

<p>CARNEGIE FORUM 305 WEST PINE STREET LODI, CALIFORNIA</p>	<p>SPECIAL AGENDA LODI PLANNING COMMISSION</p>	<p>SPECIAL SESSION WEDNESDAY, JUNE 10, 2015 @ 6:00 PM</p>
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For information regarding this agenda please contact:

Kari Chadwick @ (209) 333-6711
Community Development Secretary

***NOTE:** All staff reports or other written documentation relating to each item of business referred to on the agenda are on file in the Office of the Community Development Department, located at 221 W. Pine Street, Lodi, and are available for public inspection. If requested, the agenda shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. To make a request for disability-related modification or accommodation contact the Community Development Department as soon as possible and at least 24 hours prior to the meeting date.*

1. ROLL CALL

2. PUBLIC HEARING

- a. Request for Planning Commission Recommendation to City Council for approval of Development Agreement reducing Community Facility District fees and waiving Vesting Map rights for Rose Gate Subdivision, Van Ruiten Subdivision and Reynolds Ranch Residential Subdivision. (Applicant: City of Lodi; File 2015-18 DA; CEQA Determination: Exempt per Section 15153 – Previous EIRs)

NOTE: The above item is a quasi-judicial hearing and requires disclosure of ex parte communications as set forth in Resolution No. 2006-31

3. COMMENTS BY THE PUBLIC (NON-AGENDA ITEMS)

4. COMMENTS BY THE PLANNING COMMISSIONERS & STAFF (NON-AGENDA ITEMS)

5. ADJOURNMENT

Pursuant to Section 54954.2(a) of the Government Code of the State of California, this agenda was posted at least 72 hours in advance of the scheduled meeting at a public place freely accessible to the public 24 hours a day.

****NOTICE:** Pursuant to Government Code §54954.3(a), public comments may be directed to the legislative body concerning any item contained on the agenda for this meeting before (in the case of a Closed Session item) or during consideration of the item.

Right to Appeal:

If you disagree with the decision of the commission, you have a right of appeal. Only persons who participated in the review process by submitting written or oral testimony, or by attending the public hearing, may appeal.

Pursuant to Lodi Municipal Code Section 17.72.110, actions of the Planning Commission may be appealed to the City Council by filing, within ten (10) business days, a written appeal with the City Clerk and payment of \$300.00 appeal fee. The appeal shall be processed in accordance with Chapter 17.88, Appeals, of the Lodi Municipal Code. Contact: City Clerk, City Hall 2nd Floor, 221 West Pine Street, Lodi, California 95240 – Phone: (209) 333-6702.



**CITY OF LODI
PLANNING COMMISSION
Staff Report**

MEETING DATE: June 10, 2015

APPLICATION NO: Development Agreement: 2015-18 DA

REQUEST: Recommend approval of Development Agreement reducing Community Facility District special taxes and waiving Vesting Map rights for Rose Gate Subdivision, Van Ruiten Subdivision and Reynolds Ranch Residential Subdivision. (Applicant: City of Lodi; File 2015-18 DA; CEQA Determination: Exempt per Section 15153 – Previous EIRs)

LOCATION: Rose Gate
North of West Lodi Avenue and west of Lower Sacramento Road
APN: 029-380-05 (previous)

Reynolds Ranch Residential
South of Harney Lane and west of Reynolds Ranch Parkway
APN: 058-650-04

Van Ruiten Ranch
Lower Sacramento Road / Century Boulevard
APN: 058-030-14, 15, 17, 18

APPLICANT: FCB Homes
Georgia Perlegos and Tom Doucette
10100 Trinity Parkway, Suite 420
Stockton, CA 95219

Skinner Ranch Holdings, LP
Mr. Dale Gillespie
1420 S. Mills Avenue, Suite M.
Lodi, CA 95240

Bennett Homes, INC.
Dennis Bennett
P.O. Box 1579
Lodi, CA 95241

RECOMMENDATION

Staff recommends that the Planning Commission adopt the attached resolution recommending the City Council adopt the Development Agreement reducing Community Facility District special taxes and waiving Vesting Map rights for the Rose Gate, Reynolds Ranch and Van Ruiten Ranch subdivisions.

BACKGROUND

Rose Gate

In October 2013, the Planning Commission approved the Rose Gate vesting subdivision map creating 234 lots on 49.74 acres. The subdivision was designed to provide lot sizes that are comparable to the existing surrounding lots on the north and provide a variety house designs. The approved map also includes a 4.8-acre pocket park with a detention basin. The project site is located at the northwest corner of Lodi Avenue and Lower Sacramento Road, and is bounded on the north by Woodbridge Canal District (WID) Canal. The subdivision will be accessed from three points on Lodi Avenue.

Reynolds Ranch Residential

In June 2014, the Planning Commission approved the Reynolds Ranch Residential vesting subdivision map creating 227 single family lots and a 14.3 acre - 330 unit High-Density parcel. The project includes a 10.2 acre regional detention basin and 2.19 acre park site. The proposed uses are consistent with the General Plan and Zoning designations. The project takes access off LeBaron Boulevard from Reynolds Ranch Parkway and Stockton Street to the north.

Van Ruiten Ranch

In April 2014, the Planning Commission approved the Van Ruiten Ranch vesting subdivision map seeks to create 200 single family lots with a 5 acre high density lot. The project includes a 5.8 acre regional detention basin, 5.15 acre park site and 15.2 acre school site. The proposed uses are consistent with the General Plan and Zoning designations. The project is accessed of the Century Boulevard extension with access points to the north and south.

ANALYSIS

The approval of a vesting map locks in the development design standards and development fees at the time of the approval. Many developers apply for vesting maps to reduce the potential for future modifications that might be required by local, state or federal requirements.

This DA will allow for modification of long term fees that are collected within the Rose Gate, Reynolds Ranch and Van Ruiten Ranch subdivisions and reduce some of the vesting rights.

City Council gave staff direction to negotiate a reduction of the fees and annual index rate for Community Facilities District 2007 1 at its regular meeting on April 15, 2015. Council further directed staff to negotiate a waiver of certain vested rights from the benefitted property owners to develop property under the current Impact Fee Program.

The City of Lodi created a Community Facilities District ("CFD") for Service in 2007 as a condition of its most recent annexations of Reynolds Ranch, and the Westside and Southwest Gateway Annexations. CFD's for service are relatively new in municipal finance. However, unlike CFD's for infrastructure CFD's for Service fund things such as landscaping and lighting, police and fire services, parks service and other items traditionally funded by the General Fund. At the time, the fee was set at \$600 per year for single family homes and \$175 for multi-family units (See attached letters). The special tax is subject to annual indexing of the greater of the Consumer Price Index or 5 percent. The index is applied July 1 of each year. As such, the

special tax is currently set at \$804.00 per year and will be \$844 per year by the time the first house is occupied.

Actual total inflation from 2007 to date totals 13 percent according to the Bureau of Labor Statistics. However, the minimum inflation factor set by the approved formula has been 40 percent. Although a 5 percent minimum may have been reasonable upon the adoption of the CFD, it is generally understood that the economy did not perform as expected in 2008. It is also worth noting that average property taxes in Lodi are approximately \$400 per year*, less than half of what these new homes will pay in CFD special tax alone. It should be noted that Rose Gate homes are expected to be priced around \$400,000 resulting in about \$650 in municipally-directed property taxes. In light of the significant difference between inflation and the minimum escalator, staff believes it is appropriate for the City to consider the developer's request to reduce the special tax and the index rate.

However, any recognition of the economic disadvantages faced by these projects would be incomplete without addressing the City's current Impact Fee program discounts. The developers of these projects filed vesting tentative maps that, if extended, could allow many of the currently vested units to develop at \$5,940 per unit instead of the program calculated \$23,195. Van Ruiten Ranch has 200 vested single-family units plus 88 unvested High Density units; Reynolds Ranch has 227 vested single family units plus 330 unvested High Density Units and Rose Gate has 232 vested single-family units.

The discount program was initiated to spur development for a three-year period. However, the vesting map process could substantially increase that time frame. As such, staff considers it fair to allow units to develop at the discount for limited period at the start at discounted rates to recognize the original intent of the program. Staff requests authority to negotiate with the requestors a reduction in CFD special taxes to \$500 per single-family unit and \$175 per multi-family unit and reduce the index to two percent per year. Such a change would track the property owners concurrent Proposition 13 based property tax increase and also manage to exchange CFD special taxes for a waiver of any rights the developers may have to the 60-percent discount for units that do not pull a building permit (and complete construction within six months) within a brief negotiated time frame.

