

1 **ORDINANCE NO. 2562**

2 **(Uncodified)**

3 **ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHICO**
4 **APPROVING THE DEVELOPMENT AGREEMENT BETWEEN THE CITY OF**
5 **CHICO AND JP REAL ESTATE INVESTMENTS, LLC., (DA 18-01);**
6 **(CITY OF CHICO/JP REAL ESTATE INVESTMENTS, LLC)**

7 WHEREAS, JP Real Estate Investments, LLC (“Courtesy”) submitted an application to the
8 City to enter into a Development Agreement between the City of Chico and Courtesy (the
9 “Development Agreement” or “DA”) to facilitate development of a new automotive center on
10 five parcels identified by Assessor’s Parcel Numbers 006-400-061, 006-400-063, 006-400-064,
11 006-400-065 and 006-400-066 (the “Project”); and

12 WHEREAS, the primary purpose of the DA is to allow Courtesy to defer constructing City
13 standard frontage improvements for a period not to exceed 20 years, instead allowing Courtesy
14 to use existing improvement plans to construct the Project with interim County-level frontage
15 improvements at the Project site; and

16 WHEREAS, the Project site is located at the far northern end of the City where most
17 properties lack urban frontage improvements and deferring City standard frontage improvements
18 as set forth in the DA will not interfere with the orderly development of public improvements in
19 this area of the City; and

20 WHEREAS, following a duly noticed public hearing on February 11, 2021, the Planning
21 Commission has recommended approval of the DA by this Council; and

22 WHEREAS, in connection with its approval of the DA, this Council finds that the
23 development provided for is consistent with the City’s General Plan, is in the best interests of the
24 City, and will promote the public interest and welfare; and

25 WHEREAS, prior to annexation of the site by the City of Chico in 2017, the County of
26 Butte analyzed the Project, approved several plan amendments to facilitate development of the
27 new automotive center, and adopted an Initial Study/Mitigated Negative Declaration (IS/MND)
28 to satisfy requirements of the California Environmental Quality Act (CEQA); and

WHEREAS, except regarding wastewater disposal which will now be provided by the

1 City's sanitary sewer system with adequate capacity to serve the Project, the Project is
2 substantially the same as analyzed by the County, and the DA would require compliance with the
3 approved mitigation measures of the IS/MND by corresponding City departments; and

4 WHEREAS, pursuant to Section 15162 of the CEQA Guidelines, the DA is within the
5 scope of the adopted IS/MND and requires no further environmental review in that: a) the
6 proposed amendments do not represent a substantial change that would require major revisions
7 to the adopted MND; b) there have been no substantial changes in the circumstances under
8 which the project will be undertaken that require major revisions to the MND; c) the MND
9 adequately addresses the potential impacts and provides appropriate mitigation measures related
10 to development of the Project, and that d) no new significant impacts have been identified; and

11 WHEREAS, this Council has considered the DA, the staff report, the Planning
12 Commission's recommendation, and comments at a public hearing, duly noticed and held in the
13 manner required by law.

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

15 **Section 1.** The City Council of the City of Chico hereby determines and finds that the facts
16 set forth in the recitals are true and correct and are hereby added as substantive findings.

17 **Section 2.** The Development Agreement, as set forth in Exhibit "I" hereto, is hereby
18 approved, based on the following specific findings:

- 19 A. The DA is in the best interests of the City and will promote the public interest and
20 welfare of the City because it would: implement General Plan policies as noted below,
21 and would retain a major sales tax generating use within City limits, and result in the
22 orderly provision of public infrastructure in a remote area of the City while facilitating
23 the efficient development of a large sales tax generating land use within City limits; and
24 B. The DA is consistent with the General Plan in that it will provide incentives such as
25 priority project processing, deferral of development impact fees, and flexibility in
26 development standards to secure an important economic development opportunity (LU-
27 2.3.1), and would encourage a Chico-based business by removing regulatory obstacles
28 that, due to the timing of annexation in this case, would unreasonably inhibit

1 development of the Project which was designed for development under County
2 jurisdiction (ED-1.3 and ED-1.9). Although frontage improvements would be temporarily
3 deferred along the immediate frontage, the DA incorporates County mitigation measures
4 adopted for the Project, which include installing intersection improvements at the
5 intersection of Garner Lane and Highway 99, consistent with General Plan Policy CIRC-
6 1.2 directing the provision of circulation improvements necessary to mitigate project
7 impacts.

8 **Section 3.** On or after the effective date of this ordinance the City Manager is authorized
9 and directed to execute the Development Agreement on behalf of the City of Chico.

10 **Section 4.** Within 10 days after the Development Agreement has been fully executed, the
11 Clerk is authorized and directed to cause it to be recorded in the Office of the Butte County
12 Recorder.

13 **Section 5.** The City Clerk shall certify to the adoption of this Ordinance and cause the same
14 to be posted at the duly designated posting places within the City and published once within
15 fifteen (15) days after passage and adoption as required by law, or in the alternative, the City
16 Clerk may cause to be published a summary of this Ordinance and a certified copy of the text of
17 this Ordinance shall be posted in the Office of the City Clerk five (5) days prior to the date of
18 adoption of this Ordinance, and, within fifteen (15) days after adoption, the City Clerk shall
19 cause to be published the aforementioned summary and shall post a certified copy of this
20 Ordinance, together with the vote for and against the same, in the Office of City Clerk.

21 **Section 6.** This Ordinance shall be effective thirty (30) days following its adoption.

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THE FOREGOING ORDINANCE WAS ADOPTED at a meeting of the City Council of
the City of Chico held on March 16, 2021, by the following vote:

AYES: Brown, Denlay, Huber, Morgan, Tandon, Reynolds, Coolidge

NOES: None


ABSENT: None

ABSTAINED: None

DISQUALIFIED: None

ATTEST:

APPROVED AS TO FORM:


Deborah R. Presson
City Clerk


Andrew L. Jared, City Attorney*

*Pursuant to The Charter of
the City of Chico, Section 906(E)

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Exempt from payment of recording fees pursuant to §6103 and §27383 of the California Government Code.

After recording, return to:
City Manager
City of Chico
P. O. Box 3420
Chico, CA 95927-3420

DEVELOPMENT AGREEMENT

CITY OF CHICO/JP REAL ESTATE INVESTMENTS, LLC (DA18-01)

THIS DEVELOPMENT AGREEMENT ("Agreement") is made this ____ day of ____, 2021, between the CITY OF CHICO, a municipal corporation, ("the City"), and JP REAL ESTATE INVESTMENTS, LLC, a California Limited Liability Company, ("Courtesy"), pursuant to the authority of Sections 65864 through 65869.5 of the California Government Code and Chapter 19.32 of the Chico Municipal Code.

RECITALS

A. Enabling Statute. To strengthen the public planning process, encourage private participation in comprehensive planning and to reduce the economic risks of development, the Legislature of the State of California adopted sections 65864 et seq., of the California Government Code enabling a city and an applicant for a development project who has a legal or an equitable interest in the property to be developed, to enter into a development agreement establishing the zoning standards, land use regulations and development standards of the city that will govern project development.

B. Courtesy Automotive Group Project. The Courtesy Automotive Group Project is a large-scale, commercial project in northwest Chico. It has been designed with a large automobile dealership as the core of the development, with some other potential retail services contemplated as further described under Section 1.4 of this Agreement ("Project").

C. Property Description. The Project site constitutes approximately 11.3 undeveloped acres located in the northern extremity of the City of Chico. The real property includes those properties identified by Assessor's Parcel Numbers as listed in **Exhibit "B"** and more particularly described in **Exhibit "A"**. Annexed to the City of Chico in 2018, the existing public infrastructure along the Garner Lane frontage and Esplanade frontage comprise paved travel lanes with unimproved gravel shoulders and roadside ditches.

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D. Development Agreement Goals. The City and Courtesy desire to enter into this Agreement relating to the Property to facilitate orderly implementation of the development of the Project.

E. General Plan Consistency. The City hereby finds this Agreement to be consistent with the City of Chico General Plan.

F. Mutual Agreement. This Agreement constitutes an exercise of the City's discretion and police power.

NOW, THEREFORE, the parties agree as follows:

SECTION 1. GENERAL PROVISIONS

SECTION 1.1 Incorporation of Recitals and Exhibits. The recitals set forth above as well as the Exhibits attached shall constitute an integral part of this Agreement and shall be binding on the parties.

SECTION 1.2 Property Description and Binding Covenants. The property that is the subject of this Agreement is that property which is more fully described in **Exhibits "A" and "B"** (the "Property"). It is intended that the provisions of this Agreement shall constitute covenants which shall run with the Property and the benefits and burdens of this Agreement shall be binding upon and inure to the benefit of the parties and to their successors in interest.

SECTION 1.3 Interest of Courtesy. Courtesy has a fee interest in the Property and all other persons in the future holding legal or equitable interests in the Property are to be bound by this Agreement.

SECTION 1.4 Project Description. The development of the Property pursuant to this Agreement anticipates a phased development, as depicted on the site plan attached hereto as **Exhibit "C"** (the "Site Plan"), in compliance with all zoning and development regulations within the City of Chico (excepting as set forth by this Agreement), consisting of the following two (2) phases (each a "Phase" and collectively the "Phases": (i) the Courtesy automotive dealership, including three (3) +/- 17,600 square-foot individual new car showrooms and a +/- 56,000 square foot service and repair shop (Phase 1); and (ii) Pre-Owned Car Dealership (Phase 2) (the "Project Description").

SECTION 1.5 Term. The term of this Agreement shall commence on the effective date of the ordinance authorizing the approval and execution of this Agreement (the "Ordinance") and shall extend until the earlier to occur of: (a) the full development of City Standard Public Improvements along the Garner Lane frontage and Esplanade frontage of the Property as set forth in **Exhibit "D"**, attached hereto, or (b) twenty-two (22) years from the effective date of the Ordinance, unless it is earlier terminated as set forth herein.

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SECTION 1.6 Assignment. Courtesy shall have the right to sell, mortgage, hypothecate, assign or transfer the Property, in whole or in part, to any person, partnership, joint venture, firm or corporation at any time during the term of this Agreement, provided that any such sale, mortgage, hypothecation, assignment or transfer shall include the assignment of those rights, duties, and obligations arising under or from this Agreement, applicable to the Property, or portions thereof being assigned, transferred or sold and that the use of any such portion of the Property shall continue under the terms of this Agreement, until such time as the parties may expressly agree to the modification of this Agreement. Courtesy and any subsequent assignor shall notify the City in writing of any assignment. The City shall have no obligation to provide future notice to any assignee if the above notice is not given. Any and all successors and assigns of Courtesy shall have all of the same rights, benefits and obligations as Courtesy under this Agreement.

SECTION 1.7 Amendment of Agreement. This Agreement may be amended from time to time by mutual consent of the City and the owner of the property which is the subject of the proposed amendment in the manner set forth in Government Code Sections 65867, 65867.5 and 65868. However, any change to this Agreement which does not alter the term, permitted uses, density or intensity of use, provisions for reservation and dedication of land; conditions, terms, restrictions and requirements relating to subsequent discretionary actions; or any conditions or covenants relating to the use of the Property shall not require notice or public hearing and may be made by mutual consent of the parties.

Consent of the successors in interest to Courtesy who acquire less than all of Courtesy's interest in the Property shall not be required for any amendment to this Agreement to be effective if the amendment does not change the land use regulations or entitlements for such party's property.

SECTION 2. DEVELOPMENT OF THE PROPERTY

SECTION 2.1 Development of the Property. Courtesy shall have the vested right to develop the Property in accordance with the terms and provisions of this Agreement and the standards set forth in Section 4.1 consistent with the Site Plan and Project Description. The County's authorization of the use is acknowledged, and no City use permit shall be required. It is the intent of the parties that the development of the Property as it relates to installation of public improvements on the frontage of the Property shall be wholly controlled by this Agreement.

