ATTACHMENT F

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:
City of Tracy
Attn: Tracy City Clerk
333 Civic Center Plaza
Tracy, CA 95376

RECORDING FEE EXEMPT
PURSUANT TO GOVERNMENT CODE
SECTION 27383

DEVELOPMENT AGREEMENT BY AND BETWEEN
THE CITY OF TRACY AND PROLOGIS, L.P.

DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF TRACY AND PROLOGIS, L.P.,

This DEVELOPMENT AGREEMENT ("***Agreement***") is made by and between the City of Tracy ("***City***"), a municipal corporation, and Prologis, L.P., a Delaware limited partnership ("***Prologis***"). City and Prologis each may sometimes be referred to herein as a "***Party***" and collectively as the "***Parties.***"

RECITALS

A. The Legislature enacted Government Code Section 65864 *et seq.* ("***Development Agreement Statute***") in response to the lack of certainty in the approval of development projects, which can result in a waste of resources, escalate the cost of housing, and discourage investment in and commitment to planning that would maximize the efficient utilization of resources. The Development Agreement Statute is designed to strengthen the public planning process, encourage private participation in comprehensive, long-range planning, and reduce the economic costs of development. It authorizes a city to enter into a binding agreement with any person having a legal or equitable interest in real property located in unincorporated territory within that city's sphere of influence regarding the development of that property.

B. Pursuant to the Development Agreement Statute, City has adopted procedures and requirements for the consideration of development agreements, which are set forth in Tracy City Council Resolution No. 2004-368 and Attachment A thereto ("***City Development Agreement Procedures***"). This Agreement has been prepared, processed, considered and adopted in accordance with such procedures.

C. On September 3, 2013, following review and recommendation by the City of Tracy Planning Commission and after a duly noticed public hearing, the City Council of City took the following actions (collectively, the "***Initial Approvals***"):

1. By Resolution No. 2013-____, amended the City of Tracy General Plan to make certain conforming amendments to ensure consistency between the City's General Plan and the Project, as defined below ("***General Plan Amendment***").

2. By Resolution No. 2013-____, adopted the Cordes Ranch Specific Plan ("***Specific Plan***"), which is intended to comprehensively plan for and implement development of approximately one thousand seven hundred and eighty (1,780) acres ("***Specific Plan Area***"), as further depicted more in attached Exhibit 1. The Specific Plan is intended to create a state-of-the-art commerce and business park by establishing land use, zoning and development standards and regulations to provide for the phased development of approximately thirty one (31) million square feet of general commercial, general office and business park industrial uses, related on- and off-site infrastructure, and passive and active use open space areas, trails, joint use park/detention facilities, and other related improvements, as described more fully therein ("***Project***"). Among other things, the Project is intended to provide sufficient flexibility to City and the property owners within the Specific Plan Area (including Prologis, among others) to attract a variety of employment-generating uses to the City, while ensuring that the City remains revenue-neutral with respect to the

development and operation of the Project, and ensuring that the Project does not adversely impact the City's budget or General Fund.

3. Conducted the first reading of Ordinance No. ____, an ordinance amending the text of the City's Zoning Code to reflect a new pre-zoning designation of "Cordes Ranch-Specific Plan (CR-SP)" for the Specific Plan Area, and amending the City's Zoning Map to show the Specific Plan Area as pre-zoned to "Cordes Ranch-Specific Plan (CR-SP)" (collectively, "***Zoning Amendments***").

4. Conducted the first reading of Ordinance No. ___, an ordinance approving this Agreement and directing this Agreement's execution by City ("***Approving Ordinance***").

5. By Resolution No. 2013-____, adopted a Resolution of Intention to Initiate Annexation Proceedings to initiate the process of annexing the Specific Plan Area to the City ("***Annexation Resolution***").

6. In support of the foregoing actions, by Resolution No. 2013-___, and pursuant to and in compliance with the applicable provisions of the California Environmental Quality Act ("***CEQA***") certified an Environmental Impact Report for the Project (State Clearinghouse No. 2011122015) ("***EIR***"), adopted written findings relating to significant environmental impacts, adopted a Statement of Overriding Considerations, and adopted a mitigation monitoring and reporting plan that incorporated all identified mitigation measures set forth in the Project EIR ("***MMRP***").

D. On ____________, 2013 ("***Effective Date***"), the City Council conducted the second reading of and adopted the Zoning Amendments and the Approving Ordinance.

E. Prologis is the legal owner of approximately one thousand two hundred and thirty eight (1,238) acres within the Specific Plan Area ("***Property***"), as more particularly described and depicted on attached Exhibit 2.

AGREEMENT

Based on the foregoing recitals, the truth and accuracy of which are hereby acknowledged and incorporated into and made a part of this Agreement, and in consideration of the mutual covenants and promises contained herein and other consideration, the value and adequacy of which is hereby acknowledged, the Parties hereby agree as follows:

SECTION 1. DEFINITION OF TERMS.

This Agreement uses certain terms with initial capital letters that are defined in this Section 1 below or elsewhere in this Agreement. City and Prologis intend to refer to those definitions when the capitalized terms are used in this Agreement.

1.1 "**Actual Wastewater Generation Rate**" means the average dry weather flows (ADWF) that occur as a result of a particular use, through documentation from potable water meters (not including irrigation), which shall be used to verify the actual rate of wastewater generation for the particular use at issue. Such rate shall be the

average calculated rate using the actual water bills (not irrigation) for the preceding twelve (12) months.

1.2 "**Additional Wastewater Facilities Payment**" has the meaning set forth in Section 6.2(b).

1.3 "**Additional Wastewater Treatment Capacity Obligation**" has the meaning set forth in Section 3.3(c)(ii).

1.4 "**ADWF**" means the average dry weather flows as further described in the Tracy Wastewater Master Plan.

1.5 "**Adjusted Master Plan Fee Obligation**" has the meaning set forth in Section 6.3.

1.6 "**Agreement**" has the meaning set forth in the Preamble.

1.7 "**Annexation Resolution**" has the meaning set forth in Recital C(5).

1.8 "**Annexation Date**" means the date upon which the annexation of the Specific Plan Area to City is deemed complete under Government Code Section 57203.

1.9 "**Approving Ordinance**" has the meaning set forth in Recital C(4).

1.10 "**Assignee**" has the meaning set forth in Section 11.1.

1.11 "**Master Plan Fee Obligation**" has the meaning set forth in Section 6.3(b).

1.12 "**Building Permit**" means the document issued by City's Building Official authorizing the holder to construct a building or other structure, as provided for in the City of Tracy Municipal Code.

1.13 "**California Aqueduct Bridge Work**" means the bridge upgrades and/or replacement and bridge widening of that section of Mountain House Parkway that crosses the California Aqueduct between the I-580 Interchange and Old Schulte Road, as further described in the TMP.

1.14 "**CEQA**" has the meaning set forth in Recital C(6).

1.15 "**Certificate of Occupancy**" means a final certificate of occupancy issued by City's Building Official or, if City's Building Code does not provide for the issuance of a certificate of occupancy for a particular structure, the functional equivalent thereto, as provided for in the City of Tracy Municipal Code.

1.16 "**City**" has the meaning set forth in the Preamble.

1.17 "**City Council**" means the Tracy City Council.

1.18 "**City Development Agreement Procedures**" has the meaning set forth in Recital B.

1.19 "**Citywide Infrastructure Master Plans**" means, collectively, the following City of Tracy Citywide Master Plans: the Citywide Public Facilities Master Plan, the Citywide Public Safety Master Plan, the Tracy Wastewater Master Plan, the Citywide Water System Master Plan, the Citywide Transportation Master Plan, and the Citywide Stormwater Drainage Master Plan."

1.20 "**Citywide Public Facilities Master Plan**" means that certain Citywide Public Facilities Master Plan adopted by City, dated January 2013 and in effect on the Effect Date.

1.21 "**Citywide Public Safety Master Plan**" means that certain Citywide Public Safety Master Plan adopted by City, dated March 2013 and in effect on the Effective Date.

1.22 "**Citywide Transportation Master Plan**" or "**TMP**" means that certain Citywide Roadway & Transportation Master Plan adopted by City in November 2012 and in effect on the Effective Date.

1.23 "**Citywide Storm Drainage Master Plan**" means that certain Citywide Storm Drainage Master Plan adopted by City, dated November 2012 and in effect on the Effective Date.

1.24 "**Citywide Water System Master Plan**" means that certain Citywide Water System Master Plan adopted by City, dated December 2012 and in effect on the Effective Date.

1.25 **"Citywide Master Plan Fee Program"** has the meaning set forth in Section 6.3(a).

1.26 "**Claims**" has the meaning set forth in Section 11.14.

1.27 "**Community Facilities District**" or "**CFD**" means a financing district formed under the Mello-Roos Community Facilities Act of 1982, pursuant to Government Code Section 53311 *et seq*.

1.28 "**County Recorder**" means the San Joaquin County Recorder, which is responsible, in part, for recording legal documents that determine ownership of real property and other agreements related to real property.

1.29 "**County RTIF**" means the San Joaquin County Regional Transportation Impact Fee Program.

1.30 "**CUP**" means a conditional use permit approved by City pursuant to this Agreement and the Tracy Municipal Code.

1.31 "**Days**" means calendar days. If the last day to perform an act under this Agreement is a Saturday, Sunday or legal holiday in the State of California, said act may

be performed on the next succeeding calendar day that is not a Saturday, Sunday or legal holiday in the State of California and in which City offices are open to the public for business.

1.32 "**Deferred Fee Amount**" has the meaning set forth in Section 6.3(c).

1.33 "**Deferred Fee Program**" has the meaning set forth in Section 6.3(c).

1.34 "**Development Agreement Statute**" has the meaning set forth in Recital A.

1.35 "**Development Impact Fee**" means any requirement of City in connection with a Project Approval for the dedication or reservation of land, the construction of any Project Infrastructure or other public improvements, or the payment of fees which City imposes for the purpose of lessening, offsetting, mitigating or compensating for the impacts of Project development on the environment; facilities, services and infrastructure; and other public interests.

1.36 "**Development Services**" means the City's Development Services Department.

1.37 "**Development Services Director**" means the head of Tracy's Development Services Department and the Chief Planning Officer.

1.38 "**Dispute**" has the meaning set forth in Section 10.1.

1.39 "**Effective Date**" has the meaning set forth in Recital D.

1.40 "**EIR**" has the meaning set forth in Recital C(6).

1.41 "**Elected Fee Amount**" has the meaning set forth in Section 6.4(a).

1.42 "**Eminent Domain Costs**" means, collectively, the following in connection with the acquisition of identified Offsite Lands: the appraised fair market value of the Offsite Lands at issue; staff costs; filing fees, witness fees and court costs; any deposits necessary to obtain orders of prejudgment possession, satisfaction of judgments, severance damages, interest, loss of goodwill, relocation costs, pre-condemnation damages and defendants' attorneys fees; appraisal costs; and reasonable attorneys' fees for City's eminent domain counsel (if any).

1.43 "**Eminent Domain Law**" has the meaning set forth in Section 3.8(b).

1.44 "**Enforced Delay**" has the meaning set forth in Section 8.4.

1.45 "**Enhanced Community Benefit Fee**" has the meaning set forth in Section 6.1.

1.46 "**ENR**" means the Engineering News Record ("***ENR***") Construction Cost Index (overall-California).

1.47 “**Estimated Wastewater Generation Rate**” means the average dry weather flows (ADWF) (which will be used for wastewater treatment capacity and the PWWF will be used for conveyance or pipe facilities), which occur as a result of a particular use, which is documented through appropriate means, including, without limitation, reliance on prior information and data from similar uses, documentation from potable water meters (not including irrigation), the number of proposed fixtures, or any other reasonable means of estimating the ADWF generation rate for the particular use at issue.

1.48 “**Existing Rules**” means the Rules, Regulations and Policies in effect on the Effective Date.

1.49 “**Finished Lot**” means a legally subdivided lot with utilities stubbed out to the property line of said Lot.

1.50 “**FIP**” means the Finance and Implementation Plan adopted by City for the Property as provided for and required by this Agreement and the Tracy Municipal Code Section 10.20.060(b)(3).

1.51 “**General Plan Amendment**” has the meaning set forth in Recital C(1).

1.52 “**Hansen Lift Station**” means that certain existing wastewater lift station located at the intersection of Corral Hollow Road and Clover Road.

1.53 “**Hansen Trunk Line**” means that certain existing twenty-one inch (21”) wastewater conveyance line described and shown in the Capacity Analysis of the Hansen Sewer Collection System prepared by Ruark and Associated dated December 2006.

1.54 “**I-580 Interchange Work**” means, collectively, the I-580/Mountain House Parkway Interchange and the Canal Bridge crossing over the California Aqueduct, as further described in the TMP.

1.55 “**Initial Approvals**” has the meaning set forth in Recital C.

1.56 “**Initial Conveyance Amount**” has the meaning set forth in Section 3.3(d).

1.57 “**Initial Fees**” has the meaning set forth in Section 6.3(b).

1.58 “**Initial Potable Water Service Obligation**” has the meaning set forth in Section 3.3(a).

1.59 “**Initial Wastewater Facilities Payment**” has the meaning set forth in Section 6.2(a).

1.60 “**Initial Wastewater Treatment Capacity Obligation**” has the meaning set forth in Section 3.3(c)(i).

1.61 “**LAFCO**” has the meaning set forth in Section 3.7.

1.62 “**Master Plan Fee Obligation**” has the meaning set forth in Section 6.3(b).

1.63 “**Master Plan Infrastructure**” means, collectively, those on-site (i.e., within the Property) and off-site (i.e., not within the Property) improvements that are necessary or desirable to develop the Project, as described more fully in the Specific Plan and the Citywide Infrastructure Master Plans, and which are not considered Specific Plan Improvements for purposes of this Agreement.

1.64 “**Master Plan Roads**” means any Project roadways contemplated to be developed under the Specific Plan that are also considered Master Plan Infrastructure.

1.65 “**MGD**” means million gallons per day.

1.66 “**MMRP**” has the meaning set forth in Recital C(6).

1.67 “**Mortgage**” means any mortgage, deed of trust, security agreement, sale and leaseback arrangement, assignment or other security instrument encumbering all or any portion of the Property or Prologis’ rights under this Agreement, where the Property or a portion thereof or an interest therein, is pledged as security, contracted in good faith and for fair value.

1.68 “**Mortgagee**” means the holder of the beneficial interest under any Mortgage encumbering all or any portion of the Property or Prologis’ rights under this Agreement, and any successor, Assignee, or transferee of any such Mortgagee.

1.69 “**Net Acreage**” means the gross acreage of the Property, excluding any and all public rights-of-way, the natural storm drainage channel on the west half of the Property, permanent detention basins, any formally delineated wetlands, and any and all utility easements if not otherwise developed with structures or parking (i.e., a portion of the 150-foot wide PG&E electrical line easement and the 50-foot wide PG&E gas/oil pipeline easement), which acreage is estimated by the Parties to be approximately 1,042 acres.

1.70 “**Notice of Compliance**” has the meaning set forth in Section 8.2.

1.71 “**Notice of Intent to Terminate**” has the meaning set forth in Section 9.2.

1.72 “**Offsite Land**” means lands and/or interests therein other than the Property that are necessary for the construction of any Project Infrastructure, as is further detailed in Section 3.8(a).

1.73 “**Party**” or “**Parties**” has the meaning set forth in the Preamble.

1.74 “**Periodic Review**” has the meaning set forth in Section 8.1.

1.75 “**Permitted Assignees**” has the meaning set forth in Section 8.1.

1.76 “**Permitted Assignment**” has the meaning set forth in Section 11.1(a).

1.77 "**Permitted Interim Improvements**" has the meaning set forth in Section 4.3.

1.78 "**Planning Commission**" means the Tracy Planning Commission.

1.79 "**Program Soft Costs**" has the meaning set forth in Section 5.1(b).

1.80 "**Project**" has the meaning set forth in Recital C(2).

1.81 "**Project Approvals**" means, collectively, the Initial Approvals and Subsequent Approvals.

1.82 "**Project Infrastructure**" means, collectively, the Master Plan Infrastructure and Specific Plan Improvements.

1.83 "**Prologis**" has the meaning set forth in the Preamble.

1.84 "**Prologis Funded Phase**" has the meaning set forth in Section 3.3(c)(iii).

1.85 "**Property**" has the meaning set forth in Recital E.

1.86 **"PWWF**" means the Peak Wet Weather Flow as described in the Tracy Wastewater Master Plan.

1.87 "**Regulatory Processing Fees**" means any and all fees, costs and charges adopted or otherwise imposed by City for the purpose of defraying City's actual costs incurred or to be incurred in the processing and administration of any form of permit, approval, license, entitlement, or formation of a financing district or mechanism, or any and all costs adopted or otherwise imposed by City for the purpose of defraying City's actual costs of periodically updating its plans, policies, and procedures, including, without limitation, the fees and charges referred to in Government Code Section 66014.

1.88 "**Remaining Elected Fee Amount**" has the meaning set forth in Section 6.4(c).

1.89 "**Rules, Regulations and Policies**" means any and all City laws, rules, regulations, policies and standards governing permitted uses of land; the density and intensity of uses; and the design, improvement, and construction standards and specifications, applicable to development of property, including, without limitation, rules, regulations and policies governing the maximum height and size of proposed buildings, provisions for the reservation or dedication of land for public purposes or payment of fees in lieu thereof, construction, installation and extension of public improvements, and any and all other laws, rules, regulations, policies and standards relating to development or use of real property and applicable to the Project on the Property. Furthermore, for purposes of this Agreement, said Rules, Regulations and Policies shall be those as set forth in Section 3.2(a).

