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Recording Requested for the
Benefit of the County of Fresno,
Department of Public Works
And Planning

When Recorded Return To:
Department of Public Works
And Planning
Development Services
Division Stop 214
Attn: Development Engineering

COUNTY OF FRESNO
SUBDIVISION AGREEMENT
TRACT NO. 6189

THIS AGREEMENT made and entered into this 16th day of November 2021 by and between the County of Fresno, a political subdivision of the State of California, hereinafter referred to as "COUNTY" and 3B Development Inc., a California Corporation, located at 1396 W. Herndon Avenue, Fresno, CA 93711, the subdivider of Tract No. 6189 and referred to herein as "SUBDIVIDER." COUNTY and SUBDIVIDER may be referred to individually as a "Party," or collectively as "Parties," to this AGREEMENT.

RECITALS

WHEREAS, SUBDIVIDER has presented to COUNTY a final map of a proposed subdivision of land located within the County of Fresno and described as Tract No. 6189; and

WHEREAS, said SUBDIVIDER has requested COUNTY to accept the dedications indicated on said map for the use and purpose specified thereon, and to approve said map in order that the same may be recorded, as required by law; and

WHEREAS, COUNTY requires as a condition precedent to the acceptance and approval of said map, the dedication of such streets, highways, public places, and easements as delineated and shown on said map, and deems the same as necessary for public use; and

WHEREAS, the Ordinance Code section 17.48.400, subd. (A) of the County of Fresno requires SUBDIVIDER to enter into this AGREEMENT with COUNTY when SUBDIVIDER has not completed all required improvements at the time the final map is approved; and

1 WHEREAS, SUBDIVIDER has not completed all required construction, including road, street
2 lighting, open space and trails, water, sewer, drainage, wastewater treatment and disposal, including a
3 permanent spray field, reclaimed water lines, and fire protection facilities.

4 NOW, THEREFORE, in consideration of the offer of dedication of the streets, public ways,
5 easements and facilities as shown on said map, and the approval of said map for filing and recording, it
6 is mutually agreed as follows:

7 1. PERFORMANCE SCHEDULE.

8 SUBDIVIDER agrees that the work hereinafter specified shall be constructed in accordance with
9 the following schedule:

<u>On-Site Improvements</u>	<u>Date to be Completed</u>
Excavation and grading	06/2022
Underground wet utilities	04/2022
Subgrade	06/2022
Curb, Gutter and Concrete Imp.	06/2022
Underground Dry Utilities	04/2022
Pavement and Fog Sealing	06/2022
Landscaping of Lakeridge Drive	10/2022
Signage and Striping	10/2022
<u>Off-Site Improvements</u>	<u>Date to be Completed</u>
Temporary Storm Drain Pond & Drainage Channel	10/2022
Permanent Backup Lake Pump Generator	08/2024
Lakeridge Drive Off-site Road Construction	10/2022
Reclaimed Water Lines and Commissioning	10/2022
Permanent Spray Field	5/2023
<u>Morningside Way Off-Site Improvements</u>	<u>Date to be Completed</u>
Excavation and grading	02/2022
Underground wet utilities	03/2022

1	Subgrade	06/2022
2	Curb, Gutter and Concrete Imp.	06/2022
3	Underground Dry Utilities	06/2022
4	Pavement and Fog Sealing	06/2022
5	Signage and Striping	10/2022
6	Street Lighting	10/2022
7	<u>Completion of All On-Site and Off Improvements</u>	
8	Complete All Work	08/2024

9 2. ROAD IMPROVEMENTS.

10 SUBDIVIDER agrees:

11 A. To construct all required improvements herein referenced in accordance with the Tract
 12 6189 Improvement Plans approved by the Department of Public Works and Planning on January 24, 2020
 13 for on-site improvements and November 13, 2020 for off-site improvements, hereinafter referred to
 14 collectively as the "APPROVED PLANS".

15 B. To construct drainage facilities, grade, place aggregate base and pave Lakeridge Drive,
 16 Desert Willow Lane, Goldfield Lane, Hazelwood Lane, Gloriosa Drive, Redberry Lane, Deerbrush Lane,
 17 Goldfinch Lane, Sandhill Lane, and Zinnia Lane in accordance with the APPROVED PLANS, the
 18 applicable improvement standards, the specifications, and this AGREEMENT.

19 C. To construct drainage facilities, grade, place aggregate base and pave Morningside Way
 20 from Tract 6189 to Millerton Road in accordance with the APPROVED PLANS, the applicable
 21 improvement standards, the specifications and this AGREEMENT.

22 D. To provide, after rough grading, Resistance "R" Value tests in accordance with California
 23 Test Method 301, as required by the Director of the Department of Public Works and Planning, hereinafter
 24 referred to as "Director," or designee of the Director. Base and surfacing requirements will be adjusted to
 25 meet any revision resulting from the tests. Areas that have been over excavated shall be reconstructed to
 26 the approved typical structural section.

