CITY COUNCIL OF THE CITY OF OXNARD

ORDINANCE NO. 2983

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OXNARD APPROVING PLANNING AND ZONING (PZ) PERMIT NO. 20-670-01 (DEVELOPMENT AGREEMENT) BETWEEN THE CITY OF OXNARD, SAKIOKA FARMS AND AMS CRAIG, LLC TO PROVIDE FOR THE ORDERLY DEVELOPMENT OF THE SAKIOKA FARMS BUSINESS PARK SPECIFIC PLAN AREA. LOCATED IN THE SAKIOKA FARMS BUSINESS PARK SPECIFIC PLAN AREA SOUTH OF US 101, EAST OF RICE AVENUE, NORTH OF LATIGO AVENUE, AND COTERMINOUS WITH THE CITY'S EASTERN BOUNDARY (APNs 216-0-030-105, 216-0-030-145, 216-0-030-155, 216-0-030-075). FILED BY SCOTT UHLES, DELANE ENGINEERING, INC., 400 WEST VENTURA BOULEVARD, SUITE 265, CAMARILLO, CA 93010.

WHEREAS, the Sakioka Farms Business Park Specific Plan (Specific Plan) was adopted on June 12, 2012, to provide a development concept for a large master industrial and business park complex within the City boundaries, providing land use flexibility, master planning for public infrastructure including new public rights of way, and land use vision for distinct clusters of activities and provisions for design guidelines and development regulations; and

WHEREAS the Specific Plan establishes the planning concept, design theme, development regulations and administrative procedures necessary to achieve orderly development of the project area; and

WHEREAS on June 12, 2012, the City Council certified an Environmental Impact Report (EIR), an Adaptive Management Mitigation Monitoring and Reporting Program, and adopted a Statement of Overriding Consideration for the Specific Plan pursuant to the California Environmental Quality Act (CEQA), and the Notice of Determination for the EIR was filed with the State on June 18, 2012; and

WHEREAS the Specific Plan EIR concludes that the Specific Plan would have significant and unavoidable cumulative impacts related to Agricultural Resources, Greenhouse Gas (GHG) emissions, and roadway Noise (City of Oxnard 2011b), and also concludes that the Specific Plan would have less than significant impacts after mitigation with respect to Air Quality, Biological Resources, Hazards and Hazardous Materials, Population and Housing, Public Services, and Transportation, and a less than significant impact with respect to the remaining resources; and

WHEREAS, Sakioka Farms and AMS Craig, LLC owns the 430 acre parcel located in the Sakioka Farms Business Park Specific Plan Area south of US 101, east of Rice Avenue, north of Latigo Avenue, and coterminous with the City's eastern boundary, for the identified parcels APNs 216-0-030-105, 216-0-030-145, 216-0-030-155, and 216-0-030-075); and

WHEREAS, Delane Engineering (the "**Applicant**") on behalf of Sakioka Farms and AMS Craig, LLC began processing an entitlement with the City of Oxnard on October 7, 2019, for a Tentative Tract Map (initially identified as PZ 18-300-08). The PZ number was subsequently reassigned when the Applicant filed entitlement applications with the City of Oxnard on March 30, 2020 for a Development Agreement (PZ 20-670-01), Tentative Tract Map (PZ 20-300-01), and Road Naming (PZ No. 20-650-01); and

WHEREAS, the Development Agreement does not result in any physical modification to the environment. The Development Agreement will benefit the Developer and the City by eliminating uncertainty in planning and providing for the orderly development of the Specific Plan under the Tentative Tract Map. The Development Agreement would provide the following certainties and benefits:

(a) Provide for public services and infrastructure appropriate and adequate for the development of the Property, per the 2012 Sakioka Farms Business Park Specific Plan,
(b) Create a Community Facilities District, which provides permanent funding for additional firefighters for Fire Station No. 5,
(c) Provide for the dedication of land for the future Del Norte/101 Interchange and the extension of Gonzales Road,
(d) Provide for the conveyance of groundwater rights to the City, and
(e) Serve the public interest within the City and surrounding region by providing new economic opportunity and potential job creation.

WHEREAS, an approved Development Agreement between the City, Sakioka Farms and AMS Craig, LLC will provide terms regarding vested rights, financial requirements, and establishes the length of the permit entitlements, with operative provisions:

(a) The Development Agreement is to remain in effect for a term of 15 years,
(b) The establishment of a Communities Facilities District that would continue in full force and effect for a period of 50 years from the termination or expiration of the DA provided that a minimum of 1.5 million square feet of development remains on the Property or any portion thereof,
(c) Developer would have the vested right to develop the Project on the Property in accordance with the Specific Plan,
(d) Existing fee increases are limited to five years from January 1, 2022 or when the existing fees are increased, whichever occurs first,
(e) The Developer would be entitled to utilize fee credits that may be transferred by the Developer to buyer or ground lessees of any portion of the Project,
(f) The Developer would be entitled to apply Northeast Industrial Assessment District in-lieu credits for water, sewer, and street fees,
(g) Development impact fees would be paid with the issuance of building permits,
(h) The Developer would comply with the performance criteria set forth in the 2002 Technical Guidance Manual for Storm Water Quality Control Measures for the installation of the detention basin and any other storm water discharge mitigation measures within the Specific Plan area,

(i) The City will support an expedited processing timeframe for development in the Specific Plan area, and
(j) The term of any subdivision map or other permits approved as part of the Project approvals shall be commensurate with the term of the DA.

WHEREAS, on November 13, 2019 and April 1, 2020 said Tentative Tract Map was referred to various public utility companies, City departments and the Development Advisory Committee (DAC) for technical review; and

WHEREAS, the Project has been reviewed by the DAC, and the DAC has prepared conditions of approval that are incorporated herein; and

WHEREAS on March 17, 2020, the City Council directed staff to negotiate a Development Agreement with Sakioka Farms and AMS Craig, LLC in relation to the subdivision of the Specific Plan Area; and

WHEREAS on May 5, 2020, the City Council adopted a Resolution No. 15,326 declaring the intent to establish Community Facilities District No. 8 (Sakioka Farms Business Park), to authorize the levy of a special tax and designate certain property for future annexation to the district to finance certain public services, including fire protection services, and if not funded by private property owners, contingent services for maintenance of landscaping within public rights-of-way, drainage facilities, and weed control related to development of the Property; and

WHEREAS, on May 5, 2020, the City's Road Naming Committee reviewed the suggested street names, and provided several alternate names that meet the requirements related to emergency dispatch and applicable translations and pronunciation for Spanish speakers. The proposed names also include a suffix (Drive, Circle, Road, Place) which meets the technical requirements related to road naming. The selected names are:

Site Plan Label	**Street Name**	**Theme**
A Street	Sakioka Drive	Historic Landowner Name
B Street	Gravity Circle	Science-Technology
C Street	Synergy Circle	Science-Technology
D Street	Gonzales Road	Continuation Street
E Street	Biology Place	Science-Technology

WHEREAS the general concept and scope of the Project was envisioned in the adopted Specific Plan and studied in the 2012 Specific Plan EIR, the City is able to determine, per CEQA Guidelines Section 15168(c)(2), that the Project is consistent with the previous analysis and findings of the 2012 Specific Plan EIR, and conducted a CEQA Consistency Evaluation that finds the Project is consistent with the 2012 Specific Plan EIR, and no additional studies are necessary; and

WHEREAS the Consistency Evaluation includes additional information to address GHG Emissions per current regulatory standards, and supplies adaptive replacement mitigations related to Fire Service and Water Usage that provide equivalent or improved

measures to what was approved in 2012, and do not change the findings of either the original CEQA document or the Consistency Evaluation; and

WHEREAS, on May 21, 2020, the Planning Commission of the City of Oxnard ("**Planning Commission**") conducted a duly noticed public hearing where written and oral comments were received and reviewed to consider an application for a Development Agreement (PZ 20-670-01) in accordance with Chapter 16-575 of the Oxnard City Code; and

WHEREAS, the Planning Commission found, after due study, deliberation and a duly noticed public hearing on May 21, 2020, and received and reviewed written and oral comments, presented by staff and the Applicant with a series of questions, and that the project meets the criteria set out in California Government Code 65864 through 65869.5; and

WHEREAS, in accordance with the California Environmental Quality Act (CEQA), the Planning Commission conducted an analysis to ensure consistency with the 2012 Specific Plan EIR and found that the Project is consistent with the analysis and mitigations; and

WHEREAS, the Planning Commission found that the applicant agrees with the necessity of and accepts all elements, requirements, and conditions of this Resolution as being a reasonable manner of preserving, protecting, providing for, and fostering the health, safety, and welfare of the citizenry in general and the persons who work or visit this subdivision in particular; and

WHEREAS, on May 21, 2020, the Planning Commission of the City of Oxnard hereby recommended the City Council approve the Development Agreement retaining a 15-year term for the developer to exercise their vested rights instead of a 20-year term as requested by the developer, based on these findings of fact; and

WHEREAS, the City Council finds, after due study, deliberation and a duly noticed public hearing on June 16, 2020, and received and reviewed written and oral comments, presented by staff and the Applicant with a series of questions, and that the project meets the criteria set out in California Government Code 65864-65869.5.

NOW, THEREFORE, the City Council of the City of Oxnard does ordain as follows:

SECTION 1. The foregoing recitals are true and correct and are hereby incorporated into the operative provisions of this Ordinance.

SECTION 2. The project is within a Specific Plan area for which the City of Oxnard prepared the Environmental Impact Report (EIR), an Adaptive Management Mitigation Monitoring and Reporting Program, and a Statement of Overriding Consideration for the Specific Plan pursuant to the California Environmental Quality Act (CEQA). The Planning Commission, in compliance with CEQA Guidelines, finds that the proposed project is not subject to additional environmental review pursuant to Sections §15168 and §15162 of the CEQA Guidelines. Pursuant to CEQA Guidelines §15168(c)(4)-(5) and (e), and as demonstrated by the substantial evidence contained in the Consistency Evaluation and the associated administrative record, the City Council finds that the Consistency Evaluation found that the proposed projects are activities covered by and within the scope of the program approved by the 2012 Specific Plan

EIR, the Specific Plan EIR adequately describes the project for purposes of CEQA, and further environmental documentation is not required.

In accordance with CEQA Guidelines §15168 and §15162, the City Council finds that the project would not have effects that were not examined in the Specific Plan EIR because:

i. No substantial changes are proposed in the project and there are no substantial changes in the circumstances under which the project will be undertaken, that will require major revisions to the Specific Plan EIR, due to the involvement of significant new environmental effects or a substantial increase in the severity of previously identified significant effects. Also, there is no new information of substantial importance as that term is used in CEQA Guidelines §15162(a)(3).

ii. The project proponent does not refuse to implement any mitigation measures that were previously infeasible but are now feasible, or any other mitigation measures, including mitigation measures considerably different from those in the Specific Plan EIR, that would be necessary to substantially reduce significant environmental impacts.

iii. The project proponent is required to comply with the applicable mitigation measures and regulatory programs identified in the Specific Plan EIR and the Adaptive Management Mitigation Monitoring and Reporting Program (May 2020).

SECTION 3. The Consistency Evaluation identifies several adaptive replacement mitigation measures. These adaptive replacement mitigation measures provide equivalent or improved measures to what was approved in 2012, and do not change the findings of the original Specific Plan EIR. The rationale for the Adaptive Replacement Mitigation Measures is as follows:

The 2012 Specific Plan EIR calls for a dedication of 1.5 acres of land for a Fire station near Rice Avenue and the easterly extension of Gonzales Road to address the new development anticipated by the subdivision for the area. As city policy has progressed and with improved technology to aid response times, the adaptive replacement mitigation more accurately addresses the need for fire services by providing funding for additional fire personnel instead of dedicated land for an additional fire station.

The 2012 Specific Plan EIR calls for inclusion of recycled water in any project in the Specific Plan Area. In 1999, the City created the multi-faceted Groundwater Recovery And Enhancement Treatment (GREAT) program to improve water sustainability. The GREAT program addresses multiple sources of reducing water demand and means of replenishing the local aquifer. The adaptive replacement mitigation N-1, N-2, N-12 and N-13, require Developer participation in the GREAT program, dedication of water rights, and purchase of City water as more effective sustainability measures than mitigations requiring a recycled water program.

The City Council finds the City policies and adaptive mitigation measures are not considerably different from those in the Specific Plan EIR and would not substantially reduce one or more

significant effect on the environment as in accordance with CEQA Guidelines §15162(a)(3)(D).