SECTION 2.2 Public Improvements. In conjunction with the typical requirements imposed upon the granting of a building permit within the City of Chico, the construction of certain public improvements is obligated along the frontage of the property being developed (City Standard Public Improvements). These City Standard Public Improvements typically include curb, gutter and sidewalk, storm drainage, sanitary sewer, landscaping, parkstrip and streetlights. The parties agree that construction of City Standard Public Improvements at the Property is premature at this time, as there are no urban-level public frontage improvements in the area. Accordingly, the City agrees to temporarily defer the obligation to construct the City Standard Public Improvements until either of the following occurring events ("Trigger Events") transpire:

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- A. Twenty (20) years from the effective date of the Ordinance, or
- B. The development of the properties represented by Assessor's Parcel Numbers 006-400-029, 006-400-067, 006-400-077, and 006-400-080, such that City Standard Public Improvements are completed for each of these adjacent properties.

2.2.1 Courtesy shall at all times guarantee performance of this Agreement by furnishing to the City good and sufficient security acceptable to the City and in conformity with the California Government Code sections 65864 *et seq.* and any City ordinance or regulation relating to the construction of deferred improvements or development agreements (the "Laws") on forms approved by the City and by maintaining said security for the purposes and in the following. A Subordinated deed of trust in favor of the City of Chico in the form attached hereto as **Exhibit "E"** and incorporated herein by reference ("Subordinated Deed of Trust") shall be recorded concurrently with the recordation of this Agreement. The Subordinated Deed of Trust shall secure the amount of 100% of the estimated cost of the Deferred Improvements to guarantee construction and installation of all the Deferred Improvements, plus 50% of the estimated costs of the Deferred Improvements to secure payment to any contractor, subcontractor, persons renting equipment, or furnishing labor and materials for the Deferred Improvements required to be constructed or installed pursuant to this Agreement, plus 20% of the estimated cost of the Deferred Improvements to guarantee or warranty the work done pursuant to this Agreement for a period of one (1) year following the completion and acceptance or approval thereof by the City against any defective work or labor done or defective materials furnished. From the time of recordation of the Subordinated Deed of Trust, a lien shall attach to the real property described in **Exhibits "A" and "B"** to said Subordinated Deed of Trust, and such lien shall have priority of a judgment lien in the amount necessary to complete the Deferred Improvements not to exceed the amounts specified in Section 3.2.

2.2.2 Upon request of Courtesy, the City shall execute any and all documents necessary to subordinate the Subordinated Deed of Trust securing performance hereunder, executed by Courtesy or Courtesy's successors in interest, in order to, secure a construction loan or loans constituting security pursuant to Government Code Section 66499(a)(2) or 66499(a)(3) for the construction of the Deferred Improvements set forth in this Agreement. At such time as the Courtesy or Courtesy's successors interest shall submit documentation acceptable to the City Attorney that such construction loan or loans are secured, the City shall release the properties encumbered by the Subordinated Deed of Trust through a reconveyance as provided in Section 2.2.3.

2.2.3 The City shall reconvey the Subordinated Deed of Trust releasing the real property at such time as the funds are irrevocably committed to a loan commitment account or other acceptable form of security approved by City Attorney consistent with Government Code Section 66499(a)(2) or 66499(a)(3) or receipt of certification of completion of the Deferred Improvements by the City Engineer. City shall have the right to refuse acceptance of irrevocable commitment of funds to a loan commitment account or other form of security in favor of existing security. City shall not unreasonably withhold certification of completion of the Deferred Improvements by the City Engineer and shall reconvey the Subordinated Deed of Trust if accepted by the City Engineer. Any replacement security as provided herein, shall be filed with the City.

2.2.4 In the case Courtesy may undertake a property boundary line modification, Courtesy shall agree to reconvey the Subordinated Deed of Trusts from each existing parcel to each new parcel

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established though the property boundary line modifications. The total security for the Deferred Improvements shall be reconvened onto each new parcel in such a manner that the estimated cost as specified in Section 3.2 shall be proportioned to each new parcel based on parcel size. The City will not reasonably withhold the necessary approvals to allow for the reconveyance of the Subordinated Deeds of Trust.

2.2.5 Courtesy may transfer its respective properties within the Project to one or more developers who will carry out the obligation of the Courtesy as transferor to construct the Deferred Improvements for the Project, thereby relieving Courtesy from such obligation. Courtesy agrees to the obligations set forth herein provided that in the event of such transfer to a developer, the City shall duly execute a replacement agreement agreeing to the full transfer of the obligations of Courtesy to the Developers and subordinate the Subordinate Deed of Trust to any acquisition loan to purchase the Property.

SECTION 2.3 Project Approvals. The parties acknowledge that development of the Project and the implementation of this Agreement will require approval by the City of various applications and certain other actions by the City, which may include, but not be limited to, those listed in **Exhibit "F"** attached hereto ("Project Approvals"). The City agrees that it shall timely process the entitlement applications as submitted by Courtesy or as may hereinafter be modified or any subsequent applications that Courtesy may file. The parties agree that the City's approvals of such applications and any amendments that may from time to time be made to same, shall be consistent with this Agreement and the Project Description. Upon the City's concurrent or subsequent approval of Project Approvals, Courtesy shall have the vested right to develop the Property in accordance with the Project Approvals.

SECTION 2.4 Applicable Ordinances and Regulations. As set forth herein, this Agreement vests in Courtesy the right to develop and use the Property in accordance with the Project Description and the ordinances, resolutions, regulations, laws, general plan provisions, and official policies of the City in force and effect upon the effective date of this Agreement (the "Applicable Rules"). This section shall not be construed to limit the authority or obligation of the City to hold necessary public hearings, but shall limit discretion of the City, or any of its officers or officials, boards or commissions such that the exercise of any such discretion shall not prevent development and use of the Property as shown in the Project Description. Any development of the Property with structures, or for uses, not described in the Project Description shall be subject to the ordinance, resolutions, regulations, laws, General Plan provisions and official policies of the City in effect at the time of such development and the City's discretion in regard to such applications shall not be limited by this Agreement.

SECTION 2.5 Application of Subsequently Enacted or Modified Rules. The City may apply subsequently adopted ordinances, resolutions, regulations, laws, general plan provisions, and official policies which are not in conflict or inconsistent with the Applicable Rules and this Agreement.

For the purpose of this Agreement, a new ordinance, resolution, regulation, law, general plan provision, and official policy shall be not deemed to be in conflict or inconsistent with the Applicable Rules if the application of such rule would not prevent the development or use of the Property as

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shown in the Project Description and is not in conflict with matters specifically addressed in this Agreement.

SECTION 2.6 Mitigation. Nothing contained in this Agreement is intended to derogate the obligation of Courtesy relating to various environmental mitigations approved by the County, as more fully set forth in the Initial Study and Mitigated Negative Declaration for the Project and included as **Exhibit "G"** hereto. Monitoring responsibilities will be assumed by corresponding City Departments and these mitigations shall become conditions of approval for any subsequently granted Project Approvals, as applicable, in relation to the development of the Project.

SECTION 2.7 Processing Fees and Charges. Courtesy shall pay those processing, development and impact fees and charges of every kind and nature imposed or required by the City or other entities covering the actual costs of the City as follows:

A. Courtesy shall pay such fees for processing applications, tentative subdivision maps, final maps, building permits, encroachment permits or other ministerial permits, boundary line modifications, mergers, or abandonments as necessary to undertake the Project, and as are applicable to the specific application or permit at the time the application therefore is submitted.

B. Courtesy shall pay such development impact fees applicable to development of the Project as are in effect at the time they are due except as otherwise provided in Section 4.6.

C. Courtesy shall receive a credit against the development impact fees imposed herein when such credit is applicable under the Chico Municipal Code and in the amounts as calculated pursuant to the Chico Municipal Code.

SECTION 2.8 Timing and Commencement of Development. The application for the Boundary Line Modification shall be submitted within two years from the effective date of this Agreement. Subsequently, the application for building permits for the first phase of the project shall be submitted within three years from the effective date of this Agreement. The City may grant an extension of time for meeting these requirements upon a showing by Courtesy that such development within the timeframes set forth herein is impracticable.

SECTION 3. COURTESY OBLIGATIONS

SECTION 3.1 Property Development. The Property shall be developed and used according to this Agreement.

SECTION 3.2 Deferral of City Standard Public Improvements. Courtesy has the option to defer installing any or all portions of the City Standard Public Improvements subject to meeting the provisions set forth in this section (the "Deferred Improvements").

3.2.1 Courtesy shall agree to construct all Deferred Improvements along Garner Lane and Esplanade to be complete and accepted no later than twenty (20) years from the effective date of the Ordinance.

3.2.2 The Parties agree that the construction of the Deferred Improvements along Garner Lane and Esplanade is deferred, and Courtesy shall construct the County Standard

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Public Improvements (“Interim Improvements”) until such time as either of the Trigger Events are reached, but, in no case, shall this deferral exceed 20 years from the adoption date of the Ordinance.

SECTION 3.3 Interim Improvements. Prior to certificate of occupancy for the Project and completion of the Deferred Improvements, Courtesy shall construct interim improvements along the frontage of Garner Lane and Esplanade as depicted in **Exhibit “H”**, indicating the typical county frontage improvement standards, to the satisfaction of the City Engineer. Such improvements along Garner Lane and Esplanade shall be temporary until completion of the Deferred Improvements.

SECTION 3.4 Compliance with Conditions of Approval. Courtesy shall, in consideration of the City’s commitments, comply with all provisions of this Agreement and of any future Project Approvals which Courtesy may apply for in regard to the development of the Property as may be reasonably imposed by the City and which are consistent with this Agreement and City Ordinance.

SECTION 4. CITY OBLIGATIONS

SECTION 4.1 Vested Rights. By entering into this Agreement, the City hereby grants to Courtesy a vested right to proceed with the development of the Property in accordance with the terms and conditions of this Agreement and the Project Description.

Courtesy’s vested right to proceed with the Project shall be subject to any subsequent Project Approvals required in order to complete the Project, provided that any conditions, terms, restrictions and requirements for such subsequent approvals shall not conflict with the provisions of this Agreement, supersede the Applicable Rules, prevent development of the land for the uses and to the density or intensity of development set forth in this Agreement, or require Courtesy to construct the Deferred Improvements prior to the Trigger Events. Courtesy’s vested right to proceed with the Project shall be subject to compliance with the provisions of this Agreement.

SECTION 4.2 Conflicts with Subsequently Enacted Laws. In the event State or Federal laws or regulations enacted after the effective date of this Agreement prevent compliance with one or more provisions of this Agreement, or require changes in plans, maps or permits approved by the City, the parties agree that the provisions of this Agreement and the Project Description shall be modified, extended or suspended only to the extent necessary to comply with such State or federal laws or regulations. Each party agrees to extend to the other its prompt and reasonable cooperation in so modifying this Agreement or approved plans.

SECTION 4.3 Cooperation. The City shall cooperate with Courtesy in securing any permits that may be required by any governmental entity for the development of the Property consistent with this Agreement. The filing of any third-party lawsuits against the City and/or Courtesy relating to this Agreement or the Property shall not delay or stop the processing or issuance of any entitlement or permit or other action or approval by the City unless specifically enjoined by a court of competent jurisdiction.

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SECTION 4.4 City Obligations Referenced in Other Sections. The City's obligations referenced in other sections of this Agreement are incorporated herein by reference.

SECTION 4.5 In-Lieu Tax Assessments for Sewer Fees. City agrees to entertain application for an In-Lieu Tax assessment to be considered by Council to prepare an agreement, for the collection of the Sewer fees due at the time of Certificate of Occupancy, to be collected by property tax assessment over a period of 15 years.

