

CITY OF MADERA MEMORANDUM

DATE: June 19, 2019

TO: Honorable Mayor and City Council Members

FROM: Keith Helmuth, City Engineer

SUBJECT: 06/19/2019 City Council Meeting
Late Distribution of Report for Item B-9

Attached are five revised Landscape Maintenance District Covenants that are associated with two different projects, which are part of Attachment No. 2 to the staff report. The covenants were edited to remove subordination recitals that were found to be a concern to the project representatives. The City Engineer determined and the City Attorney confirmed that the recitals, while having been in covenants for at least 10 years, were not needed.

cc: City Clerk
City Attorney

RECORDING REQUESTED BY:
City of Madera
WHEN RECORDED RETURN TO:
City of Madera
205 W. 4th Street
Madera, CA 93637
Attention: City Clerk

Fee Waived per Section 27383 & 27388.1(a)(2)(D) of the Government Code

**COVENANT
LANDSCAPE MAINTENANCE DISTRICT
ZONE OF BENEFIT 51**

WHEREAS, Madera H&HS 1 LLC, a California Limited Liability Company, hereinafter referred to as “Covenantor”, is the owner of the real property situated in the City of Madera, County of Madera, State of California, hereinafter referred to as “Subject Property” and more particularly described in attached Exhibit “A”; and

WHEREAS, Covenantor is required by the City as a condition of Agreement for Outside City Limits Water and Sewer Connections for County Office Complex approval to annex to the City’s Landscape Maintenance District; and

WHEREAS, the City of Madera approved the Agreement for Outside City Limits Water and Sewer Connections for County Office Complex for said parcel; and

WHEREAS, said resolution requires that maintenance of the landscaping associated with the Subject Property shall be the responsibility of the City’s Landscape Maintenance District.

NOW, THEREFORE, it is agreed:

1. In consideration of the foregoing and the approval of the Agreement for Outside City Limits Water and Sewer Connections for County Office Complex for the parcel,

by the City of Madera, the undersigned hereby covenants, promises and agrees with the City of Madera for the benefit of said City.

2. The Covenantor consents to annexation of said Subject Property to the City's Landscape Maintenance District, has petitioned the City to annex said Subject Property to said district pursuant to Streets and Highways Code Section 22605, and pursuant to California Constitution Article, XIII D, section 5(b), waives any right to protest or object to such annexation.

3. The Covenantor agrees that the Subject Property receives a special benefit, as the term is defined in California Constitution Article, XIII D, section 2(i), from being annexed to Landscape Maintenance District, and that special benefit includes, but is not limited to, the right and ability to develop the Subject Property.

4. The Covenantor consents to an annual assessment on the Subject Property currently in an amount not to exceed \$247.90. The Covenantor agrees that this assessment is proportional to, and no greater than, the special benefit conferred on the Subject Property by being annexed into the Landscape Maintenance District. The Covenantor also consents to an annual change in the range of the assessment in the amount of the Engineering News Record Construction Cost Index (ENRCC), plus two percent (2%). The Covenantor agrees that if such change in the range of the assessment is implemented less frequently than an annual basis, the change may be based upon the total change in the ENRCC Index since the most recent change in the assessment plus two percent per year. The Covenantor further agrees that temporary decreases in assessment do not represent a waiver of other provisions of this covenant and that the assessment may later be reset to

an amount consistent with the assessment prior to the reduction plus the total change in the ENRCC Index plus two percent per year but only to the degree necessary to cover actual and reasonable costs.

5. The Covenantor agrees that he/she has received the written notice required by California Constitution Article, XIII D, Section 4(c).

6. The Covenantor agrees that this shall constitute a ballot in support of the proposed assessment pursuant to California Constitution Article, XIII D, Section 4(d).

7. Furthermore, should City hold a hearing notwithstanding such waiver, Covenantor waives the requirement of 45 days' notice of such hearing in favor of a five-day notice of such hearing.

8. The Covenantor shall fully disclose this covenant to every potential purchaser of the Subject Property.

9. It is the intention of the parties hereof that this document shall constitute a covenant in favor of the City of Madera and shall run with the land and be binding upon the undersigned, its grantees, heirs, successors and assigns.

10. The Covenant shall be released and be of no further effect upon written determination by the undersigned and the City Engineer of the City of Madera that it's continued existence and enforcement are no longer necessary.

11. The provisions of this Covenant shall be deemed independent and severable and the validity or partial invalidity or unenforceability of any other provision or portion thereof shall not affect the validity or enforceability of any one provision thereof. Whenever the context of the Covenant so requires, in interpreting this Covenant, any

gender includes the other genders, the singular includes the plural, and the plural includes the singular.

