

ORDINANCE NO. 2043

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF MERCED APPROVING DEVELOPMENT AGREEMENT NO. DA23-002 BY AND BETWEEN THE COUNTY OF MERCED AND FAGUNDES, FAGUNDES, FAGUNDES, A GENERAL PARTNERSHIP

THE BOARD OF SUPERVISORS OF THE COUNTY OF MERCED HEREBY ORDAINS AS FOLLOWS:

SECTION 1. Merced County Code Chapter 18.148 provides a procedure for processing development agreements for projects.

SECTION 2. California Government Code Sections 65864 through 65869.5 authorize the County of Merced to enter into binding development agreements with persons having legal or equitable interests in real property for the development of such property.

SECTION 3. References are made herein to Development Agreement No. DA23-002 between the County of Merced and Fagundes, Fagundes, Fagundes, a general partnership (“Agreement”), attached hereto as Exhibit A and incorporated herein by reference. The Agreement sets forth in detail the development schedule and the specific restrictions on the development of the subject property. The Agreement is binding on all future owners and developers as well as the present owners of the lands, and any substantial change can be made only after further public hearings before the Planning Commission and the Board of Supervisors of this County.

SECTION 4. On June 26, 2007, the Board of Supervisors adopted a Mitigated Negative Declaration for the Project. Pursuant to Section 15162 (“Subsequent EIRs and Negative Declarations”) of the CEQA Guidelines, the Board of Supervisors has determined that no further environmental review is required for the Project.

SECTION 5. The Agreement complies with Chapter 18.148 of the Merced County Zoning Code, which sets forth requirements for the filing, processing, review, and approval of development agreements.

SECTION 6. The Board of Supervisors finds that Development Agreement No. DA23-002 is in compliance with Merced County Code Chapter 18.148, including the contents of the development agreement application and the proposed agreement itself. In accordance with Merced County Code Section 18.148.050, the Board of Supervisors finds as follows:

- a. The development agreement is in the best interests of the County. The project is a request to adopt an ordinance approving a development agreement for applicants FAGUNDES, FAGUNDES, FAGUNDES. This development agreement would create vested rights in project approvals, address implementation of the proposed project and associated infrastructure improvements in the project area and specify the benefits to the County.

Major Subdivision No. MAS06-008 was approved by the Board of Supervisors on June 26, 2007, to subdivide 35 acres into 142 residential lots (ranging in size from 6,000 square feet to 9,029 square feet), a 1-acre commercial parcel, a storm drainage lot, two open space lots, a well lot, and a historical site to be dedicated to the Winton Historical Society. The project site is located east of the intersection of Winton Way and Manor Avenue in the Winton area, identified as Assessor's Parcel Numbers APN's 147-200-002, 147-200-003, 147-200-005, 147-200-006, 147-200-007. The project site is designated Winton Urban Community Plan and Low Density Residential and General Commercial land use in the General Plan and zoned R-1 (Single-Family Residential) and zoned C-1 (Neighborhood Commercial).

The approved tentative map, MAS06-008, would add additional units to Winton and the overall county housing stock while paying for its fair share of development impacts and constructing necessary improvements. Additionally, the project would dedicate spaces/lots for park and open space, a well site for Winton Water and Sanitary District (WWSD) for future water demands, and a historical site to be dedicated to the Winton Historical Society.

- b. The development agreement is consistent with the purpose, intent, goals, policies, programs, and land use designations of the General Plan, any applicable specific plan, and this Zoning Code. The proposed Development Agreement would vest project approvals that were determined to be consistent with the General Plan, Winton Community Plan, and Zoning Code at the time of approval. There are no changes to the project as proposed by the development agreement, project site, or surrounding area.
- c. The development agreement would promote the public convenience, health, interest, safety, and general welfare of the County. The development agreement would not change any of the conditions of approval of the original project or the mitigation measures required to be implemented.
- d. The project would be compatible with the uses authorized in, and the regulations prescribed for, the zone in which the real property is located. The project site is contemplated for residential development in as designated by the General Plan, community plan, and zoning map. The approved subdivision would allow for the residential development anticipated, and compliance with the conditions and standard regulations which ensure continued compatibility with the surrounding area.
- e. The project would not adversely affect the orderly development of property or the preservation of property values. The project is consistent with the General Plan and Winton Community Plan which dictates the vision and overall development pattern of the plan area.
- f. The project would further important Countywide goals and policies that have been officially recognized by the Board. The project is consistent with the General Plan and Winton Community Plan which contain the County's goals and policies as adopted by the Board of Supervisors.
- g. The project would provide the County with important, tangible benefits beyond those that may be required by the County through project conditions of approval. The project would

provide additional housing stock, park and open space, land for utilities that could serve the community, and a historical site for the Winton Historical Society.

SECTION 7. The Agreement is hereby approved and authority is hereby granted for the County Executive Officer to execute the Agreement approved by the Board of Supervisors during the public hearing process.

SECTION 8. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 9. Notice is hereby given that, pursuant to the Mitigation Fee Act, the County of Merced charges certain fees (as such term is defined in Government Code Section 66000) in connection with approval of your development project for the purpose of defraying all or a portion of the cost of public facilities related to your development project (Mitigation Fee Act Fees). These fees do not include fees for processing applications for governmental regulatory actions or approvals, or fees collected under development agreements. The Mitigation Fee Act Fees applying to your project are listed in the schedule of fees provided. Notice is also hereby given that you have the opportunity to protest the imposition of the Mitigation Fee Act Fees within 90 days of the approval or conditional approval of your development project and that the 90-day approval period in which you may protest has begun.

SECTION 10. This Ordinance was introduced at the regular meeting of the Board of Supervisors on November 26, 2024. This Ordinance shall take effect and be in full force on and after thirty (30) days from the date of its passage, and before the expiration of fifteen (15) days from the date of its passage it shall be published once with the names of the members of the Board of Supervisors voting for and against the same, said publication to be made in a newspaper of general circulation published in the County of Merced.

The foregoing Ordinance was passed and adopted by the Board of Supervisors of the County of Merced, State of California at a regular meeting thereof held on the 26th day of November, 2024 by the following vote:

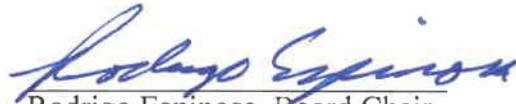
SUPERVISORS

AYES: Rodrigo Espinosa, Joshua Pedrozo, Daron McDaniel, Scott M. Silveira

NOES: None

ABSENT: None

ABSTENTIONS: Lloyd Pareira, Jr.


Rodrigo Espinosa, Board Chair
Merced County Board of Supervisors

ATTEST:

RAUL LOMELI MENDEZ
Clerk of the Board of Supervisors
of the County of Merced



By 
Deputy

APPROVED AS TO FORM AND LEGAL EFFECT:
FORREST W. HANSEN,
MERCED COUNTY COUNSEL

By: 

MATT H. MAY

Merced County Clerk – Recorder

BOS Board of Supervisors

**RECORDING REQUESTED BY:
Board of Supervisors**

Doc#: **2025000408**

Titles: 1 Pages: 36
Fees NO FEE



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RETURN TO:

**Merced County Board of Supervisors
2222 "M" Street
Merced CA 95340**

DOCUMENT TITLE(S)

**DEVELOPMENT AGREEMENT
BY AND BETWEEN THE COUNTY OF MERCED AND
FAGUNDES, FAGUNDES, FAGUNDES, A GENERAL PARTNERSHIP
RELATING TO MAJOR SUBDIVISION NO. MAS06-008 –
"WINN RANCH" – A PORTION OF THE WINTON COMMUNITY PLAN**

**DEVELOPMENT AGREEMENT
RELATIVE TO MAJOR SUBDIVISION NO. MAS06-008 - "WINN RANCH" –
A PORTION OF THE WINTON COMMUNITY PLAN**

This Development Agreement ("Agreement") is entered into this 26th day of November, 2024, by and between the County of Merced ("County") and Fagundes, Fagundes, Fagundes, a general partnership ("Landowners"), pursuant to the authority of California Government Code Sections 65864 through 65869.5 and the Development Agreement Ordinance. All capitalized terms used herein shall mean and refer to those terms as defined in Section 1.3 below.

RECITALS

A. Authorization. To strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic risk of development, the Legislature of the State of California adopted the Development Agreement Statute, which authorizes County and an applicant for a development project with a legal or equitable interest in the subject property to enter into a development agreement, establishing certain development rights.

B. Property. The subject of this Agreement is the development of the Property, which consists of approximately thirty-five (35) acres of land generally located east of the intersection of Winton Way and Manor Avenue in the Winton area, identified as Assessor's Parcel Numbers APN's 147-200-002, 147-200-003, 147-200-005, 147-200-006, 147-200-007 as shown in Exhibit A-2.

C. Hearings. On November 6, 2024, the County Planning Commission, designated as the planning agency for purposes of development agreement review pursuant to California Government Code Section 65867, in a duly noticed and conducted public hearing, considered this Agreement and recommended that the Board of Supervisors approve this Agreement. On November 26, 2024, the Board of Supervisors, in a duly noticed and conducted public hearing, considered the Mitigated Negative Declaration ("MND") and Mitigation Monitoring and Reporting Program ("MMRP") originally adopted for the Project and this Agreement. After taking testimony and considering the matter, the Board of Supervisors closed the public hearing, deliberated, made the requisite findings, and then adopted Ordinance No. 2043. Said Ordinance determines that this Agreement is consistent with and will facilitate implementation of, the County's General Plan and the Winton Community Plan; and approves this Agreement and authorizes its execution. The Adopting Ordinance shall become effective on Dec. 26, 2024.

D. Project. Landowners are the owners and developers of the Property, which is located within the Winton Community Plan area and has been long-planned for development of single-family residential, commercial and related uses along with various on- and off-site infrastructure and improvements, as more fully shown on the Tentative Subdivision Map MAS06-008 and detailed in the Project conditions of approval.

E. To implement the development of the Property, Landowners obtained County approval of the Tentative Subdivision Map. The life of the Tentative Subdivision Map has been

extended as a result of various statutory extensions as well as discretionary extensions granted by County in accordance with applicable laws and regulations.