SECTION 4. The City Council finds:

Finding 1: The Development Agreement enables development which is consistent with the following select goals and objectives of the City's General Plan (the City Council Staff Report of June 16, 2020, and associated attachments, which includes the Planning Commission Staff Report Attachment E that contains a comprehensive General Plan Consistency Analysis).

2030 General Plan		**Level I**	**Level II**	**Rationale**
Policy CD-1.10	***Jobs-Housing Balance*** Consider the effects of land use proposals and decisions on efforts to maintain an appropriate jobs-housing balance ratio.	X		The buildout of the Project area was included in a Vacant Land Study conducted in 2008. The 2005 Oxnard jobs-housing balance (JHB) was 1.19 jobs per household. Between 2005 and 2035, the 2008 Vacant Land Study estimated that Oxnard would add about 11,500 households and 37,850 jobs resulting in a 2035 JHB of 1.13, still within the acceptable JHB range (1.10 - 1.34 jobs per household).
Policy CD-5.1	***Industrial Clustering*** Encourage the clustering of industrial uses into areas that have common needs and are compatible in order to maximize their efficiency.	X		The Project area is a 430-acre area that would develop up to 8.5 million square feet of commercial, business research, and light industrial uses. Municipal services are available to serve the development. The project site has access to both the freeway / road and rail infrastructure to handle goods movement without dividing existing neighborhoods. New roads are designed to support multi-modal transportation options. The project addresses the Specific Plan EIR mitigations to install traffic improvements.
Policy CD-5.3	***Available Services*** Encourage industrial activities to locate where municipal services are available including adequate storm drainage and water facilities, as well as easy access to multiple modes of transportation..	X		
Policy CD-5.5	***"Green" Major Transportation Routes*** Guide industrial development to locate near transportation facilities capable of handling goods movements in an efficient manner	X		

	without decreasing the level of service on the transportation network or dividing existing neighborhoods.			
Policy CD-8.5	***Impact Mitigation*** Ensure that new development avoids or mitigates impacts on air quality, traffic congestion, noise, and environmental resources to the maximum extent feasible.	X		Per CEQA Guidelines Section 15168(c)(2), the 2020 CEQA Consistency Evaluation finds the project is consistent with the previous analysis and findings of the 2012 Specific Plan EIR.
Policy CD-16.5	***Industrial and Commercial Development Standards*** Require high quality development standards that increase the efficient use of existing industrial and commercial development areas so as to preserve agricultural land and minimize adverse environmental impacts.	X		The Project is bound to follow the Sakioka Farms Business Park Specific Plan which includes architectural and landscape standards suitable for industrial and commercial development.
Policy ICS-1.2	***Development Impacts to Existing Infrastructure*** Review development proposals for their impacts on infrastructure (i.e., sewer, water, fire stations, libraries, streets) and require appropriate mitigation measures to ensure that proposed developments do not create substantial adverse impacts on existing infrastructure and that the necessary infrastructure will be in place to support the development.	X		Project Includes development of new public infrastructure. The project, and any future projects on the site will pay a range of required impact fees to the City, County, and school districts for various public facilities. The Specific plan addressed dedication of land for a fire station, and the Project includes a Development Agreement clause and adaptive replacement mitigation measure to provide permanent funding for three additional fire personnel.
Policy ICS-1.3	***Funding for Public Facilities*** Continue to utilize developer fees, public facilities fees, and other methods (i.e., grant funding or assessment districts) to finance public facility design, construction, operation, and maintenance.		X	
Policy ICS-1.4	***Infrastructure Conditions of Approval*** New development should not be approved unless: • The applicant demonstrates adequate public services and facilities are available; • Infrastructure improvements incorporate a range of feasible	X		

	measures that can be implemented to reduce all public safety and/or environmental impacts associated with the construction, operation, or maintenance of any required improvement; • Infrastructure improvements are consistent with City infrastructure master plans; and • Require infrastructure expansion needed for future development to be self-funding so current residents do not subsidize infrastructure needed for future growth.			
Policy ICS-2.3	***Connector Road(s) to Camarillo Feasibility*** Initiate a feasibility study for connecting Gonzales Road and/or Del Norte Boulevard eastward to Camarillo as an emergency route and as mitigation to offload traffic from State Highway 101 between the two cities.	X		The Project map has been designed to accommodate a future extension of Gonzales Road eastward to Camarillo.
Policy ICS-2.12	***Gateway Enhancements*** Continue to enhance gateways (including but not limited to Ventura Road, Oxnard Boulevard, Vineyard AVenue, Rose Avenue, *Rice Avenue, Del Norte Boulevard,* Highway-101, Highway 1, Fifth Street, Channel Islands Boulevard, Pleasant Valley Road, Harbor Boulevard, Victoria Avenue and Hueneme Road).	X		The 30 ft. landscape setbacks along Del Norte Boulevard and Rice Avenue preserve existing views and vistas along Rice Avenue and Del Norte Boulevard, which are both designated as scenic corridors.
Policy ICS-3.1	***CEQA Level of Service Threshold*** Require level of service "C" as the threshold of significance for intersections during environmental review.	X		Project Includes development of new public infrastructure. The project, and any future projects on the site will construct traffic improvements and / or pay impact fees to the City for various traffic improvements.
Policy ICS-3.3	***New Development Level of Service C*** Determine as part of the development review and approval process that intersections associated with new development operate at a level of service of "C" or better. The City Council may allow an exception to level of service "D" in order to avoid	X		

	impacting private homes and/or businesses, avoid adverse environmental impacts, or preserve or enhance aesthetic integrity.			
Policy ICS-7.1	***Require Transportation Demand Management Programs (TDM)*** Consider requiring TDM programs with preferred parking, car pool and van pool vehicles, and ride sharing where feasible and appropriate.	X		A Specific Plan-wide TDM program is to be prepared within one year of the recordation of the first Final Tract Map and implemented on a phase by phase basis thereafter. The TDM program shall incorporate best and commonly used trip-reduction incentives, programs, and practices found in TDMs of similar projects in terms of allowed uses, size, and transportation and transit service context
Policy ICS-11.3	***GREAT Program Implementation*** Continue to implement the GREAT Program as the key program for the City's short and long term water supply	X		
Policy ICS-11.6	***Water Conservation and/or Recycling Connection as Mitigation*** Require the use of water conservation offset measures (efficient low flow fixtures and irrigation systems, drought tolerant landscaping, leak detection programs, water audits, and public awareness and education programs) and/or proportional contributions to recycled water production and/or conveyance infrastructure related to the GREAT Program as mitigation for water supply shortage as determined by a Water Supply Assessment, CEQA documentation, or similar analysis as part of new or master plan development review.	X		Project complies with the City's GREAT program and water sustainability policies. Project landscaping meets City and State water-conservation requirements.
Policy ICS-11.7	***Water Wise Landscapes*** Promote water conservation in landscaping for public facilities and streetscapes, residential,	X		

	commercial and industrial facilities and require new developments to incorporate water conserving fixtures (low water usage) and water-efficient plants into new landscaping.			
Policy ICS-12.6	***Timing of Future Development*** Impose conditions in order to ensure adequate wastewater capacity for proposed new development.	X		Prior to recordation of the final map, the developer/project applicant shall enter into an agreement with the City which specifies the funding mechanism for all wastewater conveyance facilities.
Policy ICS-13.3	***Stormwater Detention Basins*** Design stormwater detention basins to ensure public safety, to be either visually attractive or unobtrusive, provide temporary or permanent wildlife habitats, and recreational uses where feasible in light of safety concerns.	X		Where feasible Project meets City and Watershed Protection District requirements and incorporates LID features.
Policy ICS-13.4	***Low Impact Development*** Incorporate low impact development (LID) alternatives for stormwater quality control into development requirements. LID alternatives include: (1) conserving natural areas and reducing imperviousness, (2) runoff storage, (3) hydro-modification (to mimic pre-development runoff volume and flow rate), and (4) public education.	X		
Policy ICS-20.5	***Fire Services to New Development*** Require new developments to fund a fair share extension of fire services to maintain service standards, including personnel and capital improvements costs.	X		The project includes permanent funding of three fire personnel. New infrastructure right of way is designed to support emergency access.
Policy ICS-20.7	***Adherence to City Standards*** Ensure that water main size, water flow, fire hydrant spacing, and other fire facilities meet City standards.	X		
Policy ICS-20.8	***Development Review*** Review new development applications to assess potential	X		

	impacts to existing fire protection services and the need for additional and expanded services.			
Policy ICS-20.10	***Adequate Emergency Access and Routes*** Require that new development provide adequate access for emergency vehicles, particularly firefighting equipment, and evacuation routes, as appropriate.	X		

Finding 2: The Development Agreement will address the Specific Plan EIR Mitigation Measure M.1-1 with an adaptive replacement mitigation that requires the Developer to provide permanent funding for fire personnel for the term of the Development Agreement. Prior to approval of the project, and as a condition for approval of the Development Agreement, the developer will need to form a Property Owners Association (POA) with a Community Financing District (CFD) to finance certain public services, including fire protection services (the "Fire Protection Services"), and, if not funded by a private Property Owners Association, or similar entity, the maintenance of landscaping, drainage facilities, weed control as approved at an election held within the boundaries of the District.

Finding 3: The Development Agreement allows for implementation of the Sakioka Farms Business Park Specific Plan which anticipates a total of 8,500,000 square feet of overall development activities consisting of 5,500,000 square feet of industrial uses and 3,000,000 square feet of business and research uses which is anticipated to maintain and increase net fiscal gains to the City resulting from both the construction and use of the Project area. Additionally, development of this land provides for a significant increase in tax revenues.

SECTION 5. Based on the findings set forth herein, the City Council approves Planning and Zoning Permit No. 20-670-01 (Development Agreement), contained in Exhibit 1 to this Resolution.

SECTION 6. Within fifteen days after passage, the City Clerk shall cause this ordinance to be published one time in a newspaper of general circulation, published and circulated in the City. Ordinance No 2983 was first read on June 16, 2020, and finally adopted on June 30 2020, to become effective thirty days thereafter.

SECTION 7. The City Clerk shall certify the adoption of this Ordinance.

PASSED AND ADOPTED by the City Council of the City of Oxnard, State of California, held on the 30th day of June, 2020, by the following vote:

AYES: Councilmembers Basua, Flynn, Lopez, MacDonald, Madrigal, Perello and Ramirez.

NOES: None.

ABSENT: None.

ABSTAIN: None.

Tim Flynn 6/30/20

Tim Flynn, Mayor

ATTEST:

Michelle Ascencion, City Clerk

APPROVED AS TO FORM:

Stephen M. Fischer, City Attorney

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

City of Oxnard
305 West Third Street
Oxnard, California 93030
Attention: City Clerk

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT ("Agreement") is made in Ventura County, California as of _____, 2020 by and between the CITY OF OXNARD, a municipal corporation of the State of California (the "City") and SAKIOKA FARMS, a California general partnership and AMS CRAIG, LLC, a Delaware limited liability company (collectively, the "Developer"). The City or Developer may be referred to individually as a "Party" and collectively as the "Parties."

RECITALS

A. The City is authorized pursuant to Government Code sections 65864 through 65869.5 (the "Development Agreement Statute") and City Council Resolution No. 10,488 to enter into binding development agreements with persons or entities owning legal or equitable interests in real property located within the City.

B. Developer is the owner of that certain real property in the City of Oxnard, County of Ventura (the "County") more particularly described in Exhibit A attached hereto and incorporated herein by this reference (the "Property").

C. The City and Developer each desire to enter into this Agreement affecting the Property in conformance with the Development Agreement Statute in order to achieve the mutually beneficial development of the Property in accordance with this Agreement.

D. The development project (the "Project") which Developer seeks to develop on the Property may consist of up to 8,500,000 square feet of overall development for business and research park uses, and light industrial and commercial uses, all in accordance with the Sakioka Farms Business Park Specific Plan previously adopted by the City Council.

E. In conjunction with the approval of the Specific Plan and in accordance with the California Environmental Quality Act and State and City guidelines, the City Council certified a final environmental impact report for the Project.

F. The City and Developer each mutually desire to obtain the binding agreement of one another to permit and ensure that the Property is developed strictly in accordance with the provisions of this Agreement.

G. This Agreement will benefit the City and Developer by:

1. eliminating uncertainty in planning and providing for the orderly development of the Project;

2. permitting the high quality development of the Property;

3. providing for significant employment growth in the City resulting from both the construction and use of the Project;

4. providing for significant increase in tax revenues from the Project;

5. allowing installation of necessary improvements that benefit the Project, the City and the region;

6. providing for public services and infrastructure appropriate and adequate for the development of the Property;

7. upon the creation of the mandated Community Facilities District, provides for the permanent funding for additional firefighters for Fire Station No. 5;

8. eliminating the uncertainty about the validity of specific exactions to be imposed by the City;

9. providing for the dedication of land for the Del Norte/101 Interchange;

10. providing for the dedication of land for the extension of Gonzales Road;

11. providing for the conveyance of groundwater rights to the City; and

12. serving the public interests within the City.

