RECORDING REQUESTED BY
AND WHEN RECORDED
RETURN TO:

CITY OF MANTECA
1001 WEST CENTER STREET
MANTECA, CALIFORNIA 95337
ATTN: CITY MANAGER

APN(s): 197-020-46, 197-020-23, 197-020-20, 197-020-21, 197-020-41, 197-020-47

[Space Above For Recorder's Use Only]

Recording Fee: Exempt pursuant to California Government Code Section 27383

DEVELOPMENT AGREEMENT
BY AND BETWEEN THE CITY OF MANTECA AND
PILLSBURY ROAD PARTNERS, LLC

PREAMBLE

THIS DEVELOPMENT AGREEMENT (this "Agreement") is entered into this _____ day of ____, 2025, by and between the CITY OF MANTECA, a municipal corporation organized and existing under the laws of the State of California ("City"), and PILLSBURY ROAD PARTNERS, LLC, a California corporation, (referred to herein as "Developer"), pursuant to the authority of Section 65864 *et seq*. of the California Government Code. Developer and City are, from time to time, hereinafter referred to individually as a "Party" and collectively as the "Parties."

RECITALS

A. To strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic costs of development, the Legislature of the State of California adopted Section 65864 et seq. of the California Government Code (the "Development Agreement Statute"), which authorizes the City to enter into a development agreement with any person or entity having a legal or equitable interest in real property providing for the development of such property and establishing certain development rights and obligations therein.

B. Pursuant to the Development Agreement Statue, the City adopted rules and regulations establishing procedures and requirements for consideration of development agreements. This Agreement has been processed, considered, approved, and executed in accordance with those City laws.

C. The subject of this Agreement is the development of those certain parcels of land consisting of approximately 133.18 acres to be developed in phases as diagrammed in **EXHIBIT C** and more particularly described in **EXHIBIT A** (the Map of the Project Site) and **EXHIBIT B** (the legal description of the Project Site) (collectively depicting the "Project Site"). EXHIBITS A, B, AND C are attached hereto and incorporated by reference as if fully set forth herein.

D. The Developer shall annex approximately 102 acres of proposed development area, approximately 20.41 acres of non-proposed development areas, (totaling approximately 122.41 acres) and all public right-of-way along Union Road fronting the development and non-development Areas. The area annexed into the City shall ultimately include the development of 455 units being considered as part of a tentative subdivision map (**EXHIBIT C**), a pre-zone, and a general plan amendment. The Project will also require annexation into the legal boundary of the City and detachment from the Lathrop-Manteca Fire District. The tentative subdivision map would be developed in phases with the option of constructing a temporary drain retention basin. Said basin would ultimately be converted into residential units if it is within the limits of the Tentative Map. The project includes the development of approximately 4.75 acres connecting to the Tide Water Bike Trail (the "Project"). The Project shall also be subject to certain Conditions of Approval (**EXHIBIT D**.) The Conditions of Approval are attached hereto and incorporated by reference as if fully set forth herein. The Project also includes the installation of new public roadways that will provide pedestrian and vehicular access to the Project site and surrounding community areas, and other improvements, including water supply, storm drainage, sewer facilities and landscaping. Any reference in this Agreement to the Project or the development of the Project shall also mean and include the Project Site and its development.

///

E. It is the intent of Developer to subdivide approximately 102 acres into 455 Units of Low-Density Residential with 455 single family homes with all related on-site and off-site infrastructure improvements and services (collectively, the "Project"), as more particularly described in this Agreement and its exhibits including, without limitation, the Tentative Subdivision Map and Conditions of Approval (**EXHIBIT D**) The Conditions of Approval (**EXHIBIT D**) is attached hereto and incorporated hereby reference as if fully set forth herein.

F. Developer has applied for and City has approved various land use approvals, and entitlements, relating to the development of the Project. These actions are collectively referred to in this Agreement as the "Approvals," and include the following:

(1) CEQA Compliance. The Project and its Approvals, Subsequent Approvals, and this Agreement have been properly reviewed and assessed by the City pursuant to the California Environmental Quality Act, California Public Resources Code Section 21000 *et. seq.,* the CEQA Guidelines, 14 California Administrative Code Section 15000 *et. seq.,* and local regulations promulgated thereunder (collectively referred to as "CEQA"). Based on the Environmental Impact Report ("EIR"), the comments received thereon, and the record before the City Council, the City Council hereby finds that the EIR prepared for the Project represents the independent judgment of the City and the mitigation measures identified in the EIR, along with the statement of overriding considerations, adequately address any environmental impacts identified for the Project. A Mitigation Monitoring and Reporting Program was also prepared for the Project ("MMRP"). The MMRP is attached hereto as **EXHIBIT E** and incorporated by reference as if fully set forth herein. The documents and other material which constitute the record upon which this decision is based are located in the Development Services Department located at 1215 W. Center Street, Suite 201, Manteca, California 95337 and will remain in the custody of the Development Services Director. The Environmental Impact Report is also publicly available at the State Clearinghouse (CEQAnet), Project Number 2023110668.

(2) General Plan. With the amendments to the General Plan approved concurrent with approval of this Agreement, the Project will be consistent with the City's General Plan. There is no Specific Plan applicable to the Project Site.

(3) Zoning. With the prezoning approved concurrent with approval of this Agreement, the Project will be consistent with the City's Zoning Code.

(4) Tentative Map. The Tentative Map was prepared in compliance with Section 66473.7 of the Government Code. The Project at build-out shall include a maximum of 455 single-family homes on low-density residential property and such other facilities and amenities to the extent shown on the Tentative Map. The homes shall be constructed consistent with Conditions of Approval in **EXHIBIT D**.

G. Developer will benefit City by payment of fees to offset development impacts, based on the Fee Schedule in effect at the time Developer pulls any permit for any portion of the Project. The Fee Schedule is attached hereto as **EXHIBIT G** and incorporated herein by reference as if fully set forth herein.

H. In addition to paying Fees listed in the Recital paragraph F, Developer and City will mutually benefit the City's residents and visitors to the City by constructing the following improvements in the manner required by the Conditions of Approval, which are attached hereto as **EXHIBIT D**.

(1) Pavement improvements as outlined in attached Conditions of Approval (**EXHIBIT D**).

(2) Pavement maintenance on Union Road from the northern-most corner of the Project to the future intersection on Union Road near the Commons, and as more particularly conditioned in the attached Conditions of Approval (**EXHIBIT D**).

(3) Developer (or their designated agent) shall design and construct a storm drain system that may be temporary, or may become permanent. To the extent feasible and should the City acquire land north of the Project site for a future community park north of the Project Site, the Project will be able to connect its storm drainage to the future park at that time.

///

///

///

I. The Project will also serve the City due to the following negotiated agreements:

(1) San Joaquin County Property Tax Sharing Agreement of 60 percent County and 40 percent City translating to a more equitable split of Property Taxes for City.

(2) Lathrop-Manteca Fire District Detachment Agreement.

J. Certain Approvals (for example, the Tentative Map) were granted by the City subject to specific Conditions of Approval, which, for the purposes of this Agreement shall also be considered included in any reference in this Agreement to the Approvals.

K. On _____ __, 2025, the Planning Commission, following a duly noticed and conducted public hearing, recommended that the City Council approve this Agreement. On _____ __, 2025, the City Council, following a duly noticed and conducted public hearing, introduced City Ordinance No. ____-__, relating to the approval of this Agreement. On _____ __, 2025, the City Council adopted Ordinance No. ____-__, thereby approving this Agreement and authorizing the Mayor to execute the same on behalf of the City. Ordinance No. ____-__ is attached to this Agreement as **EXHIBIT F** and incorporated herein by reference as if fully set forth herein.

L. The City has determined that by entering into this Agreement, City will further the purposes set forth in the Development Agreement Statute, by among other things, providing a balanced stock of housing for a range of the City's residents and ensuring that the Project will provide substantial community public benefits, (hereinafter "Community Benefit Contributions") and more particularly described in Section 4.02(c)(9) of this Agreement, as summarized below:

a. Total voluntary contributions to the City in the amount of $24,500 per unit x 455 units = **$11,170,250** to use for: (1) Community Park Contribution; (2) Infrastructure Enhancement Contribution; (3) Public Safety Headquarters Contribution; (4) Fire Engine Contribution; (5) Solid Waste Program Contribution; (6) City Electric Vehicle Contribution; and (7) and Affordable Housing Unit Contribution;

b. The development of the Project site to increase available housing in the City; and

c. The development of approximately 4.55 acres of the Tidewater Bike Path.

M. A primary purpose of this Agreement is to assure that the Project can proceed without disruption caused by a change in City's planning policies and requirements following the Project Approvals and to ensure that the Community Benefits are timely delivered by Developer. The terms and conditions of this Agreement have undergone review by City staff, the Planning Commission, and the City Council at publicly noticed meetings and have been found to be fair, just, and reasonable and in conformance with the Development Agreement Law and the goals, policies, standards, and land use designations specified in City's General Plan and, further, the City Council finds that the economic interests of City's citizens and the public health, safety, and welfare will be best served by entering into this Agreement.

N. For the reasons recited herein, City and Developer have determined that the Project is a development for which this Agreement is appropriate. This Agreement will eliminate uncertainty regarding Project Approvals, provide for the orderly development of the Project, thereby encouraging planning for, investment in, and commitment to use and development of the Property. Continued use and development of the Property will in turn provide substantial employment, tax, and other public benefits to City, and otherwise achieve the foals and purposes for which the Development Agreement Statute was enacted.

O. Development of the Project in accordance with the Approvals, Subsequent Approvals and this Agreement will provide for orderly growth consistent with the goals, policies and other provisions of the City's General Plan.

NOW, THEREFORE, in consideration of the promises, covenants, and provisions set forth herein, the parties agree as follows:

///

///

///

///

///

AGREEMENT

ARTICLE 1. GENERAL PROVISIONS.

Section 1.01. Incorporation. The Preamble, the Recitals, all defined terms set forth in both, the development plan, the City's approval of the Project, and any and all applicable regulations establishing procedures and requirements for considering development agreements are hereby incorporated into this Agreement as if set forth herein in full.

Section 1.02. Covenants. Subject to Section 7.14 herein, the provisions of this Agreement shall constitute covenants or servitudes which shall run with the land comprising the Project Site and the burdens and benefits hereof shall bind and inure to the benefit of all Successors in Interest.

Section 1.03. Agreement Costs. City has incurred and will incur fees, costs, and other charges relating to the drafting, negotiation, and final documentation of the Agreement ("Agreement Costs"). Developer has paid City's application fee and agrees to pay reasonable Agreement Costs supported by invoice(s) or comparable documentation.

Section 1.04. Effective Date. This Agreement shall become effective upon the effective date of Ordinance No. _____ approving this Agreement or the date upon which this Agreement is executed by Developer and by City, whichever is later ("Effective Date"). Developer shall sign and execute this Agreement prior to City. Said Developer's signature and execution shall take place no later than five (5) business days from the final reading of Ordinance No. _____. On the condition that this Agreement has been so signed and executed by Developer, City shall execute this Agreement after said final reading of Ordinance No. _____.

Section 1.05. Term. The "Term" of this Agreement shall commence upon the Effective Date and shall continue for a period of fifteen (15) years. Upon request of Developer, this Agreement may be extended for one five (5) year period upon approval by City, which approval shall not be unreasonably withheld, provided, Developer is in good faith compliance with the terms of this Agreement. Upon expiration of the Term or extension thereof, this Agreement shall terminate and be of no further force or effect; provided, however, such termination shall not affect any claim of any Party hereto, arising out of the provisions of this Agreement, prior to the effective date of such termination, or affect any right or duty arising from entitlements or approvals, including Project Approvals. Should Developer fail to develop under this Agreement, any of the fees discussed herein, and already paid by Developer at the time such agreement should lapse, said fees shall be non-refundable and shall be maintained in the control of the City. This provision shall be applicable to any Community Benefit Contributions and any Impact Fees paid hereunder.

Section 1.06 Term Extension Procedure. If the Developer desires to request any of the extension options under Section 1.05, the Developer must submit a request in writing to the City Manager requesting the extension at least ninety (90) days prior to the date that the Initial Term or Extended Term would expire ("Extension Request").

ARTICLE 2. DEFINITIONS.

Unless the context requires a different meaning, any term or phrase used in this Agreement, which has its first letter capitalized, shall have that meaning given to it by this Agreement; certain such terms and phrases are referenced below, others are defined where they appear in the text of this Agreement or its Exhibits.

"Acreage" shall mean total acres being developed with each final map of this project, inclusive of roads, parks, open space, public and private spaces; but exclusive of remainders or large lots which are not meant for development with the current final map.

"Agreement" shall mean this Development Agreement and all of its Exhibits.

"Agreement Costs" shall have that meaning set forth in Section 1.03 of this Agreement.

"Alleged Default" shall have that meaning set forth in Section 6.01 of this Agreement.

"Applicable Law" shall have that meaning set forth in Section 4.02 of this Agreement.