Dated: _____

///

WITNESS the execution of this covenant including Exhibit A the day and year first above written.

CITY OF MADERA:

By: _____
Andrew J. Medellin, Mayor

COVENANTOR:

By: _____
John McCann
Madera H&HS 1 LLC, a California Limited
Liability Company

APPROVED AS TO FORM:

By: _____
Hilda Cantu Montoy, City Attorney

**NOTARY ACKNOWLEDGEMENT
REQUIRED**

ATTEST:

By: _____
Claudia Mendoza, Interim City Clerk

APPROVED:

By: _____
Keith B. Helmuth,
City Engineer

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

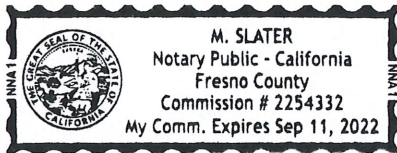
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
 County of FRESNO)
 On JUNE 19, 2019 before me, M. SLATER Notary Public,
 Date Here Insert Name and Title of the Officer
 personally appeared JOHN McCANN
 Name(s) of Signer(s)

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

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

WITNESS my hand and official seal.



Signature M. Slater
 Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____ Document Date: _____

Number of Pages: _____ Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

☐ Corporate Officer — Title(s): _____

☐ Partner — ☐ Limited ☐ General

☐ Individual ☐ Attorney in Fact

☐ Trustee ☐ Guardian or Conservator

☐ Other: _____

Signer Is Representing: _____

Signer's Name: _____

☐ Corporate Officer — Title(s): _____

☐ Partner — ☐ Limited ☐ General

☐ Individual ☐ Attorney in Fact

☐ Trustee ☐ Guardian or Conservator

☐ Other: _____

Signer Is Representing: _____

EXHIBIT "A"
LEGAL DESCRIPTION

ALL that certain real property, being a portion of Lot 24 according to the map entitled "Map of Lankershim Colony and Addition to the Town of Madera", filed for record February 5, 1889 in Volume 4 of Maps, at Page 31, Fresno County Records, and situate in the Southwest quarter of Section 20, Township 11 South, Range 18 East, Mount Diablo Meridian, County of Madera, State of California, being more particularly described as follows:

BEGINNING at the West quarter corner of said Section 20, said corner being marked with a 2" diameter brass disc, said Point of Beginning being also the Northwest corner of said Lot 24;
thence along the East-West centerline of said Section 20, being also the North line of said Lot 24, North 89°45'50" East 576.34 feet to a point from which the Northeast corner of said Lot 24 bears North 89°45'50" East 100.17 feet;
thence leaving said East-West centerline, being also the North line of said Lot 24 and proceeding South 00°14'10" East 341.50 feet to a point which is 101.89 feet distant at right angles from the East line of said Lot 24;
thence parallel with and 341.50 feet distant at right angles from said East-West centerline South 89°45'50" West 574.67 feet to a point on the West line of said Southwest quarter, being also a point on the West line of said Lot 24;
thence along said West line of the Southwest quarter and Lot 24, North 00°30'57" West 341.50 feet to the Point of Beginning.

Containing 196,536 square feet (4.51 acres), more or less.

SUBJECT TO all easements, road dedications and/or rights-of-way of record.


Rien Groenewoud, P.L.S. 6946



11/14/17

MADERA COUNTY PUBLIC HEALTH AND DEPARTMENT OF SOCIAL SERVICES

MADERA H&HS 1 LLC

RECORDING REQUESTED BY:
City of Madera
WHEN RECORDED RETURN TO:
City of Madera
205 W. 4th Street
Madera, CA 93637
Attention: City Clerk

Fee Waived per Section 27383 & 27388.1(a)(2)(D) of the Government Code

**COVENANT
LANDSCAPE MAINTENANCE DISTRICT
ZONE OF BENEFIT 51**

WHEREAS, Madera H&HS 2 LLC, a California Limited Liability Company, hereinafter referred to as “Covenantor”, is the owner of the real property situated in the City of Madera, County of Madera, State of California, hereinafter referred to as “Subject Property” and more particularly described in attached Exhibit “A”; and

WHEREAS, Covenantor is required by the City as a condition of Agreement for Outside City Limits Water and Sewer Connections for County Office Complex approval to annex to the City’s Landscape Maintenance District; and

WHEREAS, the City of Madera approved the Agreement for Outside City Limits Water and Sewer Connections for County Office Complex for said parcel; and

WHEREAS, said resolution requires that maintenance of the landscaping associated with the Subject Property shall be the responsibility of the City’s Landscape Maintenance District.