SECTION 4.6 Development Impact Fee Deferral. City agrees to defer collection of the Development Impact Fee (DIF) owed by Courtesy as payable at time of application of permits and collect such DIF amount in: (i) two annual payments of Interest only paid on the first two anniversaries of the Ordinance, and (ii) thereafter, ten (10) equal installments of the outstanding deferred DIF paid on the following ten (10) anniversaries of the Ordinance plus Interest. "Interest" payable under this Section 4.6 shall be computed by multiplying the total amount of outstanding deferred DIF by the Local Agency Investment Fund (LAIF) investment rate as published by the California State Treasurer ("Rate") 30 days prior to the due date of the annual payment, presently 1.2%; provided, however, that in no event shall the Rate be greater than 1.5%.

SECTION 4.7 Special Conditions. The following development standards shall be utilized instead of any similar or conflicting City standard which may be more restrictive for any Required Approvals:

- A. The maximum height for up to six freestanding signs shall be 25 feet, six inches;
- B. Freestanding light poles for illuminating exterior areas shall be limited to 28 feet in height;
- C. Insofar as the Boundary Line Modification situates property lines to avoid conflicts with approved building placements, the resultant parcels may span multiple zoning districts. The allowable uses of the resultant parcels shall be governed by this Agreement.
- D. The minimum depth of standard parking stalls shall be 19 feet where the corresponding drive aisle width is 25 feet;
- E. The building pad of the parcel designated as "Future Pre-Owned Car Dealership" on the Site Plan shall be covered with gravel and Developer shall have the right to park vehicles for sale on said parcel until developed.

SECTION 5. ANNUAL REVIEW

SECTION 5.1 Annual Review. The City shall, at least every twelve (12) months during the term of this Agreement, initiate a review and make findings specifically as to the extent of good faith compliance by Courtesy and the City, with the terms of this Agreement. Such periodic review shall be limited in scope to compliance with the terms and conditions of this Agreement pursuant

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to California Government Code Section 65865.1. Notice of such annual review shall include the statement that any review may result in amendment or termination of this Development Agreement pursuant to the provisions as set forth below in this section and Section 6.1.

Upon not less than thirty (30) days written notice by the City Manager, or their designee, Courtesy shall provide such information as may be reasonably requested by the City and deemed by the City to be required in order to ascertain compliance with this Agreement. The City shall email to Courtesy a copy of all staff reports and, to the extent practical, related exhibits concerning contract performance at least seven (7) calendar days prior to any such periodic review. Courtesy shall be permitted an opportunity to be heard orally and/or in writing regarding its performance under this Agreement before the City Council or, if the matter is referred to the City Planning Commission, before the Commission. If the City determines following completion of the normal scheduled periodic review, that based on substantial evidence Courtesy has materially breached its obligations under this Agreement, the City may provide Courtesy with written notice of proposed termination or modification of this Agreement shall be given, pursuant to applicable laws and regulations, specifying in the notice the alleged nature of the default, and suggested or potential actions and timing to cure the default where appropriate. Courtesy shall have not less than ninety (90) days within which to cure any alleged default determined pursuant to this Section. The City shall have no duty to give notice of an annual review to anyone having an ownership interest in a portion of the Project deemed complete by the City and released from the obligations of this Agreement. Formal rules of evidence shall not apply in such proceedings.

SECTION 6. DEFAULT, DELAYS AND REMEDIES

SECTION 6.1 Default. The failure or unreasonable delay by either party to perform any obligation under this Agreement shall constitute a default and a material breach of this Agreement. In the event of a default the aggrieved party shall be allowed to give written notice of the default, specifying the facts that constitute the default, to the other party. The defaulting party shall have a period of 90 days from the date of the written notice to cure the default, after which the aggrieved party may declare this Agreement terminated or, at that party's election, institute legal proceedings, including without limitation, an action for specific performance, writ of mandate, foreclosure of the Subordinated Deed of Trust or such other appropriate action

SECTION 6.2 Excusable Delays. The delay in the performance of any obligation under this Agreement shall not give rise to a default and material breach where the delay by a party is beyond the control of that party, is prevented or delayed due to war, insurrection, riots, strikes or similar job actions, casualties, acts of God, or governmental restrictions imposed or mandated by entities other than the City, enactment of conflicting state or federal laws or regulations, litigation, or similar bases for excused performance. If written notice of such delay is given to the City within thirty (30) days of the commencement of such delay, an extension of time for such cause shall be granted in writing for the period of the enforced delay, or longer as may be mutually agreed upon.

SECTION 6.3 Remedies. Nothing herein shall be deemed to be a limitation upon the

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remedies allowed by law in the event of a breach of this Agreement. In addition to any other rights or remedies, either party may institute legal action to cure, correct or remedy any default, to enforce any covenant or agreement herein, or to enjoin any threatened or attempted violation, including suits for declaratory relief, specific performance, injunctive relief, and relief in the nature of mandamus. All of the remedies described above shall be cumulative and not exclusive of one another, and the exercise of any one or more of the remedies shall not constitute a waiver or election with respect to any other available remedy.

SECTION 7. GENERAL PROVISIONS

SECTION 7.1 Indemnification. Courtesy shall defend, indemnify and hold harmless the City, its boards and commissions, officers and employees against and from any and all liabilities, demands, claims, actions or proceedings and costs and expenses incidental thereto (including costs of defense, settlement and reasonable attorney's fees), which any or all of them may suffer, incur, be responsible for or pay out as a result of or in connection with any challenge to or claim regarding the legality, validity, processing or adequacy of any of the following: (i) this Agreement; Any subsequent approvals or permits issued in relation to the Project; (iii) the proceedings undertaken in connection with the adoption or approval of any of the above; (iv) any subsequent approvals or permits relating to the Project; (v) the processing of occupancy permits and (vi) any amendments to this Agreement.

SECTION 7.2 Authority to Execute. The person or persons executing this Agreement on behalf of Courtesy warrant and represent that they have the authority to execute this Agreement on its behalf and represent that they have the authority to bind Courtesy to the performance of its obligations hereunder.

SECTION 7.3 Cancellation or Modification. This Agreement may not be canceled or modified except by mutual consent of all parties.

SECTION 7.4 Construction of Agreement. The language in all parts of this Agreement shall, in all cases, be construed as a whole and in accordance with its fair meaning. The captions of the paragraphs and subparagraphs of this Agreement are for convenience only and shall not be considered or referred to in resolving questions of construction. This Agreement shall be governed by the laws of the State of California. Any dispute between the parties shall be submitted to the Butte County Superior Court.

SECTION 7.5 Covenants of Good Faith and Fair Dealing. Neither party shall do anything which shall have the effect of harming or injuring the right of the other party to receive the benefits of this Agreement; each party shall refrain from doing anything which would render its performance under this Agreement impossible; and each party shall do everything which this Agreement contemplates that such party do to accomplish the objectives and purposes of this Agreement.

SECTION 7.6 Entire Agreement. This Agreement, together with the exhibits, constitutes the entire agreement between the parties with respect to the subject matter of this Agreement.

City Council Ordinance: Exhibit "I"

SECTION 7.7 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, file or record any required instruments and writings necessary to evidence or consummate the transactions contemplated by this Agreement, 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.

SECTION 7.8 Severability. The provisions of this Agreement are contractual, and not mere recitals, and shall be considered severable, so that if any provision or part of this Agreement shall at any time be held invalid, that provision or part thereof shall remain in force and effect to the extent allowed by law, and all other provisions of this Agreement shall remain in full force and effect, and be enforceable.

SECTION 7.9 No Third-Party Beneficiaries. This Agreement is made and entered into for the sole protection and benefit of the parties and their successors and assigns. No other person shall have any right of action based upon any provision in this Agreement.

SECTION 7.10 No Waiver. No delay or omission by either party in exercising any right or power accruing upon non-compliance or failure to perform by the other party under the provisions of this Agreement shall impair any such right or power to be construed to be a waiver thereof. A waiver by either party of any of the covenants or conditions to be performed by the other party shall not be construed as a waiver of any succeeding breach or nonperformance of the same or other covenants and conditions hereof.

SECTION 7.11 Notices. All notices required or provided for under this Agreement shall be in writing and delivered in person or sent by certified mail, postage prepaid, return receipt requested, to the principal offices of the City and Courtesy, or Courtesy's assigns and successors.

Notice shall be effective on the date delivered in person, or the date when such notice is mailed to the address of the receiving party indicated below:

Notice to the City: City of Chico
 Attention: City Manager
 P. O. Box 3420
 Chico, CA 95927

Notice to Courtesy: JP Real Estate Investments, LLC
 2520 Cohasset Road
 Chico, CA 95973

SECTION 7.12 Recording. The City Clerk shall cause a copy of this Agreement to be recorded with the Butte County Recorder no later than ten (10) days following execution of this Agreement by both parties, which execution will take place no sooner than the effective date of the

City Council Ordinance: Exhibit "I"

ordinance approving this Agreement.

SECTION 7.13 Exhibits. The exhibits attached to this Agreement are incorporated herein by reference, and are identified as follows:

- Exhibit "A" Legal Description and Plat for the Property
- Exhibit "B" List of Properties by Assessor's Parcel Number comprising the Project
- Exhibit "C" Site Plan
- Exhibit "D" City Standard Public Improvements
- Exhibit "E" Form Deed of Trust
- Exhibit "F" List of Anticipated Project Approvals Necessary
- Exhibit "G" Approved Mitigation Measures from the County
- Exhibit "H" Interim Improvements

IN WITNESS WHEREOF, the parties have duly signed this Agreement as of the date first written above.

JP Real Estate Investments, LLC
A California Limited Liability Company

By:

CITY OF CHICO,
A Municipal Corporation

APPROVED AS TO FORM:

By: Mark Orme, City Manager ##

Andrew L. Jared, City Attorney **

Pursuant to Council Action on _____

** Pursuant to Chico Charter sec. 906.D

Approved pursuant to City of Chico City
Council Ordinance No. _____
adopted _____

* Signatures to be acknowledged

City Council Ordinance: Exhibit "I"

EXHIBIT "A"

DEVELOPMENT AGREEMENT

City of Chico/JP Real Estate Investments LLC (DA 18-01)

The Land referred to herein below is situated in the City of Chico, County of Butte, State of California, and is described as follows:

PARCEL I-A:

PARCEL 1, AS SHOWN ON THAT CERTAIN PARCEL MAP, RECORDED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF BUTTE, STATE OF CALIFORNIA, ON JULY 02, 1980, IN BOOK 77 OF MAPS, PAGE(S) 31 AND 32.

PARCEL I-B:

BEING A PORTION OF PARCEL 4, AS SHOWN ON THAT CERTAIN PARCEL MAP, RECORDED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF BUTTE, STATE OF CALIFORNIA, ON AUGUST 11, 1976, IN BOOK 59 OF MAPS, PAGE(S) 18, AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF PARCEL 1, AS SHOWN ON THAT CERTAIN PARCEL MAP, RECORDED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF BUTTE, STATE OF CALIFORNIA, ON JULY 02, 1980, IN BOOK 77 OF MAPS, PAGE(S) 31 AND 32; THENCE ALONG THE NORTH LINE OF SAID PARCEL 1 SOUTH 88 DEG 53' 46" WEST, A DISTANCE OF 325.00 FEET TO THE NORTHWEST CORNER OF SAID PARCEL 1, SAID CORNER BEING ON THE EAST RIGHT-OF-WAY LINE OF GARNER LANE; THENCE NORTH 00 DEG. 34' 03" WEST ALONG SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 3.13 FEET; THENCE LEAVING SAID EAST RIGHT-OF-WAY LINE NORTH 88 DEG. 22' 32" EAST, A DISTANCE OF 325.04 FEET; THENCE SOUTH 00 DEG. 34' 03" EAST, A DISTANCE OF 6.08 FEET TO THE POINT OF BEGINNING.