"Application" shall mean an application pursuant to City's forms, requirements and procedures in place when an Application is submitted to City for a Subsequent Approval, and shall also mean and include all applicable Processing Fees.

"Approvals" shall have that meaning set forth in Recital paragraph E of this Agreement. "CEQA" shall have that meaning set forth in Recital paragraph E (l) of this Agreement.

///

"CEQA Guidelines" shall mean the regulations set forth in Section 15000, et. seq., of Title 14, Chapter 3 of the California Code of Regulations.

"Challenge" shall have that meaning set forth in Section 6.05 of this Agreement.

"Changes in the Law" shall have that meaning set forth in Section 4.03(c) of this Agreement.

"City" shall mean the City of Manteca and shall include its City Council, Planning Commission, agencies, departments, employees, consultants, officers, officials, agents, consultants, and volunteers.

"City Council" shall mean the City Council of the City of Manteca, or its designee.

"City Law(s)" shall mean all City laws, ordinances, resolutions, rules, regulations, policies, motions, directives, mitigation measures, conditions, standards, specifications, dedications, fees, taxes, assessments, liens, other exactions and impositions, or any other action, whether enacted or adopted by City, or its electorate through the initiative or referendum process.

"City Manager" shall mean the City Manager of the City of Manteca or his or her designee.

"City General Plan" or "General Plan" shall mean the 2043 General Plan, as adopted on July 18, 2023, and as amended on March 5, 2024, or as further amended prior to the adoption of this Agreement, and in effect at the time of the approval of the Project.

"Conditions of Approval" shall have that meaning set forth in Recital paragraph I of this Agreement and attached hereto as **EXHIBIT D**.

"Cure" shall have that meaning set forth in Section 6.01 of this Agreement.

"Cure Period" shall have that meaning set forth in Section 6.01 of this Agreement.

"Curing Party" shall have that meaning set forth in Section 6.01 of this Agreement.

"Default" shall have that meaning set forth in Section 6.01 of this Agreement.

"Default Notice" shall have that meaning set forth in Section 6.01 of this Agreement.

"Default Period" shall have that meaning set forth in Section 6.01 of this Agreement.

"Developer" shall have that meaning set forth in the preamble, and shall further mean and include Developer's Successors in Interest.

"Development Agreement Statute" shall mean Government Code Section 65864 through 65869.5.

"Effective Date" shall have that meaning set forth in Section 1.04 of this Agreement.

"Growth Cap" shall have that meaning set forth in the City's Revised Growth Management Program."

"Housing Unit" means one of the 455 single-family homes anticipated by the Project.

"Impact Fees" shall have that meaning set forth in Section 4.02(c)(6)(a) of this Agreement.

"Laws" or "Law" shall mean and include all applicable Federal, State (California), regional, district, or other public agency adopted constitutions, statutes, regulations, and controlling case law.

"Legal Action" shall mean and include (i) any administrative action or proceeding or appeal thereof, (ii) any action or proceeding in law or equity, or appeal thereof, or (iii) any other action or proceeding to enforce a Legal Right not encompassed by the preceding (i) or (ii).

"Legal Rights" shall mean and include (i) all Rights given under this Agreement, (ii) all administrative rights and remedies, (iii) all rights to exhaust administrative remedies and to protest regarding any legislative or adjudicatory act, and (iv) all rights to a Legal Action and all other rights and remedies in law and equity, including, without limitation, action to cure, correct, or remedy any default, enforce any covenant or agreement herein, enjoin any threatened or attempted violation thereof, to recover

damages for any default; enforce by specific performance the obligations and rights of the parties hereto, or to obtain any remedies consistent with the purpose of this Agreement.

"New City Law(s)" shall mean any City Law(s), which becomes operative or effective after the Effective Date.

"Notice" shall have that meaning set forth in Article 8 of this Agreement.

"Notice of Compliance" shall have that meaning set forth in Section 9.02 of this Agreement.

"Notice of Intent to Terminate" shall have that meaning set forth in Section 6.01(d) of this Agreement.

"Notice of Non-Compliance" shall have that meaning set forth in Section 9.02 of this Agreement.

"Noticing Party" shall have that meaning set forth in Section 6.01(b) of this Agreement.

"Notice of Termination" shall have that meaning set forth in Section 6.01(d)(2) of this Agreement.

"Oversizing" shall have that meaning set forth in Section 4.02(c)(14) of this Agreement.

"PFIP" shall mean the City's Public Facilities Implementation Plan.

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

"Processing Fees" shall have that meaning set forth in Section 4.02(c)(5) of this Agreement.

"Project" shall have that meaning set forth in Recital paragraph D of this Agreement, including any real property intending to be developed that is not yet incorporated within the territorial boundaries of the City of Manteca.

"Project Approvals" shall mean the Approvals, this Agreement and the Subsequent Approvals.

"Project Build-Out" shall mean the date on which a final inspection is completed for the last Project improvement, residential home or other structure to be constructed pursuant to the Approvals, Subsequent Approvals and this Agreement.

"Project Site" shall have that meaning set forth in Recital paragraph C of this Agreement.

"Review" shall have that meaning set forth in Section 6.02 of this Agreement.

"Review" shall have that meaning set forth in Section 6.02 of this Agreement.

"Right" or "Rights" shall mean a party's rights, duties, responsibilities and obligations under the terms and conditions of this Agreement.

"Subdivision Improvement Agreement" shall mean an agreement between City and Developer regarding on- and off-site improvements relating to the Project, entered into pursuant to the Subdivision Map Act and City Law.

"Subdivision Map Act" shall mean that legislation commonly known by the same name, currently set forth in California Government Code sections 66410 through 66499.58.

"Subsequent Approvals" shall mean those approvals as defined in Section 4.02(a)(2) of this Agreement.

"Successors in Interest" shall mean all successor estates and interests in the Project and the Project Site, as well as all successors in interest, heirs, assignees, and transferees of the Parties.

"Tender" shall have that meaning set forth in Section 6.05 of this Agreement.

"Tentative Map" shall mean the Tentative Map approved for the Project in connection with the Project Approvals.

"Term" shall have that meaning set forth in Section 1.05 of this Agreement. The Tentative Map is attached to this Agreement as **EXHIBIT C**.

"Third Party" shall have that meaning set forth in Section 6.05 of this Agreement.

"Transfer" shall have that meaning set forth in Section 9.01 of this Agreement.

"Transferee" shall have that meaning set forth in Section 9.01 of this Agreement.

"Transferred Property" shall have that meaning set forth in Section 9.01 of this Agreement.

"Void" shall refer only to this Agreement and shall mean that situation where under the terms of this Agreement or by Legal Action or Challenge this Agreement becomes null, void, terminated, and/or of no further force or effect.

"Waiver" shall have that meaning set forth in Section 3.01 of this Agreement.

"Zoning Regulations" shall mean the official zoning regulations of the City in effect as of the Effective Date of this Agreement.

ARTICLE 3. OBLIGATIONS OF DEVELOPER AND CITY.

Section 3.01. Obligation of Developer.

(a) Approval and execution of this Agreement by City is in consideration of, among other things, the following:

(1) Developer's acceptance of, and consent and agreement to comply with, this Agreement, the Approvals that are consistent with this Agreement, and the Subsequent Approvals that are consistent with this Agreement (once approved); and

(2) Developer's express and implied Waiver of any Right, Legal Right, or any other right it might have to bring a Legal Action relating to this process or the terms, conditions, approvals or other entitlements or actions regarding this Agreement, or the Approvals (Developer's acceptance, consent and agreement to the provisions of this Section 3.01 are collectively referred to in this Agreement as the "Waiver"). The Waiver shall not limit Developer's ability to bring a Legal Action pursuant to Section 6.01 of this Agreement regarding a City Default.

(3) Developer acknowledges and agrees that: (a) the Project Approvals provided adequate and proper notice pursuant to Government Code Section 66020 of Developer's right to protest any requirements for fees, dedications, reservations, and other exactions as may be included in this Agreement (including, but not limited to the donation of the Affordable Site); and, (b) if no protest in compliance with Section 66020 is made within ninety (90) days of the date that notice was given, the period in which Developer may protest any and all fees, dedications, reservations, and other exactions as may be included in this Agreement will have been waived by the Developer.

Section 3.02. Obligation of City. In consideration of Developer entering into this Agreement, the City agrees that it will comply with this Agreement, the Approvals that are consistent with the Agreement, and the Subsequent Approvals that are consistent with the Agreement (once approved).

ARTICLE 4. DEVELOPMENT OF PROJECT AND PROJECT SITE.

Section 4.01. Vested Right to Develop. Developer shall have the vested right to develop the Project (excepting fees) in accordance with and subject to the terms and conditions of this Agreement, the Project Approvals, and Applicable Law. Any Subsequent Approval shall be incorporated into this Agreement and vested hereby. Developer's vested right to develop the Project is subject to the limitation noted in Section 4.03(c). Any Subsequent Approval issued after the Effective Date shall be incorporated into this Agreement and vested hereby. It is the City's intention not to vest fees, other than the community benefit contributions listed in Section 4.02(c)(9) Development Agreement Fees.

Section 4.02. Applicable Law.

(a) Generally.

(1) Agreement Controls. The Parties agree that should there be any changes to Title 16 or Title 17 of the City Law, or any updates to rules, regulations, official policies, governing provisions for reservation or dedication of public land for public purposes, standards governing design or improvement to the Project, after the Effective Date of this Agreement, the Parties shall meet and confer and agree in writing as to which provisions apply to the Project. To the extent any changes in Applicable Law conflict with Developer's vested rights secured by this Agreement (save for fees explicitly listed in this Agreement) or the Developer's Tentative Map, the City's provisions shall control.

(2) Future Applications. Developer may elect, at its sole discretion, to make application for other land use approvals, actions, agreements, permits, or other entitlements necessary or desirable to the development of the Project ("Subsequent Approvals"), including without limitation, site plan approvals, use and grading permits, lot line adjustments, sewer and water connections, design review, building permits, and certificates of occupancy. All conditions of approval applicable to such Subsequent Approvals shall also be considered included in any reference in this Agreement to the Subsequent Approvals. City shall not use its authority in considering any application for a Subsequent Approval to change the policy decisions reflected in the Project Approvals and this Agreement. Instead, the scope of review of applications for Subsequent Approvals shall be limited to review of substantial conformity with the Project Approvals, Applicable City Regulations, and compliance with CEQA. City shall not impose conditions or exactions on Subsequent Approvals that exceed the requirements of, or are otherwise inconsistent with, the Project Approvals, except as expressly permitted by this Agreement or otherwise required by Applicable City Regulations. At such time as any Subsequent Approval applicable to the Property is approved by City, then such Subsequent Approval shall become subject to all the terms and conditions of this Agreement applicable to Project Approvals and shall be incorporated therein and treated as part of the Project Approvals.

(3) Initiatives. If any New City Laws are enacted or imposed by a citizen-sponsored initiative or referendum, which New City Laws would conflict with the Project Approvals or this Agreement or reduce the development rights or assurances provided by this Agreement, such New City Laws shall not apply to the Property or Project; provided, however, the Parties acknowledge that City's approval of this Agreement is a legislative action subject to referendum. Without limiting the generality of the foregoing, no moratorium or other limitation (whether relating to the rate, timing, phasing or sequencing of development) affecting subdivision maps, use permits, building permits, or other entitlements to use that are approved or to be approved, issued, or granted by City shall apply to the Property or Project. Developer agrees and understands that City does not have authority or jurisdiction over any other public agency's ability to grant governmental approvals or permits or to impose a moratorium or other limitation that may affect the Project. City shall reasonably cooperate with Developer and, at Developer's expense, shall undertake such actions as may be necessary to ensure that this Agreement remains in full force and effect. City, except to submit to vote of the electorate initiatives and referendums required by Applicable Law to be placed on a ballot and fulfill any legal responsibility to defend a ballot measure passed by its voters, shall not support, adopt, or enact any New City Law, or take any other action which would violate the express provisions or spirit and intent of this Agreement.

(b) California Codes.

(1) Notwithstanding subdivision (1) of Section 4.02(a), development of the Project shall be subject to changes occurring from time to time in the provisions of the City's building, mechanical, plumbing, fire, and electrical regulations which are based on the recommendations of multi-state professional organizations and become applicable through the City, including, but not limited to, the California Building Code and other similar or related California codes (the "California Codes"), provided that such California Codes apply to the Project, and only to the extent the applicable code (and the applicable version or revision of the code) has been adopted by City and is in effect on a Citywide basis.

(2) Such California Codes shall be interpreted and applied to construction of the Project in a reasonable manner consistent with the provisions and limitations in the particular code provision(s) adopted by City.

(3) Unless otherwise provided by this Agreement, the rules, regulations, and official policies governing permitted uses of the land, governing density, and governing design, improvement, and construction standards, and specifications, applicable to development of the Project Site shall be those rules, regulations, and official policies in force at the time of execution of the Agreement. This Agreement shall not prevent the City, in subsequent actions applicable to the Project Site, from applying new rules, regulations, and policies which do not conflict with those rules, regulations, and policies applicable to the Project Site as set forth herein, nor shall the Agreement prevent the City from denying or conditionally approving any subsequent development project application on the basis of these existing or new rules, regulations, and policies.