27 E. To obtain and pay for any testing and retesting required by the Department of Public Works
 28 and Planning. The sampling and testing may be done by any recognized testing firm acceptable to the

1 Director or designee of the Director.

2 F. To install or so provide for installation that no finished surface need be reopened, all
3 electrical underground lines, telephone lines, fiber optic lines, water lines, reclaimed water lines, sewer
4 lines, drainage lines, covers, street lighting and conduits (street lighting account is to be in the name of
5 the Developer until accepted by CSA, must be approved by the Architectural Committee and must be
6 PG&E Owned and maintained), and any other underground utility or drainage system, prior to paving
7 roads. All underground utilities and any existing underground utilities shall be lowered to a depth of not
8 less than 36 inches (measured from top of pipe) below street grade shown on the APPROVED PLANS or
9 as otherwise required by the Director or designee of the Director.

10 G. To require SUBDIVIDER's engineer to verify and certify, in writing prior to placement of
11 base rock, the subgrade elevation to the satisfaction of the Director or designee of the Director.

12 H. To construct drainage facilities in accordance with the APPROVED PLANS and this
13 AGREEMENT. In constructing road improvements, SUBDIVIDER shall perform the following:

- 14 1. That portion of the right-of-way lying outside the curb line shall be graded to conform
15 to the approved cross-section.
- 16 2. All drainage structures shall be cleaned.
- 17 3. The entire roadway area shall be swept clean.

18 I. To maintain an all-weather access to all lots that have been issued a building permit until
19 permanent access is provided. (Note: Building permits shall not be issued on any lot of this subdivision
20 until such time that the water and wastewater system and associated fire protection facilities are in place
21 and operating at sufficient capacity to serve the permitted structure.)

22 J. To fog seal all roads at such time as required by the Director but no later than the time as
23 required for maintenance under section 6.A below, in accordance with the APPROVED PLANS.

24 K. To construct sidewalk and drive approach improvements for each lot under separate
25 encroachment permit issued by the Road Maintenance and Operations Division of the Department.

26 L. To obtain a grading permit for each lot prior to issuance of a building permit when the
27 vertical cut or fill differential between adjacent lots is greater than 12".

28 M. The Director, in his sole discretion, may require changes, alterations, or additional work not

1 shown on the APPROVED PLANS, when it is deemed necessary.

2 3. DRAINAGE FACILITIES.

3 SUBDIVIDER agrees:

4 A. That additional drainage facilities not shown on the APPROVED PLANS shall be
5 constructed and maintained by SUBDIVIDER until completion of the permanent drainage facilities.

6 B. That all drainage structures, including any temporary drainage facilities, shall be
7 constructed in accordance with the Fresno County Improvement Standards or as approved by the Director,
8 as applicable. The work shall also be in compliance with any applicable National Pollutant Discharge
9 Elimination System permit requirements, mitigation requirements of the approved environmental
10 document, or any other applicable local, state, or federal regulation.

11 C. That all Standard Operating Procedures ("SOP") for the operations and maintenance of the
12 drainage facilities be detailed in an Operations and Maintenance ("O&M") Manual. The O&M Manual to
13 be provided must include:

- 14 1. An individual binder for each storm drainage basin that details all the operational
15 and maintenance requirements (SOP for field activities; daily, weekly, monthly,
16 seasonal, annual, and post-rain event),
- 17 2. Permitting and reporting requirements,
- 18 3. Sampling and testing requirements,
- 19 4. Inspection requirements and sample inspection check list,
- 20 5. Best Management Practices and recording requirements, and
- 21 6. Spill prevention plan.

22 4. ELECTRICAL AND TELEPHONE LINES.

23 SUBDIVIDER agrees:

24 A. That all services and electrical and telephone lines shall be placed underground including
25 any other existing facilities within the limits of this subdivision or being improved with this tract.

26 B. That financial responsibility is to be established under SUBDIVIDER and maintained until
27 written acceptance by COUNTY

28 C. That all requirements have been met with the Pacific Gas and Electric Company, AT&T,

1 Inc., and all other affected utility companies for the in-tract facilities.

2 D. That any private utility service shall have their system installed and tested in accordance
3 with applicable state laws. Utility companies that do not have a franchise agreement with COUNTY shall
4 locate their facilities outside of the road right-of-way or enter into a separate license agreement.
5 SUBDIVIDER shall contact the permit section of the Maintenance and Operations Division before any
6 such work is started.

7 5. WATER AND SEWER FACILITIES

8 SUBDIVIDER agrees:

9 A. That all storm drain lines, water and sewer mains and services shall be placed underground
10 within and outside of the limits of this subdivision as shown on the APPROVED PLANS.

11 B. That any raw water pumping, transmission, treatment and distribution facilities for the
12 production of potable water, shall be constructed in accordance with building, electrical, mechanical, fire,
13 and other applicable local and state codes.

14 C. That all necessary operating permits, including but not limited to those from the State Water
15 Resources Control Board and County Environmental Health Department, shall be obtained or amended
16 prior to placing the water system into operation.

17 D. That all treatment facilities, pumps and discharge facilities for the treatment and disposal
18 of wastewater shall be constructed in accordance with building, electrical, mechanical, fire and other
19 applicable local and state codes.

20 E. That all necessary operating permits, including but not limited to those from the Regional
21 Water Quality Control Board and County Environmental Health Department, shall be obtained or amended
22 prior to placing the sewer system into operation.

23 F. That all reclaimed water facilities shall be placed underground within and outside of the
24 limits of this subdivision as shown on the APPROVED PLANS. The acceptance of the reclaimed water
25 facilities will occur upon completion and acceptance of the improvements for Tract No. 4870, which will
26 connect Tract No. 6189 and Tract No. 4968 to the source of reclaimed water for use.