H. The Planning Commission of the City (the "Planning Commission") and City Council have each given notice of their intention to consider this Agreement, have each conducted public hearings thereon pursuant to the relevant provisions of the Government Code, and have each found that the provisions of this Agreement are consistent with the City of Oxnard General Plan for development within the City, City zoning ordinances, and the Specific Plan. The City Council has also specifically considered the impacts and benefits of the Project upon the welfare of the residents of the City and the surrounding region. The City Council has determined that this Agreement is beneficial to the residents of the City and is consistent with the present public health, safety and welfare needs of the residents of the City and the surrounding region.

I. On May 21, 2020, the Planning Commission held a duly noticed public hearing wherein the Planning Commission recommended approval of this Agreement.

J. Developer and the City have determined that the development of the Project in accordance with the Existing Project Approvals (defined in Section 1.8 below) and Applicable

Rules (defined in Section 1.2 below) is a development project for which this Agreement is appropriate. This Agreement will eliminate uncertainty in planning and provide for the orderly development of the Project, ensure progressive installation of necessary improvement, provide for public services appropriate to the development of the Project and otherwise achieve the goals and purposes of the Development Agreement Statute. In exchange for these benefits the City agrees to provide Developer with the assurance that Developer may proceed with the development of the Project in accordance with and subject to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the foregoing Recitals which are hereby incorporated into the operative provisions of this Agreement by this reference and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the City and Developer agree as follows:

1. Definitions.

1.1 "Applicable Fees" shall mean (subject to Section 4.2 of this Agreement) only those fees and fee programs set forth within the Applicable Rules and uniformly applied to all development projects within the City that may be charged to Developer, the Property, or the Project with respect to the development of the Property, impacts related to the Project, and the processing of development-related applications, and the issuance of permits.

1.2 "Applicable Rules" means the rules, regulations and official policies of the City which were in force as of the Effective Date (as defined below), including, but not limited to, the General Plan, the Specific Plan (as defined below), City zoning ordinances and other entitlements, development conditions and standards, public works standards, subdivision regulations, density, growth management, environmental consideration, grading requirements, and design criteria applicable to the Project. Applicable Rules shall not include building standards adopted by the City pursuant to Health and Safety Code Section 17922 and 17958.5.

1.3 "City Council" shall mean the City Council of the City.

1.4 "City Manager" shall mean the City Manager of the City.

1.5 "Discretionary Actions" and "Discretionary Approvals" means those actions and approvals which require the exercise of judgment, or imposition of a condition or obligation, by any officer, employee, review board, commission or department of the City. Discretionary Actions and Discretionary Approvals are distinguished from administrative permits and approvals which merely require any officer, employee, review board, commission or department of the City to determine whether or not there has been compliance with the Applicable Rules.

1.6 "Effective Date" means the date on which the ordinance approving this Agreement as required by Government Code Section 65867.5 becomes effective.

1.7 "Existing Fees" shall have the meaning set forth in Section 4.2 of this Agreement.

1.8 "Existing Project Approvals" means the following:

(a) On October 6, 2011, pursuant to the California Environmental Quality Act and the State Guidelines, the Planning Commission of the City ("Planning Commission"), by Resolution No. 2011-36, certified the Sakioka Farms Business Park Specific Plan Final EIR identified as EIR No. 06-01, State Clearing House No. 2002071070, for the Sakioka Farms Business Park Specific Plan.

(b) On October 6, 2011, the Planning Commission by Resolution No. 2011-34, recommended to the City Council of the City ("City Council"), adoption of the Specific Plan. Consistent with the General Plan, the Specific Plan provides for a total of 8,500,000 square feet of overall development consisting of business and research park and light industrial uses and related industrial and commercial service centers.

(c) On June 12, 2012, the City Council by Resolution No. 14,235 made findings of fact and adopted the Adaptive Management Mitigation Monitoring and Reporting Program and incorporated as Section 7 into the Specific Plan (the "MMRP").

(d) On June 12, 2012, the City Council adopted the Specific Plan.

(e) On June 16, 2020 the City Council by Resolution No. 15,352 approved Tentative Tract Map No. 5996 (the "Tentative Map").

1.9 "Financing District" means a community facilities district formed pursuant to the Mello Roos Community Facilities Act of 1982 (Government Code section 53311 et seq.), an assessment district formed pursuant to the Landscaping and Lighting Act of 1972 (Streets and Highways Code section 22500 et seq.), or any other similar special district or assessment district existing pursuant to state law for purposes of financing the cost of public improvements, facilities, services or public facilities within a distinct geographic area of the City.

1.10 "General Plan" means the City of Oxnard 2030 General Plan adopted in October of 2011 and updated in December of 2016.

1.11 "Periodic Review" shall have the meaning assigned to such term in Section 11.1.

1.12 "Planning Commission" shall mean the Planning Commission of the City.

1.13 "Project" shall mean that development contemplated pursuant to the Existing Project Approvals.

1.14 "Project Area" shall mean the ± 430 acres comprising the Property as depicted in the Specific Plan.

1.15 "Specific Plan" shall mean the Sakioka Farms Business Park Specific Plan.

1.16 "Subsequent Applicable Rules" means any change in, or addition to, the Applicable Laws adopted or becoming effective after the Effective Date which, other than as provided for in this Agreement, would govern the General Plan, City zoning ordinances, Specific Plan and other entitlements, development conditions and standards, public works standards, subdivision regulations, density, growth management, environmental considerations, grading requirements and design criteria applicable to the Project and Property.

2. Term of Agreement. This Agreement shall become operative and commence upon the Effective Date and shall remain in effect for a term of fifteen (15) years, unless the term is modified by mutual written consent of the City and Developer. If, on or before the end of the term of the Agreement Developer is still in the process of developing the Property, Developer may submit a written request to the City Manager requesting an extension of the term of the Agreement. Such request shall include a summary of the specific development that has occurred on the Property and a projected schedule for the completion of the Project. Upon the Developer's submission of the summary, along with any additional reasonable detail requested by the City Manager, the City Manager shall determine, in his or her reasonable discretion, whether the term of the Agreement should be extended. Such determination shall be based upon Developer's implementation of and compliance with the provisions of the Specific Plan and this Agreement, and the effect of such extension upon the fiscal welfare of the City. If the City Manager extends the Agreement, such extension shall be until the Project has been completed, but not to exceed an additional ten (10) years. Upon the expiration of the term, this Agreement shall be deemed terminated and have no further force and effect except for Section 6 of this Agreement regarding Financing District shall continue in full force and effect for a period fifty (50) years from the termination or expiration of this Agreement provided that a minimum of 1.5 million square feet of development remains on the Property or any portion thereof.

3. Vested Right to Develop the Project. Subject to Section 3.4 below and the Applicable Rules, the City hereby grants to Developer the vested right to develop the Project on the Property in accordance with the Existing Project Approvals to the extent and in the manner provided in this Agreement.

3.1 Subsequent Applicable Rules. Subsequent Applicable Rules shall not be applicable to or binding upon the Project unless the Subsequent Applicable Rules represent an exercise of the City's Reserved Powers (defined in Section 3.4 below) or are otherwise expressly allowed by this Agreement or are consented to in writing by Developer. The City shall not require Developer to obtain any approvals or permits for the development of the Project other than those permits or approvals which are required by the Applicable Rules and the Existing Project Approvals. This Agreement will bind the City to the terms and obligations specified in this Agreement and will limit, to the degree specified in this Agreement and under state law, the future exercise of the City's ability to regulate development of the Project.

3.2 No Conflicting Enactments. Subject to Section 3.4 of this Agreement, neither the City nor any agency of the City shall enact rules, regulation, ordinances or other measures which limit or control the rate, timing, phasing, density, intensity or configuration of the development of any part of the Project which is inconsistent or in conflict with this Agreement or the Existing Project Approval.

3.3 Moratorium or Initiative Measures. Subject to Section 3.4 of this Agreement, Developer and the City intend that no moratorium or other limitation (whether relating to the rate, timing or sequence of the development of all or any part of the Project and whether enacted by initiative or otherwise) affecting parcel or subdivision maps (whether tentative vesting tentative or final), building permits, certificates of occupancy or other entitlements shall apply to the Project to the extent such moratorium or other limitation is inconsistent with or conflicts with this Agreement.

3.4 Reserved Powers. Subject to the terms and conditions of this Section 3.4, this Agreement shall not preclude the application to the Project of Subsequent Applicable Rules by the City's exercise of its Reserved Powers. As used in this Agreement, "**Reserved Powers**" shall mean the rights and authority expressly excepted from this Agreement's restrictions on the City's police powers and which are instead reserved to the City. Pursuant to this Agreement, the Reserved Powers refer to the power of the City to enact and implement after the Effective Date the Subsequent Applicable Rules which fall within one of the categories described in this Section 3.4 (a) through (e) below:

(a) Federal or State Laws. The City reserves the right to enact Subsequent Applicable Rules to the extent necessary to comply with applicable federal or state laws, codes or regulations ("**State/Federal Laws**") which preempt local jurisdiction, including, without limiting the generality of the foregoing, the California Environmental Quality Act, all building codes and any safety regulations, but such modifications shall be made only to the extent required thereunder.

(b) Public Health Concerns. The City Council determines after a noticed public hearing and by substantial evidence that the failure to impose the Subsequent Applicable Rules would place residents of the City in a condition dangerous to their health or safety, and (1) the condition cannot be mitigated in a reasonable manner with respect to the development of the Property and Project except through imposition of such Subsequent Applicable Rules; (2) such Subsequent Applicable Rules are applied only during such time that such dangerous conditions exists; and (3) such Subsequent Applicable Rules are applied consistently and evenly throughout the City.

(c) New Engineering and Construction Standards. The City expressly reserves the right to adopt Subsequent Applicable Rules governing engineering and construction and grading standards and specifications including, without limitation, changes to State Uniform Codes applicable to building, plumbing, mechanical, electrical or fire standards, including local amendments to the State Uniform Codes pursuant to state law allowing for such amendments; provided that such codes are uniformly applicable to all new development projects of a similar type as the Project within the City.

(d) Emergency. The City reserves the right to adopt Subsequent Applicable Rules in response to documented emergency situations, as properly declared by the President of the United States, the Governor of California, the Mayor of the City or the City Council, the City Council may adopt reasonable, temporary regulations affecting the Property, provided (1) the City Council determines by substantial evidence that the failure to impose those temporary regulations would place residents of the City in a condition dangerous to their health

or safety; (2) such temporary regulations are applied consistently and evenly throughout the City; and (3) such temporary regulations are automatically repealed as to the Property once the emergency situation has ended either officially or through a determination made jointly by the City and Developer that the emergency situation triggering the temporary regulations no longer requires the imposition of such regulations, which favorable determination the City may not unreasonably withhold.

3.5 Legal Challenges. City agrees to cooperate with Developer in all reasonable manners in order to keep this Agreement in full force and effect. Notwithstanding the preceding sentence, in the event of any legal action instituted by a third party or other government entity or official challenging the validity of this Agreement, the City and Developer agree to cooperate in defending such action, with Developer to indemnify the City pursuant to Section 18.13 of this Agreement. In the event of any litigation challenging the effectiveness of this Agreement or any portion thereof, this Agreement shall remain in full force and effect while such litigation, including any appellate review, is pending, unless a court of competent jurisdiction orders otherwise.

4. Development Impact, Processing and Other Fees.

4.1 Limitation Upon Increases in Certain Existing Fees for Five Years From Start Date. The Parties acknowledge and agree that the City is in the process of updating a number of its development impact fees. Starting January 1, 2022 or at such earlier time that the City has updated the Existing Fees (as that terms is hereafter defined) (hereafter, the "**Fee Start Date**"), the Existing Fees shall be fixed for a period of five (5) years for the Project (the "**Fixed Fee Period**"). The Existing Fees shall only include such fees that are retained by the City and not paid to another governmental agency. For purposes of this Agreement, Existing Fees are limited to the following development impact fees: Growth Requirement Capital Fees; Planned Drainage Facilities Fees; Planned Traffic Circulation Facilities Fees; Planned Wastewater Facilities Fees and Planned Water Facilities Fees (collectively, the "**Existing Fees**"). Any new City fees, exactions or charges or increases in Existing Fees that take effect after the Fee Start Date and are similar to the Existing Fees in that they offset or reimburse the City for the increased costs on the City's public improvements due to development, shall not be applied to the Project, the Property or Developer during the Fixed Fee Period. After the expiration of the Fixed Fee Period, any new City fees, exactions or charges or increases in Existing Fees shall only be applicable to the Project if adopted in compliance with the Mitigation Fee Act, Government Code Section 66000 et. seq. and applied consistently and proportionately in accordance with applicable law.