1.90 "**Second Installment**" has the meaning set forth in Section 6.1.

1.91 "**Specific Plan**" has the meaning set forth in Recital C(2).

1.92 “**Specific Plan Area**” has the meaning set forth in Recital C(2).

1.93 “**Specific Plan Improvements**” means, collectively, those on-site (i.e., within the Property) and off-site (i.e., not within the Property) infrastructure and/or improvements that are necessary or desirable to develop the Project, as described more fully in the Specific Plan, and which are not considered Master Plan Infrastructure for purposes of this Agreement. A Specific Plan Improvement may be offered for dedication to City, or, in the alternative, may remain in private ownership, as set forth more fully herein.

1.94 “**Specific Plan Private Improvements**” has the meaning set forth in Section 5.2(a).

1.95 “**Specific Plan Public Improvements**” has the meaning set forth in Section 5.5(b).

1.96 “**Subsequent Approval**” means any and all land use, environmental, building and development approvals, entitlements and/or permits that are necessary or desirable to develop and operate the Project on the Property required subsequent to the Effective Date, including, without limitation, amendments or other modifications to any Initial Approvals; boundary changes; tentative and final subdivision maps, parcel maps and lot line adjustments; subdivision improvement agreements; development review; site plan review; conditional use permits; design review; Building Permits; grading permits; encroachment permits; Certificates of Occupancy; formation of financing districts or other financing mechanisms; and any amendments thereto (administrative or otherwise).

1.97 “**Subsequently Adopted Rules**” has the meaning set forth in Section 3.2(d).

1.98 “**Subsequent Expansions**” has the meaning set forth in Section 3.3(c)(iii).

1.99 “**Term**” has the meaning set forth in Section 2.1.

1.100 “**Tracy Wastewater Master Plan**” means that certain Citywide Wastewater Facilities Master Plan adopted by City, dated December 2012 and in effect on the Effective Date.

1.101 “**Wastewater Generation Accounting Report**” has the meaning set forth in Section 3.3(c)(i).

1.102 “**Wastewater Treatment Facilities Payments**” has the meaning set forth in Section 6.4(d).

1.103 **“Water Supply Agreement”** has the meaning set forth in Section 6.4(b).

1.104 “**Water Tank and Booster Station**” means the above-ground concrete potable water tank, related booster station, and required ancillary facilities, as described more fully in the Specific Plan and the Citywide Water System Master Plan.

1.105 “**WSA**” means the Cordes Ranch Water Supply Assessment, approved by City in January 2013, and included in the EIR.

1.106 “**Zoning Amendments**” has the meaning set forth in Recital (C)(3).

SECTION 2. TERM OF THIS AGREEMENT

2.1 Term of Agreement.

This Agreement shall commence on the Effective Date and shall continue for a period of twenty-five (25) years unless sooner terminated as provided herein (“***Term***”). The Term may be extended at any time before termination by the mutual agreement of the parties in writing and in accordance with City’s Development Agreement Procedures.

2.2 Effect of Termination.

Following expiration of the Term (which shall include any mutually agreed upon extensions), this Agreement shall be deemed terminated and of no further force and effect except for any and all obligations expressly provided for herein that shall survive termination.

SECTION 3. CITY OBLIGATIONS REGARDING PROJECT DEVELOPMENT

3.1 Vested Right to Develop the Project.

As of the Effective Date, Prologis shall have the vested right to develop and operate all or any portion of the Property with the Project in accordance with the Specific Plan and this Agreement. The permitted uses of the Property; the density and intensity of such uses; the maximum height and size of proposed buildings; the provisions for the reservation or dedication of land for public purposes or payment of fees in lieu thereof; the construction, installation and extension of public improvements; and the development standards and design guidelines (including, without limitation, density, intensity, height, setbacks, floor area coverage, and building envelopes) shall be as set forth in the Specific Plan and the other Initial Approvals except in the event and to the extent Prologis agrees to any modifications thereto in connection with any Subsequent Approval. In the event of any inconsistency between this Agreement and any other Project Approval, the provisions of this Agreement shall control.

3.2 Rules, Regulations and Policies Governing Development and Operation of the Project.

(a) Applicable Rules, Regulations and Policies. The Rules, Regulations and Policies applicable to the development and operation of the Project on the Property shall be those set forth in: (a) this Agreement; (b) the City’s General Plan as it existed on the Effective Date; (c) the City of Tracy Municipal Code as it existed on the Effective Date; (d) the Specific Plan; (e) the MMRP; (f) the Subsequent Approvals, as and when they are issued, approved, or adopted; (g) all other applicable Existing Rules; and (h) any and all applicable Subsequently Adopted Rules.

(b) Processing Subsequent Approvals Generally. The Parties acknowledge that in order to develop the Project on the Property, Prologis will need to

obtain City approval of various Subsequent Approvals that may include, without limitation, tentative and final subdivision maps, parcels maps, lot line adjustments, CUPs, development review, site plan review, Building Permits, grading permits, encroachment permits, and Certificates of Occupancy. For any Subsequent Approval proposed by Prologis, Prologis shall file an application with City for the Subsequent Approval at issue in accordance with the Existing Rules, and shall pay any applicable Regulatory Processing Fees in connection therewith. City shall diligently and expeditiously process each such application in accordance with the Existing Rules, and shall exercise any discretion City has in related thereto in accordance with the terms and conditions of this Agreement.

(c) Processing Lot Line Adjustments. Prologis shall have the right to file an application with City to reconfigure any parcel(s) comprising all or a portion of the Property as may be necessary or desirable, in Prologis' sole discretion, in order to develop, lease or finance all or a portion of the Property in connection with development of the Project, so long as such application is otherwise consistent with the Specific Plan and subject to consistency with the Subdivision Map Act and applicable Tracy Municipal Code requirements. Prologis shall initiate any such parcel reconfiguration through an application for a lot line adjustment in accordance with the Existing Rules, and shall pay any applicable Regulatory Processing Fees in connection therewith. City shall accept such application, provided it is accompanied by an appropriate statement in writing, signed by Prologis, that such re-parcelization is being undertaken pursuant to this Section 3.2(c), and City shall diligently and expeditiously process each such application in accordance with the Existing Rules and this Agreement.

(d) No Conflict with Vested Rights. Subject to Sections 3.2(a)-(c) above, City may adopt new or modified Rules, Regulations and Policies after the Effective Date ("***Subsequently Adopted Rules***"); provided, however, any such Subsequently Adopted Rules shall be applicable to the Project on the Property only to the extent that such Rules are generally applicable to other similar non-residential developments in the City of Tracy and that such application would not conflict with any of the vested rights granted to Prologis under this Agreement. For purposes of this Agreement, any Subsequently Adopted Rule shall be deemed to conflict with Prologis' vested rights hereunder if it:

(i) Seeks to limit or reduce the density or intensity of development of the Project or any part thereof, or otherwise require a reduction in: the total number of proposed buildings; the square footage, floor area ratio, number of floors or height of any proposed buildings; or improvements related thereto;

(ii) Change any land use designation or permitted or conditionally permitted use of the Property or require a change in the amount of any particular land use to be developed on the Property;

(iii) Limit or control the location of buildings, structures, grading, or other improvements of the Project, or limit the hours of operation or uses on the Property, in a manner that is inconsistent with the Initial Approvals;

(iv) Limit the timing or rate of the development of the Project (including, without limitation, the timing of approval and issuance of any

Subsequent Approvals), either with specific reference to the Property or as part of a general enactment that applies to the Property.

(v) Result in Prologis having to substantially delay construction of the Project or require the issuance of additional permits, entitlements or approvals by City not described or contemplated by this Agreement;

(e) Applicable Subsequently Adopted Rules. Notwithstanding the foregoing, City shall not be precluded from applying any Subsequently Adopted Rules to development of the Project on the Property under the following limited circumstances, where the Subsequently Adopted Rules are:

(i) Specifically mandated by changes in state or federal laws or regulations adopted after the Effective Date as provided in Government Code Section 65869.5;

(ii) Specifically mandated by a court of competent jurisdiction;

(iii) Changes to the Uniform Building Code or similar uniform construction codes, or to City's local construction standards for public improvements so long as such code or standard has been adopted by City and is in effect on a Citywide basis; or

(iv) Required as a result of facts, events or circumstances presently unknown or unforeseeable that would otherwise have an immediate and substantially adverse risk on the health or safety of the surrounding community as reasonably determined by City.

In the event that City imposes a Subsequently Adopted Rule on the Project as a result of the occurrence of one of the circumstances set forth in subsection (e)(i)-(iv) above, then the Parties shall work diligently and in good faith to amend this Agreement in a manner to reflect the required Subsequently Adopted Rule while still achieving the underlying purposes of this Agreement.

3.3 Potable Water and Wastewater Service.

(a) Potable Water Supplies. City shall use best efforts to secure additional potable water supplies for the Project to further bolster City's future water portfolio, in accordance with the EIR, including, without limitation, the WSA.

(b) Wastewater Service to the Property. Upon annexation of the Specific Plan Area, City shall serve the Project on the Property with wastewater treatment and conveyance consistent with the EIR, Specific Plan and Tracy Wastewater Master Plan and in accordance with this Section 3.3, subject to such wastewater infrastructure being in place that is required to provide such service as each development occurs on the Property, and provided that Prologis is otherwise in compliance with the terms and conditions of this Agreement.

(c) Wastewater Treatment Plant Capacity.

(i) Upon annexation of the Specific Plan Area, City shall provide wastewater treatment service to the Property, up to 0.145 MGD of wastewater based on ADWFs ("***Initial Wastewater Treatment Capacity Obligation***"). Prologis shall be permitted to develop that amount of acreage within the Property with uses that could be served by this Initial Wastewater Treatment Capacity Obligation, based on the Estimated Wastewater Generation Rates of the proposed uses and Actual Wastewater Generation Rates of the then-existing uses on the Property. Upon annexation, after receipt of a development proposal for all or a portion of the Property, City shall, in consultation with Prologis and at Prologis' sole cost and expense, determine (a) the Estimated Wastewater Generation Rate for such proposal, and (b) the Actual Wastewater Generation Rate for each then-existing use on the Property, which Rates shall be used to determine whether such proposal is covered by the Initial Wastewater Treatment Capacity Obligation. City shall, at Prologis' sole cost and expense, reasonably maintain and update, as appropriate, records of all Estimated Wastewater Generation Rates and Actual Wastewater Generation Rates, which records shall be referred to herein as the Project's "***Wastewater Generation Accounting Report***."

(ii) Upon completion of the next phase of the planned expansion of City's wastewater treatment plant (which is currently estimated to increase its treatment capacity to approximately twelve and one-half (12.5) MGD) as further described in the Tracy Wastewater Master Plan, and provided that Prologis is in compliance with all of its obligations under this Agreement including, without limitation, Prologis' payment obligations set forth in Section 6.2 below, then City shall increase its wastewater treatment service to the Property by an additional 0.255 MGD based on ADWFs (the "***Additional Wastewater Treatment Capacity Obligation***"), for a total of 0.4 MGD of wastewater treatment service to the Property based on ADWF.

(iii) Prologis and City hereby acknowledge and agree that, beyond the Additional Wastewater Treatment Capacity Obligation described in Section 3.3(c)(ii) above, further wastewater treatment service to the Property depends upon subsequent expansions of treatment capacity of the wastewater treatment plant beyond 12.5 MGD ("***Subsequent Expansions***"), as described in the Tracy Wastewater Master Plan. The Subsequent Expansions may be done in incremental phases. City shall take such measures as needed to ensure that all public and private development projects proposing to utilize the Subsequent Expansions, including, without limitation, Prologis, pay their fair shares of the funding needed to construct, maintain and operate the Subsequent Expansions. If sufficient funding from all anticipated users of the Subsequent Expansions is not available to provide further wastewater treatment service to the Property in excess of the Additional Wastewater Treatment Capacity Obligation when Prologis seeks such further wastewater treatment service, then Prologis may, in Prologis' sole and exclusive discretion, fund the balance of the cost of the Subsequent Expansions (including any phase of the Subsequent Expansions) needed to provide such further wastewater treatment service to the Property ("***Prologis' Funded Phase***"). In such a case, Prologis shall be reimbursed for that portion of the Prologis Funded Phase that exceeds Prologis' fair share of such funding. Except as provided in the City's Capital Improvement Plans and applicable FIPs, City shall not be obligated to advance funds for any Subsequent Expansions.

(d) Wastewater Conveyance Capacity.

(i) Prologis shall be permitted to use the Hansen Trunk Line and the Hansen Lift Station to accommodate up to 0.145 MGD (based on Estimated Wastewater Generation Rates and Actual Wastewater Generation Rates) ("***Initial Conveyance Amount***") based on ADWF, to serve development of the Project on the Property on a temporary basis, until such time as the ultimate improvements required to serve the Property, as identified in the Tracy Wastewater Master Plan, are completed. City agrees that no development proposal shall be required, as a condition of approval, either to (i) construct, or (ii) wait for the completion of the construction of, additional wastewater conveyance facilities to serve proposed uses that are covered by this Initial Conveyance Amount.

(ii) Once the Initial Conveyance Amount is utilized by the Project, then Prologis shall be permitted to continue to use the Hansen Trunk Line and the Hansen Lift Station, so long as sufficient capacity is available (based on Estimated and Actual Wastewater Generation Rates as determined by City), until such time as the ultimate improvements required to serve the Property, as identified in the Tracy Wastewater Master Plan, are triggered, as determined by City.

(iii) Prologis shall pay a sewer connection fee to City in accordance with, and in an amount sufficient to satisfy Prologis' proportionate fair share of the reimbursement requirements set forth in, Section 4(e) of the Water Supply and Sewage Services Agreement between King & Lyons, Safeway, Inc., and the City dated September 19, 1991, as determined by City.

(e) Potable Water Conveyance Capacity. In accordance with Section 4.2 below, construction of all potable water system infrastructure necessary to serve the Project shall be completed in accordance with the Specific Plan and the Citywide Water System Master Plan.

3.4 Prologis' Application for Non-City Permits and Approvals.

City shall cooperatively and diligently work with Prologis in its efforts to obtain any and all such non-City permits, entitlements, approvals or services as are necessary to develop and operate the Project in order to assure the timely availability of such permits, entitlements, approvals and services, at each stage of Project development.

3.5 Processing of Applications for Subsequent Approvals.

The Parties acknowledge and agree that the Specific Plan's implementation process for the Project has been designed in a manner to facilitate the expeditious and efficient processing of Subsequent Approvals, and that the Parties intend to work cooperatively, diligently and in good faith to accomplish these objectives. Accordingly, City shall cooperate and diligently work with Prologis to promptly process and consider all applications for Subsequent Approvals in a timely manner (provided such application(s) are in a proper form and include all required information and payment of any applicable Regulatory Processing Fees), in accordance with Prologis' vested rights granted hereunder, and taking into consideration such factors, among others, as cost efficiencies, economies of scale, and best engineering practices. In the event that City and Prologis mutually determine that it would be necessary to retain additional personnel or outside consultants to assist City to expeditiously process any Subsequent Approval, City may retain such additional personnel or consultants, and shall direct any such

additional personnel or consultants to work cooperatively and in a cost-efficient and timely manner with Prologis to accomplish the objectives under this Section 3.5; provided, however, that Prologis shall pay all costs associated therewith, although said personnel or consultants shall be under City's direction. City shall retain the full range of its discretion in its consideration of any and all Subsequent Approvals as provided for under applicable law.

3.6 Preparation of Cordes Ranch FIP; Prioritization of Interchange Improvements; Obligation to Seek Inclusion of Road Improvements in County RTIF.

(a) Finance and Implementation Plan. Within ninety (90) days of the Effective Date, it is anticipated that City will prepare a FIP for the Project at Prologis' sole cost and expense, which will be designed to assist City and Prologis to implement the various infrastructure obligations related to the Project on the Property and as required hereunder. City agrees: (i) the FIP shall be consistent with this Agreement and be designed to facilitate its purposes, and (ii) in the case of any conflict between the FIP and this Agreement, this Agreement shall prevail.

(b) Prioritization of Improvements in County RTIF Program. City agrees to work diligently and in good faith with San Joaquin County and Prologis to modify the County RTIF to include, as promptly as feasible, the I-580 Interchange Work and the I-205/Mountain House Interchange and to list said improvements as priority projects.

(c) Prioritization of Improvements. The Parties acknowledge and agree that the I-580 Interchange Work is particularly important to have in place for the Project, and therefore the Parties agree to take the following steps to facilitate construction of said improvements, as well as improvements at the I-205/Mountain House Parkway Interchange:

(i) City shall use diligent and good faith efforts to facilitate construction of the I-580 Interchange Work and treat this as a priority improvement project, and in cooperation with Prologis, to identify and secure adequate funding, and expeditiously process the necessary approvals as set forth in subsection (ii) below.