The negotiated development agreement would give Rose Gate three years and Van Ruiten and Reynolds Ranch four years to pull permits under the discounted rate. Thereafter they would develop at then current rates. The projects are staggered to reflect their relative term to commencement of construction.

ENVIRONMENTAL ASSESSMENTS:

Rose Gate

The project is subject to the requirements of the California Environmental Quality Act (CEQA). All potentially significant environmental impacts were publicly disclosed and made available for comment via Lodi Annexation Environmental Impact Report, State Clearinghouse No. 2005092096, dated April 2006, prior to any decisions to approve any part of the whole project.

On March 21, 2007, the City Council adopted Lodi Annexation Environmental Impact Report, State Clearinghouse No. 2005092096, and Mitigation and Monitoring Plan that analyzed environmental impact aspects of the proposed project.

Subsequently, the City Council, by Resolution No. 2010-41, which became effective on April 7, 2010, certified an Environmental Impact Report (EIR), State Clearinghouse No. 20009022075, for the City of Lodi General Plan. This General Plan designated the project site as Low Density Residential and Open Space.

No other special circumstances exist that would create a reasonable possibility that the proposed Project will have a significant adverse effect on the environment. Therefore, the proposed Project qualifies for the exemption under CEQA Guidelines Section 15153 and no further environmental review is required.

Reynolds Ranch

The project is consistent with the findings of the previous environmental documents prepared for the Reynolds Ranch development. The Reynolds Ranch Final EIR, (SCH#2006012113) including comments and responses to comments, was certified by the City Council on August 30, 2006. An addendum to the certified and Final EIR, including comments and responses to comments, was certified by the City Council on September 17, 2008.

Subsequently, the City Council, by Resolution No. 2010-41, which became effective on April 7, 2010, certified an Environmental Impact Report (EIR), State Clearinghouse No. 20009022075, for the City of Lodi General Plan. This General Plan designated the project site as Low Density Residential, Medium Density Residential, High Density Residential, Public / Quasi Public and Open Space.

The EIR addressed the impacts of the total scope of residential impacts on the community of the various phases of the project. The proposed project yields no potential new impacts related to the original Project, which would necessitate further environmental review beyond the impacts and issues already disclosed and analyzed in the Reynolds Ranch EIR.

No other special circumstances exist that would create a reasonable possibility that the proposed Project will have a significant adverse effect on the environment. Therefore, the proposed Project qualifies for the exemption under CEQA Guidelines Section 15153 and no further environmental review is required.

Van Ruiten Ranch

The project is subject to the requirements of the California Environmental Quality Act (CEQA). All potentially significant environmental impacts were publicly disclosed and made available for comment via Lodi Annexation Environmental Impact Report, State Clearinghouse No. 2005092096, dated April 2006, prior to any decisions to approve any part of the whole project. On March 21, 2007, the City Council adopted Lodi Annexation Environmental Impact Report, State Clearinghouse No. 2005092096, and Mitigation and Monitoring Plan that analyzed environmental impact aspects of the proposed project.

Subsequently, the City Council, by Resolution No. 2010-41, which became effective on April 7, 2010, certified an Environmental Impact Report (EIR), State Clearinghouse No. 20009022075, for the City of Lodi General Plan. This General Plan designated the project site as Low Density Residential, Medium Density Residential, High Density Residential, Public / Quasi Public and Open Space.

No other special circumstances exist that would create a reasonable possibility that the proposed Project will have a significant adverse effect on the environment. Therefore, the

proposed Project qualifies for the exemption under CEQA Guidelines Section 15153 and no further environmental review is required.

PUBLIC HEARING NOTICE:

Legal Notice for the Use Permit was published in the Lodi News Sentinel on Saturday, May 30, 2015. Two Hundred Twenty (220) public hearing notices were sent to all property owners of record within a 300-foot radius of the project site as required by California State Law §65091 (a) 3. Public notice also was mailed to interested parties who had expressed their interest of the project.

RECOMMENDED MOTIONS

Should the Planning Commission agree with staff's recommendation, the following motion is suggested:

“I move that the Planning Commission adopt the attached resolution recommending the City Council adopt the Development Agreement reducing Community Facility District special taxes and waiving Vesting Map rights for Rose Gate Subdivision, Van Ruiten Subdivision and Reynolds Ranch Residential Subdivision.”

ALTERNATIVE PLANNING COMMISSION ACTIONS:

- Approve the request with attached or alternate conditions
- Deny the request
- Continue the request.

Respectfully Submitted,

Concur,

Craig Hoffman
Senior Planner

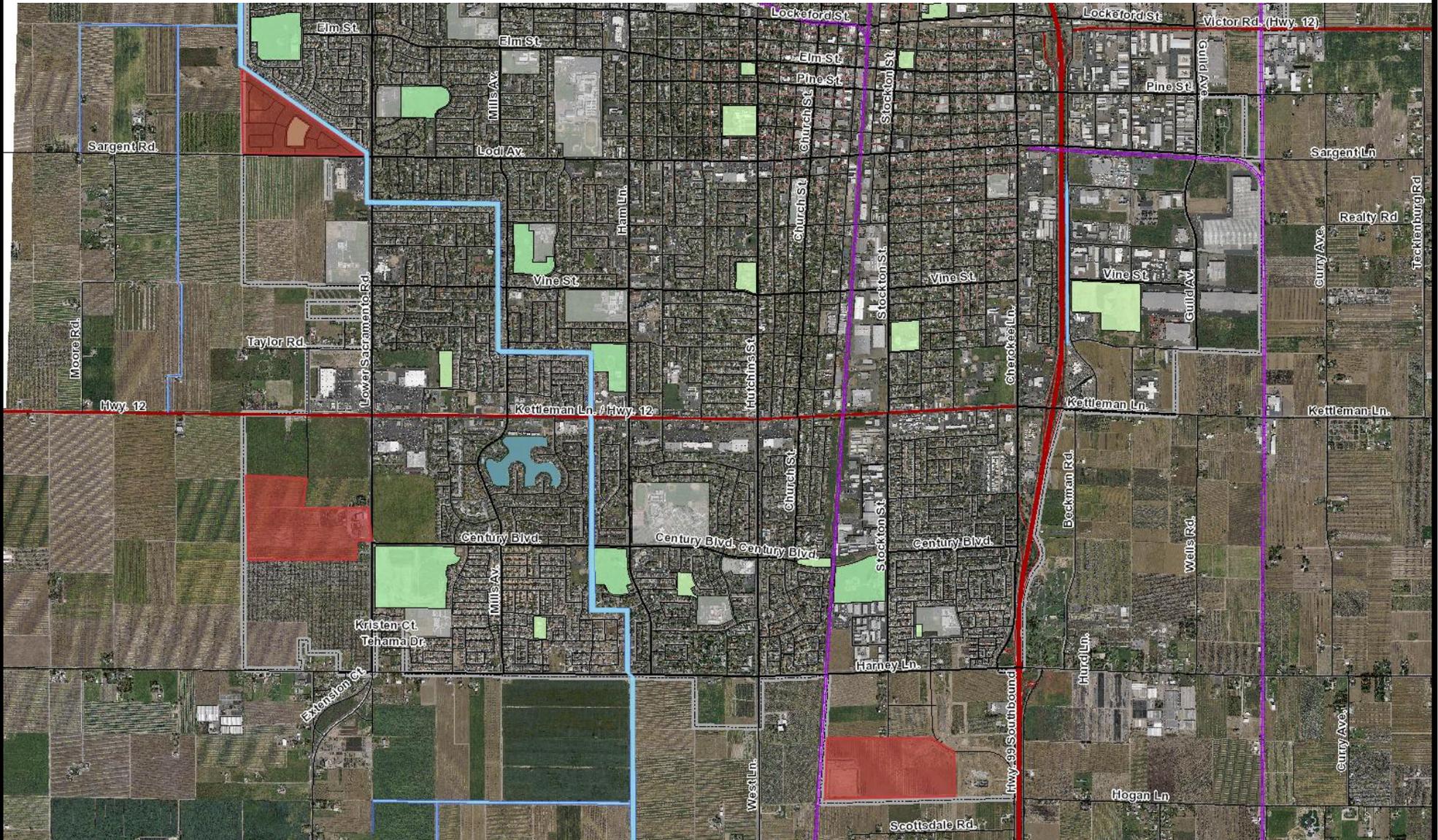
Stephen Schwabauer
Community Development Director