4.2 Transfer of Fee Credits. To the extent that Developer is entitled to utilize fee credits pursuant to the Applicable Rules ("**Fee Credits**"), the Fee Credits may be transferred by Developer to buyer or ground lessees of any portion of the Project, and upon written request, the City will provide written confirmation to any buyer or ground lessee of the Fee Credits which may be applied by the buyer or ground lessee. The City shall make no deductions from the Fee Credits except as specifically requested in writing by Developer in order to ensure that the Fee Credits are properly credited to parcels and developments in the Project for which such credits are specifically intended and that previously issued credits (e.g. NIAD

Credits) are applied prior to the utilization of future Fee Credits earned by Developer pursuant to this Agreement.

4.3 Northeast Industrial Assessment District In Lieu Credits. Developer shall be entitled to apply the in-lieu credits set forth on the Schedule attached hereto as Exhibit "B" (the "NIAD Credits") to the payment of the related Applicable Fees. Available NIAD credits are as follows:

Water In Lieu Credit	$547,046.46
Sewer In Lieu Credit	$698,858.94
Street In Lieu Credit	$1,516,251.46

Developer earned the NIAD In-Lieu Credits as a result of Developer's payment of $7,340,272.00 in assessments as its participation in the Northeast Industrial Assessment District. If any portion of the NIAD Credits have not been applied against development impact fees legally imposed on the Project, then the City shall reimburse Developer for the remaining balance of the NIAD Credits no later than one hundred twenty (120) days after the issuance of the final certificate of occupancy for the Project.

4.4 Timing of Payment of Applicable Fees. City and Developer agree that notwithstanding anything to the contrary set forth in the MMRP, development impact fees applicable to the Project shall not be required to be paid with the recordation of any Final Map but rather with the issuance of building permits.

4.5 Processing Fees. Nothing in this Section 4 shall limit City Council's power to impose reasonable increases upon fees which reimburse City for the cost of processing development applications or reimburse City for the cost of building inspection or plan checking to the extent that any such fee increase is applied consistently and proportionately throughout the City in accordance with the Mitigation Fee Act, Government Code Section 66000 et. seq.

5. Developer Obligations.

5.1 Project Infrastructure Improvements. Developer acknowledges and agrees that, as part of the development of the Project, the Developer will be required to construct specific improvements required by the Existing Project Approvals, construct specific roadways and rights-of-way improvements indicated in the Specific Plan and the EIR, and dedicate said roadways and rights-of-way at no cost to the City (the "**Project Infrastructure Improvements**"). Some of the Project Infrastructure Improvements shall be eligible for reimbursement pursuant to Section 5.3.

5.2 Additional Traffic Mitigation. If traffic studies for one or more future phases of the Project indicate that additional mitigation measures are required to address the impact of the future phase upon traffic due to, among other reasons, the trip generation cap will be exceeded, there is an increase in square feet permitted by the Existing Project Approvals and/or there is a reallocation of square footage from one planning area to another, Developer may be required to pay additional traffic impact fees and/or or construct additional transportation infrastructure improvements to the extent necessary to mitigate such impacts ("**Additional Traffic Mitigation**"). Except for the Additional Traffic Mitigation, the City shall not condition

the approval of any development project in the Project upon the construction of additional transportation infrastructure improvements for the Project.

5.3 Application of Fees/Credit or Reimbursement for Infrastructure Improvements. For infrastructure improvements which are eligible for reimbursement, Developer shall be reimbursed pursuant to City Resolution No. 10,272 of the City of Oxnard ("A Resolution of the City of Oxnard Establishing a Policy Concerning Credit In Lieu of Payment for Facilities Fees and Reimbursement for Construction of Planned Facilities for Drainage, Wastewater, Traffic Circulation and Water Systems") attached hereto as Exhibit "C" and the Development Services Department Master Planned Improvement Reimbursement Policy, dated July 6, 2010 and updated March 15, 2017 attached hereto as Exhibit "D" (collectively, the "Reimbursement Policy") subject to the following modifications to the Reimbursement Policy: (a) Developer shall not be required to accept Fee Credits for the reimbursable costs and instead shall be entitled to reimbursement from the City of the reimbursable costs from traffic impact fees paid by other developers with the issuance of building permits for development within the Project: and (b) notwithstanding the payment terms of the Reimbursement Policy, Developer shall be paid the entire amount of the reimbursable costs within sixty (60) days after the project is completed and Developer has submitted to the City the items required to be submitted to the City pursuant to the Reimbursement Policy (the "Payment Date").

5.4 Traffic Mitigation Measures. For the transportation and traffic improvements described as mitigation measures in Section I in the Transportation/Traffic Mitigation Measures of the EIR (the "**Fee Funded Infrastructure Improvements**"), the Developer's payment of applicable City impact fees in the amount agreed to by the City and Developer satisfies in full the action required by Developer as it relates to City in connection with the implementation of the Transportation/Traffic mitigation measures based upon the development of the Project pursuant to the Specific Plan and the trip generation cap. This section in no way limits the amount of traffic impact fees and mitigation measures that may be imposed by the County of Ventura or the State of California on the Project or any portion thereof.

5.5 Dedication of Land. Developer agrees to dedicate land within the Property for the public uses described in this Section 5.5:

(a) Gonzales Road Extension. Developer agrees to dedicate to the City the land required for the extension of Gonzales Road as shown in the Circulation Plan of the Specific Plan (the "**Gonzales Road Extension**"). Based upon the configuration of the current tentative tract map for the Project, Developer shall make such dedication as part of the development of Phase Two or Phase Three of the Project.

(b) Del Norte/101 Interchange Transfer. The final map to be recorded for the entire Property (the "**Final Map**") designates a portion of the Property comprising approximately 1.5 acres to be dedicated to Cal Trans for the future interchange of Del Norte Boulevard and the 101 Freeway (the "**Del Norte/101 Interchange**") based upon preliminary studies prepared by Cal Trans (the "**Existing Interchange Design**"). Upon recordation of the final map for the phase of the Project adjacent to the Del Norte/101 Interchange or such earlier time that Cal Trans or the City commences construction of the Del

Norte/101 Interchange, Developer shall make an irrevocable offer of dedication of the portion of the Property reasonably required to satisfy the then current interchange design requirements of Cal Trans for the Del Norte/101 Interchange at the time the dedication is made (the "**Dedicated Land**") but in no event more than three (3) acres (the "**Maximum Dedication**"). If after the dedication is made, Cal Trans or the City require more of the Property than the Dedicated Land, for the Del Norte/101 Interchange, including, without limitation, a modification of the alignment for the Del Norte/101 Interchange or material changes to the Existing Interchange Design, Developer reserves the right to seek compensation for the additional land required by Cal Trans or the City which is in excess of the Dedicated Land.. Notwithstanding any language in this Section 5.5(b) to the contrary, the three-acre Maximum Dedication shall only apply for a period of fifteen (15) years from the effective date of this Agreement. If the Developer has not made the irrevocable offer of dedication contemplated by this Section 5.5(b) within 15 years from the effective date of this Agreement, then the Maximum Dedication that Developer shall be required to dedicate at no cost to Cal Trans or the City for the amount of land reasonably needed for the Del Norte/101 Interchange shall not exceed four and 7/10 (4.7) acres. Such dedication shall occur upon recordation of the final map for the phase of the Project adjacent to the Del Norte/101 Interchange or at such time that Cal Trans or the City commences construction of the Del Norte/101 Interchange, whichever occurs first.

(c) Dedication of Groundwater Rights. Developer acknowledges and agrees that the conveyance of water rights associated with the Property at no cost to the City is necessary for the City to provide potable water services to the Property at the time of development. Developer agrees that it shall not convey the water rights associated with any portion of the Property to any third party. The City and Developer acknowledge that the Property is currently being used for agricultural uses. Developer intends to continue to use the Property for such purposes until the Property is developed in accordance with the Specific Plan. The City agrees that Developer shall not be required to grant to the City groundwater rights association with a specific portion of the Property while Developer is continuing to use that specific portion of the Property for agricultural uses. The City further acknowledges that any conveyance by Developer of groundwater rights to the City shall occur in phases as the Property is developed. Until such time, Developer shall retain all groundwater rights relating to the undeveloped portion of the Property that existed as of January 1, 2020.

(d) No Other Dedications, Easements or Other Conveyances of Property for Public Use. Except as set forth in this Section 5.4, Developer shall not be required to dedicate, transfer, grant easements or otherwise convey any other portion of the Property or interest therein to the City for public uses or any other purposes except the circulation and utility infrastructure required to be installed by Developer within the Project Area pursuant to the Specific Plan.

5.6 Storm Water Detention. Developer shall comply with the performance criteria set forth in the 2002 Technical Guidance Manual for Storm Water Quality Control Measures for the installation of the detention basin and any other storm water discharge mitigation measures within the Project. The new development requirements of Order No. R4-2009-0057 ("MS4 Permit") shall not apply to the Project, because the Project satisfies one or more of the exceptions set forth in the Technical Guidance Manual for Storm Water Quality Control Measures applicable to the MS4 Permit.

6. Financing District.

6.1 Formation. Developer acknowledges and agrees that a Financing District covering all of the Property must be formed prior to any of the following events occurring: the recording of a final map over any portion of the Property; a lot line adjustment affecting any portion of the Property; the recordation of a parcel map over any portion of the Property; and/or the conveyance of any portion of the Property to any entity other than the entities comprising Developer.

6.2 Purpose of Funds. The Financing District shall include specific language in its formation documents imposing the obligation to pay the City an annual amount equal to the full cost of three Oxnard firefighters (including base salary and all benefits plus annual increases in such compensation), with such obligation triggered at such time that building permits have been issued and construction has started on development totaling a minimum of 1.5 million square feet on any portion of the Property. The Parties agree that the initial annual cost for the three firefighters shall be Three Hundred Thousand Dollars ($300,000) a year. The annual cost of three firefighters (including base salary and all benefits) shall be allocated among the parcel(s) within the Property based upon the amount of acreage on each parcel within the Property as compared to the total net acreage within the Property (i.e., not included public roads, rights-of-way and other public property). The City shall not be liable for the financial obligations of the Financing District. The Financing District shall also include specific language in its formation documents providing for the "back up" funding of the maintenance of certain public improvements required to be constructed on the Property; provided, however that the Financing District shall impose assessments or special taxes for the maintenance of the public improvements only in the event the owner's association fails to maintain such public improvements in accordance with the City's requirements.

6.3 Fire Station. The Parties agree that the formation of a Financing District that includes the obligation to pay for the annual cost of three firefighters (including benefits) is in lieu of the Specific Plan's obligation for Developer to dedicate a 1.5 acre site near Rice Avenue and the easterly extension of Gonzales Road for a new fire station site and that such obligation fully mitigates the impact of the Project upon the City's fire services; provided, however, that the Parties acknowledge and agree that the development of the Property with residential uses and/or schools, hospitals, nursing homes, explosive plants, refineries, high-rise buildings and other high life hazard or large fire potential occupancies will, subject to the Fire Chief's determination, trigger additional obligations that are above and beyond the obligations imposed by this Section based upon the specific uses that are added to the Property or any portion thereof.

6.4 Survival Period. Notwithstanding any language in this Agreement to the contrary, the obligation for the Developer (including its successors in interest and assigns) to pay and the Financing District to impose assessments or special taxes for the annual cost of firefighters (including benefits) shall survive the termination or expiration of this Agreement and shall continue for an additional fifty (50) year period provided that a minimum of 1.5 million square feet of development remains on the Property or any portion thereof.

6.5 Developer Support. On behalf of itself and its successors and assigns, Developer agrees to:

(a) Support the formation of the Financing District consistent with this Section 6;

(b) Not to initiate, support in any way and/or seek to repeal the Financing District once it is formed; and

(c) Not to initiate, support in any way and/or seek to reduce the amount of assessments and/or special taxes imposed by the Financing District to pay for the cost of the three firefighters.

7. Implementation and Development of the Project.

7.1 Permitted Uses. Developer agrees that Property shall only be developed in accordance with the Specific Plan and the conditions and mitigation measures imposed on the Project through the certification of the environmental documents for the Project. Notwithstanding anything set forth in the Agreement to the contrary, unless Developer proceeds with the development of a phase of the Project in which event Developer shall be obligated to install all Project Infrastructure Improvements applicable to such phase, Developer is not obligated by the terms of this Agreement to develop or install Project Infrastructure Improvements applicable to future phases of the Project unless such Project Infrastructure Improvements are needed to address the impacts of the development of that phase.

