I  CALL TO ORDER: Welcome to the Three Rivers Levee Improvement Authority (TRLIA) meeting. As a courtesy to others, please turn off cell phones, pagers, or other electronic devices which might disrupt the meeting. Thank you.

II  ROLL CALL – Directors Rick Brown, Jerry Crippen, Don Graham, Mary Jane Griego, John Nicoletti

III  CLOSED SESSION

1) Pending litigation pursuant to Government Code §54956.9(a) – TRLIA vs. Naumes, Inc., et al., YCSCCVED 09-0000361, APN Nos. 014-250-027, 014-250-028, 014-240-008, 104-240-014,023-180-007, 023-180-009

2) Pending litigation pursuant to Government Code §54956.9(a) – TRLIA vs. Herold, et al., YCSCCVED 09-0000241, APN No. 016-010-009

3) Pending litigation pursuant to Government Code §54956.9(a) – TRLIA vs. Davit, et al., Superior Court Case No. YCSCCVED 07-000437, Court of Appeal Case No. C060898, APN No. 013-010-014

4) Conference with real property negotiators pursuant to Government Code §54956.8 – Property: APN: 018-020-004, Negotiating Parties: DiGiordana/TRLIA/Bob Morrison: Price and Terms:


IV  PUBLIC COMMUNICATIONS: Any person may speak about any subject of concern provided it is within the jurisdiction of the Levee Improvement Authority and is not already on today’s agenda. The total amount of time allotted for receiving such public communication shall be limited to a total of 15 minutes and each individual or group will be limited to no more than 5 minutes. Prior to this time, speakers are requested to fill out a “Request to Speak” card and submit it to the Clerk of the Board of Supervisors.

V  CONSENT AGENDA: All matters listed under the consent agenda are considered to be routine and can be enacted by one motion.

A Approve Amendment No. 11 with GEI Consulting in the amount of $864,936 for Phase 4 Feather River Levee Repairs, and authorize Executive Director to execute same.

B Approve Amendment extending contract with Peterson Consulting, Inc. in the amount of $60,000 to provide lobbying services for the time period of January 1, 2009 through December 31, 2009, and authorize the Chairman to execute same.
C. Approve Amendment No. 5 with PBS & J/EIP Associates in the amount of $283,570 for environmental services and authorize the Executive Director to execute same.

D. Approve Amendment No. 8 with Bender Rosenthal, Inc. in the amount of $569,000 for Upper Yuba River work from Simpson Lane to the Goldfields; extend contract to December 30, 2010, and authorize Executive Director to execute same.

E. Approve minutes of the meeting of June 2, 2009.

VI ACTION ITEMS

A. Adopt resolution by the Board of Three Rivers Levee Improvement Authority approving findings in support of and approving an Addendum No. 3 to the Feather River Levee Repair Project Final EIR, pursuant to the California Environmental Quality Act, Public Resources Code, Section 21000 et seq.

B. Adopt resolution of the Three Rivers Levee Improvement Authority Declaring the Public Necessity for acquisition of the entire property owned by Eleanor Herold located at 2052 Feather River Boulevard for Three Rivers Phase 4 Levee Repair Project (Assessor's Parcel Number 016-010-009).

C. Adopt resolution approving development agreements for the purposes of releasing parties from the conditions of the prior funding agreements; to set forth terms associated with the issuance of refunding bonds; and to clarify the use of the Special Tax revenues with the following:
   1. Cresleigh Homes Corporation relative to development known as Plumas Ranch and Woodside Village;
   2. Patrick Laughlin, David Lanza and Ranjit Khagura relative to development known as Draper Ranch North;
   3. Plumas Lake Riverside Meadows, LP relative to the development known as Riverside Meadows;
   4. Landsource Holding Company, LLC relative to the development known as Rio Del Oro Village 15;
   5. MS Rialto River Oaks CA, LLC relative to the development known as River Oaks East;
   6. River Landings Investments, LLC relative to the development known as Rio Del Oro Village 14;
   7. KB Home Sacramento, Inc. relative to the development known as Hawes Ranch Estates and Plumas Lake-Cobblestone;

D. Receive proposed Budget for Fiscal Year 2009-2010, set budget hearings for Tuesday, July 21, 2009 commencing at 3:00 p.m., and direct copies be made available to the public.

VII ADJOURN

The complete agenda, including backup material, is available at the Yuba County Government Center, 915 8th Street, Suite 109, the County Library at 303 Second Street, Marysville, and www.trlia.org. Any disclosable public record related to an open session item on the agenda and distributed to all or a majority of the Board of Directors less than 72 hours prior to the meeting are available for public inspection at Suite 109 during normal business hours.

In compliance with the American with Disabilities Act, the meeting room is wheelchair accessible and disabled parking is available. If you have a disability and need disability-related modifications or accommodations to participate in this meeting, please contact the Clerk of the Board's office at (530) 749-7510 or (530) 749-7353 (fax). Requests must be made one full business day before the start of the meeting.
June 16, 2009

TO: Three Rivers Levee Improvement Authority Board
FROM: Paul Brunner, Executive Director
       Ric Reinhardt, Program Manager

SUBJECT: Approve Amendment 11 GEI Contract for Cultural Site (CA-YUB-1677) Redesign and Permitting; Additional Construction Management and Project Management due to Extended Construction Period; Additional Evaluation of Conditions on Naumes Property; Additional Effort for SMARA Permitting; Additional O&M Manual Addendum for Feather Segments 1 and 3; Additional Effort for Feather Segment 1 Crack (Design of Repair / Construction Management / Construction Report Addendum); and Feather River Levee FEMA Certification

Recommended Action:
Approve $864,936 Amendment 11 to the existing contract with GEI for the TRLIA Phase 4, Feather River for Cultural Site (CA-YUB-1677) redesign and permitting, additional construction management and project management efforts due to extended construction period, additional evaluation of conditions on Naumes Property, additional effort for SMARA Permitting, additional O&M Manual Addendum for Feather Segments 1 and 3, additional effort for Feather Segment 1 Crack (Design of Repair / Construction Management / Construction Report Addendum), and Feather River Levee FEMA Certification and authorize the executive director to execute.

Discussion:
Cultural Site (CA-YUB-1677) Redesign and Permitting: Studies have been on-going to evaluate the cultural site discovered in late 2008 near the south tie-in. This contract amendment addresses several activities for this site, some of which have been completed or are ongoing. An evaluation of alternatives was conducted to address the cultural site, and a memorandum was prepared that included a summary of findings, a description of alternatives evaluated, and the basis for comparative evaluation of the alternatives including impacts on cost, schedule, real estate acquisition, environmental, permitting, design, and construction. Cultural site testing and reporting is required to assess the limits and significance of the cultural site, determine the site eligibility for listing on the National Register of Historic Places (NRHP), prepare finding of effect, and amend the existing HPTP. Based on current understanding of the anticipated levee design modifications, it is thought that the levee redesign will not result in any new significant impacts not already
identified in the existing FRLRP environmental impact report (EIR), and will not result in a substantial increase in the severity of impacts already described in the existing EIR. Based on this assumption, either a letter report to file or an addendum to the EIR will be the appropriate CEQA documentation for project modifications to address the cultural site. Levee design modifications will require preparation of revised drawings, additional settlement analyses, review meetings with regulatory reviewers, and responses to regulatory reviewers' comments on the proposed modifications. Archaeological and Native American monitors will be provided during specific construction activities in the vicinity of the cultural site, as described in the recently completed protocols memorandum. The estimated cost for alternatives evaluations, site archeological investigations, design of setback levee modifications, permitting impacts, and construction management of the modified levee features in connection with the cultural site is $453,436.

Additional Construction Management and Project Management due to Extended Construction Period: Contract Amendment No. 7 dated March 2008 increased GEI's Project Management (PM) budget to address PM support to TRLIA through August 2008. PM requirements have continued beyond August 2008, and are expected to continue for some time to address numerous new issues. The original scope for Segment 1 and 3 Construction Management (CM) services prepared in August 2007 assumed that all of Segment 3 would be constructed in 2007, and all of Segment 1 would be constructed in 2008. Due to TRLIA budget constraints, the assumed CM times have been extended. The construction duration assumed in establishing the original CM budget was 8.5 months (3.5 months in 2007, 5 months in 2008), while the actual construction schedule was over 12 months (3 months in 2007 and over 9 months in 2008/2009). The original scope of work assumed that Segment 2 setback levee construction would begin in spring 2008 and efficiencies with combining staff for both projects (e.g. shared construction manager, cost control engineer, administrative support, and inspectors) were assumed in the budget. However, the Segment 2 setback levee construction did not begin until June 2008, and consequently during the first half of 2008 the assumed efficiencies were not realized. The estimated cost for the PM and CM extended efforts is $191,000.

Additional Evaluation of Conditions on Naumes Property: In early 2009 stained soil with moderate petroleum odor was observed on Naumes property within the setback area. GEI prepared a brief work plan, collected soil samples of the stained soil and surrounding and underlying areas, conducted chemical laboratory analyses of the soil samples, and is preparing a summary memorandum. In support of TRLIA's right-of-way agent's evaluation of project impacts to landowner Naumes, TRLIA requested that GEI prepare a preliminary design of a small pump station to mitigate for potential ponding in a portion of the remaining Naumes property in a low area crossed by the setback levee. The cost for preparation of these additional documents is $35,400.

Additional Effort for SMARA Permitting: The original scope of work and budget for setback levee design and permitting assumed that the project was exempt from SMARA, Subsequently it has been determined that portions of the project are not exempt from
SMARA and the GEI team has been supporting TRLIA by preparing text and figure input to the Reclamation Plan and supporting TRLIA during coordination with the SMGB. The estimated cost of this on-going effort is $35,000.

**Additional O&M Manual Addendum for Feather Segments 1 and 3:** The original Segment 1 and 3 levee strengthening scope of work did not include preparation of an Operation and Maintenance (O&M) Addendum since it was assumed that a single document would be prepared for the entire Feather River Levee Repair Project, including Segment 2 setback levee. TRLIA's Work Plan for the DWR Early Implementation Project (EIP) includes separate O&M Addendums for Segments 1 and 3 and Segment 2 setback levee, and therefore a separate O&M manual addendum for the Segments 1 and 3 strengthening has been prepared and issued to the Corps, DWR, and CVFPB. The estimated cost for this effort is $25,000.

**Additional Effort for Feather Segment 1 Crack (Design of Repair / Construction Management / Construction Report Addendum):** Amendment No. 10 included costs for evaluating the crack that developed in the Segment 1 levee. At the time Amendment No. 10 was prepared, the need for and extent of required repairs was not known and therefore costs were not included. Based on meetings and input from the Corps, DWR and CVFPB reviewers, it appears that repairs will be needed and will require design development, construction management, and preparation of a construction report addendum. Estimated cost for these efforts is $50,000.

**Feather River Levee FEMA Certification:** When the Segment 1 and 3 levee repair design budget was prepared in April 2006, it was assumed that the Corps of Engineers would certify the levee, similar to the approach taken for the Bear River Setback Levee. Subsequently, the Corps position on certification has become complicated, and TRLIA has requested that GEI begin initiating the FEMA certification process for Segments 1 and 3. The estimated cost for this effort is $75,100. This assumes a similar level of effort required for certification of the Feather River Segment 1 and 3 levees to that approved for the Segment 2 levee in Amendment No. 5.

Amendment 11, attached, is authorization to accomplish the efforts described above. It would increase GEI's current contract by $864,936 for a total of $20,822,934. Greater detail on efforts and costs is described in Exhibit A of the attached Amendment 11.

**Fiscal Impact:**
The contract amendment would increase the existing contract by $864,936 for services on a time-and-expenses basis, to a maximum amount not exceeding a total contract of $20,822,944 for Design and CM Services without prior authorization by TRLIA. These additional services will be paid for from TRLIA Program contingencies, which are currently $7.5 million.
AMENDMENT NO. II

AGREEMENT FOR PROFESSIONAL SERVICES
FOR
PHASE 4 FEATHER RIVER LEVEE REPAIRS
BETWEEN
THREE RIVERS LEVEE IMPROVEMENT AUTHORITY AND
BOOKMAN-EDMONSTON/GEI CONSULTANTS

THIS AMENDMENT TO AGREEMENT is made effective May 15, 2009, by and between Three Rivers Levee Improvement Authority ("TRLIA") and Bookman-Edmonston/GEI Consultants, a division of GEI Consultants, Inc. ("Contractor"), who agree as follows:

1. **Recitals.** This Amendment is made with reference to the following background recitals:

   1.1. Effective December 13, 2005, the parties entered into the Agreement for Professional Services relating to TRLIA’s Phase 4 Feather River Levee project with a contract value of $1,439,400.

   1.2. Effective April 25, 2006, the parties entered into Amendment No. 1 to the Agreement for Professional Services relating to TRLIA’s Phase 4 Feather River Levee Repair design in the amount of $3,082,240 for a total contract value of $4,521,640.

   1.3. Effective June 27, 2006, the parties entered into Amendment No. 2 to the Agreement for Professional Services relating to TRLIA’s Phase 4 Feather River Levee Repair design in the amount of $32,700 for a total contract value of $4,554,340.

   1.4. Effective October 30, 2006, the parties entered into Amendment No. 3 to the Agreement for Professional Services relating to TRLIA’s Phase 4 Feather River Levee Repair design in the amount of $262,500 for a total contract value of $4,816,840.

   1.5. Effective January 16, 2007, the parties entered into Amendment No. 4 to the Agreement for Professional Services relating to TRLIA’s Phase 4 Feather River Levee Repair design in the amount of $115,000 for a total contract value of $4,931,840.

   1.6. Effective April 3, 2007, the parties entered into Amendment No. 5 to the Agreement for Professional Services relating to TRLIA’s Phase 4 Feather River Setback Levee design in the amount of $5,860,244 for a total contract value of $10,792,084.

   1.7. Effective September 18, 2007, the parties entered into Amendment No. 6 to the Agreement for Professional Services relating to TRLIA’s Phase 4 Feather
River Setback Levee design in the amount of $1,963,660 for a total contract value of $12,755,744.

1.8. Effective April 15, 2008, the parties entered into Amendment No. 7 to the Agreement for Professional Services relating to TRLIA’s Phase 4 Feather River Setback Levee design in the amount of $636,300 for a total contract value of $13,392,044.

1.9. Effective June 17, 2008, the parties entered into Amendment No. 8 to the Agreement for Professional Services relating to TRLIA’s Phase 4 Feather River Setback Levee design in the amount of $5,671,000 for a total contract value of $19,063,044.

1.10. Effective September 8, 2008, the parties entered into Amendment No. 9 to the Agreement for Professional Services relating to TRLIA’s Phase 4 Feather River Setback Levee design in the amount of $358,200 for a total contract value of $19,421,244.

1.11. Effective November 18, 2008, the parties entered into Amendment No. 10 to the Agreement for Professional Services relating to TRLIA’s Phase 4 Feather River Setback Levee design in the amount of $536,764 for a total contract value of $19,958,008.

1.12. The parties now desire to amend the Professional Services Agreement to expand scope of services and base contract fee.

2. **Eleventh Amendment to Agreement.** The Professional Services Agreement is hereby amended as follows:

2.1. The scope of services (Attachment A to the Agreement for Professional Services between TRLIA and B-E/GEI, dated December 13, 2005) is amended to expand the scope of work as described by letter dated May 15, 2009 (Exhibit A) to address cultural resource investigations, design modifications, and construction monitoring related to the recently discovered cultural site on the Segment 2 setback levee project, as well as other additional/out of scope work items for the Feather River Levee Repair Project.

2.2. The payment, budget, and not-to-exceed amounts (Professional Services Agreement Attachment B) are amended by the attached Exhibit A to include the additional amount of $864,936 for a total contract of $20,822,944.
3. **No Effect on Other Provisions.** Except for the amendments in Section 2, the remaining provisions of the Professional Services Agreement shall be unaffected and remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on ________________, 2009.

THREE RIVERS LEVEE IMPROVEMENT AUTHORITY OF YUBA COUNTY

BOOKMAN-EDMONSTON, A DIVISION OF GEI CONSULTANTS, INC.

Paul G. Brunner
Executive Director

Raymond D. Hart
Senior Vice President

ATTEST:

DONNA STOTTERMeyer
SECRETARY, THREE RIVERS

APPROVED AS TO FORM:

SCOTT L. SHAPIRO
GENERAL COUNSEL, TRLIA

________________________

ANDREW C. RIAL FOR SCOTT SHAPIRO
May 15, 2009
050115

Mr. Paul Brunner, Executive Director
Three Rivers Levee Improvement Authority
1114 Yuba Street, Suite 218
Marysville, CA 95901

Re: Agreement for Professional Services on Three Rivers Levee Improvement Authority's Phase 4 Feather River Levee Repair Project – Request for Amendment No. 11

Dear Mr. Brunner:

In follow up to recent conversations with Mr. Larry Dacus, TRLIA Design Manager, the purpose of this letter is to present scope of work and cost estimates for addressing out-of-scope and additional work items for TRLIA’s Phase 4- Feather River Levee Repair Project. These work items include recent discoveries that require additional design, permitting, and construction management efforts, services not included in our current scope of work, and changes due to construction schedule delays and increased duration.

Specifically, this budget adjustment request addresses the following items:

**Levee Segment 2, Setback Levee:**
1. Flores Cultural Site (CA-YUB-1677) Design, Permitting, and Construction Management
2. Corps of Engineers Requested Weekly QA/QC Plots
3. Evaluation of Stained Soil at the Naumes Property
4. Evaluation of Pump Station at Naumes Low Lands
5. SMARA Permitting
6. Additional Project Management Support

**Levee Segments 1&3 Strengthening:**
1. Construction Management
2. Segment 1 and 3 O&M Manual Addendum
3. Segment 1 Crack - Design of Repair / Construction Management / Construction Report Addendum
4. FEMA Certification

Exhibit A
The basis for the requested adjustment in scope for Levee Segment 2 is included in Attachment 1, and for Levee Segments 1 and 3 in Attachment 2. The cost estimates for these additional work items is included in Attachment 3. Please note that at this time we have not included an adjustment request for construction schedule impacts to the Segment 2 construction management budget. The construction schedule for Segment 2 has deviated significantly from our understanding of the schedule at the time we prepared the construction management budget in May 2008. We will continue to monitor the construction management budget and will communicate budget needs to TRLIA in the event that a future adjustment is required.

In summary, we estimate a net budget increase of $864,936 is needed to address the out-of-scope and additional work items described in Attachments 1 and 2. GEI's 2009 fee schedule is included as Attachment 4. The scope and budget adjustments contained herein represent our best estimate at this time. Uncertainties remain in regard to some of the above activities and associated coordination with and approvals by the DWR, Corps, CVFPB, and resource agencies. These uncertainties will be resolved as the project continues through the construction process. Additional project changes beyond our control could become apparent during this process and necessitate a further scope and budget adjustment. With this said, we strive to conduct our work as efficiently as possible. Our estimated cost is considered a budget and not a target. We will manage our efforts and strive to keep actual costs under the approved budget.

We are pleased with the opportunity to work with you and your staff during the implementation phase of this vitally important project. Please call me or Dan Wanket if you have any questions.

Sincerely,

GEI Consultants,

Alberto Pujol, P.E., G.E
Project Manager

Attachment 1, 2, 3 and 4

C: Larry Dacus and Ric Reinhardt (TRLIA/MBK Engineers)
   Ray Hart and Dan Wanket (GEI Consultants)
ATTACHMENT 1
FEATHER RIVER LEVEE REPAIR PROJECT, SEGMENT 2 SETBACK LEVEE
OUT OF SCOPE AND ADDITIONAL WORK ITEMS

1. Flores Cultural Site (CA-YUB-1677) Design, Permitting, and Construction Management: Studies have been on-going to evaluate the cultural site discovered in late 2008 on the Flores property near the south tie-in. This contract amendment addresses the following activities, some of which have been completed or are on-going:

Alternatives Evaluation – An evaluation of alternatives was conducted to address the cultural site, and a memorandum was prepared that included a summary of findings, a description of alternatives evaluated, and the basis for comparative evaluation of the alternatives including impacts on cost, schedule, real estate acquisition, environmental, permitting, design, and construction. The memorandum was presented and discussed with technical reviewers (Corps, DWR, CVFPB) and Enterprise Rancheria. Based on the findings presented in the memo, and input from the technical reviewers and Enterprise, it was determined that Alternative 3, Levee Widening would be implemented. The work associated with the alternatives evaluation has been completed.

Cultural Site Testing and Reporting – Cultural site testing and reporting is required to assess the limits and significance of the cultural site, determine the site eligibility for listing on the National Register of Historic Places (NRHP), prepare finding of effect, and amend the existing HPTP. Specific work items completed and in progress include:

- Site testing including test trenches to delineate the aerial extent of the site (work completed)
- Preparation of Archaeological and NRHP Assessment report, including finding of significance (in progress – draft report completed)
- Development of protocols to mitigate project impacts to the site (first draft prepared and submitted to Enterprise)
- Preparation of Finding of Effect (in progress)
- Preparation of an addendum to the existing Historic Properties Treatment Plan (HPTP) (in progress)

CEQA Compliance / Regulatory Coordination – Based on our current understanding of the anticipated levee design modifications, we believe the levee re-design would not result in any new significant impacts not already identified in the existing FRLRP environmental impact report (EIR), and would not result in a substantial increase in the severity of impacts already described in the existing EIR. Based on this assumption, either a letter report to file or an addendum to the EIR would be the appropriate CEQA documentation for project modifications to address the cultural site. If it is determined that an addendum is necessary to address the required additional land acquisition, the team would prepare a Notice of Decision (NOD), and deliver the NOD to the State Clearinghouse. In addition, the team will
continue to provide support to TRLIA for Section 106 compliance issues, as well as 404 mitigation, 2081 permitting, and elderberry relocations. This may include reviewing documents, providing input on a strategy or approach, and providing miscellaneous documents or information.

**Design of Levee Modifications** – Levee design modifications will require preparation of revised drawings, additional settlement analyses, review meetings with regulatory reviewers, and responses to regulatory reviewers’ comments on the proposed modifications. At this time we believe the design modifications will require revisions to at least 30 of the setback levee design drawings. This work is in progress.

**Archaeological and Native American Monitoring During Construction** – Archaeological and Native American monitors will be provided during specific construction activities in the vicinity of the cultural site, as described in the recently completed protocols memorandum. Consistent with monitoring requirements for site CA-YUB-5 to the north, and to provide a basis for the estimated cost, we have assumed monitoring for up to 25 days at 10 hours per day. A construction monitoring report will be prepared and submitted to the Corps by the EDAW archaeologist and the Native American representative.

The estimated cost for alternatives evaluations, site archeological investigations, design of setback levee modifications, permitting impacts, and construction management of the modified levee features in connection with the cultural site is $453,436 as shown in Tables 2 and 4 of Attachment 3.

2. **Corps of Engineers Requested Weekly QA/QC Plots:** In an e-mail dated February 23, 2009, the Corps of Engineers provided a list of requested information in response to TRLIA’s request for Corps consideration in allowing TRLIA to begin existing levee degradation in 2009 prior to completion of setback levee construction. One of the items requested by the Corps is a weekly update of QA/QC statistical plots and summary tables. At TRLIA’s request, GEI prepared an initial package for the 2008 construction work, and we have begun updating the statistical plots weekly and are providing the information with the weekly construction meeting minutes. The estimated cost of $26,000 shown in Table 2 of Attachment 3 assumes that the weekly updates will be prepared through October 2009.

3. **Evaluation of Stained Soil at Naumes Property:** In early 2009 stained soil with moderate petroleum odor was observed on Naumes property within the setback area. In order to evaluate the condition of the soil and recommendations for disposal, GEI prepared a brief work plan, collected soil samples of the stained soil and surrounding and underlying areas, conducted chemical laboratory analyses of the soil samples, and is preparing a summary memorandum. With the exception of the final summary memorandum, all work has been completed. The estimated cost is $12,600 as shown in Table 2 of Attachment 3.

4. **Evaluation of Pump Station at Naumes Low Lands:** In support of TRLIA’s right-of-way agent’s evaluation of project impacts to landowner Naumes, TRLIA requested that GEI prepare a preliminary design of a small pump station to mitigate for potential
ponding in a portion of the remaining Naumes property in a low area crossed by the setback levee. The preliminary design was prepared and submitted to TRLIA’s right-of-way agent in February 2009. We understand that TRLIA’s current position is that Naumes will be compensated for the cost of pump station, and that detailed designs will not be required and therefore this activity is considered complete. The estimated cost for preparation of the preliminary design is $22,800 as shown in Table 2 of Attachment 3.

5. **SMARA Permitting:** The original scope of work and budget for setback levee design and permitting prepared in February 2007 assumed that the project was exempt from SMARA, consistent with determinations made for the Bear River Setback Levee and Feather River Levee Segments 1 and 3 strengthening projects. Subsequently it has been determined that portions of the project are not exempt from SMARA, and the GEI team has been supporting TRLIA by preparing text and figure input to Reclamation Plan, reviewing documents prepared by other TRLIA team members, reviewing and providing responses to comments provided by the State Mining and Geology Board (SMGB), and supporting TRLIA at meetings with the SMGB. The estimated cost of this on-going effort is $35,000 as shown in Table 2 of Attachment 3.

6. **Project Management:** Contract Amendment No. 7 dated March 2008 increased GEI’s PM budget to address PM support to TRLIA through August 2008. PM requirements have continued beyond August 2008, and are expected to continue for some time to address issues such as GEI team coordination with TRLIA, support to TRLIA for EIP grant fund reporting, support to TRLIA’s EIP grant applications, and other coordination requirements with TRLIA and regulatory agencies. The estimated cost is $50,000 as shown in Table 2 of Attachment 3.
1. **Construction Management:** The original scope for Segment 1 and 3 CM services prepared in August 2007 assumed that all of Segment 3 would be constructed in 2007, and all of Segment 1 would be constructed in 2008. Due to TRLIA budget constraints, only a portion of Segment 3 was constructed in 2007. In summary, the construction duration assumed in establishing the original CM budget was 8.5 months (3.5 months in 2007, 5 months in 2008), while the actual construction schedule was over 12 months (3 months in 2007 and over 9 months in 2008/2009). In addition, several unanticipated issues developed during construction that needed to be addressed, including the Segment 3 cutoff trench cave-in, the portion of Segment 3 cutoff wall with slightly higher than specified permeability, and the waterside blanket extension in Segment 1. Finally, the original scope of work assumed that Segment 2 setback levee construction would begin in spring 2008 and efficiencies with combining staff for both projects (e.g. shared construction manager, cost control engineer, administrative support, and inspectors) were assumed in the budget. However, the Segment 2 setback levee construction did not begin until June 2008, and consequently during the first half of 2008 the assumed efficiencies were not realized. The estimated cost is $115,000 as shown in Table 3 of Attachment 3.

2. **Segment 1 and 3 O&M Manual Addendum:** The original Segment 1 and 3 levee strengthening scope of work did not include preparation of an Operation and Maintenance (O&M) Addendum since it was assumed that a single document would be prepared for the entire Feather River Levee Repair Project, including Segment 2 setback levee. TRLIA’s Work Plan for the DWR Early Implementation Project (EIP) includes separate O&M Addendums for Segments 1 and 3 and Segment 2 setback levee, and therefore a draft O&M manual addendum for the Segment 1 and 3 strengthening has been prepared and issued to the Corps, DWR, and CVFPB. The estimated cost is $25,000 as shown in Table 3 of Attachment 3. This estimated cost includes actual costs incurred to date in preparing the draft addendum and an estimate to complete the addendum once regulatory comments are received.

3. **Segment 1 Crack - Design of Repair / Construction Management / Construction Report Addendum:** Budget Adjustment No. 10 included costs for evaluating the crack that developed in the Segment 1 levee. At the time Budget Adjustment No. 10 was prepared, the need for and extent of required repairs was not known and therefore costs were not included. Based on meetings and input from the Corps, DWR and CVFPB reviewers, it appears that repairs will likely be focused on the landside slope of the levee as described in the April 2009 comprehensive report. Assuming a repair scheme similar to that shown in the April 2009 report, the estimated cost for design development, construction management, and preparation of a construction report addendum is $50,000 as shown in Table 3 of Attachment 3.
4. **FEMA Certification**: When the Segment 1 and 3 levee repair design budget was prepared in April 2006, it was assumed that the Corps of Engineers would certify the levee, similar to the approach taken for the Bear River Setback Levee. Subsequently, the Corps position on certification has become complicated, and TRLIA has requested that GEI begin initiating the FEMA certification process for Segments 1 and 3. The estimated cost of $75,100 shown in Table 3 of Attachment 3 assumes a similar level of effort required for certification of the Feather River Segment 1 and 3 levee to that approved for the Segment 2 levee in Contract Adjustment No. 5.
Attachment 3

Cost Estimate Tables
### Table 1: Cost Summary - GEI Contract Amendment No. 11
Three River Levee Improvement Authority
Feather River Levee Repair Project
*Revised 5/4/09*

<table>
<thead>
<tr>
<th>Item</th>
<th>Estimated Cost</th>
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<tr>
<td><strong>Segment 2 - Setback Levee</strong></td>
<td></td>
</tr>
<tr>
<td>Flores Cultural Site (CA-YUB-1677) Design, Permitting and Construction Management</td>
<td>$453,436</td>
</tr>
<tr>
<td>Corps of Engineers Requested Weekly QA/QC Statistical Plots</td>
<td>$26,000</td>
</tr>
<tr>
<td>Evaluation of Stained Soil @ Naumes Property</td>
<td>$12,600</td>
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<td>Evaluation of Pump Station @ Naumes Low Lands</td>
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<td>SMARA Permitting</td>
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<td><strong>Segment 2 Subtotal</strong></td>
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</tbody>
</table>

| **Segment 1 and 3** | |
| Construction Management | $115,000 |
| Segment 1 and 3 O&M Manual Addendum | $25,000 |
| Segment 1 Crack - Design of Repair / Construction Management / Construction Report Addendum | $50,000 |
| FEMA Certification | $75,100 |
| **Segment 2 Subtotal** | **$265,100** |

Total Cost - Contract Amendment No. 11 $864,936
### Table 2
**Feather River Levee Repair Project, Segment 2 Setback Levee**
**Out of Scope Additional Work Items**
**Revised 5/4/09**

<table>
<thead>
<tr>
<th>Work Item</th>
<th>Estimated Cost for Out-of-Scope Items</th>
<th>Comments/Assumptions</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Hours</td>
<td>Rate</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Segment 2 Setback Levee</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Flores Cultural Site (CA-YUB-1677) Design, Permitting and Construction Management</td>
<td>1192</td>
<td>176,736</td>
</tr>
<tr>
<td>Corps of Engineers Requested Weekly QA/QC Statistical Plots</td>
<td>208</td>
<td>125</td>
</tr>
<tr>
<td>Evaluation of Stained Soil @ Naumes Property</td>
<td>80</td>
<td>120</td>
</tr>
<tr>
<td>Evaluation of Pump Station @ Naumes Low Lands</td>
<td>120</td>
<td>160</td>
</tr>
<tr>
<td>SMARA Permitting</td>
<td>160</td>
<td>200</td>
</tr>
<tr>
<td>Project Management</td>
<td>250</td>
<td>200</td>
</tr>
<tr>
<td><strong>Total Cost</strong></td>
<td>313,536</td>
<td>16,600</td>
</tr>
</tbody>
</table>
Table 3
Feather River Levee Repair Project, Segment 1 and 3
Out of Scope / Additional Work Items
Revised 5/4/09

<table>
<thead>
<tr>
<th>Work Item</th>
<th>Estimated Cost to Complete Project (post 3/28/09)</th>
<th>Comments/Assumptions</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>GEI Costs</td>
<td>Subcontracted</td>
</tr>
<tr>
<td></td>
<td>Hours</td>
<td>Rate</td>
</tr>
<tr>
<td>Segment 1 &amp; 3 Levee Strengthening</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Construction Management</td>
<td>720</td>
<td>150</td>
</tr>
<tr>
<td>Segment 1 and 3 O&amp;M Manual Addendum</td>
<td>150</td>
<td>160</td>
</tr>
<tr>
<td>Segment 1 Crack - Design of Repair / Construction Management / Construction Report Addendum</td>
<td>320</td>
<td>150</td>
</tr>
<tr>
<td>FEMA Certification</td>
<td>180</td>
<td>200</td>
</tr>
<tr>
<td>Total Cost</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Table 4
Flores Cultural Site (CA-YUB-1677)
Estimated Cost - Design, Permitting, Archealogical Monitoring During Construction
Revised 5/4/09

<table>
<thead>
<tr>
<th>Item</th>
<th>GEI Estimated Level of Effort</th>
<th>Estimated Cost</th>
<th>Total Estimate Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Labor Cost</td>
<td>EDAW Subcontract</td>
</tr>
<tr>
<td>Design</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Alternatives Evaluation</td>
<td>136</td>
<td>$22,064</td>
<td>$1,000</td>
</tr>
<tr>
<td>Analyses</td>
<td>320</td>
<td>$49,064</td>
<td>$1,000</td>
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<tr>
<td>Drawings</td>
<td>500</td>
<td>$61,400</td>
<td>$4,000</td>
</tr>
<tr>
<td>Incorporate Environmental Restrictions in Contract</td>
<td>48</td>
<td>$9,256</td>
<td></td>
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<tr>
<td>Meetings</td>
<td>96</td>
<td>$17,288</td>
<td>$1,000</td>
</tr>
<tr>
<td><strong>Sub-Total, Design</strong></td>
<td>1100</td>
<td><strong>$159,072</strong></td>
<td>$0</td>
</tr>
<tr>
<td>Permitting</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cultural Site Testing and Reporting</td>
<td>20</td>
<td>$3,872</td>
<td>$128,500</td>
</tr>
<tr>
<td>CEQA Compliance / Regulatory Coordination</td>
<td>48</td>
<td>$9,256</td>
<td>$55,100</td>
</tr>
<tr>
<td>Archealogical and Native American Monitoring During Construction</td>
<td>24</td>
<td>$4,536</td>
<td>$86,100</td>
</tr>
<tr>
<td><strong>Sub-Total, Permitting</strong></td>
<td>92</td>
<td><strong>$17,664</strong></td>
<td><strong>$269,700</strong></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>1192</td>
<td><strong>$176,736</strong></td>
<td><strong>$269,700</strong></td>
</tr>
</tbody>
</table>

Key Assumptions:
1) Construction contract administration will be incidental to administration of current construction work

2) Drawing Assumptions:
   - 9 drawings require significant re-design (40 hrs per drawing)
   - 13 drawings require minor revisions (8 hours per drawing)
   - 8 drawings require minimal revisions (4 hours per drawing)

3) Archealogical monitoring during construction budget assumes 25 days of required construction monitoring
Attachment 4

Standard GEI Fee Schedule
FEE SCHEDULE AND PAYMENT TERMS

FEE SCHEDULE

<table>
<thead>
<tr>
<th>Personnel Category</th>
<th>Hourly Billing Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Staff Professional - Grade 1</td>
<td>$ 89</td>
</tr>
<tr>
<td>Staff Professional - Grade 2</td>
<td>$ 99</td>
</tr>
<tr>
<td>Project Professional - Grade 3</td>
<td>$ 109</td>
</tr>
<tr>
<td>Project Professional - Grade 4</td>
<td>$ 121</td>
</tr>
<tr>
<td>Senior Professional - Grade 5</td>
<td>$ 144</td>
</tr>
<tr>
<td>Senior Professional - Grade 6</td>
<td>$ 164</td>
</tr>
<tr>
<td>Senior Professional - Grade 7</td>
<td>$ 194</td>
</tr>
<tr>
<td>Senior Consultant - Grade 8</td>
<td>$ 218</td>
</tr>
<tr>
<td>Senior Consultant - Grade 9</td>
<td>$ 268</td>
</tr>
<tr>
<td>Senior Principal - Grade 10</td>
<td>$ 268</td>
</tr>
<tr>
<td>Senior CADD Drafter and Designer</td>
<td>$ 109</td>
</tr>
<tr>
<td>CADD Drafter / Designer and Senior Technician</td>
<td>$ 99</td>
</tr>
<tr>
<td>Technician, Word Processor, Administrative Staff</td>
<td>$ 80</td>
</tr>
<tr>
<td>Office Aide</td>
<td>$ 64</td>
</tr>
</tbody>
</table>

These rates are billed for both regular and overtime hours in all categories. Rates will increase up to 5% annually, at GEI’s option, for all contracts that extend beyond twelve (12) months after the date of the contract.

OTHER PROJECT COSTS

Subconsultants, Subcontractors and Other Project Expenses - All costs for subconsultants, subcontractors and other project expenses will be billed at cost plus a 15% service charge. Examples of such expenses ordinarily charged to projects are subcontractors; subconsultants; chemical laboratory charges; rented or leased field and laboratory equipment; outside printing and reproduction; communications and mailing charges; reproduction expenses; shipping costs for samples and equipment; disposal of samples; rental vehicles; fares for travel on public carriers; special fees for insurance certificates, permits, licenses, etc.; fees for restoration of paving or land due to field exploration, etc.; state sales and use taxes and state taxes on GEI fees.

Billing Rates for CADD and Specialized Technical Computer Programs – Computer usage for CADD and specialized technical programs will be billed at a flat rate of $10.00 per hour in addition to the labor required to operate the computer.

Field and Laboratory Equipment Billing Rates – GEI-owned field and laboratory equipment such as pumps, sampling equipment, monitoring instrumentation, field density equipment, portable gas chromatographs, etc. will be billed at a daily, weekly, or monthly rate, as needed for the project. Expendable supplies are billed at a unit rate.

Transportation and Subsistence – Automobile expenses for GEI or employee owned cars will be charged at the rate per mile set by the Internal Revenue Service for tax purposes plus tolls and parking charges. When required for a project, four-wheel drive vehicles owned by GEI or the employees will be billed at a daily rate appropriate for those vehicles. Per diem living costs for personnel on assignment away from their home office will be negotiated for each project.

PAYMENT TERMS

Invoices will be submitted monthly or upon completion of a specified scope of service, as described in the accompanying contract (proposal, project, or agreement document that is signed and dated by GEI and CLIENT).

Payment is due upon receipt of the invoice. Interest will accrue at the rate of 1% of the invoice amount per month, for amounts that remain unpaid more than 30 days after the invoice date. All payments will be made by either check or electronic transfer to the address specified by GEI and will include reference to GEI’s invoice number.

STD Fee Schedule 2009 Effective December 27, 2008
June 16, 2008

TO: Three Rivers Levee Improvement Authority Board
FROM: Paul G. Brunner, Executive Director
SUBJECT: Lobbying Contract Extension with Peterson Consulting Inc.

Recommended Action:
Approve the attached Lobbying Contract extension with Peterson Consulting, Inc. to provide lobbying services to TRLIA and authorize the chairman to sign. The amount of this contract is $60,000 for the time period of January 1, 2009 through December 31, 2009.

Background:
Peterson Consulting has provided lobbying services directly to TRLIA for two years, beginning in 2007. Peterson Consulting, Inc. has represented Yuba County and Yuba County Water Agency with the State for many years. Prior to 2007, Peterson Consulting as part of their work for Yuba County and Yuba County Water Agency has also been advocating for TRLIA on issues of joint concern to Yuba County, Yuba County Water Agency, and TRLIA.

Discussion:
This agreement would continue Peterson Consulting relationship with TRLIA. Don Peterson is widely respected as understanding Sacramento Valley issues and has tremendous political contacts within the Capitol. This contract would also authorize Peterson Consulting to subcontract with Reeb Governmental Relations for Reeb to also provide services to TRLIA. Rob Reeb is the former lobbyist for the Association of California Water Agencies and is the current lobbyist for the California Central Valley Flood Control Association. In these positions, Reeb has obtained tremendous substantive knowledge on many of the issues that TRLIA faces. This contract is for a one year period from January 1, 2009 through December 31, 2009. It may be cancelled upon 60 days notice.

Fiscal Impact
The contract is for a total amount of $60,000, with monthly payments of $5,000. Of the $5,000 monthly payment, $4,000 will be used monthly to retain Reeb Governmental Relations. This contract is within the FY 08/09 TRLIA budget and proposed FY09/10 budget.
EXTENSION OF LOBBYING CONTRACT

This document extends the provisions of the contract previously entered into between the
THREE RIVERS LEVEE IMPROVEMENT AUTHORITY and PETERSON
CONSULTING INC., for the period from January 1, 2007, to December 31, 2007.

This extension shall be in effect from January 1, 2009, to December 31, 2009. The seven (7)
terms and conditions listed in the original contract shall be incorporated by reference as part of
this extension (see attachment A), provided, however, that a new condition eight (8) shall be
added to read: “Contractor shall provide the Authority with a monthly report on the status of
administrative, legislative and regulatory actions pertaining to the interests of Three Rivers
Levee Improvement Authority as may be refined and clarified by the Authority.”

THREE RIVERS LEVEE
IMPROVEMENT AUTHORITY

By: ____________________________

Date: ____________________________

ATTEST:
DONNA STOTTLEMeyer
CLERk OF THE BOARD

PETE RSON CONSULTING,
INC.
1415 L Street, Suite 200
Sacramento CA 95814

By: ____________________________

Date: ____________________________

APPROVED AS TO FORM:
SCOTT SHAfIRO
TRLIA, GENERAL COUNSEL

Three Rivers Levee Improvement Authority
Lobbying Contract Page 1 of 3
The following constitutes a lobbying firm retention contract between the THREE RIVERS LEVEE IMPROVEMENT AUTHORITY and PETERSON CONSULTING, INC.,

1. SERVICES TO BE PERFORMED—THREE RIVERS LEVEE IMPROVEMENT AUTHORITY engages the services of PETERSON CONSULTING, INC. as an independent contractor with the responsibility for providing California state legislative services and administrative advocacy on behalf of Three Rivers Levee Improvement Authority. Such services shall include:

   A. Work with the Authority to understand and define the State legislative, regulatory and financial objectives of the Authority. Assist in the preparation of a strategic plan to accomplish those objectives.

   B. Analyze State legislation and administrative actions that could affect the interests of the Authority and prepare recommendations for positions, as well as draft legislative language as appropriate. Prepare and convey correspondence relating to legislation.

   C. Representation in the State Capitol (Legislature, Governor and State agencies, departments and boards) with respect to legislation and administrative action, including participation and attendance at meetings and advocacy. Assist in building stakeholder coalitions where appropriate.

   D. Monitor State legislative developments and regulatory or agency proposals in areas of interest to the Authority and report regularly on pending actions.

2. TERMS OF PAYMENT—THREE RIVERS LEVEE IMPROVEMENT AUTHORITY will pay PETERSON CONSULTING, INC., according to terms and conditions set forth herein, a fee of SIXTY THOUSAND AND NO/100 DOLLARS ($60,000.00) for the period of January 1, 2007 through December 31, 2007. This amount shall be paid in twelve (12) equal installments of FIVE THOUSAND AND NO/100 DOLLARS ($5,000.00) due on the first (1st) of each month from January through December 2007, inclusive. Such fee shall cover all time and expenses expended by Peterson Consulting, Inc. personnel and subcontractors required to perform the above services except out of the Capitol or out of Yuba County travel, such actual expenses, subject to the prior approval of the Authority, shall be reimbursed.
It is the understanding of both parties to this agreement that Peterson Consulting, Inc., will engage the services of Reeb Government Relations, LLC, to assist in the fulfillment of this contract at no further cost to the Three Rivers Levee Improvement Authority.

3. INDEPENDENT CONTRACTOR—PETERSON CONSULTING, INC. will function as an independent contractor and will represent itself as such and will have no authority to obligate THREE RIVERS LEVEE IMPROVEMENT AUTHORITY for indebtedness, contracts, or other legal obligations.

4. POLITICAL REFORM ACT—PETERSON CONSULTING, INC. will be solely responsible for its filing and reporting obligations pursuant to the Political Reform Act of 1974, as it may be amended from time to time.

5. GOVERNING LAW - This agreement shall be governed by and construed pursuant to the laws of the State of California.

6. ENTIRE AGREEMENT - This is the entire agreement of the parties and no other representations, promises or agreements, oral or otherwise, shall be of any force or effect. This agreement may be supplemented, amended or revised only in writing by agreement of the parties.

7. TERM OF CONTRACT—This engagement shall be subject to review at any mutually agreed upon time. Either party may terminate this engagement without cause by giving written notice at least sixty (60) days prior to the date of termination. The effective date of this agreement is January 1, 2007, and it shall terminate on December 31, 2007.

THREE RIVERS LEVEE IMPROVEMENT AUTHORITY

By: __________________________

PETERSON CONSULTING,
INC.
1415 L Street, Suite 200
Sacramento CA 95814

By: Donald F. Peterson
President/Owner

Three Rivers Levee Improvement Authority
Lobbying Contract Page 3 of 3
TO: Three Rivers Levee Improvement Authority Board
FROM: Paul Brunner, Executive Director
SUBJECT: PBS&J Contract Extension No. 5
DATE: June 16, 2009

Recommended Action:
Approve a fifth contract amendment with PBS&J/EIP Associates to continue environmental consulting services for the TRLIA program and authorize the TRLIA Chairman to sign. The amount of this amendment is $283,570 for the time period of May 2009 through December 31, 2011.

Background:
TRLIA executed a contract with PBS&J, (formerly known as EIP Associates), on February 7, 2006 for Environmental Program Management Services. Prior to this proposed amendment the contract has been amended four times to include additional duties and longer length of services. Duties for this contract include coordination and execution of all environmental permits associated with construction and levee repair, and the development of conservation easements between affected parties; the oversight and management of the Bear River Levee Setback Project; the Feather River Levee Repair Project EIR; and the Yuba-Feather Flood Supplemental Control Project as a whole. Management has included supervision of all related project invoices and receipts for the Department of Fish and Game Proposition 13 funding mechanisms, and the management of TRLIA maintained environmental escrow accounts.

Discussion:
The current contract, which has been amended previously to reflect changing increased job responsibilities, was in the not-to-exceed amount of $670,810. This contract amount is now approaching the dollar cap, and the contract needs to be amended to increase the dollar amount and length of services. The length of contract extension is proposed to be until December 2011 in order to provide environmental services for the new Yuba River EIP work and accomplish required environmental monitoring reports for ongoing and proposed projects.

The Scope of Work (Attachment 1) for this contract includes tasks associated with the environmental management of the DWR Proposition 1E TRLIA award, future funding awards, and the DFG Proposition 13 TRLIA award, as well as environmental management and permitting services associated with the Yuba River and Feather River confluences. This contract also includes the development of conservation easements for the Bear and Feather River Setback areas, as well as compliance oversight as required in all of TRLIA’s permits.

Based on the on-going need for environmental services, there is a need to extend the existing contract as well as increase the allotted funding for it. The proposed Fifth Amendment to this contract includes a Budget Estimate and Task Breakdown for the time period of May 2009.
through December 2011 (Attachment 2). The requested amendment increases the contract for Environmental Project Management Services to a not-to-exceed amount of $954,380.

**Fiscal Impact:**
This $283,570 amendment is for environmental services on a time-and-material basis and can be terminated at any time without incurring additional expense other than the services rendered to the date of termination. The FY 08/09 portion of this proposed amendment is within the FY 08/09 budget and projected FY09/10 budget. Funding for this contract will come from current available local and Prop 1E funds and proposed Prop 1E funds (Yuba River EIP project).
FIFTH AMENDMENT
TO
AGREEMENT BETWEEN
THREE RIVERS LEVEE IMPROVEMENT AUTHORITY
AND
PBS&J (Formerly EIP ASSOCIATES)

THIS FIFTH AMENDATORY AGREEMENT is made and entered into this ___ day of
JUNE 2009, by and between THREE RIVERS LEVEE IMPROVEMENT
AUTHORITY, a Joint Powers Authority, (“AUTHORITY”) and PBS&J Inc.,
(“CONTRACTOR”).

RECATALS:

WHEREAS, the AUTHORITY and the CONTRACTOR entered into an agreement to provide
Environmental Project Management Services dated February 7, 2006 (“AGREEMENT”);

WHEREAS, Article 16 of the AGREEMENT. states that modifications or amendments to the
terms of the AGREEMENT shall be in writing and executed by both parties;

WHEREAS, the AUTHORITY and CONTRACTOR desire to amend the AGREEMENT;

NOW, THEREFORE, the AUTHORITY and CONTRACTOR agree as follows:

1. Article 2 of the AGREEMENT shall be revised to extend the termination date from
November 30, 2008 to December 31, 2011.

2. Attachment B, Article B-1 shall be revised to change the maximum not to exceed from
Six Hundred Seventy Thousand Eight Hundred and Ten Dollars ($670,810) to Nine
Hundred Fifty Four Thousand Three Hundred and Eighty Dollars ($954,380).

All other terms and conditions contained in the Agreement shall remain in full force and effect.

This AMENDED AGREEMENT is hereby executed on the ______ day of JUNE 2009.

AUTHORITY

By: ____________________________

“THREE RIVERS LEVEE
IMPROVEMENT AUTHORITY”

CONTRACTOR

By: ____________________________

“PBS&J”

APPROVED AS TO FORM:

ANDREA CLARK

THREE RIVERS LEVEE
IMPROVEMENT AUTHORITY
COUNSEL

[Signature]
FIFTH AMENDMENT
TO
AGREEMENT BETWEEN
THREE RIVERS LEVEE IMPROVEMENT AUTHORITY
AND
PBS&J (formerly EIP ASSOCIATES)

THIS FIFTH AMENDATORY AGREEMENT is made and entered into this ___ day of JUNE 2009, by and between THREE RIVERS LEVEE IMPROVEMENT AUTHORITY, a Joint Powers Authority, ("AUTHORITY") and PBS&J Inc., ("CONTRACTOR").

RECITALS:

WHEREAS, the AUTHORITY and the CONTRACTOR entered into an agreement to provide Environmental Project Management Services dated February 7, 2006 ("AGREEMENT");

WHEREAS, Article 16 of the AGREEMENT, states that modifications or amendments to the terms of the AGREEMENT shall be in writing and executed by both parties;

WHEREAS, the AUTHORITY and CONTRACTOR desire to amend the AGREEMENT;

NOW, THEREFORE, the AUTHORITY and CONTRACTOR agree as follows:

1. Article 2 of the AGREEMENT shall be revised to extend the termination date from November 30, 2008 to December 31, 2011.
2. Attachment B, Article B-1 shall be revised to change the maximum not to exceed from Six Hundred Seventy Thousand Eight Hundred and Ten Dollars ($670,810) to Nine Hundred Fifty Four Thousand Three Hundred and Eighty Dollars ($954,380).

All other terms and conditions contained in the Agreement shall remain in full force and effect.

This AMENDED AGREEMENT is hereby executed on the ______ day of JUNE 2009.

AUTHORITY

By: ____________________________
"THREE RIVERS LEVEE IMPROVEMENT AUTHORITY"

CONTRACTOR

By: ____________________________
"PBS&J"

APPROVED AS TO FORM:
ANDREA CLARK
THREE RIVERS LEVEE IMPROVEMENT AUTHORITY COUNSEL

______________________________
PBS&J SCOPE OF WORK
For
Three Rivers Levee Improvement Authority (TRLIA)
May 2009- December 2011

PBS&J has provided environmental program management services to the Authority since 2006 and has been active in all major project phases. PBS&J has managed several large-scale mitigation strategies for TRLIA which includes both onsite and offsite mitigation and, active and passive restoration in accordance with permit compliance and the eventual conveyance of restored properties back to the State of California. PBS&J looks to continue these endeavors for ongoing and future project phases. In undertaking this assignment, PBS&J will report directly to the TRLIA Executive Director.

The purpose of the continuing environmental program management services will be to:

- Coordinate and manage the efforts of TRLIA's current consultant team related to environmental documentation and permitting processes;
- Review administrative draft documents;
- Provide strategic environmental permitting guidance to TRLIA and the consultant teams; and
- Represent TRLIA in negotiation with regulatory agencies, as appropriate.

PBS&J will continue a non-biased working relationship with TRLIA's other environmental consultants and serve as a neutral peer for the following services (consistent with the levels of effort identified in the attached draft budget):

Task 1.0 Project Environmental Team Management and Coordination

PBS&J will provide services to coordinate and lead the development and execution of permitting strategies that support meeting the established goals and schedules of the TRLIA engineering and design teams. These teams will be defined by the Executive Director under the direction of the TRLIA Board on a per project phase basis. These services may include, but may not be limited to, the following tasks:

- Participation in weekly team management meetings;
- Participation in monthly contractor meetings;
- Management of weekly (or as appropriate) environmental team meetings or coordination of environmental construction awareness meetings;
- Provision of regular briefings to the Executive Director;
- Attendance at TRLIA Board meetings, as appropriate;
- Review and comment on draft documents prepared by the TRLIA environmental consultant teams;
- Review and comment on environmental documents associated with TRLIA activities;
- Coordination of mitigation strategies and related agency negotiations; or
- Representation of TRLIA in regulatory agency meetings, as appropriate.
Task 2.0 Environmental Management for DFG Proposition 13 Award & the DWR Prop 1E Awards

PBS&J will provide services for continued management of the Department of Fish and Game’s Proposition 13 award to TRLIA. These services include the following tasks:

- Completion of 2008 Grant Award Amendment final audit and summary report;
- Invoicing responsibilities for remainder of 08 Grant;
- DFG and other agency coordination
- Provision of on-going monitoring reports as required in TRLIA’s Prop 13 grant awards and Phase 2, & 3 biological opinions and 2081 permits.

PBS&J will continue to provide services to assist in managing the environmental revenue and cash flow related to the TRLIA 08 award of Proposition 1E funds and for the current Proposition 1E Application for the Feather River Site 2 Erosion and Upper Yuba River levee Project. These services include, but may not be limited to, the following tasks:

- Coordination of restoration strategies between land owners, DWR, and TRLIA;
- Participation in regular management meetings between DWR and TRLIA;
- Development, design, and coordination for restoration area within the Feather Setback;
- Development of active and passive agricultural practices for incorporation with the Feather Setback restoration site
- Provision of on-going monitoring reports as required in TRLIA’s Prop 1E awards and Prop 1E biological opinions and 2081 permits.