(ii) Subject to the availability of adequate funding, City shall use diligent and good faith efforts to obtain approval of all required permits and entitlements necessary to construct the I-580 Interchange Work and I-205/Mountain House Parkway interchange improvements, including, without limitation, completion of the Project Study Report (or equivalent process) and final design so that these improvement projects are "shovel-ready" within four (4) years of the Effective Date, for purposes of the I-580 Interchange Work, and in the time frames identified in the EIR (Mitigation Measure TRANS-10) for purposes of I-205/Mountain House Parkway interchange improvements. The FIP shall list construction of the I-580 Interchange Work and I-205/Mountain House Parkway interchange improvements as priority improvement projects consistent with this subsection (c)(ii) and shall specify reasonable milestones (both short-term and long-term) to achieve these goals. The Parties agree that if City is not able or willing to meet said milestones, then Prologis shall have the right, but not the obligation, to complete the approval process, subject to applicable laws. In connection therewith, Prologis and City shall work diligently and cooperatively to facilitate said

approval process, as well as its construction, including, without limitation, identifying and securing adequate funding to complete the I-580 Interchange Work and I-205/Mountain House Parkway interchange improvements. Prologis may, but shall not be obligated to, provide all or a portion of the funding necessary to complete the approval process, subject to fee reconciliation pursuant to Section 6.4 below.

(d) Prioritization of Specified Fees. In the event and to the extent City receives a portion of the County RTIF paid in connection with the Project, City agrees to prioritize the use of such fees for the construction of the I-580 Interchange Work and the I-205/Mountain House Parkway Interchange in the FIP. Promptly upon Prologis' request, City shall make available to Prologis sufficient information and other technical materials as may be necessary to confirm compliance with this Section 3.6(d). In addition, the Parties agree that City shall diligently and in good faith prepare and bring to City Council for its consideration a proposed update to its Citywide Storm Drainage Master Plan to remove the OFF2 drainage area that is southwest of I-580.

3.7 Annexation of Property to City.

City acknowledges and agrees that City is processing the Initial Approvals in connection with the Property and the remaining portions of the Specific Plan Area in anticipation of these lands being expeditiously annexed to City. Within thirty (30) days of City's approval of the Initial Approvals, City shall submit an application to the San Joaquin Local Agency Formation Commission ("***LAFCO***") in accordance with the applicable requirements under state law and LAFCO's local procedures, requesting annexation of the Property (and any other related boundary changes, if necessary) and the remaining portions of the Specific Plan Area into City. Thereafter, City shall diligently and in good faith pursue annexation, consistent with its Annexation Resolution, including, without limitation, preparing and submitting all materials and other information necessary to obtain an application completeness determination from LAFCO; and working with LAFCO staff to expeditiously schedule any required public hearing(s) on the annexation matter. Prologis shall work cooperatively with City to process said annexation application, and shall pay all City costs related to the preparation, submittal and processing of said annexation application, subject to potential reimbursement from other benefitting property owners within the Specific Plan Area. The Parties agree that said annexation application shall not request the inclusion of any other lands beyond the Specific Plan Area.

3.8 Eminent Domain.

(a) Potential Need for Offsite Land. The Parties acknowledge and agree that development of the Project Infrastructure is a critical component of the Project and also may result in key benefits to the community generally. The Parties further acknowledge that fulfilling said obligations may require acquisition of additional lands or interests therein outside the Property. If such acquisition is necessary to develop any aspect of the Project Infrastructure, Prologis shall use commercially reasonable efforts to acquire any and all such land or interest therein ("***Offsite Land***") that are determined to be required to serve the identified uses and structures shown on an application for a proposal for a Subsequent Approval submitted by Prologis. For purposes of this Section 3.8(a), "***commercially reasonable efforts***" shall be defined as: a) paying for an appraisal prepared by a qualified Member of the Appraisal Institute (MAI) retained by

City, in connection with the acquisition of the Offsite Land; and b) offering to acquire the Offsite Land based on such appraisal.

(b) Eminent Domain Proceedings. In the event Prologis fails to reach a satisfactory agreement with the owner of any Offsite Land within a reasonable period of time despite Prologis' commercially reasonable efforts to do so, upon Prologis' request, City shall promptly initiate and diligently pursue and complete eminent domain proceedings under the applicable law to acquire the Offsite Land (Cal. Code of Civ. Proc. Part 3, tit. 7, §§ 1230.010-1273.050, as amended from time to time) ("***Eminent Domain Law***"). Upon acquisition of the Offsite Land, City shall convey such Offsite Land to Prologis to the extent such conveyance is necessary to achieve the public purposes for which said eminent domain proceeding was undertaken, provided Prologis has paid City all of its Eminent Domain Costs and in accordance with the applicable provisions of the Eminent Domain Law. Notwithstanding the foregoing, nothing in this Section 3.8(b) is intended to abrogate City's responsibilities, in the exercise of eminent domain, to satisfy the substantive and procedural requirements of the Eminent Domain Law.

(c) Payment of Eminent Domain Costs. Prologis acknowledges and agrees that if it requests City to initiate and complete eminent domain proceedings as provided for in Section 3.8(b) above, then Prologis shall be obligated to pay any and all Eminent Domain Costs related thereto.

3.9 Life of Project Approvals.

The life of all Initial Approvals and any and all Subsequent Approvals for the Property, including, without limitation, tentative subdivision maps or parcel maps, shall be equal to the Term of this Agreement in accordance with applicable laws, unless this Agreement is earlier terminated pursuant to the provisions hereof, in which event the life of said approvals shall be governed by the applicable provisions of this Agreement with respect to entitlements after termination.

3.10 Timing of Development.

Prologis shall have the right to develop the Project on the Property (or any portion thereof) in such order, at such rate, and at such times as Prologis deems appropriate within its exercise of subjective business judgment. In accordance with Section 4.1 below, the Parties acknowledge and agree that this Agreement contains no requirement that Prologis commence or complete development of the Project or any portion thereof within any specific period of time, and that City shall not impose any such timing requirement on any Subsequent Approval.

SECTION 4. PROLOGIS' OBLIGATIONS RELATING TO PROJECT DEVELOPMENT GENERALLY

4.1 Phasing of Project Development.

Development of the Project is intended to be phased, as generally described and depicted in the Specific Plan, although the Parties agree that Prologis shall have the right to develop the Project in such order, at such rate, and at such times as Prologis

deems appropriate within its exercise of subjective business judgment, in accordance with Section 3.10 above.

4.2 Required Project Infrastructure Generally.

(a) Construction of Necessary Project Infrastructure for Each Development Application. Development shown on each application for a tentative subdivision map, parcel map, development review or other Subsequent Approval submitted by Prologis for the Property shall provide for the construction of any Master Plan Infrastructure and/or Specific Plan Improvement(s) (both public and private) that is determined by City, in its reasonable discretion, necessary to serve the identified uses and structures shown on each said application. Notwithstanding any other provision of this Agreement, all Project infrastructure constructed on the Property shall be in accordance with the applicable Citywide Infrastructure Master Plans, as determined by the City. Subject to the terms and conditions of this Section 4.2, Prologis shall be responsible for either funding or constructing the identified improvements in accordance with the Specific Plan, the Citywide Infrastructure Master Plans and this Agreement. Notwithstanding the foregoing, the Parties agree that Prologis' payment of the applicable Development Impact Fees for recycled water facilities shall be sufficient for purposes of satisfying its fair share obligation, and that Prologis shall not be required to construct any recycled water facilities (except for the inclusion of purple pipe facilities within the Property, as streets are constructed, to facilitate future use of recycled water) as a condition of approval of any development application for the Property.

(b) Determination of Scope of Necessary Infrastructure. City's determination regarding which improvements are necessary for Prologis to develop a proposal as set forth in Section 4.2(a) above shall be consistent with Prologis' vested rights hereunder, and shall be governed by the Existing Rules. The Parties further agree that no additional requirements on Prologis with respect to the Project Infrastructure may be imposed on a development application for the Property beyond those necessary to serve the proposed uses shown on each said application and to provide for the intended function of the improvements and as permitted under this Section 4.2, and beyond those required by Sections 5.2(a) and (b), without Prologis' prior written consent.

4.3 General Construction and Security Obligations. In constructing any Project Infrastructure, Prologis shall (a) provide adequate security in accordance with the requirements of the Subdivision Map Act and City's Subdivision Ordinance; and (b) promptly and diligently oversee and coordinate the construction of said infrastructure in a good and workmanlike manner and free from all defects, and in accordance with the applicable Citywide Infrastructure Master Plans, the Project Approvals, and any other applicable City standards. Any Subdivision Improvement Agreements (or similar improvement agreements) required hereunder shall be in substantially the same form as is typically used by City in accordance with the Subdivision Map Act and City's Subdivision Ordinance and shall be consistent with this Agreement.

4.4 Inspection and Acceptance of Improvements. Any Project Infrastructure constructed by Prologis pursuant to this Agreement shall be subject to all required inspections, including the final inspection, and approval by the City Engineer in accordance with City's Subdivision Ordinance and the Subdivision Map Act. Upon inspection:

(a) Meet and Confer Process. If the City Engineer determines, consistent with Prologis' vested rights hereunder, that the improvement at issue does not meet the applicable requirements and standards, City shall reasonably document this determination and promptly provide this information to Prologis. Prologis and City then shall, within seven (7) Days of the City Engineer's determination or at such other mutually acceptable time, meet and confer regarding any modifications to said improvement necessary to achieve conformity with the applicable requirements and standards.

(b) Remedy of Any Improvement Deficiencies. Following any meet and conferral process pursuant to Section 4.4(a) above, if the Parties have not reached a mutually acceptable approach to addressing any necessary modifications identified by City, and/or Prologis has not corrected, or agreed to correct by a date certain reasonably acceptable to City, the identified deficiencies in the improvement at issue, then City shall have the right, at Prologis' sole cost and expense, to remedy such deficiencies and complete the construction of said improvement in accordance with the applicable requirements and standards, and Prologis shall have no right to receive a credit or to otherwise be reimbursed for the costs of City to complete said construction. These remedies are in addition to any other remedies that may be available in a Subdivision Improvement Agreement or other similar improvement agreement pertaining to the Property as a result of any Subsequent Approval.

(c) Roadway Construction. For all roadways constructed by Prologis (both Master Plan Infrastructure and Specific Plan Improvements), Prologis shall install all required service facilities (i.e., potable water, wastewater, underground storm lines, recycled water), lighting, and storm drainage facilities concurrently with the installation of said roadways, subject to any mutually agreed-upon interim improvements in accordance with Sections 4.5 and 4.6 below. Prologis shall be permitted to complete any widening or improvements within any existing City roadways or rights-of-way if Prologis elects to perform this work in accordance with applicable laws. Provided, however, no roadway frontage improvements in back of curb shall be required to be constructed until such time as the lot fronting such street is developed. For construction of curb-to-curb Master Plan Roads, the scope of work shall include street pavement, traffic signals, curb, gutter, sidewalk, street lights, median, and median landscaping, storm drainage facilities, wastewater lines, storm drainage lines, potable and recycled water lines and appurtenances (including the fire hydrants, valves, and associated facilities and service lines), in accordance with the Citywide Infrastructure Master Plans. City may require temporary asphalt sidewalks behind the street curb for pedestrian use as part of the development process. The installation of utilities shall include, without limitation, electric utilities, including the cost of all electric lines for Master Plan Road lights, outside the curb-to-curb width and within the street right-of-way in a dedicated public utilities area, if such improvements are necessary for construction of the Master Plan Road at issue and adjacent development as set forth in the Transportation Master Plan, and the cost of design and construction of such utilities shall be borne solely and exclusively by Prologis so long as those roads are located within the Specific Plan Area. Subject to Section 3.8 above, Prologis shall acquire the necessary rights of way beyond the street curb to accommodate street signs, fire hydrants and sidewalks. Since joint trench improvements are not considered Master Plan Infrastructure, then if: (i) City constructs certain Master Plan Roads that are necessary to serve the Property, and (ii) those Master Plan Roads require said joint trenches, then (iii) Prologis shall be responsible for the cost to construct the joint trench at issue subject to any third party

reimbursement, including, without limitation, the cost to obtain any necessary rights-of-way or easement(s) within and outside the curb-to-curb area. This payment obligation shall be calculated based on the hard costs to construct the joint trench at issue as well as an additional forty percent (40%) in soft costs for purposes of providing for City's design, construction and program management costs and for construction contingencies. City shall use diligent and good faith efforts to notify Prologis at least eighteen (18) months prior to City's construction of any Master Plan Road that would trigger Prologis' obligation to pay for any joint trench improvements related thereto as specified in this Section 4.4(c), at which time Prologis may elect to either pay said obligation or construct the joint trench improvements at issue. Prologis shall satisfy this obligation (either through payment of costs or construction pursuant to Section 5 below, at Prologis' election) upon issuance of the next Building Permit for a structure on the Property that occurs after this obligation is triggered, and shall be permitted to satisfy this payment obligation through a CFD or other appropriate mechanism (i.e., fee reconciliation, if available) at the time of obtaining a Building Permit.

4.5 Permitted Interim Improvements. The Parties acknowledge and agree that construction of certain interim improvements (including Master Plan Infrastructure and Specific Plan Improvements) may be appropriate given the phased nature of the Project and the Parties' mutual desire to maximize the use of existing infrastructure, take advantage of economies of scale, catalyze development of the Project, and implement best engineering practices. Subject to the City's approval, which shall not be unreasonably withheld or delayed, Prologis may be permitted to construct the following interim improvements (collectively, "***Permitted Interim Improvements***"): (a) traffic signal and ramp improvements associated with I-580/Mountain House Parkway Interchange and I-205/Mountain House Parkway; (b) temporary pressure-reducing valves for expediting construction of potable water system; (c) future road transitions to accommodate phasing of road construction; (d) potable water, wastewater, recycled water and storm drainage lines and other facilities necessary to accommodate phasing of the Project; and (e) stormwater connection to Westside irrigation district channel. Provided, however, that Prologis assumes the obligation to construct the full, ultimate improvement (as set forth in the relevant Master Plan and/or Specific Plan, as applicable), and otherwise adheres to its improvement obligations set forth in this Agreement. Any Interim Improvement Agreement (as described more fully in Section 4.6 below) executed in connection with any Permitted Interim Improvements may also provide, where appropriate, for credits against Prologis' fee obligations, in City's reasonable discretion and consistent with the terms and conditions of this Agreement.

4.6 Additional Interim Improvements. In addition to the Permitted Interim Improvements, the Parties acknowledge and agree that other interim improvements may be appropriate. Accordingly, as part of the application process for a development, Prologis may request that it be permitted to construct other interim improvements, and City shall expeditiously review and consider said request(s). If City grants said request(s), then Prologis shall execute one (1) or more Interim Improvement Agreement(s), which shall, among other things: (a) describe, at a level of detail reasonably acceptable to City, the nature and scope of the interim improvement; (b) provide that Prologis shall be responsible for any unforeseen additional costs to build the full, ultimate Master Plan Infrastructure or Specific Plan Improvement at issue that result from construction of the interim improvement; and (c) provide that Prologis shall pay all costs incurred by City, including costs of City staff and consultant time, to implement Prologis' election to construct the interim improvement. Such Interim

Improvement Agreement may also address other and further requirements as reasonably required by City and shall be consistent with the terms and conditions of this Agreement.

4.7 No Obligations For Off-Site Detention Basins. The Parties acknowledge and agree that the Project has been designed, and will be required to be constructed, with on-site storm drainage facilities that adequately address the Project's storm drainage impacts, as described more fully in the EIR and in accordance with the MMRP, and that the City's determination of required storm drainage facilities made in connection with each Subsequent Approval shall be made in accordance with Section 4.2 above. Following the conclusion of the Citywide Storm Drainage Infrastructure Master Plan update process described in Section 3.6(d) above, City shall not impose, as a condition of approval, a requirement to construct or fund the construction of any improvements related to offsite storm water flows from the area southwest of I-580 within the OFF2 drainage area as described in the Citywide Storm Drainage Master Plan; provided, however, that the timing of the update process described in Section 3.6(d) above shall not affect Prologis' obligations for storm drainage facilities as set forth herein.

SECTION 5. CONSTRUCTION OF PROJECT INFRASTRUCTURE

5.1 Construction of Master Plan Infrastructure.

(a) Ability to Elect to Construct Master Plan Infrastructure.

(i) Prologis may elect, in its sole discretion, to construct any Master Plan Infrastructure identified in attached Exhibit 3, in which case such construction shall be governed by this Section 5, the Specific Plan, the relevant Citywide Infrastructure Master Plan, and any applicable Subdivision Improvement Agreement or similar improvement agreement. If Prologis so elects, then Prologis shall be responsible for funding the construction of said improvement, subject to fee reconciliation in accordance with Section 6.4 below. The Parties acknowledge and agree that if Prologis assigns its rights and obligations under this Agreement for all or a portion of the Property, pursuant to Section 10 below, then the Assignee shall have the same election rights as Prologis hereunder. The Parties further acknowledge and agree that if said Assignee exercises the election rights, then it shall be permitted to assign the right to construct the Master Plan Infrastructure at issue to Prologis (or related entity) without City consent; provided, however, that if said Assignee seeks to assign this right to a non-Prologis entity, then it shall obtain prior approval from City, which shall not be unreasonably withheld, denied or delayed.

(ii) The Parties acknowledge and agree that Prologis' decision to elect to construct any Master Plan Infrastructure identified in attached Exhibit 3 is within its sole discretion. Notwithstanding the foregoing, if Prologis elects to construct any identified Master Plan Infrastructure and City does not agree that the construction of the improvement at issue is necessary at that time, then this shall not affect Prologis' fee reconciliation rights under Section 6.4 below; provided, however, the Parties agree that City retains the right to not accept said improvement until City confirms that any costs or work related to any additional maintenance of said improvement (applying typical City maintenance standards) will be adequately funded or otherwise provided for by Prologis.

