ORDINANCE NO. 2025-02

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF VISALIA APPROVING A DEVELOPMENT AGREEMENT PERTAINING TO THE SHIRK AND RIGGIN INDUSTRIAL PARK PROJECT ("PROJECT") AND AUTHORIZING THE CITY TO ENTER INTO SAID AGREEMENT. THE PROPOSED PROJECT IS LOCATED ON APPROXIMATELY 284 ACRES, ON THE NORTH SIDE OF RIGGIN AVENUE BETWEEN SHIRK STREET AND KELSEY STREET. (APN: 077-840-004, 005, 006)

WHEREAS, the developer of the Shirk and Riggin Industrial Park Project ("Project") desires, in accordance with the authority given under Government Code Section 65864 et. seq., to enter into a development agreement pertaining to the Project. The proposed Project is located on approximately 284 acres, on the north side of Riggin Avenue between Shirk Street and Kelsey Street. (APN: 077-840-004, 005, 006); and

WHEREAS, the Draft Environmental Impact Report and appendices attached thereto (collectively, the "Draft EIR") for the Shirk & Riggin Industrial Park Project, which considered the Project and an associated Development Agreement, was released on April 11, 2024, for circulation for a period of 45 days, ending on May 28, 2024; and,

WHEREAS, the Final EIR was released on January 17, 2025; for purposes herein, the "Final EIR" consists of the Draft EIR and the revisions of, and additions to, the Draft EIR; the written comments and recommendations received on the Draft EIR; the written responses of the City of Visalia to significant environmental points raised in the review and consultation process; errata to the foregoing; and other information included by the City of Visalia as detailed more fully therein and as specified in the record; and

WHEREAS, the California Environmental Quality Act (CEQA) required that, in connection with the approval of a project for which an EIR has been prepared that identified one or more significant effects, the decision making body makes certain findings regarding those effects, which in full are contained in Visalia City Council Resolution No. 2025-09 pertaining to the certification of the Final EIR prepared for the Shirk & Riggin Industrial Park Project; and,

WHEREAS, the Planning Commission of the City of Visalia, after a duly published notice, did review this proposal and held a public hearing on February 10, 2025, and found the Development Agreement for the Project to be in accordance with the Visalia Zoning Ordinance Chapter 17.60 based on evidence contained in the administrative record, including, without limitation, the staff report and testimony presented at the public hearing; and,

WHEREAS, the Planning Commission of the City of Visalia adopted Resolution No. 2025-07 recommending approval of the Development Agreement for the Project; and,

WHEREAS, a ten (10) day published notice was given, and at the public hearing for March 3, 2025, the public hearing was withdrawn and planned for re-noticing on March 17, 2025 in order to also consider an appeal related to the Project; and,

WHEREAS, the City Council of the City of Visalia, after ten (10) days published notice, held a 1st reading and public hearing for the Development Agreement for the Project on March 17, 2025; and,

WHEREAS, the City Council of the City of Visalia, after ten (10) days published notice, held a 2nd reading for the Development Agreement for the Project on April 7, 2025; and,

WHEREAS, the City Council of the City of Visalia finds that the Development Agreement for the Project has been prepared in accordance with Chapter 17.60 of the Municipal Code of the City of Visalia based on evidence contained in the staff report and testimony presented at the public hearing.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Visalia has found that the Final EIR for the Shirk & Riggin Industrial Park Project, State Clearinghouse No. 2022080658, was prepared consistent with the California Environmental Quality Act and City of Visalia Environmental Guidelines.

BE IT FURTHER RESOLVED that the City Council of the City of Visalia approves the Development Agreement for the Project, subject to making the following findings pursuant to Section 17.60.030 for development agreements based on the evidence presented:

1. That the proposed development agreement is consistent with the relevant objectives, policies, general land uses and programs specified in the general plan, any applicable specific plan, and/or any proposed amendment to the general plan or applicable specific plan submitted simultaneously and in conjunction with the proposed development agreement, in each case as detailed in materials in the administrative record, including, without limitation, the Final EIR. The agreement speaks toward the development and operation of the project by the developer in a manner that is consistent with applicable city law in accordance with phasing and the payment of fees as described therein. No specific plans are applicable to the project.
2. That the proposed development agreement is compatible with the uses authorized in, and the regulations prescribed for, the land use district in which the real property is located. The development is predicated upon the project's underlying General Plan land use designation of Industrial and Light Industrial, and the corresponding pre-zoning of Industrial and Light Industrial that is detailed and confirmed in the project's Pre-Annexation Agreement.
3. That the proposed development agreement is in conformity with public convenience, general welfare and good land use practice. As stated in Recital J of the Agreement, it eliminates or reduces uncertainty regarding project approvals, including the subsequent approvals, thereby encouraging planning for, investment in and commitment to the contemplated uses and development of the property as envisioned by the project.
4. That the proposed development agreement will not be detrimental to the public health, safety and general welfare. The City has made the findings, in connection with the project's entitlements and environmental analysis as required under California Environmental Quality Act, regarding the project as it relates to public health, safety and general welfare, based upon its compliance with the applicable policies and

provisions of the General Plan, Zoning Ordinance, and project mitigation measures. This development agreement does not enact terms beyond the scope of the project that would put at risk any public health, safety, and general welfare.

5. That the proposed development agreement will not adversely affect the orderly development of property or the preservation of property values. The development agreement reinforces the project phasing as described in Section 5.1 and addresses any potential default against a mortgage lien in Section 8.1.
6. That this Development Agreement is consistent with the project description and the analysis contained in the Final EIR (SCH# 2022080658) and for which said Final EIR is recommended to be certified by the City Council precedent to the City Council's consideration of this Development Agreement request, consistent with the California Environmental Quality Act (CEQA) and the State CEQA Guidelines and City of Visalia Environmental Guidelines.

BE IT FURTHER RESOLVED that the City Council of the City of Visalia authorizes entering into a Development Agreement, as depicted per attached Exhibit "A", on the real property described herein, in accordance with the terms of this resolution and under the provisions of Section 17.60.030 of the Ordinance Code of the City of Visalia.

PASSED AND ADOPTED: BRETT TAYLOR, MAYOR

ATTEST: _____

LESLIE CAVIGLIA, CITY CLERK APPROVED BY CITY ATTORNEY

_____

STATE OF CALIFORNIA)
COUNTY OF TULARE) ss.
CITY OF VISALIA)

I, Leslie Caviglia, City Clerk of the City of Visalia, certify the foregoing is the full and true Ordinance 2025-02 passed and adopted by the Council of the City of Visalia at a regular meeting held on April 7, 2025, and certify a summary of this ordinance will be published in the Visalia Times Delta.

Dated: April 8, 2025 LESLIE CAVIGLIA, CITY CLERK

By Reyna Rivera, Chief Deputy City Clerk

EXHIBIT “A” OF ORDINANCE NO. 2025-02, AN ORDINANCE OF THE CITY COUNCIL APPROVING A DEVELOPMENT AGREEMENT PERTAINING TO THE SHIRK AND RIGGIN INDUSTRIAL PARK PROJECT AND AUTHORIZING THE CITY TO ENTER INTO SAID AGREEMENT

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VISALIA:

Section 1: The following Development Agreement is hereby authorized to be entered into by the City of Visalia.

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

City of Visalia
Attn: Visalia City Clerk
315 E. Acequia Avenue
Visalia, CA 93291

RECORDING FEE EXEMPT
PURSUANT TO GOVERNMENT CODE
§§ 6103 and 27383

DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF VISALIA, SEEFRIED INDUSTRIAL PROPERTIES, INC., LARRY J. RITCHIE FAMILY LIMITED PARTNERSHIP AND JEFFREY B. RITCHIE FAMILY LIMITED PARTNERSHIP

(Shirk and Riggin Industrial Project)

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DEVELOPMENT AGREEMENT BY AND BETWEEN
THE CITY OF VISALIA AND SEEFRIED INDUSTRIAL PROPERTIES, INC.
(SHIRK AND RIGGIN INDUSTRIAL PROJECT)

This DEVELOPMENT AGREEMENT ("***Development Agreement***" or "***Agreement***") is made by and between the City of Visalia ("***City***"), a municipal corporation and charter city, and Seefried Industrial Properties, Inc., a Georgia corporation ("Seefried"), Larry J. Ritchie Family Limited Partnership ("LJR LP") and Jeffrey B. Ritchie Family Limited Partnership ("JBR LP"), and their respective successors and assigns hereunder (together with Seefried, LJR LP and JBR LP, "**Developer**"), effective as of _____, 2025 ("***Effective Date***"). City and Developer may sometimes be referred to herein individually as a "***Party***" and collectively as the "***Parties***".

RECITALS

A. The Legislature enacted Government Code Section 65864 *et seq.* ("***Development Agreement Statute***") in response to the lack of certainty in the approval of development projects, which can result in a waste of resources, escalate the cost of development, and discourage investment in and commitment to planning that would maximize the efficient utilization of resources. The Development Agreement Statute is designed to strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic risk of development. It authorizes a city to enter into a development agreement with any person having a legal or equitable interest in real property regarding the development of that property and establishing certain development rights therein. The Development Agreement Statute also authorizes a city to enter into a development agreement even though the subject property is outside of the city's municipal limits so long as it is within the city's sphere of influence ("***SOI***").

B. Pursuant to the Development Agreement Statute, City has adopted procedures and requirements for the consideration of development agreements, which are set forth in the Visalia Municipal Code ("***Municipal Code***") Section 17.60 ("***City Development Agreement Procedures***"). This Development Agreement has been prepared, processed, considered and adopted in accordance with such procedures and the Development Agreement Statute.

C. Developer has a legal or equitable interest in a total of approximately two hundred eighty four (284) acres, located in unincorporated Tulare County and adjacent to City's municipal boundaries, as more particularly described and depicted on attached Exhibit 1-a and 1-b ("***Property***"). The Property is generally bound by Riggin Avenue to the south, Shirk Street to the east, Kelsey Street to the west, and Modoc Ditch to the north. The Property is within City's Planning Area, its Tier 1 Urban Development Boundary ("***UDB***"), and its SOI.

D. The Property is designated by the City's General Plan ("***General Plan***") as "Industrial," "Light Industrial" and "Conservation." Thus, the Property has long been planned for industrial and light industrial uses as part of City's land use vision for the Property and vicinity.

E. Developer is seeking to develop a mixed-use industrial park, consisting of a total of eight (8) industrial buildings used for warehouse, distribution, and light manufacturing uses, six (6) flex industrial buildings, two (2) drive-through restaurants, a convenience store, a recreational vehicle (RV) and self-storage facility, a gas station, and a car wash, along with car/trailer parking areas and other related on- and off-site improvements, all as analyzed in the Proiect EIR and as documented in more detail in the Initial Approvals (collectively, "***Project***").

