

PLANNING COMMISSION

ADJOURNED REGULAR MEETING

Date: November 27, 2017

Time: 6:30 P.M.

COMMISSION MEMBERS

Tom Murphy, Chair

Cody Leis, Vice Chair

Rusty Caldwell, Commissioner

Joline Hahn, Commissioner

Jim Heywood, Commissioner

* - * - * - * - * - * - *

Dave Reno, Principal Planner

Jeff M. Malawy, Assistant City Attorney



CITY OF HESPERIA

9700 Seventh Avenue

Council Chambers

Hesperia, CA 92345

City Offices: (760) 947-1000

The Planning Commission, in its deliberation, may recommend actions other than those described in this agenda.

Any person affected by, or concerned regarding these proposals may submit written comments to the Planning Division before the Planning Commission hearing, or appear and be heard in support of, or in opposition to, these proposals at the time of the hearing. Any person interested in the proposal may contact the Planning Division at 9700 Seventh Avenue (City Hall), Hesperia, California, during normal business hours (7:30 a.m. to 5:30 p.m., Monday through Thursday, and 7:30 a.m. to 4:30 p.m. on Fridays) or call (760) 947-1200. The pertinent documents will be available for public inspection at the above address.

If you challenge these proposals, the related Negative Declaration and/or Resolution in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Planning Commission at, or prior to the public hearing.

In compliance with the American with Disabilities Act, if you need special assistance to participate in this meeting, please contact Dave Reno, Principal Planner (760) 947-1200. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. [28 CFR 35.10235.104 ADA Title 11]

Documents produced by the City and distributed less than 72 hours prior to the meeting regarding any item on the Agenda will be made available in the Planning Division, located at 9700 Seventh Avenue during normal business hours or on the City's website.

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City of Hesperia

City Council Chambers
9700 Seventh Ave.
Hesperia CA, 92345
www.cityofhesperia.us

Meeting Agenda Planning Commission

Monday, November 27, 2017

6:30 PM

AGENDA HESPERIA PLANNING COMMISSION

As a courtesy, please silence your cell phones, pagers, and other electronic devices while the meeting is in session. Thank you.

Prior to action of the Planning Commission, any member of the audience will have the opportunity to address the legislative body on any item listed on the agenda, including those on the Consent Calendar. PLEASE SUBMIT A COMMENT CARD TO THE COMMISSION SECRETARY WITH THE AGENDA ITEM NUMBER NOTED.

CALL TO ORDER - 6:30 PM

- A. Pledge of Allegiance to the Flag
- B. Invocation
- C. Roll Call

*Tom Murphy Chair
Cody Leis Vice Chair
Rusty Caldwell Commissioner
Joline Bell Hahn Commissioner
James Heywood Commissioner*

JOINT PUBLIC COMMENTS

Please complete a "Comment Card" and give it to the Commission Secretary. Comments are limited to three (3) minutes per individual. State your name for the record before making your presentation. This request is optional, but very helpful for the follow-up process.

Under the provisions of the Brown Act, the Commission is prohibited from taking action on oral requests. However, Members may respond briefly or refer the communication to staff. The Commission may also request the Commission Secretary to calendar an item related to your communication at a future meeting.

CONSENT CALENDAR

- 1 Page 5 Consideration of the November 9, 2017 Planning Commission Draft Meeting Minutes

Recommended Action:

It is recommended that the Planning Commission approve the Draft Minutes from the Regular Meeting held on November 9, 2017.

Staff Person: Senior Office Specialist Denise Bossard

Attachments: [11-09-2017 PC MINUTES](#)

PUBLIC HEARINGS

2 Page 9 Development Agreement - Tapestry Specific Plan

Recommended Action:

It is recommended that the Planning Commission adopt Resolution No. PC-2017-36, recommending that the City Council adopt an ordinance to enter into a Development Agreement with Hesperia Ventire I, LLC regarding the Tapestry Specific Plan. (DA13-00002)

Staff Person: Principal Planner Dave Reno

Attachments: [Staff Report](#)

[Development Agreement](#)

[Phase 1 Concurrency Plan Exhibit D](#)

[Planning and Engineering Conditions of Approval - Exhibit E](#)

[DA Addendum](#)

[Tapestry Development Agreement PC RES](#)

PRINCIPAL PLANNER'S REPORT

The Principal Planner or staff may make announcements or reports concerning items of interest to the Commission and the public

D. DRC Comments

3 Page 103 Development Review Committee Agenda: November 15, 2017

Staff Person: Principal Planner Dave Reno

Attachments: [11-15-2017 DRC Agenda With Action](#)

E. Major Project Update

PLANNING COMMISSION BUSINESS OR REPORTS

The Commission Members may make comments of general interest or report on their activities as a representative of the Planning Commission.

ADJOURNMENT

I, Denise Bossard, Planning Commission Secretary of the City of Hesperia, California do hereby certify that I caused to be posted the foregoing agenda on T[] at 5:30 p.m. pursuant to California Government Code §54954.2.

Denise Bossard,
Planning Commission Secretary

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City of Hesperia Meeting Minutes Planning Commission

City Council Chambers
9700 Seventh Ave.
Hesperia CA, 92345

Thursday, November 9, 2017

6:30 PM

AGENDA HESPERIA PLANNING COMMISSION

CALL TO ORDER - 6:38 PM:

A. Pledge of Allegiance to the Flag:

Pledge of Allegiance led by Vice Chair Cody Leis.

B. Invocation:

Invocation led by Chair Tom Murphy.

C. Roll Call:

PRESENT: Chair Tom Murphy
Vice Chair Cody Leis
Commissioner Jim Heywood
Commissioner Rusty Caldwell
ABSENT Commissioner Joline Hahn

Motion by Vice Chair Cody Leis to excuse the absence of Commissioner Joline Hahn, Seconded by Commissioner Rusty Caldwell, passed with the following roll call vote:

AYES: Chair Tom Murphy
Vice Chair Cody Leis
Commissioner Jim Heywood
Commissioner Rusty Caldwell
ABSENT Commissioner Joline Hahn

JOINT PUBLIC COMMENTS:

Chair Tom Murphy opened the Joint Public Comments at 6:41 pm.
There were no public comments.
Chair Tom Murphy closed the Joint Public Comments at 6:41 pm.

CONSENT CALENDAR:

1. Approval of Minutes: October 12, 2017, Planning Commission Meeting Draft Minutes

Recommended Action:

It is recommended that the Planning Commission approve the Draft Minutes from the Regular Meeting held on October 12, 2017.

Sponsor: Senior Office Specialist Denise Bossard

Motion by Commissioner Rusty Caldwell to approve the Draft Minutes from the Regular Meeting held on October 12, 2017, Seconded by Vice Chair Cody Leis, passed with the following roll call vote:

AYES: Chair Tom Murphy
Vice Chair Cody Leis
Commissioner Jim Heywood
Commissioner Rusty Caldwell
ABSENT: Commissioner Joline Hahn

PUBLIC HEARINGS:

- 2. Consideration of Conditional Use Permit CUP17-00010 to allow the sale of beer, wine and liquor for on-site consumption in conjunction with a proposed restaurant (Type 47) at 8853 Three Flags Road (Applicant: Sohal Investments LLC; APN: 3039-361-10)**

Recommended Action:

It is recommended that the Planning Commission adopt Resolution No. PC-2017-33, approving CUP17-00010.

Sponsor: Associate Planner Ryan Leonard

Associate Planner Ryan Leonard presented Conditional Use Permit, CUP17-00010.

The Commission asked questions of staff with discussions ensuing.

Chair Tom Murphy opened the Public Hearing at 6:47 pm.

There were no public comments.

Chair Tom Murphy closed the Public Hearing at 6:48 pm.

Commissioner Jim Heywood commented at length about the size of the census tract, how important it is to take these CUP's on a case-by-case basis, and that eventually the number of proposed uses would reach ABC's saturation point. Commissioner Heywood also expressed that there needs to be a balance between making sure that we are encouraging development and businesses being able to be competitive.

Motion by Commission Jim Heywood to adopt Resolution No. PC-2017-33, approving CUP17-00010, Seconded by Commissioner Rusty Caldwell, passed with the following roll call vote:

AYES: Chair Tom Murphy
Vice Chair Cody Leis
Commissioner Jim Heywood
Commissioner Rusty Caldwell
ABSENT: Commissioner Joline Hahn

- 3. Consideration of General Plan Amendment GPA17-00001 to change the designation from Rural Residential with a minimum lot size of 2.5 acres (RR-2 1/2) to Public (P) on 350 acres in conjunction with Conditional Use Permit CUP17-00008 to construct a solar farm on approximately 4.7 gross acres located on the east side of Arrowhead Lake Road, approximately 4,000 feet south of Hesperia Lake Park. (Applicant: Lake Arrowhead Community Service District; APNs: 0397-013-04, 05, and 17 through 22)**

Recommended action:

Staff requests direction from the Planning Commission regarding adoption of Resolution Nos. PC-2017-34 and PC-2017-35, recommending that the City Council approve GPA17-00001 and CUP17-00008.

Sponsor: Senior Planner Daniel Alcayaga

Senior Planner Daniel Alcayaga presented General Plan Amendment, GPA17-00001 and Conditional Use Permit, CUP17-00008.

Chair Tom Murphy opened the Public Hearing at 6:58 pm.

General Manager of the Lake Arrowhead Community Services District Catherine Cerri spoke in support of the project.

Chair Tom Murphy closed the Public Hearing at 7:01 pm.

The Commission asked questions of Ms. Cerri with discussions ensuing.

The Commission asked questions of staff with discussions ensuing.

Motion by Commission Jim Heywood to adopt Resolution Nos. PC-2017-34 and PC-2017-35, recommending that the City Council approve GPA17-00001 and CUP17-00008, Seconded by Commissioner Rusty Caldwell, passed with the following roll call vote:

AYES: Chair Tom Murphy
Commissioner Jim Heywood
Commissioner Rusty Caldwell
NOES Vice Chair Cody Leis
ABSENT: Commissioner Joline Hahn

PRINCIPAL PLANNER'S REPORT:

D. DRC Comments

Principal Planner Dave Reno briefed the Commission on the November 1, 2017, Development Review Committee Agenda expanding on the Rim Properties apartment expansion project.

E. Major Project Update

Principal Planner Dave Reno updated the Commission on the 75 single-family home permits issued so far this fiscal year as well as the three industrial projects in plan-check which include the Heilig Meyers expansion, Mag Bay Yachts, and Hi-Desert Materials. Mr. Reno also announced the upcoming special meeting scheduled for November 27th to consider the Tapestry Development Agreement.

The Commission asked Mr. Reno questions relative to their role in the Tapestry Development Agreement with discussions ensuing.

The Commission requested additional information on the DIF fees that were on the November 7th City Council Meeting with discussions ensuing.

PLANNING COMMISSION BUSINESS OR REPORTS:

There were no reports given.

ADJOURNMENT:

Meeting adjourned at 7:15 pm to an adjourned regular meeting until Monday, November 27, 2017.

Assistant City Attorney Jeff Malawy requested the Commission make a motion and vote on the adjourned regular meeting on Monday, November 27, 2017.

Motion by Vice Chair Cody Leis to adjourn to an adjourned regular meeting until Monday, November 27, 2017, at 6:30 pm, Seconded by Commissioner Rusty Caldwell, passed with the following roll call vote:

AYES: Chair Tom Murphy
Commissioner Jim Heywood
Commissioner Rusty Caldwell
NOES Vice Chair Cody Leis
ABSENT: Commissioner Joline Hahn

Tom Murphy,
Chair

By: Denise Bossard,
Commission Secretary



DATE: November 27, 2017
TO: Planning Commission
FROM: Dave Reno - Principal Planner
SUBJECT: Development Agreement – Tapestry Specific Plan

RECOMMENDED ACTION

It is recommended that the Planning Commission adopt Resolution No. PC-2017-36, recommending that the City Council adopt an ordinance to enter into a Development Agreement with Hesperia Venture I, LLC regarding the Tapestry Specific Plan. (DA13-00002)

BACKGROUND

On January 26, 2016, the City Council adopted the Tapestry Specific Plan and certified the Environmental Impact Report. The Council also approved three tentative maps associated with the plan to create the phases as well as the subdivision for the first phase consisting of 2,104 dwelling units.

ISSUES/ANALYSIS

City staff has completed negotiations with Hesperia Venture I regarding the attached development agreement. This agreement establishes general parameters under which the project may be developed and extends the term of entitlement for 25 years. Should the necessary infrastructure for the first six phases be completed, then the agreement may be extended for an additional 10 years. Finally, the City may also grant up to eight, one-year tolling periods upon request and upon approval of the City Council. The purpose of these tolling periods is in case the economy stalls and the conditions for development would prevent the timely progress on the project.

The Developer and City have agreed to establish a community facilities district (“CFD”) that will levy a special tax on the Property, or portions thereof. The amount of the special tax levied by the CFD for Public Safety Services shall be in an amount necessary to make the Project “revenue neutral” to the City, i.e., sufficient to cover the gap between the cost of the Public Safety Services for the Project and the amount of ordinary property tax received by the City and appropriated for such services, and shall include an annual automatic CPI adjustment with a minimum of 2% and maximum of 5%. Further, the developer has agreed to minimum staffing ratios for public safety services, including sheriffs deputies, code enforcement officers and animal control personnel.

Development Impact Fees (DIF) for street improvements shall be paid in two installments for each phase. For Phase 1, \$12 million shall be paid upon recordation of the first final tract map in Phase 1. The balance of the impact fees shall be due prior to the issuance of the building permit for the first production residential unit in Phase 1. For the remaining phases, 50 percent of the DIF shall be due upon recordation of the first map within that phase and the balance shall

be due prior to issuance of the building permit for the first production residential unit within that phase.

The Developer will construct a wastewater treatment facility in Phase 1 of the Project, which may be expanded or modified during development of the Project. The wastewater treatment facilities constructed as part of the Project shall be transferred to City or City's designee. Therefore, all wastewater treatment facilities serving the Project shall be constructed to the standards established by the Victor Valley Wastewater Reclamation Authority ("VWRA") or any successor agency.

The wastewater treatment facility must be completed prior to any occupancy in Phase 1 unless the City and the Developer agree to an alternate method for treating wastewater for Phase 1, such as connecting units to the City's sewer system.

As the Developer will indemnify the City and/or the Hesperia Water District ("District") for any costs incurred by City or the District to furnish water to the Project, the Developer shall be responsible for acquiring water rights in the Mojave Basin necessary to serve the Project. Such water rights may be acquired by Developer or City, at Developer's cost. Water rights acquired by Developer for the Project shall be conveyed to City as required during development of the Project. All acquisition of water rights is subject to approval by the Mojave Water Agency.

Similar to the street development impact fees, water connection fees shall be paid in two installments for each phase. The first 50 percent shall be paid upon recordation of the first final map within the phase. The balance shall be paid prior to issuance of the first building permit for a production residential unit within that phase.

Finally, the Developer has agreed to pay an annual development agreement fee. The Developer will pay \$50,000 annually during the effective term of the agreement. The first installment shall be paid to the City upon execution of this agreement.

The Development Agreement is consistent with the project analyzed in the Environmental Impact Report. In order to include the Agreement as part of the project, an addendum has been prepared. The addendum concludes that there are no significant impacts that will occur as a result of the development agreement that were not already discussed and disclosed in the previously-certified Environmental Impact Report.

ALTERNATIVE(S)

1. Provide alternative direction to staff.

ATTACHMENT(S)

1. Draft Development Agreement
G Addendum to the EIR
H Resolution No. PC-2017-36

Recording Requested by And
When Recorded Return to:

City of Hesperia
9700 Seventh Avenue
Hesperia, CA 92345

Attn: City Clerk

(Space Above This Line for Recorder's Office Use Only)
(Exempt from Recording Fee per Gov. Code § 6103)

DEVELOPMENT AGREEMENT

This Development Agreement (hereinafter "Agreement") is entered into this _____ day of _____, 2017, (hereinafter the "Effective Date") by and between the CITY OF HESPERIA, a municipal corporation (hereinafter "City"), and HESPERIA VENTURE I LLC, a California limited partnership "Developer").

RECITALS

A. California Government Code Section 65864 *et seq.* ("Development Agreement Law") authorizes cities to enter into binding development agreements with persons having a legal or equitable interest in real property for the development of such property, all for the purpose of strengthening the public planning process, encouraging private participation and comprehensive planning and identifying the economic costs of such development.

B. Developer is the owner of legal and/or equitable interests in certain real property legally described in Exhibit "A" attached hereto (the "Property"), and thus qualifies to enter into this Agreement in accordance with Development Agreement Law.

C. Developer and City agree that a development agreement should be approved and adopted for this Property in order to memorialize the property expectations of City and Developer as more particularly described herein.

D. The City Council has found that this Agreement is in the best public interest of the City and its residents, adopting this Agreement constitutes a present exercise of the City's police power, and this Agreement is consistent with the City's General Plan and the Tapestry Specific Plan. This Agreement and the proposed "Project" (as hereinafter defined) will achieve a number of City objectives, including the orderly development of the Property; the providing of public benefits to the City and its residents through public improvements, including public parks, improvements to the Property, and street improvements in and around the Property.

E. City finds and determines that all actions required of City precedent to approval of this Agreement by Ordinance No. ____ of the City Council have been duly and regularly taken.

F. As part of the process of approving this Agreement and granting the Development Approvals, the City Council has required the preparation of an Environmental Impact Report and Addendum and has otherwise carried out all requirements of the California Environmental Quality Act (“CEQA”) of 1970, as amended.

G. On _____, 2017, following a duly noticed and conducted public hearing, the City Planning Commission recommended that the City Council approve this Agreement.

H. On _____, 2017, following a duly noticed and conducted public hearing, the City Council determined that the provisions of this Agreement are consistent with the General Plan of City, and introduced Ordinance No. _____ approving and authorizing the execution of this Agreement.

I. On _____, 2017, the City Council adopted Ordinance No. _____ approving and authorizing the execution of this Agreement. A copy of the ordinance is on file at the office of the City Clerk, with adopted findings and conditions pertaining thereto, including those relating to the environmental documentation for the Project. This Agreement, in its entirety, has been incorporated by reference into Ordinance No. _____ as if set forth in full.

COVENANTS

NOW, THEREFORE, in consideration of the above recitals and of the mutual covenants hereinafter contained and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. DEFINITIONS AND EXHIBITS.

1.1 Definitions. This Agreement uses a number of terms having specific meanings, as defined below. These specially defined terms are distinguished by having the initial letter capitalized, when used in this Agreement. The defined terms include the following:

1.1.1 **“Agreement”** means this Development Agreement and all attachments and exhibits hereto.

1.1.2 **“City”** means the City of Hesperia, a municipal corporation.

1.1.3 **“City Council”** means the City Council of the City.

1.1.4 **“Developer”** means Hesperia Venture I LLC and its successors and assigns to all or any part of the Property.

1.1.5 **“Development”** means the improvement of the Property for the purposes of completing the structures, improvements and facilities comprising the Project including, but not limited to: grading; the construction of infrastructure related to the Project whether located within or outside the Property; the construction of buildings and structures; and the installation of landscaping and other facilities and improvements necessary or appropriate for the Project, and, subject to the provisions of Section 3.17.2 below, the maintenance, repair, or reconstruction of any building,

structure, improvement, landscaping or facility after the construction and completion thereof on the Property.

1.1.6 **“Development Approvals”** means all site-specific (meaning specifically applicable to the Property only and not generally applicable to some or all other properties within the City) plans, maps, permits, and entitlements to use of every kind and nature. Development Approvals include, but are not limited to, general plan amendments, specific plans, site plans, tentative and final subdivision and parcel maps, design guidelines, variances, zoning designations, conditional use permits, grading, building, and other similar permits, the site-specific provisions of general plans, environmental assessments, including environmental impact reports and negative declarations, and any amendments or modifications to those plans, maps, permits, assessments and entitlements. The term Development Approvals includes the Tapestry Specific Plan approved by Ordinance No. 2015-10 on January 26, 2016 (the “Specific Plan”), incorporated herein by reference as Exhibit “B,” and Tentative Tract Maps 18985, 18989, and 18955, approved by Resolution Nos. 2015-44, 48, and 49 respectively, on January 26, 2016 (“Tentative Maps”). The term Development Approvals shall also include any “Subsequent Development Approval” (as hereinafter defined). Subject to the provisions of Section 3.2 below, the term Development Approvals does not include (i) rules, regulations, policies, and other enactments of general application within the City, or (ii) any matter where City has reserved authority under Section 3.8 below.

1.1.7 **“Development Plan”** means the proposed plan for Development of the Property pursuant to the Development Approvals. The Development Plan for the Property is reflected in the Specific Plan and contemplates the development of approximately 9,365 acres into a master planned community that will include 16,196 residential dwelling units. Other land uses contemplated for the Development Plan include: approximately 3,533 acres reserved as regional detention/open space; a wastewater treatment facility; 262 acres reserved for school sites including eight elementary schools, two middle schools, and two high schools; 387 acres of park land, including community and neighborhood parks; an extensive trail system; 94 acres for two mixed-use town centers; and public facilities and infrastructure.

1.1.8 **“Effective Date”** means the date inserted into the preamble of this Agreement after this Agreement has been approved by ordinance of the City Council and signed by Developer and City.

1.1.9 **“Existing Land Use Regulations”** means the Land Use Regulations which have been adopted and are effective on or before the Effective Date of this Agreement.

1.1.10 **“Land Use Regulations”** means all ordinances, laws, resolutions, codes, rules, regulations, policies, requirements, guidelines or other actions of City, including but not limited to the City’s General Plan, the Specific Plan, and Municipal Code and Zoning Code and including all development impact fees (except as otherwise provided in Section 3.6), which affect, govern or apply to the development and use of the Property, including, without limitation, the permitted use of land, the density or intensity of use, subdivision requirements, the maximum height and size of proposed buildings, the provisions for reservation or dedication of land for public purposes, and the design, improvement and construction standards and specifications applicable to the Development of the Property, subject to the terms of this Agreement. Except as otherwise set forth in this Agreement, the term Land Use Regulations does not include, however: regulations

relating to the conduct of business, professions, and occupancies generally; taxes and assessments; regulations for the control and abatement of nuisances; uniform codes; utility easements; encroachment and other permits and the conveyances of rights and interests which provide for the use of or entry upon public property; any exercise of the power of eminent domain; health and safety regulations; environmental regulations; or similar matters or any other matter reserved to the City pursuant to Section 3.8 below.

1.1.11 **“Mortgagee”** means a mortgagee of a mortgage, a beneficiary under a deed of trust or any other security device, a lender or each of their respective successors and assigns.

1.1.12 **“Phase”** means a phase of the Project as described in the Specific Plan.

1.1.13 **“Production Residential Units”** means the residential units constructed on the Property, but excluding model homes until such time when a model home receives a certificate of occupancy, is the subject of a recorded final map and the Developer has made the model home available for sale to the public, at which time each such model home shall be deemed a Production Residential Unit.

1.1.14 **“Project”** means the Development of the Property consistent with the Development Plan, the Specific Plan and this Agreement.

1.1.15 **“Property”** means the real property described in and shown in Exhibit “A.”

1.1.16 **“Public Improvements”** means the improvements to be constructed on and adjacent to the Property, as further described in the Development Plan and the Specific Plan, and in any Planning and Engineering Conditions of Approval that are approved concurrently with the Project or that are approved in connection with any Subsequent Development Approval or Traffic Impact Analysis.

1.1.17 **“Reservation of Authority”** means the rights and authority accepted from the assurances and rights provided to Developer under this Agreement and reserved to City under Section 3.8 of this Agreement.

1.1.18 **“Settlement Agreement”** means that certain Settlement and General Release Agreement dated on or about May 1, 2017, between Developer and Terra Verde Group, LLC on one hand and the Center for Biological Diversity, the San Bernardino Valley Audubon Society, and the Sierra Club on the other hand (“Petitioners”), resolving the legal action filed in *Center for Biological Diversity, et al. v. City of Hesperia, et al.*, San Bernardino County Superior Court Case No. CIVDS1602824. The Settlement Agreement is further described in Section 3.21 below, and a copy is available through the City Clerk’s Office.

1.1.19 **“Subsequent Development Approvals”** means all Development Approvals issued subsequent to the Effective Date in connection with Development of the Property.

1.1.20 **“Subsequent Land Use Regulations”** means any Land Use Regulations effective after the Effective Date of this Agreement, which govern development and use of the Property.

1.1.21 **“Term”** shall mean the period of time from the Effective Date until the termination of this Agreement as provided in Section 2.5, unless earlier terminated as provided in this Agreement.

1.2 Exhibits. The following documents are attached to, and by this reference made a part of, this Agreement: Exhibit “A” (Legal Descriptions); Exhibit “B” (Tapestry Specific Plan – by reference thereto), Exhibit “C” (Assignment and Assumption Agreement), Exhibit “D” (Phase 1 Concurrency Plan), Exhibit “E” (Planning and Engineering Conditions of Approval), Exhibit “F” (Local Goals And Policies For Community Facilities District Financing), and Exhibit “G” (General Staffing Needs for Public Safety Services).

2. GENERAL PROVISIONS.

2.1 Binding Effect of Agreement. From and following the Effective Date, actions by the City and Developer with respect to the Development of the Property, including actions by the City on applications for Subsequent Development Approvals affecting the Property, shall be subject to the terms and provisions of this Agreement.

2.2 Ownership of Property. City and Developer acknowledge and agree that Developer has a legal or equitable interest in the Property and thus Developer is qualified to enter into and be a party to this Agreement under the Development Agreement Law.

2.3 Transfer Restrictions. Prior to the expiration of this Agreement, Developer shall not transfer this Agreement or any of Developer’s rights or obligations hereunder, or any interest in the Property or in the improvements thereon, directly or indirectly, voluntarily or by operation of law, except as provided below, without the prior written approval of City, which approval shall be made on a timely basis and shall not be unreasonably conditioned or withheld, and if so purported to be transferred without such approval, the same shall be null and void. In considering whether it will grant approval to any transfer by Developer of any interest in the Property, City shall consider factors including the following (“Transfer Factors”): (i) whether the completion or implementation of the Project is or may be jeopardized; (ii) the financial strength and capability of the proposed transferee to perform Developer’s obligations hereunder; and/or (iii) the proposed transferee’s experience and expertise in the planning, financing, development, ownership, and operation of similar projects.

In the absence of specific written approval by City, the approval of which shall not be unreasonably withheld, delayed or conditioned by City, no transfer by Developer of all or any portion of Developer’s interest in the Property or this Agreement (including without limitation an assignment or transfer not requiring City’s approval hereunder) shall be deemed to relieve it or any successor party from any obligations under this Agreement with respect to the completion of the development of the Project with respect to that portion of the Property which is so transferred. In addition, no attempted assignment of any of Developer’s obligations hereunder shall be effective unless and until the successor party executes and delivers to City an assignment and assumption agreement in the form attached hereto as Exhibit “C.” Upon any transfer of any portion of the Property and the express assumption of Developer’s obligations under this Agreement by such transferee, the City agrees to look solely to the transferee for compliance by such transferee with the provisions of this Agreement as such provisions relate to the portion of the Property acquired by

such transferee. A default by any transferee shall only affect that portion of the Property owned by such transferee and shall not cancel or diminish in any way Developer's rights hereunder with respect to any portion of the Property not owned by such transferee. The transferee shall be responsible for the reporting and annual review requirements relating to the portion of the Property owned by such transferee, and any amendment to this Agreement between the City and a transferee shall only affect the portion of the Property owned by such transferee.

The foregoing prohibition shall not apply to any of the following:

- (a) Any mortgage, deed of trust, or other form of conveyance for financing, but Developer shall notify City in advance of any such mortgage, deed of trust, or other form of conveyance for financing pertaining to the Property.
- (b) Any mortgage, deed of trust, or other form of conveyance for restructuring or refinancing of any amount of indebtedness described in subsection (a) above.
- (c) The granting of easements to any appropriate public agency or utility or permits to facilitate the development of the Property.
- (d) A sale or transfer in which the ownership interests of a corporation are assigned directly or by operation of law to a person or persons, firm or corporation which acquires the control of the voting capital stock of such corporation or all or substantially all of the assets of such corporation.
- (e) A sale or transfer of 49% or more of ownership or control interest between members of the same immediate family, or transfers to a trust, testamentary or otherwise, in which the beneficiaries consist solely of immediate family members of the trustor or transfers to a corporation, partnership or limited liability company or partnership in which the immediate family members or shareholders of the transferor have a controlling majority interest of 51% or more.
- (f) A sale of a Production Residential Unit to an individual purchaser.
- (g) A sale or transfer to a wholly new entity that will manage the implementation of the Project, provided that Developer is the managing member of that new entity.

2.4 Transfer to Public Entity. Transfer of any portion of the Property to a public entity, including but not limited to a school district, whether such transfer is voluntary or involuntary, shall not relieve Developer of its obligation to construct the Public Improvements required by this Agreement. Subject to the provisions of Section 2.3 above, Developer specifically acknowledges and agrees to construct the Public Improvements irrespective of such a transfer.

2.5 Term of Agreement. Unless earlier terminated as provided in this Agreement, this Agreement shall continue in full force and effect until the date that is twenty-five (25) years from and after the Effective Date (the "Initial Term"). Provided that Developer completes the infrastructure for any six (6) Phases of the Project prior to the expiration of the Initial Term and any tolling periods approved by City, this Agreement shall automatically be extended for an additional ten (10) years ("Extended Term"). During the Initial Term or the Extended Term, Developer shall

have the right to apply for one (1) year tolling periods during significant market disruptions within the high desert and City markets for commercial and/or residential development. Upon demonstration by Developer to the City Council that market conditions within the high desert and City warrant a tolling of this Agreement, the City may grant a one (1) year tolling of the Agreement. Over the life of the Agreement, the Developer can request up to eight (8) tolling periods for a total of eight (8) years.

3. DEVELOPMENT OF THE PROPERTY.

3.1 Rights to Develop. Subject to and during the Term of this Agreement, Developer shall have a vested right to develop the Property in accordance with, and to the extent of, the Development Plan, the Development Approvals, the Existing Land Use Regulations, applicable Subsequent Development Approvals, applicable Subsequent Land Use Regulations, and this Agreement.