NOW, THEREFORE, it is agreed:

1. In consideration of the foregoing and the approval of the Agreement for Outside City Limits Water and Sewer Connections for County Office Complex for the parcel,

by the City of Madera, the undersigned hereby covenants, promises and agrees with the City of Madera for the benefit of said City.

2. The Covenantor consents to annexation of said Subject Property to the City's Landscape Maintenance District, has petitioned the City to annex said Subject Property to said district pursuant to Streets and Highways Code Section 22605, and pursuant to California Constitution Article, XIII D, section 5(b), waives any right to protest or object to such annexation.

3. The Covenantor agrees that the Subject Property receives a special benefit, as the term is defined in California Constitution Article, XIII D, section 2(i), from being annexed to Landscape Maintenance District, and that special benefit includes, but is not limited to, the right and ability to develop the Subject Property.

4. The Covenantor consents to an annual assessment on the Subject Property currently in an amount not to exceed \$234.48. The Covenantor agrees that this assessment is proportional to, and no greater than, the special benefit conferred on the Subject Property by being annexed into the Landscape Maintenance District. The Covenantor also consents to an annual change in the range of the assessment in the amount of the Engineering News Record Construction Cost Index (ENRCC), plus two percent (2%). The Covenantor agrees that if such change in the range of the assessment is implemented less frequently than an annual basis, the change may be based upon the total change in the ENRCC Index since the most recent change in the assessment plus two percent per year. The Covenantor further agrees that temporary decreases in assessment do not represent a waiver of other provisions of this covenant and that the assessment may later be reset to

an amount consistent with the assessment prior to the reduction plus the total change in the ENRCC Index plus two percent per year but only to the degree necessary to cover actual and reasonable costs.

5. The Covenantor agrees that he/she has received the written notice required by California Constitution Article, XIII D, Section 4(c).

6. The Covenantor agrees that this shall constitute a ballot in support of the proposed assessment pursuant to California Constitution Article, XIII D, Section 4(d).

7. Furthermore, should City hold a hearing notwithstanding such waiver, Covenantor waives the requirement of 45 days' notice of such hearing in favor of a five-day notice of such hearing.

8. The Covenantor shall fully disclose this covenant to every potential purchaser of the Subject Property.

9. It is the intention of the parties hereof that this document shall constitute a covenant in favor of the City of Madera and shall run with the land and be binding upon the undersigned, its grantees, heirs, successors and assigns.

10. The Covenant shall be released and be of no further effect upon written determination by the undersigned and the City Engineer of the City of Madera that it's continued existence and enforcement are no longer necessary.

11. The provisions of this Covenant shall be deemed independent and severable and the validity or partial invalidity or unenforceability of any other provision or portion thereof shall not affect the validity or enforceability of any one provision thereof. Whenever the context of the Covenant so requires, in interpreting this Covenant, any

gender includes the other genders, the singular includes the plural, and the plural includes the singular.

Dated: _____

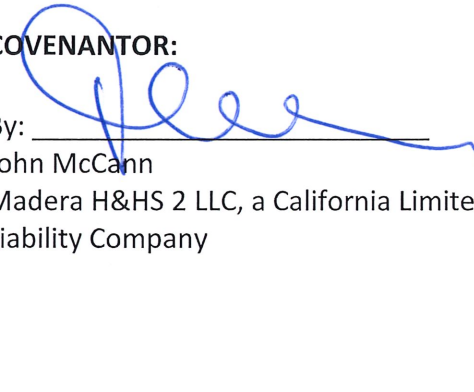
///

WITNESS the execution of this covenant including Exhibit A the day and year first above written.

CITY OF MADERA:

By: _____
Andrew J. Medellin, Mayor

COVENANTOR:

By:  _____
John McCann
Madera H&HS 2 LLC, a California Limited
Liability Company

APPROVED AS TO FORM:

By: _____
Hilda Cantu Montoy, City Attorney

**NOTARY ACKNOWLEDGEMENT
REQUIRED**

ATTEST:

By: _____
Claudia Mendoza, Interim City Clerk

APPROVED:

By: _____
Keith B. Helmuth,
City Engineer

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

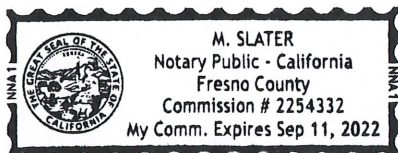
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
 County of FRESNO)
 On JUNE 19, 2019 before me, M. SLATER, Notary Public,
 Date Here Insert Name and Title of the Officer
 personally appeared John McCann
 Name(s) of Signer(s)

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

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

WITNESS my hand and official seal.



