed-restricted Moderate Income units, 50 units for Very Low Income House-holds, and 100 units for Low Income Households.

6. Density Bonus Program. The level of affordable housing in the Project is made possible by usage of the State and local Density Bonus Program (Chapter 20.56 of the Merced Municipal Code). The Project would dedicate land for the Self Help Housing and the Multifamily Construction programs, including 2.96 acres for 25 R-2 units for Low Income Self Help units, and 10.7 acres of R-4 land for 300 units (20.17% of total R4 units) on multiple sites, including 100 Low Income units, 100 Very Low income units, and 100 Extremely Low Income units. These would be constructed on multiple sites per the schedule and buildout in Table 2 of the Specific Plan. The dedication of the R-4 land would result in a 25% Land Dedication Density Bonus to the R-4 area for the 20.1% of affordable units in the R-4 area that would yield 372 additional R-4 units. For the purposes of this density bonus, the "development" would be defined as the entire 53-acre, 1,489-unit R-4 area. The dedicated land would be adequate for 300 Extremely Low, Very Low Income units and Low Income units. The dedicated R-4 sites would be provided with a 50% density bonus on the affordable sites totaling 150 market rate or Moderate Income units. There would be a total of 522 bonus units, 35% of the total development (and within the City guidelines), with 372 of the bonus units used in the R-4 area outside of the dedicated land, and 150 units used on the dedicated R-4 land.

   There would also be a density bonus for the Very Low Income units in the Town Center Mixed Use area. The 25 Very Low Income Units would be 23.1% of the total units and would yield a 50% density bonus, increasing the total number of Town Center Mixed Use units to 162 units.

7. In Lieu Fee Program. The City of Merced has developed an affordable housing that is intended to fund affordable housing projects throughout the community. The City has extensive experience with its HOME, CDBG and other housing programs in providing assistance to affordable housing providers in an efficient and effective manner. Recently, the City leveraged $11.7 million of City contributions for 264 Extremely Low, Very Low and Low Income units in the Devonwood and Bella Vista projects, resulting in a cost of approximately $44,500 per unit. Under the Hybrid approach described herein, each R-1 and R-2 unit would pay an affordable housing fee of $1.65 per square foot of conditioned floor area (living area, not including garage or outside storage area), up to a maximum of $3,800 per dwelling unit. This program is expected to raise $6.68 million and would produce 150 Extremely Low Income, Very Low Income and Low Income units.

