

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

Merced Irrigation District
Engineering Department
744 W. 20th Street (95340)
P.O. Box 2288
Merced, California 95344-0288

DRAINAGE AGREEMENT

18-502 Well Site 20

This Agreement is entered into between MERCED IRRIGATION DISTRICT for MERCED IRRIGATION DRAINAGE IMPROVEMENT DISTRICT No. 1 (hereafter "District"), and the City of Merced, a political subdivision of the State of California, hereinafter referred to as "City", whose address is City of Merced Engineering Department, 678 West 18th Street, Merced, CA 95340 (hereafter "City").

RECITALS

WHEREAS, pursuant to California Water Code 22981, the District has formed a California Drainage District known as Merced Irrigation District Drainage Improvement District No. 1; and

WHEREAS, the District has certain canals, laterals, pumps, wells, gates, valves, rights-of-way, easements, fee property and other tangible and intangible interests and facilities for the distribution of water (herein collectively "facilities" of District); and

WHEREAS, City is vested in fee certain real property (hereafter the "Property") legally described in Exhibit "A" and shown on Exhibit "B" attached hereto and incorporated herein by this reference; and

WHEREAS, City desires to develop a potable well for the City's water system and plans to construct a basin that will receive well start-up water; and

WHEREAS, City desires to use certain facilities of the District to discharge from and drain said water basin as necessary; and

WHEREAS, certain facilities of the District are physically capable to accommodate City's desire to discharge from said basin; and

WHEREAS, development by City using District facilities to accept discharge from said basin expands, modifies, creates and enlarges facilities; or adds, expands, modifies, creates or enlarges burdens, obligations and/or responsibilities of the District.

THEREFORE, IT IS AGREED AS FOLLOWS:

AGREEMENT

1. Recitals. The recitals set forth above are hereby incorporated and made an operative part of this Agreement.
2. Real Property Being Developed. City plans to develop the Property for well pump station and basin, the real property being as set forth on Exhibit "A" attached hereto and incorporated herein, hereinafter "Property."
3. Modification of District Facilities. City's development will drain through the Districts Hartley Lateral an existing District Facility, to the Hartley Slough as it is currently used.
4. Drainage Request. City specifically requests and asks the District to provide the Property with the ability to pump from said storm drain basin using facilities of the District.
5. Consent of District. The District consents and agrees to receive the storm drain basin discharge of said property to the facilities as hereinafter set forth, subject to all terms and conditions of this Agreement.
6. Work of City. City agrees to install, at City's sole cost and expense, the drainage improvements to the Property.
7. Urban Encroachment Fee. City agrees to pay to the District a non-refundable sum of TWO THOUSAND AND 00/100 DOLLARS (\$2,000.00) for the engineering and administrative costs associated with the preparation and filing of this agreement.
8. Annual Maintenance Fees.
 - a. City consents to the collection of the annual assessment of \$507.00 on City's annual Merced Irrigation District Drainage Improvement District No. 1 statement. Said amount shall constitute a lien on the property until paid.
9. Limitations of Drainage Area. Drainage area is specifically restricted to the described property in Exhibit "A" and shown on Exhibit "B" herein.
10. Limitations on Discharge. In consideration of the consent of District to permit the discharge of waters from said storm water basin into the facilities of the District. City agrees that at no time shall the rate of discharge into facilities of the District exceed 350 gallons per minute (GPM).
11. Changes. No modification, change, or alteration of the facilities of the District or to the planned drainage method, facilities, plans or the rate and manner of drainage set forth herein, will be made by City without the specific written approval and consent of District first had and received.

12. Failure to Make Payments - Lien on Property. Failure of City to make any payments, under paragraphs 7 and/or 8, when due to the District as specified in this Agreement shall become a lien upon the real property subject hereto. Should said property be subdivided into other lawful parcels at the time of non-payment, said lien will attach to the non-paying parcel.

13. Drainage Defined. Drainage as used herein includes only domestic drainage. Such consent shall be conditioned, as a minimum, upon a satisfactory water report of the quality of said water prior to discharge.

14. Injunctions/Remedies. In the event City is in breach of any aspect of this Agreement, the District may cause all discharge into the facilities of the District to terminate, and may seek and obtain through appropriate court action an injunction precluding all further use of facilities of the District for the purpose herein set forth. This remedy is in addition to any and all other remedies the District may have in law or equity and in addition to any damages to which the District may be entitled for any breach hereof by City or wrongful discharge into facilities of the District from the property subject hereto. In the event the District establishes a wrongful discharge of water or breach of this Agreement, District shall be entitled to damages in an amount according to proof.