Task 3.0 Completion of the Conservation Easements for Bear and Feather Setback Restoration Areas

PBS&J will provide services for continued development of the Bear River Setback restoration area conservation easement and for the upcoming Feather Setback restoration area. These services include, but may not be limited to, the following tasks:

- Agency and landowner partner coordination;
- Document preparation;
- Coordination with Yuba County, RD 784, DWR, DFG, TRLIA staff and property rights consultants for legal land transfer;
- Ensure environmental compliance on sites until legal transfer

Task 4.0 Environmental Escrow Account Management

PBS&J will provide continuing services for the management of TRLIA’s remaining environmental escrow accounts for remaining compliance on the Bear River Setback and all new escrow accounts for the Feather River Setback. This includes those proffered by the Feather River HMMP and the Reclamation Plan. These services include the following tasks:

- Coordination between the DFG, USACoE and the US Fish and Wildlife Service for the partial disbursements of escrow;
- Coordination with US Bank and Yuba County to maintain an accurate and current escrow cash sheet;
- Escrow document preparation and transmission to and from TRLIA and US Bank
**Task 5.0 Yuba River Project Oversight**

PBS&J will provide environmental program oversight for TRLIA’s efforts to repair the levee system between Highway 70 to the Yuba Goldfields. These tasks may include, but will not be limited to:

- Participation in weekly/monthly contractor meetings;
- Management of weekly (or as appropriate) environmental team meetings or coordination of environmental construction awareness meetings;
- Development and implementation lead on the Yuba County Habitat Conservation Plan for purposes of compliance with the Feather River Setback project and the Yuba project phase;
- Review and comment on draft documents prepared by the TRLIA environmental consultant teams;
- Review and comment on environmental documents associated with TRLIA activities;
- Coordination of mitigation strategies and related agency negotiations; or
- Representation of TRLIA in regulatory agency meetings, as appropriate.

**Task 5.0 Miscellaneous Travel and ODC’s including Printing**

PBS&J will provide assistance in all types of document production when necessary; either as a result of duty or in the event that another environmental contractor becomes overloaded and is in need of assistance. PBS&J will also provide document production for the environmental compliance and summary reports, bi-annually, as a condition of TRLIA’s permits with the DFG, USACE, and US Fish and Wildlife Service.

**STAFFING**

Mr. Brian D. Boxer, AICP, will continue to serve as Principal-in-Charge and Project Director and Anja Raudabaugh will continue to serve as the Environmental Permitting Manager. As directed by the Executive Director, Anja Raudabaugh and/or Brian Boxer will participate in team meetings, will attend TRLIA Board meetings, and will represent TRLIA at public and other meetings. As appropriate, at the request of the Executive Director, PBS&J may occasionally use other PBS&J technical or support staff to provide supplementary technical or strategic information or to provide services more cost efficiently.

**BUDGET**

PBS&J will provide Environmental Program Management services on a time and materials basis. It is currently estimated that the average level of effort for Anja Raudabaugh will be approximately 30 hours per week, although there may be periods that involve greater levels or lesser levels of document review and other periods of intense effort in order to maintain schedule may require additional effort. Anja Raudabaugh’s time will be billed at $125 per hour; however this rate may be subject to change beyond 2009. Brian Boxer’s time will be billed at $250 per hour; however this rate may be subject to change beyond 2009. Other PBS&J staff time will be billed consistent with the attached Schedule of Standard Billing Rates. Direct expenses incurred in the course of provision of the above described services will be billed based on actual receipts plus PBS&J’s standard administrative fee, as identified on the Schedule of Standard Billing Rates.
### Three Rivers Levee Improvement Authority (TRLIA)
**PBS&J Contract 5th Amendment May 2009-December 2011**
**Budget Estimate**

**June 4, 2009**

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June 16, 2009

TO: Three Rivers Levee Improvement Authority Board
FROM: Paul Brunner, Executive Director
SUBJECT: Consider Contractual Amendment No. 8 to Existing Agreement with Bender Rosenthal, Inc. (BRI) for TRLIA Phase 4, Upper Yuba River Right of Way Services

Recommended Action
Approve Amendment No. 8 to the existing contract with BRI for the TRLIA Phase 4, Upper Yuba River work between Simpson Lane to the Goldfields, and authorize Executive Director to execute. The proposed amendment increases the price ceiling for basic services by $569,000 from $3,775,771 to $4,344,771 and extends the existing contract to December 30, 2010.

Background
TRLIA initiated studies last fall to determine if the Yuba South Levee above Simpson Lane would require remediation. Results from the investigative studies and recently completed hydraulic modeling indicate that the southern Yuba River levee from Simpson Lane up to the Goldfields area will need major work to achieve both 100-year and 200-year flood protection. See attached map for graphic showing the location of project (Exhibit B).

As reported at recent Board meetings, TRLIA has applied for an Early Implementation Project Prop IE funding agreement for both of the Yuba River levee projects described above. While DWR has not reached a final decision (anticipated in June 2009), it is looking very favorably on this project. Accomplishing the waterside slope flattening project in 2009 allows the Yuba EIP Application to be considered in the DWR EIP construction category this year. TRLIA will need to maintain a fast paced schedule to complete plans and specifications and construct the waterside slope flattening project this summer and the work between Simpson Lane and Goldfields the following year in 2010. Both projects are critical to FEMAs' accreditation of the south Yuba County levee system. Additional right of way support is needed for the work from Simpson Lane to the Goldfields.

Discussion
BRI has provided the real estate support for all of the TRLIA projects to date. For continuity of the program and in order to maintain the needed aggressive schedules TRLIA staff recommends that BRI continue to provide support for the additional work that is needed on the Yuba River from Simpson Land up to the Goldfields.

The amendment to BRI contract provides the real estate consultant support that is needed to prepare the plans, specifications, and construction for the Upper Yuba Levee Project. The scope of work (Exhibit A) includes the following areas:
1. Right of Way (ROW) Planning and Management

2. DWR Coordination

3. Rights of Entry for Environmental and Geotechnical Work

4. Right of Way Engineering (Land Net)

5. Plats and Legals / ROW Field Staking

6. Appraisals

7. Appraisal Review

8. Acquisition

9. Relocation Assistance

10. Title and Escrow Support

11. Condemnation Support

**Fiscal Impact**
The funding for this amendment will come from the proposed TRLIA/DWR Yuba River EIP agreement. As a time and materials contract TRLIA is only obligated to pay for work that has been performed. This contract can be terminated at TRLIA’s convenience.

Attachments:
   - Exhibit A - Scope of Work dated May 28, 2009
   - Exhibit B - Map of area
EIGHTH AMENDMENT
TO
AGREEMENT BETWEEN
THREE RIVERS LEVEE IMPROVEMENT AUTHORITY
AND
BENDER ROSENTHAL, INC.

THIS EIGHTH AMENDATORY AGREEMENT is made and entered into this ______ day of June 2009 by and between the THREE RIVERS LEVEE IMPROVEMENT AUTHORITY ("TRLIA"), a Joint Powers Authority, TRLIA and BENDER ROSENTHAL, INC. ("CONSULTANT")

RECITALS:

WHEREAS, TRLIA and CONSULTANT entered into a agreement to provide basic services dated March 1, 2005, ("AGREEMENT");

WHEREAS, TRLIA and CONSULTANT entered into the first Amendatory Agreement, to provide basic services dated March 1, 2006.

WHEREAS, TRLIA and CONSULTANT entered into the second Amendatory Agreement to provide basic services dated May 16, 2006.

WHEREAS, TRLIA and CONSULTANT entered into the third Amendatory Agreement to provide basic services dated September 26, 2006.

WHEREAS, TRLIA and CONSULTANT entered into the fourth Amendatory Agreement to provide basic services dated January 16, 2007.

WHEREAS, TRLIA and CONSULTANT entered into the fifth Amendatory Agreement to provide basic services dated February 6, 2007.

WHEREAS, TRLIA and CONSULTANT entered into the sixth Amendatory Agreement to provide basic services dated March 27, 2007.

WHEREAS, TRLIA and CONSULTANT entered into the seventh Amendatory Agreement to provide basic services dated August 19, 2008.

WHEREAS, Attachment B.1 of the AGREEMENT, state that modifications or amendments to the terms of the AGREEMENT shall be in writing and executed by both parties:

WHEREAS, the TRLIA and CONSULTANT desire to amend the Agreement:

NOW, THEREFORE, the TRLIA and CONSULTANT agree as follows:

1. Exhibit A of the AGREEMENT shall be amended to perform those additional services described in Exhibit A attached to this eight AMENDMENT.
2. Article 4 of the AGREEMENT shall be revised to increase the price ceiling for basic services by $569,000 from $3,775,771 to $4,344,771.

3. Article 2 of the AGREEMENT shall be revised to extend the "TERM" of the agreement to December 30, 2010.

All other terms and conditions contained in the Agreement shall remain in full force and effect.

This Amended agreement is hereby executed on this day of ______ day of _______ 2009.

THREE RIVERS LEVEE IMPROVEMENT AUTHORITY

BY: ____________________________
    Paul G. Brunner, Executive Director

CONSULTANT

BY: ____________________________
    BENDER ROSENTHAL, INC.

APPROVED AS TO FORM:

ANDREA CLARK
    TRLIA, General Counsel
EIGHTH AMENDMENT
TO
AGREEMENT BETWEEN
THREE RIVERS LEVEE IMPROVEMENT AUTHORITY
AND
BENDER ROSENTHAL, INC.

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WHEREAS, Attachment B.1 of the AGREEMENT, state that modifications or amendments to the terms of the AGREEMENT shall be in writing and executed by both parties;

WHEREAS, the TRLIA and CONSULTANT desire to amend the Agreement:

NOW, THEREFORE, the TRLIA and CONSULTANT agree as follows:

1. Exhibit A of the AGREEMENT shall be amended to perform those additional services described in Exhibit A attached to this eight AMENDMENT.
2. Article 4 of the AGREEMENT shall be revised to increase the price ceiling for basic services by $569,000 from: $3,775,771 to $4,344,771.

3. Article 2 of the AGREEMENT shall be revised to extend the "TERM" of the agreement to December 30, 2010.

All other terms and conditions contained in the Agreement shall remain in full force and effect.

This Amended agreement is hereby executed on this day of ______ day of __________ 2009.

THREE RIVERS LEVEE IMPROVEMENT AUTHORITY

BY: _______________________
    Paul G. Brunner, Executive Director

CONSULTANT

BY: _______________________
    BENDER ROSENTHAL, INC.

APPROVED AS TO FORM:

__________________________
ANDREA CLARK
TRLIA, General Counsel
May 28, 2009

Mr. Paul Brunner, P.E.
Three Rivers Levee Improvement Authority
1114 Yuba St., Suite 218
Marysville, CA 95901

RE: Three Rivers Levee Improvements – Phase 4 – Yuba River - Simpson Lane to the Gold Fields

Dear Mr. Brunner:

Bender Rosenthal, Inc. (BRI) is pleased to submit this scope for Right of Way Acquisition for Phase 4 – Yuba River – Simpson Lane to the Gold Fields. We are pleased to include Cooper Thorne & Associates (CTA) on our team for Right of Way Engineering and Plat and Legal services.

The attached proposal is based on our knowledge of the project as we have been intimately involved with TRLIA over the past 2 years providing right of way services for phases 1 thru 3, and the initial phase 4 work of the project. We have also been involved in various team meetings regarding the planning for the remaining phase 4 work.

Exhibit A
BRI has a clear understanding of your needs to finalize phase 4, and have outlined below 10 areas of the right of way process you may want to consider for this final phase of the project. They are.

1. Right of Way (ROW) Planning and Management
   1A. DWR Coordination
2. Rights of Entry for Environmental and Geotechnical Work
3. Right of Way Engineering (Land Net)
4. Plats and Legals / ROW Field Staking
5. Appraisals
6. Appraisal Review
7. Acquisition
8. Relocation Assistance
9. Title and Escrow Support
10. Condemnation Support

As you know, BRI offers full service multi-dimensional Right of Way / Real Estate services under one roof, with experience second to none. The appraisal staff includes, in addition to the three principals, another MAI-designated appraiser and a six-person research and support staff. An additional ten person staff specializes in right-of-way acquisition and relocation activities. All staff members are fully licensed to meet federal, state, and local requirements. Our scope of work covers all the major real estate issues facing the project. It also includes a schedule of how we propose to proceed, as well as a detailed staffing plan to meet that schedule.

As always, I am available to discuss any questions or concerns you may have about our proposal. I can be reached at (916) 978-4900.

Sincerely,

BOB MORRISON, PE, PMP, CA RE Broker
Vice President

Cc: Ric Reinhardt – MBK Engineers
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ATTACHMENTS

A. PARCEL LIST AND SPREADSHEET
I. PROJECT UNDERSTANDING

The Three Rivers Levee Improvement Authority is responsible for improving the levees along the Yuba River, Feather River, Bear River and Western Pacific Irrigation Canal (WPIC). The levee improvements are being completed in four phases. Phase one included urgent repairs to the Yuba Levee at a specific location and was completed in 2004. Phase two was completed in spring 2007, and included improvements to the Bear River, Yuba River and the WPIC. Phase three construction was completed in Fall of 2006 and included the setback levee along the Bear River. The initial Phase 4 work included construction along the Feather River and Yuba River, with the Feather River repairs currently in construction.

The remaining Phase 4 work includes levee improvements along the Yuba River from State Route 70 to the Gold Fields. This work will be broken into two areas:

1. Waterside Levee slope flattening improvements from State Route 70 to UPRR
2. Levee under seepage mitigation improvements from Simpson Lane to the Gold Fields

Bender Rosenthal is already under contract for improvements on Phase 4, segments 1, 2 and 3. This proposal is for Right of Way services related to Segment 4 – Yuba River.

The waterside Levee slope flattening improvements will require right of way acquisition from one parcel for construction staging. The majority of the right of way work will be involved with the Levee improvements from Simpson Lane to the Gold Fields.

The reach of levee from Simpson Lane to the Gold Fields is 20,000+ feet long. BRI is assuming right of way will need to be acquired for up to 4000 linear feet for a seepage berm, 300 feet wide. Along the remaining 16,000+ feet, a 50 foot maintenance corridor will be required to meet the USACE and CVFPB requirements. Staging areas along the waterside will also be required.

There are 22 parcels on the land side owned by 15 property owners. The land uses on the land side include mobile home, residential, irrigated agricultural, and dairy. BRI is assuming up to 4 mobile home units may need to be relocated.

There are 13 parcels on the water side owned by 8 property owners. BRI is assuming a portion of up to 3 parcels will be required for construction staging.

The total number of parcels for budgeting purposes is 26, and includes:

1. SR 70 to UPRR – 1 parcel
2. Simpson Lane to Gold Fields – Land Side – 22 parcels
3. Simpson Lane to Gold Fields – Water Side – 3 parcels
II. RIGHT OF WAY SCOPE OF SERVICES

The following scope is for the ROW Planning and Management, Rights of Entry, Appraisal, Appraisal Review, Acquisition, Relocation Assistance, Title/Escrow Support, Condemnation Support, and Construction Services.

Task 1 - ROW Planning and Management

This task includes attendance at weekly project development team meetings, monthly schedule and progress updates, and coordination efforts with the PDT and ROW teams throughout the life of the project. This also includes development of the right of way budgets for various alternatives studied.

Deliverables:

- Developing a ROW Project Management Plan which includes scope, cost, schedule, risk, quality, and communication plans for the entire project.
- Running weekly BRI staff meetings through the appraisal and acquisition phase of the project.
- Attending Weekly PDT meetings.
- Providing Monthly progress updates to PDT and TRLIA staff.
- Coordinating design issues between engineering team and ROW team.
- Developing ROW Certification.
- ROW budgets for various alternatives.

Task 1A – DWR Coordination

In order to secure Prop.1E reimbursement for portions of the project compliance with DWR administrative requirements and regulations is mandated in addition to DWR oversight. Items include:

- Jointly develop and update with DWR a Quarterly Work Plan.
- Meeting with DWR Real Estate staff to coordinate appraisal, acquisition, and condemnation activities and resolve problems.
- DWR review and approval of all appraisals.
- DWR review and approval of all acquisition packages
- DWR review and approval of funding required by RONs, OP deposits, stipulations, and judgments for all parcels that go to eminent domain.
Prepare up to 26 final accounting acquisition packages for DWR re-imbursement. These include:

- Plat and Legal
- Appraisal
- Acquisition Documents
- Relocation Housing Valuation
- Resolution of Necessity Documentation
- Memorandum of Settlement
- Reimbursement Dollar Summary

• Transfer final title from TRLIA to DWR for 26 parcels
  - Revised legal descriptions showing levee acquisition area, and flood control structures.
  - Create easement language for long term operation and maintenance of remediated levee.

Task 2 - Rights of Entry for Engineering / Environmental Studies

Bender Rosenthal Inc. proposes to develop all necessary contracts and letters based on TRLIA process for Rights of Entry. We will meet with the owners, and convey documents until the Right of Entry is signed. Three contacts with property owners are included in this scope. If a Right of Entry is not signed by the property owner, BRI will provide all necessary documentation to TRLIA to file a request with the courts for a Right of Entry.

Steps within the Right of Entry process are outlined below:

1. Review of the project concept and design with staff and other consultants;
2. Preparation of Right of Entry’s and cover letter documents;
3. Phone contact with property owner to set up time to meet and discuss the proposed Right of Entry.
4. Meet with the property owners to discuss the project in general; review of maps and project descriptions with the property owner and obtain signed ROE.
5. Right of Entry activities are based on settlement by the third contact. A recommendation to TRLIA will be made after impasse has been reached.
6. Deliver signed Right of Entry or deliver a memorandum explaining impasse or unclosed (i.e. impasse) calls.
Deliverable:

- Updated Rights of Entry, or Memorandum explaining impasse with contact log for up to 35 parcels along Yuba River. Please note: this number includes all the parcels adjacent to the levee for environmental studies.

Task 3 – Right of Way Engineering (Land Net – 35 Parcels)

BRI is pleased to include Cooper Thorne & Associations on our team for all the project boundary and plat and legal needs. CTA proposes the following key steps to complete the project Land Net:

1. Ownership Research
2. Field Reconnaissance
3. Right of Way Surveys Fieldwork
4. Boundary Analysis and Retracement

Deliverables:

- AutoCAD drawing file containing property lines, street rights of way, levee easements and owner names with assessor parcel numbers. This task includes all the parcels that abut the water and land side of the levee from Simpson Lane to the Gold Fields.

Task 4 – Plats and Legals / Right of Way Field Staking (26 Parcels)

CTA proposes to prepare plat and legal descriptions for up to 26 parcels, and stake the proposed right of way take for each acquisition. Key steps include:

- Right to Way Calculations
- Describe the proposed take area
- Stake proposed ROW line in the field

Deliverables:

- Plats andlegals covering 26 parcels
- ROW staking on 26 parcels
Task 5 - Appraisal Services (26 Parcels)

As the first order of work within this task, BRI will develop an updated right of way estimate based on preliminary design prior to commencement of the appraisals. BRI will develop complete appraisals for the Project that will state the estimated fair market value of the fee simple interest in each referenced property. The appraisal reports will be summary appraisal reports that will be prepared in conformance with and subject to the requirements of the Code of Professional Ethics and the Standards of Professional Practice of the Appraisal Institute, which fully incorporate the Uniform Standards of Professional Appraisal Practice (USPAP) of the Appraisal Foundation. Jurisdictional exceptions may apply in some cases.

Plats and Legals for each of the properties to be appraised will be provided to BRI by the TRLIA. Some of the items that may affect the appraisal process include:

- Complexity of the valuation;
- Impact of the interests to be acquired (e.g. Temporary Construction Easements)
- Damage Analysis (Severance Damage, Cost to Cure, Crop Damage, etc.)

The primary steps in completion of fair market value appraisals of the property rights to be acquired include but are not limited to the following:

1. Onsite physical inspection of the subject property with the owner.
2. Visual inspection of the comparable market data.
3. Study of community and neighborhood in which the subject is located.
4. Collection of data from appropriate governmental agencies.
5. Market investigation of vacant and improved comparable data.
6. Verification of market data with sources knowledgeable with the pertinent details of the transaction.
7. Analysis of all appropriate data in the before and after condition to arrive at an opinion of value.
8. Preparation of report.

Deliverables:

- Appraisal of up to 26 parcels along the Yuba River.
- Crop Damage Analysis on up to 5 properties
- Right of Way Estimate

Assumptions:

- Staking will be provided by Cooper Thorne & Associates
- TRLIA will be the condemning authority.
- No Appraisal Review by outside agencies.
Right of Way Appraisal maps, provided upon receipt of plats/legals.

- No aggregate mining appraisals will be required.

**Task 6 - Independent Appraisal Review (26 Parcels) (Optional Service)**

This is currently an optional service, and is not included in the project budget. This task is not required because we are using State and Local money for the project. There is no federal funding.

Per Federal regulations, (Uniform Act) a qualified reviewing appraiser shall examine all appraisals to assure that they meet applicable appraisal requirements and shall, prior to acceptance, seek necessary correction or revisions. In addition, the review appraiser shall certify that the opinion of fair market value is reasonably supported by an acceptable appraisal. BRI is pleased to include Mr. Mike Lahodny as the independent reviewer for the project. Mr. Lahodny will ensure the appraisals meet all Federal regulations.

**Deliverables:**

- Review certification for each appraisal.

**Task 7 - Acquisition Services (26 parcels)**

Bender Rosenthal Inc. proposes to develop all necessary contracts, conveyance documents and escrow instructions necessary to make offers based on TRLIA’s process. We will meet with the owners, and convey documents until acceptance or impasse is reached. In addition, BRI will work with UPRR and the PDT to determine the specific property rights needed for the project from UPRR, and then acquire any long-term rights necessary.

Steps within the acquisition process are outlined below:

1. Review of the project concept and design with staff and other consultants.
2. Review of appraisals, title reports, maps and descriptions of the required parcels.
3. Field review the project with the Project Manager or other designated person.
4. Preparation of right-of-way contracts and other acquisition documents.
5. Meet with the property owners to discuss the project in general; review of maps and legal descriptions; confirm information about occupants/owners and make the official First Written Offer to owner. Acquire tenant consent to easement.
6. Acquisition activities are based on settlement by the third contact. A recommendation to TRLIA will be made after impasse has been reached. To reach impasse there are three requirements:
A. Go through the acquisition steps outlined below; plus
B. Make at least three contacts with owner (personal call, letter or phone call) in any combination; plus
C. Spend up to eight hours working on the parcel acquisition.

The acquisition steps when offering compensation to the property owner include:

A. Owner accepts offer. (Close)
B. Owner rejects offer.
   1. Owner refuses to counter. (Impasse)
   2. Owner makes counter proposal.
      a. Client accepts counter. (Close)
      b. Client rejects counter. (Impasse)
      c. Client makes new offer.
         1. Owner accepts new offer. (Close)
         2. Owner does not accept new offer. (Impasse)

7. Deliver signed right-of-way contract and signed and acknowledged grant deed for closed transaction. Deliver a memorandum explaining impasse or unclosed (i.e. impasse) calls.

8. Final report, including transfer of all pertinent correspondence and files, to TRLIA.

Deliverables:

- Acquisition of 26 Parcels associated with Segment 4 – Yuba River.

Assumptions and Limiting Conditions:

- Escrow payments and escrow fees are by others.
- Utility coordination, permitting and utility relocation by others.
- Expert witness testimony is not included within the work scope but is available.
- Bilingual translation and communication are not included.
- Cooperative agreements and memorandums of understanding by others.
- Environmental document is complete.

Task 8 - Relocation Assistance (RAP) (As needed)

It is anticipated that up to 4 mobile home tenants may require relocation.

The following is the scope for Relocation Assistance for the four tenants listed above:

1. Conduct personal, on site interviews of prospective displacee's to ascertain relocation housing needs and special requirements including need for handicapped access or bilingual
services (please refer to assumptions).

2. Complete a relocation plan to DWR/DGS standards.

2. Complete a detailed relocation housing study. (Relocation Impact Memorandum)

3. Inform displaced persons of available relocation assistance and explain relocation process.

4. Provide advisory assistance to displacee’s including referrals to community service resources.

5. Physically assist displacee’s in locating replacement housing including transportation if needed.

6. Provide referrals to replacement housing.

7. Refer displacee’s to public housing and other public services as necessary, including but not limited to Section 8 housing.

8. Distribute Relocation Assistance brochures 90 and 30-Day Notices to Vacate, and other notices as required. *(If you do not have one developed, we can certainly help develop the appropriate notices)*.

9. Determine eligibility for and proposed amount of relocation benefits, including moving payments, rental/down payments assistance, and replacement housing payments.

10. Inspect replacement dwellings to determine if they meet "decent, safe and sanitary" requirements.

11. Monitor the move to replacement site, as necessary.

12. Prepare necessary payment documentation and deliver benefit checks and other appropriate payments to claimants.

13. Provide displacee’s with ongoing advisory services to minimize tenant hardship.

14. Meet with TRLIA staff and/or consultants to coordinate relocation activities.

15. Maintain current and accurate files and records of all contacts with each displacee and include them in a Final Report.

**Deliverable:**

- Relocation Impact Memorandum.
- Relocation Plan.
- Relocation Housing Valuations.
- Relocation Assistance.

**Assumptions:**

- No second moves or interim relocation.
- No storage cost of business inventory.
- Standard relocation limited to one tenant.
- Claim for Relocation benefits occur within contract period.
Task 9 - Title / Escrow Support (26 Parcels)

In order to facilitate the closing of the various right of way transactions, the TRLIA is requesting escrow and title support as part of the scope of work. BRI is very knowledgeable in this area and has the staff necessary to help the TRLIA with their title and escrow needs. This task is very difficult to quantify for a scope. For example, we have been very instrumental in providing lenders additional information as it relates to a proposed acquisition (especially if the acquisition has little or no affect to the real estate).

This has eliminated the Bank’s desire to charge for an additional appraisal. However, it is very difficult to “mandate” a lender to address a partial reconveyance of a deed of trust. Tasks to be considered include:

1. Order Title Reports from Fidelity Title.
2. Upon opening escrow Prepare and fax Request for Invoice and Demand to the Title Company.
3. Copy and forward a copy of escrow, grant deed and purchase agreement to TRLIA for “acceptance” of the agreement. TRLIA to forward to title company.
4. Receive executed purchase agreement from TRLIA. Forward an executed copy to property owner.
5. Prepare transmittal to forward closed file to TRLIA Project Manager.
6. Research and secure Trust Certificates.

Deliverable:

- Title Reports for up to 26 parcels.
- Escrow for up to 26 parcels.

Assumptions:

- BRI will contract with escrow company and bill TRLIA.

Task 10 - Condemnation Support

BRI will provide skilled acquisition services that should minimize the number of parcels that proceed to condemnation. However, given the number of properties involved, it is likely that some will become subject to the Eminent Domain Process. While many of the owners of parcels subject to legal action typically settle, it has been our experience that inclusion of a condemnation process description and budget is important, since these services may ultimately prove to be necessary. In order to assist the TRLIA in the eminent domain process, BRI will provide the following services:

1. Prepare letter to property owners emphasizing that their property will be going to a resolution of necessity.
2. Prepare up to 5 Board Packages for TRLIA staff review. Once approved, TRLIA staff
will forward to the Board a Resolution of Necessity (RON). Items included in the package include:

- Board Letter indicating the parcels involved in the RON.
- Board Resolution for all parcels involved.
- Attachments: maps and legal descriptions for each parcel.
- Notice of Hearing Letter (15 day notice letter) for each parcel.

3. Present issues related to RON at Board Meeting (up to 5 RONs or 2 board meetings).

Deliverables:

- Board Packages and letters as outlined above.
- RON presentations at 2 board meetings.

Assumptions:

- Expert witness testimony will be paid on a case by case basis. Hours and fee will be negotiated based on a scope of work change based on the attached fee schedule.

III. PROPOSED SCHEDULE

The estimated timeline for the Right of Way portion of the project is 12 months for BRI to complete the ROW work needed for the Phase 4 – Yuba portion of the project.

<table>
<thead>
<tr>
<th>Task #</th>
<th>Task</th>
<th>Proposed Schedule</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Right of Way (ROW) Planning and Management</td>
<td>May 2009-April 2010</td>
</tr>
<tr>
<td>2</td>
<td>Rights of Entry for Environmental and Geotechnical Work</td>
<td>May 2009-July 2009</td>
</tr>
<tr>
<td>3</td>
<td>Right of Way Engineering (Land Net)</td>
<td>July 2009</td>
</tr>
<tr>
<td>4</td>
<td>Plats and Legals / ROW Filed Staking</td>
<td>August 2009</td>
</tr>
<tr>
<td>8</td>
<td>Relocation Assistance</td>
<td>Oct. 2009 – Mar 2010</td>
</tr>
<tr>
<td>9</td>
<td>Title and Escrow Support</td>
<td>Oct. 2009 – May 2010</td>
</tr>
</tbody>
</table>
IV. PROPOSED BUDGET

The attached detailed budget is for the Tasks 1 thru Task 10. The estimate was based on beginning the project as soon as possible, and staffing up immediately to meet the project schedule outlined above. The total cost for work proposed is:

<table>
<thead>
<tr>
<th>Task Description</th>
<th>Proposed Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>Task 1 - Right of Way (ROW) Planning and Management</td>
<td>$126,000</td>
</tr>
<tr>
<td>• 60 hrs/mos for 12 months @ $175/hr</td>
<td></td>
</tr>
<tr>
<td>Task 1A - DWR Coordination Efforts</td>
<td>$62,400</td>
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<tr>
<td>• 40 hrs/mos for 12 months @ $130/hr</td>
<td></td>
</tr>
<tr>
<td>Task 2 - Rights of Entry for Environmental and Geotechnical Work</td>
<td>$17,500</td>
</tr>
<tr>
<td>• 35 @ $500/ea</td>
<td></td>
</tr>
<tr>
<td>Task 3 - Right of Way Engineering (35 parcels)</td>
<td>$31,500</td>
</tr>
<tr>
<td>Task 4 - Plats and Legals / ROW Field Staking</td>
<td>$35,100</td>
</tr>
<tr>
<td>• 26 P/L @ $850/ea</td>
<td></td>
</tr>
<tr>
<td>• 26 parcels staked @ $500/ea</td>
<td></td>
</tr>
<tr>
<td>Task 5 - Appraisals</td>
<td>$117,000</td>
</tr>
<tr>
<td>• 26 Parcels @ $4500/ea</td>
<td></td>
</tr>
<tr>
<td>Task 6 - Appraisal Review (Optional Task)</td>
<td>$TBD</td>
</tr>
<tr>
<td>Task 7 - Acquisition</td>
<td>$91,000</td>
</tr>
<tr>
<td>• 26 Parcels @ $3500/ea</td>
<td></td>
</tr>
<tr>
<td>Task 8 - Relocation Assistance</td>
<td>$34,000</td>
</tr>
<tr>
<td>• 4 Owners/Tenants @ $8500/ea</td>
<td></td>
</tr>
<tr>
<td>Task 9 - Title and Escrow Support</td>
<td>$20,800</td>
</tr>
<tr>
<td>• 26 @ $800/ea</td>
<td></td>
</tr>
<tr>
<td>Task 10 - Condemnation Support</td>
<td>$6,000</td>
</tr>
<tr>
<td>• 5 @ $1200/ea</td>
<td></td>
</tr>
<tr>
<td>Direct Expenses</td>
<td>$27,000</td>
</tr>
<tr>
<td>• 35 title reports @ $550/ea</td>
<td></td>
</tr>
<tr>
<td>• mileage, color prints, etc.</td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$569,000</strong></td>
</tr>
</tbody>
</table>

***Budget for Appraisal Review not included in final Total, nor included in base contract.
The following are the assumptions behind the budget:

1. Full documentation to Federal and State standards for all tasks.
2. No expert witness testimony.
3. The actual costs may differ from task to task, but the overall budget will not exceed the "Total Budget" shown in the above spreadsheet.
4. No Coordination with State or Federal right of way departments, other than listed in scope.
5. No significant severance damage analysis required for the appraisals. This fee also assumes that no significant structures, or improvements will be acquired, other than those listed in the scope.

V. CHANGE OF SCOPE

A change in scope may result in the following instances:

- A change in engineering after property has been inspected by appraiser, requiring a new inspection.
- A change in engineering after completion of the appraisal.
- Addition of a parcel.
- Addition of easements, takes, or other property rights.
- An increase in the number of damage analyses required.
- An appraisal requiring additional expertise, such as an architect/engineer to determine if a building meets the building codes or will be structurally sound in the "after condition".

VI. CURRENT RATE SCALE

- BRI will charge original contract rates times yearly increase for any extra services outside the scope outlined above.
THREE RIVERS LEVEE IMPROVEMENT AUTHORITY

MINUTES – BOARD OF DIRECTORS

JUNE 2, 2009

A meeting of the Board of Directors of the Three Rivers Levee Improvement Authority was held on the above date, commencing at 3:30 p.m., within the Government Center, Marysville, California, with a quorum being present as follows: Directors Rick Brown, Jerry Crippen, Don L. Graham, Mary Jane Griego, and John Nicoletti. Also present were Executive Director Paul Brunner, Assistant Counsel Andrea Clark, and Clerk of the Board of Supervisors/Secretary Donna Stottlemeyer. Chair Griego presided.

ACTION ITEMS

Levee and Flood Control Facilities Assessment District: Executive Director Paul Brunner provided a Power Point presentation including the purpose, formation, and election results for the assessment district and responded to Board inquiries.

The following individuals spoke:
- Mr. Tom Eres, Hofman Ranch
- Ms. Frances Hofman

Following Board discussion, upon motion of Director Nicoletti, seconded by Director Crippen, and unanimously carried, the Board adopted Resolution No. 2009-08, which is entitled: "A RESOLUTION OF THE BOARD OF DIRECTORS OF THE THREE RIVERS LEVEE IMPROVEMENT AUTHORITY APPROVING ENGINEER'S REPORT, CONFIRMING DIAGRAM AND ASSESSMENT, AND ORDERING LEVY OF ASSESSMENTS WITHIN THE LEVEE AND FLOOD CONTROL FACILITIES ASSESSMENT DISTRICT FOR FISCAL YEAR 2009-2010."

Minutes: Upon motion of Director Crippen, seconded by Director Brown, and unanimously carried, the Board approved the minutes of the special meeting of May 26, 2009 as written.

PUBLIC COMMUNICATIONS

No one came forward.
BOARD AND STAFF MEMBERS' REPORTS

Reports were received on the following:

Executive Director Paul Brunner:
- Payments from Proposition 1E funding
- Funding request approved by Yuba Levee Financing Authority
- Feather River Setback Levee construction progress
- Upper Yuba River Levee project funding agreement with State and indemnification

ADJOURNMENT

There being no further business to come before the Three Rivers Levee Improvement Authority Chair Griego adjourned the meeting at 4:30 p.m.

___________________________
Chair

ATTEST: DONNA STOTTLEMEYER
CLERK OF THE BOARD OF SUPERVISORS
AND SECRETARY OF THE PUBLIC AUTHORITY

___________________________ Approved: ____________________
TO: Three Rivers Levee Improvement Authority Board  
FROM: Paul Brunner, Executive Director  
Anja Kelsey, Environmental Manager  
SUBJECT: FRLRP CEQA Addendum #3  
DATE: June 9, 2009

Recommended Action: Board Approval of FRLRP CEQA Addendum #3, Resolution and Findings

Background: The California Environmental Quality Act (CEQA) requires a detailed level of analysis for all projects having the ability to affect a variety of human interest factors. This analysis was conducted and concluded in the form of an Environmental Impact Report (EIR) for the Feather River Levee Repair Project (FRLRP); approved by the TRLIA Board in December 2006. The FRLRP project area was defined in detail in the EIR and included, at the time, all anticipated borrow sites, haul routes, area impacts, and other foreseeable project activities.

Since certification of the EIR, design and permitting for FRLRP Alternative 2 has proceeded. In summer 2007, these processes were completed for improvements of the existing levee in Segments 1 and 3. Construction was initiated in Segment 3 in late summer 2007 and in Segment 1 in early 2008. Except for a few minor items, construction was completed in Segments 1 and 3 in 2008. Above Star Bend (ASB) setback levee construction in Segment 2 was initiated in 2008 and is continuing. Levee improvements and construction processes in these segments are generally consistent with those described in the EIR.

However, as a result of more detailed information on site-specific conditions in Segment 2, a slight modification to the setback levee design is proposed, consisting of widening approximately 650 feet of the levee between stations 0+00 to approximately 6+50. Widening the setback levee is proposed to protect a sensitive sub-surface cultural resource from disturbance during levee foundation preparation. The proposed levee widening will require new land acquisition, triggering a discretionary action under CEQA by the TRLIA board.

The three project alternatives evaluated in the EIR were developed based on a preliminary design effort. The structural features of the ASB setback levee alignment (i.e., the improvements in Segment 2) included in all of the alternatives were developed to a level of detail sufficient for a complete project-level environmental analysis, consistent with Section 15161 of the State CEQA Guidelines. An increase in the availability of detailed information regarding the approved project is to be expected as a project transitions from a preliminary design effort for several alternatives to a final design and implementation for a single alternative.

TRLIA, as lead agency for the project under CEQA, has determined that the proposed widening of the setback levee requires minor modifications and clarifications to the project. Hence, an EIR addendum has been prepared in accordance with Section 15164 of the State CEQA Guidelines.

1 Section 15164 of the State CEQA Guidelines states that a lead agency may prepare and addendum to a previously certified EIR if some changes or additions are necessary, but none of the conditions calling for the preparation of a subsequent EIR (Section 15162), have occurred.
This modification is described in detail below:

**Setback Levee Footprint Widening between Station 0+00 and Station 6+50 (approximately)**

The FRLRP Alternative 2 (the approved project) has undergone minor changes in Segment 2 between setback levee stations 0+00 and approximately 6+50 since the FRLRP EIR was certified and Alternative 2 was approved for implementation. These changes are described below.

During removal of orchard trees in the southern end of the setback levee alignment a previously undocumented subsurface cultural resources site was encountered. Given the sensitivity of cultural resources sites, no further information on the site is provided in the addendum. To protect the site, TRLIA is proposing a slight modification to the previously approved setback levee design. The proposed modification would widen a portion of the setback levee in Segment 2, near the southern tie-in area, where the existing levee and the project setback levee alignment meet (Figure 2-1). The proposed levee widening would encapsulate the sensitive subsurface cultural resource and also allow levee fill to be placed over the site without ground disturbance associated with foundation preparation. Thus, the proposed modification would satisfy CEQA mitigation requirements regarding protection of sensitive cultural resources encountered during project construction.

The setback levee footprint would be widened by up to approximately 230 feet between station 0+00 and approximately station 6+50 (Figure 2-1). The 3H: 1V (horizontal: vertical) ratio of levee embankment areas would remain the same, but the location of the landside levee toe would be moved slightly east of the previously approved ASB setback levee to accommodate the proposed levee widening. This widening allows planned levee foundation preparation on either side of the sensitive site, including installation of a slurry cutoff wall west of the site, while permitting levee fill material to be placed directly on the ground surface above the sensitive site with no disturbance to subsurface materials.

The maintenance road, drainage ditch, construction methods, and other levee features will remain the same, except for the slight realignment to the east to accommodate the levee crown widening. Two existing irrigation wells would be removed during construction. Approximately 50,000 cubic yards of additional fill material would be necessary for construction of the proposed levee widening. One residence just east of the widened footprint would be relocated.

The FRLRP EIR considered the potential for discovery of undocumented cultural resources. Section 5.8.3, “Environmental Impacts,” documented and provided mitigation for this cultural resource issue in Impact ASB-5.8-c, “Damage to or Destruction of Cultural Resources in Unsurveyed Areas,” and Impact ASB-5.8-d, “Damage to or Destruction of Undocumented Buried Archaeological Resources during Construction.” The proposed modification is consistent with the mitigation approach provided in the EIR. However, TRLIA, as lead agency under CEQA, has evaluated the proposed levee widening in an addendum to provide verification and documentation that the levee widening would not cause any new significant impacts.

**Discussion:** Section 15162 of the State CEQA guidelines can be summarized as requiring that a subsequent EIR be prepared if any of the following apply:

- Substantial changes are proposed to the project which will require major revisions to the EIR and increase the severity of significant effects;
- Substantial changes occur with respect to the circumstances under which the project is undertaken;
- New information of significant importance regarding the project is brought to light which was not known and could not have been known at the time the EIR was certified.

Based on the analysis of the categories of environmental impacts evaluated above, implementing the FRLRP with modifications as described in the CEQA addendum would result in none of the conditions described in Section 15162 of the State CEQA guidelines calling for preparation of a subsequent EIR. In
summary, there are no altered circumstances or new information of substantial importance since certification of the FRLRP EIR, and the project and the project modifications in this addendum:

• would not result in any new significant environmental effects,

• would not substantially increase the severity of previously identified effects,

• would not result in mitigation measures or alternatives previously found to be infeasible becoming feasible, and

• would not result in availability/implementation of mitigation measures or alternatives that are considerably different from those analyzed in the previous document that would substantially reduce one or more significant effects on the environment.

These project changes do alter the description of the project area, and this newly described project area and engineering modifications have not been analyzed under CEQA prior to the addendum. TRLIA has prepared the addendum in order to assess whether a supplemental or subsequent EIR is necessary in light of the project modifications. There are no public review requirements for an EIR addendum: upon submittal to the State Clearing House and the Office of Planning and Research, a 45 day statutory period of protest and/or challenge exists.

**Fiscal Impact:** The Addendum is currently being included in the GEI Contract Amendment # 11 budget and is being considered by the TRLIA Board on June 16th, 2009. TRLIA staff will continue to monitor costs associated with the addendum along with other impacts associated with environmental issues.
RESOLUTION NO. 2009-__

A RESOLUTION BY THE BOARD OF THREE RIVERS LEVEE IMPROVEMENT AUTHORITY APPROVING FINDINGS IN SUPPORT OF AN ADDENDUM AND APPROVING AN ADDENDUM TO THE FEATHER RIVER LEVEE REPAIR PROJECT FINAL EIR, PURSUANT TO THE CALIFORNIA ENVIRONMENTAL LEVEE REPAIR PROJECT FINAL EIR, PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, PUBLIC RESOURCES CODE, SECTION 21000 et seq.

I. FINDINGS

The findings set forth below ("Findings") are made by the TRLIA Board of Directors ("Board") pursuant to CEQA and the CEQA Guidelines (Cal. Code Regs., title 14 § 15000 et seq.). The Findings provide the written analysis and conclusions of the Board regarding the determination that the Project does not involve any of the conditions requiring a subsequent or supplemental EIR, pursuant to Sections 15162-15164 of the CEQA Guidelines. Specifically, the Board finds and determines:

A. On August 4, 2006, the draft environmental impact report (DEIR) for the Feather River Levee Repair Project (FRLRP) was distributed to public agencies and the general public. The lead agency under the California Environmental Quality Act (CEQA) is the Three Rivers Levee Improvement Authority (TRLIA), a joint powers authority composed of Yuba County and the Reclamation District 784. In November 2006, the final environmental impact report (FEIR), addressing written and oral comments received on the DEIR, was distributed to the public agencies and the general public. The TRLIA Board of Directors certified the environmental impact report (EIR), consisting of the DEIR and the FEIR, on February 6, 2007. The EIR was prepared in accordance with the requirements of CEQA and the State CEQA Guidelines.

B. The FRLRP consists of levee improvements along segments of the existing Feather River and Yuba River levees in southern Yuba County. The EIR evaluated three project alternatives at an equal level of detail and a no-project alternative. Concurrent with certification of the EIR, the TRLIA Board of Directors approved Alternative 2, the "Levee Strengthening and ASB [Above Star Bend] Setback Levee Alternative," for implementation. Activities included in Alternative 2 are divided into three project segments as follows:"
consist of repairing and strengthening the existing levee in place to correct seepage and/or stability deficiencies.

C. Since certification of the EIR, design and permitting for FRLRP Alternative 2 has proceeded. In summer 2007, these processes were completed for improvements of the existing levee in Project Segments 1 and 3. Construction was initiated in Segment 3 in late summer 2007 and is anticipated to be completed in Segments 1 and 3 in 2008. Levee improvements and construction processes in these segments are consistent with those described in the EIR. However, as a result of information gathered during the detailed design process and changes in land acquisition conditions, minor modifications have been made to the Segment 2 portion of the project relative to the details described in the EIR.

D. The three Project alternatives evaluated in the EIR were developed based on a preliminary design effort. The structural features of the proposed levee repairs and the setback levee (i.e., the improvements in Segments 1, 2, and 3) included in all of the alternatives were developed to a level of detail sufficient for a complete project-level environmental analysis consistent with Section 15161 of the State CEQA Guidelines. An increase in the availability of detailed information regarding the approved project (in this case, Alternative 2) is to be expected as a project transitions from a preliminary design effort for several alternatives to a final design for a single alternative.

E. The additional Project detail for FRLRP, Segment 2 only, relates primarily to levee widening between setback stations 0+00 and approximately 6+50. Widening the setback levee is proposed to protect a sensitive sub-surface cultural resource from disturbance during levee foundation preparation. The proposed modification would widen a portion of the setback levee alignment in Segment 2, near the southern tie-in area, where the existing levee and the project setback levee alignment meet (Figure 2-1). The proposed levee widening would encapsulate the sensitive subsurface cultural resource and also allow levee fill to be placed over the site without ground disturbance associated with foundation preparation. Thus, the proposed modification would satisfy CEQA mitigation requirements regarding protection of sensitive cultural resources encountered during project construction.

The setback levee footprint would be widened by up to approximately 230 feet between station 0+00 and approximately station 6+50 (Figure 2-1). The 3H: 1V (horizontal: vertical) ratio of levee embankment areas would remain the same, but the location of the landside levee toe and embankments would be moved slightly east of the previously approved Above Star Bend (ASB) setback levee alignment to accommodate the proposed levee widening. This widening allows planned levee foundation preparation on either side of the sensitive site, including installation of a slurry cutoff wall west of the site, while permitting levee fill material to be placed directly on the ground surface above the sensitive site with no disturbance to subsurface materials.

F. If, after certification of an EIR, altered conditions or changes or additions to a project occur, CEQA provides three mechanisms to address these changes: a subsequent EIR, a supplement to an EIR, and an addendum to an EIR.

Section 15162 of the CEQA Guidelines describes the conditions under which preparation of a subsequent EIR would be appropriate. When an EIR has been certified for a project, preparation of a subsequent EIR would be appropriate if the lead agency determines, on the basis of substantial evidence in light of the whole record, that one or more of the following conditions is met:
substantial changes are proposed in the project which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified effects;

(2) substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or

(3) new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete, shows any of the following:

(A) the project will have one or more significant effects not discussed in the previous EIR;

(B) significant effects previously examined will be substantially more severe than shown in the previous EIR;

(C) mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measures or alternatives; or

(D) mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

Section 15163 of the CEQA Guidelines states that a lead agency may choose to prepare a supplement to an EIR rather than a subsequent EIR if:

(1) any of the conditions described above for Section 15162 would require the preparation of a subsequent EIR; and

(2) only minor additions or changes would be necessary to make the previous EIR adequately apply to the project in the changed situation.

Section 15164 of the CEQA Guidelines states that a lead agency may prepare an addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions described above for Section 15162 calling for preparation of a subsequent EIR have occurred.

G. As described in the Addendum, the following elements of the FRLRP Segment 2 project description for Alternative 2 (the approved project) have undergone minor changes since the FRLRP EIR was certified and Alternative 2 was approved for implementation:

- The setback levee footprint would be widened by up to approximately 230 feet between station 0+00 and approximately station 6+50 (Figure 2-1) The 3H: 1V (horizontal: vertical) ratio of levee embankment areas would remain the same, but the location of the landside levee toe and embankments would be moved
slightly east of the previously approved ASB setback levee alignment to accommodate the proposed levee widening. This widening allows planned levee foundation preparation on either side of the sensitive site, including installation of a slurry cutoff wall west of the site, while permitting levee fill material to be placed directly on the ground surface above the sensitive site with no disturbance to subsurface materials.

H. The differences between the FRLRP as described in the EIR and approved by TRLIA and additional or modified elements of the Segment 2 of the FRLRP as they are currently known constitute changes that are properly addressed in an addendum to an EIR pursuant to Section 15164. Changes to the FRLRP as described in the Addendum and any changed circumstances since certification of the EIR on February 6, 2007 would not:

• result in any new significant environmental effects; or
• substantially increase the severity of previously identified effects.

In addition, no new information of substantial importance has arisen that shows that:

• the project would have new significant effects;
• the project would have substantially more severe effects;
• mitigation measures or alternatives previously found to be infeasible would in fact be feasible; or
• mitigation measures or alternatives that are considerably different from those analyzed in the EIR would substantially reduce one or more significant effects on the environment.

Because only minor clarifying changes and additions to the FRLRP EIR are necessary to accommodate additional or modified elements of the Segment 2 improvements, and none of the conditions described in Section 15162 or 15163 of the CEQA Guidelines calling for preparation of a subsequent or supplemental EIR have occurred, the EIR and associated Mitigation Monitoring and Reporting Program remain valid for assessing and mitigating Project impacts, and an addendum to the FRLRP EIR is the appropriate level of CEQA documentation, consistent with Sections 15162-15164 of the CEQA Guidelines.

1. Changes to the Project Do Not Require Preparation of a Subsequent or Supplemental EIR.

Finding: Based on the Addendum and the entire record before the Board, the Board finds that the changes to the Project as described in the Addendum and these Findings will not result in new significant environmental impacts or a substantial increase in the severity of previously identified significant impacts such that major revisions will be required in the EIR for the Feather River Levee Repair Project.

Evidence in Support of Finding: The Addendum describes the differences between the Project as approved and recent changes to the Project resulting from more detailed information gathered during Project implementation. For each resource category, the Addendum analyzes the facts and inferences supporting the finding that the changes to the Project will not result in new significant impacts
or a substantial increase in the severity of the previously identified significant impacts. The Addendum
and the analysis and references cited therein are incorporated by reference as if fully set forth herein.

2. There Is No Substantial Change in Circumstances That Requires
Preparation of a Subsequent or Supplemental EIR.

Finding: Based on the Addendum and the entire record before the Board, the
Board finds that there are no substantial changes with respect to the circumstances under which the
Project will be constructed or operated which will require major revisions to the EIR due to the
involvement of new significant environmental impacts or a substantial increase in the severity of
previously identified significant impacts.

Evidence in Support of Finding: Since certification of the EIR and Project approval, no
changes to the regulatory background or existing conditions related to the Project relative to land use;
population, employment, and housing; air quality; noise; geology, soils and mineral resources; hazardous
materials and public health; public services; public utilities; recreation; terrestrial biology; fisheries;
cultural resources; aesthetic resources; growth inducing impacts; or Project alternatives have occurred that
would result in new significant environmental effects or a substantial increase in the severity of
previously identified significant effects.

There have been changes in the circumstances under which the Project will be developed
related to geology, soils and mineral resources associated with the Project since certification of the EIR.
However, as discussed in the Addendum at pp. 3-1 through 3-20, incorporated herein by reference, none
of these changes would result in new significant environmental effects or a substantial increase in the
severity of previously identified significant effects, and therefore the changes would not trigger the need
for subsequent environmental review for the Project.

3. There Is No New Information of Substantial Importance
That Requires Preparation of a Subsequent or Supplemental EIR.

Finding: Based on the Addendum and the entire record before the Board, the Board
finds that there is no new information of substantial importance, which was not known and could not have
been known with the exercise of reasonable diligence at the time the EIR was certified, which shows any
of the following:

- The Project will have one or more significant effects not discussed in the EIR;
- Significant effects previously examined will be substantially more severe than shown in
  the Addendum;
- Mitigation measures or alternatives previously found not to be feasible would in fact be
  feasible, and would substantially reduce one or more significant effects of the project, but
  the project proponents decline to adopt the mitigation measures or alternatives; or
- Mitigation measures or alternatives which are considerably different from those analyzed
  in the addendum would substantially reduce one or more significant effects on the
  environment, but the project proponents decline to adopt the mitigation measure or
  alternative.

5
Evidence in Support of Finding: As identified in the Addendum, since certification of the EIR and approval of the Project, there has been no new information of substantial importance related to the Project relative to land use; population, employment, and housing; traffic; air quality; noise; geology, soils and mineral resources; hydrology and water quality; hazardous materials and public health; public services; public utilities; recreation; agricultural resources; terrestrial biology; aesthetic resources; growth inducing impacts; or project alternatives that would result in new significant impacts, significant changes in the severity of previously identified environmental impacts, or significant changes in the effectiveness or applicability of mitigation measures and project alternatives.

I. Record of Proceedings and Custodian Of Record

The Addendum, the sources cited or referenced therein, and supporting documents and other materials constitute the record upon which the Board bases these findings and approval of the Addendum. The location and custodian of these documents and materials is Paul G. Brunner at Three Rivers Levee Improvement Authority.

J. Independent Judgment

The Board has independently reviewed and evaluated the Addendum, and makes these findings and approves the Addendum based on the exercise of its independent judgment.

II. RESOLUTION OF APPROVAL

NOW, THEREFORE, BE IT RESOLVED THAT:

The Board hereby takes the following actions and makes the following approvals:

A. The Board hereby adopts these Findings in their entirety, which Findings incorporate by reference the facts, analysis, evidence and references in the Addendum;

B. The Board hereby approves the Addendum to the FEIR; and

C. The Board directs staff to file a Notice of Determination pursuant to CEQA Guidelines Section 15094, and to take other necessary and appropriate actions to implement this approval.

PASSED AND ADOPTED this _____ day of June, 2009, by the Board of Three Rivers Levee Improvement Authority by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:
Chair

ATTEST: DONNA STOTTLEMEYER,
CLERK OF THE BOARD

APPROVED AS TO FORM: GENERAL COUNSEL

ANDREA P. CLARK
ADDENDUM 3 TO THE ENVIRONMENTAL IMPACT REPORT

FOR THE FEATHER RIVER LEVEE REPAIR PROJECT

AN ELEMENT OF THE YUBA-FEATHER SUPPLEMENTAL FLOOD CONTROL PROJECT

STATE CLEARINGHOUSE NO. 2006062071

PREPARED FOR

THREE RIVERS LEVEE IMPROVEMENT AUTHORITY

PREPARED BY

EDAW FLOOD CONTROL STUDY TEAM

June 2009
June 16, 2009

TO: THREE RIVERS LEVEE IMPROVEMENT BOARD OF DIRECTORS
FROM: PAUL BRUNNER, EXECUTIVE DIRECTOR
SCOTT D. MCELHERN, SPECIAL COUNSEL
SUBJECT: CONSIDERATION OF A RESOLUTION OF NECESSITY FOR ACQUISITION OF THE ENTIRE PROPERTY OWNED BY ELEANOR HEROLD ALONG THE FEATHER RIVER FOR THE PHASE 4 LEVEE REPAIR PROJECT

______________

RECOMMENDATION:
That the Board of Directors hold a hearing and adopt the attached Resolution of Necessity for the acquisition of the entire property owned by Eleanor Herold located at 2052 Feather River Boulevard for the Three Rivers Phase 4 Levee Repair Project (the "Project") (Assessor's Parcel Number 016-010-009).