PARCELS I-A AND I-B ABOVE ARE PURSUANT TO A BOUNDARY LINE MODIFICATION BY DEED RECORDED APRIL 09, 1993, UNDER BUTTE COUNTY RECORDER'S SERIAL NO. 93-14054, AND CANNOT BE SOLD SEPARATELY.

PARCEL I-C:

AN EASEMENT FOR INGRESS AND EGRESS AND PUBLIC UTILITIES AND DRAINAGE PURPOSES OVER THREE SEVENS LANE AND TWO 12' DRAINAGE EASEMENTS, AS ON PARCEL 4, AS SHOWN ON THAT CERTAIN PARCEL MAP, FILED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF BUTTE, STATE OF CALIFORNIA, ON JULY 02, 1980, IN BOOK 77 OF MAPS, PAGE(S) 31 AND 32.

PARCEL I-D:

AN EASEMENT FOR INGRESS AND EGRESS AND PUBLIC NON-EXCLUSIVE EASEMENTS FOR ROAD AND PUBLIC UTILITY AND DRAINAGE PURPOSES OVER THREE SEVENS LANE, AS SHOWN ON THAT CERTAIN PARCEL MAP, FILED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF BUTTE, STATE OF CALIFORNIA, ON JANUARY 31, 1995, IN BOOK 136 OF MAPS, PAGE(S) 22, 23 AND 24.

City Council Ordinance: Exhibit "I"

PARCEL II:

PARCELS 1, 2, 3 AND 4, AS SHOWN ON THAT CERTAIN PARCEL MAP, FILED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF BUTTE, STATE OF CALIFORNIA, ON OCTOBER 14, 1993, IN BOOK 132 OF MAPS, PAGE(S) 27 AND 28.

CITY OF CHICO

APPROVED

DATE

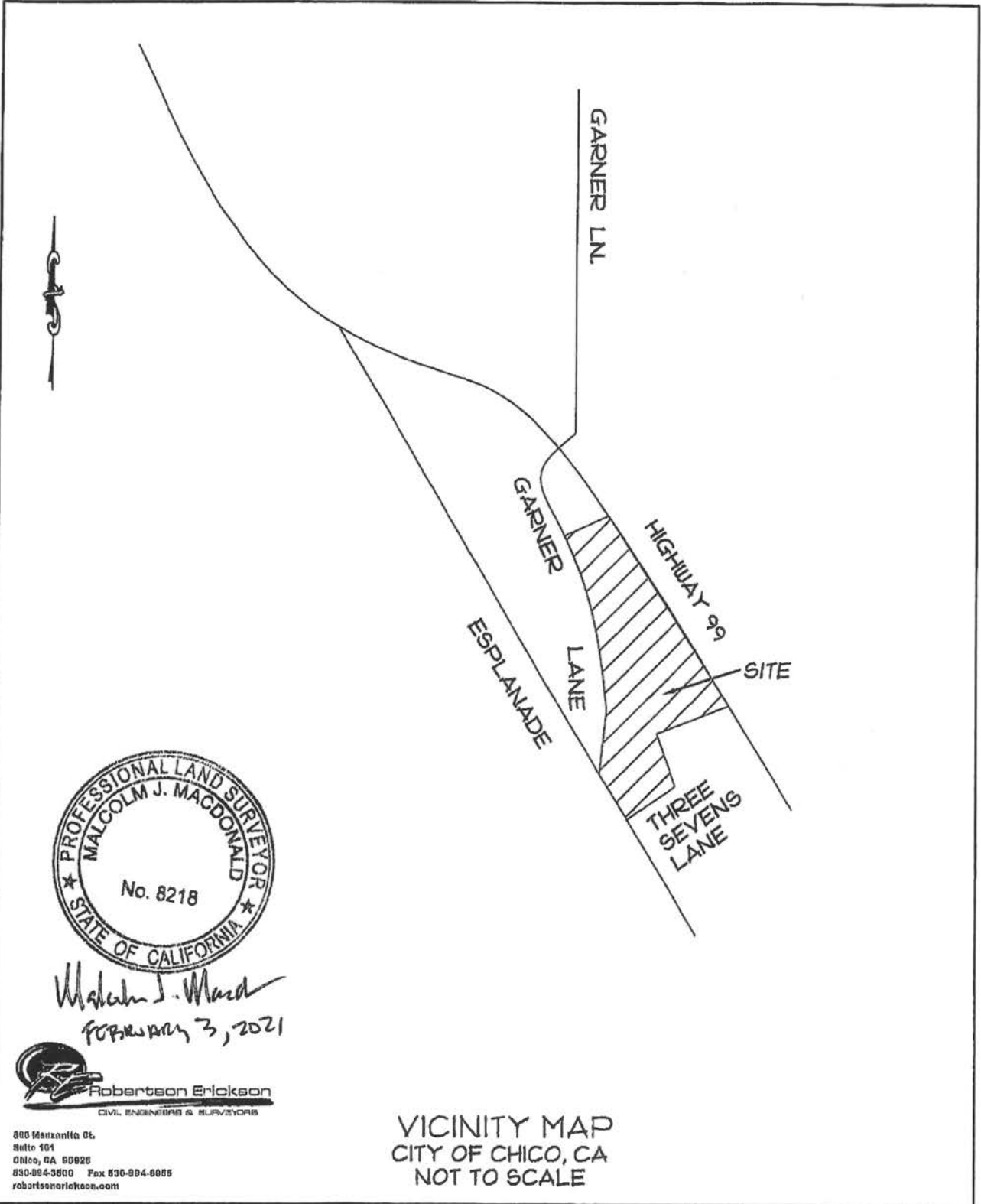
MJ

2/3/21

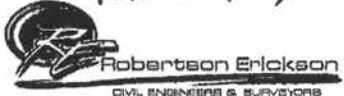


Malcolm J. Macdonald
FEBRUARY 3, 2021

City Council Ordinance: Exhibit "I"



Malcolm J. Macdonald
FEBRUARY 3, 2021



800 Manzanita Ct.
Suite 104
Chico, CA 95928
850-884-3800 Fax 850-884-6085
robertsonerickson.com

VICINITY MAP
CITY OF CHICO, CA
NOT TO SCALE

CITY OF CHICO		PUBLIC WORKS DEPARTMENT	
DRAWN BY <u>lcm</u> DATE <u>1/29/2021</u>	DEVELOPMENT AGREEMENT		EXHIBIT A
CHECKED <u>MJ</u> SCALE <u>NTS</u>	City of Chico/JP Real Estate Investments LLC (DA 18-01)		
APPROVED <u>Matt</u> PUBLIC WORKS DIRECTOR			SHEET 3 OF 4

City Council Ordinance: Exhibit "I"

LEGEND

- (R1) 77-M-31
- (R2) 132-PM-27

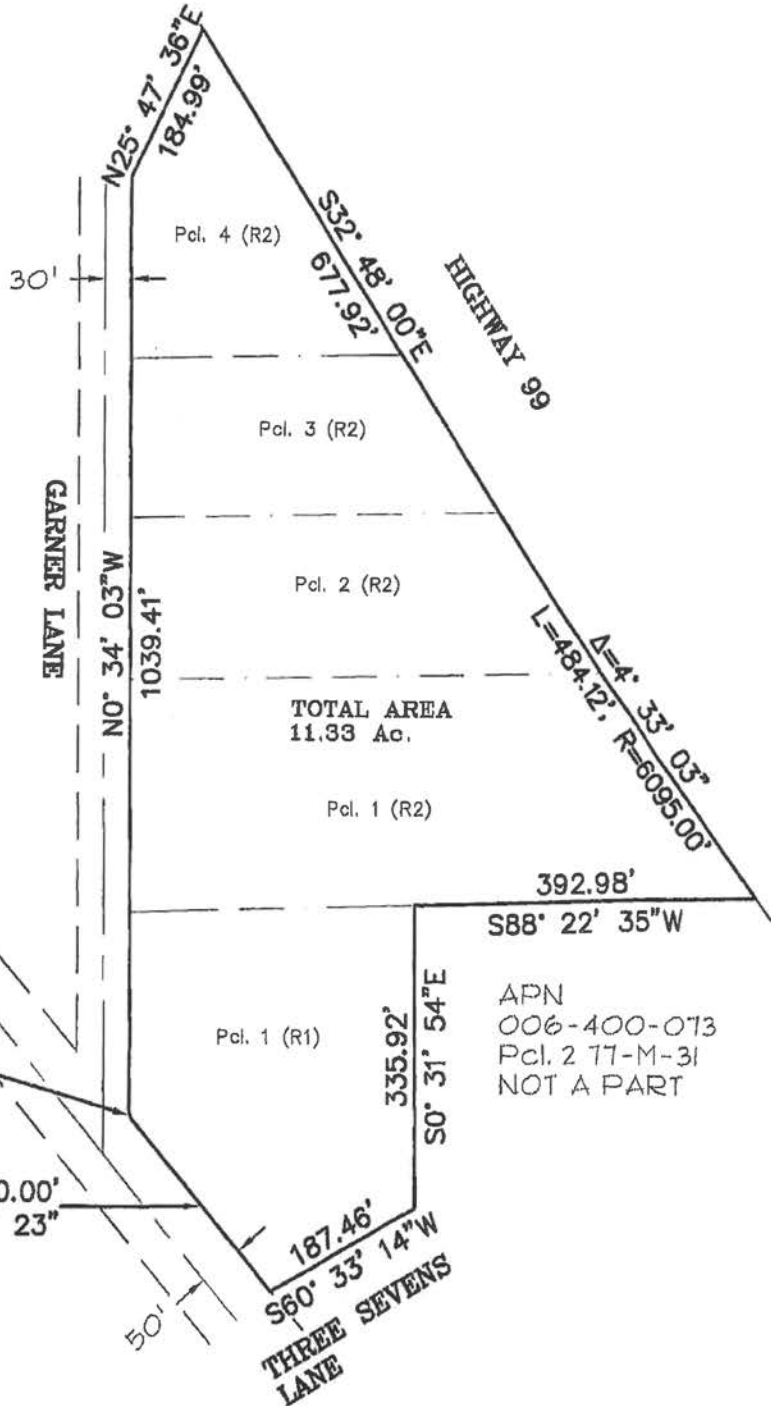


Malcolm J. Magdonald
 FEBRUARY 3, 2021



800 Menzies Ct.
 Suite 101
 Chico, CA 95926
 530-894-3800 Fax 530-894-0988
 robertsonerickson.com

City of Chico
 NOT A PART



CITY OF CHICO

PUBLIC WORKS DEPARTMENT

DRAWN BY lcm DATE 1/29/2021
 CHECKED [Signature] SCALE N.T.S.
 APPROVED [Signature]
 PUBLIC WORKS DIRECTOR

DEVELOPMENT AGREEMENT
 City of Chico/JP Real Estate
 Investments LLC (DA 18-01)