15. Storm Drainage Hook-Up Fee. This project lies completely within the boundaries of that certain Drainage District known as Drainage Improvement District No. 1 in which the District requires a Storm Drainage Hook-Up Fee. MID and the City agree to a Storm Drainage Hook-Up Fee of EIGHT THOUSAND FOUR HUNDRED AND FIFTY TWO AND 00/100 DOLLARS (\$8,452.00).

16. Liability for Hazardous Discharge. No discharge of waters into the facilities of the District shall occur, which discharges are not environmentally safe and harmless to flora and fauna as determined by the District. All discharges of water effluent or materials of any nature into facilities of the District by City shall be of a purity certified and approved as safe for such discharge, as water purity standards are established by the Environmental Protection Agency of the United States of America, the State of California, the County of Merced, the City of Merced, and the District. All discharges shall be free and clear of chlorine, noxious odor and particulate matter other than as satisfies the applicable quality standards. In addition to having purity sufficient for discharge, such discharges shall be safe and non-deleterious to any agrarian or husbandry use.

17. Pumping Charges and Costs. In connection with any reservoir impounding of start-up water for the purposes of regulation prior to discharge into facilities of the District, City shall be entirely responsible for any and all costs of installing said pump, its maintenance, power charges, and repair.

18. Hold Harmless. City agrees to indemnify and to hold the District free, clear and harmless from and against any and all and every form of liability, claim, suit or action of every kind, name or description whatsoever asserted or brought against the Merced Irrigation District or the Drainage District for or on account of any injuries to real or personal property or injuries or death sustained to any person or persons caused or arising out of this Agreement, the drainage activities, discharge, impounding or flooding as a result of this drainage agreement.

19. City Groundwater Well, Storm Drain Basin and Drainage Discharge. District is not responsible for the design and/or construction of any component of the City's proposed facilities. City shall incorporate MID's standard details associated with storm water discharges into their design and submit drawings for MID's review and approval regarding incorporation of said storm drainage details.

20. Maintenance Requirement of Ditches, Fences. City shall be responsible for the specific maintenance and repair of the Property, any impound facilities, discharge facilities, and fences or other safety measures connected therewith.

21. Title to Improvements. All improvements placed in fee title, easements, rights-of-way, or other title properties of District by City pursuant to this Agreement and for the use and benefit of District shall, upon acceptance thereof by the District, become the property of District, and City shall have no claim thereon.

22. Severability. It is intended that each paragraph of this Agreement shall be viewed as separate and divisible, and in the event that any paragraph shall be held to be invalid, the remaining paragraphs shall continue to be in full force and effect.

23. Attorney's Fees. Should any litigation be commenced between the parties to this Agreement concerning this Agreement or the rights and duties of either in relation thereto, the party prevailing in such litigation shall be entitled, in addition to such other relief as may be granted in the litigation, to a reasonable sum as and for his attorney's fees in such litigation or in a separate action brought for that purpose.

24. Successors and Assigns. This Agreement shall be binding on and shall inure to the benefit of the heirs, executors, administrators, successors and assigns of the parties hereto, and shall run with the land.

25. Notices. Except as otherwise expressly provided by law, any and all notices or other communications required or permitted by this Agreement or by law to be served on or given to any party hereto by any other party hereto shall be in writing and shall be deemed duly served and given when personally delivered to the party to whom they are directed, or in lieu of such personal service, when deposited in the United States mail, first class postage prepaid, addressed as follows:

Merced Irrigation District
Drainage Improvement District No. 1
P.O. Box 2288
Merced, CA 95344

City of Merced
City of Merced c/o City Engineer
Engineering Department, 678
West 18th Street, Merced, CA 95340

Either Party hereto may change their address for the purpose of this paragraph by giving written notice of such change to the other parties in the manner provided in this paragraph.

26. Governing Law. This Agreement and all matters relating to the Agreement shall be governed by the laws of the State of California in force at the time any need for interpretation of this Agreement or any decisions or holding concerning this Agreement arises.

27. Amendments. This Agreement may be amended only by a writing signed by all of the parties to this Agreement.

28. Titles. The titles of paragraphs of this Agreement are solely for the convenience of the parties, and are not part of the Agreement.

EXECUTED at Merced, California this _____ day of _____, 2018.

Merced Irrigation District
Drainage improvement
District No. 1

OWNER:
City of Merced, a Political Subdivision of
the State of California.