BACKGROUND:
The Three Rivers Levee Improvement Authority (TRLIA) is currently conducting construction, improvement and repair work along certain sections of the flood control levees along the Feather River in Yuba County. A major portion of the levee improvements includes a new setback levee extending North from just North of the Star Bend boat ramp, at about PLM 17.2.

On March 18, 2008, the Board adopted a Resolution of Necessity ("RON") to acquire for the Project approximately 0.43-acres of the 1-acre residential parcel owned by Eleanor Herold located at 2052 Feather River Boulevard. Counsel for TRLIA subsequently filed an eminent domain lawsuit that is currently pending in the Yuba County Superior Court and obtained possession of that portion of the property pursuant to an Order for Possession Before Judgment. The 0.43-acre acquisition would have required the removal or modification of the existing 3200 square foot barn on the property. However, Ms. Herold's house would not have been affected by the Project.

In November of 2008, unauthorized tree removals by third parties on a nearby property unexpectedly revealed a subsurface cultural resources site within the Project levee footprint. The site was subsequently investigated pursuant to the Historic Properties Treatment Plan for the Project. The investigation revealed previously unknown cultural resources.

TRLIA's project design team developed and evaluated eight alternatives for moving forward with the Project in light of this cultural site. After thorough consideration, staff and the design team recommend modifying the levee section near the Southern Tie-In to construct a wider levee without excavating for the levee foundation in the vicinity of the cultural site. This alternative
would require the acquisition of a larger portion of Ms. Herold's property—approximately 0.616 acres—and the removal of her residence.

TRLIA’s counsel presented this information to Ms. Herold’s attorneys as soon as the design team settled on a recommended alternative. Because the remaining portion of the Herold property would be an uneconomic remnant if TRLIA acquired only the 0.616 acres TRLIA needs, Ms. Herold has requested that TRLIA acquire the entire parcel. In order to avoid substantial delays in the completion of the Project, TRLIA will need to move forward with the acquisition of Ms. Herold’s property with all possible speed.

DISCUSSION:
Due to the presence of soft sand and other unconsolidated soils in the area of the Southern Tie-In, the original design of that portion of the setback levee included a number of features to ensure the levee would be stable. Those features included the following:

- A landside stability berm with an internal drainage system to address the potential for differential settlement and transverse cracking of the embankment.

- A filtered drainage blanket to control potential through-seepage and prevent piping of embankment and shallow foundation materials. The drainage system would extend up the levee slope to the elevation of the 200-year flood. The weight of the berm fill above the drainage layer was designed to counteract the upward hydrostatic pressure, or uplift, from concentrated flows.

- A wide waterside berm of spoil material to improve stability.

- One foot of cambering (over-build) of the levee crown to compensate for post-construction settlement of the foundation.

- A cutoff wall through the levee foundation to intercept pervious sand and gravel layers.

- Relief wells as a redundant measure to control foundation seepage and piping.

- Foundation stripping was specified to remove large tree roots to a depth of at least 3 feet. The foundation surface was specified to be disked, moisture conditioned and compacted prior to placement of the first lift of embankment material.

Constructing the levee in this manner would disturb and/or destroy the cultural site and burial ground. Any significant disturbance of the cultural site would require TRLIA to obtain permits from other agencies that might not be granted and which, if granted, would likely result in great delay and a significant increase in cost to pay for a full excavation and investigation of the cultural site. As discussed below, there are better alternatives.

Project Alternatives

Alternatives to address the cultural site under the landside portion of the levee have been developed. A summary and coarse evaluation of these alternatives is discussed in detail below.

Alternative 1 – No Action - Avoid stripping / limit compaction / maintain alignment
Alternative 1 would leave the cultural site in-place and undisturbed. The current levee design would be maintained, except that the foundation of the levee at the cultural site would not be
prepared in accordance with the projects specifications and CVFPB and Corps requirements (i.e. grubbing of stumps and large roots, stripping of roots and organic material, moisture conditioning, and proof rolling). Implementation of this alternative would result in the levee having a significantly deficient foundation with no measures implemented to mitigate for the deficiencies. The foundation deficiencies would render the levee susceptible to seepage and internal erosion failure due to a network of voids and “pipes” remaining in the untreated foundation, to stability failure due to a weaker foundation then assumed in analyses, and to excessive settlement and loss of freeboard due to greater than anticipated settlement within the untreated foundation. This alternative would result in a deficient levee, would not be permitable, and is not considered viable.

Alternative 2 - Data recovery (excavate site) / maintain alignment

Alternative 2 would consist of data recovery at the cultural site. All cultural material would be excavated by TRLIA's archeologists, catalogued, and ultimately turned over for final dispensation. Once the data recovery is completed, the setback levee could be constructed as currently designed and permitted (i.e. no modifications to the design would be required). Because of the extensive site disturbance and likely opposition by stakeholders with an interest in the cultural site, permit coordination with the Army Corps of Engineers and State Historic Preservation Office would likely be complicated and time consuming. Since the original design would not be modified, additional seepage, stability, and settlement mitigation would not be needed, but the investigation and excavation would likely require three to six months and cost approximately $1.5 million to $3 million. This alternative is considered technically viable but not practical because of the significant delay, increased cost, and possible denial of the required permits.

Alternative 3 - Widen levee / maintain alignment

Alternative 3 would leave the cultural site intact by covering it with a widened levee section. The portion of levee over the cultural site would be founded on an unprepared foundation, meaning that in addition to the subsurface cultural material the levee foundation in this area would contain organic topsoil, an extensive and deep mat of large roots, loose sands, and possible unknown underground pipes and other structures and utilities. The crown and waterside slope of the embankment (including cutoff wall), would remain in its current designed location with the foundation prepared as specified. The levee would be widened such that the modified landside slope of the embankment and stability berm with internal drainage system would be founded on a treated foundation to the east of the cultural site. This configuration would result in a levee embankment with waterside and landside slopes and stability berm founded on a properly prepared foundation per CVFPB and Corps requirements.

This alternative would require acquisition of an additional approximate 0.18 acres of the Herold parcel and the removal of the Herold residence. The wide levee crest could allow for the construction of an elevated “flood proof” site for RD 784, DWR, and/or the Corps.

The estimated total cost for implementing Alternative 3 is in the order of $1 million, including construction, design development, permitting, right-of-way acquisition, cultural resources investigations and coordination (on-going), and monitoring of construction by qualified archeologist. It should be understood that the performance of the portion of the embankment over the untreated foundation cannot be accurately predicted due to the unknown nature of the foundation in this area. Settlement and cracking of this portion of the embankment (within the widened crown) should be expected over the long term but is not expected to be detrimental to the flood control function. Increased long-term surveillance, monitoring, and maintenance would need to be incorporated into the levee operation and maintenance program.
On balance, this alternative represents TRLIA's best option for achieving the goals of the Project in a timely fashion with the smallest possible increase in Project costs.

**Alternative 4 - Seepage berm / maintain alignment**

Similar to Alternative 3, Alternative 4 would cover the cultural site and thus leave it mostly undisturbed. Rather than providing a widened levee section, Alternative 4 would cover the cultural site with a wide seepage berm. The purpose of the seepage berm would be to provide redundancy to seepage control measures to account for the lack of foundation treatment under the landside of the levee. Unlike Alternative 3, this alternative would result in a landside levee foundation containing organic topsoil, an extensive and deep mat of large roots, loose sands, and possible unknown underground pipes and other structures and utilities, and thus would not meet CVFPB and Corps foundation requirements. This alternative would require acquisition of the remaining Herold parcel as well as a portion of the Foster parcel to the north. In addition, the width of the berm could force the relocation of Feather River Boulevard to the east.

There are no reliable analytical techniques available to model the unpredictable behavior of the untreated foundation underlying a substantial portion of the levee embankment. Unlike Alternative 3, Alternative 4 would not compensate for this uncertainty with a wide levee section. It would not provide a landside internal drainage system placed on a treated foundation, properly ballasted to resist uplift, and extending to the full height of the flood to mitigate the potential for erosive concentrated flows through cracks in the embankment or through foundation defects. Since the embankment would not encapsulate the untreated foundation with a properly treated landside embankment foundation, it may not provide sufficient robustness to counter the expected poor performance of the untreated central portion of foundation. Pressurizing the network of pipes in the untreated foundation during a high water event could lead to a blow-out of the toe of the levee, causing internal erosion and catastrophic levee failure.

Alternative 4 would likely not be approved by Corps technical reviewers and is therefore not considered technically feasible.

**Alternative 5 - Shift alignment to east to avoid site**

Alternative 5 would avoid the cultural site by shifting the levee alignment to the east. The realigned reach of the levee would be about 1,500 feet long and the foundation would be prepared in accordance with CVFPB and Corps requirements. Based on the geologic understanding of the area and the test pits conducted as part of the cultural site investigations, foundation conditions are expected to improve somewhat with an eastern alignment shift. The landside levee toe would be at or close to Feather River Blvd, and the south tie-in to the existing levee would need to be re-designed. The cultural site would be placed into the new floodway once the existing levee is degraded, and it would likely need a protective soil cover and plantings to prevent erosion and discourage vandals. This could be accomplished with the placement of a berm of surplus soil.

This alternative would require acquisition of the remaining Herold parcel (including removal of the residence located near the east end of the parcel) as well as a substantial portion of the Foster parcel to the north. As noted above, the landside toe of levee would be at or near Feather River Blvd, which would form the toe access corridor on the landside of the levee. The waterside toe access corridor would need to be placed over the cultural site. The Alternative 5 design would need to be coordinated with the Corps and CVFPB, and would require a modified CVFPB encroachment permit and CEQA addendum. It is also likely that an updated Section 408 review would be required, which could result in further EIS analysis. Section 106 permit coordination would be needed to address placement of the cultural site in the floodway. Seepage, stability, and settlement mitigation would be consistent with the current design.
Alternative 5 would result in a levee constructed consistent with CVFPB and Corps requirements and is considered technically feasible. However, the significant geologic, engineering, permitting, and right-of-way work necessary for this option would likely prevent the Project from being completed in 2009 and increase costs by approximately $2 million. Therefore, staff and the design team do not recommend this option.

**Alternative 6 - Shift alignment to west to avoid site**

Alternative 6 would avoid the cultural site by shifting the levee alignment to the west. The re-aligned reach of the levee would be about 1,500 feet long and the foundation would be prepared in accordance with approved design criteria. The south tie-in to the existing levee would require a complete re-design. The re-aligned levee would impose an irregular levee shape at the south tie-in, potentially requiring erosion mitigation at the Corps Star Bend erosion site near the tie-in. The cultural site would remain outside the floodway, but would likely need protective measures to discourage vandals. In addition, the CVFPB-required 50-foot toe access corridor on the landside of the levee would need to be located over the cultural site. This alternative would not require additional right-of-way acquisition, but additional geotechnical investigations and analyses would be required to evaluate the realigned reach of levee. Additional hydraulic modeling would need to be performed to evaluate the impact of the decreased floodway width on flood stages, and to model the localized river hydraulics imposed by the irregular levee shape at the south tie-in, including its effects on the Corps of Engineers erosion site located just downstream of the tie-in.

One of the difficulties with this alternative is that the depth to the Modesto formation and thickness of “sugar sands” in the shallow foundation increase to the west of the current setback levee alignment. It is therefore likely that additional stability mitigation measures (e.g. wider stability berm) would be required with a western shift of the alignment. The technical feasibility of this alternative would need to be confirmed based on the additional geotechnical and hydraulic evaluations. Assuming that the geotechnical and hydraulic impacts can be mitigated through design measures, it is likely that this alternative would be technically feasible. At this time, however, many uncertainties remain.

Because the Alternative 6 design would need to be coordinated with the Corps and CVFPB, would require significant geologic and hydraulic evaluation, and would require a modified CVFPB encroachment permit, additional environmental clearance and other permits, is would likely prevent TRLIA from completing construction of the setback levee in 2009 and increase Project costs by approximately $2 million to $3 million.

**Alternative 7 - Maintain alignment – retaining wall on landside**

Alternative 7 would maintain the current alignment of the setback levee. The cultural site would be avoided by replacing the landside portion of levee embankment with a large retaining wall in the vicinity of the cultural site. The retaining wall would be over 20 feet tall above existing ground and would require a substantial foundation; thus, it is possible that the foundation required for the retaining wall would still necessitate excavation into the cultural site. Critical and costly design details that would have to be evaluated would include wall stability, mitigation for settlement, type of foundation cutoff, integration of foundation cutoff with floodwall, and tie-ins with the embankment at the retaining wall ends. The foundation conditions would render a high wall infeasible unless a deep pile foundation is provided. If such a foundation were provided, the potential for differential settlement between the yielding levee foundation and the unyielding wall foundation under high water conditions would be a significant challenge. One of the key lessons learned from the Hurricane Katrina disaster is that the interfaces between dissimilar structures are critical.
It is unlikely that this non-typical design would be approved by the Corps and CVFPB technical reviewers. In addition, the cost to construct such a large retaining wall, including the extensive foundation and seepage mitigation work that would be required, would be on the order of $5 million or more. Total cost for implementing Alternative 7 could be more than $6 million, including construction, design development, permitting, geotechnical investigations, archeological investigations and coordination (on-going), and archeological monitoring of construction. Based on the likely lack of technical feasibility and high construction cost, Alternative 7 is not a viable alternative.

Alternative 8 - Floodwall

Alternative 8 would avoid the cultural site by replacing the levee embankment with a tall floodwall in the vicinity of the cultural site. Much of the above discussion for Alternative 7 also applies to the floodwall alternative. Large flood walls are not typically used in the Sacramento Valley and would not likely be approved by the Corps with this type of very soft foundation condition. In addition, significant design issues that impact technical feasibility, included those noted above, would need to be evaluated and coordinated with the Corps and CVFPB. Ultimately, in the unlikely event that this alternative were determined to be technically feasible, the construction cost would likely be on the order of $6 million or more. Total cost for implementing Alternative 8 would likely be more than $7 million, including construction, design development, permitting, geotechnical investigations, cultural resource investigations and coordination (on-going), and archeological monitoring of construction by qualified archeologists. Based on the likely lack of technical feasibility and high construction cost, Alternative 8 is not viable.

After conducting the analysis summarized above, TRLIA's project design team recommended Alternative 3. TRLIA's counsel then immediately advised Ms. Herold’s attorneys of the necessity of acquiring Ms. Herold’s property and home. Ms. Herold has agreed to the acquisition and rapid relocation if she will not suffer a hardship as a result.

TRLIA has obtained an appraisal of the Herold property. On June 4, 2009 TRLIA offered Ms. Herold the full $284,000 appraised value conditioned on Board approval of the enlarged acquisition, and simultaneously notified Ms. Herold and her counsel that the Board would consider a Resolution of Necessity regarding the larger acquisition on June 16, 2009. TRLIA’s relocation consultants have also been working with Ms. Herold and on June 4 Ms. Herold received a letter describing the Relocation Benefits available to her.

FISCAL IMPACT:

TRLIA previously deposited $58,500 in the State Treasurer's Condemnation Fund regarding the Herold property. As noted above, the newly-appraised value of the entire parcel is $284,000 and Project costs are likely to increase by a total of approximately $1 million to complete Alternative 3. The funding to acquire the entire Herold parcel is in the TRLIA cash flow and is available to be deposited into the State Treasurer's Condemnation Fund.
RESOLUTION NO. 2009-__

A RESOLUTION OF THE THREE RIVERS LEVEE IMPROVEMENT AUTHORITY
DECLARING THE PUBLIC NECESSITY FOR THE TAKING OF CERTAIN PROPERTY
FOR REPAIR, CONSTRUCTION, INSTALLATION AND MAINTENANCE OF THE THREE
RIVERS LEVEE IMPROVEMENT PROJECT
(CODE CIV. PROC. § 1245.230)

WHEREAS, Three Rivers Levee Improvement Authority ("TRLIA") proposes to repair, construct, install,
and maintain the Three Rivers Phase 4 Levee Repair Project (the "Project") affecting a large portion of
the property located at 2052 Feather River Boulevard in the County of Yuba, California, which is also
known as Assessor's Parcel No. 016-010-009 (the "Property"); and

WHEREAS, on March 18, 2008, TRLIA adopted a Resolution of Necessity for the acquisition of an
approximately 0.43-acre portion of the Property for the Project and TRLIA's counsel subsequently filed
an action in Eminent Domain that is currently pending in the Yuba County Superior Court as Case No.
YCSCCVED 08-0000241; and

WHEREAS, TRLIA has recently determined that the Project must be modified in a way that will require
the acquisition of an approximately 0.616-acre portion of the Property and the property owner has
informed TRLIA that the remainder of the parcel would be an uneconomic remainder pursuant to Code of
Civil Procedure section 1240.150; and

WHEREAS, TRLIA has advised the owner of the Property of the need for the Project and offered the
owner an opportunity for a hearing before the TRLIA Board on June 16, 2009 pursuant to section
1245.235 of the Code of Civil Procedure, State of California; and

WHEREAS, the Board of Directors of TRLIA adopts this resolution in compliance with Section
1245.230 of the Code of Civil Procedure.

NOW THEREFORE, THE BOARD OF DIRECTORS OF THE THREE RIVERS LEVEE
IMPROVEMENT AUTHORITY HEREBY RESOLVES AS FOLLOWS:

SECTION 1. The 0.616-acre portion of the Property to be acquired is for the repair, construction,
installation and maintenance of the Project, and the remaining portion of the Property is an uneconomic
remnant pursuant to Code of Civil Procedure section 1240.150.

TRLIA is authorized to acquire property for the Project pursuant to, among others, the following statutes:
1240.150.

SECTION 2. The general location and extent of the Property to be acquired is set forth in the legal
description attached hereto as Exhibit A and the accompanying parcel map attached hereto as Exhibit B,
and incorporated herein by reference.

SECTION 3. The Board of Directors declares that it has found and determined as follows:

a. The public interest and necessity require the proposed Project.

b. The proposed Project is planned and located in the manner that will be most compatible with the
greatest public good and the least private injury.
c. An approximately 0.616-acre portion of the Property described in Exhibit A and depicted in Exhibit B is necessary for the proposed Project and the remainder of the Property is an uneconomic remnant pursuant to Code of Civil Procedure section 1240.150 and the property owner has requested that TRLIA acquire the remainder.

d. The offer of just compensation required by Government Code Section 7267.2 has been made to the owners of record of the Property.

e. The use of the Property for its stated public use is scheduled to begin within two years of its acquisition.

f. All conditions and statutory requirements necessary to exercise the power of eminent domain to acquire the property described herein have been complied with by TRLIA.

SECTION 4. Legal counsel retained by TRLIA is hereby authorized and empowered:

a. To take appropriate legal action, in accordance with the provisions of the Constitution of California and the Eminent Domain Law of California, to acquire the property described in Exhibit A and depicted in Exhibit B.

b. To deposit the probable amount of compensation, based on an appraisal, and to apply to the court for an order permitting TRLIA to take immediate possession and use of the property for public uses and purposes.

PASSED AND ADOPTED by the Board of Directors of the Three Rivers Levee Improvement Authority this 16th day of June, 2009 by a two-thirds (2/3) or greater vote as follows:

AYES:
NOES:
ABSTAIN:
ABSENT:

____________________________
CHAIRPERSON

ATTEST:

____________________________
Donna Stottlemeyer, Secretary

APPROVED AS TO FORM
GENERAL COUNSEL

By: _________________________
LEGAL DESCRIPTION

EXHIBIT "A"

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE UNINCORPORATED AREA, COUNTY OF YUBA, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

Portion of Lot 13 in Block 31 and of Lot 16 in Block 36, as shown on the map entitled, "Arboga Colony No. 2", filed in the office of the County Recorder of the County of Yuba, State of California in Volume 2 of Maps, Page 15 and more particularly described as follows:

Beginning at the Southeast corner of said Lot 16, thence West along the South line of said Lot 16, a distance of 315.86 feet; thence North 1° 57' East 100.0 feet, thence East parallel with the South line of said Lots 16 and 13, a distance of 435.86 feet to the centerline of the County Road; thence following said centerline South 1° 57' West 100.00 feet to the South line of said Lot 13; thence West along said South line 120.0 feet to the point of beginning.

APN: 016-010-009-000
June 16, 2009

TO: Three Rivers Levee Improvement Authority Board
FROM: Paul Brunner, Executive Director Seth Wurzel, Financial Consultant
SUBJECT: Development Agreements with Landowners

**Recommended Action:**
Approve the attached resolution authorizing the Executive Director to execute the attached Development Agreements (DA) and any subsequent agreements substantially in conformance to the terms of the attached DAs and subject to General Counsel’s review.

**Background:**
In 2007 & 2008 the Yuba County Board of Supervisors took a number of actions to move forward with securing the remaining local funds needed to match an anticipated $138.5 million in Proposition 1E grant funding to construct the Feather River Levee Repair Project (FRLRP). The Proposition 1E funds for the FRLRP and a future Prop 1E grant, coupled with the required $53.3 million local match and funds already expended or obligated, are anticipated to complete the funding necessary to reconstruct, set back or otherwise improve all of the levees within Reclamation District 784 that provide flood protection to the south County area.

Prior to securing the local funds needed to complete the remaining improvements, local landowners had previously been providing the needed local funds to improve the levees. Through a series of prior funding agreements and funding mechanisms, local landowners had generated approximately $70.4 million of funding. As a condition of landowner participation in these previous funding agreements, the County agreed to approve a development agreement with each landowner who previously executed and provided funding under one of the agreements. In addition, TRLIA had agreed to the formation of two Mello-Roos Community Facilities Districts (CFD) and the issuance of bonds to finance flood control improvements.

In April of 2007, TRLIA completed the formation of the two CFDs and issued bonds which were sold directly to the developers taking advantage of this option in the funding agreement at that time. The amount of bonds issued was equivalent to the funds advanced by the developer at the time of the bonds sale. TRLIA issued, in aggregate between the two CFDs, $23.6 million of “builder bonds.” Due to market conditions and the development risk at the time of the bond sales, the bonds issued by the CFDs were not marketable to the general public, and the only buyers for the bonds were developers themselves.

The strategy for this current arrangement is for the developers to hold the builder bonds until the levee improvements are complete and sufficient vertical development has taken place which, when achieved, will provide adequate security for the issuance of private placement or
conventional bonds. At that time, the builder bonds can be refunded by TRLIA, with interest, and new, more traditional, bonds can be sold.

In summary, for TRLIA, the purposes of the attached Development Agreements can be summarized as follows;

1) To release all of the parties from the conditions of the prior funding agreements and carry forward only those provisions the parties wish to carry forward into a new agreement, which, with respect to TRLIA include:
   a. Terms associated with the developer's obligation to provide flood insurance for new residents until the later of December 31, 2010 or the completion of the levee improvements.
   b. The developer's notice requirements of flood risk to new home purchasers.
   c. The financial reporting requirements of TRLIA to the developers.
2) To set forth terms associated with the issuance of refunding bonds by the two TRLIA CFDs; and
3) To clarify the use of the Special Tax revenues being levied by the two TRLIA CFDs either toward the fulfillment of remaining Levee Fee obligations or the redemption of outstanding builder bonds.

Discussion:
As stated above, only certain provisions in the DAs pertain to TRLIA and the obligations it is assuming through their execution. The most significant of these provisions are the obligations associated with the refunding of the outstanding builder bonds associated with TRLIA CFDs 2006-1 & 2006-2.

Through execution of the DAs, TRLIA is agreeing to certain terms associated with the issuance of refunding bonds. These terms have been reviewed by Paul Thimmig of Quint & Thimmig LLP, TRLIA's Bond Counsel, and Seth Wurzel of Economic & Planning Systems, TRLIA's Special Tax Consultant. The following summarizes the most significant terms:

1) For Private Placement Bonds:
   a. The EIR and/or EIS for Phase 4 Work is approved and certified with no legal challenges.
   b. Unless other collateral is provided, a 3:1 Value to Lien on developed parcels
   c. Revenues from refunding bonds will first go to pay the remaining obligation for levee funding (i.e., remaining levee fees) then, any remaining proceeds will go to redeem outstanding builder bonds.
   d. The special taxes levied to amortize the debt, when combined with other property taxes, are limited to 1.8% of the projected average residential sales price for the final map parcels in the Tax Zone, and they provide 110% debt service coverage.
   e. Tax exempt interest rates will reflect market interest rates for bonds with similar credit characteristics.
2) For Conventional Bonds
   a. The Bond issue meets TRLIA's current Goals and Policies for Land Secured Financing with the requirement that the special taxes levied to amortize the debt, when combined with other property taxes, are limited to 1.8% of the projected average residential sales price for the final map parcels in the Tax Zone, and they provide 110% debt service coverage; OR
b. The property provides a Value to Lien of 3:1 and
   i. The special taxes levied to amortize the debt, when combined with other property taxes, are limited to 1.8% of the projected average residential sales price for the final map parcels in the Tax Zone, and they provide 110% debt service coverage.
   ii. Special Taxes on developed property provide 50% of the debt service,
   iii. Special taxes on undeveloped property with a Value to Lien of 2:1 or lower are not included in the coverage calculation
   iv. There exists no impediment to development from agencies such as FEMA or the CVFPB.

3) With respect to the issuance of Private Placement or Conventional Bonds, any lien imposed by any remaining builder bonds will be subordinate and extinguished in the event of a default and foreclosure against the property.

In addition to the terms associated with the redemption of builder bonds, through the DAs, TRLIA is also clarifying the use of Special Tax revenue currently being collected by the CFDs after administrative expenses. In general, for projects with a remaining levee fee obligation and outstanding builder bonds, the taxes collected from the TRLIA CFDs will first go to pay the remaining fee obligation, then go to redeem outstanding builder bonds. The project will receive credit toward the fee for the collected Special Taxes. For projects with no remaining fee obligation, the Special Taxes will go to directly redeem builder bonds in $5,000 increments.

**Fiscal Impact:**
These Development Agreements impose no new financial obligations by TRLIA in terms of ongoing requirements associated with the obligations being carried over from the prior advance funding agreements. With respect to the redemption of builder bonds and the issuance of private placement or conventional debt;

- Any cost associated with the issuance of new debt will be covered from the proceeds of the bond issuance.
- Any cost associated with collecting Special Tax revenues and applying them toward credit for outstanding levee fee or redeeming building bonds are covered within the administration portion of the Special Tax revenue collections.

**Attachments:**

1. Resolution No 2009-__ - “A Resolution by the Board of Directors of Three Rivers Levee Improvement Authority Authorizing Execution of Development Agreements”
2. DA2009-0001 – Cresleigh Homes Corporation
3. DA2009-0002 – Patrick Laughlin, David Lanza and Ranjit Khayura
4. DA2009-0003 – Plumas Lake Riverside Meadows, L.P.
5. DA2009-0005 – Landsource Holding Company, LLC
6. DA2009-0006 – MS Rialto River Oaks CA, LLC
7. DA2009-0008 – River Landings Investments LLC
9. Exhibit E for all DAs listed above
RESOLUTION NO. 2009-__

A RESOLUTION BY THE BOARD OF DIRECTORS OF
THREE RIVERS LEVEE IMPROVEMENT AUTHORITY AUTHORIZING
EXECUTION OF DEVELOPMENT AGREEMENTS

WHEREAS, the Three Rivers Levee Improvement Authority (the "Authority"), a joint exercise of powers authority of which the County of Yuba (the "County") and Reclamation District 784 ("RD 784") are the members, has constructed over $130,000,000 of levee improvements resulting in the certification of levees on the Western Pacific Interceptor Canal, the Bear River and substantial portions of the levees on the Yuba River, thereby significantly improving public safety in Southern Yuba County; and

WHEREAS, the County, the Authority and RD 784 entered into agreements with various landowners in the Southern area of the County, in order to secure local funding for the levee improvements; and

WHEREAS, as a condition of landowner participation in these funding agreements, the County agreed to approve a development agreement with each participating developer; and

WHEREAS, in April 2007, pursuant to the terms of the Second Agreement for Advanced Funding and Reimbursement of Costs for Levee Improvements, in order to allow the landowners party to that agreement to finance flood control improvements, TRLIA issued approximately $23.6 million in builder bonds which were sold directly to landowner participants in the funding agreements; and

WHEREAS, TRLIA wishes to execute Developer Agreements that will provide the terms and conditions related to the issuance of refunding bonds to participating developers, release the developers from their obligations under the prior funding agreements and establish terms associated with refunding the builder bonds to participating developers once levee improvements are complete; and

WHEREAS, TRLIA wishes to carry forward into these Developer Agreements certain provisions from the former funding agreements related to flood insurance, notice requirements of flood risks to new home purchasers, and financial reporting requirements of TRLIA.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Three Rivers Levee Improvement Authority as follows:

The Executive Director of the Authority is hereby authorized to execute the attached Development Agreements and any subsequent agreements substantially in conformance with the terms of the attached agreements and subject to review and conforming changes by General Counsel.

* * * * * *

PASSED AND ADOPTED this 16th day of June, 2009, by the Board of Three Rivers Levee Improvement Authority by the following vote:

AYES:
NOES:

ABSENT:

ABSTAIN:

______________________________
President

ATTEST: DONNA STOTTLEMEYER,
CLERK OF THE BOARD

______________________________

APPROVED AS TO FORM: GENERAL COUNSEL
ANDREA P. CLARK

Andrea P. Clark
RESOLUTION NO. 2009-__

A RESOLUTION BY THE BOARD OF DIRECTORS OF
THREE RIVERS LEVEE IMPROVEMENT AUTHORITY AUTHORIZING
EXECUTION OF DEVELOPMENT AGREEMENTS

WHEREAS, the Three Rivers Levee Improvement Authority (the “Authority”), a joint exercise of powers authority of which the County of Yuba (the “County”) and Reclamation District 784 (“RD 784”) are the members, has constructed over $130,000,000 of levee improvements resulting in the certification of levees on the Western Pacific Interceptor Canal, the Bear River and substantial portions of the levees on the Yuba River, thereby significantly improving public safety in Southern Yuba County; and

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WHEREAS, TRLIA wishes to carry forward into these Developer Agreements certain provisions from the former funding agreements related to flood insurance, notice requirements of flood risks to new home purchasers, and financial reporting requirements of TRLIA.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Three Rivers Levee Improvement Authority as follows:

The Executive Director of the Authority is hereby authorized to execute the attached Development Agreements and any subsequent agreements substantially in conformance with the terms of the attached agreements and subject to review and conforming changes by General Counsel.

* * * * * *

PASSED AND ADOPTED this 16th day of June, 2009, by the Board of Three Rivers Levee Improvement Authority by the following vote:
AYES:
NOES:
ABSENT:
ABSTAIN:

Chair

ATTEST: DONNA STOTTERMeyer,
CLERK OF THE BOARD

APPROVED AS TO FORM: GENERAL COUNSEL
ANDREA P. CLARK
DEVELOPMENT AGREEMENT
BY AND BETWEEN
THE COUNTY OF YUBA, THE THREE RIVERS LEVEE IMPROVEMENT AUTHORITY AND, CRESLEIGH HOMES CORPORATION (DEVELOPER) RELATIVE TO THE DEVELOPMENT KNOWN AS PLUMAS RANCH AND WOODSIDE VILLAGE

This document, including exhibits, totals ____ pages.
Projects:
Woodside Village – TSTM2003-0006
Plumas Ranch – TSTM1999-0585

Developer:
Cresleigh Homes Corporation

Developer's Address for Purpose of Written Notice:
2024 Opportunity Dr, Suite 150 and 433 California Street, 7th Floor
Roseville, CA 95765 and San Francisco, CA 94104

Landowner:
Same as above.

Term:
The Term of the Development Agreement, as provided for in section 1.8 begins thirty (30) days after the Board of Supervisors enacts the Adopting Ordinance (noted below) and expires for each project twenty (20) years from the original date of approval of each project. Portion of DA covering TSTM2003-0006 expires on June 18, 2023 and portion of DA covering TSTM1999-0585 expires on February 15, 2020.

Entitlements:
As referred to in Recital 5 shall mean TSTM2003-0006, TSTM1999-0585, and all associated tentative and final maps.

CEQA document:
These projects are located within the Plumas Lake Specific Plan area. A Final Environmental Impact Report for the Plumas Lake Specific Plan was adopted by the Yuba County Board of Supervisors on September 21, 1993 (State Clearinghouse No. 92072070). A residential project that is consistent with a specific plan is exempt from further environmental review (Section 15182 of the CEQA Guidelines.)

Adopting Ordinance:
As referred to in Section 1.3 (a), shall mean Ordinance No. __________ enacted by the Board of Supervisors on ____________, 20__.

Exhibits which are attached to this Development Agreement are as follows:
A. Legal Description
B. Assumption Agreement
C. Special Conditions and Requirements
D. Sample Notice of Termination
E. Credit and Reimbursement Policy
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Development Agreement Between the County of Yuba and Cresleigh Homes


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THIS DEVELOPMENT AGREEMENT ("Agreement") is made by and between the COUNTY OF YUBA, a political subdivision of the State of California (County"), the THREE RIVERS LEVEE IMPROVEMENT AUTHORITY, a joint powers authority ("TRLIA") and Cresleigh Homes Corporation ("Developer") pursuant to the authority of Article 2.5, Chapter 4, Division Title 7 (§ 65864 et seq. of the Government Code) relating to Development Agreements.

RECITALS

1. In order to strengthen the public land use planning process, to encourage private participation in the process, to reduce the economic risk of development and to reduce the waste of resources, the Legislature adopted the Development Agreement Law (Gov. Code, § 65864 et seq.)

2. The Development Agreement Law permits cities and counties to contract with private interests for their mutual benefit in a manner not otherwise available to the contracting parties. Such agreements, as authorized by the Development Agreement Law and by common law, assure property developers that they may proceed with their projects with the assurance that approvals granted by public agencies will not change during the period of development. Cities and counties are equally assured that costly infrastructure such as roads, sewers, fire protection facilities, etc., will be available in a timely manner.

3. The parties have, in good faith, negotiated the terms hereinafter set forth which carry out the legislative purpose set forth above and will assure the parties to this Agreement of mutually desirable development in a manner consistent with the CEQA document; the Entitlements, and this Agreement.

4. Developer owns in fee (or holds an option to purchase for a term that is or may be extended for at least the term of this Agreement) the Subject Property as more particularly described on Exhibit A hereto, located in the County.

5. County, in response to Developer's application(s), after public hearings and extensive environmental analysis, has granted approval of the Entitlements, as described on the Reference Sheet.

6. In support of the various Entitlements described in paragraph 5 above, and in accord with the California Environmental Quality Act ("CEQA") and State and County guidelines, County has accepted and ratified a CEQA document, as described on the Reference Sheet.

7. Development of the Subject Property pursuant to the terms and conditions of the Entitlements, the General Plan and appropriate environmental determinations will provide for orderly growth and development consistent with the County's General Plan and other development policies and programs.

8. The Planning Commission considered this Agreement, and recommended its adoption to the Board of Supervisors.
9. Having duly considered this Agreement and having held the noticed public
hearings, County finds and declares that the provisions of this Agreement are consistent with the
maps and text of the County's General Plan.

NOW, THEREFORE, the parties hereto agree as follows:

ARTICLE 1

GENERAL PROVISIONS

Section 1.1. The Project. The Project is defined as set forth on the Reference Sheet.

Section 1.2. Subject Property. The Subject Property is more specifically described in
Exhibit A, which is incorporated herein and made part of this Agreement.

Section 1.3. Definitions. As used in the Agreement, the following terms, phrases and
words shall have the meanings and be interpreted as set forth in this Section.

(a) Adopting Ordinance means the ordinance which approves this
Agreement.

(b) Applicable Laws means the General Plan, Specific Plan (if applicable),
County Laws, rules, ordinances, regulations, and official policies governing the processing of
entitlements, the permitted uses of the Subject Property, the density or intensity of use, the rate
and timing of development, design, improvements, reservation or dedication of land for public
improvements, fees, exactions, construction and building setbacks, occupancy and specifications
applicable to the Subject Property in effect on the Effective Date of this Agreement.

(c) Assumption Agreement means an agreement substantially conforming to
the model assumption agreement described in Exhibit B, or other agreement in a form approved
by the County Counsel, executed by a Landowner with the Developer, expressly assuming
various obligations relating to the development of the Project, or portion thereof.

(d) CEQA means the California Environmental Quality Act section 21000
et seq., of the Public Resources Code of the State of California.

(e) Completed Lots shall mean any single-family residence, any other
residential dwelling unit(s), or any non-residential building, and the lot or parcel upon which
such residence or building is located, when it has been approved by the County for occupancy.

(f) County means the County of Yuba or, if the context otherwise requires,
the Board of Supervisors for the County of Yuba, or its designee.

(g) County Laws means ordinances, resolutions, rules, regulations, policies,
motions, directives, mitigation measures, conditions, standards, specifications, dedications, fees,
taxes (including without limitation general, special and excise taxes), assessments, liens, other
exactions and impositions, and any other actions having the force of law, that are enacted or
adopted by County, or by its electorate through the initiative or referendum process.
(h) **Current Fees** means those County development impact fees in effect as of the Effective Date and any currently incorporated adjustments or increases therein adopted as of the Effective Date.

(i) **Developer** shall mean that person or entity that has applied for this Development Agreement as defined on the Reference Sheet.

(j) **Director** means the Community Development Director for the County, or his/her designee.

(k) **Effective Date** means the effective date of the Adopting Ordinance.

(l) **Entitlements** shall mean those approvals listed on the Reference Sheet of this Agreement, approved copies of which are on file with the Board of Supervisors.

(m) **General Plan** means the General Plan of the County, including the text and maps, as may have been amended in connection with the Project.

(n) **Landowner** is a party who has acquired any portion of the Subject Property from the Developer who, unless otherwise released as provided in this Agreement, shall be subject to the applicable provisions of this Agreement.

(o) **New Fees** means those development impact fees adopted by the County after the Effective Date of this Development Agreement.

(p) **Planning Commission** shall mean the County's Planning Commission, or its designee.

(q) **Reserved Powers** shall mean those powers explicitly reserved to the County by this Agreement.

(r) **Revenue Bonds** means the Yuba Levee Financing Authority Revenue Bonds, Series A and Taxable Revenue Bonds, Series B.

(s) **Subject Property** means the property described in Section 1.2, or the remaining portions thereof after releases from the provisions of this Agreement have been executed as authorized by this Agreement.

(t) **TRLIA** means the Three Rivers Levee Improvement Authority.

(u) **YCWA** means the Yuba County Water Agency.

Section 1.4. **Exhibits.** The Exhibits listed herein are incorporated into this Agreement and made a part hereof. The Exhibits are:

- **Exhibit A**  Subject Property
- **Exhibit B**  Assumption Agreement
- **Exhibit C**  Special Conditions and Requirements
Section 1.5. Incorporation of Recitals. Recitals 1 through 9 are incorporated herein, including all exhibits referred to in the Recitals. In the event of inconsistency between the Recitals and the provisions of Articles 1 through 5, the provisions of Articles 1 through 5 shall prevail.

Section 1.6. Parties to Agreement. The parties to this Agreement are:

(a) The County of Yuba. A political subdivision of the State of California exercising general governmental functions and powers. The principal office of the County is located at 915 8th Street, Marysville, California 95901.

(b) Three Rivers Levee Improvement Authority. A joint powers authority created by the County and RD 784. The principal office of TRLIA is located at the County of Yuba Government Center, 915 Eighth Street, Suite 115, Marysville, California 95901.

(c) Developer. Developer owns in fee or has an equitable interest in the Subject Property.

(d) Landowner. From time to time, as provided in this Agreement, Developer may sell or otherwise lawfully dispose of a portion of the Subject Property to a Landowner who, unless otherwise released, shall be subject to the applicable provisions of this Agreement related to such portion of the Subject Property.

Section 1.7. Project is a Private Undertaking. It is agreed among the parties that the Project is a private development and that the County has no interest therein except as authorized in the exercise of its governmental functions.

Section 1.8. Term of Agreement. This Agreement shall commence upon the Effective Date of the Adopting Ordinance approving this Agreement and shall continue in force for the period shown on the Reference Sheet under "Term." Upon the expiration of the Term as provided for in this section, this Agreement shall automatically terminate and be of no further force and effect; provided however, such termination shall not affect the rights or duties arising from the entitlements for the Subject Property which were approved prior to, concurrently with, or subsequent to the approval of this Agreement.

Section 1.9. Assignment and Assumption. Developer shall have the right to sell, assign, or transfer this Agreement with all the rights, title and interests therein to any person, firm or corporation at any time during the term of this Agreement. The conditions and covenants set forth in this Agreement and incorporated herein shall run with the land and the benefits and burdens shall bind and inure to the benefit of the parties. Developer shall provide County with a copy of the Assumption Agreement. Express written assumption by such purchaser, assignee or transferee, to the satisfaction of the County Counsel, of the obligations and other terms and conditions of this Agreement with respect to the Subject Property or such portion thereof sold, assigned or transferred, shall relieve the Developer selling, assigning or
transferring such interest of such obligations so expressly assumed. Any such assumption of Developer's obligations under this Agreement shall be deemed to be to the satisfaction of the County Counsel if executed in the form of the Assumption Agreement attached hereto as Exhibit B and incorporated herein by this reference, or such other form as shall be approved by the County Counsel.

Section 1.10. Covenants Running with the Land. Each and every purchaser, assignee or transferee of an interest in the Subject Property, or any portion thereof, shall be obligated and bound by the terms and conditions of this Agreement, and shall be the beneficiary thereof and a party thereto, but only with respect to the Subject Property or such portion thereof, sold, assigned or transferred to it. Any such purchaser, assignee or transferee shall observe and fully perform all of the duties and obligations of a Developer contained in this Agreement, as such duties and obligations pertain to the portion of the Subject Property sold, assigned or transferred to it. Provided however, notwithstanding anything to the contrary above, if any such sale, assignment or transfer relates to a completed residential unit or non-residential building which has been approved by the County for occupancy, this Agreement shall automatically terminate with respect to the Completed Lot. The termination of this Agreement for any Completed Lot shall not be construed to terminate or modify any assessment district or Mello-Roos community facilities district lien affecting such Completed Lot at the time of termination. Upon the request of a Developer, County shall execute such documents as are reasonably requested to remove this Agreement from the public records as it affects each Completed Lot. The County may charge a reasonable fee to process this request.

Section 1.11. Amendment to Agreement (Developer and County). This Agreement may be amended by mutual consent of the parties in writing, in accordance with the provisions of Government Code section 65868, provided that: any amendment which relates to the term, permitted uses, density, intensity of use, height and size of proposed buildings, or provisions for reservation and dedication of land shall require a noticed public hearing before the parties may execute an amendment. Unless otherwise provided by law, all other amendments may be approved without a noticed public hearing.

Any amendment entered into between the County and the Developer shall require the signature of each owner of any portion of the Subject Property to the extent the amendment modifies this Agreement as to that other owner's property.

Section 1.12. Amendment to Agreement (Landowner and County). This Agreement may also be amended, subject to the provisions of Government Code section 65868, between a Landowner who has acquired a portion of the Subject Property from Developer and County as to the portions of the Subject Property then owned by Landowner.

Any amendment entered into between the County and a Landowner shall require the signature of each Landowner of any portion of the Subject Property or the Developer to the extent the amendment modifies the Agreement as to that Landowner's or the Developer's property.

Section 1.13. Releases. Developer, and any subsequent Landowner, shall be deemed released from all further obligations relating to the sold, assigned, or transferred property, upon
the date that the County Clerk receives a copy of the Assumption Agreement provided for in Section 1.9.

Section 1.14. Notices. Notices, demands, correspondence, and other communication to County and Developer shall be deemed given if dispatched by prepaid first-class mail to the principal offices of the parties as designated in Section 1.6(a). Notice to the County shall be to the attention of both the County Administrator and the Director. Notices to subsequent Landowners shall be required to be given by the County only for those Landowners who have given the County written notice of their address for such notices. The parties hereto may, from time to time, advise the other of new addresses for such notices, demands or correspondence.

Section 1.15. Reimbursement for Agreement Expense of County. Developer agrees to reimburse County for a pro-rata share of the reasonable and actual expenses over and above fees paid by Developer as an applicant, specifically incurred by County for the modification of the County's form development agreement into the form of this Agreement, including recording fees, publishing fees, and reasonable staff and consultant costs not otherwise included within application fees then due and payable to the County. Such reimbursement shall be paid to the County within 10 days following invoice by the County. Developer shall also pay any and all delinquent installments of property tax then due for the Subject Property.

Section 1.16. Recordation of Agreement. The County Clerk shall cause a copy of this Agreement to be recorded with the County Recorder not later than ten (10) days after the effective date following execution of this Agreement by the County. Developer hereby covenants that during the period following execution and the recording of this Agreement by the County, Developer shall not, without prior written approval by the County Counsel, cause or allow to be recorded against the Subject Property any instrument affecting the priority, validity or enforceability of this Agreement.

Section 1.17. Applicable Law. This Agreement shall be construed and enforced in accordance with the laws of the State of California.

Section 1.18. Invalidity of Agreement/Severability. If this Agreement in its entirety is determined by a court to be invalid or unenforceable, this Agreement shall automatically terminate as of the date of final entry of judgment. If any provision of this Agreement shall be determined by a court to be invalid and unenforceable, or if any provision of this Agreement is rendered invalid or unenforceable according to the terms of any federal or state statute, which became effective after the Effective Date, the remaining provisions shall continue in full force and effect.

Section 1.19. Third Party Legal Challenge. In the event any legal action or special proceeding is commenced by any person or entity other than a party or a Landowner, challenging this Agreement, the Entitlements or any approval subsequently granted by the County for the development of the Subject Property, then the parties and any Landowner agree to cooperate with each other in good faith in connection with the defense of the same. County may elect to tender the defense of any lawsuit filed by a third person or entity to Developer and/or Landowner(s) (to the extent the litigation, in part or in whole, seeks to overturn or invalidate this Agreement, the Entitlements or any subsequent approval granted for the Subject Property).
Property held by or granted to Developer and/or Landowner, and, in such event, Developer and/or such Landowner(s) shall indemnify, hold the County harmless from and defend the County from all costs and expenses incurred in the defense of such lawsuit, including, but not limited to, damages, attorneys' fees and expenses of litigation awarded to the prevailing party or parties in such litigation. For purposes of this section only, "County" shall include all employees, consultants and agents acting on behalf of the County. Neither party shall settle any such lawsuit without the consent of the other party. The County may elect to participate in the litigation, in which case the Developer and/or Landowner agree to reimburse the County for its litigation costs and fees, including the retention of outside legal counsel and all staff costs. It is the intent of the Parties that the County's participation not result in unnecessary duplication of legal services, but rather that the County's active involvement in the litigation be limited to supervising the preparation of the administrative record or discovery as applicable, monitoring of litigation, and responsive pleadings regarding issues which, in the sole opinion of the County, involve broader County concerns then those immediately affecting the Landowner and/or Developer. Upon written demand of the County, Developer and/or Landowner shall deposit with the County such sums as may be specified by the County as its estimated litigation costs and fees for the following thirty day period. Both parties shall act in good faith, and shall not unreasonably withhold consent to settle. In the event that the County elects to settle a claim, and Developer refuses to also settle, County at its sole option may require Developer to post security in a form and amount reasonably acceptable to the County, for the performance of Developer's duties under this section. If the Developer, within 30 days of receiving written notice from County, fails to post this security, the Developer shall settle the claim on terms as previously approved by the County. This provision shall survive the termination of this Agreement.

Section 1.20. Waiver of Claims. Developer waives, as to the Subject Property only, any and all existing claims that it may have against the County, its agents, employees and consultants, arising out of the adoption and/or application of development requirements and standards, impact fees, the adoption of this Agreement or approval of the Entitlements and all of the proceedings, acts or determinations made prior thereto.

Section 1.21. Priority of Enactment. In the event of conflict between the Development Agreement, the Entitlements and the County Laws, the parties agree that the following sequence of approvals establishes the relative priority of approvals, each approval superior to the approvals listed thereafter: (1) Exhibit C to this Agreement; (2) the Development Agreement; (3) the Entitlements and (4) the County Laws. In the event of a conflict between two or more of the foregoing documents, the language of that document which is superior in priority as provided above shall govern.

ARTICLE 2

THE PROJECT AND DEVELOPMENT OF THE SUBJECT PROPERTY

Section 2.1. Limited Vested Right. During the Term of and subject to the terms of this Agreement the Developer's rights shall be vested only as to the Entitlements. "Vested" shall mean that except as to express limitations and reservations contained in this Agreement, Developer has a fully vested right to develop the Property in accordance with the terms and

Development Agreement Between the County of Yuba and Cresleigh Homes
conditions of this Agreement and the Entitlements, and Developer's Entitlements shall not be subject to changes in Applicable Laws. In the event that the County grants an approval or permit in the implementation of the Project, the approval or permit shall be pursuant to Applicable Laws and shall also be considered vested. This section shall not be construed to limit the authority, or obligation of the County to hold necessary public hearings, or to limit the discretion of the County or any of its officers or officials with regard to rules, regulations, ordinances, laws and entitlements, which require the exercise of discretion by the County or any of its officers or officials in accordance with the Applicable Laws, or those reserved powers set forth in Section 2.6. The foregoing shall not be deemed to limit Developer's rights to seek a modification or amendment to the Entitlements.

Section 2.2. No Moratorium, Quotas, Restrictions, or Other Growth Limitations. Except as otherwise provided by the terms and conditions of this Agreement or the Entitlements, no ordinance, resolution, rule, regulation or policy of County shall be applied, imposed or enacted by County, by resolution, ordinance, initiative, or otherwise, which in any way relates to the rate, timing or sequencing of the development or use of the Subject Property, or any improvements related thereto, including without limitation, any no-growth or slow-growth moratoriums or annual development allocations, quotas or limitations, or in any way conflicts with the permitted uses, density and intensity of uses, maximum building height and size set forth in the Entitlements; provided, however, Developer shall be subject to any such growth limitation ordinance, resolution, rule; regulation or policy which is adopted on a uniformly applied, County-wide basis and directly concerns an immediate, verifiable adverse risk to public health or safety, in which case County shall treat Developer in a uniform, equitable and proportionate manner with all properties which are zoned consistent with Developer's zoning set forth in the Entitlements. Without limitation of the foregoing, any future County rules, ordinances, regulations or policies, whether by specific reference to the development of the Subject Property or as part of a general enactment that directly or indirectly applies to the development of the Subject Property, shall be considered to conflict with this Agreement if it has any one or more of the following effects: (a) limits or reduces the number of lots or square footage which may be developed on the Subject Property, the density or intensity of use allowed under the Entitlements, (b) imposes or increases any fees, exactions or other monetary obligation from what is set forth in Applicable Law, the Entitlements or the terms of this Agreement, (c) limits utilities, services or related facilities or rights to use such utilities, services or privileges for the Subject Property or that condition development or construction on the availability of public services and/or facilities (for example, the presence of a specified traffic level of service or water or sewer availability) other than as set forth in the Entitlements, (d) limits or controls in any manner the growth or other rate, timing, phasing, or sequencing of the approval or development of the Subject Property, whether by moratorium, growth restriction, or any mechanism by which the development is tied to the availability of public services, and/or facilities or otherwise, (e) limits the maximum height, bulk and size of proposed buildings from what is set forth in Applicable Law, (f) applies to the Subject Property any future County law otherwise allowed by this Agreement that is not applied on a County-wide basis to all substantially similar developments and properties, (g) changes any land use designation or permitted use vested by this Agreement on the Subject Property without the consent of Developers, (h) requires the issuance of additional permits or approvals by County other than those required by Applicable Laws, or (i) limits the processing of, or the obtaining of, any
subsequent entitlements or approvals necessary for the development of the Subject Property as contemplated by this Agreement.

Section 2.3. **Permitted Uses and Development Standards.** The permitted uses and development standards shall be those as set forth in and permitted by the Entitlements, County Zoning, Applicable Laws and subdivision and land development standards as of the Effective Date.

Section 2.4. **Application, Processing and Inspection Fees.** Application fees, processing fees, and inspection fees that are revised during the term of this Agreement shall apply to the development pursuant to this Agreement, provided that such revised fees apply generally to similar private projects or works within County.

Section 2.5. **Impact Fees.** [Intentionally Omitted—See Exhibit C: Special Conditions and Requirements]

Section 2.6. **Reserved Powers.** Notwithstanding any other provision of this Agreement, and without limitation as to any other requirements or exceptions contained in this Agreement, the County retains the authority to take the following actions and apply the same to the Subject Property:

(a) The authority of the Board of Supervisors to adopt regulations to protect the County and its citizens from an immediate and significant adverse risk to health and safety. This shall include, but not be limited to, lack of sufficient sewer and/or water facilities, but not school facilities.

(b) Adopt new or amended building codes (as may be amended by the County), including, but not limited to, the Uniform Building Code, Uniform Fire Code, Uniform Mechanical Code, Uniform Plumbing Code, National Electrical Code, Uniform Housing Code, and Uniform Sign Code, that generally apply equally to all buildings, structures and real property in the County.

(c) Adopt land use regulations, ordinances, policies, programs, resolutions or fees generally applicable to similar development projects adopted or undertaken by County as and only to the extent necessary to comply with state or federal laws, or regulations, provided that in the event that such state or federal laws or regulations prevent or preclude compliance with one or more provisions of this Agreement, such provision or provisions shall be modified or suspended as may be necessary to comply with such state or federal laws or regulations.

(d) Adopt county land use regulations, ordinances, policies, programs or resolutions adopted after the Effective Date, which are in conflict with the Applicable Laws, but the application of which to the development of the Subject Property has been consented to in writing by the Developer and/or the applicable Landowner by later separate document, which consent Developer and/or Landowner may withhold in their sole and exclusive discretion.