F. Original Environmental Review. In compliance with the California Environmental Quality Act (Pub. Res. Code § 21000 *et seq.* and CEQA Guidelines § 15000 *et seq.*) (collectively, "**CEQA**"), on May 1, 2007, the Board of Supervisors adopted a Mitigated Negative Declaration for the Project.

G. No New or More Severe Significant Impacts Associated with Approval of this Agreement. After County's original adoption of an MND pursuant to CEQA, County, as the lead agency, determined, based on substantial evidence in the record, that no further environmental review is required as none of the three triggers under CEQA Guidelines Section 15162(a)(1-3) would occur as a result of County entering into this Development Agreement.

H. General and Community Plans. On May 11, 2021, County approved the Winton Community Plan ("**Community Plan**"), which contemplates the implementation of a land use vision for the unincorporated Winton area that reflects a significant degree of planned growth, including, without limitation, the Project. Development of the Property in accordance with the Entitlements (including, without limitation, this Agreement) will provide for the orderly and planned growth contemplated in the General Plan and the Community Plan and will be consistent with the applicable General Plan and Community Plan goals, policies and objectives.

I. Substantial Costs to Landowners. Landowners have incurred and will continue to incur substantial costs in order to assure development of the Property in accordance with the Entitlements (including, without limitation, the terms and conditions of this Agreement).

J. Development Agreement Ordinance. County and Landowners have taken all actions mandated by and fulfilled all applicable requirements set forth in the Development Agreement Statute and Development Agreement Ordinance.

K. Findings. County finds that the Agreement is consistent with County's General Plan and the Community Plan, including, among other things, helping to facilitate the land use vision and orderly planned growth contemplated therein; is in conformity with the public convenience, general welfare, and good land use practices; is in the vital and best interests of County and the health, safety and welfare of its residents and will not be detrimental to the health, safety, and general welfare of persons residing in the immediate area nor be detrimental or injurious to property or persons in the general neighborhood or to the general welfare of the residents of the County of Merced as a whole; will not adversely affect the orderly development of property or the preservation of property values; will promote and encourage the development of the Project by providing a greater degree of requisite certainty; and is in accord with applicable laws and regulations.

L. Purpose. The parties desire to enter into this Agreement to: (1) set forth Landowners' obligations to pay all applicable fees; (2) facilitate development of the Project, as allowed for under the Entitlements, including, without limitation, through the extension of the life of the Tentative Subdivision Map as provided for herein; and (3) provide certainty to Landowners

that they can proceed with development of the Project as contemplated by the Entitlements and as provided for in the land use vision set out in the General Plan and the Community Plan.

NOW, THEREFORE, County and Landowners hereby agree as follows:

ARTICLE 1

GENERAL PROVISIONS

1.1 Incorporation of Recitals. The preamble, the recitals and all defined terms in this Agreement are hereby incorporated into this Agreement as if set forth herein in full.

1.2 Property Description and Binding Covenants. Upon satisfaction of the conditions to this Agreement becoming effective and recordation of this Agreement pursuant to Section 1.4.1 below, the provisions of this Agreement shall constitute covenants which shall run with the Property and the benefits and burdens hereof shall bind and inure to parties' respective successors and assigns.

1.3 Definitions.

"**Adopting Ordinance**" means Ordinance No. 2043, dated Nov. 26, 2024, approving this Agreement.

"**Agreement**" means this Development Agreement by and between County and Landowners pursuant to the Development Agreement Statute and the Development Agreement Ordinance.

"**Board of Supervisors**" or "**Board**" means the Board of Supervisors of the County of Merced.

"**CEQA**" has the meaning set forth in Recital G above.

"**County**" means the County of Merced.

"**Development Activity**" means, collectively, any development, construction and/or land use activities involved in the construction of the Project, including, without limitation, demolition, ground disturbance, grading, land alteration, and construction of any and all Project improvements, including, without limitation, structures, roadways, infrastructure, improvements, dwelling units, commercial buildings and non-residential buildings and facilities.

"**Development Agreement Ordinance**" means the provisions of County Ordinance No. 1361, Establishing Procedures for Development Agreements.

"**Development Agreement Statute**" means California Government Code Section 65864 *et seq.*

"**Effective Date**" means the date which is thirty (30) calendar days after the date of the approval of the Adopting Ordinance approving this Agreement. The Effective Date shall be inserted above, where indicated.

"**Entitlements**" means collectively, the Initial Entitlements and the Subsequent Entitlements.

“Existing Rules” means County’s statutes, rules, regulations, and official policies, including, without limitation, the Initial Entitlements, as well as those governing the permitted uses of land, density, design, improvement and construction standards and specifications applicable to development of property, which are in force and effect on the Effective Date of this Agreement.

“Fagundes, Fagundes, Fagundes” has the meaning set forth in the preamble.

“First Term Extension” has the meaning set forth in Section 1.4.2.2 below.

“General Plan” means the 2030 Merced County General Plan adopted by the Board of Supervisors on December 10, 2013 by Resolution No. 2013-147.

“Initial Entitlements” means, collectively: (1) General Plan Amendment No. GPA06-003; (2) Zone Change No. ZC06-003; and (3) the Tentative Subdivision Map MAS06-008.

“Initial Term” has the meaning set forth in Section 1.4.1 below.

“Landowners” means, collectively, Fagundes, Fagundes, Fagundes and their respective successors and assigns.

“Mortgagee” means any lender or other individual or entity that obtains a Mortgage against all or any portion(s) of the Property.

“Mortgage” means any mortgage, deed of trust, security agreement, sale or leaseback financing, or other like security instrument encumbering all or any portion(s) of the Property.

“New Rules” means any new or modified statutes, rules, regulations, and official policies adopted by County or by initiative after the Effective Date.

“Planning Commission” means the Planning Commission of the County of Merced.

“Processing Fees” shall mean, collectively, all lawfully adopted fees for processing development project applications imposed by County on a county-wide basis, including plan checking and inspection, in connection with the processing and consideration of any Entitlement(s), which are intended to cover the actual costs of processing and consideration of the foregoing.

“Property” means those certain parcels of land shown in Exhibits A-1 and A-2, attached hereto.

“Second Term Extension” has the meaning set forth in Section 1.4.2.2 below.

“Subsequent Entitlements” means those project-specific approvals, entitlements and permits which, in addition to the Initial Entitlements, are required by the Existing Rules in order for Development Activity to occur on the Property. Subsequent Entitlements may include, without limitation, this Agreement, final/parcel map(s), use permit(s), site plan/design review, sign permit(s), tree removal permit(s), grading permit(s), encroachment permit(s), foundation permit(s), building permit(s), and certificate(s) of occupancy, as well as any approved amendments to any of the Initial Entitlements.

"Tentative Subdivision Map" means Major Subdivision No. MAS06-008, also known as "Winn Ranch", allowing for the subdivision of 35 acres into one hundred forty-two (142) residential lots, one-acre commercial parcel, one (1) storm drainage basin lot, two (2) open space lots, one (1) well site lot, and one (1) historical site to be dedicated to the Winton Historical Society, which has been approved by the County.

"Term" means the term of this Agreement as defined in Section 1.4.1 below.

"Winn Ranch" (or the "Project") means the Development Activity on the Property consistent with the Initial Entitlements and/or Subsequent Entitlements, once approved and effective.

1.4 Term.

1.4.1 Commencement; Initial Term; Expiration. The Term shall commence upon the Effective Date. The Term shall be defined herein to consist of, collectively, the Initial Term, the First Term Extension and the Second Term Extension. This Agreement shall be recorded against the Property within ten (10) days after County enters into this Agreement, as required by California Government Code Section 65868.5. The Term shall be for an initial period of ten (10) years ("**Initial Term**") after the Effective Date, unless said Term is terminated, modified or extended as provided for herein. Following expiration of the Term, this Agreement shall be deemed terminated and of no further force and effect, except for the indemnification obligation under Section 6.1 below, which shall survive termination of the Agreement.

1.4.2 Extensions.

1.4.2.1 Tolling and Extension During Legal Challenge, Moratoria or Other Government Restrictions. If this Agreement or any of the other Entitlements are subjected to legal challenge by a third party other than Landowners, the Term of this Agreement shall, upon written request to County of Landowners be extended and tolled during such litigation until the entry of final order or judgment upholding this Agreement and/or the other Entitlements at issue, or the litigation is dismissed by stipulation of the parties or otherwise settled to the satisfaction of Landowners. Similarly, if Landowners are unable to undertake Development Activity on all or any portion(s) of the Property due to the imposition by County (by initiative or otherwise) or by any other public agency of: (a) a development moratorium for imminent health or safety reasons, or (b) other government order (including, without limitation, "shelter in place" restrictions) in connection with global or national health crises, epidemics, or quarantine that prevent, impair or otherwise impede the ability of Landowners to undertake Development Activity, which are unrelated to the performance of Landowners' obligations hereunder, then the Term of this Agreement shall, upon written request by Landowners, be extended and tolled for the period of time that such moratorium or other government order prevents such Development Activity of all or any portion(s) of the Property, up to a maximum of ten (10) years. Provided, however, that for purposes of the force majeure event(s) described in clause (b) above, any such event(s) shall be deemed to have ended upon the lifting of all relevant federal, state and local emergency declarations.

1.4.2.2 Extension for Good Faith Progress. So long as Landowners have made substantial, good faith progress in implementing the Project as reflected by the achievement of the matter(s) described in clauses (a) and/or (b) below, respectively, then upon request to County from Landowners made prior to the expiration of the Term, the Term shall be automatically extended under the following circumstances:

(a) After the Initial Term, the Term shall be extended for an additional period of three (3) years ("**First Term Extension**") if Landowners provide documentation that is reasonably acceptable to County that one of the following has occurred: (i) Winton Water and Sanitary Sewer District (**WWSSD**) can serve the Project with water or sewer; or (ii) Landowners have secured another water supply source or sewer capacity, which has been approved by County, and which is sufficient to serve all or a portion of the buildout of the Project.