Specific Plan Table 2

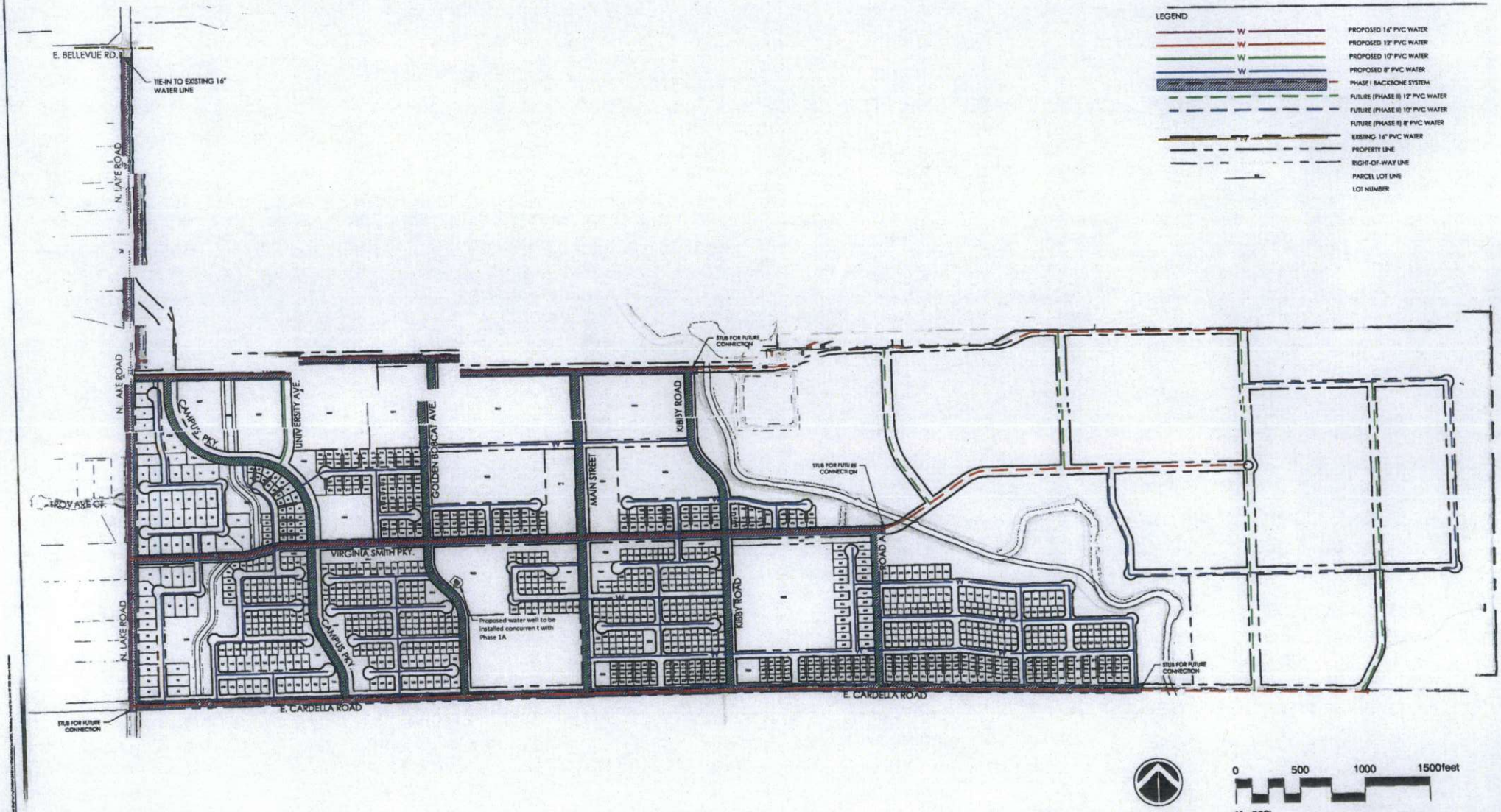
Development Per Phase Land Use Type	Phase 1						Phase 2	Total
	Phase 1A	Phase 1B	Phase 1C	Phase 1D	Phase 1E	Total Phase 1		
Residential (Units)								
R-1	109	226	--	141	186	662	615	1,277
R-2	36	—	64	24	131	255	225	480
R-3	—	—	364	—	—	364	140	504
R-4	696	—	456	—	—	1,152	336	1,488
Mixed Use	—	—	108	—	—	108	—	108
Total Residential (Units)	**841**	**226**	**992**	**165**	**317**	**2,541**	**1,316**	**3,857**
Commercial (SF)								
Retail Mixed/Town Center)	—	—	275,000	32,500	—	307,500	—	307,500
Hotel/Office	—	—	275,000	—	—	275,000	—	275,000
Neighborhood Commercial	50,000	—	—	—	—	50,000	54,500	104,500
Community Commercial	—	—	—	175,000	—	175,000	—	175,000
Total Commercial (SF)	**50,000**	**—**	**550,000**	**207,500**	**—**	**807,500**	**54,500**	**862,000**
Parks (Acres)								
Linear Parks	1.23	4.16		1.40	4.50	11.29	8.47	19.76
Public Parks	2.14	3.48		7.30	15.50	28.42	34.79	63.21
School Parks					4.82	4.82		4.82
Private Parks	1.88		5.79			7.67	2.36	10.03
Total Parks (Acres)	**5.25**	**7.64**	**5.79**	**8.70**	**24.82**	**52.20**	**45.62**	**97.82**
Public Facilities (Acres)								
Backbone Roads	10.58	6.52	12.92	6.17	6.17	42.36	27.46	69.82
Water	1.50	4.20				5.70	9.84	15.54
Other	7.50					7.5	7.5	15.0
Schools			4.40		14.89	19.29		19.29
Total Public Facilities (Acres)	**19.58**	**10.72**	**17.32**	**6.17**	**21.06**	**74.85**	**44.80**	**119.65**
Affordable Housing								
Workforce Housing Program	25		25		25	75	75	150
Self Help Housing Program		13			12	25		25
Multifamily New Construction	100		125			225	100	325
Total Affordable Housing Units	**125**	**13**	**175**		**37**	**325**	**175**	**500**
(Units counts do not include permitted density bonuses for qualified projects.)								