3.2 Effect of Agreement on Land Use Regulations. Except as otherwise provided under the terms of this Agreement, the rules, regulations and official policies governing permitted uses of the Property, the density and intensity of use of the Property, the maximum height and size of proposed buildings, and the design, improvement and construction standards and specifications applicable to Development of the Property, shall be as set forth in the Existing Land Use Regulations which were in full force and effect as of the Effective Date of this Agreement. Pursuant to Government Code Section 66452.6 and 65863.9, the term of any tentative subdivision map for the Property or any portion thereof and the term of each of the Development Approvals shall automatically be extended for the term of this Agreement. Any tentative subdivision map prepared for the Project shall comply with the provisions of California Government Code Section 66473.7.

3.3 Timing of Development; Scope of Development. The Parties acknowledge that Developer cannot at this time predict when or the precise rate at which phases of the Property will be developed. Such decisions depend upon numerous factors which are not within the control of Developer, such as market orientation and demand, interest rates, absorption, completion and other similar factors. Because the California Supreme Court held in *Pardee Construction v. City of Camarillo* (1984) 37 Cal.3d 465, that the failure of the parties therein to provide for the timing of development resulted in a later-enacted initiative restricting the timing of development to prevail over such parties' agreement, it is the Parties' intent to cure that deficiency by acknowledging and providing that Developer shall have the right to develop the Property (but not the obligation to develop the Property) in such order and at such rate and at such time as Developer deems appropriate within the exercise of its sole and absolute subjective business judgment.

3.4 Moratorium. No City-imposed moratorium or other limitation (whether relating to the rate, timing or sequencing of the development or construction of all or any part of the Property, whether imposed by ordinance, initiative, resolution, policy, order or otherwise, and whether enacted by the City Council, an agency of City, the electorate, or otherwise) affecting parcel or subdivision maps (whether tentative, vesting tentative or final), building permits, occupancy certificates or other entitlements to use or service (including, without limitation, water and sewer) approved, issued or granted within City, or portions of City, shall apply to the Property to the extent such moratorium or other limitation is in conflict with this Agreement; provided, however, the provisions of this Section

shall not affect City's compliance with moratoria or other limitations mandated by other governmental agencies or court-imposed moratoria or other limitations.

3.5 Development Plan; Subsequent Development Approvals. The Development Plan for the Project will require the processing of Subsequent Development Approvals. Subject to the provisions of Section 3.19 below, the City shall accept for processing, review and action all applications for Subsequent Development Approvals, and such applications shall be processed in the normal manner for processing such matters in accordance with the Existing Land Use Regulations. The Parties acknowledge that subject to the Existing Land Use Regulations, under no circumstances shall City be obligated in any manner to approve any Subsequent Development Approval, or to approve any Subsequent Development Approval with or without any particular condition, except that the Subsequent Development Approvals shall be generally consistent with the Development Plan. However, unless otherwise requested by Developer, City shall not, without good cause, amend or rescind any Development Approval, including any Subsequent Development Approval, respecting the Property after such approvals have been granted by the City. Processing of Subsequent Development Approvals or changes in or amendments to the Development Approvals or Development Plan made pursuant to Developer's application shall not require an amendment to this Agreement; however, upon approval of the City, such Subsequent Development Approval, changes in the Development Approvals or Development Plan, shall be subject to and covered by this Agreement.

3.6 Development Impact Fees. It is not the intent of the Parties to "freeze" the amount of any existing development impact fee or to preclude the City from adopting any new development impact fee in the future for development within the City. Therefore, notwithstanding anything to the contrary in this Agreement, all requisite development impact fees shall be those existing on the date fees are due and payable for a particular Development Approval or Subsequent Development Approval. Except as expressly provided in this Agreement, Development impact fees shall be paid at such time and in such amount as payment for such fees is due and payable in accordance with the Land Use Regulations in effect at that time, for the portion of the Property to which such fees apply; that provided (i) any such development impact fees or increases shall be imposed on a City-wide, regional or sub-regional basis and not solely on the Project, and (ii) Developer reserves the right to protest any such development impact fees or increases through the method authorized by law. Developer acknowledges that City collects fees imposed by the Hesperia Unified School District and the Hesperia Recreation and Park District, but City has no authority over the amounts of such fees or determination of any fee credits, which are under the jurisdiction of the respective District. Developer shall inform City of any such fees or credits, and of any changes thereto.

3.7 Future Voter Actions Not Applicable to the Project. Notwithstanding any other provision of this Agreement to the contrary, any general plan amendment, specific plan amendment, zoning ordinance or regulation, or any other law, policy, or procedure adopted by the voters of the City after the Effective Date of this Agreement ("Voter Measures"), shall not apply in whole or in part to the Property, the Development, the Development Approvals, and/or the Development Plan. Any and all Voter Measures shall not impede the vested right Developer has to develop the Project pursuant to the terms of this Agreement.

3.8 Reservation of Authority.

3.8.1 Limitations, Reservations and Exceptions. Notwithstanding any other provision of this Agreement, the following Subsequent Land Use Regulations shall apply to the Development of the Property:

(a) Processing fees and charges of every kind and nature imposed by City to cover the estimated actual costs to City of processing applications for Subsequent Development Approvals or for monitoring compliance with any Subsequent Development Approvals granted or issued.

(b) Procedural regulations consistent with this Agreement relating to hearing bodies, petitions, applications, notices, findings, records, hearings, reports, recommendations, appeals and any other matter of procedure.

(c) Changes adopted by the International Conference of Building Officials, or other similar body, as part of the then most current versions of the Uniform Building Code, Uniform Fire Code, Uniform Plumbing Code, Uniform Mechanical Code, National Electrical Code, or other codes that may be applicable to the Project, and also adopted by City as Subsequent Land Use Regulations, if applicable City-wide.

(d) Regulations that may be in conflict with the Development Plan, any Development Approval, or this Agreement, if City determines that the failure of the City to enforce any such regulation would place the residents of the Project or the residents of the City, or both, in a condition dangerous to their health or safety, or both.

(e) Regulations that are not in conflict with the Development Plan or this Agreement.

(f) Regulations that are in conflict with the Development Plan or this Agreement, provided Developer has given written consent to the application of such regulations to Development of the Property.

(g) Federal, State, County, and multi-jurisdictional laws and regulations which City is required to enforce as against the Property or the Development of the Property.

(h) Subsequent Land Use Regulations applicable to local or regional development impact fees.

3.8.2 Future Discretion of City. This Agreement shall not prevent City from denying or conditionally approving any application for a Subsequent Development Approval on the basis of the Existing Land Use Regulations.

3.8.3 Modification or Suspension by Federal, State, County, or Multi-Jurisdictional Laws. In the event that Federal, State, County, or multi-jurisdictional laws or regulations, enacted after the Effective Date of this Agreement, prevent or preclude compliance with one or more of the provisions of this Agreement, such provisions of this Agreement shall be modified or suspended as may be necessary to comply with such Federal, State, County, or multi-jurisdictional laws or regulations, and this Agreement shall remain in full force and effect to the

extent it is not inconsistent with such laws or regulations and to the extent such laws or regulations do not render such remaining provisions impractical to enforce.

3.9 Regulation by Other Public Agencies. It is acknowledged by the parties that other public agencies not subject to control by City may possess authority to regulate aspects of the Development of the Property, and this Agreement does not limit the authority of such other public agencies. Developer may be required to enter into agreements with other public agencies regarding aspects of the Development of the Property, but such agreements shall not supersede or modify anything in this Agreement. Such other public agencies include, without limitation, the Hesperia Unified School District and the Hesperia Recreation and Park District. Developer shall provide to City copies of such agreements and any amendments thereto.

3.10 Public Improvements. If Developer proceeds with the Project at its sole and absolute discretion, Developer shall construct the Public Improvements, unless otherwise expressly provided in this Agreement. The timing of the construction of the Public Improvements shall be in substantial conformance with the timetable set forth in the Concurrency Plan submitted for each Phase and the Planning and Engineering Conditions of Approval that are approved concurrently with the Project, attached hereto as Exhibit “E,” or that are approved in connection with a Subsequent Development Approval. The Concurrency Plan for Phase I is attached hereto as Exhibit “D.” In addition, and notwithstanding any provision herein to the contrary, the City shall retain the right to condition any Subsequent Development Approvals to require Developer to dedicate necessary land and/or to construct the required public infrastructure (“Exactions”) at such time as City shall determine subject to the following conditions:

3.10.1 The dedication or construction must be to alleviate an impact caused by the Project or be of benefit to the Project;

3.10.2 The timing of the Exaction should be reasonably related to the phasing of the development of the Project and the Public Improvements shall be phased to be commensurate with the logical progression of the Project development as well as the reasonable needs of the public.

3.10.3 When Developer is required by this Agreement and/or the Development Plan to construct any public works facilities which will be dedicated to the City or any other public agency upon completion, Developer shall perform such work in the same manner and subject to the same construction standards as would be applicable to the City or such other public agency should it have undertaken such construction work.

3.11 Fees, Taxes and Assessments. During the term of this Agreement, the City shall not, without the prior written consent of Developer, impose any additional fees, taxes or assessments on all or any portion of the Project, except such fees, taxes and assessments as are described in or required by this Agreement and/or the Development Plan. This Development Agreement shall not prohibit the application of fees, taxes or assessments as follows:

3.11.1 Developer shall be obligated to pay those fees, taxes or City assessments which exist as the Effective Date or are included in the Development Plan and any increases in same;

3.11.2 Developer shall be obligated to pay any taxes, and increases thereof, imposed on a City-wide basis such as business license taxes, sales or use taxes, utility taxes, and public safety taxes;

3.11.3 Developer shall be obligated to pay any future assessments imposed on an area-wide basis (including without limitation landscape and lighting assessments, community services assessments, and road and bridge benefit districts), provided that Developer reserves its right to protest the establishment or amount of any such assessments through the method prescribed by law;

3.11.4 Developer shall be obligated to pay any fees imposed pursuant to any assessment district established within the Project otherwise proposed or consented to by Developer;

3.11.5 Developer shall be obligated to pay any fees imposed pursuant to any Uniform Code.

3.12 Infrastructure Phasing Flexibility. Notwithstanding the provisions of any phasing requirements in the Development Approvals, Developer and City recognize that economic and market conditions may necessitate changing the order in which the infrastructure is constructed. Therefore, City and Developer hereby agree that should it become necessary or desirable to develop any portion of the Project's infrastructure in an order that differs from the order set forth in the Development Approvals, Developer and City shall collaborate and City may, in its sole discretion, permit any modification requested by Developer so long as the modification continues to ensure adequate infrastructure is available to serve that portion of the Project being developed.

3.13 Development Agreement/Development Approvals. In the event of any inconsistency between any Existing Land Use Regulation and a Development Approval, the provisions of the Development Approval shall control. In the event of any inconsistency between any Existing Land Use Regulation, Development Approval and this Agreement, the provisions of this Agreement shall control.

3.14 Reserved for Numbering Purposes.

3.15 Financing of Public Safety Services and Improvements. Developer acknowledges that City will not receive sufficient property tax revenue to fund the public safety services necessary to serve the residents of the Project, including law enforcement, animal control, and code enforcement services, as well as administrative, vehicle, and equipment costs associated with such services (collectively, "Public Safety Services"). In order to provide sufficient revenue for the City to provide such Public Safety Services to the residents of the Project, Developer and City have agreed to establish a community facilities district ("CFD") that will levy a special tax on the Property, or portions thereof. The amount of the special tax levied by the CFD for Public Safety Services shall be in an amount necessary to make the Project "revenue neutral" to the City, i.e., sufficient to cover the gap between the cost of the Public Safety Services for the Project and the amount of ordinary property tax received by the City and appropriated for such services. The amount of the special tax shall be increased each year based on the percentage change in the Consumer Price Index with a maximum annual increase of five percent (5%) and a minimum annual increase of two percent (2%) per Fiscal Year. The Consumer Price Index shall be the index

published by the U.S. Bureau of Labor Statistics for “All Urban Consumers” in the Los Angeles – Anaheim – Riverside Area, as measured in the month of December in the calendar year which ends in the previous Fiscal Year. The general staffing levels for the Public Safety Services are listed in Exhibit “G” as an initial reference point, but may be adjusted from time to time by City in its sole discretion without requiring an amendment to this Agreement, provided that law enforcement officer staffing levels shall not exceed 0.8 per 1,000 residents of the Project until such time as higher staffing levels are provided to the residents of the City outside the Project.

The Parties acknowledge that over time there may be changes in the economy, housing market, design preferences and other factors that could lead to changes in housing sizing and pricing. The Parties agree that the CFD will be adjusted from time to time by mutual agreement of the parties, generally upon each new Phase, to ensure the amount of the special tax levied by the CFD meets the requirements of this Section. The mechanism for implementing future adjustments will be determined by the Parties, but generally shall mean the creation of an initial improvement area for the first Phase (or portion thereof), designating the remainder of the Project as a future annexation area, and annexing future Phases (or portions thereof) into new improvement areas.

The CFD shall be formed in accordance with the City’s Goals and Policies for Community Facilities District Financing, attached hereto as Exhibit “F” (“CFD Policies”), as modified or expanded by this Agreement. The CFD Policies may be amended from time to time by mutual agreement of the parties without requiring an amendment to this Agreement, and any such amendments shall be incorporated herein by reference. City may amend the CFD policies that apply to property outside the Project at City’s sole discretion. The CFD shall be formed prior to occupancy of the first Production Residential Unit, and the levy for the Public Safety Services shall commence upon the issuance of the certificate of occupancy for each Production Residential Unit. If the Production Residential Unit is occupied, the owner shall be responsible for payment of the special tax. If the Production Residential Unit is not occupied, Developer shall be responsible for payment of the special tax.

The Public Safety Services portion of the CFD shall always take precedence over other items to be funded by the CFD. To the extent that special taxes from the CFD exceed the amount necessary to fund the Public Safety Services described above, and provided that the CFD meets the CFD Policies, Developer and City agree to establish a separate CFD that may fund fees and exactions and/or the Public Improvements. Developer agrees that no amount of special taxes shall be used to fund any fees imposed by public agencies other than City, including school fees and park fees.

To ensure that City residents outside the Project are not subsidizing the Public Safety Services provided to the Project and Project residents, Developer shall include in all homeowners’ association documents provisions requiring that if Project residents vote to eliminate the Public Safety Services CFD, the full cost of providing such Public Safety Services shall be borne by the homeowners’ association. The foregoing provisions in the homeowners’ association documents shall be subject to City’s approval and shall be a recorded restriction on each Production Residential Unit.

The Public Safety Services CFD shall not include a special tax levy for the undeveloped portions of the Property. In lieu of the CFD special tax levy, commencing on the issuance of the first

grading permit for the Project, Developer shall annually pay to City a Public Services Fee of ten dollars (\$10.00) per developable acre of the Property that has not been annexed into the Public Safety Services CFD.

3.16 Design/Development Standards. Notwithstanding the provisions of the Existing Land Use Regulations, the following design/development standards shall apply to the Project:

3.16.1 Easements. Easements dedicated for pedestrian use shall be permitted to include easements for underground drainage, water, sewer, gas, electricity, telephone, cable and other utilities and facilities so long as they do not unreasonably interfere with pedestrian use and are approved by the City Engineer.

3.16.2 Maintenance Obligations. City shall require Developer to maintain parks, parkways, entry monuments, medians, detention basins, street lights and similar types of improvements for a period of up to one year or until annexed into an appropriate maintenance district, whichever is later. Developer's maintenance period shall commence when the improvements have passed inspection by the appropriate City department and shall terminate on the earlier to annexation into an appropriate maintenance district.

3.16.4 Acceptance of Completed Infrastructure Improvements. Upon written notice by Developer that specific infrastructure improvements have been completed, the City shall inspect such improvements within thirty (30) days and shall advise Developer of any deficiencies in such improvements, based on previously approved improvement plans. Such process shall continue until any deficiencies noted by City have been corrected whereupon, to the extent required by the Existing Land Use Regulations, such improvements shall be accepted by the City at the next reasonable regularly scheduled meeting of the City Council (subject to notice and agenda requirements) and any and all improvement bonds (except for maintenance bonds) relating to such improvements shall, in an expeditious manner, thereafter be released.

3.17 Model Homes. Prior to recordation of any final map, City agrees to issue building permits and occupancy certificates for the construction of model homes (and related model home complex structures) that will be used by Developer and/or merchant builders for the purpose of promoting sales of residential units within the Project; provided, however, in no event shall City be required to issue more than one (1) building permit for the construction of each different model home within a Phase (with no duplication for identical models with a Phase), and in no event shall Developer be permitted to sell or transfer any model home until a final map has been recorded on that portion of the Project where the model home is located.

3.18 Processing. Upon satisfactory completion by Developer of all required preliminary actions and payments of appropriate processing fees, if any, City shall, subject to all legal requirements, promptly initiate, diligently process, complete at the earliest possible time all required steps and expeditiously grant any approvals and permits necessary for the development by Developer of the Property in accordance with this Agreement, including, but not limited to, the following:

(a) the processing of applications for and issuance of all discretionary approvals requiring the exercise of judgment and deliberation by City, including without limitation, the Subsequent Development Approvals;

(b) the holding of any required public hearings;

(c) the processing of applications for and issuing of all approvals requiring the determination of conformance with the Existing Land Use Regulations, including, without limitation, site plans, development plans, land use plans, grading plans, improvement plans, building plans and specifications, and ministerial issuance of one or more final maps, zoning clearances, demolition permits, grading permits, improvement permits, wall permits, building permits, lot line adjustments, encroachment permits, conditional and temporary use permits, sign permits, certificates of use and occupancy and approvals and entitlements and related matters as may be necessary for the completion of the development of the Property. Notwithstanding the foregoing, nothing herein guarantees that a particular approval will be granted, or granted with or without any particular condition, except as provided in this Agreement. In addition, City shall cooperate with Developer in Developer's endeavors to obtain (i) any other permits and approvals that may be required from other governmental or quasi-governmental agencies having jurisdiction over any aspect of the Project and (ii) any grants for which Developer may make application.

To further the implementation of this Section regarding expeditious processing, City agrees to retain an outside contractor or firm who will be dedicated to processing approvals for the Project, including plan check services. The contractor will be selected by City in accordance with City's procedures for engaging professional services, except that City agrees that Developer shall have an opportunity to provide input on the proposed contractor and the right to approve the proposed contractor, which approval shall not be unreasonably withheld. All costs shall be borne by Developer. City and Developer shall enter into a separate deposit agreement to provide for the payment of City's costs and the process and timeline for reviewing applications.

3.19 Processing During Third Party Litigation. The filing of any third party lawsuit(s) against City or Developer relating to this Agreement, the Project Approvals, any Subsequent Development Approvals or to other development issues affecting the Property shall not delay or stop the development, processing or construction of the Project or approval of any Subsequent Development Approval, unless the third party obtains a court order preventing the activity. City shall not stipulate to or cooperate in the issuance of any such order.

3.20 Parcel Map. If requested by Developer, City hereby agrees to process a Parcel Map that will permit the conveyance of large parcels of the Property for financing purposes and/or for sale to merchant builders.

3.21 Settlement Agreement. Pursuant to the Settlement Agreement, Developer has agreed with the Petitioners to certain modifications to later Phases of the Project. Developer acknowledges that such modifications may require an amendment to the Specific Plan prior to the processing of any Development Approval affected by the Settlement Agreement. City agrees to process any necessary amendment to the Specific Plan, provided that City cannot and does not commit to approval of any amendment with or without any particular conditions. Notwithstanding the foregoing, the Settlement Agreement does not change the Project described above in this Agreement and previously approved by City. Any proposed amendments or modifications will be subject to CEQA review at the time any relevant Subsequent Development Approvals are sought.

3.22 Street DIF Payments. Payment of Street DIF shall be made by Developer to City as follows:

For Phase 1 of the Project, Developer shall pay to City the sum of Twelve Million Dollars (\$12,000,000) upon recordation of the first final tract map for Phase 1. Developer shall pay to City the balance of the then-existing Street DIF for all Production Residential Units in Phase 1 prior to issuance of the building permit for the first Production Residential Unit in Phase 1, subject to the adjustments below.

For all other Phases of the Project, Developer shall pay to City fifty percent (50%) of the total Street DIF due for all Production Residential Units in that particular Phase upon recordation of the first final tract map for that Phase (“first payment”). Developer shall pay to City the balance of the then-existing Street DIF for all Production Residential Units in that Phase prior to issuance of the building permit for the first Production Residential Unit in that Phase (“second payment”), subject to the adjustments below.

Upon the second payment by Developer for a particular Phase and the issuance of the building permit for the first Production Residential Unit for that particular Phase, then Developer shall not be subject to any “new” Street DIF for the Production Residential Units in that particular Phase.

Adjustments of Street DIF:

(i) If City adjusts the Street DIF after Developer makes the first payment for a particular Phase, but before the second payment, then the adjusted “new” Street DIF will apply to all Production Residential Units in that Phase. In that event, the second payment for that particular Phase shall include the remaining fifty percent (50%) of the “old” Street DIF, plus the difference between the “old” and “new” Street DIF for all Production Residential Units in that Phase.

(ii) If the Developer pays the entire then-existing Street DIF for a particular Phase (first payment and second payment) but the building permit for the first Production Residential Unit for that particular Phase is not issued within five (5) years after the recordation of the first final tract map, Developer shall pay the “new” Street DIF for all Production Residential Units in that Phase if the City has adjusted the Street DIF during that five (5) year period.

As described in and required by the Development Approvals, the Traffic Impact Analysis (“TIA”) shall be reviewed and validated periodically and adjusted as necessary during construction of the Project. If as a result of this validation process City determines that the City-wide Street DIF is inadequate to fund any new or accelerated off-site improvements required by the TIA or a Subsequent Development Approval, then City may adopt a Project-specific or regional impact fee to fund those improvements. Payment of the Project-specific or regional impact fee shall be made in the manner described in this Section. A Project-specific or regional impact fee could include the creation of a Road and Bridge Benefit District pursuant to California Government Code Section 66484.

3.23 Street Development Impact Fee Credit. City and Developer agree that Developer's payment of Street DIF fees pursuant to Section 3.22 shall satisfy Developer's obligation to construct the off-site traffic improvements required by the Development Approvals and included in the Street DIF nexus study. Such off-site traffic improvements will instead be constructed by City. City shall have sole discretion to determine what improvements will be built and the priority for construction of these improvements. City's failure to construct any traffic improvements required for a particular Phase for which the Street DIF has been fully paid shall not restrict issuance of building permits or certificates of occupancy for that Phase.

Developer's payment of the Street DIF shall not relieve Developer of any requirements to (i) construct all required on-site improvements; (ii) construct all off-site improvements required by the Development Approvals but not included in the Street DIF nexus study, including any new improvements required by the TIA validation process; (iii) pay a Project-specific or regional impact fee if adopted; or (iv) pay Developer's share of costs for improvements Developer itself is not required to construct, including but not limited to costs for improvements to State Highway 138.

With respect to item (ii) above, if the eligible cost of construction exceeds Developer's share of costs for such off-site improvements, then Developer may be entitled to reimbursement from other developers who are obligated to construct such improvements. If such fees are collected by City, then Developer shall be reimbursed within 30 days of when City receives such fees.

With respect to item (iii) above, Developer shall be entitled to a credit against a Project-specific or regional fee if Developer constructs the improvements to be funded by such fees. Developer shall be entitled to a reimbursement from regional fees paid by other developers if Developer constructs the improvements to be funded by such fees and the eligible cost of construction exceeds the amount of the regional fees paid by Developer. Developer shall be reimbursed within 30 days of when City receives such fees.

With respect to item (iv) above, if Developer pays more than Developer's share of costs for off-site improvements Developer itself is not required to construct, then Developer may be entitled to reimbursement from fees paid by other developers for such improvements. If such fees are collected by City, then Developer shall be reimbursed within 30 days of when City receives such fees.

3.24 Wastewater Treatment Facilities. In accordance with the Specific Plan, Developer will construct a wastewater treatment facility in Phase 1 of the Project, which may be expanded or modified during development of the Project. Developer acknowledges that any wastewater treatment facilities constructed as part of the Project shall be transferred to City or City's designee. Therefore, all wastewater treatment facilities serving the Project shall be constructed to the standards established by the Victor Valley Wastewater Reclamation Authority ("VWRA") or its successor.

The wastewater treatment facility shall be completed prior to the issuance of the certificate of occupancy for the first Production Residential Unit in Phase 1 unless City and Developer agree to an alternative method for treating wastewater from Phase 1. Developer shall pay for all costs associated with connecting Units in Phase 1 to the City's sewer system if that alternative method is selected. Whenever the first phase of the wastewater facility is constructed it shall be transferred to City or its designee, which will oversee future expansion of the facility at Developer's cost, provided that the

expansion shall be designed to meet the needs of the Project and reasonably approved by Developer. If the design of the facility feasibly permits the expansion to be completed in discrete phases, then Developer will construct the later phases when necessary, and upon completion transfer such later phases to City or its designee.

In addition to the wastewater treatment facility to be constructed by Developer for the Project, Developer shall provide land adjacent to the facility for purchase for future City needs.

The implementation of this Section 3.24 shall be described in an Operating Memorandum pursuant to Section 9.19 below, and shall not require an amendment to this Agreement.

3.25 Acquisition of Water Rights. Developer shall indemnify City and/or the Hesperia Water District (“District”) for any costs incurred by City or the District to furnish water to the Project. To that end, but without limitation, Developer shall be responsible for acquiring water rights in the Mojave Basin necessary to serve the Project. Such water rights may be acquired by Developer or City, at Developer’s cost. Water rights acquired by Developer for the Project shall be conveyed to City as required during development of the Project. All acquisition of water rights is subject to approval by the Mojave Water Agency.

3.25.1 With respect to water rights acquired by Developer: Developer may retain such rights and lease the rights to other parties until required for the Project, provided that (i) City shall have the first right of refusal to lease such rights for use outside the Project, and (ii) such rights shall be permanently transferred to City when required for the Project. For water rights within the Alto Subarea of the Mojave Basin, Developer shall consult with City prior to purchase, and City shall have the first right of refusal to acquire such rights from the seller and retain them subject to Section 3.25.2.

3.25.2 With respect to water rights acquired by City: City shall use its sole and absolute discretion for City’s acquisition of water rights, including but not limited to timing, amount, source, and purchase price, provided that if such rights are being acquired expressly for the Project, Developer shall have the first right of refusal to acquire such rights from the seller and retain them subject to Section 3.25.1. If Developer does not exercise its right of refusal, City may acquire such rights and use them outside the Project until such rights are required for the Project. Developer shall not be required to purchase or pay for such rights until they are required for the Project.

3.25.3 Further details regarding acquisition of water shall be described in an Operating Memorandum pursuant to Section 9.19 below, and shall not require an amendment to this Agreement.

3.26 Water Connection Fee Payments. Payment of water connection fees shall be made by Developer to City as follows:

For each Phase of the Project, Developer shall pay to City fifty percent (50%) of the total water connection fees due for all Production Residential Units in that particular Phase upon recordation of the first final tract map for that Phase (“first payment”). Developer shall pay to City the balance of the then-existing water connection fees for all Production Residential Units in that

Phase prior to issuance of the building permit for the first Production Residential Unit in that Phase (“second payment”), subject to adjustments below.

Upon the second payment by Developer for a particular Phase and the issuance of the building permit for the first Production Residential Unit for that particular Phase, then Developer shall not be subject to any “new” water connection fee for the Production Residential Units in that particular Phase.

Adjustments of water connection fees:

(i) If City adjusts the water connection fee after Developer makes the first payment for a particular Phase, but before the second payment, then the adjusted “new” water connection fee will apply to all Production Residential Units in that Phase. In that event, the second payment for that particular Phase shall include the remaining fifty percent (50%) of the “old” water connection fee, plus the difference between the “old” and “new” water connection fee for all Production Residential Units in that Phase.

(ii) If the Developer pays the entire then-existing water connection fee for a particular Phase (first payment and second payment) but the building permit for the first Production Residential Unit for that particular Phase is not issued within five (5) years after the recordation of the first final tract map, Developer shall pay the “new” water connection fee for all Production Residential Units in that Phase if the City has adjusted the water connection fee during that five (5) year period.

3.27 Water Connection Fee Credit. The water connection fee has two components, one for capital facilities and one for water supply. Developer’s payment of the water connection fee shall not relieve Developer of any requirements to (i) construct all on-site and off-site water facilities required for the Project, or (ii) acquire water rights for the Project.

With respect to item (i) above, Developer shall be entitled to a credit against the capital facilities component for eligible costs of off-site water facilities constructed by Developer. Developer may be entitled to a reimbursement from the capital facilities component paid by other developers if the eligible cost of construction exceeds the amount of the capital facilities component paid by Developer. Developer shall be reimbursed within 30 days of when City receives such fees.

With respect to item (ii) above, Developer shall be entitled to a credit against the water supply component for water rights acquired by Developer and conveyed to City for the Project pursuant to Section 3.25. As an example, if Developer acquires water rights sufficient to provide water for a particular Phase, then Developer’s conveyance of such rights to City for that Phase shall satisfy Developer’s obligation to pay the water supply component of the water connection fee for that Phase pursuant to Section 3.26. If Developer acquires water rights sufficient to provide water for only a portion of a particular Phase, then Developer’s conveyance of such rights to City shall partially satisfy Developer’s obligation for that Phase in an amount to be determined by the Parties.

3.28 Additional Water Supplies and Credits. Developer has the right to seek additional sources of water outside the Mojave Basin. If Developer is able to provide additional permanent water rights to City that can economically meet the needs of the Project at the point of delivery, then

Developer shall be entitled to a credit against the City's water supply component of the connection fee in an amount to be determined by the Parties.

City shall work with Developer to establish a City water storage account with the Mojave Basin Area Watermaster for the benefit of the Project. If Developer meets the terms established for the water storage account with the Mojave Basin Area Watermaster, then Developer shall be allowed to store any imported water in the Mojave Basin to the benefit of this storage account, including but not limited to seasonal excess recycled water from its wastewater treatment facility. Water credited to the storage account for the Project will be used to satisfy some of the water demands and/or water connection fees of the Project in an amount to be determined by the Parties.

All acquisition, credits, and storage activities under this section shall require approval by all agencies having jurisdiction over such matters.

The details regarding acquisition of water outside the Mojave Basin, water storage, and water credits shall be described in an Operating Memorandum pursuant to Section 9.19 below, and shall not require an amendment to this Agreement.