F. The discretionary entitlement process for the Project is subject to compliance with CEQA. To satisfy requirements under CEQA, City, as the lead agency, has caused the preparation of an environmental impact report for the Project (SCN: 2022080658), which consists of the Draft Environmental Impact Report, the Final Environmental Impact Report, and all appendices attached thereto (collectively, the "***Project EIR***").

G. On _____, 2025, following review and recommendation by the Planning Commission at a duly noticed public hearing (which took place on ____, 2025), the City Council held a duly noticed public hearing. After taking testimony and considering the matter, the City Council closed the public hearing, deliberated, and took the following actions, all of which are subject to LAFCO approval of the proposed annexation to effectuate same (collectively, the "***Initial Approvals***"):

1. By Resolution No. _____, approved an amendment to the General Plan, changing the land use designation for approximately twenty-one point twelve (21.12) acres of the Property from Light Industrial to Industrial ("***General Plan Amendment***").

2. Confirmed that pursuant to Visalia Municipal Code section 17.06.050(A) the territory being annexed shall be classified to a zone that is consistent with the general plan as adopted and amended by the City of Visalia requirements. In addition, City and Developer have entered into a Pre-Annexation Agreement, dated [__], 2025 (the "Pre-Annexation Agreement"), that details the prezoning of the Property.

3. Conducted the first reading of Ordinance No._____, an ordinance approving this Development Agreement and directing its execution by City ("***DA Ordinance"***).

4. By Resolution No. _____, initiated annexation proceedings for the Property ("***Resolution to Initiate LAFCO Proceedings***").

5. By Resolution No. _____, approved the Project's site plan (No. ____) ("***SPR Permit Approval***") and tentative parcel map (No. ____) ("***TPM Approval***").

6. By Resolution No. _____, approved the Project's Conditional Use Permit (No. ____) ("***CUP Approval***").

In support of the foregoing actions, by Resolution No. _____, and pursuant to and in compliance with the applicable provisions of CEQA, the City Council certified the Project EIR, adopted written findings related thereto, and adopted a mitigation monitoring and reporting program ("***MMRP***") as well as a Statement of Overriding Considerations.

H. On _____, 2025, the City Council conducted the second reading of and adopted the DA Ordinance.

I. City has given the required notice of its intention to adopt this Development Agreement and has conducted public hearings thereon pursuant to Government Code Section 65867. As required by Government Code Section 65867.5, City has found that the

provisions of this Development Agreement and its purposes are consistent with the goals, policies, standards and land use designations specified in City's General Plan.

J. For the reasons recited herein, City and Developer have determined that the Project is a development for which this Development Agreement is appropriate. This Development Agreement will eliminate or reduce uncertainty regarding Project Approvals (including the Subsequent Approvals), thereby encouraging planning for, investment in and commitment to the contemplated uses and development of the Property as envisioned by the Project. Continued use and development of the Property, as proposed, will provide employment opportunities as well as property and sales tax revenue and related benefits to the Visalia community, thereby achieving the goals and purposes for which the Development Agreement Statute was enacted.

K. City and Developer now desire to enter into this Development Agreement to provide, among other things, for Developer's vested right to develop the Project on the Property, along with Developer's development obligations related thereto, as more particularly set forth herein and in accordance with the Applicable City Law.

L. City finds that this Development Agreement:

1. Will ensure the productive use of the Property and foster orderly growth and quality development in the Visalia community;

2. Will result in City's receipt of increased property tax and sales tax revenues;

3. Will provide City benefit in the form of increased employment opportunities;

4. Is consistent with the relevant objectives, policies, general land uses and programs specified in the General Plan and any applicable specific plan;

5. Is compatible with the uses authorized in, and the regulations prescribed for, the applicable Industrial, Light Industrial and Open Space zoning districts;

6. Is in conformity with public convenience, general welfare and good land use practice; and

7. Will not adversely affect the orderly development of property or the preservation of property values.

NOW, THEREFORE, based on the foregoing recitals, which are deemed true and correct and which are incorporated into and made a part of this Development Agreement, and in consideration of the mutual covenants and promises set forth herein and other consideration, the value and adequacy of which is hereby acknowledged, the Parties agree as follows.

AGREEMENT

SECTION 1. INCORPORATION OF PREAMBLE, RECITALS AND EXHIBITS.

The Preamble paragraph, Recitals and attached exhibits, and all defined terms contained therein, are hereby incorporated into this Agreement by this reference as if set forth in full.

SECTION 2. DEFINITION OF TERMS.

This Development Agreement uses certain terms with initial capital letters that are defined in this Section 2 or elsewhere in this Development Agreement. City and Developer intend to refer to those definitions when the capitalized terms are used in this Development Agreement.

2.1. "Applicable City Law" has the meaning set forth in Section 4.2(a) below.

2.2. "Assignee" has the meaning set forth in Section 11.1 below.

2.3. "Assignment" has the meaning set forth in Section 11.1 below.

2.4. "Assignment Agreement" has the meaning set forth in Section 11.2 below

2.5. "Building Permit" means the document issued by City's Building Official authorizing the holder to construct a building or other structure, as provided for in the City of Visalia Municipal Code.

2.6. "CEQA" means, collectively, the California Environmental Quality Act set forth in Public Resources Code Section 21000 *et seq*. and the CEQA Guidelines (Tit. 14 CCR § 15000 *et seq*.).

2.7. "Certificate of Completion" means the document prepared, executed and recorded by the executive officer of LAFCO and recorded with the County Recorder that confirms the final successful completion of the annexation, pursuant to Government Code sections 56020.5, 57176, and 57200.

2.8. "Certificate of Occupancy" means a final certificate of occupancy issued by City's Building Official or, if City's Building Code does not provide for the issuance of a certificate of occupancy for a particular structure, the functional equivalent thereto, as provided for in the City of Visalia Municipal Code.

2.9. "City" means the City of Visalia, a California municipal corporation and charter city, as set forth in the Preamble.

2.10. "City Council" means the Visalia City Council.

2.11. "City Development Agreement Procedures" has the meaning set forth in Recital B.

2.12. "Planning and Community Preservation Department" means the City's Planning and Community Preservation Department.

2.13. "Planning and Community Preservation Director" means the head of Visalia's Planning and Community Preservation Department.

2.14. "County Recorder" means the Tulare County Recorder, which is responsible, in part, for recording legal documents that determine ownership of real property and other agreements related to real property.

2.15. "DA Ordinance" has the meaning set forth in Recital G(1).

2.16. "Days" means calendar days. If the last day to perform an act under this Development Agreement is a Saturday, Sunday or legal holiday in the State of California, said act may be performed on the next succeeding calendar day that is not a Saturday, Sunday or legal holiday in the State of California and in which City offices are open to the public for business.

2.17. "Developer" shall mean each of Seefried Industrial Properties, Inc., a Georgia corporation, Larry J. Ritchie Family Limited Partnership ("LJR LP") and Jeffrey B. Ritchie Family Limited Partnership ("JBR LP"), and their respective owners, officers, principals, partners, directors, managers, members, employees, agents, representatives, successors, and Assignees.

2.18. "Development Agreement" has the meaning set forth in the Preamble.

2.19. "Development Agreement Statute" has the meaning set forth in Recital A.

2.20. "Development Standards" has the meaning set forth in Section 4.1 below.

2.21. "Effective Date" means the date that is thirty (30) days following the adoption of the DA Ordinance approving this Development Agreement. The Effective Date shall be inserted above, where indicated. Pursuant to Government Code Section 65865(b), this Agreement shall not become operative until annexation proceedings are completed pursuant to applicable laws and regulations no later than two (2) years from the Effective Date ("***Annexation Timing***"); provided, however, Developer shall have the right, in its sole discretion, to extend the Annexation Timing so long as the application to annex the Property ("***Annexation Application***") has been submitted to the Local Agency Formation Commission ("***LAFCO***") for processing and consideration, with the Annexation Timing being so extended until such time as LAFCO takes action on and approves the Annexation Application and the related Certificate of Completion is prepared, executed and recorded by LAFCO.

2.22. "ENR" means the Engineering News Record (*"ENR"*) Construction Cost index (overall-California).

2.23. "Exaction(s)" means any exaction(s) that may be imposed by City or other governmental agency as a condition of developing the Project, including, without limitation, requirements for acquisition, dedication or reservation of land; and obligations to construct on-site or off-site public and private infrastructure such as roadways, utilities or other improvements; this is the case whether such exaction(s) constitute subdivision improvements, mitigation measures in connection with environmental review of the Project, or obligations otherwise imposed under applicable laws and regulations. Provided, however, any condition imposed on the Project that meets the definition of an Exaction, but also meets the definition of an "Impact Fee" (as defined in Section 2.25 below) shall be considered an Impact Fee.

2.24. "Excused Delay" has the meaning set forth in Section 8.4 below.

2.25. "Impact Fee(s)" means any monetary amount(s) charged by City or other governmental or quasi-governmental authority in connection with a Project Approval in order to lessen, offset, mitigate or compensate for the impacts of development of the Project on the environment; facilities, services, improvements and/or infrastructure; or other public interests, including, without limitation, any "fee" defined by Government Code Section 66000(b) as well as any fee imposed "in lieu of" an Exaction. Any such monetary amount imposed on the Project that meets the definition of an Impact Fee as well as the definition of an Exaction shall be considered an Impact Fee. The Parties acknowledge and agree that the City Impact Fees in effect on the Effective Date are identified in attached Exhibit 2.

2.26. "Initial Approvals" has the meaning set forth in Recital G.

2.27. "Later Enactment(s)" has the meaning set forth in Section 4.2(c) below.

2.28. "Major Amendment" has the meaning set forth in Section 12.5(b) below.

2.29. "Master Plan Infrastructure" means, collectively, those on-site (i.e., within the Property) and off-site (i.e., not within the Property) improvements that are necessary or desirable to develop the Project, as described more fully in (a) the Project Approvals and (b) the applicable, adopted Citywide infrastructure master plans, and (c) which are not considered Non-Program Improvements for purposes of this Development Agreement. This may include public improvements that under Applicable City Law may be eligible for reimbursement from City. If eligible for reimbursement, Developer and City will enter into a separate "Reimbursement Agreement" to detail the public improvements eligible for reimbursement under Applicable City Law and terms of reimbursement by City to Developer to occur in accordance with Applicable City Law.

2.30. "Minor Amendment" has the meaning set forth in Section 12.5(b) below.

2.31. "Mortgage" means any mortgage, deed of trust, security agreement, sale and lease-back financing, or other like security instrument encumbering all or any portion(s) of the Property and/or any of Developer's rights under this Development Agreement.

2.32. "Mortgage Holder" means the holder of any Mortgage, and any Assignee of any such Mortgage Holder.

2.33. "MMRP" has the meaning set forth in Recital G.

2.34. "Non-Program Improvements" means, collectively, all improvements and infrastructure necessary or desirable to serve the Project as set forth in the Project Approvals and that do not constitute Master Plan Infrastructure. This may include public improvements that under Applicable City Law are required to be installed by Developer pursuant to the Project Approvals with no reimbursement from City.