(b) Payment of Program Soft Costs. If Prologis elects to construct any Master Plan Infrastructure as provided for in this Section 5.1, then rather than paying the normal Regulatory Processing Fees that Prologis would otherwise pay in connection with constructing the improvement at issue, Prologis shall pay the following costs to City in connection therewith (collectively, "***Program Soft Costs***"), which shall be calculated based on the estimated hard construction costs to construct the improvement at issue as set forth in the then-applicable Citywide Infrastructure Master Plan:

(i) A program management cost of five percent (5%), except that such program management cost shall be four percent (4%) for such Master Plan Infrastructure that Prologis elects to construct in connection with development of its first (1st) six hundred (600) Net Acres within the Property.

(ii) A contingency deposit of five percent (5%), which may be in the form of a financial guarantee, such as a letter of credit in a form reasonably acceptable to City, or a deposit of cash funds into an escrow account. Prologis may elect which form of guarantee to use, in its discretion, so long as it elects one of the two foregoing options. Prologis shall be entitled to a prompt release of any unused Contingency Deposit following completion and City's inspection and acceptance of the Master Plan Infrastructure at issue.

(iii) A construction management and inspection cost in the amount of City's actual costs related thereto, with a three percent (3%) advance deposit. Any unused portion of such advance deposit shall be promptly returned to Prologis upon City's inspection and acceptance of the Master Plan Infrastructure at issue.

(iv) A plan check cost of five percent (5%), subject to any reductions in said costs that may occur as a result of City's adoption of a reduced plan check fee schedule that applies on a Citywide basis.

Program Soft Costs due under this Section 5.1(b) shall be paid by Prologis at the time of issuance of a Building Permit for the Master Plan Infrastructure at issue, unless City determines there are insufficient Program Soft Cost funds available to City at the time Prologis elects to construct the Master Plan Infrastructure at issue for City to perform its responsibilities under this subsection (b), in which case Prologis shall be required to promptly pay upon election such portion of its Program Soft Cost obligation that is reasonably determined by City to be necessary to fund said Program Soft Cost responsibilities that may arise, and the balance of Prologis' Program Soft Cost obligation shall be due and payable upon issuance of the Building Permit for the Master Plan Infrastructure at issue. If Prologis elects to construct any Master Plan Infrastructure, Prologis and City shall enter into an improvement agreement which provides for, among other things, a schedule for the construction of the subject Master Plan Infrastructure(s) and adequate security to be provided by Prologis, in a form reasonably acceptable to City, to ensure the timely construction of said improvement.

(c) No Election to Construct Master Plan Infrastructure. If Prologis elects not to construct any Master Plan Infrastructure identified in attached Exhibit 3, and such infrastructure is determined necessary in connection with an application submitted by Prologis pursuant to Section 4.2 above, then Prologis shall be required to pay the applicable Development Impact Fees in accordance with Section 6.3 below.

(d) Process to Submit Improvements Plans Relating to Master Plan Infrastructure. Upon election to construct any identified Master Plan Infrastructure, Prologis shall retain a licensed, qualified engineering firm or other qualified professional firm specializing in the relevant field to complete said improvement plans and specifications under supervision of a licensed engineer or other appropriate licensed design professional. In addition, upon such election, Prologis shall have the right to submit an application for improvement plans at any time for the construction of the improvement at issue, and City shall expeditiously process said application pursuant to Section 3.5 above. Provided, however, that the Parties agree that City shall only formally approve said improvement plans concurrently with an application for development of the Property (e.g., parcel map, lot line adjustment, development review).

(e) City acknowledges and agrees that certain aspects of the Master Plan Infrastructure will benefit other properties outside of the Property. In the event and to the extent other property owners outside of the Property (either within or outside the Specific Plan Area) benefit from Prologis' construction or funding of any Master Plan Infrastructure, Prologis shall be eligible for reimbursement from such other benefitted property owner(s) according to City's applicable rules, regulations, procedures and requirements for similar reimbursements.

5.2 Construction of Specific Plan Improvements.

(a) Specific Plan Private Improvements. The Parties acknowledge and agree that the Specific Plan identifies certain Specific Plan Improvements (located within and outside of the Property) that benefit not only Prologis but also other property owners within the Specific Plan Area, which are anticipated to remain private (i.e., not be offered for dedication to City). Said improvements (collectively, "***Specific Plan Private Improvements***") are identified in the attached Exhibit 5. Prologis shall construct each Specific Plan Private Improvement in accordance with the timing requirements set forth in the Specific Plan unless City and Prologis mutually agree upon modified timing requirements. Notwithstanding any other provision of this Agreement, Prologis shall not seek or be entitled to any reimbursement from City for any costs associated with its design and construction of such Specific Plan Private Improvements. Notwithstanding the foregoing, City acknowledges that Prologis intends to enter into a private, third-party agreement with the other major benefitting property owners within the Specific Plan Area, to share costs associated with the construction of the Specific Plan Private Improvements.

(b) Specific Plan Public Improvements. The Parties acknowledge and agree that the Specific Plan identifies certain Specific Plan Improvements (located within and outside of the Property) that benefit not only Prologis but also other property owners within the Specific Plan Area, which will be offered for dedication to City as identified on attached Exhibit 5 (collectively "***Specific Plan Public Improvements***").

(i) Subject to Section 4.2 above, Prologis shall build all of the Specific Plan Public Improvements required to serve the Property, as identified on attached Exhibit 5, and Prologis shall not seek or be entitled to any reimbursement from City for any costs associated with its design and construction of such Specific Plan Public Improvements. Notwithstanding the foregoing, City acknowledges that Prologis intends to enter into a private, third-party agreement with the other major benefitting

property owners within the Specific Plan Area, to share costs associated with the construction of the Specific Plan Public Improvements.

(ii) The Parties hereby agree that the timing for construction of the Specific Plan Public Improvements within the Property shall be determined by City in connection with each specific development proposal, subject to the limitations set forth in Section 4.2 of this Agreement. Prologis hereby acknowledges and agrees that such determinations by City may result in an unequal distribution of Specific Plan Public Improvement construction obligations amongst the various parcels within the Property. Prologis hereby acknowledges and agrees, for itself and its successors, that notwithstanding any other provision of this Agreement, Prologis shall not be entitled to any reimbursement for costs incurred in construction of such Specific Plan Public Improvements. Notwithstanding the foregoing, City acknowledges that Prologis has entered or may enter into private, third-party agreement(s) with other owners within the Property, to share costs associated with the construction of the Specific Plan Public Improvements.

SECTION 6. FEES AND OTHER PAYMENT OBLIGATIONS.

6.1 Community Benefit Fee.

Subject to LAFCO approval of annexation of the Specific Plan Area to City, Prologis shall pay to City the amount of Five Million Dollars ($5 million) to assist City in achieving other community-wide goals ("***Enhanced Community Benefit Fee***"). Prologis shall pay the Community Benefit Fee in four (4) equal payments of One Million Two Hundred Fifty Thousand Dollars ($1,250,000) each, to be paid annually on each anniversary of the Effective Date, provided that the first payment shall be due two (2) years from the Effective Date unless, on such date, there is pending in the Superior Court of San Joaquin County a legal action brought by a third party challenging any of the Initial Approvals, in which case the first (1st) payment shall be due not later than seventy-five (75) days from the first (1st) date that no third party legal action or appeal thereof remains pending in the San Joaquin County Superior Court or any competent court of appeal.

6.2 Wastewater Treatment Plant Expansion Contributions.

(a) Initial Wastewater Facilities Payment. In exchange for, among other things, City's provision of the Initial Wastewater Treatment Capacity Obligation, subject to annexation of the Specific Plan Area to City, Prologis shall pay to City the amount of Three Million One Hundred Fifty Hundred Thousand Dollars ($3,150,000) ("***Initial Wastewater Facilities Payment***"), to be used by City, in its discretion, to support the planned expansion of City's wastewater treatment plant, as described more fully in the Tracy Wastewater Master Plan. Prologis shall be permitted to make such payment through formation of a CFD or payment in a lump sum. The Initial Wastewater Facilities Payment shall be made not later than sixty (60) days from the Annexation Date, and shall be subject to fee reconciliation in accordance with Section 6.4 below.

(b) Additional Wastewater Facilities Payment. In exchange for, among other things, City's provision of the Additional Wastewater Treatment Capacity Obligation, subject to annexation of the Specific Plan Area to City, Prologis shall pay to City the amount of Five Million Five Hundred Forty Thousand Dollars ($5,540,000)

("***Additional Wastewater Facilities Payment***"), to be used by City to expand the treatment capacity of the wastewater treatment plant to approximately twelve and one half (12.5) MGD, as described more fully in the Tracy Wastewater Master Plan. Prologis shall make the Additional Wastewater Facilities Payment not later than thirty (30) days from Prologis' receipt of written notice from City that City has secured sufficient additional funds from other sources which, when combined with Prologis' Additional Wastewater Facilities Payment, will enable City to complete the contemplated expansion. Upon receipt of said funding, City agrees to expeditiously proceed with construction of said expansion, subject to obtaining all necessary approvals and permits. Notwithstanding the foregoing, (i) the Additional Wastewater Facilities Payment shall be subject to fee reconciliation in accordance with Section 6.4 below, and (ii) if Prologis has previously paid all or a portion of said amount ($5,540,000) in Development Impact Fees for wastewater pursuant to Section 6.3 below, then such payment shall constitute compliance with its obligations under this subsection (b) to the extent of the amount paid.

(c) Subsequent Wastewater Treatment Plant Expansions. Prologis' payments of the Initial Wastewater Facilities Payment and the Additional Wastewater Facilities Payment do not relieve Prologis of the obligation to participate in funding expansions of the treatment capacity of the wastewater treatment plant beyond 12.5 MGD.

6.3 Development Impact Fee Generally.

(a) Adoption of Citywide Master Plan Fee Program. The Parties acknowledge and agree that City intends to adopt a Citywide Master Plan Fee Program to implement the Citywide Infrastructure Master Plans, in substantially the same form as attached Exhibit 4, and City shall use its best efforts to bring forward for City Council consideration and action said Master Plan Fee Program no later than September 17, 2013; provided, however, that if City has not adopted said Master Plan Fee Program by October 17, 2013, then Prologis shall have the right, in its sole discretion, to terminate this Agreement upon ten (10) days' notice to City. The Parties further acknowledge and agree that Prologis shall vest into said Master Plan Fee Program upon its adoption ("***Citywide Master Plan Fee Program***") for purposes of its obligations relating to Development Impact Fees, subject to the terms and provisions of this Section 6.3 and Section 6.4 below. It is anticipated that industrial fees will not exceed One Hundred Seventy Eight Thousand Dollars ($178,000) per Net Acre; provided, however, if City adopts the Citywide Master Plan Fee Program with industrial fees that exceed this amount, then Prologis shall have the right, in its sole discretion, to terminate this Agreement upon ten (10) days' notice to City.

(b) Overall Development Impact Fee Obligation. Said Master Plan Fee Program shall be used to determine Prologis' Development Impact Fee obligations for the Project ("***Master Plan Fee Obligation***"), subject to any applicable credits or reimbursements as set forth herein. Furthermore, the Parties hereby agree that Prologis' Master Plan Fee Obligation shall be reduced by Twenty Eight Thousand Five Hundred Ninety Five Dollars ($28,595) per Net Acre, which amount represents Prologis' estimate of the total value of all land dedications in fee to be provided by Prologis pursuant to this Agreement divided by the total number of acres of land dedications that Prologis is anticipated to provide in fee pursuant to this Agreement, based on a currently-estimated value of One Hundred Fifty Thousand Dollars ($150,000) per acre.

For purposes of example only, if City adopts a Citywide Master Plan Fee Program that imposes industrial fees in the amount of $178,000 per Net Acre, then for purposes of determining the Master Plan Fee Obligation, said amount would be reduced to $149,405 per Net Acre to reflect the estimated value of said land dedications. Notwithstanding the foregoing, following approval of development of the first six hundred (600) Net Acres, the Parties shall confirm the actual, remaining amount of acreage required to be dedicated in connection with the Project on the Property and shall, if necessary, adjust the amount of the reduction in Prologis' Master Plan Fee Obligation above (i.e., $28,595) for the remaining acreage on the Property, to ensure that all land dedications provided by Prologis for the entire Property (including the first 600 Net Acres and all the remaining acreage on the Property) are properly credited for $150,000 per Net Acre.

(c) Prologis' Master Plan Fee Obligation; Deferred Fee Program. Prologis shall pay its Master Plan Fee Obligation for the Project (calculated in accordance with subsection (b) above) on a per-Net-Acre basis, subject to such applicable modifications as are set forth herein; provided, however, that for any application that proposes to develop land within the first (1st) six hundred (600) Net Acres of the Property, Prologis may elect to defer payment of a portion of its fee obligation ("***Deferred Fee Program***") and pay only One Hundred Fifteen Thousand Dollars ($115,000) per Net Acre ("***Deferred Fee Amount***"). The Deferred Fee Amount shall be composed of the same type of Master Plan Fees as comprise the adopted Citywide Master Plan Fee Program, and shall be in the same percentages of the Deferred Fee Amount as are in the adopted Master Plan Fee Program. The Parties acknowledge and agree that the Deferred Fee Program is provided for in this Agreement in order to serve as a catalyst for development on the Property, which will, in turn, result in the accelerated payment of Development Impact Fees generally. The Deferred Fee Amount ($115,000 per Net Acre) shall not be increased under any circumstances; provided, however, that any fees that are deferred under the Deferred Fee Program shall be paid by Prologis in connection with its development of the remaining approximately four hundred forty two (442) Net Acres of the Property (i.e., resulting in an obligation to pay the difference between the Citywide Master Plan Fees otherwise due (subject to any applicable credits set forth in this Agreement) and the Deferred Fee Amounts paid).

(d) Modifications to Development Impact Fees. The Parties agree that Prologis shall vest into the type and amount of Development Impact Fees as set forth in this Section 6.3. Prologis shall not be required to pay any newly established Development Impact Fees (beyond those identified in attached Exhibit 4) on Prologis' development of the Property that City adopts after it adopts the Citywide Master Plan Fee Program, and shall not be required to pay an increase in any applicable Development Impact Fees except under any of the following limited circumstances:

(i) After the third (3rd) anniversary of the Effective Date, City may increase any Development Impact Fee based on the change in the ENR.

(ii) City may modify any Development Impact Fee as a result of City adopting an update to the relevant Citywide Infrastructure Master Plan so long as said update is intended to change the estimated construction cost of a specific previously identified improvement to reflect actual construction costs based on three (3) recent similar improvement projects constructed in the City of Tracy.

(iii) City may modify any Development Impact Fee as a result of City adopting an update to the relevant Citywide Infrastructure Master Plan that reflects a change in the scope of a specific previously identified improvement so long as said change in scope is made for the purpose of:

(a) complying with a specific mandate under federal or state law; or

(b) refining the design of the improvement at issue such as is reasonably necessary to build the underlying improvement, as reasonably determined and documented by City (e.g., design change to avoid unanticipated pipeline as opposed to the addition of new lane).

(iv) City may modify the Traffic Impact Fee as a result of City adopting an update to the TMP to reflect additional costs necessary to implement any improvements determined to be necessary to mitigate the Project's anticipated traffic impacts based on the re-assessment of traffic forecasts and projected operating conditions to be performed upon completion of Phase I of the Project pursuant to Mitigation Measure TRANS-10 of the EIR.

(v) To the extent City modifies the TMP, it shall use its best efforts to ensure that at least twenty percent (20%) of the total roadway infrastructure work referenced therein will be funded by federal sources and County RTIF monies.

In accordance with the provisions of this Section 6.3(d), City acknowledges that the Project's pro rata fair share of the westside recycled water infrastructure, as more fully described in the Citywide Water System Master Plan, is included in the Project's fee structure (as set forth in attached Exhibit 4). City further acknowledges that development of a power plant to be located in adjacent Alameda County, to the west of the I-580/Mountain House Parkway interchange, has been proposed, and that if approved, said power plant would require a significant expansion of City's planned recycled water infrastructure, which is not currently contemplated in the Citywide Water System Master Plan. In the event and to the extent City ultimately decides to expand its system to accommodate said power plant, City agrees not to seek to impose any additional costs of doing so on Prologis, if doing so would be contrary to Prologis' vested rights as set forth herein. City further agrees that except for the limited circumstances set forth in this Section 6.3(d), City may not increase any Development Impact Fees as a result of including a new infrastructure project in a Citywide Infrastructure Master Plan or substantially modifying the scope of any existing infrastructure project in a Citywide Infrastructure Master Plan beyond the design refinements contemplated in this Section 6.3(d); and in no event, shall Prologis be required to pay more than the Deferred Fee Amount of $115,000 per Net Acre for the first (1st) six hundred (600) Net Acres.

6.4 Development Impact Fee Determination and Reconciliation. City shall take the following steps to determine the amount of Development Impact Fees that Prologis shall pay in connection with each Subsequent Approval:

(a) Election of Deferred Fee Program. In connection with each Subsequent Approval, Prologis shall elect to either: (1) pay the adopted Master Plan Fees, or (2) pay the Deferred Fee Amount under the Deferred Fee Program. This election shall be referred to as the "***Elected Fee Amount***."