(b) After the First Term Extension, the Term shall be extended for an additional five (5) years ("**Second Term Extension**") if Landowners have recorded a final map for the Property that covers a minimum of fifty (50) single-family lots and paid all applicable fees due upon recordation of said final map.

1.4.2.3 Extension of Term Due to Other Agency Action. If any governmental or quasi-governmental authority other than County prevents, delays or precludes compliance with one or more provisions of this Agreement, or requires a material modification of the Initial Entitlement(s) or any Subsequent Entitlement(s) approved by County, Landowners shall notify County in writing of the anticipated duration of any delay caused thereby, and, provided any such delay is not the fault of Landowners as may be reasonably determined by the Board of Supervisors, the parties agree that Landowners may request, and the Board of Supervisors may grant an extension of the Term as the Board of Supervisors determines may be reasonably necessary to comply with the regulations of the other governmental or quasi-governmental authority at issue.

1.4.2.4 Mutual Consent. In addition to the extensions set forth in Sections 1.4.2.1 through 1.4.2.3 above, the parties may elect to extend the Term by mutual written consent.

1.4.3 Termination. This Agreement shall be terminated and of no further effect upon the occurrence of any of the following events:

1.4.3.1 Expiration of the Term, subject to any extensions provided for hereunder;

1.4.3.2 Completion of the Project in accordance with the Entitlements and County's issuance of all required occupancy permits and acceptance of all related public improvements required under the Entitlements (including, without limitation, this Agreement);

1.4.3.3 For any specific residential dwelling or other structure within the Project, this Agreement shall automatically be terminated as to the parcel(s) upon which such dwelling or other structure is located upon County's issuance of a certificate of occupancy for such dwelling or other structure;

1.4.3.4 Entry of final judgment (with no further right of appeal) or issuance of a final order (with no further right of appeal) directing County to set aside or withdraw County's approval of this Agreement or any material part of the Entitlements; or

1.4.3.5 In the event of termination pursuant to Article 5 of this Agreement.

1.5 Amendment of Agreement.

1.5.1 Substantive changes to this Agreement shall necessitate an amendment to this Agreement to incorporate the applicable changes to the terms and conditions of this Agreement at issue and any related documents and agreements (if and to the extent necessary to ensure consistency with this Agreement). A "**substantive change**" to this Agreement is one that changes the Term of this Agreement or for which an application is made to modify any of the following with respect to the Property: the permitted uses; an increase in the density or intensity of use; an increase in height or size of buildings; provisions for reservation and dedication of land; conditions, terms, restrictions and requirements relating to Subsequent Entitlements that are discretionary in nature; the amount of monetary contributions by Landowners; or any other material term or condition of this Agreement. If any party notifies the other parties that an amendment is needed or desirable due to the proposed substantive changes to this Agreement, the parties shall meet and confer in good faith on the terms of an amendment to this Agreement. The scope of good faith negotiation shall be limited to such good faith amendment(s) necessary to effectuate the substantive changes to this Agreement contemplated in this Section 1.5.1 and

shall not reopen other provisions of this Agreement not affected by the proposed amendment(s). Amendments for substantive changes shall be made in accordance with the provisions of the Development Agreement Statute and the Development Agreement Ordinance. However, for the avoidance of any doubt, the parties acknowledge and agree that no amendment to this Agreement shall be required in connection with County's approval of the Subsequent Entitlement(s) or any amendment(s) to the Initial Entitlements requested by Landowners to reflect County's approval thereof.

1.5.2 This Agreement need not be amended to allow for changes to this Agreement that are not substantive, as described in Section 1.5.1 above, but rather minor in nature. The parties acknowledge that refinement and further implementation of the Entitlements may demonstrate that certain minor changes may be appropriate with respect to Project details and related performance of the parties under this Agreement, and the parties desire to retain a certain degree of flexibility with respect to such details and performances. If and when the parties find and mutually agree that clarifications, minor changes, or minor adjustments are necessary or appropriate, they shall effectuate such clarifications, changes or adjustments through an operating written memorandum approved by the parties, with the Community and Economic Development Director acting on behalf of County. After execution, the operating memorandum shall be attached to this Agreement. Further minor changes as necessary from time to time may be agreed upon by the parties by subsequent approval of the parties. Unless required by the Development Agreement Statute or the Development Agreement Ordinance, no operating memorandum shall require prior notice or public hearing, nor shall it constitute an amendment to or termination for convenience in whole or in part of this Agreement.

1.5.3 Recordation Upon Amendment or Termination. Except when this Agreement is automatically terminated due to the expiration of the Term, County shall cause any amendment hereto and any other termination hereof to be recorded with the County Recorder within ten (10) days after full execution of any such amendment or the effective date of any such termination.

ARTICLE 2

DEVELOPMENT OF THE PROPERTY

2.1 Permitted Uses. The permitted uses of the Property, the density and intensity of use, the maximum height and size of proposed buildings, the location of public utilities and public improvements, and other terms and conditions of development applicable to the Property shall be those set forth in the Entitlements (including, without limitation, this Agreement).

2.2 Vested Rights. County agrees that, except with respect to the provisions of this Agreement associated with adoption of New Rules, County is granting, and grants herewith, vested rights to develop the Property with the Project in accordance with the Existing Rules, the terms and conditions of this Agreement, and the other Entitlements.

2.2.1 Conflict Between Existing Rules and this Agreement. In the event of any conflict or inconsistency between this Agreement and the Existing Rules or between this Agreement and the other Entitlements, this Agreement shall prevail and control.

2.3 Application of Subsequently Enacted Rules, Regulations and Official Policies. This Agreement is a legally binding contract that shall supersede any initiative, measure, moratorium, statute, ordinance, or other limitation enacted after the Effective Date except as expressly provided herein and as otherwise provided for in accordance with applicable

laws and regulations. Notwithstanding the foregoing, the parties acknowledge and agree that New Rules shall be applicable to the Project if and only to the extent that such application will not conflict with any of the vested rights granted to Landowners under Section 2.2 of this Agreement. Any New Rules shall be deemed to conflict with Landowners' vested rights hereunder if the New Rule(s) seek to limit or reduce the density or intensity of development of all or any portion(s) of the Project; impose in an ad hoc manner on all or any portion(s) of the Project additional material financial obligations; or seek to modify the timing of the development of all or any portion(s) of the Project as contemplated in the Entitlements. Notwithstanding anything to the contrary in this Section 2.3 and in accordance with Sections 2.3.1 and 2.3.4 below, County shall not be precluded from applying any New Rules to the Project under the following circumstances, where the New Rules are: (a) specifically mandated by changes in state or federal laws or regulations adopted after the Effective Date as provided in Government Code Section 65869.5; (b) specifically mandated by a court of competent jurisdiction; (c) changes to the Uniform Building Code or similar uniform construction codes, or to County's local construction standards for public improvements so long as such code or standard has been formally adopted by County and is in effect on a county-wide basis; or (d) not otherwise in conflict with the terms of this Agreement.

2.3.1 Modification or Suspension by State or Federal Law. If state or federal laws or regulations enacted after the Effective Date apply to the Project and prevent, delay or preclude compliance with one or more provisions of this Agreement, County may modify or suspend such provision(s) of the Agreement as may be necessary to comply with such state or federal laws or regulations and County and Landowners shall take such action as may be required pursuant to this Agreement to comply therewith. Notwithstanding the foregoing, the remainder of this Agreement shall remain in full force and effect to the extent it is not inconsistent with such laws or regulations and to the extent such laws or regulations do not render such remaining provisions impractical to enforce.

2.3.2 Authority of County. Except as otherwise provided herein, this Agreement shall not be construed to limit the authority or obligation of County to hold necessary public hearings; nor shall it limit the discretion of County or any of its officers or officials with regard to rules, regulations, ordinances, laws and entitlements of use that require the exercise of discretion by County or any of its officers or officials, although such discretion shall be exercised in a manner consistent with the purposes of this Agreement.

2.3.3 Uniform Codes and Standard Construction Specifications and Design and Procedures Manual and Improvement Standards. Nothing herein shall preclude County from applying to the Project standards contained in uniform building, construction, plumbing, fire or other uniform codes and Title 24 of the California Code of Regulations relating to building standards in effect at the time of approval of the appropriate Entitlement(s) that may include, without limitation, building, grading or other construction permit(s) for the Project, as the same may be adopted or amended from time to time by County, provided that the provisions of any such uniform code shall apply to the Property only to the extent that such code is in effect on a County-wide basis.

2.4 Tentative Subdivision Maps and Other Entitlements.

2.4.1 Consistent with the authority provided in California Government Code Section 66452.6(a)(1) and the Development Agreement Statute, the term of the Tentative Subdivision Map, as well as all other Entitlements, shall be the later of the date this Agreement expires or the date(s) that the Tentative Subdivision Map (or other Entitlements, as applicable) expires pursuant to applicable laws and regulations.

2.5 Application, Development and Project Implementation Fees. Landowners shall pay the applicable Processing Fees as may be required by County under the applicable County regulations and fee schedule in effect at the time Subsequent Entitlement(s) at issue are sought.

ARTICLE 3

LANDOWNER OBLIGATIONS

3.1 Development Impact, Connection and Mitigation Fees. Any and all required payments of development impact, connection or mitigation fees by Landowners shall be made at the time and in the amount specified by the applicable County ordinances that are in place at the time that such fees are due; provided, however, the foregoing shall not limit Landowners' right to challenge the underlying methodology used by County set forth in any nexus study to adopt new development impact fees under applicable laws and regulations after the Effective Date.

3.2 MND Mitigation Measures. When Landowners elect to develop the Property, or any portion(s) thereof, with the Project, Landowners shall be bound by, and shall perform, all mitigation measures contained in the Original Environmental Review (attached as Exhibit B) that are applicable to the Development Activity at issue.

3.3 Zones of Benefit/Assessments. Landowners are responsible for the formation of the necessary zones of benefit for the Project and/or annexation to existing zones of benefit, to the extent deemed necessary by the Department of Public Works. Said zones of benefit shall allow for the construction, improvement, repair, and maintenance of Project roads, drainage facilities, parks, streetlighting, and landscaping, as well as any other services deemed appropriate by the Department of Public Works. All required zones of benefit and assessments shall be in place prior to recordation of the Final Map. Landowners are responsible to verify any zone of benefit submittal requirements, including specifications for the required engineer's report, their submittal timeline, and the timeline for action by the Board of Supervisors in connection therewith.