7.2 Development Standards. All development, construction, improvement and design requirements and standards applicable to the Project shall conform to the Specific Plan and the Applicable Rules consistent therewith. To the extent there is any conflict between the Specific Plan and the Applicable Rules, the Specific Plan shall govern.

7.3 Subsequent Approvals and Expedited Processing. Subject to the provisions of this Section, City and Developer shall cooperate to expedite the development design review process, the building plan review process, improvement plan review process, and if necessary, expedite the entitlement review process for developments to be located within the Project Area as outlined in the Specific Plan (Chapter 3.0 - Implementation). Review of any application through any expedited process as provided by this subsection shall not be deemed to waive any of the Applicable Rules pertaining to review or approval of such application, including, but not limited to, a public hearing, if any, required therefore. Any such process shall terminate upon the expiration or termination of this Agreement or the issuance of the final certificate of occupancy for development within the Project, whichever occurs first. In furtherance thereof, Developer and the City agree to comply with the following expedited processing requirements:

(a) If Developer choses to utilize an expedited plan check process for the review of improvement plans and building plans for the Project, within two (2) weeks of written request by Developer, City shall determine whether the City will retain an outside consultant for review of the Developer's improvement plans and building plans. Such outside consultant or City staff shall be at the sole selection of City and shall be paid for at the sole cost

and expense of Developer through the payment of an increased plan check fee set forth herein. Prior to the City's commencement of any expedited plan check for an improvement plan or building plan, Developer shall pay to the City a deposit fee equal to one hundred fifty percent (150%) of the then current plan review fee for review of an improvement or building plan ("**Expedited Plan Check Fee**").

(b) Once a consultant is selected or City staff identified. City shall complete plan check review for improvement plans and building plans according to the following schedule:.

First Plan Check: City shall provide complete comments and markup within 21 working days of submittal of a complete package.

Second Plan Check: City shall provide complete comments and markup within 21 working days of submittal of a complete package that responds to all markups and comments.

Any subsequent Plan Check: City shall provide complete comments and markup within 10 working days of submittal of a complete package that responds to all markups and comments.

Upon completion of plan check review, the City shall calculate and provide permit fees to the Developer within 10 (ten) working days of plan set approval.

(c) Should City determine, in its reasonable discretion, that the Expedited Plan Check Fee will be insufficient to cover City's actual costs of utilizing City staff. retaining an outside consultant or any combination thereof in order to expedite the review process, City may increase the Expedited Plan Check Fee upon prior notice to Developer of the basis for the increased Expedited Plan Check Fee or have no further obligation to expedite review as set forth herein.

7.4 Subsequent Discretionary Action and Approval. The City agrees not to unreasonably withhold, condition or delay any Discretionary Action or Discretionary Approval or other action or approval by the City which may be required by the Project subsequent to the execution of this Agreement. Upon the filing of a complete application and payment of appropriate processing fees by Developer, the City shall promptly commence and diligently schedule and convene all required public hearings in an expeditious manner consistent with the law and process all Discretionary Actions and Discretionary Approvals in an expeditious manner.

7.5 Phasing.

(a) The City and Developer acknowledge that Developer cannot predict when or in what order the Project will be developed. Such decisions depend upon numerous factors which are not within the control of Developer including, but not limited to, market orientation and demand, interest rates, competition and similar factors beyond the control of Developer. Developer shall have the discretion to develop the Project in phases and in such

order as Developer deems appropriate within the exercise of its subjective and independent business judgment. Specifically, City and Developer agree that Developer shall be entitled to apply for and receive permits, maps, certificates of occupancy and other entitlements to use at any time that this Agreement is in effect, provided that such actions are in accordance with the Applicable Rules. Because the California Supreme Court held in Pardee Construction Co. vs. City of Camarillo, 37 Cal.3d 465 (1984), that failure of the parties therein to provide for the timing of development resulted in a later-adopted initiative restricting the timing of development to prevail over such parties' agreement, the parties herein intend to cure that deficiency by acknowledging and providing that Developer shall have the right (without obligation) to develop the Project in such order and at such rate and at such time as Developer deems appropriate within the exercise of its subjective business judgment.

(b) The Project Area will be developed in various phases over the next several years. In order to accommodate the anticipated intermittent development patterns, all required circulation infrastructure and community improvements to accommodate each new development of the Specific Plan shall be completed prior to, or simultaneously with, individual projects. The Specific Plan Planning Areas as described on the Phasing Matrix (Exhibit 4.32) of the Specific Plan may be further divided into subareas to better reflect the anticipated development pattern and infrastructure improvement phasing. The Phasing Plan presents a schedule of project development based on an incremental installation of infrastructure improvements. The Phasing Plan recognizes that the Project Area is presently vacant with few infrastructure improvements. The development phasing schedule has been prepared to provide that adequate public facilities and services will be available for each new project.

7.6 Extension of Maps and Project Approvals. In accordance with Government Code section 66452.6, subd. (a) and Government Code section 65863.9, unless a longer term would result under otherwise applicable state law, the term of any subdivision map or other permits approved as part of the Project approvals shall be automatically extended for the term of this Agreement.

7.7 Compliance with Government Code Section 66473.7. Any tentative maps prepared for this Project or any portion thereof shall comply with Government Code section 66473.7, to the extent that this code section is applicable to that tentative map.

7.8 Property Acquisition for Improvements. Developer shall have no obligation to acquire any right(s)-of-way necessary to construct any improvements outside the Project Area. It shall be the City's responsibility to take such actions as are necessary and consistent with State law to acquire such right(s)-of-way. City may, and where needed shall, use its powers of eminent domain to condemn such right(s)-of-way. Nothing contained in this Section shall be deemed to constitute a determination or resolution of necessity by City to initiate condemnation proceedings.

8. Public Services for the Project. The City hereby acknowledges and agrees that when the Infrastructure Improvements called for by the Specific Plan and the mitigation conditions of the EIR for the Project has been completed, the City will have sufficient capacity in its existing infrastructure, services and utility systems for: traffic circulation; sewer collection, sewer treatment and sanitation service; water treatment, distribution and service; and drainage to

accommodate the Project. The City has analyzed the existing and projected water needs for the areas served by the City and has determined that when Developer has dedicated to the City the water rights associated with each phase of Project, the City will have the necessary water supplies available to properly serve that phase of the Project. To the extent that the City renders such services or provides the utilities referenced in this Section, the City hereby agrees to timely grant or issue hookups or service to all development in the Project after Developer has conveyed at no cost to the City the water rights associated with that portion of the Property associated each phase of the Project and Developer requests such hookups and services; provided, however, the City may delay the granting of requested additional water hookups for the Project provided that all of the following conditions precedent occur: (a) after a duly noticed public hearing, the City Council imposes a ban on all new water hookups in the City, except for a ban on emergency hookups, legally mandated hookups, hookups for essential public purposes, and pass-through hookups used solely to convey emergency water through the City to another public entity or public water provider; (b) after a duly noticed public hearing, the City Council makes findings, which are supported by substantial evidence, that the granting of additional water hookups in the Project would have a significant adverse impact on the public health and safety.

9. Cooperation in Relocation of Utilities. To facilitate the development of the Project, which will benefit the entire City, the City agrees to cooperate in the relocation of utilities on or adjacent to the Project Area, which are reasonably necessary to develop the Property pursuant to the provisions of the Specific Plan, provided that such cooperation is at no cost or expense to the City. Such cooperation shall include, but not be limited to, the City serving as the applicant in any such relocation matters, where appropriate.

10. Compliance Review.

10.1 Periodic Review. Pursuant to Government Code Section 65865.1, the City Manager shall, not less than once in every twelve (12) months, review the Project and this Agreement to ascertain whether or not Developer is in full compliance with the terms of this Agreement (the "Periodic Review").

10.2 Review Procedure. During a Periodic Review, Developer shall provide information reasonably requested by the City Manager that the Project is being developed in good faith compliance with the terms of this Agreement. Upon completion of a Periodic Review, the City Manager shall submit a report to the City Council setting forth the City Manager's findings. If, as a result of a Periodic Review, the City Council finds and determines on the basis of substantial evidence that Developer has not complied in good faith with the terms or conditions of this Agreement, the City shall issue a written "Notice of Non Compliance" to Developer specifying the grounds therefore and all facts demonstrating such non compliance. Developer's failure to cure the alleged non-compliance within ninety (90) days after receipt of the notice, or, if such noncompliance is not capable of being cured within ninety (90) days, Developer's failure to initiate all actions required to cure such non-compliance within ninety (90) days after receipt of the notice, shall constitute a default under this Agreement on the part of Developer and shall constitute grounds for the termination of this Agreement by the City as provided for below.

10.3 Termination or Modification for Non-Compliance. Pursuant to Government Code Section 65865.1, if the City Council finds and determines, on the basis of substantial evidence, that Developer has not complied in good faith with the terms or conditions of this Agreement, the City Council may modify or terminate this Agreement. Any action by the City with respect to the termination or modification of this Agreement shall comply with the notice and public hearing requirements of Government Code Section 65865.1 in addition to any other notice required by law. Additionally, the City shall give Developer written notice of its intention to terminate or modify this Agreement and shall grant Developer a reasonable opportunity to be heard on the matter and to oppose such termination or modification by the City.

11. Modification. Amendment or Cancellation by Mutual Consent. Pursuant to Government Code section 65868, this Agreement may be amended or canceled, in whole or in part, by mutual written consent of the City and the Developer or their successors in interest. Public notice of the parties' intention to amend or cancel any portion of this Agreement shall be given in the manner provided by Government Code Section 65867. Any amendment to the Agreement shall be subject to the provisions of Government Code Section 65867.5.

12. Inurement and Assignment. This Agreement shall inure to the benefit of and bind the successors and assigns of the City and Developer, may be assigned by either the City or Developer to any party or parties purchasing all or any part of the Property or any interest therein pursuant to the provisions of this Section 12. The specific rights and obligations of this Agreement shall be deemed covenants running with the land that concern and affect the Property. Prior to Developer's assignment of any rights, duties or obligations under this Agreement, Developer shall present such information to the City as will reasonably demonstrate to the City's satisfaction that the proposed assignee (the "**Assignee**") has the financial ability and experience to fulfill those specific rights, duties and obligations under the Agreement that the Assignee will assume. The City shall have the right to approve the proposed Assignee, provided that the City's approval may not be unreasonably withheld. The City shall approve or disapprove of the proposed Assignee in writing the proposed Assignee within thirty (30) days after receipt of the Assignee's information. If the City does not approve the Assignee, the City shall deliver notice to Developer of the reasons for the City's disapproval of the Assignee. Once such approved assignment or succession has occurred and the Assignee has agreed to accept the applicable obligations under this Agreement, Developer shall be released from its obligations under this Agreement assumed by the Assignee with respect to the Property, or portion thereof, so transferred. Upon the completion of any phase or tract of development of the Project as reasonably determined by the City, the City shall release that completed phase or tract from further obligations under this Agreement except as to Section 6 of this Agreement. The release of a completed phase or tract from further obligations under this Agreement does not release that phase or tract from any applicable and duly executed and recorded conditions, covenants and restrictions or any on-going environmental mitigation measures that are a specific obligation of that completed phase or tract, as required by applicable Project environmental documents.

13. Defaults Notice and Cure Periods, Events of Default and Remedies.

13.1 Default By Developer

(a) If the Developer does not perform its obligations under this Agreement in a timely manner, the City may exercise all rights and remedies provided in this Agreement, provided the City shall have first given written notice to the Developer as provided in Section 13.2 of this Agreement, and provided further the Developer may appeal such declaration in the manner provided in, and subject to all terms and provisions of Section 14.

(b) Notice of Default and Opportunity to Cure. If the Developer does not perform its obligations under this Agreement in a timely manner, the City through the City Manager may submit to the Developer a written notice of default in the manner prescribed in Section 18.1 identifying with specificity those obligations of the Developer under this Agreement which have not been timely performed. Upon receipt of any such written notice of default, the Developer shall promptly commence to cure the identified default(s) at the earliest reasonable time after receipt of any such written notice of default and shall complete the cure of any such default(s) (i) in the case of monetary defaults, within sixty (60) days after receipt of notice, (ii) in the case of all other defaults, no later than one hundred and twenty (120) days after receipt of any such written notice of default, or within such longer period as is reasonably necessary to remedy such default(s), provided the Developer shall commence the cure of any such default(s) within such one hundred and twenty (120) day period and thereafter diligently pursue such cure at all times until any such default(s)is cured..