(b) Payment of Off-Site Fee Amounts. Nothing in this Agreement shall preclude City from collecting that portion of Prologis' Development Impact Fees that is required to fund off-site improvements, as established in the Citywide Infrastructure Master Plans, regardless of whether Prologis elects to pay the adopted Master Plan Fees or pay the Deferred Fee Amount. To implement City's collection of such portion of Prologis' Development Impact Fees, then before any credits are applied to the Elected Fee Amount under Section 6.4(c), City shall deduct from the full Elected Fee Amount an amount equal to the total of the following percentages of the Elected Fee Amount:

(i)	Traffic Fee	12.38%
(ii)	Potable Water Distribution Fee	7.88%
(iii)	Storm Drainage Fee	5.38%
(iv)	Recycled Water Fee	9.19%
(v)	Wastewater Conveyance	100% (subject to Sec. 3.3(d))
(vi)	Public Facilities	100%
(vii)	Public Safety	100%

Provided that Prologis has complied with the terms of that certain Agreement Between the City of Tracy and Prologis, L.P., Regarding Reimbursement for Acquisition of Water Supply and Conveyance Capacity approved by the City of Tracy City Council on or about August 6, 2013 (the "Water Supply Agreement"), and provided that delivery to City of the water supplies contemplated in the Water Supply Agreement is not prevented, as a result of government action or litigation, and through no fault of the City, then Prologis: (i) shall not be required to pay any Off-Site Fee Amount for Potable Water Supply and Treatment costs if City secures anticipated water supplies, funded by Prologis, as contemplated in Section 6.2(c)(ii)(b) below; and (ii) shall not be required to pay any Off-Site Fee Amount for Wastewater Treatment fees until such time as Prologis' payments of the Initial Wastewater Facilities Payment and the Additional Wastewater Facilities Payment are fully credited pursuant to Section 6.4(c)(ii)(a) below.

(c) Determine Applicable Credits. The balance of the Elected Fee Amount after the deduction of Off-Site Fee Amounts made pursuant to Section 6.4(b) above shall be referred to herein as the "***Remaining Elected Fee Amount***." Following the deduction of the Off-Site Fee Amounts made pursuant to Section 6.4(b) above, the Remaining Elected Fee Amount shall be subject to the following credits:

(i) Credits for Construction of Master Plan Infrastructure.

(a) If Prologis elects to construct any Master Plan Infrastructure (or any Permitted or agreed-upon interim improvements pursuant to Sections 4.5 and 4.6 above, which are determined to be appropriate for reconciliation), then the estimated cost listed in the then-applicable Citywide Infrastructure Master Plan for the improvement at issue (or any portion thereof) shall be deducted from the Remaining Elected Fee Amount. In the event that Prologis elects to construct less than

the full length of any Master Plan Infrastructure, the amount to be deducted from the Remaining Elected Fee Amount shall be that percentage of the cost listed in the then-applicable Citywide Infrastructure Master Plan for the improvement at issue that is equal to the percentage of the full Master Plan Infrastructure constructed by Prologis on a linear foot basis (or similarly appropriate quantity take offs). In the event and to the extent that Prologis assigns all or a portion of its rights and obligations hereunder to an Assignee pursuant to Section 10 below, said Assignee shall be entitled to the deductions referenced in this subsection (c) to the same extent of Prologis absent such assignment. This credit shall be determined in connection with each development application, as applicable; provided, however, that it may only be applied after City receives adequate security in the form of a letter of credit in the amount of the credit due (based on the estimated cost listed in the then-applicable Citywide Infrastructure Master Plan) or an improvement bond (with execution of a satisfactory improvement and security agreement), to ensure construction of such Master Plan Infrastructure. Prologis may elect, in its sole discretion, to provide either said letter of credit or improvement bond; provided, however, that any such letter of credit or improvement bond shall be in a form acceptable to the City.

(ii) Credits for Additional Land Dedication, Wastewater Facilities Payments, Water Treatment and Water Supply.

(a) Prologis shall offer for dedication all required lands in fee or easement(s) for any and all Project Infrastructure that is necessary, as determined by City, to serve the Property in accordance with the applicable requirements of the Subdivision Map Act, City's Subdivision Ordinance, and City's Infrastructure Master Plans. To the extent that such land dedication costs have not already been accounted for in determining the Master Plan Fee Obligation (pursuant to Section 6.3(b) above), in connection with each Subsequent Approval, if Prologis is required to offer to City additional land dedications in fee, Prologis shall receive a credit in the amount of One Hundred Fifty Thousand Dollars ($150,000) per acre against the applicable fee portion of its Remaining Elected Fee Amount. Similarly, to the extent that such costs have not already been accounted for in determining the Master Plan Fee Obligation, in connection with each Subsequent Approval, if Prologis is required to offer to City any easements, Prologis shall receive a credit of Fifty Thousand Dollars ($50,000) per acre against the applicable fee portion of its Remaining Elected Fee Amount. These credits from the applicable Development Impact Fees shall not affect or reduce Prologis' obligation to pay the Off-Site Fee Amounts pursuant to Section 6.4(b) above. These credits shall be determined in connection with each development application, as applicable; provided, however, that they may only be applied after City approval of improvement plans for the improvements at issue and execution of an improvement and security agreement in a form acceptable to the City.

(b) Prologis is anticipated to contribute to the costs of acquiring a treated potable water supply for purposes of serving the Project. So long as Prologis provides this contribution substantially in conformance with the Water Supply Agreement described in Section 6.4(b) above, and provided that delivery to City of the water supplies contemplated in the Water Supply Agreement is not prevented, as a result of government action or litigation, and through no fault of the City, then in connection with each Subsequent Approval, Prologis shall not be required to pay any Potable Water Supply or Treatment Fees so long as the acquisition of the above-referenced supply sufficiently covers water service to the Property in accordance with

the EIR and the WSA. To the extent the above-referenced supply does not sufficiently cover water service to the Property in accordance with the EIR and the WSA, then Prologis shall be required to fund the cost of the acquisition of any such additional needed supplies, which may involve treatment, storage and delivery.

(c) Pursuant to Section 6.2 above, Prologis is required to pay the Initial Wastewater Facilities Payment, and may elect to pay the Additional Wastewater Facilities Payment (together, the "***Wastewater Treatment Facilities Payments***"). Subject to Section 6.4(b) above, in recognition of and to the extent that Prologis pays the Wastewater Facilities Payments, in connection with each Subsequent Approval, Prologis may deduct up to the full amount of the Wastewater Fee portion of the Remaining Elected Fee Amount from the total Remaining Elected Fee Amount, until the full amount of the Wastewater Facilities Payments actually paid by Prologis has been credited against the Wastewater Treatment portions, as applicable, of Development Impact Fees paid in connection with Subsequent Approvals.

(d) In the event and to the extent that Prologis assigns all or a portion of its rights and obligations hereunder to an Assignee pursuant to Section 10 below, said Assignee shall be entitled to the credits referenced in this Section 6.4(c) to the same extent of Prologis absent such assignment.

(d) Fee Reconciliation. Once the Off-Site Fee Amounts and the applicable credits have been determined pursuant to Sections 6.4(b) and (c) above, then the following shall occur:

(i) Payment of Off-Site Fee Amounts. Prologis shall pay to City the Off-Site Fee Amounts due on a per-Building Permit basis, at the time of issuance of each Building Permit for the individual development that is the subject of the Subsequent Approval.

(ii) Satisfaction of Remaining Elected Fee Amount.

(a) If the Remaining Elected Fee Amount is greater than the total of the applicable credits under Section 6.4(c) above, then Prologis shall pay the difference between the Remaining Elected Fee Amount and the applicable credits, with respect to each infrastructure fee type, on a per-Building Permit basis, at the time of issuance of each Building Permit for the proposal at issue.

(b) If the Remaining Elected Fee Amount is less than the total of the applicable credits under Section 6.4(c) above, then City shall reconcile the fee payment obligation, with respect to each infrastructure fee type, in connection with the next development submitted by Prologis and approved by City by deducting the difference between the Remaining Elected Fee Amount and the applicable credits from the Master Plan Fee Obligation otherwise due in connection with that subsequent proposal. Notwithstanding the foregoing, the Parties agree that in the event that Prologis pays more than the total amount of its Master Plan Fee Obligation due hereunder as a result of Prologis fronting specified costs and/or its provision of Master Plan Infrastructure, and no further deduction can occur under this subsection because Prologis has developed all of its lands within the Property, then Prologis shall be eligible for reimbursement

under the Citywide Master Plan Fee Program according to City's applicable rules, regulations, procedures and requirements for similar reimbursements.

6.5 Regulatory Processing Fees.

In addition to the applicable Development Impact Fees, Prologis shall pay the applicable Regulatory Processing Fees in connection with any and all Subsequent Approvals. Provided, however, that City may only impose increased Regulatory Processing Fees on development of the Project on the Property if said increased fees were formally adopted by City in accordance with applicable law, and would be applied generally throughout the City of Tracy on both residential and non-residential projects, and City shall not be permitted to impose any new Regulatory Processing Fees adopted by City after the Effective Date.

SECTION 7. PERIODIC COMPLIANCE REVIEW; DEFAULT.

7.1 Periodic Compliance Review.

On an annual basis and upon thirty (30) days' notice from City to Prologis, Prologis shall document its good faith compliance with the terms of this Agreement and submit this compliance report to City. This periodic compliance review shall be conducted in accordance with the Development Agreement Statute and City's Development Agreement Procedures ("***Periodic Review***"). In conducting this Periodic Review, City acknowledges and agrees that any finding of non-compliance on Prologis' part shall be limited in effect to Prologis' interest in the Property or the Project. Furthermore, the City acknowledges and agrees that in the event and to the extent Prologis has assigned its rights and obligations to other Assignee(s) pursuant to Section 10.1 below, then any such Assignee(s) shall be responsible for conducting the Periodic Review as it relates to their rights and obligations hereunder, although Prologis shall cooperate with respect to reasonable information requests from any Assignee(s) in order to facilitate the Periodic Review process. In the event City elects to terminate this Agreement pursuant to the provisions of Section 8 below, Prologis may challenge such termination by instituting legal proceedings in which the court shall exercise its review, based on substantial evidence, as to the existence of cause for termination.

7.2 Notice of Compliance.

Provided that City has determined, based Prologis is in compliance with all provisions of this Agreement based on the most recent Periodic Review, then within thirty (30) days following a written request from Prologis that may be made from time to time, City shall execute and deliver to Prologis (or to any party requested by Prologis) a written "***Notice of Compliance***" in recordable form, duly executed and acknowledged by City, that certifies:

(a) This Agreement is unmodified and in full force and effect, or if there have been modifications hereto, that this Agreement is in full force and effect as modified and stating the date and nature of such modifications;

(b) There are no current uncured defaults as to the requesting Prologis under this Agreement or specifying the dates and nature of any such default;

(c) Any other information reasonably requested by Prologis. Prologis shall have the right, at its sole discretion, to record the Notice of Compliance.

7.3 Default.

(a) Any failure by City or Prologis to perform any material term or condition of this Agreement, which failure continues uncured for a period of sixty (60) days following written notice of such failure from the other Party (unless such period is extended by written mutual consent), shall constitute a default under this Agreement. Any notice given pursuant to the preceding sentence shall specify the nature of the alleged failure and, where appropriate, the manner in which such alleged failure satisfactorily may be cured. If the nature of the alleged failure is such that it cannot reasonably be cured within such 60-day period, then the commencement of the cure within such time period, and the diligent prosecution to completion of the cure thereafter, shall be deemed to be a cure within such 60-day period.

(b) No failure or delay in giving notice of default shall constitute a waiver of default; provided, however, that the provision of notice and opportunity to cure shall nevertheless be a prerequisite to the enforcement or correction of any default.

(c) During any cure period specified under this Section and during any period prior to any delivery of notice of default, the Party charged shall not be considered in default for purposes of this Agreement. If there is a dispute regarding the existence of a default, the Parties shall otherwise continue to perform their obligations hereunder, to the maximum extent practicable in light of the disputed matter and pending its resolution or formal termination of the Agreement as provided herein.

(d) City will continue to process in good faith development applications relating to the Property during any cure period, but need not approve any such application if it relates to a proposal on the Property with respect to which there is an alleged default hereunder.

(e) In the event either Party is in default under the terms of this Agreement, the non-defaulting Party may elect, in its sole and absolute discretion, to pursue any of the following courses of action: (i) waive such default; (ii) pursue administrative remedies, and/or (iii) pursue judicial remedies.

(f) Except as otherwise specifically stated in this Agreement, either Party may, in addition to any other rights or remedies that it may have available in law or equity, institute legal action to cure, correct, or remedy any default by the other Party to this Agreement, to enforce any covenant or agreement herein, or to enjoin any threatened or attempted violation hereunder or to seek specific performance. For purposes of instituting a legal action under this Agreement, any City Council determination under this Agreement as it relates to an alleged default hereunder shall be deemed a final agency action.

(g) The Parties hereby acknowledge that the City would not have entered into this Agreement if doing so would subject it to the risk of incurring liability in money damages, either for breach of this Agreement, anticipatory breach, repudiation of the Agreement, or for any actions with respect to its negotiation, preparation, implementation or application. The Parties further acknowledge that money damages

and remedies at law generally are inadequate, and specific performance is the most appropriate remedy for the enforcement of this Agreement and should be available to all Parties for the following reasons:

(i) **MONEY DAMAGES ARE EXCLUDED**;

(ii) **DUE TO THE SIZE, NATURE, AND SCOPE OF THE PROJECT, IT MAY NOT BE PRACTICAL OR POSSIBLE TO RESTORE THE PROPERTY TO ITS ORIGINAL CONDITION ONCE IMPLEMENTATION OF THIS AGREEMENT HAS BEGUN. AFTER SUCH IMPLEMENTATION, PROLOGIS MAY BE FORECLOSED FROM OTHER CHOICES IT MAY HAVE HAD TO UTILIZE THE PROPERTY OR PORTIONS THEREOF. PROLOGIS HAS INVESTED SIGNIFICANT TIME AND RESOURCES AND PERFORMED EXTENSIVE PLANNING AND PROCESSING OF THE PROJECT IN AGREEING TO THE TERMS OF THIS AGREEMENT AND WILL BE INVESTING EVEN MORE SIGNIFICANT TIME AND RESOURCES IN IMPLEMENTING THE PROJECT IN RELIANCE UPON THE TERMS OF THIS AGREEMENT, AND IT IS NOT POSSIBLE TO DETERMINE THE SUM OF MONEY WHICH WOULD ADEQUATELY COMPENSATE PROLOGIS FOR SUCH EFFORTS.**

(h) Therefore, the Parties hereby acknowledge and agree that it is a material part of Prologis' consideration to City that City shall not be at any risk whatsoever to liability for money damages relating to or arising from this Agreement, and except for non-damages remedies, including the remedy of specific performance, Prologis, on the one hand, and the City, on the other hand, for themselves, their successors and assignees, hereby release one another's officers, trustees, directors, agents and employees from any and all claims, demands, actions, or suits of any kind or nature arising out of any liability, known or unknown, present or future, including, but not limited to, any claim or liability, based or asserted, pursuant to Article I, Section 19 of the California Constitution, the Fifth and Fourteenth Amendments of the United States Constitution, or any other law or ordinance which seeks to impose any money damages, whatsoever, upon the Parties because the Parties entered into this Agreement, because of the terms of this Agreement, or because of the manner of implementation or performance of this Agreement.

7.4 Enforced Delay; Extension of Time of Performance.

No party shall be deemed in default of its obligations under this Agreement where a delay or default is due to an act of God, natural disaster, accident, breakage or failure of equipment, enactment of conflicting federal or state laws or regulations, third-party litigation, strikes, lockouts or other labor disturbances or disputes of any character, interruption of services by suppliers thereof, unavailability of materials or labor, unforeseeable and severe economic conditions, rationing or restrictions on the use of utilities or public transportation whether due to energy shortages or other causes, war, civil disobedience, riot, or by any other severe and unforeseeable occurrence that is beyond the control of that party (collectively, "Enforced Delay"). Performance by a party of its obligations under this Section 8.4 shall be excused during, and extended for a period of time equal to, the period (on a day-for-day basis) for which the cause of such Enforced Delay is in effect.

7.5 Third Party Legal Actions.

(i) If there are any third party administrative, legal or equitable actions challenging any of the Project Approvals, including, without limitation, this Agreement and all CEQA processes and actions by City relating to the Project, Prologis shall defend and indemnify City against any and all fees and costs arising out of the defense of such actions, including the fees and costs of City's own in-house or special counsel retained to protect City's interests. Each Party is entitled to legal counsel of its choice, at Prologis' expense. The Parties and their respective counsel shall cooperate with each other in the defense of any such actions, including in any settlement negotiations. If a court in any such action awards any form of money damages to such third party, or any attorneys' fees and costs to such third party, Prologis shall bear full and complete responsibility to comply with the requirements of such award, and hereby agrees to timely pay all fees and costs on behalf of City.

(j) If any part of this Agreement, any Project Approval is held by a court of competent jurisdiction to be invalid, the Parties shall cooperate and use their best efforts, to the extent permitted by law, to cure any inadequacies or deficiencies identified by the court in a manner consistent with the purposes of this Agreement.

SECTION 8. TERMINATION.

8.1 Termination Upon Completion of Project or Expiration of Term.

This Agreement shall terminate upon the expiration of the Term or when the Project on the Property has been fully developed and Prologis' obligations in connection therewith and with this Agreement have been satisfied. Upon termination of this Agreement, either Party may cause a notice of such termination in a form satisfactory to the City Attorney to be duly recorded in the official records of San Joaquin County.