ATTACHMENTS:

1. Vicinity / Aerial Maps
2. Subdivision Maps
3. Draft Resolution with DAs

VICINITY MAP

North



South

Rose Gate, Reynolds Ranch and Van Ruiten Ranch



Rose Gate
232 RLD



Reynolds Ranch
227 MLD, 330 RHD



Van Ruiten Ranch
145 RLD, 55 MLD, 88 RHD

RESOLUTION NO. P.C. 15-XX

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LODI
RECOMMENDING THE CITY COUNCIL ADOPT THE DEVELOPMENT AGREEMENTS
REDUCING COMMUNITY FACILITY DISTRICT SEPCIAL TAXES AND WAIVING VESTING
MAP RIGHTS FOR THE ROSE GATE, REYNOLDS RANCH AND VAN RUITEN RANCH
SUBDIVISIONS.**

- WHEREAS,** the Planning Commission of the City of Lodi has heretofore held a duly noticed public hearing, as required by law, on the requested determination, in accordance with the California Government Code Section 65402.(a); and
- WHEREAS,** the project site is located at 2875 West Lodi Avenue, Lodi, CA 95240 (APN: 029-380-05 previous); and
- WHEREAS,** the applicant is FCB Homes, 10100 Trinity Parkway, Suite 420, Stockton, CA 95219; and
- WHEREAS,** the project properties owners of record are Georgia Perlegos ETAL, P. O. Box 1823, Lodi, CA 95241; and
- WHEREAS,** the applicant, FCB Homes, has filed the request for a Development Agreement with the City of Lodi; and
- WHEREAS,** the project site is located South of Harney Lane and west of Reynolds Ranch Parkway, Lodi, CA 95240 (APN: 058-650-04); and
- WHEREAS,** the applicant is Skinner Ranch Holdings, LP., c/o Mr. Dale Gillespie, 1420 S. Mills Avenue, Suite M., Lodi, CA 95240; and
- WHEREAS,** the project properties owners of record are Skinner Ranch Holdings, LP., Mr. Dale Gillespie, 1420 S. Mills Avenue, Suite M., Lodi, CA 95240; and
- WHEREAS,** the applicant, Skinner Ranch Holdings, LP., c/o Mr. Dale Gillespie, has filed the request for a Development Agreement with the City of Lodi; and
- WHEREAS,** the project site is located at Lower Sacramento Road / Century Boulevard, Lodi, CA 95240 (APN: 058-030-14, 15, 17, 18); and
- WHEREAS,** the applicant is Van Ruiten Ranch Limited, c/o Jim Van Ruiten, 340 w. Highway 12, Lodi, CA 95242; and
- WHEREAS,** the applicant's agent is Bennett Homes, Inc., c/o Dennis Bennett, P.O. Box 1579, Lodi, CA 95241; and
- WHEREAS,** the project properties owners of record are Van Ruiten Ranch Limited, c/o Jim Van Ruiten, 340 W. Highway 12, Lodi, CA 95242 ; and
- WHEREAS,** the applicant, Bennett Homes, has filed the request for a Development Agreement with the City of Lodi; and
- WHEREAS,** the Community Development Department did study and recommend approval of said request; and
- WHEREAS,** after due consideration of the project, the Planning Commission did conditionally approve the project; and
- WHEREAS,** all legal prerequisites to the adoption of this Resolution have occurred; and

Based upon the evidence in the staff report and project file, the Planning Commission of the City of Lodi makes the following findings:

1. Rose Gate

The project is subject to the requirements of the California Environmental Quality Act (CEQA). All potentially significant environmental impacts were publicly disclosed and made available for comment via Lodi Annexation Environmental Impact Report, State Clearinghouse No. 2005092096, dated April 2006, prior to any decisions to approve any part of the whole project.

On March 21, 2007, the City Council adopted Lodi Annexation Environmental Impact Report, State Clearinghouse No. 2005092096, and Mitigation and Monitoring Plan that analyzed environmental impact aspects of the proposed project.

Subsequently, the City Council, by Resolution No. 2010-41, which became effective on April 7, 2010, certified an Environmental Impact Report (EIR), State Clearinghouse No. 20009022075, for the City of Lodi General Plan. This General Plan designated the project site as Low Density Residential and Open Space.

No other special circumstances exist that would create a reasonable possibility that the proposed Project will have a significant adverse effect on the environment. Therefore, the proposed Project qualifies for the exemption under CEQA Guidelines Section 15153 and no further environmental review is required.

2. Reynolds Ranch

The project is consistent with the findings of the previous environmental documents prepared for the Reynolds Ranch development. The Reynolds Ranch Final EIR, (SCH#2006012113) including comments and responses to comments, was certified by the City Council on August 30, 2006. An addendum to the certified and Final EIR, including comments and responses to comments, was certified by the City Council on September 17, 2008.

Subsequently, the City Council, by Resolution No. 2010-41, which became effective on April 7, 2010, certified an Environmental Impact Report (EIR), State Clearinghouse No. 20009022075, for the City of Lodi General Plan. This General Plan designated the project site as Low Density Residential, Medium Density Residential, High Density Residential, Public / Quasi Public and Open Space.

The EIR addressed the impacts of the total scope of residential impacts on the community of the various phases of the project. The proposed project yields no potential new impacts related to the original Project, which would necessitate further environmental review beyond the impacts and issues already disclosed and analyzed in the Reynolds Ranch EIR.

No other special circumstances exist that would create a reasonable possibility that the proposed Project will have a significant adverse effect on the environment. Therefore, the proposed Project qualifies for the exemption under CEQA Guidelines Section 15153 and no further environmental review is required.

3. Van Ruiten Ranch

The project is subject to the requirements of the California Environmental Quality Act (CEQA). All potentially significant environmental impacts were publicly disclosed and made available for comment via Lodi Annexation Environmental Impact Report, State Clearinghouse No. 2005092096, dated April 2006, prior to any decisions to approve any part of the whole project. On March 21, 2007, the City Council adopted Lodi Annexation Environmental Impact Report, State Clearinghouse No. 2005092096, and Mitigation and Monitoring Plan that analyzed environmental impact aspects of the proposed project.

Subsequently, the City Council, by Resolution No. 2010-41, which became effective on April 7, 2010, certified an Environmental Impact Report (EIR), State Clearinghouse No. 20009022075, for the City of Lodi General Plan. This General Plan designated the project site as Low Density Residential, Medium Density Residential, High Density Residential, Public / Quasi Public and Open Space.

No other special circumstances exist that would create a reasonable possibility that the proposed Project will have a significant adverse effect on the environment. Therefore, the proposed Project qualifies for the exemption under CEQA Guidelines Section 15153 and no further environmental review is required. The project was found to be Categorically Exempt according to the California Environmental Quality Act, Article 19 §15321, Class 21 (a) (2). The project is classified as an "Enforcement action by regulatory agencies" because it is the "adoption of an administrative decision or order enforcing or revoking the lease, permit, license, certificate, or entitlement for use or enforcing the general rule, standard, or objective." No significant environmental impacts are anticipated and no mitigation measures are required.

4. Consistency with the objectives, policies, general land uses and programs specified in the general plan and any applicable specific plan.

The Rose Gate, Reynolds Ranch Residential and Van Ruiten Ranch subdivisions were developed and designed consistent with the City of Lodi General Plan, the Westside, Southwest Gateway and Reynolds Ranch development plans and infrastructure plans for the areas.

5. Consistency with the provisions of this development code.

The design of the Rose Gate, Reynolds Ranch Residential and Van Ruiten Ranch developments conform to the standards and improvements mandated by the adopted City of Lodi Public Works Department Standards and Specifications, Zoning Ordinance, as well as all other applicable standards. There are no design deviations approved by these projects.

The standard size, shape and topography of the sites are physically suitable for urban development proposed in that the site is generally flat and is not within an identified natural hazard area.

The individual project sites are suitable for the density of the approved subdivision and can be served by all public utilities and creates design solutions for storm water, traffic and air quality issues.