Affordable Housing Options

	Onsite	Hybrid
R4 Land Dedication (Acres)	**10.00**	**5.00**
Onsite Produced Units		
XLow	100	
Vlow	100	50
Low	100	100
Moderate	150	50
Total	**450**	**200**
Self Help R-2 Land Dedication		
Onsite Produced Units		
XLow		
Vlow		25
Low	25	25
Moderate		
Total	**25**	**50**
Mixed Use Multifamily		
Onsite Produced Units		
XLow		
Vlow	25	25
Low		25
Moderate		
Total	**25**	**50**
Subtotal-Onsite Produced Units		
XLow	100	-
Vlow	125	100
Low	125	150
Moderate	150	50
Total	**500**	**300**
Base	**3,857**	**3,857**
Density Bonus Units		
R4 Market	**297**	
R4 Project	**150**	**75**
Mixed Use Project	**54**	**54**
Total Units	**4,358**	**3,986**
Market Rate Units	**3,858**	**3,686**
Onsite Affordable Units	**500**	**300**
Subtotal Offsite Produced Units with Fee		
XLow		**50**
Vlow		**50**
Low		**50**
Moderate		
Total Onsite and Offsite Units		**-**
XLow	**100**	**50**
Vlow	**125**	**150**
Low	**125**	**200**
Moderate	**150**	**50**
Total	**500**	**450**
Fees		
R1/R2 In lieu fees		$ 3,800
R1/R2 In lieu fees (per SF)		$ 1.65
R3/R4/MU iin lieu fees		
Total Estimated Fees Paid		$ 6,676,600