3.29 Development Agreement Fee. In consideration for the benefits received by Developer under the terms of this Agreement, and to pay for City's costs of administering this Agreement, Developer shall pay to City Fifty Thousand Dollars (\$50,000) per year as a development agreement fee for the life of the Agreement. The first installment of this fee shall be paid to City upon execution of this Agreement.

4. REVIEW FOR COMPLIANCE

4.1 Annual Review. The City Council shall review this Agreement annually, on or before the anniversary of the Effective Date, in order to ascertain the good faith compliance by Developer with the terms of the Agreement ("Annual Review"). No failure on part of City to conduct or complete an Annual Review as provided herein shall have any impact on the validity of this Agreement.

4.2 Special Review. The City Council may, in its sole and absolute discretion, order a special review of compliance with this Agreement at any time at City's sole cost ("Special Review"). Developer shall cooperate with the City in the conduct of such Special Reviews.

4.3 Procedure. Each party shall have a reasonable opportunity to assert matters which it believes have not been undertaken in accordance with the Agreement, to explain the basis for such assertion, and to receive from the other party a justification of its position on such matters. If on the basis of the parties' review of any terms of the Agreement, either party concludes that the other party has not complied in good faith with the terms of the Agreement, then such party may issue a written "Notice of Non-Compliance" specifying the grounds therefor and all facts demonstrating such non-compliance. The party receiving a Notice of Non-Compliance shall have thirty (30) days to cure or remedy the non-compliance identified in the Notice of Non-Compliance, or if such cure or remedy is not reasonably capable of being cured or remedied within such thirty (30) days period, to commence to cure or remedy the non-compliance and to diligently and in good faith prosecute such cure or remedy to completion. If the party receiving the Notice of Non-Compliance does not believe it is out of compliance and contests the Notice, it shall do so by responding in writing to said Notice

within thirty (30) days after receipt of the Notice. If the response to the Notice of Non-Compliance has not been received in the offices of the party alleging the non-compliance within the prescribed time period, the Notice of Non-Compliance shall be conclusively presumed to be valid. If a Notice of Non-Compliance is contested, the parties shall, for a period of not less than fifteen (15) days following receipt of the response, seek to arrive at a mutually acceptable resolution of the matter(s) occasioning the Notice. In the event that a cure or remedy is not timely effected or, if the Notice is contested and the parties are not able to arrive at a mutually acceptable resolution of the matter(s) by the end of the fifteen (15) day period, the party alleging the non-compliance may thereupon pursue the remedies provided in Section 5. Neither party hereto shall be deemed in breach if the reason for non-compliance is due to a “*force majeure*” as defined in, and subject to the provisions of, Section 9.10. City’s failure to perform an Annual Review shall not constitute or be asserted as a default by Developer.

4.4 Certificate of Agreement Compliance. If, at the conclusion of an Annual Review or a Special Review, Developer is found to be in compliance with this Agreement, City shall, upon request by Developer, issue a Certificate of Agreement Compliance (“Certificate”) to Developer stating that after the most recent Annual Review or Special Review and based upon the information known or made known to the City Manager, Planning Commission, and City Council that (1) this Agreement remains in effect and (2) Developer is in compliance. The Certificate, whether issued after an Annual Review or Special Review, shall be in recordable form, shall contain information necessary to communicate constructive record notice of the finding of compliance. Developer may record the Certificate with the County Recorder. Additionally, Developer may at any time request from the City a Certificate stating, in addition to the foregoing, which obligations under this Agreement have been fully satisfied with respect to the Property, or any lot or parcel within the Property.

5. DEFAULT AND REMEDIES.

5.1 Specific Performance Available. The parties acknowledge and agree that other than the termination of this Agreement pursuant to Section 5.2, specific performance is the only remedy available for the enforcement of this Agreement and knowingly, intelligently, and willingly waive any and all other remedies otherwise available in law or equity. Accordingly, and not by way of limitation, and except as otherwise provided in this Agreement, Developer shall not be entitled to any money damages from City by reason of any default under this Agreement. Further, Developer shall not bring an action against City nor obtain any judgment for damages for a regulatory taking, inverse condemnation, unreasonable exactions, reduction in value of property, delay in undertaking any action, or asserting any other liability for any matter or for any cause which existed or which the Developer knew of or should have known of prior to the time of entering this Agreement, Developer’s sole remedies being as specifically provided above. Developer acknowledges that such remedies are adequate to protect Developer’s interest hereunder and the waiver made herein is made in consideration of the obligations assumed by the City hereunder. The Developer’s waiver of the right to recover monetary damages shall not apply to any damages or injuries to a third party caused by the City’s negligence.

5.2 Termination of Agreement.

5.2.1 Termination of Agreement for Material Default of Developer. City in its discretion may terminate this Agreement for any material failure of Developer to perform any material duty or obligation of Developer hereunder or to comply in good faith with the terms of this Agreement (hereinafter referred to as “default” or “breach”); provided, however, City may terminate this Agreement pursuant to this Section only after following the procedure set forth in Section 4.3. Any material default by Developer of any of the conditions of approval of any of the Development Approvals that is not timely cured by Developer shall be deemed a material default by Developer of this Agreement.

5.2.2 Termination of Agreement for Material Default of City. Developer in its discretion may terminate this Agreement for any material default by City; provided, however, Developer may terminate this Agreement pursuant to this Section only after following the procedure set forth in Section 4.3.

5.2.3 Rights and Duties Following Termination. Upon the termination of this Agreement, no party shall have any further right or obligation hereunder except with respect to (i) any obligations to have been performed prior to said termination, or (ii) any default in the performance of the provisions of this Agreement which has occurred prior to said termination. Termination of this Agreement shall not affect either party’s rights or obligations with respect to any Development Approval granted prior to such termination.

5.2.4 Termination of Agreement With Respect to Sales of Individual Production Residential Units. Notwithstanding any other provision of this Agreement, this Agreement shall terminate with respect to each individual Production Residential Unit upon the issuance by City of a Certificate of Occupancy for that Production Residential Unit, without the execution or recordation of any further document.

6. THIRD PARTY LITIGATION.

City shall promptly notify Developer of any claim, action or proceeding filed and served against City to challenge, set aside, void, annul, limit or restrict the approval and continued implementation and enforcement of this Agreement, including but not limited to challenges of the environmental review of the Project and this Agreement conducted pursuant to the California Environmental Quality Act. Developer and City agree to confer and cooperate with respect to such third party litigation. Developer shall defend, indemnify and hold harmless City, its agents, officers and employees from any such claim, action or proceeding, and shall indemnify City for all costs of defense and/or judgment obtained in any such action or proceeding; provided, however, if Developer elects, in its sole discretion, not to defend the action (preferring to either allow judgment to be entered or to enter into a settlement with plaintiff(s) which declares this Agreement to be void, annulled, or which limits or restricts this Agreement), Developer shall so notify City in writing and City shall then have the option, in its sole discretion, of defending the action at City’s cost. In the event this Agreement, as a result of a third party challenge, is voided or annulled, or is limited or restricted in such a manner that the intent and purposes of this Agreement cannot be implemented as mutually desired by the parties hereto, this Agreement shall terminate and be of no further force or effect as of the date such judgment or settlement so voids, annuls, limits, or restricts the intent and purpose of this Agreement.

7. MORTGAGEE PROTECTION.

The parties hereto agree that this Agreement shall not prevent or limit Developer, in any manner, at Developer's sole discretion, from encumbering the Property or any portion thereof or any improvement thereon by any mortgage, deed of trust or other security device securing financing with respect to the Property. City acknowledges that the lenders providing such financing may require certain Agreement interpretations and modifications and City agrees upon request, from time to time, to meet with Developer and representatives of such lenders to negotiate in good faith any such request for interpretation or modification. Subject to compliance with applicable laws, City will not unreasonably withhold its consent to any such requested interpretation or modification provided City's City Manager determines such interpretation or modification is consistent with the intent and purposes of this Agreement. City's City Manager shall be authorized to approve and to execute any documents reasonably necessary to carry out such interpretations or modifications without a formal amendment to this Agreement unless the City Manager and/or City Attorney determine that such interpretations or modifications are substantial enough that an amendment to this Agreement is required. Any Mortgagee of the Property shall be entitled to the following rights and privileges:

(a) Neither entering into this Agreement nor a breach of this Agreement shall defeat, render invalid, diminish or impair the lien of any mortgage or deed of trust on the Property made in good faith and for value, unless otherwise required by law.

(b) The Mortgagee of any mortgage or deed of trust encumbering the Property, or any part thereof, which Mortgagee has submitted a request in writing to the City in the manner specified herein for giving notices, shall be entitled to receive written notification from City of any default by Developer in the performance of Developer's obligations under this Agreement.

(c) If City timely receives a request from a Mortgagee requesting a copy of any notice of default given to Developer under the terms of this Agreement, City shall make a good faith effort to provide a copy of that notice to the Mortgagee within ten (10) days of sending the notice of default to Developer. The Mortgagee shall have the right, but not the obligation, to cure the default during the period that is the longer of (i) the remaining cure period allowed such party under this Agreement, or (ii) sixty (60) days.

(d) Any Mortgagee who comes into possession of the Property, or any part thereof, pursuant to foreclosure of the mortgage or deed of trust, or deed in lieu of such foreclosure, shall take the Property, or part thereof, subject to the terms of this Agreement. Notwithstanding any other provision of this Agreement to the contrary, no Mortgagee shall have an obligation or duty under this Agreement to perform any of Developer's obligations or other affirmative covenants of Developer hereunder, or to guarantee such performance; except that (i) to the extent that any covenant to be performed by Developer is a condition precedent to the performance of a covenant by City, the performance thereof shall continue to be a condition precedent to City's performance hereunder, and (ii) in the event any Mortgagee seeks to develop or use any portion of the Property acquired by such Mortgagee by foreclosure, deed of trust, or deed in lieu of foreclosure, such Mortgagee shall strictly comply with all of the terms, conditions and requirements of this Agreement and the Development Plan applicable to the Property or such part thereof so acquired by the Mortgagee.

8. INSURANCE; INDEMNIFICATION.

8.1 Insurance.

8.1.1 Types of Insurance.

(a) **Commercial General Liability Insurance.** Prior to commencement and until completion of construction by Developer on the Property, Developer shall at its sole cost and expense keep or cause to be kept in force commercial general liability (“CGL”) insurance against liability for bodily injury or death and for property damage (all as defined by the policy or policies) arising from the use, occupancy, disuse or condition of the Property, providing limits of at least Five Million Dollars (\$5,000,000) bodily injury and property damage per occurrence limit, Five Million Dollars (\$5,000,000) general aggregate limit, and Five Million Dollars (\$5,000,000) products-completed operations aggregate limit.

(b) **Builder’s Risk Insurance.** Prior to commencement and until completion of construction by Developer on the Property, Developer shall procure and shall maintain in force, or caused to be maintained in force, builder’s risk insurance written on a “special causes of loss” form, on a replacement cost basis, including vandalism and malicious mischief, covering improvements in place and all material and equipment at the job site furnished under contract, but excluding contractor’s, subcontractor’s, and construction manager’s tools and equipment and property owned by contractor’s or subcontractor’s employees.

(c) **Workers’ Compensation.** Developer shall also furnish or cause to be furnished to City evidence reasonably satisfactory to it that any contractor with whom Developer has contracted for the performance of any work for which Developer is responsible hereunder carries workers’ compensation insurance as required by law.

(d) **Other Insurance.** Developer may procure and maintain any insurance not required by this Agreement.

(e) **Insurance Policy Form, Sufficiency, Content and Insurer.** All insurance required by express provisions hereof shall be carried only by insurance companies licensed and admitted to do business in California, rated “A” or better in the most recent edition of Best Rating Guide or in The Key Rating Guide and only if they are of a financial category Class VIII or better, unless waived by City. All such policies shall be nonassessable and shall contain language, to the extent commercially reasonably obtainable, to the effect that (i) any loss shall be payable notwithstanding any act of negligence of City or Developer that might otherwise result in the forfeiture of the insurance, (ii) the insurer waives the right of subrogation against City and against City’s agents and representatives; (iii) the policies are primary and noncontributing with any insurance that may be carried by City; and (iv) the policies cannot be canceled or materially changed except after thirty (30) days’ written notice (ten (10) days in the event of cancellation for non-payment of premium) by the insurer to City or City’s designated representative. Developer shall furnish City with copies of all such policies promptly on receipt of them or with certificates evidencing the insurance. City shall be named as an additional insured on the commercial general liability insurance and on the builder’s risk insurance (as its interest may appear) policies required to be procured by the terms of this Agreement. In the event the City’s Risk Manager determines

reasonably that the use, activities or condition of the Property, improvements or adjoining areas or ways, affected by such use of the Property under this Agreement creates a materially increased or decreased risk of loss to the City, Developer agrees that the minimum limits of the CGL and builder's risk insurance policies required by this Section 8.1.1 may be changed accordingly upon receipt of written notice from the City's Risk Manager; provided that such increased limits are available at commercially reasonable premiums. Developer shall have the right to appeal such determination of increased limits to the City Council within thirty (30) days of receipt of notice from the City's Risk Manager.

8.1.2 Failure to Maintain Insurance and Proof of Compliance. Developer shall deliver to City, in the manner required for notices, copies of certificates of all insurance policies required hereunder together with evidence satisfactory to City of payment required for procurement and maintenance of each policy within the following time limits:

- (a) For insurance required above, within thirty (30) days after the Effective Date.
- (b) For any renewal or replacement of a policy already in existence, at least ten (10) days before the expiration or termination of the existing policy.

If Developer fails or refuses to procure or maintain insurance as required hereby or fails or refuses to furnish City with required proof that that insurance has been procured and is in force and paid for, such failure or refusal shall be a default hereunder.

8.2 Indemnification.

8.2.1 General. Developer shall indemnify the City, its officers, employees, and agents against, and will hold and save them and each of them harmless from, any and all actions, suits, claims, damages to persons or property, losses, costs, penalties, obligations, errors, omissions, or liabilities (herein "claims or liabilities") that may be asserted or claimed by any person, firm, or entity arising out of or in connection with the work, operations, or activities of Developer, its agents, employees, subcontractors, or invitees, hereunder, upon the Property, whether or not there is current passive or active negligence on the part of the City, its officers, agents, or employees and in connection therewith.

(a) Developer will defend any action or actions filed in connection with any of said claims or liabilities and will pay all costs and expenses, including legal costs and attorneys' fees incurred in connection therewith;

(b) Developer will promptly pay any judgment rendered against the City, its officers, agents, or employees for any such claims or liabilities arising out of or in connection with such work, operations, or activities of the Developer hereunder, and Developer agrees to save and hold the City, its officers, agents, and employees harmless therefrom.

(c) In the event the City, its officers, agents, or employees is made a party to the action or proceeding filed or prosecuted against for such damages or other claims arising out of or in connection with operation or activities of Developer hereunder, Developer agrees to pay the City, its officers, agents, or employees any and all costs and expenses incurred by the City, its officers,

agents, or employees in such action or proceeding, including by not limited to legal costs and attorneys' fees.

8.2.2 Exceptions. The foregoing indemnity shall not include claims or liabilities arising from the negligence or willful misconduct of the City, its officers, agents, or employees.

8.2.3 Loss and Damage. City shall not be liable for any damage to property of Developer or of others located on the Property, nor for the loss of or damage to any property of Developer or of others by theft or otherwise. City shall not be liable for any injury or damage to persons or property resulting from fire, explosion, steam, gas, electricity, water, rain, dampness or leaks from any part of the Property or from the pipes or plumbing, or from the street, or from any environmental or soil contamination or hazard, or from any other latent or patent defect in the soil, subsurface or physical condition of the Property, or by any other cause of whatsoever nature.

8.2.4 Period of Indemnification. The obligations for indemnity under this Section 8.2 shall begin upon the Effective Date and shall terminate upon termination of Development Agreement, provided that indemnification shall apply to all claims or liabilities arising during that period even if asserted at any time thereafter.

8.3 Waiver of Subrogation. Developer agrees that it shall not make any claim against, or seek to recover from City or its agents, servants, or employees, for any loss or damage to Developer or to any person or property except as specifically provided hereunder, and Developer shall give notice to any insurance carrier of the foregoing waiver of subrogation, and shall obtain from such carrier a waiver of right of recovery against City, its agents and employees.

9. MISCELLANEOUS PROVISIONS.

9.1 Recordation of Agreement. This Agreement shall be recorded with the County Recorder by the City Clerk within the period required by Section 65868.5 of the Government Code. Amendments approved by the parties, and any cancellation, shall be similarly recorded.

9.2 Entire Agreement. This Agreement sets forth and contains the entire understanding and agreement of the parties with respect to the subject matter set forth herein, and there are no oral or written representations, understandings or ancillary covenants, undertakings or agreements which are not contained or expressly referred to herein. No testimony or evidence of any such representations, understandings or covenants shall be admissible in any proceeding of any kind or nature to interpret or determine the terms or conditions of this Agreement.

9.3 Severability. If any term, provision, covenant or condition of this Agreement shall be determined invalid, void or unenforceable, then this Agreement shall terminate in its entirety, unless the parties otherwise agree in writing, which agreement shall not be unreasonably withheld.

9.4 Interpretation and Governing Law. This Agreement and any dispute arising hereunder shall be governed and interpreted in accordance with the laws of the State of California. This Agreement shall be construed as a whole according to its fair language and common meaning to achieve the objectives and purposes of the parties hereto, and the rule of construction to the effect that ambiguities are to be resolved against the drafting party or in favor of City shall not be

employed in interpreting this Agreement, all parties having been represented by counsel in the negotiation and preparation hereof.

9.5 Section Headings. All section headings and subheadings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

9.6 Singular and Plural. As used herein, the singular of any word includes the plural.

9.7 Time of Essence. Time is of the essence in the performance of the provisions of this Agreement as to which time is an element.

9.8 Waiver. Failure of a party to insist upon the strict performance of any of the provisions of this Agreement by the other party, or the failure by a party to exercise its rights upon the default of the other party, shall not constitute a waiver of such party's right to insist and demand strict compliance by the other party with the terms of this Agreement thereafter.

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

9.10 Force Majeure. Neither party shall be deemed to be in default where failure or delay in performance of any of its obligations under this Agreement is caused by earthquakes, other acts of God, fires, wars, terrorism, riots or similar hostilities, strikes and other labor difficulties beyond the party's control (including the party's employment force), government regulations, court actions (such as restraining orders or injunctions), or other causes beyond the party's reasonable control. If any such events shall occur, the term of this Agreement and the time for performance shall be extended for the duration of each such event, provided that the term of this Agreement shall not be extended under any circumstances for more than one (1) year.

9.11 Mutual Covenants. The covenants contained herein are mutual covenants and also constitute conditions to the concurrent or subsequent performance by the party benefited thereby of the covenants to be performed hereunder by such benefited party.

9.12 Counterparts. This Agreement may be executed by the parties in counterparts, which counterparts shall be construed together and have the same effect as if all of the parties had executed the same instrument.

9.13 Litigation. Any action at law or in equity arising under this Agreement or brought by any party hereto for the purpose of enforcing, construing or determining the validity of any provision of this Agreement shall be filed and tried in the Superior Court of the County of San Bernardino, State of California, or such other appropriate court in said county. Service of process on City shall be made in accordance with California law. Service of process on City shall be made in accordance with California law. Service of process on Developer shall be made in any manner permitted by California law and shall be effective whether served inside or outside California.

In the event of any action between City and Developer seeking enforcement of any of the terms and conditions to this Agreement, the prevailing party in such action shall be awarded, in addition to such relief to which such party entitled under this Agreement, its reasonable litigation

costs and expenses, including without limitation its expert witness fees and reasonable attorney's fees. Attorneys' fees under this Section shall include attorneys' fees on any appeal and, in addition, a party entitled to attorneys' fees shall be entitled to all other reasonable costs and expenses incurred in connection with such action. In addition to the foregoing award of attorneys' fees to the prevailing party, the prevailing party in any lawsuit shall be entitled to its attorneys' fees incurred in any post-judgment proceedings to collect or enforce the judgment. This provision is separate and several and shall survive the merger of this Agreement into any judgment on this Agreement.

9.14 Covenant not to Sue. The parties to this Agreement, and each of them, agree that this Agreement and each term hereof is legal, valid, binding, and enforceable. The parties to this Agreement, and each of them, hereby covenant and agree that each of them will not commence, maintain, or prosecute any claim, demand, cause of action, suit, or other proceeding against any other party to this Agreement, in law or in equity, or based on any allegation or assertion in any such action, that this Agreement or any term hereof is void, invalid, or unenforceable.

9.15 Project as a Private Undertaking. It is specifically understood and agreed by and between the parties hereto that the Development of the Project is a private Development, that neither party is acting as the agent of the other in any respect hereunder, and that each party is an independent contracting entity with respect to the terms, covenants and conditions contained in this Agreement. No partnership, joint venture or other association of any kind is formed by this Agreement. The only relationship between City and Developer is that of a government entity regulating the Development of private property, on the one hand, and the holder of a legal or equitable interest in such property and as future holder of fee title to such property, on the other hand. City agrees that by its approval of, and entering into, this Agreement that it is not taking any action which would transform this private Development into a "public work" project, and that nothing herein shall be interpreted to convey upon Developer any benefit which would transform Developer's private project into a public work project, it being understood that this Agreement is entered into by City and Developer upon the exchange of consideration described in this Agreement, including the Recitals to this Agreement which are incorporated into this Agreement and made a part hereof, and that City is receiving by and through this Agreement the full measure of benefit in exchange for the burdens placed on Developer by this Agreement, including but not limited to Developer's obligation to provide the Public Improvements set forth herein.

9.16 Further Actions and Instruments. Each of the parties shall cooperate with and provide reasonable assistance to the other to the extent contemplated hereunder in the performance of all obligations under this Agreement and the satisfaction of the conditions of this Agreement. Upon the request of either party at any time, the other party shall promptly execute, with acknowledgment or affidavit if reasonably required, and file or record such required instruments and writings and take any actions as may be reasonably necessary under the terms of this Agreement to carry out the intent and to fulfill the provisions of this Agreement or to evidence or consummate the transactions contemplated by this Agreement.

9.17 Eminent Domain. No provision of this Agreement shall be construed to limit or restrict the exercise by City of its power of eminent domain.

9.18 Amendments in Writing/Cooperation. This Agreement may be amended only by written consent of all parties specifically approving the amendment and in accordance with the

Government Code provisions for the amendment of Development Agreements. Notwithstanding the foregoing, implementation of the Project may require minor modifications of the details of the Development Plan and performance of the parties under this Agreement. The parties desire to retain a certain degree of flexibility with respect to those items covered in general terms under this Agreement. Therefore, modifications of the Development Plan or Development Approvals, which are found by the City Attorney to be non-substantive and procedural shall not require an amendment to this Agreement. A modification will be deemed non-substantive and/or procedural if it does not result in material change in fees, cost, density, intensity of use, permitted uses, the maximum height and size of buildings, the reservation or dedication of land for public purposes, or the improvement and construction standards and specifications for the Project.

9.19 Operating Memoranda. The provisions of this Agreement require a close degree of cooperation between City and Developer and the refinements and further development of the Project may demonstrate that clarifications are appropriate with respect to the details of performance of City and Developer. If and when, from time to time, during the term of this Agreement, City and Developer agree that such clarifications are necessary or appropriate, they shall effectuate such clarifications through operating memoranda approved by City and Developer, which, after execution, shall be attached hereto. No such operating memoranda shall constitute an amendment to this Agreement requiring public notice or hearing. The City Attorney shall be authorized to make the determination whether a requested clarification may be effectuated pursuant to this Section or whether the requested clarification is of such a character to constitute an amendment hereof pursuant to Section 9.18 above. The City Manager may execute any operating memoranda hereunder without City Council or Planning Commission action.

9.20 Amendments to Development Approvals. It is contemplated by City and Developer that Developer may, from time to time, seek amendments to one or more of the Development Approvals. Any such amendments are contemplated by City and Developer as being within the scope of this Agreement as long as they are consistent with the Existing Land Use Regulations and/or this Agreement and shall, upon approval by City, continue to constitute the Development Approvals as referenced herein. The parties agree that any such amendments shall not constitute an amendment to this Agreement nor require an amendment to this Agreement.

9.21 Corporate Authority. The person(s) executing this Agreement on behalf of each of the parties hereto represent and warrant that (i) such party, if not an individual, is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other agreement to which such party is bound.

9.22 Notices. All notices under this Agreement shall be effective when delivered by (i) personal delivery, or (ii) reputable same-day or overnight courier or messenger service, (iii) overnight United States Postal Service Express Mail, postage prepaid, or (iv) by United States Postal Service mail, registered or certified, postage prepaid; and addressed to the respective parties as set forth below or as to such other address as the parties may from time to time designate in writing:

To City: City of Hesperia
9700 Seventh Avenue
Hesperia, CA 92345
Attn: City Manager

With copy to: Aleshire & Wynder, LLP
3880 Lemon Street, Suite 520
Riverside, CA 92501
Attn: Eric L. Dunn, Esq.

To Developer: Hesperia Venture I LLC
10410 Roberts Road
Calimesa, CA 92320
Attn: John Ohanian

With copy to: Terra Verde Group
2242 Good Hope Road
Prosper, TX 75078
Attn: Craig Martin

9.23 Non-liability of City Officials. No officer, official, member, employee, agent, or representatives of City shall be liable for any amounts due hereunder, and no judgment or execution thereon entered in any action hereon shall be personally enforced against any such officer, official, member, employee, agent, or representative.

9.24 Limitation of Liability. City hereby acknowledges and agrees that Developer's obligations under this Agreement are solely those of Hesperia Venture I LLC and in no event shall any present, past or future officer, director, shareholder, employee, partner, affiliate, manager, member, representative or agent of Hesperia Venture I LLC ("Related Parties") have any personal liability, directly or indirectly, under this Agreement and recourse shall not be available against any Related Party in connection with this Agreement or any other document or instrument heretofore or hereafter executed in connection with this Agreement. The limitations of liability provided in this Section are in addition to, and not in limitation of, any limitation on liability applicable to Hesperia Venture I LLC or any Related Party provided by law or in any other contract, agreement or instrument.

9.25 No Brokers. City and Developer represent and warrant to the other that neither has employed any broker and/or finder to represent its interest in this transaction. Each party agrees to indemnify and hold the other free and harmless from and against any and all liability, loss, cost, or expense (including court costs and reasonable attorney's fees) in any manner connected with a claim asserted by any individual or entity for any commission or finder's fee in connection with this Agreement arising out of agreements by the indemnifying party to pay any commission or finder's fee.

9.26 Business Days. In this Agreement, the term "business days" means days other than Saturdays, Sundays, and federal and state legal holidays, and "days" means calendar days. If the

time for performance of an obligation under this Agreement falls on other than a business day, the time for performance shall be extended to the next business day.

9.27 Facsimile Signatures. Signatures delivered by facsimile shall be as binding as originals upon the Parties so signing and delivering.

[signatures on next page]

DRAFT

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first set forth above.

Dated: _____

City: CITY OF HESPERIA, a municipal corporation

By: _____
Mayor, City of Hesperia

ATTEST:

By: _____
Melinda Sayre, City Clerk

APPROVED AS TO FORM:

ALESHIRE & WYNDER, LLP

By: _____
Eric L. Dunn, City Attorney

Developer: Hesperia Venture I LLC, a California
limited liability company

By: _____
Its: _____

By: _____
Its: _____

[End of Signatures]

STATE OF CALIFORNIA)
) ss
COUNTY OF SAN BERNARDINO)

On _____ before me, _____,
personally appeared _____ 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.

Witness my hand and official seal.

Notary Public

[SEAL]

STATE OF CALIFORNIA)
) ss
COUNTY OF SAN BERNARDINO)

On _____ before me, _____,
personally appeared _____ 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.

Witness my hand and official seal.

Notary Public

[SEAL]

EXHIBIT “A”

LEGAL DESCRIPTION OF THE PROPERTY

Real property in the City of Hesperia, County of San Bernardino, State of California,
described as follows:

[TO BE INSERTED]

DRAFT

EXHIBIT “B”

TAPESTRY SPECIFIC PLAN

The Tapestry Specific Plan was approved by Ordinance No 2015-10, adopted on January 26, 2016. Due to page length, the Tapestry Specific Plan is incorporated herein by reference as if set forth in full. The Tapestry Specific Plan is available in the City Clerk’s office and on the City’s website.

DRAFT

EXHIBIT “C”

ASSIGNMENT AND ASSUMPTION AGREEMENT

Recording Requested By and
When Recorded Mail To:
City of Hesperia
9700 Seventh Street
Hesperia, CA 92345
Attn: City Clerk

ASSIGNMENT AND ASSUMPTION AGREEMENT

This ASSIGNMENT AND ASSUMPTION AGREEMENT (“Agreement”) is made and entered into by and between HESPERIA VENTURE I LLC, a California limited liability corporation (“Assignor”), and _____, a _____ (“Assignee”).

RECITALS

A. The City of Hesperia (“City”) and Assignor entered into that certain Development Agreement dated _____, 2017 (the “Development Agreement”), with respect to the real property located in the City of Hesperia, State of California more particularly described in Exhibit “A” attached hereto (the “Project Site”), and

B. Assignor has obtained from the City certain development approvals and permits with respect to the development of the Project Site, including without limitation, approval of the Tapestry Specific Plan and this Agreement for the Project Site (collectively, the “Project Approvals”).

C. Assignor intends to sell, and Assignee intends to purchase that portion of the Project Site more particularly described in Exhibit “B” attached hereto (the “Transferred Property”).

D. In connection with such purchase and sale, Assignor desires to transfer all of the Assignor’s right, title, and interest in and to the Development Agreement and the Project Approvals with respect to the Transferred Property. Assignee desires to accept such assignment from Assignor and assume the obligations of Assignor under the Development Agreement and the Project Approvals with respect to the Transferred Property.

THEREFORE, the parties agree as follows:

1. Assignment. Assignor hereby assigns and transfers to Assignee all of Assignor’s right, title, and interest in and to the Development Agreement and the Project Approvals with respect to the Transferred Property. Assignee hereby accepts such assignment from Assignor.