Signature [Signature]
 Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____ Document Date: _____
 Number of Pages: _____ Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☐ Other: _____
 Signer Is Representing: _____

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 Signer Is Representing: _____

EXHIBIT "A"
LEGAL DESCRIPTION

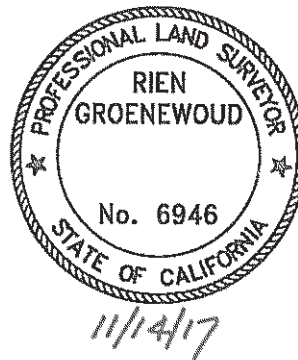
ALL that certain real property, being a portion of Lots 23 and 24 according to the map entitled "Map of Lankershim Colony and Addition to the Town of Madera", filed for record February 5, 1889 in Volume 4 of Maps, at Page 31, Fresno County Records, and situate in the Southwest quarter of Section 20, Township 11 South, Range 18 East, Mount Diablo Meridian, County of Madera, State of California, being more particularly described as follows:

BEGINNING at a point on the East-West centerline of said Section 20, being also a point on the North line of said Lot 24, from which the Northwest corner of said Lot 24, being also the West quarter corner of said Section 20, bears South 89°45'50" West 576.34 feet, said Point of Beginning bears also South 89°45'50" West 100.17 feet from the most Northerly common corner of said Lots 23 and 24;
thence along said East-West centerline and said North line of Lot 24 and the North line of said Lot 23, North 89°45'50" East 522.50 feet to a point which is South 89°45'50" West 224.19 feet from the Northeast corner of said Lot 23;
thence leaving last said East-West centerline and North line of Lot 23 and proceeding South 00°14'10" East 298.00 feet to a point which is 225.73 feet distant at right angles from the East line of said Lot 23;
thence parallel with and 298.00 feet distant at right angles from said East-West centerline South 89°45'50" West 149.00 feet to a point which is 374.73 feet distant at right angle from said East line;
thence South 00°14'10" East 43.50 feet to a point which is 374.95 feet distant at right angles from said East line;
thence parallel with and 341.50 feet distant at right angles from said East-West centerline South 89°45'50" West 373.50 feet to a point which is 101.89 feet distant at right angles from the common line of said Lots 23 and 24;
thence North 00°14'10" West 341.50 feet to the Point of Beginning.

Containing 171,952 square feet (3.95 acres), more or less.

SUBJECT TO all easements, road dedications and/or rights-of-way of record.


Rien Groenewoud, P.L.S. 6946



MADERA COUNTY PUBLIC HEALTH AND DEPARTMENT OF SOCIAL SERVICES

MADERA H&HS 2 LLC

RECORDING REQUESTED BY:
City of Madera
WHEN RECORDED RETURN TO:
City of Madera
205 W. 4th Street
Madera, CA 93637
Attention: City Clerk

Fee Waived per Section 27383 & 27388.1(a)(2)(D) of the Government Code

**COVENANT
LANDSCAPE MAINTENANCE DISTRICT
ZONE OF BENEFIT 51**

WHEREAS, Madera H&HS 3 LLC, a California Limited Liability Company, hereinafter referred to as “Covenantor”, is the owner of the real property situated in the City of Madera, County of Madera, State of California, hereinafter referred to as “Subject Property” and more particularly described in attached Exhibit “A”; and

WHEREAS, Covenantor is required by the City as a condition of Agreement for Outside City Limits Water and Sewer Connections for County Office Complex approval to annex to the City’s Landscape Maintenance District; and

WHEREAS, the City of Madera approved the Agreement for Outside City Limits Water and Sewer Connections for County Office Complex for said parcel; and

WHEREAS, said resolution requires that maintenance of the landscaping associated with the Subject Property shall be the responsibility of the City’s Landscape Maintenance District.

NOW, THEREFORE, it is agreed:

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by the City of Madera, the undersigned hereby covenants, promises and agrees with the City of Madera for the benefit of said City.

2. The Covenantor consents to annexation of said Subject Property to the City's Landscape Maintenance District, has petitioned the City to annex said Subject Property to said district pursuant to Streets and Highways Code Section 22605, and pursuant to California Constitution Article, XIII D, section 5(b), waives any right to protest or object to such annexation.

3. The Covenantor agrees that the Subject Property receives a special benefit, as the term is defined in California Constitution Article, XIII D, section 2(i), from being annexed to Landscape Maintenance District, and that special benefit includes, but is not limited to, the right and ability to develop the Subject Property.