(c) More Applicable Law.

(1) The Applicable Law is further described below in subdivisions (2) through (16) of this Section 4.02(c).

(2) Environmental Mitigation. In connection with City's approval of any Subsequent Approval or issuance of any other permit or approval that is subject to CEQA, and to the extent permitted or required by CEQA, City shall commence and process any and all preliminary reviews, initial studies and other assessments pursuant to CEQA, and City shall first consider using and adopting any existing environmental impact report(s) certified for the Project, addenda thereto and other existing environmental reports and studies as adequately addressing the environmental impacts of such matter or matters before requiring new or supplemental review or documentation.

///

(3) No Conflicting Enactments. This Agreement shall not preclude City or the voters in City, by subsequent action, from enacting or imposing any New City Law, that conflicts with this Agreement. Without limiting the generality of the foregoing, or any other provision of this Agreement, a New City Law shall be deemed to conflict with this Agreement and the Applicable Law to the extent it does any of the following: (i) limits or reduces the number of lots or overall square footage which may be developed on the Project Site, or the overall density of the Project, or any part thereof, from that set forth in the Project Approvals, (ii) limits or controls the rate, timing, phasing, or sequencing of the approval of the development or construction of all or any portion of the Project, whether by moratorium, growth restriction,; this however does not apply to the availability of sewer connections for the Project (iii) changes any land use designation or permitted use vested by this Agreement, (iv) requires the issuance of additional permits or approvals by City other than those required by Applicable Law, or (v) limits the processing for or the obtaining of the Subsequent Approvals.

(4) Conditions of Approval. Developer shall be subject to those Conditions of Approval as set forth in **EXHIBIT D** to this Agreement. Where the Conditions of Approval and the terms of this Agreement conflict, the terms of this Agreement shall take precedence.

(5) SCIP. Developer may elect to use the Statewide Community Infrastructure Program ("SCIP") to fund all or a portion of the subdivision improvements, on-site and off-site. Engineering and Development Services staff shall not unreasonably withhold its support should the Developer elect to utilize SCIP financing.

(6) CFD. Participation in all Community Facilities Districts (CFDs) currently in effect at the time of Project Approval, including a Public Safety CFD, a Street Maintenance CFD, and an Operations and Maintenance CFD will be a requirement and will be laid out in the Conditions of Approval for this Project. These are also known or referred to as "Citywide CFDs."

(7) Processing Fees. For purposes of this Agreement, "Processing Fees" means all fees charged on a City-wide basis to cover the cost of City processing of development project applications, including any required supplemental or other further environmental review, plan checking (time and materials) and inspection and monitoring for land use approvals, design review, grading and building permits, General Plan maintenance fees, and other permits and entitlements required to implement the Project, which fees are in effect at the time those permits, approvals, or entitlements are applied for, and which fees are intended to cover the City's actual costs of processing the foregoing. Subject to Developer's right to protest and/or pursue a challenge in law or equity to any new or increased Processing Fees, City may charge and Developer agrees to pay all Processing Fees which are in effect on a City-wide basis at the time developer applies for permits, approvals, or entitlements. Developer shall only pay those Processing Fees in effect at the time of the Effective Date of this Agreement. Such processing fees are provided as a list. Said list is attached hereto and incorporated by reference as **EXHIBIT G**. Developer shall only be responsible for the fees listed on **EXHIBIT G**. Should the City add any additional Processing Fees at a later date that are not in effect at the time Developer and City enter into the Development Agreement, Developer shall not pay said fees. Notwithstanding the foregoing, City and Developer agree to amend and restate Exhibit E, as necessary, in the event one or more Impact Fees have been inadvertently omitted or if any escalation provisions have been inadvertently misstated or miscalculated. Developer shall pay the listed fee at the rate chargeable at the time of building permit issuance. The City does not intent to vest the amount of fees, only the type of fees, by way of the Development Agreement.

(8) Impact Fees.

(a) Generally. All City fees relating to new development are collectively referred to in this Agreement as "Impact Fees." Impact Fees shall mean monetary fees and impositions, other than taxes and assessments, charged by City and, except as otherwise expressly provided for herein, in effect as of the Effective Date, in connection with a development project for the purpose of defraying all or a portion of the cost of mitigating the impacts of a development project or the development of the public facilities and services related to a development project, including but not limited to the those in **EXHIBIT G**, attached hereto and any other City "fee" as that term is defined by Government Code Section 66000(b). The Impact Fees itemized on **EXHIBIT G** also include City wastewater and water capacity and connection charges, as set forth in the Mitigation Fee Act (Government Code section 66013 *et seq.*) Some Impact Fees are assessed on a square footage basis, while others require payment of a set amount (flat fee) regardless of square footage. In addition, the Tentative Map contains Conditions of Approval requiring the payment of certain Impact Fees. Developer agrees to pay the Impact Fees, including the Regional Transportation Impact Fee, In-Lieu Park Fees, and the standard Park Acquisition Fee, and at the rate and amount in effect at the time the fee is due. However, Developer shall not be required to pay the same Impact Fee for the same Project home twice (for example, if the Impact Fee appears as a Condition of Approval as well as in this Agreement). The payment of the Community Park Community Benefit Contribution shall not be considered as an Impact Fee paid twice by the Developer as it relates to In-Lieu Park Fees, Park Acquisition Fees, or any other Parks-related fees listed in **EXHIBIT G**. Notwithstanding the foregoing, City and Developer agree to amend and restate Exhibit E, as necessary, in the event one or more Impact Fees have been inadvertently omitted or if any escalation provisions have been inadvertently misstated or miscalculated.

(b) Fees Payable Prior to Building Permit Issuance. Developer shall pay the Impact Fees at building permit issuance for each Project home and other structure unless another time is set forth in the resolution or ordinance establishing the categories of Impact Fees, Mitigation Monitoring Program, or the Conditions of Approval. The Developer shall pay the amount of the particular category of Impact Fee that is in force and effect at the time of such building permit issuance or at such other time the Impact Fee is required to be paid as set forth in the resolution or ordinance establishing the Impact Fees, Mitigation Monitoring Program, or the Conditions of Approval or as determined by a fair share analysis approved by the City. This will be applicable to all fees, except for the Community Benefit Contributions discussed below.

(9) Community Benefit Contributions. In addition to the current fees listed in **EXHIBIT G**, Developer shall pay the following Community Benefit Contributions per Housing Unit. Developer understands and recognizes that the City is a growing community in San Joaquin County and the greater central valley. As such, development in the City is competitive. As the City continues to grow, it continues to face challenges as a full-service City to the increasing population. Except as otherwise provided herein, Developer shall not be entitled to any credits towards Processing Fees or Impact Fees due on account of the Community Benefit Contributions provided by Developer under this Agreement. As such, the Developer wishes to contribute to the growing community in the City and wishes to contribute the following Community Benefit Contributions as laid out below in order to benefit the City and, in particular, the future residents of the Development:

(a) $12,000 per Housing Unit for a Community Park Community Benefit Contribution to contribute to the purchase of a new Community Park north of the Project Site that will serve residents of the Project Site. This contribution will be due and payable in two payments.

(i) The first (1st) payment, in the amount of at least $2,775,500 shall be paid to the escrow holder of the City's purchase of the property adjacent to the project site for the new Community Park (the "Park Escrow"). The first payment shall be due the later of: within thirty (30) days following the San Joaquin County Local Agency Formation Commission (LAFCo) approval of the City's annexation Application for the Project Site, or within ten (10) days of escrow holder's proposed closing date of the Park Escrow.

(ii) The second (2nd) payment, in the remaining amount, shall be no later than nine (9) months after the first payment.

(iii) Should the Park Escrow not close, both the first (1st) and second (2nd) payments shall be returned to the Developer and this contribution shall then become due and payable incrementally upon building permit issuance for each housing unit.

(iv) Should the City purchase the land for the Community Park, and no development of the Community Park site is started by the City, then Developer's first (1st) and second (2nd) payment will be treated as prepayments of the Park Acquisition Fee and the Neighborhood Park In-Lieu Fee (as outlined on Exhibit G, the "Current Fees List", attached hereto and incorporated by reference herein). The City shall reimburse to Developer any payment in excess of the amounts normally required; and

(b) $3,300 per Housing Unit for an Infrastructure Community Benefit Contribution for improvements to City infrastructure due to impacts from the Project to be used at City discretion. Such impacts include, without limitation, streets, water, sewer, storm water, and other capital improvements. This contribution shall be due and payable incrementally upon building permit issuance for each Housing Unit; and

(c) $3,300 per Housing Unit for a Public Safety Headquarters Community Benefit Contribution to service the growing population of Manteca with state-of-the-art Public Safety facilities, including the significant growth anticipated by this Development. This contribution shall be due and payable incrementally upon building permit issuance for each Housing Unit; and

(d) $2,500 per Housing Unit for a Fire Engine Community Benefit Contribution to acquire a new fire vehicle to offset additional calls for service to the Project Site. This contribution shall be due and payable incrementally upon building permit issuance; and

///

///

///

///

(e) $2,000 per Housing Unit for an Affordable Housing Community Benefit Contribution. The City by its General Plan and under state law, is committed to increasing its supply of affordable housing and expects to adopt an inclusionary housing ordinance and/or an affordable housing impact fee in the future. The Parties recognize that creation of the proposed new market-rate housing Project will bring new households to the community who will expend money locally on goods and services. To meet this demand, new jobs will be created, a share of which are low paying, bringing with it new lower-income households and new demand for affordable units. Said Affordable Housing Unit Contribution is made in recognition of the importance of creating affordable housing solutions in the City in response to the lack of housing statewide. If the City adopts an affordable housing impact fee, and should that fee be less, the Developer recognizes that this contribution is in in recognition of the important State goal of providing affordable housing for more Californians. This contribution shall be due and payable incrementally upon building permit issuance; and.

(f) $1,100 per Housing Unit for Solid Waste Program Community Benefit Contribution for various solid waste offsets (i.e., discount programs) that future residents of the Project Site might use. This contribution shall be due and payable incrementally upon building permit issuance; and

(g) $350 per Housing Unit for City Electric Vehicle Community Benefit Contribution to provide on-site chargers for the City's fleet vehicles. This contribution shall be due and payable incrementally upon building permit issuance.

(h) **THE TOTAL COMMUNITY BENEFIT CONTRIBUTIONS PER HOUSING UNIT IN THIS AGREEMENT ARE AT LEAST: $ 24,550.00.**

///

///

///

///

///

///

///

///

///

///

///

///

///

///

///

///

///

///

///

///

///

(i) The fees, as detailed above, are set out in the chart below. The chart's inclusion is for summary purposes only and is not a duplication of the fees above.

Item No.	Community Benefit Contribution	Flat or Per Unit Contribution	Cost or Cost Per Unit	Total Cost	Description	Time of Payment
1	Community Park Community Benefit Contribution	Per Unit	$12,000	$5,460,000	For purchase of Community Park in Northern Manteca; will also serve as storm basin for Project	As outlined in Section 4.02(9)(a)
2	Infrastructure Community Benefit Contribution	Per Unit	$3,300	$1,501,500	For Improvements to City Infrastructure to be used at City Discretion	Issuance of Building Permit
3	Public Safety Headquarters Community Benefit Contribution	Per Unit	$3,300	$1,501,500	To build a new state of the art Public Safety Headquarters to service Manteca's growing population, including growth from Project	Issuance of Building Permit
4	Fire Engine Community Benefit Contribution	Per Unit	$2,500	$1,137,500	For acquisition of a New Fire Vehicle to offset impacts of calls for service from Project	Issuance of Building Permit
5	Affordable Housing Community Benefit Contribution	Per Unit	$2,000	$910,000	For creation of affordable housing stock in City due to lack of affordable units in Project. See Section 4.02(c)(9)(h).	Issuance of Building Permit
6	Solid Waste Program Community Benefit Contribution	Per Unit	$1,100	$500,500	For offsets for various solid waste programs for users in Project area	Issuance of Building Permit
7	City Electric Vehicle Community Benefit Contribution	Per Unit	$350	$159,250	For Installation of Electric Vehicle Chargers on City Campuses for City Electric Vehicle Fleet	Issuance of Building Permit
	TOTAL CONTRIBUTIONS		**$24,550**	**$11,170,250**		

///

///

///

(10) Connection Fees. For purposes of this Agreement, "Connection Fees" means those fees charged by the City or by a utility provider to utility users as a cost for connection to water, sanitary sewer, and other applicable utilities. Developer shall pay Connection Fees assessed by utility providers and other agencies assessing such fees at the rates in effect at time of connection.

(10) Parks. Should the Project develop with a temporary storm basin as approved by the City, and should the City acquire the land for a community park, and should the Project use part of the community park to fulfill its permanent storm basin requirements, the land for the temporary basin shall be converted to lots for Housing Units.