ARTICLE 4

COUNTY OBLIGATIONS

4.1 County Cooperation. County agrees to work diligently and in good faith with Landowners, at no material cost to County, as the Landowners apply to obtain any Subsequent Entitlements that may be required from other governmental or quasi-government authorities that have jurisdiction over aspect(s) of the Project.

4.2 Applications for Permits and Entitlements. County agrees that it will accept, in good faith, for processing, review, and action, all applications for Subsequent Entitlements in accordance with the Initial Entitlements, the Existing Rules and this Agreement, and shall exercise its best efforts to act upon such applications in an expeditious manner. Provided, however, that nothing in this Agreement shall be deemed to be a prejudgment or commitment on a particular course of action from County with respect to the Subsequent Entitlements. Moreover, subject to Landowners' vested rights under Section 2.2 above, County and Landowners acknowledge and agree that County is restricted in its authority to limit its police power by contract and that the limitations, reservations and exceptions contained in this Agreement are intended to reserve to County all of its police power that cannot lawfully be so limited. Accordingly, County shall retain discretion, to be exercised in accordance with the purposes contemplated hereunder and

Landowners' vested rights hereunder, before County takes action on any Subsequent Entitlements to the extent the same are discretionary in nature.

ARTICLE 5

DEFAULT, REMEDIES, TERMINATION

5.1 General Provisions. Subject to extensions of time by mutual consent in writing and Section 5.2.1 below, failure or unreasonable delay by any party to perform any material term or provisions of this Agreement shall constitute a default by that party, but only if the party who so fails or delays does not commence to cure, correct or remedy such failure or delay within thirty (30) days after receipt of the written notice required in this Section 5.1 and thereafter diligently prosecute said cure to completion. In the event of alleged default of any term or provision of this Agreement, the party alleging such default shall give the defaulting party not less than thirty (30) days' notice in writing specifying the nature of the alleged default and the manner in which said default may be satisfactorily cured. During any such thirty (30) day period, the defaulting party shall not be considered in default for purposes of termination or institution of legal proceedings.

After notice and expiration of the thirty-day period without the defaulting party having cured or having commenced to cure, correct or remedy the default (if a cure cannot be completed during the 30-day period), then the non-defaulting party at its option may institute legal proceedings pursuant to this Agreement or give notice of intent to terminate this Agreement as it relates to the defaulting party's rights hereunder pursuant to California Government Code Section 65868. Following notice of intent to so terminate, the matter shall be scheduled for consideration and review by the Board of Supervisors within thirty (30) calendar days in the manner set forth in California Government Code Sections 65865, 65867 and 65868.

Following consideration of the evidence presented in said review before the Board of Supervisors, any party alleging the default by another party may give written notice of termination of this Agreement as it relates to the defaulting party's rights hereunder to the other parties.

Evidence of default may also arise in the course of a regularly scheduled periodic review of this Agreement pursuant to Government Code Section 65865.1. If any party determines that a party is in default following the completion of the normally scheduled periodic review, the non-defaulting party may give written notice of default of this Agreement as set forth in this Section 5.1, specifying in said notice the alleged nature of the default, and potential actions to cure said default and shall specify a reasonable period of time in which such default is to be cured. If: (a) the alleged default is not cured within thirty (30) days; or (b) the defaulting party does not commence to cure, correct or remedy such alleged default within thirty (30) days and thereafter diligently prosecute said cure to completion; or (c) the defaulting party does not cure (or commence to cure, if appropriate) within such longer period as may be specified in the notice; or (d) if the defaulting party waives its right to cure such alleged default, the other party may terminate this Agreement.

5.2 Periodic Review. County shall, at least every twelve (12) months during the Term of this Agreement (commencing from the Effective Date), review the extent of good faith substantial compliance by Landowners with the terms and provisions of this Agreement. Such periodic review shall be limited in scope to compliance with the terms and provisions of this Agreement pursuant to California Government Code Section 65865.1 and the monitoring of mitigation in accordance with California Public Resources Code Section 21081.6. A finding by County of good faith compliance by Landowners with the terms and provisions of this Agreement shall be conclusive with respect to the performance of Landowners during the period preceding

the review. To facilitate County's review of Landowners' compliance, Landowners shall provide County annual reports within ninety (90) days following each 12-month period. Said reports shall address actions taken by Landowners during the relevant 12-month period to carry out the Project. County shall inform Landowners if additional information is needed to complete the review process. Landowners shall be responsible for the cost reasonably and directly incurred by County to conduct such periodic review, the payment of which shall be due within thirty (30) days after conclusion of the review and receipt from County of the bill for such costs (and reasonable documentation in support thereof). Upon Landowners' written request, County shall provide a copy of all staff reports and related exhibits concerning performance under this Agreement. County's failure to conduct the annual review, standing alone, is not a breach of this Agreement.

5.2.1 Permitted Delay, Extension of Times of Performance. In addition to specific provisions of this Agreement, performance by any party hereunder shall not be deemed to be in default where delays or default are due to war, insurrection, strikes, walkouts, riots, floods, drought, earthquakes, fires, casualties, acts of God, terrorist acts, government order(s) in connection with global or national health crises, epidemics, or quarantine or shelter in place restrictions related thereto, new or supplementary environmental or other laws or regulations affecting development, litigation, or similar bases for excused performance. If written notice of such delay is given by Landowners to County within thirty (30) days of the commencement of such delay, an extension of time for such cause shall be granted in writing for the period of such delay, or longer as may be mutually agreed upon.

5.2.2 Permitted Extensions by County. In addition to any extensions to the time for performance of any obligation due to an excused delay under Section 5.2.1 above, County, in its sole discretion, may extend the time for performance by Landowners of any obligation hereunder. Any such extension shall not require an amendment to this Agreement, so long as such extension only involves the time for performance thereof and does not change the obligations to be performed by Landowners as a condition of such extension. The parties shall document in writing any such extensions.

5.3 No Obligation to Construct. By entering this Agreement, Landowners shall not be obligated to develop the Property or any portion(s) thereof, and, unless Landowners elect to develop all or any portion(s) of the Property, Landowners shall not be obligated to perform any obligations under this Agreement.

5.4 Legal Action; No Obligation to Develop; Specific Enforcement. In addition to any other rights or remedies, any party may institute legal action to cure, correct or remedy any default, to enforce any covenant or agreement herein, or to enjoin any threatened or attempted violation. All legal actions shall be initiated in the Superior Court of the County of Merced, State of California. Landowners acknowledge that under the Development Agreement Statute, land use approvals (including development agreements) must be approved by the Board of Supervisors and that under applicable law, the Board of Supervisors' discretion to vote in any particular way may not be constrained by contract, except as permitted in the Development Agreement Statute. Landowners therefore waive all claims for monetary damages against County in the event that this Agreement or any other Subsequent Entitlement is: (1) not approved by the Board of Supervisors; or (2) is approved by the Board of Supervisors, but with new changes, amendments, conditions or deletions to which Landowners are opposed. Landowners further acknowledge that as an instrument that must be approved by ordinance, a development agreement is subject to referendum, and that under applicable laws, the Board of Supervisors' discretion to avoid a referendum by rescinding its approval of the underlying ordinance may not be constrained by contract, and Landowners waive all claims for monetary damages against

County in this regard. Notwithstanding anything to the contrary in the foregoing, nothing in this Section 5.4 is intended to nor does it limit Landowners' rights to equitable remedies as permitted by law.

5.5 Applicable Law. This Agreement shall be construed and enforced in accordance with the laws of the State of California.

ARTICLE 6

HOLD HARMLESS AND COOPERATION

6.1 Hold Harmless.

6.1.1 Landowners and their successor(s) and assign(s), hereby agree to, and shall defend and hold County, its elective and appointive boards, commissions, officers, agents, and employees harmless from any costs, expenses, damages, liability for damages or claims of damage for personal injury, or bodily injury including death, as well as from claims for property damage that may arise from Landowners' construction of the Project, whether such activities be by Landowners, or by any of their contractors or subcontractors, or by any one or more persons directly or indirectly employed by, or acting as agent for, Landowners or their contractors or subcontractors. Notwithstanding anything to the contrary in the foregoing, the indemnity obligation in this Section 6.1 shall not apply to any liability for damage or claims for damage with respect to or use of any public improvements after the completion and acceptance thereof by County.

6.1.2 In addition to the indemnity obligation in Section 6.1.1 above, Landowners agree to and shall defend, indemnify and hold County, its elective and appointive boards, commissions, officers, agents and employees harmless from any and all third-party lawsuits, claims, challenges, damages, expenses, costs, including attorneys' fees that may be awarded by a court in any action at law or in equity as a result of a successful legal challenge to County's approval of this Agreement or related environmental determination. County shall retain the right to appear in and defend any such action or lawsuit on its own behalf regardless of any tender under this provision.

6.1.3 Provided, however, if County does not receive full payment of indemnification obligations required under Section 6.1.2 above, then County may elect not to defend against any such third-party challenge.

6.2 Cooperation and Defense in the Event of Legal Challenge. In the event of any legal action instituted by a third party (including, without limitation, any non-County governmental entity or official challenging the validity of any provision of this Agreement), the parties hereby agree to cooperate in defending said action. If any person or entity not a party to this Agreement initiates an action at law or in equity to challenge the validity of any provision of this Agreement, County and Landowners shall cooperate and appear in defending such action. Landowners shall bear their own costs of defense as a real party in interest in any such action pursuant to Section 6.1.2 above, and Landowners shall pay County for all reasonable court costs and attorneys' fees expended by County in defense of any such action or other proceeding, provided that County reasonably cooperates with Landowners in the defense of such action. County, in its sole discretion, may retain separate counsel and may defend, settle or compromise the action as it deems appropriate and in the best interests of County.