4. The Covenantor consents to an annual assessment on the Subject Property currently in an amount not to exceed \$224.60. The Covenantor agrees that this assessment is proportional to, and no greater than, the special benefit conferred on the Subject Property by being annexed into the Landscape Maintenance District. The Covenantor also consents to an annual change in the range of the assessment in the amount of the Engineering News Record Construction Cost Index (ENRCC), plus two percent (2%). The Covenantor agrees that if such change in the range of the assessment is implemented less frequently than an annual basis, the change may be based upon the total change in the ENRCC Index since the most recent change in the assessment plus two percent per year. The Covenantor further agrees that temporary decreases in assessment do not represent a waiver of other provisions of this covenant and that the assessment may later be reset to

an amount consistent with the assessment prior to the reduction plus the total change in the ENRCC Index plus two percent per year but only to the degree necessary to cover actual and reasonable costs.

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6. The Covenantor agrees that this shall constitute a ballot in support of the proposed assessment pursuant to California Constitution Article, XIII D, Section 4(d).

7. Furthermore, should City hold a hearing notwithstanding such waiver, Covenantor waives the requirement of 45 days' notice of such hearing in favor of a five-day notice of such hearing.

8. The Covenantor shall fully disclose this covenant to every potential purchaser of the Subject Property.

9. It is the intention of the parties hereof that this document shall constitute a covenant in favor of the City of Madera and shall run with the land and be binding upon the undersigned, its grantees, heirs, successors and assigns.

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gender includes the other genders, the singular includes the plural, and the plural includes the singular.

Dated: _____


///

WITNESS the execution of this covenant including Exhibit A the day and year first above written.

CITY OF MADERA:

By: _____
Andrew J. Medellin, Mayor

COVENANTOR:

By:  _____
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APPROVED AS TO FORM:

By: _____
Hilda Cantu Montoy, City Attorney

**NOTARY ACKNOWLEDGEMENT
REQUIRED**

ATTEST:

By: _____
Claudia Mendoza, Interim City Clerk

APPROVED:

By: _____
Keith B. Helmuth,
City Engineer

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CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
 County of FRESNO)
 On JUNE 19, 2019 before me, M. SLATER, Notary Public,
 Date Here Insert Name and Title of the Officer
 personally appeared JOHN MCCANN
 Name(s) of Signer(s)

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

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

WITNESS my hand and official seal.



Signature [Signature]
 Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____ Document Date: _____

Number of Pages: _____ Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

☐ Corporate Officer — Title(s): _____

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Signer Is Representing: _____

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☐ Other: _____

Signer Is Representing: _____

EXHIBIT "A"
LEGAL DESCRIPTION

ALL that certain real property, being a portion of Lots 23 and 24 according to the map entitled "Map of Lankershim Colony and Addition to the Town of Madera", filed for record February 5, 1889 in Volume 4 of Maps, at Page 31, Fresno County Records, and situate in the Southwest quarter of Section 20, Township 11 South, Range 18 East, Mount Diablo Meridian, County of Madera, State of California, being more particularly described as follows:

BEGINNING at a point on the West line of said Southwest quarter, being also a point on the West line of said Lot 24, from which the West quarter corner of said Section 20, said corner being marked with a 2" diameter brass disc, being also the Northwest corner of said Lot 24, bears North 00°30'57" West 341.50 feet; thence parallel with the East-West centerline of said Section 20, North 89°45'50" East 683.17 feet to a point which is 6.61 feet distant at right angles from the common line between said Lots 23 and 24; thence South 00°14'10" East 141.00 feet to a point which is 5.90 feet distant at right angles from said common line; thence parallel with and 482.50 feet distant at right angles from said East-West centerline South 89°45'50" West 285.00 feet to a point which is 279.10 feet distant at right angles from said common line; thence South 00°14'10" East 146.25 feet to a point which is 279.84 feet distant at right angles from said common line; thence parallel with and 628.75 feet distant at right angles from said East-West centerline South 89°45'50" West 396.77 feet to a point on said West line of the Southwest quarter and Lot 24; thence along last said West line North 00°30'57" West 287.25 feet to the Point of Beginning.

Containing 154,359 square feet (3.54 acres), more or less.

SUBJECT TO all easements, road dedications and/or rights-of-way of record.


Rien Groenewoud, P.L.S. 6946



11/14/17

MADERA COUNTY PUBLIC HEALTH AND DEPARTMENT OF SOCIAL SERVICES

MADERA H&HS 3 LLC

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2. The Covenantor consents to annexation of said Subject Property to the City's Landscape Maintenance District, has petitioned the City to annex said Subject Property to said district pursuant to Streets and Highways Code Section 22605, and pursuant to California Constitution Article, XIII D, section 5(b), waives any right to protest or object to such annexation.

