

ORDINANCE NO. 657

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALISTOGA, COUNTY OF NAPA, STATE OF CALIFORNIA, AMENDING THE DEVELOPMENT AGREEMENT (DA 2007-02) FOR THE VINEYARD OAKS SUBDIVISION PROJECT (MITIGATED NEGATIVE DECLARATION, TENTATIVE TRACT MAP 2007-02 AND DESIGN REVIEW 2008-01), A 15-LOT RESIDENTIAL SUBDIVISION LOCATED AT 2400 GRANT STREET WITHIN THE "RR", RURAL RESIDENTIAL ZONING DISTRICT. (APNS: 011-010-013 & 011-010-014)

WHEREAS, on June 3, 2008, the City Council adopted a Mitigated Negative Declaration and approved required planning actions associated with the Vineyard Oaks Subdivision project. These planning actions included a Tentative Tract Map and Design Review to subdivide approximately 18 acres of land into 15 single-family lots. On June 17, 2008, the City Council adopted Ordinance No. 652 authorizing the execution of a Development Agreement between the City and the owners of the subject properties Ira and Lois Carter, 1881 Mora LLC of 18 (property has since transferred to other parties prior to execution) and the project applicant (BNK, LLC) for the Vineyard Oaks Subdivision Project ("Development Agreement").

WHEREAS, BNK, LLC on behalf of the property owners has filed an amendment request application with the City of Calistoga for the purpose of amending the timeframe for the payment of Special Public Benefit and Utility Capacity Connection Fees for the project set forth in the Development Agreement;

WHEREAS, adoption of this Development Agreement amendment will not conflict with any other appropriate ordinance and to the extent such conflict exists, this ordinance is hereby repealed;

WHEREAS, in accordance with the California Environmental Quality Act (CEQA) and its Guidelines, the proposed action is considered an activity within the Mitigated Negative Declaration adopted by the City Council for the Vineyard Oaks Subdivision Project on June 3, 2008;

WHEREAS, a public notice of the City Council public hearing of April 7, 2009 for an amendment to the Development Agreement was published in the local newspaper and made available on the City's website;

WHEREAS, the City Council has reviewed and considered this amendment at its regular meetings on April 7, 2009 and April 21, 2009, considered as one of its items of business, this Ordinance to be adopted in accordance with Government Code Section 65090, this Ordinance to be adopted in accordance with Government Code Section 65850, to include the written and oral staff report, proposed findings and comments received from the general public and interested agencies and parties;

WHEREAS, the City Council adopted the following findings with the introduction of an Ordinance:

1. The City Council duly adopted Ordinance No. 547 enacting procedures for entering into development agreements.
2. The Development Agreement is a contract negotiated and entered into voluntarily between the City of Calistoga, the owners of the subject properties (Ira and Lois Carter), and the project applicant (BNK, LLC) of the Vineyard Oaks Subdivision.
3. The Development Agreement furthers the public health, safety and general welfare and is consistent with the General Plan and that there is no applicable specific plan. City and Developer have further determined that the Project is a development for which the Development Agreement is appropriate. The Development Agreement eliminates uncertainty regarding Existing Project Approvals and Subsequent Project Approvals, thereby encouraging planning for, investment in and commitment to development of the Property. Continued use and development of the Property in accordance with the Development Agreement is anticipated to provide substantial benefits and contribute to the vitality of the City, thereby achieving the goals and purposes for which the Development Agreement Statute was enacted.
4. The Development Agreement contains conditions and obligations relating to the performance stated in the resolution(s) approving the project.
5. That the project known as Vineyard Oaks Subdivision is a project of significance to the community and upon the community of Calistoga and for that reason a development agreement is a proper use of the City's authority to secure the project benefits for the community.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Calistoga that:

SECTION ONE:

Based on the above findings and the conditions and obligations the City Council adopts this Ordinance to amend the Development Agreement, specifically Exhibit F Special Public Benefits and Exhibit H Utility Capacity Allocation and Connection Fees to amend timelines for payment of certain fees.