8.2 Termination Due to Default.

After notice and expiration of the thirty (30) day cure period as specified in Section 7.3 above, if the default has not been cured or it is not being diligently cured in the manner set forth above, the noticing party may, at its option, give notice of its intent to terminate this Agreement pursuant to the Development Agreement Statute and City's Development Agreement Procedures ("***Notice of Intent to Terminate***"). Within thirty (30) days of receipt of a Notice of Intent to Terminate, the matter shall be scheduled for consideration and review in the manner set forth in the Development Agreement Statute and City's Development Agreement Procedures. Following consideration of the evidence presented in said review, the party alleging the default may give written notice of termination of this Agreement. If a party elects to terminate as provided herein, upon sixty (60) days' written notice of termination, this Agreement shall be terminated as it relates to the defaulting party's rights and obligations hereunder. Notwithstanding the foregoing, a written notice of termination given under this Section 8.2 is effective to terminate the obligations of the noticing party only if a default has occurred and such default, as a matter of law, authorizes the noticing party to terminate its obligations under this Agreement. In the event the noticing party is not so authorized to terminate, the non-noticing party shall have all rights and remedies provided herein or under applicable law, including, without limitation, the right to specific performance of this Agreement. Once a party alleging default has given a written notice of termination, legal proceedings may be instituted to obtain a declaratory judgment determining the respective termination rights and obligations under this Agreement. Notwithstanding the foregoing,

any such default and related termination shall only extend to the defaulting party's rights and obligations hereunder and shall not affect the rights and obligations of any other Assignee who has acquired other portions of the Property in accordance with Section 10.1 below.

8.3 Termination by Mutual Consent.

This Agreement may be terminated by mutual consent of the parties in the manner provided in the Development Agreement Statute and in City's Development Agreement Procedures.

8.4 Termination Due to Fee Increase.

Prologis shall have the right, in its sole discretion, to terminate this Agreement if the industrial fees under the adopted Citywide Master Plan Fee Program exceed One Hundred Seventy Eight Thousand Dollars ($178,000), as set forth in Section 6.3(a) above.

SECTION 9. DISPUTE RESOLUTION.

9.1 Voluntary Mediation and Arbitration.

If a dispute arises related to the interpretation or enforcement of, or compliance with, the provisions of this Agreement ("***Dispute***"), City and Prologis may mutually consent to attempt to resolve the matter by mediation or arbitration; provided, however, that no such mediation or arbitration shall be required in order for a party to pursue litigation to resolve a Dispute.

9.2 Legal Proceedings.

Either party may, in addition to any other rights or remedies, institute legal action to resolve any Dispute or to otherwise cure, correct or remedy any default, enforce any covenant or agreement herein, enjoin any threatened or attempted violation thereof, enforce by specific performance the obligations and rights of the parties hereto, or to obtain any remedies consistent with the purpose of this Agreement.

9.3 Attorneys' Fees and Dispute Resolution Costs.

In any action or proceeding brought by any party to resolve a Dispute, the prevailing party is entitled to recover reasonable attorneys' fees and any other costs incurred in the action or proceeding in addition to any other relief to which it is entitled.

SECTION 10. ASSIGNMENT AND ASSUMPTION; RIGHTS AND DUTIES OF MORTGAGEES.

10.1 Assignment of Rights, Interests and Obligations.

Subject to compliance with this Section 10, any Owner may sell, assign or transfer its interest in the Property and related Project Approvals to any individual or entity ("***Assignee***") at any time during the Term of this Agreement.

(a) An Owner's assignment as provided for in this Section 10.1 may occur without obtaining City's consent ("***Permitted Assignment***") so long as (i) the proposed Assignee is an affiliate of an Owner, which shall include any entity that is directly or indirectly owned or controlled by an Owner such that it owns a substantial interest, but less than a majority of voting stock of the entity; or (ii) any subsequent Owner of a **Finished Lot** within the Project. Any Assignees satisfying either criteria set forth in this Section 10.1(a) shall be referred to herein as "***Permitted Assignees.***" The affected Owner(s) shall provide City with written notice of a Permitted Assignment within thirty (30) days following the effective date thereof.

(b) If the proposed Assignee does not qualify as a Permitted Assignee, then an Owner may assign its interest in the Property and related Project Approvals so long as said Owner receives the Planning Director's prior written consent, which shall not be unreasonably withheld, conditioned or delayed. It shall be deemed unreasonable to refuse consent for such assignment unless in light of the proposed Assignee's reputation and financial resources, such Assignee would not be able to perform the obligations proposed to be assumed by such Assignee. Any such determination shall be made in writing by the Development Services Director, supported by substantial evidence, and would be appealable by the affected Owner to the City Council. Failure by City to respond to any such assignment request within forty-five (45) days would be deemed to constitute consent. Further, no consent to assign shall be required under this Section 10.1(b) for land covered by a specific tentative map or parcel map so long as the affected Owner(s) has satisfied all of its obligations hereunder in connection with said tentative map or parcel map. Finally, the Parties agree that once the Project is fully built out, then no consent to assign shall be required.

10.2 Assumption of Rights, Interests and Obligations.

Subject to compliance with the preceding Section 10.1, express written assumption by an Assignee of the obligations and other terms and conditions of this Agreement with respect to the Property or such portion thereof sold, assigned or transferred, shall relieve Prologis of such obligations and other terms and conditions so expressly assumed. Any such assumption agreement shall be in substantially the same form as attached Exhibit 6. The County Recorder shall duly record any such assumption agreement in the official records of San Joaquin County within ten (10) days of receipt. Upon recordation of said assumption agreement, Prologis shall automatically be released from those obligations assumed by the Assignee.

10.3 Rights and Duties of Mortgagee in Possession of Property.

(a) This Agreement shall be superior and senior to all liens placed upon the Property or any portion thereof after the Effective Date, including, without limitation, the lien of any Mortgage. Notwithstanding the foregoing, no breach of this Agreement shall defeat, render invalid, diminish or impair any Mortgage made in good faith and for value; provided, however, this Agreement shall be binding upon and effective against all persons and entities, including all Mortgagees who acquire title to the Property or any portion thereof by foreclosure, trustee's sale, deed in lieu of foreclosure or otherwise, and including any subsequent transferee of the Property acquired by foreclosure, trustee's sale, deed in lieu of foreclosure, or otherwise (in either case, a "Mortgagee Successor"), subject, however, to the terms of Section 10.3(b), below.

(b) The provisions of Section 10.3(a) above notwithstanding, no Mortgagee Successor shall have any obligation or duty under this Agreement to commence or complete the construction of any Project Infrastructure, or to guarantee such construction or completion or any liability for failure to do so; provided, however, that a Mortgagee Successor shall not be entitled to devote the Property to any uses or to construct any improvements thereon other than those uses or improvements permitted under the Project Approvals. In the event that any Mortgagee Successor shall acquire title to the Property or any portion thereof, the Mortgagee Successor further shall not be (i) liable for any breach or default under this Agreement on the part of any Prologis or its successor, or (ii) obligated to cure any breach or default under this Agreement on the part of any Prologis or its successor. In the event such Mortgagee Successor desires to succeed to Prologis' rights, benefits, and privileges under this Agreement, however, City may condition such succession upon the assumption of this Agreement by the Mortgagee Successor by written agreement reasonably acceptable to City and the Mortgagee Successor, including, without limitation, the obligation to cure any breach or default on Prologis' part that is curable by the payment of money or performance at commercially reasonable cost and within a commercially reasonable period of time after such assumption takes effect.

(c) If City receives notice from a Mortgagee requesting a copy of any Notice of Default regarding all or a portion of the Property, then City shall deliver said notice to such Mortgagee, concurrently with service thereof to Prologis, any notice given to Prologis with respect to any claim by City that Prologis has committed an Event of Default, and if City makes a determination of noncompliance under Section 8 above, City shall likewise serve notice of such noncompliance on such Mortgagee concurrently with service thereof on Prologis. Each Mortgagee shall have the right (but not the obligation) for a period of ninety (90) days after receipt of such notice to cure, or to commence to cure, the alleged default set forth in said notice in accordance with Section 8 above. If the Event of Default or such noncompliance is of a nature that can only be remedied or cured by such Mortgagee upon obtaining possession, such Mortgagee shall have the right (but not the obligation) to seek to obtain possession with diligence and continuity through a receiver or otherwise, and thereafter to remedy or cure the Event of Default or noncompliance within ninety (90) days after obtaining possession, except if any such Event of Default or noncompliance cannot, with diligence, be remedied or cured within such ninety (90) day period, then such Mortgagee shall have such additional time as may be reasonably necessary to remedy or cure such Event of Default or noncompliance if such Mortgagee commences cure during such ninety (90) day period, and thereafter diligently pursues completion of such cure to the extent possible. Notwithstanding the foregoing, nothing contained in this Agreement shall be deemed to permit or authorize any Mortgagee or Mortgagee Successor to undertake or continue construction or completion of any improvements comprising the Project (beyond the extent necessary to conserve or protect improvements or construction already made) without first having expressly assumed the defaulting Prologis' continuing obligations hereunder in the manner specified in Section 10.3(b), above.

SECTION 11. GENERAL PROVISIONS.

11.1 Independent Contractors.

Each party is an independent contractor and shall be solely responsible for the employment, acts, omissions, control and directing of its employees. All persons

employed or utilized by Prologis in connection with this Agreement and the Project shall not be considered employees of City in any respect. Except as expressly set forth herein, nothing contained in this Agreement shall authorize or empower any party to assume or create any obligation whatsoever, express or implied, on behalf of any other party or to bind any other party or to make any representation, warranty or commitment on behalf of any other party.

11.2 Invalidity of Agreement and Severability of Provisions.

If this Agreement in its entirety is determined by a court of competent jurisdiction to be invalid or unenforceable, this Agreement shall automatically terminate as of the date of final entry of judgment, including the entry of judgment in connection with any appeals. If any provision of this Agreement shall be determined by a court of competent jurisdiction to be invalid and unenforceable, the remaining provisions shall continue in full force and effect. Notwithstanding the foregoing, if any material provision of this Agreement, or the application of such provision to a particular situation, is held to be invalid, void or unenforceable, either City or Prologis may terminate this Agreement as to Prologis (in the case of Prologis taking such action, the termination shall relate only to Prologis' interest in the Property and the related Project Approvals) by providing written notice of such termination to the other parties.

11.3 Further Documents; Other Necessary Acts.

Each party shall execute and deliver to the other party all other instruments and documents as may be reasonably necessary to carry out the purpose of this Agreement and the Project Approvals and Subsequent Approvals, in order to provide or secure to the other party the full and complete enjoyment of the rights and privileges granted by this Agreement.

11.4 Time of Essence.

Time is of the essence in the performance of each and every covenant and obligation to be performed by the parties hereunder.

11.5 Amendment to this Agreement.

This Agreement may be modified from time to time by mutual consent of the parties, in accordance with the Development Agreement Statute, the City Development Agreement Procedures and this Section 11.5. In the event the parties modify this Agreement, City shall cause notice of such action to be duly recorded in the official records of San Joaquin County within ten (10) days of such action.

11.6 Project Is A Private Undertaking.

The parties agree that: (a) any development by Prologis of the Property shall be a private development; (b) City has no interest in or responsibilities for or duty to third parties concerning any improvements constructed in connection with the Property until such time that City accepts the same pursuant to the provisions of this Agreement and in connection with the various Project Approvals; (c) Prologis shall have full power over and exclusive control of the Project herein described to the extent of Prologis' interest therein, subject only to the limitations and obligations of Prologis under this Agreement,

its Project Approvals, and the other Existing Rules; (d) the contractual relationship between City and Prologis is such that Prologis is an independent contractor and not an agent of City; and (e) nothing in this Agreement is intended or shall be construed to create or reflect any form of partnership or joint venture between the parties.

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.

11.7 Covenants Running With The Land.

All of the provisions contained in this Agreement are binding upon and benefit the parties and their respective heirs, successors and assigns, representatives, lessees, and all other persons acquiring all or any portion of the Property, 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 servitudes and shall constitute covenants running with the land pursuant to California law, including, without limitation, Civil Code section 1468. Each covenant herein to act or refrain from acting is for the benefit of or a burden upon the Project, as appropriate, runs with the Property and is binding upon each owner, including Prologis and all successive owners, of all or a portion of the Property during its ownership of such property.

11.8 Recordation Of Agreement.

Within ten (10) days of the Effective Date, Prologis shall cause this Agreement to be duly recorded in the official records of San Joaquin County.

11.9 Notices.

Any notice required under this Agreement shall be in writing and personally delivered, or sent by certified mail (return receipt requested and postage pre-paid), overnight delivery, or facsimile to the following:

City: City of Tracy
Attn: Development Services Director
333 Civic Center Plaza
Tracy, CA 95376

Copy to: City Attorney's Office
Attn: City Attorney
333 Civic Center Plaza
Tracy, CA 95376

Prologis: Prologis L.P.
Attn: Dan Letter
Pier 1, Bay 1
San Francisco, CA 94111
Tel: (415) 733-9973
Fax: (415) 733-2171

Copy to: Miller Starr Regalia
Attn: Nadia Costa
1331 North California Blvd., 5th Floor
Walnut Creek, CA 94596
Tel: 925.935.9400
Fax: 925.933.4126

Copy to: Prologis L.P.
Attn: General Counsel
4545 Airport Way
Denver, CO 80239
Tel: 303.567.5000
Fax: 303.567.5903

Notices to Mortgagees by City shall be given as provided above using the address provided by such Mortgagee(s). Notices to Assignees shall be given by City as required above only for those Assignees who have given City written notice of their addresses for the purpose of receiving such notices. Either party may change its mailing address/facsimile at any time by giving written notice of such change to the other party in the manner provided herein at least ten (10) days prior to the date such change is effected. All notices under this Agreement shall be deemed given, received, made or communicated on the earlier of the date personal delivery is effected or on the delivery date or attempted delivery date shown on the return receipt, air bill or facsimile.

11.10 Prevailing Wage.

In accordance with applicable laws and regulations, City or Prologis, as appropriate, shall be responsible for determining whether construction of any or all of the Project Infrastructure required in connection with development shown on a specific tentative map or final map or other Subsequent Approval application proposed by Prologis will trigger the obligation to pay prevailing wages under California or federal law. In the event and to the extent that payment of prevailing wages is required, City shall ensure compliance with those requirements, as appropriate and feasible.

11.11 Applicable Law.

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

11.12 Venue.

Any action brought relating to this Agreement shall be held exclusively in a state court in the County of San Joaquin.

11.13 Indemnification.

Prologis shall indemnify, defend, and hold harmless City (including its elected officials, officers, agents, and employees) from and against any and all claims, demands, damages, liabilities, costs, and expenses (including court costs and attorney's fees) (collectively, "Claims") resulting from or arising out of the development contemplated by this Agreement, including, without limitation, Claims that may arise out of Section 3.3(d)(iii), other than a liability or claim based upon City's gross negligence or willful misconduct. The indemnity obligations of this Agreement shall not extend to Claims arising from activities associated with the maintenance or repair by the City or any other public agency of improvements that have been accepted for dedication by the City or such other public agency.

11.14 No Waiver.

No waiver by either party of any provision of this Agreement shall be considered a waiver of any other provision of any subsequent breach of the same or any other provisions, including the time for performance of any such provisions, and shall have no effect with respect to any other party's rights and obligations hereunder. The exercise by a party of any right or remedy as provided in this Agreement or provided by law shall not prevent the exercise by the party of any other remedy provided in this Agreement or under the law, and shall have no effect with respect to any other party's rights and remedies as provided herein.

11.15 Construction.

This Agreement has been reviewed and revised by legal counsel for both City and Prologis and no presumption or rule that ambiguities shall be construed against the drafting party shall apply to the interpretation or enforcement of this Agreement. The provisions of this Agreement and the attached exhibits shall be construed as a whole according to their common meaning and not strictly for or against either party, and in a manner that shall achieve the purposes of this Agreement. Wherever required by the context, the masculine gender shall include the feminine or neuter genders, or vice versa.

11.16 Entire Agreement.

This Agreement and all exhibits constitute the entire agreement between the parties and supersede all prior discussions, negotiations, and agreements whether oral or written. Any oral representations or modifications concerning this instrument shall be of no force or effect unless contained in a subsequent written notification signed by both parties.

11.17 Estoppel Certificate.

Either party from time to time may deliver written notice to the other party requesting written confirmation that, to the knowledge of the certifying party: (a) this Agreement is in full force and effect and constitutes a binding obligation of the parties; (b) this Agreement has not been amended either orally or in writing, or if it has been amended, specifying the nature of the amendment(s); and (c) the requesting party is not in default in the performance of its obligations under this Agreement, or if in default, describing therein the nature of the default. A party receiving a request shall execute and return the

certificate within thirty (30) days after receipt thereof. The Planning Director shall have the right to execute any such certificate requested by Prologis. At Prologis' request, the certificate provided by City establishing the status of this Agreement with respect to any lot or parcel shall be in recordable form and Prologis shall have the right to record the certificate for the affected portion of the Property at its cost.

11.18 Counterparts.

This Agreement and any and all amendments thereto may be executed in counterparts, and all counterparts together shall be construed as one document.

11.19 Authority To Execute.

Each party hereto expressly warrants and represents that it has the authority to execute this Agreement on behalf of its entity and warrants and represents that it has the authority to bind its entity to the performance of its obligations hereunder.