3. The Covenantor agrees that the Subject Property receives a special benefit, as the term is defined in California Constitution Article, XIII D, section 2(i), from being annexed to Landscape Maintenance District, and that special benefit includes, but is not limited to, the right and ability to develop the Subject Property.

4. The Covenantor consents to an annual assessment on the Subject Property currently in an amount not to exceed \$262.72. The Covenantor agrees that this assessment is proportional to, and no greater than, the special benefit conferred on the Subject Property by being annexed into the Landscape Maintenance District. The Covenantor also consents to an annual change in the range of the assessment in the amount of the Engineering News Record Construction Cost Index (ENRCC), plus two percent (2%). The Covenantor agrees that if such change in the range of the assessment is implemented less frequently than an annual basis, the change may be based upon the total change in the ENRCC Index since the most recent change in the assessment plus two percent per year. The Covenantor further agrees that temporary decreases in assessment do not represent a waiver of other provisions of this covenant and that the assessment may later be reset to

an amount consistent with the assessment prior to the reduction plus the total change in the ENRCC Index plus two percent per year but only to the degree necessary to cover actual and reasonable costs.

5. The Covenantor agrees that he/she has received the written notice required by California Constitution Article, XIII D, Section 4(c).

6. The Covenantor agrees that this shall constitute a ballot in support of the proposed assessment pursuant to California Constitution Article, XIII D, Section 4(d).

7. Furthermore, should City hold a hearing notwithstanding such waiver, Covenantor waives the requirement of 45 days' notice of such hearing in favor of a five-day notice of such hearing.

8. The Covenantor shall fully disclose this covenant to every potential purchaser of the Subject Property.

9. It is the intention of the parties hereof that this document shall constitute a covenant in favor of the City of Madera and shall run with the land and be binding upon the undersigned, its grantees, heirs, successors and assigns.

10. The Covenant shall be released and be of no further effect upon written determination by the undersigned and the City Engineer of the City of Madera that it's continued existence and enforcement are no longer necessary.

11. The provisions of this Covenant shall be deemed independent and severable and the validity or partial invalidity or unenforceability of any other provision or portion thereof shall not affect the validity or enforceability of any one provision thereof. Whenever the context of the Covenant so requires, in interpreting this Covenant, any

gender includes the other genders, the singular includes the plural, and the plural includes the singular.

Dated: _____

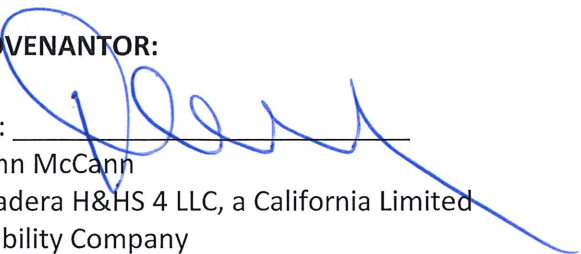
///

WITNESS the execution of this covenant including Exhibit A the day and year first above written.

CITY OF MADERA:

By: _____
Andrew J. Medellin, Mayor

COVENANTOR:

By:  _____
John McCann
Madera H&HS 4 LLC, a California Limited
Liability Company

APPROVED AS TO FORM:

By: _____
Hilda Cantu Montoy, City Attorney

**NOTARY ACKNOWLEDGEMENT
REQUIRED**

ATTEST:

By: _____
Claudia Mendoza, Interim City Clerk

APPROVED:

By: _____
Keith B. Helmuth,
City Engineer

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

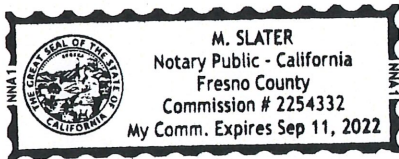
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
 County of FRESNO)
 On JUNE 19, 2019 before me, M. SLATER, Notary Public,
 Date Here Insert Name and Title of the Officer
 personally appeared JOHN MCCANN
 Name(s) of Signer(s)

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

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

WITNESS my hand and official seal.



Signature [Signature]
 Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____ Document Date: _____

Number of Pages: _____ Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

☐ Corporate Officer — Title(s): _____

☐ Partner — ☐ Limited ☐ General

☐ Individual ☐ Attorney in Fact

☐ Trustee ☐ Guardian or Conservator

☐ Other: _____

Signer Is Representing: _____

Signer's Name: _____

☐ Corporate Officer — Title(s): _____

☐ Partner — ☐ Limited ☐ General

☐ Individual ☐ Attorney in Fact

☐ Trustee ☐ Guardian or Conservator

☐ Other: _____

Signer Is Representing: _____

EXHIBIT "A"
LEGAL DESCRIPTION

ALL that certain real property, being a portion of Lots 23 and 24 according to the map entitled "Map of Lankershim Colony and Addition to the Town of Madera", filed for record February 5, 1889 in Volume 4 of Maps, at Page 31, Fresno County Records, and situate in the Southwest quarter of Section 20, Township 11 South, Range 18 East, Mount Diablo Meridian, County of Madera, State of California, being more particularly described as follows:

BEGINNING at a point which is 6.61 feet distant at right angles from the common line between said Lots 23 & 24, and from said Point of Beginning the West quarter corner of said Section 20, said corner being marked with a 2" diameter brass disc and being also the Northwest corner of said Lot 24, bears North 63°43'57" West 765.26 feet;
thence parallel with and 341.50 feet distant at right angles from the East-West centerline of said Section 20, North 89°45'50" East 265.00 feet to a point which is 374.95 feet distant at right angles from the East line of said Lot 23;
thence North 00°14'10" West 43.50 feet to a point which is 374.73 feet distant at right angles from said East line;
thence parallel with and 298.00 feet distant at right angles from said East-West centerline North 89°45'50" East 149.00 feet to a point which is 225.73 feet distant at right angles from said East line;
thence South 00°14'10" East 317.75 feet to a point which is 227.38 feet distant at right angles from said East line;
thence parallel with and 615.75 feet distant at right angles from said East-West centerline South 89°45'50" West 396.50 feet to a point which is 22.73 feet distant at right angles from said common line;
thence South 00°14'10" East 13.00 feet to a point which is 22.66 feet distant at right angle from said common line;
thence parallel with and 628.75 feet distant at right angles from said East-West centerline South 89°45'50" West 302.50 feet to a point which is 279.84 feet distant at right angles from said common line;
thence North 00°14'10" West 146.25 feet to a point which is 279.10 feet distant at right angles from said common line;
thence parallel with and 482.50 feet distant at right angles from said East-West centerline North 89°45'50" East 285.00 feet to a point which is 5.90 feet distant at right angles from said common line;
thence North 00°14'10" West 141.00 feet to the Point of Beginning.

Containing 161,930 square feet (3.72 acres), more or less.

SUBJECT TO all easements, road dedications and/or rights-of-way of record.


Rien Groenewoud, P.L.S. 6946



10/27/17

MADERA COUNTY PUBLIC HEALTH AND DEPARTMENT OF SOCIAL SERVICES

MADERA H&HS 4 LLC

RECORDING REQUESTED BY:
City of Madera
WHEN RECORDED RETURN TO:
City of Madera
205 W. 4th Street
Madera, CA 93637
Attention: City Clerk

Fee Waived per Section 27383 & 27388.1(a)(2)(D) of the Government Code

**COVENANT
LANDSCAPE MAINTENANCE DISTRICT
ZONE OF BENEFIT 51**

WHEREAS, First Priority Funding, LLC, hereinafter referred to as “Covenantor”, is the owner of the real property situated in the City of Madera, County of Madera, State of California, hereinafter referred to as “Subject Property” and more particularly described in attached Exhibit “A”; and

WHEREAS, Covenantor is required by the City as a condition of Conditional Use Permit 2018-22 & 23 & Site Plan Review 2018-37 approval to annex to the City’s Landscape Maintenance District; and

WHEREAS, the Planning Commission of the City of Madera conditionally approved the Conditional Use Permit 2018-22 & 23 & Site Plan Review 2018-37 for said commercial parcel; and

WHEREAS, said resolution requires that maintenance of the landscaping associated with the Subject Property shall be the responsibility of the City’s Landscape Maintenance District.

NOW, THEREFORE, it is agreed:

1. In consideration of the foregoing and the approval of the Conditional Use Permit 2018-22 & 23 & Site Plan Review 2018-37 for the commercial parcel, by the City of Madera, the undersigned hereby covenants, promises and agrees with the City of Madera for the benefit of said City.

2. The Covenantor consents to annexation of said Subject Property to the City's Landscape Maintenance District, has petitioned the City to annex said Subject Property to said district pursuant to Streets and Highways Code Section 22605, and pursuant to California Constitution Article, XIII D, section 5(b), waives any right to protest or object to such annexation.

3. The Covenantor agrees that the Subject Property receives a special benefit, as the term is defined in California Constitution Article, XIII D, section 2(i), from being annexed to Landscape Maintenance District, and that special benefit includes, but is not limited to, the right and ability to develop the Subject Property.