Section 2.7. **Obligation and Rights of Mortgage Lenders.** The holder of any mortgage, deed of trust or other security instrument with respect to the Subject Property, or any
portion thereof, shall not be obligated under this Agreement to construct or complete improvements or to guarantee such construction or completion, but, in the event said holder takes title to the Subject Property through foreclosure of a mortgage or a deed of trust, or deed-in-lieu of such foreclosure, said holder shall be bound by all of the terms and conditions of this Agreement which pertain to the Subject Property or such portion thereof in which it holds an interest. Any such holder who comes into possession of the Subject Property, or any portion thereof, pursuant to a foreclosure of a mortgage or a deed of trust, or deed in lieu of such foreclosure, shall take the Subject Property, or such portion thereof, subject to any pro rata claims for payments or charges against the Subject Property, or such portion thereof, which accrue prior and subsequent to the time such holder comes into possession. Nothing in this Agreement shall be deemed or construed to permit or authorize any such holder to devote the Subject Property, or any portion thereof, to any uses, or to construct any improvements thereon, other than those uses and improvements provided for or authorized by this Agreement, subject to all of the terms and conditions of this Agreement.

Upon foreclosure or deed-in-lieu thereof, a lender has no obligation to pay any amounts related to the Subject Property, unless said lender or successor-in-interest elects to use the Entitlements to develop the Subject Property.

Section 2.8. **Tolling and Extension During Legal Challenge or Moratoria.**

(a) If this Agreement, any of the Entitlements or any subsequent entitlements, approvals or permits required to implement the Entitlements (such as any required fill permit) are subjected to legal challenge by a third party, other than Developer, and Developer cannot or elects not to proceed with development of the Subject Property during such litigation, the Term of this Agreement and timing for obligations imposed pursuant to this Agreement shall, upon written request of Developer to County, be extended and tolled during such litigation until the entry of final order or judgment upholding this Agreement, the Entitlements, subsequent entitlements, approvals and/or other permits required to implement the Entitlements, or the litigation is dismissed by stipulation of the parties.

(b) If this Agreement, any of the Entitlements or any subsequent entitlements, approvals or permits required to implement the Entitlements are subjected to moratoria, and Developer cannot or elects not to proceed with the development of the Subject Property during such moratoria, the Term of this Agreement and timing for obligations imposed pursuant to this Agreement shall, upon written request of Developer to County, be extended and tolled during such moratoria. Moratoria shall be defined as restrictions, moratorium or de facto moratoria on approval or recordation of final maps, issuance of building permits, final inspections or certificates of occupancy, or approval or issuance of other such entitlements or permits, at the time of the transfer which would limit the reasonable ability to construct in a similar fashion a development project previously approved by the County.

Section 2.9. **Timing of Construction and Completion.** Notwithstanding any provision of this Agreement to the contrary, there is no requirement that Developer initiate or complete development of the Subject Property or any particular phase of development of the Subject Property within any particular period of time, and County shall not impose such a requirement on any subsequent approval. The parties acknowledge that Developer cannot at this
time predict when, or the rate at which or the order in which, phases will be developed. Such decisions depend upon numerous factors that are not within Developer's control, such as market orientation and demand, interest rates, competition, and other similar factors. In light of the foregoing, the parties agree that Developer shall be able to develop in accordance with Developer's own time schedule as such schedule may exist from time to time, for whatever reason, and that Developer shall determine the order in which portions of the Subject Property shall be developed. Without limiting of any of the foregoing, the parties specifically desire to avoid the consequences of the holding of the California Supreme Court in *Pardee Construction Co. v. County of Camarillo* (1984) 37 Cal.3d 465, which held that the failure of the parties therein to consider and expressly provide for the timing of development resulted in a later-adopted initiative restricting the timing of development to prevail over such parties' agreement; consequently, the parties agree that Developer shall have the right to develop the Subject Property in such order and at such rate and at such times as Developer deems appropriate within the exercise of its subjective business judgment. Nothing in this Section 2.9 shall exempt Developer from completing work required by a subdivision agreement, road improvement agreement or similar agreement in accordance with the terms thereof.

**Section 2.10. Property Tax.** Developer shall pay all installments of property tax applicable to the Subject Property prior to such installments becoming delinquent.

**ARTICLE 3**

**DEFAULT**

**Section 3.1. General Provisions.** Subject to extensions of time by mutual consent in writing, any failure to perform any term or provision of this Agreement by County, by Developer or by Landowner not released from this Agreement to perform any term or provision of this Agreement, shall constitute a default in the event (a) the party alleging such default or breach gives the other party or Landowner not less than sixty (60) days notice in writing specifying the nature of the alleged default and the manner in which said default may be cured, and (b) the said other party does not cure the breach or default within said sixty (60) days (or, if the cure cannot be accomplished within 60 days, if said other party does not commence the cure within 60 days and diligently prosecute the cure thereafter.) During any such sixty (60) day period, the party or Landowner charged shall not be considered in default for purposes of termination or institution of legal proceedings.

After notice and expiration of the sixty (60) day period, if such default has not been cured or is not being diligently cured in the manner set forth in the notice, the other party or Landowner to this Agreement may, at his/her option, institute legal proceedings pursuant to this Agreement or give notice of his/her intent to terminate this Agreement pursuant to California Government Code section 65868 and any regulations of the County implementing said Government Code section. Following notice of intent to terminate, or prior to instituting legal proceedings, the matter shall be scheduled for consideration and review in the manner set forth in Government Code sections 65865, 65867, and 65868 and County regulations implementing said sections by the County within thirty (30) calendar days.
Following consideration of the evidence presented in said review before the County and an additional 30-day period to cure, either party alleging the default by the other party or Landowner may institute legal proceedings or may give written notice of termination of this Agreement to the other party; provided, however, a Landowner may only give such notice with respect to such portion of the Subject Property in which Landowner owns an interest.

Section 3.2. Annual Review. The County shall, at least every twelve (12) months during the term of this Agreement, review the extent of good faith substantial compliance by Developer and Landowner with the terms of this Agreement. Such periodic review by the Director, unless referred to the Planning Commission or the County Board of Supervisors shall be limited in scope to compliance with the terms of this Agreement pursuant to California Government Code section 65865.1. Each said review shall be completed within sixty (60) days of the first meeting of the Planning Commission and the County Board of Supervisors, respectively, at which such review is undertaken, unless said period is extended by mutual consent of the County and Developer. Failure to complete said review within the prescribed period shall be deemed a finding of good faith substantial compliance. Notice of such annual review shall include the statement that any review, the result of which the local agency finds and determines on the basis of substantial evidence, that the Developer has not complied in good faith with the terms or conditions of the Development Agreement, may result in amendment or termination of this Agreement in accordance with Government Code section 65865.1. The County may charge the Developer a reasonable fee for such annual review to defray the cost to the County to process and conduct such annual review.

The County shall deposit in the mail or fax to Developer and/or Landowner a copy of all staff reports and, to the extent practical, related exhibits concerning contract performance at least seven (7) days prior to such periodic review. Developer or Landowner shall be entitled to appeal a determination of the Director to the Commission and then to the Board of Supervisors. Any appeal must be filed within ten (10) days of the decision of the Director, or the Commission, as the case may be. Developer or Landowner shall be permitted an opportunity to be heard orally and/or in writing regarding its performance under this Agreement before the Commission, Board of Supervisors, and/or Director, as the case may be.

Section 3.3. Developer Default Limited to Property/Entity; Separate Obligations of Owners. Except as specified herein in Section 3.1, no default hereunder in performance of a covenant or obligation with respect to a particular portion of the Subject Property shall constitute a default applicable to any other portion of the Subject Property, and any remedy arising by reason of such default shall be applicable solely to the portion of Subject Property where the default has occurred. Similarly, the obligations of the Developer and Landowners shall be severable and no default hereunder in performance of a covenant or obligation by any one of them shall constitute a default applicable to any other owner who is not affiliated with such defaulting owner, and any remedy arising by reason of such default shall be solely applicable to the defaulting owner and the portion of the Subject Property owned thereby.

Section 3.4. Default by County. In the event the County does not accept, review, approve or issue necessary development permits or entitlements for use in a timely fashion as defined by this Agreement, or as otherwise provided in this Agreement, or the County otherwise
defaults under the terms of this Agreement, Developer and/or Landowner may give written notice thereof to the County and if not cured within sixty (60) days following receipt of such notice, Developer shall have all rights and remedies provided herein or under applicable law, including without limitation the right to pursue actions for mandamus, specific performance, or injunctive or declaratory relief to enforce this Agreement. Notwithstanding the foregoing sentence, the County, Developer and Landowner each waives any and all rights to seek monetary damages from any other party as a result of any breach or alleged breach of such other party's obligations hereunder, excluding (a) any claim for refunds of fees or excess fee payments imposed inconsistent with this Agreement, and (b) County claims regarding payment of fees, taxes, assessment and other charges, including Levee Fees. In the event the County is in default under the terms of this Agreement, any resulting delays in Developer's performance caused thereby shall not constitute grounds for termination or cancellation of this Agreement.

Section 3.5. Default by and Remedies of TRLIA. TRLIA's rights and obligations under this Agreement are specifically limited to those rights and obligations specifically attributed to TRLIA as set forth in Exhibit C to this Agreement. TRLIA is considered a third party beneficiary of Exhibit C and shall have a right to enforce all obligations of Developer as set forth in Exhibit C to this Agreement. In the event that TRLIA defaults under the terms of this Agreement, Developer and/or Landowner may give written notice thereof to TRLIA with a copy to the County, and if not cured within sixty (60) days following receipt of such notice, Developer's sole remedy shall be the right to pursue actions for mandamus, specific performance, or injunctive or declaratory relief against TRLIA to enforce this Agreement. Notwithstanding the foregoing sentence, TRLIA, Developer and Landowner each waives any and all rights to seek monetary damages from any other party as a result of any breach or alleged breach of such other party's obligations hereunder, excluding any claim for refunds of fees or excess fee payments imposed inconsistent with this Agreement. In the event TRLIA is in default under the terms of this Agreement, any resulting delays in Developer's performance that are directly caused thereby shall not constitute grounds for termination or cancellation of this Agreement.

Section 3.6. Cumulative Remedies of Parties/Waiver of Right to Damages. In addition to any other rights or remedies, County, Developer and any Landowner may institute legal or equitable proceedings to cure, correct or remedy any default, to specifically enforce any covenant or agreement herein, to enjoin any threatened or attempted violation of the provisions of this Agreement. Notwithstanding the foregoing sentence, the County, Developer and Landowner each waives any and all rights to seek monetary damages from the other party as a result of any breach or alleged breach of such other party's obligations hereunder, excluding any claim for refunds of fees or excess fee payments imposed inconsistent with this Agreement.

ARTICLE 4

TERMINATION

Section 4.1. Termination Upon Completion of Development. This Agreement shall terminate upon the expiration of the Term as defined on the Reference Sheet or when the Subject Property has been fully developed and all of the Developer's obligations in connection therewith
are satisfied. Upon termination of this Agreement, the County shall record a notice of such
termination in a manner substantially similar to the form attached hereto as Exhibit D. This
Agreement shall automatically terminate and be of no further force or effect as to Completed
Lots.

Section 4.2. **Effect of Termination on Developer Obligations.** Termination of this
Agreement as to the Developer of the Subject Property or any portion thereof shall not affect any
of the Developer's obligations to comply with the County General Plan and the terms and
conditions of any applicable zoning, or subdivision map or other land use entitlements approved
with respect to the Subject Property, any other covenants or any other development requirements
specified in this Agreement to continue after the termination of this Agreement, or obligations to
pay assessments, liens, fees, or taxes. Termination of this Agreement shall not affect Developers
rights and duties under Exhibit C to this Agreement.

Section 4.3. **Effect of Termination on County.** Upon any termination of this
Agreement, as provided for under the terms and conditions of this Agreement, as to the
Developer of the Subject Property, or any portion thereof, the entitlements, conditions of
development, limitations on fees and all other terms and conditions of this Agreement shall no
longer be vested hereby with respect to the Subject Property affected by such termination
(provided vesting of entitlements, conditions or fees applicable to the Subject Property shall be
governed by planning and zoning law) and the County shall no longer be limited, by this
Agreement, to make any changes or modifications to such entitlements, conditions or fees
applicable to such property. Except as may be set forth in section 1.10 of Exhibit C, termination
of this Agreement shall not affect County or TRLIA rights and duties under Exhibit C to this
Agreement.

**ARTICLE 5**

**STANDARD TERMS AND CONDITIONS**

Section 5.1. **Venue.** Venue for all legal proceedings shall be in the Superior Court for
the County of Yuba.

Section 5.2. **Waiver.** A waiver by any party of any breach of any term, covenant or
condition herein contained or a waiver of any right or remedy of such party available hereunder
at law or in equity shall not be deemed to be a waiver of any subsequent breach of the same or
any other term, covenant or condition herein contained or of any continued or subsequent right
to the same right or remedy. No party shall be deemed to have made any such waiver unless it is
in writing and signed by the party so waiving.

Section 5.3. **Completeness of Instrument.** This Agreement, together with its specific
references and attachments, constitutes all of the agreements, understandings, representations,
conditions, warranties and covenants made by and between the parties hereto. Unless set forth
herein, neither party shall be liable for any representations made express or implied.
Section 5.4. **Supersedes Prior Agreements.** It is the intention of the parties hereto that this Agreement shall supersede any prior agreements, discussions, commitments, representations or agreements, written or oral, between the parties hereto.

Section 5.5. **Captions.** The captions of this Agreement are for convenience in reference only and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

Section 5.6. **Number and Gender.** In this Agreement, the neuter gender includes the feminine and masculine, and the singular includes the plural, the word "person" includes corporations, partnerships, firms or associations, wherever the context so requires.

Section 5.7. **Mandatory and Permissive.** "Shall" and "will" and "agrees" are mandatory. "May" is permissive.

Section 5.8. **Term Includes Extensions.** All references to the term of this Agreement or the Agreement Term shall include any extensions of such term.

Section 5.9. **Successors and Assigns.** All representations, covenants and warranties specifically set forth in this Agreement, by or on behalf of, or for the benefit of any or all of the parties hereto, shall be binding upon and inure to the benefit of such party, its successors and assigns.

Section 5.10. **Modification.** No, modification or waiver of any provisions of this Agreement or its attachments shall be effective unless such waiver or modification is in writing, signed by all parties, and then shall be effective only for the period and on the condition, and for the specific instance for which given.

Section 5.11. **Counterparts.** This Agreement may be executed simultaneously and in several counterparts, each of which shall be deemed an original, but which together shall constitute one and the same instrument.

Section 5.12. **Other Documents.** The parties agree that they shall cooperate in good faith to accomplish the object of this Agreement and to that end, agree to execute and deliver such other and further instruments and documents as may be necessary and convenient to the fulfillment of these purposes.

Section 5.13. **Partial Invalidity.** If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provision and/or provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

Section 5.14. **Controlling Law.** The validity, interpretation and performance of this Agreement shall be controlled by and construed under the laws of the State of California.

Section 5.15. **Time Is of the Essence.** Time is of the essence of this Agreement and each covenant and term a condition herein.
Section 5.16. **Authority.** All parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles and capacities herein stated and on behalf of any entities, persons, estates or firms represented or purported to be represented by such entity(s), person(s), estate(s) or firm(s) and that all formal requirements necessary or required by any state and/or federal law in order to enter into this Agreement have been fully complied with. Further, by entering into this Agreement, neither party hereto shall have breached the terms or conditions of any other contract or agreement to which such party is obligated, which such breach would have a material effect hereon.

Section 5.17. **Document Preparation.** This Agreement will not be construed against the party preparing it, but will be construed as if prepared by all parties.

Section 5.18. **Advice of Legal Counsel.** Each party acknowledges that it has reviewed this Agreement with its own legal counsel, and based upon the advice of that counsel, and freely entered into this Agreement.

Section 5.19. **Estoppel Certificate.** Within thirty (30) days following any written request which either party may make from time to time, and upon payment of a fee to the County to reimburse the County for its reasonable expenses associated herewith, the other party to this Agreement shall execute and deliver to the requesting party a statement certifying that:

(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; and

(b) there are not current uncured defaults under this Agreement or specifying the date, nature of any default and manner of cure.

This certificate may be executed by the Director.

Section 5.20. **Attorneys Fees and Costs.** If any action at law or in equity, including an action for declaratory relief, is brought to enforce or interpret provisions of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and costs, which may be set by the Court in the same action or in a separate action brought for that purpose, in addition to any other relief to which such party may be entitled.

Section 5.21. **Consent/Subordination.** Unless waived in writing by the County Counsel, Developer shall furnish proof satisfactory to the County, prior to approval of the Agreement that all persons possessing a legal interest in the Subject Property have consented to the recording of this Agreement in the County Recorder's Office against the Subject Property. Unless waived in writing by the County Counsel, the County shall require subordination by all lenders of record as a condition precedent to the County approval of the Agreement. The County shall have no duty to subordinate its interest in this Agreement.

Section 5.22. **Calculation of Time Periods.** All calculation of time periods shall be based upon calendar days unless a different intent is clearly stated.
IN WITNESS WHEREOF, this Agreement was executed by the parties thereto on the dates set forth in the Preamble.

COUNTY:
COUNTY OF YUBA,
a political subdivision of the State of California

By: ________________________________
Name: ________________________________
Title: ________________________________

ATTEST:

By: ________________________________
Name: ________________________________
Title: County Clerk

APPROVED AS TO FORM:

By: ________________________________
Name: ________________________________
Title: County Counsel

DEVELOPER:

By: CRESLEIGH HOMES CORPORATION
Name: ________________________________
Title: Thomas Wong, S.V.P.

APPROVED AS TO FORM:

By: ________________________________
Name: ________________________________
Title: Counsel
TRLIA:
Three Rivers Levee Improvement Authority
a joint powers authority

By:______________________________

Name:____________________________

Title:____________________________

APPROVED AS TO FORM:

By:______________________________

Name:____________________________

Title: Counsel
CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of San Francisco

On 6/5/09 before me, Katherine J. Morales, personally appeared Thomas Wong, 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

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: ________________________________

Document Date: ________________________________ Number of Pages: ________________________________

Signer(s) Other Than Named Above: ________________________________

Capacity(ies) Claimed by Signer(s)

Signer's Name: ________________________________

☐ Individual

☐ Corporate Officer — Title(s):

☐ Partner — Limited ☐ General

☐ Attorney in Fact

☐ Trustee

☐ Guardian or Conservator

☐ Other: ________________________________

Signer Is Representing: ________________________________

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LIST OF EXHIBITS

Exhibit A  Legal Description of Subject Property
Exhibit B  Assumption Agreement
Exhibit C  Special Conditions and Requirements
Exhibit D  Sample Notice of Termination
Exhibit E  Credit and Reimbursement Policy
EXHIBIT A

SUBJECT PROPERTY

All that real property situated in Yuba County, State of California described as follows:

Lots 1, 3 through 8, 17 and 18 as said lots are shown on that certain Tract Map 93-560 of "RIVER OAKS" filed in the Office of the Recorder of Yuba County, California I Book 66 of Maps, Page 33.

EXCEPTING THEREFROM Lots 1 through 58, 73 through 107, 120, 121, 124 and 125 as said lots are shown on that certain Map No. 2003-006 of "WOODSIDE VILLAGE Unit 1" filed in said Recorder's Office in Book 77 of Maps, Page 22.

EXCEPTING THEREFROM Lots 15 through 33, and 36 through 42 as said lots are shown on that certain Map No. 2003-004 of WOODSIDE VILLAGE 2B" filed in said Recorder's Office in Book 82 of Maps, Page 35.

EXCEPTING THEREFROM Lots 34 through 53, 56 through 58, 62, and 65 as said lots are shown on that certain Map No. 99-585 of "Plumas Ranch Village 5" filed in said Recorder's Office in Book 82 of Maps, Page 12.
EXHIBIT B

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (hereinafter "this Agreement") is entered into this ___ day of ____________, 200_, by and between ____________ (hereinafter called "Owner") and ____________ (hereinafter called "Assignee").

RECITALS

A. On ____________, 200_, the County of Yuba and Owner entered into that certain agreement entitled "Development Agreement," approved by Ordinance ____________ (hereinafter "Agreement"), relative to the development known as ____________ (hereinafter "Subject Property").

B. Owner entered into a purchase and sale agreement whereby a portion of the Subject Property will be sold to Assignee, which portion of the Subject Property is identified and described in Exhibit A, attached hereto and incorporated herein by this reference (hereinafter the "Assigned Parcel(s)").

C. Owner desires to assign all of its interests, rights and obligations under the Agreement with respect to the Assigned Parcel(s).

D. Assignee desires to assume all Owner's rights and obligations under the Agreement with respect to the Assigned Parcel(s).

NOW, THEREFORE, Owner and Assignee hereby agree as follows:

1. Owner hereby assigns effective as of Owner's conveyance of the Assigned Parcel(s) to Assignee, all of the rights, interest, burdens and obligations of Owner under the Agreement with respect to the Assigned Parcel(s). Owner retains all the rights, interest, burdens and obligations under the Agreement with respect to all other property within the Subject Property owned thereby.

2. Assignee hereby assumes all of the burdens and obligations of Owner under the Agreement, and agrees to observe and fully perform all of the duties and obligations of Owner under the Agreement, and to be subject to all the terms and conditions thereof, with respect to the Assigned Parcel(s), it being the express intention of both Owner and Assignee that, upon the execution of this Agreement and conveyance of the Assigned Parcel(s) to Assignee, Assignee shall be come substituted for Owner as the "Developer" under the Agreement with respect to the Assigned Parcel(s).

3. All of the covenants, terms, and conditions set forth herein shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, successors and assigns.
IN WITNESS HEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

ASSIGNOR / OWNER

By: ________________________________

Name: ______________________________

Title: ______________________________

ASSIGNEE

By: ________________________________

Name: ______________________________

Title: ______________________________
EXHIBIT C
SPECIAL CONDITIONS AND REQUIREMENTS

This Exhibit C is attached to and made a part of that certain Development Agreement dated as of ____________, 2009 (the "Development Agreement"), by and between the County, TRLIA and the Developer named therein. For purposes of this Exhibit C, "Developer" shall mean Cresleigh Homes Corporation. The terms and conditions of this exhibit shall survive should the Development Agreement terminate prior to completion of reimbursements required herein.

Section 1.1 Background. Developer, or Developer's predecessor in interest as owners of the subject Property, was a party to (a) that certain Agreement For Advanced Funding and Reimbursement of Costs for Levee Improvements dated April 19, 2005 ("2005 Advanced Funding Agreement") and (b) the Second Agreement for Advanced Funding and Reimbursement of Costs for Levee Improvements, dated as of August 29, 2006, ("Second Funding Agreement"), (the 2005 Advance Funding Agreement and the Second Funding Agreement being sometimes collectively referred to herein as the "Funding Agreements"), which relates to the construction of certain flood protection improvements benefitting the Plumas Lake Specific Plan and the North Arboga Study Area, which area is generally described as the South Yuba Basin. In order to pay for costs associated with levee improvements in the South Yuba Basin, on November 18, 2008, the Board of Supervisors of the County of Yuba adopted Ordinance No. 1465, enacting the Three Rivers Levee Impact Fee ("Levee Fee"). The Levee Fee was based on the then estimated cost to complete the levee improvements. As a party to the Funding Agreements, Developer advanced funded certain amounts for the Levee Fee to be used for the levee improvements described above. By making advanced payments pursuant to the Second Funding Agreement, Developer became authorized under the terms of the Second Funding Agreement to record final maps and to have a certain number of building permits issued upon request for the Project.

At the time of the execution of the Second Funding Agreement, the anticipated levee improvements included strengthening in place improvements to the existing left (east) Feather River levee from the Bear River Setback levee to the Yuba River, however, a Feather River setback levee from Star Bend to Shanghai Bend (the "Feather River Setback Levee") was contemplated. In early 2008, the decision was made to change certain portions of the levee improvement project to include the Feather River Setback Levee. By doing this, the state of California committed to providing more than $135 million in funding, pursuant to Prop 1E and 84. Due to the receipt of the State grant funds, the amount of local funds needed to complete the levee improvements was reduced. This reduction caused the Levee Fee to be reduced. The Levee Fee was reduced with the adoption of Ordinance No. 1465 by the Board of Supervisors of the County of Yuba on November 18, 2008.

Due to the reduction of the Levee Fee, Developer claims a right of reimbursement and/or credit. This right is based on prior advanced funding made in excess of the amount required under the Levee Fee, as adjusted by Ordinance No. 1465 (herein "Prior Advanced Funding").

The County of Yuba has adopted certain policies to address the claimed rights of reimbursement or credit for Prior Advanced Funding. Those policies are set forth in the Three Rivers Levee Development Agreement Between the County of Yuba and Cresleigh Homes.
Credit and Reimbursement Policies and Procedures (the "Credit and Reimbursement Policy"). The Credit and Reimbursement Policy is hereby incorporated into and made a part of the Agreement, and is attached as Exhibit E. To the extent there is any inconsistency between this Agreement and the Credit and Reimbursement Policy as to the timing, manner or amount of credit or reimbursement due, the Credit and Reimbursement Policy shall control.

Section 1.2 Use of Credits. The Parties to this Agreement agree that the Credit and Reimbursement Policy sets forth the amount of credit and reimbursement owed the Developer in connection with Prior Advanced Funding. The Credit and Reimbursement Policy shall control as to the amount of credit or reimbursement due and how any credit or reimbursement will be applied.

Section 1.2.1. For those units included in the Project for which Developer has applied for a building permit after April 19, 2005 and on or before October 21, 2008, the Levee Fee shall be levied at the current rate as set forth in Ordinance No. 1465 and the Developer shall receive full credit for such fees from the amount advance funded, as more specifically set forth in the Credit and Reimbursement Policy.

Section 1.2.2. For those units for which the Developer has applied for a building permit after October 21, 2008, Developer shall receive credit for the Levee Fee imposed on the Project on a proportionate basis for the remainder of the Project. For those building permits applied for after October 21, 2008, Developer will pay a portion of the Levee Fee at the rate set forth in Ordinance No. 1465 and at the time and in the manner required herein, based on the relative proportionality between the remainder of the Project not able to be funded from credit and the total remaining acreage left in the Project after all previously absorbed units, all consistent with the provisions of the Credit and Reimbursement Policy. The County will calculate the amount of the Levee Fee due after the credit at the time the individual building permits are issued for each unit to be constructed on the Project pursuant to a building permit applied for after October 21, 2008. The amount of the credit and how it will be applied is more specifically set forth in the Credit and Reimbursement Policy.

Section 1.2.3. To the extent that the Developer is developing multiple projects which were subject to the Second Funding Agreement and one project has advanced funded Levee Fees in excess of its total obligation and is due reimbursement, that reimbursement may be applied and added to the credit of any of Developer's other projects that will have a remaining obligation to pay Levee Fees. The manner in which the credit from a project that has paid fees in excess of its total obligation may be applied to the credit of Developer's other projects is set forth in Appendix A of the Credit and Reimbursement Policy.

Section 1.3. Reimbursement of Levee Fees. If the amount owed to Developer for Prior Advanced Funding in excess of obligations owed under the current Levee Fee is not satisfied by application of credit to the Project or transfer of the credit to another project as set forth in Section 1.2.3., the remaining amount due will be reimbursed to Developer, solely from Levee Fees collected from others, and then only as follows:
Section 1.3.1. **Before Levee Certification.** Prior to certification by the Federal Emergency Management Agency (FEMA) of those levees to be constructed or improved pursuant to the Levee Improvement Program defined in Section 3 of the Second Funding Agreement, including the Feather River Setback Levee (the "Levee" or "Levees"), no reimbursement of Prior Advanced Funding will be made to the County, YCWA or Developer from any Levee Fees collected. Levee Fees collected through and until such certification date will be used to directly fund improvements to the Levees. However, it is understood by all parties that, to the extent Levee Fees are collected prior to such certification date, this funding may go to offset the additional required contribution of funds to the TRLIA Levee Improvement Program by the County and YWCA consistent with the intent of the July 22, 2008 Agreement Concerning Levee Impact Fees Among County of Yuba, Yuba County Water Agency, and Yuba Levee Financing Authority.

Section 1.3.2. **After Certification of the Levees and before March 1, 2015.** During the time period between when the Levees are certified by FEMA and before March 1, 2015 twice per year distribution of Levee Fee revenue not needed to pay any Levee improvement costs incurred prior to such certification but not yet paid will occur. The revenues collected before March 1, 2015 will be split between those parties determined by the County to be due reimbursements (including the County and YCWA on a proportionate basis, based upon the aggregate principal amount of their outstanding reimbursement. Table 6 of the Credit and Reimbursement Policy sets forth an example of the proportionality of outstanding reimbursements due.

Section 1.3.3. **From and After March 1, 2015 and until all Reimbursements are Complete.** Commencing on March 1, 2015 twice per year distributions of Levee Fee revenue will occur as follows: (a) initially, 100% of the revenues collected will go to fund the scheduled debt service due on the borrowing to fund levee improvements secured by lease and installment payment obligations of the County and YCWA and (b) any remaining Levee Fee revenue will be split between those parties determined by the County to be due reimbursements (including the County and YCWA) on a proportionate basis, based upon the aggregate principal amount of their outstanding reimbursement.

Section 1.3.4. **Interest.** Any reimbursement owed to Developer, as well as to County or YWCA, will accrue interest at a rate of 5.534% per annum. Interest will be calculated on a monthly compounding rate.

Section 1.3.5. **Acknowledgment.** Except as set forth in this Exhibit C and the Credit and Reimbursement Policy, Developer acknowledges and agrees that no other reimbursement or Credit is due for funds advanced under prior agreements concerning construction of the Levees, including the 2005 Funding Agreement and/or the Second Funding Agreement.

Section 1.3.6. **Inspection of Records.** Developer shall have the right to review and inspect records of the County with respect to Levee Fees and other revenue sources available to make payments or reimbursements to Developer under this Section 1.3. Developer must give the County reasonable notice of any such request.
Section 1.4. **Extension of Tentative Map Life.** The expiration date of any existing tentative map within the Subject Property, subject to the Credit and Reimbursement Policy, is extended for twenty (20) years from the original approval date, inclusive of any and all other extensions which may be provided by law.

Section 1.5. **County Imposed Development Fees.** The County shall not impose any New Fees relating to the Project for ten (10) years from the Effective Date of this Development Agreement. Notwithstanding the forgoing, the County may impose New Fees as follows: (a) any Traffic Impact (Road Improvements) component of the County-Wide Capital Facility Fee and, (b) any fees levied for the purpose of offsetting the cost of regional park improvements, provided, however, that the cumulative new fees levied for regional park improvements shall not exceed Two Thousand Dollars ($2,000) per dwelling unit contained in the Project. To the extent a New Fee is levied against the Project pursuant to one of the exclusions listed herein, that New Fee shall be imposed and levied in a manner consistent with all applicable State and local laws and regulations. Development impact fees imposed by entities other than the County or by the County on behalf of other entities are not subject to this provision.

Section 1.6. **Impact Fee Lock.** The County shall not increase any Current Fees relating to the Project for 10 years from the Effective Date of this Development Agreement. Notwithstanding the forgoing, the County may increase Current Fees as follows: (a) any currently incorporated escalator adopted with and incorporated into the Current Fee; (b) any increase to the current Traffic Impact (Road Improvements) component of the County-Wide Capital Facility Fee; (c) and any change or increase to the current PLSP/NASA Road Improvement Fee. To the extent a Current Fee levied against the Project is changed or increased pursuant to one of the exclusions listed herein, that change or increase shall be imposed and levied in a manner consistent with all applicable State and local laws and regulations. Development impact fees imposed by entities other than the County or by the County on behalf of other entities are not subject to this provision.

Section 1.7. **Developer to Receive Benefit of Reduction in Fees.** Notwithstanding any of the other terms of this Agreement, any reduction to Current Fees or New Fees that is applied to development within the County generally shall be applied to the Project.

Section 1.8. **Deferral of Collection of Impact Fees.** The balance of the Levee Fee due after application of credit as described in 1.2 above with respect to units in the Project, shall be calculated for each unit at the time a building permit is issued for that unit, but the collection by the County of the amount due shall be deferred until the final inspection of the unit for which the building permit is issued (in a manner consistent with Yuba County Ordinance No. 1461). The duration of this fee deferral will be for ten (10) years from the Effective Date of this Development Agreement. The collection of all other development impact fees and County-Wide Capital Facility Fees will be deferred in a manner consistent with the Yuba County Ordinance No. 1461, except that; the duration of the deferral will be ten (10) years from the date of this Development Agreement. Following any such deferral period, all fees will be due and payable as and when levied in accordance with County policy. Development impact fees imposed by
entities other than the County or by the County on behalf of other entities are not subject to this provision.

Section 1.9. Builder Bonds. In the event that the Developer is the registered owner of any Builder Bonds (as such term is defined in the Second Funding Agreement) issued by TRLIA for CFD 2006-1 or CFD 2006-2 (as such community facilities districts are described in Section 7.A.(1) of the Second Funding Agreement), the County and TRLIA agree to take all reasonable actions on its part necessary or appropriate, at the written request and cost of the Developer, in the redemption or refunding of such bonds, so long as any such request is consistent with the procedures and requirements described in Appendix B to the Three Rivers Levee Impact Credit and Reimbursement Policy. The County and TRLIA acknowledge and agree that all special tax revenues collected by TRLIA from special tax levies for CFD 2006-1 and CFD 2006-2 shall be disposed of by TRLIA as provided in Section 4.01 of the respective Fiscal Agent Agreement for the Builder Bonds for the respective community facilities district, in the rate and method of apportionment for the respective community facilities district and, to the extent not inconsistent with the foregoing, as described in Appendix C to the Credit and Reimbursement Policy.

Section 1.10. Failure of Consideration. The terms and conditions set forth in Sections 1.4. through 1.8. of this Exhibit C are granted by the County in consideration of the Developer's agreement to the credit and reimbursement terms in Section 1.2 and 1.3 et seq. If any term of the credit and reimbursement policies as set forth in Sections 1.2 and 1.3 et seq. is deemed invalid or a legal challenge to any such terms is made by Developer, then there shall be deemed a failure of consideration and the provisions of Section 1.4 through 1.8 shall be void and unenforceable by Developer.

Section 1.11.1 Flood Insurance. Developer shall provide, at no cost to all new residents (including the initial sale by the Developer and all subsequent resales) of homes constructed by such Developer within the Affected Area (as defined in the Second Funding Agreement) since 2003 (i.e., homes for which building permits were issued from and after January 1, 2003), flood insurance and renewals of flood insurance only through the Completion of the Levee or until December 31, 2010 (whichever occurs first). As used in this Section, "Completion" shall mean the earlier of: (i) the date on which a notice of completion is recorded by the general contractors performing TRLIA's Phase 4 work, or (ii) the date on which a determination of substantial completion of TRLIA's Phase 4 work is made by the Executive Officer of the Central Valley Flood Protection Board. The County and TRLIA will reasonably cooperate in assisting Developer to fulfill this requirement, including but not limited to providing for notice of resales of homes within the Project to be provided to Developer. The renewals and subsequent issuance of flood insurance provided by the Developer shall satisfy the minimum requirements of the National Flood Insurance Program for a standard dwelling policy.

Section 1.11.2 Notice Requirements to New and Existing Homeowners. Developer shall take the following steps to increase the awareness of flood risk by new and existing purchasers of homes within the Project:

(a) At the time of execution of a sales contract for a new home within the Project, Developer shall distribute an informational packet prepared by TRLIA on the status of the Levee Improvement Program. Purchasers will then be requested to sign an acknowledgment.
sheet that they have received the packet and are aware of the flood risks associated with the Project.

(b) At the time of closing on a new home within the Project, Participant shall require execution by the new purchaser of the home of a Notice of Acknowledgement stating that the purchaser understands that the Developer (home builder) is purchasing flood insurance for the purchaser of the home (including the terms of that insurance and the period for which that insurance will be purchased) and that the purchaser of the home has received an information packet on the Levee Improvement Program and the risk of purchasing a home within the Project.

(c) Four times a year until certification of all levees required under the Levee Improvement Program, TRLIA shall prepare and distribute through the mail to new and existing purchasers of new homes within the Project an information packet on the Levee Improvement Program and any information provided by the County or TRLIA to the Developer on steps that such purchasers may take to reduce the risk of flooding to homes within the Project, such as being aware of the County's pre-hazard mitigation program, time-inundation maps, and hazard evacuation routes. Developer shall reasonably assist TRLIA to provide such information packets.

Section 1.11.3 Evacuation and Prehazard Mitigation Program. County commits to continue to use reasonable diligence to inform residents within the Project, including portions of Reclamation District 784, of the risk of flooding and to further refine, improve, and make available the County's Evacuation Plan and Prehazard Mitigation Plan.

Section 1.11.4 Accounting, Auditing and Reporting.

(a) TRLIA and County shall use best efforts to properly account for all sums paid to and grants received by TRLIA and County for the Levee Improvement Program.

(b) Developer has the right, upon not less than three (3) business days notice, at all reasonable times, to inspect the books and records of TRLIA and County pertaining to the Levee Improvement Program, as pertinent to the purposes of this Agreement.

(c) Upon request each year by Developer, TRLIA shall deliver to Developer the audited financial statement prepared by a qualified independent auditor pertaining to the Levee Improvement Program for each fiscal year, including all revenues and expenditures of TRLIA relating thereto for the prior year's period. The audited financial statement shall be delivered to Developer within 30 days following submission of such statement to the TRLIA Board.

Section 1.11.5 Maintenance of Levees. TRLIA shall be responsible to assure levee maintenance until certification, as the improvements are completed, in accordance with the Levee Improvement Program and consistent with relevant State and Federal standards.

Section 1.11.6 Preparation of Informational Packets. TRLIA shall prepare and update informational packets on the status of the Levee Improvement Program which shall be distributed to new home purchasers by the Developer. Purchasers will then be requested to sign
an acknowledgement sheet that they have received the packet and are aware of the flood risks associated with the Project.

Section 1.12. Status of Second Funding Agreement. The County, TRLIA and the Developer hereby acknowledge and agree that following State Approval all rights, duties, or obligations set forth in, or required by, the Second Funding Agreement as applied to each of them are hereby terminated and neither of the Funding Agreements is of any force or effect as to the County, TRLIA and Developer. "State Approval" shall mean receipt by TRLIA of a letter from the Central Valley Flood Protection Board which confirms that TRLIA has satisfied all of its obligations under the Second Implementation Agreement (referenced in Recital N to the Second Funding Agreement). The County, TRLIA, and the Developer further acknowledge and agree that (i) this Development Agreement supersedes both the 2005 Advanced Funding Agreement (referenced in Recital J to the Second Funding Agreement) as well as the Second Funding Agreement, (ii) all reimbursable amounts that may have been due to the Developer under the 2005 Advanced Funding Agreement have been deemed paid, and (iii) all funding advanced by the Developer to TRLIA under the Second Funding Agreement shall be applied pursuant to this Development Agreement. All obligations, rights and duties set forth in the Second Funding Agreement that apply to the County, TRLIA and Developer are hereby superseded by this Development Agreement. Notwithstanding anything in this Section 1.12 to the contrary, if a third party that was not a party to either Funding Agreements (meaning any party other than a party to this Agreement or a successor or related entity) shall make a claim under or to enforce the Second Funding Agreement against any party hereto, then solely for purposes of defending against, responding to, and/or making cross or counter claims in connection with the third party claim, the Second Funding Agreement shall not be deemed terminated, but only to the extent necessary to defend against, respond to, and/or make such cross or counter claims in connection with the third party claim.
EXHIBIT D

NOTICE OF TERMINATION

THIS NOTICE OF TERMINATION (hereinafter "this Notice") is given this ___ day of ________________, 200___, by the County of Yuba (hereinafter "County") for the benefit of ________________, (hereinafter "Owner").

1. On ________________, 200___, the County of Yuba and ________________ entered into that certain agreement entitled "Development Agreement," approved by Ordinance ________________ (hereinafter "Agreement"), relative to the development known as ________________ (hereinafter "Subject Property").

2. Owner has fully performed all its duties with respect to that portion of the Subject Property, which portion of the Subject Property is identified and described in Exhibit A, attached hereto and incorporated herein by this reference (hereinafter the "Released Property").

3. Pursuant to Section 4.1 of the Development Agreement, the Development Agreement is no longer in effect with respect to the Released Property.

COUNTY OF YUBA

By: ____________________________

Name: __________________________

Title: ____________________________

[NOTE: SIGNATURE MUST BE NOTARIZED]
NOTARY

State of California
County of ______________________

On _____________, 20__, before me,______________________, Notary Public, personally appeared ________________________________, personally known to me (or proved 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.

________________________________________
Notary Signature

WITNESS MY HAND AND OFFICIAL SEAL.
EXHIBIT E

CREDIT AND REIMBURSEMENT POLICY
DEVELOPMENT AGREEMENT
BY AND BETWEEN
THE COUNTY OF YUBA, THE THREE RIVERS LEVEE IMPROVEMENT AUTHORITY AND PATRICK LAUGHLIN, DAVID LANZA & RANJIT KHAGURA (DEVELOPER)
RELATIVE TO THE DEVELOPMENT KNOWN AS
DRAPER RANCH NORTH

This document, including exhibits, totals ___ pages.
REFERENCE SHEET

Project:
Draper Ranch North – TSTM2003-0026

Developer:
Patrick Laughlin, David Lanza and Ranjit Khagura

Developer's Address for Purpose of Written Notice:
591 Colusa Avenue
Yuba City, CA 95991

Landowners:
Patrick Laughlin, Ranjit Khagura, and David Lanza
Same address as above.

Term:
The Term of the Development Agreement, as provided for in section 1.8 begins thirty (30) days after the Board of Supervisors enacts the Adopting Ordinance (noted below) and expires on June 16, 2024, twenty (20) years from the original date of approval of TSTM 2003-0026.

Entitlements:
As referred to in Recital 5 shall mean TSTM 2003-0026 and all associated tentative and final maps.

CEQA document:
This project is located within the North Arboga Study Area. On June 16, 2004 the Yuba County Planning Commission adopted a Mitigated Negative Declaration for the Draper Ranch project (TSTM2003-0026). This Agreement is consistent with the project evaluated in the Initial Study/Mitigated Negative Declaration and therefore no further environmental review is required.

Adopting Ordinance:
As referred to in Section 1.3 (a), shall mean Ordinance No. ______________ enacted by the Board of Supervisors on ______________, 20__.

Exhibits which are attached to this Development Agreement are as follows:
A. Legal Description
B. Assumption Agreement
C. Special Conditions and Requirements
D. Sample Notice of Termination
E. Credit and Reimbursement Policy
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THIS DEVELOPMENT AGREEMENT ("Agreement") is made by and between the COUNTY OF YUBA, a political subdivision of the State of California (County"), the THREE RIVERS LEVEE IMPROVEMENT AUTHORITY, a joint powers authority ("TRLIA") and Patrick Laughlin, David Lanza & Ranjit Khagura ("Developer") pursuant to the authority of Article 2.5, Chapter 4, Division Title 7 (§ 65864 et seq. of the Government Code) relating to Development Agreements.

RECITALS

1. In order to strengthen the public land use planning process, to encourage private participation in the process, to reduce the economic risk of development and to reduce the waste of resources, the Legislature adopted the Development Agreement Law (Gov. Code, § 65864 et seq.)

2. The Development Agreement Law permits cities and counties to contract with private interests for their mutual benefit in a manner not otherwise available to the contracting parties. Such agreements, as authorized by the Development Agreement Law and by common law, assure property developers that they may proceed with their projects with the assurance that approvals granted by public agencies will not change during the period of development. Cities and counties are equally assured that costly infrastructure such as roads, sewers, fire protection facilities, etc., will be available in a timely manner.

3. The parties have, in good faith, negotiated the terms hereinafter set forth which carry out the legislative purpose set forth above and will assure the parties to this Agreement of mutually desirable development in a manner consistent with the CEQA document, the Entitlements, and this Agreement.

4. Developer owns in fee (or holds an option to purchase for a term that is or may be extended for at least the term of this Agreement) the Subject Property as more particularly described on Exhibit A hereeto, located in the County.

5. County, in response to Developer's application(s), after public hearings and extensive environmental analysis, has granted approval of the Entitlements, as described on the Reference Sheet.

6. In support of the various Entitlements described in paragraph 5 above, and in accord with the California Environmental Quality Act ("CEQA") and State and County guidelines, County has accepted and ratified a CEQA document, as described on the Reference Sheet.

7. Development of the Subject Property pursuant to the terms and conditions of the Entitlements, the General Plan and appropriate environmental determinations will provide for orderly growth and development consistent with the County's General Plan and other development policies and programs.

8. The Planning Commission considered this Agreement, and recommended its adoption to the Board of Supervisors.
9. Having duly considered this Agreement and having held the noticed public hearings, County finds and declares that the provisions of this Agreement are consistent with the maps and text of the County's General Plan.

NOW, THEREFORE, the parties hereto agree as follows:

ARTICLE 1

GENERAL PROVISIONS

Section 1.1. The Project. The Project is defined as set forth on the Reference Sheet.

Section 1.2. Subject Property. The Subject Property is more specifically described in Exhibit A, which is incorporated herein and made part of this Agreement.

Section 1.3. Definitions. As used in the Agreement, the following terms, phrases and words shall have the meanings and be interpreted as set forth in this Section.

(a) Adopting Ordinance means the ordinance which approves this Agreement.

(b) Applicable Laws means the General Plan, Specific Plan (if applicable), County Laws, rules, ordinances, regulations, and official policies governing the processing of entitlements, the permitted uses of the Subject Property, the density or intensity of use, the rate and timing of development, design, improvements, reservation or dedication of land for public improvements, fees, exactions, construction and building setbacks, occupancy and specifications applicable to the Subject Property in effect on the Effective Date of this Agreement.

(c) Assumption Agreement means an agreement substantially conforming to the model assumption agreement described in Exhibit B, or other agreement in a form approved by the County Counsel, executed by a Landowner with the Developer, expressly assuming various obligations relating to the development of the Project, or portion thereof.

(d) CEQA means the California Environmental Quality Act section 21000 et seq., of the Public Resources Code of the State of California.

(e) Completed Lots shall mean any single-family residence, any other residential dwelling unit(s), or any non-residential building, and the lot or parcel upon which such residence or building is located, when it has been approved by the County for occupancy.

(f) County means the County of Yuba or, if the context otherwise requires, the Board of Supervisors for the County of Yuba, or its designee.

(g) County Laws means ordinances, resolutions, rules, regulations, policies, motions, directives, mitigation measures, conditions, standards, specifications, dedications, fees, taxes (including without limitation general, special and excise taxes), assessments, liens, other
exactions and impositions, and any other actions having the force of law, that are enacted or adopted by County, or by its electorate through the initiative or referendum process.

(h) **Current Fees** means those County development impact fees in effect as of the Effective Date and any currently incorporated adjustments or increases therein adopted as of the Effective Date.

(i) **Developer** shall mean that person or entity that has applied for this Development Agreement as defined on the Reference Sheet.

(j) **Director** means the Community Development Director for the County, or his/her designee.

(k) **Effective Date** means the effective date of the Adopting Ordinance.

(l) **Entitlements** shall mean those approvals listed on the Reference Sheet of this Agreement, approved copies of which are on file with the Board of Supervisors.

(m) **General Plan** means the General Plan of the County, including the text and maps, as may have been amended in connection with the Project.

(n) **Landowner** is a party who has acquired any portion of the Subject Property from the Developer who, unless otherwise released as provided in this Agreement, shall be subject to the applicable provisions of this Agreement.

(o) **New Fees** means those development impact fees adopted by the County after the Effective Date of this Development Agreement.

(p) **Planning Commission** shall mean the County's Planning Commission, or its designee.

(q) **Reserved Powers** shall mean those powers explicitly reserved to the County by this Agreement.

(r) **Revenue Bonds** means the Yuba Levee Financing Authority Revenue Bonds, Series A and Taxable Revenue Bonds, Series B.

(s) **Subject Property** means the property described in Section 1.2, or the remaining portions thereof after releases from the provisions of this Agreement have been executed as authorized by this Agreement.

(t) **TRLIA** means the Three Rivers Levee Improvement Authority.

(u) **YCW A** means the Yuba County Water Agency.

**Section 1.4. Exhibits.** The Exhibits listed herein are incorporated into this Agreement and made a part hereof. The Exhibits are:
Section 1.5. **Incorporation of Recitals.** Recitals 1 through 9 are incorporated herein, including all exhibits referred to in the Recitals. In the event of inconsistency between the Recitals and the provisions of Articles 1 through 5, the provisions of Articles 1 through 5 shall prevail.

Section 1.6. **Parties to Agreement.** The parties to this Agreement are:

(a) **The County of Yuba.** A political subdivision of the State of California exercising general governmental functions and powers. The principal office of the County is located at 915 8th Street, Marysville, California 95901.

(b) **Three Rivers Levee Improvement Authority.** A joint powers authority created by the County and RD 784. The principal office of TRLIA is located at the County of Yuba Government Center, 915 Eighth Street, Suite 115, Marysville, California 95901.

(c) **Developer.** Developer owns in fee or has an equitable interest in the Subject Property.

(d) **Landowner.** From time to time, as provided in this Agreement, Developer may sell or otherwise lawfully dispose of a portion of the Subject Property to a Landowner who, unless otherwise released, shall be subject to the applicable provisions of this Agreement related to such portion of the Subject Property.

Section 1.7. **Project is a Private Undertaking.** It is agreed among the parties that the Project is a private development and that the County has no interest therein except as authorized in the exercise of its governmental functions.

Section 1.8. **Term of Agreement.** This Agreement shall commence upon the Effective Date of the Adopting Ordinance approving this Agreement and shall continue in force for the period shown on the Reference Sheet under "Term." Upon the expiration of the Term as provided for in this section, this Agreement shall automatically terminate and be of no further force and effect; provided however, such termination shall not affect the rights or duties arising from the entitlements for the Subject Property which were approved prior to, concurrently with, or subsequent to the approval of this Agreement.

Section 1.9. **Assignment and Assumption.** Developer shall have the right to sell, assign, or transfer this Agreement with all the rights, title and interests therein to any person, firm or corporation at any time during the term of this Agreement. The conditions and covenants set forth in this Agreement and incorporated herein shall run with the land and the benefits and burdens shall bind and inure to the benefit of the parties. Developer shall provide County with a copy of the Assumption Agreement. Express written assumption by such
purchaser, assignee or transferee, to the satisfaction of the County Counsel, of the obligations and other terms and conditions of this Agreement with respect to the Subject Property or such portion thereof sold, assigned or transferred, shall relieve the Developer selling, assigning or transferring such interest of such obligations so expressly assumed. Any such assumption of Developer's obligations under this Agreement shall be deemed to be to the satisfaction of the County Counsel if executed in the form of the Assumption Agreement attached hereto as Exhibit B and incorporated herein by this reference, or such other form as shall be approved by the County Counsel.

Section 1.10. Covenants Running with the Land. Each and every purchaser, assignee or transferee of an interest in the Subject Property, or any portion thereof, shall be obligated and bound by the terms and conditions of this Agreement, and shall be the beneficiary thereof and a party thereto, but only with respect to the Subject Property or such portion thereof, sold, assigned or transferred to it. Any such purchaser, assignee or transferee shall observe and fully perform all of the duties and obligations of a Developer contained in this Agreement, as such duties and obligations pertain to the portion of the Subject Property sold, assigned or transferred to it. Provided however, notwithstanding anything to the contrary above, if any such sale, assignment or transfer relates to a completed residential unit or non-residential building which has been approved by the County for occupancy, this Agreement shall automatically terminate with respect to the Completed Lot. The termination of this Agreement for any Completed Lot shall not be construed to terminate or modify any assessment district or Mello-Roos community facilities district lien affecting such Completed Lot at the time of termination. Upon the request of a Developer, County shall execute such documents as are reasonably requested to remove this Agreement from the public records as it affects each Completed Lot. The County may charge a reasonable fee to process this request.

Section 1.11. Amendment to Agreement (Developer and County). This Agreement may be amended by mutual consent of the parties in writing, in accordance with the provisions of Government Code section 65868, provided that: any amendment which relates to the term, permitted uses, density, intensity of use, height and size of proposed buildings, or provisions for reservation and dedication of land shall require a noticed public hearing before the parties may execute an amendment. Unless otherwise provided by law, all other amendments may be approved without a noticed public hearing.

Any amendment entered into between the County and the Developer shall require the signature of each owner of any portion of the Subject Property to the extent the amendment modifies this Agreement as to that other owner's property.

Section 1.12. Amendment to Agreement (Landowner and County). This Agreement may also be amended, subject to the provisions of Government Code section 65868, between a Landowner who has acquired a portion of the Subject Property from Developer and County as to the portions of the Subject Property then owned by Landowner.

Any amendment entered into between the County and a Landowner shall require the signature of each Landowner of any portion of the Subject Property or the Developer to the
extent the amendment modifies the Agreement as to that Landowner's or the Developer's property.

Section 1.13. Releases. Developer, and any subsequent Landowner, shall be deemed released from all further obligations relating to the sold, assigned, or transferred property, upon the date that the County Clerk receives a copy of the Assumption Agreement provided for in Section 1.9.

Section 1.14. Notices. Notices, demands, correspondence, and other communication to County and Developer shall be deemed given if dispatched by prepaid first-class mail to the principal offices of the parties as designated in Section 1.6(a). Notice to the County shall be to the attention of both the County Administrator and the Director. Notices to subsequent Landowners shall be required to be given by the County only for those Landowners who have given the County written notice of their address for such notices. The parties hereto may, from time to time, advise the other of new addresses for such notices, demands or correspondence.

Section 1.15. Reimbursement for Agreement Expense of County. Developer agrees to reimburse County for a pro-rata share of the reasonable and actual expenses over and above fees paid by Developer as an applicant, specifically incurred by County for the modification of the County's form development agreement into the form of this Agreement, including recording fees, publishing fees, and reasonable staff and consultant costs not otherwise included within application fees then due and payable to the County. Such reimbursement shall be paid to the County within 10 days following invoice by the County. Developer shall also pay any and all delinquent installments of property tax then due for the Subject Property.

Section 1.16. Recordation of Agreement. The County Clerk shall cause a copy of this Agreement to be recorded with the County Recorder not later than ten (10) days after the effective date following execution of this Agreement by the County. Developer hereby covenants that during the period following execution and the recording of this Agreement by the County, Developer shall not, without prior written approval by the County Counsel, cause or allow to be recorded against the Subject Property any instrument affecting the priority, validity or enforceability of this Agreement.

Section 1.17. Applicable Law. This Agreement shall be construed and enforced in accordance with the laws of the State of California.

Section 1.18. Invalidity of Agreement/Severability. If this Agreement in its entirety is determined by a court to be invalid or unenforceable, this Agreement shall automatically terminate as of the date of final entry of judgment. If any provision of this Agreement shall be determined by a court to be invalid and unenforceable, or if any provision of this Agreement is rendered invalid or unenforceable according to the terms of any federal or state statute, which became effective after the Effective Date, the remaining provisions shall continue in full force and effect.