SECTION TWO:

The City Council hereby adopts an amendment to the Development Agreement for the Vineyard Oaks Subdivision Project to incorporate the modifications in substantially the same form as set forth in Exhibit A, attached hereto and incorporated herein by reference, and authorizes the City Manager to execute the first amendment to the Development Agreement upon the effective date of this Ordinance. Upon execution

of the first amendment to the Development Agreement by all parties, the City Clerk is hereby directed to record the first amendment to the Development Agreement with the Napa County Recorder's Office.

SECTION THREE:

If any section or portion of this ordinance is for any reason held to be invalid and/or unconstitutional by a court or competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

SECTION FOUR:

THIS ORDINANCE shall take effect thirty (30) days after its passage and before expiration of fifteen (15) days after its passage, shall be published in accordance with law in a newspaper of general circulation published and circulated in the City of Calistoga.

THIS ORDINANCE was introduced with the first reading waived at the City of Calistoga City Council meeting of the **7th day of April 2009**, and was passed and adopted at a regular meeting of the Calistoga City Council on the **21st day of April 2009**, by the following vote:

**AYES: Councilmember Kraus, Councilmember Garcia, and
Vice Mayor Dunsford,**
NOES: None
ABSTAIN: Councilmember Slusser and Mayor Gingles
ABSENT: None



MICHAEL DUNSFORD, Vice-Mayor

ATTEST:


SUSAN SNEDDON, City Clerk

EXHIBIT A to Ordinance No. 657

EXHIBIT F

Special Public Benefits

1. Funds for Affordable Housing.

Chapter 17.08 of the Calistoga Municipal Code, development of the Project requires that twenty percent (20%) of the homes in the subdivision be made available to families of low or moderate income. Alternatively, the Developer may provide other methods of addressing housing needs including a cash payment to the City. An in-lieu payment of Six Hundred Thousand Dollars (\$600,000) shall be made into the Calistoga Affordable Housing Trust Fund. The Developer shall provide \$100,000 of the in-lieu payment to City no later than one-hundred and eighty (180) days from the date of recordation of the Final Subdivision Map. The balance of said in-lieu payment shall be made in equal payments prior to the issuance of a building permit for home construction on each lot resulting from the Project subdivision. Said in-lieu payment shall be secured by a first position lien on each lot until such time as paid in full. The obligation secured by the lien shall provide that interest shall accrue at an interest rate equal to the last quarter annualized Local Agency Invest Fund (LAIF) rate as of the lien date plus two percent (2%). The principal and accrued interest shall be due in full on the earlier of (1) issuance of a building permit for home construction on the lot, or (2) four years from the Effective Date of this Agreement.

2. Additional Funds for Recreational Purposes.

Chapter 17.10 of the Calistoga Municipal Code requires that prior to Final Subdivision Map approval subdivision of the Property, Three Thousand Dollars (\$3,000) per lot be paid as a Quality of Life fee for the provision of land, structures and physical improvements for cultural and recreational purposes. No later than one-hundred and eighty (180) days from the date of recordation of the Final Subdivision Map, Developer shall pay to the City an additional sum of Eight Hundred Thousand Dollars (\$800,000) to be used for recreational purposes.

3. Grant Street Improvements.

The developer shall pay the City the full costs of the Grant Street improvements made by City. Said payment is estimated to be \$200,000 to the City for the full cost of Grant Street reconstruction (the segment from Mora Avenue to Garnett Creek Court). Actual costs shall be determined by the City following the completion and acceptance of the work by City. City shall provide reasonable accounting of all costs to Developer. Developer shall pay Grant Street Improvement costs in full no later than one-hundred and eighty (180) days from the date of recordation of the Final Subdivision Map.

EXHIBIT H

Utility Capacity Allocation and Connection Fees

1. Water Allocation and Connection Fees.

The City shall reserve 9.75 acre feet of potable water for the Project. This allocation shall be assigned in equal portions to the resulting lots for home construction.

The water connection fee for the Project shall be set at the rate in effect at the time of the approval of the Final Subdivision Map. Twenty-five percent (25%) of the total fee for the lots shall be paid no later than one-hundred and eighty (180) days from the date of recordation of the Final Subdivision Map. The balance of the water connection fees shall be allocated in equal shares to each residential lot. Upon recordation of the Final Subdivision Map, a lien subordinate only to other City liens shall be recorded against each lot securing payment of the remaining seventy-five percent (75%) of the connection fee for that lot. The principal interest shall be due in full on the earlier of, (1) the issuance of a building permit for home construction on the lot, or (2) four (4) years from the Effective Date of this Agreement.