By: _____
Bryan Kelly, Deputy General
Manager Water Resources

By: _____
Mike Murphy
Mayor

Date _____

By: _____
John Tresidder
Assistant City Clerk

Date _____

APPROVED AS TO FORM:

K. Flores 6/26/18
Interim Deputy City Attorney

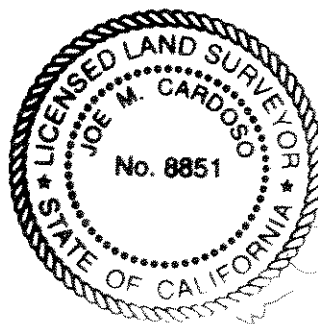
EXHIBIT A

A parcel of land situated in a portion of Section 31, Township 7 South, Range 14 East, M.D.B. & M., City of Merced, County of Merced, State of California, said parcel of land also being in a portion of Lots 208 and 209, as said Lots are delineated on that certain map entitled "MAP OF MERCED COLONY", recorded February 3, 1910 in Volume 4, of Official Plats, at Pages 24, Merced County Records, said parcel of land being more particularly described as follows:

Commencing at a point on the southeast corner of said Lot 209, said point being on the west line of Lot "P" and the north line of Lot "M", as said Lots are delineated on said Map of Merced Colony; thence N00°03'00"W, along the east line of said Lot 209, also being the west line of said Lot "P", a distance of 1317.33' feet to the northeast corner of said Lot 209; thence N88°12'56"W, along the north line of said Lot 209, a distance of 34.02 feet; thence S00°03'00"E, parallel with and 34.00 feet distant westerly from said east line of Lot 209, a distance of 1120.53 feet to the **POINT OF BEGINNING** of the herein described parcel of land; thence continuing along said east line of Lot 209, S00°03'00"E, a distance of 128.01 feet; thence S45°53'30"W, a distance of 34.40 feet; thence N88°10'00"W, parallel with and 44.00 feet distant north of the south line of said Lot 209 and Lot 208, also being the north line of said Lot "M", a distance of 1241.48 feet to the west line of said Lot 208; thence N00°02'05"W, along said west line of Lot 208, a distance of 480.57 feet; thence N89°53'39"E, a distance of 393.46 feet; thence S00°02'05"E, parallel with said west line of Lot 208, a distance of 463.88 feet; thence S88°10'00"E, parallel with said south line of Lots 208 and 209, a distance of 710.50 feet; thence N01°50'00"E, a distance of 19.33 feet; thence N44°47'51"E, a distance of 105.75 feet; thence N68°50'30"E, a distance of 64.19 feet; thence N89°57'00"E, a distance of 26.86 feet to the **POINT OF BEGINNING**.

The above-described parcel of land is delineated on Exhibit B, attached hereto, and made a part hereof.

The above-described real property contains 5.32 Acres, more or less, and is subject to any liens, encumbrances, covenants, restriction, and rights-of-way or easements of record or legally acquired.



[Handwritten signature]
7/19/2018

LOT 195
4 O.P. 24

LOT 194
4 O.P. 24

N88°12'56"W
34.02'

TYLER ROAD



SCALE: 1"=200'



CITY OF MERCED
PER
GRANT DEED DOCUMENT
No. 2007-026096, MCR

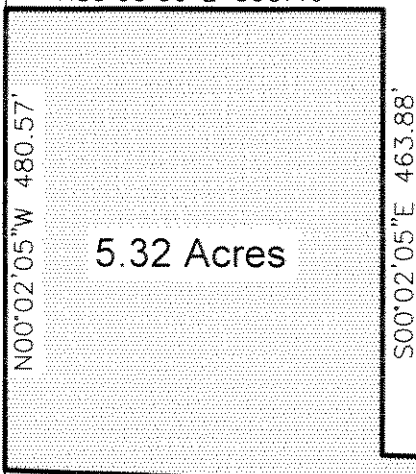
LOT 208
4 O.P. 24

LOT 209
4 O.P. 24

N89°53'39"E 393.46'

S00°03'00"E 1120.53'

LOT "P" N00°03'00"W-1317.33'



Course	Bearing	Distance
L1	S00°03'00"E	128.01'
L2	S45°53'30"W	34.40'
L3	N01°50'00"E	19.33'
L4	N44°47'51"E	105.75'
L5	N68°50'33"E	64.19'
L6	N89°57'00"E	26.86'

S88°10'00"E 710.50'

P.O.B.

L6

L5

L4

L3

WELL

SITE 20

L2

N88°10'00"W 1241.48'

Future Right-of-Way Dedication

LOT "M"

MISSION AVENUE

P.O.C.
S.E. Corner LOT 209



City of Merced
"Gateway to Yosemite"

DEVELOPMENT SERVICES
ENGINEERING PROJECTS AND STANDARDS
678 W 18th Street (209) 385-6846

EXHIBIT B

DR. BY: CARDOSO
DATE: 7/19/18
CH. BY:
DATE:
File No.
SCALE: 1"=200'