EXHIBIT L

Water System Master Plan



VIRGINIA SMITH

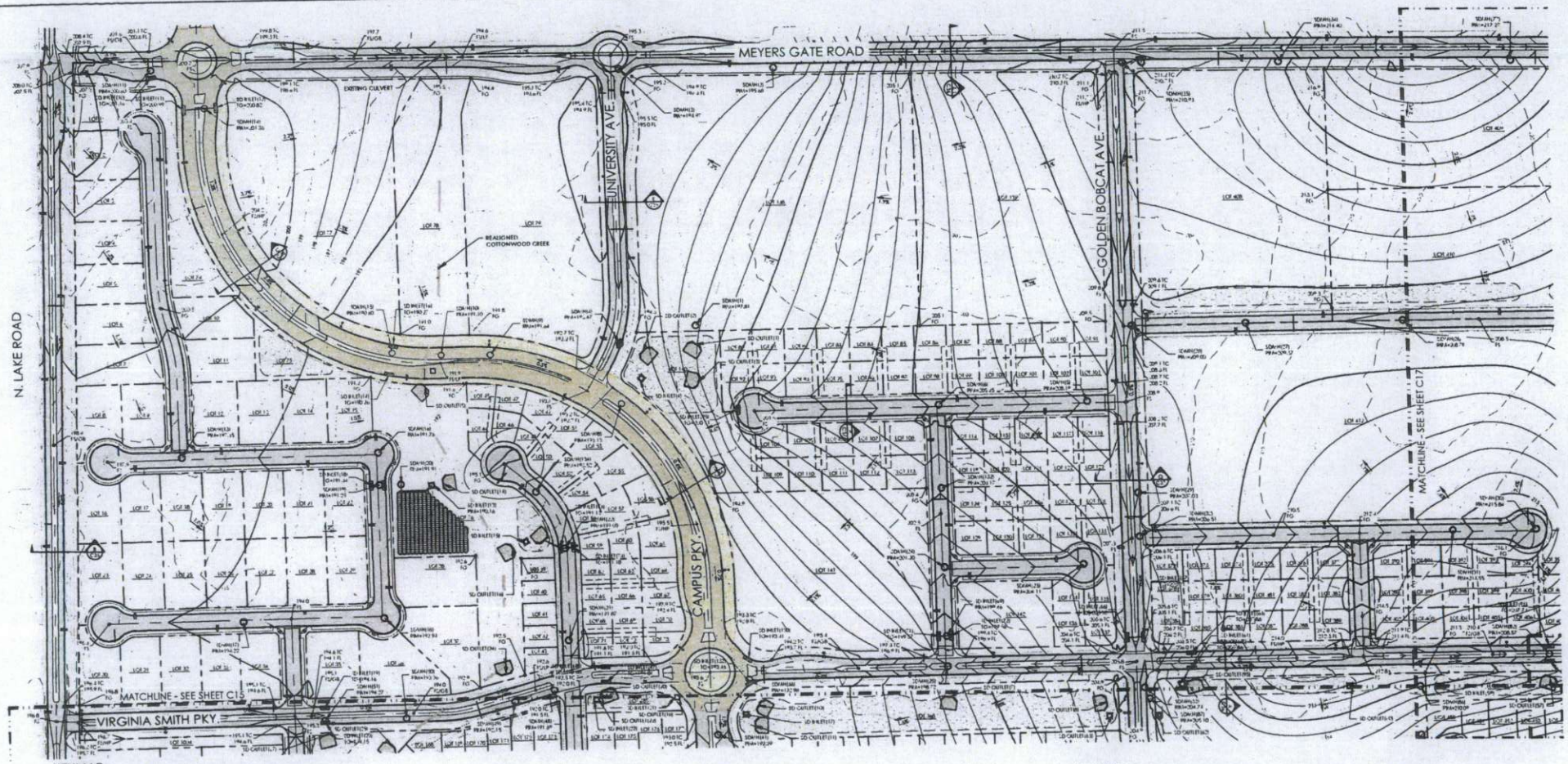
WATER SUPPLY MASTER PLAN

W1

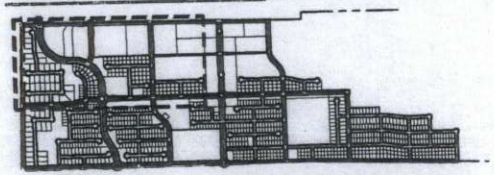
December 4, 2020

EXHIBIT M

Onsite Campus Parkway to be Constructed by VST



KEYMAP



PHASE 1A CONSTRUCTION

LEGEND

- TRACT BOUNDARY
- PROPOSED PROPERTY LINE
- PROPOSED EASEMENT/SETBACK
- PROPOSED RW
- PROPOSED UNDERGROUND STORAGE CHAMBERS. SEE STORMWATER SHEETS FOR DMA'S AND RETAINED VOLUMES
- PROPOSED BIO-RETENTION AREA
- PROPOSED OUTLET WITH RIP-RAP
- PROPOSED STORM DRAIN MANHOLE
- PROPOSED INLET/ RISER

0 100 200 300 feet
1"=100'