6. Conformity with public health, safety and general welfare.

The Rose Gate subdivision, Reynolds Ranch Residential subdivision and Van Ruiten Ranch subdivision are natural extensions of urban development for the City of Lodi. The design of these developments are consistent with the development code and required City public improvements. These improvements are not likely to cause serious public health problems in that all public improvements will be built per City standards and all private improvements will be built per the California Building Code.

The standard design of the proposed tentative subdivision and the proposed improvements are not likely to cause substantial environmental damage or injure fish or wildlife or their habitat in that the site has been previously disturbed by agricultural activities and no

significant environmental issues or concerns were identified through the Initial Study prepared for this development.

7. The effect on the orderly development of property or the preservation of property values.

The design of the Rose Gate subdivision, Reynolds Ranch Residential subdivision and Van Ruiten Ranch subdivision and the type of improvements will not conflict with easements acquired by the public at large for access through or use of property within the proposed developments.

The developments are conditioned to construct public street improvements thereby insuring that an adequate Level of Service is maintained on the roadways within the area.

The developments allow for the orderly growth of Lodi in that the Land Use and Growth Management Element allows for the development of residential uses on the project sites.

The projects comply with the requirements of Title 17, Article 5 of the Lodi Development Code, governing subdivision maps.

8. Whether the provisions of the agreement shall provide sufficient benefit to the city to justify entering into the agreement.

To strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic risk of development, the Legislature of the State of California adopted Government Code section 65854, et seq., which authorizes the City and any person having a legal or equitable interest in real property to enter into a development agreement, establishing certain development rights in the property which is the subject of the development project application.

The reduction of the CFD fee and the index rate would track the property owners concurrent Proposition 13 based property tax increase and also manage to exchange CFD fees for a waiver of any rights the developers may have to the 60-percent discount for units that do not pull a building permit within a brief negotiated time frame.

NOW, THEREFORE, BE IT DETERMINED AND RESOLVED by the Planning Commission of the City of Lodi that the attached Development Agreements for Rose Gate, Reynolds Ranch Residential and Van Ruiten Ranch be recommended for approval and adopted by the City Council.

Dated: June 10, 2015

I certify that Resolution No. 15-XX was passed and adopted by the Planning Commission of the City of Lodi at a regular meeting held on June 10, 2015 by the following vote:

AYES: Commissioners:

NOES: Commissioners:

ABSENT: Commissioners:

ATTEST _____
Secretary, Planning Commission

OFFICIAL BUSINESS
Document entitled to free recording
Government Code Section 6103

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

City of Lodi
P.O. Box 3006
Lodi, CA 95241-19910

Attn.: City Clerk

(SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE)

**DEVELOPMENT AGREEMENT
BY AND BETWEEN THE CITY OF LODI
AND FRONTIER COMMUNITY BUILDERS
FOR THE ROSE GATE SUBDIVISION**

**DEVELOPMENT AGREEMENT FOR FRONTIER COMMUNITY BUILDERS
ROSE GATE SUBDIVISION**

This Development Agreement (“Agreement”) is entered into as of this ____ day of June 2015, by and between the CITY OF LODI, a municipal corporation (“City”) and FRONTIER COMMUNITY BUILDERS, INC. (“Landowner”). City and Landowner are hereinafter collectively referred to as the “Parties” and singularly as “Party.”

RECITALS

1. Authorization. To strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic risk of development, the Legislature of the State of California adopted Government Code section 65854, et seq., which authorizes the City and any person having a legal or equitable interest in real property to enter into a development agreement, establishing certain development rights in the property which is the subject of the development project application.

2. Property. Landowner holds a legal or equitable interest in certain real property located in the City of Lodi, County of San Joaquin, more particularly described in Exhibit A-1, attached hereto (“Property”). Landowner represents that all persons holding legal or equitable interests in the Property shall be bound by this Agreement.

3. Project Approvals. Landowner has obtained various approvals from the City for a residential development known as Rose Gate (“Project”) on the Property. These approvals include the following:

3.1 Resolution No. 2007-49, adopted by the City Council on March 21, 2007, approving the land use designation as Low-Density Residential for the Project site.

3.2 City Council Ordinance No. 1793, effective on March 21, 2007, granting Planned Development Zone P-E(42) to allow single-family residential development for the Project site.

3.3 City Council Resolution No. 2007-48, certifying the Environmental Impact Report for the Project, State Clearinghouse No. 2005092096.

3.4 City Council Ordinance No. 1794, approving a development agreement applicable to the Rose Gate property, as well as other adjacent properties. City Council Ordinance No. 1862, effective on October 19, 2012, rescinded Ordinance No. 1794, terminating the development agreement, except for those terms surviving the termination, including the December 4, 2007 Settlement Agreement between Frontier Community Builders, Inc., Citizens for Open Government, and the City (“2007 Settlement Agreement”).

3.5 Resolution No. 13-17, adopted by the Planning Commission of the City of Lodi on October 9, 2013, approving the Vested Subdivision Map for the Rose Gate Subdivision.

In addition, the Property is a part of Community Facilities District No. 2007 1 (Public Services) formed to provide certain services to the Property.

4. **Public Hearing.** On June 10, 2015, the Planning Commission of the City of Lodi, acting pursuant to Government Code section 65857, held a hearing to consider this Agreement and the Planning Commission action has been reported to the City Council.

5. **Development Agreement Resolution Compliance.** City and Landowner have taken all actions mandated by, and fulfilled all requirements set forth in, the Development Agreement Resolution of the City of Lodi, as set forth in the City Council Resolution No. 2005-237 for the consideration and approval of the pre-annexation and development agreement.

6. **Findings of Consistency.** Having duly examined and considered this Agreement and having held a properly noticed public hearing hereon, the City found that this Agreement satisfies Government Code section 65867.5 related to general plan consistency and Section 66473.7 related to water supply.

AGREEMENT

1. **Incorporation of Recitals.** The preamble, the Recitals, and the defined terms set forth in both are incorporated into this Agreement as if set forth herein in full.

2. **Description of the Property.** The property, which is the subject of this Agreement, is described in Exhibit A-1 and depicted in Exhibit A-2 attached hereto ("Property").

3. **Interest of the Landowner.** Landowner has a legal or equitable interest in the Property. Landowner represents that all persons holding legal or equitable interest in the Property shall be bound by this Agreement.

4. **Relationship of City and Landowner.** It is understood that this Agreement is a contract that has been negotiated and voluntarily entered into by City and Landowner and that Landowner is not an agent of City. City and Landowner hereby renounce the existence of any form of joint venture or partnership between them and agree that nothing contained herein or in any document executed in connection herewith shall be construed as making City and Landowner joint ventures or partners.

5. **Effective Date and Term.**

5.1 The effective date of this Agreement ("Effective Date") is _____, 2015, which is the effective date of City Ordinance No. _____ adopting this Agreement.

5.2 Upon execution, the term of this Agreement shall commence on the Effective Date and extend for a period of twenty (20) years. This Agreement does not extend the life of the tentative map. Following the expiration of the term, this Agreement shall be deemed terminated and of no further force and effect. Said termination of this Agreement shall not terminate any right or duty created by City approvals for the Property adopted prior to, concurrently with, or subsequent to the approval of this Agreement nor the obligations of Landowner with respect to Community Facilities District 2007 1 (Public Services).

6. **Permitted Uses.** The permitted uses of the Property, the density or intensity of use, the maximum height and size of proposed buildings, and provisions for reservation or dedication of land for public purposes are those set forth in City Council Resolution 2007-49 designating the Project site as Low-Density Residential, City Council Ordinance No. 1793 granting Planned Development Zone P-E(42), and Resolution No. 13-17 approving the Vested

Subdivision Map for the Rose Gate Subdivision, all subject to the terms of the 2007 Settlement Agreement.

7. Fees and Taxes.

7.1 Existing Fees, Exactions, and Dedications. Landowner. City Council Resolution No. 13-17, paragraph 79(b), obligates Landowner to pay Development Impact Mitigation Fees according to the Public Works Fee and Service Charge Schedule. Landowner shall have the vested right to satisfy the obligation of Paragraph 79(b) by paying the Development Impact Mitigation Fees according to the Impact Mitigation Fee Program Schedule adopted by Resolution No. 2012-142 ("Resolution No. 2012-14 Fees") for all units for which building permit applications are submitted on or before April 1, 2018 and construction is completed by October 1, 2018. For all units for which building permit applications are submitted on or after April 1, 2018 or construction is not completed by October 1, 2018, Landowner waives the right to pay the Resolution No. 2012-14 Fees and agrees to pay the Development Impact Mitigation Fees according to the Impact Mitigation Fee Schedule in effect at the time the certificate of occupancy is issued. This waiver is subject to the condition subsequent that the City Council action on the Community Facilities District Fees contemplated in Paragraph 7.2 is completed according to the terms set forth therein. This waiver survives the termination of this Agreement.

