

PARKING AGREEMENT

THIS PARKING AGREEMENT ("Agreement") is made and entered into on _____, 2018, by and between City of Merced, a California Charter Municipal Corporation, whose address of record is 678 West 18th Street, Merced, California 95340, ("City") and Merced Gateway Investors II, LP, a California Limited Partnership, whose address of record is 3351 M Street, Suite 100, Merced, California 95348 ("Developer").

WHEREAS, Developer will be improving its property in the City with the new Gateway Terrace II apartment buildings and appurtenances, which will be opened soon for use and occupancy; and

WHEREAS, the said buildings and appurtenances are a necessity to the City and its residents and will be available to the general public without discrimination and therefore serve a public need in the City of Merced; and

WHEREAS, "K" Street between 12th Street and 13th Street is not a major thoroughfare; and

WHEREAS, the said portion of "K" Street between 12th Street and 13th Street can best be utilized for public parking, pedestrian use and modified traffic flow thereon.

NOW, THEREFORE, the parties hereto, in consideration of the mutual covenants hereinafter recited, hereby agree as follows:

1. The City hereby agrees to the modification of traffic flow on that portion of "K" Street lying between 12th Street and 13th Street.
2. That the said area shall be used for public parking and pedestrian use.
3. The Developer, at its own cost and expense, will construct all public parking improvements in said portion of "K" Street between 12th Street and 13th Street all in accordance with the existing plot plan as described on Exhibit A and shown on Exhibit B, attached hereto and by reference made a part hereof, or as the same may be changed or amended by the City or by the mutual consent of the parties.

4. All construction, plans, specifications and permits thereon shall be under the direction and with the approval of the City Engineer, the Planning Department and the Development Services Director.

5. All regulations in parking, flow of traffic and use of said street, shall be retained within the exclusive authority of the City and all directional or regulatory signs shall be installed under the direction of City and at the expense of the Developer. All such directional or regulatory signs shall be installed prior to the time of completion of the public parking improvements described in this Agreement.

6. Developer shall indemnify, protect, defend (with legal counsel selected by the City), save and hold City, its officers, employees, and agents, harmless from any and all claims or causes of action for death or injury to persons, or damage to property resulting from intentional or negligent acts, errors, or omissions of Developer or Developer's officers, employees, volunteers, and agents during performance of this Agreement, or from any violation of any federal, state, or municipal law or ordinance, to the extent caused, in whole or in part, by the willful misconduct, negligent acts, or omissions of Developer or its employees, subcontractors, or agents, or by the quality or character of Developer's work, or resulting from the negligence of the City, its officers, employees, volunteers and agents, except for loss caused by the sole negligence or willful misconduct of the City or its officers, employees, volunteers or agents. It is understood that the duty of Developer to indemnify and hold harmless includes the duty to defend as set forth in Section 2778 of the California Civil Code. Acceptance by City of insurance certificates and endorsements required under this Agreement does not relieve Consultant from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall survive the termination of this Agreement and shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply. By execution of this Agreement, Developer acknowledges and agrees to the provisions of this Section and that it is a material element of consideration.

7. Developer agrees, at its own cost and expense, to obtain such public liability and property damage insurance, or endorsement thereon, as may be required by the City in this regard, the limits thereof to be determined by the City, and to be non-cancelable for any reason without thirty (30) days written notice to the City.

8. The part of "K" Street between 12th Street and 13th Street herein referred to is not being vacated or abandoned by the City and the City may at any time require the use of said area for street purposes and require the discontinuance of its use for the purposes described in this Agreement.

9. The Developer, at its own cost and expense, will property maintain and care for the said area while it is used for the purpose herein stated.

10. The said use shall be subject to all easements for public utilities normally existing in, over or upon any public street of the City.

11. If the use of the Gateway Terrace II apartment buildings changes from a multi-family residential development then this Agreement shall be null and void. The intent of this Agreement is to allow the Developer the ability to meet the City's parking requirements.

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

CITY OF MERCED,
A California Charter Municipal
Corporation

BY: _____
City Manager

ATTEST:
STEVE CARRIGAN, CITY CLERK

BY: _____
Assistant/Deputy City Clerk

APPROVED AS TO FORM:

BY:  _____ 4-25-2016
City Attorney Date

ACCOUNT DATA:

BY: _____
Verified by Finance Officer

MERCED GATEWAY INVESTORS
II, LP, a California Limited Partnership

By: Central Valley Coalition for
Affordable Housing, a
California nonprofit public
benefit corporation
Its: Managing General Partner

By: _____
Christina Alley
Chief Executive Officer

By: MERCED GATEWAY
INVESTORS II, LLC, a
California Limited Liability
Company
Its: Administrative General
Partner

By: _____
Austin Herzog
Managing Member

ADDRESS: 3351 "M" Street,
Suite 100
Merced, CA 95348

TELEPHONE: _____
FAX: _____
E-MAIL: _____

EXHIBIT "A"
Parking Agreement for "K" Street
City of Merced

DESCRIPTION

A Parking Agreement for a portion of K Street, 22.00 feet in width, situate in Section 30, Township 7 South, Range 14 East, Mount Diablo Base and Meridian, City of Merced, County of Merced, State of California, said Parking Agreement Area being described as follows:

Commencing at the northeasterly corner of Block 251 as shown on Supplemental Map to Town of Merced recorded in Volume 2 of Official Plats at Page 12, Merced County Records; thence S. 65°20'00" E. a distance of 3.50 feet to the POINT OF BEGINNING of said "Parking Agreement Area", thence S. 65°20'00" E. a distance of 22.00 feet along the southeasterly projection of the northeasterly line of said Block 251; thence S. 24°40'00" W. parallel with the southeasterly line of said Block 251 a distance of 306.83 feet; thence N 65°20'00" W. parallel with said northeasterly line of said Block 251 a distance of 22.00 feet; thence N. 24°40'00" E. parallel with said southeasterly line of said Block 251 a distance of 306.83 feet to the point of beginning.