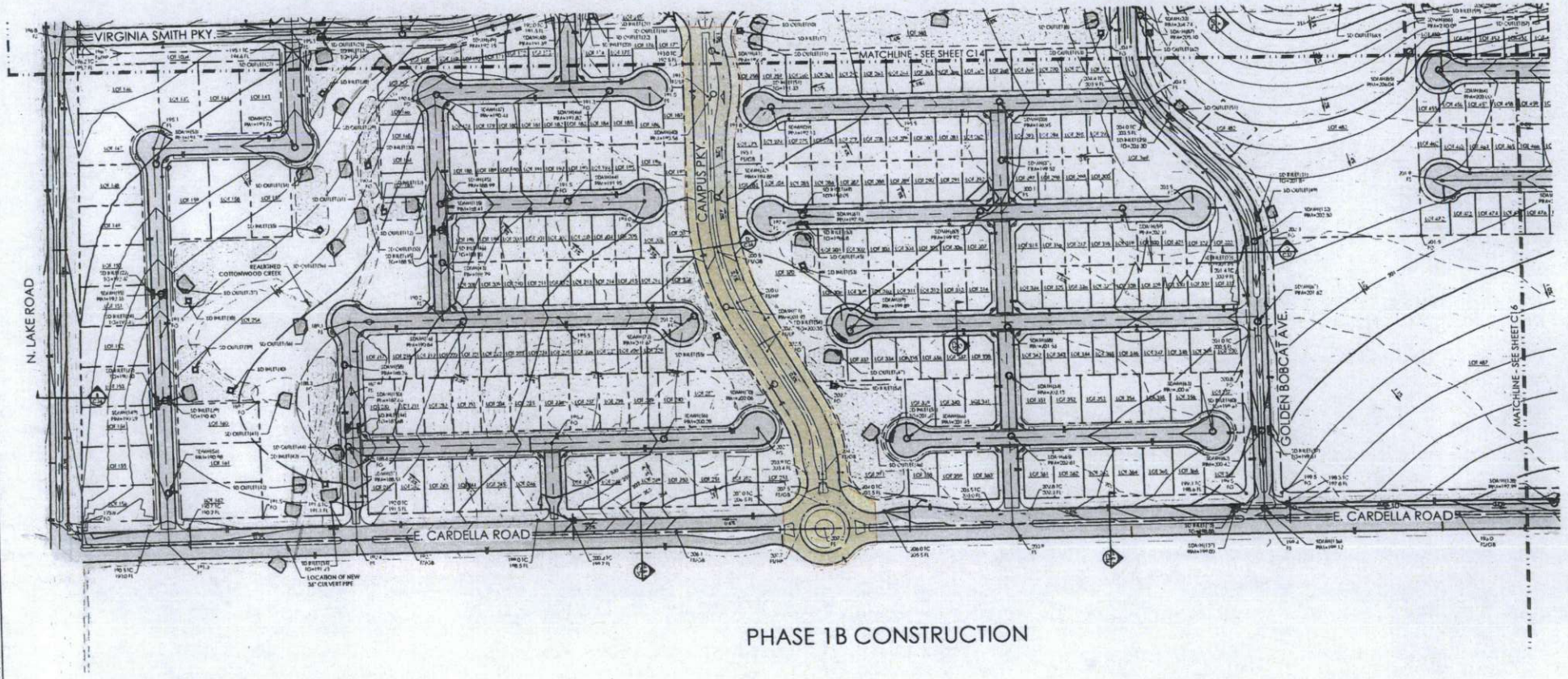
August 29, 2022

VIRGINIA SMITH TRUST

rrm design group

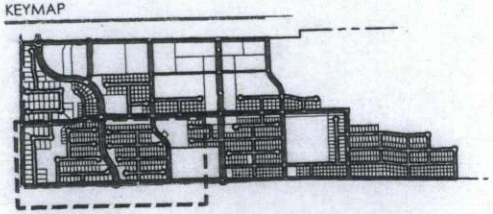
PRELIMINARY GRADING PLAN
VIRGINIA SMITH LAND TRUST

C14



PHASE 1B CONSTRUCTION

KEYMAP



LEGEND

- TRACT BOUNDARY
- PROPOSED PROPERTY LINE
- PROPOSED EASEMENT/SETBACK
- PROPOSED RW
- PROPOSED UNDERGROUND STORAGE CHAMBERS. SEE STORMWATER SHEETS FOR DMA'S AND RETAINED VOLUMES
- PROPOSED BIO-RETENTION AREA
- PROPOSED OUTLET WITH RIP-RAP
- PROPOSED STORM DRAIN MANHOLE
- PROPOSED INLET/ RISER

0 100 200 300 feet
1"=100'