2. Assumption. Assignee expressly assumes and agrees to keep, perform, and fulfill all the terms, conditions, covenants, and obligations required to be kept, performed, and fulfilled by Assignor under the Development Agreement and the Project Approvals with respect to the

Transferred Property, including but not limited to those obligations specifically allocated to the Transferred Parcel as set forth on Attachment 1 attached hereto.

3. Effective Date. This Agreement shall be effective upon its recordation in the Official Records of San Bernardino County, California, provided that Assignee has closed the purchase and sale transaction and acquired legal title to the Transferred Property.

4. Remainder of Project. Any and all rights or obligations pertaining to such portion of the Project Site other than the Transferred Property are expressly excluded from the assignment and assumption provided in Sections 1 and 2 above.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the dates set forth next to their signatures below.

“ASSIGNOR”

HESPERIA VENTURE I, LLC, a California limited liability corporation

Date: _____, _____

By: _____
Its: _____

By: _____
Its: _____

“ASSIGNEE”

_____,
a _____

Date: _____, _____

By: _____
Its: _____

STATE OF CALIFORNIA)
) ss
COUNTY OF SAN BERNARDINO)

On _____, 201_ before me, _____, personally appeared _____ 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.

Witness my hand and official seal.

(Seal) _____ Signature _____

STATE OF CALIFORNIA)
) ss
COUNTY OF SAN BERNARDINO)

On _____, 201__ before me, _____, personally appeared _____ 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.

Witness my hand and official seal.

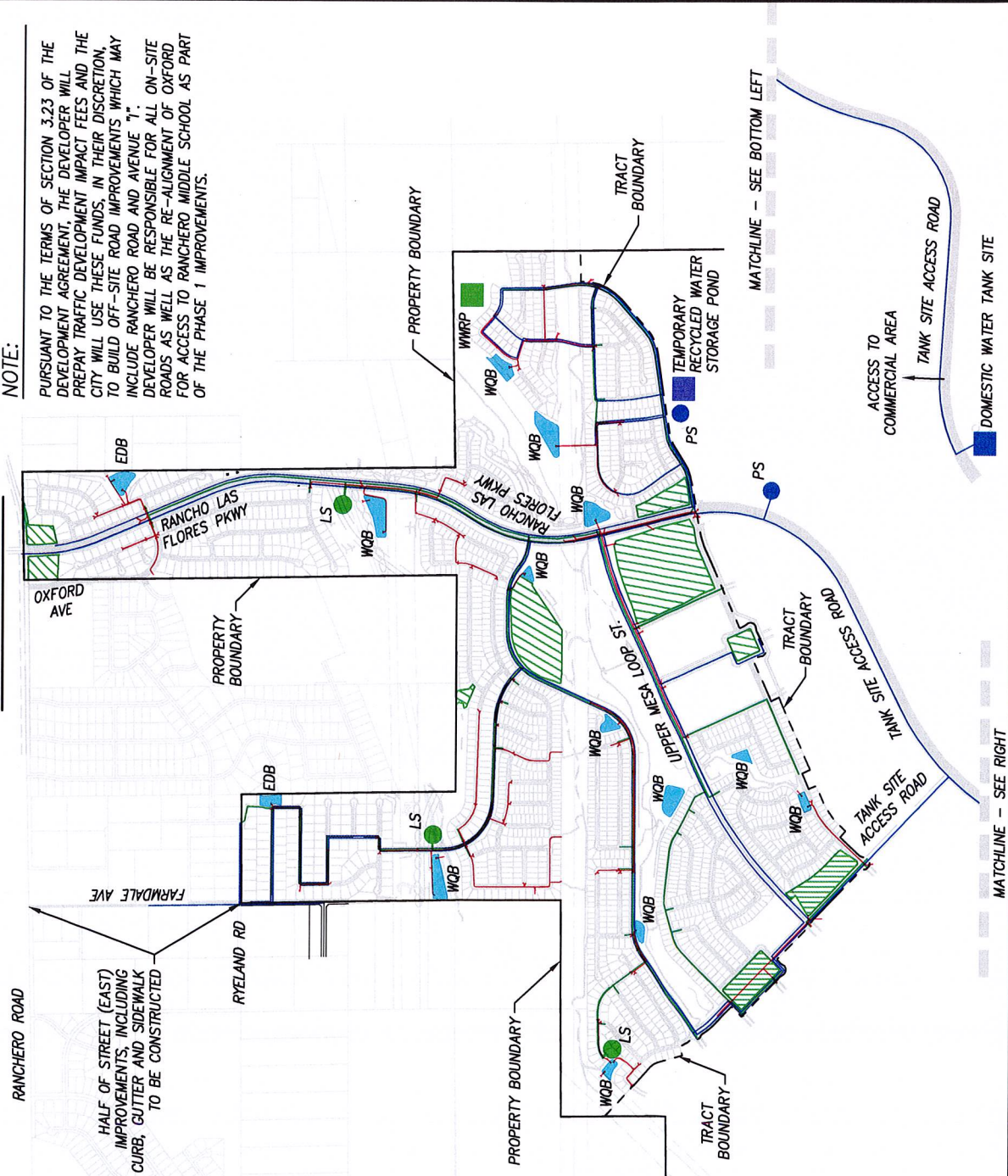
(Seal) _____ Signature _____

EXHIBIT “D
PHASE 1 CONCURRENCY PLAN
[TO BE INSERTED]

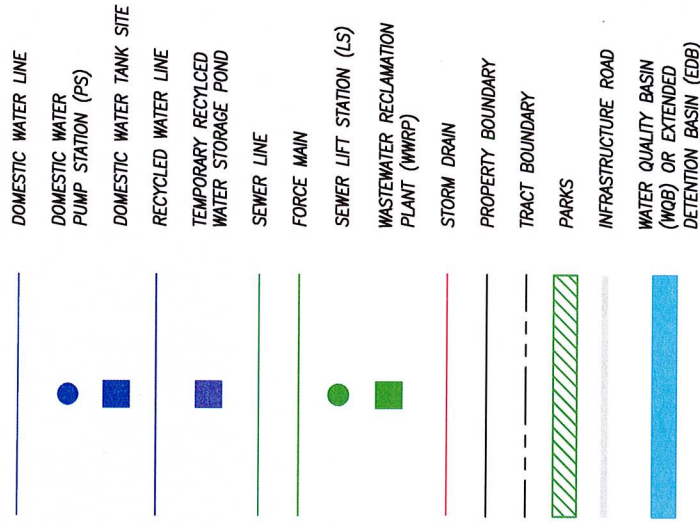
DRAFT

EXHIBIT "D"

NOTE: PURSUANT TO THE TERMS OF SECTION 3.23 OF THE DEVELOPMENT AGREEMENT, THE DEVELOPER WILL PREPAY TRAFFIC DEVELOPMENT IMPACT FEES AND THE CITY WILL USE THESE FUNDS, IN THEIR DISCRETION, TO BUILD OFF-SITE ROAD IMPROVEMENTS WHICH MAY INCLUDE RANCHO ROAD AND AVENUE "I". DEVELOPER WILL BE RESPONSIBLE FOR ALL ON-SITE ROADS AS WELL AS THE RE-ALIGNMENT OF OXFORD FOR ACCESS TO RANCHO MIDDLE SCHOOL AS PART OF THE PHASE 1 IMPROVEMENTS.



LEGEND:



PHASE 1 CONCURRENCY PLAN EXHIBIT TR. 18955 INFRASTRUCTURE ONLY

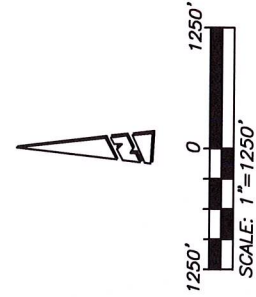


EXHIBIT “E”

PLANNING AND ENGINEERING CONDITIONS OF APPROVAL
[TO BE INSERTED]

DRAFT

ATTACHMENT "A"
List of Conditions for TT14-00004

Approval Date: January 26, 2016
Effective Date: March 04, 2016
Expiration Date: March 04, 2019

This list of conditions applies to the overall map for the Tapestry Specific Plan Tentative Tract TT14-00004 (TT-18985), to create 15 lots for finance and conveyance purposes consistent with the planning areas of the Specific Plan (Hesperia Venture I, LLC)

The use shall not be established until all conditions of this land use approval application have been met. This approved land use shall become null and void if all conditions have not been by the expiration date noted above. Extensions of time may be granted upon submittal of the required application and fee prior to the expiration date.

(Note: the "COMPLETED" and "COMPLIED BY" spaces are for internal City use only).

CONDITIONS REQUIRED AS PART OF SUBMITTAL OF PUBLIC IMPROVEMENT PLANS

| | | |
|---------------------------------------|--------------------|---|
| <u>COMPLETED</u>
NOT IN COMPLIANCE | <u>COMPLIED BY</u> | FINAL MAP: A Final Map shall be prepared by or under the direction of a registered civil engineer or licensed land surveyor based upon a survey and shall conform to all provisions as outlined in Article 66433 of the Subdivision Map Act as well as the San Bernardino County Surveyor's Office Final Map Standards. (E) |
| <u>COMPLETED</u>
NOT IN COMPLIANCE | <u>COMPLIED BY</u> | TITLE REPORT. The Developer shall provide an updated title report 90 days or newer from the date of submittal. (E) |
| <u>COMPLETED</u>
NOT IN COMPLIANCE | <u>COMPLIED BY</u> | PLAN CHECK FEES. Plan checking fees must be paid in conjunction with the Final map submittal. The Final Map, title report and fees must be submitted as a package. The developer shall coordinate with the City's Engineering Department for any additional fees. (E) |
| <u>COMPLETED</u>
NOT IN COMPLIANCE | <u>COMPLIED BY</u> | INDEMNIFICATION. As a further condition of approval, the Applicant agrees to and shall indemnify, defend, and hold the City and its officials, officers, employees, agents, servants, and contractors harmless from and against any claim, action or proceeding (whether legal or administrative), arbitration, mediation, or alternative dispute resolution process), order, or judgment and from and against any liability, loss, damage, or costs and expenses (including, but not limited to, attorney's fees, expert fees, and court costs), which arise out of, or are in any way related to, the approval issued by the City (whether by the City Council, the Planning Commission, or other City reviewing authority), and/or any acts and omissions of the Applicant or its employees, agents, and contractors, in utilizing the approval or otherwise carrying out and performing work on Applicants project. This provision shall not apply to the sole negligence, active negligence, or willful misconduct of the City, or its officials, officers, employees, agents, and contractors. The Applicant shall defend the City with counsel reasonably acceptable to the City. The City's election to defend itself, whether at the cost of the Applicant or at the City's own cost, shall not relieve or release the Applicant from any of its obligations under this Condition. (P) |
| <u>COMPLETED</u>
NOT IN COMPLIANCE | <u>COMPLIED BY</u> | SPECIFIC PLAN. These conditions are concurrent with Ordinance No. 2015-10 (Tapestry Specific Plan) becoming effective. (P) |
| <u>COMPLETED</u>
NOT IN COMPLIANCE | <u>COMPLIED BY</u> | CONSISTENCY WITH APPROVED GRAPHICS. The final map shall be consistent with the tentative map approved as part of this tentative tract application and shall also comply with all applicable Title 16 and Engineering Division requirements. (E, P) |
| <u>COMPLETED</u>
NOT IN COMPLIANCE | <u>COMPLIED BY</u> | TAPESTRY SPECIFIC PLAN DEVELOPMENT REQUIREMENTS. Recordation or development within this tentative map is contingent upon compliance with all development requirements of the Tapestry Specific |

COMPLETED **COMPLIED BY**
NOT IN COMPLIANCE

Plan, including but not limited to approval of the Development Agreement and a Public Facilities and Financing Plan. (E, P)

CONSERVATION EASEMENTS. The open space identified within the adopted Tapestry Specific Plan shall be established as open space in accordance with the provisions of the Specific Plan; managed in accordance with a Habitat Management Plan approved by the City, U.S. Fish and Wildlife Service, and California Department of Fish and Wildlife; and subject to the adopted Mitigation Monitoring and Reporting Program and the requirements of applicable federal and state permits. As portions of the open space become necessary to mitigate phase-specific biological impacts, they shall be subject to additional conservation instruments, which may include, but are not necessarily limited to, dedication in fee, easement or deed restriction. Open space shall be maintained by a Homeowners' Association established by the Conditions Covenants and Restrictions (CC&Rs) and/or by an approved conservation entity. Trails shall be dedicated to the Homeowner's Association for construction and maintenance. (P)

CONDITIONS REQUIRED PRIOR TO RECORDATION OF ANY PHASE OF THE FINAL MAP

COMPLETED **COMPLIED BY**
NOT IN COMPLIANCE

RECORDATION OF FINAL MAP. Final Map shall be approved by City Council and Recorded with the County of San Bernardino. (E)

COMPLETED **COMPLIED BY**
NOT IN COMPLIANCE

UTILITIES. (Underground) The Developer shall establish an Underground Utility District to cover the entire map for the purpose of future undergrounding of utilities for electric, communications or similar associated service. (E)

COMPLETED **COMPLIED BY**
NOT IN COMPLIANCE

FISH AND GAME FEE. The applicant shall submit a check to the City in the amount of \$3,119.75 payable to the Clerk of the Board of Supervisors of San Bernardino County to enable the filing of a Notice of Determination. (P)

COMPLETED **COMPLIED BY**
NOT IN COMPLIANCE

DEVELOPMENT AGREEMENT. The applicant shall execute a development agreement with the City of Hesperia to implement the Tapestry Specific Plan. The agreement shall be subject to review and approval by the City prior to its execution. (P)

COMPLETED **COMPLIED BY**
NOT IN COMPLIANCE

CFD ANNEXATION. The applicant shall establish a Community Facilities District concurrent with recordation of the final map pursuant to the Public Facilities and Financing Plan. (P)

COMPLETED **COMPLIED BY**
NOT IN COMPLIANCE

DAM INUNDATION ZONE. Construction of residential, commercial, or other enclosed buildings within the inundation zone below the Cedar Springs Dam is prohibited unless adequate protection from inundation effects can be demonstrated to the satisfaction of the City Engineer. (P)

COMPLETED **COMPLIED BY**
NOT IN COMPLIANCE

SERRANO HERITAGE PRESERVE. The Serrano Heritage Preserve identified on the Tapestry Land Use Plan shall be set aside and managed in accordance with state law, the final Cultural Resources Management Plan, and the Mitigation Monitoring and Reporting Program. Said mitigations shall prescribe procedures for access and reburial of any Native American remains found on the property in the course of development. (P)

NOTICE TO DEVELOPER: THIS CONCLUDES THE REQUIREMENTS FOR RECORDATION OF THE TENTATIVE TRACT MAP. IF YOU NEED ADDITIONAL INFORMATION OR ASSISTANCE REGARDING THESE CONDITIONS, PLEASE CONTACT THE APPROPRIATE DIVISION LISTED BELOW:

| | |
|---|----------|
| (B) Building Division | 947-1300 |
| (E) Engineering Division | 947-1476 |
| (F) Fire Prevention Division | 947-1603 |
| (P) Planning Division | 947-1200 |
| (RPD) Hesperia Recreation and Park District | 244-5488 |

ATTACHMENT "A"
List of Conditions for TT14-00005

Approval Date: January 26, 2016

Effective Date: March 04, 2016

Expiration Date: March 04, 2019

This list of conditions applies to the backbone map for the Tapestry Specific Plan Tentative Tract TT14-00005 (TT-18989), to create 39 lots and right-of-ways necessary to develop the 986 gross acre project (Hesperia Venture I, LLC)

The use shall not be established until all conditions of this land use approval application have been met. This approved land use shall become null and void if all conditions have not been by the expiration date noted above. Extensions of time may be granted upon submittal of the required application and fee prior to the expiration date.

(Note: the "COMPLETED" and "COMPLIED BY" spaces are for internal City use only).

CONDITIONS REQUIRED AS PART OF SUBMITTAL OF PUBLIC IMPROVEMENT PLANS

COMPLETED COMPLIED BY
NOT IN COMPLIANCE

STREET NAME APPROVAL. The developer shall submit a request for street names for all of the backbone streets for review and approval by the Building Division. The final map shall incorporate all approved street names as well as the street names in proximity to the subdivision. (B)

COMPLETED COMPLIED BY
NOT IN COMPLIANCE

FINAL MAP. A Final Map shall be prepared by or under the direction of a registered Civil Engineer or licensed Land Surveyor based upon a survey and shall conform to all provisions as outlined in Article 66433 of the Subdivision Map Act as well as the San Bernardino County Surveyor's Office Final Map Standards. (E)

COMPLETED COMPLIED BY
NOT IN COMPLIANCE

PLANS. All required plans shall be prepared by a registered Civil Engineer per City standards to the satisfaction of the City Engineer. Five sets of improvement plans shall be submitted to the Development Services Department and Engineering Department for plan review along with required checking fees. The Final Map, CDP Improvement Plans, requested studies and CFD annexation must be submitted as a package. (E)

COMPLETED COMPLIED BY
NOT IN COMPLIANCE

TITLE REPORT. The Developer shall provide an updated title report 90 days or newer from the date of submittal. (E)

COMPLETED COMPLIED BY
NOT IN COMPLIANCE

GEOTECHNICAL REPORT. The Developer shall provide two copies of the soils report to substantiate all grading building and public improvement plans. Include R value testing and pavement recommendations for public streets. (E B)

COMPLETED COMPLIED BY
NOT IN COMPLIANCE

N.P.D.E.S. The Developer shall apply for the required NPDES (National Pollutant Discharge Elimination System) permit with the Regional Water Quality Control Board and pay applicable fees. (E)

COMPLETED COMPLIED BY
NOT IN COMPLIANCE

STORM WATER POLLUTION PREVENTION PLAN. The Developer shall provide a Storm Water Pollution Prevention Plan (S.W.P.P.P.) which addresses the method of storm water run-off control during construction. (E)

COMPLETED COMPLIED BY
NOT IN COMPLIANCE

PLAN CHECK FEES. Plan checking fees must be paid in conjunction with the improvement plan submittal. The Final Map, CDP improvement plans, requested studies and CFD annexation must be submitted as a package. The developer shall coordinate with the City's Engineering Department for any additional fees. Any outstanding fees must be paid before final inspection and the release of bonds. (E)

COMPLETED COMPLIED BY
NOT IN COMPLIANCE

SPECIFIC PLAN. These conditions are concurrent with Ordinance No. 2015-10 becoming effective (Tapestry Specific Plan). (P)

COMPLETED **COMPLIED BY**
NOT IN COMPLIANCE

INDEMNIFICATION. As a further condition of approval, the Applicant agrees to and shall indemnify, defend, and hold the City and its officials, officers, employees, agents, servants, and contractors harmless from and against any claim, action or proceeding (whether legal or administrative), arbitration, mediation, or alternative dispute resolution process), order, or judgment and from and against any liability, loss, damage, or costs and expenses (including, but not limited to, attorney's fees, expert fees, and court costs), which arise out of, or are in any way related to, the approval issued by the City (whether by the City Council, the Planning Commission, or other City reviewing authority), and/or any acts and omissions of the Applicant or its employees, agents, and contractors, in utilizing the approval or otherwise carrying out and performing work on Applicants project. This provision shall not apply to the sole negligence, active negligence, or willful misconduct of the City, or its officials, officers, employees, agents, and contractors. The Applicant shall defend the City with counsel reasonably acceptable to the City. The City's election to defend itself, whether at the cost of the Applicant or at the City's own cost, shall not relieve or release the Applicant from any of its obligations under this Condition. (P)

COMPLETED **COMPLIED BY**
NOT IN COMPLIANCE

SOLID MASONRY WALLS AND FENCES. The Developer shall submit four sets of masonry wall and/or wrought iron fencing plans to the Building Division with the required application fees for all required walls. A six-foot high split face masonry wall with a decorative cap or other approved decorative wall shall be provided along the arterial streets within the backbone map as well as along the eastern side of Farmdale Avenue in accordance with the Specific Plan. (P)

COMPLETED **COMPLIED BY**
NOT IN COMPLIANCE

DEVELOPMENT AGREEMENT. The applicant shall execute a development agreement placing restrictions on the tenants/owners of the development with all incentives approved by the City in accordance with state law. The agreement shall be subject to review and approval by the City prior to its execution. (P)

CONDITIONS REQUIRED PRIOR TO RECORDATION OF ANY PHASE OF THE FINAL MAP

COMPLETED **COMPLIED BY**
NOT IN COMPLIANCE

IMPROVEMENT AGREEMENT/SURETY. The Developer shall execute Improvement and Grading Agreements and post surety for all public improvements. The amounts will be approved by the City Engineer. (E)

COMPLETED **COMPLIED BY**
NOT IN COMPLIANCE

NON-VEHICULAR ACCESS. Vehicular access rights across the project frontage on Rancho Las Flores Parkway, Ranchero Road, Farmdale Avenue, Summit Valley Road, Upper Loop Street from Street "BBBB" to approximately Street "QQQ," Street "F," Street "Q," Street "BB," and Street "SSS" east of Las Flores Parkway; shall be dedicated to the City of Hesperia and labeled as N.V.A. on the Final map along the areas where all lots back up to the street. An exception is made for the lots that are to be developed as parks, open space, and the school site. (E)

COMPLETED **COMPLIED BY**
NOT IN COMPLIANCE

OFF-SITE OFFER OF DEDICATION AND EASEMENT. Should off-site offers of dedication or easements be required for off-site improvements, it shall be the responsibility of the Developer to obtain such dedications or easements at no cost to the City pursuant to section 66462.5 of the Subdivision Map Act. (E)

COMPLETED **COMPLIED BY**
NOT IN COMPLIANCE

DEDICATIONS. The Developer shall grant to the City of Hesperia an Irrevocable Offer of Dedication for roadways and Grant of Easement(s) for storm drain and utility purposes as shown on the approved tentative map and as described below. (E)

COMPLETED **COMPLIED BY**
NOT IN COMPLIANCE

INTERIOR STREETS-("QQ", "PP" and "LL"). The Developer shall grant to the City an Irrevocable Offer of Dedication for the interior streets. Streets shall be a minimum of (56) feet wide per the Local Road Standard in the Tapestry Specific Plan. Corner cut-off right of way dedication per City standards is required at all intersections, including interior roadways except at knuckles. (E)

COMPLETED **COMPLIED BY**

INTERIOR STREETS-("BB", "Q", "LLL", "SSS", "UU", "III", "BBBB" and

NOT IN COMPLIANCE

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COMPLETED COMPLIED BY
NOT IN COMPLIANCE

"I" to Oxford Road). The Developer shall grant to the City an Irrevocable Offer of Dedication for the interior streets. Streets shall be a minimum of (70) feet wide per the Local Connector Road in the Tapestry Specific Plan. Corner cut-off right of way dedication per City standards is required at all intersections, including interior roadways, except at knuckles. (E)

INTERIOR STREETS-(Upper Loop Road). The Developer shall grant to the City an Irrevocable Offer of Dedication for Upper Loop Road. The Street shall be a minimum of 106' feet wide per the Tapestry Specific Plan for a Minor Arterial. Corner cut-off right of way dedication per City standards is required at all intersections, including interior roadways, except at knuckles. (E)

INTERIOR STREETS-("GGGG", and "UU"). The Developer shall grant to the City an Irrevocable Offer of Dedication for the interior streets. Streets shall be a minimum of 108' feet wide per the Neighborhood Entry Road in the Tapestry Specific Plan. Street "UU" is from Upper Loop Road to the park (lot 33) and from the park (lot 33) to street "Q". Corner cut-off right of way dedication per City standards is required at all intersections, including interior roadways, except at knuckles. (E)

INTERIOR STREETS-(Road Surrounding Park). The Developer shall grant to the City an Irrevocable Offer of Dedication for the interior streets. Streets shall be a minimum of 64' feet wide per the Tapestry Specific Plan for a Road Surrounding Park. Corner cut-off right of way dedication per City standards is required at all intersections, including interior roadways, except at knuckles. The Developer shall dedicate an additional temporary easement for a knuckle at Lot 33, where street "HHH" is intended to continue through to the west as a future extension of the street. (E)

INTERIOR STREETS-(Traffic Circles) The Developer shall grant to the City an Irrevocable Offer of Dedication for the interior streets. Streets shall be a minimum of 150' diameter ROW per the Tapestry Specific Plan. Traffic Circles are located at streets "SSS" and "UU", and streets "Q" and "UU". (E)

INTERIOR STREETS-(Rancho Las Flores Parkway). The Developer shall grant to the City an Irrevocable Offer of Dedication for Rancho Las Flores Parkway. The Street shall be a minimum of 144' feet wide per the standards for a Major Arterial in the Tapestry Specific Plan. Corner cut-off right of way dedication per City standards is required at all intersections, including interior roadways, except at knuckles. (E)

INTERIOR STREETS-(Summit Valley Road). The Developer shall grant to the City an Irrevocable Offer of Dedication for Summit Valley Road. The Street shall be a minimum of 120' feet wide per City standards for a Major Arterial. (E)

PERIMETER STREETS-(Ranchero Road). The Developer shall obtain an Irrevocable Offer of Dedication for Ranchero Road. The dedication shall be at a 50-foot half-width per the City standards for an Arterial Roadway Standard west of I Avenue and 40-foot half-width for a Secondary Arterial Standard east of I Avenue. Corner cut-off right of way dedication per City standards is required at all intersections, including interior roadways, except at knuckles. (E)

PERIMETER STREETS-(Rysland Road). The Developer shall grant to the City an Irrevocable Offer of Dedication for Rysland Road (between Farmdale Ave. and Glider Ave.) The dedication shall be at a (30-foot half-width - south side only) per the City standards for a Local Road. Corner cut-off right of way dedication per City standards is required at all intersections, including interior roadways, except at knuckles. (E)

COST ESTIMATE AND MATERIALS LIST. The Developer shall submit a cost estimate and materials list to the City's Engineering Department for all on-site and off-site public improvements per City standards and the Tapestry Specific Plan. (E)

GRADING PLAN. The Developer shall submit a Grading Plan with existing contours tied to an acceptable City of Hesperia benchmark. The grading plan shall indicate proposed development of streets, the building footprint

for the sewer treatment plant, and proposed development of the regional retention basin(s) at a minimum. Site grading and building pad preparation shall include recommendations provided per the Preliminary Soils Investigation. All proposed walls shall be indicated on the grading plans showing top of wall (tw) and top of footing (tf) elevations along with finish grade (fg) elevations. Wall height from finish grade (fg) to top of wall (tw) shall not exceed 10 feet in height. Grading Plans are subject to a full review by the City of Hesperia and the City Engineer upon submittal of the Improvement Plans. (E)

COMPLETED **COMPLIED BY**
NOT IN COMPLIANCE

ON-SITE RETENTION. The Developer shall dedicate in fee title and quitclaim after map recordation, the Water Quality basins that are to be located in lots 29, 30 and 31 (lots that will not further subdivide in Tract 18955) and shall construct on-site retention facilities which have minimum impact to ground water quality. All retention basins shall be designed to effectively handle both nuisance and storm water flows without accumulating standing water for a period longer than 72 hours. All dry wells in retention basins shall be Two-Stage Systems per C.O.H Standard SP-1 with a minimum depth of 30 feet and a maximum depth to be determined by soils engineer at time of boring test. Retention basins over 18 inches in depth shall be fenced on all sides and shall have a paved 14-foot wide (min.) 12 percent (max.) access with a 20' x 20' concrete parking apron at the bottom of the ramp. The maximum depth of any on-site retention basin shall be 6 feet. Side slopes in excess of 3:1 shall provide erosion control per City requirements. (E)

COMPLETED **COMPLIED BY**
NOT IN COMPLIANCE

OFF-SITE GRADING LETTER(S). It is the Developers responsibility to obtain signed Off-Site Grading Letters from any adjacent property owner(s) who are affected by any Off-Site Grading that is needed to make site work. The Off-Site Grading letter(s) along with the latest grant deed(s) must be submitted and appropriate fees paid to the Citys Engineering Department for plan check approval. (E)

COMPLETED **COMPLIED BY**
NOT IN COMPLIANCE

DRAINAGE ACCEPTANCE LETTERS. It is the Developer's responsibility to obtain signed Drainage Acceptance Letters from any adjacent property owners outside the Specific Plan boundaries who are affected by concentrated off-site storm water discharge from any on-site retention basins and storm water runoff. The Acceptance letter, along with the latest grant deed, must be submitted to the Citys Engineering Department for plan check approval. (E)

COMPLETED **COMPLIED BY**
NOT IN COMPLIANCE

STREET IMPROVEMENTS. The Developer shall design street improvements in accordance with the Tapestry Specific Plan and these conditions. (E)

COMPLETED **COMPLIED BY**
NOT IN COMPLIANCE

INTERIOR STREETS ("QQ", "PP", and "LL" STREETS). Shall be designed for a 56-foot wide Local Road per the Tapestry Specific Plan street sections, as indicated below. Curb face is to be at 18 feet from centerline: (E)

- A. 8" Curb and Gutter per City standards.
- B. Handicapped ramps at all intersections per City standards.
- C. Concrete residential driveway per City standards.
- D. Full paved roadway section (minimum section 3 A.C. over 4" aggregate base).
- E. Roadway drainage device(s).
- F. Streetlights per City standards.
- G. Traffic control signs and devices as required by the traffic study and/or the City Engineer.

COMPLETED **COMPLIED BY**
NOT IN COMPLIANCE

INTERIOR STREETS ("SSS", "UU", "Q", "BB", "LLL", "III", "BBBB" and "F to Oxford Rd.) shall be designed for a 70-foot wide Local Connector Road per the Tapestry Specific Plan street sections, as indicated below. Curb face is to be at 22 feet from centerline: (E)

- A. 8" Curb and Gutter per City standards.
- B. Separated sidewalk (width = 5 feet) per City standards. Sidewalks on Streets "BB" and "SSS," where future lots will be fronting will not require

construction of the sidewalk until the associated tract creating said lots records.

- C. Handicapped ramps at all intersections per City standards.
- D. Concrete residential driveway per City standards.
- E. Full paved roadway section (minimum section 3 A.C. over 4" aggregate base).
- F. Roadway drainage device(s).
- G. Streetlights per City standards.
- H. Traffic control signs and devices as required by the traffic study and/or the City Engineer.