2.35. "Notice of Compliance" has the meaning set forth in Section 7.2 below.

2.36. "Notice of Default" has the meaning set forth in Section 8.1 below.

2.37. "Notice of Intent to Terminate" has the meaning set forth in Section 9.2 below.

2.38. "Party" or "Parties" has the meaning set forth in the Preamble.

2.39. "Periodic Review" has the meaning set forth in Section 7.1 below.

2.40. "Planning Commission" means the Visalia Planning Commission.

2.41. "Project" has the meaning set forth in Recital E.

2.42. "Project Approvals" means, collectively, the Initial Approvals and Subsequent Approvals.

2.43. "Project Infrastructure" means, collectively, the Master Plan Infrastructure and Non-Program Improvements.

2.44. "Property" has the meaning set forth in Recital C.

2.45. "Regulatory Processing Fees" means any and all fees, costs and charges adopted or otherwise imposed by City for the purpose of defraying City's actual costs incurred or to be incurred in the processing and administration of any form of permit, approval, license, entitlement, or formation of a financing district or mechanism, or any and all costs adopted or otherwise imposed by City for the purpose of defraying City's actual costs of periodically updating its plans, policies, and procedures, including, without limitation, the fees and charges referred to in Government Code Section 66014.

2.46. "Reimbursement Agreement" means an agreement between City and Developer to detail the terms of any reimbursement from City that Developer may be eligible for under Applicable City Law.

2.47. "Subsequent Approval(s)" means any and all land use, environmental, building, construction and development approvals, entitlements and/or permits that are necessary or desirable to develop and operate the Project on the Property subsequent to the Effective Date, including, without limitation, amendments or other modifications to any Initial Approvals; vacation or abandonment of public right(s) of ways; tentative and/or final subdivision maps, tentative parcel maps, parcel maps, lot line adjustments, and lot mergers; annexation; demolition permits; improvement agreements; infrastructure agreements; sewer and water connection permits; site plan review; conditional use permits; development/design review; Building Permits; demolition permits; grading permits; encroachment permits; Certificates of Occupancy; formation of (or annexation to) financing districts or other financing mechanisms; General Construction Permit coverage; and any amendments thereto (administrative or otherwise).

2.48. "Term" has the meaning set forth in Section 3.2 below.

2.49. "Third-Party Litigation" means the filing of litigation by a third party challenging this Development Agreement and/or other Initial Approval(s) or Subsequent Approval(s) on CEQA or any other grounds.

2.50. "Urban Water Management Plan" means the California Water Service, Visalia District, 2020 Urban Water Management Plan adopted by the Cal Water in June 2021. It is noted that under state law California Water Service is required to periodically update the Urban Water Management Plan.

SECTION 3. TERM OF THIS AGREEMENT.

3.1. Effective Date. The rights, duties, and obligations hereunder shall be effective and the Term shall commence on the "***Effective Date***", which shall be the effective date of the DA Ordinance.

3.2. Term of Agreement. Subject to Section 2.21 above, this Development Agreement shall commence on the Effective Date and shall continue in full force and effect thereafter for a period of ten (10) years ("***Initial Term***") unless extended pursuant to this Section 3.2 or earlier terminated as provided herein (the term of this Agreement, including the Initial Term and as it may be so extended or terminated, is herein referred to collectively as the "***Term***"). Within thirty (30) days of Developer's request, the Term shall be extended once for a period of two (2) years so long as Developer is in compliance in all material respects with its obligations hereunder ("***Mandatory Extension***"). The City Manager shall have the authority to grant the Mandatory Extension administratively, and no public notice or public hearing shall be required. In addition to the Mandatory Extension, upon Developer's request, the City Council may agree, in its sole discretion, to further extend the Term for a total of up to three (3) additional years (each, "***Discretionary Extension***") so long as consideration of this request takes place at a duly noticed public hearing. In addition to the foregoing, the Term may be further extended at any time before termination by the Parties' mutual agreement in writing and in accordance with the Development Agreement Statute and City's Development Agreement Procedures.

3.3. Effect of Termination.

(a) Expiration of Term. Following expiration of the Term (which shall include the Mandatory Extension and any mutually agreed upon Discretionary Extension(s)), this Development Agreement shall be deemed terminated and of no further force and effect except for any and all obligations expressly provided for herein that shall survive termination.

(b) Survival of Obligations. Upon the expiration or termination of this Development Agreement as provided herein, neither Party shall have any further right or obligation with respect to the Property and the Project under this Development Agreement except for any and all obligations expressly provided for herein that shall survive the expiration or termination of this Agreement.

SECTION 4. STANDARDS, LAWS, AND PROCEDURES GOVERNING THE PROPOSED DEVELOPMENT

4.1. Vested Right to Develop the Project. As of the Effective Date, Developer shall have the vested right to develop and operate the Project on all or portion(s) of the Property in accordance with the Applicable City Law. The overall design, development, construction, and uses of the Project and all Project Infrastructure in connection therewith, including, without limitation, the permitted uses of the Property; the density and intensity of such uses; the maximum height, bulk and size of proposed buildings; the provisions for the reservation or dedication of land for public purposes and the location of public improvements; the general location of public utilities; the construction, installation and extension of public improvements; and other terms and conditions of development applicable to the Project shall be as set forth in the Applicable City Law (collectively, "***Development Standards***"). In the event of any inconsistency between this Development Agreement and any Subsequent Approval(s), to the

fullest extent legally possible, the provisions of this Development Agreement shall prevail and control.

4.2. Rules, Regulations and Policies Governing Development and Operation of the Project.

(a) Applicable City Law. "***Applicable City Law***" shall consist of, collectively, the rules, regulations and official policies governing the Development Standards applicable to the Project on the Property existing as of the Effective Date, as supplemented and modified by the Initial Approvals, the Subsequent Approvals as and when they are issued, granted or approved, and Later Enactments, all except as otherwise provided in this Development Agreement.

(b) Processing Subsequent Approvals with City Generally. The Parties acknowledge that in order to develop the Project, Developer will need to obtain City approval of various Subsequent Approvals. For each such Subsequent Approval, Developer shall file an application with City for the Subsequent Approval at issue in accordance with the Applicable City Law, and shall pay the applicable Regulatory Processing Fees in connection therewith. City shall diligently and expeditiously process each such application in accordance with the Applicable City Law, and shall exercise any discretion City has related thereto in accordance with the terms and conditions of this Development Agreement. Except as expressly provided herein, this Development Agreement does not restrict City's exercise of its police powers, and City reserves those powers to itself. By approving the Initial Approvals, City has made a final policy decision that the Project is in the best interests of the public health, safety and general welfare. Accordingly, City shall not use its authority in considering any application for a discretionary Subsequent Approval for the Project to change the policy decisions reflected by the Initial Approvals or otherwise to prevent or delay development of the Project as set forth in the Initial Approvals and herein. Instead, the Subsequent Approvals shall be deemed to be tools to implement those final policy decisions.

(c) No Conflict with Vested Rights. City, or its electorate through adoption of initiative(s), may adopt new or modified rules, regulations and policies after the Effective Date (each, a "***Later Enactment***" and, collectively ***Later Enactments***"); provided, however, any such Later Enactment(s) shall be applicable to the Project on the Property if and only to the extent that application of any Later Enactment does not modify the Project; does not prevent or impede development of the Project; and does not conflict with this Development Agreement. Any Later Enactment shall be deemed to conflict with this Development Agreement and Developer's vested rights hereunder if said Later Enactment seeks to accomplish any one or more of the following results, either with specific reference to the Project or the development of the Property, or as part of a general enactment that would otherwise apply to the Project on the Property:

(i) Limit or reduce the density or intensity of the Project, or otherwise require a reduction in the total: number of proposed buildings, square footage, floor area ratio, number of floors, parking and/or loading spaces, and/or height of any proposed buildings or Project Infrastructure related thereto from that permitted under this Development Agreement and the Applicable City Law;

(ii) Alter or change any land use, including, without limitation, any permitted or conditionally permitted use(s) of the Project or require a change in the amount of any particular land use to be developed

on the Property from that permitted under this Development Agreement and the Applicable City Law;

(iii) Require, for any work necessary to develop the Project on the Property, the issuance of permits, approvals, or entitlements by City other than those required as of the Effective Date;

(iv) Limit or control the location of buildings, structures, grading, or Project Infrastructure, or limit the hours of operation or uses on the Property, in a manner that is inconsistent with the Initial Approvals;

(v) In any manner control, delay, or limit the timing, phasing, rate or sequencing of the development of the Project (including, without limitation, the timing of approval and issuance of the approval, development or construction of all or portion(s) of the Project), or materially limit the processing of, the procuring of applications for, or approval of the Subsequent Approval(s);

(vi) Increase any Impact Fees and/or impose new Impact Fee(s), except as permitted by Section 6.2 below;

(vii) Materially increase the obligations of Developer under this Development Agreement;

(viii) Limit or restrict the availability of public utilities, services, infrastructure or facilities (for example, without limitation, water rights, water connection or sewage capacity rights, sewer connections, etc.) to the Project and/or increase the Project's obligations with respect to the Project Infrastructure (in size, cost and/or scope) necessary to serve the Project; or

(ix) Establish, enact, increase, or impose against the Project or Property any fees, assessments, or other monetary obligations other than those specifically permitted by this Development Agreement; provided, however, that the foregoing shall not prevent or limit the imposition or collection of any generally applicable real or personal property taxes with respect to the Property or any generally applicable sales, use, excise taxes or business license fees with respect to any commercial uses within the Project.

(d) Applicable Later Enactments. To the extent that Later Enactments conflict with the vested rights hereunder, they shall not apply to the Project and/or the Property, except as provided in subsections (d)(i)-(iv) below, inclusive. Notwithstanding the foregoing, City shall not be precluded from applying a Later Enactment to the Project under the following limited circumstances:

(i) It is specifically mandated by changes in state or federal laws or regulations adopted after the Effective Date as provided in Government Code Section 65869.5;

(ii) It is specifically mandated by a court of competent jurisdiction;

(iii) It is specifically mandated as a result of changes to the Uniform Building Code or similar uniform construction code(s) (such as the California Fire Code) so long as such code (as modified to include the foregoing changes) has been adopted by City and is in effect on a Citywide basis; or

(iv) It is (A) required as a result of a specific and identifiable issue in each case that is presently unknown or unforeseeable that would otherwise have an immediate and substantially adverse risk on the physical health and safety of the public, and (B) based on written findings by the City Council, and transmitted to Developer, specifically identifying, based on objective and quantifiable evidence in the official record, the precise nature and extent of the dangerous or hazardous circumstance(s) requiring such condition or denial or change in Applicable City Law, why there are no feasible mitigation or alternatives to the imposition of such condition or denial or changes in the law, and how such condition or denial or new law would alleviate the dangerous or hazardous circumstance ("***Public Health and Safety Exception***"). Notwithstanding anything to the contrary in the foregoing, before taking any action based on a Public Health and Safety Exception, City shall first provide Developer with written notice of the public health circumstance upon which such Public Health and Safety Exception is based, and if Developer responds in writing within fifteen (15) days confirming that Developer will correct such public health circumstance and which describes the means of such correction, and thereafter Developer diligently pursues such correction to completion, such Public Health and Safety Exception shall no longer be applicable and City shall take no further action based thereon. Developer retains the right to dispute any City reliance on the Public Health and Safety Exception.