(11) Community Benefit Contributions Adjustment. Notwithstanding anything to the contrary, the City shall adjust the Community Benefit Contributions noted above in January of each year during the Term of this Agreement. Such adjustment shall be based on the change of an agreed upon consumer index, being either the Consumer Price Index (CPI) or the Engineering News Index (ENR) (the "Agreed Upon Index") as agreed upon in writing by the Parties. The Developer shall pay those fees in place at time payment is due, provided, that none of the Community Benefit Contributions are less than what is agreed upon in this Agreement when calculating the index adjustment and in no event shall the fees be less than in any previous year. If the Agreed Upon Index is no longer in effect or being updated, the Developer and the City shall agree upon a replacement cost index. The first year's adjustment shall reflect the annual change in the Agreed Upon Index from the Effective Date to January 1 of the following year. In each subsequent year, the adjustment shall reflect the change in the Agreed Upon Index from January of the current year to January the following year, during the Term of this Agreement.

(12) Contribution Deferral Program. Except for the Community Park Contribution, Developer may pay the aforementioned voluntary Community Benefit Contributions in Section 4.02(c)(9)(a)-(g), above at the time of final inspection. ("Contribution Deferral Program"). If Developer opts to use the Contribution Deferral Program, Developer shall pay an additional sum of Five Hundred Dollars ($500) per Housing Unit for at the issuance of each building permit at the time of final inspection for delaying payment of the aforementioned Community Benefit Contributions to the City.

(13) Storm Discharge Fee. Developer shall pay a Storm Discharge Fee of $1,500 per gross acre in order for the City to recover costs directly attributable to impacts of new development, namely new storm drain discharge requirements being placed on the City by South San Joaquin Irrigation District (SSJID).

(14) San Joaquin County Capital Facilities Fee. Pursuant to the Tax Allocation Agreement with the San Joaquin County regarding the Union Ranch North Annexation, Developer shall pay the County' s Capital Facilities Fee to County pursuant to County Ordinance No. 4252, adopted June 14, 2005. Upon payment of this fee to the City, the City will remit the fee revenues to County on a quarterly basis.

(15) Other Fees. Developer shall be subject to and shall comply with mitigation requirements (i.e. fees, etc.) imposed by regional, County, State, or Federal authority as if this Agreement were not in effect. The rights secured through this Agreement shall not better or worsen Developer's situation relative to such mitigation requirements.

(16) Overcapacity, Oversizing of Improvements. Developer shall comply with all overcapacity and oversizing of Improvements as outlined in their Conditions of Approval attached hereto as **EXHIBIT D**.

(17) Available Sewer Capacity. If the Wastewater Quality Control Facility (WQCF) Phase IV improvements have yet to be completed, but there exists sufficient sewer capacity as determined by the City to serve the Development, then sewer connections will be allowed. The City does not intend to vest utility connections by way of this Agreement.

(18) Water Conservation. The Project shall abide by all state and local regulations regarding water conservation. All tentative subdivision maps shall comply with the requirements of Government Code Section 66473.7.

(19) Precedence of Development Agreement over Project Approvals. In the event of any inconsistency between this Agreement and any Approvals and Subsequent Approvals, the provisions of this Agreement shall control.

(20) Water Supply Assessment. The Parties have read and approved the North Manteca Annexation #1 Water Supply Assessment dated May 2022 prepared by West Yost & Associates and hereby confirm that there is adequate water capacity for the allocations provided by herein. The Project also relied on the Water Supply Assessment in the 2015 Urban Water Management Plan and that also determined that there was adequate water capacity for the allocations provided herein.

(21) Subdivision Improvement Agreement. Developer's obligation to construct or cause the construction of, post improvement security, and provide warranties for the various on-site and off-site public improvements required by the Project Approvals and this Agreement shall be set forth in a subdivision improvement agreement ("Subdivision Improvement Agreement"), the form of which shall be reasonably acceptable to the City Attorney. The Subdivision Improvement Agreement shall be entered into by the Parties on or before approval of the first final subdivision map for the Project.

Section 4.03. Cooperation/Implementation.

(a) Efforts of the Parties.

(1) The Parties agree to cooperate with each other pursuant to this Agreement.

(b) Life of Approvals, Subsequent Approvals, and Other Entitlements.

(1) Generally. Pursuant to California Government Code Section 66452.6(a), the Term of the Approvals (including the Tentative Map) and Subsequent Approvals (collectively referred to in this Section only as "approval") shall automatically be extended for the longer of:

(A) The Term of this Agreement; or

(B) The term normally given the approval under controlling Law or City Law.

(2) Lapse. Any approval which has gone beyond the term normally given under controlling Law or City Law shall lapse and become null and void and of no further force or effect at the same time that this Agreement lapses or otherwise becomes Void.

(c) Changes in the Law. Pursuant to Government Code Section 65869.5, and notwithstanding any other provisions of this Agreement, this Agreement shall not preclude the application to the Project of any Law that is specifically mandated and required by changes in state or federal Law ("Changes in the Law"). In the event the Changes in the Law prevent or preclude compliance with one or more provisions of this Agreement, the Parties shall take the following actions:

(1) Notice and Copies. The Party which believes a Change in the Law has occurred shall provide the other Party hereto with a copy of such state or federal Law or regulation and a statement of the nature of its conflict with the provisions of the Applicable Law and/or of this Agreement.

(2) Modification Conferences. Developer and the City staff shall, within ten (10) business days, meet and confer in good faith and engage in a reasonable attempt to modify this Agreement, but only to the minimum extent necessary to comply with such federal or state Law or regulation. Following the meeting between the Parties, the provisions of this Agreement may, to the extent feasible, and upon mutual agreement of the Parties, be modified or suspended, but only to the minimum extent necessary to comply with such Changes in the Law. In such event, this Agreement together with any required modifications shall continue in full force and effect.

(3) Council Hearings. Thereafter, if the representatives of the Parties are unable to reach agreement on the effect of such federal or state law or regulation and the change upon the Agreement, or if the required change which is agreed to by the Parties requires, in the judgment of the City Manager and the City Attorney, a hearing before and/or approval by the City Council, then the matter shall be scheduled for hearing before the City Council by the City Clerk at its next meeting. At least ten (10) days' written notice of the time and place of such hearing shall be given by the City Clerk to the representative of Developer and the City Manager. The City Council, at such hearing, or at a continuation of such hearing, shall determine the exact modification, which is necessitated by such federal or state law or regulation. Developer, and any other interested person, shall have the right to offer oral and written testimony at the hearing. The determination of the City Council shall be final and conclusive, except for judicial review thereof.

(d) Processing. Developer shall provide City, in a timely manner, all documents, applications, plans and other information necessary or desirable for City to carry out its obligations hereunder and Developer shall cause Developer's planners, engineers, and all other agents, employees or consultants to submit, in a timely manner, all such materials and documents therefore. It is the express intent of Developer and City to cooperate and work together to implement any Applications for Subsequent Approvals that are necessary or desirable in connection with the development of the Project. Upon submission of all required documents, applications, plans and other information necessary or desirable for City to carry out its obligations hereunder, City shall commence and diligently complete all steps necessary to act on the Subsequent Approval application, including without limitation, the notice and holding of all required public hearings. City may deny an application for a Subsequent Approval only if: (i) such application does not comply with Applicable Law or the terms of this Agreement, or (ii) City is unable to make the findings required for such Subsequent Approval required by Applicable Law. City may approve an Application subject to any conditions necessary to bring the Subsequent Approvals into compliance with Applicable Law or allow the City to make the finding required by Applicable law, provided such conditions comply with Section 4.02(c)(4) of this Agreement. If City denies such Subsequent Approval, City shall specify in making such denial the modifications required to be made to obtain approval of such Application. Any such modifications must be consistent with Applicable Law and this Agreement. City shall approve such Subsequent Approval Application if resubmitted with the specified modifications.

(e) Other Governmental Permits. Developer shall apply in a timely manner for such other permits, approvals, grants, agreements and other entitlements ("Entitlements") as may be required by other agencies having jurisdiction over, or in connection with the development of, or provisions of services to, the Project. City shall cooperate with Developer relative to such Entitlements. City shall be bound by, and shall abide by, its covenants and obligations under this Agreement in all respects when dealing with any such agency regarding the Property. City shall cooperate with Developer, at Developer's expense, to the extent appropriate and as permitted by the Applicable City Regulations, in Developer's efforts to obtain, as may be required the Other Agency Subsequent Approvals. Nothing in this Section shall relieve Developer of its obligation to comply with the Project Approvals, notwithstanding any conflict between the Entitlements and the Project Approvals. Notwithstanding the issuance to Developer of Entitlements, Developer agrees that City may reasonably review and comment upon any materials or applications associated with Entitlements to ensure consistency with the Project Approvals and Developer shall make diligent good faith efforts to incorporate any and all changes requested by City prior to submitting such materials and applications for review and/or approval to the other governmental or quasi-governmental entities with jurisdiction over the Project Developer shall, at the time required by Developer in accordance with Developer's construction schedule, apply for all such other permits and approvals as may be lawfully required by other governmental or quasi-governmental entities in connection with the development of, or the provision of services to, the Project. Developer shall also pay all lawfully required fees when due to such public agencies. Developer acknowledges that City does not control the amount of any such fees. City shall reasonably cooperate with Developer in Developer's effort to obtain such permits and approvals; provided, however, City shall have no obligation to incur any costs, without compensation or reimbursement by Developer, or to amend any policy, regulation, or ordinance of City in connection therewith.

(f) Phased Maps. City acknowledges that Developer may, at its sole discretion, file phased final maps as permitted by California Government Code Section 66456.1 and City concurs in the filing of such multiple final maps. All improvements, which the City determines necessary to serve a phased final map, shall be constructed (or appropriate security shall be provided to ensure construction as provided in the Subdivision Map Act) prior to approval of that map, unless the Tentative Map (or conditions imposed thereon or Phasing Plan included therewith) contain a specific alternative deadline by which an improvement must be constructed.

(g) Union Labor. Developer agrees to use its best efforts to employ union labor in constructing the Project, and shall provide or notify the City of any agreements Developer may execute with any union or labor groups in connection with the Project.

(h) Local Vendor Preference. In order to encourage the purchase of supplies, services, construction materials or equipment from vendors located within the boundaries of the City, Developer agrees to use (or make a good faith effort to employ or engage) local vendors for any purchase or agreements that exceed Twenty-Five Thousand Dollars ($25,000) in value. Developer agrees to provide the City with an annual accounting of local vendors used during the construction of the Project, including the names and the monetary amount paid to any local vendors.

Section 4.04. Mandated Contents; General Permitted Uses. Throughout the duration of this Agreement, the permitted uses, density and intensity of uses, maximum height and size of the proposed homes, buildings and other structures, and the provisions for reservation or dedication of land and other terms and conditions of development applicable to the Project shall be those set forth in this Agreement and the Applicable Law it describes, including without limitation, the General Plan, Zoning Regulations, Tentative Map, and Conditions of Approval.

Section 4.05. Timing of Project Construction. Developer shall make reports of the progress of construction in such detail and at such time as the City Manager reasonably requests.

Section 4.06. Reservation of Powers. The City expressly reserves the right to apply to the Project any New City Law (i) which is found by the City to be necessary to protect the residents of the Project or the residents of the City from a condition dangerous to health or safety that is generally applicable on a Citywide basis to all properties in the City; (ii) which arises out of a documented emergency situation, as declared by the President of the United States, Governor of California, or the City Council; (iii) Regulations relating to hearing bodies, petitions, applications, notices, findings, records, hearings, reports, recommendations, appeals, and any other matter of procedure then applicable in City at the time the development permit application is deemed complete; (iv) Regulations governing construction standards and specifications, including City's building code, plumbing code, mechanical code, electrical code, fire code, and grading code, and all other uniform construction codes then applicable in City at the time the permit application is deemed complete. Notwithstanding Government Code Section 65866, new City Laws that seek to: (i) control the rate of development or construction in the City in a manner inconsistent with Parties' Rights under this Agreement, (ii) limit or reduce the number of lots or square footage which may be developed on the Project pursuant to this Agreement, (iii) change any land use designation or permitted use vested by this Agreement, (iv) limit the processing of applications for, or the obtaining of, Subsequent Approvals, or (v) require the issuance of additional permits or approvals by City other than those required by Applicable Law for development of the Project, shall not apply to the Project during the Term.