EXHIBIT
 A

SHEET 4 OF 4

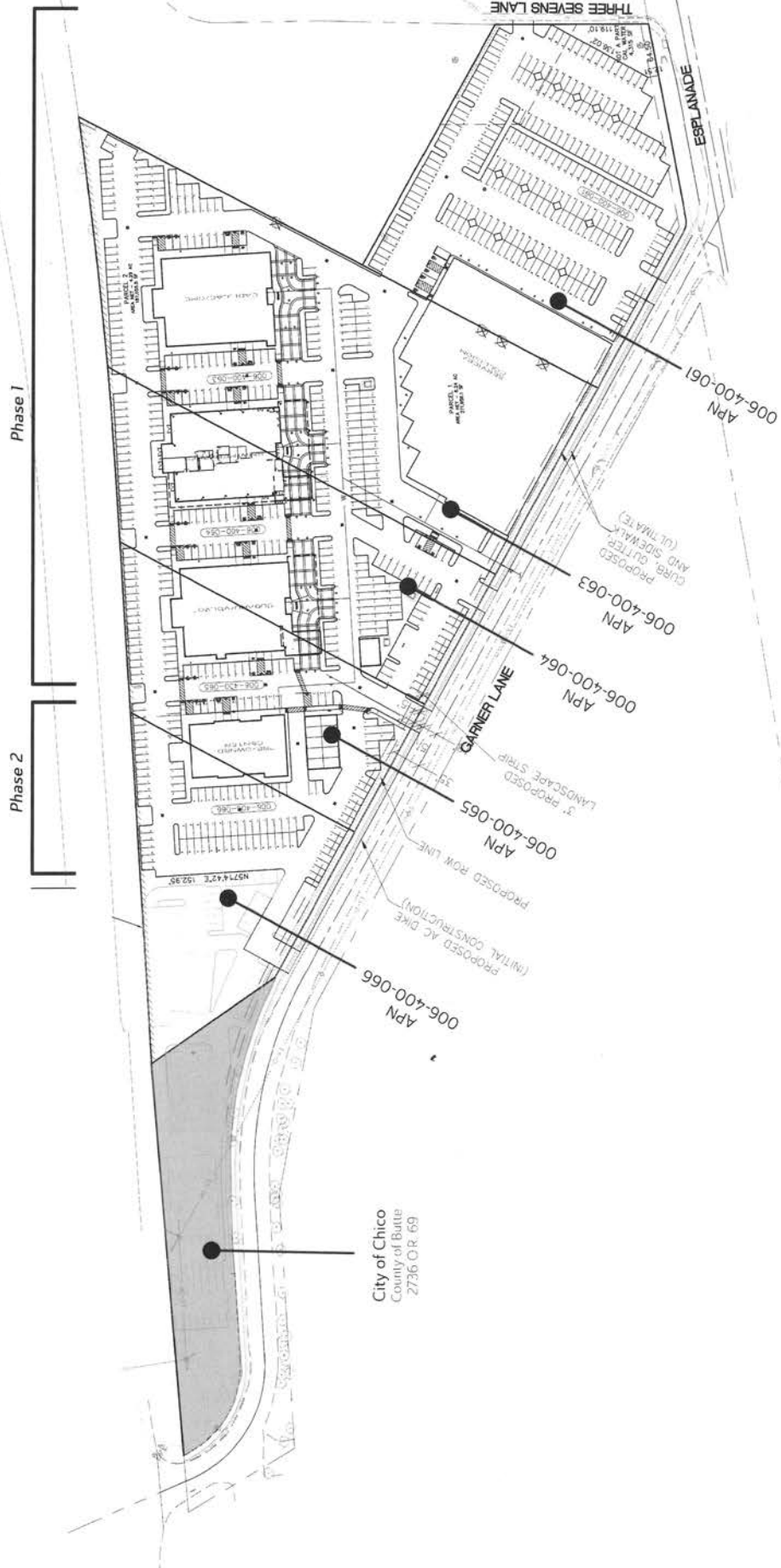
City Council Ordinance: Exhibit "I"

EXHIBIT "B"

List of Parcels by Assessor' s Parcel Numbers

<u>Assessor's Parcel Number (APN)</u>	<u>Parcel Area</u>	<u>Ownership</u>
006-400-061	2.63 Acres	JP Real Estate Investments, LLC
006-400-063	3.69 Acres	JP Real Estate Investments, LLC
006-400-064	2.00 Acres	JP Real Estate Investments, LLC
006-400-065	1.50 Acres	JP Real Estate Investments, LLC
006-400-066	1.50 Acres	JP Real Estate Investments, LLC

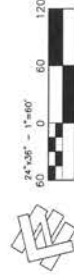
City Council Ordinance: Exhibit "I"



Phase 1

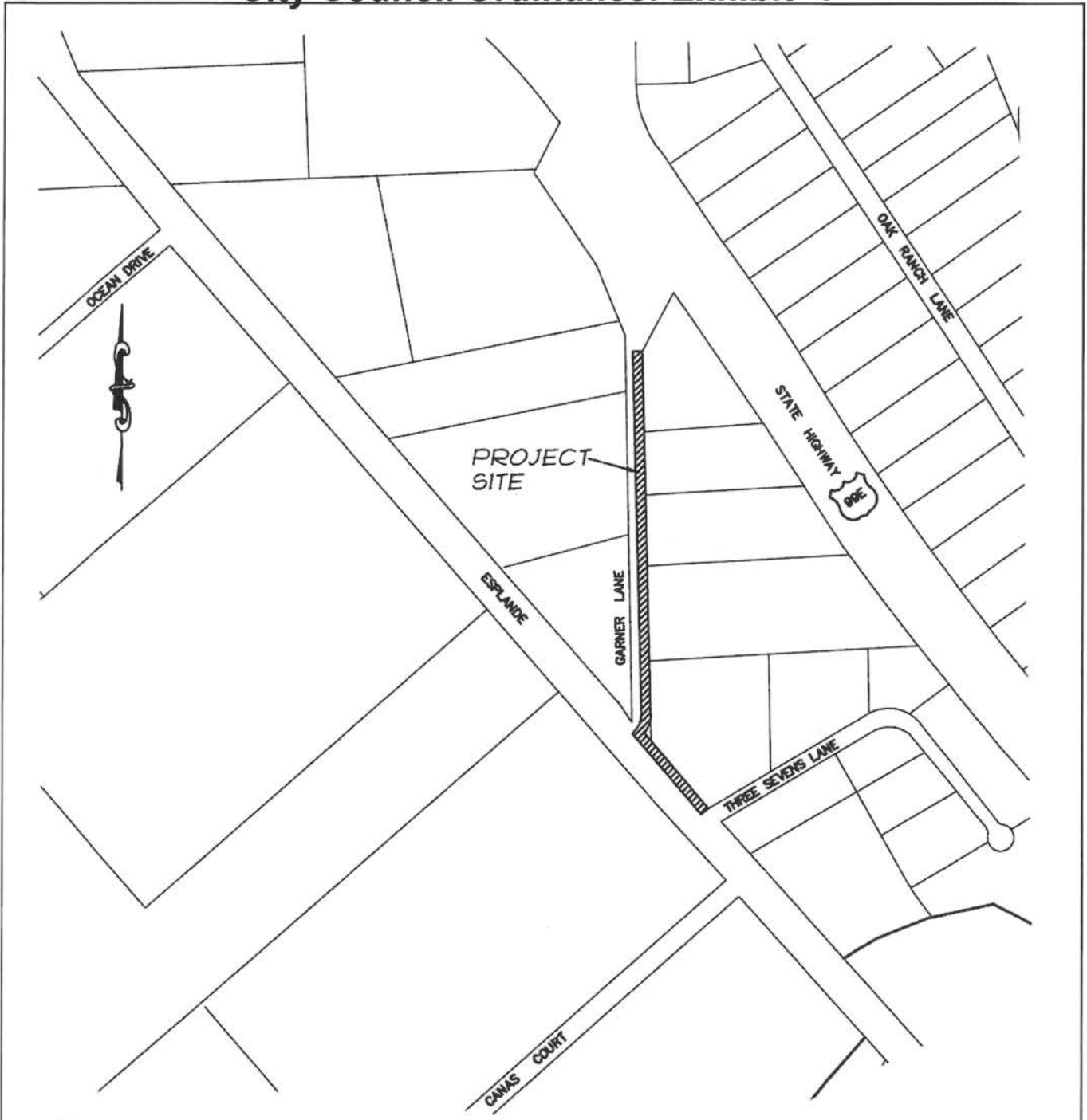
Phase 2

City of Chico
County of Butte
2736 O.R. 69



Designed: MNL	By:	Date:	Revision:
Drawn By: MNL			
Approved:			
Date: 12/2016			
SITE PLAN			
COURTESY AUTOMOTIVE			
APN Number: 006-400-066 et al Job Number: 15-061 N/A. Scale: 1" = 60' Hertz: Vert. Sheet 1 of 1			
COURTESY AUTOMOTIVE GARNER LANE CHICO, CALIFORNIA		NORTHSTAR REGISTERED SURVEYORS 111 MARSHMAN RD. SUITE 300, CHICO, CA 95926 PHONE: (530) 895-1800 www.northstar.com	

City Council Ordinance: Exhibit "I"

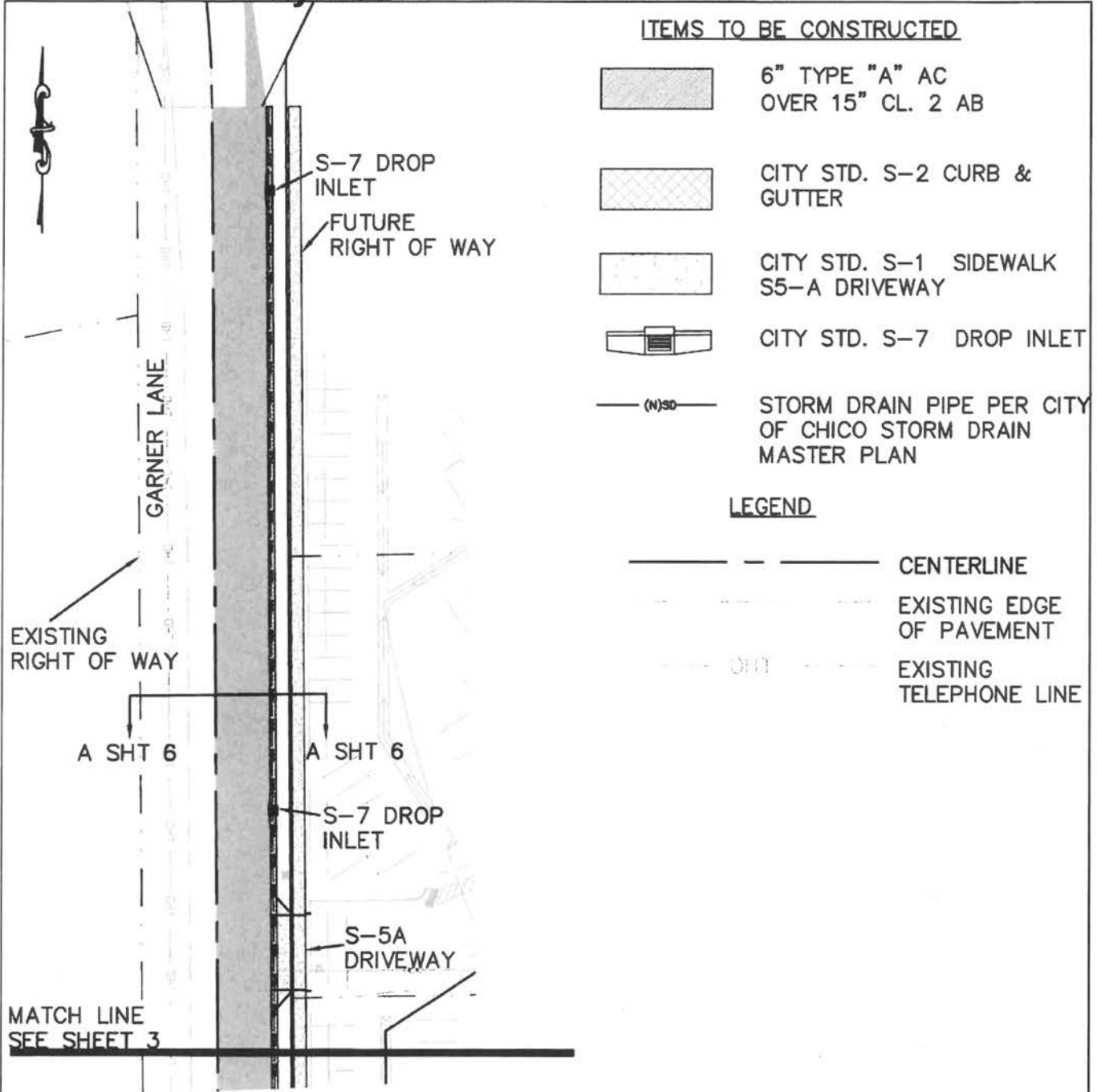


888 Manzanita Ct.
 Suite 101
 Chico, CA 95926
 530-894-3500 Fax 530-894-8955
 robertsonerickson.com

VICINITY MAP
 CITY OF CHICO, CA
 NOT TO SCALE

CITY OF CHICO		PUBLIC WORKS DEPARTMENT	
DRAWN BY <u>jcm</u>	DATE <u>2/1/2021</u>	DEVELOPMENT AGREEMENT CITY OF CHICO/ JP REAL ESTATE INVESTMENTS LLC (DA 18-01)	EXHIBIT D
CHECKED <u>MJ</u>	SCALE <u>NTS</u>		
APPROVED <u>[Signature]</u>	FOR PUBLIC WORKS DIRECTOR		
		SHEET 1 OF 7	