(c) Failure to Cure Default Procedure. If after the cure period provided in Section 13.1(b) has elapsed, the City Manager finds and determines the Developer, or its successors, transferees and/or assignees, as the case may be, remains in default and that the City intends to terminate or modify this Agreement, or those transferred or assigned rights and obligations, as the case may be, the City's Development Services Director shall make a report to the Planning Commission and then set a public hearing before the Planning Commission in accordance with the notice and hearing requirements of Government Code Sections 65867 and 65868. If after public hearing, the Planning Commission finds and determines, on the basis of substantial evidence, that Developer, or its successors, transferees and/or assigns, as the case may be, has not cured a default under this Agreement pursuant to this Section 13, and that the City shall terminate or modify this Agreement, or those transferred or assigned rights and obligations, as the case may be, Developer, and its successors, transferees and/or assigns, shall be entitled to appeal that finding and determination to the City Council in accordance with Section 14. Such right of appeal shall include, but not be limited to, an objection to the manner in which the City intends to modify this Agreement if the City intends as a result of a default of the Developer, or one of its successors or assigns, to modify this Agreement. In the event of a finding and determination that all defaults are cured, there shall be no appeal by any person or entity. Nothing in this Section 13 of this Agreement shall be construed as modifying or abrogating the City Council's review of Planning Commission actions.

(d) Termination or Modification of Agreement. The City may terminate or modify this Agreement, or those transferred or assigned rights and obligations, as the case may be, after such final determination of the City Council or, where no appeal is taken,

after the expiration of the applicable appeal periods described in Section 14. There shall be no modifications of this Agreement unless the City Council acts pursuant to Government Code sections 65967.5 and 65868, irrespective of whether an appeal is taken as provided in Section 14. Notwithstanding any other provision of this Agreement to the contrary, in the event that: (a) Developer or any of its successors assigns some, but not all, of its rights under this Agreement in connection with a sale of some, but not all, of the Property; and (b) thereafter Developer or one or more of its successors in interest under this Agreement is in default under this Agreement and either Developer or one or more of its successors in interest under this Agreement is not in default under this Agreement, then any remedy the City may have the right to take under this Agreement including the right of termination or modification of this Agreement shall only apply to the party(ies) that is (are) in default and the portion(s) of the Property owned by such party(ies) and shall not apply to Developer or any successor and/or assignee of Developer under this Agreement that is not in default hereunder. Notwithstanding any language in this Agreement to the contrary, in the event that this Agreement is terminated by the City, Section 6 of the Agreement regarding Financing Districts shall remain in full force and effect for an additional fifty (50) year period provided that a minimum of 1.5 million square feet of development remains on the Property or any portion thereof.

13.2 Lender Protection Provisions.

(a) Notice of Default. In addition to the notice provisions set forth in Section 13.1(b), the City shall send a copy of any notice of default sent to Developer or any of its successors or assigns to any lender that has made a loan then secured by a deed of trust against the Property, or a portion thereof, provided such lender shall have (a) delivered to the City written notice in the manner provided in Section18 of such lender's election to receive a copy of any such written notice of default and (b) provided to the City a recorded copy of any such deed of trust. Any such lender that makes a loan secured by a deed of trust against the Property, or a portion thereof, and delivers a written notice to the City and provides the City with a recorded copy of any such deed of trust in accordance with the provisions of this Section 13/2(a) is herein referred to as a "**Qualified Lender**."

(b) Right of a Qualified Lender to Cure a Default. If Developer, or any of its applicable successors or assigns, fails to timely cure any default under this Agreement within the time periods specified in Section 13.1(b), then the City shall send a written notice of any such failure to timely cure any such default to each Qualified Lender. From and after receipt of any such written notice of failure to cure, each Qualified Lender shall have the right to cure any such default, provided the Qualified Lenders commence the cure of any such default within sixty (60) days after receipt of any such written notice of failure to cure and thereafter diligently pursue the cure thereof to completion. If the nature of any such default is such that a Qualified Lender cannot reasonably cure any such default without being the owner of the Property, or the applicable portion thereof, then so long as the Qualified Lender(s) is (are) proceeding to foreclose the lien of its deed of trust against the Property, or the applicable portion thereof, and after completing any such foreclosure promptly commence the cure of any such default and thereafter diligently pursue the cure of such default to completion, such Qualified Lender shall be deemed to be diligently pursuing the cure of any such default.

(c) Exercise of City's Remedies. Notwithstanding any other provision of this Agreement, the City shall not exercise any right or remedy granted under this Agreement or otherwise arising out of a default under the Agreement by Developer or any of its successors or assigns during the period of time which Developer, any of its successors or assigns and/or a Qualified Lender has the right to cure any such default pursuant to this Section 13.

(d) No Impairment of Development Agreement to Mortgage. No default by Developer (or any successor or assign) under this Agreement shall subordinate, invalidate or defeat the lien of any mortgage held by a lender. In no event shall a foreclosure or other exercise by a lender of its pre- or post-foreclosure rights in connection with a mortgage require any consent or approval by the City.

(e) Lender's Obligations with Respect to the Property. No lender shall have any obligations or other liabilities under this Agreement solely because it holds a mortgage, or an ownership interest in any party or successor or assign.

13.3 Default by the City.

(a) Default. In the event the City does not accept, process or render a decision in a timely manner on necessary development permits, entitlements, or other land use or building approvals for use as provided in this Agreement upon compliance with the requirements therefore, or as otherwise agreed to by the City and Developer, or the City otherwise defaults under the provisions of this Agreement, Developer shall have all rights and remedies provided herein or by applicable law, which shall include, without limitation, compelling the specific performance of the City's obligations under this Agreement provided the Developer has first complied with the procedures in Section 13.3(b).

(b) Notice of Default. Prior to the exercise of any other right or remedy arising out of a default by the City under this Agreement, Developer shall first submit to the City a written notice of default stating with specificity those obligations which have not been performed under this Agreement. Upon receipt of the notice of default, the City shall promptly commence to cure the identified default(s) at the earliest reasonable time after receipt of the notice of default and shall complete the cure of such default(s) no later than thirty (30) days after receipt of the notice of default, or such longer period as is reasonably necessary to remedy such default(s), provided the City shall continuously and diligently pursue each remedy at all times until such default(s) is cured.

13.4 Monetary Damages. Developer and the City acknowledge that neither the City nor Developer would have entered into this Agreement if either were liable for monetary damages under or with respect to this Agreement or the application thereof. Both the City and Developer agree and recognize that, as a practical matter, it may not be possible to determine an amount of monetary damages which would adequately compensate Developer for its investment of time and financial resources in planning to arrive at the kind, location, intensity of use, and improvements for the Project, nor to calculate the consideration the City would require to enter into this Agreement to justify such exposure. Therefore, the City and Developer agree that neither shall be liable for monetary damages under or with respect to this Agreement or the application thereof and the City and Developer covenant not to sue for or claim any monetary

damages for the breach of any provision of this Agreement. This foregoing waiver shall not be deemed to apply to any fees or other monetary amounts specifically required to be paid by Developer to the City pursuant to this Agreement, including, but not limited to, any amounts due pursuant to Section 18.6 or Section 18.13. The foregoing waiver shall also not be deemed to apply to any fees or other monetary amounts specifically required to be paid or credited by the City to Developer pursuant to this Agreement, including, but not limited to any Fee Credits specifically required to be credited by City to Developer or its assignee(s).

13.5 Specific Performance. Due to the size, nature and scope of this Project, it will not be practical or possible to restore the Property to it natural condition once implementation of this Agreement has begun. After such implementation, Developer may be foreclosed from other choices it may have had to utilize the Property and provide for other benefits. Developer has invested significant time and resources and performed extensive planning and processing of the Project in agreeing to the terms of this Agreement and will be investing even more significant time and resources in implementing the Project in reliance upon the terms of this Agreement and it is not possible to determine the amount of monetary damages that would adequately compensate Developer for such efforts. For the foregoing reasons, the City and Developer agree that except as expressly provided in Section 13.4 above, damages would not be an adequate remedy if City fails to carry out its obligations under this Agreement, and that Developer shall have the right to seek and obtain specific performance as a remedy for any breach of this Agreement. The City's remedy to terminate or amend this Agreement in the event of Developer's uncured breach shall be sufficient in most circumstances. Notwithstanding the foregoing, if the City approves a final parcel map or subdivision map, issues a permit, or issues other approval(s) pursuant to this Agreement in reliance upon a specified condition or conditions being satisfied by Developer in the future, and if Develop than fails to satisfy such condition(s), the City shall be entitled to specific performance for the sole purpose of causing Developer to satisfy such condition or conditions. Except in these limited circumstances, the City shall have no right to seek specific performance to cause Developer to proceed with the development of the Project in any manner.

14. Administration of Agreement and Resolution of Disputes. Developer shall at all times have the right to appeal to the City Council any decision or determination made by any employee, agent or other representative of the City concerning the Project or the interpretation and administration of this Agreement. All City Council decisions or determinations regarding the Project or the administration of this Agreement shall also be subject to judicial review pursuant to Code of Civil Procedure section 1094.5, provided that, pursuant to Code of Civil Procedure section 1094.6, any such action must be filed in a court of competent jurisdiction not later than ninety (90) days after the date on which the City Council's decision becomes final.

15. Recordation of this Agreement. Pursuant to Government Code section 65868.5, the City Clerk shall record a copy of this Agreement in the Official Records of the County within ten (10) days after the mutual execution of this Agreement.

16. Constructive Notice and Acceptance. Every person or entity who now or hereafter owns or acquires any right, title or interest in or to any portion of the Property is, and shall be, conclusively deemed to have consented and agreed to every provision contained herein,

whether or not any reference to this Agreement is contained in the instrument by which such person acquired an interest in the Property.

17. No Third-Party Beneficiaries. This Agreement is made and entered into for the sole protection and benefit of the City, Developer and their respective successors and assigns. No other person or entity shall have any right of action based upon any provision of this Agreement.

18. Miscellaneous.

18.1 Notices. All notices, requests, demands, and other communications required or permitted under this Agreement shall be in writing and shall be (as elected by the person giving such notice) (i) hand delivered by messenger or courier service, (ii) by overnight delivery (including Federal Express), or (iii) by United States mail (postage prepaid), registered or certified, return receipt requested, addressed to the addresses set forth below. Each notice shall be deemed delivered (1) on the date delivered if by personal delivery, (2) on the date of delivery by the overnight delivery service if by overnight delivery, or (3) seventy-two (72) hours after deposit in the United States mail (postage prepaid) if by registered or certified mail. By giving to the other parties at least fifteen (15) days' written notice, the parties to this Agreement and their respective successors and assigns shall have the right from time to time and at any time during the term of this Agreement to change their respective addresses and each shall have the right to specify as its address any other address.

If to City:

City of Oxnard
300 West Third Street
Oxnard, California 93030
Attention: City Manager

with a copy to:

City of Oxnard
214 South C Street
Oxnard, California 93030
Attention: Community Development Director
Tel. No.: (805) 385 7877
Fax No.: (805) 385 7854

City of Oxnard
300 West Third Street
Oxnard, California 93030
Attention: City Attorney

City of Oxnard
214 South C Street
Oxnard, California 93030
Attention: Planning Manager

If to Developer: Sakioka Farms
3183-A Airway Ave., Suite 2
Costa Mesa, California 92626
Attention: Jeremy Sakioka

AMS Craig, LLC
1451 N. Rice Avenue, Suite E
Oxnard, CA 93030
Attention: Craig Kaihara

with a copy to: Ross Wersching & Wolcott LLP
3151 Airway Avenue, Building S
Costa Mesa, California 92626
Attention: Cynthia M. Wolcott, Esq.

18.2 Severability. If any part of this Agreement is declared invalid for any reason, such invalidity shall not affect the validity of the remainder of the Agreement. The other parts of this Agreement shall remain in effect as if this Agreement had been executed without the invalid part. The City and Developer intend and desire that the remaining parts of this Agreement continue to be effective without any part or parts that have been declared invalid.

18.3 Entire Agreement; Conflicts. This Agreement represents the entire agreement between the City and Developer with respect to the subject matter hereof and supercedes all prior agreements and understandings, whether oral or written, between the City and Developer with respect to the matters contained in this Agreement. Should any or all of the provisions of this Agreement be found to be in conflict with any other provision or provisions found in the Applicable Rules or the Subsequent Applicable Rules, then the provisions of this Agreement shall govern and prevail.