Section 1.19. Third Party Legal Challenge. In the event any legal action or special proceeding is commenced by any person or entity other than a party or a Landowner, challenging this Agreement, the Entitlements or any approval subsequently granted by the Development Agreement Between the County of Yuba and Draper Ranch North
County for the development of the Subject Property, then the parties and any Landowner agree to cooperate with each other in good faith in connection with the defense of the same. County may elect to tender the defense of any lawsuit filed by a third person or entity to Developer and/or Landowner(s) (to the extent the litigation, in part or in whole, seeks to overturn or invalidate this Agreement, the Entitlements or any subsequent approval granted for the Subject Property held by or granted to Developer and/or Landowner), and, in such event, Developer and/or such Landowner(s) shall indemnify, hold the County harmless from and defend the County from all costs and expenses incurred in the defense of such lawsuit, including, but not limited to, damages, attorneys' fees and expenses of litigation awarded to the prevailing party or parties in such litigation. For purposes of this section only, "County" shall include all employees, consultants and agents acting on behalf of the County. Neither party shall settle any such lawsuit without the consent of the other party. The County may elect to participate in the litigation, in which case the Developer and/or Landowner agree to reimburse the County for its litigation costs and fees, including the retention of outside legal counsel and all staff costs. It is the intent of the Parties that the County's participation not result in unnecessary duplication of legal services, but rather that the County's active involvement in the litigation be limited to supervising the preparation of the administrative record or discovery as applicable, monitoring of litigation, and responsive pleadings regarding issues which, in the sole opinion of the County, involve broader County concerns than those immediately affecting the Landowner and/or Developer. Upon written demand of the County, Developer and/or Landowner shall deposit with the County such sums as may be specified by the County as its estimated litigation costs and fees for the following thirty day period. Both parties shall act in good faith, and shall not unreasonably withhold consent to settle. In the event that the County elects to settle a claim, and Developer refuses to also settle, County at its sole option may require Developer to post security in a form and amount reasonably acceptable to the County, for the performance of Developer's duties under this section. If the Developer, within 30 days of receiving written notice from County, fails to post this security, the Developer shall settle the claim on terms as previously approved by the County. This provision shall survive the termination of this Agreement.

Section 1.20. Waiver of Claims. Developer waives, as to the Subject Property only, any and all existing claims that it may have against the County, its agents, employees and consultants, arising out of the adoption and/or application of development requirements and standards, impact fees, the adoption of this Agreement or approval of the Entitlements and all of the proceedings, acts or determinations made prior thereto.

Section 1.21. Priority of Enactment. In the event of conflict between the Development Agreement, the Entitlements and the County Laws, the parties agree that the following sequence of approvals establishes the relative priority of approvals, each approval superior to the approvals listed thereafter: (1) Exhibit C to this Agreement; (2) the Development Agreement; (3) the Entitlements and (4) the County Laws. In the event of a conflict between two or more of the foregoing documents, the language of that document which is superior in priority as provided above shall govern.
ARTICLE 2

THE PROJECT AND DEVELOPMENT OF THE SUBJECT PROPERTY

Section 2.1. Limited Vested Right. During the Term of and subject to the terms of this Agreement the Developer's rights shall be vested only as to the Entitlements. "Vested" shall mean that except as to express limitations and reservations contained in this Agreement, Developer has a fully vested right to develop the Property in accordance with the terms and conditions of this Agreement and the Entitlements, and Developer's Entitlements shall not be subject to changes in Applicable Laws. In the event that the County grants an approval or permit in the implementation of the Project, the approval or permit shall be pursuant to Applicable Laws and shall also be considered vested. This section shall not be construed to limit the authority, or obligation of the County to hold necessary public hearings, or to limit the discretion of the County or any of its officers or officials with regard to rules, regulations, ordinances, laws and entitlements, which require the exercise of discretion by the County or any of its officers or officials in accordance with the Applicable Laws, or those reserved powers set forth in Section 2.6. The foregoing shall not be deemed to limit Developer's rights to seek a modification or amendment to the Entitlements.

Section 2.2. No Moratorium, Quotas, Restrictions, or Other Growth Limitations. Except as otherwise provided by the terms and conditions of this Agreement or the Entitlements, no ordinance, resolution, rule, regulation or policy of County shall be applied, imposed or enacted by County, by resolution, ordinance, initiative, or otherwise, which in any way relates to the rate, timing or sequencing of the development or use of the Subject Property, or any improvements related thereto, including without limitation, any no-growth or slow-growth moratoriums or annual development allocations, quotas or limitations, or in any way conflicts with the permitted uses, density and intensity of uses, maximum building height and size set forth in the Entitlements; provided, however, Developer shall be subject to any such growth limitation ordinance, resolution, rule; regulation or policy which is adopted on a uniformly applied, County-wide basis and directly concerns an immediate, verifiable adverse risk to public health or safety, in which case County shall treat Developer in a uniform, equitable and proportionate manner with all properties which are zoned consistent with Developer's zoning set forth in the Entitlements. Without limitation of the foregoing, any future County rules, ordinances, regulations or policies, whether by specific reference to the development of the Subject Property or as part of a general enactment that directly or indirectly applies to the development of the Subject Property, shall be considered to conflict with this Agreement if it has any one or more of the following effects: (a) limits or reduces the number of lots or square footage which may be developed on the Subject Property, the density or intensity of use allowed under the Entitlements, (b) imposes or increases any fees, exactions or other monetary obligation from what is set forth in Applicable Law, the Entitlements or the terms of this Agreement, (c) limits utilities, services or related facilities or rights to use such utilities, services or privileges for the Subject Property or that condition development or construction on the availability of public services and/or facilities (for example, the presence of a specified traffic level of service or water or sewer availability) other than as set forth in the Entitlements, (d) limits or controls in any manner the growth or other rate, timing, phasing, or sequencing of the approval or development of the Subject Property, whether by moratorium, growth restriction, or any
mechanism by which the development is tied to the availability of public services, and/or facilities or otherwise, (e) limits the maximum height, bulk and size of proposed buildings from what is set forth in Applicable Law, (f) applies to the Subject Property any future County law otherwise allowed by this Agreement that is not applied on a County-wide basis to all substantially similar developments and properties, (g) changes any land use designation or permitted use vested by this Agreement on the Subject Property without the consent of Developers, (h) requires the issuance of additional permits or approvals by County other than those required by Applicable Laws, or (i) limits the processing of, or the obtaining of, any subsequent entitlements or approvals necessary for the development of the Subject Property as contemplated by this Agreement.

Section 2.3. Permitted Uses and Development Standards. The permitted uses and development standards shall be those as set forth in and permitted by the Entitlements, County Zoning, Applicable Laws and subdivision and land development standards as of the Effective Date.

Section 2.4. Application, Processing and Inspection Fees. Application fees, processing fees, and inspection fees that are revised during the term of this Agreement shall apply to the development pursuant to this Agreement, provided that such revised fees apply generally to similar private projects or works within County.

Section 2.5. Impact Fees. [Intentionally Omitted—See Exhibit C: Special Conditions and Requirements]

Section 2.6. Reserved Powers. Notwithstanding any other provision of this Agreement, and without limitation as to any other requirements or exceptions contained in this Agreement, the County retains the authority to take the following actions and apply the same to the Subject Property:

(a) The authority of the Board of Supervisors to adopt regulations to protect the County and its citizens from an immediate and significant adverse risk to health and safety. This shall include, but not be limited to, lack of sufficient sewer and/or water facilities, but not school facilities.

(b) Adopt new or amended building codes (as may be amended by the County), including, but not limited to, the Uniform Building Code, Uniform Fire Code, Uniform Mechanical Code, Uniform Plumbing Code, National Electrical Code, Uniform Housing Code, and Uniform Sign Code, that generally apply equally to all buildings, structures and real property in the County.

(c) Adopt land use regulations, ordinances, policies, programs, resolutions or fees generally applicable to similar development projects adopted or undertaken by County as and only to the extent necessary to comply with state or federal laws, or regulations, provided that in the event that such state or federal laws or regulations prevent or preclude compliance with one or more provisions of this Agreement, such provision or provisions shall be modified or suspended as may be necessary to comply with such state or federal laws or regulations.
(d) Adopt county land use regulations, ordinances, policies, programs or resolutions adopted after the Effective Date, which are in conflict with the Applicable Laws, but the application of which to the development of the Subject Property has been consented to in writing by the Developer and/or the applicable Landowner by later separate document, which consent Developer and/or Landowner may withhold in their sole and exclusive discretion.

Section 2.7. **Obligation and Rights of Mortgage Lenders.** The holder of any mortgage, deed of trust or other security instrument with respect to the Subject Property, or any portion thereof, shall not be obligated under this Agreement to construct or complete improvements or to guarantee such construction or completion, but, in the event said holder takes title to the Subject Property through foreclosure of a mortgage or a deed of trust, or deed-in-lieu of such foreclosure, said holder shall be bound by all of the terms and conditions of this Agreement which pertain to the Subject Property or such portion thereof in which it holds an interest. Any such holder who comes into possession of the Subject Property, or any portion thereof, pursuant to a foreclosure of a mortgage or a deed of trust, or deed in lieu of such foreclosure, shall take the Subject Property, or such portion thereof, subject to any pro rata claims for payments or charges against the Subject Property, or such portion thereof, which accrue prior and subsequent to the time such holder comes into possession. Nothing in this Agreement shall be deemed or construed to permit or authorize any such holder to devote the Subject Property, or any portion thereof, to any uses, or to construct any improvements thereon, other than those uses and improvements provided for or authorized by this Agreement, subject to all of the terms and conditions of this Agreement.

Upon foreclosure or deed-in-lieu thereof, a lender has no obligation to pay any amounts related to the Subject Property, unless said lender or successor-in-interest elects to use the Entitlements to develop the Subject Property.

Section 2.8. **Tolling and Extension During Legal Challenge or Moratoria.**

(a) If this Agreement, any of the Entitlements or any subsequent entitlements, approvals or permits required to implement the Entitlements (such as any required fill permit) are subjected to legal challenge by a third party, other than Developer, and Developer cannot or elects not to proceed with development of the Subject Property during such litigation, the Term of this Agreement and timing for obligations imposed pursuant to this Agreement shall, upon written request of Developer to County, be extended and tolled during such litigation until the entry of final order or judgment upholding this Agreement, the Entitlements, subsequent entitlements, approvals and/or other permits required to implement the Entitlements, or the litigation is dismissed by stipulation of the parties.

(b) If this Agreement, any of the Entitlements or any subsequent entitlements, approvals or permits required to implement the Entitlements are subjected to moratoria, and Developer cannot or elects not to proceed with the development of the Subject Property during such moratoria, the Term of this Agreement and timing for obligations imposed pursuant to this Agreement shall, upon written request of Developer to County, be extended and tolled during such moratoria. Moratoria shall be defined as restrictions, moratorium or de facto moratoria on approval or recordation of final maps, issuance of building permits, final inspections or
Section 2.9. **Timing of Construction and Completion.** Notwithstanding any provision of this Agreement to the contrary, there is no requirement that Developer initiate or complete development of the Subject Property or any particular phase of development of the Subject Property within any particular period of time, and County shall not impose such a requirement on any subsequent approval. The parties acknowledge that Developer cannot at this time predict when, or the rate at which or the order in which, phases will be developed. Such decisions depend upon numerous factors that are not within Developer's control, such as market orientation and demand, interest rates, competition, and other similar factors. In light of the foregoing, the parties agree that Developer shall be able to develop in accordance with Developer's own time schedule as such schedule may exist from time to time, for whatever reason, and that Developer shall determine the order in which portions of the Subject Property shall be developed. Without limiting any of the foregoing, the parties specifically desire to avoid the consequences of the holding of the California Supreme Court in *Pardee Construction Co. v. County of Camarillo* (1984) 37 Cal.3d 465, which held that the failure of the parties therein to consider and expressly provide for the timing of development resulted in a later-adopted initiative restricting the timing of development to prevail over such parties' agreement; consequently, the parties agree that Developer shall have the right to develop the Subject Property in such order and at such rate and at such times as Developer deems appropriate within the exercise of its subjective business judgment. Nothing in this Section 2.9 shall exempt Developer from completing work required by a subdivision agreement, road improvement agreement or similar agreement in accordance with the terms thereof.

Section 2.10. **Property Tax.** Developer shall pay all installments of property tax applicable to the Subject Property prior to such installments becoming delinquent.

**ARTICLE 3**

**DEFAULT**

Section 3.1. **General Provisions.** Subject to extensions of time by mutual consent in writing, any failure to perform any term or provision of this Agreement by County, by Developer or by Landowner not released from this Agreement to perform any term or provision of this Agreement, shall constitute a default in the event (a) the party alleging such default or breach gives the other party or Landowner not less than sixty (60) days notice in writing specifying the nature of the alleged default and the manner in which said default may be cured, and (b) the said other party does not cure the breach or default within said sixty (60) days (or, if the cure cannot be accomplished within 60 days, if said other party does not commence the cure within 60 days and diligently prosecute the cure thereafter.) During any such sixty (60) day period, the party or Landowner charged shall not be considered in default for purposes of termination or institution of legal proceedings.
After notice and expiration of the sixty (60) day period, if such default has not been cured or is not being diligently cured in the manner set forth in the notice, the other party or Landowner to this Agreement may, at his/her option, institute legal proceedings pursuant to this Agreement or give notice of his/her intent to terminate this Agreement pursuant to California Government Code section 65868 and any regulations of the County implementing said Government Code section. Following notice of intent to terminate, or prior to instituting legal proceedings, the matter shall be scheduled for consideration and review in the manner set forth in Government Code sections 65865, 65867, and 65868 and County regulations implementing said sections by the County within thirty (30) calendar days.

Following consideration of the evidence presented in said review before the County and an additional 30-day period to cure, either party alleging the default by the other party or Landowner may institute legal proceedings or may give written notice of termination of this Agreement to the other party; provided, however, a Landowner may only give such notice with respect to such portion of the Subject Property in which Landowner owns an interest.

Section 3.2. Annual Review. The County shall, at least every twelve (12) months during the term of this Agreement, review the extent of good faith substantial compliance by Developer and Landowner with the terms of this Agreement. Such periodic review by the Director, unless referred to the Planning Commission or the County Board of Supervisors shall be limited in scope to compliance with the terms of this Agreement pursuant to California Government Code section 65865.1. Each said review shall be completed within sixty (60) days of the first meeting of the Planning Commission and the County Board of Supervisors, respectively, at which such review is undertaken, unless said period is extended by mutual consent of the County and Developer. Failure to complete said review within the prescribed period shall be deemed a finding of good faith substantial compliance. Notice of such annual review shall include the statement that any review, the result of which the local agency finds and determines on the basis of substantial evidence, that the Developer has not complied in good faith with the terms or conditions of the Development Agreement, may result in amendment or termination of this Agreement in accordance with Government Code section 65865.1. The County may charge the Developer a reasonable fee for such annual review to defray the cost to the County to process and conduct such annual review.

The County shall deposit in the mail or fax to Developer and/or Landowner a copy of all staff reports and, to the extent practical, related exhibits concerning contract performance at least seven (7) days prior to such periodic review. Developer or Landowner shall be entitled to appeal a determination of the Director to the Commission and then to the Board of Supervisors. Any appeal must be filed within ten (10) days of the decision of the Director, or the Commission, as the case may be. Developer or Landowner shall be permitted an opportunity to be heard orally and/or in writing regarding its performance under this Agreement before the Commission, Board of Supervisors, and/or Director, as the case may be.

Section 3.3. Developer Default Limited to Property/Entity; Separate Obligations of Owners. Except as specified herein in Section 3.1, no default hereunder in performance of a covenant or obligation with respect to a particular portion of the Subject Property shall constitute a default applicable to any other portion of the Subject Property, and any remedy arising by
reason of such default shall be applicable solely to the portion of Subject Property where the
default has occurred. Similarly, the obligations of the Developer and Landowners shall be
severable and no default hereunder in performance of a covenant or obligation by any one of
them shall constitute a default applicable to any other owner who is not affiliated with such
defaulting owner, and any remedy arising by reason of such default shall be solely applicable to
the defaulting e-owner and the portion of the Subject Property owned thereby.

Section 3.4. Default by County. In the event the County does not accept, review,
approve or issue necessary development permits or entitlements for use in a timely fashion as
defined by this Agreement, or as otherwise provided in this Agreement, or the County otherwise
defaults under the terms of this Agreement, Developer and/or Landowner may give written
notice thereof to the County and if not cured within sixty (60) days following receipt of such
notice, Developer shall have all rights and remedies provided herein or under applicable law,
including without limitation the right to pursue actions for mandamus, specific performance, or
injunctive or declaratory relief to enforce this Agreement. Notwithstanding the foregoing
sentence, the County, Developer and Landowner each waives any and all rights to seek monetary
damages from any other party as a result of any breach or alleged breach of such other party's
obligations hereunder, excluding (a) any claim for refunds of fees or excess fee payments
imposed inconsistent with this Agreement, and (b) County claims regarding payment of fees,
taxes, assessment and other charges, including Levee Fees. In the event the County is in default
under the terms of this Agreement, any resulting delays in Developer's performance caused
thereby shall not constitute grounds for termination or cancellation of this Agreement.

Section 3.5. Default by and Remedies of TRLIA. TRLIA's rights and obligations
under this Agreement are specifically limited to those rights and obligations specifically
attributed to TRLIA as set forth in Exhibit C to this Agreement. TRLIA is considered a third
party beneficiary of Exhibit C and shall have a right to enforce all obligations of Developer as
set forth in Exhibit C to this Agreement. In the event that TRLIA defaults under the terms of
this Agreement, Developer and/or Landowner may give written notice thereof to TRLIA with a
copy to the County, and if not cured within sixty (60) days following receipt of such notice,
Developer's sole remedy shall be the right to pursue actions for mandamus, specific
performance, or injunctive or declaratory relief against TRLIA to enforce this Agreement.
Notwithstanding the foregoing sentence, TRLIA, Developer and Landowner each waives any
and all rights to seek monetary damages from any other party as a result of any breach or alleged
breach of such other party's obligations hereunder, excluding any claim for refunds of fees or
excess fee payments imposed inconsistent with this Agreement. In the event TRLIA is in default
under the terms of this Agreement, any resulting delays in Developer's performance that are
directly caused thereby shall not constitute grounds for termination or cancellation of this
Agreement.

Section 3.6. Cumulative Remedies of Parties/Waiver of Right to Damages. In
addition to any other rights or remedies, County, Developer and any Landowner may institute
legal or equitable proceedings to cure, correct or remedy any default, to specifically enforce any
covenant or agreement herein, to enjoin any threatened or attempted violation of the provisions
of this Agreement. Notwithstanding the foregoing sentence, the County, Developer and
Landowner each waives any and all rights to seek monetary damages from the other party as a

Development Agreement Between the County of Yuba
and Draper Ranch North

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result of any breach or alleged breach of such other party's obligations hereunder, excluding any claim for refunds of fees or excess fee payments imposed inconsistent with this Agreement.

ARTICLE 4

TERMINATION

Section 4.1. Termination Upon Completion of Development. This Agreement shall terminate upon the expiration of the Term as defined on the Reference Sheet or when the Subject Property has been fully developed and all of the Developer's obligations in connection therewith are satisfied. Upon termination of this Agreement, the County shall record a notice of such termination in a manner substantially similar to the form attached hereto as Exhibit D. This Agreement shall automatically terminate and be of no further force or effect as to Completed Lots.

Section 4.2. Effect of Termination on Developer Obligations. Termination of this Agreement as to the Developer of the Subject Property or any portion thereof shall not affect any of the Developer's obligations to comply with the County General Plan and the terms and conditions of any applicable zoning, or subdivision map or other land use entitlements approved with respect to the Subject Property, any other covenants or any other development requirements specified in this Agreement to continue after the termination of this Agreement, or obligations to pay assessments, liens, fees, or taxes. Termination of this Agreement shall not affect Developers rights and duties under Exhibit C to this Agreement.

Section 4.3. Effect of Termination on County. Upon any termination of this Agreement, as provided for under the terms and conditions of this Agreement, as to the Developer of the Subject Property, or any portion thereof, the entitlements, conditions of development, limitations on fees and all other terms and conditions of this Agreement shall no longer be vested hereby with respect to the Subject Property affected by such termination (provided vesting of entitlements, conditions or fees applicable to the Subject Property shall be governed by planning and zoning law) and the County shall no longer be limited, by this Agreement, to make any changes or modifications to such entitlements, conditions or fees applicable to such property. Except as may be set forth in section 1.10 of Exhibit C, termination of this Agreement shall not affect County or TRLIA rights and duties under Exhibit C to this Agreement.

ARTICLE 5

STANDARD TERMS AND CONDITIONS

Section 5.1. Venue. Venue for all legal proceedings shall be in the Superior Court for the County of Yuba.

Section 5.2. Waiver. A waiver by any party of any breach of any term, covenant or condition herein contained or a waiver of any right or remedy of such party available hereunder at law or in equity shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant or condition herein contained or of any continued or subsequent right.
to the same right or remedy. No party shall be deemed to have made any such waiver unless it is in writing and signed by the party so waiving.

Section 5.3. Completeness of Instrument. This Agreement, together with its specific references and attachments, constitutes all of the agreements, understandings, representations, conditions, warranties and covenants made by and between the parties hereto. Unless set forth herein, neither party shall be liable for any representations made express or implied.

Section 5.4. Supersedes Prior Agreements. It is the intention of the parties hereto that this Agreement shall supersede any prior agreements, discussions, commitments, representations or agreements, written or oral, between the parties hereto.

Section 5.5. Captions. The captions of this Agreement are for convenience in reference only and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

Section 5.6. Number and Gender. In this Agreement, the neuter gender includes the feminine and masculine, and the singular includes the plural, the word "person" includes corporations, partnerships, firms or associations, wherever the context so requires.

Section 5.7. Mandatory and Permissive. "Shall" and "will" and "agrees" are mandatory. "May" is permissive.

Section 5.8. Term Includes Extensions. All references to the term of this Agreement or the Agreement Term shall include any extensions of such term.

Section 5.9. Successors and Assigns. All representations, covenants and warranties specifically set forth in this Agreement, by or on behalf of, or for the benefit of any or all of the parties hereto, shall be binding upon and inure to the benefit of such party, its successors and assigns.

Section 5.10. Modification. No, modification or waiver of any provisions of this Agreement or its attachments shall be effective unless such waiver or modification is in writing, signed by all parties, and then shall be effective only for the period and on the condition, and for the specific instance for which given.

Section 5.11. Counterparts. This Agreement may be executed simultaneously and in several counterparts, each of which shall be deemed an original, but which together shall constitute one and the same instrument.

Section 5.12. Other Documents. The parties agree that they shall cooperate in good faith to accomplish the object of this Agreement and to that end, agree to execute and deliver such other and further instruments and documents as may be necessary and convenient to the fulfillment of these purposes.

Section 5.13. Partial Invalidity. If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the
remainder of the provision and/or provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

Section 5.14. Controlling Law. The validity, interpretation and performance of this Agreement shall be controlled by and construed under the laws of the State of California.

Section 5.15. Time Is of the Essence. Time is of the essence of this Agreement and each covenant and term a condition herein.

Section 5.16. Authority. All parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles and capacities herein stated and on behalf of any entities, persons, estates or firms represented or purported to be represented by such entity (s), person(s), estate(s) or firm(s) and that all formal requirements necessary or required by any state and/or federal law in order to enter into this Agreement have been fully complied with. Further, by entering into this Agreement, neither party hereto shall have breached the terms or conditions of any other contract or agreement to which such party is obligated, which such breach would have a material effect hereon.

Section 5.17. Document Preparation. This Agreement will not be construed against the party preparing it, but will be construed as if prepared by all parties.

Section 5.18. Advice of Legal Counsel. Each party acknowledges that it has reviewed this Agreement with its own legal counsel, and based upon the advice of that counsel, and freely entered into this Agreement.

Section 5.19. Estoppel Certificate. Within thirty (30) days following any written request which either party may make from time to time, and upon payment of a fee to the County to reimburse the County for its reasonable expenses associated herewith, the other party to this Agreement shall execute and deliver to the requesting party a statement certifying that:

(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; and

(b) there are not current uncured defaults under this Agreement or specifying the date, nature of any default and manner of cure.

This certificate may be executed by the Director.

Section 5.20. Attorneys Fees and Costs. If any action at law or in equity, including an action for declaratory relief, is brought to enforce or interpret provisions of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and costs, which may be set by the Court in the same action or in a separate action brought for that purpose, in addition to any other relief to which such party may be entitled.

Section 5.21. Consent/Subordination. Unless waived in writing by the County Counsel, Developer shall furnish proof satisfactory to the County, prior to approval of the
Agreement that all persons possessing a legal interest in the Subject Property have consented to the recording of this Agreement in the County Recorder's Office against the Subject Property. Unless waived in writing by the County Counsel, the County shall require subordination by all lenders of record as a condition precedent to the County approval of the Agreement. The County shall have no duty to subordinate its interest in this Agreement.

Section 5.22. Calculation of Time Periods. All calculation of time periods shall be based upon calendar days unless a different intent is clearly stated.
IN WITNESS WHEREOF, this Agreement was executed by the parties thereto on the dates set forth in the Preamble.

COUNTY:
COUNTY OF YUBA,
a political subdivision of the State of California

By: ____________________________
Name: __________________________
Title: __________________________

ATTEST:

By: ____________________________
Name: __________________________
Title: County Clerk

APPROVED AS TO FORM:

By: ____________________________
Name: PAT GARRAMONE, Chief Deputy
Title: County Counsel

DEVELOPER:

By: ____________________________
Name: David Lanza, Ranjit Khagura, Patrick Laughlin
Title: __________________________

APPROVED AS TO FORM:

By: ____________________________
Name: __________________________
Title: Counsel
TRLIA:
Three Rivers Levee Improvement Authority
a joint powers authority

By:_______________________________

Name:_____________________________

Title:_____________________________

APPROVED AS TO FORM:

By:_______________________________

Name:_____________________________

Title: Counsel
CALIFORNIA ALL PURPOSE ACKNOWLEDGMENT

State of California                  )
 ) ss.
County of Sutter                     )

On 6/4/09 before me, Carol Carpio, Notary Public, personally appeared David Lara and Ranjit Khagare, 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: Carol Carpio (Seal)
CALIFORNIA ALL PURPOSE ACKNOWLEDGMENT

State of California )

) ss.

County of Sutter )

On June 4, 2009 before me, Patricia A. Recore, Notary Public, personally appeared Patrick Laughlin, 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)
**LIST OF EXHIBITS**

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LEGAL DESCRIPTION

Real property in the unincorporated area of the County of Yuba, State of California, described as follows:


EXHIBIT B
ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (hereinafter "this Agreement") is entered into this ___ day of ____________, 200__, by and between _______________ (hereinafter called "Owner") and ______________________ (hereinafter called "Assignee").

RECITALS

A. On ____________, 200__, the County of Yuba and Owner entered into that certain agreement entitled "Development Agreement," approved by Ordinance ____________ (hereinafter "Agreement"), relative to the development known as ____________ (hereinafter "Subject Property").

B. Owner entered into a purchase and sale agreement whereby a portion of the Subject Property will be sold to Assignee, which portion of the Subject Property is identified and described in Exhibit A, attached hereto and incorporated herein by this reference (hereinafter the "Assigned Parcel(s)").

C. Owner desires to assign all of its interests, rights and obligations under the Agreement with respect to the Assigned Parcel(s).

D. Assignee desires to assume all Owner's rights and obligations under the Agreement with respect to the Assigned Parcel(s).

NOW, THEREFORE, Owner and Assignee hereby agree as follows:

1. Owner hereby assigns effective as of Owner's conveyance of the Assigned Parcel(s) to Assignee, all of the rights, interest, burdens and obligations of Owner under the Agreement with respect to the Assigned Parcel(s). Owner retains all the rights, interest, burdens and obligations under the Agreement with respect to all other property within the Subject Property owned thereby.

2. Assignee hereby assumes all of the burdens and obligations of Owner under the Agreement, and agrees to observe and fully perform all of the duties and obligations of Owner under the Agreement, and to be subject to all the terms and conditions thereof, with respect to the Assigned Parcel(s), it being the express intention of both Owner and Assignee that, upon the execution of this Agreement and conveyance of the Assigned Parcel(s) to Assignee, Assignee shall be come substituted for Owner as the "Developer" under the Agreement with respect to the Assigned Parcel(s).

3. All of the covenants, terms, and conditions set forth herein shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, successors and assigns.
IN WITNESS HEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

ASSIGNOR / OWNER

By: __________________________

Name: _________________________

Title: __________________________

ASSIGNEE

By: __________________________

Name: _________________________

Title: __________________________
EXHIBIT C

SPECIAL CONDITIONS AND REQUIREMENTS

This Exhibit C is attached to and made a part of that certain Development Agreement
dated as of _____________, 2009 (the “Development Agreement”), by and between the
County, TRLIA and the Developer named therein. For purposes of this Exhibit C, “Developer”
shall mean Patrick Laughlin, David Lanza & Ranjit Khagura. The terms and conditions of this
exhibit shall survive should the Development Agreement terminate prior to completion of
reimbursements required herein.

Section 1.1 Background. Developer, or Developer’s predecessor in interest as owners
of the subject Property, was a party to (a) that certain Agreement For Advanced Funding and
Reimbursement of Costs for Levee Improvements dated April 19, 2005 (“2005 Advanced
Funding Agreement”) and (b) the Second Agreement for Advanced Funding and Reimbursement
of Costs for Levee Improvements, dated as of August 29, 2006, (“Second Funding Agreement”),
(the 2005 Advance Funding Agreement and the Second Funding Agreement being sometimes
collectively referred to herein as the “Funding Agreements”), which relates to the construction
of certain flood protection improvements benefitting the Plumas Lake Specific Plan and the
North Arboga Study Area, which area is generally described as the South Yuba Basin. In order
to pay for costs associated with levee improvements in the South Yuba Basin, on November 18,
2008, the Board of Supervisors of the County of Yuba adopted Ordinance No. 1465, enacting the
Three Rivers Levee Impact Fee (“Levee Fee”). The Levee Fee was based on the then estimated
cost to complete the levee improvements. As a party to the Funding Agreements, Developer
advanced funded certain amounts for the Levee Fee to be used for the levee improvements
described above. By making advanced payments pursuant to the Second Funding Agreement,
Developer became authorized under the terms of the Second Funding Agreement to record final
maps and to have a certain number of building permits issued upon request for the Project.

At the time of the execution of the Second Funding Agreement, the anticipated levee
improvements included strengthening in place improvements to the existing left (east) Feather
River levee from the Bear River Setback levee to the Yuba River, however, a Feather River
setback levee from Star Bend to Shanghai Bend (the “Feather River Setback Levee”) was
contemplated. In early 2008, the decision was made to change certain portions of the levee
improvement project to include the Feather River Setback Levee. By doing this, the state of
California committed to providing more than $135 million in funding, pursuant to Prop 1E and
84. Due to the receipt of the State grant funds, the amount of local funds needed to complete the
levee improvements was reduced. This reduction caused the Levee Fee to be reduced. The
Levee Fee was reduced with the adoption of Ordinance No. 1465 by the Board of Supervisors of
the County of Yuba on November 18, 2008.

Due to the reduction of the Levee Fee, Developer claims a right of reimbursement and/or credit.
This right is based on prior advanced funding made in excess of the amount required under the
Levee Fee, as adjusted by Ordinance No. 1465 (herein “Prior Advanced Funding”).

Development Agreement Between the County of Yuba
and Draper Ranch North

Exhibit C – Page 1
The County of Yuba has adopted certain policies to address the claimed rights of reimbursement or credit for Prior Advanced Funding. Those policies are set forth in the Three Rivers Levee Credit and Reimbursement Policies and Procedures (the "Credit and Reimbursement Policy"). The Credit and Reimbursement Policy is hereby incorporated into and made a part of the Agreement, and is attached as Exhibit E. To the extent there is any inconsistency between this Agreement and the Credit and Reimbursement Policy as to the timing, manner or amount of credit or reimbursement due, the Credit and Reimbursement Policy shall control.

Section 1.2 Use of Credits. The Parties to this Agreement agree that the Credit and Reimbursement Policy sets forth the amount of credit and reimbursement owed the Developer in connection with Prior Advanced Funding. The Credit and Reimbursement Policy shall control as to the amount of credit or reimbursement due and how any credit or reimbursement will be applied.

Section 1.2.1. For those units included in the Project for which Developer has applied for a building permit after April 19, 2005 and on or before October 21, 2008, the Levee Fee shall be levied at the current rate as set forth in Ordinance No. 1465 and the Developer shall receive full credit for such fees from the amount advance funded, as more specifically set forth in the Credit and Reimbursement Policy.

Section 1.2.2. For those units for which the Developer has applied for a building permit after October 21, 2008, Developer shall receive credit for the Levee Fee imposed on the Project on a proportionate basis for the remainder of the Project. For those building permits applied for after October 21, 2008, Developer will pay a portion of the Levee Fee at the rate set forth in Ordinance No. 1465 and at the time and in the manner required herein, based on the relative proportionality between the remainder of the Project not able to be funded from credit and the total remaining acreage left in the Project after all previously absorbed units, all consistent with the provisions of the Credit and Reimbursement Policy. The County will calculate the amount of the Levee Fee due after the credit at the time the individual building permits are issued for each unit to be constructed on the Project pursuant to a building permit applied for after October 21, 2008. The amount of the credit and how it will be applied is more specifically set forth in the Credit and Reimbursement Policy.

Section 1.2.3. To the extent that the Developer is developing multiple projects which were subject to the Second Funding Agreement and one project has advanced funded Levee Fees in excess of its total obligation and is due reimbursement, that reimbursement may be applied and added to the credit of any of Developer's other projects that will have a remaining obligation to pay Levee Fees. The manner in which the credit from a project that has paid fees in excess of its total obligation may be applied to the credit of Developer's other projects is set forth in Appendix A of the Credit and Reimbursement Policy.

Section 1.3. Reimbursement of Levee Fees. If the amount owed to Developer for Prior Advanced Funding in excess of obligations owed under the current Levee Fee is not satisfied by application of credit to the Project or transfer of the credit to another project as set forth in Section 1.2.3., the remaining amount due will be reimbursed to Developer, solely from Levee Fees collected from others, and then only as follows:
Section 1.3.1. **Before Levee Certification.** Prior to certification by the Federal Emergency Management Agency (FEMA) of those levees to be constructed or improved pursuant to the Levee Improvement Program defined in Section 3 of the Second Funding Agreement, including the Feather River Setback Levee (the "Levee" or "Levees"), no reimbursement of Prior Advanced Funding will be made to the County, YCWA or Developer from any Levee Fees collected. Levee Fees collected through and until such certification date will be used to directly fund improvements to the Levees. However, it is understood by all parties that, to the extent Levee Fees are collected prior to such certification date, this funding may go to offset the additional required contribution of funds to the TRLIA Levee Improvement Program by the County and YWCA consistent with the intent of the July 22, 2008 Agreement Concerning Levee Impact Fees Among County of Yuba, Yuba County Water Agency, and Yuba Levee Financing Authority.

Section 1.3.2. **After Certification of the Levees and before March 1, 2015.** During the time period between when the Levees are certified by FEMA and before March 1, 2015 twice per year distribution of Levee Fee revenue not needed to pay any Levee improvement costs incurred prior to such certification but not yet paid will occur. The revenues collected before March 1, 2015 will be split between those parties determined by the County to be due reimbursements (including the County and YCWA on a proportionate basis, based upon the aggregate principal amount of their outstanding reimbursement. Table 6 of the Credit and Reimbursement Policy sets forth an example of the proportionality of outstanding reimbursements due.

Section 1.3.3. **From and After March 1, 2015 and until all Reimbursements are Complete.** Commencing on March 1, 2015 twice per year distributions of Levee Fee revenue will occur as follows: (a) initially, 100% of the revenues collected will go to fund the scheduled debt service due on the borrowing to fund levee improvements secured by lease and installment payment obligations of the County and YCWA and (b) any remaining Levee Fee revenue will be split between those parties determined by the County to be due reimbursements (including the County and YCWA) on a proportionate basis, based upon the aggregate principal amount of their outstanding reimbursement.

Section 1.3.4. **Interest.** Any reimbursement owed to Developer, as well as to County or YWCA, will accrue interest at a rate of 5.534% per annum. Interest will be calculated on a monthly compounding rate.

Section 1.3.5. **Acknowledgment.** Except as set forth in this Exhibit C and the Credit and Reimbursement Policy. Developer acknowledges and agrees that no other reimbursement or Credit is due for funds advanced under prior agreements concerning construction of the Levees, including the 2005 Funding Agreement and/or the Second Funding Agreement.

Section 1.3.6. **Inspection of Records.** Developer shall have the right to review and inspect records of the County with respect to Levee Fees and other revenue sources available to make payments or reimbursements to Developer under this Section 1.3. Developer must give the County reasonable notice of any such request.
Section 1.4. **Extension of Tentative Map Life.** The expiration date of any existing tentative map within the Subject Property, subject to the Credit and Reimbursement Policy, is extended for twenty (20) years from the original approval date, inclusive of any and all other extensions which may be provided by law.

Section 1.5. **County Imposed Development Fees.** The County shall not impose any New Fees relating to the Project for ten (10) years from the Effective Date of this Development Agreement. Notwithstanding the forgoing, the County may impose New Fees as follows: (a) any Traffic Impact (Road Improvements) component of the County-Wide Capital Facility Fee and, (b) any fees levied for the purpose of offsetting the cost of regional park improvements, provided, however, that the cumulative new fees levied for regional park improvements shall not exceed Two Thousand Dollars ($2,000) per dwelling unit contained in the Project. To the extent a New Fee is levied against the Project pursuant to one of the exclusions listed herein, that New Fee shall be imposed and levied in a manner consistent with all applicable State and local laws and regulations. Development impact fees imposed by entities other than the County or by the County on behalf of other entities are not subject to this provision.

Section 1.6. **Impact Fee Lock.** The County shall not increase any Current Fees relating to the Project for 10 years from the Effective Date of this Development Agreement. Notwithstanding the forgoing, the County may increase Current Fees as follows: (a) any currently incorporated escalator adopted with and incorporated into the Current Fee; (b) any increase to the current Traffic Impact (Road Improvements) component of the County-Wide Capital Facility Fee; (c) any change or increase to the current PLSP/NASA Road Improvement Fee. To the extent a Current Fee levied against the Project is changed or increased pursuant to one of the exclusions listed herein, that change or increase shall be imposed and levied in a manner consistent with all applicable State and local laws and regulations. Development impact fees imposed by entities other than the County or by the County on behalf of other entities are not subject to this provision.

Section 1.7. **Developer to Receive Benefit of Reduction in Fees.** Notwithstanding any of the other terms of this Agreement, any reduction to Current Fees or New Fees that is applied to development within the County generally shall be applied to the Project.

Section 1.8. **Deferral of Collection of Impact Fees.** The balance of the Levee Fee due after application of credit as described in 1.2 above with respect to units in the Project, shall be calculated for each unit at the time a building permit is issued for that unit, but the collection by the County of the amount due shall be deferred until the final inspection of the unit for which the building permit is issued (in a manner consistent with Yuba County Ordinance No. 1461). The duration of this fee deferral will be for ten (10) years from the Effective Date of this Development Agreement. The collection of all other development impact fees and County-Wide Capital Facility Fees will be deferred in a manner consistent with the Yuba County Ordinance No. 1461, except that, the duration of the deferral will be ten (10) years from the date of this Development Agreement. Following any such deferral period, all fees will be due and payable as and when levied in accordance with County policy. Development impact fees imposed by
entities other than the County or by the County on behalf of other entities are not subject to this provision.

Section 1.9. Builder Bonds. In the event that the Developer is the registered owner of any Builder Bonds (as such term is defined in the Second Funding Agreement) issued by TRLIA for CFD 2006-1 or CFD 2006-2 (as such community facilities districts are described in Section 7.A.(1) of the Second Funding Agreement), the County and TRLIA agree to take all reasonable actions on its part necessary or appropriate, at the written request and cost of the Developer, in the redemption or refunding of such bonds, so long as any such request is consistent with the procedures and requirements described in Appendix B to the Three Rivers Levee Impact Credit and Reimbursement Policy. The County and TRLIA acknowledge and agree that all special tax revenues collected by TRLIA from special tax levies for CFD 2006-1 and CFD 2006-2 shall be disposed of by TRLIA as provided in Section 4.01 of the respective Fiscal Agent Agreement for the Builder Bonds for the respective community facilities district, in the rate and method of apportionment for the respective community facilities district and, to the extent not inconsistent with the foregoing, as described in Appendix C to the Credit and Reimbursement Policy.

Section 1.10. Failure of Consideration. The terms and conditions set forth in Sections 1.4. through 1.8. of this Exhibit C are granted by the County in consideration of the Developer's agreement to the credit and reimbursement terms in Section 1.2 and 1.3 et seq. If any term of the credit and reimbursement policies as set forth in Sections 1.2 and 1.3 et seq. is deemed invalid or a legal challenge to any such terms is made by Developer, then there shall be deemed a failure of consideration and the provisions of Section 1.4 through 1.8 shall be void and unenforceable by Developer.

Section 1.11.1 Flood Insurance. Developer shall provide, at no cost to all new residents (including the initial sale by the Developer and all subsequent resales) of homes constructed by such Developer within the Affected Area (as defined in the Second Funding Agreement) since 2003 (i.e., homes for which building permits were issued from and after January 1, 2003), flood insurance and renewals of flood insurance only through the Completion of the Levee or until December 31, 2010 (whichever occurs first). As used in this Section, "Completion" shall mean the earlier of: (i) the date on which a notice of completion is recorded by the general contractors performing TRLIA's Phase 4 work, or (ii) the date on which a determination of substantial completion of TRLIA's Phase 4 work is made by the Executive Officer of the Central Valley Flood Protection Board. The County and TRLIA will reasonably cooperate in assisting Developer to fulfill this requirement, including but not limited to providing for notice of resales of homes within the Project to be provided to Developer. The renewals and subsequent issuance of flood insurance provided by the Developer shall satisfy the minimum requirements of the National Flood Insurance Program for a standard dwelling policy.

Section 1.11.2 Notice Requirements to New and Existing Homeowners. Developer shall take the following steps to increase the awareness of flood risk by new and existing purchasers of homes within the Project:

(a) At the time of execution of a sales contract for a new home within the Project, Developer shall distribute an informational packet prepared by TRLIA on the status of
the Levee Improvement Program. Purchasers will then be requested to sign an acknowledgment sheet that they have received the packet and are aware of the flood risks associated with the Project.

(b) At the time of closing on a new home within the Project, Participant shall require execution by the new purchaser of the home of a Notice of Acknowledgement stating that the purchaser understands that the Developer (home builder) is purchasing flood insurance for the purchaser of the home (including the terms of that insurance and the period for which that insurance will be purchased) and that the purchaser of the home has received an information packet on the Levee Improvement Program and the risk of purchasing a home within the Project.

(c) Four times a year until certification of all levees required under the Levee Improvement Program, TRLIA shall prepare and distribute through the mail to new and existing purchasers of new homes within the Project an information packet on the Levee Improvement Program and any information provided by the County or TRLIA to the Developer on steps that such purchasers may take to reduce the risk of flooding to homes within the Project, such as being aware of the County's pre-hazard mitigation program, time-inundation maps, and hazard evacuation routes. Developer shall reasonably assist TRLIA to provide such information packets.

Section 1.11.3 Evacuation and Prehazard Mitigation Program. County commits to continue to use reasonable diligence to inform residents within the Project, including portions of Reclamation District 784, of the risk of flooding and to further refine, improve, and make available the County's Evacuation Plan and Prehazard Mitigation Plan.

Section 1.11.4 Accounting, Auditing and Reporting.

(a) TRLIA and County shall use best efforts to properly account for all sums paid to and grants received by TRLIA and County for the Levee Improvement Program.

(b) Developer has the right, upon not less than three (3) business days notice, at all reasonable times, to inspect the books and records of TRLIA and County pertaining to the Levee Improvement Program, as pertinent to the purposes of this Agreement.

(c) Upon request each year by Developer, TRLIA shall deliver to Developer the audited financial statement prepared by a qualified independent auditor pertaining to the Levee Improvement Program for each fiscal year, including all revenues and expenditures of TRLIA relating thereto for the prior year's period. The audited financial statement shall be delivered to Developer within 30 days following submission of such statement to the TRLIA Board.

Section 1.11.5 Maintenance of Levees. TRLIA shall be responsible to assure levee maintenance until certification, as the improvements are completed, in accordance with the Levee Improvement Program and consistent with relevant State and Federal standards.

Section 1.11.6 Preparation of Informational Packets. TRLIA shall prepare and update informational packets on the status of the Levee Improvement Program which shall be
distributed to new home purchasers by the Developer. Purchasers will then be requested to sign an acknowledgement sheet that they have received the packet and are aware of the flood risks associated with the Project.

Section 1.12. Status of Second Funding Agreement. The County, TRLIA and the Developer hereby acknowledge and agree that following State Approval all rights, duties, or obligations set forth in, or required by, the Second Funding Agreement as applied to each of them are hereby terminated and neither of the Funding Agreements is of any force or effect as to the County, TRLIA and Developer. "State Approval" shall mean receipt by TRLIA of a letter from the Central Valley Flood Protection Board which confirms that TRLIA has satisfied all of its obligations under the Second Implementation Agreement (referenced in Recital N to the Second Funding Agreement). The County, TRLIA, and the Developer further acknowledge and agree that (i) this Development Agreement supersedes both the 2005 Advanced Funding Agreement (referenced in Recital J to the Second Funding Agreement) as well as the Second Funding Agreement, (ii) all reimbursable amounts that may have been due to the Developer under the 2005 Advanced Funding Agreement have been deemed paid, and (iii) all funding advanced by the Developer to TRLIA under the Second Funding Agreement shall be applied pursuant to this Development Agreement. All obligations, rights and duties set forth in the Second Funding Agreement that apply to the County, TRLIA and Developer are hereby superseded by this Development Agreement. Notwithstanding anything in this Section 1.12 to the contrary, if a third party that was not a party to either Funding Agreements (meaning any party other than a party to this Agreement or a successor or related entity) shall make a claim under or to enforce the Second Funding Agreement against any party hereto, then solely for purposes of defending against, responding to, and/or making cross or counter claims in connection with the third party claim, the Second Funding Agreement shall not be deemed terminated, but only to the extent necessary to defend against, respond to, and/or make such cross or counter claims in connection with the third party claim.
EXHIBIT D

NOTICE OF TERMINATION

THIS NOTICE OF TERMINATION (hereinafter "this Notice") is given this ___ day of ____________, 200__, by the County of Yuba (hereinafter "County") for the benefit of _______________, (hereinafter "Owner").

1. On ________________, 200__, the County of Yuba and ________________ entered into that certain agreement entitled "Development Agreement," approved by Ordinance _______________ (hereinafter "Agreement"), relative to the development known as ________________, (hereinafter "Subject Property").

2. Owner has fully performed all its duties with respect to that portion of the Subject Property, which portion of the Subject Property is identified and described in Exhibit A, attached hereto and incorporated herein by this reference (hereinafter the "Released Property").

3. Pursuant to Section 4.1 of the Development Agreement, the Development Agreement is no longer in effect with respect to the Released Property.

COUNTY OF YUBA

By:______________________________

Name:____________________________

Title:_____________________________

[NOTE: SIGNATURE MUST BE NOTARIZED]
DEVELOPMENT AGREEMENT
BY AND BETWEEN
THE COUNTY OF YUBA, THE THREE RIVERS LEVEE IMPROVEMENT AUTHORITY AND PLUMAS LAKE RIVERSIDE MEADOWS, L.P. (DEVELOPER)
RELATIVE TO THE DEVELOPMENT KNOWN AS RIVERSIDE MEADOWS

This document, including exhibits, totals ___ pages.
REFERENCE SHEET

Project:
Riverside Meadows – TSTM2003-0007

Developer:
Plumas Lake Riverside Meadows, L.P.

Developer's Address for Purpose of Written Notice:
3202 W. March Lane, Suite A
Stockton, CA 95219

Landowner:
Same as above.

Term:
The Term of the Development Agreement, as provided for in section 1.8 begins thirty (30) days after the Board of Supervisors enacts the Adopting Ordinance (noted below) and expires on June 18, 2023, twenty (20) years from the original date of approval of TSTM2003-0007.

Entitlements:
As referred to in Recital 5 shall mean TSTM2003-0007 and all associated tentative and final maps.

CEQA document:
This project is located within the Plumas Lake Specific Plan area. A Final Environmental Impact Report for the Plumas Lake Specific Plan was adopted by the Yuba County Board of Supervisors on September 21, 1993 (State Clearinghouse No. 92072070). A residential project that is consistent with a specific plan is exempt from further environmental review (Section 15182 of the CEQA Guidelines.)

Adopting Ordinance:
As referred to in Section 1.3 (a), shall mean Ordinance No. ____________ enacted by the Board of Supervisors on ______________, 20__.

Exhibits which are attached to this Development Agreement are as follows:
A. Legal Description
B. Assumption Agreement
C. Special Conditions and Requirements
D. Sample Notice of Termination
E. Credit and Reimbursement Policy
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THIS DEVELOPMENT AGREEMENT ("Agreement") is made by and between the COUNTY OF YUBA, a political subdivision of the State of California (County”), the THREE RIVERS LEVEE IMPROVEMENT AUTHORITY, a joint powers authority ("TRLIA") and Plumas Lake Riverside Meadows, L.P. ("Developer") pursuant to the authority of Article 2.5, Chapter 4, Division Title 7 (§ 65864 et seq. of the Government Code) relating to Development Agreements.

RECITALS

1. In order to strengthen the public land use planning process, to encourage private participation in the process, to reduce the economic risk of development and to reduce the waste of resources, the Legislature adopted the Development Agreement Law (Gov. Code, § 65864 et seq.)

2. The Development Agreement Law permits cities and counties to contract with private interests for their mutual benefit in a manner not otherwise available to the contracting parties. Such agreements, as authorized by the Development Agreement Law and by common law, assure property developers that they may proceed with their projects with the assurance that approvals granted by public agencies will not change during the period of development. Cities and counties are equally assured that costly infrastructure such as roads, sewers, fire protection facilities, etc., will be available in a timely manner.

3. The parties have, in good faith, negotiated the terms hereinafter set forth which carry out the legislative purpose set forth above and will assure the parties to this Agreement of mutually desirable development in a manner consistent with the CEQA document, the Entitlements, and this Agreement.

4. Developer owns in fee (or holds an option to purchase for a term that is or may be extended for at least the term of this Agreement) the Subject Property as more particularly described on Exhibit A hereto, located in the County.

5. County, in response to Developer's application(s), after public hearings and extensive environmental analysis, has granted approval of the Entitlements, as described on the Reference Sheet.

6. In support of the various Entitlements described in paragraph 5 above, and in accord with the California Environmental Quality Act ("CEQA") and State and County guidelines, County has accepted and ratified a CEQA document, as described on the Reference Sheet.

7. Development of the Subject Property pursuant to the terms and conditions of the Entitlements, the General Plan and appropriate environmental determinations will provide for orderly growth and development consistent with the County's General Plan and other development policies and programs.

8. The Planning Commission considered this Agreement, and recommended its adoption to the Board of Supervisors.
9. Having duly considered this Agreement and having held the noticed public hearings, County finds and declares that the provisions of this Agreement are consistent with the maps and text of the County’s General Plan.

**NOW, THEREFORE**, the parties hereto agree as follows:

**ARTICLE 1**

**GENERAL PROVISIONS**

Section 1.1. **The Project.** The Project is defined as set forth on the Reference Sheet.

Section 1.2. **Subject Property.** The Subject Property is more specifically described in Exhibit A, which is incorporated herein and made part of this Agreement.

Section 1.3. **Definitions.** As used in the Agreement, the following terms, phrases and words shall have the meanings and be interpreted as set forth in this Section.

(a) **Adopting Ordinance** means the ordinance which approves this Agreement.

(b) **Applicable Laws** means the General Plan, Specific Plan (if applicable), County Laws, rules, ordinances, regulations, and official policies governing the processing of entitlements, the permitted uses of the Subject Property, the density or intensity of use, the rate and timing of development, design, improvements, reservation or dedication of land for public improvements, fees, exactions, construction and building setbacks, occupancy and specifications applicable to the Subject Property in effect on the Effective Date of this Agreement.

(c) **Assumption Agreement** means an agreement substantially conforming to the model assumption agreement described in Exhibit B, or other agreement in a form approved by the County Counsel, executed by a Landowner with the Developer, expressly assuming various obligations relating to the development of the Project, or portion thereof.

(d) **CEQA** means the California Environmental Quality Act section 21000 et seq., of the Public Resources Code of the State of California.

(e) **Completed Lots** shall mean any single-family residence, any other residential dwelling unit(s), or any non-residential building, and the lot or parcel upon which such residence or building is located, when it has been approved by the County for occupancy.

(f) **County** means the County of Yuba or, if the context otherwise requires, the Board of Supervisors for the County of Yuba, or its designee.

(g) **County Laws** means ordinances, resolutions, rules, regulations, policies, motions, directives, mitigation measures, conditions, standards, specifications, dedications, fees, taxes (including without limitation general, special and excise taxes), assessments, liens, other exactions and impositions, and any other actions having the force of law, that are enacted or adopted by County, or by its electorate through the initiative or referendum process.
(h) **Current Fees** means those County development impact fees in effect as of the Effective Date and any currently incorporated adjustments or increases therein adopted as of the Effective Date.

(i) **Developer** shall mean that person or entity that has applied for this Development Agreement as defined on the Reference Sheet.

(j) **Director** means the Community Development Director for the County, or his/her designee.

(k) **Effective Date** means the effective date of the Adopting Ordinance.

(l) **Entitlements** shall mean those approvals listed on the Reference Sheet of this Agreement, approved copies of which are on file with the Board of Supervisors.

(m) **General Plan** means the General Plan of the County, including the text and maps, as may have been amended in connection with the Project.

(n) **Landowner** is a party who has acquired any portion of the Subject Property from the Developer who, unless otherwise released as provided in this Agreement, shall be subject to the applicable provisions of this Agreement.

(o) **New Fees** means those development impact fees adopted by the County after the Effective Date of this Development Agreement.

(p) **Planning Commission** shall mean the County's Planning Commission, or its designee.

(q) **Reserved Powers** shall mean those powers explicitly reserved to the County by this Agreement.