11.20 Captions.

The caption headings provided herein are for convenience only and shall not affect the construction of this Agreement.

11.21 Compliance, Monitoring, and Management Duties; Default.

If Prologis fails to perform any of its duties related to compliance review processes, monitoring, or the management of any programs as required herein, City has the right, but not the obligation, to undertake such duties and perform them at said Prologis' expense.

11.22 Listing And Incorporation Of Exhibits.

The exhibits to this Agreement, each of which is hereby incorporated herein by reference, are as follows:

Exhibit 1: Map of Specific Plan Area

Exhibit 2: Map and Legal Description of Property

Exhibit 3: Master Plan Infrastructure Subject to Prologis' Election

Exhibit 4: Citywide Master Plan Fee Program

Exhibit 5: Specific Plan Private and Public Improvements

Exhibit 6: Form of Assumption Agreement

CITY OF TRACY, a municipal corporation

____

Brent Ives

Mayor, City of Tracy
Date:

APPROVED AS TO FORM:
City of Tracy City Attorney's Office

____
Dan Sodergren
City Attorney
Date:

PROLOGIS:
PROLOGIS L.P., a Delaware limited partnership

By: Prologis, Inc., its General Partner

____
Dan Letter
Its: Senior Vice President
Date:

EXHIBIT 1

MAP OF SPECIFIC PLAN AREA

Lammersville Community

INTERSTATE ROUTE 205

Gateway

POMBO ET AL

DELTA PROP.

TWL INV.

LOPEZ

ADAMS

GILLON

GOUVAIA

VIERRA

SADHU ET AL

PG&E

GBC GLOBAL

U.S.B.R. DELTA MENDOTA CANAL

JOHNSON

JENSEN

BUTLER

W.S.I.D.

PROLOGIS L.P.

CORDES RANCH DEVELOPMENT AREA

Auto Mall

CALIFORNIA AQUEDUCT

INTERSTATE ROUTE 580

W. SCHULTE RD

Patterson Pass Business Park

MOUNTAIN HOUSE PKWY

U.S.B.R. DELTA MENDOTA CANAL

OLD SCHULTE ROAD

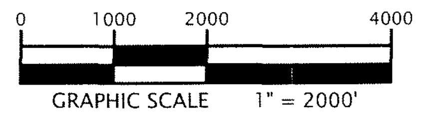
21 22 22 23 23 24

28 27 27 26 26 25

28 27 27 26 26 25

33 34 34 35 35 36

SPECIFIC PLAN BOUNDARY



GRAPHIC SCALE 1" = 2000'

KIER & WRIGHT
CIVIL ENGINEERS & SURVEYORS, INC.
2850 Collier Canyon Road (925) 245-8788
Livermore, California 94551 Fax (925) 245-8796

EXHIBIT 1

CORDES RANCH
OVERALL SITE

TRACY CALIFORNIA

DATE	06/28/2013
JOB NO.	A09500
SCALE	1" =2000'
SHEET	01

Z:\2009\A09500\COST SHARING.dwg 6/28/2013 6:20:17 PM PDT

EXHIBIT 2

MAP AND LEGAL DESCRIPTION OF PROPERTY

Lammersville Community

INTERSTATE ROUTE 205

Gateway

POMBO ET AL

LOPEZ
ADAMS
GILLON
GOUVAIA
VIERRA

SADHU ET AL

DELTA PROP.

TWL INV.

JOHNSON
JENSEN
BUTLER

PG&E

GBC GLOBAL

U.S.B.R. DELTA MENDOTA CANAL

Auto Mall

CALIFORNIA AQUEDUCT

INTERSTATE ROUTE 580

W. SCHULTE RD

Patterson Pass Business Park

MOUNTAIN HOUSE PKWY

U.S.B.R. DELTA MENDOTA CANAL

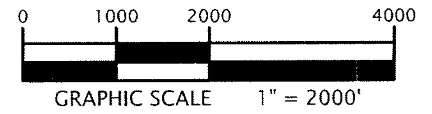
W.S.I.D.

PROLOGIS L.P.

PROLOGIS L.P.

OLD SCHULTE ROAD

21 22 22 23 23 24
28 27 27 26 26 25
28 27 27 26 26 25
33 34 34 35 35 36



GRAPHIC SCALE 1" = 2000'

KIER & WRIGHT
CIVIL ENGINEERS & SURVEYORS, INC.
2850 Collier Canyon Road (925) 245-8788
Livermore, California 94551 Fax (925) 245-8796

EXHIBIT 2

CORDES RANCH
PROLOGIS L.P.

TRACY CALIFORNIA

DATE	04/15/2013
JOB NO.	A09500
SCALE	1" =2000'
SHEET	03

Z:\2009\A09500\COST SHARING.dwg 6/28/2013 6:20:17 PM PDT

Exhibit 2
Legal Description of Property

Real property in the unincorporated area of the County of SAN JOAQUIN, State of CALIFORNIA, described as follows:

PARCEL A:

PARCEL 2 AS SHOWN ON NOTICE OF LOT LINE ADJUSTMENT NO. LA-01-0017 AS EVIDENCED BY DOCUMENT RECORDED APRIL 26, 2001 AS INSTRUMENT NO. 2001-062040 OF OFFICIAL RECORDS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
ALL THAT CERTAIN REAL PROPERTY SITUATE, LYING AND BEING IN THE COUNTY OF SAN JOAQUIN, STATE OF CALIFORNIA, LYING IN SECTION 27, TOWNSHIP 2 SOUTH, RANGE 4 EAST, MOUNT DIABLO BASE AND MERIDIAN, DESCRIBED AS FOLLOWS:
THE NORTH ½ OF SECTION 27 TOGETHER WITH THE SOUTH ½ OF SECTION 27, TOWNSHIP 2 SOUTH, RANGE 4 EAST, MOUNT DIABLO BASE AND MERIDIAN.
EXCEPTING THEREFROM THAT CERTAIN PARCEL DESCRIBED IN THE DEED TO THE UNITED STATES OF AMERICA, RECORDED FEBRUARY 25, 1945 IN VOLUME 1103 OF OFFICIAL RECORDS, PAGE 464, SAN JOAQUIN COUNTY RECORDS, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
BEGINNING AT THE WEST QUARTER CORNER OF SAID SECTION 27 AND
RUNNING THENCE NORTH 00° 20. WEST, ALONG THE WESTERLY BOUNDARY OF SAID SECTION 27, A DISTANCE OF 405.3 FEET TO A POINT, SAID POINT BEING SOUTH 00° 20. EAST 2234.5 FEET FROM THE NORTHWEST CORNER OF SAID SECTION 27;
THENCE CONTINUING NORTH 00° 20. WEST, ALONG SAID WESTERLY BOUNDARY, 252.8 FEET;
THENCE LEAVING SAID BOUNDARY, SOUTH 48° 17. EAST 481.7 FEET;
THENCE SOUTH 35° 17. EAST 432.1 FEET TO A POINT IN THE SOUTHERLY BOUNDARY OF THE NORTHWEST QUARTER OF SAID SECTION 27, SAID POINT IS SOUTH 89° 31. EAST 605.3 FEET FROM THE POINT OF BEGINNING;
THENCE NORTH 89° 31. WEST, ALONG LAST NAMED BOUNDARY, 215.7 FEET TO A POINT;
THENCE CONTINUING NORTH 89° 31. WEST, ALONG SAID BOUNDARY, 389.6 FEET TO THE POINT OF BEGINNING.
ALSO EXCEPTING THEREFROM THAT CERTAIN PARCEL DESCRIBED IN THE DEED TO THE UNITED STATES OF AMERICA, RECORDED MAY 15, 1947 IN VOLUME 1065 OF OFFICIAL RECORDS, PAGE 227, SAN JOAQUIN COUNTY RECORDS, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
BEGINNING AT A POINT THAT IS ON THE NORTHERLY BOUNDARY OF THE SOUTH ½ OF SAID SECTION 27, AND IS DISTANT THERE ALONG, SOUTH 89° 31. EAST 389.6 FEET FROM THE WEST ¼ CORNER OF SAID SECTION 27, AND
RUNNING THENCE ALONG SAID NORTHERLY BOUNDARY, SOUTH 89° 31. EAST 215.7;
THENCE LEAVING SAID BOUNDARY AND RUNNING SOUTH 35° 17. EAST 127.2 FEET;
THENCE SOUTH 61° 36. EAST 1374.2 FEET;
THENCE SOUTH 55° 51. EAST 455.1 FEET;
THENCE NORTH 25° 54. EAST 367.6 FEET;
THENCE SOUTH 64° 06. EAST 80.00 FEET;
THENCE SOUTH 25° 54. WEST 379.2 FEET;
THENCE SOUTH 55° 41. EAST 2161.3 FEET;

THENCE SOUTH 23° 19. EAST 370.6 FEET;
THENCE SOUTH 23° 19. EAST 50.0 FEET TO A POINT IN THE NORTHERLY BOUNDARY OF THE EXISTING RIGHT OF WAY FOR THE COUNTY ROAD ALONG THE SOUTHERLY BOUNDARY OF SAID SECTION 27;
THENCE SOUTH 23° 19. EAST 21.9 FEET TO A POINT THAT IS ON THE SOUTHERLY BOUNDARY OF SAID SECTION 27 AND IS DISTANT THERE ALONG NORTH 89° 25. WEST 1006.8 FEET FROM THE SOUTHEAST CORNER OF SAID SECTION 27;
THENCE ALONG THE SOUTHERLY BOUNDARY OF SAID SECTION 27, NORTH 89° 25. WEST 166.2 FEET;
THENCE CONTINUING ALONG SAID SOUTHERLY BOUNDARY, NORTH 89° 25. WEST 179.7 FEET;
THENCE LEAVING SAID BOUNDARY AND RUN NORTH 18° 21. WEST 21.1 FEET TO A POINT IN THE NORTHERLY BOUNDARY OF THE EXISTING RIGHT OF WAY FOR SAID COUNTY ROAD;
THENCE NORTH 18° 21. WEST 40.0 FEET TO A POINT DESIGNATED FOR THE PURPOSE OF REFERENCE THERETO HEREINAFTER, AS POINT C;
THENCE NORTH 18° 21. WEST 151.3 FEET;
THENCE NORTH 55° 51. WEST 316.2 FEET TO A POINT DESIGNATED FOR THE PURPOSE OF REFERENCE THERETO HEREINAFTER AS POINT D;
THENCE NORTH 55° 51. WEST 2044.6 FEET;
THENCE NORTH 64° 13. WEST 1341.4 FEET;
THENCE NORTH 44° 08. WEST 299.4 FEET TO A POINT DESIGNATED FOR THE PURPOSE OF REFERENCE THERETO HEREINAFTER, AS POINT A;
THENCE NORTH 44° 08. WEST 423.7 FEET TO A POINT DESIGNATED FOR THE PURPOSE OF REFERENCE THERETO HEREINAFTER, AS POINT B;
THENCE NORTH 44° 08. WEST 67.8 FEET TO A POINT ON THE NORTHERLY BOUNDARY OF THE SOUTH 1/2 OF SAID SECTION 27 AND IS DISTANT THERE ALONG NORTH 89° 31. WEST 220.0 FEET FROM THE POINT OF BEGINNING;
THENCE ALONG SAID NORTHERLY BOUNDARY, SOUTH 89° 31. EAST 220.00 FEET TO THE POINT OF BEGINNING.
ALSO EXCEPTING THEREFROM THAT CERTAIN PARCEL DESCRIBED
IN THE DEED TO THE STATE OF CALIFORNIA, RECORDED SEPTEMBER 14, 1962 IN VOLUME 2595 OF OFFICIAL RECORDS, PAGE 390, SAN JOAQUIN COUNTY RECORDS, SAID PARCELS

BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

PARCEL NO. 1:
COMMENCING AT THE INTERSECTION OF THE NORTH LINE OF SCHULTE ROAD, COUNTY ROAD NO. 01-281 (A ROAD 60-FEET WIDE) WITH THE EAST LINE OF PATTERSON PASS ROAD, COUNTY ROAD NO. 01-280 (A ROAD 60-FEET WIDE); SAID INTERSECTION BEARS NORTH 44° 32. 52" EAST 43.01 FEET FROM THE SOUTHWEST CORNER OF SAID SECTION 27;
THENCE ALONG SAID EAST LINE, NORTH 00° 19. 04" EAST 301.97 FEET TO THE TRUE POINT OF BEGINNING; SAID POINT BEING AT THE COORDINATES Y=446,917.88 FEET AND X=1,702,034.86 FEET;
THENCE, CONTINUING ALONG SAID EAST LINE, NORTH 00° 19. 04" EAST 426.72 FEET;
THENCE SOUTH 05° 06. 42" EAST 100.45 FEET;
THENCE SOUTH 00° 17. WEST 252.65 FEET;
THENCE SOUTH 07° 44. 03" WEST 74.72 FEET TO THE TRUE POINT OF BEGINNING.

PARCEL NO. 2:
BEGINNING AT THE INTERSECTION OF THE NORTH LINE OF SCHULTE ROAD, COUNTY ROAD NO. 01-281 (A ROAD 60-FEET WIDE) WITH THE EAST LINE OF PATTERSON PASS ROAD, COUNTY ROAD NO. 01-280 (A ROAD 60-FEET WIDE); SAID INTERSECTION BEARS NORTH 44°32. 52" EAST 43.01 FEET FROM THE SOUTHWEST CORNER OF SAID SECTION 27, SAID INTERSECTION BEING AT THE COORDINATES Y=446,615.92 FEET AND X=1,702,033.19 FEET;

THENCE ALONG SAID EASTERLY LINE OF PATTERSON PASS ROAD, NORTH 00° 19. 04" EAST 65.00 FEET;
THENCE SOUTH 45° 27. 08" EAST 90.69 FEET TO SAID NORTHERLY LINE OF SCHULTE ROAD;
THENCE ALONG SAID NORTHERLY LINE, NORTH 88° 46. 38" WEST 65.00 FEET TO THE POINT OF BEGINNING.

ALSO EXCEPTING THEREFROM:
ALL THAT CERTAIN REAL PROPERTY SITUATE, LYING AND BEING IN THE COUNTY OF SAN JOAQUIN, STATE OF CALIFORNIA, LYING IN THE NORTH ½ OF SECTION 27, TOWNSHIP 2 SOUTH, RANGE 4 EAST, MOUNT DIABLO BASE AND MERIDIAN, DESCRIBED AS FOLLOWS:
BEGINNING AT THE NORTHEAST CORNER OF SECTION 27, TOWNSHIP 2 SOUTH, RANGE 4 EAST, MOUNT DIABLO BASE AND MERIDIAN;
THENCE ALONG THE EAST LINE OF SAID SECTION 27, SOUTH 0° 22. 36" WEST 2635.22 FEET TO THE SOUTHEAST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 27;
THENCE ALONG THE SOUTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 27, NORTH 88° 53. 27" WEST 1652.51 FEET;
THENCE ALONG A LINE PARALLEL WITH THE EAST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 27, NORTH 00° 22. 36" EAST 2636.66 FEET TO THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 27;
THENCE ALONG THE NORTH LINE OF NORTHEAST QUARTER OF SAID SECTION 27, SOUTH 88° 50. 27" EAST 1652.53 FEET TO THE POINT OF BEGINNING.

PARCEL B:

PARCEL 1 AS SHOWN ON NOTICE OF LOT LINE ADJUSTMENT NO. LA-01-0017 AS EVIDENCED BY DOCUMENT RECORDED APRIL 26, 2001 AS INSTRUMENT NO. 2001-062040 OF OFFICIAL RECORDS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
ALL THAT CERTAIN REAL PROPERTY SITUATE, LYING AND BEING IN THE COUNTY OF SAN JOAQUIN, STATE OF CALIFORNIA, LYING IN THE NORTH ½ OF SECTION 27, TOWNSHIP 2 SOUTH, RANGE 4 EAST, MOUNT DIABLO BASE AND MERIDIAN, DESCRIBED AS FOLLOWS:
BEGINNING AT THE NORTHEAST CORNER OF SECTION 27, TOWNSHIP 2 SOUTH, RANGE 4 EAST, MOUNT DIABLO BASE AND MERIDIAN;
THENCE ALONG THE EAST LINE OF SAID SECTION 27, SOUTH 0° 22. 36" WEST 2635.22 FEET TO THE SOUTHEAST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 27;
THENCE ALONG THE SOUTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 27, NORTH 88° 53. 27" WEST 1652.51 FEET;
THENCE ALONG A LINE PARALLEL WITH THE EAST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 27, NORTH 00° 22. 36" EAST 2636.66 FEET TO THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 27;
THENCE ALONG THE NORTH LINE OF NORTHEAST QUARTER OF SAID SECTION 27, SOUTH 88° 50. 27" EAST 1652.53 FEET TO THE POINT OF BEGINNING.

PARCEL C:

ALL THAT PORTION OF THE NORTHEAST ¼ OF SECTION 26 TOWNSHIP 2 SOUTH, RANGE 4 EAST, MOUNT DIABLO BASE AND MERIDIAN LYING NORTH AND EAST OF THE NORTHERLY LINE OF THE UPPER MAIN CANAL OF THE WEST SIDE IRRIGATION DISTRICT, AND ALSO ALL THAT PORTION OF THE NORTHWEST ¼ OF SAIDSECTION 26, TOWNSHIP 2 SOUTH, RANGE 4 EAST, MOUNT DIABLO BASE AND MERIDIAN LYING NORTH AND EAST OF THE NORTHERLY LINE OF THE SAID UPPER MAIN CANAL OF THE WEST SIDE IRRIGATION DISTRICT.