2. Waste Water Allocation and Connection Fees.

The City shall reserve 6.21 acre feet of waste water treatment capacity for the development. Said allocation shall be assigned in equal portions to the resulting lots for home construction.

The waste water connection fee for the Project shall be set at the rate in effect at the time of the approval of the Final Subdivision Map. Twenty-five percent (25%) of the total fee for the lots shall be paid no later than one-hundred and eighty (180) days from the date of recordation of the Final Subdivision Map. The balance of the waste water connection fees shall be allocated in equal shares to each residential lot. Upon recordation of the Final Subdivision Map, a lien subordinate only to other City liens shall be recorded against each lot securing payment of the remaining seventy-five percent (75%) of the connection fee for that lot. The principal interest shall be due in full on the earlier of, (1) the issuance of a building permit for home construction on the lot, or (2) four (4) years from the Effective Date of this Agreement.

Ord 657



2009-0017617

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

City of Calistoga
1232 Washington Street
Calistoga, CA 94515
Attention: City Clerk

Recorded	REC FEE	0.00
Official Records		
County of	CC1 ONE CONFORM	1.00
Napa		
JOHN TUTEUR		
Assessor-Recorder-Cou		
	LS	
08:38AM 08-Jul-2009	Page 1 of 13	

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

**FIRST AMENDMENT TO THE DEVELOPMENT AGREEMENT
BY AND BETWEEN
THE CITY OF CALISTOGA
AND
BNK LLC, IRA CARTER AND LOIS CARTER
(VINEYARD OAKS SUBDIVISION)**

THIS FIRST AMENDMENT TO THE DEVELOPMENT AGREEMENT ("First Amendment") dated for reference as of May 21, 2009 is entered into, by and among BNK LLC, a California limited liability company, Ira Carter, an individual and Lois Carter, an individual (who are referred to, collectively, in this First Amendment as "Developer"), and the City of Calistoga, a California municipal corporation ("City"). City and Developer are sometimes referred to in this Agreement, each, as a "Party" and collectively as "Parties."

RECITALS

A. City and Developer were parties to that certain Development Agreement effective July 18, 2008 and recorded in the County of Napa as Record No. 2009-0007872 ("Development Agreement") concerning the development of the property described in Attachment No. 1 attached hereto and made a part hereof ("Property").

B. Developer has filed an amendment request application with the City to amend the timing of the Developer's payment of the Special Public Benefit and Utility Capacity Connection fees for the Project as provided in the Development Agreement.

C. City and Developer desire by this First Amendment to amend Exhibit F and Exhibit H to the Development Agreement in order to modify the timeframe for the Developer's payment of the Special Public Benefit and Utility Capacity Connection fees.

D. On April 21, 2009, after a duly noticed public hearing, the City Council of the City adopted Ordinance No. 657, approving the changes to Exhibit F and Exhibit H set forth in this First Amendment. Such ordinance took effect on May 21, 2009.

E. In addition to the foregoing, City and Developer desire by this First Amendment to memorialize a non-substantive clerical correction to the legal description set forth in Exhibit A to the Development Agreement.

A G R E E M E N T

NOW, THEREFORE, in consideration of the foregoing Recitals and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, City and Developer hereby agree as follows:

1. Exhibit A. Exhibit A is hereby deleted and replaced in its entirety with a new Exhibit A, attached hereto and incorporated herein as Attachment No. 1.
2. Exhibit F. Exhibit F is hereby deleted and replaced in its entirety with a new Exhibit F, attached hereto and incorporated herein as Attachment No. 2.
3. Exhibit H. Exhibit H is hereby deleted and replaced in its entirety with a new Exhibit H, attached hereto and incorporated herein as Attachment No. 3.
4. Prior Amendments. Prior to the execution of this First Amendment, the Development Agreement has not been amended or modified in any manner and there are no oral agreements, correspondence, actions or understandings that would effectively modify the terms of the Development Agreement.
5. Development Agreement in Effect. Except as amended by this First Amendment, the Development Agreement remains in full force and effect.
6. Counterpart Signatures. This First Amendment may be signed in multiple counterparts that, when signed by all parties, shall constitute a binding agreement.