27 G. That all necessary financial arrangements have been made with County Service Area 34
28 for the transfer of the subdivision water, sewer, and reclaimed water improvements to that entity for

1 permanent maintenance when the facilities are deemed acceptable.

2 H. That SUBDIVIDER shall transfer to the COUNTY ownership, free and clear of any and all
3 liens, encumbrances, security interests, claims of any creditors, or court orders (collectively, "Claims"), of
4 the permanent backup lake pump generator (herein "Permanent Generator"), which shall be in-place at a
5 suitable permanent location, and fully operational according to the manufacturer's requirements, and
6 SUBDIVIDER shall assign all of the manufacturer's warranties for the Permanent Generator to the
7 COUNTY, prior to the COUNTY's issuance of a building permit for a non-model home in Tract No. 6189.

8 i. Notwithstanding the foregoing language in Section 5.H., the Director may issue, at
9 his or her sole and absolute discretion, building permits for single family residences, , based upon the
10 SUBDIVIDER's measurable progress made towards satisfying the requirements of Section 5, paragraph
11 H., above, for the Permanent Generator, provided that (a) the SUBDIVIDER is not in default of this
12 AGREEMENT, and (b) a mobile pump and generator, including a lake pump and motor assembly, along
13 with all necessary appurtenances and controls (hereinafter "Mobile Pump and Generator") has been
14 approved by the Director for purchase by the SUBDIVIDER and will be made available for the COUNTY's
15 use, as provided in Section 5.H.i., commencing prior to the COUNTY's issuance of a certificate of
16 occupancy for any single family residence, or at a time as determined by the Director, whichever is earlier,
17 and continuing at all times until the Director accepts the Permanent Generator. The Director's release of
18 any portion of the additional building permits, or certificates of occupancy, for single family residences, ,
19 shall not obligate the Director to release any such remaining additional building permits, or certificates of
20 occupancy. Said Mobile Pump and Generator shall have sufficient capacity to reliably provide fresh
21 potable water, meeting all requirements of all federal, state and local health and safety laws and
22 regulations, even in the event of a power outage or other system failure, from a freshwater body into the
23 County Service Area No. 34 (hereinafter "CSA 34") water delivery system for said system's then-current
24 needs as well as those additional needs anticipated with the future population growth and development
25 within CSA 34, as determined by the Director in his sole and absolute discretion, up until such time as the
26 Permanent Generator is in-place and fully operational according to the manufacturer's requirements.
27 SUBDIVIDER shall deliver the Mobile Pump and Generator in good working condition to the COUNTY, at
28 any location of the Director's choosing, within five (5) miles of Millerton Lake, within forty eight (48) hours

1 written or oral notice by the COUNTY to SUBDIVIDER that an emergency situation exists for the CSA 34
2 water delivery system, as determined by the Director. The COUNTY is not responsible in any way under
3 this AGREEMENT or any amendment hereto for the purchase, transportation, storage, repair,
4 maintenance, delivery, removal, acceptance, or approval of the Mobile Pump and Generator, provided
5 however, the COUNTY shall have the right to own the Mobile Pump and Generator as provided in Section
6 5.H.ii. SUBDIVIDER is responsible for all costs associated with the purchase, transportation, storage,
7 repair, maintenance, delivery, installation/startup, removal, and approvals for the Mobile Pump and
8 Generator prior to SUBDIVIDER's transfer of ownership of the Mobile Pump and Generator to the
9 COUNTY pursuant to Section 5.H.ii.

10 ii. Notwithstanding any of the foregoing in Sections 5.H. and Section 5.H.i., prior to
11 August 1, 2024, and at SUBDIVIDER's sole cost, (a) SUBDIVIDER shall transfer to the COUNTY (or CSA
12 34, if requested by the Director) ownership, free and clear of any and all Claims, of the Permanent
13 Generator, which shall be in-place at a suitable permanent location, and fully operational according to the
14 manufacturer's requirements, (b) SUBDIVIDER shall assign all of the manufacturer's warranties for the
15 Permanent Generator to the COUNTY (or CSA 34, if requested by the Director), (c) SUBDIVIDER shall
16 transfer to the COUNTY (or CSA 34, if requested by the Director) ownership, free and clear of any and all
17 Claims, of the Mobile Pump and Generator, which shall be fully operational according to the
18 manufacturer's requirements, and in good condition, subject to its normal and reasonable wear taking into
19 account the requirements for its repair and maintenance under Section 5.H.i., and assign all of the
20 manufacturer's warranties for the Mobile Pump and Generator to the COUNTY (or CSA 34, if requested
21 by the Director), and (d) SUBDIVIDER shall provide the manufacturer's operating manual for Mobile Pump
22 and Generator to the COUNTY, all as determined by and subject to the acceptance of the Director.

23 I. That permits for non-model homes, in increments of up to twenty-five with a cumulative
24 limit of one-hundred thirty-three, may be allowed at the discretion of the Director or designee of Director
25 based upon the progress which COUNTY and SUBDIVIDER has made with determining the treatment
26 capacity in the existing CSA 34 wastewater treatment facility and if necessary, modifying or expanding it
27 to meet the treatment capacity requirements of the 133 lots proposed.

28 6. MAINTENANCE.