COMPLETED **COMPLIED BY**
NOT IN COMPLIANCE

INTERIOR STREETS ("GGGG" and "UU" from Upper Loop Road to Park, Lot 33, and from Park to Street "Q") shall be designed for a 108-foot wide Neighborhood Entry Road per the Tapestry Specific Plan street sections, as indicated below. Curb face is to be at 30 feet from centerline and a raised median 20 feet wide: (E)

- A. 8" Curb and Gutter per City standards.
- B. Separated meandering sidewalk, (width = 10 feet) per City Standard.
- C. Handicapped ramps at all intersections per City standards.
- D. Concrete residential driveway per City standards.
- E. Full paved roadway section (minimum section 3" A.C. over 4" aggregate base).
- F. Roadway drainage device(s).
- G. Streetlights per City standards.
- H. Traffic control signs and devices as required by the traffic study and/or the City Engineer.

COMPLETED **COMPLIED BY**
NOT IN COMPLIANCE

INTERIOR STREETS (Roads surrounding parks, Lots 33 and 35) shall be designed for a 64-foot wide Surrounding Park Road per the Tapestry Specific Plan street sections, as indicated below. Curb face is to be at 18 feet from centerline: (E)

- A. 8" Curb and Gutter per City standards.
- B. Separated sidewalk (width = 5 feet) per City standards on the opposite side of the street from the park site and a 12 foot wide sidewalk section (an additional 4-foot sidewalk within the park site must be added to the 8-foot sidewalk) adjacent to the curb on the park side.
- C. Handicapped ramps at all intersections per City standards.
- D. Concrete residential driveway per City standards.
- E. Full paved roadway section (minimum section 3 A.C. over 4" aggregate base).
- F. Roadway drainage device(s).
- G. Streetlights per City standards.
- H. Traffic control signs and devices as required by the traffic study and/or the City Engineer.

I. A temporary knuckle shall be designed and constructed at the northwest corner of lot 33 until such time when street "HHH" becomes a through street to the west.

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INTERIOR STREETS (Upper Loop Road). Shall be designed for a 106-foot wide Minor Arterial Road per the Tapestry Specific Plan street sections, as indicated below. Curb face is to be at 33 feet from centerline and a 14-foot wide median: (E)

- A. 8" Curb and Gutter per City standards.
- B. Separated meandering sidewalk (width = 10 feet) per City standards.
- C. Handicapped ramps at all intersections per City standards.
- D. Concrete residential driveway per City standards.
- E. Full paved roadway section (minimum section 3 A.C. over 4" aggregate base).
- F. Roadway drainage device(s).
- G. Streetlights per City standards.
- H. Traffic control signs and devices as required by the traffic study and/or the City Engineer.

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INTERIOR STREETS (Rancho Las Flores Parkway). Shall be designed

NOT IN COMPLIANCE

for a 144-foot wide Major Arterial Road per the Tapestry Specific Plan street sections, as indicated below. Curb face is to be at 48 feet from centerline: (E)

- A. 8" Curb and Gutter per City standards.
- B. Separated meandering sidewalk (width = 10 feet) per City standards.
- C. Handicapped ramps at all intersections per City standards.
- D. Concrete residential driveway per City standards.
- E. Full paved roadway section (minimum section 3 A.C. over 4" aggregate base).
- F. Roadway drainage device(s).
- G. Streetlights per City standards.
- H. Traffic control signs and devices as required by the traffic study and/or the City Engineer.

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INTERIOR STREETS (Traffic circles). Shall be designed for a 150-foot diameter Circular Roadway per the Tapestry Specific Plan street sections, as indicated below. (E)

- A. 8" Curb and Gutter per City standards.
- B. Sidewalk (width = 12 feet) per City standards.
- C. Handicapped ramps at all intersections per City standards.
- D. The central portion of the circle shall have a 6' wide concrete apron.
- E. Full paved roadway section (minimum section 3 A.C. over 4" aggregate base).
- F. Roadway drainage device(s).
- G. Streetlights per City standards.
- H. Traffic control signs and devices as required by the traffic study and/or the City Engineer.

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RANCHERO ROAD. Saw-cut (2-foot min.) and match-up asphalt pavement on Ranchero Road across the project frontage based on the City's Arterial (100-foot) and Secondary Arterial (80-foot) Roadway Standard. The curb face is to be at 36 feet west of I Avenue and 25 feet east of I Avenue from the approved centerline. The design shall be based upon an acceptable centerline profile extending a minimum of three hundred (300) feet beyond the project boundaries where applicable. These improvements shall consist of:

- A. 8" Curb and Gutter per City standards.
- B. Sidewalk (width = 8 feet) per City standards.
- C. Roadway drainage device(s).
- D. Streetlights per City standards.
- E. Intersection improvements including handicapped ramps per City standards.
- F. Pavement transitions per City Standards.
- G. Design roadway sections per existing approved street sections and per R value testing with a traffic index of 10 and per the soils report.
- H. Cross sections every 50 feet per City standards.
- I. Traffic signal at Rancho Las Flores Parkway.

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SECONDARY ACCESS. The Developer is responsible to construct Secondary Access. The street improvement (26-foot min. paved section) is required for secondary access per City standards. The Developer shall pave Ryeland Road from Glider Avenue to Farmdale Avenue and pave Farmdale Avenue from the proposed cul-de-sac south of Las Lunas Street to the existing improvements at Krystal Drive. It is the Developers responsibility to obtain off-site roadway dedications prior to City Council approval of the Final Map. The design shall be based upon an acceptable centerline profile extending a minimum of three hundred (300) feet beyond the project boundaries where applicable. These improvements shall consist of: (E)

- A. Pavement sections shall be designed per R value testing using a T.I. of 8. The minimum pavement section shall be 3 A.C. over 4 Class II aggregate base.
- B. Pavement transitions per City standards.
- C. Roadway drainage device(s).
- D. Traffic control signs and devices as required by the traffic study and/or

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the City Engineer.

E. Provide a signage and striping plan per City standards.

UTILITY PLAN. The Developer shall design a Utility Plan for service connections, private hydrant locations and sewer connections. The Utility plan shall provide for construction of all utilities necessary for full build out of Subdivision under the streets required to be constructed in this Tract and provide stub out for future extension. The Developer shall adjust any existing fire hydrants to grade that are affected by the construction of the proposed project improvements. (E)

UTILITY EASEMENTS. The Developer shall grant to the City Utility Easements as required to install required water sewer and storm drain facilities as conditioned below. Said easements shall be indicated on the appropriate final map per the Subdivision Map Act. Off-site easements may be required to complete the infrastructure. (E)

UTILITIES. Utility plans shall be in accordance with City standards as described below. (E)

A. During construction, the entire tract shall have a Master Water Meter per City standards. The Master Meter shall remain in place until all lots are occupied, at which time the individual meters shall be set and activated per City standards.

B. Automatic meter reader to be added on all meter connections.

WATER IMPROVEMENTS. The Developer shall design water improvements in accordance with City standards and as indicated below. (E)

WATER MODELING STUDY. The Developer is required to conform to a modeling study by Infrastructure Engineering for water service consistent with the City's existing water standards and required flows. The Developer is required to adhere to and address the requirements as outlined in the study. The study shall identify the need for any offsite improvements or upsizing of existing water lines or appurtenances. The cost of the study is the Developer's responsibility. (E)

INTERIOR STREETS (Rancho Las Flores Parkway, Upper Loop Road, Streets "III", "BBBB", "GGG", "HHHH", "SSS", "UU", "Q", "F", "BB", "LLL", "GGGG", "LL", "PP", and "QQ") WATER. Interior water service shall be a looped system of 8" minimum P.V.C. water lines with hydrants at 880 foot intervals, including loops through the cul de sacs utilizing utility easements. Water mains in easements shall be ductile iron pipe. All utility easements shall be 15 feet minimum in width on one lot unless it is shared with another utility, in which case 20 feet is required on one lot per City standards. It is the Developers responsibility to obtain any dedication(s) or easement(s) needed to construct water lines. The Developer shall provide plan and profile per City standards. (E)

PERIMETER STREETS (Ranchero Road) WATER. Install an 8" (min.) P.V.C. water main from the intersection of I Avenue south into the subdivision, sized per the Master Plan or water modeling study by Infrastructure Engineering and per City standards and City approval. It is the Developer's responsibility to obtain any dedication(s) or easement(s) needed to construct water lines should there be any additional offsite water lines or upsizing. The Developer shall provide plan and profile for connections to existing water mains per City standards. (E)

OFF-SITE (Rancho Las Flores Parkway) Water. The Developer shall provide easements and paved access for the tank site and water lines from the tank site to the subdivision. Its size and capacity shall be as per the Master plan of water as well as the modeling study by Infrastructure Engineering. (E)

SEWER IMPROVEMENTS. The Developer shall dedicate Lot 27 for the Waste Water Reclamation Plant in fee title to the appropriate owning agency and construct the sewer treatment plant in accordance with State and Federal regulations. The Developer shall design sewer improvements in accordance with City standards, and as indicated below.

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INTERIOR STREETS (Rancho Las Flores Parkway, Upper Loop Road, Streets "III", "BBBB", "GGG", "HHHH", "SSS", "UU", "Q", "F", "BB", "LLL", "GGGG", "LL", "PP", and "QQ") SEWER. The Developer shall provide the appropriate on-site sewer lines, force mains, Waste Water treatment plant, and lift stations necessary to serve the project per the City Engineer. The Developer is required to provide a minimum diameter of 8 S.D.R. 35 P.V.C. sewer lines within the tract. Any sewer easements that are required will be a minimum of 15 feet in width on one lot unless it is shared with another utility, in which case 20 feet on one lot is required. It is the Developer's responsibility to obtain any dedication(s) or easement(s) needed to construct the sewer lines. The Developer shall provide plans and profiles per City standards. (E)

STORM DRAIN IMPROVEMENTS. The Developer shall design storm drain improvements in accordance with City standards as indicated below. (E)

STORM DRAIN WITHIN INTERIOR STREETS. The Developer shall design and construct the backbone storm drain lines that will be under the backbone streets required to be constructed with this map, TT14-00005, Tract 18989. (E)

ELECTRONIC COPIES. The Developer shall provide electronic copies of the approved project in AutoCAD format Version 2007 to the City's Engineering Department. (E)

RECLAIMED WATER IMPROVEMENTS. The Developer shall design reclaimed water improvements in accordance with City standards and as indicated below. (E)

INTERIOR STREETS (Rancho Las Flores Parkway, Upper Loop Road, Streets "III", "BBBB", "GGG", "HHHH", "SSS", "UU", "Q", "F", "BB", "LLL", "GGGG", "LL", "PP", and "QQ") RECLAIMED WATER. Interior reclaimed water service shall be designed per City and State Standards and per the Tapestry Specific Plan for reclaimed water pipelines. The Developer shall provide plans and profiles per City standards. Installation of the reclaimed water pipe locations shall coordinate with the dry utilities (E)

UTILITIES. NON-INTERFERENCE. The developer shall provide a letter of non-interference from Edison and permissions to grade, construct trails, street crossings and recreational uses within their existing easements.

DEDICATION TO CITY FOR PUBLIC FACILITIES. All tentative maps shall provide that roads, water, sewer, storm drain facilities and associated easements shall be dedicated to the City of Hesperia. Properties intended for parks, police, fire, schools and other public facilities must be dedicated to the City of Hesperia, the Hesperia Recreation and Park District or Hesperia Unified School District. (E)

PERIMETER STREETS. The Developer shall grant to the City an Irrevocable Offer of Dedication for Ryeland Road and Farmdale Avenue. The dedications shall be at twenty-eight (28') foot half-width per the Tapestry Specific Plan for a Local Roadway Standard. It is the Developers responsibility to obtain any additional Right-of-Way dedication needed to satisfy the 26' minimum paving requirement at no cost to the City. Corner cut-off right of way dedication per City standards is required at all intersections including interior roadways except at knuckles. Curb face is to be located at 18' from approved centerline. These improvements shall consist of: (E)

A. 6" Curb and Gutter per SPPWC (Greenbook) standard on the south side of Ryeland Road. Paving connection to all existing asphalt drive approaches on the north side of Ryeland Road.

B. 6" Curb and Gutter per SPPWC (Greenbook) standard on the east side of Farmdale Avenue.

C. Separated sidewalk (width = 5 feet) per City standards on the south

side of Ryeland Road and the east side of Farmdale Avenue.
D. Handicap ramps at all intersections per City standards.
E. Concrete residential drive approaches per City standards along Ryeland Road.
F. 26' (min.) paved roadway section per soils "R" value test and a traffic index of 8 (minimum section 6" AC over 4" aggregate base).
G. Roadway drainage device(s).
H. Streetlights per City standards.
I. Traffic control signs and devices as required by the traffic study and/or the City Engineer.
J. Parkway landscaping per the Tapestry Specific Plan for a Local Roadway Standard.

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OFF-SITE GRADING. All off-Site Grading, debris basins, slopes and temporary recycled water storage ponds shown on Tentative Tract Map 18955 (TT13-00001) that is needed to make site work shall remain with the developer and shall be maintained in good working order until the property is developed. (E)

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EMERGENCY ACCESS REQUIREMENTS. A minimum of two points of access shall be provided to each lot on the backbone map in accordance with City of Hesperia and San Bernardino County Fire Standards and the Fire Protection Plan dated July 7, 2014. Primary access shall be from Ranchero Rd and I Avenue and continuing south along Rancho Los Flores Parkway. Secondary access shall be from Ranchero and Farmdale Rd., entering the project at Ryeland Rd. and Street "QQ" continuing south and east along Street "O" until it connects with Rancho Las Flores Parkway. All access roads shall be constructed prior to any combustible construction. (F)

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FIRE SURFACE. Fire apparatus access roads shall be designed and maintained to support the imposed loads of fire apparatus in accordance with the Fire Protection Plan dated July 7, 2014. (F)

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FIRE TURNAROUND. An approved turnaround shall be provided at the end of each roadway one hundred and fifty (150) feet or more in length. Cul-de-sacs shall not provide access for more than 22 lots. Roadways shall not exceed a 12% grade and shall have a minimum forty (40) foot turning radius. (F)

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WATER SYSTEM-RESIDENTIAL. A water system approved by the Fire Department is required. The system shall be operational, prior to any combustibles being stored on the site. Fire hydrants shall be spaced no more than six hundred feet (600') apart, as measured along vehicular travel ways. Hydrants shall be installed concurrently with public street improvements. Temporary fire water systems are not permitted. (F)

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WATER SYSTEM. Prior to any land disturbance, the water systems shall be designed to meet the required fire flow for this development and shall be approved by the Fire Department. The required fire flow shall be determined by using California Fire Code. (F)

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EMERGENCY ACCESS REQUIREMENTS. Minimum 26-foot wide all-weather emergency/evacuation access shall be provided as approved by the San Bernardino County Fire Department connecting Lots 21 and 22. (F)

CONDITIONS REQUIRED PRIOR TO GROUND DISTURBING ACTIVITY

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PRE-CONSTRUCTION MEETING. Pre-construction meetings shall be held between the City, the Developer, grading contractors and special inspectors to discuss permit requirements, monitoring and other applicable environmental mitigation measures required prior to ground disturbance and prior to development of improvements within the public right-of-way. (B)

COMPLETED **COMPLIED BY**
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DUST CONTROL. Dust control shall be maintained before, during, and after all grading operations. (B)

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NOT IN COMPLIANCE

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CONSTRUCTION WASTE. The developer or builder shall contract with the City's franchised solid waste hauler to provide bins and haul waste from the proposed development. At any time during construction, should services be discontinued, the franchise will notify the City and all building permits will be suspended until service is reestablished. The construction site shall be maintained and all trash and debris contained in a method consistent with the requirements specified in Hesperia Municipal Code Chapter 15.12. All construction debris, including green waste, shall be recycled at Advance Disposal and receipts for solid waste disposal shall be provided prior to final approval of any permit. (B)

AGGREGATE RESOURCES. If necessary, the development of aggregate (natural) resources within the project shall be subject to the following conditions:

A. Plans shall be submitted to the City to be reviewed and approved in accordance with the Surface Mining and Reclamation Act, the City's Municipal Code and applicable California building codes.

B. Geotechnical investigations shall be conducted and findings implemented. If necessary, the design of pits shall properly ensure the stability of slopes.

C. Water or other dust palliatives shall be applied as necessary to minimize generation of fugitive dust during mining, processing and transport.

D. The main plant access road shall be paved with asphaltic concrete within 150 feet of a public road. Other access roads within 100 feet of the main plant access road shall be surfaced with 3 to 4 inches of crushed rock.

E. Appropriate measures to control runoff from runoff onto the processing sites shall be developed to avoid rapid erosion and downstream siltation.

F. Any disturbance of native vegetation shall be minimized.

G. Following completion of construction, disturbed areas which are undeveloped shall be revegetated with indigenous or other drought resistant species.

H. Any aggregate mining shall be restricted to the development period of the project.

I. Alternative truck routes shall be designed to reduce traffic congestion on existing and planned roadways.

J. When needed, earthen berms and other visual setbacks shall be required from surrounding land uses. (B)

S.W.P.P.P IMPLEMENTATION. The Developer shall implement the approved Storm Water Pollution Prevention Plan (S.W.P.P.P), which addresses the method of storm water run off control during construction prior to the grading permit being issued. (E)

RECORDATION OF FINAL MAP. The Final Map shall be approved by the City Council and Recorded with the County of San Bernardino. (E)

APPROVAL OF IMPROVEMENT PLANS. All improvement plans shall be prepared by a registered Civil Engineer per City standards and shall be approved and signed by the City Engineer. (E)

GROUNDWATER RECHARGE. Storm drains and detention or retention measures shall be designed to assist groundwater recharge and to minimize impact to downstream properties. All storm water facilities shall meet National Pollution Discharge Elimination Standards (NPDES) and local standards for the treatment of storm water prior to discharge into any natural wash or any storm drain system. (E)

EROSION CONTROL. Prior to issuance of any grading permit, the developer and all contractors shall comply with the State's Construction General Permit for grading and shall have all Best Management Practices (BMPs) in place. BMPs shall remain in place until all post-construction BMPs are in place and operational and the Notice of Termination (NOT) is filed and accepted by the State. (E)

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FIRE STATION. A Fire Station shall be constructed prior to any residential construction commencing within the project. The location shall be in or near Phase 1, to provide six minute response time, and shall be approved by the San Bernardino County Fire Department, per the Fire Protection Plan dated July 7, 2014. The developer shall contribute "fair share" cost as determined by the Public Facilities and Financing Plan (PFFP). (F)

PUBLIC FACILITY REVIEW. The applicant shall obtain approval of a Public Facility Review (PFR) application for the required wastewater treatment plant and lift stations. (P)

BIOLOGICAL REPORTS (Mitigation Measure BIO-1). Monitoring shall be provided by a qualified biologist approved by the City to ensure that construction does not have an impact upon listed species. The biologist shall attend a pre-construction meeting with the contractor and shall be present during construction, including full-time monitoring of all grubbing and clearing of vegetation. The biologist will have the authority to halt construction activities in an area if unauthorized impacts to sensitive biological resources occur. The qualified biologist shall also perform periodic inspections of construction (after grubbing and clearing of vegetation) once or twice per week, depending on the sensitivity of the adjacent biological resources. The qualified biologist shall send monthly monitoring reports to the City. At the end of construction of each phase, the biologist shall prepare a post-construction report for the City that documents the as-built impacts of construction so that mitigation requirements can be revised accordingly, if necessary. (P)

PROTECTED PLANTS PHASE I (Mitigation Measure BIO-3). Mitigation for permanent and temporary impacts to Mojave mixed scrub in Phase 1 shall occur as directed by a Phase 1 Mitigation Plan (see BIO-2 for Mitigation Plan contents) that is approved by the City prior to issuance of grading permits for Phase 1. The 70.6 acres of Mojave mixed scrub that would be retained in Phase 1 open space may be used in partial fulfillment of the mitigation requirement for the permanent impacts (Table 6-10, Mitigation for Permanent Impacts to Sensitive Vegetation Communities – Refined Project Alternative Phase 1). The remainder of the mitigation for the permanent impacts would be fulfilled through either on-site or off-site restoration, preservation of additional Mojave mixed scrub in a future phase, or off-site acquisition and purchase of land containing this vegetation community.

Phase 1 trail construction would temporarily impact approximately 1.3 acres of Mojave mixed scrub. Mitigation for these impacts could include revegetation in place (where practical), on-site or off-site restoration or preservation of additional Mojave mixed scrub in a future phase, or off-site acquisition and purchase of land containing this vegetation community. Since the impact is temporary, and the community is an upland, a 1:1 mitigation ratio is required. Therefore, 1.3 acres of mitigation shall be required.
(P)

HABITAT MANAGEMENT PLAN (Mitigation BIO-4). A Habitat Management Plan (HMP) shall be prepared and implemented for the 3,533 acres of conservation easement and open space in the Specific Plan area. The HMP shall outline the long-term, perpetual management of these areas in order to protect and monitor sensitive and special status biological resources in conformance with Mitigation Measure BIO-4. (P)

LISTED PROTECTED PLANTS (Mitigation Measures BIO-8 thru 11). Impacts to federal or state listed plant species shall first be avoided where feasible, and where not feasible, impacts shall be handled in accordance with a phase-specific Mitigation Plan and/or through on-site or off-site protection of habitat containing the plant(s) in accordance with Mitigation Measures BIO-8 thru 11. A qualified biologist shall prepare a phase-specific Mitigation Plan that indicates where and how mitigation would take place. The USFWS and/or CDFW (depending on whether the plants are federal and/or state listed) shall decide whether listed plants can be salvaged and relocated or if habitat supporting the plants shall be

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protected off-site. Each phase-specific Mitigation Plan shall also identify, at a minimum, the goals of the mitigation, responsible parties, timing of mitigation, methods of mitigation implementation, maintenance and monitoring requirements, final success criteria and contingency measures. (P)

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NONLISTED PROTECTED PLANTS (Mitigation Measure BIO-9). Impacts to non-listed, special status plant species shall first be avoided where feasible, and where not feasible, impacts shall be compensated, for example, through reseeded (with locally collected seed stock) of temporarily impacted areas and/or plant salvage and relocation to temporarily impacted areas, all within the Specific Plan area. A qualified biologist shall prepare a phase-specific Mitigation Plan in accordance with Mitigation Measure BIO-9. The Mitigation Plan shall be approved by the City prior to the issuance of grading permits for that phase. (P)

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PRE-CONSTRUCTION SURVEY (Mitigation Measures BIO-12 and 13). A pre-construction survey for the burrowing owl shall be conducted by a City-approved and licensed biologist, no more than 30 days prior to ground disturbance, consistent with Mitigation Measures BIO-12 and 13. Further, in accordance with the Staff Report on Burrowing Owl Mitigation (CDFW 2012), breeding and non-breeding season surveys shall be conducted by a qualified biologist to determine the presence/absence of the burrowing owl (*Athene cunicularia*; BUOW) for all phases of the development containing suitable BUOW habitat (potential suitable BUOW habitat is present throughout the Specific Plan area). The report shall be submitted to the City prior to issuance of the grading permit for each phase. (P)

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CULTURAL RESOURCES MANAGEMENT PLAN (Mitigation Measures CUL-1 thru 8). A Cultural Resources Management Plan shall be submitted prior to issuance of a grading permit for Phase 1. The Project proponent shall retain a qualified cultural resource management professional to finalize a Cultural Resources Management Plan (CRMP) for the entire Specific Plan Area that will detail how all known historical and archaeological resources within the Specific Plan area will be avoided or treated, consistent with Mitigation Measures CUL-1 thru 8. In addition, the CRMP will also detail how unknown historical and archaeological resources will be treated in the event of their discovery during construction activities. The CRMP shall be submitted to the City for review and approval. (P)

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CULTURAL RESOURCES UNANTICIPATED DISCOVERY PROTOCOL (Mitigation Measure CUL-7). The Project proponent shall minimize or avoid impacts to potentially significant archaeological resources discovered during construction by developing and implementing an Unanticipated Discovery Protocol as part of the CRMP in accordance with Mitigation Measure CUL-7. (P)

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CULTURAL RESOURCES TRAINING (Mitigation Measure CUL-9). Prior to onset of construction activities, a workshop shall be held to brief all construction workers and supervisors on the types of cultural and paleontological resources that could be found in the area, in accordance with Mitigation Measure CUL-9. The training shall identify the procedures to be followed should cultural or paleontological resources be encountered during construction as well as the penalties for unauthorized collection of artifacts or fossils and the need to temporarily redirect work away from the location of any unanticipated discovery of archaeological or paleontological resources until it is recorded and adequately documented and treated by a qualified professional. (P)

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PALEONTOLOGICAL RESOURCES FIELD SURVEY (Mitigation Measure CUL-10). Prior to issuance of grading permits for each project phase underlain by geologic units with high potential for fossil resources (Figure 3.5-1), the Project proponent shall retain a qualified paleontologist to undertake a comprehensive paleontological field survey of the area covered by the phase. (P)

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PALEONTOLOGICAL RESOURCES MANAGEMENT PLAN (Mitigation

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Measures CUL-11 thru 13). Prior to issuance of grading permits for phases determined to be underlain by geologic units with moderate or high potential to contain fossil resources, the Project proponent shall retain a qualified paleontologist to prepare and implement a Paleontological Resource Mitigation Plan (PRMP) in accordance with Mitigation Measures CUL-11 thru 13. The developer shall also provide evidence to the City that a qualified paleontologist has been retained to observe grading activities and to salvage and catalog fossils. The paleontologist shall be present at the pre-construction meeting, shall establish procedures for paleontological resource surveillance and shall also establish procedures for temporarily halting or redirecting work to permit sampling, identification and evaluation of fossils. (P)

DISCOVERY OF HUMAN REMAINS (Mitigation Measure CUL-14). In the event that human remains are encountered, work shall halt in the immediate vicinity of the discovery and the San Bernardino County coroner and a qualified cultural resources management professional will be contacted in accordance with Mitigation Measure CUL-14. If the human remains are determined to be those of a Native American, the coroner will notify the Native American Heritage Commission (NAHC) within 24 hours of identification. The NAHC will then identify the person(s) thought to be the Most Likely Descendent (MLD), who shall help determine what course of action should be taken in dealing with the human remains. Vehicles, equipment and unauthorized personnel will not be permitted within 60 feet of the discovery site until work is allowed to resume. Work may not resume until notification requirements and proper assessments have been completed. (P)

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LAND USE APPROVAL. Prior to nonresidential development, including the wastewater treatment plant, lift stations, and other required nonresidential improvements, a Land Use Application shall be filed with the Planning Division for review and approval. (P)

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DEVELOPMENT AGREEMENT. Prior to the issuance of any permits, the City and the developer shall enter into a development agreement to address all aspects of the project's development in accordance with state law, as well as the City of Hesperia's General Plan, Municipal Code and the adopted Tapestry Specific Plan. Prior to development within each phase, the required water and sewer facilities shall be evaluated to account for existing and proposed development as well as any Specific Plan Amendments or density transfers approved in accordance with the Specific Plan. (P)

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PUBLIC FACILITIES AND FINANCING PLAN. Development shall occur in conformance with an adopted Public Facilities and Financing Plan (PFFP) to be submitted to and approved by the City prior to issuance of any permits. The PFFP shall comprehensively address all required public infrastructure, and if necessary, include agreements with the Hesperia Unified School District and the Hesperia Recreation and Park District for payment of fees or dedication of land to address the impacts of the project on school and park facilities. (E, P)

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STATE AND FEDERAL APPROVALS. The Developer shall obtain all necessary state and federal permits, approvals and other entitlements, where applicable, prior to each phase of the development of the project. (P)

CONDITIONS REQUIRED PRIOR TO OCCUPANCY OF ANY UNIT

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HEALTH RISK ASSESSMENT (mitigation measure AIR-6). Upon completion of the plans and facility design for the proposed WWRP and sewer lift stations, a Health Risk Assessment shall be conducted to demonstrate that emissions would not expose sensitive receptors within 1,000 feet of the facility to substantial pollutant concentrations. (B)

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ODOR CONTROL MEASURES (Mitigation Measure AIR-7). Odor control measures shall be incorporated into the design of the WWRP and sewer lift stations to minimize odors. An odor analysis shall be conducted upon completion of facility design to ensure that odor emissions comply with

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ONGOING CONDITIONS

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NOT IN COMPLIANCE

MDAQMD Rule 42 and would not result in objectionable odors for residential uses within two miles of the WWRP and one mile of the sewer lift stations. (B)

UTILITY RELOCATION/UNDERGROUNDING. The developer is required to install water, sewer, or construct street improvements, or when required utilities shall be placed underground, it shall be the responsibility of the developer to relocate/underground any existing utilities at his/hers own expense. Relocation/under grounding of utilities shall be identified upon submittal of the construction plans. (P, E, W/S)

AS BUILT PLANS. The Developer shall provide as built plans, Notice of Completion, and One Year Maintenance Bonds to the Engineering / Water Sewer Departments. (E)

PUBLIC IMPROVEMENTS. All public improvements shall be completed by the Developer and approved by the Engineering Department. Existing public improvements determined to be unsuitable by the City Engineer shall be removed and replaced. (E)

SEWER CONNECTION REQUIRED. All residential, commercial, and institutional uses shall connect to sewer. The Developer is responsible for the construction of a wastewater treatment plant with solids handling capacity for the project and capacity for additional projects; producing recycled water suitable for irrigation of landscaped areas. Recycled water shall be utilized within the project to irrigate schools, parks, parkways and other landscaped areas. Design and operation of the wastewater treatment plant shall be coordinated with the City. (E)

FUEL MODIFICATION ZONE. The project shall comply with the Fuel Modification Design Criteria report dated July 7, 2014.