PARCEL C-1:

AN EASEMENT 30 FEET IN WIDTH ALONG THE SOUTHERLY PORTION OF THE SOUTHWEST ¼ OF SECTION 23, TOWNSHIP 2 SOUTH, RANGE 4 EAST, MOUNT DIABLO BASE AND MERIDIAN LYING SOUTH OF THE SOUTHWESTERLY BOUNDARY LINE OF THE UPPER MAIN CANAL OF THE WEST SIDE IRRIGATION DISTRICT BEING DESCRIBED AS PARCEL A AS SHOWN ON THE PARCEL MAP RECORDED IN BOOK OF PARCEL MAPS, BOOK 3, PAGE 114, SAN JOAQUIN COUNTY RECORDS AS RESERVED IN AN INSTRUMENT RECORDED JANUARY 13, 1989 RECORDER'S INSTRUMENT NO. 89003100, SAN JOAQUIN COUNTY RECORDS.

PARCEL D:

THE EAST ½ OF SECTION 26, TOWNSHIP 2 SOUTH, RANGE 4 EAST, MOUNT DIABLO BASE AND MERIDIAN LYING SOUTH OF THE UPPER MAIN CANAL OF THE WEST SIDE IRRIGATION DISTRICT.

PARCEL E:

THE SOUTHWEST ¼ OF SECTION 26, TOWNSHIP 2 SOUTH, RANGE 4 EAST, MOUNT DIABLO BASE AND MERIDIAN.

PARCEL F:

THE NORTHWEST ¼ OF SECTION 26, TOWNSHIP 2 SOUTH, RANGE 4 EAST, MOUNT DIABLO BASE AND MERIDIAN LYING SOUTHWESTERLY OF THE WEST SIDE IRRIGATION UPPER MAIN CANAL.

APN:
209-120-030-000 (AFFECTS PORTION OF PARCEL A)
209-120-040-000 (AFFECTS PORTION OF PARCEL A)
209-120-050-000 (AFFECTS PARCEL B)
209-120-060-000 (AFFECTS PORTION OF PARCEL A)
209-120-070-000 (AFFECTS PORTION OF PARCEL A)
209-220-030-000 (AFFECTS PARCEL D)
209-220-040-000 (AFFECTS PARCEL E)
209-220-060-000 (AFFECTS PARCEL F)
209-220-070-000 (AFFECTS PARCEL C)

EXHIBIT 3

MASTER PLAN IMPROVEMENTS SUBJECT TO PROLOGIS' ELECTION

Exhibit 3

Master Plan Improvements Subject To Prologis' Election To Construct Pursuant to DA

Improvements

	Master Plan Traffic Improvement
	Bridges and Interchanges
1	California Aqueduct Bridge *
2	Mountain House Parkway Canal Bridge *
3	Old Schulte Road Canal Bridge *
	Intersections and On/Off Ramps
4	I-580 Interchange - Interim Traffic Signals *
5	Mountain House and New Shulte
6	Mountain House and Capital Parkway
7	Mountain House and Old Schulte
8	Capital Parkway and Hanson Road
9	Capital Parkway and Pavillion Parkway
10	New Shulte and Hanson Road
11	New Shulte and Pavillion Parkway
12	Old Shulte and Pavillion Parkway
13	Old Shulte and Hanson Road
	Roadways
17	Mountain House Parkway*
18	Capital Parks Drive
19	New Schulte Road*
20	Old Schulte Road
21	Hansen Road
22	Pavillion Parkway
23	Intelligent Transportation System (conduit only)
	Master Plan Storm Drain Improvements
24	On-Site Storm Drain Pipe System
25	Storm Drain Basins
26	Storm Drain - Greenbelt Parkway
	Master Plan Potable Water Improvements
27	All Potable Water Lines within Specific Plan
28	Water Tank - 1.5 MG / Booster Pump (Zone 3)
29	Pressure Regulating Stations # 9 and # 10
	Master Plan Recycled Water Improvements
30	All Recycled Water Lines - 30 inches or less within Specific Plan

* City may construct these projects due to multiple agency involvement.

EXHIBIT 4

CITYWIDE MASTER PLAN FEE PROGRAM

Exhibit 4

City of Tracy
Draft Master Plan Fees
8/28/2013

		Water				Wastewater			Storm Drainage*							
	Transportation	Distribution	Supply	Treatment	Recycled Water	Treatment Plant	East Conveyance	West Conveyance	Lammers	Mtn. House	South MacArthur and Rocha	Parks	Public Safety	Public Facilities	Total (Lammers SD and West WW)	Total (South MacArthur SD and East WW)
	per unit															
Residential-Very Low Density	$ 8,362	$ 4,236	$ 1,813	$ 3,295	$ 2,653	$ 6,727	$ 2,405	$ 1,610	$ 1,475	NA	$ 4,866	$ 7,557	$ 1,353	$ 2,953	$ 42,034	$ 46,220
Residential-Low Density	$ 8,362	$ 4,236	$ 1,813	$ 3,295	$ 2,653	$ 6,727	$ 2,405	$ 1,610	$ 1,355	NA	$ 4,469	$ 7,557	$ 1,353	$ 2,953	$ 41,914	$ 45,823
Residential-Medium Density (attached 2-4)	$ 5,101	$ 3,050	$ 1,305	$ 2,372	$ 2,282	$ 5,504	$ 1,968	$ 1,317	$ 902	NA	$ 2,971	$ 6,183	$ 1,107	$ 2,416	$ 31,540	$ 34,259
Residential-High Density (attached 4+)	$ 5,101	$ 2,160	$ 925	$ 1,680	$ 1,539	$ 4,485	$ 1,603	$ 1,073	$ 807	NA	$ 2,659	$ 5,038	$ 902	$ 1,969	$ 25,679	$ 28,061
	per acre												per 1,000 sf	per 1,000 sf		
Commercial/Retail	$ 217,757	$ 17,622	$ 7,542	$ 13,707	$ 14,939	$ 29,048	$ 10,385	$ 6,952	$ 24,736	$ 15,795	$ 81,501	$ -	$ 410	$ 77	$ 338,664	$ 398,862
Office	$ 173,185	$ 13,216	$ 5,657	$ 10,280	$ 12,179	$ 29,048	$ 10,385	$ 6,952	$ 24,736	$ 15,795	NA	$ -	$ 683	$ 128	$ 291,148	NA
Industrial	$ 75,011	$ 13,216	$ 5,657	$ 10,280	$ 12,179	$ 26,908	$ 9,620	$ 6,440	$ 24,736	$ 15,795	NA	$ -	$ 137	$ 26	$ 177,968	NA

* only 3 of the 9 SD zones are shown on the summary - picked a representation of the fees.

EXHIBIT 5

SPECIFIC PLAN PRIVATE AND PUBLIC IMPROVEMENTS

EXHIBIT 5

	TABLE 6.3 SPECIFIC PLAN PUBLIC AND PRIVATE IMPROVEMENT OBLIGATIONS				
	Obligation	Depiction	Trigger	Area Responsibility	Maintenance Responsibility
Public Roadways					
1	Road A (East of Mountain House)	Shown on Exhibit 6.2	Subdivision Mapping	Zone 3	City Of Tracy*
2	Road A (West of Mountain House)	Shown on Exhibit 6.2	Subdivision Mapping	Zone 2	City Of Tracy*
3	Road B (North Of Capital Parks)	Shown on Exhibit 6.2	Subdivision Mapping	Zone 3	City Of Tracy*
4	Road B (South Of Capital Parks)	Shown on Exhibit 6.2	Subdivision Mapping	Zone 1	City Of Tracy*
5	Road C	Shown on Exhibit 6.2	Subdivision Mapping	Zone 2	City Of Tracy*
6	Road D	Shown on Exhibit 6.2	Subdivision Mapping	Zone 2	City Of Tracy*
7	Road E (North Of Capital Parks)	Shown on Exhibit 6.2	Subdivision Mapping	Zone 3	City Of Tracy*
8	Road E (South Of Capital Parks)	Shown on Exhibit 6.2	Subdivision Mapping	Zone 1	City Of Tracy*
9	Road F (North of Capital Parks)	Shown on Exhibit 6.2	Subdivision Mapping	Zone 3	City Of Tracy*
10	Road F (South of Capital Parks)	Shown on Exhibit 6.2	Subdivision Mapping	Zone 1	City Of Tracy*
11	Road G	Shown on Exhibit 6.2	Subdivision Mapping	Zone 1	City Of Tracy*
12	Road H	Shown on Exhibit 6.2	Subdivision Mapping	Zone 1	City Of Tracy*
13	Road I	Shown on Exhibit 6.2	Subdivision Mapping	Zone 1	City Of Tracy*
14	Frontage Improvements Mountain House(Between Capital Parks/ I-205)	Shown on Exhibit 6.2	Subdivision Mapping	Zone 2 and 3 Along Frontage Behind Curb and Shared Intersections	City Of Tracy*
15	Frontage Improvements Mountain House(Between Capital Parks/ Delta	Shown on Exhibit 6.2	Subdivision Mapping	Zone 1 and 2 Along Frontage Behind Curb and Shared Intersections	City Of Tracy*
16	Frontage Improvements Mountain House(Between Delta/Old Shulte)	Shown on Exhibit 6.2	Subdivision Mapping	Zone 1	City Of Tracy*
17	Frontage Improvements Capital Parks	Shown on Exhibit 6.2	Subdivision Mapping	Zone 1 -5 Along Frontage and Shared Intersections	City Of Tracy*
18	Frontage Improvements New Shulte (East of Mountain House)	Shown on Exhibit 6.2	Subdivision Mapping	Zone 1	City Of Tracy*
19	Frontage Improvements Hanson (Between Capital Parks/ Delta Mendota)	Shown on Exhibit 6.2	Subdivision Mapping	Zone 1	City Of Tracy*
20	Frontage Improvements Hanson (Between Capital Parks/Old Schulte)	Shown on Exhibit 6.2	Subdivision Mapping	Zone 4	City Of Tracy*
21	Frontage Improvements Hanson Road (Between Capital Parks/ I-205)	Shown on Exhibit 6.2	Subdivision Mapping	Zone 4 and 5 Along Frontage and Shared Intersections	City Of Tracy*
22	Northern Frontage Improvements Old Schulte(East of Mountain House)	Shown on Exhibit 6.2	Subdivision Mapping	Zone 1	City Of Tracy*
Public Utilities					
1	Potable Water Pipelines	Shown on Exhibit 6.42	Subdivision Mapping	Zones 1-5 Based on Exhibit	City Of Tracy
2	Recycled Water Pipelines	Shown on Exhibit 6.43	Subdivision Mapping	Zones 1-5 Based on Exhibit	City Of Tracy
3	Sanitary Sewer Pipelines	Shown on Exhibit 6.44	Subdivision Mapping	Zones 1-5 Based on Exhibit	City Of Tracy
4	Landscaping and Bike Trails within Storm Drain and Basins	Shown on Exhibit 6.45	Subdivision Mapping	Zones 1-5 Based on Exhibit	City Of Tracy
5	Storm Drains Within Roads	Shown on Exhibit 6.45	Subdivision Mapping	Zones 1-5 Based on Exhibit	City Of Tracy
6	*All Joint Trench(electric, telecommunications, gas)	Shown on Exhibit 6.46	Subdivision Mapping	Zones 1-5 Based on Exhibit	City Of Tracy

TABLE 6.3 SPECIFIC PLAN PUBLIC AND PRIVATE IMPROVEMENT OBLIGATIONS					
	Obligation	Depiction	Trigger	Area Responsibility	Maintenance Responsibility
Private Improvements					
1	City Gateway Signage	Section 5.3	After First 650 acres of Development	Zone 1-4	Owners Association Per Exhibit 6.47
2	Entryway Signage	Section 5.4	At Time of Construction of Intersection	Zone 1-4	Owners Association Per Exhibit 6.47
3	Major Intersections	Section 5.5	At Time of Construction of Intersection	Based on Zone Location	Owners Association Per Exhibit 6.47
4	Minor Intersections	Section 5.6	At Time of Construction of Intersection	Based on Zone Location	Owners Association Per Exhibit 6.47
5	Central Green Bicycle Trails and Passive Park	Section 5.7	Recordation of First Map Adjacent to Central Green	Zone 1	Owners Association Per Exhibit 6.47
6	Eastside Park	Section 5.8	Recordation of First Map North to Eastside Park	Zone 1	Owners Association Per Exhibit 6.47
7	Street Frontage Landscape Behind Walks	Section 5.9	At time of Development of Each Adjacent Parcel Unless Otherwise Approved by Development Director	Based on Zone Location	Owners Association Per Exhibit 6.47
8	Drainage Easement Landscaping and Trails	Section 5.10	Landscaping and Trails shall be constructed by each adjacent parcel at time of development. Design shall be done on timing based on final approved wetlands mitigation plan.	Zone 1	Owners Association Per Exhibit 6.47
9	I-205 Frontage Landscaping	Section 5.11	At time of Development of Each Adjacent Parcel Unless Otherwise Approved by Development Director	Zone 2-5 (Based on Zone Location)	Owners Association Per Exhibit 6.47

****Road Improvements Include Required Intersections.***

***** Joint Trench in curb to curb program Roads to accommodate lighting and traffic Signals are considered program improvements***

This document was created with Win2PDF available at http://www.daneprairie.com.
The unregistered version of Win2PDF is for evaluation or non-commercial use only.

<u>EXHIBIT 6</u>

FORM OF ASSUMPTION AGREEMENT

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

____
____
____
Attention: ____________________

ASSIGNMENT AND ASSUMPTION AGREEMENT
(Development Agreement)

This Assignment and Assumption Agreement (Development Agreement) (the "**Agreement**") is made effective as of _________, ____, by and between _________________________________, a _______________________ ("**Assignor**"), and _________________________________, a _______________________ ("**Assignee**").

A. Assignor and the _______________, ___________________________ (the "**City**") entered into that certain Development Agreement, dated as of _____________, 2013 and recorded as Instrument No. ___________ on _____________ (the "**DA**"), relating to certain real property in located in the City of Tracy, County of San Joaquin, State of California (the "**Property**"). The Property is more particularly described in the DA. All capitalized terms used herein shall have the definitions given to them in the DA, unless otherwise expressly stated herein.

B. The DA provides for development of the Project (as that term is defined therein) on the Property, as more particularly described in the DA.

C. Assignor desires to assign to Assignee all of Assignor's rights and obligations as "Developer" under the DA with respect to the Property (the "**Assigned Interests**") and Assignee desires to assume from Assignor the Assigned Interests.

NOW, THEREFORE, in consideration of the promises and the mutual agreements and covenants set forth herein and intending to be legally bound hereby, Assignor and Assignee do hereby agree as follows:

1. Assignment. Assignor hereby assigns to Assignee all of Assignor's right, title and interest in and to the Assigned Interest.

2. Assumption. Assignee hereby assumes from Assignor all of Assignor's right, title and interest in and to the Assigned Interests relating to the period from and after the effective date of this Agreement, and agrees to perform all of Assignor's obligations as "Developer" under the DA with respect to the Assigned Interests relating to the period from and after the effective date of this Agreement.

3. Consent. The City has consented to such assignment and assumption pursuant to the Consent set forth in Exhibit A.

4. Severability. Any term or provision of this Agreement that is invalid or unenforceable in any situation shall no affect the validity or enforceability of the offending term or provision in any other situation.

5. Successors and Assigns. This Agreement shall be binding upon and inure solely to the benefit of the parties hereto and their permitted successors and assigns.

6. Applicable Law. This Agreement shall be governed by, and constructed in accordance with, the laws of the State of California, applicable to contracts executed in and to be performed entirely within that state, and without regard to the conflict of laws provisions thereof.

7. Counterparts. This Agreement may be executed in one (1) or more counterparts, each of which shall be deemed an original but all of which taken together shall constitute one and the same agreement.

IN WITNESS WHEREOF, Assignor and Assignee have caused this Agreement to be executed as of the date first written above by their respective officers thereunto duly authorized.

ASSIGNOR:

________________________,
a _____________________

By: _________________________
Name: _________________________
Title: _________________________

ASSIGNEE:

________________________,
a _____________________

By: _________________________
Name: _________________________
Title: _________________________

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____________)

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

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

WITNESS my hand and official seal.

Signature ______________________ (Seal)

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____________)

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

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

WITNESS my hand and official seal.

Signature ______________________ (Seal)

EXHIBIT A

CONSENT TO ASSIGNMENT AND ASSUMPTION

The CITY OF TRACY, a municipal corporation (the "**City**"), hereby consents to the Assignment and Assumption Agreement (Development Agreement) by and between ________________________________, a ________________________, as Assignor, and ________________________________, a __________________________________, as Assignee (the "**Assignment**"), to which this Consent to Assignment and Assumption is attached, and releases Assignor from obligations under the DA (as defined in the Assignment) relating to the period from and after the effective date of the Assignment.

CITY:

CITY OF TRACY, a municipal corporation

____

Development Services Director
Date:

APPROVED AS TO FORM:
City of Tracy City Attorney's Office

____

City Attorney
Date:

Attested:

____
Name: ________________
Secretary

Approved as to form:

By: _________________
Name: _________________
Title: _________________

CRBC\49447\906937.1

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____________)

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

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

WITNESS my hand and official seal.

Signature ______________________ (Seal)