IN WITNESS WHEREOF, the undersigned have entered into this First Amendment to be effective as of the date first above written.

[SIGNATURES ON FOLLOWING PAGE]

CITY:

City of Calistoga, a municipal corporation

By: James C. McCann
James C. McCann, City Manager

Date Signed: 6-24-09

Approved as to Form:

By: _____
Michelle M. Kenyon, City Attorney

Attest:
By: Susan Sneddon
Susan Sneddon, City Clerk

DEVELOPER:

Ira Carter
Ira Carter, an individual

Lois Carter
Lois Carter, an individual

BNK LLC, a California limited liability company

By: Edward Nagel
Name: Edward Nagel
Its: managing partner

By: _____
Name: _____
Its: _____

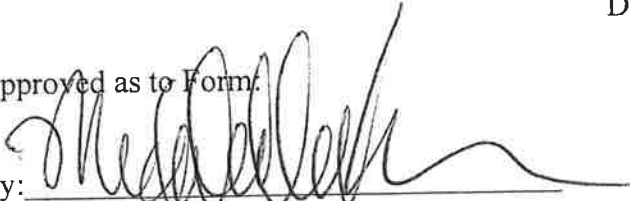
CITY:

City of Calistoga, a municipal corporation

By: _____
James C. McCann, City Manager

Date Signed: _____

Approved as to Form:

By: 
Michelle M. Kenyon, City Attorney

Attest:

By: _____
Susan Sneddon, City Clerk

DEVELOPER:

Ira Carter, an individual

Lois Carter, an individual

BNK LLC, a California limited liability
company

By: _____
Name: _____
Its: _____

By: _____
Name: _____
Its: _____

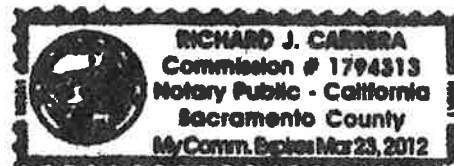
ACKNOWLEDGMENT

STATE OF CALIFORNIA)
)
COUNTY OF NAPA)

On JUNE 18, 2009 before me, RICHARD J. CARRERA ^{NOTARY PUBLIC} the undersigned, personally
(Date)
appeared LOIS CARTER who proved to me on the basis of satisfactory evidence
Name(s) of Signer(s)

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

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



(Place Notary Seal Above)

WITNESS my hand and official seal.

[Handwritten Signature]
Signature of Notary Public

MARCH 23 2012
Expiration Date

RICHARD J. CARRERA
Print Name

1794313
Commission Number

Notary Public Phone Number: (916) 569-5400

ACKNOWLEDGMENT

STATE OF CALIFORNIA)
)
COUNTY OF NAPA)

On JUNE 18, 2009 before me, RICHARD J. CARRERA ^{NOTARY PUBLIC} the undersigned, personally
(Date)

appeared IRA CARTER who proved to me on the basis of satisfactory evidence
Name(s) of Signer(s)

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

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



(Place Notary Seal Above)

WITNESS my hand and official seal.

[Handwritten Signature]
Signature of Notary Public

MARCH 23, 2012
Expiration Date

RICHARD J. CARRERA
Print Name

1794313
Commission Number

Notary Public Phone Number: (916) 569-5400

ILLEGIBLE NOTARY SEAL DECLARATION
(GC 27361.7 and CCP 2015.5)

The notary seal on the document to which this statement is attached reads as follows:

Name of Notary Richard J Carrera

Date Commission Expires 3-23-2012

Commission Number 1794313

County of Commission Sacramento

"I certify (or declare) under the penalty of perjury under the laws of the State of California that the foregoing is true and correct."

Today's Date 6-29-09

Susan L. Sneddon

Signature of Declarant:

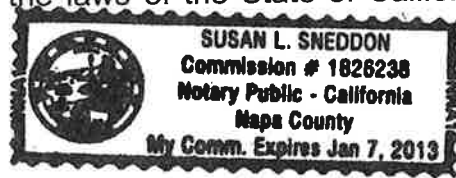
Susan L. Sneddon

Printed Name

STATE OF CALIFORNIA)
)
COUNTY OF NAPA)

On June 24, 2009 before me, Susan L Sneddon, the undersigned, personally appeared Edward Nagel who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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



Place Notary Seal Above

WITNESS my hand and official seal.