If City imposes a Later Enactment on the Project as a result of the occurrence of one of the circumstances set forth in subsections (d)(i)-(iv) above, then the Parties shall work diligently and in good faith to amend this Development Agreement in a manner to reasonably reflect the required Later Enactment while still achieving the underlying purposes of this Development Agreement. If state and/or federal law(s) and/or regulation(s) enacted after the Effective Date prevent or preclude compliance with one or more provisions of this Development Agreement as set forth in subsection (d)(i) above, and further if Developer does not consent to a reasonable amendment that is required to make this Development Agreement consistent therewith in accordance with Government Code Section 65869.5, City shall provide Developer written notice of the immediate suspension of this Development Agreement, and it shall remain suspended until the date the Development Agreement is so amended.

(e) Enforcement. Pursuant to Section 65865.4 of the Development Agreement Statute, unless this Agreement is terminated by mutual agreement of the Parties as provided for under Section 9.3 below, or terminated due to Default pursuant to Section 9.2 below, either Party may enforce this Development Agreement notwithstanding any Later Enactment(s).

4.3. Developer's Application for Non-City Permits, Entitlements and Approvals. City and Developer acknowledge and agree that other governmental agencies not within City's control may possess jurisdiction to regulate aspect(s) of development of the Project on the Property with respect to certain Subsequent Approvals and that this Development Agreement does not limit the jurisdiction of such other authorities. City shall reasonably cooperate and diligently work with Developer in Developer's effort to process and obtain approval of its applications for such Subsequent Approvals as may be necessary or desirable to develop and operate the Project; provided, however, City shall have no obligation to incur any material costs, without compensation or reimbursement, or to amend any City policy, regulation or ordinance in connection therewith.

4.4. Processing Subsequent Approvals. In accordance with Section 4.2(b) above, the Subsequent Approvals shall be deemed mechanisms to implement those final policy decisions reflected by the Initial Approvals and other provisions of Applicable City Law. City shall cooperate and diligently and expeditiously work with Developer to promptly process and consider all applications for Subsequent Approvals (provided such application(s) are in a proper form and include all reasonably required information and payment of any and all applicable Regulatory Processing Fees), in accordance with Developer's vested rights granted hereunder, and taking into consideration such factors, among others, as cost efficiencies, economies of scale, and appropriate engineering practices. In the event that Developer determines that it would be necessary to retain additional personnel or outside consultant(s) to assist City to expeditiously process any Subsequent Approval(s), Developer may request, and City may consider, retaining such additional personnel or consultant(s), and City shall direct any such additional personnel or consultant(s) to work cooperatively and in a cost-efficient and timely manner with Developer to accomplish the objectives under this Section 4.4; provided, however, that Developer shall pay all actual costs associated therewith, although said personnel or consultant(s) shall be under City's direction and City has sole authority over whether to hire or retain any additional personnel or select any consultants. Subject to Section 4.2(b) above and other terms of this Development Agreement and Developer's rights hereunder, City shall retain its discretionary authority in its consideration of any and all Subsequent Approvals that involve discretionary decisions.

4.5. Compliance with CEQA. The Project EIR, which has been certified by City as being in compliance with CEQA, addresses the potential environmental impacts of the Project as it is described in the Initial Approvals. To the extent that the Project will require the issuance of Subsequent Approvals that are discretionary in nature, City shall rely on the Project EIR to satisfy the requirements of CEQA to the fullest extent permissible by CEQA and City shall not require a new initial study, negative declaration or mitigated negative declaration, or subsequent or supplemental EIR unless specifically required by CEQA and shall not impose on the Project any additional mitigation measures other than that which is specifically required by CEQA.

4.6. Life of Project Approvals. The life of all Initial Approvals and any and all Subsequent Approvals as and when granted, approved or issued, including, without limitation, tentative subdivision maps or parcel maps (pursuant to Government Code Section 66452.6(a)), conditional use permit(s) and development and/or site plan review, shall be deemed extended for the longer of the Term of this Development Agreement or the term otherwise applicable to such Initial Approval or Subsequent Approval. Any tentative map prepared for the Project shall comply with Government Code Section 66473.7.

4.7. Timing of Development. The Parties acknowledge and agree that: (a) Developer cannot at this time predict if or when, or the rate at which, the Project may be constructed;

(b) there is no requirement that Developer commence or complete construction of the Project at all or within any particular period of time during the Term; and (c) except if and to the extent expressly required by the terms of this Development Agreement, City shall not impose any such timing requirement on any Subsequent Approval(s). Because the California Supreme Court held in *Pardee Construction Co. v. City of Camarillo* (1984) 37 Cal.3d 465 that failure of the parties therein to provide for the timing of development resulted in a later-adopted initiative restricting the timing of development to prevail over the parties' agreement, it is the Parties' intent to cure that deficiency by acknowledging and providing that Developer shall have the right to construct the Project (or any portion(s) thereof) in such order, at such rate, and at such time(s) as Developer deems appropriate within the exercise of its sole business judgment, subject only to City Applicable Law and the provisions of this Development Agreement.

4.8. Wastewater Service.

(a) Wastewater Service to Project. City shall reserve and allocate sufficient wastewater treatment and conveyance capacity to serve the Project consistent with the Project EIR and the City Wastewater Master Plan, and shall serve the Project upon application by Developer pursuant to the Project Approvals and payment of applicable connection fees. This reservation and allocation by the City shall be based on the Project as it is described in the Initial Approvals.

(b) Reserved.

SECTION 5. DEVELOPER'S OBLIGATIONS RELATING TO PROJECT DEVELOPMENT GENERALLY

5.1. Phasing of Project Development. Development of the Project is intended to be phased, as generally described and depicted in the Initial Approvals. Notwithstanding the foregoing and further subject to Section 4.7 above, Developer shall have the right, in its discretion, to commence and complete any Project phase(s) of construction sequentially or concurrently pursuant to the terms and conditions of this Development Agreement and the Project Approvals, subject to City's reasonable review to confirm the proposed phasing is consistent with the Initial Approvals.

5.2. Required Project Infrastructure Generally. City's determination regarding which improvements are necessary for Developer to develop the Project shall be consistent with Developer's vested rights hereunder, and shall be governed by the Applicable City Law. The Parties further agree that no additional requirements on Developer with respect to the Project Infrastructure may be imposed on the Project beyond those necessary to serve the proposed uses and to provide for the intended function of the improvements at issue. Upon Developer's request, and at Developer's sole cost, City shall cooperate with Developer (a) to locate any new City easements required for the Project so as to minimize interference with development of the Project, and (b) in Developer's efforts to relocate or remove easements to facilitate development of the Project, subject to Developer funding all costs related thereto.

5.3. General Construction and Security Obligations. In constructing any Project Infrastructure, Developer shall (a) provide adequate security in accordance with the requirements of the Subdivision Map Act and City's Subdivision Ordinance; and (b) promptly and diligently oversee and coordinate the construction of said infrastructure in a good and workmanlike manner and free from all defects, and in accordance with the applicable Citywide infrastructure master plans, the Project Approvals, and any other applicable City standards

pursuant to the Applicable City Law. City shall use diligent and good faith efforts to timely prepare, process and consider any Subdivision Improvement Agreements (or similar improvement agreements) that are required to implement the Project upon Developer's request, which shall be in substantially the same form as is typically used by City in accordance with the Subdivision Map Act and City's Subdivision Ordinance and which shall be consistent with this Development Agreement and reasonably acceptable to Developer.

5.4. Inspection and Acceptance of Improvements. Any Project Infrastructure constructed by Developer pursuant to this Development Agreement shall be subject to all required inspections, including the final inspection, and reasonable approval by the City Engineer in accordance with City's Subdivision Ordinance and the Subdivision Map Act. Upon inspection, the following shall govern:

(a) Meet and Confer Process. If the City Engineer reasonably determines, consistent with Developer's vested rights hereunder, that the improvement at issue does not meet the applicable requirements and standards, City shall reasonably document this determination and promptly provide this information to Developer. Developer and City then shall, within seven (7) days of the City Engineer's determination or at such other mutually acceptable time, meet and confer regarding any modifications to said improvement necessary to achieve conformity with the applicable requirements and standards.

(b) Remedy of Any Improvement Deficiencies. Following any meet and conferral process pursuant to Section 5.4(a) above, if the Parties have not reached a mutually acceptable approach to addressing any necessary modifications identified by City, and/or Developer has not corrected, or agreed to correct by a date certain reasonably acceptable to City, the identified deficiencies in the improvement at issue, then City shall have the right, at Developer's sole cost and expense, to remedy such deficiencies and complete the construction of said improvement in accordance with the applicable requirements and standards pursuant to the terms and conditions of the applicable Subdivision Improvement Agreement.

(c) Roadway Construction. For all Project roadways constructed by Developer, Developer shall do so pursuant to the Project Approvals, including installing identified driveways, curb, gutter and streetlights and as well as all required service facilities (i.e., potable water, wastewater, storm lines, recycled water) concurrently with the installation of said roadways. Developer shall be permitted to complete any required widening or improvements within any existing City roadways or rights-of-way if Developer elects to perform this work in accordance with applicable laws and regulations. Provided, however, no roadway frontage improvements in back of curb shall be required to be constructed until such time as the lot fronting such street is developed.

(d) For Master Plan Infrastructure that Developer installs, including, for example and without limitation, planned roadway improvements on Shirk Street that consist of all pavement and other improvements outside of eight (8) feet from face of curb, Developer shall obtain fee credit and/or reimbursement pursuant to the City Applicable Law, including but not limited to the City Transportation Impact Fee Program.

(e) City intends to substantially complete construction of the planned Riggin Avenue roadway improvements pursuant to the City's approved Capital Improvement Program by September 30, 2025 (as such date may be extended in the event of any Excused Delay).

(f) To the extent Developer is required to install Master Plan Infrastructure (e.g., intersection improvements) that benefit other third-party property owner(s), then City shall facilitate reimbursement of Developer's costs and enter into a Reimbursement Agreement with the Developer. Notwithstanding anything to the contrary in the foregoing, City shall have no obligation to directly reimburse Developer under this subsection (f).

SECTION 6. FEES AND OTHER PAYMENT OBLIGATIONS.