(r) **Revenue Bonds** means the Yuba Levee Financing Authority Revenue Bonds, Series A and Taxable Revenue Bonds, Series B.

(s) **Subject Property** means the property described in Section 1.2, or the remaining portions thereof after releases from the provisions of this Agreement have been executed as authorized by this Agreement.

(t) **TRLIA** means the Three Rivers Levee Improvement Authority.

(u) **YCWA** means the Yuba County Water Agency.

**Section 1.4. Exhibits.** The Exhibits listed herein are incorporated into this Agreement and made a part hereof. The Exhibits are:

- **Exhibit A** Subject Property
- **Exhibit B** Assumption Agreement
- **Exhibit C** Special Conditions and Requirements
Section 1.5. Incorporation of Recitals. Recitals 1 through 9 are incorporated herein, including all exhibits referred to in the Recitals. In the event of inconsistency between the Recitals and the provisions of Articles 1 through 5, the provisions of Articles 1 through 5 shall prevail.

Section 1.6. Parties to Agreement. The parties to this Agreement are:

(a) The County of Yuba. A political subdivision of the State of California exercising general governmental functions and powers. The principal office of the County is located at 915 8th Street, Marysville, California 95901.

(b) Three Rivers Levee Improvement Authority. A joint powers authority created by the County and RD 784. The principal office of TRLIA is located at the County of Yuba Government Center, 915 Eighth Street, Suite 115, Marysville, California 95901.

(c) Developer. Developer owns in fee or has an equitable interest in the Subject Property.

(d) Landowner. From time to time, as provided in this Agreement, Developer may sell or otherwise lawfully dispose of a portion of the Subject Property to a Landowner who, unless otherwise released, shall be subject to the applicable provisions of this Agreement related to such portion of the Subject Property.

Section 1.7. Project is a Private Undertaking. It is agreed among the parties that the Project is a private development and that the County has no interest therein except as authorized in the exercise of its governmental functions.

Section 1.8. Term of Agreement. This Agreement shall commence upon the Effective Date of the Adopting Ordinance approving this Agreement and shall continue in force for the period shown on the Reference Sheet under "Term." Upon the expiration of the Term as provided for in this section, this Agreement shall automatically terminate and be of no further force and effect; provided however, such termination shall not affect the rights or duties arising from the entitlements for the Subject Property which were approved prior to, concurrently with, or subsequent to the approval of this Agreement.

Section 1.9. Assignment and Assumption. Developer shall have the right to sell, assign, or transfer this Agreement with all the rights, title and interests therein to any person, firm or corporation at any time during the term of this Agreement. The conditions and covenants set forth in this Agreement and incorporated herein shall run with the land and the benefits and burdens shall bind and inure to the benefit of the parties. Developer shall provide County with a copy of the Assumption Agreement. Express written assumption by such purchaser, assignee or transferee, to the satisfaction of the County Counsel, of the obligations and other terms and conditions of this Agreement with respect to the Subject Property or such portion thereof sold, assigned or transferred, shall relieve the Developer selling, assigning or
transferring such interest of such obligations so expressly assumed. Any such assumption of Developer's obligations under this Agreement shall be deemed to be to the satisfaction of the County Counsel if executed in the form of the Assumption Agreement attached hereto as Exhibit B and incorporated herein by this reference, or such other form as shall be approved by the County Counsel.

Section 1.10. Covenants Running with the Land. Each and every purchaser, assignee or transferee of an interest in the Subject Property, or any portion thereof, shall be obligated and bound by the terms and conditions of this Agreement, and shall be the beneficiary thereof and a party thereto, but only with respect to the Subject Property or such portion thereof, sold, assigned or transferred to it. Any such purchaser, assignee or transferee shall observe and fully perform all of the duties and obligations of a Developer contained in this Agreement, as such duties and obligations pertain to the portion of the Subject Property sold, assigned or transferred to it. Provided however, notwithstanding anything to the contrary above, if any such sale, assignment or transfer relates to a completed residential unit or non-residential building which has been approved by the County for occupancy, this Agreement shall automatically terminate with respect to the Completed Lot. The termination of this Agreement for any Completed Lot shall not be construed to terminate or modify any assessment district or Mello-Roos community facilities district lien affecting such Completed Lot at the time of termination. Upon the request of a Developer, County shall execute such documents as are reasonably requested to remove this Agreement from the public records as it affects each Completed Lot. The County may charge a reasonable fee to process this request.

Section 1.11. Amendment to Agreement (Developer and County). This Agreement may be amended by mutual consent of the parties in writing, in accordance with the provisions of Government Code section 65868, provided that: any amendment which relates to the term, permitted uses, density, intensity of use, height and size of proposed buildings, or provisions for reservation and dedication of land shall require a noticed public hearing before the parties may execute an amendment. Unless otherwise provided by law, all other amendments may be approved without a noticed public hearing.

Any amendment entered into between the County and the Developer shall require the signature of each owner of any portion of the Subject Property to the extent the amendment modifies this Agreement as to that other owner's property.

Section 1.12. Amendment to Agreement (Landowner and County). This Agreement may also be amended, subject to the provisions of Government Code section 65868, between a Landowner who has acquired a portion of the Subject Property from Developer and County as to the portions of the Subject Property then owned by Landowner.

Any amendment entered into between the County and a Landowner shall require the signature of each Landowner of any portion of the Subject Property or the Developer to the extent the amendment modifies the Agreement as to that Landowner's or the Developer's property.

Section 1.13. Releases. Developer, and any subsequent Landowner, shall be deemed released from all further obligations relating to the sold, assigned, or transferred property, upon
the date that the County Clerk receives a copy of the Assumption Agreement provided for in Section 1.9.

Section 1.14. Notices. Notices, demands, correspondence, and other communication to County and Developer shall be deemed given if dispatched by prepaid first-class mail to the principal offices of the parties as designated in Section 1.6(a). Notice to the County shall be to the attention of both the County Administrator and the Director. Notices to subsequent Landowners shall be required to be given by the County only for those Landowners who have given the County written notice of their address for such notices. The parties hereto may, from time to time, advise the other of new addresses for such notices, demands or correspondence.

Section 1.15. Reimbursement for Agreement Expense of County. Developer agrees to reimburse County for a pro-rata share of the reasonable and actual expenses over and above fees paid by Developer as an applicant, specifically incurred by County for the modification of the County's form development agreement into the form of this Agreement, including recording fees, publishing fees, and reasonable staff and consultant costs not otherwise included within application fees then due and payable to the County. Such reimbursement shall be paid to the County within 10 days following invoice by the County. Developer shall also pay any and all delinquent installments of property tax then due for the Subject Property.

Section 1.16. Recordation of Agreement. The County Clerk shall cause a copy of this Agreement to be recorded with the County Recorder not later than ten (10) days after the effective date following execution of this Agreement by the County. Developer hereby covenants that during the period following execution and the recording of this Agreement by the County, Developer shall not, without prior written approval by the County Counsel, cause or allow to be recorded against the Subject Property any instrument affecting the priority, validity or enforceability of this Agreement.

Section 1.17. Applicable Law. This Agreement shall be construed and enforced in accordance with the laws of the State of California.

Section 1.18. Invalidity of Agreement/Severability. If this Agreement in its entirety is determined by a court to be invalid or unenforceable, this Agreement shall automatically terminate as of the date of final entry of judgment. If any provision of this Agreement shall be determined by a court to be invalid and unenforceable, or if any provision of this Agreement is rendered invalid or unenforceable according to the terms of any federal or state statute, which became effective after the Effective Date, the remaining provisions shall continue in full force and effect.

Section 1.19. Third Party Legal Challenge. In the event any legal action or special proceeding is commenced by any person or entity other than a party or a Landowner, challenging this Agreement, the Entitlements or any approval subsequently granted by the County for the development of the Subject Property, then the parties and any Landowner agree to cooperate with each other in good faith in connection with the defense of the same. County may elect to tender the defense of any lawsuit filed by a third person or entity to Developer and/or Landowner(s) (to the extent the litigation, in part or in whole, seeks to overturn or invalidate this Agreement, the Entitlements or any subsequent approval granted for the Subject
Property held by or granted to Developer and/or Landowner), and, in such event, Developer and/or such Landowner(s) shall indemnify, hold the County harmless from and defend the County from all costs and expenses incurred in the defense of such lawsuit, including, but not limited to, damages, attorneys' fees and expenses of litigation awarded to the prevailing party or parties in such litigation. For purposes of this section only, "County" shall include all employees, consultants and agents acting on behalf of the County. Neither party shall settle any such lawsuit without the consent of the other party. The County may elect to participate in the litigation, in which case the Developer and/or Landowner agree to reimburse the County for its litigation costs and fees, including the retention of outside legal counsel and all staff costs. It is the intent of the Parties that the County's participation not result in unnecessary duplication of legal services, but rather that the County's active involvement in the litigation be limited to supervising the preparation of the administrative record or discovery as applicable, monitoring of litigation, and responsive pleadings regarding issues which, in the sole opinion of the County, involve broader County concerns than those immediately affecting the Landowner and/or Developer. Upon written demand of the County, Developer and/or Landowner shall deposit with the County such sums as may be specified by the County as its estimated litigation costs and fees for the following thirty day period. Both parties shall act in good faith, and shall not unreasonably withhold consent to settle. In the event that the County elects to settle a claim, and Developer refuses to also settle, County at its sole option may require Developer to post security in a form and amount reasonably acceptable to the County, for the performance of Developer's duties under this section. If the Developer, within 30 days of receiving written notice from County, fails to post this security, the Developer shall settle the claim on terms as previously approved by the County. This provision shall survive the termination of this Agreement.

Section 1.20. Waiver of Claims. Developer waives, as to the Subject Property only, any and all existing claims that it may have against the County, its agents, employees and consultants, arising out of the adoption and/or application of development requirements and standards, impact fees, the adoption of this Agreement or approval of the Entitlements and all of the proceedings, acts or determinations made prior thereto.

Section 1.21. Priority of Enactment. In the event of conflict between the Development Agreement, the Entitlements and the County Laws, the parties agree that the following sequence of approvals establishes the relative priority of approvals, each approval superior to the approvals listed thereafter: (1) Exhibit C to this Agreement; (2) the Development Agreement; (3) the Entitlements and (4) the County Laws. In the event of a conflict between two or more of the foregoing documents, the language of that document which is superior in priority as provided above shall govern.

ARTICLE 2

THE PROJECT AND DEVELOPMENT OF THE SUBJECT PROPERTY

Section 2.1. Limited Vested Right. During the Term of and subject to the terms of this Agreement the Developer's rights shall be vested only as to the Entitlements. "Vested" shall mean that except as to express limitations and reservations contained in this Agreement, Developer has a fully vested right to develop the Property in accordance with the terms and
conditions of this Agreement and the Entitlements, and Developer's Entitlements shall not be subject to changes in Applicable Laws. In the event that the County grants an approval or permit in the implementation of the Project, the approval or permit shall be pursuant to Applicable Laws and shall also be considered vested. This section shall not be construed to limit the authority, or obligation of the County to hold necessary public hearings, or to limit the discretion of the County or any of its officers or officials with regard to rules, regulations, ordinances, laws and entitlements, which require the exercise of discretion by the County or any of its officers or officials in accordance with the Applicable Laws, or those reserved powers set forth in Section 2.6. The foregoing shall not be deemed to limit Developer's rights to seek a modification or amendment to the Entitlements.

Section 2.2. No Moratorium, Quotas, Restrictions, or Other Growth Limitations. Except as otherwise provided by the terms and conditions of this Agreement or the Entitlements, no ordinance, resolution, rule, regulation or policy of County shall be applied, imposed or enacted by County, by resolution, ordinance, initiative, or otherwise, which in any way relates to the rate, timing or sequencing of the development or use of the Subject Property, or any improvements related thereto, including without limitation, any no-growth or slow-growth moratoriums or annual development allocations, quotas or limitations, or in any way conflicts with the permitted uses, density and intensity of uses, maximum building height and size set forth in the Entitlements; provided, however, Developer shall be subject to any such growth limitation ordinance, resolution, rule; regulation or policy which is adopted on a uniformly applied, County-wide basis and directly concerns an immediate, verifiable adverse risk to public health or safety, in which case County shall treat Developer in a uniform, equitable and proportionate manner with all properties which are zoned consistent with Developer's zoning set forth in the Entitlements. Without limitation of the foregoing, any future County rules, ordinances, regulations or policies, whether by specific reference to the development of the Subject Property or as part of a general enactment that directly or indirectly applies to the development of the Subject Property, shall be considered to conflict with this Agreement if it has any one or more of the following effects: (a) limits or reduces the number of lots or square footage which may be developed on the Subject Property, the density or intensity of use allowed under the Entitlements, (b) imposes or increases any fees, exactions or other monetary obligation from what is set forth in Applicable Law, the Entitlements or the terms of this Agreement, (c) limits utilities, services or related facilities or rights to use such utilities, services or privileges for the Subject Property or that condition development or construction on the availability of public services and/or facilities (for example, the presence of a specified traffic level of service or water or sewer availability) other than as set forth in the Entitlements, (d) limits or controls in any manner the growth or other rate, timing, phasing, or sequencing of the approval or development of the Subject Property, whether by moratorium, growth restriction, or any mechanism by which the development is tied to the availability of public services, and/or facilities or otherwise, (e) limits the maximum height, bulk and size of proposed buildings from what is set forth in Applicable Law, (f) applies to the Subject Property any future County law otherwise allowed by this Agreement that is not applied on a County-wide basis to all substantially similar developments and properties, (g) changes any land use designation or permitted use vested by this Agreement on the Subject Property without the consent of Developers, (h) requires the issuance of additional permits or approvals by County other than those required by Applicable Laws, or (i) limits the processing of, or the obtaining of, any...
subsequent entitlements or approvals necessary for the development of the Subject Property as contemplated by this Agreement.

**Section 2.3. Permitted Uses and Development Standards.** The permitted uses and development standards shall be those as set forth in and permitted by the Entitlements, County Zoning, Applicable Laws and subdivision and land development standards as of the Effective Date.

**Section 2.4. Application, Processing and Inspection Fees.** Application fees, processing fees, and inspection fees that are revised during the term of this Agreement shall apply to the development pursuant to this Agreement, provided that such revised fees apply generally to similar private projects or works within County.

**Section 2.5. Impact Fees.** [Intentionally Omitted—See Exhibit C: Special Conditions and Requirements]

**Section 2.6. Reserved Powers.** Notwithstanding any other provision of this Agreement, and without limitation as to any other requirements or exceptions contained in this Agreement, the County retains the authority to take the following actions and apply the same to the Subject Property:

(a) The authority of the Board of Supervisors to adopt regulations to protect the County and its citizens from an immediate and significant adverse risk to health and safety. This shall include, but not be limited to, lack of sufficient sewer and/or water facilities, but not school facilities.

(b) Adopt new or amended building codes (as may be amended by the County), including, but not limited to, the Uniform Building Code, Uniform Fire Code, Uniform Mechanical Code, Uniform Plumbing Code, National Electrical Code, Uniform Housing Code, and Uniform Sign Code, that generally apply equally to all buildings, structures and real property in the County.

(c) Adopt land use regulations, ordinances, policies, programs, resolutions or fees generally applicable to similar development projects adopted or undertaken by County as and only to the extent necessary to comply with state or federal laws, or regulations, provided that in the event that such state or federal laws or regulations prevent or preclude compliance with one or more provisions of this Agreement, such provision or provisions shall be modified or suspended as may be necessary to comply with such state or federal laws or regulations.

(d) Adopt county land use regulations, ordinances, policies, programs or resolutions adopted after the Effective Date, which are in conflict with the Applicable Laws, but the application of which to the development of the Subject Property has been consented to in writing by the Developer and/or the applicable Landowner by later separate document, which consent Developer and/or Landowner may withhold in their sole and exclusive discretion.

**Section 2.7. Obligation and Rights of Mortgage Lenders.** The holder of any mortgage, deed of trust or other security instrument with respect to the Subject Property, or any
portion thereof, shall not be obligated under this Agreement to construct or complete improvements or to guarantee such construction or completion, but, in the event said holder takes title to the Subject Property through foreclosure of a mortgage or a deed of trust, or deed-in-lieu of such foreclosure, said holder shall be bound by all of the terms and conditions of this Agreement which pertain to the Subject Property or such portion thereof in which it holds an interest. Any such holder who comes into possession of the Subject Property, or any portion thereof, pursuant to a foreclosure of a mortgage or a deed of trust, or deed in lieu of such foreclosure, shall take the Subject Property, or such portion thereof, subject to any pro rata claims for payments or charges against the Subject Property, or such portion thereof, which accrue prior and subsequent to the time such holder comes into possession. Nothing in this Agreement shall be deemed or construed to permit or authorize any such holder to devote the Subject Property, or any portion thereof, to any uses, or to construct any improvements thereon, other than those uses and improvements provided for or authorized by this Agreement, subject to all of the terms and conditions of this Agreement.

Upon foreclosure or deed-in-lieu thereof, a lender has no obligation to pay any amounts related to the Subject Property, unless said lender or successor-in-interest elects to use the Entitlements to develop the Subject Property.

Section 2.8. **Tolling and Extension During Legal Challenge or Moratoria.**

(a) If this Agreement, any of the Entitlements or any subsequent entitlements, approvals or permits required to implement the Entitlements (such as any required fill permit) are subjected to legal challenge by a third party, other than Developer, and Developer cannot or elects not to proceed with development of the Subject Property during such litigation, the Term of this Agreement and timing for obligations imposed pursuant to this Agreement shall, upon written request of Developer to County, be extended and tolled during such litigation until the entry of final order or judgment upholding this Agreement, the Entitlements, subsequent entitlements, approvals and/or other permits required to implement the Entitlements, or the litigation is dismissed by stipulation of the parties.

(b) If this Agreement, any of the Entitlements or any subsequent entitlements, approvals or permits required to implement the Entitlements are subjected to moratoria, and Developer cannot or elects not to proceed with the development of the Subject Property during such moratoria, the Term of this Agreement and timing for obligations imposed pursuant to this Agreement shall, upon written request of Developer to County, be extended and tolled during such moratoria. Moratoria shall be defined as restrictions, moratorium or de facto moratoria on approval or recordation of final maps, issuance of building permits, final inspections or certificates of occupancy, or approval or issuance of other such entitlements or permits, at the time of the transfer which would limit the reasonable ability to construct in a similar fashion a development project previously approved by the County.

Section 2.9. **Timing of Construction and Completion.** Notwithstanding any provision of this Agreement to the contrary, there is no requirement that Developer initiate or complete development of the Subject Property or any particular phase of development of the Subject Property within any particular period of time, and County shall not impose such a requirement on any subsequent approval. The parties acknowledge that Developer cannot at this
time predict when, or the rate at which or the order in which, phases will be developed. Such decisions depend upon numerous factors that are not within Developer's control, such as market orientation and demand, interest rates, competition, and other similar factors. In light of the foregoing, the parties agree that Developer shall be able to develop in accordance with Developer's own time schedule as such schedule may exist from time to time, for whatever reason, and that Developer shall determine the order in which portions of the Subject Property shall be developed. Without limiting of any of the foregoing, the parties specifically desire to avoid the consequences of the holding of the California Supreme Court in *Pardee Construction Co. v. County of Camarillo* (1984) 37 Cal.3d 465, which held that the failure of the parties therein to consider and expressly provide for the timing of development resulted in a later-adopted initiative restricting the timing of development to prevail over such parties' agreement; consequently, the parties agree that Developer shall have the right to develop the Subject Property in such order and at such rate and at such times as Developer deems appropriate within the exercise of its subjective business judgment. Nothing in this Section 2.9 shall exempt Developer from completing work required by a subdivision agreement, road improvement agreement or similar agreement in accordance with the terms thereof.

**Section 2.10. Property Tax.** Developer shall pay all installments of property tax applicable to the Subject Property prior to such installments becoming delinquent.

**ARTICLE 3**

**DEFAULT**

**Section 3.1. General Provisions.** Subject to extensions of time by mutual consent in writing, any failure to perform any term or provision of this Agreement by County, by Developer or by Landowner not released from this Agreement to perform any term or provision of this Agreement, shall constitute a default in the event (a) the party alleging such default or breach gives the other party or Landowner not less than sixty (60) days notice in writing specifying the nature of the alleged default and the manner in which said default may be cured, and (b) the said other party does not cure the breach or default within said sixty (60) days (or, if the cure cannot be accomplished within 60 days, if said other party does not commence the cure within 60 days and diligently prosecute the cure thereafter.) During any such sixty (60) day period, the party or Landowner charged shall not be considered in default for purposes of termination or institution of legal proceedings.

After notice and expiration of the sixty (60) day period, if such default has not been cured or is not being diligently cured in the manner set forth in the notice, the other party or Landowner to this Agreement may, at his/her option, institute legal proceedings pursuant to this Agreement or give notice of his/her intent to terminate this Agreement pursuant to California Government Code section 65868 and any regulations of the County implementing said Government Code section. Following notice of intent to terminate, or prior to instituting legal proceedings, the matter shall be scheduled for consideration and review in the manner set forth in Government Code sections 65865, 65867, and 65868 and County regulations implementing said sections by the County within thirty (30) calendar days.
Following consideration of the evidence presented in said review before the County and an additional 30-day period to cure, either party alleging the default by the other party or Landowner may institute legal proceedings or may give written notice of termination of this Agreement to the other party; provided, however, a Landowner may only give such notice with respect to such portion of the Subject Property in which Landowner owns an interest.

Section 3.2. Annual Review. The County shall, at least every twelve (12) months during the term of this Agreement, review the extent of good faith substantial compliance by Developer and Landowner with the terms of this Agreement. Such periodic review by the Director, unless referred to the Planning Commission or the County Board of Supervisors shall be limited in scope to compliance with the terms of this Agreement pursuant to California Government Code section 65865.1. Each said review shall be completed within sixty (60) days of the first meeting of the Planning Commission and the County Board of Supervisors, respectively, at which such review is undertaken, unless said period is extended by mutual consent of the County and Developer. Failure to complete said review within the prescribed period shall be deemed a finding of good faith substantial compliance. Notice of such annual review shall include the statement that any review, the result of which the local agency finds and determines on the basis of substantial evidence, that the Developer has not complied in good faith with the terms or conditions of the Development Agreement, may result in amendment or termination of this Agreement in accordance with Government Code section 65865.1. The County may charge the Developer a reasonable fee for such annual review to defray the cost to the County to process and conduct such annual review.

The County shall deposit in the mail or fax to Developer and/or Landowner a copy of all staff reports and, to the extent practical, related exhibits concerning contract performance at least seven (7) days prior to such periodic review. Developer or Landowner shall be entitled to appeal a determination of the Director to the Commission and then to the Board of Supervisors. Any appeal must be filed within ten (10) days of the decision of the Director, or the Commission, as the case may be. Developer or Landowner shall be permitted an opportunity to be heard orally and/or in writing regarding its performance under this Agreement before the Commission, Board of Supervisors, and/or Director, as the case may be.

Section 3.3. Developer Default Limited to Property/Entity; Separate Obligations of Owners. Except as specified herein in Section 3.1, no default hereunder in performance of a covenant or obligation with respect to a particular portion of the Subject Property shall constitute a default applicable to any other portion of the Subject Property, and any remedy arising by reason of such default shall be applicable solely to the portion of Subject Property where the default has occurred. Similarly, the obligations of the Developer and Landowners shall be severable and no default hereunder in performance of a covenant or obligation by any one of them shall constitute a default applicable to any other owner who is not affiliated with such defaulting owner, and any remedy arising by reason of such default shall be solely applicable to the defaulting owner and the portion of the Subject Property owned thereby.

Section 3.4. Default by County. In the event the County does not accept, review, approve or issue necessary development permits or entitlements for use in a timely fashion as defined by this Agreement, or as otherwise provided in this Agreement, or the County otherwise
defaults under the terms of this Agreement, Developer and/or Landowner may give written notice thereof to the County and if not cured within sixty (60) days following receipt of such notice, Developer shall have all rights and remedies provided herein or under applicable law, including without limitation the right to pursue actions for mandamus, specific performance, or injunctive or declaratory relief to enforce this Agreement. Notwithstanding the foregoing sentence, the County, Developer and Landowner each waives any and all rights to seek monetary damages from any other party as a result of any breach or alleged breach of such other party's obligations hereunder, excluding (a) any claim for refunds of fees or excess fee payments imposed inconsistent with this Agreement, and (b) County claims regarding payment of fees, taxes, assessment and other charges, including Levee Fees. In the event the County is in default under the terms of this Agreement, any resulting delays in Developer's performance caused thereby shall not constitute grounds for termination or cancellation of this Agreement.

Section 3.5. **Default by and Remedies of TRLIA.** TRLIA's rights and obligations under this Agreement are specifically limited to those rights and obligations specifically attributed to TRLIA as set forth in Exhibit C to this Agreement. TRLIA is considered a third party beneficiary of Exhibit C and shall have a right to enforce all obligations of Developer as set forth in Exhibit C to this Agreement. In the event that TRLIA defaults under the terms of this Agreement, Developer and/or Landowner may give written notice thereof to TRLIA with a copy to the County, and if not cured within sixty (60) days following receipt of such notice, Developer's sole remedy shall be the right to pursue actions for mandamus, specific performance, or injunctive or declaratory relief against TRLIA to enforce this Agreement. Notwithstanding the foregoing sentence, TRLIA, Developer and Landowner each waives any and all rights to seek monetary damages from any other party as a result of any breach or alleged breach of such other party's obligations hereunder, excluding any claim for refunds of fees or excess fee payments imposed inconsistent with this Agreement. In the event TRLIA is in default under the terms of this Agreement, any resulting delays in Developer's performance that are directly caused thereby shall not constitute grounds for termination or cancellation of this Agreement.

Section 3.6. **Cumulative Remedies of Parties/Waiver of Right to Damages.** In addition to any other rights or remedies, County, Developer and any Landowner may institute legal or equitable proceedings to cure, correct or remedy any default, to specifically enforce any covenant or agreement herein, to enjoin any threatened or attempted violation of the provisions of this Agreement. Notwithstanding the foregoing sentence, the County, Developer and Landowner each waives any and all rights to seek monetary damages from the other party as a result of any breach or alleged breach of such other party's obligations hereunder, excluding any claim for refunds of fees or excess fee payments imposed inconsistent with this Agreement. In the event TRLIA is in default under the terms of this Agreement, any resulting delays in Developer's performance that are directly caused thereby shall not constitute grounds for termination or cancellation of this Agreement.

**ARTICLE 4**

**TERMINATION**

Section 4.1. **Termination Upon Completion of Development.** This Agreement shall terminate upon the expiration of the Term as defined on the Reference Sheet or when the Subject Property has been fully developed and all of the Developer's obligations in connection therewith
are satisfied. Upon termination of this Agreement, the County shall record a notice of such termination in a manner substantially similar to the form attached hereto as Exhibit D. This Agreement shall automatically terminate and be of no further force or effect as to Completed Lots.

Section 4.2. Effect of Termination on Developer Obligations. Termination of this Agreement as to the Developer of the Subject Property or any portion thereof shall not affect any of the Developer's obligations to comply with the County General Plan and the terms and conditions of any applicable zoning, or subdivision map or other land use entitlements approved with respect to the Subject Property, any other covenants or any other development requirements specified in this Agreement to continue after the termination of this Agreement, or obligations to pay assessments, liens, fees, or taxes. Termination of this Agreement shall not affect Developers rights and duties under Exhibit C to this Agreement.

Section 4.3. Effect of Termination on County. Upon any termination of this Agreement, as provided for under the terms and conditions of this Agreement, as to the Developer of the Subject Property, or any portion thereof, the entitlements, conditions of development, limitations on fees and all other terms and conditions of this Agreement shall no longer be vested hereby with respect to the Subject Property affected by such termination (provided vesting of entitlements, conditions or fees applicable to the Subject Property shall be governed by planning and zoning law) and the County shall no longer be limited, by this Agreement, to make any changes or modifications to such entitlements, conditions or fees applicable to such property. Except as may be set forth in section 1.10 of Exhibit C, termination of this Agreement shall not affect County or TRLIA rights and duties under Exhibit C to this Agreement.

ARTICLE 5

STANDARD TERMS AND CONDITIONS

Section 5.1. Venue. Venue for all legal proceedings shall be in the Superior Court for the County of Yuba.

Section 5.2. Waiver. A waiver by any party of any breach of any term, covenant or condition herein contained or a waiver of any right or remedy of such party available hereunder at law or in equity shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant or condition herein contained or of any continued or subsequent right to the same right or remedy. No party shall be deemed to have made any such waiver unless it is in writing and signed by the party so waiving.

Section 5.3. Completeness of Instrument. This Agreement, together with its specific references and attachments, constitutes all of the agreements, understandings, representations, conditions, warranties and covenants made by and between the parties hereto. Unless set forth herein, neither party shall be liable for any representations made express or implied.
Section 5.4. **Supersedes Prior Agreements.** It is the intention of the parties hereto that this Agreement shall supersede any prior agreements, discussions, commitments, representations or agreements, written or oral, between the parties hereto.

Section 5.5. **Captions.** The captions of this Agreement are for convenience in reference only and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

Section 5.6. **Number and Gender.** In this Agreement, the neuter gender includes the feminine and masculine, and the singular includes the plural, the word "person" includes corporations, partnerships, firms or associations, wherever the context so requires.

Section 5.7. **Mandatory and Permissive.** "Shall" and "will" and "agrees" are mandatory. "May" is permissive.

Section 5.8. **Term Includes Extensions.** All references to the term of this Agreement or the Agreement Term shall include any extensions of such term.

Section 5.9. **Successors and Assigns.** All representations, covenants and warranties specifically set forth in this Agreement, by or on behalf of, or for the benefit of any or all of the parties hereto, shall be binding upon and inure to the benefit of such party, its successors and assigns.

Section 5.10. **Modification.** No, modification or waiver of any provisions of this Agreement or its attachments shall be effective unless such waiver or modification is in writing, signed by all parties, and then shall be effective only for the period and on the condition, and for the specific instance for which given.

Section 5.11. **Counterparts.** This Agreement may be executed simultaneously and in several counterparts, each of which shall be deemed an original, but which together shall constitute one and the same instrument.

Section 5.12. **Other Documents.** The parties agree that they shall cooperate in good faith to accomplish the object of this Agreement and to that end, agree to execute and deliver such other and further instruments and documents as may be necessary and convenient to the fulfillment of these purposes.

Section 5.13. **Partial Invalidity.** If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provision and/or provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

Section 5.14. **Controlling Law.** The validity, interpretation and performance of this Agreement shall be controlled by and construed under the laws of the State of California.

Section 5.15. **Time Is of the Essence.** Time is of the essence of this Agreement and each covenant and term a condition herein.
Section 5.16. Authority. All parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles and capacities herein stated and on behalf of any entities, persons, estates or firms represented or purported to be represented by such entity(s), person(s), estate(s) or firm(s) and that all formal requirements necessary or required by any state and/or federal law in order to enter into this Agreement have been fully complied with. Further, by entering into this Agreement, neither party hereto shall have breached the terms or conditions of any other contract or agreement to which such party is obligated, which such breach would have a material effect hereon.

Section 5.17. Document Preparation. This Agreement will not be construed against the party preparing it, but will be construed as if prepared by all parties.

Section 5.18. Advice of Legal Counsel. Each party acknowledges that it has reviewed this Agreement with its own legal counsel, and based upon the advice of that counsel, and freely entered into this Agreement.

Section 5.19. Estoppel Certificate. Within thirty (30) days following any written request which either party may make from time to time, and upon payment of a fee to the County to reimburse the County for its reasonable expenses associated herewith, the other party to this Agreement shall execute and deliver to the requesting party a statement certifying that:

(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; and

(b) there are not current uncured defaults under this Agreement or specifying the date, nature of any default and manner of cure.

This certificate may be executed by the Director.

Section 5.20. Attorneys Fees and Costs. If any action at law or in equity, including an action for declaratory relief, is brought to enforce or interpret provisions of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and costs, which may be set by the Court in the same action or in a separate action brought for that purpose, in addition to any other relief to which such party may be entitled.

Section 5.21. Consent/Subordination. Unless waived in writing by the County Counsel, Developer shall furnish proof satisfactory to the County, prior to approval of the Agreement that all persons possessing a legal interest in the Subject Property have consented to the recording of this Agreement in the County Recorder's Office against the Subject Property. Unless waived in writing by the County Counsel, the County shall require subordination by all lenders of record as a condition precedent to the County approval of the Agreement. The County shall have no duty to subordinate its interest in this Agreement.

Section 5.22. Calculation of Time Periods. All calculation of time periods shall be based upon calendar days unless a different intent is clearly stated.
IN WITNESS WHEREOF, this Agreement was executed by the parties thereto on the dates set forth in the Preamble.

COUNTY:
COUNTY OF YUBA,
a political subdivision of the State of California

By: ________________________________

Name: ______________________________

Title: ______________________________

ATTEST:

By: ________________________________

Name: ______________________________

Title: County Clerk

APPROVED AS TO FORM:

By: Pat Garamone

Name: Pat Garamone

Title: County Counsel

DEVELOPER:

Plumas Lake Riverside Meadows, L.P., a California Limited Partnership

By: C.H. Builders, Inc., a California Corporation, its general partner

By: ________________________________

Name: Patrick H. Matthews

Title: President

APPROVED AS TO FORM:

By: ________________________________

Name: ______________________________

Title: Counsel
TRLIA:
Three Rivers Levee Improvement Authority
a joint powers authority

By: ________________________________

Name: ______________________________

Title: ______________________________

APPROVED AS TO FORM:

By: ________________________________

Name: ______________________________

Title: Counsel
ACKNOWLEDGMENT

State of California
County of San Joaquin

On June 1, 2009 before me, Jaynie Tamura Gaines (insert name and title of the officer) personally appeared Patrick H. Matthews, 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 Jaynie Tamura Gaines (Seal)
LIST OF EXHIBITS

Exhibit A  Legal Description of Subject Property
Exhibit B  Assumption Agreement
Exhibit C  Special Conditions and Requirements
Exhibit D  Sample Notice of Termination
Exhibit E  Credit and Reimbursement Policy
EXHIBIT A
SUBJECT PROPERTY

LEGAL DESCRIPTION

Real property in the unincorporated area of the County of Yuba, State of California, described as follows:

PARCEL ONE:

LOTS 8, 9, 22, 23, 27, 28, 61, 62 AND 63, INCLUSIVE, AS SHOWN ON THE MAP ENTITLED "RIVERSIDE MEADOWS VILLAGE 1", TRACT MAP NO. 2003-19, FILED IN THE OFFICE OF THE COUNTY RECORDER OF YUBA COUNTY, CALIFORNIA ON JANUARY 26, 2005 IN BOOK 80 OF MAPS, PAGES 30 THROUGH 36 INCLUSIVE.

PARCEL TWO:

LOTS 17, 18, 22, 43 THROUGH 90 INCLUSIVE, AND LOT D, AS SHOWN ON THE MAP ENTITLED "RIVERSIDE MEADOWS VILLAGE 2", TRACT MAP NO. 2004-20, FILED IN THE OFFICE OF THE COUNTY RECORDER OF YUBA COUNTY, CALIFORNIA ON JANUARY 26, 2005 IN BOOK 80 OF MAPS, AT PAGES 37 THROUGH 41 INCLUSIVE.

EXCEPTING FROM PARCELS ONE AND TWO:

ALL OIL, GAS AND OTHER HYDROCARBONS AND MINERALS NOW OR AT ANY TIME HEREAFTER SITUATE THEREIN AND THEREUNDER, AS RESERVED IN DEEDS RECORDED JANUARY 31, 1974 IN BOOK 568 OF YUBA COUNTY OFFICIAL RECORDS, AT PAGES 687, 691 AND 694.

PARCEL THREE:

LOT D, AS SHOWN ON THE MAP ENTITLED "RIVERSIDE MEADOWS VILLAGE 2", TRACT MAP NO. 2004-20, FILED IN THE OFFICE OF THE COUNTY RECORDER OF YUBA COUNTY, CALIFORNIA ON JANUARY 26, 2005 IN BOOK 80 OF MAPS, AT PAGES 37 THROUGH 41 INCLUSIVE.

EXCEPTING FROM PARCEL THREE:

ALL OIL, GAS AND OTHER HYDROCARBONS AND MINERALS NOW OR AT ANY TIME HEREAFTER SITUATE THEREIN AND THEREUNDER, AS RESERVED IN DEEDS RECORDED JANUARY 31, 1974 IN BOOK 568 OF YUBA COUNTY OFFICIAL RECORDS, AT PAGES 687, 691 AND 694.

PARCEL FOUR:

LOTS 3 THROUGH 7, INCLUSIVE, AS SHOWN UPON THAT CERTAIN MAP ENTITLED "TRACT MAP NO. 2003-0007, RIVERSIDE MEADOWS LARGE LOT MAP" ON FILE IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF YUBA, STATE OF CALIFORNIA, IN BOOK 77 OF MAPS, PAGE 44.

EXCEPTING THEREFROM, ANY PORTION LYING WITHIN THAT CERTAIN MAP ENTITLED "TRACT MAP NO. 204-20 OF RIVERSIDE MEADOWS VILLAGE 2" FILED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF YUBA, STATE OF CALIFORNIA, ON JANUARY 26, 2005 IN BOOK 80 OF MAPS, PAGE 37.

ALSO EXCEPTING THEREFROM ALL OIL, GAS AND OTHER HYDROCARBONS AND MINERALS NOW OR AT ANY TIME HEREAFTER SITUATE THEREIN AND UNDER, AS RESERVED IN DEEDS.

First American Title

Yuba County Dept. of Planning

Development Agreement Between the County of Yuba and Riverside Meadows

Exhibit A – Page 1
RECORDED JANUARY 31, 1974 IN BOOK 568, YUBA COUNTY OFFICIAL RECORDS, AT PAGES 687, 691 AND 694.

APN: 022-111-015 (Affects: Lot 22 of Parcel One); 022-113-001 (Affects: Lot 23 of Parcel One); 022-113-005 (Affects: Lot 27 of Parcel One); 022-113-006 (Affects: Lot 28 of Parcel One); 022-112-019 (Affects: Lot 61 of Parcel One); 022-112-020 (Affects: Lot 62 of Parcel One); 022-111-061 (Affects: Lot 8 of Parcel One); 022-111-002 (Affects: Lot 9 of Parcel One); 022-112-021 (Affects: Lot 61 of Parcel One); 022-142-017 (Affects: Lot 17 of Parcel Two); 022-142-018 (Affects: Lot 18 of Parcel Two); 022-142-022 (Affects: Lot 22 of Parcel Two); 022-141-009 (Affects: Lot 43 of Parcel Two); 022-141-007 (Affects: Lot 45 of Parcel Two); 022-141-006 (Affects: Lot 46 of Parcel Two); 022-141-005 (Affects: Lot 47 of Parcel Two); 022-141-004 (Affects: Lot 48 of Parcel Two); 022-151-035 (Affects: Lot 49 of Parcel Two); 022-151-034 (Affects: Lot 50 of Parcel Two); 022-151-033 (Affects: Lot 51 of Parcel Two); 022-151-032 (Affects: Lot 52 of Parcel Two); 022-151-031 (Affects: Lot 53 of Parcel Two); 022-151-029 (Affects: Lot 55 of Parcel Two); 022-151-028 (Affects: Lot 56 of Parcel Two); 022-151-027 (Affects: Lot 57 of Parcel Two); 022-151-026 (Affects: Lot 58 of Parcel Two); 022-151-025 (Affects: Lot 59 of Parcel Two); 022-151-024 (Affects: Lot 60 of Parcel Two); 022-152-007 (Affects: Lot 61 of Parcel Two); 022-152-006 (Affects: Lot 62 of Parcel Two); 022-152-005 (Affects: Lot 63 of Parcel Two); 022-152-004 (Affects: Lot 64 of Parcel Two); 022-152-003 (Affects: Lot 65 of Parcel Two); 022-152-002 (Affects: Lot 66 of Parcel Two); 022-152-001 (Affects: Lot 67 of Parcel Two); 022-151-023 (Affects: Lot 68 of Parcel Two); 022-151-022 (Affects: Lot 69 of Parcel Two); 022-151-021 (Affects: Lot 70 of Parcel Two); 022-151-020 (Affects: Lot 71 of Parcel Two); 022-151-019 (Affects: Lot 72 of Parcel Two); 022-151-018 (Affects: Lot 73 of Parcel Two); 022-151-017 (Affects: Lot 74 of Parcel Two); 022-151-016 (Affects: Lot 75 of Parcel Two); 022-151-015 (Affects: Lot 76 of Parcel Two); 022-151-014 (Affects: Lot 77 of Parcel Two); 022-151-013 (Affects: Lot 78 of Parcel Two); 022-151-012 (Affects: Lot 79 of Parcel Two); 022-151-011 (Affects: Lot 80 of Parcel Two); 022-151-010 (Affects: Lot 81 of Parcel Two); 022-151-009 (Affects: Lot 82 of Parcel Two); 022-151-008 (Affects: Lot 83 of Parcel Two); 022-151-007 (Affects: Lot 84 of Parcel Two); 022-151-006 (Affects: Lot 85 of Parcel Two); 022-151-005 (Affects: Lot 86 of Parcel Two); 022-151-004 (Affects: Lot 87 of Parcel Two); 022-151-003 (Affects: Lot 88 of Parcel Two); 022-151-002 (Affects: Lot 89 of Parcel Two); 022-151-001 (Affects: Lot 90 of Parcel Two); 022-100-010 (Affects: Lot D of Parcel Three); 022-100-001-000 (Affects: Lot 7 of Parcel Four); 022-100-002-000 (Affects: Lot 6 of Parcel Four); 022-100-007-000 (Affects: Lot 3 of Parcel Four); 022-100-009-000 (Affects: Lot 4 of Parcel Four) and 022-100-003-000 (Affects: Lot 5 of Parcel Four)
ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (hereinafter "this Agreement") is entered into this _ day of __________, 200_, by and between _______________ (hereinafter called "Owner") and _______________ (hereinafter "Assignee").

RECITALS

A. On __________, 200_, the County of Yuba and Owner entered into that certain agreement entitled "Development Agreement," approved by Ordinance __________ (hereinafter "Agreement"), relative to the development known as __________ (hereinafter "Subject Property").

B. Owner entered into a purchase and sale agreement whereby a portion of the Subject Property will be sold to Assignee, which portion of the Subject Property is identified and described in Exhibit A, attached hereto and incorporated herein by this reference (hereinafter the "Assigned Parcel(s)").

C. Owner desires to assign all of its interests, rights and obligations under the Agreement with respect to the Assigned Parcel(s).

D. Assignee desires to assume all Owner's rights and obligations under the Agreement with respect to the Assigned Parcel(s).

NOW, THEREFORE, Owner and Assignee hereby agree as follows:

1. Owner hereby assigns effective as of Owner's conveyance of the Assigned Parcel(s) to Assignee, all of the rights, interest, burdens and obligations of Owner under the Agreement with respect to the Assigned Parcel(s). Owner retains all the rights, interest, burdens and obligations under the Agreement with respect to all other property within the Subject Property owned thereby.

2. Assignee hereby assumes all of the burdens and obligations of Owner under the Agreement, and agrees to observe and fully perform all of the duties and obligations of Owner under the Agreement, and to be subject to all the terms and conditions thereof, with respect to the Assigned Parcel(s), it being the express intention of both Owner and Assignee that, upon the execution of this Agreement and conveyance of the Assigned Parcel(s) to Assignee, Assignee shall be come substituted for Owner as the "Developer" under the Agreement with respect to the Assigned Parcel(s).

3. All of the covenants, terms, and conditions set forth herein shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, successors and assigns.
IN WITNESS HEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

ASSIGNOR / OWNER

By: ____________________________

Name: __________________________

Title: ____________________________

ASSIGNEE

By: ____________________________

Name: __________________________

Title: ____________________________
EXHIBIT C

SPECIAL CONDITIONS AND REQUIREMENTS

This Exhibit C is attached to and made a part of that certain Development Agreement dated as of , 2009 (the "Development Agreement"), by and between the County, TRLIA and the Developer named therein. For purposes of this Exhibit C, “Developer” shall mean Plumas Lake Riverside Meadows, L.P. The terms and conditions of this exhibit shall survive should the Development Agreement terminate prior to completion of reimbursements required herein.

Section 1.1 Background. Developer, or Developer’s predecessor in interest as owners of the subject Property, was a party to (a) that certain Agreement For Advanced Funding and Reimbursement of Costs for Levee Improvements dated April 19, 2005 (“2005 Advanced Funding Agreement”) and (b) the Second Agreement for Advanced Funding and Reimbursement of Costs for Levee Improvements, dated as of August 29, 2006, ("Second Funding Agreement"), (the 2005 Advance Funding Agreement and the Second Funding Agreement being sometimes collectively referred to herein as the “Funding Agreements”), which relates to the construction of certain flood protection improvements benefitting the Plumas Lake Specific Plan and the North Arboga Study Area, which area is generally described as the South Yuba Basin. In order to pay for costs associated with levee improvements in the South Yuba Basin, on November 18, 2008, the Board of Supervisors of the County of Yuba adopted Ordinance No. 1465, enacting the Three Rivers Levee Impact Fee ("Levee Fee"). The Levee Fee was based on the then estimated cost to complete the levee improvements. As a party to the Funding Agreements, Developer advanced funded certain amounts for the Levee Fee to be used for the levee improvements described above. By making advanced payments pursuant to the Second Funding Agreement, Developer became authorized under the terms of the Second Funding Agreement to record final maps and to have a certain number of building permits issued upon request for the Project.

At the time of the execution of the Second Funding Agreement, the anticipated levee improvements included strengthening in place improvements to the existing left (east) Feather River levee from the Bear River Setback levee to the Yuba River, however, a Feather River setback levee from Star Bend to Shanghai Bend (the "Feather River Setback Levee") was contemplated. In early 2008, the decision was made to change certain portions of the levee improvement project to include the Feather River Setback Levee. By doing this, the state of California committed to providing more than $135 million in funding, pursuant to Prop 1E and 84. Due to the receipt of the State grant funds, the amount of local funds needed to complete the levee improvements was reduced. This reduction caused the Levee Fee to be reduced. The Levee Fee was reduced with the adoption of Ordinance No. 1465 by the Board of Supervisors of the County of Yuba on November 18, 2008.

Due to the reduction of the Levee Fee, Developer claims a right of reimbursement and/or credit. This right is based on prior advanced funding made in excess of the amount required under the Levee Fee, as adjusted by Ordinance No. 1465(herin “Prior Advanced Funding”).

The County of Yuba has adopted certain policies to address the claimed rights of reimbursement or credit for Prior Advanced Funding. Those policies are set forth in the Three Rivers Levee Development Agreement Between the County of Yuba and Riverside Meadows.
Credit and Reimbursement Policies and Procedures (the "Credit and Reimbursement Policy"). The Credit and Reimbursement Policy is hereby incorporated into and made a part of the Agreement, and is attached as Exhibit E. To the extent there is any inconsistency between this Agreement and the Credit and Reimbursement Policy as to the timing, manner or amount of credit or reimbursement due, the Credit and Reimbursement Policy shall control.

Section 1.2 Use of Credits. The Parties to this Agreement agree that the Credit and Reimbursement Policy sets forth the amount of credit and reimbursement owed the Developer in connection with Prior Advanced Funding. The Credit and Reimbursement Policy shall control as to the amount of credit or reimbursement due and how any credit or reimbursement will be applied.

Section 1.2.1. For those units included in the Project for which Developer has applied for a building permit after April 19, 2005 and on or before October 21, 2008, the Levee Fee shall be levied at the current rate as set forth in Ordinance No. 1465 and the Developer shall receive full credit for such fees from the amount advance funded, as more specifically set forth in the Credit and Reimbursement Policy.

Section 1.2.2. For those units for which the Developer has applied for a building permit after October 21, 2008, Developer shall receive credit for the Levee Fee imposed on the Project on a proportionate basis for the remainder of the Project. For those building permits applied for after October 21, 2008, Developer will pay a portion of the Levee Fee at the rate set forth in Ordinance No. 1465 and at the time and in the manner required herein, based on the relative proportionality between the remainder of the Project not able to be funded from credit and the total remaining acreage left in the Project after all previously absorbed units, all consistent with the provisions of the Credit and Reimbursement Policy. The County will calculate the amount of the Levee Fee due after the credit at the time the individual building permits are issued for each unit to be constructed on the Project pursuant to a building permit applied for after October 21, 2008. The amount of the credit and how it will be applied is more specifically set forth in the Credit and Reimbursement Policy.

Section 1.2.3. To the extent that the Developer is developing multiple projects which were subject to the Second Funding Agreement and one project has advanced funded Levee Fees in excess of its total obligation and is due reimbursement, that reimbursement may be applied and added to the credit of any of Developer's other projects that will have a remaining obligation to pay Levee Fees. The manner in which the credit from a project that has paid fees in excess of its total obligation may be applied to the credit of Developer's other projects is set forth in Appendix A of the Credit and Reimbursement Policy.

Section 1.3. Reimbursement of Levee Fees. If the amount owed to Developer for Prior Advanced Funding in excess of obligations owed under the current Levee Fee is not satisfied by application of credit to the Project or transfer of the credit to another project as set forth in Section 1.2.3., the remaining amount due will be reimbursed to Developer, solely from Levee Fees collected from others, and then only as follows:

Development Agreement Between the County of Yuba and Riverside Meadows

Exhibit C – Page 2
Section 1.3.1. **Before Levee Certification.** Prior to certification by the Federal Emergency Management Agency (FEMA) of those levees to be constructed or improved pursuant to the Levee Improvement Program defined in Section 3 of the Second Funding Agreement, including the Feather River Setback Levee (the "Levee" or "Levees"), no reimbursement of Prior Advanced Funding will be made to the County, YCWA or Developer from any Levee Fees collected. Levee Fees collected through and until such certification date will be used to directly fund improvements to the Levees. However, it is understood by all parties that, to the extent Levee Fees are collected prior to such certification date, this funding may go to offset the additional required contribution of funds to the TRLIA Levee Improvement Program by the County and YWCA consistent with the intent of the July 22, 2008 Agreement Concerning Levee Impact Fees Among County of Yuba, Yuba County Water Agency, and Yuba Levee Financing Authority.

Section 1.3.2. **After Certification of the Levees and before March 1, 2015.** During the time period between when the Levees are certified by FEMA and before March 1, 2015 twice per year distribution of Levee Fee revenue not needed to pay any Levee improvement costs incurred prior to such certification but not yet paid will occur. The revenues collected before March 1, 2015 will be split between those parties determined by the County to be due reimbursements (including the County and YCWA on a proportionate basis, based upon the aggregate principal amount of their outstanding reimbursement. Table 6 of the Credit and Reimbursement Policy sets forth an example of the proportionality of outstanding reimbursements due.

Section 1.3.3. **From and After March 1, 2015 and until all Reimbursements are Complete.** Commencing on March 1, 2015 twice per year distributions of Levee Fee revenue will occur as follows: (a) initially, 100% of the revenues collected will go to fund the scheduled debt service due on the borrowing to fund levee improvements secured by lease and installment payment obligations of the County and YCWA and (b) any remaining Levee Fee revenue will be split between those parties determined by the County to be due reimbursements (including the County and YCWA) on a proportionate basis, based upon the aggregate principal amount of their outstanding reimbursement.

Section 1.3.4. **Interest.** Any reimbursement owed to Developer, as well as to County or YWCA, will accrue interest at a rate of 5.534% per annum. Interest will be calculated on a monthly compounding rate.

Section 1.3.5. **Acknowledgment.** Except as set forth in this Exhibit C and the Credit and Reimbursement Policy. Developer acknowledges and agrees that no other reimbursement or Credit is due for funds advanced under prior agreements concerning construction of the Levees, including the 2005 Funding Agreement and/or the Second Funding Agreement.

Section 1.3.6. **Inspection of Records.** Developer shall have the right to review and inspect records of the County with respect to Levee Fees and other revenue sources available to make payments or reimbursements to Developer under this Section 1.3. Developer must give the County reasonable notice of any such request.
Section 1.4. **Extension of Tentative Map Life.** The expiration date of any existing tentative map within the Subject Property, subject to the Credit and Reimbursement Policy, is extended for twenty (20) years from the original approval date, inclusive of any and all other extensions which may be provided by law.

Section 1.5. **County Imposed Development Fees.** The County shall not impose any New Fees relating to the Project for ten (10) years from the Effective Date of this Development Agreement. Notwithstanding the forgoing, the County may impose New Fees as follows: (a) any Traffic Impact (Road Improvements) component of the County-Wide Capital Facility Fee and, (b) any fees levied for the purpose of offsetting the cost of regional park improvements, provided, however, that the cumulative new fees levied for regional park improvements shall not exceed Two Thousand Dollars ($2,000) per dwelling unit contained in the Project. To the extent a New Fee is levied against the Project pursuant to one of the exclusions listed herein, that New Fee shall be imposed and levied in a manner consistent with all applicable State and local laws and regulations. Development impact fees imposed by entities other than the County or by the County on behalf of other entities are not subject to this provision.

Section 1.6. **Impact Fee Lock.** The County shall not increase any Current Fees relating to the Project for 10 years from the Effective Date of this Development Agreement. Notwithstanding the forgoing, the County may increase Current Fees as follows: (a) any currently incorporated escalator adopted with and incorporated into the Current Fee; (b) any increase to the current Traffic Impact (Road Improvements) component of the County-Wide Capital Facility Fee; (c) and any change or increase to the current PLSP/NASA Road Improvement Fee. To the extent a Current Fee levied against the Project is changed or increased pursuant to one of the exclusions listed herein, that change or increase shall be imposed and levied in a manner consistent with all applicable State and local laws and regulations. Development impact fees imposed by entities other than the County or by the County on behalf of other entities are not subject to this provision.

Section 1.7. **Developer to Receive Benefit of Reduction in Fees.** Notwithstanding any of the other terms of this Agreement, any reduction to Current Fees or New Fees that is applied to development within the County generally shall be applied to the Project.

Section 1.8. **Deferral of Collection of Impact Fees.** The balance of the Levee Fee due after application of credit as described in 1.2 above with respect to units in the Project, shall be calculated for each unit at the time a building permit is issued for that unit, but the collection by the County of the amount due shall be deferred until the final inspection of the unit for which the building permit is issued (in a manner consistent with Yuba County Ordinance No. 1461). The duration of this fee deferral will be for ten (10) years from the Effective Date of this Development Agreement. The collection of all other development impact fees and County-Wide Capital Facility Fees will be deferred in a manner consistent with the Yuba County Ordinance No. 1461, except that, the duration of the deferral will be ten (10) years from the date of this Development Agreement. Following any such deferral period, all fees will be due and payable as and when levied in accordance with County policy. Development impact fees imposed by
entities other than the County or by the County on behalf of other entities are not subject to this provision.