ARTICLE 7

GENERAL

7.1 Enforceability. County agrees that unless this Agreement is amended or canceled pursuant to the provisions hereof, this Agreement shall be enforceable according to its terms by Landowners notwithstanding any change hereafter to the General Plan, Specific Plan, Zoning, subdivision ordinance or building regulations adopted by County, or by initiative, which changes, alters or amends the rules, regulations and policies applicable to the Project as of the Effective Date, as provided by California Government Code Section 65866.

7.2 County Finding. County hereby finds and determines that execution of this Agreement is in the best interest of the public health, safety and general welfare and is consistent with the General Plan and Specific Plan.

7.3 No Third-Party Beneficiaries. This Agreement is made and entered into for the sole protection and benefit of Landowners and County and their successors and assigns. No other person shall have any right of action based upon any provision in this Agreement.

7.4 Project as a Private Undertaking. It is specifically understood and agreed by and among the parties hereto that the subject project is a private development. No partnership, joint venture or other association of any kind is formed by this Agreement.

7.5 Notices. All notices required by this Agreement, the enabling legislation, or the procedure adopted pursuant to California Government Code Section 65865, shall be in writing and (a) delivered in person; or sent by (b) certified mail, return receipt requested and postage prepaid; (c) reputable overnight courier; or (d) email.

Notice required to be given to County shall be addressed as follows:

If to County:

County of Merced
Attn: Community and Economic
Development Department
2222 M Street, Second Floor
Merced, CA 95340
email: mark.krimms@countyofmerced.com

If to
Landowners:

Fagundes, Fagundes, Fagundes
PO Box 2717
Merced, CA 95344
Email: m.fagundes@fagundesdairy.com

With copies to:

None f.fagundes@fagundesdairy.com

Any notice so given shall be deemed to have been given upon receipt or refusal to accept delivery, except that any notice sent via email shall be deemed given on the date sent (as evidenced by the sender's "sent mail" mailbox) if sent prior to 5:00 p.m. (Pacific Time) on a business day and, otherwise, on the next succeeding business day. Any party may change the address stated herein by giving notice in writing to the other parties, and, thereafter, notices shall be addressed and delivered to the new address.

7.6 Severability. Except as set forth herein, if any term, covenant or condition of this Agreement or the application thereof to any person, entity or circumstance shall, to any extent,

be invalid or unenforceable, the remainder of this Agreement, or the application of such term, covenant or condition to persons, entities or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant or condition of this Agreement shall be valid and enforced to the fullest extent permitted by law; provided, however, if any provision of this Agreement is determined to be invalid or unenforceable and the effect thereof is to deprive a party hereto of an essential benefit of its bargain hereunder, then such party so deprived shall have the option to terminate this entire Agreement from and after such determination.

7.7 Construction. This Agreement shall be subject to and construed in accordance and harmony with the County Code, as it may be amended from time to time, provided that such amendments do not impair the rights granted to the parties by this Agreement. Each party has been represented by counsel in the preparation of this Agreement and no presumption or rule that ambiguity shall be construed against a drafting party shall apply to interpretation or enforcement of this Agreement. Captions on sections and subsections are provided for convenience only and shall not be deemed to limit, amend, or affect the meaning of the provision to which they pertain.

7.8 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 and privileges hereunder.

7.9 Estoppel Certificate. Landowners may, at any time, and from time to time, deliver written notice to County requesting that County certify in writing that, to the knowledge of the certifying party: (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 so amended, identifying the amendments; and (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 of such default. County shall execute and return such certificate within thirty (30) days following the receipt thereof.

7.10 Mortgagee Protection. The parties hereto agree that this Agreement shall not prevent or limit Landowners, in any manner, from encumbering the Property or any portion thereof or any improvement thereon by any Mortgage, except as limited by the provisions of this Section 7.10. County acknowledges that the Mortgagee(s) providing such financing may require certain Agreement interpretations and modifications and agrees upon request, from time to time, to meet with Landowners and representatives of such Mortgagee(s) to negotiate in good faith any such request for interpretation or modification. County shall not unreasonably withhold its consent to any such requested interpretation or modification provided such interpretation or modification is consistent with the intent and purposes of this Agreement. Any Mortgagee shall be entitled to the following rights and privileges:

(a) Neither entering into this Agreement nor a default hereunder shall defeat, render invalid, diminish or impair the lien of any Mortgage on the Property (or any portion(s) thereof) made in good faith and for value, unless otherwise required by law.

(b) The Mortgagee of any Mortgage encumbering the Property, or any portion(s) thereof, which Mortgagee has submitted a request in writing to County in the manner specified herein for giving notices, may request to receive written notification from County of any default by Landowners in the performance of their obligations under this Agreement.

(c) If County receives a timely request from a Mortgagee requesting a copy of any notice of default given to Landowners under the terms of this Agreement, County shall provide a copy of that notice to the Mortgagee within ten (10) days of sending the notice of default to Landowners. The Mortgagee shall have the right, but not the obligation, to cure the default during the remaining cure period allowed to Landowners under this Agreement.

(d) Any Mortgagee who comes into possession of the Property, or any portion(s) thereof, by any means, whether pursuant to foreclosure of the Mortgage, or deed in lieu of such foreclosure or otherwise, shall take the Property, or portion thereof, subject to the terms of this Agreement. Provided, however, notwithstanding anything to the contrary above, any Mortgagee, or the successors or assigns of such Mortgagee, who becomes an owner of the Property, or any portion(s) thereof, through foreclosure or deed in lieu thereof shall not be obligated to pay any fees or construct or complete the construction of any improvements, unless such owner desires to continue development of the Property consistent with this Agreement and the Entitlements, in which case the owner by foreclosure shall assume all the past and future, including delinquent obligations of Landowners hereunder in a form reasonably acceptable to the County.

7.11 Assignment. From and after the Effective Date, Landowners shall have the right to assign this Agreement (with notification to County via a copy of the executed assignment and assumption agreement), as to the Property, or any portion(s) thereof, which are sold, transferred, assigned or conveyed, with County's consent thereto, which consent shall not be unreasonably withheld, conditioned or delayed. Any and all such assignments shall be reflected in a written assignment and assumption agreement executed by Landowners and the assignee(s). Upon County's receipt of the assignment and assumption agreement at issue, Landowners shall be released from any further liability or obligation hereunder related to the portion of the Property so conveyed and the assignee(s) shall be deemed to be Landowners, with all rights and obligations related thereto, with respect to such conveyed property.


7.12 Entire Agreement. This Agreement is executed in two duplicate originals, each of which is deemed to be an original. This Agreement, inclusive of its recitals and exhibits, constitutes the entire understanding and agreement of the parties. This Agreement may be signed in identical counterparts and the signature pages, together with appropriate acknowledgments, may be removed from the counterparts and attached to a single counterpart, which shall all be considered a fully executed original for all persons and for purposes of recordation hereof.

IN WITNESS WHEREOF, the County of Merced has authorized the execution of this Agreement in duplicate by its County Exec. Officer, and attested to by the Clerk of the Board of Supervisors under the authority of Ordinance No. 2043 adopted by the Board of Supervisors on the 26th day of November, 2024.


COUNTY:

LANDOWNERS

COUNTY OF MERCED



Raul Lomeli Mendez
APPROVED AS TO CONTENT:





APPROVED AS TO FORM:



ATTEST:



By: 
Name: Ralph M Fagundes
Title: Partner

By: 
Name: Lloyd Fagundes
Title: Partner

CALIFORNIA ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California }
County of Merced

On January 8, 2025 before me, Stacy Raelyn Cooley, Notary Public
Date Here Insert Name and Title of the Officer

personally appeared Raul Lomeli Mendez
Name(s) of Signer(s)

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

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

WITNESS my hand and official seal.



Place Notary Seal and/or Stamp Above

Signature Stacy Raelyn Cooley
Signature of Notary Public

OPTIONAL

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

Description of Attached Document

Title or Type of Document: Development Agreement for and Between The County of Merced and ^{"WINN Ranch"} ~~Fayundes, Fayundes, Fayundes~~ A general partnership relating to Major Subdivision No. M1504-008
Document Date: 11/21/2024 Number of Pages: 26 w/ack.

Signer(s) Other Than Named Above: None

Capacity(ies) Claimed by Signer(s)

Signer's Name: Raul Lomeli Mendez
 Corporate Officer - Title(s): _____
 Partner - Limited General
 Individual Attorney in Fact
 Trustee Guardian or Conservator
 Other: _____
Signer is Representing: Merced County

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

CALIFORNIA CERTIFICATE OF ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)

County of MERCED)

On 12.23.2024 before me, KRISTIN MCHANEY, NOTARY PUBLIC,
(here insert name and title of the officer)

personally appeared TIFFANY HO

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

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

WITNESS my hand and official seal.



Signature Kristin McHaney

(Seal)

Optional Information

Although the information in this section is not required by law, it could prevent fraudulent removal and reattachment of this acknowledgment to an unauthorized document and may prove useful to persons relying on the attached document.

Description of Attached Document

The preceding Certificate of Acknowledgment is attached to a document titled/for the purpose of _____

containing _____ pages, and dated _____

The signer(s) capacity or authority is/are as:

- Individual(s)
 Attorney-in-Fact
 Corporate Officer(s) _____ Title(s)

- Guardian/Conservator
 Partner - Limited/General
 Trustee(s)
 Other: _____

representing: _____
Name(s) of Person(s) or Entity(ies) Signer is Representing

Additional Information

Method of Signer Identification

Proved to me on the basis of satisfactory evidence:

- form(s) of identification credible witness(es)

Notarial event is detailed in notary journal on:

Page # _____ Entry # _____

Notary contact: _____

Other

- Additional Signer(s) Signer(s) Thumbprint(s)

CALIFORNIA ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California }
County of Merced

On December 16, 2024 before me, Tatum Heffner, Notary Public
Date Here Insert Name and Title of the Officer

personally appeared Ralph M. Fagundes and
Lloyd Fagundes
Name(s) of Signer(s)

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



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

WITNESS my hand and official seal.