OFF-SITE SOUND WALL (Mitigation Measures NOI-10 and NOI-12). Prior to issuance of a Certificate of Occupancy for the Phase 1 area, the Project applicant shall, with the permission of the land owner or City (as applicable), install a sound wall along portions of Ranchero Road and "I" Avenue. The noise wall's height, location, and material will be determined through a site-specific acoustical analysis performed by a City-approved acoustical engineer or equivalent. The noise wall shall be of sufficient height and length to ensure that the exterior noise levels at residential outdoor use spaces does not exceed 65 CNEL in accordance with Mitigation Measures NOI-10 and NOI-12. (P)

MASONRY WALLS AND FENCING. The required split-face masonry walls and wrought iron fencing shall be completed in accordance with City standards. (P)

INTERIOR NOISE ATTENUATION (Mitigation Measures NOI-11 and 13). A site-specific acoustic analysis shall be conducted with the permission of the land owner (as applicable) to ensure that the exterior noise attenuation and/or building design limits the interior noise environment to 45 CNEL or below; this would be necessary for residences along portions of Ranchero Road and along "I" Avenue. Noise attenuation, such as double-paned windows, shall be installed where necessary to achieve interior noise levels that do not exceed 45 CNEL in accordance with Mitigation Measures NOI-11 and 13. The site-specific analysis shall be conducted by a City-approved acoustical engineer or equivalent. (P)

HYDRANT MARKING. Blue reflective pavement markers indicating fire hydrant locations shall be installed as specified by the Fire Department. (F)

NOTICE TO DEVELOPER: THIS CONCLUDES THE REQUIREMENTS FOR RECORDATION OF THE TENTATIVE TRACT MAP. IF YOU NEED ADDITIONAL INFORMATION OR ASSISTANCE REGARDING THESE CONDITIONS, PLEASE CONTACT THE APPROPRIATE DIVISION LISTED BELOW:

| | |
|--|-----------------|
| (B) Building Division | 947-1300 |
| (E) Engineering Division | 947-1476 |
| (F) Fire Prevention Division | 947-1603 |
| (P) Planning Division | 947-1200 |
| (RPD) Hesperia Recreation and Park District | 244-6488 |

ATTACHMENT "A"
List of Conditions for TT13-00001

Approval Date: January 26, 2016

Effective Date: March 04, 2016

Expiration Date: March 04, 2019

This list of conditions applies to the merchant map for the Tapestry Specific Plan Tentative Tract TT13-00001 (TT-18955), to create 2,104 residential units on approximately 986 gross acres within Phase 1 of the Specific Plan located within the northern portion of the project identified as the Mesa Village (Hesperia Venture I, LLC)

The use shall not be established until all conditions of this land use approval application have been met. This approved land use shall become null and void if all conditions have not been by the expiration date noted above. Extensions of time may be granted upon submittal of the required application and fee prior to the expiration date.

(Note: the "COMPLETED" and "COMPLIED BY" spaces are for internal City use only).

CONDITIONS REQUIRED AS PART OF SUBMITTAL OF PUBLIC IMPROVEMENT PLANS

| | | |
|--|---------------------------|--|
| <u>COMPLETED</u>
NOT IN COMPLIANCE | <u>COMPLIED BY</u> | STREET NAME APPROVAL. The developer shall submit a request for street names for all of the interior streets for review and approval by the Building Division. (B) |
| <u>COMPLETED</u>
NOT IN COMPLIANCE | <u>COMPLIED BY</u> | LIGHT AND LANDSCAPE DISTRICT ANNEXATION. Developer shall annex property into the lighting and landscape district administered by the Hesperia Recreation and Parks District for all parks two acres and larger (except view parks). The required forms are available from the Building Division and once completed, shall be submitted to the Building Division. (B) |
| <u>COMPLETED</u>
NOT IN COMPLIANCE | <u>COMPLIED BY</u> | FINAL MAP. A Final Map shall be prepared by or under the direction of a registered Civil Engineer or licensed Land Surveyor based upon a survey and shall conform to all provisions as outlined in Article 66433 of the Subdivision Map Act as well as the San Bernardino County Surveyor's Office Final Map Standards. (E) |
| <u>COMPLETED</u>
NOT IN COMPLIANCE | <u>COMPLIED BY</u> | PLANS. All required plans shall be prepared by a registered Civil Engineer per City standards and to the satisfaction of the City Engineer. Five sets of improvement plans shall be submitted to the Development Services Department and Engineering Department for plan review along with required checking fees. The Final Map, CDP Improvement Plans, requested studies and CFD annexation must be submitted as a package. (E) |
| <u>COMPLETED</u>
NOT IN COMPLIANCE | <u>COMPLIED BY</u> | DRAINAGE STUDY. The Developer shall submit the Final Hydrology Hydraulic study identifying the method of collection and conveyance of any tributary flows from off-site as well as the method of control for increased run-off generated on-site and any revisions caused by street/lot changes in the Map. (E) |
| <u>COMPLETED</u>
NOT IN COMPLIANCE | <u>COMPLIED BY</u> | TITLE REPORT. The Developer shall provide a complete title report 90 days or newer from the date of submittal. (E) |
| <u>COMPLETED</u>
NOT IN COMPLIANCE | <u>COMPLIED BY</u> | GEOTECHNICAL REPORT. The Developer shall provide two copies of the soils report to substantiate all grading, building and public improvement plans. Include R value testing and pavement recommendations for public streets. (E, B) |
| <u>COMPLETED</u>
NOT IN COMPLIANCE | <u>COMPLIED BY</u> | N.P.D.E.S. The Developer shall apply for the required NPDES (National Pollutant Discharge Elimination System) permit with the Regional Water Quality Control Board and pay applicable fees. (E) |
| <u>COMPLETED</u>
NOT IN COMPLIANCE | <u>COMPLIED BY</u> | STORM WATER POLLUTION PREVENTION PLAN. The Developer shall provide a Storm Water Pollution Prevention Plan (S.W.P.P.P.) which |

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addresses the method of storm water run-off control during construction.
(E)

PLAN CHECK FEES. Plan checking fees must be paid in conjunction with the improvement plan submittal. The Final Map, CDP improvement plans, requested studies and CFD annexation must be submitted as a package. The developer shall coordinate with the City's Engineering Department for any additional fees. Any outstanding fees must be paid before final inspection and the release of bonds. (E)

CONDITIONS, COVENANTS AND RESTRICTIONS. Conditions, Covenants and Restrictions (CC&Rs) shall be submitted for review and approval by the City prior to recordation. The CC&Rs shall contain the following provisions at a minimum:

A. Establishment of a homeowners association, including membership requirements, members and association rights (powers and obligations), selection of officers, and meetings, which shall occur at least once per quarter with special meetings to occur on an as needed basis, due to special circumstances. The association shall be developed and maintained for the operational lifetime of the project. The association shall operate and maintain all properties, buildings and amenities in accordance with the Specific Plan.

B. Maintenance provisions for parks less than 2 acres in size, view parks, common areas, open space, conservation easements, and trails shall be created to ensure that the project is maintained satisfactorily. The provisions shall include, but need not be limited to the trail systems; retention/detention and other drainage facilities; recreational facilities, including open areas and landscaped areas; walls, gates, fences and signage; and maintenance of buildings within parks and the heritage preserve.

C. Provisions for architectural controls and variances shall be included. Only an architectural review board composed of members of the association shall exercise judgments in these matters.

D. The CC&Rs shall be enforced by the association. Should the CC&Rs be deemed invalid in part by court action, the provisions required as part of this condition shall remain in full force and effect.

E. The CC&Rs or the common amenities addressed therein shall not be terminated, amended, or removed without the prior written authorization of the City of Hesperia.

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COMPOSITE DEVELOPMENT PLAN (CDP). Four copies of a CDP shall be submitted in accordance with Chapter 17.20 of the Municipal Code. CDP notes to be delineated are referenced in Section 17.20.020(C). A minimum of three different floor plans shall be provided, each with a minimum of three different elevations. At least one single story plan shall be provided.

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NOT IN COMPLIANCE

INDEMNIFICATION. As a further condition of approval, the Applicant agrees to and shall indemnify, defend, and hold the City and its officials, officers, employees, agents, servants, and contractors harmless from and against any claim, action or proceeding (whether legal or administrative), arbitration, mediation, or alternative dispute resolution process), order, or judgment and from and against any liability, loss, damage, or costs and expenses (including, but not limited to, attorney's fees, expert fees, and court costs), which arise out of, or are in any way related to, the approval issued by the City (whether by the City Council, the Planning Commission, or other City reviewing authority), and/or any acts and omissions of the Applicant or its employees, agents, and contractors, in utilizing the approval or otherwise carrying out and performing work on Applicants project. This provision shall not apply to the sole negligence, active negligence, or willful misconduct of the City, or its officials, officers, employees, agents, and contractors. The Applicant shall defend the City with counsel reasonably acceptable to the City. The City's election to defend itself, whether at the cost of the Applicant or at the City's own cost, shall not relieve or release the Applicant from any of its obligations under this Condition. (P)

COMPLETED **COMPLIED BY**
NOT IN COMPLIANCE

SPECIFIC PLAN. These conditions are concurrent with Ordinance No. 2015-10 becoming effective (Tapestry Specific Plan). (P)

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NOT IN COMPLIANCE

TAPESTRY SPECIFIC PLAN DEVELOPMENT REQUIREMENTS. Recordation or development within this tentative map is contingent upon compliance with all development requirements of the Tapestry Specific Plan, including but not limited to approval of the Development Agreement and a Public Facilities and Financing Plan. (E, P)

CONDITIONS REQUIRED PRIOR TO RECORDATION OF ANY PHASE OF THE FINAL MAP

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NOT IN COMPLIANCE

PRE-PAYMENT OF DEVELOPMENT IMPACT FEES. The Developer shall pre-pay \$12,000,000 of the street portion of the development impact fees prior to recordation of the first phase of the final map. These fees shall be used for improvements to Ranchero Road and I Avenue. (B)

COMPLETED **COMPLIED BY**
NOT IN COMPLIANCE

DEDICATION TO CITY FOR PUBLIC FACILITIES. All tentative maps shall provide that all roads, water, sewer, storm drain facilities and associated easements shall be dedicated to the City of Hesperia. Properties intended for parks, police, fire, schools and other public facilities must be dedicated to the City of Hesperia, the Hesperia Recreation and Park District or Hesperia Unified School District. (E)

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NOT IN COMPLIANCE

LETTERED LOTS. Lettered lots shall be dedicated to the City of Hesperia for drainage storm drain, retention basin, slope maintenance, and open space purposes. (E)

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NOT IN COMPLIANCE

IMPROVEMENT AGREEMENT/SURETY. The Developer shall execute Improvement and Grading Agreements and post surety for all public improvements. The amounts will be approved by the City Engineer. (E)

COMPLETED **COMPLIED BY**
NOT IN COMPLIANCE

DEDICATIONS. The Developer shall grant to the City of Hesperia an irrevocable Offer of Dedication for roadways and Grant of Easement(s) for storm drain and utility purposes as shown on the approved tentative map and as described below. (E)

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NOT IN COMPLIANCE

INTERIOR STREETS-IOD. The Developer shall grant to the City an irrevocable Offer of Dedication for the interior streets. Streets shall be a minimum of 56 feet wide for Local Roads per the Tapestry Specific Plan. Corner cut-off right of way dedication per City standards is required at all intersections, including interior roadways, except at knuckles. (E)

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NOT IN COMPLIANCE

COST ESTIMATE AND MATERIALS LIST. The Developer shall submit a cost estimate and materials list to the City's Engineering Department for all on-site and off-site public improvements per City standards. (E)

COMPLETED **COMPLIED BY**
NOT IN COMPLIANCE

GRADING PLAN. The Developer shall submit a Grading Plan with existing contours tied to an acceptable City of Hesperia benchmark. The grading plan shall indicate building footprints and proposed development of the retention basin(s) as a minimum. Site grading and building pad preparation shall include recommendations provided per the Preliminary Soils Investigation. All proposed walls shall be indicated on the grading plans showing top of wall (tw) and top of footing (tf) elevations along with finish grade (fg) elevations. Wall height from finish grade (fg) to top of wall (tw) shall not exceed 10 feet in height. Grading Plans are subject to a full review by the City of Hesperia and the City Engineer upon submittal of the Improvement Plans. (E)

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NOT IN COMPLIANCE

ON-SITE RETENTION. The Developer shall construct on-site retention facilities which have minimum impact to ground water quality. All retention basins shall be designed to effectively handle both nuisance and storm water flows without accumulating standing water for a period longer than 72 hours. All dry wells in retention basins shall be Two-Stage Systems per C.O.H Standard SP-1 with a minimum depth of 30 feet and a maximum depth to be determined by soils engineer at the time of the boring test. Retention basins over 18 inches in depth shall be fenced on all sides and shall have a paved 14-foot wide (min.) 12 percent (max.) access with a 20'

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x 20' concrete parking apron at the bottom of the ramp. The maximum depth of any on-site retention basin shall be 6 feet. Side slopes in excess of 3:1 shall provide erosion control per City requirements. (E)

STREET IMPROVEMENTS. The Developer shall design street improvements in accordance with City standards and these conditions. (E)

INTERIOR STREETS. Shall be designed to the City standard for a 56-foot wide Local Road per the Tapestry Specific Plan, as indicated below. Curb face is to be at 18 feet from centerline: (E)

- A. 6" Curb and Gutter per City standards.
- B. Separated sidewalk (width = 5 feet) per City standards.
- C. Handicapped ramps at all intersections per City standards.
- D. Concrete residential driveway per City standards.
- E. Full paved roadway section (minimum section 3 A.C. over 4 aggregate base).
- F. Roadway drainage device(s).
- G. Streetlights per City standards.
- H. Traffic control signs and devices as required by the traffic study and/or the City Engineer.

SECONDARY ACCESS. The Developer is responsible to provide and construct Secondary Access for each phase of the tract. The street improvement (26-foot Min paved section) is required for secondary access per City standards. The Developer shall provide the City with a circulation plan that identifies the best connection points to existing paved street frontages. It is the Developer's responsibility to obtain off-site roadway dedications prior to City Council approval of the Final Map. These improvements shall consist of: (E)

- A. Pavement sections shall be designed per R value testing using a T.I. of 6. The minimum pavement section shall be 3 A.C. over 4 Class II aggregate base.
- B. Pavement transitions per City standards.
- C. Roadway drainage device(s).
- D. Traffic control signs and devices as required by the City Engineer.
- E. Provide a signage and striping plan per City standards.

UTILITY PLAN. The Developer shall design a Utility Plan for service connections, private hydrant locations and sewer connections. The Developer shall adjust any existing fire hydrants to grade that are affected by the construction of the proposed project improvements. (E)

UTILITY EASEMENTS. The Developer shall grant to the City Utility Easements as required to install required water, sewer and storm drain facilities as conditioned below. Said easements shall be indicated on the appropriate final map per the Subdivision Map Act. Off-site easements may be required to complete the infrastructure. (E)

UTILITIES. Utility plans shall be in accordance with City standards as described below. (E)

- A. During construction the entire tract shall have a Master Water Meter per City standards. The Master Meter shall remain in place until all lots are occupied, at which time the individual meters shall be set and activated per City standards.
- B. Fire Fly automatic meter reader to be added on all meter connections.

WATER IMPROVEMENTS. The Developer shall design water improvements in accordance with City standards and as indicated below. (E)

INTERIOR STREETS- WATER. Interior water service shall be a looped system of 8" minimum P.V.C. water lines with hydrants at 660 foot intervals, including loops through the cul de sacs utilizing utility easements. Water mains in easements shall be ductile iron pipe. All utility easements shall be 15 feet minimum in width on one lot unless it is shared with another utility, in which case 20 feet is required on one lot per City standards. It is the Developer's responsibility to obtain any dedication(s) or

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easement(s) needed to construct water line. The Developer shall provide plan and profile per City standards. (E)

SEWER IMPROVEMENTS. The Developer shall design sewer improvements in accordance with City standards, and as indicated below. (E)

INTERIOR STREETS- SEWER. The Developer shall provide the appropriate sewer lines necessary to serve the project per the City Engineer. The Developer is required to provide a minimum diameter of 8" S.D.R. 35 P.V.C. sewer lines within the tract. Any sewer easements that are required will be a minimum of 15 feet in width on one lot unless it is shared with another utility, in which case 20 feet on one lot is required. It is the Developer's responsibility to obtain any dedication(s) or easement(s) needed to construct sewer line. The Developer shall provide plans and profiles per City standards. (E)

STORM DRAIN IMPROVEMENTS. The Developer shall design storm drain improvements in accordance with City standards as indicated below. (E)

INTERIOR STREETS- Storm Drain. The Developer shall provide the appropriate storm drains necessary to serve the project per the Master Drainage Study for the Tapestry Specific Plan and the City Engineer. (E)

ELECTRONIC COPIES. The Developer shall provide electronic copies of the approved project in AutoCAD format Version 2007 to the City's Engineering Department. (E)

FIRE ACCESS. The development shall have a minimum of TWO points of vehicular access. These are for fire emergency equipment access and for evacuation routes. Single Story Road Access Width. All buildings shall have access provided by approved roads, alleys and private drives with a minimum twenty six (26) foot unobstructed width and vertically to fourteen (14) feet six (6) inches in height. Other recognized standards may be more restrictive by requiring wider access provisions. Multi Story Road Access Width. Buildings three (3) stories in height or more shall have a minimum access of thirty (30) feet unobstructed width and vertically to fourteen (14) feet six (6) inches in height. All Fire access shall comply with the Fire Protection Plan dated July 7, 2014. (F)

WATER SYSTEM. Prior to any land disturbance, the water systems shall be designed to meet the required fire flow for this development and shall be approved by the Fire Department. The required fire flow shall be determined by using California Fire Code. (F)

WATER SYSTEM-RESIDENTIAL. A water system approved by the Fire Department is required. The system shall be operational, prior to any combustibles being stored on the site. Fire hydrants shall be spaced no more than six hundred (600) feet apart (as measured along vehicular travel ways) and no more than three hundred (300) feet from any portion of a structure. Temporary fire water systems are not permitted. (F)

FIRE TURNAROUND. An approved turnaround shall be provided at the end of each roadway one hundred and fifty (150) feet or more in length. Cul-de-sacs shall not provide access for more than 22 lots. Roadways shall not exceed a 12% grade and shall have a minimum forty (40) foot turning radius. (F)

EMERGENCY ACCESS. A minimum 26-foot wide all-weather emergency/evacuation access with gates and Knox boxes at each end shall be developed within Lots "UUU" and "ZZZ." This will provide a necessary connection between Streets "JJJJ" and "RRRR" in accordance with San Bernardino County Fire Department standards. (F)

AVIGATION EASEMENT. A portion of the project site is located within Safety Area C for Hesperia Airport as identified in the City's adopted Comprehensive Airport Land Use Plan. The developer shall record an Avigation Easement to Hesperia Airport as approved by the City Attorney.

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The easement and the required application and fees shall be submitted to the Planning Division prior to review and approval by the City for recordation. (P)

CONCURRENCY PLAN. Prior to recordation of a final map for any phase, a concurrency plan shall be submitted to the City illustrating improvements outlined in the PFFP required to be constructed with that phase. The concurrency plan must be approved by the reviewing authority prior to issuance of permits for development within the associated phase. (P)

CONDITIONS REQUIRED PRIOR TO GROUND DISTURBING ACTIVITY

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NOT IN COMPLIANCE

DEMOLITION OF ON-SITE STRUCTURES (Mitigation Measure HAZ-1). Prior to implementing associated demolition operations, an evaluation of the potential occurrence of asbestos-containing materials (ACMs), lead-based paint (LBP) and/or polychlorinated biphenyls (PCBs) shall be conducted for demolition/removal of pertinent on-site structures, including the abandoned fire station and telephone office, previously occupied structures in the "rock house" complex and applicable power pole transformers in accordance with Mitigation Measure HAZ-1. (B)

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NOT IN COMPLIANCE

ACOUSTIC STUDY (Mitigation Measure NOI-1). Prior to approval of building permits for residential development along Rancho Las Flores Parkway and all on-site four lane roads within the Specific Plan area (including Phase 1), a site-specific interior acoustic analysis shall be conducted using the Year 2036 Buildout Traffic volumes for all single- and multi-family residences proposed for development in areas where exterior sound levels are projected to exceed 60 Community Noise Equivalent Level (CNEL). The analysis shall ensure that the building design limits the interior noise environment to 45 CNEL or below in accordance with Mitigation Measure NOI-1. (B)

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NOISE BARRIERS (Mitigation Measure NOI-3). Prior to approval of building permits for residential or park development along Rancho Las Flores Parkway, noise barriers shall be constructed that reduce exterior use area noise levels to City standards (below 65 CNEL) in accordance with Mitigation Measure NOI-3. (B)

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NOT IN COMPLIANCE

PRE-CONSTRUCTION MEETING. Pre-construction meetings shall be held between the City the Developer grading contractors and special inspectors to discuss permit requirements, monitoring and other applicable environmental mitigation measures required prior to ground disturbance and prior to development of improvements within the public right-of-way. (B)

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NOT IN COMPLIANCE

DUST CONTROL. Dust control shall be maintained before, during, and after all grading operations. (B)

COMPLETED **COMPLIED BY**
NOT IN COMPLIANCE

CONSTRUCTION WASTE. The developer or builder shall contract with the City's franchised solid waste hauler to provide bins and haul waste from the proposed development. At any time during construction, should services be discontinued, the franchise will notify the City and all building permits will be suspended until service is reestablished. The construction site shall be maintained and all trash and debris contained in a method consistent with the requirements specified in Hesperia Municipal Code Chapter 15.12. All construction debris, including green waste, shall be recycled at Advance Disposal and receipts for solid waste disposal shall be provided prior to final approval of any permit. (B)

COMPLETED **COMPLIED BY**
NOT IN COMPLIANCE

RETENTION AND DRAINAGE FACILITIES. The required retention basin(s) and other drainage facilities for each phase shall be designed and completed in accordance with City standards. (E, P)

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NOT IN COMPLIANCE

EROSION CONTROL. Prior to issuance of a grading permit, the developer and all contractors shall comply with the State's Construction General Permit for grading and shall have all Best Management Practices (BMPs) in place. BMPs shall remain in place until all post-construction BMPs are in place and operational and the Notice of Termination (NOT) is

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filed and accepted by the State. (E)

STORM WATER POLLUTION PREVENTION PLAN. The Developer shall provide a Storm Water Pollution Prevention Plan (S.W.P.P.) which addresses the method of storm water run-off control during construction. (E)

RECORDATION OF FINAL MAP. Final Map shall be approved by City Council and Recorded with the County of San Bernardino. (E)

APPROVAL OF IMPROVEMENT PLANS. All improvement plans shall be prepared by a registered Civil Engineer per City standards and shall be approved and signed by the City Engineer. (E)

MEDIUM DENSITY RESIDENTIAL LOTS. The Developer shall provide a site plan for review and approval for the development of any portion of Lots 25 and 26 of Tract 18989. (P)

COMBUSTIBLE PROTECTION. Prior to combustibles being placed on the project site, an approved all-weather fire apparatus access surface and operable fire hydrants with acceptable fire flow shall be installed. (F)

FIRE SPRINKLER NFPA#13/13D/13R. Automatic fire sprinkler systems complying with NFPA Pamphlet #13/13D/13R and the Fire Department standards are required. The fire sprinkler contractor shall submit three (3) sets of plans (minimum 1/8" scale) and shall include hydraulic calculations and manufacturer's specification sheets. The required fees shall be paid at the time of plan submittal. (F)

FUEL MODIFICATION ZONE. The project shall comply with the Fuel Modification Design Criteria report dated July 7, 2014. (F)

SENSITIVE PLANT COMMUNITIES (Mitigation Measure BIO-2). During the City's normal project-specific environmental review (Initial Study) process for all future, discretionary, public improvement and private development projects beyond Phase 1, the City shall determine the possible presence of, or confirm the extent of, potential impacts of the action on sensitive vegetation communities. Mitigation for impacts to sensitive vegetation communities shall be provided in accordance with Mitigation Measure BIO-2, prior to the issuance of grading permits for each phase of development. (P)

JURISDICTIONAL DELINEATION (Mitigation Measure BIO-5). During the City's normal project-specific environmental review (Initial Study) process for all future, discretionary, public improvement and private development projects beyond Phase 1, a qualified biologist shall conduct a jurisdictional delineation to identify Waters of the US (WUS) and Waters of the State (WS) in accordance with Mitigation Measure BIO-5. The results of the delineation shall be summarized in a Jurisdictional Delineation Report, subject to approval by the City, RWQCB, U.S. Army Corps of Engineers (USACE) and California Department of Fish and Wildlife (CDFW). (P)

IMPACT MITIGATIONS FOR WATERS OF THE US AND WATERS OF THE STATE (Mitigation Measure BIO-6). Impacts upon Waters of the US and Waters of the State shall first be avoided and then minimized to the maximum extent practicable by the Project design. Where avoidance of these areas is not feasible, mitigation shall be provided in accordance with Mitigation Measure BIO-6 to the satisfaction of the City, USACE, CDFW, and/or RWQCB, as applicable. The types of mitigation required may include on-site protection, enhancement, restoration, establishment (creation) or a combination thereof. Mitigation shall be in-kind and in the same watershed as the impacts. (P)

LISTED PROTECTED PLANTS (Mitigation Measures BIO-8 thru 11). During the City's normal project-specific environmental review (Initial Study) process for all future, discretionary, public improvement and private development projects, a qualified biologist shall conduct surveys during

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the appropriate season(s) to identify special status plant species locations and numbers within the subject phase of development in accordance with Mitigation Measures BIO-8 thru 11. The results of the surveys shall be summarized in a report, subject to approval by the City. (P)

NONLISTED PROTECTED PLANTS (Mitigation Measure BIO-9). Impacts to non-listed, special status plant species shall first be avoided where feasible, and where not feasible, impacts shall be compensated, for example, through reseeding (with locally collected seed stock) of temporarily impacted areas and/or plant salvage and relocation to temporarily impacted areas, all within the Specific Plan area. A qualified biologist shall prepare a phase-specific Mitigation Plan in accordance with Mitigation Measure BIO-9. The Mitigation Plan shall be approved by the City prior to the issuance of grading permits for that phase. (P)

PRE-CONSTRUCTION SURVEY (Mitigation Measures BIO-12 and 13). A pre-construction survey for the burrowing owl shall be conducted by a City-approved and licensed biologist, no more than 30 days prior to ground disturbance, consistent with Mitigation Measures BIO-12 and 13. Further, in accordance with the Staff Report on Burrowing Owl Mitigation (CDFW 2012), breeding and non-breeding season surveys shall be conducted by a qualified biologist to determine the presence/absence of the burrowing owl (*Athene cunicularia*; BUOW) for all phases of the development containing suitable BUOW habitat (potential suitable BUOW habitat is present throughout the Specific Plan area). The report shall be submitted to the City prior to issuance of the grading permit for each phase. (P)

AVIAN BREEDING SURVEY (Mitigation Measure BIO-18). It is anticipated that vegetation clearing shall generally be scheduled to take place outside of the general avian breeding season (which generally occurs from February through August). Tree removal/trimming shall generally be scheduled to take place outside the raptor breeding season (which generally occurs from January through August). Each phase of development will be subject to the specific date restrictions in use by the City at the time grading permits for that phase are issued. If vegetation clearing and/or tree removal/trimming cannot occur outside the general avian and raptor breeding seasons, then a pre-construction survey for avian nesting shall be conducted by a qualified biologist within seven calendar days prior to construction. A report summarizing the survey results shall be submitted to the City prior to the initiation of grading activities. (P)

CULTURAL RESOURCES MANAGEMENT PLAN (Mitigation Measures CUL-1 thru 8). Prior to issuance of grading permits for each Project phase beyond Phase 1, any historical or archaeological resources identified within the area covered by the TTM that cannot feasibly be preserved in place shall be evaluated for listing on the CRHR in accordance with Mitigation Measures 1 thru 8. To obtain sufficient data to assess the significance and integrity of the affected cultural resources, a cultural resources evaluation program shall be completed by a qualified cultural resources management professional. The evaluation program will include the development of an appropriate research design and methodological approach to evaluate all known historical and archaeological resources that have the potential to be impacted by development. The findings of the cultural resources evaluation program shall be presented in a technical report to be submitted to the City for review and approval. (P)

CULTURAL RESOURCES UNANTICIPATED DISCOVERY PROTOCOL (Mitigation Measure CUL-7). The Project proponent shall minimize or avoid impacts to potentially significant archaeological resources discovered during construction by developing and implementing an Unanticipated Discovery Protocol as part of the CRMP in accordance with Mitigation Measure CUL-7. (P)

CULTURAL RESOURCES TRAINING (Mitigation Measure CUL-9). Prior to the onset of construction activities, a workshop shall be held to brief all construction workers and supervisors on the types of cultural and

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COMPLETED **COMPLIED BY**
NOT IN COMPLIANCE

paleontological resources that could be found in the area in accordance with Mitigation Measure CUL-9. The training shall identify the procedures to be followed should cultural or paleontological resources be encountered during construction as well as the penalties for unauthorized collection of artifacts or fossils and the need to temporarily redirect work away from the location of any unanticipated discovery of archaeological or paleontological resource until it is recorded and adequately documented and treated by a qualified professional. (P)

PALEONTOLOGICAL RESOURCES FIELD SURVEY (Mitigation Measure CUL-10). Prior to issuance of grading permits for each project phase underlain by geologic units with high potential for fossil resources (Figure 3.5-1), the Project proponent shall retain a qualified paleontologist to undertake a comprehensive paleontological field survey of the area covered by the TTM. (P)

COMPLETED **COMPLIED BY**
NOT IN COMPLIANCE

PALEONTOLOGICAL RESOURCES MANAGEMENT PLAN (Mitigation Measures CUL-11 thru 13). Prior to issuance of grading permits for phases determined to be underlain by geologic units with moderate or high potential to contain fossil resources, the Project proponent shall retain a qualified paleontologist to prepare and implement a Paleontological Resource Mitigation Plan (PRMP) in accordance with Mitigation Measures CUL-11 thru 13. The developer shall also provide evidence to the City that a qualified paleontologist has been retained to observe grading activities and to salvage and catalog fossils. The paleontologist shall be present at the pre-construction meeting, shall establish procedures for paleontological resource surveillance and shall also establish procedures for temporarily halting or redirecting work to permit sampling, identification and evaluation of fossils. (P)

COMPLETED **COMPLIED BY**
NOT IN COMPLIANCE

DISCOVERY OF HUMAN REMAINS (Mitigation Measure CUL-14). In the event that human remains are encountered, work shall halt in the immediate vicinity of the discovery and the San Bernardino County coroner and a qualified cultural resources management professional will be contacted in accordance with Mitigation Measure CUL-14. If the human remains are determined to be those of a Native American, the coroner will notify the Native American Heritage Commission (NAHC) within 24 hours of identification. The NAHC will then identify the person(s) thought to be the Most Likely Descendent (MLD), who shall help determine what course of action should be taken in dealing with the human remains. Vehicles, equipment and unauthorized personnel will not be permitted within 60 feet of the discovery site until work is allowed to resume. Work may not resume until notification requirements and proper assessments have been completed. (P)

COMPLETED **COMPLIED BY**
NOT IN COMPLIANCE

LAND USE APPROVAL. Prior to nonresidential development, a Land Use Application shall be filed with the Planning Division for review and approval. (P)

COMPLETED **COMPLIED BY**
NOT IN COMPLIANCE

LANDSCAPE AND IRRIGATION PLANS. The Developer shall submit three sets of landscape and irrigation plans including water budget calculations, required application fees and completed landscape packet to the Building Division with the required application fees. The landscaping plans shall be for the required landscaping along arterial streets, landscaping area along the street side yard and front yards of numbered lots, and within retention areas as required by the Planning Division. Plans shall utilize xeriscape landscaping techniques in conformance with the Landscaping Ordinance. The number size type and configuration of plants approved by the City shall be maintained in accordance with the Development Code. (P, RPD)

COMPLETED **COMPLIED BY**
NOT IN COMPLIANCE

STATE AND FEDERAL APPROVALS. The Developer shall obtain all necessary state and federal permits, approvals and other entitlements, where applicable, prior to each phase of the development of the project. (P)

CONDITIONS REQUIRED PRIOR TO OCCUPANCY OF ANY UNIT

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COMPLETED **COMPLIED BY**
NOT IN COMPLIANCE

HVAC CONDENSER NOISE ATTENUATION (Mitigation Measure NOI-4). Prior to issuance of Certificates of Occupancy for each development phase, attenuation of exterior heating, ventilation and air conditioning (HVAC) noise to levels to 55 dBA LEQ (for usable outdoor space) shall be ensured in accordance with Mitigation Measure NOI-4. (B)

MODEL HOME COMPLEXES. Model homes and sales trailers require approval of a Temporary Occupancy Permit. Building permits for the garage conversion to an office; signage etc. shall be submitted and approved prior to their establishment. (B)

RESOURCE AND ENERGY CONSERVATION. Water conserving appliances and energy-saving devices, including solar panels, shall be installed at all residences, as well as commercial, industrial and other related structures to minimize energy and water use in the project and shall be a condition of issuance of building permits in accordance with Section 7 of the Tapestry Specific Plan. Architectural standards shall be considered, but shall not be used to preclude the deployment of solar panels on buildings or structures within the Tapestry Specific Plan. (B)

GROUNDWATER RECHARGE. Storm drains and detention or retention measures shall be designed to assist groundwater recharge, and to minimize impact to downstream properties. All storm water facilities shall meet National Pollution Discharge Elimination Standards (NPDES) and local standards for the treatment of storm water prior to discharge into any natural wash or any storm drain system. (E)

UTILITY RELOCATION/UNDERGROUND. The developer is required to install water, sewer or construct street improvements or when required utilities shall be placed underground, it shall be the responsibility of the developer to relocate/underground any existing utilities at his/hers own expense. Relocation/under grounding of utilities shall be identified upon submittal of the construction plans. (P, E, W/S)

AS-BUILT PLANS. The Developer shall provide as-built plans, Notice of Completion, and One Year Maintenance Bonds to the Engineering / Water Sewer Departments. (E)

PUBLIC IMPROVEMENTS. All public improvements shall be completed by the Developer and approved by the Engineering Department. Existing public improvements determined to be unsuitable by the City Engineer shall be removed and replaced. (E)

UTILITY RELOCATION/UNDERGROUND. The developer is required to install water, sewer or construct street improvements or when required utilities shall be placed underground, it shall be the responsibility of the developer to relocate/underground any existing utilities at his/hers own expense. Relocation/under grounding of utilities shall be identified upon submittal of the construction plans. (P, E, W/S)

FIRE STATIONS (Mitigation Measure PUB-1). Prior to issuance of Certificates of Occupancy for each development phase, the applicant shall demonstrate to the satisfaction of the Fire Chief that fire service facilities existing at that time are adequate to enable the fire protection servers to achieve the City's response time goal of six minutes for the subject development phase and existing development in accordance with Mitigation Measure PUB-1. (F)

HYDRANT MARKING. Blue reflective pavement markers indicating fire hydrant locations shall be installed as specified by the Fire Department. (F)

Landscaping/irrigation. The Developer shall install the landscaping and irrigation as required by the Planning Division. (P)

PARKS AND TRAILS. Parks as well as pedestrian, equestrian, and bicycle trails shall be designed and developed in accordance with the Specific Plan and constructed in accordance with the concurrency plan approved by the City of Hesperia and dedicated to the City or the City's designee.