///

Section 4.07 Sales Tax Point of Sale Designation. Developer shall use good faith efforts to the extent allowed by law to require all persons and entities providing bulk lumber, concrete, structural steel and pre-fabricated building components, such as roof trusses, used in connection with the construction and development of, or incorporated into, the Project, to: (A) obtain a use tax direct payment permit; (B) elect to obtain a subcontractor permit for the job site of a contract valued at Five Million Dollars ($5,000,000) or more; or (C) otherwise designate the Property as the place of use of material used in the construction of the Project in order to have the local portion of the sales and use tax distributed directly to the City instead of through the County-wide pool. Developer shall instruct each of its general or subcontractors to cooperate with the City to ensure the full local sales/use tax is allocated to City. To assist City in its efforts to ensure that the full amount of such local sales/use tax is allocated to the City of Manteca, Developer shall provide City with an annual spreadsheet, or shall instruct their general or subcontractors to cooperate with the City in providing an annual spreadsheet, which shall include a list of all subcontractors with contracts in excess of the amount set forth above, a description of all applicable work, and the dollar value of such subcontracts. City may use said spreadsheet sheet to contact each subcontractor who may qualify for local allocation of use taxes to the City. Notwithstanding the foregoing, nothing in this Section 4.07 shall apply to tenants who perform their own tenant improvement work. In the event that City determines that the City has received less than the amount of sales/use taxes as required by this Section 4.07, Developer shall pay the amount of the delta within forty-five (45) days written notice from the City of the delta amount. Developer agrees to pay interest at the rate of six percent (6%) per annum of the payment due beyond the forty-five (45) day due date and the obligation to pay interest shall survive the termination of this Agreement. Should Developer fail to make the Sales Tax Point of Sale Designation, this shall not be considered a default of this Agreement by the City. City shall cooperate with Developer to obtain Sales Tax Point of Sale Designation for the Project.

Section 4.08 Representations and Warranties.

(a) City Representations and Warranties. City represents and warrants to the Developer the following:

(1) City is a municipal corporation, and has all necessary powers under the laws of the State of California to enter into and perform the undertakings and obligations of City under this Agreement.

(2) The execution and delivery of this Agreement and the performance of the obligations of City hereunder have been duly authorized by all necessary City Council action and all necessary approvals have been obtained.

(3) This Agreement is a valid obligation of City and is enforceable in accordance with its terms.

(4) The foregoing representations and warranties are made as of the Agreement Date. During the Term of this Agreement, City shall, upon learning of any fact or condition which would cause any of the warranties and representations in Section 4.08(a) not to be true, immediately give written Notice of such fact or condition to Developer.

(b) Developer Representations and Warranties. Developer represents and warrants to the City as follows:

(1) Developer is duly organized and validly existing under the laws of the State of California and is authorized to do business in California and has all necessary powers to own property interests and in all other respects enter into and perform the undertakings and obligations of Developer under this Agreement.

(2) The execution and delivery of this Agreement and the performance of the obligations of Developer hereunder have been duly authorized by all necessary company action and all necessary member approvals have been obtained.

(3) This Agreement is a valid obligation of Developer and is enforceable in accordance with its terms.

(4) Developer has not: 1) made a general assignment for the benefit of creditors; 2) filed any voluntary petition in bankruptcy or suffered the filing of any involuntary petition by Developer's creditors; 3) suffered the appointment of a receiver to take possession of all, or substantially all, of Developer's assets; 4) suffered the attachment or other judicial seizure of all, or substantially all, of Developer's assets; 5) admitted in writing its inability to pay its debts as they come due; or 6) made an offer of settlement, extension, or composition to its creditors generally.

(5) The foregoing representations and warranties are made as of the Agreement Date. During the Term of this Agreement, Developer shall, upon learning of any fact or condition which would cause any of the warranties and representations in this Section 4.08 not to be true, immediately give written Notice of such fact or condition to City.

ARTICLE 5. MODIFICATION.

Section 5.01. Modification of Agreement. After the original approval of the Approvals and this Agreement, the Developer may seek an amendment, revision, or other modification ("Modification") to such Approvals. The Parties desire to retain a certain degree of flexibility with respect to the details of the development of the Project and with respect to those matters covered herein

only in general terms. If and when City Manager and Developer mutually find that clarifications to this Agreement are appropriate to further the intended purposes hereof, and such (a) are not materially inconsistent with the Approvals and (b) such clarifications do not otherwise affect the Term, permitted uses, provisions for reservation and dedication of land, requirements relating to Subsequent Approvals, or other subsequent discretionary actions or monetary contributions by Developer, they may effectuate such changes, adjustments, or clarifications without prior notice, public hearing, or modifications to this Agreement through one or more operating memoranda approved by the City Manager and any corporate officer of Developer, which, after execution, shall be attached hereto and become a part hereof; provided, however, that nothing herein shall authorize the delegation of authority to the City Manager that is contrary to state or federal legal requirements. Depending on the scope of the modifications, the Parties recognize, agree, and acknowledge that any modifications may need to go before the Planning Commission and/or City Council for approval.

(A) If the Modification is not consistent with this Agreement or the Approvals, as they existed on the Effective Date ("Inconsistent Modification"), the Applicable Law may be subject to modification or renegotiation by the City as a condition of the City's approval of the Inconsistent Modification.

(B) If the Modification is consistent with this Agreement or the Approvals, as they existed on the Effective Date ("Consistent Modification"), the Applicable Law shall not be subject to modification, unless mutually agreed to by the Parties.

(C) The City Manager shall decide whether a requested Modification is an Inconsistent Modification or a Consistent Modification. Any such modification shall be subject to the processing requirements under City Law.

Section 5.02 Modification to Development Agreement Statute. This Agreement has been entered into in reliance upon the provisions of the Development Agreement Statute as those provisions existed as of the Effective Date of this Agreement. No amendment or addition to those provisions which would materially affect the interpretation or enforceability of this Agreement shall be applicable to this Agreement, unless such amendment or addition is specifically required by the California State Legislature, or is mandated by a court of competent jurisdiction. In the event of the application of such Changes in the Law, the Parties shall meet in good faith to determine the feasibility of any modification or suspension that may be necessary to comply with such Changes in the Law and to determine the effect such modification or suspension would have on the purposes and intent of this Agreement. Following the meeting between the Parties, the provisions of this Agreement may, to the extent feasible, and upon mutual agreement of the Parties, be modified or suspended, but only to the minimum extent necessary to comply with such Changes in the Law. If such Change in the Law is permissive (as opposed to mandatory), this Agreement shall not be affected by same unless the Parties mutually agree in writing to amend this Agreement to permit such applicability. Developer and/or City shall have the right to challenge any Changes in the Law preventing compliance with the terms of this Agreement, and in the event such challenge is successful, this Agreement shall remain unmodified and in full force and effect.

Section 5.03. Caveat. Notwithstanding anything to the contrary in this Section, a Modification of this Agreement is not required if Developer pursues alternate entitlements and provides notice to the City that Developer is waiving its vested rights acquired under this Agreement with respect to the alternate entitlements.

Section 5.04. Execution. Any Modification of this Agreement shall be in writing and shall require the signature of both the City and Developer.

ARTICLE 6. DEFAULT; PERIODIC REVIEW; DELAY; LEGAL CHALLENGE

Section 6.01. Default. It is acknowledged that neither party would have entered into this Agreement unless it provided that monetary damages would not be an available remedy for breach of the Agreement unless the Agreement were breached in bad faith. It is further acknowledged that the City would not have entered into this Agreement if Developer had not acknowledged that a reasonable relationship exists between all exactions imposed by this Agreement and the Project Approvals and all considerations referenced in this Agreement and the impact of the Project upon the community.

The Parties hereto may pursue any remedy at law or equity available for the breach of any provisions of this Agreement, except that neither Party shall be liable in damages to the other party, or to any Successors in Interest, or to any other person except as otherwise specified herein. Each Party covenants not to sue for damages or claim any damages, including consequential or incidental damages, for any breach of this Agreement (except for bad faith breach) or for any other cause of action arising from the Agreement, for taking, impairment, or restriction of any Right or interest conveyed pursuant to this Agreement or otherwise, or arising out of or connected with any dispute or issue regarding the application or interpretation or effect of the provisions of this Agreement. This limitation on damages shall not preclude actions by City to enforce payments of monies or the performance of obligations requiring an obligation of money from the Developer under the terms of this Agreement including, but not limited to, obligations to pay attorneys' fees and obligations to advance monies or pay funds under Section 4. In connection with the foregoing provisions, each Party acknowledges, warrants and represents that it has been fully informed with respect to, and represented by counsel of such Party's choice in connection with, the rights and remedies of such Party hereunder and the waivers herein contained,

and after such advice and consultation has presently and actually intended, with full knowledge of such Party's rights and remedies otherwise available at law or in equity, to waive and relinquish such rights and remedies to the extent specified herein, and to rely to the extent herein specified solely on the remedies provided for herein with respect to any breach of this Agreement by the other Party.

(a) Specific Performance. The Parties acknowledge that money damages and remedies at law generally are inadequate and that specific performance is an appropriate remedy for the enforcement of this Agreement and should be available to the Parties for the following reasons:

(1) Money damages are unavailable as provided in this Section 6.01.

(2) Due to the size, nature, and scope of the Project, it will not be practical or possible to restore the Project Site to its preexisting 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 Project Site 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. It will not be possible to determine the sum of money that would adequately compensate Developer for such efforts. By the same token, the City will have invested substantial time and resources and will have permitted irremediable changes to the land and increased demands on the surrounding infrastructure and will have committed, and will continue to commit to development in reliance upon the commitment to provide infrastructure and related improvements and other exactions to meet the needs of the Project and to mitigate its effect on the area and upon City and the public at large, all in reliance upon the terms of this Agreement, and it would not be possible to determine a sum of money which should adequately compensate City for such undertakings. For this reason, the City and Developer agree that if either Party fails to carry out its obligations under this Agreement, the other Party shall be entitled to, in addition to such other remedies as are available to it, the remedy of specific performance of this Agreement.

(b) Notice and Cure. The terms, provisions, and conditions of this Article 6 shall apply to any default or alleged default by either Party. While this Agreement is in effect, compliance by Developer with the terms of this Agreement is hereby made a condition to the Tentative Map. Failure or unreasonable delay by either Party to perform any term, provision, or condition of this Agreement ("Alleged Default") for a period of thirty (30) days ("Default Period" or "Cure Period") after written Notice thereof ("Default Notice") from the other Party ("Noticing Party") to the Party against whom the Alleged Default is made ("Curing Party") shall constitute a "Default" under this Agreement, subject to this Article 6 and to any extensions of time granted by mutual consent of the Parties in writing. The Default Notice shall be given pursuant to Article 8 of this Agreement and shall specify the nature of the Alleged Default and, where appropriate, the manner ("Cure") and period of time in which said Alleged Default may be satisfactorily cured ("Cure Period"). If the nature of the Alleged Default is such that it cannot reasonably be cured within such 30-day Default Period, the commencement of the Cure within the Default Period and the diligent prosecution to completion of the Cure (said period also considered to be the "Cure Period") shall be deemed a Cure within the Default Period.

(c) Cure Period. During any Cure Period the Curing Party shall not be in Default of this Agreement for the purposes of termination, institution of a Legal Action or other action or proceeding. If the Alleged Default is Cured, then no Default by the Curing Party shall have taken place or exist and the Noticing Party shall take no further action.

(d) Remedies. Subject to the foregoing provisions of this Section 6.01, after Default Notice and expiration of the 30-day Default Period without Cure, or without commencement of the Cure Period, or with commencement of the Cure but without diligent prosecution of the Cure, the Noticing Party may do the following:

(1) If the Noticing Party is the Developer, then after filing with and rejection by the City of the claim (pursuant to Government Code Section 910, *et. seq.*), Developer may institute a Legal Action regarding the Default against City.

(2) If the Noticing Party is the City, it may institute a Legal Action regarding the Default against the Developer, and/or it may give a "Notice of Intent to Terminate" the Agreement pursuant to the Development Agreement Statute (e.g., Government Code Section 65868) and City Law. Said Notice of Intent to Terminate shall be given pursuant to Article 8 of this Agreement. Following said Notice of Intent to Terminate, the matter shall be scheduled for public hearing for consideration and review by the City Council in the manner set forth in the Development Agreement Statute and City Law. At that hearing, Developer shall be required to demonstrate good faith compliance with the terms and conditions of this Agreement and the Approvals. If Developer demonstrates good faith compliance with the terms and conditions of this Agreement and the Approvals, the City may not provide "Notice of Termination" of the Agreement to Developer. If Developer does not demonstrate good faith compliance with the terms and conditions of this Agreement and the Approvals, the City may, at its option, give written Notice of Termination of the Agreement to the Developer. Said Notice of Termination shall be given pursuant to Article 8 of this Agreement; however, notwithstanding Article 8, said Notice of Termination shall be effective immediately upon the date of the Notice.

(3) Service of Process. In the event that any legal action is commenced by Developer against City, service of process on City shall be made by personal service upon the City Clerk of City or in such other manner as may be provided by law. In the event that any legal action is commenced by City against Developer, service of process on Developer shall be made by personal service upon Developer's registered agent for service of process, or in such other manner as may be provided by law.

(e) Relation to Annual Review. Evidence of an Alleged Default by Developer may also arise in the course of the regularly scheduled Review of this Agreement, as further described in Section 6.02 of this Agreement.

(f) No Waiver. Failure or delay by City or Developer in giving Default Notice pursuant to this Section shall not constitute a waiver by City or Developer of any Alleged Default or Default by Developer or City. Any failure or delay by City or Developer in asserting any of its Rights as to any Alleged Default or Default shall not operate as a waiver of any Alleged Default or Default or of any such Rights or deprive City or Developer of its Legal Rights or right to bring a Legal Action which City may deem necessary to protect, assert, or enforce any such Rights and Legal Rights. No waiver shall be effective or binding unless it is made in writing expressly identifying itself as a waiver of a Default under this Agreement.

