

Exhibit 'A'

**AGREEMENT FOR DEFERRAL OF DEVELOPMENT IMPACT FEES BETWEEN
THE CITY OF KERMAN AND ALOO, LLC. A CALIFORNIA LIMITED LIABILITY COMPANY**

This Development Impact Fee Deferral Agreement ("Deferral Agreement") is made by and between the City of Kerman, a municipal corporation, ("City"), and Aloo, LLC, a California Limited Liability Company, ("Owner"). The City and Owner may hereinafter be individually referred to as "Party" and collectively as "Parties." The effective date of this Deferral Agreement shall be the last date set forth opposite the signatures of the parties and which is entered at the end of this Deferral Agreement.

RECITALS

A. Aloo, LLC., a California Limited Liability Company, hereinafter called "Owner" has applied for building permits for Site Plan Review (SPR) 2021-10 hereinafter called the "Project".

B. Development of the Project requires that certain permit fees are due and payable at or before the issuance of building permits, more specifically set forth in Exhibit 'A' currently estimated at \$93,840.03.

C. Owner has requested deferral payment of Development Impact Fees (DIF) totaling \$80,132.97 until the request for Certificate of Occupancy.

D. This Deferral Agreement allows Owner to defer the payment of the Development Impact Fees on the Project until request for a Certificate of Occupancy.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated herein by reference, the promises, conditions and covenants set forth in this Deferral Agreement, for the benefit of the health, safety and welfare of the public, the receipt of which is hereby acknowledged by both Parties, City and the Owner do hereby mutually understand and agree as follows:

Article A. BUILDING PERMITS AND FEE DEFERRAL

Notwithstanding the requirements of building permit that development impact fees are due and payable on or before the issuance of building permits, the Parties agree that such fees shall be paid in accordance with this Deferral Agreement.

1. Building Permits.

1.1 Upon the effective date of this Deferral Agreement, and upon submission of properly completed applications for building permits, payment of the permit fees (excluding the Deferred Fees described below), including, but not limited to normal and usual plan check fees as may be necessary to comply with current Uniform Building Codes, City will authorize the release of building permits to Aloo, LLC such that Owner may develop the Project consistent with Site Plan Review (SPR) 2021-10.

2. Deferral of Fees.

2.1 Impact Fees. The Parties acknowledge and understand that Development Impact Fees, as identified in Exhibit 'A', are set at \$80,132.97.

2.3 Deferral of Fees. City agrees to defer the collection of the Development Impact Fees in connection with development of the Project until such time as a Certificate of Occupancy is requested (collectively "Deferred Fees").

3. Conditions Precedent for Issuance of Certificates of Occupancy.

3.1 Upon completion of the construction of the Project, including the construction of any improvements legally required for the safe and convenient occupancy of the site, and upon receiving satisfactory final inspections, Owner may apply for a certificate of occupancy. As conditions precedent (collectively "Conditions Precedent") to City's obligation to issue a Certificate of Occupancy for the Project, Owner shall provide, to the satisfaction of City the following:

- a. Written evidence in a form reasonably acceptable to City that Kerman Unified School District development impact fees have been paid for; and
- b. Payment of City of Kerman Development Impact Fees specified in Exhibit 'A' attached hereto at the rate in effect at the time of payment; and
- c. Payment of County of Fresno Facilities Impact Fees and the Regional Transportation Mitigation Fees in effect at the time of payment.

Article B. MISCELLANEOUS PROVISIONS

1. If either Party is required to commence any proceeding or legal action to enforce or interpret any term, covenant or condition of this Deferral Agreement, the prevailing Party in such proceeding or action shall be entitled to recover from the other Party its reasonable attorneys' fees and legal expenses.

2. The waiver by either Party of a breach by the other of any provision of this Deferral Agreement shall not constitute a continuing waiver or a waiver of any subsequent breach of either the same or a different provision of this Deferral Agreement. No provision or provisions of this Deferral; Agreement may be waived unless in writing and signed by all Parties. Waiver of any one provision herein shall not be deemed to be a waiver of any other provision herein.

3. This Deferral Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of California, excluding, however, any conflict of laws rule which would apply the law of another jurisdiction. Venue for purposes of the filing of any action regarding the enforcement or interpretation of this Improvement Agreement and any rights and duties hereunder shall be Fresno County, California.

4. Each Party acknowledges that it has read and fully understands the contents of this Deferral Agreement. This Deferral Agreement, together with any exhibits and referenced drawings, plans and other documents, represents the entire and integrated agreement between the Parties with respect to the subject matter hereof and supersedes all prior negotiations, representations or agreements, whether written or oral. The City and Owner agree that the entirety of this Deferral Agreement shall be interpreted and construed as jointly drafted by their respective legal counsel. This Deferral Agreement may be modified only by written instrument duly authorized and executed by both the City and Owner.

5. Owner hereby warrants that any and all parties having record title interest in the Project which may ripen into a fee have subordinated to this Deferral Agreement and that all such instruments of subordination, if any, are attached hereto and made a part of this Deferral Agreement.

6. Owner shall not assign this Deferral Agreement unless prior written approval has been granted by the City.

7. This Deferral Agreement may be executed in counterparts each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

[Signatures Contained on the Following Page]

The Parties have executed this Deferral Agreement on the day or days and year written below.

CITY

OWNER

CITY OF KERMAN
A Municipal Corporation

ALOO, LLC.
A California Limited Liability Company

By: _____
John Jansons, City Manager

By: _____
Sunita Sagar, Owner/Shareholder

Date: _____, 2022

Date: _____, 2022

ATTEST:

Marci Reyes,
City Clerk

By: _____

Date: _____, 2022

APPROVED AS TO FORM:

Hilda Cantú Montoy
City Attorney

Date: _____, 2022