7.2 Community Facilities District. Rose Gate is part of Community Facilities District 2007 1 (Public Services). The City will institute proceedings to amend the tax formula to reduce the special taxes levied against the parcels on the Property. The base rate for the special tax will be reduced to \$500 per year for single-family homes and \$145.83 per year for multi-family homes and the annual index will be reduced to two percent (2%).. Landowner agrees to vote in favor of the Special Tax. The Special Tax shall be initiated for all residential dwelling units for which a building permit is issued, and shall commence to be levied beginning the subsequent fiscal year after the building permit is issued. A vote by Landowner against the special tax or a vote to repeal the special tax shall constitute an event of default under this Agreement. The provisions of this paragraph will not survive an event of default.

7.3 Reimbursement. Landowner shall reimburse City for all staff time and legal time expended in implementing the fee reductions set forth in this section 7. City shall invoice Landowner on a monthly basis and Landowner shall pay invoices within thirty (30) days of receipt.

8. Amendment or Cancellation. This Agreement may be amended in writing from time to time by mutual consent of the Parties hereto and in accordance with the procedures of state law and the Municipal Code. Except as otherwise permitted herein, this Agreement may be cancelled in whole or in part only by the mutual consent of the Parties and their successors in interest, in accordance with the provisions of the Municipal Code. Any fees paid pursuant to this Agreement prior to the date of cancellation shall be retained by City.

9. Annual Review. This Agreement shall be reviewed annually in conformance with Section 17.44.080 of the Municipal Code. Costs of Annual Review shall be paid by Landowner in accordance with City's schedule of fees and billing rates in effect at the time of review.

10. Default. Subject to any applicable extension of time, failure by any Party to substantially perform any term or provision of this Agreement required to be performed by such

Party shall constitute a material event of default (“Event of Default”). For purposes of this Agreement, a Party claiming another Party is in default shall be referred to as the “Complaining Party,” and the Party alleged to be in default shall be referred to as the “Party in Default.” A Complaining Party shall not exercise any of its remedies as the result of such Event of Default unless such Complaining Party first gives notice to the Party in Default and the Party in Default fails to cure such Event of Default within thirty (30) days of the Complaining Party giving notice.

11. Severability. Except as set forth herein, if any term, covenant or condition of this Agreement or the application thereof to any person, entity or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term, covenant or condition to any person, entity or circumstance other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant or condition of this Agreement shall be valid and be enforced to the fullest extent permitted by law; provided, however, if any provision of this Agreement is determined to be invalid or unenforceable and the effect thereof is to deprive a Party hereto of an essential benefit of its bargain hereunder, then such Party so deprived shall have the option to terminate this entire Agreement from and after such determination.

12. Applicable Law. This Agreement shall be construed and enforced in accordance with the laws of the State of California.

13. Transfers and Assignments. From and after recordation of this Agreement against the Property, Landowner shall have the full right to assign this Agreement as to the Property, or any portion thereof, in connection with any sale, transfer or conveyance thereof, and upon the express written assignment by Landowner and assumption by the assignee of such, and the conveyance of Landowner’s interest in the Property related thereto, Landowner shall be released from any further liability or obligation hereunder related to the portion of the Property so conveyed and the assignee shall be deemed to be the “Landowner,” with all rights and obligations related thereto, with respect to such conveyed property. Prior to recordation of this Agreement, any proposed assignment of this Agreement by Landowner shall be subject to the prior written consent of the City Manager on behalf of City and the form of such assignment shall be subject to the approval of the City Attorney, neither of which shall be unreasonably withheld.

14. Agreement Runs with the Land. All of the provisions, rights, terms, covenants, and obligations contained in this Agreement shall be binding upon the Parties and their respective heirs, successors and assignees, representatives, lessees, and all other persons acquiring the Property, or any portion thereof, or any interest therein, whether by operation of law or in any manner whatsoever. All of the provisions of this Agreement shall be enforceable as equitable servitude and shall constitute covenants running with the land pursuant to applicable laws, including, but not limited to, Section 1468 of the Civil Code of the State of California. Each covenant to do, or refrain from doing, some act on the Property hereunder, or with respect to any owned property; (a) is for the benefit of such properties and is a burden upon such properties; (b) runs with such properties; and (c) is binding upon each Party and each successive owner during its ownership of such properties or any portion thereof, and shall be a benefit to and a burden upon each Party and its Property hereunder and each other person succeeding to an interest in such properties.

15. Bankruptcy. The obligations of this Agreement shall not be dischargeable in Bankruptcy.

16. Indemnification. Landowner agrees to defend and hold harmless elected and appointed commissions, officers, agents, employees, and representatives from any and all claims, costs (including legal fees and costs), and liability for any personal injury or property damage which may arise directly or indirectly as a result of any actions or inactions by the Landowner, or any actions or inactions of Landowner's contractors, subcontractors, agents, or employees in connection with the construction, improvement, operation, or maintenance of the Property and the Project.

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

18. Notices. All notices required by this Agreement, the enabling legislation or the procedure adopted pursuant to Government Code Section 65865, shall be in writing and delivered in person or sent by certified mail, postage prepaid, return receipt requested.

Notice required to be given to City shall be addressed as follows:

CITY OF LODI
ATTN: City Manager
P.O. Box 3006
Lodi, CA 95241-1910

Notice required to be given to Landowner shall be addressed as follows:

FRONTIER COMMUNITY BUILDERS, INC.
ATTN: Tom Doucette
10100 Trinity Parkway, Suite 420
Stockton, CA 95219

19. Form of Agreement; Recordation of Exhibits. Except when this Agreement is automatically terminated due to the expiration of the term of this Agreement, City shall cause this Agreement, any amendment hereto, to be recorded, at Landowner's expense, with the County Recorder within ten (10) days of the Effective Date thereof. Any amendment to this Agreement to be recorded that affects less than all of the Property shall describe the portion thereof that is the subject of such amendment. This Agreement is executed in three duplicate originals, each of which is deemed to be an original.

20. Further Assurances. The Parties agree to execute such additional instruments and to take such actions as may be necessary to effectuate the intent of this Agreement.

IN WITNESS WHEREOF, the City of Lodi, a municipal corporation, has authorized the execution of this Agreement in duplicate by its Mayor and attested to by its City Clerk under the authority of Ordinance No. ___, adopted by the City Council of the City of Lodi on the 1st day of July 2015, and Landowner has caused this Agreement to be executed.

<p>CITY OF LODI a municipal corporation</p> <p>By: _____ Stephen Schwabauer City Manager</p>	<p>FRONTIER COMMUNITY BUILDERS, INC.</p> <p>By: _____ Tom Doucette</p> <p>Its: _____</p>
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Exhibit A-1

Exhibit A-2

OFFICIAL BUSINESS
Document entitled to free recording
Government Code Section 6103

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

City of Lodi
P.O. Box 3006
Lodi, CA 95241-19910

Attn.: City Clerk

(SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE)

DEVELOPMENT AGREEMENT
BY AND BETWEEN THE CITY OF LODI
AND SKINNER RANCH HOLDINGS, LP
FOR THE REYNOLDS RANCH SUBDIVISION

DEVELOPMENT AGREEMENT FOR SKINNER RANCH HOLDINGS, LP REYNOLDS RANCH SUBDIVISION

This Development Agreement ("Agreement") is entered into as of this ____ day of June 2015, by and between the CITY OF LODI, a municipal corporation ("City") and Skinner Ranch Holdings, LP ("Landowner"). City and Landowner are hereinafter collectively referred to as the "Parties" and singularly as "Party."

RECITALS

1. Authorization. To strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic risk of development, the Legislature of the State of California adopted Government Code section 65854, et seq., which authorizes the City and any person having a legal or equitable interest in real property to enter into a development agreement, establishing certain development rights in the property which is the subject of the development project application.

2. Property. Landowner holds a legal or equitable interest in certain real property located in the City of Lodi, County of San Joaquin, more particularly described in Exhibit A-1, attached hereto ("Property"). Landowner represents that all persons holding legal or equitable interests in the Property shall be bound by this Agreement.