6.1. Regulatory Processing Fees. Developer shall pay all Regulatory Processing Fees required by City under then-current regulations for processing applications for Subsequent Approvals. Without limiting the foregoing, Developer shall reimburse City or pay directly all reasonable and actual costs relating to the hiring of consultants and the performing of studies as may be necessary to review or process any applications for Subsequent Approvals or perform any related environmental review. Prior to engaging the services of any such consultant or authorizing the expenditure of any funds for such consultant, City shall consult with Developer in an effort to mutually agree upon terms regarding (a) the scope of work to be performed, (b) the projected costs associated with the work, and (c) the particular consultant that would be engaged to perform the work.

6.2. Impact Fees. Developer shall be required to pay all City Impact Fees that are not Regulatory Processing Fees that are in effect as of the Effective Date for a period of five (5) years from the Effective Date ("***Fee Vesting Period***"); thereafter, Developer shall be required to pay all City Impact Fees that are then in effect. The Impact Fees set forth in attached Exhibit 2 constitute all Impact Fees (both in type and amount) that are in effect on the Effective Date, and City shall not seek to impose any new Impact Fees (either in amount or type) on the Project during the Fee Vesting Period.

SECTION 7. PERIODIC COMPLIANCE REVIEW; NOTICE OF COMPLIANCE.

7.1. Periodic Compliance Review. No later than ten (10) months after the Effective Date, and no later than every twelve (12) months thereafter, Developer and City shall conduct the periodic review pursuant to City's Development Agreement Procedures and the Development Agreement Statute (*"**Periodic Review**"*). In conducting this Periodic Review, City acknowledges and agrees that any finding of non-compliance on Developer's part shall be limited in effect to Developer's interest in the Property. Furthermore, City acknowledges and agrees that in the event and to the extent Developer has assigned all or a portion of its rights and obligations to other Assignee(s) pursuant to Section 11.1 below, then any such Assignee(s) shall be responsible for conducting the Periodic Review as it relates to their respective rights and obligations hereunder, although Developer shall cooperate with respect to reasonable information requests from any Assignee(s) in order to facilitate the Periodic Review process. If, as a result of City's Periodic Review, City determines, on the basis of substantial evidence, that Developer has not complied in good faith with the terms of this Development Agreement, City may terminate this Development Agreement in accordance with the Development Agreement Statute and City's Development Agreement Procedures. Provided, however, Developer reserves any and all rights it may have to challenge in court City's termination of this Development Agreement under this Section 7.1 and the basis therefor. If more than one Developer has obtained rights and assumed obligations hereunder as a result of an Assignment pursuant to Section 11.1 below, then termination of this Development Agreement as a result of a Developer Default shall extend only to those rights and obligations of the applicable Developer, and shall not terminate as to those rights and obligations of Developer(s) that are not in Default. Notwithstanding anything to the contrary in the foregoing, the Parties' collective

failure to complete the Periodic Review during a particular year shall not constitute a Default hereunder.

7.2. Notice of Compliance. At Developer's request, City shall, from time to time, promptly execute and deliver to Developer a written *"**Notice of Compliance***" in recordable form, duly executed and acknowledged by City, which certifies the following:

(a) This Development Agreement is in full force and effect;

(b) This Development Agreement has not been amended or, or if so amended, identifying the amendment(s);

(c) Developer is not in Default of the performance of its obligations, or if in Default, to describe therein the nature and extent of any such Default(s);

(d) City is not in Default of the performance of its obligations, or if in Default, to describe therein the nature and extent of any such Default(s); and

(e) Any other information reasonably requested by Developer.

The Planning and Community Preservation Director shall execute and return such Notice of Compliance within fifteen (15) days following a request therefor. Developer shall have the right, at its sole discretion, to record the Notice of Compliance. Developer and City acknowledge that a Notice of Compliance hereunder may be relied upon by any existing or potential Mortgage Holders, tenant(s), and/or other Assignee(s). If City fails to deliver a Notice of Compliance within the aforementioned fifteen (15) day period, then Developer shall have the right to deliver a second request clearly indicating thereon that failure of City to respond within five (5) days of its receipt of such second notice shall be deemed City's approval of all of the terms and conditions set forth in the Notice of Compliance.

SECTION 8. DEFAULT, RIGHTS TO CURE AND WAIVERS; LEGAL ACTIONS; RIGHTS AND REMEDIES; EXCUSED DELAY; MORTGAGE HOLDER RIGHTS.

8.1. Default and Cure; Dispute Resolution. Subject to any Excused Delay, failure or delay by either Party to timely perform any material term or condition of this Development Agreement constitutes a Default hereunder, but only if the Party who so fails or delays does not commence to cure, correct or remedy such failure or delay within sixty (60) days after receipt of a written notice ("***Notice of Default***") from the non-Defaulting Party specifying such failure or delay, and does not thereafter prosecute such cure, correction or remedy with diligence to completion (in such case, a "***Default***"). City shall continue to process in good faith development applications for any and all Subsequent Approval(s) during any cure period, but may delay taking formal action on any such application if it relates to a proposal for the Property with respect to which there is an alleged Developer Default whose interest is the subject of said proposal until such time as the subject Developer Default is resolved pursuant to this Section 8.

Upon occurrence of a Default and without any right to further notice or additional cure period, the non-Defaulting Party shall have all remedies available to it under this Development Agreement as set forth in Section 8.3 below; provided, however, neither Party shall have the right to recover any punitive, consequential, or special damages. Failure or delay in giving any Notice of Default shall not constitute a waiver of any Default and any waiver of a Default shall be in writing and be signed by the non-defaulting Party. For purposes of instituting a legal action

under this Development Agreement, any City Council determination as it relates to an alleged Default hereunder shall be deemed a final agency action. Except as otherwise provided in this Development Agreement, waiver by either Party of the performance of any term or condition herein shall not invalidate this Development Agreement, nor shall it be considered a waiver of any other term or condition. Waiver by either Party of the time for performing any act shall not constitute a waiver of time for performing any other act or an identical act required to be performed at a later time. The delay or forbearance by either Party in exercising any remedy or right as to any Default shall not operate as a waiver of any Default or of any rights or remedies or to deprive such Party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert, or enforce any such rights or remedies. Nothing in this Development Agreement shall relieve a non-Defaulting Party from satisfying any and all applicable requirements of the California Government Claims Act.

The non-Defaulting Party shall provide the Defaulting Party written notice ("***Dispute Notice***") that specifies, in reasonable detail, the reasons that a Default and dispute exists, and what, if any, reasonable actions may be taken to cure the Default and resolve the dispute. Within thirty (30) days after the Dispute Notice is given, the Parties shall meet in person and confer in good faith in an attempt to resolve the dispute. In addition to any other rights or remedies, if, following the meet and confer process, the non-Defaulting Party determines that the dispute cannot be resolved informally, the non-Defaulting Party may institute legal action to cure, correct, or remedy the Default, enforce any covenant or agreement herein, enforce by specific performance the obligations and rights of the Parties hereto, or obtain any other remedy consistent with this Development Agreement, subject to cure rights provided for by this Section 8.1. Notwithstanding anything to the contrary in the foregoing, if more than one Developer has obtained rights and assumed obligations hereunder as a result of an Assignment pursuant to Section 11.1 below, then provisions under this Section 8 shall apply only to the extent those rights and obligations so assumed by a Developer are implicated with respect to a Default hereunder. The inability of the Parties to timely meet and confer or to resolve any matter pursuant to this Section 8.1 shall not be deemed a Default hereunder.

8.2. Legal Actions.

(a) Institution of Legal Actions. Upon occurrence of a Default (but subject to cure rights set forth in Section 8.1 above) and further subject to the Parties' good faith participation in the meet and confer process described in Section 8.1 above, the non-Defaulting Party shall have all rights and remedies available to it under this Development Agreement and other applicable laws and regulations, including, without limitation, the right to institute a legal action or proceeding to cure, correct or remedy such Default. Legal actions must be instituted and maintained in the Superior Court of the County of Tulare, State of California, or in any other appropriate court in that county.

(b) Applicable Law and Forum. The internal laws of the State of California shall govern the interpretation and enforcement of this Agreement without regard to conflict of law principles.

(c) Acceptance of Service of Process. If any legal action is commenced by Developer against City, service of process on City shall be made by personal service upon the City Clerk, or in such other manner as may be provided by law. If any legal action is commenced by City against Developer, service of process on Developer shall be made by personal service upon Developer at the address indicated in Section 12.10 below, or in such other manner as may be provided by law.

(d) Attorney's Fees. In the event of any litigation by either Party pertaining to this Development Agreement, the prevailing Party in such litigation, in addition to any other relief which may be granted, shall be entitled to its reasonable litigation costs and expenses, including, without limitation, reasonable attorneys' fees.

8.3. Rights and Remedies: Cumulative Nature. Except as otherwise expressly stated in this Development Agreement, the rights and remedies of the Parties are cumulative, and the exercise by either Party of one or more of its rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same Default or any other Default by the other Party.

8.4. Excused Delay: Extension of Times of Performance. In addition to the specific provisions of this Development Agreement, performance by either Party hereunder shall not be deemed to be in Default when the delay or Default is due to war; infectious disease; insurrection; strikes; lock-outs; riots; floods; earthquakes; fires; casualties; acts of God; acts of the public enemy; pandemics; global and/or national health crises; epidemics or pandemics; quarantine or shelter in place restrictions and/or government orders related thereto; freight embargoes; non-City governmental restrictions that prevent compliance; unusually severe weather that prevents, limits, delays or hinders the ability to perform; environmental conditions discovered that delay construction or development, including delays resulting from investigation and/or remediation of such conditions; initiatives, referenda, Third-Party Litigation challenging this Development Agreement and/or other Project Approval(s) on CEQA or any other grounds; acts or the failure to act of a governmental or quasi-governmental authority (except that acts or the failure to act of City shall not excuse performance by City); or any other similar causes beyond the control or without the fault of the Party claiming an extension of time to perform (each, "***Excused Delay***"). Excused Delay shall also include (provided the Party seeking the extension is acting with reasonable diligence), additional reasonable period(s) (a) required to complete compliance with and/or obtain approval, adoption or certification (as applicable) of any supplemental or subsequent environmental analysis and/or documentation required for the Project or any portion(s) thereof; (b) the full and final resolution of any Third-Party Litigation filed (and if no Thirty-Party Litigation has been filed, then the running of all applicable statutes of limitations period(s)) challenging this Development Agreement and/or other Project Approval(s) on CEQA or any other grounds in a manner that is acceptable to Developer in its sole and absolute discretion; and (c) required to complete any pending application or request before City for an action or approval under this Development Agreement or before City for an action or approval under the Project Approvals. Notwithstanding anything to the contrary in the foregoing, Developer's failure to obtain financing for the Project shall not be considered an Excused Delay. City's financial condition shall similarly not be considered an Excused Delay that can be relied on by City for failure to satisfy any City obligation hereunder.