City Council Ordinance: Exhibit "I"



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CITY OF CHICO		PUBLIC WORKS DEPARTMENT	
DRAWN BY <u>icm</u>	DATE <u>2/1/2021</u>	DEVELOPMENT AGREEMENT CITY OF CHICO/ JP REAL ESTATE INVESTMENTS LLC (DA 18-01)	EXHIBIT D
CHECKED <u>[Signature]</u>	SCALE <u>1" = 60'</u>		
APPROVED <u>[Signature]</u>	PUBLIC WORKS DIRECTOR	SHEET 2 OF 7	

City Council Ordinance: Exhibit "I"

MATCH LINE
SEE SHEET 2

EXISTING
RIGHT OF WAY

MATCH LINE
SEE SHEET 4

GARNER LANE

FUTURE
RIGHT OF WAY

S-5A
DRIVEWAY

S-7 DROP
INLET

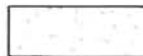
ITEMS TO BE CONSTRUCTED



6" TYPE "A" AC
OVER 15" CL. 2 AB



CITY STD. S-2 CURB &
GUTTER



CITY STD. S-1 SIDEWALK
S5-A DRIVEWAY



CITY STD. S-7 DROP INLET



STORM DRAIN PIPE PER CITY
OF CHICO STORM DRAIN
MASTER PLAN

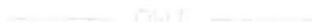
LEGEND



CENTERLINE



EXISTING EDGE
OF PAVEMENT



EXISTING
TELEPHONE LINE



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CITY OF CHICO

PUBLIC WORKS DEPARTMENT

DRAWN BY icm DATE 2/1/2021

CHECKED MJ SCALE 1" = 60'

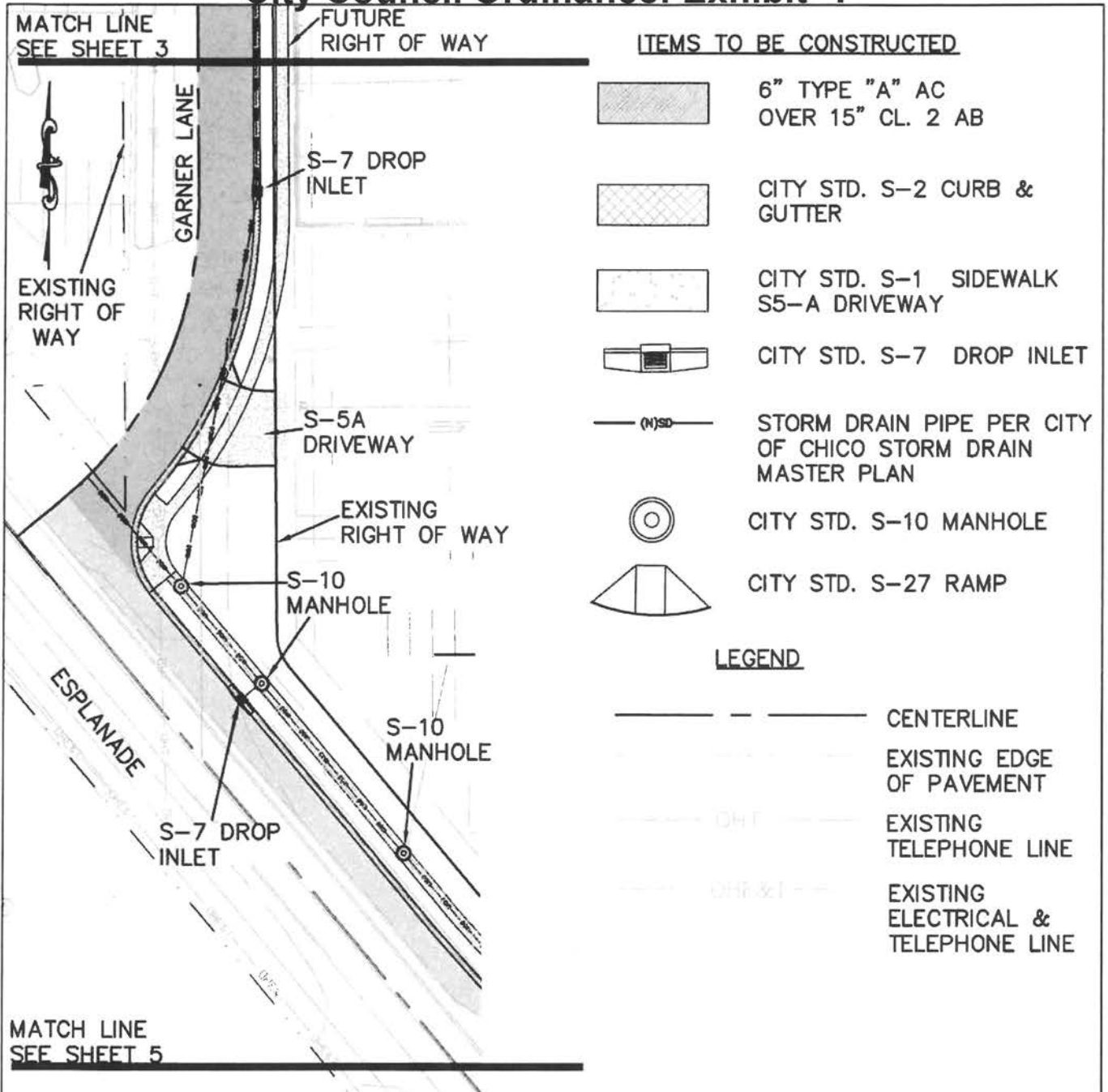
APPROVED [Signature]
PUBLIC WORKS DIRECTOR

DEVELOPMENT AGREEMENT
CITY OF CHICO/
JP REAL ESTATE INVESTMENTS LLC
(DA 18-01)







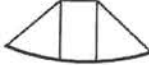
EXHIBIT
D

SHEET 3 OF 7





City Council Ordinance: Exhibit "I"



ITEMS TO BE CONSTRUCTED

-  6" TYPE "A" AC OVER 15" CL. 2 AB
-  CITY STD. S-2 CURB & GUTTER
-  CITY STD. S-1 SIDEWALK S5-A DRIVEWAY
-  CITY STD. S-7 DROP INLET
-  (N)SD STORM DRAIN PIPE PER CITY OF CHICO STORM DRAIN MASTER PLAN
-  CITY STD. S-10 MANHOLE
-  CITY STD. S-27 RAMP

LEGEND

-  CENTERLINE
-  EXISTING EDGE OF PAVEMENT
-  EXISTING TELEPHONE LINE
-  EXISTING ELECTRICAL & TELEPHONE LINE



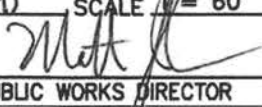
888 Manzanita Ct.
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robertsonerickson.com

CITY OF CHICO

PUBLIC WORKS DEPARTMENT

DRAWN BY icm DATE 2/1/2021

CHECKED MJ SCALE 1" = 60'

APPROVED 
for PUBLIC WORKS DIRECTOR

DEVELOPMENT AGREEMENT
CITY OF CHICO/
JP REAL ESTATE INVESTMENTS LLC
(DA 18-01)

EXHIBIT
D

SHEET 4 OF 7

City Council Ordinance: Exhibit "I"

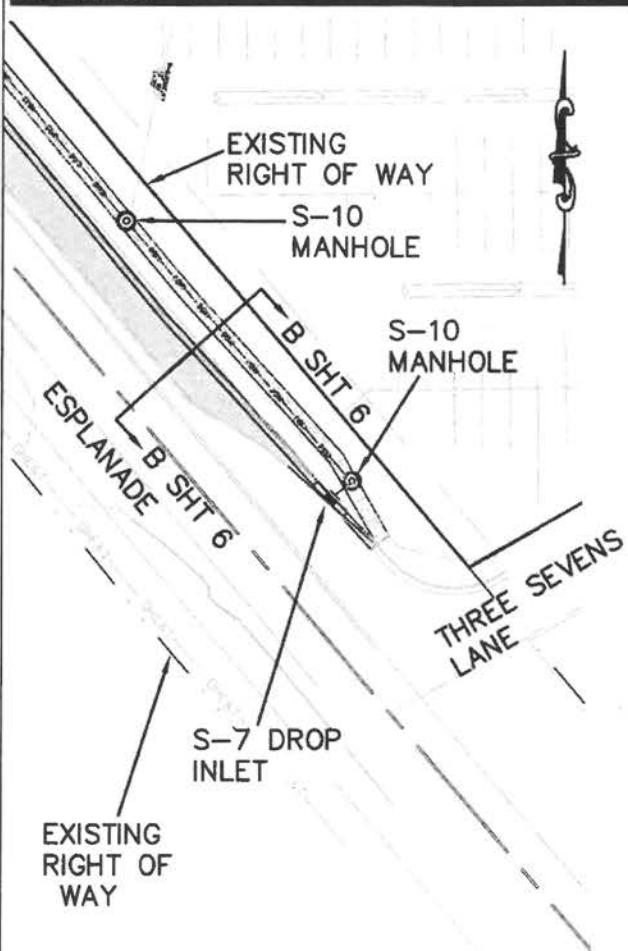
ITEMS TO BE CONSTRUCTED

- 6" TYPE "A" AC OVER 15" CL. 2 AB
- CITY STD. S-2 CURB & GUTTER
- CITY STD. S-1 SIDEWALK S5-A DRIVEWAY
- CITY STD. S-7 DROP INLET
- STORM DRAIN PIPE PER CITY OF CHICO STORM DRAIN MASTER PLAN
- CITY STD. S-10 MANHOLE

LEGEND

- CENTERLINE
- EXISTING EDGE OF PAVEMENT
- EXISTING ELECTRICAL & TELEPHONE LINE

MATCH LINE
SEE SHEET 4



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530-894-3500 Fax 530-894-8955
robertsonerickson.com

CITY OF CHICO

PUBLIC WORKS DEPARTMENT

DRAWN BY icm DATE 2/1/2021

CHECKED PU SCALE 1" = 60'