Signature Tatum Heffner
Signature of Notary Public

Place Notary Seal and/or Stamp Above

OPTIONAL

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

Description of Attached Document

Title or Type of Document: Development Agreement

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: Ralph M Fagundes

- Corporate Officer – Title(s): _____
- Partner – Limited General
- Individual Attorney in Fact
- Trustee Guardian or Conservator
- Other: _____

Signer is Representing: _____

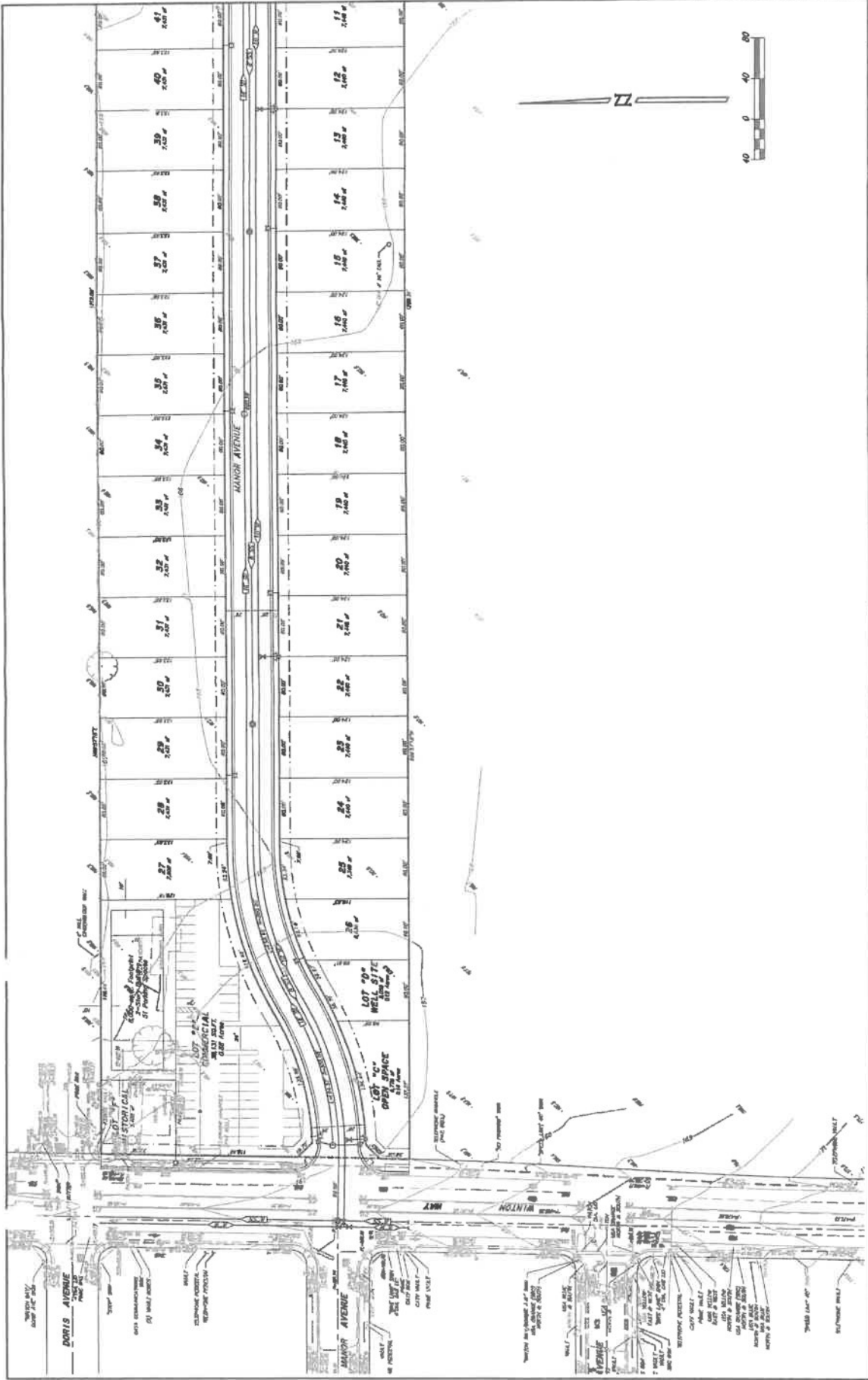
Signer's Name: Lloyd Fagundes

- Corporate Officer – Title(s): _____
- Partner – Limited General
- Individual Attorney in Fact
- Trustee Guardian or Conservator
- Other: _____

Signer is Representing: _____

EXHIBIT A-1

TENTATIVE SUBDIVISION MAP

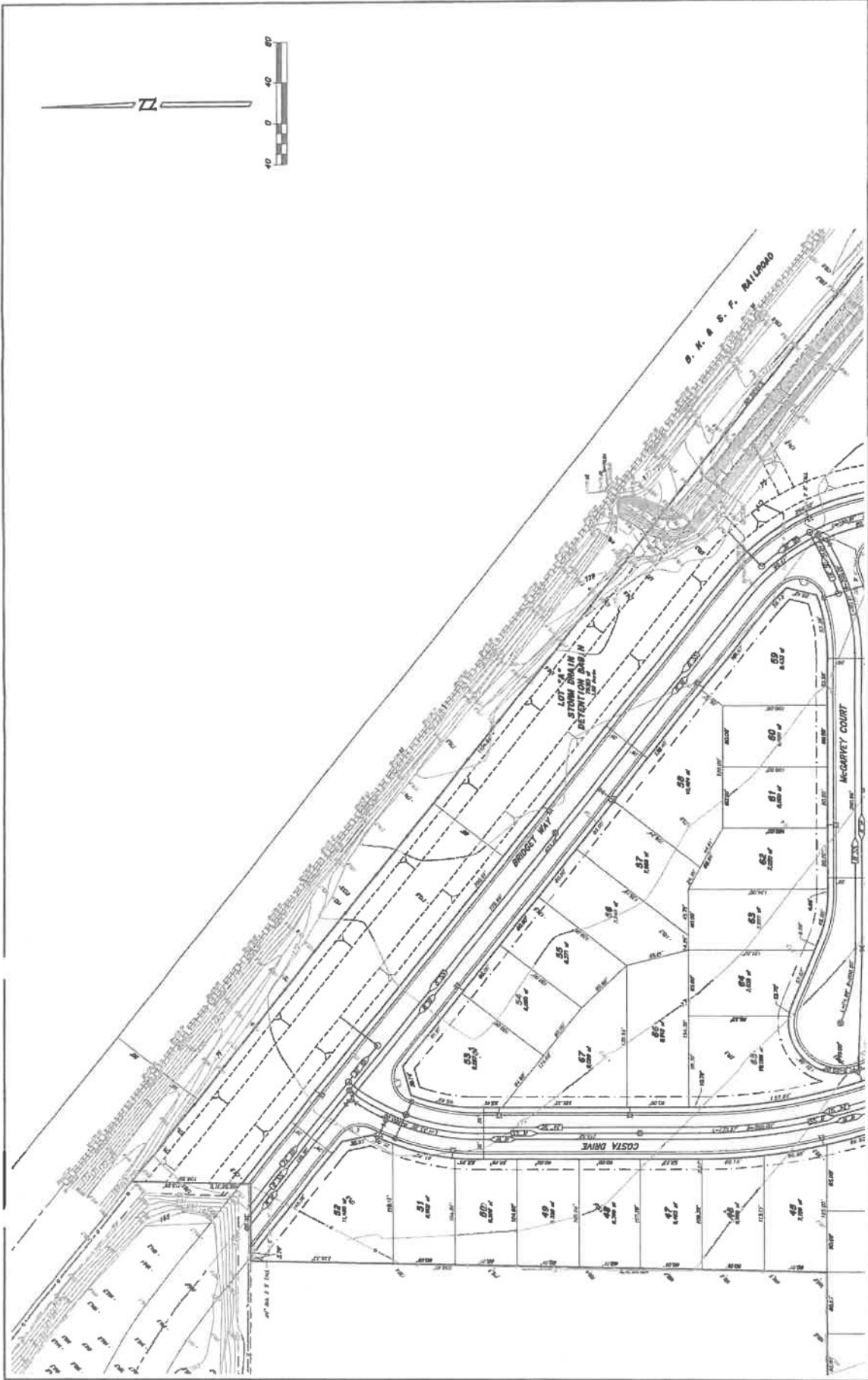


DRC
 TM2
 SHEET 2
 COUNTY OF MERCED CALIFORNIA 07_5

ME
 mid-valley engineering
 3115 STREET HIGHLAND AVENUE
 FOLSOM, CALIFORNIA 95630

MAJOR Sub. 0608
 WINN RANCH
 VESTING TENTATIVE SUBDIVISION MAP
 COUNTY OF MERCED

Drawn By	AS	NO.	DATE	REVISIONS
Issue Date: 07/26/07				ISSUED FOR
App. No.:	00291			
Checklist:	TD			
File:	06-00291001.dwg			