Section 6.02. Periodic Review. The City may review the extent of good faith compliance by Developer with the terms of this Agreement at least every 12 months from the Effective Date ("Review"). The City Manager or their designee, in his or her reasonable discretion, may review such good faith compliance more often than once every 12 months. At the time of such Review (whether every 12 months or sooner) the Developer, or its Successors in Interest, shall be required to demonstrate good faith compliance with the terms of this Agreement. Such Review shall be performed pursuant to Article 5 of the City's "Procedures and Requirements for Consideration of Development Agreements," provided, however, that the City Manager shall issue a Notice of Compliance or a Notice of Non-Compliance (pursuant to Section 9.02 of this Agreement), as appropriate, and may take all such other actions permitted by this Agreement that the City Manager's determination may give rise to (e.g., proceedings under Section 6.01 of this Agreement). Said Notice of Compliance or a Notice of Non-Compliance shall take a form substantially similar to the form attached hereto and incorporated by reference as **EXHIBIT H**. Failure by City to conduct Review shall not be considered a waiver by City of any Alleged Default or Default of Developer, nor shall it be argued by Developer to be an Alleged Default or Default by City or Developer. The reasonable cost of each annual Review conducted during the term of this Agreement shall be reimbursed to City by Developer, provided that City provides Developer with an itemization of such costs for which reimbursement is sought. Such reimbursement shall include all direct and indirect expenses reasonably incurred in such Review, or by fee established by the City for such Review, or by fee established by the City for such Review.

(a) Non-Compliance Review Procedure. If the City Manager is not satisfied that Developer is performing in accordance with the terms and conditions of this Agreement, the City Manager shall prepare a written staff report for the Council's consideration to specify why Developer may not be in good faith compliance with this Agreement, refer the matter to the City Council, and notify Developer in writing at least 15 business days in advance of the time at which the matter will be considered by the City Council. This notice shall include the time and place of the City Council's meeting to evaluate good faith compliance with this Agreement, a copy of the City Manager's report and recommendations, if any, and any other information reasonably necessary to inform Developer of the nature of the proceeding. The City Council shall conduct a hearing at which Developer must submit evidence that it has complied in good faith with the terms and conditions of this Agreement. Developer shall be given an opportunity to be heard at the hearing. The findings of the City Council on whether Developer has complied with this Agreement for the period under review shall be based upon substantial evidence in the record. If the City Council determines, based upon substantial evidence, that Developer has complied in good faith with the terms and conditions of this Agreement, the review for that period shall be concluded. If the City Council determines, based upon substantial evidence in the record, that Developer has not complied in good faith with the terms and conditions of this Agreement, or there are significant questions as to whether Developer has complied with the terms and conditions of this Agreement, the City Council, at its option, may continue the hearing and may notify Developer of the City's intent to meet and confer with Developer within 30 days of such determination, prior to taking further action. Following such meeting, the City Council shall resume the hearing in order to further consider the matter and to make a determination regarding Developer's good faith compliance with the terms and conditions of this Agreement. In the event City determines Developer is not in good faith compliance with the terms and conditions of this Agreement, City may exercise its right to terminate this Agreement as provided herein.

Section 6.03. Failure to Conduct Periodic Review. The failure of City to conduct any such annual or regular periodic Review shall not constitute, or be asserted by Developer or City as, a breach of this Agreement, or a waiver of any rights herein.

Section 6.04. Enforced Delay; Extension of Time Performance. In addition to other specific provisions of this Agreement, performance by either Party hereunder shall not be deemed to be in Default where delays or failure to perform are due to war, insurrection, strikes, walkouts, riots, floods, earthquakes, fires, casualties, acts of God, governmental restrictions imposed or mandated by governmental entities other than City, judicial decisions, or similar basis for excused performance including economic recessions, which is not within the reasonable control of the Party to be excused. A "Challenge" (as defined in Section 6.05) shall be deemed to create an excusable delay as to Developer. Upon the request of either Party hereto (Notice of which shall be given in

the means and manner set forth in Article 8 of this Agreement), an extension of time for such cause shall be granted in writing by the other Party for the period of the enforced delay or longer as may be mutually agreed upon.

Section 6.05. Legal Action.

(a) Venue. All Legal Actions shall be initiated in the Superior Court of the County of San Joaquin, State of California. Should a Legal Action be initiated in Federal Court, the Federal District Court for the Eastern District of the State of California shall have original jurisdiction, and therefore, be the proper venue.

(b) Applicable Law/Attorney's Fees. This Agreement shall be construed and enforced in accordance with the laws of the State of California. If a Legal Action by either Party is brought relating to a Default under this Agreement or to enforce a provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and court costs. Attorneys' fees under this section shall include attorneys' fees on any appeal and, in addition, a Party entitled to attorneys' fees shall be entitled to all other reasonable costs and expenses incurred in connection with such action. In addition to the foregoing, the prevailing party in any such lawsuit shall be entitled to its attorneys' fees incurred in any post-judgment proceedings to collect or enforce the judgment. This provision is separate and several and shall survive the merger of this Agreement into any judgment on this Agreement.

(c) Indemnification. In the event of a Legal Action or other proceeding instituted by a party other than the Parties to this Agreement or their Successors in Interest, including without limitation another governmental entity or official ("Third Party") challenging the City's approval of any aspect of the Project or this Agreement, including but not limited to, the validity of any provision of this Agreement, the Approvals, the Subsequent Approvals the sufficiency of any and all of the past, present, or future environmental review and documentation of the Project pursuant to CEQA or any other action in which Developer is the defendant or is the real party in interest, whether named or not ("Challenge"), the Parties shall cooperate in defending against the Challenge as provided in this Section. City shall tender the complete defense of the Challenge to Developer (the "Tender") and upon Developer's acceptance of the Tender, the following shall apply:

(A) Developer shall indemnify and hold harmless City from any and all costs and fees, including without limitation attorneys' fees, court costs, costs of discovery, etc. and liabilities arising from the defense of the Challenge.

(B) Developer shall defend City. Developer shall control the defense of the Challenge; however, Developer shall coordinate said defense with City and shall seek and secure the City Council's concurrence with any settlement proposal, which shall not be unreasonably withheld.

(C) Developer shall be responsible for the attorneys' fees and costs owing to the legal counsel that Developer chooses.

(d) Statute of Limitations. Any and all claims by Developer arising out of or related to this Agreement shall be presented to the City Council by delivery to the City Clerk who shall place such claim on an agenda of a meeting of the City Council for consideration and decision. When required by this Article 6, notice and opportunity to cure shall be a condition precedent to the filing of a claim. Claims shall be presented not later than one hundred eighty (180) days after accrual of the cause of action, or any other shorter applicable statute of limitation allowed by California law. Causes of action (which are presented in the claim) which are based upon a City Default shall be deemed to accrue only after expiration of the Cure Period as provided in Article 6 of this Agreement.

(e) Release. Developer, for itself and Successors In Interest, hereby releases City from any and all claims, demands, actions, or suits of any kind or nature arising out of any liability, known or unknown, present or future, based solely upon the City having entered into this Agreement or the validity of the terms of this Agreement (collectively "released claims"), including, but not limited to, any released claims, based or asserted, pursuant to Article I, Section 19 of the California Constitution, the Fifth Amendment of the United States Constitution, or any other law or ordinance. Nothing in this Section shall be construed to release City from liability in the event of a breach of this Agreement. In the event of a breach of this Agreement, the Parties' remedies shall be governed by the provisions of Section 6.01 of this Agreement.

(f) Modification of Project Pursuant to Court Order. In the event of a court order issued as a result of a successful Legal Action as defined in this Agreement, City shall, to the extent permitted by law or court order, in good faith seek to comply with the court order in such a manner as will maintain the integrity of the Project Approvals, and in order to avoid or minimize to the greatest extent possible any impact to the development of the Project as provided for in, and contemplated by, the Project Approvals and this Agreement, or any conflict with the Project Approvals or this Agreement or frustration of the intent or purpose of the Project Approvals or this Agreement.

///

Section 6.06 Resolution of Disputes Not Provided for herein. With regard to any dispute involving the Project, the resolution of which is not provided for by this Agreement or Applicable City Regulations (i.e., any dispute that is not deemed a Default pursuant to Section 6.01 of this Agreement), a Party shall, at the request of another Party, meet with designated representatives of the requesting Party promptly following its request. The Parties to any such meetings shall attempt in good faith to resolve any such disputes. Nothing in this Section shall in any way be interpreted as requiring that Developer and City reach agreement with regard to those matters being addressed, nor shall the outcome of these meetings be binding in any way on City or Developer unless expressly agreed to in writing by the Parties to such meetings.

ARTICLE 7. MISCELLANEOUS PROVISIONS.

Section 7.01. No Agency; Joint Venture or Partnership. It is specifically understood and agreed to by and between the Parties that:

(a) The Project is a private development;

(b) City has no interest or responsibility for, or duty to, third parties concerning any improvements until such time, and only until such time, that City accepts the same pursuant to the provisions of the Agreement or in connection with the various Approvals or Subsequent Approvals;

(c) City and Developer will endeavor to allow Developer to have control over the Project. The Developer and the City will coordinate regarding the Developer's activities on the Project Site that impact the health, safety, and welfare of other residents of the City. Developer shall not reasonably withhold permission for the City to enter the Project Site to complete any and all necessary inspections within the City's authority as allowed under federal, state, or City Law.

(d) City and Developer hereby renounce the existence of any form of agency relationship, joint venture or partnership between City and Developer and agree that nothing contained herein or in any document executed in connection herewith shall be construed as creating any such relationship between City and Developer.

Section 7.02. Severability. If any portion, part, section, subsection, subdivision, sentence, phrase, word, term, provision, covenant, or condition of this Agreement (collectively, "Portion") or the application of any Portion of this Agreement to a particular situation is held by a court of competent jurisdiction to be invalid, void, or unenforceable, such Portion shall be considered severed from this Agreement and the remaining Portions of this Agreement as to other situations, shall continue in full force and effect unless amended or modified by mutual consent of the Parties. Notwithstanding the foregoing, the Conditions of Approval, the prohibition on monetary damages, and Indemnification and are essential elements of this Agreement and City would not have entered into this Agreement but for such provisions. Therefore, in the event such provisions are determined to be invalid, Void, or unenforceable, at City's option this entire Agreement shall be null and Void and of no force and effect whatsoever as of the date such determination becomes final.

Section 7.03. Other Necessary Acts. Each Party shall execute and deliver to the other all such other further instruments and documents as may be reasonably necessary to carry out this Agreement in order to provide and secure to the other Party the full and complete enjoyment of its Rights under this Agreement Upon the request of any Party, the other Party shall promptly execute, with acknowledgment or affidavit if reasonably required, and file or record such required instruments and writings and take any actions as may be reasonably necessary under the terms of this Agreement to carry out the intent and to fulfill the provisions of this Agreement..

Section 7.04. Construction. Each Party has received independent legal advice from its attorneys with respect to the advisability of executing this Agreement and the meaning of the provisions hereof. This Agreement has been drafted through a joint effort of the Parties and their counsel and therefore shall not be construed against either Party in its capacity as draftsperson, but in accordance with its fair meaning. Each reference herein to this Agreement or any of the Project Approvals (including any amendments or Subsequent Approvals) shall be deemed to refer to the Agreement and the Project Approvals as it may be amended from time to time in accordance with this Agreement, whether or not the particular reference refers to such possible amendment. Section headings in this Agreement are for convenience only and are not intended to be used in interpreting or construing the terms, covenants, or conditions of this Agreement.

Section 7.05. Other Miscellaneous Terms. The singular includes the plural; the masculine, feminine, and neuter genders shall each be deemed to include the others; "shall," "will," or "agrees" are mandatory; "may" is permissive; "or" is not exclusive; "include," "includes" and "including" are not limiting and shall be construed as if followed by the words "without limitation;" and "days" means calendar days unless specifically provided otherwise if there is more than one signer of this Agreement, the signer obligations are joint and several..

Section 7.06. Processing During Third Party Litigation. The filing of any third-party lawsuit(s) against City or Developer relating to this Agreement, the Project Approvals, any Subsequent Approvals or other development issues or approvals affecting the Project shall not delay or stop the development, processing or construction of the Project, approval of any future Subsequent

Approvals or issuance of future ministerial permits, unless the third party obtains a court order preventing the activity (i.e., a Temporary Restraining Order, Preliminary Injunction, or Permanent Injunction preventing development of the Project).

Section 7.07. Record of Applicable Law. Prior to the Effective Date of this Agreement, City and Developer shall use reasonable efforts to identify two identical sets of the Applicable Law, one set for City and one set for Developer, so that if it becomes necessary in the future to refer to any of the Applicable Law, there will be a common set of the Applicable Law available to both Parties.