Section 1.9. Builder Bonds. In the event that the Developer is the registered owner of any Builder Bonds (as such term is defined in the Second Funding Agreement) issued by TRLIA for CFD 2006-1 or CFD 2006-2 (as such community facilities districts are described in Section 7.A.(1) of the Second Funding Agreement), the County and TRLIA agree to take all reasonable actions on its part necessary or appropriate, at the written request and cost of the Developer, in the redemption or refunding of such bonds, so long as any such request is consistent with the procedures and requirements described in Appendix B to the Three Rivers Levee Impact Credit and Reimbursement Policy. The County and TRLIA acknowledge and agree that all special tax revenues collected by TRLIA from special tax levies for CFD 2006-1 and CFD 2006-2 shall be disposed of by TRLIA as provided in Section 4.01 of the respective Fiscal Agent Agreement for the Builder Bonds for the respective community facilities district, in the rate and method of apportionment for the respective community facilities district and, to the extent not inconsistent with the foregoing, as described in Appendix C to the Credit and Reimbursement Policy.

Section 1.10. Failure of Consideration. The terms and conditions set forth in Sections 1.4. through 1.8. of this Exhibit C are granted by the County in consideration of the Developer's agreement to the credit and reimbursement terms in Section 1.2 and 1.3 et seq. If any term of the credit and reimbursement policies as set forth in Sections 1.2 and 1.3 et seq. is deemed invalid or a legal challenge to any such terms is made by Developer, then there shall be deemed a failure of consideration and the provisions of Section 1.4 through 1.8 shall be void and unenforceable by Developer.

Section 1.11.1 Flood Insurance. Developer shall provide, at no cost to all new residents (including the initial sale by the Developer and all subsequent resales) of homes constructed by such Developer within the Affected Area (as defined in the Second Funding Agreement) since 2003 (i.e., homes for which building permits were issued from and after January 1, 2003), flood insurance and renewals of flood insurance only through the Completion of the Levee or until December 31, 2010 (whichever occurs first). As used in this Section, "Completion" shall mean the earlier of: (i) the date on which a notice of completion is recorded by the general contractors performing TRLIA's Phase 4 work, or (ii) the date on which a determination of substantial completion of TRLIA's Phase 4 work is made by the Executive Officer of the Central Valley Flood Protection Board. The County and TRLIA will reasonably cooperate in assisting Developer to fulfill this requirement, including but not limited to providing for notice of resales of homes within the Project to be provided to Developer. The renewals and subsequent issuance of flood insurance provided by the Developer shall satisfy the minimum requirements of the National Flood Insurance Program for a standard dwelling policy.

Section 1.11.2 Notice Requirements to New and Existing Homeowners. Developer shall take the following steps to increase the awareness of flood risk by new and existing purchasers of homes within the Project:

(a) At the time of execution of a sales contract for a new home within the Project, Developer shall distribute an informational packet prepared by TRLIA on the status of the Levee Improvement Program. Purchasers will then be requested to sign an acknowledgment
sheet that they have received the packet and are aware of the flood risks associated with the Project.

(b) At the time of closing on a new home within the Project, Participant shall require execution by the new purchaser of the home of a Notice of Acknowledgement stating that the purchaser understands that the Developer (home builder) is purchasing flood insurance for the purchaser of the home (including the terms of that insurance and the period for which that insurance will be purchased) and that the purchaser of the home has received an information packet on the Levee Improvement Program and the risk of purchasing a home within the Project.

(c) Four times a year until certification of all levees required under the Levee Improvement Program, TRLIA shall prepare and distribute through the mail to new and existing purchasers of new homes within the Project an information packet on the Levee Improvement Program and any information provided by the County or TRLIA to the Developer on steps that such purchasers may take to reduce the risk of flooding to homes within the Project, such as being aware of the County's pre-hazard mitigation program, time-inundation maps, and hazard evacuation routes. Developer shall reasonably assist TRLIA to provide such information packets.

Section 1.11.3 Evacuation and Prehazard Mitigation Program. County commits to continue to use reasonable diligence to inform residents within the Project, including portions of Reclamation District 784, of the risk of flooding and to further refine, improve, and make available the County's Evacuation Plan and Prehazard Mitigation Plan.

Section 1.11.4 Accounting, Auditing and Reporting.

(a) TRLIA and County shall use best efforts to properly account for all sums paid to and grants received by TRLIA and County for the Levee Improvement Program.

(b) Developer has the right, upon not less than three (3) business days notice, at all reasonable times, to inspect the books and records of TRLIA and County pertaining to the Levee Improvement Program, as pertinent to the purposes of this Agreement.

(c) Upon request each year by Developer, TRLIA shall deliver to Developer the audited financial statement prepared by a qualified independent auditor pertaining to the Levee Improvement Program for each fiscal year, including all revenues and expenditures of TRLIA relating thereto for the prior year's period. The audited financial statement shall be delivered to Developer within 30 days following submission of such statement to the TRLIA Board.

Section 1.11.5 Maintenance of Levees. TRLIA shall be responsible to assure levee maintenance until certification, as the improvements are completed, in accordance with the Levee Improvement Program and consistent with relevant State and Federal standards.

Section 1.11.6 Preparation of Informational Packets. TRLIA shall prepare and update informational packets on the status of the Levee Improvement Program which shall be distributed to new home purchasers by the Developer. Purchasers will then be requested to sign
an acknowledgement sheet that they have received the packet and are aware of the flood risks associated with the Project.

Section 1.12. Status of Second Funding Agreement. The County, TRLIA and the Developer hereby acknowledge and agree that following State Approval all rights, duties, or obligations set forth in, or required by, the Second Funding Agreement as applied to each of them are hereby terminated and neither of the Funding Agreements is of any force or effect as to the County, TRLIA and Developer. "State Approval" shall mean receipt by TRLIA of a letter from the Central Valley Flood Protection Board which confirms that TRLIA has satisfied all of its obligations under the Second Implementation Agreement (referenced in Recital N to the Second Funding Agreement). The County, TRLIA, and the Developer further acknowledge and agree that (i) this Development Agreement supersedes both the 2005 Advanced Funding Agreement (referenced in Recital J to the Second Funding Agreement) as well as the Second Funding Agreement, (ii) all reimbursable amounts that may have been due to the Developer under the 2005 Advanced Funding Agreement have been deemed paid, and (iii) all funding advanced by the Developer to TRLIA under the Second Funding Agreement shall be applied pursuant to this Development Agreement. All obligations, rights and duties set forth in the Second Funding Agreement that apply to the County, TRLIA and Developer are hereby superseded by this Development Agreement. Notwithstanding anything in this Section 1.12 to the contrary, if a third party that was not a party to either Funding Agreements (meaning any party other than a party to this Agreement or a successor or related entity) shall make a claim under or to enforce the Second Funding Agreement against any party hereto, then solely for purposes of defending against, responding to, and/or making cross or counter claims in connection with the third party claim, the Second Funding Agreement shall not be deemed terminated, but only to the extent necessary to defend against, respond to, and/or make such cross or counter claims in connection with the third party claim.
EXHIBIT D

NOTICE OF TERMINATION

THIS NOTICE OF TERMINATION (hereinafter "this Notice") is given this ___ day of _____________, 200_, by the County of Yuba (hereinafter "County") for the benefit of ________________, (hereinafter "Owner").

1. On ________________ , 200_, the County of Yuba and ________________ entered into that certain agreement entitled "Development Agreement," approved by Ordinance ________________ (hereinafter "Agreement"), relative to the development known as ________________, (hereinafter "Subject Property").

2. Owner has fully performed all its duties with respect to that portion of the Subject Property, which portion of the Subject Property is identified and described in Exhibit A, attached hereto and incorporated herein by this reference (hereinafter the "Released Property").

3. Pursuant to Section 4.1 of the Development Agreement, the Development Agreement is no longer in effect with respect to the Released Property.

COUNTY OF YUBA

By: ________________________________

Name: ________________________________

Title: ________________________________

[NOTE: SIGNATURE MUST BE NOTARIZED]
NOTARY

State of California
County of ______________

On ______________, 20__, before me, __________________, Notary Public, personally appeared ____________________________, personally known to me (or proved 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 capacit(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.

____________________________
Notary Signature

WITNESS MY HAND AND OFFICIAL SEAL.
RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

CDSA
County of Yuba
915 8th St. Suite 123
Marysville, CA 95901

DEVELOPMENT AGREEMENT
BY AND BETWEEN
THE COUNTY OF YUBA, THE THREE RIVERS LEVEE IMPROVEMENT AUTHORITY AND LANDSOURCE HOLDING COMPANY, LLC (DEVELOPER) RELATIVE TO THE DEVELOPMENT KNOWN AS RIO DEL ORO VILLAGE 15

This document, including exhibits, totals ___ pages.
REFERENCE SHEET

Project:
Rio Del Oro Village 15 – TSTM1998-0578

Developer:
Landsource Holding Company, LLC

Developer's Address for Purpose of Written Notice:
1075 Creekside Ridge Drive, Suite 100
Roseville, CA 95678

Landowner:
Same as above.

Term:
The Term of the Development Agreement, as provided for in section 1.8 begins thirty (30) days after the Board of Supervisors enacts the Adopting Ordinance (noted below) and expires on October 15, 2022, twenty (20) years from the original date of approval of TSTM1998-0578.

Entitlements:
As referred to in Recital 5 shall mean TSTM1998-0578 and all associated tentative and final maps.

CEQA document:
This project is located within the Plumas Lake Specific Plan area. A Final Environmental Impact Report for the Plumas Lake Specific Plan was adopted by the Yuba County Board of Supervisors on September 21, 1993 (State Clearinghouse No. 92072070). A residential project that is consistent with a specific plan is exempt from further environmental review (Section 15182 of the CEQA Guidelines.)

Adopting Ordinance:
As referred to in Section 1.3 (a), shall mean Ordinance No. ____________ enacted by the Board of Supervisors on ________________, 20__.

Exhibits which are attached to this Development Agreement are as follows:

A. Legal Description
B. Assumption Agreement
C. Special Conditions and Requirements
D. Sample Notice of Termination
E. Credit and Reimbursement Policy
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THIS DEVELOPMENT AGREEMENT ("Agreement") is made by and between the COUNTY OF YUBA, a political subdivision of the State of California (County"), the THREE RIVERS LEVEE IMPROVEMENT AUTHORITY, a joint powers authority ("TRLIA") and Landsource Holding Company, LLC ("Developer") pursuant to the authority of Article 2.5, Chapter 4, Division Title 7 (§ 65864 et seq. of the Government Code) relating to Development Agreements.

RECITALS

1. In order to strengthen the public land use planning process, to encourage private participation in the process, to reduce the economic risk of development and to reduce the waste of resources, the Legislature adopted the Development Agreement Law (Gov. Code, § 65864 et seq.)

2. The Development Agreement Law permits cities and counties to contract with private interests for their mutual benefit in a manner not otherwise available to the contracting parties. Such agreements, as authorized by the Development Agreement Law and by common law, assure property developers that they may proceed with their projects with the assurance that approvals granted by public agencies will not change during the period of development. Cities and counties are equally assured that costly infrastructure such as roads, sewers, fire protection facilities, etc., will be available in a timely manner.

3. The parties have, in good faith, negotiated the terms hereinafter set forth which carry out the legislative purpose set forth above and will assure the parties to this Agreement of mutually desirable development in a manner consistent with the CEQA document, the Entitlements, and this Agreement.

4. Developer owns in fee (or holds an option to purchase for a term that is or may be extended for at least the term of this Agreement) the Subject Property as more particularly described on Exhibit A hereto, located in the County.

5. County, in response to Developer's application(s), after public hearings and extensive environmental analysis, has granted approval of the Entitlements, as described on the Reference Sheet.

6. In support of the various Entitlements described in paragraph 5 above, and in accord with the California Environmental Quality Act ("CEQA") and State and County guidelines, County has accepted and ratified a CEQA document, as described on the Reference Sheet.

7. Development of the Subject Property pursuant to the terms and conditions of the Entitlements, the General Plan and appropriate environmental determinations will provide for orderly growth and development consistent with the County's General Plan and other development policies and programs.

8. The Planning Commission considered this Agreement, and recommended its adoption to the Board of Supervisors.
9. Having duly considered this Agreement and having held the noticed public hearings, County finds and declares that the provisions of this Agreement are consistent with the maps and text of the County's General Plan.

NOW, THEREFORE, the parties hereto agree as follows:

ARTICLE 1

GENERAL PROVISIONS

Section 1.1. The Project. The Project is defined as set forth on the Reference Sheet.

Section 1.2. Subject Property. The Subject Property is more specifically described in Exhibit A, which is incorporated herein and made part of this Agreement.

Section 1.3. Definitions. As used in the Agreement, the following terms, phrases and words shall have the meanings and be interpreted as set forth in this Section.

(a) Adopting Ordinance means the ordinance which approves this Agreement.

(b) Applicable Laws means the General Plan, Specific Plan (if applicable), County Laws, rules, ordinances, regulations, and official policies governing the processing of entitlements, the permitted uses of the Subject Property, the density or intensity of use, the rate and timing of development, design, improvements, reservation or dedication of land for public improvements, fees, exactions, construction and building setbacks, occupancy and specifications applicable to the Subject Property in effect on the Effective Date of this Agreement.

(c) Assumption Agreement means an agreement substantially conforming to the model assumption agreement described in Exhibit B, or other agreement in a form approved by the County Counsel, executed by a Landowner with the Developer, expressly assuming various obligations relating to the development of the Project, or portion thereof.

(d) CEQA means the California Environmental Quality Act section 21000 et seq., of the Public Resources Code of the State of California.

(e) Completed Lots shall mean any single-family residence, any other residential dwelling unit(s), or any non-residential building, and the lot or parcel upon which such residence or building is located, when it has been approved by the County for occupancy.

(f) County means the County of Yuba or, if the context otherwise requires, the Board of Supervisors for the County of Yuba, or its designee.

(g) County Laws means ordinances, resolutions, rules, regulations, policies, motions, directives, mitigation measures, conditions, standards, specifications, dedications, fees, taxes (including without limitation general, special and excise taxes), assessments, liens, other exactions and impositions, and any other actions having the force of law, that are enacted or adopted by County, or by its electorate through the initiative or referendum process.
(h) **Current Fees** means those County development impact fees in effect as of the Effective Date and any currently incorporated adjustments or increases therein adopted as of the Effective Date.

(i) **Developer** shall mean that person or entity that has applied for this Development Agreement as defined on the Reference Sheet.

(j) **Director** means the Community Development Director for the County, or his/her designee.

(k) **Effective Date** means the effective date of the Adopting Ordinance.

(l) **Entitlements** shall mean those approvals listed on the Reference Sheet of this Agreement, approved copies of which are on file with the Board of Supervisors.

(m) **General Plan** means the General Plan of the County, including the text and maps, as may have been amended in connection with the Project.

(n) **Landowner** is a party who has acquired any portion of the Subject Property from the Developer who, unless otherwise released as provided in this Agreement, shall be subject to the applicable provisions of this Agreement.

(o) **New Fees** means those development impact fees adopted by the County after the Effective Date of this Development Agreement.

(p) **Planning Commission** shall mean the County's Planning Commission, or its designee.

(q) **Reserved Powers** shall mean those powers explicitly reserved to the County by this Agreement.

(r) **Revenue Bonds** means the Yuba Levee Financing Authority Revenue Bonds, Series A and Taxable Revenue Bonds, Series B.

(s) **Subject Property** means the property described in Section 1.2, or the remaining portions thereof after releases from the provisions of this Agreement have been executed as authorized by this Agreement.

(t) **TRLIA** means the Three Rivers Levee Improvement Authority.

(u) **YCWA** means the Yuba County Water Agency.

**Section 1.4. Exhibits.** The Exhibits listed herein are incorporated into this Agreement and made a part hereof. The Exhibits are:

- **Exhibit A** Subject Property
- **Exhibit B** Assumption Agreement
- **Exhibit C** Special Conditions and Requirements
Section 1.5. Incorporation of Recitals. Recitals 1 through 9 are incorporated herein, including all exhibits referred to in the Recitals. In the event of inconsistency between the Recitals and the provisions of Articles 1 through 5, the provisions of Articles 1 through 5 shall prevail.

Section 1.6. Parties to Agreement. The parties to this Agreement are:

(a) The County of Yuba. A political subdivision of the State of California exercising general governmental functions and powers. The principal office of the County is located at 915 8th Street, Marysville, California 95901.

(b) Three Rivers Levee Improvement Authority. A joint powers authority created by the County and RD 784. The principal office of TRLIA is located at the County of Yuba Government Center, 915 Eighth Street, Suite 115, Marysville, California 95901.

(c) Developer. Developer owns in fee or has an equitable interest in the Subject Property.

(d) Landowner. From time to time, as provided in this Agreement, Developer may sell or otherwise lawfully dispose of a portion of the Subject Property to a Landowner who, unless otherwise released, shall be subject to the applicable provisions of this Agreement related to such portion of the Subject Property.

Section 1.7. Project is a Private Undertaking. It is agreed among the parties that the Project is a private development and that the County has no interest therein except as authorized in the exercise of its governmental functions.

Section 1.8. Term of Agreement. This Agreement shall commence upon the Effective Date of the Adopting Ordinance approving this Agreement and shall continue in force for the period shown on the Reference Sheet under "Term." Upon the expiration of the Term as provided for in this section, this Agreement shall automatically terminate and be of no further force and effect; provided however, such termination shall not affect the rights or duties arising from the entitlements for the Subject Property which were approved prior to, concurrently with, or subsequent to the approval of this Agreement.
transferring such interest of such obligations so expressly assumed. Any such assumption of Developer's obligations under this Agreement shall be deemed to be to the satisfaction of the County Counsel if executed in the form of the Assumption Agreement attached hereto as Exhibit B and incorporated herein by this reference, or such other form as shall be approved by the County Counsel.

Section 1.10. Covenants Running with the Land. Each and every purchaser, assignee or transferee of an interest in the Subject Property, or any portion thereof, shall be obligated and bound by the terms and conditions of this Agreement, and shall be the beneficiary thereof and a party thereto, but only with respect to the Subject Property or such portion thereof, sold, assigned or transferred to it. Any such purchaser, assignee or transferee shall observe and fully perform all of the duties and obligations of a Developer contained in this Agreement, as such duties and obligations pertain to the portion of the Subject Property sold, assigned or transferred to it. Provided however, notwithstanding anything to the contrary above, if any such sale, assignment or transfer relates to a completed residential unit or non-residential building which has been approved by the County for occupancy, this Agreement shall automatically terminate with respect to the Completed Lot. The termination of this Agreement for any Completed Lot shall not be construed to terminate or modify any assessment district or Mello-Roos community facilities district lien affecting such Completed Lot at the time of termination. Upon the request of a Developer, County shall execute such documents as are reasonably requested to remove this Agreement from the public records as it affects each Completed Lot. The County may charge a reasonable fee to process this request.

Section 1.11. Amendment to Agreement (Developer and County). This Agreement may be amended by mutual consent of the parties in writing, in accordance with the provisions of Government Code section 65868, provided that: any amendment which relates to the term, permitted uses, density, intensity of use, height and size of proposed buildings, or provisions for reservation and dedication of land shall require a noticed public hearing before the parties may execute an amendment. Unless otherwise provided by law, all other amendments may be approved without a noticed public hearing.

Any amendment entered into between the County and the Developer shall require the signature of each owner of any portion of the Subject Property to the extent the amendment modifies this Agreement as to that other owner's property.

Section 1.12. Amendment to Agreement (Landowner and County). This Agreement may also be amended, subject to the provisions of Government Code section 65868, between a Landowner who has acquired a portion of the Subject Property from Developer and County as to the portions of the Subject Property then owned by Landowner.

Any amendment entered into between the County and a Landowner shall require the signature of each Landowner of any portion of the Subject Property or the Developer to the extent the amendment modifies the Agreement as to that Landowner's or the Developer's property.

Section 1.13. Releases. Developer, and any subsequent Landowner, shall be deemed released from all further obligations relating to the sold, assigned, or transferred property, upon
the date that the County Clerk receives a copy of the Assumption Agreement provided for in
Section 1.9.

Section 1.14. Notices. Notices, demands, correspondence, and other communication to
County and Developer shall be deemed given if dispatched by prepaid first-class mail to the
principal offices of the parties as designated in Section 1.6(a). Notice to the County shall be to
the attention of both the County Administrator and the Director. Notices to subsequent
Landowners shall be required to be given by the County only for those Landowners who have
given the County written notice of their address for such notices. The parties hereto may, from
time to time, advise the other of new addresses for such notices, demands or correspondence.

Section 1.15. Reimbursement for Agreement Expense of County. Developer agrees
to reimburse County for a pro-rata share of the reasonable and actual expenses over and above
fees paid by Developer as an applicant, specifically incurred by County for the modification of
the County's form development agreement into the form of this Agreement, including recording
fees, publishing fees, and reasonable staff and consultant costs not otherwise included within
application fees then due and payable to the County. Such reimbursement shall be paid to the
County within 10 days following invoice by the County. Developer shall also pay any and all
delinquent installments of property tax then due for the Subject Property.

Section 1.16. Recordation of Agreement. The County Clerk shall cause a copy of this
Agreement to be recorded with the County Recorder not later than ten (10) days after the
effective date following execution of this Agreement by the County. Developer hereby
covenants that during the period following execution and the recording of this Agreement by the
County, Developer shall not, without prior written approval by the County Counsel, cause or
allow to be recorded against the Subject Property any instrument affecting the priority, validity
or enforceability of this Agreement.

Section 1.17. Applicable Law. This Agreement shall be construed and enforced in
accordance with the laws of the State of California.

Section 1.18. Invalidity of Agreement/Severability. If this Agreement in its entirety is
determined by a court to be invalid or unenforceable, this Agreement shall automatically
terminate as of the date of final entry of judgment. If any provision of this Agreement shall be
determined by a court to be invalid and unenforceable, or if any provision of this Agreement is
rendered invalid or unenforceable according to the terms of any federal or state statute, which
became effective after the Effective Date, the remaining provisions shall continue in full force
and effect.

Section 1.19. Third Party Legal Challenge. In the event any legal action or special
proceeding is commenced by any person or entity other than a party or a Landowner,
challenging this Agreement, the Entitlements or any approval subsequently granted by the
County for the development of the Subject Property, then the parties and any Landowner agree
to cooperate with each other in good faith in connection with the defense of the same. County
may elect to tender the defense of any lawsuit filed by a third person or entity to Developer
and/or Landowner(s) (to the extent the litigation, in part or in whole, seeks to overturn or
invalidate this Agreement, the Entitlements or any subsequent approval granted for the Subject
Property held by or granted to Developer and/or Landowner), and, in such event, Developer and/or such Landowner(s) shall indemnify, hold the County harmless from and defend the County from all costs and expenses incurred in the defense of such lawsuit, including, but not limited to, damages, attorneys' fees and expenses of litigation awarded to the prevailing party or parties in such litigation. For purposes of this section only, "County" shall include all employees, consultants and agents acting on behalf of the County. Neither party shall settle any such lawsuit without the consent of the other party. The County may elect to participate in the litigation, in which case the Developer and/or Landowner agree to reimburse the County for its litigation costs and fees, including the retention of outside legal counsel and all staff costs. It is the intent of the Parties that the County's participation not result in unnecessary duplication of legal services, but rather that the County's active involvement in the litigation be limited to supervising the preparation of the administrative record or discovery as applicable, monitoring of litigation, and responsive pleadings regarding issues which, in the sole opinion of the County, involve broader County concerns then those immediately affecting the Landowner and/or Developer. Upon written demand of the County, Developer and/or Landowner shall deposit with the County such sums as may be specified by the County as its estimated litigation costs and fees for the following thirty day period. Both parties shall act in good faith, and shall not unreasonably withhold consent to settle. In the event that the County elects to settle a claim, and Developer refuses to also settle, County at its sole option may require Developer to post security in a form and amount reasonably acceptable to the County, for the performance of Developer's duties under this section. If the Developer, within 30 days of receiving written notice from County, fails to post this security, the Developer shall settle the claim on terms as previously approved by the County. This provision shall survive the termination of this Agreement.

**Section 1.20. Waiver of Claims.** Developer waives, as to the Subject Property only, any and all existing claims that it may have against the County, its agents, employees and consultants, arising out of the adoption and/or application of development requirements and standards, impact fees, the adoption of this Agreement or approval of the Entitlements and all of the proceedings, acts or determinations made prior thereto.

**Section 1.21. Priority of Enactment.** In the event of conflict between the Development Agreement, the Entitlements and the County Laws, the parties agree that the following sequence of approvals establishes the relative priority of approvals, each approval superior to the approvals listed thereafter: (1) Exhibit C to this Agreement; (2) the Development Agreement; (3) the Entitlements and (4) the County Laws. In the event of a conflict between two or more of the foregoing documents, the language of that document which is superior in priority as provided above shall govern.

**ARTICLE 2**

**THE PROJECT AND DEVELOPMENT OF THE SUBJECT PROPERTY**

**Section 2.1. Limited Vested Right.** During the Term of and subject to the terms of this Agreement the Developer's rights shall be vested only as to the Entitlements. "Vested" shall mean that except as to express limitations and reservations contained in this Agreement, Developer has a fully vested right to develop the Property in accordance with the terms and
conditions of this Agreement and the Entitlements, and Developer's Entitlements shall not be subject to changes in Applicable Laws. In the event that the County grants an approval or permit in the implementation of the Project, the approval or permit shall be pursuant to Applicable Laws and shall also be considered vested. This section shall not be construed to limit the authority, or obligation of the County to hold necessary public hearings, or to limit the discretion of the County or any of its officers or officials with regard to rules, regulations, ordinances, laws and entitlements, which require the exercise of discretion by the County or any of its officers or officials in accordance with the Applicable Laws, or those reserved powers set forth in Section 2.6. The foregoing shall not be deemed to limit Developer's rights to seek a modification or amendment to the Entitlements.

Section 2.2. **No Moratorium, Quotas, Restrictions, or Other Growth Limitations.**

Except as otherwise provided by the terms and conditions of this Agreement or the Entitlements, no ordinance, resolution, rule, regulation or policy of County shall be applied, imposed or enacted by County, by resolution, ordinance, initiative, or otherwise, which in any way relates to the rate, timing or sequencing of the development or use of the Subject Property, or any improvements related thereto, including without limitation, any no-growth or slow-growth moratoriums or annual development allocations, quotas or limitations, or in any way conflicts with the permitted uses, density and intensity of uses, maximum building height and size set forth in the Entitlements; provided, however, Developer shall be subject to any such growth limitation ordinance, resolution, rule; regulation or policy which is adopted on a uniformly applied, County-wide basis and directly concerns an immediate, verifiable adverse risk to public health or safety, in which case County shall treat Developer in a uniform, equitable and proportionate manner with all properties which are zoned consistent with Developer's zoning set forth in the Entitlements. Without limitation of the foregoing, any future County rules, ordinances, regulations or policies, whether by specific reference to the development of the Subject Property or as part of a general enactment that directly or indirectly applies to the development of the Subject Property, shall be considered to conflict with this Agreement if it has any one or more of the following effects: (a) limits or reduces the number of lots or square footage which may be developed on the Subject Property, the density or intensity of use allowed under the Entitlements, (b) imposes or increases any fees, exactions or other monetary obligation from what is set forth in Applicable Law, the Entitlements or the terms of this Agreement, (c) limits utilities, services or related facilities or rights to use such utilities, services or privileges for the Subject Property or that condition development or construction on the availability of public services and/or facilities (for example, the presence of a specified traffic level of service or water or sewer availability) other than as set forth in the Entitlements, (d) limits or controls in any manner the growth or other rate, timing, phasing, or sequencing of the approval or development of the Subject Property, whether by moratorium, growth restriction, or any mechanism by which the development is tied to the availability of public services, and/or facilities or otherwise, (e) limits the maximum height, bulk and size of proposed buildings from what is set forth in Applicable Law, (f) applies to the Subject Property any future County law otherwise allowed by this Agreement that is not applied on a County-wide basis to all substantially similar developments and properties, (g) changes any land use designation or permitted use vested by this Agreement on the Subject Property without the consent of Developers, (h) requires the issuance of additional permits or approvals by County other than those required by Applicable Laws, or (i) limits the processing of, or the obtaining of, any
subsection entitlements or approvals necessary for the development of the Subject Property as contemplated by this Agreement.

**Section 2.3. Permitted Uses and Development Standards.** The permitted uses and development standards shall be those as set forth in and permitted by the Entitlements, County Zoning, Applicable Laws and subdivision and land development standards as of the Effective Date.

**Section 2.4. Application, Processing and Inspection Fees.** Application fees, processing fees, and inspection fees that are revised during the term of this Agreement shall apply to the development pursuant to this Agreement, provided that such revised fees apply generally to similar private projects or works within County.

**Section 2.5. Impact Fees. [Intentionally Omitted—See Exhibit C: Special Conditions and Requirements]**

**Section 2.6. Reserved Powers.** Notwithstanding any other provision of this Agreement, and without limitation as to any other requirements or exceptions contained in this Agreement, the County retains the authority to take the following actions and apply the same to the Subject Property:

(a) The authority of the Board of Supervisors to adopt regulations to protect the County and its citizens from an immediate and significant adverse risk to health and safety. This shall include, but not be limited to, lack of sufficient sewer and/or water facilities, but not school facilities.

(b) Adopt new or amended building codes (as may be amended by the County), including, but not limited to, the Uniform Building Code, Uniform Fire Code, Uniform Mechanical Code, Uniform Plumbing Code, National Electrical Code, Uniform Housing Code, and Uniform Sign Code, that generally apply equally to all buildings, structures and real property in the County.

(c) Adopt land use regulations, ordinances, policies, programs, resolutions or fees generally applicable to similar development projects adopted or undertaken by County as and only to the extent necessary to comply with state or federal laws, or regulations, provided that in the event that such state or federal laws or regulations prevent or preclude compliance with one or more provisions of this Agreement, such provision or provisions shall be modified or suspended as may be necessary to comply with such state or federal laws or regulations.

(d) Adopt county land use regulations, ordinances, policies, programs or resolutions adopted after the Effective Date, which are in conflict with the Applicable Laws, but the application of which to the development of the Subject Property has been consented to in writing by the Developer and/or the applicable Landowner by later separate document, which consent Developer and/or Landowner may withhold in their sole and exclusive discretion.

**Section 2.7. Obligation and Rights of Mortgage Lenders.** The holder of any mortgage, deed of trust or other security instrument with respect to the Subject Property, or any
portion thereof, shall not be obligated under this Agreement to construct or complete improvements or to guarantee such construction or completion, but, in the event said holder takes title to the Subject Property through foreclosure of a mortgage or a deed of trust, or deed-in-lieu of such foreclosure, said holder shall be bound by all of the terms and conditions of this Agreement which pertain to the Subject Property or such portion thereof in which it holds an interest. Any such holder who comes into possession of the Subject Property, or any portion thereof, pursuant to a foreclosure of a mortgage or a deed of trust, or deed in lieu of such foreclosure, shall take the Subject Property, or such portion thereof, subject to any pro rata claims for payments or charges against the Subject Property, or such portion thereof, which accrue prior and subsequent to the time such holder comes into possession. Nothing in this Agreement shall be deemed or construed to permit or authorize any such holder to devote the Subject Property, or any portion thereof, to any uses, or to construct any improvements thereon, other than those uses and improvements provided for or authorized by this Agreement, subject to all of the terms and conditions of this Agreement.

Upon foreclosure or deed-in-lieu thereof, a lender has no obligation to pay any amounts related to the Subject Property, unless said lender or successor-in-interest elects to use the Entitlements to develop the Subject Property.

Section 2.8. Tolling and Extension During Legal Challenge or Moratoria.

(a) If this Agreement, any of the Entitlements or any subsequent entitlements, approvals or permits required to implement the Entitlements (such as any required fill permit) are subjected to legal challenge by a third party, other than Developer, and Developer cannot or elects not to proceed with development of the Subject Property during such litigation, the Term of this Agreement and timing for obligations imposed pursuant to this Agreement shall, upon written request of Developer to County, be extended and tolled during such litigation until the entry of final order or judgment upholding this Agreement, the Entitlements, subsequent entitlements, approvals and/or other permits required to implement the Entitlements, or the litigation is dismissed by stipulation of the parties.

(b) If this Agreement, any of the Entitlements or any subsequent entitlements, approvals or permits required to implement the Entitlements are subjected to moratoria, and Developer cannot or elects not to proceed with the development of the Subject Property during such moratoria, the Term of this Agreement and timing for obligations imposed pursuant to this Agreement shall, upon written request of Developer to County, be extended and tolled during such moratoria. Moratoria shall be defined as restrictions, moratorium or de facto moratoria on approval or recordation of final maps, issuance of building permits, final inspections or certificates of occupancy, or approval or issuance of other such entitlements or permits, at the time of the transfer which would limit the reasonable ability to construct in a similar fashion a development project previously approved by the County.

Section 2.9. Timing of Construction and Completion. Notwithstanding any provision of this Agreement to the contrary, there is no requirement that Developer initiate or complete development of the Subject Property or any particular phase of development of the Subject Property within any particular period of time, and County shall not impose such a requirement on any subsequent approval. The parties acknowledge that Developer cannot at this
time predict when, or the rate at which or the order in which, phases will be developed. Such
decisions depend upon numerous factors that are not within Developer's control, such as market
orientation and demand, interest rates, competition, and other similar factors. In light of the
foregoing, the parties agree that Developer shall be able to develop in accordance with
Developer's own time schedule as such schedule may exist from time to time, for whatever
reason, and that Developer shall determine the order in which portions of the Subject Property
shall be developed. Without limiting of any of the foregoing, the parties specifically desire to
avoid the consequences of the holding of the California Supreme Court in Pardee Construction
Co. v. County of Camarillo (1984) 37 Cal.3d 465, which held that the failure of the parties
therein to consider and expressly provide for the timing of development resulted in a later-
adopted initiative restricting the timing of development to prevail over such parties' agreement;
consequently, the parties agree that Developer shall have the right to develop the Subject
Property in such order and at such rate and at such times as Developer deems appropriate within
the exercise of its subjective business judgment. Nothing in this Section 2.9 shall exempt
Developer from completing work required by a subdivision agreement, road improvement
agreement or similar agreement in accordance with the terms thereof.

Section 2.10. Property Tax. Developer shall pay all installments of property tax
applicable to the Subject Property prior to such installments becoming delinquent.

ARTICLE 3

DEFAULT

Section 3.1. General Provisions. Subject to extensions of time by mutual consent in
writing, any failure to perform any term or provision of this Agreement by County, by
Developer or by Landowner not released from this Agreement to perform any term or provision
of this Agreement, shall constitute a default in the event (a) the party alleging such default or
breach gives the other party or Landowner not less than sixty (60) days notice in writing
specifying the nature of the alleged default and the manner in which said default may be cured,
and (b) the said other party does not cure the breach or default within said sixty (60) days (or, if
the cure cannot be accomplished within 60 days, if said other party does not commence the cure
within 60 days and diligently prosecute the cure thereafter.) During any such sixty (60) day
period, the party or Landowner charged shall not be considered in default for purposes of
termination or institution of legal proceedings.

After notice and expiration of the sixty (60) day period, if such default has not been cured
or is not being diligently cured in the manner set forth in the notice, the other party or
Landowner to this Agreement may, at his/her option, institute legal proceedings pursuant to this
Agreement or give notice of his/her intent to terminate this Agreement pursuant to California
Government Code section 65868 and any regulations of the County implementing said
Government Code section. Following notice of intent to terminate, or prior to instituting legal
proceedings, the matter shall be scheduled for consideration and review in the manner set forth in
Government Code sections 65865, 65867, and 65868 and County regulations implementing said
sections by the County within thirty (30) calendar days.
Following consideration of the evidence presented in said review before the County and an additional 30-day period to cure, either party alleging the default by the other party or Landowner may institute legal proceedings or may give written notice of termination of this Agreement to the other party; provided, however, a Landowner may only give such notice with respect to such portion of the Subject Property in which Landowner owns an interest.

**Section 3.2. Annual Review.** The County shall, at least every twelve (12) months during the term of this Agreement, review the extent of good faith substantial compliance by Developer and Landowner with the terms of this Agreement. Such periodic review by the Director, unless referred to the Planning Commission or the County Board of Supervisors shall be limited in scope to compliance with the terms of this Agreement pursuant to California Government Code section 65865.1. Each said review shall be completed within sixty (60) days of the first meeting of the Planning Commission and the County Board of Supervisors, respectively, at which such review is undertaken, unless said period is extended by mutual consent of the County and Developer. Failure to complete said review within the prescribed period shall be deemed a finding of good faith substantial compliance. Notice of such annual review shall include the statement that any review, the result of which the local agency finds and determines on the basis of substantial evidence, that the Developer has not complied in good faith with the terms or conditions of the Development Agreement, may result in amendment or termination of this Agreement in accordance with Government Code section 65865.1. The County may charge the Developer a reasonable fee for such annual review to defray the cost to the County to process and conduct such annual review.

The County shall deposit in the mail or fax to Developer and/or Landowner a copy of all staff reports and, to the extent practical, related exhibits concerning contract performance at least seven (7) days prior to such periodic review. Developer or Landowner shall be entitled to appeal a determination of the Director to the Commission and then to the Board of Supervisors. Any appeal must be filed within ten (10) days of the decision of the Director, or the Commission, as the case may be. Developer or Landowner shall be permitted an opportunity to be heard orally and/or in writing regarding its performance under this Agreement before the Commission, Board of Supervisors, and/or Director, as the case may be.

**Section 3.3. Developer Default Limited to Property/Entity; Separate Obligations of Owners.** Except as specified herein in Section 3.1, no default hereunder in performance of a covenant or obligation with respect to a particular portion of the Subject Property shall constitute a default applicable to any other portion of the Subject Property, and any remedy arising by reason of such default shall be applicable solely to the portion of Subject Property where the default has occurred. Similarly, the obligations of the Developer and Landowners shall be severable and no default hereunder in performance of a covenant or obligation by anyone of them shall constitute a default applicable to any other owner who is not affiliated with such defaulting owner, and any remedy arising by reason of such default shall be solely applicable to the defaulting owner and the portion of the Subject Property owned thereby.

**Section 3.4. Default by County.** In the event the County does not accept, review, approve or issue necessary development permits or entitlements for use in a timely fashion as defined by this Agreement, or as otherwise provided in this Agreement, or the County otherwise
defaults under the terms of this Agreement, Developer and/or Landowner may give written notice thereof to the County and if not cured within sixty (60) days following receipt of such notice, Developer shall have all rights and remedies provided herein or under applicable law, including without limitation the right to pursue actions for mandamus, specific performance, or injunctive or declaratory relief to enforce this Agreement. Notwithstanding the foregoing sentence, the County, Developer and Landowner each waives any and all rights to seek monetary damages from any other party as a result of any breach or alleged breach of such other party's obligations hereunder, excluding (a) any claim for refunds of fees or excess fee payments imposed inconsistent with this Agreement, and (b) County claims regarding payment of fees, taxes, assessment and other charges, including Levee Fees. In the event the County is in default under the terms of this Agreement, any resulting delays in Developer's performance caused thereby shall not constitute grounds for termination or cancellation of this Agreement.

Section 3.5. Default by and Remedies of TRLIA. TRLIA's rights and obligations under this Agreement are specifically limited to those rights and obligations specifically attributed to TRLIA as set forth in Exhibit C to this Agreement. TRLIA is considered a third party beneficiary of Exhibit C and shall have a right to enforce all obligations of Developer as set forth in Exhibit C to this Agreement. In the event that TRLIA defaults under the terms of this Agreement, Developer and/or Landowner may give written notice thereof to TRLIA with a copy to the County, and if not cured within sixty (60) days following receipt of such notice, Developer's sole remedy shall be the right to pursue actions for mandamus, specific performance, or injunctive or declaratory relief against TRLIA to enforce this Agreement. Notwithstanding the foregoing sentence, TRLIA, Developer and Landowner each waives any and all rights to seek monetary damages from any other party as a result of any breach or alleged breach of such other party's obligations hereunder, excluding any claim for refunds of fees or excess fee payments imposed inconsistent with this Agreement. In the event TRLIA is in default under the terms of this Agreement, any resulting delays in Developer's performance that are directly caused thereby shall not constitute grounds for termination or cancellation of this Agreement.

Section 3.6. Cumulative Remedies of Parties/Waiver of Right to Damages. In addition to any other rights or remedies, County, Developer and any Landowner may institute legal or equitable proceedings to cure, correct or remedy any default, to specifically enforce any covenant or agreement herein, to enjoin any threatened or attempted violation of the provisions of this Agreement. Notwithstanding the foregoing sentence, the County, Developer and Landowner each waives any and all rights to seek monetary damages from the other party as a result of any breach or alleged breach of such other party's obligations hereunder, excluding any claim for refunds of fees or excess fee payments imposed inconsistent with this Agreement.

ARTICLE 4

TERMINATION

Section 4.1. Termination Upon Completion of Development. This Agreement shall terminate upon the expiration of the Term as defined on the Reference Sheet or when the Subject Property has been fully developed and all of the Developer's obligations in connection therewith
are satisfied. Upon termination of this Agreement, the County shall record a notice of such termination in a manner substantially similar to the form attached hereto as Exhibit D. This Agreement shall automatically terminate and be of no further force or effect as to Completed Lots.

Section 4.2. Effect of Termination on Developer Obligations. Termination of this Agreement as to the Developer of the Subject Property or any portion thereof shall not affect any of the Developer's obligations to comply with the County General Plan and the terms and conditions of any applicable zoning, or subdivision map or other land use entitlements approved with respect to the Subject Property, any other covenants or any other development requirements specified in this Agreement to continue after the termination of this Agreement, or obligations to pay assessments, liens, fees, or taxes. Termination of this Agreement shall not affect Developers rights and duties under Exhibit C to this Agreement.

Section 4.3. Effect of Termination on County. Upon any termination of this Agreement, as provided for under the terms and conditions of this Agreement, as to the Developer of the Subject Property, or any portion thereof, the entitlements, conditions of development, limitations on fees and all other terms and conditions of this Agreement shall no longer be vested hereby with respect to the Subject Property affected by such termination (provided vesting of entitlements, conditions or fees applicable to the Subject Property shall be governed by planning and zoning law) and the County shall no longer be limited, by this Agreement, to make any changes or modifications to such entitlements, conditions or fees applicable to such property. Except as may be set forth in section 1.10 of Exhibit C, termination of this Agreement shall not affect County or TRLIA rights and duties under Exhibit C to this Agreement.

ARTICLE 5

STANDARD TERMS AND CONDITIONS

Section 5.1. Venue. Venue for all legal proceedings shall be in the Superior Court for the County of Yuba.

Section 5.2. Waiver. A waiver by any party of any breach of any term, covenant or condition herein contained or a waiver of any right or remedy of such party available hereunder at law or in equity shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant or condition herein contained or of any continued or subsequent right to the same right or remedy. No party shall be deemed to have made any such waiver unless it is in writing and signed by the party so waiving.

Section 5.3. Completeness of Instrument. This Agreement, together with its specific references and attachments, constitutes all of the agreements, understandings, representations, conditions, warranties and covenants made by and between the parties hereto. Unless set forth herein, neither party shall be liable for any representations made express or implied.
Section 5.4. **Supersedes Prior Agreements.** It is the intention of the parties hereto that this Agreement shall supersede any prior agreements, discussions, commitments, representations or agreements, written or oral, between the parties hereto.

Section 5.5. **Captions.** The captions of this Agreement are for convenience in reference only and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

Section 5.6. **Number and Gender.** In this Agreement, the neuter gender includes the feminine and masculine, and the singular includes the plural, the word "person" includes corporations, partnerships, firms or associations, wherever the context so requires.

Section 5.7. **Mandatory and Permissive.** "Shall" and "will" and "agrees" are mandatory. "May" is permissive.

Section 5.8. **Term Includes Extensions.** All references to the term of this Agreement or the Agreement Term shall include any extensions of such term.

Section 5.9. **Successors and Assigns.** All representations, covenants and warranties specifically set forth in this Agreement, by or on behalf of, or for the benefit of any or all of the parties hereto, shall be binding upon and inure to the benefit of such party, its successors and assigns.

Section 5.10. **Modification.** No, modification or waiver of any provisions of this Agreement or its attachments shall be effective unless such waiver or modification is in writing, signed by all parties, and then shall be effective only for the period and on the condition, and for the specific instance for which given.

Section 5.11. **Counterparts.** This Agreement may be executed simultaneously and in several counterparts, each of which shall be deemed an original, but which together shall constitute one and the same instrument.

Section 5.12. **Other Documents.** The parties agree that they shall cooperate in good faith to accomplish the object of this Agreement and to that end, agree to execute and deliver such other and further instruments and documents as may be necessary and convenient to the fulfillment of these purposes.

Section 5.13. **Partial Invalidity.** If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provision and/or provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

Section 5.14. **Controlling Law.** The validity, interpretation and performance of this Agreement shall be controlled by and construed under the laws of the State of California.

Section 5.15. **Time Is of the Essence.** Time is of the essence of this Agreement and each covenant and term a condition herein.
Section 5.16. Authority. All parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles and capacities herein stated and on behalf of any entities, persons, estates or firms represented or purported to be represented by such entity (s), person(s), estate(s) or firm(s) and that all formal requirements necessary or required by any state and/or federal law in order to enter into this Agreement have been fully complied with. Further, by entering into this Agreement, neither party hereto shall have breached the terms or conditions of any other contract or agreement to which such party is obligated, which such breach would have a material effect hereon.

Section 5.17. Document Preparation. This Agreement will not be construed against the party preparing it, but will be construed as if prepared by all parties.

Section 5.18. Advice of Legal Counsel. Each party acknowledges that it has reviewed this Agreement with its own legal counsel, and based upon the advice of that counsel, and freely entered into this Agreement.

Section 5.19. Estoppel Certificate. Within thirty (30) days following any written request which either party may make from time to time, and upon payment of a fee to the County to reimburse the County for its reasonable expenses associated herewith, the other party to this Agreement shall execute and deliver to the requesting party a statement certifying that:

(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; and

(b) there are not current uncured defaults under this Agreement or specifying the date, nature of any default and manner of cure.

This certificate may be executed by the Director.

Section 5.20. Attorneys Fees and Costs. If any action at law or in equity, including an action for declaratory relief, is brought to enforce or interpret provisions of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and costs, which may be set by the Court in the same action or in a separate action brought for that purpose, in addition to any other relief to which such party may be entitled.

Section 5.21. Consent/Subordination. Unless waived in writing by the County Counsel, Developer shall furnish proof satisfactory to the County, prior to approval of the Agreement that all persons possessing a legal interest in the Subject Property have consented to the recording of this Agreement in the County Recorder's Office against the Subject Property. Unless waived in writing by the County Counsel, the County shall require subordination by all lenders of record as a condition precedent to the County approval of the Agreement. The County shall have no duty to subordinate its interest in this Agreement.

Section 5.22. Calculation of Time Periods. All calculation of time periods shall be based upon calendar days unless a different intent is clearly stated.
IN WITNESS WHEREOF, this Agreement was executed by the parties thereto on the dates set forth in the Preamble.

COUNTY:
COUNTY OF YUBA,
a political subdivision of the State of California

By: ________________________________
Name: ______________________________
Title: ______________________________

ATTEST:

By: ________________________________
Name: ______________________________
Title: County Clerk

APPROVED AS TO FORM:

By: ________________________________
Name: ______________________________
Title: County Counsel

DEVELOPER:
LANDSOURCE HOLDING COMPANY, LLC,
a Delaware limited liability company

By: LANDSOURCE COMMUNITIES DEVELOPMENT LLC,
a Delaware limited liability company

By: LENNAR HOMES OF CALIFORNIA, INC., a California corporation, its California Manager

By: ________________________________
Name: ______________________________
Title: VP

APPROVED AS TO FORM:

By: ________________________________
Name: ______________________________
Title: Counsel

Development Agreement Between the County of Yuba and Rio Del Oro Village 15
TRLIA:
Three Rivers Levee Improvement Authority
a joint powers authority

By: ________________________________

Name: ______________________________

Title: ______________________________

APPROVED AS TO FORM:

By: ________________________________

Name: ______________________________

Title: Counsel
CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of __Placer__ j ss.

On __June 5, 2009__ before me, __Monique Reynolds__, Notary Public,

personally appeared __Brian Bombeck__

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 signatures(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

My Commission Expires Nov. 24, 2012

OPTIONAL INFORMATION

Date of Document

Type or Title of Document

Number of Pages in Document

Document in a Foreign Language

Type of Satisfactory Evidence:

☐ Personally Known with Paper Identification

☐ Paper Identification

☐ Credible Witness(es)

Capacity of Signer

☐ Trustee

☐ Power of Attorney

☐ CEO / CFO / COO

☐ President / Vice-President / Secretary / Treasurer

☐ Other: ____________________________

Other Information: ____________________________

☐ Check here if no thumbprint or fingerprint is available.
**LIST OF EXHIBITS**

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EXHIBIT A

SUBJECT PROPERTY

LEGAL DESCRIPTION

Real property in the unincorporated area of the County of Yuba, State of California, described as follows:


EXCEPTING THEREFROM ALL OIL, GAS AND OTHER HYDROCARBONS AND MINERALS AS CONVEYED BY THAT CERTAIN DEED FROM RUBEN J. COX, ET AL. TO LESLIE E. BURPO, ET AL., RECORDED AUGUST 30, 1974 IN BOOK 580 OF OFFICIAL RECORDS, AT PAGE 499.

APN's and Affects

016-606-008 (Affects: Lot 51)
016-606-007 (Affects: Lot 52)
016-606-006 (Affects: Lot 53)
016-606-005 (Affects: Lot 54)
016-606-004 (Affects: Lot 55)
016-606-003 (Affects: Lot 56)
016-606-002 (Affects: Lot 57)
016-606-001 (Affects: Lot 58)
016-604-007 (Affects: Lot 59)
016-604-006 (Affects: Lot 60)
016-604-005 (Affects: Lot 61)
016-604-004 (Affects: Lot 62)
016-604-003 (Affects: Lot 63)
016-604-002 (Affects: Lot 64)
016-604-001 (Affects: Lot 65)
016-602-001 (Affects: Lot 66)
016-602-002 (Affects: Lot 67)
016-602-003 (Affects: Lot 68)
016-602-002 (Affects: Lot 69)
016-602-001 (Affects: Lot 70)
016-602-000 (Affects: Lot 71)
016-602-000 (Affects: Lot 72)
016-602-000 (Affects: Lot 73)
016-602-000 (Affects: Lot 74)
016-602-000 (Affects: Lot 75)
016-602-000 (Affects: Lot 76)
016-602-000 (Affects: Lot 77)
016-602-000 (Affects: Lot 78)
016-605-006 (Affects: Lot 80)
016-605-007 (Affects: Lot 81)
016-605-008 (Affects: Lot 82)
016-605-009 (Affects: Lot 83)
016-605-010 (Affects: Lot 84)
016-603-009 (Affects: Lot 85)
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016-603-009 (Affects: Lot 87)
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016-603-013 (Affects: Lot 93)
016-603-014 (Affects: Lot 94)
016-603-015 (Affects: Lot 95)
016-603-016 (Affects: Lot 96)
016-603-001 (Affects: Lot 97)
016-603-002 (Affects: Lot 98)
016-603-003 (Affects: Lot 99)
016-603-004 (Affects: Lot 100)
016-603-005 (Affects: Lot 101)
016-603-006 (Affects: Lot 102)
016-603-007 (Affects: Lot 103)
016-603-008 (Affects: Lot 104)
ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (hereinafter "this Agreement") is entered into this _____ day of ____________, 200__, by and between _______________________________ (hereinafter called "Owner") and _______________________________ (hereinafter "Assignee").

RECITALS

A. On ________________, 200__, the County of Yuba and Owner entered into that certain agreement entitled "Development Agreement," approved by Ordinance ________________ (hereinafter "Agreement"), relative to the development known as ________________ (hereinafter "Subject Property").

B. Owner entered into a purchase and sale agreement whereby a portion of the Subject Property will be sold to Assignee, which portion of the Subject Property is identified and described in Exhibit A, attached hereto and incorporated herein by this reference (hereinafter the "Assigned Parcel(s)").

C. Owner desires to assign all of its interests, rights and obligations under the Agreement with respect to the Assigned Parcel(s).

D. Assignee desires to assume all Owner's rights and obligations under the Agreement with respect to the Assigned Parcel(s).

NOW, THEREFORE, Owner and Assignee hereby agree as follows:

1. Owner hereby assigns effective as of Owner's conveyance of the Assigned Parcel(s) to Assignee, all of the rights, interest, burdens and obligations of Owner under the Agreement with respect to the Assigned Parcel(s). Owner retains all the rights, interest, burdens and obligations under the Agreement with respect to all other property within the Subject Property owned thereby.

2. Assignee hereby assumes all of the burdens and obligations of Owner under the Agreement, and agrees to observe and fully perform all of the duties and obligations of Owner under the Agreement, and to be subject to all the terms and conditions thereof, with respect to the Assigned Parcel(s), it being the express intention of both Owner and Assignee that, upon the execution of this Agreement and conveyance of the Assigned Parcel(s) to Assignee, Assignee shall be come substituted for Owner as the "Developer" under the Agreement with respect to the Assigned Parcel(s).

3. All of the covenants, terms, and conditions set forth herein shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, successors and assigns.
IN WITNESS HEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

ASSIGNOR / OWNER

By: __________________________

Name: __________________________

Title: __________________________

ASSIGNEE

By: __________________________

Name: __________________________

Title: __________________________
EXHIBIT C

SPECIAL CONDITIONS AND REQUIREMENTS

This Exhibit C is attached to and made a part of that certain Development Agreement dated as of ____________, 2009 (the "Development Agreement"), by and between the County, TRLIA and the Developer named therein. For purposes of this Exhibit C, "Developer" shall mean Landsource Holding Company, LLC. The terms and conditions of this exhibit shall survive should the Development Agreement terminate prior to completion of reimbursements required herein.