1 SUBDIVIDER agrees:

2 A. To provide maintenance of all new road improvements and drainage facilities for a period
3 of two years after completion and written acceptance of the work by COUNTY. Permanent maintenance
4 shall be assumed by County Service Area 34, Zone "G" (CSA 34G) prior to release of the improvement
5 security posted to guarantee completion and maintenance of the work and upon written acceptance by
6 COUNTY. For CSA 34G to assume responsibility of the drainage facilities the following must be
7 completed:

- 8 1. Provide valid operating permits, if applicable.
- 9 2. Adhere to section 3, DRAINAGE FACILITIES of this AGREEMENT, including sub-
10 section C.1 through C.6.
- 11 3. Adhere to section 7, ADDITIONAL CONDITIONS of this AGREEMENT, including
12 sub-section E.

13 B. To provide landscape and irrigation, including plantings, maintenance and warranty to all
14 common areas for a period of one year after completion and written acceptance of the work by COUNTY.
15 Permanent maintenance shall be assumed by CSA 34G prior to release of the improvement security
16 posted to guarantee completion and maintenance of the work and upon written acceptance by COUNTY.
17 For CSA 34G to assume responsibility of the landscape and irrigation, SUBDIVIDER must provide a
18 Landscape Irrigation O&M Manual to include a listing of all vegetation and trees and their proper care
19 instructions, irrigation schedules and controller equipment manual(s).

20 7. ADDITIONAL CONDITIONS.

21 SUBDIVIDER agrees:

22 A. SUBDIVIDER shall cause to be placed all survey monuments and lot corners as shown on
23 the Final Map. Such survey monuments and lot corners shall be placed only by the Surveyor of record for
24 the final map unless otherwise authorized by the Director.

25 B. SUBDIVIDER is responsible for all work until the work is accepted by COUNTY. COUNTY
26 acceptance shall be conditioned upon the acceptance of the work by other applicable agencies, including
27 but not limited to County Service Area 34 and the Fresno County Fire Protection District.

28 C. The common area landscaping plant material shall be irrigated with domestic water on a

1 schedule, which will be metered and charged according to the Fresno County Master Schedule of Fees
2 until such time as the reclaimed water facilities are constructed.

3 D. SUBDIVIDER shall plant one front-yard tree per lot and two front yard trees per corner lot,
4 as a condition of occupancy for each single-family dwelling unit. Trees shall be selected by the
5 SUBDIVIDER from COUNTY master street tree list or other as approved by Director.

6 E. SUBDIVIDER shall furnish to COUNTY two sets of as-built plans for all work performed
7 prior to acceptance of improvements and start of the required maintenance obligation as per this
8 AGREEMENT.

9 F. In the event an extension is granted to the time within which all work is to be completed on
10 this tract, SUBDIVIDER hereby agrees that it will comply with all the applicable improvement standards in
11 effect at the time the extension is granted. SUBDIVIDER will compensate COUNTY for the processing of
12 the time extensions in accordance with the Master Schedule of Fees (currently Section 2570-10.
13 Agreements for Subdivisions) in effect at the time the extension is requested. Failure to make a timely
14 request for an extension may result in the refusal of building permits for undeveloped lots within the tract.

15 G. The terms "accepted" and "acceptance" as used throughout this AGREEMENT are not
16 intended to, nor do they, carry with them the same meaning as acceptance into COUNTY "road system,"
17 as such process is described in Streets and Highways Code section 941. Should COUNTY intend or elect
18 to accept any of the roads, streets, or other public highways outlined in this AGREEMENT, into its "road
19 system," pursuant to Streets and Highways Code section 941, such action will be done by explicit wording
20 in a resolution(s) adopted by the Board of Supervisors.

21 H. SUBDIVIDER agrees that all work described within this AGREEMENT that is or will be
22 open to the public, including work performed on roads, streets, sideways, walkways, and all other areas
23 that are or will be open to the public, is or will be completed or brought to the standards mandated by the
24 Americans with Disabilities Act (42 U.S.C. 12101 et seq.), as well as any and all State and Federal laws,
25 codes, and regulations, regarding access or use of public places by members of the public. SUBDIVIDER
26 further agrees, promises, covenants, and represents, that all work performed or completed on any and all
27 roads, streets, sidewalks, walkways, and any other areas, that are open to the public, is and will be
28 performed and completed to the standards that COUNTY would be required to meet, or comply with, if

1 COUNTY performed the work, as well as the standards COUNTY will be required to meet when, if ever,
2 COUNTY is obligated to comply with the Americans with Disabilities Act, or any other State or Federal
3 Laws regarding access or use of public places by members of the public.

4 8. FEES AND SECURITIES.

5 A. The amount of \$2,217.68, has been paid to COUNTY for furnishing and installing traffic
6 control signs on the public roads.

7 B. SUBDIVIDER has provided security in the amount of \$5,000 to guarantee placement of
8 survey monuments.

9 C. SUBDIVIDER has provided (1) performance and maintenance security in the amount of
10 \$3,746,249.65 which sum constitutes 100 percent of the estimated on-site improvement cost of all work
11 to guarantee performance and maintenance; (2) improvement security in the amount of \$1,702,840.75 to
12 guarantee payment of labor and materials as provided in the Subdivision Map Act, which sum constitutes
13 50 percent of the estimated cost of all required on-site improvements; and (3) \$2,575,254 which sum
14 constitutes 100 percent of the estimated off-site cost of all work to guarantee performance and
15 maintenance, and (4), improvement security in the amount of \$1,170,570 to guarantee payment of labor
16 and materials as provided in the Subdivision Map Act, which sum constitutes 50 percent of the estimated
17 cost of all required off-site improvements.