18.4 Further Assurances. The City and Developer agree to perform, from time to time, such further acts and to execute and deliver such further instruments reasonably necessary to effect the intents and purposes of this Agreement, provided that the intended obligations of the City and Developer are not thereby modified.

18.5 Negation of Agency. The City and Developer acknowledge that, in entering into and performing under this Agreement, each is acting as an independent entity and not as an agent of the other in any respect. Nothing contained herein or in any document executed in connection herewith shall be construed as making the City and Developer joint venturers, partners or employer/employee.

18.6 Attorneys' Fees. In the event of any claim, dispute or controversy arising out of or relating to this Agreement, including an action for declaratory relief, the prevailing party in such action or proceeding shall be entitled to recover its court costs and reasonable out of pocket expenses not limited to taxable costs, including, but not limited to

telephone calls, photocopies, expert witness, travel, and reasonable attorneys' fees and costs to be fixed by the court. Such recovery shall include, but not limited to, court costs, out of pocket expenses and attorneys' fees on appeal, if any. The court shall determine who is the "prevailing party," whether or not the dispute or controversy proceeds to final judgment. If the City or Developer is reasonably required to incur such out of pocket expenses and attorneys' fees as a result of any claim arising out of or concerning this Agreement or any right or obligation derived hereunder, then the prevailing party shall be entitled to recover such reasonable out of pocket expenses and attorneys' fees whether or not an action is filed.

18.7 Waiver. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the party against whom enforcement of a waiver is sought.

18.8 Force Majeure. No Party shall be deemed to be in default if delays in performance or failures to perform are due to litigation filed to challenge the Existing Project Approvals, enactment of conflicting State or federal laws or regulations, floods, delays due to strikes, inability to obtain materials, civil commotion, fire, acts of God, or other circumstances which substantially interfere with carrying out the Project or with the ability of either the City or Developer to perform its obligations under this Agreement, and which are not due to actions on the part of Developer or the City and are beyond the reasonable control of Developer and the City. An extension of time for any such cause (a "**Force Majeure Delay**") shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause, if notice by the party claiming such extension is sent to the other party within thirty (30) days of actual knowledge of the commencement of the cause. Notwithstanding the foregoing, none of the foregoing events shall constitute a Force Majeure Delay unless and until the party claiming such delay and interference delivers to the other party written notice describing the event, its cause, when and how such party obtained knowledge, the date the event commenced and the estimated delay resulting therefrom. Notwithstanding the foregoing, a Force Majeure Delay shall not extend the term of this Agreement without the written consent of the City.

18.9 Estoppel Certificates. Within thirty (30) days following the receipt by City of a written request by Developer, the City shall execute and deliver to the requesting Developer a statement (an "estoppel certificate") certifying that (i) either this Agreement is unmodified and in full force and effect or there have been specified (date and nature) modifications to the Agreement, but it remains in full force and effect as modified; and (ii) either there are no known current uncured defaults under this Agreement or that the City alleges that specified (date and nature) defaults exist. The estoppel certificate shall also provide any other reasonable information requested. The failure to timely deliver a requested estoppel certificate shall constitute a conclusive presumption that this Agreement is in full force and effect without modification, except as may be represented by the requesting Developer, and that there are no uncured defaults in the performance of the requesting Developer, except as may be represented by the requesting Developer. The requesting Developer shall pay to City all reasonable administrative costs incurred by City in connection with the issuance of estoppel certificates under this Section prior to City's issuance of such certificates. Any such certificate may be and is intended to be relied upon by any person, including, but not limited to, the other Party, potential purchasers or lessees of all or any part of the Property, lenders or potential lenders.

18.10 Section Headings. The section headings contained in this Agreement are for convenience and identification only and shall not be deemed to limit or define the contents to which they relate.

18.11 Time of Essence. Time is of the essence of this Agreement, and all performances required hereunder shall be completed within the time periods specified. Any failure of performance shall be deemed as a material breach of this Agreement.

18.12 Counterparts. This Agreement and any modifications hereto may be executed in any number of counterparts with the same force and effect as if executed in the form of a single document.

18.13 Indemnification. Developer agrees, as a condition of approval of this Agreement, to indemnify, defend and hold harmless at Developer's expense, the City, the City Council, and the City's agents, officers and employees (collectively, the "**Indemnified Parties**") from and against any claim, action or proceeding commenced within the applicable time period, to attack, review, set aside, void or annul the approval of this Agreement, the Specific Plan or EIR or to determine the legality or validity of any provision hereof or obligation contained herein. The City shall promptly notify Developer of any such claim, action or proceeding of which the City receives notice, and the City will cooperate fully with Developer in the defense thereof. Developer shall provide a defense to the City with counsel selected by the City to defend both the City and Developer and shall reimburse the City for any court costs and reasonable attorney costs which the City may be required to pay as a result of any such claim, action or proceeding. The City may, in its sole discretion, participate in the defense of any such claim, action or proceeding, but such participation shall not relieve the Developer of the obligations of this Section.

18.14 Reference of California Law. Unless expressly stated to the contrary, all references to statutes herein are to the California codes.

18.15 Interpretation of Agreement. The language in all parts of this Agreement shall in all cases be construed simply, as a whole and in accordance with its fair meaning and not strictly for or against any party. The City and Developer acknowledge and agree that this Agreement has been prepared jointly by City and Developer and has been the subject of arm's length and careful negotiation over a considerable period of time, that each party has been given the opportunity to independently review this Agreement with legal counsel, and that each party has the requisite experience and sophistication to understand, interpret, and agree to the particular language of the provisions hereof. Accordingly, in the event of an ambiguity in or dispute regarding the interpretation of this Agreement, this Agreement shall not be interpreted or construed against the party preparing it, and instead other rules of interpretation and construction shall be utilized.

18.16 Institution of Legal Actions. In addition to any other rights or remedies, either party may institute legal action to cure, correct or remedy any default, to recover damages for any default, or to obtain any other remedy consistent with the purpose of this Agreement. Such legal actions must be instituted in the Superior Court of the County of Ventura, State of California or in the United States District Court for the Central District of California.

Signatures on Following Page

IN WITNESS WHEREOF, the City and Developer hereto have each executed this Agreement as of the date first written above.

Developer:

SAKIOKA FARMS,
a California general partnership

By: _____
Name: _____
Title: _____

AMS CRAIG, LLC, a Delaware limited liability company

By:_____
Craig Kaihara, Manager

City:

CITY OF OXNARD, a California municipal corporation

By: Tim Flynn 6/30/20
Tim Flynn, Mayor

ATTEST:

Michelle, Ascencion, City Clerk

APPROVED AS TO FORM:

Stephen Fischer, City Attorney

EXHIBIT "A"

LEGAL DESCRIPTION OF PROPERTY

DESCRIPTION

Exhibit A

The land referred to herein is situated in the County of Ventura, State of California, and is described as follows:

Parcel "C", and that portion of Parcel "D" of the resubdivision of the Subdivisions 45, 46 and part of 49, Rancho El Rio de Santa Clara o'La Colonia, in the City of Oxnard, County of Ventura, State of California, as per map filed in Book 2, Page 43 of Record of Surveys in the office of the County Recorder of said County, described as a whole as follows:

Beginning at a point in the Easterly line of Rice Road, 50 feet wide, as shown on said map at the Southwesterly terminus of that certain course in the Southerly boundary of the State Highway recited as "N. 70° 33' 43" E., 157.48 feet", in the deed to the State of California, recorded December 23, 1963 in Book 2450, Page 16 of Official Records as Document No. 76087, in said office of the County Recorder; thence along said certain course,

1st: North 69° 17' 35" East 157.48 feet; thence continuing along the Southerly boundary of the State Highway by the following 13 courses,

2nd: North 76° 49' 51" East 161.22 feet; thence,

3rd: North 89° 48' 08" East 204.28 feet; thence,

4th: South 88° 24' 53" East 711.16 feet, more or less, to the intersection with a line which is parallel with and distant Southerly 12.00 feet measured at right angles from the 13th course recited as "N. 86° 23' 35" W., 1842.44 feet", in the deed to the State of California recorded December 7, 1953 as Document No. 31569 in Book 1172, Page 229 of Official Records; thence along said parallel line and Easterly prolongation thereof,

5th: South 87° 07' 50" East 1422.22 feet more or less, to the intersection with the Westerly prolongation of a line which is parallel with and distant Southerly 12.00 feet, measured at right angles, from the 7th course recited as "N. 89° 27' 13" W., 721.73, feet", in said last mentioned deed; thence along said prolongation and parallel line,

6th: North 89° 48' 42" East 812.99 feet; thence,

7th: South 85° 07' 07" East 672.25 feet; thence,

8th: South 63° 48' 56" East 411.90 feet; thence,

9th: South 1° 02' 37" West 134.02 feet; thence,

10th: South 89° 48' 42" East 121.00 feet; thence,

11th: North 69° 42' 17" East 185.75 feet; thence,

12th: North 53° 11' 34" East 365.60 feet; thence,

DESCRIPTION

Exhibit A

13th: North 69° 22' 05" East 75.96 feet; thence,

14th: South 89° 48' 42" feet East 110.23 feet, more or less, to the Easterly line of said Parcel "D"; thence along said Easterly line to and along the Easterly line of said Parcel "C",

15th: South 0° 00' 25" East 3535.29 feet, more or less, to the Southeasterly corner of said Parcel "C"; thence along the Southerly line of said Parcel "C",

16th: South 89° 47' 44" West 5258.60 feet to said Easterly line of Rice Road; thence along said Easterly line,

17th: North 0° 01' 15" West 3595.90 feet to the point of beginning.

EXCEPT that portion conveyed to the City of Oxnard in deed recorded April 29, 1988 as Document No. 88-58919.

ALSO EXCEPT all oil, gas, petroleum, hydrocarbons and mineral substances lying in, on, or under said land, but without the right to enter upon and use the surface and the subsurface of said land to a depth of 500 feet below the surface except upon those certain drill site easements and easements for ingress and egress and for utility and pipeline purposes as particularly described in those certain agreements executed by Frances M. Conway, et al., and by Xerox Corporation recorded December 22, 1969 as Document Nos. 66767, 66768, 66769, 66770, 66771 and 66772.

EXHIBIT "B"

NIAD IN LIEU CREDITS

CITY OF OXNARD – ASSESSMENT DISTRICT NO. 86-3

NORTHEAST INDUSTRIAL ASSESSMENT DISTRICT
IN-LIEU CREDITS

JUN 28, 1993

TRACT NO.	ORIGINAL OWNER OR DEVELOPER	CURRENT DEVELOPER, OWNER OR ASSESSOR'S PAR. #	ORIGINAL TRACT ACREAGE	TOTAL ASSESSMENT SERIES "A" *	CURRENT TRACT ACREAGE	WATER ASSESSMENT	PERCENT	WATER IN-LIEU CREDIT	SEWER ASSESSMENT	PERCENT	SEWER IN-LIEU CREDIT	STREET ASSESSMENT	PERCENT	STREET IN-LIEU CREDIT	TOTAL IN-LIEU CREDIT
	SAKIOKA	216-030-06,7,8,10	431.48	$7,340,472.00	427.23	$676,619.00	80.85%	$547,046.46	$1,033,815.00	67.60%	$698,858.94	$2,856,002.00	53.09%	$1,516,251.46	$2,762,156.86

* INFRASTRUCTURE IMPROVEMENTS ONLY

EXHIBIT "C"

CITY COUNCIL OF THE CITY OF OXNARD
RESOLUTION NO. 10,272

CITY COUNCIL OF THE CITY OF OXNARD

RESOLUTION NO. 10,272

A RESOLUTION OF THE CITY OF OXNARD ESTABLISHING A POLICY CONCERNING CREDIT IN LIEU OF PAYMENT FOR FACILITIES FEES AND REIMBURSEMENT FOR CONSTRUCTION OF PLANNED FACILITIES FOR DRAINAGE, WASTEWATER, TRAFFIC CIRCULATION, AND WATER SYSTEMS.

WHEREAS, Division 1 of Article V-A of Chapter 27 of the Oxnard City Code provides that a person may receive credit in lieu of payment of facilities fees; and

WHEREAS, Division 1 of Article V of Chapter 27 of the Oxnard City Code provides that a subdivider required to install improvements containing supplemental capacity shall be reimbursed for that portion of the cost of the improvements, including an amount attributable to interest, in excess of the construction required for the subdivision;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OXNARD RESOLVES AS FOLLOWS:

1. Credit in lieu of payment of facilities fees and cash reimbursements provided herein shall be available to persons constructing drainage, wastewater conveyance, wastewater treatment, traffic circulation, and water facilities as a condition of development or subdivision, which are consistent with the City's master plans.