Containing: 6,751 Square Feet, more or less



EXHIBIT 'B'

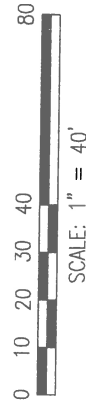
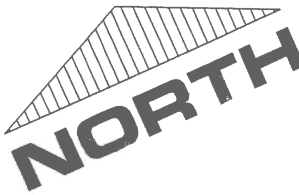
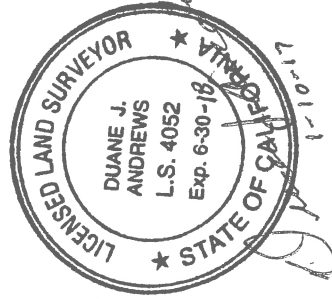
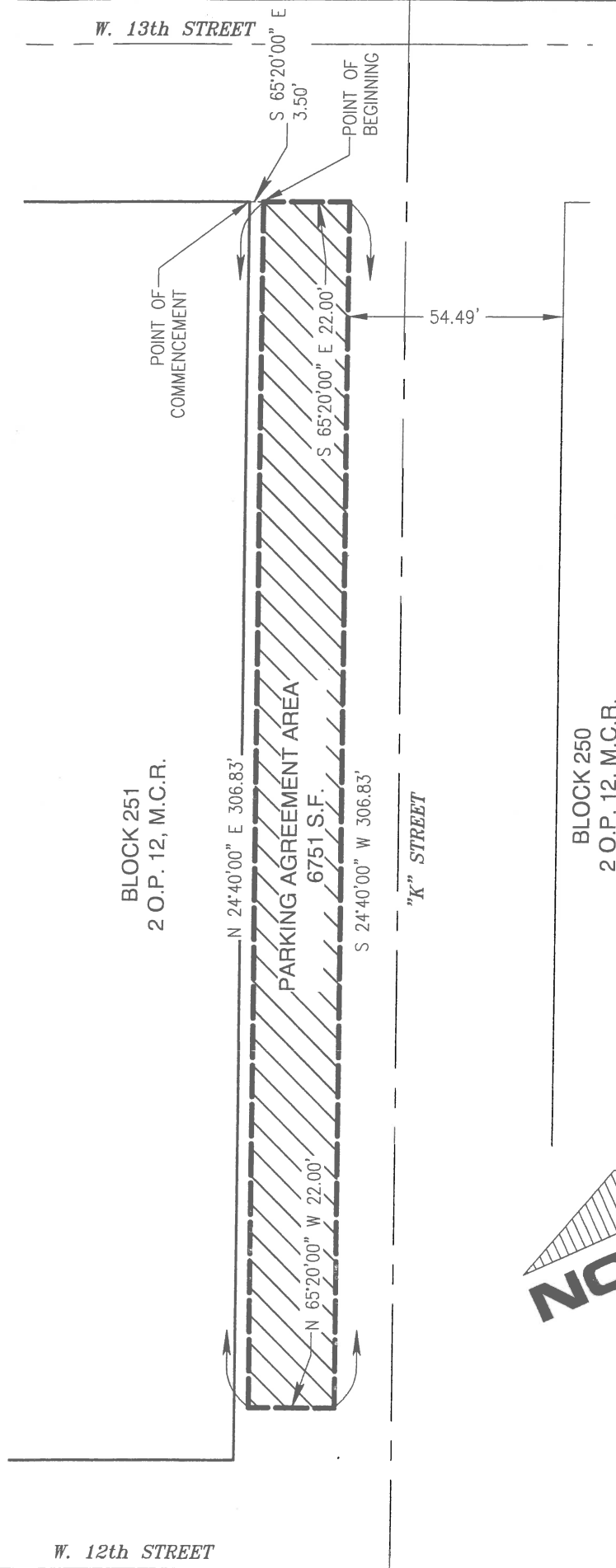


EXHIBIT 'B'

MAP OF 22.00 FOOT PARKING AGREEMENT FOR K STREET, CITY OF MERCED, IN SECTION 30, TOWNSHIP 7 SOUTH, RANGE 14 EAST, MOUNT DIABLO BASE AND MERIDIAN, CITY OF MERCED, COUNTY OF MERCED, STATE OF CALIFORNIA.

GOLDEN VALLEY
ENGINEERING & SURVEYING

405 W. 19th Street • P.O. Box 349 • Merced, CA 95340
Phone (209) 722-3200 • Fax (209) 722-3254

Job No. 16168 Date: 12/9/16