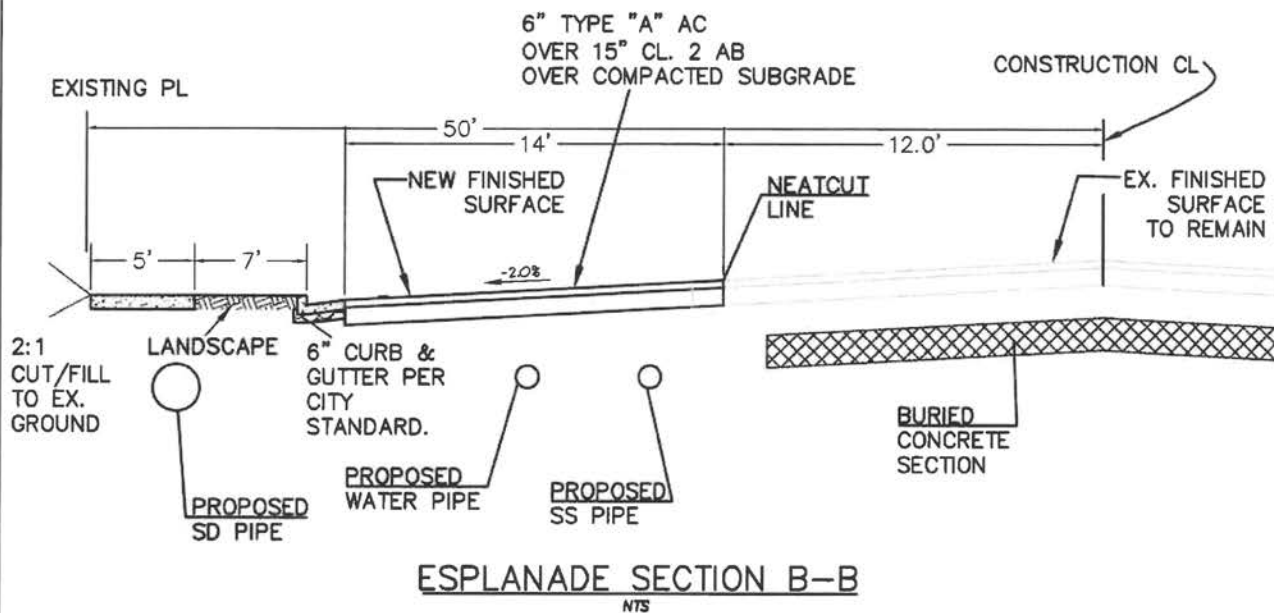
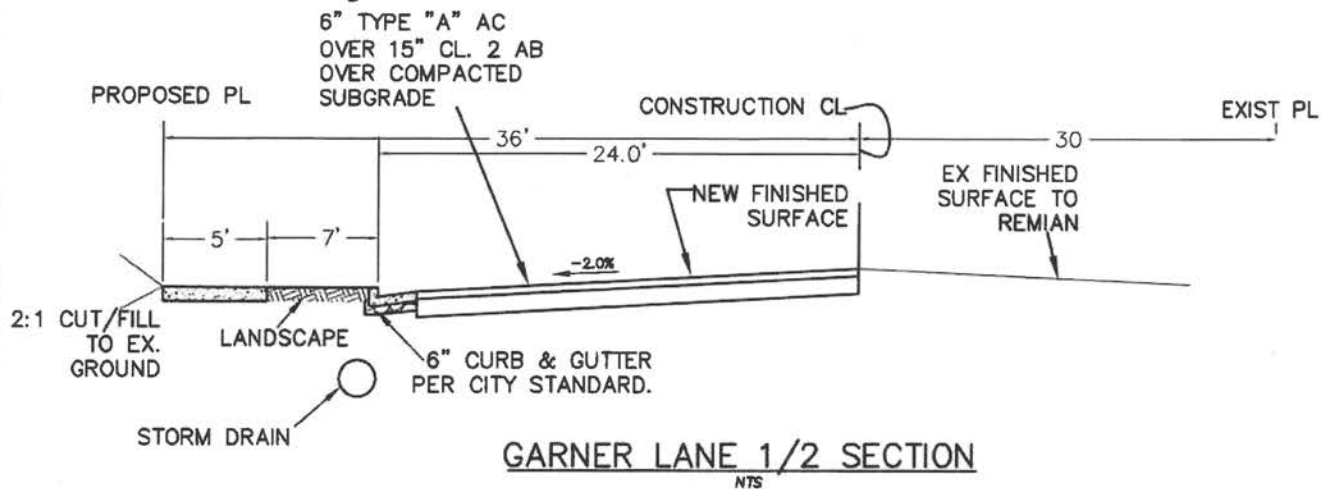
APPROVED [Signature]
PUBLIC WORKS DIRECTOR

DEVELOPMENT AGREEMENT
CITY OF CHICO/
JP REAL ESTATE INVESTMENTS LLC
(DA 18-01)

EXHIBIT
D

SHEET 5 OF 7

City Council Ordinance: Exhibit "I"



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CITY OF CHICO

PUBLIC WORKS DEPARTMENT

DRAWN BY icm DATE 2/1/2021

CHECKED RJ SCALE NTS

APPROVED [Signature]
for PUBLIC WORKS DIRECTOR

DEVELOPMENT AGREEMENT
CITY OF CHICO/
JP REAL ESTATE INVESTMENTS LLC
(DA 18-01)

EXHIBIT
D

SHEET 6 OF 7

City Council Ordinance: Exhibit "I"

CONSTRUCTION SUMMARY

6" TYPE "A" AC OVER 15" CL. 2 AB	22,211 SQ. FT. GARNER LANE, 3,558 SQ. FT. ESPLANADE
CITY STD. S-2 CURB & GUTTER	1,015 L.F. GARNER LANE, 278 L.F. ESPLANADE
CITY STD. S-1 SIDEWALK	4,883 SQ. FT. GARNER LANE, 1,391 SQ. FT. ESPLANADE
CITY STD. S5-A DRIVEWAY	2,002 SQ. FT. GARNER LANE
CITY STD. S-7 DROP INLET	4 EACH GARNER LANE, 2 EACH ESPLANADE
CITY STD. S-10 MANHOLE	4 EACH ESPLANADE
STORM DRAIN PIPE PER CITY OF CHICO STORM DRAIN MASTER PLAN	1267 L.F. STORM DRAIN
CITY STD. S-27 ACCESSIBLE RAMP	1 EACH GARNER LANE



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Chico, CA 95926
530-894-3500 Fax 530-894-8955
robertsonerickson.com

CITY OF CHICO

PUBLIC WORKS DEPARTMENT

DRAWN BY <u>Jcm</u> DATE <u>2/1/2021</u>	
CHECKED <u>PW</u> SCALE <u>MTS</u>	
APPROVED <u>[Signature]</u> for PUBLIC WORKS DIRECTOR	

DEVELOPMENT AGREEMENT
CITY OF CHICO/
JP REAL ESTATE INVESTMENTS LLC
(DA 18-01)

EXHIBIT
D

SHEET 7 OF 7

City Council Ordinance: Exhibit "I"

EXHIBIT "E"

SUBORDINATED DEED OF TRUST

NOTICE: This Deed of Trust contains a subordination clause, which may result in your security interest in the property becoming subject to and of lower priority than the lien of some other or later security instrument, but in no event lower than second position in accordance with paragraph 10 below.

This DEED OF TRUST, is made between JP REAL ESTATE INVESTMENTS, LLC, a California Limited Liability Company ("Trustor"), FIRST AMERICAN TITLE COMPANY ("Trustee"), and the CITY OF CHICO, a political subdivision of the State of California ("Beneficiary").

Trustor hereby irrevocably grants, transfers and assigns to Trustee in trust, with power of sale, that property situated in the County of Butte, City of Chico, California, described in Exhibit "1" for the purpose of securing the performance of that certain recorded "Development Agreement" for the Courtesy Project executed as of the last date opposite the respective signatures by Trustor and Beneficiary. The Development Agreement is hereby incorporated by reference.

To Protect the Security of this Deed of Trust, Trustor agrees:

1. To appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; and to pay all costs and expenses, including cost of evidence of title and attorneys' fees in a reasonable sum, in any such action or proceeding in which Beneficiary or Trustee may appear.

2. To pay: at least ten (10) days before delinquency all taxes and assessments affecting said property including assessments on appurtenant water stock; when due, all encumbrances, charges and liens, with interest, on said property or any part therefore, which appear to be prior or superior hereto.

Should Trustor fail to make any payment or to do any act as herein provided, then Beneficiary or Trustee, but without obligation so to do and without notice or demand upon Trustor and without releasing Trustor from any obligation hereof, may: make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof, Beneficiary or Trustee being authorized to enter upon said property for such purposes appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; pay, purchase, contest, compromise any encumbrance, charge or lien which in the judgment of either appears to be prior or superior hereto; and, in exercising any such powers, pay necessary expenses, employ counsel and pay reasonable attorneys' fees.

City Council Ordinance: Exhibit "I"

3. To pay immediately and without demand all sums so expended by Beneficiary or Trustee, with interest from date of expenditure at the amount allowed by law in effect at the date hereof.

4. That at any time or from time to time, without liability therefore and without notice, upon written request of Beneficiary and presentation of this Deed and said Agreement for endorsement, and without affecting the personal liability of any person for payment of the indebtedness secured hereby, Trustee may: reconvey any part of said property; consent to the marking of any map or plat thereof join in granting any easement thereon; or join in any extension agreement or any agreement subordinating the lien or charge hereof.

The foregoing notwithstanding, this Deed of Trust is subject to partial releases and reconveyances of the security hereunder pursuant to the terms and conditions of the Agreement. Upon request by Trustor pursuant to the Agreement, Beneficiary shall join with Trustor, and instruct Trustee to so join, to execute and record any documents necessary to cause the releases and reconveyances required under the Agreement.

5. That upon written request of Beneficiary or Beneficiary's designee stating that all sums secured hereby have been paid, and upon surrender of this Deed and said Agreement of Trustee for cancellation and retention and upon payment of its fees, Trustee shall reconvey, without warranty, the property then held hereunder. The grantee in such reconveyance may be described as "the person or persons legally entitled thereto." Five years after issuance of such full reconveyance, Trustee may destroy said Agreement and this Deed (unless directed in such request to retain them).

6. That upon default by Trustor in the performance of any agreement hereunder, Beneficiary may declare all sums secured hereby immediately due and payable by delivery to Trustee of written declaration of default and demand for sale and of written notice of default and of election to cause to be sold said property, which notice Trustee shall cause to be filed for record, Beneficiary also shall deposit with Trustee this Deed, said Agreement and all documents evidencing expenditures secured hereby.

After the lapse of such time as may then be required by law following the recordation of said notice of default, and notice of sale having been given as then required by law, Trustee, without demand on Trustor, shall sell said property at the time and place fixed by it in said notice of sale at public auction to the highest bidder for cash in lawful money of the United States payable at time of sale. Trustee may postpone sale of all or any portion of said property by public announcement preceding postponement. Trustee shall deliver to such purchaser its deed conveying the property so sold, but without any covenant or warranty, express or implied. Any person, including Trustor, Trustee, or Beneficiary as hereinafter defined may purchase at such sale.

City Council Ordinance: Exhibit "I"

After deducting all costs, fees and expenses of Trustee and of this Trust, including cost of evidence of title in connection with sale, Trustee shall apply the proceedings of sale to payment of: all sums expended under the terms hereof, not then repaid, with accrued interest at the amount allowed by law in effect at the date hereof all other sums then secured hereby; and the remainder, if any, to the person or persons legally entitled thereto.

7. That this Deed applies to, inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrator, executors, successors and assigns. The term Beneficiary shall not mean the owners and holder, including pledges, of the Agreement secured hereby, whether or not named as Beneficiary herein. In this Deed, whenever the context so requires, the masculine gender includes the feminine and/or neuter, and the singular number includes the plural.

8. That Trustee accepts this Trust when this Deed, duly executed and acknowledged, is made a public record as provided by law. Trustee is not obligated to notify any party hereto of pending sale under any other Deed of Trust or of any action or proceeding in which Trustor, Beneficiary, or Trustee shall be a party unless brought by Trustee.

9. This Deed of Trust is subject to subordination but in no event lower than second position and in accordance with the terms and conditions of the Agreement. Upon request by Trustor, Beneficiary may consider joining with Trustor, and instruct Trustee to so join, to execute and record any document necessary to cause the subordination of this Deed of Trust but in no event lower than second position and in accordance with the Agreement.