18 The securities for performance hereinabove provided shall be for the purpose of securing the
19 completion of said work, together with any changes, alterations, or additional work, provided such
20 changes, alterations, or additional work does not exceed ten percent of the original estimated cost of the
21 improvement.

22 D. Performance of the improvement work may be in two phases. It is therefore agreed, upon
23 partial completion of the work in increments of Three Million Dollars (\$3,000,000) or more, with acceptable
24 certification to the Director, that said Director or designee of the Director shall be empowered to authorize
25 a reduction in the appropriate subdivision improvement security to guarantee performance of the work in
26 conformance with County Ordinance Code. The reduction shall be ninety percent (90%) of the increment
27 less the amount necessary to provide for the required maintenance of the work completed.

28 E. When the work has been completed and accepted, the performance and maintenance

1 security for on-site improvements may be reduced to \$745,793.12 and for off-site improvements \$252,092
2 in accordance with Section 17.56 of the Fresno County Ordinance Code. This amount \$745,793.12 for
3 on-site improvements and \$252,092 for off-site improvements shall guarantee maintenance of the new
4 roads for a period of two years after completion of the work thereof against any defective work or labor
5 done or defective materials furnished in the construction of the roads and upon written acceptance by
6 COUNTY. The amount of \$681,16.30 shall guarantee on-site maintenance of all electrical and mechanical
7 equipment, storm drainage basins, reclaimed water lines, landscape, open space and trail systems, and
8 street lighting for a period of one year upon written acceptance by COUNTY.

9 F. SUBDIVIDER has paid plan check and inspection fees to COUNTY in the amount of
10 \$72,095 for on-site improvements and \$57,244 for off-site improvements less any deposits previously
11 made.

12 G. SUBDIVIDER has paid an Agreement Administration Fee to COUNTY in the amount of
13 \$27,245.45 for on-site improvements and \$18,729.12 for off-site improvements.

14 9. ADDITIONAL PROVISIONS.

15 A. BINDING AGREEMENT. The provisions of this AGREEMENT shall be binding upon the
16 Parties hereto and their heirs, successors, or assigns.

17 B. ASSIGNMENT. This AGREEMENT shall not be assignable by SUBDIVIDER without the
18 prior written consent of COUNTY. Any assignee shall take this AGREEMENT, in its entirety, subject to
19 the covenants and conditions set forth herein.

20 C. HOLD HARMLESS AND INDEMNIFICATION. Each Party agrees to defend and hold
21 harmless the other Party from any and all loss or liability arising from the death or injury of any person, or
22 damage to real or personal property caused by each Party's own agent or employee, more specifically:

23 SUBDIVIDER agrees to hold harmless, defend and indemnify COUNTY, its Board of Supervisors,
24 officers, and employees from every claim, demand, suit, loss and damage arising from:

- 25 1. Any act, omission, neglect or fault of SUBDIVIDER, their engineers, contractors or agents,
26 or the employees of the same.
- 27 2. Any act, omission, neglect or fault, except for the sole negligence or willful conduct of
28 COUNTY, its Board of Supervisors, officers or employees.

1 3. Any injury to, or death of, any person or damage to any property sustained while on the
2 real property described as Tract No. 6189 or land affected by the APPROVED PLANS or
3 on any property immediately adjacent to such property, or upon any street or highway
4 running through such property or immediately adjacent to such property, which is in
5 connection with or alleged to be in connection with the construction of improvements for
6 Tract No. 6189.

7 4. Any injury to, death of, or damage to, the property of SUBDIVIDER, or its agents, engineers
8 or contractors, or their employees.

9 5. Any damage to or taking of any property arising from said plans, specifications or profiles,
10 or arising from the construction of the improvements provided for in this AGREEMENT.

11 It is mutually agreed that SUBDIVIDER's surety, if any, shall not be deemed liable for the
12 performance of any of the foregoing provisions in this section, unless said surety shall undertake the
13 completion of any improvement, and then only to the extent of any act, omission, neglect or fault of the
14 surety, its engineers, agents and contractors, and their employees, while in the course of completion of
15 such improvements.

16 COUNTY agrees to hold harmless, defend and indemnify SUBDIVIDER, its agents, engineers or
17 contractors, or their employees from every claim demand, suit, loss and damage arising from the negligent
18 or willful conduct of COUNTY, its Board of Supervisors, officers, or employees acting within the scope of
19 their employment with COUNTY.

20 10. INSURANCE.

21 Without limiting COUNTY right to obtain indemnification from SUBDIVIDER or any third parties,
22 SUBDIVIDER, at its sole expense, shall maintain in full force and effect, the following insurance policies:

23 A. Commercial General Liability. Commercial General Liability Insurance with limits of not less
24 than One Million Dollars (\$1,000,000) per occurrence and an annual aggregate of Two Million Dollars
25 (\$2,000,000). This policy shall be issued on a per occurrence basis. COUNTY may require specific
26 coverages including completed operations, products liability, contractual liability, Explosion-Collapse-
27 Underground, fire legal liability or any other liability insurance deemed necessary because of the nature of
28 this contract.