Notwithstanding the foregoing or anything else to the contrary contained in this Development Agreement, no delay shall be deemed an Excused Delay unless the Party claiming the benefit of this provision shall, as a condition thereto, give notice to the other Party in writing within fifteen (15) days of the declaring Party having actual knowledge of the incident specifying with reasonable particularity the nature thereof, the reason therefor, the date and time such incident occurred and a reasonable estimate of the period that such incident will delay the fulfillment of obligations contained herein. If any notice of Excused Delay is given later than fifteen (15) days after the Party declaring such delay has actual knowledge of the existence of the Excused Delay, then the Excused Delay occurring during the period commencing on the sixteenth (16th) day after the commencement of the Excused Delay and ending on the date of such notice, shall be disregarded and deemed not to have occurred.

In the event of an Excused Delay, the Party delayed shall continue to exercise reasonable diligence to minimize the period of the delay. An extension of time for any such cause shall be limited to the period of the Excused Delay, and shall commence to run from the time of the commencement of the cause. Times of performance under this Development Agreement may also be extended by mutual written agreement by City and Developer, with the City Manager having the authority on behalf of City to so consent.

8.5. Rights of Mortgage Holders of Approved Security Interests in the Property.

(a) Developer's Default Shall Not Defeat Mortgage Lien. If Developer Defaults, any such Default shall not defeat or render invalid the lien of any Mortgage(s) made in good faith and for value as to the Property, or any portion(s) thereof or interest(s) therein; provided, however, that unless otherwise provided herein, the terms and conditions of this Development Agreement shall be binding and effective against any and all Mortgage Holder(s) whose interest is acquired by foreclosure, trustee's sale or otherwise.

(b) Holder Not Obligated to Commence or Complete Project. A Mortgage Holder shall in no way be obligated by the provisions of this Development Agreement to commence or complete construction of any Project phase(s) or to guarantee any such commencement and/or completion of same nor shall any covenant or any provision in the conveyances from City to Developer evidencing the realty comprising the Property or any part thereof be construed so to obligate such Holder; provided, however, nothing in this Development Agreement shall be deemed to or be construed to permit any such Mortgage Holder to devote the Property or any portion(s) thereof to any uses, or to construct any improvements thereon, other than those uses or improvements provided for or authorized by this Development Agreement and the other Project Approvals.

(c) Notice of Default to Mortgagee, Deed of Trust or Other Security Interest Holders. With respect to any Mortgage granted by Developer on the Property or any portion(s) thereof, whenever City shall deliver any notice or demand to Developer with respect to any Default by Developer, City shall at the same time deliver a copy of such notice or demand to each Mortgage Holder of record who has previously made a written request to City therefor, or to the representative of such Mortgage Holder as may be identified in such a written request. No Notice of Default shall be effective as to the Mortgage Holder unless such notice is given.

(d) Right to Cure Developer Default Hereunder. Each Mortgage Holder (insofar as the rights of City are concerned) shall have the right, at its option, within ninety (90) days after the receipt of the Notice of Default, to:

(1) Cure or remedy or commence to cure or remedy any such Default and diligently pursue said cure until the same is completed, and

(2) Add the cost of said cure to the Mortgage debt and the lien of its Mortgage.

Provided that in the case of a Default that cannot with diligence be remedied or cured within such ninety (90) day period, such Mortgage Holder shall have additional time as reasonably necessary to remedy or cure such Default.

If possession of the Property (or portion(s) thereof) is required to effectuate such cure or remedy, the Mortgage Holder shall be deemed to have timely cured or remedied if it

commences the proceedings necessary to obtain possession thereof within ninety (90) days, diligently pursues such proceedings to completion, and, after obtaining possession, diligently completes such cure or remedy (the foregoing time periods being subject to extension during the period that such Mortgage Holder is precluded from taking or pursuing any such action as a consequence of any bankruptcy stay or other court order).

If there is more than one such Mortgage Holder, the right to cure or remedy a Default of Developer under this Section 8.5 shall be exercised by the Mortgage Holder first in priority or as the holders may otherwise agree among themselves, but there shall be only one exercise of such right to cure and remedy a Default of Developer under this Section 8.5.

Nothing in this Development Agreement shall be deemed to permit or authorize such Mortgage Holder to commence or continue the construction of any Project phase(s) (beyond the extent necessary to preserve or protect the improvements or construction already made) without first having expressly assumed Developer's obligations to City with respect to such improvements by written agreement with respect to the Property or any portion(s) thereof in which the Mortgage Holder has an interest.

(e) Rights upon Failure of Holder to Cure Developer Default on Mortgage. During the Term of this Development Agreement and subject to any rights of Developer to challenge, cure, or satisfy any liens or encumbrances on the Property or any portion(s) thereof, in any case where thirty (30) days after default by Developer on a Mortgage and Developer has not exercised the option to cure afforded in the Mortgage or if it has exercised such option and has not proceeded diligently to cure, City may cure the Mortgage default prior to completion of any foreclosure. In such event, City shall be entitled to reimbursement from Developer of all costs and expenses incurred by City in curing the Mortgage default, including legal costs and attorneys' fees, which right of reimbursement shall be secured by a lien upon the Property or portion(s) thereof to the extent of such costs and expenses. Any such lien shall be subject to:

(i) Any Mortgage for financing permitted by this Development Agreement; and

(ii) Any rights or interests provided in this Development Agreement for the protection of such Mortgage Holders.

City shall execute from time to time any and all documentation reasonably requested by Developer to effect such subordination.

Nothing contained herein shall be deemed to impose upon City any affirmative obligation to cure a Mortgage default by Developer (by the payment of money, construction or otherwise) with respect to the Property in the event of its enforcement of any such lien.

(f) Modifications. If a Mortgage Holder should, as a condition of providing financing for development of all or a portion of the Project, request any modification of this Development Agreement in order to protect its interest in the Property or this Development Agreement, then City shall consider such request consistent with its land use authority and processed as an amendment pursuant to the terms of Section 12.5(b) below; provided, however, that any such amendment shall affect only those rights and obligations of such Mortgage Holder and City but not those of any other Developer(s) or Mortgage Holder(s) without their respective written consent.

SECTION 9. TERMINATION.

9.1. Termination Upon Completion of Project or Expiration of Term. This Development Agreement shall terminate upon the earlier of the expiration of the Term or when the Project on the Property has been fully developed in accordance with the Project Approvals, as evidenced by (a) the issuance of the last Certificate of Occupancy necessary for Project buildout, and (b) written documentation approved by both Parties that confirms Parties' respective obligations in connection therewith and with this Development Agreement have been fully satisfied.

9.2. Termination Due to Default. After notice and expiration of the sixty (60) day cure period as specified in Section 8.1 above, if the Default has not been cured or it is not being diligently cured in the manner set forth above, the noticing Party may, at its option, give notice of its intent to terminate this Development Agreement pursuant to the Development Agreement Statute and City's Development Agreement Procedures ("***Notice of Intent to Terminate***"). Within thirty (30) days of receipt of a Notice of Intent to Terminate, the matter shall be scheduled for consideration and review in the manner set forth in the Development Agreement Statute and City's Development Agreement Procedures. Following consideration of the evidence presented in said review, the Party alleging the Default may give written notice of termination of this Development Agreement. If a Party elects to terminate as provided herein, upon sixty (60) days' written notice of termination, this Development Agreement shall be terminated as it relates to the Defaulting Party's rights and obligations hereunder. Notwithstanding the foregoing, a written notice of termination given under this Section 9.2 is effective to terminate the obligations of the noticing Party only if a Default has occurred. If the noticing Party is not so authorized to terminate, the non-noticing Party shall have all rights and remedies provided herein or under applicable laws and regulations, including, without limitation, the right to specific performance of the Defaulting Party's obligations under this Development Agreement. Once a Party alleging Default has given a written notice of termination, legal proceedings may be instituted to obtain a declaratory judgment determining the respective termination rights and obligations under this Development Agreement. Notwithstanding the foregoing, any such Default and related termination shall only extend to the Defaulting Party's rights and obligations hereunder and shall not affect the rights and obligations of any other Assignee who has acquired other portion(s) of the Property in accordance with Section 11.1 below.

9.3. Termination by Mutual Consent. This Development Agreement may be terminated by mutual consent of the Parties in the manner provided in the Development Agreement Statute and in City's Development Agreement Procedures.

9.4. Documentation of Termination. While the Parties intend the foregoing termination to be automatic and self-executing upon the relevant trigger(s), City agrees to promptly execute and deliver such documents and instruments in recordable form as Developer may reasonably request in order to evidence the termination of this Development Agreement. Thereafter, Developer may cause a notice of such termination to be duly recorded in the official records of Tulare County.

SECTION 10. PARTICIPATION IN THIRD-PARTY LITIGATION; INDEMNITY.

10.1. In General. The Parties acknowledge and agree that each shall have the right to elect to defend any Third-Party Litigation subject to the obligations of this Section 10, which shall survive the expiration or termination of this Development Agreement.

10.2. Developer Indemnification in the Event of Third-Party Litigation. Subject to Section 10.3 below, Developer agrees to indemnify City and shall hold and save City harmless from any and all Claims concerning any Third-Party Litigation except if and to the extent said Claims arise from City's sole negligence, willful misconduct, or fraudulent acts. "***Third-Party Litigation***" shall mean any court action or proceeding instituted by any third party (i.e., any private individual or entity or any non-City governmental or quasi-governmental authority) solely for the purpose of challenging the validity of any provision of this Development Agreement, the other Initial Approvals, the Subsequent Approvals as and when issued, granted or approved, or any CEQA issue(s) or document(s) approved in connection therewith. City shall provide Developer with prompt notice of the pendency of any action or proceeding for which it believes it is entitled to indemnity under this Section 10.2 and request that Developer defend it regarding such action or proceeding (but any delay or failure to notify Developer shall reduce Developer's obligations to so defend or indemnify to the extent of any actual prejudice suffered by Developer due to the delay or failure). Developer's indemnification obligations under this Section 10.2 shall survive the expiration or termination of this Development Agreement.

10.3. Cooperation in the Event of Third-Party Litigation. Subject to Section 10.4 below, Developer and City shall cooperate defending same pursuant to this Section 10.3, and the Parties shall keep each other informed of all developments relating to such defense, subject only to confidentiality requirements that may prevent the communication of such information.