10. This Deed of Trust is subject to subordination but in no event lower than second position and in accordance with the terms and conditions of the Development Agreement. Upon request by Trustor, Beneficiary will join with Trustor, and instruct Trustee to so join, to execute and record any document necessary to cause the subordination of this Deed of Trust but in no event lower than second position and in accordance with the Development Agreement.

SIGNATURE

The undersigned Trustor request that a copy of any Notice of Default and any Notice of Sale hereunder be mailed to them in c/o Wanger Jones Helsley PC, Attention: Troy T. Ewell, Esq., 265 River Park Circle, Suite 310, Fresno, CA 93720.

TRUSTOR:

JP REAL ESTATE INVESTMENTS, LLC
DO NOT EXECUTE – EXHIBIT ONLY

City Council Ordinance: Exhibit "I"

EXHIBIT "1"

Parcel A:

Real property in the City of Chico, County of Butte, State of California, described as follows:

Parcels 1, 2, 3 and 4, as shown on that certain Parcel Map, filed in the Office of the Recorder of the County of Butte, State of California, on October 14, 1993, in Book 132 of Maps, at Pages 27 and 28.

Parcel B:

Real property in the City of Chico, County of Butte, State of California, described as follows:

Parcel I:

Parcel 1 as shown on that certain Parcel Map, recorded in the Office of the Recorder of the County of Butte, State of California, on July 2, 1980, in Book 77 of Maps, at Pages 31 and 32.

Parcel II:

Being a portion of Parcel 4, as shown on that certain Parcel Map, recorded in the Office of the Recorder of the County of Butte, State of California, on August 11, 1976, in Book 59 of Maps, at Page 18, and described as follows:

Beginning at the northeast corner of Parcel 1, as shown on that certain Parcel Map, recorded in the Office of the Recorder of the County of Butte, State of California, on July 2, 1980, in Book 77 of Maps, at Pages 31 and 32; THENCE along the north line of said Parcel 1, South 88°53'46" West, a distance of 325.00 feet to the northwest corner of said Parcel 1, said corner being on the east right-of-way line of Garner Lane; THENCE North 00°43'03" West along said east right-of-way line, a distance of 3.13 feet; THENCE leaving said east right-of-way line, North 88°22'32" East, a distance of 325.04 feet; THENCE South 00°34'03" East, a distance of 6.08 feet to the point of beginning.

Parcels I and II above are pursuant to a Boundary Line Modification by deed recorded April 9, 1993, under Butte County Recorder's Serial No. 93-14054, and cannot be sold separately.

Parcel III:

An easement for ingress and egress and public utilities and drainage purposes over Three Sevens Lane and two drainage easements as on Parcel 4, as shown on that certain Parcel Map, recorded in the Office of the Recorder of the County of Butte, State of California, on July 2, 1980, in Book 77 of Maps, at Pages 31 and 32.

Parcel IV:

An easement for ingress and egress and public non-exclusive easements for road and public utility and drainage purposes over Three Sevens Lane, as shown on that certain Parcel Map, recorded in the Office of the Recorder of the County of Butte, State of California, on January 31, 1995, in Book 136 of Maps, at Pages 22, 23 and 24.

City Council Ordinance: Exhibit "I"

EXHIBIT "F"

Anticipated Project Approvals Necessary

1. Boundary Line Modification
2. Civil Improvement Drawings for Intersection Enhancements at Garner Lane and State Route 99 (per County Mitigation Measure #4)
3. Building Permits for Phase 1: Showrooms, Service Center and general site improvements
4. Building Permits for Pre-Owned Vehicle Center (Building Permit)

City Council Ordinance: Exhibit "I"

EXHIBIT "G"

Approved Mitigation Measures from the County's Initial Study and Mitigated Negative Declaration

Mitigation Measure #1 (Migratory Birds and Nesting Raptors):

If construction activities on resultant parcels occurs during the nesting season for birds protected under the Migratory Bird Treaty Act and California Department Fish & Game Code (approximately March 1 – August 31), the project proponent shall retain a qualified biologist to perform preconstruction surveys for nesting bird species. Surveys to identify active bird nests shall be conducted within the project site, along the project periphery, and along Garner Lane. At least one survey shall be conducted no more than 7 days prior to the initiation of construction activities. If ground disturbance or vegetation removal stops during the construction period for more than 15 days, another survey shall be conducted within 7 days prior to the continuation of construction activities. If nesting raptors or birds protected by CDFC and MBTA are found within or adjacent to the footprint of proposed construction, the project proponent, in consultation with a qualified biologist, shall:

1. Locate and map the location of the nest site;
2. Establish a reasonable no-disturbance buffer around all active raptor or migratory bird nest;
3. Within 2 working days of the survey, prepare a report and submit to the County and CDFW. The report will include the results of survey, location(s) of nests, and location of no disturbance buffers;
4. On-going weekly surveys shall be conducted to ensure that the no disturbance buffer is maintained;
5. Construction can resume within the no disturbance buffer when a qualified biologist has confirmed that the nest is no longer active.

Plan Requirements: The above-referenced mitigation shall be included on project improvement plans.

Timing: Requirements of the condition shall be adhered to prior to construction activities, including road construction, and throughout all grading and construction periods.

Monitoring: The Butte County Department of Development Services shall ensure that the mitigation is placed on project improvement plans. Department of Development Services shall ensure the condition is met at the time of development and during construction activities.

Mitigation Measure #2 (Prehistoric or Historic Resources):

Place a note on project improvement plans that states: "Should grading activities reveal the presence of prehistoric or historic cultural resources (i.e. artifact concentrations, including arrowheads and other stone tools or chipping debris, cans glass, etc.; structural remains; human skeletal remains) work within 50 feet of the find shall immediately cease until a qualified professional archaeologist can be consulted to evaluate the find and implement appropriate mitigation procedures. Should human skeletal remains be encountered, State law requires immediate notification of the County Coroner ((530) 538-6579). Should the County Coroner determine that the remains are in an archaeological context, the Native American Heritage Commission in Sacramento shall be notified immediately, pursuant to State Law, to arrange for Native American participation in determining the disposition of such remains." The provisions of this note shall be followed during construction of all subdivision improvements, including land clearing, road construction, utility installation, and building site development.

Plan Requirements: The above-referenced mitigation shall be included on project improvement plans.

Timing: Requirements of the condition shall be adhered to prior to construction activities, including road

City Council Ordinance: Exhibit "I"

construction, and throughout all grading and construction periods.

Monitoring: The Butte County Department of Development Services and the Public Works Department shall ensure that the mitigation is placed on project improvement plans. Department of Development Services shall ensure the condition is met at the time of development and during construction activities. Should cultural resources be discovered, the landowner shall notify the Planning Division and a professional archaeologist. The Planning Division shall coordinate with the developer and appropriate authorities to avoid damage to cultural resources and determine appropriate action. State law requires the reporting of any human remains.

Mitigation Measure #3 (Greenhouse Gas Emissions):

Place a note on project improvement plans that states: To the extent feasible, the developer shall implement the following measures at the time of development to offset the anticipated contribution of greenhouse gas emissions from development:

- Support expansion of renewable energy systems.
 - Prewire all new development to support photovoltaic system installation.
- Institute recycling program with a 50% reduction goal.
- Support low-flow water and irrigation systems.
 - Install low-flow faucets and toilets.
 - Use water efficient irrigation systems.
- Improve fuel efficiency of equipment during construction-related activities.
 - Use clean or alternative fuel equipment or
 - Minimize idling time either by shutting equipment off when not in use or reducing the time of idling to no more than three minutes.

Plan Requirements: The above-referenced mitigation shall be included on project improvement and building plans.

Timing: Requirements of the condition shall be adhered to prior to construction activities, including road construction, and throughout all grading and construction periods. Requirements of this condition shall also be adhered to prior to issuance of building permits.

Monitoring: The Butte County Department of Development Services and the Public Works Department shall ensure that the mitigation is placed on project improvement plans. Department of Development Services shall ensure the condition is met at the time of development and during construction activities. The Planning Division will ensure that future development includes the applicable measures during Building Permit review. Building inspectors shall spot check and shall ensure compliance on-site.

Mitigation Measure #4 (Intersection Improvements):

Place a note on project improvement plans that states, "Lane configurations at both Garner Lane approaches at the State Route 99/Garner Lane intersection will be improved. At the eastbound approach additional lanes will be constructed to allow for exclusive left lane, thru lane and right turn lane. At the westbound approach an additional lane will be constructed to allow for exclusive left turn lane and a shared thru right lane. Additionally, the traffic signal phasing will be changed from permissive left-turns to protected left-turns on the Garner Lane approaches (east-west directions)."

Plan Requirements: The above-referenced mitigation shall be included on project improvement plans.

Timing: Requirements of the condition shall be completed prior to certificate of occupancy of construction activities.

City Council Ordinance: Exhibit "I"

Monitoring: The Butte County Department of Development Services and the Public Works Department shall ensure that the mitigation is placed on project improvement plans. Department of Development Services shall ensure the condition is met at the time of development and during construction activities.

Mitigation Measure #5 (Directional Floodlighting):

Prior to use of any directional floodlighting, the operator of the special event must contact both Butte County Planning Division and the Chico Airport Manager for prior approval.

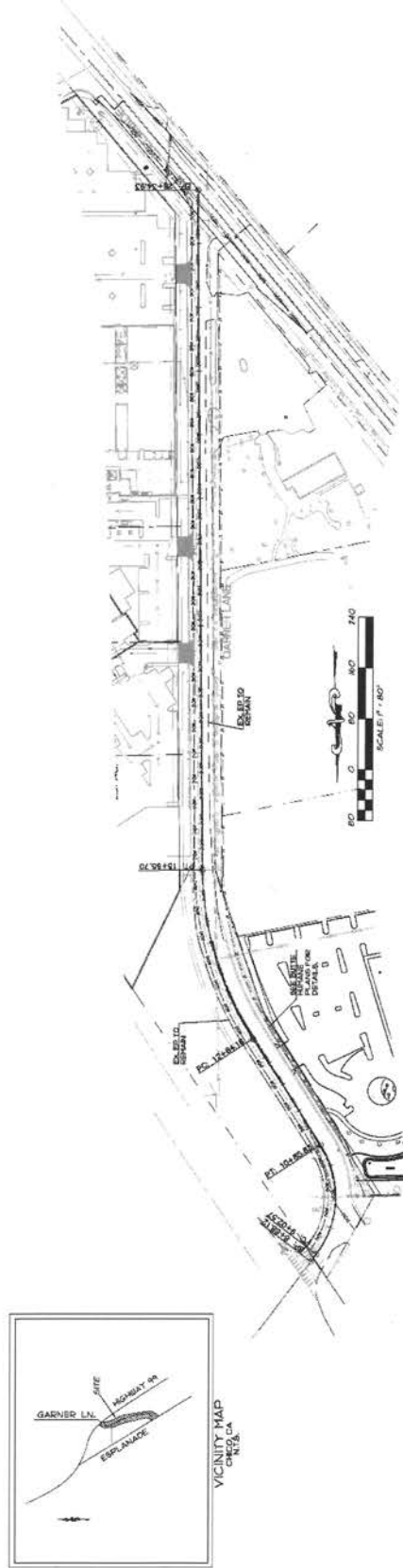
Timing: Contact the County and the Chico Airport Manager at least 30 days prior to the use of any directional flood lighting.

Monitoring: The Butte County Department of Development Services shall respond to any complaints regarding the directional floodlighting.

City Council Ordinance: Exhibit "I"

EXHIBIT H

Interim Improvements



The Interim Improvements shown on this exhibit are intended to represent typical County-level improvements associated with initial development of the Project.