4. The Covenantor consents to an annual assessment on the Subject Property currently in an amount not to exceed \$33.20. The Covenantor agrees that this assessment is proportional to, and no greater than, the special benefit conferred on the Subject Property by being annexed into the Landscape Maintenance District. The Covenantor also consents to an annual change in the range of the assessment in the amount of the Engineering News Record Construction Cost Index (ENRCC), plus two percent (2%). The Covenantor agrees that if such change in the range of the assessment is implemented less frequently than an annual basis, the change may be based upon the total change in the

ENRCC Index since the most recent change in the assessment plus two percent per year. The Covenantor further agrees that temporary decreases in assessment do not represent a waiver of other provisions of this covenant and that the assessment may later be reset to an amount consistent with the assessment prior to the reduction plus the total change in the ENRCC Index plus two percent per year but only to the degree necessary to cover actual and reasonable costs.

5. The Covenantor agrees that he/she has received the written notice required by California Constitution Article, XIII D, Section 4(c).

6. The Covenantor agrees that this shall constitute a ballot in support of the proposed assessment pursuant to California Constitution Article, XIII D, Section 4(d).

7. Furthermore, should City hold a hearing notwithstanding such waiver, Covenantor waives the requirement of 45 days' notice of such hearing in favor of a five-day notice of such hearing.

8. The Covenantor shall fully disclose this covenant to every potential purchaser of the Subject Property.

9. It is the intention of the parties hereof that this document shall constitute a covenant in favor of the City of Madera and shall run with the land and be binding upon the undersigned, its grantees, heirs, successors and assigns.

10. The Covenant shall be released and be of no further effect upon written determination by the undersigned and the City Engineer of the City of Madera that it's continued existence and enforcement are no longer necessary.

11. The provisions of this Covenant shall be deemed independent and severable

and the validity or partial invalidity or unenforceability of any other provision or portion thereof shall not affect the validity or enforceability of any one provision thereof. Whenever the context of the Covenant so requires, in interpreting this Covenant, any gender includes the other genders, the singular includes the plural, and the plural includes the singular.

Dated: _____

///

WITNESS the execution of this covenant including Exhibit A the day and year first above written.

CITY OF MADERA:

By: _____
Andrew J. Medellin, Mayor

COVENANTOR:

By: _____
Shawn Bidsal
First Priority Funding, LLC

APPROVED AS TO FORM:

By: _____
Hilda Cantu Montoy, City Attorney

***NOTARY ACKNOWLEDGEMENT
REQUIRED***

ATTEST:

By: _____
Claudia Mendoza, Interim City Clerk

APPROVED:

By: _____
Keith B. Helmuth,
City Engineer

EXHIBIT "A"

Legal Description

STARBUCKS DRIVE-THRU & OUTDOOR PATIO

BEING A PORTION OF BLOCKS 17 1/2 AND 18 AND ADJOINING VACATED AND ABANDONED ALLEYWAYS AND STREETS OF HUGHES ADDITION TO THE TOWN, (NOW CITY) OF MADERA, RECORDED FEBRUARY 5, 1889 IN BOOK 4 PAGE 31 OF MAPS, FRESNO COUNTY RECORDS, SITUATED IN THE CITY OF MADERA, COUNTY OF MADERA, STATE OF CALIFORNIA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT ON THE NORTHEASTERLY LINE OF SAID BLOCK 18, FROM WHICH THE MOST NORTHERLY NORTHEAST CORNER OF BLOCK 19 OF SAID HUGHES ADDITION, LIES NORTHERLY, A DISTANCE OF 630.00 FEET; THENCE AT RIGHT ANGLES TO SAID NORTHEASTERLY LINE, SOUTH 50°07'00" WEST, A DISTANCE OF 182.00 FEET TO THE **POINT OF BEGINNING**;

THENCE CONTINUING, SOUTH 50°07'00" WEST, A DISTANCE OF 145.00 FEET; THENCE PERPENDICULAR TO THE NORTHERLY LINE OF SAID OLIVE AVENUE, SOUTH 00°00'27" EAST, A DISTANCE OF 55.42 FEET TO THE NORTHERLY LINE OF OLIVE AVENUE;

THENCE NORTH 89°59'33" EAST, A DISTANCE OF 235.24 FEET, ALONG THE NORTHERLY LINE OF OLIVE AVENUE TO A POINT THAT SAID NORTHERLY LINE INTERSECTS WITH A LINE RUNNING THROUGH THE POINT OF BEGINNING OF THIS DESCRIPTION AND IS PARALLEL WITH THE NORTHEASTERLY LINE OF SAID BLOCK 18;

THENCE ALONG SAID PARALLEL LINE, NORTH 39°53'00" WEST, A DISTANCE OF 193.35 FEET TO THE **POINT OF BEGINNING**.

THE ABOVE DESCRIBED PARCEL CONTAINS 0.47 ACRES, MORE OR LESS.