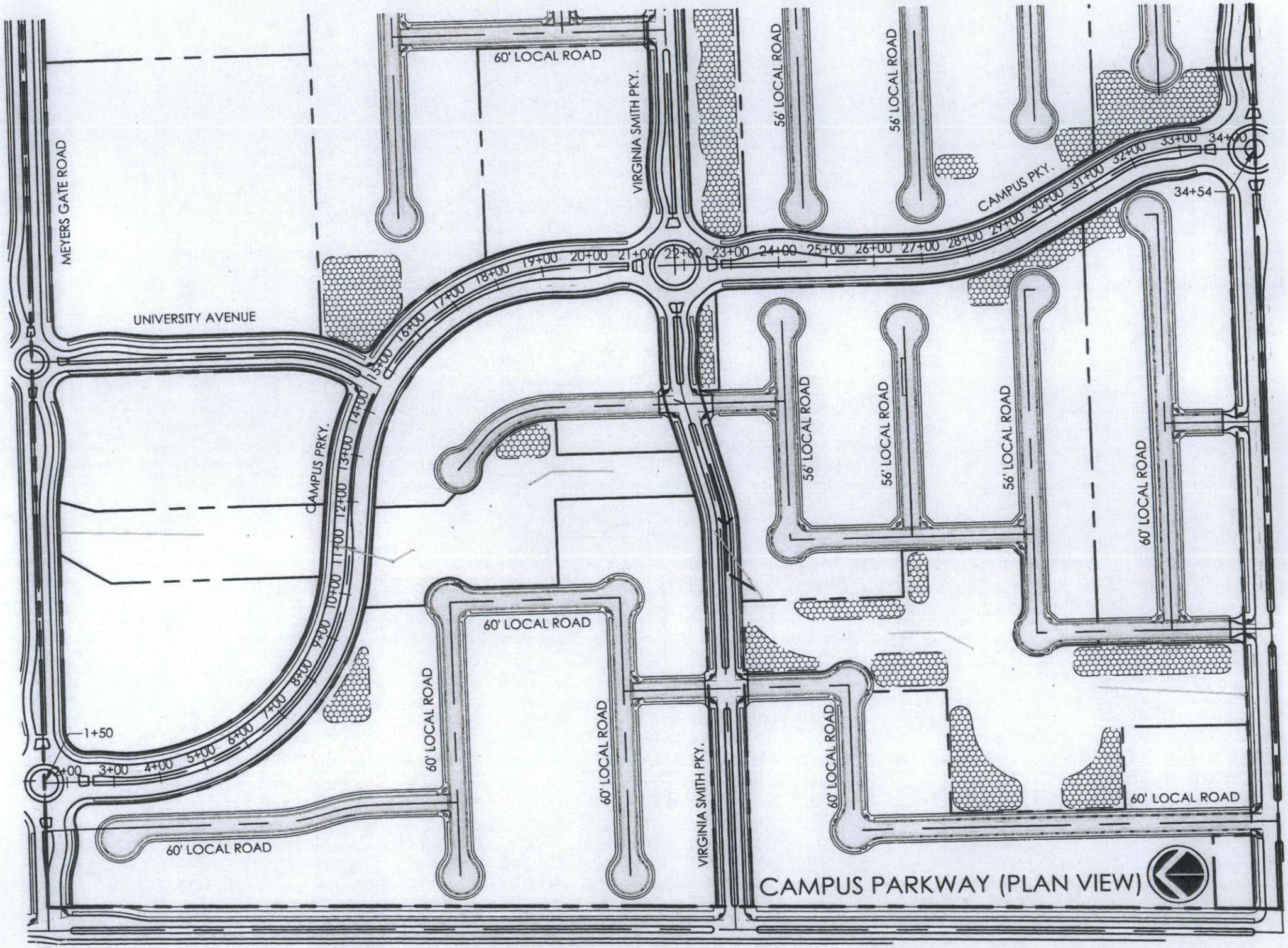
August 29, 2022

VST VIRGINIA SMITH TRUST

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PRELIMINARY GRADING PLAN
VIRGINIA SMITH LAND TRUST

C15


MEYERS GATE ROAD
UNIVERSITY AVENUE
CAMPUS PRKY.
CAMPUS PKY.
VIRGINIA SMITH PKY.
VIRGINIA SMITH PKY.
60' LOCAL ROAD
56' LOCAL ROAD
56' LOCAL ROAD
56' LOCAL ROAD
56' LOCAL ROAD
56' LOCAL ROAD
60' LOCAL ROAD
60' LOCAL ROAD
60' LOCAL ROAD
60' LOCAL ROAD
60' LOCAL ROAD
60' LOCAL ROAD
60' LOCAL ROAD
1+50
2+00
3+00
4+00
5+00
6+00
7+00
8+00
9+00
10+00
11+00
12+00
13+00
14+00
15+00
16+00
17+00
18+00
19+00
20+00
21+00
22+00
23+00
24+00
25+00
26+00
27+00
28+00
29+00
30+00
31+00
32+00
33+00
34+00
34+54
CAMPUS PARKWAY (PLAN VIEW)

CAMPUS PARKWAY (PROFILE VIEW)