3. Project Approvals. Landowner has obtained various approvals from the City for a development known as Reynolds Ranch ("Project") on the Property. These approvals include the following:

3.1 City Council Resolution No. 2010-41, adopted by the City Council on April 7, 2010, approving the land use designation as Medium Density Residential, High Density Residential, Industrial and Open Space for the Project site.

3.2 City Council Ordinance No. 1869, effective on March 21, 2013, granting Planned Development Zone P-E(39) to allow Medium Density Residential, High Density Residential, and Open Space for the Project site.

3.3 Reynolds Ranch Final EIR, State Clearinghouse No. 2006012113, certified by the City Council on August 30, 2006 and an addendum to the Final EIR, certified on September 17, 2008.

3.4 Resolution No. 14-19, adopted by the Planning Commission of the City of Lodi on June 25, 2014, approving the Vested Subdivision Map for the Reynolds Ranch Subdivision.

3.5 City Council Ordinance No. 1785, approving a development agreement applicable to the Property, as well as other adjacent properties. City Council Ordinance No. 1865, effective November 16, 2012, rescinded Ordinance No. 1785, terminating the development agreement, except for those terms surviving the termination, including the August 26, 2006 Settlement Agreement between San Joaquin Valley Land Company LLC, Citizens for Open Government, and the City ("2006 Settlement Agreement").

In addition, the Property is a part of Community Facilities District No. 2007 1 (Public Services) formed to provide certain services to the Property.

4. **Public Hearing.** On June 10, 2015, the Planning Commission of the City of Lodi, acting pursuant to Government Code section 65857, held a hearing to consider this Agreement and the Planning Commission action has been reported to the City Council.

5. **Development Agreement Resolution Compliance.** City and Landowner have taken all actions mandated by, and fulfilled all requirements set forth in, the Development Agreement Resolution of the City of Lodi, as set forth in the City Council Resolution No. 2005-237 for the consideration and approval of the pre-annexation and development agreement.

6. **Findings of Consistency.** Having duly examined and considered this Agreement and having held a properly noticed public hearing hereon, the City found that this Agreement satisfies Government Code section 65867.5 related to general plan consistency and Section 66473.7 related to water supply.

AGREEMENT

1. **Incorporation of Recitals.** The preamble, the Recitals, and the defined terms set forth in both are incorporated into this Agreement as if set forth herein in full.

2. **Description of the Property.** The property, which is the subject of this Agreement, is described in Exhibit A-1 and depicted in Exhibit A-2 attached hereto ("Property").

3. **Interest of the Landowner.** Landowner has a legal or equitable interest in the Property. Landowner represents that all persons holding legal or equitable interest in the Property shall be bound by this Agreement.

4. **Relationship of City and Landowner.** It is understood that this Agreement is a contract that has been negotiated and voluntarily entered into by City and Landowner and that Landowner is not an agent of City. City and Landowner hereby renounce the existence of any form of joint venture or partnership between them and agree that nothing contained herein or in any document executed in connection herewith shall be construed as making City and Landowner joint ventures or partners.

5. Effective Date and Term.

5.1 The effective date of this Agreement ("Effective Date") is _____, 2015, which is the effective date of City Ordinance No. _____ adopting this Agreement.

5.2 Upon execution, the term of this Agreement shall commence on the Effective Date and extend for a period of twenty (20) years. This Agreement does not extend the life of the tentative map. Following the expiration of the term, this Agreement shall be deemed terminated and of no further force and effect. Said termination of this Agreement shall not terminate any right or duty created by City approvals for the Property adopted prior to, concurrently with, or subsequent to the approval of this Agreement nor the obligations of Landowner with respect to Community Facilities District 2007 1 (Public Services).

6. **Permitted Uses.** The permitted uses of the Property, the density or intensity of use, the maximum height and size of proposed buildings, and provisions for reservation or dedication of land for public purposes are those set forth in the City Council Resolution No. 2010-41 approving the land use designations for the Project site, City Council Ordinance No. 1869, granting Planned Development Zone P-E(39), and Resolution No. 14-19 approving the

Vested Subdivision Map for the Reynolds Ranch Subdivision, all subject to the terms of the 2006 Settlement Agreement.

7. Fees and Taxes.

7.1 Existing Fees, Exactions, and Dedications. Landowner. City Council Resolution No. 14-19, paragraph 81(b), obligates Landowner to pay Development Impact Mitigation Fees according to the Public Works Fee and Service Charge Schedule. Landowner shall have the vested right to satisfy the obligation of Paragraph 81(b) by paying the Development Impact Mitigation Fees according to the Impact Mitigation Fee Program Schedule adopted by Resolution No. 2012-142 ("Resolution No. 2012-14 Fees") for all units for which building permit applications are submitted on or before April 1, 2019 and construction is completed by October 1, 2019. For all units for which building permit applications are submitted on or after April 1, 2019 or construction is not completed by October 1, 2019, Landowner waives the right to pay the Resolution No. 2012-14 Fees and agrees to pay the Development Impact Mitigation Fees according to the Impact Mitigation Fee Schedule in effect at the time the certificate of occupancy is issued. This waiver is subject to the condition subsequent that the City Council action on the Community Facilities District Fees contemplated in Paragraph 7.2 is completed according to the terms set forth therein. This waiver survives the termination of this Agreement.

7.2 Community Facilities District. Reynolds Ranch is part of Community Facilities District 2007 1 (Public Services). The City will institute proceedings to amend the tax formula to reduce the special taxes levied against the parcels on the Property. The base rate for the special tax will be reduced to \$500 per year for single-family homes and \$145.83 per year for multi-family homes and the annual index will be reduced to two percent (2%). Landowner agrees to vote in favor of the Special Tax. The Special Tax shall be initiated for all residential dwelling units for which a building permit is issued, and shall commence to be levied beginning the subsequent fiscal year after the building permit is issued. A vote by Landowner against the special tax or a vote to repeal the special tax shall constitute an event of default under this Agreement. The provisions of this paragraph will not survive an event of default.

7.3 Reimbursement. Landowner shall reimburse City for all staff time and legal time expended in implementing the fee reductions set forth in this section 7. City shall invoice Landowner on a monthly basis and Landowner shall pay invoices within thirty (30) days of receipt.

8. Amendment or Cancellation. This Agreement may be amended in writing from time to time by mutual consent of the Parties hereto and in accordance with the procedures of state law and the Municipal Code. Except as otherwise permitted herein, this Agreement may be cancelled in whole or in part only by the mutual consent of the Parties and their successors in interest, in accordance with the provisions of the Municipal Code. Any fees paid pursuant to this Agreement prior to the date of cancellation shall be retained by City.

9. Annual Review. This Agreement shall be reviewed annually in conformance with Section 17.44.080 of the Municipal Code. Costs of Annual Review shall be paid by Landowner in accordance with City's schedule of fees and billing rates in effect at the time of review.

10. Default. Subject to any applicable extension of time, failure by any Party to substantially perform any term or provision of this Agreement required to be performed by such

Party shall constitute a material event of default (“Event of Default”). For purposes of this Agreement, a Party claiming another Party is in default shall be referred to as the “Complaining Party,” and the Party alleged to be in default shall be referred to as the “Party in Default.” A Complaining Party shall not exercise any of its remedies as the result of such Event of Default unless such Complaining Party first gives notice to the Party in Default and the Party in Default fails to cure such Event of Default within thirty (30) days of the Complaining Party giving notice.

11. Severability. Except as set forth herein, if any term, covenant or condition of this Agreement or the application thereof to any person, entity or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term, covenant or condition to any person, entity or circumstance other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant or condition of this Agreement shall be valid and be enforced to the fullest extent permitted by law; provided, however, if any provision of this Agreement is determined to be invalid or unenforceable and the effect thereof is to deprive a Party hereto of an essential benefit of its bargain hereunder, then such Party so deprived shall have the option to terminate this entire Agreement from and after such determination.

12. Applicable Law. This Agreement shall be construed and enforced in accordance with the laws of the State of California.

13. Transfers and Assignments. From and after recordation of this Agreement against the Property, Landowner shall have the full right to assign this Agreement as to the Property, or any portion thereof, in connection with any sale, transfer or conveyance thereof, and upon the express written assignment by Landowner and assumption by the assignee of such, and the conveyance of Landowner’s interest in the Property related thereto, Landowner shall be released from any further liability or obligation hereunder related to the portion of the Property so conveyed and the assignee shall be deemed to be the “Landowner,” with all rights and obligations related thereto, with respect to such conveyed property. Prior to recordation of this Agreement, any proposed assignment of this Agreement by Landowner shall be subject to the prior written consent of the City Manager on behalf of City and the form of such assignment shall be subject to the approval of the City Attorney, neither of which shall be unreasonably withheld.