Section 7.08. Binding Effect. All of the terms, provisions, agreements, rights, powers, standards, covenants and conditions of this Agreement shall be binding upon and shall inure to the benefit of the City and Developer, and their respective heirs, successors (by merger, reorganization, consolidation or otherwise), assignees, administrators, representatives, lessees, and all other persons acquiring the Project Site, or any portion thereof, or interest therein, whether by operation of law or in any manner whatsoever. Whenever the term "Developer" is used herein, such term shall include any other lawfully approved Successors in Interest of Developer, with respect to all or any portion of the Project Site.

Section 7.09. Waiver. Notwithstanding any other provision in this Agreement, any failures or delays by any Party in asserting any of its rights and remedies under this Agreement shall not operate as a waiver of any such rights or remedies, or deprive any such Party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert, or enforce any such rights or remedies. A Party may specifically and expressly waive in writing any condition or breach of this Agreement by the other Party, but no such waiver shall constitute a further or continuing waiver of any preceding or succeeding breach of the same or any other provision. Consent by one Party to any act by the other Party shall not be deemed to imply consent or waiver of the necessity of obtaining such consent for the same or similar acts in the future.

Section 7.10. No Third-Party Beneficiaries. The only parties to this Agreement are the City and Developer and their respective Successors in Interest. There are no third-party beneficiaries and this Agreement is not intended, and shall not be construed, to benefit or be enforceable by any other person whatsoever.

Section 7.11. Mortgagee Protection. The Parties hereto agree that this Agreement shall not prevent or limit Developer, in any manner at Developer's sole discretion, from encumbering the Project Site or any portion thereof or any improvement thereon by any mortgage, deed of trust or other security device securing financing with respect to the Project Site. City acknowledges that the lender(s) providing such financing may require certain Agreement interpretations and modifications, and City hereby agrees upon request, from time to time, to meet with Developer and representatives of such lender(s) to provide in good faith any such request for interpretation or modification. City will not unreasonably withhold its consent to any such requested interpretation or modification provided such interpretation or modification is consistent with the intent and purposes of this Agreement, but recognize that such modification may ultimately require approval by the Planning Commission and/or City Council. Any mortgagee of a mortgage or a beneficiary of a deed of trust ("Mortgagee") of the Project Site shall be entitled to the following rights and privileges:

(a) Neither entering into this Agreement nor a breach of this Agreement shall defeat, render invalid, diminish, or impair the lien of any mortgage or deed of trust on the Project Site made in good faith and for value.

(b) Any Mortgagee may give notice to City in writing that it holds a mortgage in the Project Site and may request copies of any Default Notice given to Developer under the terms of this Agreement to be sent to that Mortgagee. Any such notice shall include the address to which the Mortgagee desires copies of notices to be mailed. If City timely receives a request from a Mortgagee requesting a copy of any Default Notice given to Developer under the terms of this Agreement, City shall provide a copy of that notice to the Mortgagee within ten (10) days of sending the Default Notice to Developer. The Mortgagee shall have the right, but not the obligation, to cure the Default during the remaining Cure Period allowed such Party under this Agreement, and City shall accept such Cure by or at the instance of the Mortgagee as if the same had been made by the Developer.

(c) Any Mortgagee who comes into possession of the Project Site, or any part thereof, pursuant to foreclosure of the mortgage or deed of trust, or deed in lieu of such foreclosure, shall take the Project Site, or part thereof, subject to the terms of this Agreement; provided, however, in no event shall such Mortgagee be liable for any monetary obligations of Developer arising prior to acquisition of title to the Project Site by such Mortgagee, except that any such Mortgagee or its successors or assigns shall not be entitled to a building permit or occupancy certificate until all delinquent and current fees and other monetary obligations due under this Agreement for the Project Site, or portion thereof, acquired by such Mortgagee have been paid to City.

(d) Notice of Default to Mortgagee; Right to Cure. With respect to any Mortgage granted by Developer as provided herein, then so long as any such Mortgage shall remain unsatisfied of record, the following provisions shall apply:

(1) City, upon serving Developer any Notice of Default (as defined in Section 6.01), shall also serve a copy of such Notice upon any Mortgagee at the address provided to City, and no Notice by City to Developer hereunder shall affect any rights of a Mortgagee unless and until a copy thereof has been so served on such Mortgagee; provided, however,

that failure so to deliver any such Notice shall in no way affect the validity of the Notice sent to Developer as between Developer and City.

(2) In the event of a Default (as defined in Section 6.01) by Developer, any Mortgagee shall have the right to remedy, or cause to be remedied, such Default within sixty (60) days following the later to occur of (1) the date of Mortgagee's receipt of the Notice, or (2) the expiration of the period provided herein for Developer to remedy or cure such Default, and City shall accept such performance by or at the insistence of the Mortgagee as if the same had been timely made by Developer; provided, however, that (1) if such Default is not capable of being cured within the timeframes set forth in this Section 7.3.B and Mortgagee commences to cure the Default within such timeframes, then Mortgagee shall have such additional time as is required to cure the Default so long as Mortgagee diligently prosecutes the cure to completion and (2) if possession of the Property (or portion thereof) is required to effectuate such cure or remedy, the Mortgagee shall be deemed to have timely cured or remedied if it commences the proceedings necessary to obtain possession thereof within sixty (60) days after receipt of the copy of the Notice, diligently pursues such proceedings to completion, and, after obtaining possession, diligently completes such cure or remedy.

(e) No Supersedure. Nothing in this Section shall be deemed to supersede or release a Mortgagee or modify a Mortgagee's obligations under any subdivision or public improvement agreement or other obligation incurred with respect to the Project outside this Agreement, nor shall any provision of this Agreement constitute an obligation of City to such Mortgagee, except as to the Notice requirements.

(3) Any Notice or other communication which City shall desire or is required to give to or serve upon the Mortgagee shall be in writing, addressed to the Mortgagee at the address provided by Mortgagee to City. Any Notice or other communication which Mortgagee shall give to or serve upon City shall be deemed to have been duly given or served if sent in the manner and at City's address as set forth herein, or at such other address as shall be designated by City by Notice in writing given to the Mortgagee in like manner.

Section 7.12. Processing of Amendment or Modification. The Developer shall reimburse the City for its actual costs reasonably and necessarily incurred as a result of any amendment of modification to this Agreement initiated by the Developer or its Mortgagee, provided that the City shall use its best efforts to minimize such costs.

Section 7.13. Warranty of Ownership or Ability to Acquire Project Site. Developer warrants to the City that, as of the Effective Date of this Agreement, it owns the Project Site or has the right to acquire the Project Site.

Section 7.14. Covenants Run with the Land. All of the provisions, agreements, rights, powers, standards, terms, covenants and obligations contained in this Agreement shall be binding upon the parties and their respective heirs, successor (by merger, reorganization, consolidation or otherwise) and assigns, devisees, administrators, representatives, lessees, and all other persons acquiring the Project Site, or any portion, thereof, or any interest therein, whether by operation of law or in any manner whatsoever, and shall inure to the benefit of the parties and their respective heirs, successors and assigns. All of the provisions of this Agreement shall constitute covenants running with the land as provided in Government Code Section 65868.5.

Section 7.15 Estoppel Certificates. A Party may, at any time during the Term of this Agreement, and from time to time, deliver written Notice to the other Party requesting such Party to certify in writing that, to the knowledge of the certifying Party, the following: 1) this Agreement is in full force and effect and a binding obligation of the Parties; 2) this Agreement has not been amended or modified either orally or in writing, or if amended, identifying the amendments; 3) the requesting Party is not in default in the performance of its obligations under this Agreement, or if in default, to describe therein the nature and amount of any such defaults; and, 4) any other information reasonably requested. The requesting Party shall be responsible for all reasonable costs incurred by the Party from whom such certification is requested and shall reimburse such costs within thirty (30) days of receiving the certifying Party's request for reimbursement. The Party receiving a request hereunder shall execute and return such certificate, or give a written, detailed response explaining why it will not do so, within thirty (30 days following the receipt thereof. The failure of either Party to provide the requested certificate within such thirty (30) day period shall constitute a confirmation that this Agreement is in full force and effect and no modification or default exists. The City Manager shall have the right to execute any certificate requested by Developer hereunder. City acknowledges that a certificate hereunder may be relied upon by transferees and Mortgagees.

ARTICLE 8. NOTICES.

Section 8.01. Means and Manner.

(a) Generally. Any notice or communication required pursuant to this Agreement between City or Developer ("Notice") shall be in writing and be served upon the Party to whom addressed by personal service as required in judicial proceedings, or by deposit of the same in the custody of the United States Postal Service, postage prepaid to the addresses set forth in Section 8.02. A courtesy copy of such Notice may be made via email, but such transmission shall not replace the mail or personal delivery requirements of this Article. Notice shall be deemed for all purposes, to have been given and received on the

date of (i) personal services or (ii) three (3) consecutive calendar days following the deposit of the same in the United States mail as provided above.

Section 8.02. Addresses. Notices shall be given to the parties at their addresses set forth below:

If to City, to:
Toni Lundgren
City Manager City of Manteca
1001 West Center Street Manteca, CA 95337
Telephone: (209) 456-8017
Email: tlundgren@manteca.gov

With A Copy to:
L. David Nefouse
City Attorney, City of Manteca
1001 W. Center Street, Manteca, CA 95337
Telephone: (209)459-8551
Email: dnefouse@manteca.gov

If to Developer, to:
Evan Boyce
Agent, Pillsbury Road Partners, LLC
P.O. Box 1870
Manteca, CA 95336
Telephone: (209) 239-4014
Email:evanboyce@gmail.com

With a Copy to:
Albert Boyce
PO Box 1879
Manteca, CA 95336
Telephone: (209) 479-2896
Email: albertboyce@gmail.com

Any Party hereto may at any time, by giving Notice to the other Party pursuant to Section 8.01 of this Agreement, designate any other address in substitution to the address to which such Notice shall be given. Thereafter, all Notices relating to this Agreement shall be addressed and transmitted to such new address.

ARTICLE 9. TRANSFER TO SUCCESSORS INTERESTS; NOTICE OF COMPLIANCE/NON-COMPLIANCE.

Section 9.01. Transfer; Notice; Release. Developer shall have the right to sell, transfer, or assign its interest in the Project Site and/or Rights under this Agreement in whole or in part (provided that no such partial transfer shall violate the Subdivision Map Act and/or the terms of this Agreement) during the Term of this Agreement. Developer shall give at least thirty (30) days prior written Notice of its intention to transfer ("Transfer") to a Successor in Interest (Transferee") any portion of the Project Site and/or Rights under this Agreement (collectively, "Transferred Property"). Developer shall notify City in writing of any proposed Transfer at least thirty (30) days prior to completing such Transfer. At least twenty-one (21) days prior to the effective date of the Transfer, Developer shall deliver to City a draft of the proposed written assignment and assumption agreement in which the transferee expressly agrees to assume the rights and obligations of Developer under this Agreement being transferred. The assignment and assumption agreement shall be in substantially the same form attached hereto and incorporated by reference as it fully set forth herein as **EXHIBIT I**. No later than ten (10) business days after the date the Transfer becomes effective, Developer shall deliver to City a conformed copy of the fully executed and recorded assignment and assumption agreement. The Developer shall require the Transferee to assume in writing all of the obligations under this Agreement that relate to the Transferred Property. The portion of the Project Site and/or Rights not transferred to a Successors in Interest shall be referred to in this Agreement as the "Remaining Property." If all or any portion of the Transferred Property is Transferred by Developer to a Transferee, such Transferee shall automatically share all Rights of Developer, past, present, and future, relating to the Transferred Property. However, unless City in writing expressly consents to the Transfer and releases Developer in writing from Developer's Rights in the Transferred Property, a Transfer to a Transferee of such Transferred Property shall not release Developer from any Rights relating to such Transferred Property (or the Project as a whole). The City shall consent to a Transfer and release if the proposed Transferee provides sufficient evidence to the City of the financial and business ability to perform the obligations to be assumed by such Transferee. Upon such a written City consent to the Transfer and a release by City, which consent and release shall not be unreasonably withheld, conditioned or delayed, Developer shall be released from all Rights relating to such Transferred Property; however, such a City consent and release relating to a Transfer of Transferred Property shall not release Developer from its Rights relating to the

Remaining Property, if any. Upon such a written release by City, the Transferee shall thereafter be the sole party to whom Rights are held and owed regarding the Transferred Property.

Section 9.02. Notice of Compliance.

(a) Request. Within forty-five (45) days following any written request made in the means and manner required by Article 8 of this Agreement, which either Party may make from time to time, the other Party to this Agreement shall execute and deliver to the requesting party a Notice certifying:

(1) Whether this Agreement is unmodified and in full force and effect or, if there have been modifications hereto, whether this Agreement is in full force and effect as modified and stating the date and nature of such modification;

(2) Whether there are any current uncured Alleged Defaults or Defaults under this Agreement and specifying the dates and nature of any such Alleged Default or Default; and

(3) Any other reasonable information requested.

