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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

AGREEMENT  
FACILITY AND DEVELOPMENT FEES  
TRACT NO. 6189

THIS AGREEMENT is 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 called "COUNTY" and 3E Development Inc., a California corporation located at 1396 W. Herndon Avenue, Fresno CA, 93711, the subdivider of Tract No. 6189, referred to hereinafter as "SUBDIVIDER." COUNTY and SUBDIVIDER may be referred to individually as a "Party," or collectively as "Parties," to this AGREEMENT.

WITNESSETH

WHEREAS, on December 14, 2000 the Fresno County Planning Commission approved Vesting Tentative Subdivision Map No. 4968, subject to certain conditions; and

WHEREAS, application has been made for approval of the Final Map for Tract No. 6189 (133-lots), phase two of Vesting Tentative Subdivision Map No. 4968; and,

WHEREAS, on December 14, 2000 the Fresno County Planning Commission approved Initial Study Application No. 4665, Classified Conditional Use Permit No. 2956 and Site Plan Review Application No. 7082 related to Vesting Tentative Subdivision Map No. 4968; and,

WHEREAS, on December 19, 2000 the Fresno County Board of Supervisors approved the Millerton New Town Area Infrastructure Plan; and,

WHEREAS, Facility and Development Fees are provided for the Millerton Specific Plan; and,

WHEREAS, SUBDIVIDER has a reservation of capacity in the water and wastewater facilities as

1 per Resolution No. 14-073, adopted by the Fresno County Board of Supervisors on February 25, 2014;  
2 and,

3 WHEREAS, the Millerton New Town Infrastructure Plan Implementation Procedures provide for  
4 reimbursement for cost of construction of facilities contained in the Infrastructure Plan through the provision  
5 of Facility Fees; and

6 WHEREAS, SUBDIVIDER desires to acquire a permanent allocation of capacity for water and  
7 wastewater facilities for Tract No. 6189 and to file a Final Map for Tract No. 6189; and

8 WHEREAS, the document titled "Millerton New Town Infrastructure Plan Facility Fees and Millerton  
9 Specific Plan Development Fees," dated June 2008 (Facility and Development Fees Document) and on  
10 file in the office of the Department of Public Works and Planning describes Facility Fees and Development  
11 Fees as provided for in the Millerton Specific Plan and the Implementation Procedures;

12 NOW THEREFORE, the Parties hereto agree as follows:

13 1. FEE OBLIGATION.

14 SUBDIVIDER is obligated to pay the Facility Fee and Development Fee in the amounts shown in  
15 Attachment A to this AGREEMENT prior to the issuance of a building permit. Each of these fees is a base  
16 fee per lot multiplied by the one hundred thirty-three (133) lots in Tract No. 6189 and include the fees for  
17 COUNTY administration of the fee program.

18 2. CREDIT FOR FACILITY CONSTRUCTION.

19 A. In connection with Tract No. 6189, SUBDIVIDER constructed facilities or other infrastructure  
20 that are the subject of the Facility Fee and Development Fee. SUBDIVIDER has furnished COUNTY with  
21 documentation of the cost of those constructed facilities and SUBDIVIDER's pro rata share of that cost for  
22 those completed facilities that are the subject of the Facility Fees and Development Fees.

23 B. SUBDIVIDER has furnished COUNTY with documentation of the estimated cost of facilities  
24 and SUBDIVIDER's pro rata share of that estimated cost for those facilities that are the subject of the  
25 Facility Fees and Development Fees that are to be constructed or installed and not completed at the time  
26 of this AGREEMENT. Those costs are summarized in Attachments C and D. SUBDIVIDER shall provide  
27 to COUNTY a summary of the actual costs within sixty (60) days after completion of the facilities.

28 C. The value of that participation shown by the documentation in Paragraphs A and B above

1 is shown in Attachment A and is credited against SUBDIVIDER's fee obligation.

2 3. PAYMENT OF FEES.

3 A. SUBDIVIDER shall pay the fees due in the amount shown on Attachment A upon  
4 acceptance of the Final Map for said Tract No. 6189 by the Board of Supervisors.

5 B. COUNTY shall deposit funds in separate accounts and shall accurately account for all funds  
6 and interest earned. Funds shall be administered in accordance with the provision of the Implementation  
7 Procedures of the Millerton New Town Infrastructure Plan.

8 4. ADJUSTMENTS.

9 A. Based on documentation, that may later be submitted by SUBDIVIDER and accepted by  
10 COUNTY Department of Public Works and Planning, of actual cost and SUBDIVIDER's pro rata share of  
11 that cost furnished in accordance with Section 2, Paragraph B, COUNTY shall revise SUBDIVIDER's  
12 credits shown in Attachment A to reflect the actual costs.