1 B. Automobile Liability. Comprehensive Automobile Liability Insurance with limits for bodily injury
2 of not less than Two Hundred Fifty Thousand Dollars (\$250,000) per person, Five Hundred Thousand Dollars
3 (\$500,000) per accident and for property damages of not less than Fifty Thousand Dollars (\$50,000) or such
4 coverage with a combined single limit of Five Hundred Thousand Dollars (\$500,000). Coverage should
5 include owned and non-owned vehicles used in connection with this AGREEMENT.

6 C. Professional Liability. If SUBDIVIDER employs licensed professional staff, (e.g., RCE, PE,
7 GE, PLS) in providing services, Professional Liability Insurance with limits of not less than One Million Dollars
8 (\$1,000,000) per occurrence and Three Million Dollars (\$3,000,000) annual aggregate.

9 D. Worker's Compensation. A policy of Worker's Compensation insurance as may be required
10 by the California Labor Code.

11 SUBDIVIDER shall obtain endorsements to the Commercial General Liability insurance naming the
12 COUNTY, its officers, agents, and employees, individually and collectively, as additional insured, but only
13 insofar as the operations under this AGREEMENT are concerned. Such coverage for additional insured shall
14 apply as primary insurance and any other insurance, or self-insurance, maintained by COUNTY, its officers,
15 agents and employees shall be excess only and not contributing with insurance provided under SUBDIVIDER
16 policies herein. This insurance shall not be cancelled or changed without a minimum of thirty (30) days
17 advance written notice given to COUNTY.

18 Within Thirty (30) days from the date SUBDIVIDER signs and executes this AGREEMENT,
19 SUBDIVIDER shall provide certificates of insurance and endorsement as stated above for all of the foregoing
20 policies, as required herein, to COUNTY, (Steven E. White, Director of the Department of Public Works and
21 Planning, 2220 Tulare Street, 6th Floor, Fresno, CA 93721), stating that such insurance coverage have been
22 obtained and are in full force; that COUNTY, its officers, agents and employees will not be responsible for
23 any premiums on the policies; that such Commercial General Liability insurance names COUNTY its officers,
24 agents and employees, individually and collectively, as additional insured, but only insofar as the operations
25 under this AGREEMENT are concerned; that such coverage for additional insured shall apply as primary
26 insurance and any other insurance, or self-insurance, maintained by COUNTY, its officers, agents and
27 employees, shall be excess only and not contributing with insurance provided under SUBDIVIDER's policies
28 herein; and that this insurance shall not be cancelled or changed without a minimum of thirty (30) days

1 advance, written notice given to COUNTY.

2 In the event SUBDIVIDER fails to keep insurance coverage in effect at all times, as herein provided,
3 COUNTY may, in addition to other remedies it may have, suspend or terminate this AGREEMENT upon the
4 occurrence of such event.

5 All policies shall be issued by admitted insurers licensed to do business in the State of California, and
6 such insurance shall be purchased from companies possessing a current A.M. Best, Inc. rating of A FSC VII
7 or better.

8 11. INSPECTION OF THE WORK.

9 SUBDIVIDER shall guarantee free access to COUNTY through its Director and his designated
10 representative for the safe and convenient inspection of the work throughout its construction. Said
11 COUNTY representative shall have the authority to reject all materials and workmanship which are not in
12 accordance with the plans and specifications, and all such materials and/or work shall be removed
13 promptly by SUBDIVIDER and replaced to the satisfaction of COUNTY without any expense to COUNTY
14 in strict accordance with the improvement plans and specifications.

15 12. ABANDONMENT OF WORK

16 If the work to be done under this contract is abandoned, or if this contract is assigned by
17 SUBDIVIDER without written consent of COUNTY, or if COUNTY through its Director of Public Works and
18 Planning determines that the said work or any part thereof is being unnecessarily or unreasonably delayed
19 or that SUBDIVIDER is willfully violating any of the conditions or covenants of this contract or is executing
20 this contract in bad faith, COUNTY shall have the power to notify SUBDIVIDER to discontinue all work or
21 any part thereof under this contract, and thereupon SUBDIVIDER shall cease to continue the work or such
22 part thereof as COUNTY may designate, and COUNTY shall thereupon have the power to obtain by
23 contract, purchase, rental or otherwise, all labor, equipment, and materials deemed necessary to complete
24 the work and to use such materials as may be found upon the line of such work. SUBDIVIDER and his
25 sureties shall be liable for all expenses incurred by COUNTY for the acquisition and use of such labor,
26 equipment, and materials.

27 13. USE OF STREETS OR IMPROVEMENTS.

28 At all times prior to the final acceptance of the work by COUNTY, the use of any or all streets and

1 improvements within the work to be performed under this contract shall be at the sole and exclusive risk
2 of SUBDIVIDER. The issuance of any building or occupancy permit by COUNTY for dwellings located
3 within the tract shall not be construed in any manner to constitute a partial or final acceptance or approval
4 of any or all such improvements by COUNTY.

5 SUBDIVIDER agrees that COUNTY Building Officials may withhold the issuance of building or
6 occupancy permits when:

7 A. The work or its progress may substantially and/or detrimentally affect public health and
8 safety, or

9 B. The street and drainage improvements covered under this contract are not performed
10 according to the APPROVED PLANS and specifications.