(a) Meet and Confer. If Third-Party Litigation is filed, upon receipt of the complaint or petition, the Parties shall have twenty (20) days to meet and confer regarding the merits of such Third-Party Litigation to determine whether each Party elects to defend same and if so, whether they elect to so jointly defend, which period may be extended by the Parties' mutual agreement so long as it does not adversely and materially impact any litigation deadlines. Subject to an election to defend, City and Developer shall mutually commit to meet all required litigation timelines and deadlines. If City and Developer agree jointly to defend the Third-Party Litigation, they shall expeditiously enter a joint defense agreement, which shall include, among other things, provisions regarding the preservation of confidential communications. The City Manager is authorized to negotiate and enter such joint defense agreement in a form reasonably acceptable to the City Attorney and Developer's attorneys. Such joint defense agreement shall also provide that any proposed settlement of the Third-Party Litigation shall be subject to Developer's approval, in its reasonable discretion, except in the event City elects to solely defend under Section 10.4 below. If the terms of the proposed settlement would constitute an amendment of this Development Agreement, the settlement shall not become effective unless such amendment is mutually approved by the Parties in accordance with applicable laws and regulations.

10.4. Defense Election. If, after meeting and conferring, the Parties mutually agree (each in its sole discretion) to defend against the Third-Party Litigation, then the following shall apply:

(a) Developer shall take the lead role defending such Third-Party Litigation and may, in its sole discretion, elect to be represented by the legal counsel of its choice.

(b) City may, in its sole discretion, elect to be separately represented by the City Attorney and designated litigation counsel for City, with the reasonable costs of such representation to be paid by Developer. Provided, however, if City elects to proceed with any outside legal counsel (other than the designated litigation counsel for City) of its choice in

addition to the City Attorney, then City shall be solely responsible for any such additional legal fees and costs.

(c) To the extent due hereunder, Developer shall reimburse City, within twenty (20) business days following City's written demand therefor, reasonable legal fees and costs incurred by the City Attorney, as well as court costs, incurred in the month prior in connection with the Third-Party Litigation. Provided, however, that Developer shall not be required to pay any internal City staff costs associated with defending the Third-Party Litigation, nor any outside City legal costs (other than the designated litigation counsel for City); moreover, City shall provide Developer with reasonably sufficient information to document the basis for said request for payment.

The Parties intend that City's role under this Section 10.4 shall be primarily oversight although City reserves its right to protect City's interests, and City shall make good faith efforts to maximize coordination and minimize its legal costs (for example, minimizing filing separate briefs, and duplication of effort to the extent feasible).

If, after meeting and conferring, Developer and City both elect not to defend against the Third-Party Litigation, Developer shall remain obligated to indemnify and hold City harmless from and against any damages, attorneys' fees or cost awards that are actually awarded by a court of competent jurisdiction in accordance with Section 10.2 above.

In the alternative, if Developer elects, in its sole and absolute discretion, not to defend against the Third-Party Litigation, it shall deliver written notice to City regarding such decision. If Developer elects not to defend, City has the right, but not the obligation, in its sole discretion to proceed to defend against the Third-Party Litigation at its sole cost and expense, in which case City shall then take the lead role defending such Third-Party Litigation. If, following receipt of Developer's notice of election not to defend, City elects to defend and takes the lead role in such litigation, then City shall be solely responsible for all damages, attorney's fees or cost awards, if any, which are actually incurred or awarded from and after such time City has made such election. Provided, however, that City shall have no right to approve any settlement obligating Developer to make any payment(s), incur any liability or take any action(s) related thereto.

10.5. Processing During Third Party Litigation. The filing of any Third-Party Litigation against City or Developer shall not delay, suspend or stop the development, processing or construction of the Project or the processing, consideration and issuance of Subsequent Approval(s) unless the subject Third-Party petitioner obtains an injunction or other court order preventing the activity at issue.

SECTION 11. ASSIGNMENT AND ASSUMPTION; RIGHTS AND DUTIES OF MORTGAGEES.

11.1. Assignment of Rights, Interests and Obligations. Subject to compliance with this Section 11, Developer may sell, assign or transfer its interest in the Property (all or any portion(s) thereof) and related Project Approvals to any individual or entity (***"Assignee***") at any time during the Term of this Development Agreement without obtaining City's consent. Developer shall provide written notice to City of any such assignment or transfer of its interest in the Property, or any portion(s) thereof (each, an "***Assignment***") by providing City with a copy of the subject Assignment Agreement pursuant to Section 11.2 below.

11.2. Assumption of Rights, Interests and Obligations. Express written assumption by an Assignee of the obligations and other terms and conditions of this Development Agreement with respect to the Property or such portion(s) thereof sold, assigned or transferred, shall relieve Developer of such obligations and other terms and conditions so expressly assumed. Any such assumption agreement shall be in substantially the same form as attached Exhibit 3 ("***Assignment Agreement***"). No later than ten (10) business days after the date said Assignment becomes effective, Developer shall deliver to City a fully executed and acknowledged original of the Assignment Agreement. Developer shall duly record the Assignment Agreement with the County Recorder within ten (10) days of execution and acknowledgment. Upon the recordation of each such Assignment Agreement, Developer shall be released and have no further obligations or liability under this Development Agreement with respect to the interest(s) which are Assigned and the obligations assumed under the relevant Assignment Agreement.

SECTION 12. GENERAL PROVISIONS.

12.1. Independent Contractors. Each Party is an independent contractor and shall be solely responsible for the employment, acts, omissions, control and directing of its employees. All persons employed or utilized by Developer in connection with implementing the Project shall not be considered employees of City in any respect. Except as expressly set forth herein, nothing contained in this Development Agreement shall authorize or empower either Party to assume or create any obligation whatsoever, express or implied, on behalf of the other Party or to bind the other Party or to make any representation, warranty or commitment on behalf of the other Party.

12.2. Severability of Provisions. If any term or condition contained herein is held to be invalid, void or otherwise unenforceable by any court of competent jurisdiction, such holding shall in no way affect the validity or enforceability of any other term or condition contained herein and the remaining provisions shall continue in full force and effect.

12.3. Further Documents; Other Necessary Acts. Each Party shall execute, acknowledge and deliver to the other Party all further instruments and documents and shall take such further actions as may be reasonably necessary to carry out this Agreement and the Project Approvals in order to provide or secure to the other Party the full and complete enjoyment of the rights and privileges granted hereunder.

12.4. Time of Essence. Time is of the essence in the performance of each and every covenant and obligation to be performed by the Parties hereunder.

12.5. Amendments.

(a) Amendment by Written Consent. Except as otherwise expressly provided for herein, this Development Agreement may be amended only by the Parties' mutual written consent.

(b) Major and Minor Amendments. Any amendment to this Development Agreement that affects or relates to: (i) the Term; (ii) permitted uses on the Property; (iii) provisions for the reservation or dedication of land; (iv) conditions, terms, restrictions or requirements for subsequent discretionary actions; (v) the density or intensity of the use of the Property or the maximum height or size of proposed buildings; or (vi) monetary contributions by Developer, shall be deemed a "***Major Amendment***" and shall require giving of notice and a

public hearing before the City Council and otherwise adhere to the requirements set forth in the Development Agreement Statute. Any amendment that is not a Major Amendment shall be deemed a "***Minor Amendment***" and shall not, except to the extent otherwise required by applicable laws, require notice of public hearing before the parties may execute an amendment hereto.

(c) Authority to Consider Minor Amendment. The City Manager or his or her designee shall have the authority to reasonably determine if an amendment is a Major Amendment or a Minor Amendment, as well as the authority to review and approve Minor Amendment(s) administratively without public notice or hearing.

(d) Recordation of Amendment. In the event the Parties amend this Development Agreement, City shall cause notice of such action to be duly recorded in the official records of Tulare County within ten (10) days of such action.

12.6. Project Is A Private Undertaking. The Project is a private undertaking of Developer. Nothing in this Development Agreement is intended to or does establish the parties as partners, co-venturers, or principal and agent with one another.

12.7. Covenants Running With The Land. This Development Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective heirs, successors and Assignees (including any and all persons acquiring all or any portion of the Property, or any interest therein, whether by operation of law or in any manner whatsoever). All of the provisions of this Agreement shall be enforceable as equitable servitudes and shall constitute covenants running with the land pursuant to California law, including, without limitation, Civil Code Section 1468.

12.8. Recordation Of Agreement. Within ten (10) days of the Effective Date, City shall cause this Development Agreement to be duly recorded in the official records of Tulare County.

12.9. Good Faith and Fair Dealing. The Parties shall cooperate with each other and act in good faith in complying with the provisions of this Agreement. In their course of performance under this Agreement, the Parties shall cooperate and shall undertake such actions as may be reasonably necessary and appropriate to implement the Project as contemplated by this Agreement.

12.10. Notices, Demands and Communications Between the Parties. Any notice, consent, report, demand, document or other such item (each, a "***Notice***") to be given under this Agreement must be in writing and shall be given by: (a) certified mail, postage prepaid, return receipt requested; (b) personal delivery; (c) reputable "overnight courier" such as Federal Express (or similar courier company); or (d) email, to the Party to whom the Notice is directed at the address of the Party set forth below, or at any other address as that party may from time to time by written notice designate to the other. 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.

City: City of Visalia
Attn: Planning and Community Preservation Director

315 E. Acequia Avenue
Visalia, CA 93291
Email: [_____]

Copy to: City of Visalia
Attn: City Attorney
220 N. Santa Fe St.
Visalia, CA 93292
Email: [_____]

Developer: Seefried Industrial Properties, Inc.
Attn: Jason Quintel
2201 East Camelback Road, Suite 222
Phoenix, AZ 85016
Email: jasonquintel@seefriedproperties.com

Larry J. Ritchie Family Limited Partnership
Attn: Larry Ritchie
[_____]
Email: [_____]

Jeffrey B. Ritchie Family Limited Partnership
Attn: Jeffrey Ritchie
[_____]
Email: [_____]

and: GVR Partners LLP
Attn: Nadia Costa
3333 Michelson Drive, Suite 300
Irvine, CA 92612
Email: nadia.costa@gvrpartners.com

Notices sent by a Party's attorney on behalf of such Party shall be deemed delivered to such Party. Notices to Mortgage Holders by City shall be given as provided above using the address provided by such Mortgage Holders. Notices to Assignees shall be given by City as required above only for those Assignees who have given City written notice of their addresses for the purpose of receiving such notices. Either Party may change its mailing address/email at any time by giving written notice of such change to the other Party in the manner provided herein at least ten (10) days prior to the date such change is effected.

12.11. No Financial Assistance; Prevailing Wage Matters. City is not providing any direct or indirect financial assistance to Developer that would make any part of the Project a "public work" "paid for in whole or in part out of public funds," as described in California Labor Code Section 1720, such that it would cause Developer to be required to pay prevailing wages for any aspect of the Project.

12.12. Interpretation. This Development Agreement shall be construed and enforced in accordance with the laws of the State of California. The terms of this Development Agreement

shall be construed in accordance with the meaning of the language used and shall not be construed for or against either Party by reason of the authorship of this Development Agreement or any other rule of construction which might otherwise apply. The Section headings are for purposes of convenience only, and shall not be construed to limit or extend the meaning of this Development Agreement. The provisions of this Development Agreement and the attached exhibits shall be construed as a whole according to their common meaning and not strictly for or against either Party, and in a manner that shall achieve the purposes of this Development Agreement.