13 B. COUNTY shall provide SUBDIVIDER with a revised statement of fees and credits for Tract  
14 No. 6189 and notify SUBDIVIDER of any additional fees due within ninety (90) days of receiving and  
15 accepting the documentation in paragraph A of this section. SUBDIVIDER shall pay any additional fees  
16 within sixty (60) days of receiving notice of fees due.

17 5. REIMBURSEMENTS.

18 A. COUNTY shall review the Facility Fee and Development Fee accounts annually or as  
19 requested by SUBDIVIDER and notify SUBDIVIDER when funds are available in any of the accounts to  
20 reimburse SUBDIVIDER for the credits shown on Attachment A or the latest revised statement of fees and  
21 credits.

22 B. Within 60 days of receiving notice of available funds as provided in paragraph A of this  
23 section 5, SUBDIVIDER shall choose to receive reimbursement or to retain credits toward fee obligations  
24 on future projects in the Millerton New Town Specific Plan area and shall notify COUNTY in writing of its  
25 choice.

26 6. NOTICES.

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

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COUNTY OF FRESNO

Director of Public Works and Planning  
County of Fresno  
2220 Tulare Street, 6<sup>th</sup> Floor  
Fresno, CA 93721

SUBDIVIDER

Darius Assemi, CEO, Director  
3B Development Inc.  
a California Corporation  
1396 W. Herndon Avenue,  
Fresno, CA 93711

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

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

7. VENUE AND GOVERNING LAW.

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

8. SEVERABILITY.

In the event any provisions of this AGREEMENT are held by a court of competent jurisdiction to be

1 invalid, void, or unenforceable, the Parties will use their best efforts to meet and confer to determine how  
2 to mutually amend such provisions with valid and enforceable provisions, and the remaining provisions of  
3 this AGREEMENT will nevertheless continue in full force and effect without being impaired or invalidated  
4 in any way.

5 9. HEADINGS; CONSTRUCTION; STATUTORY REFERENCES.

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

11 All references in this AGREEMENT to statutes, regulations, ordinances or resolutions of the United  
12 States, the State of California, or COUNTY shall be deemed to include the same statute, regulation,  
13 ordinance or resolution as hereafter amended or renumbered, or if repealed, to such other provisions as  
14 may thereafter govern the same subject.

15 10. LEGAL AUTHORITY.

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

- 18 A. That he or she is duly authorized to execute and deliver this AGREEMENT on behalf of his  
19 or her respective Party in accordance with the following: for the SUBDIVIDER, its articles of  
20 incorporation and bylaws; and for COUNTY, its governing legal authority;
- 21 B. That this AGREEMENT is binding upon his or her respective Party; and
- 22 C. That his or her respective Party is duly organized and legally existing in good standing in  
23 the State of California.

24 11. BINDING EFFECT.

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

27 12. NO THIRD-PARTY BENEFICIARIES.

28 Notwithstanding anything else to the contrary herein, the Parties acknowledge and agree that no

1 other person, firm, corporation, or entity shall be deemed an intended third-party beneficiary of this  
2 AGREEMENT.

3 13. COUNTERPARTS.

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

6 14. ENTIRE AGREEMENT.

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

11 15. NON-ASSIGNMENT.

12 This AGREEMENT shall not be assignable by SUBDIVIDER without the prior written consent of  
13 COUNTY. Any assignee shall take this AGREEMENT subject to the covenants and conditions set forth  
14 herein.

15 16. INDEPENDENT CAPACITY.

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

21 **(Signature page follows.)**

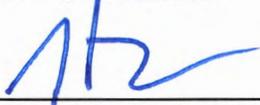
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1 IN WITNESS WHEREOF, the Parties have executed this AGREEMENT on the date  
2 set forth above.

3 **SUBDIVIDER AND/OR CONSULTANT**

**COUNTY OF FRESNO**

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6 \_\_\_\_\_  
(Authorized Signature)

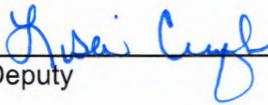
  
\_\_\_\_\_  
Steve Brandau, Chairman of the Board of  
Supervisors of the County of Fresno

7 Darius Assani CEO  
8 \_\_\_\_\_  
Print Name and Title

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

9 1394 W. Herndon Ave, Ste 101  
Mailing Address

10 Fresno, CA 93711  
11 \_\_\_\_\_  
City, State, and Zip Code

By   
Deputy

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18 FOR ACCOUNTING USE ONLY:  
19 ORG: 1170-1178, 1194-1199  
20 ACCOUNT: 1450, 1450  
21 FUND: 0085, 0085  
22 SUBCLASS 17414 – 17422; 17423 - 17428  
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# 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)