11 Nothing in this paragraph shall limit the grounds upon which COUNTY may withhold issuance of
12 building or occupancy permits.

13 14. SAFETY DEVICES.

14 SUBDIVIDER shall provide and maintain such guards, watchmen, fences, barriers, regulatory
15 signs, warning lights, and other safety devices adjacent to and on the tract site as may be necessary to
16 prevent accidents to the public and damage to the property. SUBDIVIDER shall furnish, place, and
17 maintain such lights as may be necessary for illuminating the said fences, barriers, signs, and other safety
18 devices. At the end of all work to be performed under this contract, all fences, barriers, regulatory signs,
19 warning lights, and other safety devices (except such safety items as may be shown on the plans and
20 included in the items of work) shall be removed from site of the work by SUBDIVIDER, and the entire site
21 left clean and orderly.

22 15. ACCEPTANCE OF WORK.

23 Upon notice of the completion of all tract work and the delivery of a set of final as-built plans to
24 COUNTY by SUBDIVIDER, COUNTY, through the Director or his designated representative, will proceed
25 to examine the tract work without delay, and, if found to be in accordance with the aforesaid plans and
26 specifications and this contract, will accept the work and will notify SUBDIVIDER or his designated agents
27 in writing of such acceptance.

28 16. WAGE RATE.

1 SUBDIVIDER acknowledges that the proposed improvements may be deemed a work of public
2 improvement subject to requirements of the California Labor Code, including payment of prevailing wage.
3 To the fullest extent required by law, SUBDIVIDER, his prime contractor, and all subcontractors performing
4 any work on a work of public improvement, as part of the proposed improvements:

5 A. Shall pay all workmen employed by them on said work a salary or wage at least equal to
6 the prevailing salary or wage for the same quality of service rendered to private persons, firms or
7 corporations under similar employment, which salary or wage shall not be less than the general prevailing
8 rate of per diem wages for work of a similar character in the locality in which the work is performed, and
9 not less than the general prevailing rate of per diem wages for legal holidays and overtime work, and
10 which salary or wage shall be not less than the stipulated rates contained in a schedule thereof which has
11 been ascertained and determined by the Director of the Department of Industrial Relations, State of
12 California, and which is now on file with the Public Works and Planning Department and by reference
13 incorporated herein, and made a part herein, and made a part hereof;

14 B. Agree and understand that eight hours labor shall constitute a day's work for any one
15 calendar day on said work, and that no workman employed by them on the work or any part thereof shall
16 be required or permitted to work thereupon more than eight hours in any one calendar day, and forty hours
17 worked in excess of eight hours per day or forty hours per week at a rate not less than one and one half
18 (1-1/2) times his or her regular rate of pay,

19 C. Shall keep an accurate record showing the names and actual hours worked of all workers
20 employed by him on the said work, which record shall be open at all reasonable hours to the inspection
21 of the First Party or its agents, and to the Chief of the Division of Labor Statistics and Law Enforcement of
22 the Department of Industrial Relations, his Deputies or Agents.

23 17. LABOR CODE PENALTIES.

24 SUBDIVIDER shall forfeit to COUNTY, as a penalty, the sum of twenty-five dollars (\$25): (a) for
25 each workman on said work who is required or permitted to labor more than eight hours in any one
26 calendar day or forty hours in any one calendar week in violation of the provisions of Article 3 of Chapter
27 1 of Part 7 of Division 2 of the Labor Code of the State of California; and (b) for each workman on said
28 work employed for each calendar day, or portion thereof, who is paid less than the said stipulated rates

1 for work done under this contract in violation of the provisions of Article 2 of Chapter 1 of Part 7 of Division
2 2 of the Labor Code of the State of California.

3 18. NOTICES.

4 The persons and their addresses having authority to give and receive notices under this
5 AGREEMENT include the following:

6 COUNTY OF FRESNO

SUBDIVIDER

7 Director of Public Works and Planning

Darius Assemi, CEO, Director

8 County of Fresno

3B Development, Inc.,

9 2220 Tulare Street, 6th Floor

a California Corporation

10 Fresno, CA 93721

1396 W. Herndon Avenue

11 Fresno, CA 93711

12 All notices between COUNTY and SUBDIVIDER provided for or permitted under this
13 AGREEMENT must be in writing and delivered either by personal service, by first-class United States
14 mail, by an overnight commercial courier service, or by telephonic facsimile transmission. A notice
15 delivered by personal service is effective upon service to the recipient. A notice delivered by first-class
16 United States mail is effective three (3) COUNTY business days after deposit in the United States mail,
17 postage prepaid, addressed to the recipient. A notice delivered by an overnight commercial courier
18 service is effective one (1) COUNTY business day after deposit with the overnight commercial courier
19 service, delivery fees prepaid, with delivery instructions given for next day delivery, addressed to the
20 recipient. A notice delivered by telephonic facsimile is effective when transmission to the recipient is
21 completed (but, if such transmission is completed outside of COUNTY business hours, then such delivery
22 shall be deemed to be effective at the next beginning of a COUNTY business day), provided that the
23 sender maintains a machine record of the completed transmission.

24 For all claims arising out of or related to this AGREEMENT, nothing in this section establishes,
25 waives, or modifies any claims presentation requirements or procedures provided by law, including but
26 not limited to the Government Claims Act (Division 3.6 of Title 1 of the Government Code, beginning with
27 section 810).