COMPLETED **COMPLIED BY**
NOT IN COMPLIANCE

(P, RPD)

FENCING PLANS. A Low Masonry Wall with W.I. Fencing shall be constructed on private property along the boundary of the retention basins in accordance with Section 16.4.6 of the Tapestry Specific Plan (except along the boundary of the basin abutting private lots, where a six foot high split face masonry wall with decorative cap is required). Two complete sets of engineered construction plans for the required fencing shall be submitted to the Building and Safety counter. (P)

COMPLETED **COMPLIED BY**
NOT IN COMPLIANCE

MASONRY WALLS AND FENCING. The required masonry walls and wrought iron fencing shall be completed in accordance with City standards. (P)

ONGOING CONDITIONS

COMPLETED **COMPLIED BY**
NOT IN COMPLIANCE

TRASH AND WASTE REDUCTION. Transfer stations associated with waste reduction facilities and programs shall be implemented to help meet countywide and statewide waste reduction and recycling objectives. The project shall implement procedures regarding construction debris in accordance with the City's Municipal Code, and shall utilize the City's franchised trash company. (B)

COMPLETED **COMPLIED BY**
NOT IN COMPLIANCE

VALIDATION OF TRAFFIC IMPACT ANALYSIS. The Traffic Impact Analysis (TIA) shall be reviewed and validated prior to issuance of building permits for the 1st unit within Phase 1 and the project conditions of approval shall be adjusted accordingly. The TIA shall be revalidated for each additional 10% of the units within Phase 1 in order to prioritize and require construction of infrastructure improvements, including but not limited to, the four off-site traffic signals to be constructed along Ranchero Road (Maple Avenue, Seventh Avenue, Farndale Avenue and Danbury Avenue, along with the associated widening of street segments and intersections). Prior to development within subsequent phases, the TIA shall be validated to account for existing and proposed development as well as any Specific Plan Amendments or density transfers approved in accordance with the Specific Plan. In addition to the foregoing, the developer shall:

a. Construct off-site improvements including widening of Ranchero Road from Mariposa Road to Seventh Avenue, and then from Danbury Avenue to I Avenue per the approved Traffic Impact Analysis (TIA). Improvements shall include a multi-lane bridge over the Southern California Aqueduct and expansion of the Railroad at-grade crossing. (E, P)

COMPLETED **COMPLIED BY**
NOT IN COMPLIANCE

BUS STOPS AND TURNOUTS. The Specific Plan shall include facilities to promote circulation efficiency, such as bus stops and turnouts. A comprehensive operational analysis shall be completed in cooperation with the Victor Valley Transit Authority to determine service capabilities and associated costs. The timing and implementation of the required transit facilities and equipment shall be included in the PFFP and said facilities shall be incorporated into the approved plans for each development phase and tentative map. (E)

COMPLETED **COMPLIED BY**
NOT IN COMPLIANCE

STREET AND HIGHWAY FUNDING AND IMPROVEMENTS. The number of units that may be permitted at any given time shall be conditioned on the construction of the required improvements to the Hesperia Street network, including Ranchero Road or other alternative routes which are determined by the City to be needed to accommodate the increased volume of circulation to be generated by the development and to the construction of other required infrastructure and public or community facilities needed to support the proposed units. These required improvements shall be substantiated by the traffic impact analysis and any subsequent validations as the project is developed. (E, P)

COMPLETED **COMPLIED BY**
IN COMPLIANCE

OFF-ROAD VEHICLE USE PROHIBITED. Recreational all-terrain vehicle use shall be prohibited throughout the project area. (P)

COMPLETED **COMPLIED BY**

WOOD BURNING FIREPLACES/OPEN BURNING. Open burning will be

NOT IN COMPLIANCE

restricted or prohibited within the project area. Fireplaces shall not be designed to burn wood. Fireplaces using natural gas or pellet stoves are permitted. (P)

NOTICE TO DEVELOPER: THIS CONCLUDES THE REQUIREMENTS FOR RECORDATION OF THE TENTATIVE TRACT MAP. IF YOU NEED ADDITIONAL INFORMATION OR ASSISTANCE REGARDING THESE CONDITIONS, PLEASE CONTACT THE APPROPRIATE DIVISION LISTED BELOW:

| | |
|--|-----------------|
| (B) Building Division | 947-1300 |
| (E) Engineering Division | 947-1476 |
| (F) Fire Prevention Division | 947-1603 |
| (P) Planning Division | 947-1200 |
| (RPD) Hesperia Recreation and Park District | 244-5488 |

EXHIBIT “F”

LOCAL GOALS AND POLICIES FOR COMMUNITY FACILITIES DISTRICT FINANCING

CITY OF HESPERIA AMENDED AND RESTATED LOCAL GOALS AND POLICIES FOR COMMUNITY FACILITIES DISTRICT FINANCING

1. Introduction. The following goals and policies are established pursuant to the Mello-Roos Community Facilities Act of 1982 (California Government Code Section 53311 et seq.) (the “Act”) respecting the establishment of new community facilities districts (“CFDs”) and, if applicable, the authorization, issuance, and sale of special tax bonds by the City of Hesperia (the “City”) on behalf of such CFDs as set forth in the Act. These goals and policies are intended to satisfy the minimum requirements of the Act, and may be amended or supplemented by resolution of the City at any time.

2. General Policy. The City may utilize the Act for (1) the acquisition, construction, and/or financing of all or a portion of the cost and expense of any and all public capital improvements authorized under the Act (“Facilities”); and (2) the financing of all or a portion of services authorized under the Act (“Services”). Such Facilities and/or Services must serve a public purpose for the City and its inhabitants.

3. Eligible Public Facilities and Services. Facilities proposed to be financed through a CFD must be owned, operated, or maintained by the City or other public agency or public utility approved by the City. The funding of Facilities to be owned, operated, or maintained by public agencies or public utilities other than the City shall be considered and approved on a case-by-case basis. Any such funding of Facilities to be owned, operated, or maintained by public agencies or public utilities other than the City shall be pursuant to a joint community facilities agreement or joint exercise of powers agreement if required by the Act.

It is acknowledged that the Act permits the financing of fee obligations imposed by governmental agencies the proceeds of which fees are to be used to fund public capital improvements of the nature listed above. A CFD may also be formed for the purpose of refinancing any fixed special assessment or other governmental lien on property, to the extent permitted under the Act.

To the extent required by the Act, the CFD may only finance Services authorized pursuant to a landowner vote to the extent they are in addition to those provided in the territory of the CFD before the CFD was created, and the additional Services may not supplant services already available within the territory of the CFD when the CFD was created.

4. Priorities for CFD Financing. Priorities for funding of Facilities from the proceeds of bonds issued by or on behalf of the CFD shall be given to the following:

1. Large-scale projects with Facilities that constitute regional infrastructure required to serve the proposed development (i.e. “backbone” infrastructure).
2. Projects responsible for constructing major unfunded public infrastructure like bridges, sewer treatment plants or other master planned facilities deemed necessary by the City.

3. Projects which contribute Facilities which assist with affordable housing goals.
 4. Projects which fund Facilities which would provide regional, national and international recognition to the City of Hesperia.
 5. Facilities for which there is a clearly demonstrated public benefit.
 6. Other Facilities permitted by the Act.
7. CFD financing of fee obligations is not a high priority for the City. In the event the City is asked to consider CFD financing of fee obligations, it will prioritize fees for large-scale projects that will be used to fund acquisition or construction of Facilities that constitute regional infrastructure. The City will prioritize financing fees to be paid to the City because of the administrative burden associated with financing fees payable to other local agencies.

The City reserves the right to make exceptions to the priorities stated in this Section when circumstances warrant.

A CFD may finance any Services permitted by the Act to be performed by the City or any other public agency. Subject to the conditions set forth in the Act, priority for Services to be financed shall be given to Services which (1) are necessary for the public health, safety and welfare (including, but not limited to, public safety services); and (2) would otherwise be paid from the City's general fund, the general fund of a component entity of the City (for example, the Hesperia Fire Protection District). The City may finance services to be provided by another local agency if it determines the public convenience and necessity require it to do so.

5. Credit Quality Requirements for CFD Bond Issues.

5.1 Requirements CFD bond issues shall have at least a three to one (3:1) value-to- lien ratio after including the value of the installation of the Facilities to be financed. The value of the property to be assessed shall be based upon either (1) the full cash value as shown on the ad valorem assessment roll; or (2) an appraisal of the property by a certified MAI appraiser selected by the City, conducted in accordance with the standards promulgated by the State of California and otherwise determined applicable by the City.

5.2 Reserve Fund. The City may establish a reserve fund in order to increase the credit quality of any CFD bond issue. The City, after consultation with Developer, shall determine the amount of such reserve fund with the advice of a financial advisor or the underwriter, as deemed appropriate by the City. In no event may the reserve fund exceed the lesser of (1) maximum annual debt service on the bonds issued; (2) one hundred twenty-five percent (125%) of average annual debt service on the bonds issued; or (3) ten percent (10%) of the original proceeds on the bonds issued. The City will consider, (but is not required to allow), the posting of a letter of credit or other surety in lieu of such a reserve fund. In addition, the City will consider funding all or a portion of the reserve fund from excess special tax funds.

5.3 Credit Enhancement. The City may, after consultation with Developer, require additional credit enhancement to increase the credit quality of any CFD bond issue. Such credit enhancements may be required in situations where there is an insufficient value-to-lien ratio, where a substantial amount of the property within a CFD is undeveloped, where tax delinquencies are present in parcels within the CFD, where Developer is responsible for more than twenty percent (20%) of the special taxes, and in any other situation as required by the City. The form of any credit enhancement is subject to the approval by the City, and the City

shall impose specific requirements with respect to such credit enhancement on a case-by-case basis.

5.4 Escrow. As an alternative to providing other security, the applicant may request that a portion of the bond proceeds be placed in escrow with a trustee or fiscal agent in an amount sufficient to assure a value-to-lien ratio of at least three-to-one on the outstanding proceeds. The escrowed proceeds shall be released at such times and in such amounts as may be necessary to assure a value-to-lien ratio of at least three-to-one on the aggregate outstanding bond proceeds and other indebtedness secured by real property liens as required. The City may, in its sole discretion, permit escrowed proceeds if it determines that the proposed bonds do not present any unusual credit risk or as otherwise permitted by the Act.

5.5 Entitlement Status. The City will require that all major land use approvals and governmental permits necessary for development of land in the CFD be substantially in place before bonds may be issued.

5.6 Identity of Bond Purchasers and Authorized Denominations. The City will require that bond financings be structured so that bonds are purchased and owned by suitable investors. For example, the City may require placement of bonds with a limited number of sophisticated investors, large bond denominations and/or transfer restrictions in situations where there is an insufficient value-to-lien ratio, where a substantial amount of the property within a CFD is undeveloped, where tax delinquencies are present in parcels within the CFD, and in any other situation as required by the City.

5.7 Capitalized Interest. The City will consider capitalizing interest on bonds on a case-by-case basis, subject to limitations set forth in the Act.

5.8 Exceptions. The City may waive any and all requirements provided in this Section, subject to the provisions of the Act, if the City determines that the proposed bonds do not present any unusual credit risk, or that the proposed bond issue should proceed for specified public policy reasons. A determination by the City pursuant to this subsection 5.8 shall be conclusive upon all persons in the absence of actual fraud, and neither the City nor the CFD shall have any liability of any kind whatsoever out of, or in connection with, any such determination.

6. Disclosures.

6.1 Disclosure to Property Purchasers. The City shall require compliance with the disclosure provisions of the Act, including but not limited to Sections 53328.3, 53328.5, 53340.2, 53343.1, and 53341.5 of the Act, in order to ensure that prospective property purchasers are fully informed about their taxpaying obligations under the Act. The City reserves the right to require additional disclosure procedures in any particular case.

6.2 Continuing Bond Disclosure. Landowners in a CFD that are responsible for ten percent (10%) or more of the annual special taxes must agree to provide: (1) initial disclosure at the time of issuance of any bonds; and (2) annual disclosure as required under Rule 15c2-12 of the Securities Exchange Commission until the special tax obligation of the property owned by such owner drops below 10%. The City Council may change such disclosure threshold to 20% on a case-by-case basis upon a determination that such threshold is reasonable under the circumstances.

7. Special Tax Formulas and Maximum Special Taxes

7.1 Special Tax Formula. Special taxes shall be allocated and apportioned on a reasonable basis to all categories and classes of property within the CFD. Special tax formulas for CFDs shall be structured so as to produce special tax revenues sufficient to pay for, or to provide funds for, the following, as applicable to a particular case:

- 1.** One hundred and ten percent (110%) of projected annual debt service on all CFD bonds issues.
- 2.** Reasonable and necessary annual administrative expenses of the City related to the CFD.
- 3.** Amounts required to establish or replenish any reserve fund established for a CFD bond issue.
- 4.** Amounts to pay directly the costs of Facilities authorized to be financed by a CFD.
- 5.** Amounts to provide Services.
- 6.** Accumulation of funds reasonably required for future debt service on CFD bonds.
- 7.** Amounts equal to projected delinquencies in special tax payments.
- 8.** Costs of remarketing, credit enhancement, or liquidity fees.
- 9.** Any other costs or payments permitted by the Act.

7.2 Maximum Special Taxes. The total tax burden on residential owner-occupied parcels ("Residential Parcels"), including projected ad valorem property taxes, special taxes, special assessments, and other special taxes for any overlapping CFD, together with the proposed maximum annual special tax, shall not exceed two percent (2%) of the estimated base sales price of such Residential Parcels upon estimated completion of the public and private improvements relating thereto. In the case of any special tax to pay for Facilities and to be levied against any Residential Parcel, when the City determines it to be in the best interest of the City, the City may provide for annual special tax increases, provided that such increases shall not exceed two percent (2%) per annum. The City may provide for a special tax increase in excess of two percent (2%) per annum for (i) non-Residential Parcels and (ii) Residential Parcels in connection with the financing of Services. Any and all special taxes are subject to the provisions of the Act.

7.3 Special Tax Consultant. The City may retain a special tax consultant to prepare a report which (1) recommends a special tax for the proposed CFD; and (2) evaluates the proposed special tax to determine its ability to adequately fund identified Facilities, City and CFD administrative costs, services, and other related expenditures, including maintenance and operations, if applicable. The analysis of such report shall also address the resulting aggregate tax burden of all proposed special taxes, existing special taxes, ad valorem taxes, and assessments on the properties within the CFD.

- 8. Appraisals.** The definitions, standards and assumptions to be used for appraisals shall be determined by City staff on a case-by-case basis, with input from City consultants and CFD applicants, and by reference to relevant materials and information promulgated by the State of California (including but not limited to the “Appraisal Standards for Land-Secured Financings” of the California Debt and Investment Advisory Commission dated July 2004, as such standards may be amended from time to time). The appraiser shall be selected by or otherwise acceptable to the City, and the appraisal shall be coordinated by and under the direction of, or otherwise as acceptable to, the City.

The appraisal must be dated within three months of the date the bonds on which the bonds are priced, unless the City Council determines a longer time is appropriate.

All costs associated with the preparation of the appraisal report shall be paid by the entity requesting the establishment of the CFD, if applicable, through the advance deposit mechanism described below.

- 9. Market Absorption Study.** The City may, at its discretion, engage a consultant to provide a market absorption study and/or pricing study.

- 10. Terms and Conditions of Bonds.** All terms and conditions of any CFD bond shall be established by the City Council, acting as the legislative body of the CFD. The City shall control, manage, and invest all CFD bond proceeds. Each bond issue shall be structured to adequately protect bond owners and to not negatively impact the bonding capacity or credit rating of the City through the special taxes, credit enhancements, foreclosure covenant, and reserve funds. The City shall select all consultants necessary for the formation of the CFD and the issuance of bonds, including the underwriter(s), bond counsel, disclosure counsel, financial advisors, appraiser, market absorption/pricing consultant and the special tax consultant. Prior consent of the applicant shall not be required in the determination by the City of the consulting and financing team.

11. City Proceedings.

11.1 Petition. For new development projects, a petition meeting the requirements of the applicable authorizing law will be required. The applicant is urged to obtain unanimous waivers of the election waiting period. The applicant must specify in the application any reasonably expected impediments to obtaining petitions, including from co-owners and/or lenders of record (where required). Waiver of the petition shall be made only upon showing of extraordinary hardship. For existing development, petitions are preferred, but may be waived, depending on the nature of the project and degree of public importance.

11.2 Deposits and Reimbursements. All City staff and consultant costs incurred in the evaluation of CFD applications and the establishment of a CFD will be paid by the entity, if any, requesting the establishment of the CFD by advance deposit increments. The City shall not incur any expenses for processing and administering a CFD that are not paid by the applicant or from CFD bond proceeds. In general, expenses not chargeable to the CFD shall be directly borne by the proponents of the CFD.

Any petition for formation of a CFD shall be accompanied by an initial deposit in the amount determined by the City to fund initial staff and consultant costs associated with CFD review and implementation. If additional funds are needed to off-set costs and expenses incurred by the City, the City shall make written demand upon the applicant for such funds. If the applicant fails to make any deposit of additional funds for the proceedings, the City may suspend all proceedings until receipt of such additional deposit.

The City shall not accrue or pay any interest on any portion of the deposit refunded to any applicant or the costs and expenses reimbursed to an applicant. Neither the City nor the CFD shall be required to reimburse any applicant or property owner from any funds other than the proceeds of bonds issued by the CFD or special taxes levied in the CFD.

11.3 Representatives. The City and the applicant shall each designate a representative for each financing district proceeding. The representatives shall be responsible for coordinating the activities of their respective interests and shall be the spokespersons for each such interest. The purpose of this requirement is to avoid duplication of effort and misunderstandings from failure to communicate effectively. In the case of the City, it allows the City's consultants to report to a single official who will, in turn, communicate with other staff members.

11.4 Time Schedule. The final schedule of events for any proceeding shall be determined by the City, in consultation with its financing team and the applicant. Any changes will require approval by the appropriate City official. Time schedules will (unless specific exceptions are allowed) observe established Council meeting schedules and agenda deadlines. To the extent possible, financings will be scheduled to allow debt service to be placed on the tax rolls with a minimum of capitalized interest.

EXHIBIT “G”

GENERAL STAFFING NEEDS FOR PUBLIC SAFETY SERVICES

Animal Control

| | |
|------------------------|--|
| Animal Control Officer | 1 at completion of Phase 1 then 1 per 20,000 Residents |
|------------------------|--|

Code Enforcement

| | |
|------------------------------|--|
| Code Enforcement Officer | 1 at completion of Phase 1 then 1 per 10,000 Residents |
| Sr. Code Enforcement Officer | 1 per 45,000 Residents |

Law Enforcement

0.8 per 1,000 Residents at the then-current Sheriff's Department contract rate, to include all associated costs

Addendum No. 1
to the
Final Environmental Impact Report
for the
Tapestry Project

Prepared for:

City of Hesperia
9700 Seventh Avenue
Hesperia, CA 92345

Prepared by:

HELIX Environmental Planning, Inc.
7578 El Cajon Boulevard
La Mesa, CA 91942

November 2017

PURPOSE OF THIS ADDENDUM

The Tapestry Specific Plan area is located on approximately 9,365 acres in the southeastern portion of the City of Hesperia (City) in the County of San Bernardino (County). The Project includes a Specific Plan Amendment (SPL13-00001) and three Tentative Tract Maps (City TT13-00001, TT14-00004 and TT14-00005; TTMs 18955, 18985 and 18989). The Draft Program Environmental Impact Report (PEIR) for the Project was circulated for public review between December 4, 2014 and January 30, 2015, and the Final PEIR was completed in August 2015. The Final PEIR was certified by the Hesperia City Council on January 16, 2016. The Specific Plan was adopted on February 2, 2016.

The execution of a Development Agreement (DA) between the applicant and the City specifying the conditions under which Project development would occur was contemplated in the Draft PEIR. As the DA had not been completed at the time of PEIR certification, however, mention of the DA was removed from the Final PEIR. As further described below, a DA has now been developed and is proposed to be adopted by the City and incorporated into the Project.

California Environmental Quality Act (CEQA) Guidelines Section 15164 requires either the Lead Agency or a responsible agency to prepare an addendum to an adopted EIR if some changes or additions are necessary but none of the conditions described in Section 15162 calling for preparation of a subsequent environmental document have occurred. Section 15164(b) provides that an addendum “may be prepared if only minor technical changes or additions are necessary.”

The purpose of this Addendum is to ensure that no new significant impacts would result from the improvements planned as described in the Final PEIR and this Addendum.

CEQA REQUIREMENTS

An addendum to a Final EIR is permitted under CEQA Guidelines Sections 15162 and 15164 for projects where there are no substantial changes to the project, or in circumstances surrounding the project, and where the project would not have new significant impacts or substantially more severe impacts than those disclosed in the previously adopted EIR. To summarize, Sections 15162 and 15164 of the CEQA Guidelines state that an addendum to a previously adopted EIR can be prepared for a project if the criteria and conditions summarized below are satisfied:

- **No Substantial Changes.** There are no substantial changes proposed in the project that will require major revisions to the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects.
- **No Substantial Change in Circumstances.** No substantial changes to the circumstances regarding the project have taken place that would require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects.
- **No Substantial New Information.** There is no new information of substantial importance that was not known or could not have been known at the time of the previous EIR that shows the project would have one or more significant effects not discussed in the previous EIR or significant effects previously examined would be substantially more severe than shown in the previous EIR.

An addendum need not be circulated for public review but can be included in or attached to the adopted EIR. The decision-making body shall consider the addendum with the adopted EIR prior to making a decision on the project.

None of the conditions identified in CEQA Guidelines Section 15162(a) would occur because:

- a) The change to the Project evaluated in the Final PEIR, as described in this Addendum, would not result in new significant environmental effects. This modification includes execution of a DA that describes the conditions for development of the Project. The DA would support implementation of the Project as evaluated in the PEIR, and would not result in new significant environmental impacts (refer to *Comparison of Revised Project to Previous Findings* section of this addendum for details regarding the impacts associated with the Project change).
- b) Circumstances and existing conditions surrounding the Project site have not changed from those described in the Final PEIR certified in January 2016. Existing conditions on and surrounding the Project site remain as described in the Final PEIR.
- c) There is no substantial new information. The changes in the proposed Project do not constitute substantial new information as defined in the CEQA Guidelines. Changes to the proposed Project would not result in additional significant impacts that were not discussed in the Final PEIR.
- d) Mitigation measures are required and are not considerably different from those analyzed in the Final PEIR (refer to the *Comparison of Revised Project to Previous Findings* section of this addendum for details regarding the impacts and mitigation measures associated with the Project).

PROJECT OVERVIEW

Project Location

The Project site is located on approximately 9,365 acres in the southeastern portion of the City. The Project site is situated along the foothills of the north face of the San Bernardino Mountains and at the southern edge of the San Bernardino County High Desert area. A portion of the Summit Valley also extends into the southern portion of the Project site. The West Fork Mojave River passes within the Summit Valley through the southeastern portion of the site. Silverwood Lake is located off site to the south.

The site is approximately eight miles east of Interstate 15 (I-15), with connections provided via State Route (SR) 138 to the southern portion of the site and Ranchero Road to the northern portion of the site. SR 173 generally serves as the Project site's southern and eastern boundary. The northern boundary is Ranchero Road.

Project Description as Proposed in Adopted Final PEIR

The approved Specific Plan amended the existing Rancho Las Flores Specific Plan (SP-89-01) to exclude the approximately 490-acre Las Flores Ranch, and allow the proposed development in lieu of the previously approved Rancho Las Flores Specific Plan (SP 89-01). The Tapestry Specific Plan sets forth the overall vision, objectives, land use plan, development standards, infrastructure, and community services/facilities for the Project.

The Specific Plan as addressed in the PEIR proposed a maximum of 19,277 residential units with a mix of densities ranging from very low density and estate to high density and mixed-use. The majority of the

residential units would be low/medium density. Development would be separated into three villages: Mesa Village, Summit Valley Village, and Grass Valley Village. The latter would be primarily equestrian. In addition to residential uses, the Specific Plan also proposed the following:

- Two mixed-use town centers totaling approximately 94 acres, with approximately 500,000 to 700,000 square feet of commercial and retail
- Approximately 387 acres of park land, including community and neighborhood parks, sports fields, and passive recreational open space areas
- An extensive trail system including trails and enhanced pathways adjacent to streets and off-street and equestrian trails totaling approximately 59 miles (94 acres), and neighborhood entry and concrete sidewalk connections totaling approximately 107 miles (138 acres)
- Eight elementary schools, two middle schools, and two high schools totaling approximately 262 acres of school uses
- Public and civic facilities (e.g., post office, library branch, fire station, etc.)
- A wastewater reclamation plant (WWRP) and lift stations
- Roadways, drainage facilities, domestic and recycled water infrastructure, and other associated infrastructure
- Preservation of approximately 3,533 acres of open space, including an approximately 523-acre conservation easement and an approximately 81-acre Serrano Heritage Preserve (with an approximately 72-acre overlap between these two categories), as well as approximately 58 acres of recycled water storage ponds.

Subsequent to preparation of the PEIR and prior to Project approval, the applicant reduced the scope of the Specific Plan, limiting residential units to a maximum of 16,196. Grass Valley Village (Phase 10) development was also limited such that no area designated for residential development would be within the dam inundation zone, which reduced the impact footprint and increased open space by approximately 27.7 acres.

The PEIR contemplated that development of the Project would occur over time using a phased approach. The phasing is intended to ensure a logical and orderly development of planned land uses as well as associated public facilities, roadways, public utilities, and infrastructure. While development was anticipated to extend for a 21-year period between 2015 and 2036, it was also noted that the rate and timing of development would be based on market conditions.