14. Agreement Runs with the Land. All of the provisions, rights, terms, covenants, and obligations contained in this Agreement shall be binding upon the Parties and their respective heirs, successors and assignees, representatives, lessees, and all other persons acquiring the Property, or any portion thereof, or any interest therein, whether by operation of law or in any manner whatsoever. All of the provisions of this Agreement shall be enforceable as equitable servitude and shall constitute covenants running with the land pursuant to applicable laws, including, but not limited to, Section 1468 of the Civil Code of the State of California. Each covenant to do, or refrain from doing, some act on the Property hereunder, or with respect to any owned property; (a) is for the benefit of such properties and is a burden upon such properties; (b) runs with such properties; and (c) is binding upon each Party and each successive owner during its ownership of such properties or any portion thereof, and shall be a benefit to and a burden upon each Party and its Property hereunder and each other person succeeding to an interest in such properties.

15. Bankruptcy. The obligations of this Agreement shall not be dischargeable in Bankruptcy.

16. **Indemnification.** Landowner agrees to defend and hold harmless elected and appointed commissions, officers, agents, employees, and representatives from any and all claims, costs (including legal fees and costs), and liability for any personal injury or property damage which may arise directly or indirectly as a result of any actions or inactions by the Landowner, or any actions or inactions of Landowner's contractors, subcontractors, agents, or employees in connection with the construction, improvement, operation, or maintenance of the Property and the Project.

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

18. **Notices.** All notices required by this Agreement, the enabling legislation or the procedure adopted pursuant to Government Code Section 65865, shall be in writing and delivered in person or sent by certified mail, postage prepaid, return receipt requested.

Notice required to be given to City shall be addressed as follows:

CITY OF LODI
ATTN: City Manager
P.O. Box 3006
Lodi, CA 95241-1910

Notice required to be given to Landowner shall be addressed as follows:

SKINNER RANCH HOLDINGS, LP
ATTN: Dale Gillespie
1420 S. Mills Ave., Suite M
Lodi, CA 95240

19. **Form of Agreement; Recordation of Exhibits.** Except when this Agreement is automatically terminated due to the expiration of the term of this Agreement, City shall cause this Agreement, any amendment hereto, to be recorded, at Landowner's expense, with the County Recorder within ten (10) days of the Effective Date thereof. Any amendment to this Agreement to be recorded that affects less than all of the Property shall describe the portion thereof that is the subject of such amendment. This Agreement is executed in three duplicate originals, each of which is deemed to be an original.

20. **Further Assurances.** The Parties agree to execute such additional instruments and to take such actions as may be necessary to effectuate the intent of this Agreement.

IN WITNESS WHEREOF, the City of Lodi, a municipal corporation, has authorized the execution of this Agreement in duplicate by its Mayor and attested to by its City Clerk under the authority of Ordinance No. __, adopted by the City Council of the City of Lodi on the 1st day of July 2015, and Landowner has caused this Agreement to be executed.

CITY OF LODI a municipal corporation By: _____ Stephen Schwabauer City Manager	SKINNER RANCH HOLDINGS, INC. By: _____ Dale Gillespie Its: _____
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Exhibit A-1

Exhibit A-2

OFFICIAL BUSINESS
Document entitled to free recording
Government Code Section 6103

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

City of Lodi
P.O. Box 3006
Lodi, CA 95241-19910

Attn.: City Clerk

(SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE)

DEVELOPMENT AGREEMENT
BY AND BETWEEN THE CITY OF LODI
AND BENNETT HOMES, INC.
FOR THE VAN RUITEN RANCH SUBDIVISION

**DEVELOPMENT AGREEMENT FOR BENNETT HOMES, INC.
VAN RUITEN RANCH SUBDIVISION**

This Development Agreement ("Agreement") is entered into as of this ____ day of June 2015, by and between the CITY OF LODI, a municipal corporation ("City") and BENNETT HOMES, INC. ("Landowner"). City and Landowner are hereinafter collectively referred to as the "Parties" and singularly as "Party."

RECITALS

1. Authorization. To strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic risk of development, the Legislature of the State of California adopted Government Code section 65854, et seq., which authorizes the City and any person having a legal or equitable interest in real property to enter into a development agreement, establishing certain development rights in the property which is the subject of the development project application.

2. Property. Landowner holds a legal or equitable interest in certain real property located in the City of Lodi, County of San Joaquin, more particularly described in Exhibit A-1, attached hereto ("Property"). Landowner represents that all persons holding legal or equitable interests in the Property shall be bound by this Agreement.

3. Project Approvals. Landowner has obtained various approvals from the City for a development known as Van Ruiten Ranch ("Project") on the Property. These approvals include the following:

3.1 City Council Resolution No. 2010-41, adopted by the City Council on April 7, 2010, approving the land use designation as Low-Density Residential, Medium Density residential, High Density Residential, Public/Quasi Public and Open Space for the Project site.

3.2 City Council Ordinance No. 1869, effective on March 21, 2013, granting Planned Development Zone P-E(41) to allow Low-Density Residential, Medium Density Residential, High Density Residential, Public/Quasi Public and Open Space for the Project site.

3.3 City Council Resolution No. 2007-48, effective March 21, 2007, certifying the Environmental Impact Report for the Project, State Clearinghouse No. 2005092096.

3.4 Resolution No. 14-13, adopted by the Planning Commission of the City of Lodi on April 9, 2014, approving vested Subdivision Map for the Van Ruiten Ranch Subdivision.

3.5 City Council Ordinance No. 1788, approving a development agreement applicable to the Property, as well as other adjacent properties. City Council Ordinance No. 1861, effective on October 19, 2012, rescinded Ordinance No. 1788, terminating the development agreement, except for those terms surviving the termination, including the November 15, 2006 Settlement Agreement between Frontiers Community Builders, Inc., Citizens for Open Government, and the City ("2006 Settlement Agreement").

In addition, the Property is a part of Community Facilities District No. 2007 1 (Public Services) formed to provide certain services to the Property.

4. **Public Hearing.** On June 10, 2015, the Planning Commission of the City of Lodi, acting pursuant to Government Code section 65857, held a hearing to consider this Agreement and the Planning Commission action has been reported to the City Council.

5. **Development Agreement Resolution Compliance.** City and Landowner have taken all actions mandated by, and fulfilled all requirements set forth in, the Development Agreement Resolution of the City of Lodi, as set forth in the City Council Resolution No. 2005-237 for the consideration and approval of the pre-annexation and development agreement.

6. **Findings of Consistency.** Having duly examined and considered this Agreement and having held a properly noticed public hearing hereon, the City found that this Agreement satisfies Government Code section 65867.5 related to general plan consistency and Section 66473.7 related to water supply.

AGREEMENT

1. **Incorporation of Recitals.** The preamble, the Recitals, and the defined terms set forth in both are incorporated into this Agreement as if set forth herein in full.

2. **Description of the Property.** The property, which is the subject of this Agreement, is described in Exhibit A-1 and depicted in Exhibit A-2 attached hereto ("Property").

3. **Interest of the Landowner.** Landowner has a legal or equitable interest in the Property. Landowner represents that all persons holding legal or equitable interest in the Property shall be bound by this Agreement.

4. **Relationship of City and Landowner.** It is understood that this Agreement is a contract that has been negotiated and voluntarily entered into by City and Landowner and that Landowner is not an agent of City. City and Landowner hereby renounce the existence of any form of joint venture or partnership between them and agree that nothing contained herein or in any document executed in connection herewith shall be construed as making City and Landowner joint ventures or partners.

5. Effective Date and Term.

5.1 The effective date of this Agreement ("Effective Date") is _____, 2015, which is the effective date of City Ordinance No. _____ adopting this Agreement.

5.2 Upon execution, the term of this Agreement shall commence on the Effective Date and extend for a period of twenty (20) years. This Agreement does not extend the life of the tentative map. Following the expiration of the term, this Agreement shall be deemed terminated and of no further force and effect. Said termination of this Agreement shall not terminate any right or duty created by City approvals for the Property adopted prior to, concurrently with, or subsequent to the approval of this Agreement nor the obligations of Landowner with respect to Community Facilities District 2007 1 (Public Services).