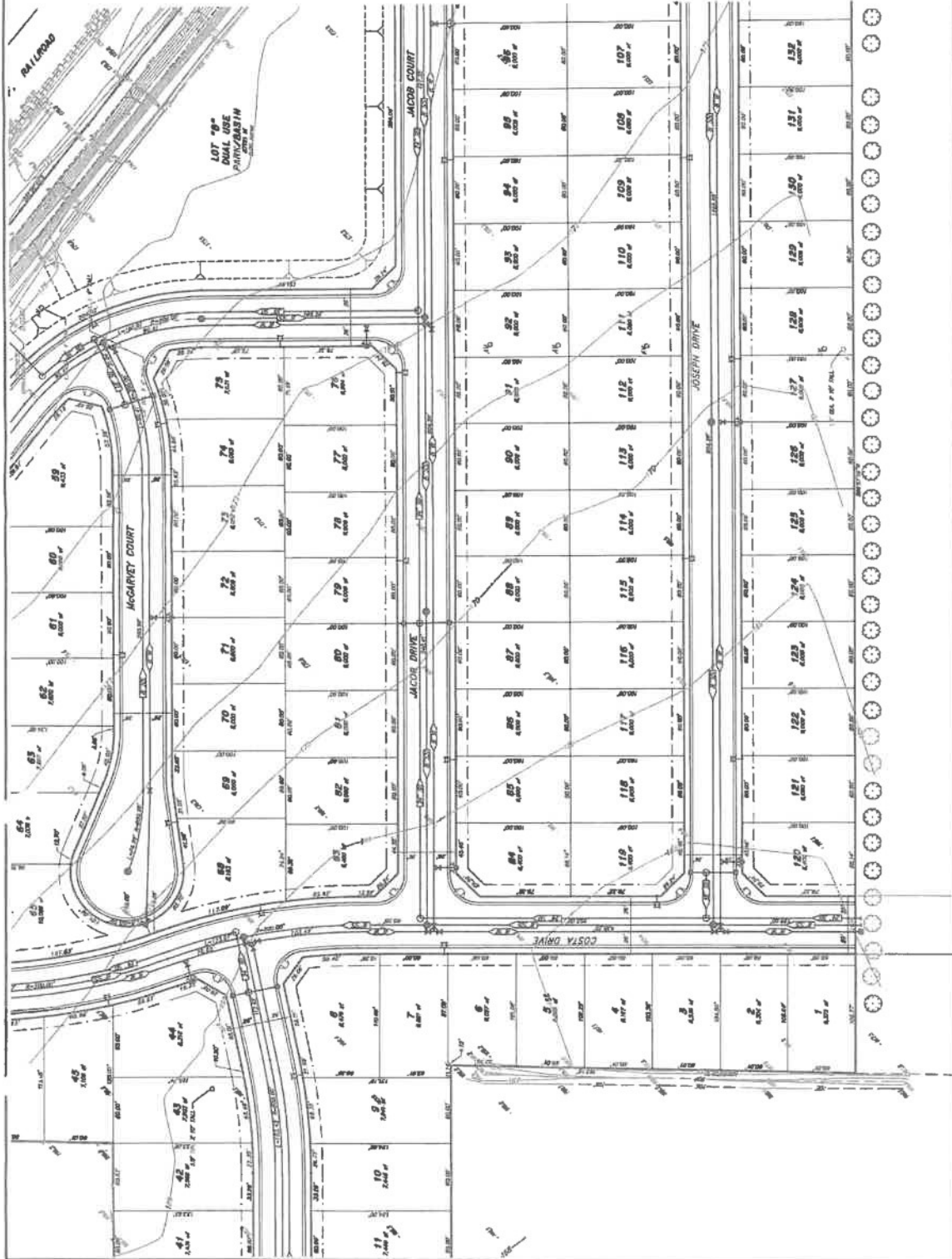


DMC
 TM3
 SHEET 3
 OF 5

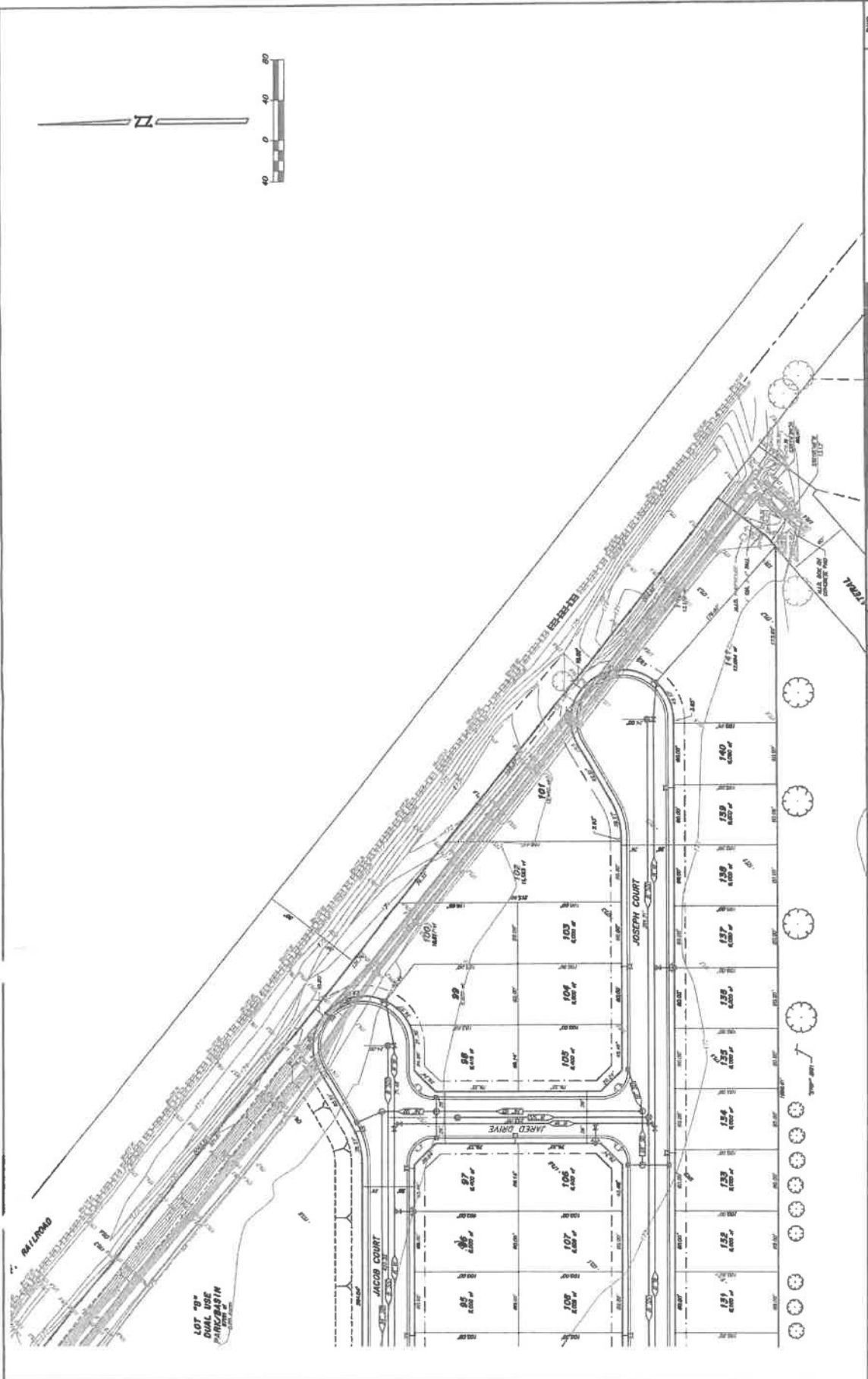
ME
 mid-valley engineering
 1111 STREET HOURS, SUITE 100
 THE COLLEGE CITY, SAN JOSE, CA 95128

MAJOR S&SF 86008
 WINN RANCH
 TENTATIVE SUBDIVISION MAP
 COUNTY OF MERCED CALIFORNIA

Drawn By	AS	REVISIONS
Issue Date	02/06/06	ISSUED FOR
As Per	02/07/07	
Checked	TD	
File	R-020707/07/07	



 mid-valley engineering <small>INCORPORATED</small> <small>10000 E. 12TH AVENUE, SUITE 100, DENVER, CO 80231</small>		MAJOR Sect# 06008 WINN RANCH VESTING TENTATIVE SUBDIVISION MAP COUNTY OF MERCED CALIFORNIA	
REVISIONS ISSUED FOR		DMC TM4	SHEET 4
Drawn By: JCS Issue Date: 03/20/08 Job No.: 00001 Checked: TD File: 01-000001.dwg	MS: [] DATE: [] ISSUED FOR: []	OF 5	



DWG. TMS
 SHEET 5
 OF 5

WJDR S.C.D. 06008
 WINN RANCH
 VESTING TENTATIVE SUBDIVISION MAP
 COUNTY OF MERCED CALIFORNIA

ME
 mid-valley engineering
 1000 MARKET STREET, SUITE 100
 SACRAMENTO, CA 95811
 TEL: (916) 441-1111 FAX: (916) 441-1112

Drawn By	Check	Scale	NO. DATE	REVISIONS
Issue Date	Issue Date	Issue Date	Issue Date	Issue Date
Job No.	Job No.	Job No.	Job No.	Job No.
Checked	Checked	Checked	Checked	Checked
File	File	File	File	File

APPROVED FOR

Map No. 06 008 of 1348
 11 LOWE STREET, SACRAMENTO, CALIFORNIA 95811

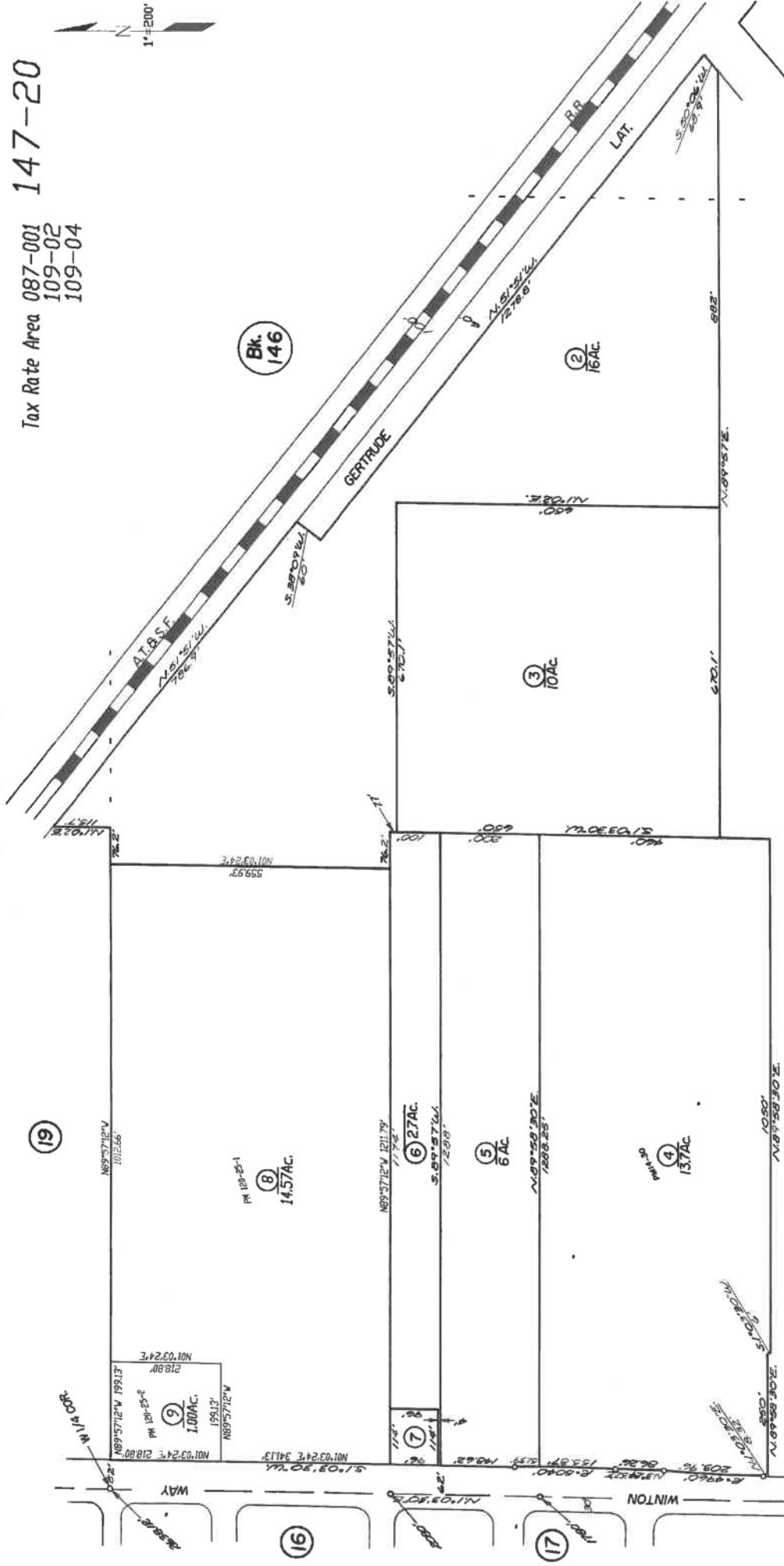
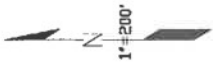
EXHIBIT A-2