Susan L Sneddon
Signature of Notary Public

Susan L Sneddon
Print Name

1-7-13
Expiration Date

1826238
Commission Number

Notary Telephone Number: 707-942-2807

STATE OF CALIFORNIA)
)
COUNTY OF NAPA)

On May 28, 2009 before me, Susan L Sneddon, the undersigned, personally
(Date)
appeared James C. McCann who proved to me on the basis of satisfactory evidence
Name(s) of Signer(s)

to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

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



Place Notary Seal Above

WITNESS my hand and official seal.

Susan L Sneddon
Signature of Notary Public

Susan L. Sneddon
Print Name

1-7-13
Expiration Date

1826238
Commission Number

Notary Public Phone Number: 707-942-2807

ATTACHMENT NO. 1

Legal Description of Property

All that real property situated in the City of Calistoga, County of Napa, State of California, described as follows:

Commencing at a point on the northeastern line of Grant street, distance thereon South 59 degrees East 20.045 chains from the point intersection thereof with the southeastern line of Greenwood Avenue, running thence along said line of Grant Street, south 59 degrees East 8.005 chains; thence North 30 ¼ degrees East 22.37 chains; thence North 58 ¾ degrees West 8.005 chains, and thence South 30 ¼ degrees West 22.37 chains, more or less, to the point of commencement.

Being Lot 3 and a portion of Lot 4 as the same are shown upon that certain map entitled "Map W.F. Fisher Tract, Calistoga, Napa Co. Cal.", filed April 17, 1897 in the office of the County Recorder of said Napa County.

EXCEPTING THEREFROM the following described parcel:

Beginning at a point on the southeasterly line of the lands of Ira S. Carter and Lois J. Carter, trustees of the CARTER FAMILY TRUST dated October 1, 2001 as described by deed recorded October 10, 2001 under Document Number 2001-0035326, Napa County Records, from which point an untagged 3/4" inch iron pipe marking the most northerly corner of the lands of 1881 Mora, LLC as described by deed recorded July 18, 2002 under Document Number 2002-0028547, Napa County Records, and as said lands are shown and delineated on "Map No. 5442, Record of Survey" filed December 11, 2002 in Book 35 of Surveys, Page 26, Napa County Records, bears N 29°56'29" E, 30.00 feet; thence from said point of beginning and along said southeasterly line S 29°56'29" W, 413.13 feet, to a ¾ inch iron pipe tagged PLS 5769, marking the most westerly corner of said lands of 1881 Mora, LLC; thence leaving said southeasterly line of the lands of the CARTER FAMILY TRUST, N 60°03'31" W, 19.65 feet; thence parallel with and 19.65 feet northwesterly from, measured at right angles to, the southeasterly line of said lands of the CARTER FAMILY TRUST, N 29°56'29" E, 413.17 feet, to a point from which the point of beginning bears S 59°57'07" E, 19.65 feet; thence S 59°57'07" E, 19.65 feet, to the point of beginning. Containing 8118 square feet, more or less.
(A Portion of APN 011-010-013 & 014)

TOGETHER WITH the following described parcel:

Beginning at an untagged 3/4 inch iron pipe marking the most northerly corner of the lands of 1881 Mora, LLC as described by deed recorded July 18, 2002 under Document Number 2002-0028547, Napa County Records, as said lands are shown and delineated on "Map No. 5442, Record of Survey" filed December 11, 2002 in Book 35 of Surveys, Page 26, Napa County Records; thence from said point of beginning and along the northeasterly line of said lands of 1881 Mora, LLC, S 59°57'07" E, 270.61 feet, to a ¾ inch iron pipe tagged PLS 5769, marking the most easterly corner of said lands of 1881 Mora, LLC, and from which point a nail and tag PLS 5769 in the centerline of Mora

Avenue, bears S 59°57'07" E, 25.00 feet; thence along the southeasterly line of said lands of 1881 Mora, LLC, S 29°59'00" W, 30.00 feet; thence leaving said southeasterly line, parallel with and 30.00 feet southwesterly from, measured at right angles to, the northeasterly line of said lands of 1881 Mora, LLC, N 59°57'07" W, 270.59 feet, to a point in the northwesterly line of said lands of 1881 Mora, LLC; thence along said northwesterly line, N 29°56'29" E, 30.00 feet, to the point of beginning. Containing 8118 square feet, more or less.
(A Portion of APN 011-021-002)