6. **Permitted Uses.** The permitted uses of the Property, the density or intensity of use, the maximum height and size of proposed buildings, and provisions for reservation or dedication of land for public purposes are those set forth in the City Council Resolution No. 2010-41 approving the land use designations for the Project site, City Council Ordinance No. 1869, granting Planned Development Zone P-E(41), and Resolution No. 14-13 approving the

Vested Subdivision Map for the Van Ruiten Ranch Subdivision, all subject to the terms of the 2006 Settlement Agreement.

7. Fees and Taxes.

7.1 Existing Fees, Exactions, and Dedications. Landowner. City Council Resolution No. 14-13, paragraph 77(b), obligates Landowner to pay Development Impact Mitigation Fees according to the Public Works Fee and Service Charge Schedule. Landowner shall have the vested right to satisfy the obligation of Paragraph 77(b) by paying the Development Impact Mitigation Fees according to the Impact Mitigation Fee Program Schedule adopted by Resolution No. 2012-142 ("Resolution No. 2012-14 Fees") for all units for which building permit applications are submitted on or before April 1, 2019 and construction is completed by October 1, 2019. For all units for which building permit applications are submitted on or after April 1, 2019 or construction is not completed by October 1, 2019, Landowner waives the right to pay the Resolution No. 2012-14 Fees and agrees to pay the Development Impact Mitigation Fees according to the Impact Mitigation Fee Schedule in effect at the time the certificate of occupancy is issued. This waiver is subject to the condition subsequent that the City Council action on the Community Facilities District Fees contemplated in Paragraph 7.2 is completed according to the terms set forth therein. This waiver survives the termination of this Agreement.

7.2 Community Facilities District. Van Ruiten Ranch is part of Community Facilities District 2007 1 (Public Services). The City will institute proceedings to amend the tax formula to reduce the special taxes levied against the parcels on the Property. The base rate for the special tax will be reduced to \$500 per year for single-family homes and \$145.83 per year for multi-family homes and the annual index will be reduced to two percent (2%). Landowner agrees to vote in favor of the Special Tax. The Special Tax shall be initiated for all residential dwelling units for which a building permit is issued, and shall commence to be levied beginning the subsequent fiscal year after the building permit is issued. A vote by Landowner against the special tax or a vote to repeal the special tax shall constitute an event of default under this Agreement. The provisions of this paragraph will not survive an event of default.

7.3 Reimbursement. Landowner shall reimburse City for all staff time and legal time expended in implementing the fee reductions set forth in this section 7. City shall invoice Landowner on a monthly basis and Landowner shall pay invoices within thirty (30) days of receipt.

8. Amendment or Cancellation. This Agreement may be amended in writing from time to time by mutual consent of the Parties hereto and in accordance with the procedures of state law and the Municipal Code. Except as otherwise permitted herein, this Agreement may be cancelled in whole or in part only by the mutual consent of the Parties and their successors in interest, in accordance with the provisions of the Municipal Code. Any fees paid pursuant to this Agreement prior to the date of cancellation shall be retained by City.

9. Annual Review. This Agreement shall be reviewed annually in conformance with Section 17.44.080 of the Municipal Code. Costs of Annual Review shall be paid by Landowner in accordance with City's schedule of fees and billing rates in effect at the time of review.

10. Default. Subject to any applicable extension of time, failure by any Party to substantially perform any term or provision of this Agreement required to be performed by such

Party shall constitute a material event of default ("Event of Default"). For purposes of this Agreement, a Party claiming another Party is in default shall be referred to as the "Complaining Party," and the Party alleged to be in default shall be referred to as the "Party in Default." A Complaining Party shall not exercise any of its remedies as the result of such Event of Default unless such Complaining Party first gives notice to the Party in Default and the Party in Default fails to cure such Event of Default within thirty (30) days of the Complaining Party giving notice.

11. Severability. Except as set forth herein, if any term, covenant or condition of this Agreement or the application thereof to any person, entity or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term, covenant or condition to any person, entity or circumstance other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant or condition of this Agreement shall be valid and be enforced to the fullest extent permitted by law; provided, however, if any provision of this Agreement is determined to be invalid or unenforceable and the effect thereof is to deprive a Party hereto of an essential benefit of its bargain hereunder, then such Party so deprived shall have the option to terminate this entire Agreement from and after such determination.

12. Applicable Law. This Agreement shall be construed and enforced in accordance with the laws of the State of California.

13. Transfers and Assignments. From and after recordation of this Agreement against the Property, Landowner shall have the full right to assign this Agreement as to the Property, or any portion thereof, in connection with any sale, transfer or conveyance thereof, and upon the express written assignment by Landowner and assumption by the assignee of such, and the conveyance of Landowner's interest in the Property related thereto, Landowner shall be released from any further liability or obligation hereunder related to the portion of the Property so conveyed and the assignee shall be deemed to be the "Landowner," with all rights and obligations related thereto, with respect to such conveyed property. Prior to recordation of this Agreement, any proposed assignment of this Agreement by Landowner shall be subject to the prior written consent of the City Manager on behalf of City and the form of such assignment shall be subject to the approval of the City Attorney, neither of which shall be unreasonably withheld.

14. Agreement Runs with the Land. All of the provisions, rights, terms, covenants, and obligations contained in this Agreement shall be binding upon the Parties and their respective heirs, successors and assignees, representatives, lessees, and all other persons acquiring the Property, or any portion thereof, or any interest therein, whether by operation of law or in any manner whatsoever. All of the provisions of this Agreement shall be enforceable as equitable servitude and shall constitute covenants running with the land pursuant to applicable laws, including, but not limited to, Section 1468 of the Civil Code of the State of California. Each covenant to do, or refrain from doing, some act on the Property hereunder, or with respect to any owned property; (a) is for the benefit of such properties and is a burden upon such properties; (b) runs with such properties; and (c) is binding upon each Party and each successive owner during its ownership of such properties or any portion thereof, and shall be a benefit to and a burden upon each Party and its Property hereunder and each other person succeeding to an interest in such properties.

15. Bankruptcy. The obligations of this Agreement shall not be dischargeable in Bankruptcy.

16. Indemnification. Landowner agrees to defend and hold harmless elected and appointed commissions, officers, agents, employees, and representatives from any and all claims, costs (including legal fees and costs), and liability for any personal injury or property damage which may arise directly or indirectly as a result of any actions or inactions by the Landowner, or any actions or inactions of Landowner's contractors, subcontractors, agents, or employees in connection with the construction, improvement, operation, or maintenance of the Property and the Project.

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

18. Notices. All notices required by this Agreement, the enabling legislation or the procedure adopted pursuant to Government Code Section 65865, shall be in writing and delivered in person or sent by certified mail, postage prepaid, return receipt requested.

Notice required to be given to City shall be addressed as follows:

CITY OF LODI
ATTN: City Manager
P.O. Box 3006
Lodi, CA 95241-1910

Notice required to be given to Landowner shall be addressed as follows:

BENNETT HOMES, INC.
ATTN: Dennis Bennett
P.O. Box 1579
Lodi, CA 95241

19. Form of Agreement; Recordation of Exhibits. Except when this Agreement is automatically terminated due to the expiration of the term of this Agreement, City shall cause this Agreement, any amendment hereto, to be recorded, at Landowner's expense, with the County Recorder within ten (10) days of the Effective Date thereof. Any amendment to this Agreement to be recorded that affects less than all of the Property shall describe the portion thereof that is the subject of such amendment. This Agreement is executed in three duplicate originals, each of which is deemed to be an original.

20. Further Assurances. The Parties agree to execute such additional instruments and to take such actions as may be necessary to effectuate the intent of this Agreement.

IN WITNESS WHEREOF, the City of Lodi, a municipal corporation, has authorized the execution of this Agreement in duplicate by its Mayor and attested to by its City Clerk under the authority of Ordinance No. ___, adopted by the City Council of the City of Lodi on the 1st day of July 2015, and Landowner has caused this Agreement to be executed.

<p>CITY OF LODI a municipal corporation</p> <p>By: _____ Stephen Schwabauer City Manager</p>	<p>BENNETT HOMES, INC.</p> <p>By: _____ Dennis Bennett</p> <p>Its: _____</p>
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Exhibit A-1

Exhibit A-2