PARCEL MAP

POR. SEC. 25, T. 6 S., R. 12 E., M. D. B. & M.

147-20

Tax Rate Area 087-001
109-02
109-04



Assessor's Map Bk. 147-Pg. 20
County of Merced, Calif.
1976

NOTE - Assessor's Block Numbers Shown In Ellipses
Assessor's Parcel Numbers Shown In Circles

EXHIBIT B

ADOPTED MITIGATION MONITORING AND REPORTING PROGRAM

**Summary of Potential Impacts, Mitigation Measures,
and Mitigation Monitoring Program**

Impact No.	Impact	Page Number in Initial Study	Mitigation Measure	Timing	Monitoring Agency
II. AGRICULTURE RESOURCES					
a, c	Conversion of Prime Farmland	3-6 to 3-10	The project sponsors shall convey to the County or its designated agent a conservation easement that would permanently protect agricultural land of similar or better quality as that farmed on the project site. Such land will be placed under an Agricultural Conservation Easement at a ratio of 1 acre of Easement land for every 1 acre of land converted to nonagricultural uses. These mitigation lands may be located in the Winton vicinity, or in a location mutually agreed upon by the applicant and the County Planning and Community Development Director.	Prior to recording of final map	Merced County
b	Conflict with existing zoning for agricultural use	3-6 to 3-10	A document shall be recorded in official Merced County records and referenced on the final map for the project providing constructive notice to prospective purchasers of property within the subdivision that the subdivision is located adjacent to agriculturally zoned land and that almond production presently exists south and northeast of the project site. The notice shall also include the language of applicable state Civil Code sections that afford existing and lawfully operating agricultural production facilities protection from nuisance actions when residential uses encroach near the facilities. The notice shall apply to those parcels located within 1,000 feet of agricultural production facilities.	Prior to recording of final map	Merced County
IV. BIOLOGICAL RESOURCES					
a	Adverse effects to habitat modifications	3-16 to 3-18	A one-time pre-construction survey on the project site and within 0.25 miles of the project site shall be conducted by a qualified biological consultant to determine the presence of nesting Swainson's hawks prior to the initiation of any ground breaking/construction activities occurring on the project site between March 1 and August 15, the nesting season for the species. Should a	Prior to construction	

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			<p>nest be discovered within 0.25 miles of the project site, temporal construction restrictions may be necessary to eliminate the potential for noise disturbance to the nesting hawks, which may cause nest abandonment or forced fledging. The consultant shall base the necessity for restrictions on the location of the nest in relation to construction activities. A survey shall not be required to be conducted should initiation of ground breaking/construction activities occur outside of the March 1-August 15 nesting season.</p>		
V. CULTURAL RESOURCES					
b, d	Adverse effects to archaeological resources	3-19 to 3-21	<p>If, in the course of project construction or project operation, any archaeological or historical resources are uncovered, discovered, or otherwise detected or observed, activities within 50 feet of the find area shall cease. A qualified archaeologist shall be contacted and advise the County of the site's significance. If the findings are deemed significant appropriate mitigation measures shall be required prior to any resumption of work in the affected area of the project.</p>	During construction	Merced County
			<p>If, in the course of project construction or project operation, any skeletal remains are uncovered, discovered, or otherwise detected or observed, construction activities in the affected area shall cease. A qualified archaeologist, the County Coroner and local Native American organizations shall be consulted, and appropriate measures shall be required that may include avoidance of the burial site or reburial of the remains.</p>		
VIII. HYDROLOGY/WATER QUALITY					
c, d, e	Alteration of drainage pattern/increased surface runoff	3-28 to 3-31	<p>The developer of the proposed subdivision is required to under ground the Gertrude Lateral in an adequately sized pipeline assembly through the entire project within an appropriate width easement. The pipeline will be constructed to MID standards. MID will sell and quit claim to the developer its current 60-foot wide fee strip.</p>	During construction	Merced County

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			<p>According to the Environmental Information Form, the developer proposed to use MID facilities to convey stormwater, via a drainage basin into the MID's Gertrude Lateral, because of this connection, a storm drainage agreement must be entered into with the Merced Irrigation District Drainage Improvement District No. 1, paying all applicable fees.</p> <p>A suitable block wall meeting MID standards must be placed around the MID's Well 155, for sound attenuation and security.</p> <p>No buildings, permanent structures, fences or walls to be constructed or placed on the new MID easement without approval of the MID.</p> <p>If access to the MID easement is blocked by MID approved curbs, fences, walls or landscaping, the MID will require the developer to provide an ingress and egress easement through their property to the MID pipeline easement.</p> <p>An MID signature block be provided on the Improvement Plans and Final Map.</p> <p>The developer must enter into a "Construction Agreement" with MID for any work associated with MID facilities and pay all applicable fees.</p> <p>The property owner must obtain a "Non-exclusive Driveway License Agreement" for all crossings over or under any MID facilities, including utilities, bridges, driveways and pipelines.</p> <p>The subdivision is located within an area of the Merced Irrigation District where untreated surface water (secondary water) is available for landscape irrigation. The use of surface water for landscape irrigation will help conserve valuable groundwater in the Atwater area. The developer should explore the installation of a dual water system and utilize MID surface water to irrigate landscape areas within the subdivision.</p>		

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IX. LAND USE/PLANNING					
b	Conflict with applicable land use plan, policy or regulation	3-33 to 3-36	(See the Proposed Mitigation section in the <i>Agricultural Resources</i> section of this study for a measure that will also reduce potential conversion impacts of agricultural land to a less than significant level.)	Prior to recording of final map	Merced County
XI. NOISE					
a, d	Exceedance of Applicable Noise Standards	3-39 to 3-44	<p>A property line noise barrier 6 feet tall shall be required to reduce the exterior railroad noise levels, at Lot 52, to a state of compliance with the Merced County 65 dB Ldn exterior noise level standard for residential uses.</p> <p>If Merced County applies the 65 dB Ldn exterior noise level standard to the front facades of Lots 53-59, an 8-foot tall noise barrier shall be required. (No barrier would be required if the County applies the exterior noise level standard to the rear yards of Lots 53-59.)</p> <p>A property line noise barrier 7 feet tall shall be required to reduce the exterior railroad noise levels, at the park site, to a state of compliance with the Merced County 70 dB Ldn exterior noise level standard for park uses.</p> <p>Barriers shall be constructed of concrete or masonry block, precast concrete, earth berms, or any combination of these. Wood is not recommended due to eventual warping and shrinking of materials which results in openings and cracks which compromise the barrier longevity. Other prefabricated barriers may be used. However, they shall be approved by an acoustical consultant.</p>	During construction	Merced County

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			Noise barrier heights are relative to the existing site grade and shall be reviewed by an acoustical consultant once grading plans are available.		
			STC 31 rated window assemblies shall be installed in all second floor windows of Lots 52-59 with a view of the railroad tracks.		
			It is anticipated that STC 37 rated window assemblies shall be required for all second floor windows of Lots 100-102 and 143 with a view of the railroad tracks. In order to verify this requirement, a detailed analysis of interior noise levels shall be conducted when building plans become available for Lots 101-102 and 142.		
			To reduce construction-related noise impacts, noise producing equipment used during construction shall be restricted to the hours from 7:00 a.m. to 7:00 p.m., Monday through Friday, and 9:00 a.m. to 6:00 p.m. on Saturday and Sunday.		
			Effective mufflers shall be fitted to gas- and diesel-powered construction equipment.		
XV. TRANSPORTATION/TRAFFIC					
a, b	Substantially increase traffic levels	3-52 to 3-55	The developer shall contribute its fair share to the cost of regional circulation system improvements	Prior to issuing building permits	Merced County
d	Substantially increase hazards due to a design feature	3-52 to 3-55	The developer shall construct traffic signals with raised medians at the intersection of Winton Way and Manor Avenue		
			The subdivision design shall prohibit direct truck traffic access to and from Winton Way from Lots "C", "E" and "F"		

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XVI. UTILITIES					
c)	Construction of new storm water drainage facilities	3-56 to 3-58	(See the Proposed Mitigation section in the <i>Hydrology/Water Quality</i> section of this study for measures that will reduce this impact to a less than significant level.)	During construction	Merced County