12.13. Venue. Any action brought relating to this Development Agreement shall be held exclusively in a state court in the County of Tulare.

12.14. No Waiver. Waiver of a breach or Default under this Development Agreement shall not constitute a continuing waiver or waiver of a subsequent breach of the same or any other provision of this Agreement. All waivers of the provisions of this Development Agreement, unless specified otherwise herein, must be in writing and signed by the appropriate representatives of City or Developer, as applicable.

This Agreement has been reviewed and revised by legal counsel for both City and Developer and no presumption or rule that ambiguities shall be construed against the drafting Party shall apply to the interpretation or enforcement of this Agreement.

12.15. Entire Agreement; Conflicts. This Development Agreement integrates all of the terms and conditions mentioned herein, or incidental hereto, and this Development Agreement supersedes all negotiations and previous agreements between the Parties with respect to all or any part of the subject matter hereof. In the event of a conflict between the terms and conditions of the Pre-Annexation Agreement and the terms and conditions of this Agreement, to the fullest extent legally possible, this Agreement shall prevail and control.

12.16. Counterparts. This Development Agreement and any and all amendments hereto may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument. Delivery of the executed Development Agreement may be accomplished by transmittal of a PDF by electronic mail, and if so done, the electronically mailed copy shall be deemed an executed original counterpart of the Development Agreement for all purposes.

12.17. No Third Party Beneficiaries. This Development Agreement and all provisions hereof is made and entered into for the sole protection and benefit of City, Developer and their respective successors and Assigns. This Development Agreement is not intended to create, nor shall it be construed to create, any third party beneficiary rights in any person or entity that is not a Party to this Development Agreement.

12.18. Authority To Execute. The individuals executing this Development Agreement represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Development Agreement on behalf of the representative legal entities of Developer and City.

12.19. Listing And Incorporation Of Exhibits. The exhibits to this Development Agreement, each of which is hereby incorporated herein by reference, are as follows:

Exhibit 1-a: Map of Property

Exhibit 1-b: Legal Description of Property

Exhibit 2: Existing Impact Fees

Exhibit 3: Form of Assignment Agreement

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties have entered into this Development Agreement as of the Effective Date.

"CITY"

CITY OF VISALIA, a municipal corporation and charter city

By:_____

ATTEST:

LESLIE CAVIGLIA, CITY CLERK

By: _____

APPROVED AS TO FORM:

_____

Kenneth J. Richardson
City Attorney

"DEVELOPER"

"SEEFRIED INDUSTRIAL PROPERTIES, INC."

By: _____

"LJR LP"

LARRY J. RITCHIE FAMILY LIMITED PARTNERSHIP, a California limited partnership

By: _____
Larry J. Ritchie, General Partner

"JBR LP"

JEFFREY B. RITCHIE FAMILY LIMITED PARTNERSHIP, a California limited partnership.

By: _____
Jeffrey B. Ritchie, General Partner.

Exhibit 1-a

Map of Property

Exhibit 1-b

Legal Description of Property

Exhibit 2

Existing Impact Fees

Exhibit 3

Form of Assignment Agreement

[SEE NEXT PAGE]

ASSIGNMENT AND ASSUMPTION AGREEMENT
(Development Agreement)

This Partial Assignment and Assumption Agreement (Development Agreement) (this "**Agreement**") is executed as of _____, 20__, by and between [_____], a [_____] ("**Assignor**"), and [_____], a [_____] ("**Assignee**"), and made effective as of the Effective Date set forth below.

A. Assignor and the CITY OF VISALIA, a municipal corporation and charter city (the "**City**"), entered into that certain *Development Agreement*, dated as of [_____], 2026 and recorded as Document No. [_____] on [_____], 2026 (the "**DA**"), relating to certain real property located within the Sphere of Influence of the City (as more particularly described in the DA, the "**Property**"). All capitalized terms used herein shall have the definitions given to them in the DA, unless otherwise expressly stated herein.

B. The DA provides for development of the Project (as that term is defined therein) on the Property, as more particularly described in the DA.

C. Assignor is selling, assigning or transferring a portion of the Property to Assignee, substantially concurrently with the date of this Agreement. The portion of the Property being conveyed to Assignee is more particularly described on **Exhibit A** attached hereto (the "**Assigned Property**"). This Agreement shall become effective as of the date of recordation of a grant deed conveying the Assigned Property to Assignee (the "**Effective Date**").

D. Assignor desires to assign to Assignee solely with respect to the Assigned Property those rights and obligations of Assignor under the DA specifically described in Section 3 of this Agreement (collectively, the **"Assigned Interests"**), and Assignee desires to assume from Assignor the Assigned Interests.

NOW, THEREFORE, in consideration of the promises and the mutual agreements and covenants
set forth herein and intending to be legally bound hereby, Assignor and Assignee do hereby agree as
follows:

1. Assignment. Assignor hereby assigns to Assignee all of Assignor's right, title and interest in and to the Assigned Interests.

2. Assumption. Assignee hereby assumes from Assignor all of Assignor's right, title and interest in and to the Assigned Interests relating to the period from and after the Effective Date of this Agreement, and agrees to perform all of Assignor's obligations under the DA with respect to the Assigned Interests relating to the period from and after the Effective Date of this Agreement.

3. Assigned Interests and Obligations. As used in this Agreement, Assigned Interests and obligations means the following provisions of the DA:

[_____]

4. Assignor's Retained Rights and Obligations. As between Assignor and Assignee, Assignor hereby retains all other rights and obligations under the DA that are not specifically

applicable to the development of the Assigned Property, including without limitation, all rights and obligations applicable to development of the remainder of the Property owned by Assignor.

5. Severability. Any term or provision of this Agreement that is invalid or unenforceable in any situation shall not affect the validity or enforceability of the offending term or provision in any other situation.

6. Successors and Assigns. This Agreement shall be binding upon and inure solely to the benefit of the parties hereto and their successors and assigns.

7. Recording. The Parties shall execute and, concurrently with the recording of the grant deed conveying the Assigned Property to Assignee, Assignor shall record with the Tulare County recorder a copy of this Agreement.

8. Applicable Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of California, applicable to contracts executed in and to be performed entirely within that state, and without regard to the conflict of laws provisions thereof.

9. Counterparts. This Agreement may be executed in one (1) or more counterparts, each of which shall be deemed an original but all of which taken together shall constitute one and the same agreement.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, Assignor and Assignee have caused this Agreement to be executed as of the date first written above by their respective officers thereunto duly authorized.

ASSIGNOR:

[_____]
By:
Name:
Title:

ASSIGNEE:

[_____]
By:
Name:
Title:

EXHIBIT A
TO ASSIGNMENT AND ASSUMPTION AGREEMENT

[Insert legal description and map of portion of Property being transferred]

Exhibit 2 – Impact Fees

The following Impact Fees shall apply to the Project:

PUBLIC FACILITY IMPACT FEES[1]

Land Use / Size	Demand Unit[2]	Civic Center	Corporation Yard	Library	Total
Business Park	Per 1,000 Sq Ft	$584.00	$95.00	N/A	**$679.00**
Mini-Warehouse	Per 1,000 Sq Ft	$7.42	$1.24	N/A	**$8.66**
Warehousing	Per 1,000 Sq Ft	$235.00	$41.00	N/A	**$276.00**
Manufacturing	Per 1,000 Sq Ft	$334.00	$54.00	N/A	**$388.00**
Light Industrial	Per 1,000 Sq Ft	$425.00	$67.00	N/A	**$492.00**

PUBLIC SAFETY IMPACT FEES[3]

Land Use Designation	Zoning	Fire Protection Facilities (Per Gross Acre)	Police Facilities (Per Gross Acre)
INDUSTRIAL			
Light Industrial	IL	$2,437.00	$325.00
Heavy Industrial[4]	IH	$2,437.00	$325.00

GROUNDWATER OVERDRAFT MITIGATION FEE[5]

Per Gross Acre $1,663.00

[1] Per Chapter 16.50 of the Municipal Code as of the Effective Date of the Development Agreement. Fees are based on land use designations under City's General Plan.

[2] Demand Unit shall be based on the total gross square feet of the building, structure or improvement to be constructed pursuant to the relevant building permit.

[3] Per Chapter 16.46 of the Municipal Code as of the Effective Date of the Development Agreement. Fees are based on land use designations under City's General Plan.

[4] For purposes of the Public Safety Impact Fee, the Heavy Industrial land use designation shall mean the Industrial land use designation and IH zoning shall mean I zoning.

[5] Per Chapter 16.54 of the Municipal Code as of the Effective Date of the Development Agreement.

Exhibit 2 – Impact Fees

STORM DRAINAGE & WATERWAYS IMPACT FEES[6]

Land Use	Percent Impervious	Acquisition Fee (per parcel)	Develop-ment Fee (per parcel)	Total Fee (per parcel)	Waterway acquisition fee (per gross acre)
INDUSTRIAL					
Industrial Park	N/A	$1,758.00	$196.00	$1,954.00	$1,433.00

NOTE:

The Acquisition Fee shall be paid on each parcel of land within the 2020 Urban Development Boundary prior to the approval of the final subdivision or parcel map. When no final subdivision or parcel map is submitted for approval prior to the commencement of the work of any development on each parcel of land, the Acquisition Fee shall be paid prior to the commencement of the work of any development thereon.

The Development Fee shall be paid on each parcel of land prior to the commencement of the work of any development thereon.

[6] Per Chapter 16.40 of the Municipal Code as of the Effective Date of the Development Agreement.

Exhibit 2 – Impact Fees

TRANSPORTATION IMPACT FEES[7]

LAND USE CATEGORIES[8]	UNIT	AMOUNT
COMMERCIAL		
General Retail		
Less than 125,000 sq ft	1,000 sq. ft.	$18,735.00
More than 125,000 sq ft	1,000 sq. ft.	$12,496.00
Gasoline Service Station[9]		
1st to 4th	Per position	$34,081.00
5th to 8th	Per position	$25,560.00
9th to 12th	Per position	$19,172.00
13th to beyond	Per position	$14,377.00
INDUSTRIAL		
Industrial / Service Commercial	Per 1,000 sq. ft.	$2,616.00
Warehouse / Distribution		
(0-20 KSF)	Per 1,000 sq. ft.	$2,388.00
(20-100 KSF)	Per 1,000 sq. ft.	$1,771.00
(100+ KSF)	Per 1,000 sq. ft.	$1,155.00
Mini-Storage	Per 1,000 sq. ft.	$1,228.00

[7] Per Chapter 16.44 of the Municipal Code as of the Effective Date of the Development Agreement.

[8] As defined in 16.44.050 of the Municipal Code, "Land Use Categories" means the specific list of land uses shown in a fee schedule developed under the authority of this chapter that generate vehicle trips and were used to project future vehicle trips for the calculation of the transportation impact fee.

[9] Fees for Gasoline Service Stations are cumulative