(b) Determination. In response, the responding party shall determine whether or not the requesting party follows this Agreement and shall issue, pursuant to Article 8 of the Agreement, a "Notice of Compliance" or a "Notice of Non-Compliance," as appropriate.

(c) Relation to Default. If the responding party determines that a Notice of Non-Compliance shall be issued to the requesting party, then the responding party may elect to have the Notice of Non-Compliance also serve as a Default Notice pursuant to Section 6.01 of this Agreement. If the responding party so determines, the response shall expressly state that it is also serving as such a Default Notice and the provisions of Section 6.01 of this Agreement shall apply.

ARTICLE 10. COUNTERPARTS; ENTIRE AGREEMENT; EXHIBITS.

Section 10.01. Counterparts. This Agreement may be executed in counterparts, each of which is deemed to be an original.

Section 10.02. Entire Agreement. This Agreement constitutes in full the final and exclusive understanding and agreement of the Parties and supersedes all negotiations or previous agreements between the Parties with respect to all or any part of the subject matter hereof. All waivers of the provisions of this Agreement shall be in writing, shall be signed by the appropriate authorities of City and the Developer, and Notice of same shall be provided pursuant to Article 8 of this Agreement.

Section 10.03. Exhibits. The following exhibits are attached to this Agreement and are hereby incorporated herein (as if set forth in full) for all purposes:

Exhibit A – Map of the Project Site
Exhibit B – Legal Description of the Project Site
Exhibit C – Tentative Map
Exhibit D – Conditions of Approval
Exhibit E– Mitigation Monitoring Program
Exhibit F – City Council Ordinance No. _____, Approving this Agreement
Exhibit G – Current Fee List
Exhibit H – Annual Review Form

ARTICLE 11. SIGNATURES; RECORDATION.

Section 11.01. Signature. Developer shall sign and acknowledge this Agreement pursuant to Section 1.04 of this Agreement and then deliver this Agreement to City for the Mayor to sign and acknowledge.

Section 11.02. Recordation. As provided in Government Code Section 65868.5, the City Clerk shall record a copy of this Agreement in the Official Records of the County of San Joaquin within ten (10) days following execution by the City.

///

///

///

IN WITNESS WHEREOF, this Agreement has been approved by City and has taken effect as of the Effective Date (the day and year first written in the preamble), and has been executed by the parties hereto as of the day and year shown on the notarial acknowledgments to this Agreement.

CITY OF MANTECA:

_____
Gary Singh, Mayor

ATTEST:

By:_____
Cassandra Candini-Tilton

APPROVED AS TO FORM:
L. David Nefouse, City Attorney

By:_____
L. David Nefouse, City Attorney

PILLSBURY ROAD PARTNERS, LLC.:

By:_____

Title: _____

EXHIBIT A

MAP OF THE PROJECT SITE

Attachment 2

EXHIBIT B

LEGAL DESCRIPTION OF THE PROJECT SITE

EXHIBIT C

TENTATIVE MAP

EXHIBIT D

CONDITIONS OF APPROVAL

Attachment 2

EXHIBIT E

MITIGATION MONITORING AND REPORTING PROGRAM

EXHIBIT F

CITY COUNCIL ORDINANCE NO. __-____, APPROVING THE PROJECT

EXHIBIT G

CURRENT FEE LIST

Standard Residential Fees

The following list gives general reference to the types of fees that are assessed to residential development as of _____, 2025, the effective date of this Union Ranch North Development Agreement. Some of the fees are based on square footage of the particular residential units, while others are standard (flat fee) regardless of size of the dwelling unit. All of these fees may be adjusted by City (increased or decreased) from time to time during the life of the project and the Development Agreement, pursuant to the enabling ordinance or resolution, and as provided for in Section 4.02 of the Agreement. Developer shall pay the amount of the particular fee in force and effect at the time of such building permit issuance, unless otherwise provided for in the enabling resolutions or ordinances.

1. Building Permit Fee
2. Plan Check Fee
3. Permit Administration Fee
4. Fire Facilities Fee
5. Government Building Facilities Fee
6. Major Equipment Purchase Fee
7. Model Water Efficient Landscape Ordinance Fee (MWELO)
8. Park – Acquisition and Improvement Fee
9. Park – In lieu Fee
10. Phase 3 Completion Fee
11. Phase 3 Connection Fee
12. Plan Retention / Technology Fee
13. Energy Storage System Fee
14. Long Range Planning Fee
15. Construction Business License Tax
16. Solar Photovoltaic Fee
17. Solid Waste Service Initiation Fee
18. PFIP Transportation
19. PFIP Sewer
20. PFIP Storm Drain
21. Surface Water Capital Fee
22. Surface Water Debt Fee
23. Meter Installation Fee
24. Ground Water Supply Fee
25. Distribution System Fee
26. Peaking Facility Fee
27. Agricultural Mitigation Fee
28. Levee Impact Fee (SJAFCA Fee – if applicable)
29. San Joaquin County Facilities Fee
30. San Joaquin County Regional Transportation Fee
31. Strong Motion Instrumentation Fee (State Earthquake Fund)
32. Building Standards Commission Green Building Fund Fee (Green Fee)
33. Sewer Connection Fee
34. Water Connection Fee

Attachment 2

EXHIBIT H

ANNUAL REVIEW FORM

This Annual Review Form is submitted to the City of Manteca ("**City**") by _____ ("**Developer**") pursuant to the requirements of California Government Code section 65865.1 regarding Developer's good faith compliance with its obligations under the Development Agreement between the City and Developer dated as of _____, 202_ ("**Development Agreement**"). All terms not otherwise defined herein shall have the meanings assigned to them in the Development Agreement:

Annual Review Period: _____ to _____.

[*Specify whether applicable Impact Fees, Capacity Fees, Processing Fees, Connection Fees and/or other fees due and payable have been paid during this annual review period.*

Describe any extension of the Term of the Development Agreement, including any extensions made as a result of Force Majeure Delay pursuant to Article 3 of the Development Agreement.

Summarize specific strategies to be followed in the coming year intended to facilitate the processing of permits and/or Project construction, including the construction of Affordable Housing Units.

Describe whether other applicable Development Agreement obligations were completed during this annual review period.

Specify whether Developer has assigned the Development Agreement in whole or in part or otherwise conveyed the Property or any portion thereof during this annual review period.]

The undersigned representative confirms that Developer is:

_____ In good faith compliance with its obligations under the Development Agreement for this annual review period.

_____ Not in good faith compliance with its obligations under the Development Agreement for this annual review period, in response to which Developer is taking the actions set forth in the attachment hereto.

IN WITNESS WHEREOF, Developer has executed this Annual Review Form as of this ____ day of _____, 20__.

DEVELOPER:

_____ , a

_____

By: _____
Name: _____
Title: _____

EXHIBIT I

ASSIGNMENT AND ASSUMPTION AGREEMENT (DEVELOPMENT AGREEMENT)

RECORDING REQUESTED BY **AND WHEN RECORDED RETURN TO:** City of Manteca 1001 W. Center Street, Manteca, CA 95337 Attention: City Clerk	

Space Above This Line Reserved for Recorder's Use
Exempt from Recording Fee Per Government Code Section 27383

ASSIGNMENT AND ASSUMPTION AGREEMENT

(DEVELOPMENT AGREEMENT)

This Assignment and Assumption Agreement (this "**Agreement**") is entered into as of _____, 20___ ("**Effective Date**"), by and between Pillsbury Road Partners LLC, a California limited liability company (the "**Assignor**"), and _____, a _____ (the "**Assignee**").

RECITALS

A. Assignor previously entered into that certain Development Agreement By and Between City of Manteca and Pillsbury Road Partners LLC, dated as of _____ __, 20__, which was recorded in the Official Records of San Joaquin County on _____, 20__ as Instrument No. _____ ("**Development Agreement**"). All defined terms not specifically defined herein in **bold** language shall have the meanings ascribed to the terms in the Development Agreement and are incorporated in this Agreement.

B. The Development Agreement relates to certain property located in the City of Manteca, County of San Joaquin, California (the "**Property**"). The Property is more particularly described in the Development Agreement.

C. Assignor desires to transfer all of Assignor's interest in the Development Agreement and to assign to Assignee its rights, duties and obligations under the Development Agreement and Assignee desires to accept and assume each and all of the rights, duties, and obligations of the Assignor under the Development Agreement.

D. Pursuant to Section 9 of the Development Agreement, the Assignor may assign in whole or in part its rights, duties and obligations under the Development Agreement without the City's consent, provided that the assignment is in writing and is made in accordance with Section 9 of the Development Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing, and in consideration of the foregoing recitals, mutual promises of the parties hereto and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Recitals. The parties agree that each of the foregoing Recitals are true and correct and are hereby incorporated by this reference as if fully set forth in their entirety.

2. Effective Date. As used in this Agreement, the "Effective Date" shall be the date this Agreement is entered into by the Assignor and Assignee as first written above.

3. Assignment. As of the Effective Date, Assignor transfers and assigns to Assignee all of Assignor's rights, duties and obligations under the Development Agreement ("collectively the "**Assigned Obligations**").

4. Assumption. As of the Effective Date, Assignor is assigning to Assignee and Assignee is assuming the foregoing assignment of the Assigned Obligations and agrees to perform and be bound by all of the terms, covenants, duties, obligations and conditions imposed upon the Assignor under the Development Agreement for the benefit of the City, as if the Assignee were the original signatory thereto, requiring performance

subsequent to the Effective Date. The Assignee agrees to be bound in every way by all of the terms, covenants, duties, obligations and conditions in respect of the Assignor contained in the Assigned Obligations occurring subsequent to the Effective Date. All references in the Development Agreement to the Assignor shall hereafter be deemed to be references to the Assignee.

5. Representation and Warranty of Assignor. Assignor represents and warrants that;

    a. To the best of the Assignor's knowledge, as of the date hereof, there exists no event of default under the Development Agreement and that there is no event that, with the giving of notice, the passage of time, or both, would constitute an event of default.

6. Release. Pursuant to Section 9 of the Development Agreement, upon execution and recordation of this Agreement, Assignor shall automatically be released from its obligations and liabilities under the Development Agreement with respect to that portion of the Property assigned, and any subsequent default or breach with respect to the retained rights and/or obligations shall not constitute a default or breach with respect to the retained rights and/or obligations of the Development Agreement, provided that Assignor has provide to City written notice of said assignment in accordance with Section 9 of the Development Agreement.

7. Indemnification. To the full extent permitted by law, Assignor and Assignee shall be obligated to indemnify the City according to the terms and conditions and to the same extent as is specified in the Development Agreement.

8. Further Acts. Each of the parties, upon the request of any other, agrees to perform such further acts and to execute and deliver such other documents as are reasonably necessary to carry out the provisions of this Agreement.

9. Attorneys' Fees. In the event of any litigation arising out of the subject matter of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and costs.

10. Severability. If any term, provision, condition or covenant of this Agreement or its application to any party or circumstance shall be held by a court of competent jurisdiction, to any extent, invalid or unenforceable, the remaining provisions of this Agreement shall remain in full force and effect to the extent allowed by law.

11. Governing Law and Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of California. In the event any legal action is commenced to interpret or to enforce the terms of this Agreement or to collect damages as a result of any breach thereof, the venue for such action shall be the Superior Court of the County of San Joaquin.

12. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, and all of such counterparts shall constitute one agreement. To facilitate the execution of this Agreement, the parties may execute and exchange counterparts of the signature pages by facsimile or electronic mail, and such facsimile or electronic mail counterparts shall be binding as original signature pages.

///

///

///

///

///

///

///

///

///

///

///

Attachment 2

ASSIGNOR:

Pillsbury Road Partners, LLC, a California limited liability company

By: _____

Name: _____

Title: _____

Date: _____

(Signatures must be notarized)

ASSIGNEE:

[Insert Assignee Entity Name]

By: _____

Name: _____

Its: _____

(Signatures must be notarized)

///

///

///

///

///

///

///

///

///

///

///

///

///

///

///

///

///

///

///

Attachment 2

CITY OF MANTECA CONSENT AND RELEASE

The City of Manteca hereby consents to the covenants, terms and conditions of the foregoing Partial Assignment and Assumption of Development Agreement. As of the date of this City consent, Developer shall be released from the Obligations under the Development Agreement to the extent related to the Transferred Property and Assignee shall be substituted for "Developer" thereunder with respect to the Transferred Property.

By execution of this Consent, City certifies that the Development Agreement is presently in full force and effect. To the best knowledge of City, Developer is not in default of any of its obligations under the Development Agreement. Except as stated in the foregoing Partial Assignment and Assumption of Development Agreement, the Development Agreement has not been amended, modified or supplemented in any way.

The undersigned is duly authorized to sign, acknowledge and deliver this Consent to Assignment on behalf of the City, and no other signatures are required or necessary in connection with the execution and validity of this Consent.

"CITY"

CITY OF MANTECA

By: _____

Name: _____

Its: CITY MANAGER

(*City Manager Signature Must be Notarized*)

ATTEST:

By: _____

Name: _____

Its: CITY CLERK

APPROVED AS TO FORM:

By: _____

Name: _____

Its: CITY ATTORNEY