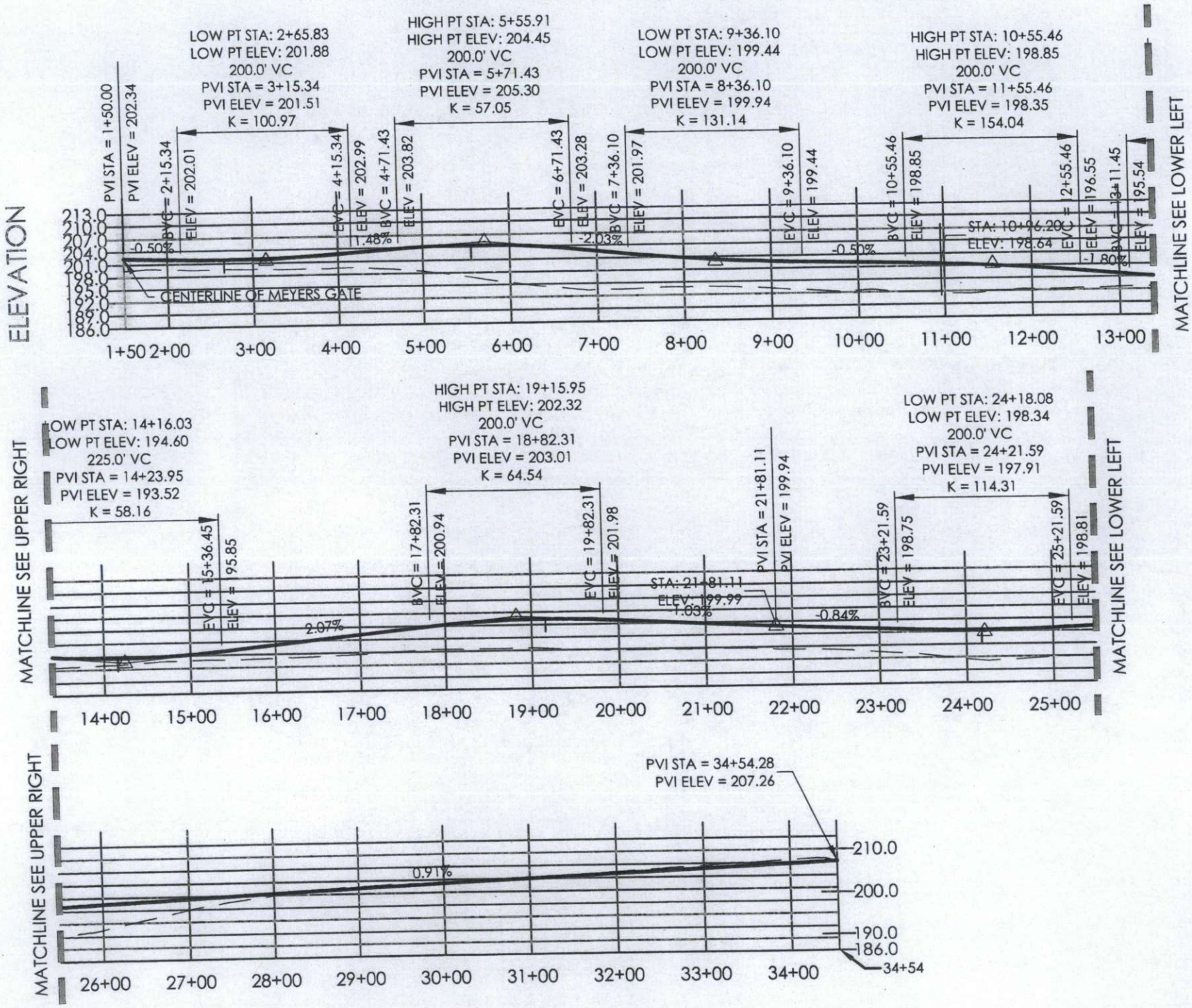
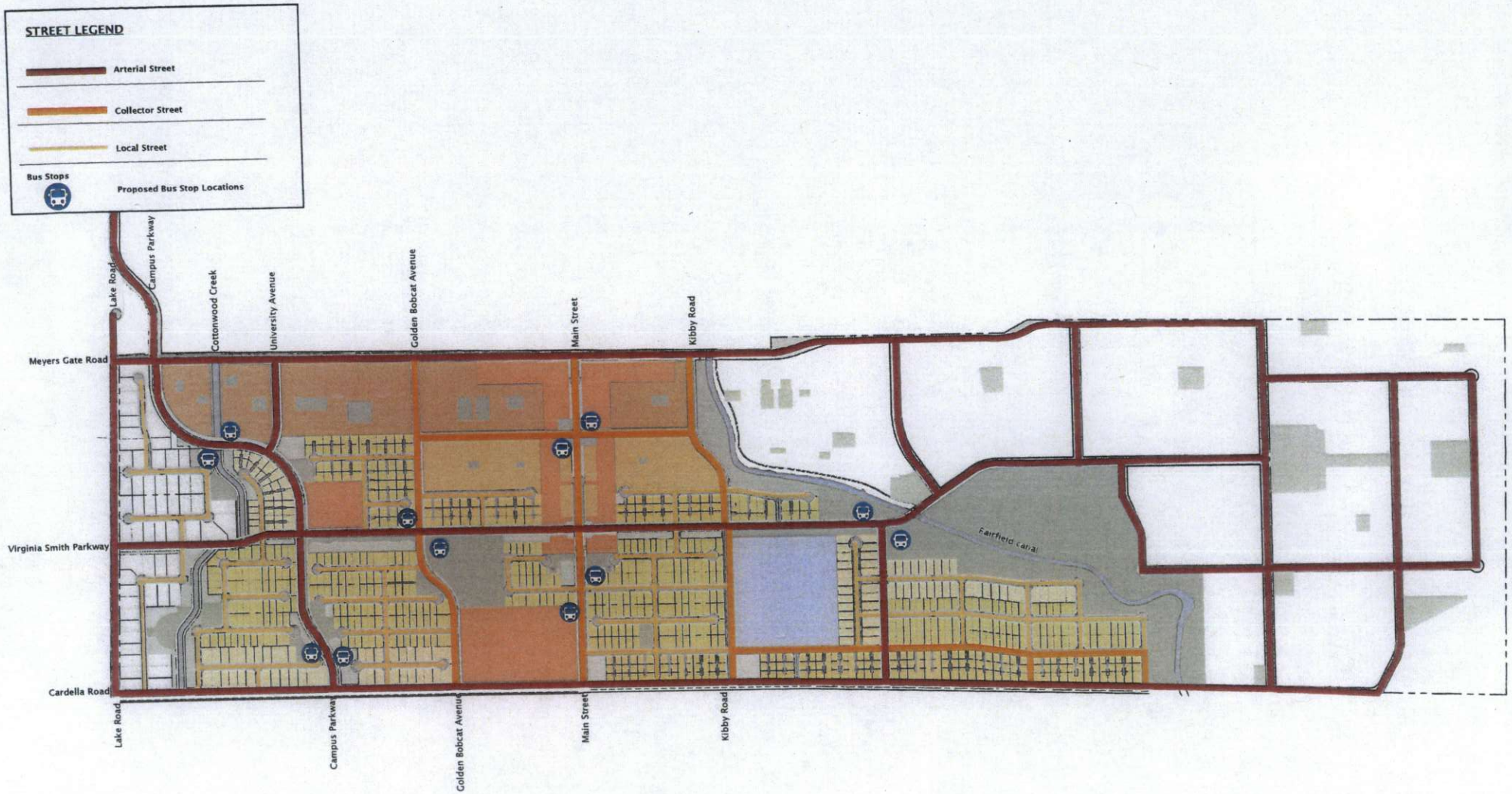