2. For the purposes of this resolution, the word "facilities" and the phrase "type of infrastructure" shall mean drainage, wastewater conveyance, wastewater treatment, traffic circulation, or water facilities constructed within the City.

3. When a person is required by the City to construct facilities consistent with the City's master plans, the cost of such facilities shall be either credited to such person in lieu of the payment of facilities fees or reimbursed to such person by the City.

4. The amount of the credit in lieu of payment of facilities fees shall be limited to the person's actual engineering and construction costs to construct the facilities and shall not exceed the amount of the estimated facilities fees. Facilities fees estimates shall be determined by the City by assuming the highest and best use of the parcels under the approved zoning at the time of subdivision map recordations. The actual engineering and

construction costs to construct the facilities shall be determined by the City based on and limited to unit costs and items established and revised from time to time by the Public Works Director.

5. A person who provides master planned facilities containing supplemental capacity, as provided in Section 27-79.1 of the Oxnard City Code, will be eligible for reimbursement based on the cost of the facilities used in calculating the facility fees in effect at the time of related map recordation;provided, however, that if the development is subject to a development agreement limiting or freezing facility fees, the person will be eligible for reimbursement based on the cost of the facilities used in calculating the facility fees in effect at the time of the development agreement, or as otherwise provided in the development agreement.

6. The person who provided the master planned facilities for which the credit was earned may use such credits to offset the amount of the facilities fees required to be paid by such person when such person receives a building permit. The credit may be used to offset facilities fees up to the full amount of each fee on parcels for which building permits are received by such person, but only with the project for which the facilities were provided, until the credits are exhausted.

7. If the master planned facilities were paid for from the proceeds of a special financing district formed after the date of adoption of Resolution No. 9797, September 19, 1989, such as an Assessment District or a Community Facilities District, then reimbursements or credits will be made pursuant to Resolution No. 9797 as follows:

(a) Any reimbursement will paid to the bond redemption fund.

(b) Any in-lieu of fee credit will be granted to the properties which are assessed or taxed through the special financing district and will be applied only to future fees for those properties.

8. Whenever facilities fees are paid by others than the person with the credit for that subdivision, the City shall pay to such person with the credit the amount of the facilities fees paid until the credit is exhausted.

9. Any credit in lieu of payment of facilities fees or payment by the City pursuant to paragraph seven, shall apply only to each specific type of infrastructure fee, so that the cost of one type of conditioned infrastructure shall not be accepted as credit in lieu of payment of the fee for another type of infrastructure. For example, the cost of wastewater conveyance facilities shall be credited only to future wastewater conveyance facility fees, and not to wastewater treatment, water, drainage, or traffic circulation facilities fees.

10. If a person sells all the remaining undeveloped parcels of a subdivision for which that person earned a credit, such person may assign those credits to the buyer of the parcels by providing to the Public Works Director a written notice of the assignment at the time the sale is completed.

11. Any person required to construct master planned facilities shall be reimbursed by the City for the actual engineering and construction costs in excess of the estimated facilities fees, as described above. The City shall usually spread reimbursements over a period of one to ten years, with each annual disbursement being limited to the greater of twenty thousand dollars ($20,000) or ten per cent (10%) of the original reimbursement amount. The City will pay interest on outstanding balances during a fiscal year at a rate determined by the Finance and Management Services Director based on the average for the fiscal year of the rates paid by the Local Agency Investment Fund.

12. When a person is required to provide supplement capacity in non-master planned facilities as part of the subdivision conditioning process, the City shall enter into an agreement with such person to provide reimbursement pursuant to Section 27-79.1 of the Oxnard City Code.

13. No credit or reimbursement shall be made unless a written request therefore is made to the Director of Public Works.

14. This resolution shall become effective on December 23, 1991.

15. Any person who owned a parcel on June 7, 1988, within a subdivision with a final map recorded on or before June 7, 1988, shall retain any credits in the amount that would have been assigned to the parcel under the policy in effect prior to June 7, 1988. After June 7, 1988, if such parcel is sold, the credit shall be retained by the owner as of June 7, 1988.

16. Resolution No. 9666, adopted March 28, 1989, is hereby repealed effective on the date this resolution becomes effective.

PASSED AND ADOPTED this 8th day of October, 1991, by the following vote:

AYES: Councilmembers Takasugi, Furr, Lopez, Maron

NOES: None

ABSENT: None

ABSTAIN: Councilman Plisky

NAO TAKASUGI, MAYOR

ATTEST:

MABI PLISKY, CITY CLERK

APPROVED AS TO FORM:

GARY L. GILLIG, CITY ATTORNEY

EXHIBIT "D"

MASTER PLANNED IMPROVEMENT REIMBURSEMENT POLICY

DATED JULY 6, 2010 AND UPDATED MARCH 15, 2017

Development Services Department
Master Planned Improvement Reimbursement Policy

DATE: July 6, 2010 (Updated 3/15/2017)

TO: Development Community

FROM: Development Services Manager
City of Oxnard

SUBJECT: Policy Concerning Requests for Credit In-Lieu of Payment for Facilities Fees and Reimbursement for Construction of Planned Facilities for Drainage, Wastewater, Traffic Circulation and Water Systems under City Resolution 10,272

I. BACKGROUND:

New development within the City results in the need to provide new or upgraded infrastructure (Wastewater, Water, Storm Drain, and Traffic) to provide the necessary capacity to serve these new developments. The City has prepared Citywide Master Plans for the Oxnard Wastewater, Water and Storm Drain systems that forecast the necessary "master-planned" improvements and associated costs to serve new development. The City has run computer traffic models and prepared cost estimates of the traffic improvements needed to mitigate the traffic impacts of new development. Based on these cost estimates, the City Council has determined the average cost impact of various types of new development on the City's infrastructure and implemented corresponding infrastructure impact fees to offset these impacts. These impact fees are imposed on new developments at the time building permits are issued. These fees are kept in separate accounts to be used to construct corresponding master-planned facilities.

Projects are sometimes conditioned to construct infrastructure improvements that are necessary to provide capacity to serve that project. If these conditioned improvements are determined to be master-planned improvements, the developer that constructed them is eligible to receive credits ("Fee Credits") for the construction costs that can be used to offset the corresponding impact fee. If the cost of the improvements exceeds the impact fees for full build-out of the project, then the developer is eligible to receive reimbursement ("Excess Reimbursement") for the excess costs.

II. POLICY:

The City Council of the City of Oxnard enacted Resolution ("Resolution") 10,272 to establish

guidelines for implementation of the Fee Credit and Excess Reimbursement processes. The resolution states the following general guidelines:

a) Fee Credits in lieu of payment of facilities fees and Excess Reimbursements shall be made available to developer constructing the master-planned facilities.
b) The reimbursable engineering and construction costs to construct the master-planned facilities shall be determined by the City based on, and limited to, unit costs and items established and revised from time to time by the City.
c) Fee Credits can only be used for building permits within the project for which the master-planned facilities were provided.
d) Fee Credits in lieu of payment can only be used for the specific type of infrastructure fee for which a credit was received. (e.g. Fee Credits for master-planned water improvements can only be used to offset water conveyance fees and not against traffic impact fees)
e) Excess Reimbursement shall be paid out at 10% per year or $20,000 per year whichever is greater. Interest on the outstanding balance shall accrue at the rate determined by the Finance Director based on the average for the rates paid by the Local Agency Investment Fund. ("LAIF")
f) No Fee Credit or Excess Reimbursement shall be made unless a written request is made to the City.

III. IMPLEMENTATION:

The City has determined, in accordance with resolution 10,272:

- Reimbursement unit costs shall be established based on a developer providing a minimum of 3 competitive bids that include quantities and unit prices for each item of work. (e.g. 344 LF of 6" curb at $6.32 per LF)
- This policy statement establishes which items of work are to be considered as reimbursable. (See "Reimbursable Items of Work" below)
- It is strongly recommended that a reimbursement request preparer meet with Development Services staff prior to beginning preparation of the reimbursement submittal package to discuss the specific reimbursements and receive additional project specific advice.

a) SUBMITTAL CHECKLIST: (minimum requirements – additional items may be required based on project specific issues)

- ☐ Submittal shall be in bound format with dividers and a table of contents (3-ring binders work well to allow addition/replacement of pages)
- ☐ Copies of applicable approved sheets from construction drawings with reimbursable items highlighted in various colors (e.g. curb in red, asphalt in blue, sidewalk in yellow)
- ☐ Spreadsheet with a quantity take-off for reimbursable items on a sheet-by-sheet basis (e.g. Sheet 14 of 28 - 345' of 6" curb/18" gutter) This format allows for easy checking of quantity take-off numbers
- ☐ Copies of 3 independent bid proposals for all reimbursement items. Bid proposals can be separated by construction type (e.g. paving, landscaping, or engineering) but all items

must have 3 proposals that are signed and dated.

- ☐ Copies of design professional contracts should have a separate line item for design of the master-planned improvements
- ☐ A spreadsheet(s) comparing submitted bids (broken up by infrastructure type) with subtotals and grand totals as appropriate
- ☐ Copy of signed contract with low bidder
- ☐ Executed copies of any change orders processed during construction. Large change orders may require multiple bids.
- ☐ Proof of full payment to the contractor (and design professionals) for all work associated with reimbursement request
- ☐ Additional documentation that preparer deems helpful in processing of reimbursement request

b) REIMBURSABLE ITEMS OF WORK:

- Must be a master-planned improvement
- Must be permanent (transitional traffic striping or an asphalt sidewalk are temporary)
- Nothing that primarily serves a private use (e.g. a left-turn pocket on a primary arterial that serves a commercial shopping center would not be reimbursable)
- Laterals off a master-planned pipelines (including fire hydrants) are not reimbursable
- Sidewalk, curb, gutter and similar improvements shall be calculated to center of curb return when the connecting street is not also a master-planned street
- **NON-REIMBURSABLE GENERAL ITEMS** - The following items are specifically identified as not reimbursable under this program:
  - i) Premiums on Bonds
  - ii) As-built processing costs
  - iii) Overhead/Profit
  - iv) City License
  - v) Field Office
  - vi) Supervision
  - vii) City fees

- **REIMBURSABLE ITEMS** – The following items are generally reimbursable:
  - a) ***Water:***
    - i) Pipeline
    - ii) Fittings (Tees, crosses, ells)
    - iii) Valves
    - iv) Reducers
    - v) Blowoffs, airvacs
    - vi) Engineering

  - b) ***Wastewater:***
    - i) Pipeline
    - ii) Manholes
    - iii) Manhole ring and cover

iv) Engineering

c) ***Storm Drain:***
   i) Pipeline
   ii) Manholes
   iii) Junction Structures
   iv) Headwalls
   v) Engineering

d) ***Traffic:***
   i) Curb, curb/gutter
   ii) Sidewalk
   iii) AC/Base
   iv) Median landscaping (parkway landscaping is not eligible)
   v) Median stamped concrete
   vi) Traffic Interconnect Conduit and wire
   vii) Signage and striping
   viii) Traffic Signals
   ix) Street lighting
   x) Engineering (Civil and Traffic)
   xi) Offsite (non-frontage) right-of-way

c) <u>FINAL APPROVAL:</u>

- When a final determination is made regarding Fee Credit and Excess Reimbursement amounts, the City will issue a letter memorializing the amount of reimbursable work and the method and timetable for reimbursement.
- The following must be complete prior to issuance of a final determination letter:
  - ☐ Acceptance of improvements by the City
  - ☐ Approval of reimbursement amounts
  - ☐ Approval of "As-Built" plans for the project

REIMBURSEMENT POLICY ACKNOWLEDGEMENT

NOTICE TO DEVELOPER
(Please sign and return)

Master-planned infrastructure is subject to Fee Credit or Excess Reimbursement in accordance with City Resolution 10,272 and the City's Master-Planned Improvement Reimbursement Policy ("reimbursement policy"). Developer acknowledges receiving a copy of the City reimbursement policy. Developer is specifically reminded that the reimbursement policy requires developer to obtain a minimum of 3 competitive bids with unit prices for all work for which reimbursement will be requested. Developer will be reimbursed using unit prices from the low bidder based on a quantity take-off of the reimbursable work. Items of work that are reimbursable are generally outlined in the reimbursement policy.

Public improvements are public work, as defined in Chapter 1 of part 7 of Division 2 of the Labor Code, to which Labor Code section 1771 applies. Developer shall comply with all requirements of law applicable to such construction.

Read and Acknowledged:

By (Developer):

_____ (Signature) _____ (Date)

_____ (Print Name and Title)

_____ (Company) _____ (Project Planning Permit No.)