28 19. GOVERNING LAW.

1 Venue for any action arising out of or related to this AGREEMENT shall only be in Fresno County,
2 California. The rights and obligations of the Parties and all interpretation and performance of this
3 AGREEMENT shall be governed in all respects by the laws of the State of California.

4 20. SEVERABILITY.

5 In the event any provisions of this AGREEMENT are held by a court of competent jurisdiction to
6 be invalid, void, or unenforceable, the Parties will use their best efforts to meet and confer to determine
7 how to mutually amend such provisions with valid and enforceable provisions, and the remaining
8 provisions of this AGREEMENT will nevertheless continue in full force and effect without being impaired
9 or invalidated in any way.

10 21. HEADINGS; CONSTRUCTION; STATUTORY REFERENCES.

11 The headings of the sections and paragraphs of this AGREEMENT are for convenience only and
12 shall not be used to interpret this AGREEMENT. This AGREEMENT is the product of negotiation between
13 the Parties. The language of this AGREEMENT shall be construed as a whole according to its fair
14 meaning and not strictly for or against any Party. Any rule of construction to the effect that ambiguities
15 are to be resolved against the drafting party shall not apply in interpreting this AGREEMENT.

16 All references in this AGREEMENT to statutes, regulations, ordinances or resolutions of the United
17 States, the State of California, or COUNTY shall be deemed to include the same statute, regulation,
18 ordinance or resolution as hereafter amended or renumbered, or if repealed, to such other provisions as
19 may thereafter govern the same subject. Any word or phrase requiring interpretation shall be interpreted
20 in a manner consistent with the spirit and intent of the Subdivision Map Act and the Subdivision Ordinance
21 of the County of Fresno.

22 22. LEGAL AUTHORITY.

23 Each individual executing or attesting this AGREEMENT hereby covenants, warrants, and
24 represents to the other Party:

25 A. That he or she is duly authorized to execute and deliver this AGREEMENT on behalf of his
26 or her respective Party in accordance with the following: for SUBDIVIDER, its articles of incorporation and
27 corporate bylaws; and for COUNTY, its governing legal authority;

28 B. That this AGREEMENT is binding upon his or her respective Party; and

1 C. That his or her respective Party is duly organized and legally existing in good standing in
2 the State of California.

3 23. BINDING EFFECT.

4 This AGREEMENT shall be binding upon, and inure to the benefit of, the successors and assigns
5 of the Parties.

6 24. NO THIRD-PARTY BENEFICIARIES

7 Notwithstanding anything else to the contrary herein, the Parties acknowledge and agree that no
8 other person, firm, corporation, or entity shall be deemed an intended third-party beneficiary of this
9 AGREEMENT.

10 25. COUNTERPARTS.

11 This AGREEMENT may be executed in two or more counterparts, each of which shall be deemed
12 to be an original, and all of which taken together shall constitute one and the same instrument.

13 26. ENTIRE AGREEMENT.

14 This AGREEMENT constitutes the entire AGREEMENT between SUBDIVIDER and COUNTY with
15 respect to the subject matter hereof and supersedes all previous agreements, negotiations, proposals,
16 commitments, writings, advertisements, publications, and understanding of any nature whatsoever unless
17 expressly included in this AGREEMENT.

18 27. INDEPENDENT CAPACITY.

19 This AGREEMENT is not intended to and will not be construed to create the relationship of
20 principal-agent, master-servant, employer-employee, partnership, joint venture or association between
21 the COUNTY and the SUBDIVIDER; neither Party is an officer of the other. Each of the Parties to this
22 AGREEMENT, their respective officers, agents and employees, in the performance of this AGREEMENT
23 shall act in an independent capacity, as independent contractors, between each other.

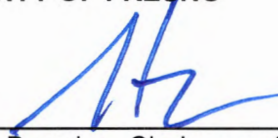
24 **(Signature page follows.)**
25
26
27
28

1 IN WITNESS WHEREOF, the Parties have executed this AGREEMENT on the date set forth
2 above.

3
4 **SUBDIVIDER AND/OR CONSULTANT**

COUNTY OF FRESNO

5
6 
7 _____
(Authorized Signature)



Steve Brandau, Chairman of the Board of
Supervisors of the County of Fresno

8 Darius Assani, CEO
9 Print Name and Title

ATTEST:
Bernice E. Seidel
Clerk of the Board of Supervisors
County of Fresno, State of California

10 1394 W. Herndon Ave, Ste 101
11 Mailing Address

12 Fresno, Ca 93711
13 City, State, and Zip Code

By 
Deputy

14
15
16
17
18
19
20 FOR ACCOUNTING USE ONLY:
21 ORG: 43600200
22 FUND: 0001
23 SUBCLASS: 10000
24 ACCOUNT: 4910
25 ACTIVITY: 1324
26
27
28

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.

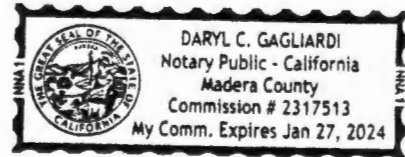
State of California
County of Fresno)

On November 8, 2021, before me, Daryl C. Gagliardi, a notary public,
(insert name and title of the officer)

personally appeared Darius Assemi
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 [Handwritten Signature] (Seal)