Changes to the Project Since Certification of PEIR

A DA between the City and the applicant is proposed to be executed and made an element of the proposed Project. The DA would memorialize the property expectations of the City and the applicant. It is intended to achieve a number of City objectives, including the orderly development of the Project site and the provision of public benefits to the City and its residents through public improvements, including public parks, improvements to the Project site, and street improvements in and around the site. The DA is consistent with the adopted Specific Plan, and all physical improvements of the Project would remain as described above.

The DA sets forth certain rights and obligations between the City and the applicant, and establishes financing requirements. For example, the timing of the construction of required public improvements must be in substantial conformance with the timetable set forth in a concurrency plan to be submitted for

each phase. The developer and City would agree to establish a Community Facilities District that would levy a special tax on the property to fund public safety services necessary to serve the residents of the Project. Provisions are made for payments of Street Development Impact Fee payments and credits; wastewater treatment facilities timing and operations; acquisition of water rights; and water connection fee payments and credits.

In accordance with the Specific Plan, the DA requires that the applicant construct a WWRP, which may be expanded or modified during development of the Project, and would be transferred to the City or the City's designee for operation. The DA provides that the City and the applicant may agree to defer the construction and/or completion of the WWRP until after Phase 1, when greater recycled water demands are expected to be experienced. In this case, sewage from Phase 1 would be directed to an existing sewer line in Ranchero Road, and treated in an existing Victor Valley Wastewater Reclamation Authority (VWVRA) wastewater treatment plant.

The DA extends the term of entitlement for 25 years. Should the necessary infrastructure for the first six phases be completed, then the agreement may be extended for an additional 10 years. Finally, the City may also grant up to eight, one-year tolling periods upon request. The purpose of these tolling periods is in case the economy stalls and the conditions for development would prevent the timely progress on the Project.

The DA also contains a number of other provisions such as insurance, compliance reviews, indemnification, and other elements regarding the relationship between the parties, which are not germane to environmental analysis.

Previously Disclosed Impacts

The Specific Plan PEIR identified significant and unmitigated impacts with respect to aesthetics (related to adverse effects on a scenic vista, damage to scenic resources within the corridor of Eligible State Scenic Highways, degradation of the existing visual character and quality of the site, and creation of a new light source), air quality (from construction, operation, and consistency with the air quality management plan), cultural and paleontological resources (related to historical resources), land use/planning (related to conflicts with General Plan noise policy), noise (related to traffic noise impacts at off-site residences), population and housing (related to significant local population growth), and transportation and traffic (related to congestion at two intersections). Significant but mitigable impacts were identified related to biological resources, cultural and paleontological resources (other than historical resources), geology/soils (related to potentially active fault traces), hazards and hazardous materials (related to potential hazardous materials associated with existing structures and power pole transformers), and public services (related to provision of adequate fire service). Impacts related to other environmental issues (including agricultural and forestry resources, energy, greenhouse gas [GHG] emissions, hydrology/water quality, mineral resources, recreation, and utilities) were determined to be less than significant.

COMPARISON OF REVISED PROJECT TO PREVIOUS FINDINGS

Aesthetics

Development of the Specific Plan would substantially alter the existing visual character and quality of the Project area and increase light and glare. The PEIR determined that the effects to visual character and quality and nighttime lighting would be significant on a Project-specific basis, but would not contribute to significant cumulative impacts. It also identified significant and unmitigable impacts to scenic vistas and

negatively effects on the quality of the existing on-site natural resources by introducing built elements and graded slopes into currently undeveloped, scenic areas within the viewsheds of two scenic highways.

The proposed DA would not change the proposed land uses or requirements for off-site improvements. The visual analysis in the PEIR assumed that construction would appear over approximately 30 years, with actual timing dependent on market factors. This is consistent with the 25-year term of entitlement, with potential extensions based on economic conditions, that is provided in the DA. Therefore, the severity of the significant visual impacts identified in the PEIR would not be substantially increased as a result of the DA. The financial requirements and other provisions of the DA would not affect the physical development of the site; therefore, they would not alter the environmental analysis or associated conclusions.

The revisions would not result in a new significant impact, nor a substantial increase in the severity of the impacts described in the PEIR. There are no substantial changes to the Project or changes in circumstances that would require major revisions to the PEIR due to the involvement of new significant aesthetic impacts or an increase in the severity of previously identified aesthetic impacts.

Agricultural and Forestry Resources

The Project site does not contain areas that qualify as Farmland under the Farmland Mapping and Monitoring Program (i.e., Prime Farmland, Unique Farmland, or Farmland of Statewide Importance), areas with zoning (or land use) designations that are focused on or allow agricultural use, areas zoned as Timberland or Timberland Production, or support forest land. Development will not be allowed to commence on areas currently under Williamson Act contracts would not commence until after the associated contracts have been terminated or cancelled.

The proposed DA would not change the proposed land uses or requirements for off-site improvement. The term of entitlement would not alter the potential for impacts to agricultural and forestry resources. The financial requirements and other provisions of the DA would not affect the physical development of the site; therefore, they would not alter the environmental analysis or associated conclusions.

The revisions would not result in a new significant impact, nor a substantial increase in the severity of the impacts described in the PEIR. There are no substantial changes to the Project or changes in circumstances that would require major revisions to the PEIR due to the involvement of new significant agricultural and forestry impacts or an increase in the severity of previously identified agricultural and forestry impacts.

Air Quality

The PEIR identified significant impacts related to conflicts with applicable air quality management plans, potential for air quality standard violations during both the construction and operation phases, emissions of toxic air contaminants from the WWRP, and generation of odors from the WWRP. These impacts would be reduced below a level of significance through implementation of Mitigation Measures AIR-1 through AIR-7.

The proposed DA would not change the proposed land uses or requirements for off-site improvement. In the event that the development period extends beyond the period assumed in the PEIR analysis, impacts would be reduced, because the emissions associated with development decrease over time as a result of increasingly strict regulations. If construction of the WWRP is delayed, the associated potential impacts associated with toxic air contaminants and odors also would be delayed, but ultimately would be consistent with those analyzed in the PEIR. Treatment of Phase 1 wastewater at the existing VVWRA

facility would not exceed the approved capacity of the facility, and therefore would not result in a new impact off site. The financial requirements and other provisions of the DA would not affect the physical development of the site; therefore, they would not alter the environmental analysis or associated conclusions.

The revisions would not result in a new significant impact, nor a substantial increase in the severity of the impacts described in the PEIR. There are no substantial changes to the Project or changes in circumstances that would require major revisions to the PEIR due to the involvement of new significant air quality impacts or an increase in the severity of previously identified air quality impacts.

Biological Resources

The PEIR identified significant impacts related to sensitive vegetation communities, waters of the U.S. and waters of the State, special status plant species, and special status animal species. These impacts would be reduced below a level of significance through implementation of Mitigation Measures BIO-1 through BIO-19.

The proposed DA would not change the proposed land uses or requirements for off-site improvement. The term of entitlement would not alter the potential for impacts to biological resources. The financial requirements and other provisions of the DA would not affect the physical development of the site; therefore, they would not alter the environmental analysis or associated conclusions.

The revisions would not result in a new significant impact, nor a substantial increase in the severity of the impacts described in the PEIR. There are no substantial changes to the Project or changes in circumstances that would require major revisions to the PEIR due to the involvement of new significant biological impacts or an increase in the severity of previously identified biological impacts.

Cultural and Paleontological Resources

The PEIR concluded that implementation of the Project would result in potentially significant impacts to historical resources, archaeological resources, paleontological resources, and human remains. Impacts would be reduced through the implementation of Mitigation Measures CUL-1 through CUL-14. Impacts would be significant but mitigable for archaeological and paleontological resources, but would be potentially unmitigable for historical resources (because there is a possibility that historical resources will not be feasible to retain and documentation will not adequately mitigate the impact).

The proposed DA would not change the proposed land uses or requirements for off-site improvement. The term of entitlement would not alter the potential for impacts to cultural and paleontological resources. The financial requirements and other provisions of the DA would not affect the physical development of the site; therefore, they would not alter the environmental analysis or associated conclusions.

The revisions would not result in a new significant impact, nor a substantial increase in the severity of the impacts described in the PEIR. There are no substantial changes to the Project or changes in circumstances that would require major revisions to the PEIR due to the involvement of new significant cultural and paleontological impacts or an increase in the severity of previously identified cultural and paleontological impacts.

Energy

The analysis conducted for the PEIR determined that implementation of the Specific Plan would not result in the use of large amounts of energy in a manner that is wasteful; therefore, no significant impacts would occur.

The proposed DA would not change the proposed land uses or requirements for off-site improvement. In the event that the development period extends beyond the period assumed in the PEIR analysis, impacts would be reduced, because the energy usage associated with development decrease over time as a result of increasingly strict regulations. The financial requirements and other provisions of the DA would not affect the physical development of the site; therefore, they would not alter the environmental analysis or associated conclusions.

The revisions would not result in a new significant impact, nor a substantial increase in the severity of the impacts described in the PEIR. There are no substantial changes to the Project or changes in circumstances that would require major revisions to the PEIR due to the involvement of new significant energy impacts or an increase in the severity of previously identified energy impacts.

Geology/Soils

The PEIR identified a potentially significant impact related to fault rupture hazards, due to the presence of an assumed active fault trace in the southwestern portion of the site (Phase 7), as well as the potential for other active faults to occur on site. This impact would be reduced to below a level of significance through the implementation of Mitigation Measures GEO-1 and GEO-2. Other geology/soils impacts were determined to be less than significant.

The proposed DA would not change the proposed land uses or requirements for off-site improvement. The term of entitlement would not alter the potential for impacts related to geology and soils. The financial requirements and other provisions of the DA would not affect the physical development of the site; therefore, they would not alter the environmental analysis or associated conclusions.

The revisions would not result in a new significant impact, nor a substantial increase in the severity of the impacts described in the PEIR. There are no substantial changes to the Project or changes in circumstances that would require major revisions to the PEIR due to the involvement of new significant geology and soils impacts or an increase in the severity of previously identified geology and soil impacts.

Greenhouse Gas Emissions

Construction and operation of the Specific Plan would result in the generation of GHG emissions, which were determined to be less than significant.

The proposed DA would not change the proposed land uses or requirements for off-site improvement. In the event that the development period extends beyond the period assumed in the PEIR analysis, GHG emissions would be reduced as a result of increasingly strict regulations. The financial requirements and other provisions of the DA would not affect the physical development of the site; therefore, they would not alter the environmental analysis or associated conclusions.

The revisions would not result in a new significant impact, nor a substantial increase in the severity of the impacts described in the PEIR. There are no substantial changes to the Project or changes in circumstances that would require major revisions to the PEIR due to the involvement of new significant GHG impacts or an increase in the severity of previously identified GHG impacts.

Hazards and Hazardous Materials

The PEIR identified potentially significant impacts related to the potential occurrence of hazardous materials during demolition of existing structures on site; this potential impact would be reduced to below a level of significance through implementation of Mitigation Measure HAZ-1. Impacts related to airport-related hazards, emergency response/evacuation plans, and wildland fire-related hazards were identified as less than significant.

The proposed DA would not change the proposed land uses or requirements for off-site improvement. The term of entitlement would not alter the potential for impacts related to hazards and hazardous materials. The financial requirements and other provisions of the DA would not affect the physical development of the site; therefore, they would not alter the environmental analysis or associated conclusions.

The revisions would not result in a new significant impact, nor a substantial increase in the severity of the impacts described in the PEIR. There are no substantial changes to the Project or changes in circumstances that would require major revisions to the PEIR due to the involvement of new significant hazards and hazardous materials impacts or an increase in the severity of previously identified hazards and hazardous materials impacts.

Hydrology and Water Quality

Potential impacts related to drainage alteration, including associated erosion/siltation and flooding effects; runoff and storm water management; groundwater supplies and groundwater recharge; inundation by seiche, tsunami, or mudflow; and water quality standards and waste discharge were determined to be less than significant.

The proposed DA would not change the proposed land uses or requirements for off-site improvement. The term of entitlement would not alter the potential for impacts related to hydrology and water quality. The financial requirements and other provisions of the DA would not affect the physical development of the site; therefore, they would not alter the environmental analysis or associated conclusions.

The revisions would not result in a new significant impact, nor a substantial increase in the severity of the impacts described in the PEIR. There are no substantial changes to the Project or changes in circumstances that would require major revisions to the PEIR due to the involvement of new significant hydrology and water quality impacts or an increase in the severity of previously identified hydrology and water quality impacts.

Land Use/Planning

The PEIR determined that the Project may not be consistent with a goal and three policies of the Noise Element of the City General Plan. This potentially significant land use/planning impact would be reduced through implementation of Mitigation Measures NOI-10 through NOI-13. However, because implementation of these mitigation measures may not be feasible, a potentially significant and unavoidable land use/planning impact was identified. No impacts related to division of an established community or consistency with an applicable conservation plan would occur, and impacts related to consistency with other land use plans, policies, and ordinances would be less than significant.

The proposed DA would not change the proposed land uses or requirements for off-site improvement. The term of entitlement would not alter the potential for impacts related to land use and planning. The

financial requirements and other provisions of the DA would not affect the physical development of the site; therefore, they would not alter the environmental analysis or associated conclusions.

The revisions would not result in a new significant impact, nor a substantial increase in the severity of the impacts described in the PEIR. There are no substantial changes to the Project or changes in circumstances that would require major revisions to the PEIR due to the involvement of new significant land use and planning impacts or an increase in the severity of previously identified land use and planning impacts.

Mineral Resources

The PEIR determined that potential impacts related to the loss of minerals with regional or statewide value would be less than significant.

The proposed DA would not change the proposed land uses or requirements for off-site improvement. The term of entitlement would not alter the potential for impacts related to mineral resources. The financial requirements and other provisions of the DA would not affect the physical development of the site; therefore, they would not alter the environmental analysis or associated conclusions.

The revisions would not result in a new significant impact, nor a substantial increase in the severity of the impacts described in the PEIR. There are no substantial changes to the Project or changes in circumstances that would require major revisions to the PEIR due to the involvement of new significant mineral resources impacts or an increase in the severity of previously identified mineral resources impacts.

Noise

The PEIR determined that impacts related to construction noise, aircraft noise, and ground-borne vibration would be less than significant. Potentially significant noise impacts would occur in relation to traffic noise (exterior and interior both on and off site) as well as stationary noise sources including heating, ventilation, and air conditioning units; commercial uses; sheriff's and fire stations; sports and neighborhood parks; schools; the WWRP; sewer lift stations; and water booster stations. These impacts would be reduced through the implementation of Mitigation Measures NOI-1 through NOI-13. However, because the applicant's ability to implement Mitigation Measures NOI-10 through NOI-13 is uncertain, impacts related to traffic noise along off-site roadways were identified as potentially significant and unmitigable.

The proposed DA would not change the proposed land uses or requirements for off-site improvement. The term of entitlement would not alter the potential for noise impacts. If the WWRP is constructed after Phase 1, then its initial construction (as opposed to only subsequent expansion, as originally envisioned) would occur adjacent to occupied Phase 1 residences. The impact would be consistent with other construction impacts described in the PEIR and would be less than significant as a result of the design features contained in the Specific Plan. The financial requirements and other provisions of the DA would not affect the physical development of the site; therefore, they would not alter the environmental analysis or associated conclusions.

The revisions would not result in a new significant impact, nor a substantial increase in the severity of the impacts described in the PEIR. There are no substantial changes to the Project or changes in circumstances that would require major revisions to the PEIR due to the involvement of new significant noise impacts or an increase in the severity of previously identified noise impacts.

Population and Housing

The PEIR determined that impacts related to population growth in the City would be significant and unmitigable upon implementation of the Specific Plan as a whole, due to exceedance of Southern California Association of Governments population projections for the Year 2035 forecast. A single residence and its occupants would be displaced by Specific Plan implementation; this would be considered less than significant.

The proposed DA would not change the proposed land uses or requirements for off-site improvement, nor would it alter the projected population of the Project. The term of entitlement would not alter the overall increase in population; changes in the timing of population increase would not alter the significance of the impact. The financial requirements and other provisions of the DA would not affect the physical development of the site or associated population projections; therefore, they would not alter the environmental analysis or associated conclusions.

The revisions would not result in a new significant impact, nor a substantial increase in the severity of the impacts described in the PEIR. There are no substantial changes to the Project or changes in circumstances that would require major revisions to the PEIR due to the involvement of new significant population and housing impacts or an increase in the severity of previously identified population and housing impacts.

Public Services

The PEIR determined that implementation of the Specific Plan would result in potentially significant impacts related to fire and emergency medical services. These impacts would be reduced to below a level of significance through Mitigation Measure PUB-1, which requires a review prior to the Certificates of Occupancy for each development phase to ensure that fire service facilities existing at that time are adequate to enable the fire protection services to achieve the City's response time goal. Impacts to public services, schools, and libraries would be less than significant with the provision of new facilities within the Specific Plan area and establishment of a CFD or other applicable public financing mechanism(s) to fund public facilities.

The proposed DA would not change the proposed land uses, requirements for off-site improvement, or physical public facilities improvements. The term of entitlement would not alter the potential for impacts related to public services, as such services are required to be phased concurrent with development. The financial requirements and other provisions of the DA would not affect the physical development of the site. Establishment of the CFD was contemplated in the PEIR, and would ensure that Project development pays sufficient taxes to cover the gap between the cost of public safety services for the Project and the amount of ordinary property tax received by the City and appropriated for such services. Through the DA, the applicant also agrees to minimum staffing ratios for public safety services, including sheriff's deputies, code enforcement officers, and animal control personnel. Therefore, the provisions of the DA would not alter the environmental analysis or associated conclusions, but would help to further ensure that adequate public services are provided.

The revisions would not result in a new significant impact, nor a substantial increase in the severity of the impacts described in the PEIR. There are no substantial changes to the Project or changes in circumstances that would require major revisions to the PEIR due to the involvement of new significant public services impacts or an increase in the severity of previously identified public services impacts.

Recreation

Implementation of the Specific Plan would include development of new parks and recreational facilities that would serve the Project residents as well as the public. In compliance with City and Hesperia Recreation and Park District (HRPD) requirements, the Project would pay development impact fees and facility fees. The proposed new parks and recreational facilities, in combination with required payments, as well as facility fees collected at regional parks, would ensure that an increase in the use of existing neighborhood parks, regional parks or other recreational facilities resulting in substantial deterioration of these facilities would not occur; therefore, the PEIR determined that impacts would be less than significant.

The proposed DA would not change the proposed land uses, requirements for off-site improvement, or recreation facilities improvements. The term of entitlement would not alter the potential for impacts related to recreational facilities, as such facilities are required to be phased concurrent with development. The financial requirements and other provisions of the DA would not affect the physical development of the site; therefore, they would not alter the environmental analysis or associated conclusions. The DA also does not alter the mechanism or timing of fees required to be paid to the HRPD.

The revisions would not result in a new significant impact, nor a substantial increase in the severity of the impacts described in the PEIR. There are no substantial changes to the Project or changes in circumstances that would require major revisions to the PEIR due to the involvement of new significant recreation impacts or an increase in the severity of previously identified recreation impacts.

Transportation and Traffic

The PEIR identified significant impacts to the operation of several intersections. With implementation of Mitigation Measures TRA-1 and TRA-2, impacts at all but two intersections would be reduced to below a level of significance. The Project would make a “fair share” contribution to improvements for both of these intersections, but additional widening along Ranchero Road to achieve an acceptable Level of Service at these two locations is not considered feasible due to right-of-way impacts to residences and businesses. An impact at one additional intersection would be significant and unmitigated in the interim condition, but would be eliminated upon completion of the full roadway network.

The proposed DA would not change the proposed land uses or requirements for on-site transportation improvements. The term of entitlement would not alter the potential for impacts related to transportation facilities, as such facilities are required to be phased concurrent with development. The DA provides that Development Impact Fees for street improvements shall be paid in two installments for each phase. For Phase 1, \$12 million shall be paid upon recordation of the first final tract map in Phase 1. The balance of the impact fees shall be due prior to the issuance of the building permit for the first production residential unit in Phase 1. For the remaining phases, 50 percent of the fees shall be due upon recordation of the first map within that phase and the balance shall be due prior to issuance of the first production residential unit within that phase. This would help to ensure that funding is available to provide the necessary transportation improvements in a timely manner relative to development. On the basis of these payments, off-site transportation improvements would be constructed by the City instead of the developer. The other financial requirements and provisions of the DA would not affect the physical development of the site; therefore, they would not alter the environmental analysis or associated conclusions.

The revisions would not result in a new significant impact, nor a substantial increase in the severity of the impacts described in the PEIR. There are no substantial changes to the Project or changes in circumstances that would require major revisions to the PEIR due to the involvement of new significant

transportation and traffic impacts or an increase in the severity of previously identified transportation and traffic impacts.

Utilities

The PEIR identified less-than-significant impacts associated with the development and expansion of proposed water, recycled water, and wastewater facilities; water supply; storm water drainage; and solid waste generation relative to existing landfill capacity.

The proposed DA would not change the proposed land uses. The term of entitlement would not alter the potential for impacts related to utilities, as such services are required to be phased concurrent with development. If construction of the WWRP is delayed until after Phase 1, a short sewer line extension would be constructed to the existing line in Ranchero Road, which would result in minor impacts similar to those identified in the PEIR. Treatment of Phase 1 wastewater at the existing VVWRA facility would not exceed the approved capacity of that facility, and therefore would not result in a new impact off site. The financial requirements and other provisions of the DA would not affect the physical development of the site; therefore, they would not alter the environmental analysis or associated conclusions.

The revisions would not result in a new significant impact, nor a substantial increase in the severity of the impacts described in the PEIR. There are no substantial changes to the Project or changes in circumstances that would require major revisions to the PEIR due to the involvement of new significant utilities impacts or an increase in the severity of previously identified utilities impacts.

SUMMARY

As discussed above, the proposed Project modifications, consisting of execution of the DA, would not result in new significant impacts. There have been no substantial changes proposed to the Project which would require major revisions of the Final PEIR due to new significant environmental effects or a substantial increase in the severity of previously identified significant effects. There have been no substantial changes with respect to the circumstances under which the Project is undertaken which would require revisions to the Final PEIR. There is no new information of substantial importance which shows that the Project would have significant environmental effects either not discussed or that would be substantially more severe than discussed. Additionally, there have been no mitigation measures or alternatives previously found not to be feasible that would in fact be feasible, nor are the measures or alternatives considerably different than those analyzed in the Final PEIR that would reduce identified significant impacts.

RESOLUTION NO. PC-2017-36

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL APPROVE A DEVELOPMENT AGREEMENT WITH HESPERIA VENTURE I LLC, A CALIFORNIA LIMITED PARTNERSHIP.

WHEREAS, Hesperia Venture I, LLC, proposed the Tapestry Specific Plan project ("Project") consisting of development of a maximum of 16,196 residential units; two mixed-use town centers with approximately 500,000 to 700,000 square feet of commercial and retail space, 387 acres of parkland; trails totaling 59 miles; eight elementary schools, two middle schools and two high schools totaling approximately 263 acres; public and civic facilities, a wastewater reclamation plant; drainage facilities, domestic and recycled water infrastructure and preservation of approximately 3,533 acres of open space. The Project repeals and replaces the Rancho Las Flores Specific Plan. The Project includes three tentative maps, including a tentative map for Phase 1 to include 2,104 dwelling units; and

WHEREAS, the overall objectives of the Project are to provide a complementary and supportive array of land uses that will enable development of a community with homes, shopping, schools, recreation, community facilities, public services, and open areas within a walkable/bikeable distance; provide land use designations and development regulations that allow for a wide range of housing densities, types, styles, and prices while ensuring a quality development; conserve significant, natural and cultural resources, significant landforms such as bluffs, canyons and open space for recreational and habitat purposes; create a unique identity for the Project that is compatible with surrounding development and the character of the Hesperia community, while also creating a distinctive identity and sense of place within each village; incorporate sustainable design concepts into the community; develop a logical multi-modal project transportation network encouraging safe and efficient travel throughout the community and neighboring areas; and provide for orderly development that ensures appropriate phasing of development with infrastructure and public facilities, while also allowing for flexible adaptation to market trends and conditions; and

WHEREAS, on November 3, 2015, January 16, 2016, and January 26, 2016 the City Council of the City of Hesperia conducted a duly noticed public hearing pertaining to the proposed Tapestry Specific Plan, and concluded said hearing on January 26, 2016; and

WHEREAS, the Tapestry Specific Plan was approved by Ordinance No. 2015-10 adopted February 2, 2016; and

WHEREAS, California Government Code Sections 65864 et seq. ("Development Agreement Law") authorizes cities to enter into binding development agreements with persons having a legal or equitable interest in real property for the development of such property, all for the purpose of strengthening the public planning process, encouraging private participation in comprehensive planning and reducing the economic costs of such development; and

WHEREAS, Developer is the owner of legal and/or equitable interests in certain real property legally described in Exhibit "A" of the attached Development Agreement (the "Property"), and thus qualifies to enter into the Development Agreement (the "Agreement") in accordance with Development Agreement Law; and

WHEREAS, Developer and City agree that a development agreement should be approved and adopted for this Property in order to memorialize the property expectations of City and Developer as more particularly described therein; and

WHEREAS, the Planning Commission has found that the Agreement is in the best public interest of the City and its residents, adopting the Agreement constitutes a present exercise of the City's police power, and the Agreement is consistent with the City's General Plan and the Tapestry Specific Plan. The Agreement and the proposed Project will achieve a number of City objectives, including the orderly development of the Property; the providing of public benefits to the City and its residents through public improvements, including public parks, improvements to the Property, and street improvements in and around the Property; and

WHEREAS, as part of the process of approving the Agreement and granting the Development Approvals, the City has required the preparation of an Environmental Impact Report and EIR Addendum and has otherwise carried out all requirements of the California Environmental Quality Act ("CEQA") of 1970, as amended, and;

WHEREAS, on November 27, 2017, following a duly noticed and conducted public hearing, the City Planning Commission recommended that the City Council approve the Agreement; and

WHEREAS, all legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, THE PLANNING COMMISSION OF CITY OF HESPERIA DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The Planning Commission hereby specifically finds that all of the above recitals are true and correct and are hereby incorporated herein by reference as if set forth in full.

SECTION 2. Based upon substantial evidence presented to the Planning Commission during the above-referenced November 27, 2017 hearing, including public testimony and written and oral staff reports, the Planning Commission specifically finds as follows:

- (a) The Development Agreement will not have a significant effect on the environment. An addendum to the EIR has been prepared in accordance with CEQA.
- (b) The Development Agreement is consistent with the goals, policies, standards and maps of the Development Code and all applicable codes and ordinances adopted by the City of Hesperia because the plan extends and enhances development standards already in place within the current Development Code.
- (c) The Development Agreement provides public improvements and benefits that would not otherwise be obtained through other applicable development approval processes.
- (d) The Development Agreement is consistent with all of the requirements of Development Agreement Law.
- (e) The Development Agreement is consistent with the Land Use Element, which provides for a mix of residential, commercial and

in, mixed-use and institutional land uses capable of supporting the development of necessary infrastructure and municipal services, as directed by the City's adopted General Plan.

(f) Adoption of the Development Agreement is consistent with the Tapestry Specific Plan and the General Plan.

SECTION 3. The Planning Commission hereby recommends that the City Council approve the Development Agreement attached hereto as Exhibit A and further, also recommends that the City Council authorize and direct the Mayor and City Clerk to execute the Development Agreement on behalf of the City upon adoption of the enabling Ordinance.

SECTION 4. Subject to and during the Term of the Development Agreement, Developer shall have a vested right to develop the Property in accordance with, and to the extent of, the Development Plan, the Development Approvals, the Existing Land Use Regulations, applicable Subsequent Development Approvals, applicable Subsequent Land Use Regulations, and the Agreement.

SECTION 5. The Development Agreement shall be recorded with the County Recorder by the City Clerk within the period required by Section 65868.5 of the Government Code. Amendments approved by the parties, and any cancellation, shall be similarly recorded.

SECTION 6. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses, phrase, or portions of this ordinance. The Planning Commission hereby declares that it would have adopted this Resolution and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional.

SECTION 7. The Secretary shall certify to the adoption of this Resolution.

APPROVED AND ADOPTED by the Planning Commission of the City of Hesperia, California this 27th day of November 2017.

Tom Murphy, Chair

ATTEST:

Denise Bossard, Secretary, Planning Commission



**CITY OF HESPERIA
DEVELOPMENT REVIEW COMMITTEE
AMENDED AGENDA**

**City Hall Joshua Room
9700 Seventh Avenue
Hesperia, CA 92345
BEGINNING AT 10:00 A.M.
WEDNESDAY, NOVEMBER 15, 2017**

A. PROPOSALS:

1. KIMBERLY JARRARD; (SPR17-00009)

Proposal: Consideration of a Site Plan Review to construct an 8,720 square foot retail building on an approximately 0.5 acre lot.

Location: 400 feet south of Musgrave Road on the west side of Caliente Road (3057-611-18)

Planner: Ryan Leonard

Action Taken: Administrative Approval

2. MARK PETERSON; (TTE17-00002)

Proposal: Consideration of an Extension of Time for TT-17004, to create 9 single-family residential lots on 4.8 gross acres.

Location: North of Fairburn Street between Arcadia Avenue and Gaylop Avenue (0398-312-23)

Planner: Daniel Alcayaga

Action Taken: Administrative Approval

3. TST CONSTRUCTION, .INC.; (SPRR17-00012)

Proposal: Consideration of a Revised Site Plan Review to allow a crossfit gym.

Location: 17525 Catalpa Rd, Suite 104 (0415-272-06)

Planner: Daniel Alcayaga

Action Taken: Administrative Approval

4. PACIFIC OIL COMPANY; (SSPR17-00001)

Proposal: Consideration of a Revised Site Sign Plan to amend SSP16-00001, approving an increase in the maximum height and area limitations of proposed freestanding signs within the Ranchero Center.

Location: Southeast corner of Ranchero Road and Interstate 15 (0357-561-78 thru 81 & 83 thru 85)

Planner: Stan Liudahl

Action Taken: Administrative Approval

5. 395 THREE FLAGS LLC; (SPR15-00014)

Proposal: Consideration of a Site Plan Review to construct a 6,384 square foot multi-tenant commercial building on 0.93 gross acres.

Location: Joshua Street and Three Flags Court on Highway 395 (**3039-331-03**)

Planner: Ryan Leonard

Action Taken: Administrative Approval