ATTACHMENT NO. 2

EXHIBIT F

Special Public Benefits

1. Funds for Affordable Housing.

Chapter 17.08 of the Calistoga Municipal Code, development of the Project requires that twenty percent (20%) of the homes in the subdivision be made available to families of low or moderate income. Alternatively, the Developer may provide other methods of addressing housing needs including a cash payment to the City. An in-lieu payment of Six Hundred Thousand Dollars (\$600,000) shall be made into the Calistoga Affordable Housing Trust Fund. The Developer shall provide \$100,000 of the in-lieu payment to City no later than one-hundred and eighty (180) days from the date of recordation of the Final Subdivision Map. The balance of said in-lieu payment shall be made in equal payments prior to the issuance of a building permit for home construction on each lot resulting from the Project subdivision. Said in-lieu payment shall be secured by a first position lien on each lot until such time as paid in full. The obligation secured by the lien shall provide that interest shall accrue at an interest rate equal to the last quarter annualized Local Agency Invest Fund (LAIF) rate as of the lien date plus two percent (2%). The principal and accrued interest shall be due in full on the earlier of (1) issuance of a building permit for home construction on the lot, or (2) four years from the Effective Date of this Agreement.

2. Additional Funds for Recreational Purposes.

Chapter 17.10 of the Calistoga Municipal Code requires that prior to Final Subdivision Map approval subdivision of the Property, Three Thousand Dollars (\$3,000) per lot be paid as a Quality of Life fee for the provision of land, structures and physical improvements for cultural and recreational purposes. No later than one-hundred and eighty (180) days from the date of recordation of the Final Subdivision Map, Developer shall pay to the City an additional sum of Eight Hundred Thousand Dollars (\$800,000) to be used for recreational purposes.

3. Grant Street Improvements.

The developer shall pay the City the full costs of the Grant Street improvements made by City. Said payment is estimated to be \$200,000 to the City for the full cost of Grant Street reconstruction (the segment from Mora Avenue to Garnett Creek Court). Actual costs shall be determined by the City following the completion and acceptance of the work by City. City shall provide reasonable accounting of all costs to Developer. Developer shall pay Grant Street Improvement costs in full no later than one-hundred and eighty (180) days from the date of recordation of the Final Subdivision Map.

END OF DOCUMENT

ATTACHMENT NO. 3

EXHIBIT H

Utility Capacity Allocation and Connection Fees

1. Water Allocation and Connection Fees.

The City shall reserve 9.75 acre feet of potable water for the Project. This allocation shall be assigned in equal portions to the resulting lots for home construction.

The water connection fee for the Project shall be set at the rate in effect at the time of the approval of the Final Subdivision Map. Twenty-five percent (25%) of the total fee for the lots shall be paid no later than one-hundred and eighty (180) days from the date of recordation of the Final Subdivision Map. The balance of the water connection fees shall be allocated in equal shares to each residential lot. Upon recordation of the Final Subdivision Map, a lien subordinate only to other City liens shall be recorded against each lot securing payment of seventy-five percent (75%) of the connection fee for that lot. The principal and interest shall be due in full on the earlier of: (1) the issuance of a building permit for home construction on the lot, or (2) four (4) years from the Effective Date of this Agreement.

2. Waste Water Allocation and Connection Fees.

The City shall reserve 6.21 acre feet of waste water treatment capacity for the development. Said allocation shall be assigned in equal portions to the resulting lots for home construction.

The waste water connection fee for the Project shall be set at the rate in effect at the time of the approval of the Final Subdivision Map. Twenty-five percent (25%) of the total fee for the lots shall be paid no later than one-hundred and eighty (180) days from the date of recordation of the Final Subdivision Map. The balance of the waste water connection fees shall be allocated in equal shares to each residential lot. Upon recordation of the Final Subdivision Map, a lien subordinate only to other City liens shall be recorded against each lot securing payment of seventy-five percent (75%) of the connection fee for that lot. The principal and interest shall be due in full on the earlier of: (1) the issuance of a building permit for home construction on the lot, or (2) four (4) years from the Effective Date of this Agreement.