EXHIBIT N

Bicycle and Multimodal Transportation Improvements



0' 75' 150' 300' 450'

SCALE 1" = 150'
DECEMBER 2020

BUS AND STREET NETWORK

Virginia Smith Trust Land Plan and Vesting Tentative Map

BIKE CIRCULATION LEGEND

Proposed Class I Bikeway

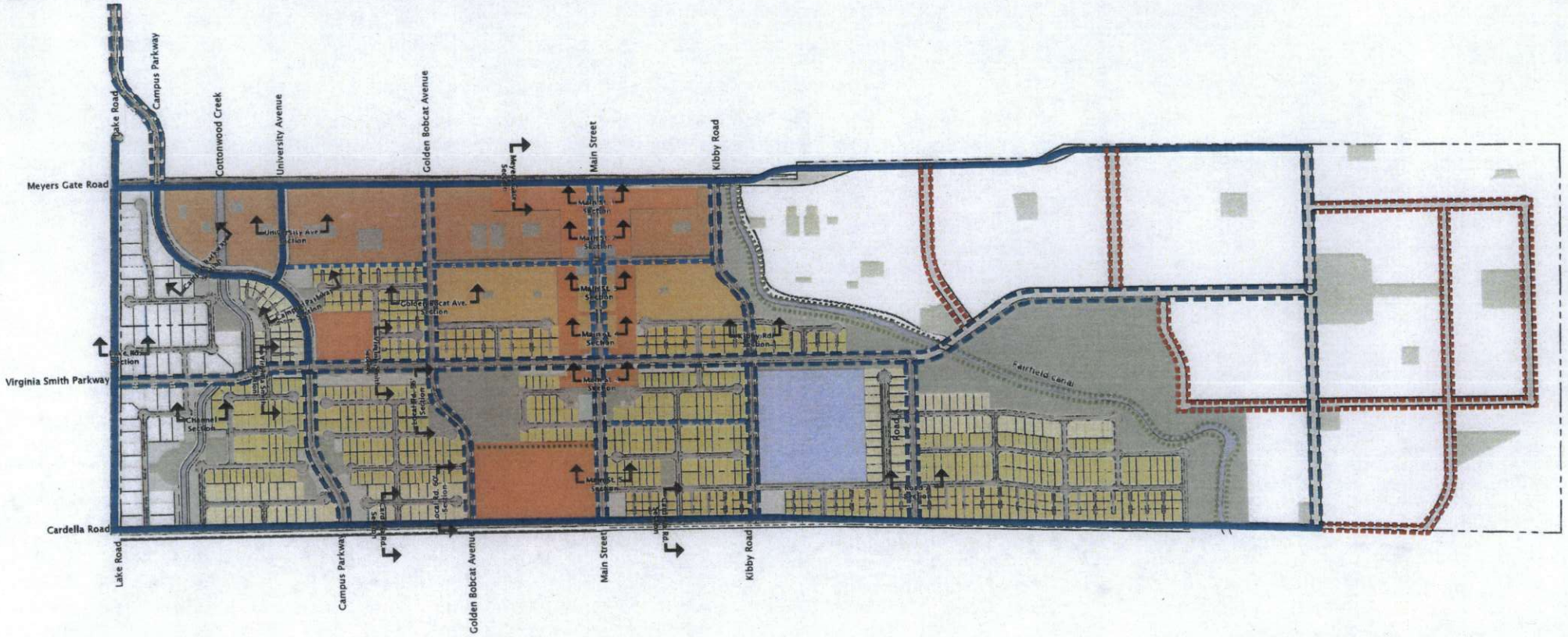
Proposed Class II Bikeway

Proposed Class III Bikeway

Class IV Bikeway

Proposed Bikeway (1 Way)

Proposed Bikeway (2 Way)



0' 75' 150' 300' 450'

SCALE 1" = 150'
DECEMBER 2020

OVERALL CIRCULATION PLAN

Virginia Smith Trust Land Plan and Vesting Tentative Map

EXHIBIT O

V Street Bypass Sewer Trunk Line



Figure 1

Legend

- Existing Pipes with Surcharge Over 1 ft
- Existing Pipes
- Parallel Trunk Main Along 16th St & V St
- Pipes Serving VST

0 600 1,200

1 inch = 1,200 feet

VIRGINIA SMITH TRUST

mkn

Existing Surcharging and Recommended Capital Improvement

Virginia Smith Trust
Infrastructure Analysis and Feasibility Study