Section 1.1 Background. Developer, or Developer's predecessor in interest as owners of the subject Property, was a party to (a) that certain Agreement For Advanced Funding and Reimbursement of Costs for Levee Improvements dated April 19, 2005 ("2005 Advanced Funding Agreement") and (b) the Second Agreement for Advanced Funding and Reimbursement of Costs for Levee Improvements, dated as of August 29, 2006, ("Second Funding Agreement"), (the 2005 Advance Funding Agreement and the Second Funding Agreement being sometimes collectively referred to herein as the "Funding Agreements"), which relates to the construction of certain flood protection improvements benefitting the Plumas Lake Specific Plan and the North Arboga Study Area, which area is generally described as the South Yuba Basin. In order to pay for costs associated with levee improvements in the South Yuba Basin, on November 18, 2008, the Board of Supervisors of the County of Yuba adopted Ordinance No. 1465, enacting the Three Rivers Levee Impact Fee ("Levee Fee"). The Levee Fee was based on the then estimated cost to complete the levee improvements. As a party to the Funding Agreements, Developer advanced funded certain amounts for the Levee Fee to be used for the levee improvements described above. By making advanced payments pursuant to the Second Funding Agreement, Developer became authorized under the terms of the Second Funding Agreement to record final maps and to have a certain number of building permits issued upon request for the Project.

At the time of the execution of the Second Funding Agreement, the anticipated levee improvements included strengthening in place improvements to the existing left (east) Feather River levee from the Bear River Setback levee to the Yuba River, however, a Feather River setback levee from Star Bend to Shanghai Bend (the "Feather River Setback Levee") was contemplated. In early 2008, the decision was made to change certain portions of the levee improvement project to include the Feather River Setback Levee. By doing this, the state of California committed to providing more than $135 million in funding, pursuant to Prop 1E and 84. Due to the receipt of the State grant funds, the amount of local funds needed to complete the levee improvements was reduced. This reduction caused the Levee Fee to be reduced. The Levee Fee was reduced with the adoption of Ordinance No. 1465 by the Board of Supervisors of the County of Yuba on November 18, 2008.

Due to the reduction of the Levee Fee, Developer claims a right of reimbursement and/or credit. This right is based on prior advanced funding made in excess of the amount required under the Levee Fee, as adjusted by Ordinance No. 1465 (herein "Prior Advanced Funding").

The County of Yuba has adopted certain policies to address the claimed rights of reimbursement or credit for Prior Advanced Funding. Those policies are set forth in the Three Rivers Levee Improvement Agreement Between the County of Yuba and Rio Del Oro Village 135.
Credit and Reimbursement Policies and Procedures (the "Credit and Reimbursement Policy"). The Credit and Reimbursement Policy is hereby incorporated into and made a part of the Agreement, and is attached as Exhibit E. To the extent there is any inconsistency between this Agreement and the Credit and Reimbursement Policy as to the timing, manner or amount of credit or reimbursement due, the Credit and Reimbursement Policy shall control.

Section 1.2  **Use of Credits.** The Parties to this Agreement agree that the Credit and Reimbursement Policy sets forth the amount of credit and reimbursement owed the Developer in connection with Prior Advanced Funding. The Credit and Reimbursement Policy shall control as to the amount of credit or reimbursement due and how any credit or reimbursement will be applied.

**Section 1.2.1.** For those units included in the Project for which Developer has applied for a building permit after April 19, 2005 and on or before October 21, 2008, the Levee Fee shall be levied at the current rate as set forth in Ordinance No. 1465 and the Developer shall receive full credit for such fees from the amount advance funded, as more specifically set forth in the Credit and Reimbursement Policy.

**Section 1.2.2.** For those units for which the Developer has applied for a building permit after October 21, 2008, Developer shall receive credit for the Levee Fee imposed on the Project on a proportionate basis for the remainder of the Project. For those building permits applied for after October 21, 2008, Developer will pay a portion of the Levee Fee at the rate set forth in Ordinance No. 1465 and at the time and in the manner required herein, based on the relative proportionality between the remainder of the Project not able to be funded from credit and the total remaining acreage left in the Project after all previously absorbed units, all consistent with the provisions of the Credit and Reimbursement Policy. The County will calculate the amount of the Levee Fee due after the credit at the time the individual building permits are issued for each unit to be constructed on the Project pursuant to a building permit applied for after October 21, 2008. The amount of the credit and how it will be applied is more specifically set forth in the Credit and Reimbursement Policy.

**Section 1.2.3.** To the extent that the Developer is developing multiple projects which were subject to the Second Funding Agreement and one project has advanced funded Levee Fees in excess of its total obligation and is due reimbursement, that reimbursement may be applied and added to the credit of any of Developer's other projects that will have a remaining obligation to pay Levee Fees. The manner in which the credit from a project that has paid fees in excess of its total obligation may be applied to the credit of Developer's other projects is set forth in Appendix A of the Credit and Reimbursement Policy.

**Section 1.3.  Reimbursement of Levee Fees.** If the amount owed to Developer for Prior Advanced Funding in excess of obligations owed under the current Levee Fee is not satisfied by application of credit to the Project or transfer of the credit to another project as set forth in Section 1.2.3., the remaining amount due will be reimbursed to Developer, solely from Levee Fees collected from others, and then only as follows:
Section 1.3.1. Before Levee Certification. Prior to certification by the Federal Emergency Management Agency (FEMA) of those levees to be constructed or improved pursuant to the Levee Improvement Program defined in Section 3 of the Second Funding Agreement, including the Feather River Setback Levee (the "Levee" or "Levees"), no reimbursement of Prior Advanced Funding will be made to the County, YCWA or Developer from any Levee Fees collected. Levee Fees collected through and until such certification date will be used to directly fund improvements to the Levees. However, it is understood by all parties that, to the extent Levee Fees are collected prior to such certification date, this funding may go to offset the additional required contribution of funds to the TRLIA Levee Improvement Program by the County and YWCA consistent with the intent of the July 22, 2008 Agreement Concerning Levee Impact Fees Among County of Yuba, Yuba County Water Agency, and Yuba Levee Financing Authority.

Section 1.3.2. After Certification of the Levees and before March 1, 2015. During the time period between when the Levees are certified by FEMA and before March 1, 2015 twice per year distribution of Levee Fee revenue not needed to pay any Levee improvement costs incurred prior to such certification but not yet paid will occur. The revenues collected before March 1, 2015 will be split between those parties determined by the County to be due reimbursements (including the County and YCWA on a proportionate basis, based upon the aggregate principal amount of their outstanding reimbursement. Table 6 of the Credit and Reimbursement Policy sets forth an example of the proportionality of outstanding reimbursements due.

Section 1.3.3. From and After March 1, 2015 and until all Reimbursements are Complete. Commencing on March 1, 2015 twice per year distributions of Levee Fee revenue will occur as follows: (a) initially, 100% of the revenues collected will go to fund the scheduled debt service due on the borrowing to fund levee improvements secured by lease and installment payment obligations of the County and YCWA and (b) any remaining Levee Fee revenue will be split between those parties determined by the County to be due reimbursements (including the County and YCWA) on a proportionate basis, based upon the aggregate principal amount of their outstanding reimbursement.

Section 1.3.4. Interest. Any reimbursement owed to Developer, as well as to County or YWCA, will accrue interest at a rate of 5.534% per annum. Interest will be calculated on a monthly compounding rate.

Section 1.3.5. Acknowledgment. Except as set forth in this Exhibit C and the Credit and Reimbursement Policy, Developer acknowledges and agrees that no other reimbursement or credit is due for funds advanced under prior agreements concerning construction of the Levees, including the 2005 Funding Agreement and/or the Second Funding Agreement.

Section 1.3.6. Inspection of Records. Developer shall have the right to review and inspect records of the County with respect to Levee Fees and other revenue sources available to make payments or reimbursements to Developer under this Section 1.3. Developer must give the County reasonable notice of any such request.
Section 1.4. **Extension of Tentative Map Life.** The expiration date of any existing tentative map within the Subject Property, subject to the Credit and Reimbursement Policy, is extended for twenty (20) years from the original approval date, inclusive of any and all other extensions which may be provided by law.

Section 1.5. **County Imposed Development Fees.** The County shall not impose any New Fees relating to the Project for ten (10) years from the Effective Date of this Development Agreement. Notwithstanding the forgoing, the County may impose New Fees as follows: (a) any Traffic Impact (Road Improvements) component of the County-Wide Capital Facility Fee and, (b) any fees levied for the purpose of offsetting the cost of regional park improvements, provided, however, that the cumulative new fees levied for regional park improvements shall not exceed Two Thousand Dollars ($2,000) per dwelling unit contained in the Project. To the extent a New Fee is levied against the Project pursuant to one of the exclusions listed herein, that New Fee shall be imposed and levied in a manner consistent with all applicable State and local laws and regulations. Development impact fees imposed by entities other than the County or by the County on behalf of other entities are not subject to this provision.

Section 1.6. **Impact Fee Lock.** The County shall not increase any Current Fees relating to the Project for 10 years from the Effective Date of this Development Agreement. Notwithstanding the forgoing, the County may increase Current Fees as follows: (a) any currently incorporated escalator adopted with and incorporated into the Current Fee; (b) any increase to the current Traffic Impact (Road Improvements) component of the County-Wide Capital Facility Fee; and (c) any change or increase to the current PLSP/NASA Road Improvement Fee. To the extent a Current Fee levied against the Project is changed or increased pursuant to one of the exclusions listed herein, that change or increase shall be imposed and levied in a manner consistent with all applicable State and local laws and regulations. Development impact fees imposed by entities other than the County or by the County on behalf of other entities are not subject to this provision.

Section 1.7. **Developer to Receive Benefit of Reduction in Fees.** Notwithstanding any of the other terms of this Agreement, any reduction to Current Fees or New Fees that is applied to development within the County generally shall be applied to the Project.

Section 1.8. **Deferral of Collection of Impact Fees.** The balance of the Levee Fee due after application of credit as described in 1.2 above with respect to units in the Project, shall be calculated for each unit at the time a building permit is issued for that unit, but the collection by the County of the amount due shall be deferred until the final inspection of the unit for which the building permit is issued (in a manner consistent with Yuba County Ordinance No. 1461). The duration of this fee deferral will be for ten (10) years from the Effective Date of this Development Agreement. The collection of all other development impact fees and County-Wide Capital Facility Fees will be deferred in a manner consistent with the Yuba County Ordinance No. 1461, except that, the duration of the deferral will be ten (10) years from the date of this Development Agreement. Following any such deferral period, all fees will be due and payable as and when levied in accordance with County policy. Development impact fees imposed by
entities other than the County or by the County on behalf of other entities are not subject to this provision.

Section 1.9. Builder Bonds. In the event that the Developer is the registered owner of any Builder Bonds (as such term is defined in the Second Funding Agreement) issued by TRLIA for CFD 2006-1 or CFD 2006-2 (as such community facilities districts are described in Section 7.A.(1) of the Second Funding Agreement), the County and TRLIA agree to take all reasonable actions on its part necessary or appropriate, at the written request and cost of the Developer, in the redemption or refunding of such bonds, so long as any such request is consistent with the procedures and requirements described in Appendix B to the Three Rivers Levee Impact Credit and Reimbursement Policy. The County and TRLIA acknowledge and agree that all special tax revenues collected by TRLIA from special tax levies for CFD 2006-1 and CFD 2006-2 shall be disposed of by TRLIA as provided in Section 4.01 of the respective Fiscal Agent Agreement for the Builder Bonds for the respective community facilities district, in the rate and method of apportionment for the respective community facilities district and, to the extent not inconsistent with the foregoing, as described in Appendix C to the Credit and Reimbursement Policy.

Section 1.10. Failure of Consideration. The terms and conditions set forth in Sections 1.4 through 1.8 of this Exhibit C are granted by the County in consideration of the Developer's agreement to the credit and reimbursement terms in Section 1.2 and 1.3 et seq. If any term of the credit and reimbursement policies as set forth in Sections 1.2 and 1.3 et seq. is deemed invalid or a legal challenge to any such terms is made by Developer, then there shall be deemed a failure of consideration and the provisions of Section 1.4 through 1.8 shall be void and unenforceable by Developer.

Section 1.11.1 Flood Insurance. Developer shall provide, at no cost to all new residents (including the initial sale by the Developer and all subsequent resales) of homes constructed by such Developer within the Affected Area (as defined in the Second Funding Agreement) since 2003 (i.e., homes for which building permits were issued from and after January 1, 2003), flood insurance and renewals of flood insurance only through the Completion of the Levee or until December 31, 2010 (whichever occurs first). As used in this Section, "Completion" shall mean the earlier of: (i) the date on which a notice of completion is recorded by the general contractors performing TRLIA's Phase 4 work, or (ii) the date on which a determination of substantial completion of TRLIA's Phase 4 work is made by the Executive Officer of the Central Valley Flood Protection Board. The County and TRLIA will reasonably cooperate in assisting Developer to fulfill this requirement, including but not limited to providing for notice of resales of homes within the Project to be provided to Developer. The renewals and subsequent issuance of flood insurance provided by the Developer shall satisfy the minimum requirements of the National Flood Insurance Program for a standard dwelling policy.

Section 1.11.2 Notice Requirements to New and Existing Homeowners. Developer shall take the following steps to increase the awareness of flood risk by new and existing purchasers of homes within the Project:

(a) At the time of execution of a sales contract for a new home within the Project, Developer shall distribute an informational packet prepared by TRLIA on the status of the Levee Improvement Program. Purchasers will then be requested to sign an acknowledgment
sheet that they have received the packet and are aware of the flood risks associated with the Project.

(b) At the time of closing on a new home within the Project, Participant shall require execution by the new purchaser of the home of a Notice of Acknowledgement stating that the purchaser understands that the Developer (home builder) is purchasing flood insurance for the purchaser of the home (including the terms of that insurance and the period for which that insurance will be purchased) and that the purchaser of the home has received an information packet on the Levee Improvement Program and the risk of purchasing a home within the Project.

(c) Four times a year until certification of all levees required under the Levee Improvement Program, TRLIA shall prepare and distribute through the mail to new and existing purchasers of new homes within the Project an information packet on the Levee Improvement Program and any information provided by the County or TRLIA to the Developer on steps that such purchasers may take to reduce the risk of flooding to homes within the Project, such as being aware of the County's pre-hazard mitigation program, time-inundation maps, and hazard evacuation routes. Developer shall reasonably assist TRLIA to provide such information packets.

Section 1.11.3 Evacuation and Prehazard Mitigation Program. County commits to continue to use reasonable diligence to inform residents within the Project, including portions of Reclamation District 784, of the risk of flooding and to further refine, improve, and make available the County's Evacuation Plan and Prehazard Mitigation Plan.

Section 1.11.4 Accounting, Auditing and Reporting.

(a) TRLIA and County shall use best efforts to properly account for all sums paid to and grants received by TRLIA and County for the Levee Improvement Program.

(b) Developer has the right, upon not less than three (3) business days notice, at all reasonable times, to inspect the books and records of TRLIA and County pertaining to the Levee Improvement Program, as pertinent to the purposes of this Agreement.

(c) Upon request each year by Developer, TRLIA shall deliver to Developer the audited financial statement prepared by a qualified independent auditor pertaining to the Levee Improvement Program for each fiscal year, including all revenues and expenditures of TRLIA relating thereto for the prior year's period. The audited financial statement shall be delivered to Developer within 30 days following submission of such statement to the TRLIA Board.

Section 1.11.5 Maintenance of Levees. TRLIA shall be responsible to assure levee maintenance until certification, as the improvements are completed, in accordance with the Levee Improvement Program and consistent with relevant State and Federal standards.

Section 1.11.6 Preparation of Informational Packets. TRLIA shall prepare and update informational packets on the status of the Levee Improvement Program which shall be distributed to new home purchasers by the Developer. Purchasers will then be requested to sign
Section 1.12. Status of Second Funding Agreement. The County, TRLIA and the Developer hereby acknowledge and agree that following State Approval all rights, duties, or obligations set forth in, or required by, the Second Funding Agreement as applied to each of them are hereby terminated and neither of the Funding Agreements is of any force or effect as to the County, TRLIA and Developer. "State Approval" shall mean receipt by TRLIA of a letter from the Central Valley Flood Protection Board which confirms that TRLIA has satisfied all of its obligations under the Second Implementation Agreement (referenced in Recital N to the Second Funding Agreement). The County, TRLIA, and the Developer further acknowledge and agree that (i) this Development Agreement supersedes both the 2005 Advanced Funding Agreement (referenced in Recital J to the Second Funding Agreement) as well as the Second Funding Agreement, (ii) all reimbursable amounts that may have been due to the Developer under the 2005 Advanced Funding Agreement have been deemed paid, and (iii) all funding advanced by the Developer to TRLIA under the Second Funding Agreement shall be applied pursuant to this Development Agreement. All obligations, rights and duties set forth in the Second Funding Agreement that apply to the County, TRLIA and Developer are hereby superseded by this Development Agreement. Notwithstanding anything in this Section 1.12 to the contrary, if a third party that was not a party to either Funding Agreements (meaning any party other than a party to this Agreement or a successor or related entity) shall make a claim under or to enforce the Second Funding Agreement against any party hereto, then solely for purposes of defending against, responding to, and/or making cross or counter claims in connection with the third party claim, the Second Funding Agreement shall not be deemed terminated, but only to the extent necessary to defend against, respond to, and/or make such cross or counter claims in connection with the third party claim.
EXHIBIT D
NOTICE OF TERMINATION

THIS NOTICE OF TERMINATION (hereinafter "this Notice") is given this ___ day of ____________, 200___, by the County of Yuba (hereinafter "County") for the benefit of ______________ (hereinafter "Owner").

1. On ______________, 200___, the County of Yuba and ______________ entered into that certain agreement entitled "Development Agreement," approved by Ordinance ______________ (hereinafter "Agreement"). relative to the development known as ______________ (hereinafter "Subject Property").

2. Owner has fully performed all its duties with respect to that portion of the Subject Property, which portion of the Subject Property is identified and described in Exhibit A, attached hereto and incorporated herein by this reference (hereinafter the "Released Property").

3. Pursuant to Section 4.1 of the Development Agreement, the Development Agreement is no longer in effect with respect to the Released Property.

COUNTY OF YUBA

By:____________________________

Name:____________________________

Title:____________________________

[NOTE: SIGNATURE MUST BE NOTARIZED]
NOTARY

State of California
County of _____________

On ______________, 20__, before me, ______________, Notary Public, personally appeared ________________________________, personally known to me (or proved 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.

____________________________________
Notary Signature

WITNESS MY HAND AND OFFICIAL SEAL.
DEVELOPMENT AGREEMENT
BY AND BETWEEN
THE COUNTY OF YUBA, THE THREE RIVERS LEVEE IMPROVEMENT AUTHORITY AND MS RIALTO RIVER OAKS CA, LLC (DEVELOPER) RELATIVE TO THE DEVELOPMENT KNOWN AS RIVER OAKS EAST

This document, including exhibits, totals __ pages.
# REFERENCE SHEET

**Project:**
River Oaks East – TSTM1995-0570

**Developer:**
MS Rialto River Oaks CA, LLC

**Developer's Address for Purpose of Written Notice:**
1075 Creekside Ridge Drive, Suite 100
Roseville, CA 95678

**Landowner:**
Same as above.

**Term:**
The Term of the Development Agreement, as provided for in section 1.8 begins thirty (30) days after the Board of Supervisors enacts the Adopting Ordinance (noted below) and expires on August 20, 2022, twenty (20) years from the original date of approval of TSTM1995-0570.

**Entitlements:**
As referred to in Recital 5 shall mean TSTM1995-0570 and all associated tentative and final maps.

**CEQA document:**
This project is located within the Plumas Lake Specific Plan area. A Final Environmental Impact Report for the Plumas Lake Specific Plan was adopted by the Yuba County Board of Supervisors on September 21, 1993 (State Clearinghouse No. 92072070). A residential project that is consistent with a specific plan is exempt from further environmental review (Section 15182 of the CEQA Guidelines.)

**Adopting Ordinance:**
As referred to in Section 1.3 (a), shall mean Ordinance No. __________ enacted by the Board of Supervisors on ______________, 20__.

**Exhibits which are attached to this Development Agreement are as follows:**
- A. Legal Description
- B. Assumption Agreement
- C. Special Conditions and Requirements
- D. Sample Notice of Termination
- E. Credit and Reimbursement Policy
- F. Addendum: Credit and Reimbursement Policies
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THIS DEVELOPMENT AGREEMENT ("Agreement") is made by and between the COUNTY OF YUBA, a political subdivision of the State of California (County”), the THREE RIVERS LEVEE IMPROVEMENT AUTHORITY, a joint powers authority ("TRLIA") and MS Rialto River Oaks CA, LLC ("Developer") pursuant to the authority of Article 2.5, Chapter 4, Division Title 7 (§ 65864 et seq. of the Government Code) relating to Development Agreements.

RECITALS

1. In order to strengthen the public land use planning process, to encourage private participation in the process, to reduce the economic risk of development and to reduce the waste of resources, the Legislature adopted the Development Agreement Law (Gov. Code, § 65864 et seq.)

2. The Development Agreement Law permits cities and counties to contract with private interests for their mutual benefit in a manner not otherwise available to the contracting parties. Such agreements, as authorized by the Development Agreement Law and by common law, assure property developers that they may proceed with their projects with the assurance that approvals granted by public agencies will not change during the period of development. Cities and counties are equally assured that costly infrastructure such as roads, sewers, fire protection facilities, etc., will be available in a timely manner.

3. The parties have, in good faith, negotiated the terms hereinafter set forth which carry out the legislative purpose set forth above and will assure the parties to this Agreement of mutually desirable development in a manner consistent with the CEQA document, the Entitlements, and this Agreement.

4. Developer owns in fee (or holds an option to purchase for a term that is or may be extended for at least the term of this Agreement) the Subject Property as more particularly described on Exhibit A hereto, located in the County.

5. County, in response to Developer's application(s), after public hearings and extensive environmental analysis, has granted approval of the Entitlements, as described on the Reference Sheet.

6. In support of the various Entitlements described in paragraph 5 above, and in accord with the California Environmental Quality Act ("CEQA") and State and County guidelines, County has accepted and ratified a CEQA document, as described on the Reference Sheet.

7. Development of the Subject Property pursuant to the terms and conditions of the Entitlements, the General Plan and appropriate environmental determinations will provide for orderly growth and development consistent with the County's General Plan and other development policies and programs.

8. The Planning Commission considered this Agreement, and recommended its adoption to the Board of Supervisors.
9. Having duly considered this Agreement and having held the noticed public hearings, County finds and declares that the provisions of this Agreement are consistent with the maps and text of the County's General Plan.

NOW, THEREFORE, the parties hereto agree as follows:

ARTICLE 1

GENERAL PROVISIONS

Section 1.1. The Project. The Project is defined as set forth on the Reference Sheet.

Section 1.2. Subject Property. The Subject Property is more specifically described in Exhibit A, which is incorporated herein and made part of this Agreement.

Section 1.3. Definitions. As used in the Agreement, the following terms, phrases and words shall have the meanings and be interpreted as set forth in this Section.

(a) Adopting Ordinance means the ordinance which approves this Agreement.

(b) Applicable Laws means the General Plan, Specific Plan (if applicable), County Laws, rules, ordinances, regulations, and official policies governing the processing of entitlements, the permitted uses of the Subject Property, the density or intensity of use, the rate and timing of development, design, improvements, reservation or dedication of land for public improvements, fees, exactions, construction and building setbacks, occupancy and specifications applicable to the Subject Property in effect on the Effective Date of this Agreement.

(c) Assumption Agreement means an agreement substantially conforming to the model assumption agreement described in Exhibit B, or other agreement in a form approved by the County Counsel, executed by a Landowner with the Developer, expressly assuming various obligations relating to the development of the Project, or portion thereof.

(d) CEQA means the California Environmental Quality Act section 21000 et seq., of the Public Resources Code of the State of California.

(e) Completed Lots shall mean any single-family residence, any other residential dwelling unit(s), or any non-residential building, and the lot or parcel upon which such residence or building is located, when it has been approved by the County for occupancy.

(f) County means the County of Yuba or, if the context otherwise requires, the Board of Supervisors for the County of Yuba, or its designee.

(g) County Laws means ordinances, resolutions, rules, regulations, policies, motions, directives, mitigation measures, conditions, standards, specifications, dedications, fees, taxes (including without limitation general, special and excise taxes), assessments, liens, other exactions and impositions, and any other actions having the force of law, that are enacted or adopted by County, or by its electorate through the initiative or referendum process.
(h) **Current Fees** means those County development impact fees in effect as of the Effective Date and any currently incorporated adjustments or increases therein adopted as of the Effective Date.

(i) **Developer** shall mean that person or entity that has applied for this Development Agreement as defined on the Reference Sheet.

(j) **Director** means the Community Development Director for the County, or his/her designee.

(k) **Effective Date** means the effective date of the Adopting Ordinance.

(l) **Entitlements** shall mean those approvals listed on the Reference Sheet of this Agreement, approved copies of which are on file with the Board of Supervisors.

(m) **General Plan** means the General Plan of the County, including the text and maps, as may have been amended in connection with the Project.

(n) **Landowner** is a party who has acquired any portion of the Subject Property from the Developer who, unless otherwise released as provided in this Agreement, shall be subject to the applicable provisions of this Agreement.

(o) **New Fees** means those development impact fees adopted by the County after the Effective Date of this Development Agreement.

(p) **Planning Commission** shall mean the County's Planning Commission, or its designee.

(q) **Reserved Powers** shall mean those powers explicitly reserved to the County by this Agreement.

(r) **Revenue Bonds** means the Yuba Levee Financing Authority Revenue Bonds, Series A and Taxable Revenue Bonds, Series B.

(s) **Subject Property** means the property described in Section 1.2, or the remaining portions thereof after releases from the provisions of this Agreement have been executed as authorized by this Agreement.

(t) **TRLIA** means the Three Rivers Levee Improvement Authority.

(u) **YCWA** means the Yuba County Water Agency.

**Section 1.4. Exhibits.** The Exhibits listed herein are incorporated into this Agreement and made a part hereof. The Exhibits are:

- **Exhibit A**  Subject Property
- **Exhibit B**  Assumption Agreement
- **Exhibit C**  Special Conditions and Requirements
Section 1.5. **Incorporation of Recitals.** Recitals 1 through 9 are incorporated herein, including all exhibits referred to in the Recitals. In the event of inconsistency between the Recitals and the provisions of Articles 1 through 5, the provisions of Articles 1 through 5 shall prevail.

Section 1.6. **Parties to Agreement.** The parties to this Agreement are:

(a) **The County of Yuba.** A political subdivision of the State of California exercising general governmental functions and powers. The principal office of the County is located at 915 8th Street, Marysville, California 95901.

(b) **Three Rivers Levee Improvement Authority.** A joint powers authority created by the County and RD 784. The principal office of TRLIA is located at the County of Yuba Government Center, 915 Eighth Street, Suite 115, Marysville, California 95901.

(c) **Developer.** Developer owns in fee or has an equitable interest in the Subject Property.

(d) **Landowner.** From time to time, as provided in this Agreement, Developer may sell or otherwise lawfully dispose of a portion of the Subject Property to a Landowner who, unless otherwise released, shall be subject to the applicable provisions of this Agreement related to such portion of the Subject Property.

Section 1.7. **Project is a Private Undertaking.** It is agreed among the parties that the Project is a private development and that the County has no interest therein except as authorized in the exercise of its governmental functions.

Section 1.8. **Term of Agreement.** This Agreement shall commence upon the Effective Date of the Adopting Ordinance approving this Agreement and shall continue in force for the period shown on the Reference Sheet under "Term." Upon the expiration of the Term as provided for in this section, this Agreement shall automatically terminate and be of no further force and effect; provided however, such termination shall not affect the rights or duties arising from the entitlements for the Subject Property which were approved prior to, concurrently with, or subsequent to the approval of this Agreement.

Section 1.9. **Assignment and Assumption.** Developer shall have the right to sell, assign, or transfer this Agreement with all the rights, title and interests therein to any person, firm or corporation at any time during the term of this Agreement. The conditions and covenants set forth in this Agreement and incorporated herein shall run with the land and the benefits and burdens shall bind and inure to the benefit of the parties. Developer shall provide County with a copy of the Assumption Agreement. Express written assumption by such purchaser, assignee or transferee, to the satisfaction of the County Counsel, of the obligations and other terms and conditions of this Agreement with respect to the Subject Property or such portion thereof sold, assigned or transferred, shall relieve the Developer selling, assigning or
transferring such interest of such obligations so expressly assumed. Any such assumption of
Developer's obligations under this Agreement shall be deemed to be to the satisfaction of the
County Counsel if executed in the form of the Assumption Agreement attached hereto as
Exhibit B and incorporated herein by this reference, or such other form as shall be approved by
the County Counsel.

Section 1.10. Covenants Running with the Land. Each and every purchaser, assignee
or transferee of an interest in the Subject Property, or any portion thereof, shall be obligated and
bound by the terms and conditions of this Agreement, and shall be the beneficiary thereof and a
party thereto, but only with respect to the Subject Property or such portion thereof, sold,
assigned or transferred to it. Any such purchaser, assignee or transferee shall observe and fully
perform all of the duties and obligations of a Developer contained in this Agreement, as such
duties and obligations pertain to the portion of the Subject Property sold, assigned or transferred
to it. Provided however, notwithstanding anything to the contrary above, if any such sale,
assignment or transfer relates to a completed residential unit or non-residential building which
has been approved by the County for occupancy, this Agreement shall automatically terminate
with respect to the Completed Lot. The termination of this Agreement for any Completed Lot
shall not be construed to terminate or modify any assessment district or Mello-Roos community
facilities district lien affecting such Completed Lot at the time of termination. Upon the request
of a Developer, County shall execute such documents as are reasonably requested to remove this
Agreement from the public records as it affects each Completed Lot. The County may charge a
reasonable fee to process this request.

Section 1.11. Amendment to Agreement (Developer and County). This Agreement
may be amended by mutual consent of the parties in writing, in accordance with the provisions
of Government Code section 65868, provided that: any amendment which relates to the term,
permitted uses, density, intensity of use, height and size of proposed buildings, or provisions for
reservation and dedication of land shall require a noticed public hearing before the parties may
execute an amendment. Unless otherwise provided by law, all other amendments may be
approved without a noticed public hearing.

Any amendment entered into between the County and the Developer shall require the
signature of each owner of any portion of the Subject Property to the extent the amendment
modifies this Agreement as to that other owner's property.

Section 1.12. Amendment to Agreement (Landowner and County). This Agreement
may also be amended, subject to the provisions of Government Code section 65868, between a
Landowner who has acquired a portion of the Subject Property from Developer and County as to
the portions of the Subject Property then owned by Landowner.

Any amendment entered into between the County and a Landowner shall require the
signature of each Landowner of any portion of the Subject Property or the Developer to the
extent the amendment modifies the Agreement as to that Landowner's or the Developer's
property.

Section 1.13. Releases. Developer, and any subsequent Landowner, shall be deemed
released from all further obligations relating to the sold, assigned, or transferred property, upon
the date that the County Clerk receives a copy of the Assumption Agreement provided for in Section 1.9.

**Section 1.14. Notices.** Notices, demands, correspondence, and other communication to County and Developer shall be deemed given if dispatched by prepaid first-class mail to the principal offices of the parties as designated in Section 1.6(a). Notice to the County shall be to the attention of both the County Administrator and the Director. Notices to subsequent Landowners shall be required to be given by the County only for those Landowners who have given the County written notice of their address for such notices. The parties hereto may, from time to time, advise the other of new addresses for such notices, demands or correspondence.

**Section 1.15. Reimbursement for Agreement Expense of County.** Developer agrees to reimburse County for a pro-rata share of the reasonable and actual expenses over and above fees paid by Developer as an applicant, specifically incurred by County for the modification of the County's form development agreement into the form of this Agreement, including recording fees, publishing fees, and reasonable staff and consultant costs not otherwise included within application fees then due and payable to the County. Such reimbursement shall be paid to the County within 10 days following invoice by the County. Developer shall also pay any and all delinquent installments of property tax then due for the Subject Property.

**Section 1.16. Recordation of Agreement.** The County Clerk shall cause a copy of this Agreement to be recorded with the County Recorder not later than ten (10) days after the effective date following execution of this Agreement by the County. Developer hereby covenants that during the period following execution and the recording of this Agreement by the County, Developer shall not, without prior written approval by the County Counsel, cause or allow to be recorded against the Subject Property any instrument affecting the priority, validity or enforceability of this Agreement.

**Section 1.17. Applicable Law.** This Agreement shall be construed and enforced in accordance with the laws of the State of California.

**Section 1.18. Invalidity of Agreement/Severability.** If this Agreement in its entirety is determined by a court to be invalid or unenforceable, this Agreement shall automatically terminate as of the date of final entry of judgment. If any provision of this Agreement shall be determined by a court to be invalid and unenforceable, or if any provision of this Agreement is rendered invalid or unenforceable according to the terms of any federal or state statute, which became effective after the Effective Date, the remaining provisions shall continue in full force and effect.

**Section 1.19. Third Party Legal Challenge.** In the event any legal action or special proceeding is commenced by any person or entity other than a party or a Landowner, challenging this Agreement, the Entitlements or any approval subsequently granted by the County for the development of the Subject Property, then the parties and any Landowner agree to cooperate with each other in good faith in connection with the defense of the same. County may elect to tender the defense of any lawsuit filed by a third person or entity to Developer and/or Landowner(s) (to the extent the litigation, in part or in whole, seeks to overturn or invalidate this Agreement, the Entitlements or any subsequent approval granted for the Subject Property).
Property held by or granted to Developer and/or Landowner), and, in such event, Developer and/or such Landowner(s) shall indemnify, hold the County harmless from and defend the County from all costs and expenses incurred in the defense of such lawsuit, including, but not limited to, damages, attorneys' fees and expenses of litigation awarded to the prevailing party or parties in such litigation. For purposes of this section only, "County" shall include all employees, consultants and agents acting on behalf of the County. Neither party shall settle any such lawsuit without the consent of the other party. The County may elect to participate in the litigation, in which case the Developer and/or Landowner agree to reimburse the County for its litigation costs and fees, including the retention of outside legal counsel and all staff costs. It is the intent of the Parties that the County's participation not result in unnecessary duplication of legal services, but rather that the County's active involvement in the litigation be limited to supervising the preparation of the administrative record or discovery as applicable, monitoring of litigation, and responsive pleadings regarding issues which, in the sole opinion of the County, involve broader County concerns then those immediately affecting the Landowner and/or Developer. Upon written demand of the County, Developer and/or Landowner shall deposit with the County such sums as may be specified by the County as its estimated litigation costs and fees for the following thirty day period. Both parties shall act in good faith, and shall not unreasonably withhold consent to settle. In the event that the County elects to settle a claim, and Developer refuses to also settle, County at its sole option may require Developer to post security in a form and amount reasonably acceptable to the County, for the performance of Developer's duties under this section. If the Developer, within 30 days of receiving written notice from County, fails to post this security, the Developer shall settle the claim on terms as previously approved by the County. This provision shall survive the termination of this Agreement.

Section 1.20. Waiver of Claims. Developer waives, as to the Subject Property only, any and all existing claims that it may have against the County, its agents, employees and consultants, arising out of the adoption and/or application of development requirements and standards, impact fees, the adoption of this Agreement or approval of the Entitlements and all of the proceedings, acts or determinations made prior thereto.

Section 1.21. Priority of Enactment. In the event of conflict between the Development Agreement, the Entitlements and the County Laws, the parties agree that the following sequence of approvals establishes the relative priority of approvals, each approval superior to the approvals listed thereafter: (1) Exhibit C to this Agreement; (2) the Development Agreement; (3) the Entitlements and (4) the County Laws. In the event of a conflict between two or more of the foregoing documents, the language of that document which is superior in priority as provided above shall govern.

ARTICLE 2

THE PROJECT AND DEVELOPMENT OF THE SUBJECT PROPERTY

Section 2.1. Limited Vested Right. During the Term of and subject to the terms of this Agreement the Developer's rights shall be vested only as to the Entitlements. "Vested" shall mean that except as to express limitations and reservations contained in this Agreement, Developer has a fully vested right to develop the Property in accordance with the terms and
conditions of this Agreement and the Entitlements, and Developer’s Entitlements shall not be subject to changes in Applicable Laws. In the event that the County grants an approval or permit in the implementation of the Project, the approval or permit shall be pursuant to Applicable Laws and shall also be considered vested. This section shall not be construed to limit the authority, or obligation of the County to hold necessary public hearings, or to limit the discretion of the County or any of its officers or officials with regard to rules, regulations, ordinances, laws and entitlements, which require the exercise of discretion by the County or any of its officers or officials in accordance with the Applicable Laws, or those reserved powers set forth in Section 2.6. The foregoing shall not be deemed to limit Developer’s rights to seek a modification or amendment to the Entitlements.

Section 2.2. No Moratorium, Quotas, Restrictions, or Other Growth Limitations. Except as otherwise provided by the terms and conditions of this Agreement or the Entitlements, no ordinance, resolution, rule, regulation or policy of County shall be applied, imposed or enacted by County, by resolution, ordinance, initiative, or otherwise, which in any way relates to the rate, timing or sequencing of the development or use of the Subject Property, or any improvements related thereto, including without limitation, any no-growth or slow-growth moratoriums or annual development allocations, quotas or limitations, or in any way conflicts with the permitted uses, density and intensity of uses, maximum building height and size set forth in the Entitlements; provided, however, Developer shall be subject to any such growth limitation ordinance, resolution, rule; regulation or policy which is adopted on a uniformly applied, County-wide basis and directly concerns an immediate, verifiable adverse risk to public health or safety, in which case County shall treat Developer in a uniform, equitable and proportionate manner with all properties which are zoned consistent with Developer’s zoning set forth in the Entitlements. Without limitation of the foregoing, any future County rules, ordinances, regulations or policies, whether by specific reference to the development of the Subject Property or as part of a general enactment that directly or indirectly applies to the development of the Subject Property, shall be considered to conflict with this Agreement if it has any one or more of the following effects: (a) limits or reduces the number of lots or square footage which may be developed on the Subject Property, the density or intensity of use allowed under the Entitlements, (b) imposes or increases any fees, exactions or other monetary obligation from what is set forth in Applicable Law, the Entitlements or the terms of this Agreement, (c) limits utilities, services or related facilities or rights to use such utilities, services or privileges for the Subject Property or that condition development or construction on the availability of public services and/or facilities (for example, the presence of a specified traffic level of service or water or sewer availability) other than as set forth in the Entitlements, (d) limits or controls in any manner the growth or other rate, timing, phasing, or sequencing of the approval or development of the Subject Property, whether by moratorium, growth restriction, or any mechanism by which the development is tied to the availability of public services, and/or facilities or otherwise, (e) limits the maximum height, bulk and size of proposed buildings from what is set forth in Applicable Law, (f) applies to the Subject Property any future County law otherwise allowed by this Agreement that is not applied on a County-wide basis to all substantially similar developments and properties, (g) changes any land use designation or permitted use vested by this Agreement on the Subject Property without the consent of Developers, (h) requires the issuance of additional permits or approvals by County other than those required by Applicable Laws, or (i) limits the processing of, or the obtaining of, any
subsequent entitlements or approvals necessary for the development of the Subject Property as contemplated by this Agreement.

Section 2.3. Permitted Uses and Development Standards. The permitted uses and development standards shall be those as set forth in and permitted by the Entitlements, County Zoning, Applicable Laws and subdivision and land development standards as of the Effective Date.

Section 2.4. Application, Processing and Inspection Fees. Application fees, processing fees, and inspection fees that are revised during the term of this Agreement shall apply to the development pursuant to this Agreement, provided that such revised fees apply generally to similar private projects or works within County.

Section 2.5. Impact Fees. [Intentionally Omitted—See Exhibit C: Special Conditions and Requirements]

Section 2.6. Reserved Powers. Notwithstanding any other provision of this Agreement, and without limitation as to any other requirements or exceptions contained in this Agreement, the County retains the authority to take the following actions and apply the same to the Subject Property:

(a) The authority of the Board of Supervisors to adopt regulations to protect the County and its citizens from an immediate and significant adverse risk to health and safety. This shall include, but not be limited to, lack of sufficient sewer and/or water facilities, but not school facilities.

(b) Adopt new or amended building codes (as may be amended by the County), including, but not limited to, the Uniform Building Code, Uniform Fire Code, Uniform Mechanical Code, Uniform Plumbing Code, National Electrical Code, Uniform Housing Code, and Uniform Sign Code, that generally apply equally to all buildings, structures and real property in the County.

(c) Adopt land use regulations, ordinances, policies, programs, resolutions or fees generally applicable to similar development projects adopted or undertaken by County as and only to the extent necessary to comply with state or federal laws, or regulations, provided that in the event that such state or federal laws or regulations prevent or preclude compliance with one or more provisions of this Agreement, such provision or provisions shall be modified or suspended as may be necessary to comply with such state or federal laws or regulations.

(d) Adopt county land use regulations, ordinances, policies, programs or resolutions adopted after the Effective Date, which are in conflict with the Applicable Laws, but the application of which to the development of the Subject Property has been consented to in writing by the Developer and/or the applicable Landowner by later separate document, which consent Developer and/or Landowner may withhold in their sole and exclusive discretion.

Section 2.7. Obligation and Rights of Mortgage Lenders. The holder of any mortgage, deed of trust or other security instrument with respect to the Subject Property, or any
portion thereof, shall not be obligated under this Agreement to construct or complete improvements or to guarantee such construction or completion, but, in the event said holder takes title to the Subject Property through foreclosure of a mortgage or a deed of trust, or deed-in-lieu of such foreclosure, said holder shall be bound by all of the terms and conditions of this Agreement which pertain to the Subject Property or such portion thereof in which it holds an interest. Any such holder who comes into possession of the Subject Property, or any portion thereof, pursuant to a foreclosure of a mortgage or a deed of trust, or deed in lieu of such foreclosure, shall take the Subject Property, or such portion thereof, subject to any pro rata claims for payments or charges against the Subject Property, or such portion thereof, which accrue prior and subsequent to the time such holder comes into possession. Nothing in this Agreement shall be deemed or construed to permit or authorize any such holder to devote the Subject Property, or any portion thereof, to any uses, or to construct any improvements thereon, other than those uses and improvements provided for or authorized by this Agreement, subject to all of the terms and conditions of this Agreement.

Upon foreclosure or deed-in-lieu thereof, a lender has no obligation to pay any amounts related to the Subject Property, unless said lender or successor-in-interest elects to use the Entitlements to develop the Subject Property.

Section 2.8. Tolling and Extension During Legal Challenge or Moratoria.

(a) If this Agreement, any of the Entitlements or any subsequent entitlements, approvals or permits required to implement the Entitlements (such as any required fill permit) are subjected to legal challenge by a third party, other than Developer, and Developer cannot or elects not to proceed with development of the Subject Property during such litigation, the Term of this Agreement and timing for obligations imposed pursuant to this Agreement shall, upon written request of Developer to County, be extended and tolled during such litigation until the entry of final order or judgment upholding this Agreement, the Entitlements, subsequent entitlements, approvals and/or other permits required to implement the Entitlements, or the litigation is dismissed by stipulation of the parties.

(b) If this Agreement, any of the Entitlements or any subsequent entitlements, approvals or permits required to implement the Entitlements are subjected to moratoria, and Developer cannot or elects not to proceed with the development of the Subject Property during such moratoria, the Term of this Agreement and timing for obligations imposed pursuant to this Agreement shall, upon written request of Developer to County, be extended and tolled during such moratoria. Moratoria shall be defined as restrictions, moratorium or de facto moratoria on approval or recordation of final maps, issuance of building permits, final inspections or certificates of occupancy, or approval or issuance of other such entitlements or permits, at the time of the transfer which would limit the reasonable ability to construct in a similar fashion a development project previously approved by the County.

Section 2.9. Timing of Construction and Completion. Notwithstanding any provision of this Agreement to the contrary, there is no requirement that Developer initiate or complete development of the Subject Property or any particular phase of development of the Subject Property within any particular period of time, and County shall not impose such a requirement on any subsequent approval. The parties acknowledge that Developer cannot at this
time predict when, or the rate at which or the order in which, phases will be developed. Such decisions depend upon numerous factors that are not within Developer's control, such as market orientation and demand, interest rates, competition, and other similar factors. In light of the foregoing, the parties agree that Developer shall be able to develop in accordance with Developer's own time schedule as such schedule may exist from time to time, for whatever reason, and that Developer shall determine the order in which portions of the Subject Property shall be developed. Without limiting of any of the foregoing, the parties specifically desire to avoid the consequences of the holding of the California Supreme Court in Pardee Construction Co. v. County of Camarillo (1984) 37 Cal.3d 465, which held that the failure of the parties therein to consider and expressly provide for the timing of development resulted in a later-adopted initiative restricting the timing of development to prevail over such parties' agreement; consequently, the parties agree that Developer shall have the right to develop the Subject Property in such order and at such rate and at such times as Developer deems appropriate within the exercise of its subjective business judgment. Nothing in this Section 2.9 shall exempt Developer from completing work required by a subdivision agreement, road improvement agreement or similar agreement in accordance with the terms thereof.

Section 2.10. Property Tax. Developer shall pay all installments of property tax applicable to the Subject Property prior to such installments becoming delinquent.

ARTICLE 3

DEFAULT

Section 3.1. General Provisions. Subject to extensions of time by mutual consent in writing, any failure to perform any term or provision of this Agreement by County, by Developer or by Landowner not released from this Agreement to perform any term or provision of this Agreement, shall constitute a default in the event (a) the party alleging such default or breach gives the other party or Landowner not less than sixty (60) days notice in writing specifying the nature of the alleged default and the manner in which said default may be cured, and (b) the said other party does not cure the breach or default within said sixty (60) days (or, if the cure cannot be accomplished within 60 days, if said other party does not commence the cure within 60 days and diligently prosecute the cure thereafter.) During any such sixty (60) day period, the party or Landowner charged shall not be considered in default for purposes of termination or institution of legal proceedings.

After notice and expiration of the sixty (60) day period, if such default has not been cured or is not being diligently cured in the manner set forth in the notice, the other party or Landowner to this Agreement may, at his/her option, institute legal proceedings pursuant to this Agreement or give notice of his/her intent to terminate this Agreement pursuant to California Government Code section 65868 and any regulations of the County implementing said Government Code section. Following notice of intent to terminate, or prior to instituting legal proceedings, the matter shall be scheduled for consideration and review in the manner set forth in Government Code sections 65865, 65867, and 65868 and County regulations implementing said sections by the County within thirty (30) calendar days.
Following consideration of the evidence presented in said review before the County and an additional 30-day period to cure, either party alleging the default by the other party or Landowner may institute legal proceedings or may give written notice of termination of this Agreement to the other party; provided, however, a Landowner may only give such notice with respect to such portion of the Subject Property in which Landowner owns an interest.

Section 3.2. Annual Review. The County shall, at least every twelve (12) months during the term of this Agreement, review the extent of good faith substantial compliance by Developer and Landowner with the terms of this Agreement. Such periodic review by the Director, unless referred to the Planning Commission or the County Board of Supervisors shall be limited in scope to compliance with the terms of this Agreement pursuant to California Government Code section 65865.1. Each said review shall be completed within sixty (60) days of the first meeting of the Planning Commission and the County Board of Supervisors, respectively, at which such review is undertaken, unless said period is extended by mutual consent of the County and Developer. Failure to complete said review within the prescribed period shall be deemed a finding of good faith substantial compliance. Notice of such annual review shall include the statement that any review, the result of which the local agency finds and determines on the basis of substantial evidence, that the Developer has not complied in good faith with the terms or conditions of the Development Agreement, may result in amendment or termination of this Agreement in accordance with Government Code section 65865.1. The County may charge the Developer a reasonable fee for such annual review to defray the cost to the County to process and conduct such annual review.

The County shall deposit in the mail or fax to Developer and/or Landowner a copy of all staff reports and, to the extent practical, related exhibits concerning contract performance at least seven (7) days prior to such periodic review. Developer or Landowner shall be entitled to appeal a determination of the Director to the Commission and then to the Board of Supervisors. Any appeal must be filed within ten (10) days of the decision of the Director, or the Commission, as the case may be. Developer or Landowner shall be permitted an opportunity to be heard orally and/or in writing regarding its performance under this Agreement before the Commission, Board of Supervisors, and/or Director, as the case may be.

Section 3.3. Developer Default Limited to Property/Entity; Separate Obligations of Owners. Except as specified herein in Section 3.1, no default hereunder in performance of a covenant or obligation with respect to a particular portion of the Subject Property shall constitute a default applicable to any other portion of the Subject Property, and any remedy arising by reason of such default shall be applicable solely to the portion of Subject Property where the default has occurred. Similarly, the obligations of the Developer and Landowners shall be severable and no default hereunder in performance of a covenant or obligation by any one of them shall constitute a default applicable to any other owner who is not affiliated with such defaulting owner, and any remedy arising by reason of such default shall be solely applicable to the defaulting owner and the portion of the Subject Property owned thereby.

Section 3.4. Default by County. In the event the County does not accept, review, approve or issue necessary development permits or entitlements for use in a timely fashion as defined by this Agreement, or as otherwise provided in this Agreement, or the County otherwise
defaults under the terms of this Agreement, Developer and/or Landowner may give written notice thereof to the County and if not cured within sixty (60) days following receipt of such notice, Developer shall have all rights and remedies provided herein or under applicable law, including without limitation the right to pursue actions for mandamus, specific performance, or injunctive or declaratory relief to enforce this Agreement. Notwithstanding the foregoing sentence, the County, Developer and Landowner each waives any and all rights to seek monetary damages from any other party as a result of any breach or alleged breach of such other party's obligations hereunder, excluding (a) any claim for refunds of fees or excess fee payments imposed inconsistent with this Agreement, and (b) County claims regarding payment of fees, taxes, assessment and other charges, including Levee Fees. In the event the County is in default under the terms of this Agreement, any resulting delays in Developer's performance caused thereby shall not constitute grounds for termination or cancellation of this Agreement.

Section 3.5. Default by and Remedies of TRLIA. TRLIA's rights and obligations under this Agreement are specifically limited to those rights and obligations specifically attributed to TRLIA as set forth in Exhibit C to this Agreement. TRLIA is considered a third party beneficiary of Exhibit C and shall have a right to enforce all obligations of Developer as set forth in Exhibit C to this Agreement. In the event that TRLIA defaults under the terms of this Agreement, Developer and/or Landowner may give written notice thereof to TRLIA with a copy to the County, and if not cured within sixty (60) days following receipt of such notice, Developer's sole remedy shall be the right to pursue actions for mandamus, specific performance, or injunctive or declaratory relief against TRLIA to enforce this Agreement. Notwithstanding the foregoing sentence, TRLIA, Developer and Landowner each waives any and all rights to seek monetary damages from any other party as a result of any breach or alleged breach of such other party's obligations hereunder, excluding any claim for refunds of fees or excess fee payments imposed inconsistent with this Agreement. In the event TRLIA is in default under the terms of this Agreement, any resulting delays in Developer's performance that are directly caused thereby shall not constitute grounds for termination or cancellation of this Agreement.

Section 3.6. Cumulative Remedies of Parties/Waiver of Right to Damages. In addition to any other rights or remedies, County, Developer and any Landowner may institute legal or equitable proceedings to cure, correct or remedy any default, to specifically enforce any covenant or agreement herein, to enjoin any threatened or attempted violation of the provisions of this Agreement. Notwithstanding the foregoing sentence, the County, Developer and Landowner each waives any and all rights to seek monetary damages from the other party as a result of any breach or alleged breach of such other party's obligations hereunder, excluding any claim for refunds of fees or excess fee payments imposed inconsistent with this Agreement.

ARTICLE 4

TERMINATION

Section 4.1. Termination Upon Completion of Development. This Agreement shall terminate upon the expiration of the Term as defined on the Reference Sheet or when the Subject Property has been fully developed and all of the Developer's obligations in connection therewith
are satisfied. Upon termination of this Agreement, the County shall record a notice of such
termination in a manner substantially similar to the form attached hereto as Exhibit D. This
Agreement shall automatically terminate and be of no further force or effect as to Completed
Lots.

Section 4.2. **Effect of Termination on Developer Obligations.** Termination of this
Agreement as to the Developer of the Subject Property or any portion thereof shall not affect any
of the Developer's obligations to comply with the County General Plan and the terms and
conditions of any applicable zoning, or subdivision map or other land use entitlements approved
with respect to the Subject Property, any other covenants or any other development requirements
specified in this Agreement to continue after the termination of this Agreement, or obligations to
pay assessments, liens, fees, or taxes. Termination of this Agreement shall not affect Developers
rights and duties under Exhibit C to this Agreement.

Section 4.3. **Effect of Termination on County.** Upon any termination of this
Agreement, as provided for under the terms and conditions of this Agreement, as to the
Developer of the Subject Property, or any portion thereof, the entitlements, conditions of
development, limitations on fees and all other terms and conditions of this Agreement shall no
longer be vested hereby with respect to the Subject Property affected by such termination
(provided vesting of entitlements, conditions or fees applicable to the Subject Property shall be
governed by planning and zoning law) and the County shall no longer be limited, by this
Agreement, to make any changes or modifications to such entitlements, conditions or fees
applicable to such property. Except as may be set forth in section 1.10 of Exhibit C, termination
of this Agreement shall not affect County or TRLIA rights and duties under Exhibit C to this
Agreement.

**ARTICLE 5**

**STANDARD TERMS AND CONDITIONS**

Section 5.1. **Venue.** Venue for all legal proceedings shall be in the Superior Court for
the County of Yuba.

Section 5.2. **Waiver.** A waiver by any party of any breach of any term, covenant or
condition herein contained or a waiver of any right or remedy of such party available hereunder
at law or in equity shall not be deemed to be a waiver of any subsequent breach of the same or
any other term, covenant or condition herein contained or of any continued or subsequent right
to the same right or remedy. No party shall be deemed to have made any such waiver unless it is
in writing and signed by the party so waiving.

Section 5.3. **Completeness of Instrument.** This Agreement, together with its specific
references and attachments, constitutes all of the agreements, understandings, representations,
conditions, warranties and covenants made by and between the parties hereto. Unless set forth
herein, neither party shall be liable for any representations made express or implied.
Section 5.4. **Supersedes Prior Agreements.** It is the intention of the parties hereto that this Agreement shall supersede any prior agreements, discussions, commitments, representations or agreements, written or oral, between the parties hereto.

Section 5.5. **Captions.** The captions of this Agreement are for convenience in reference only and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

Section 5.6. **Number and Gender.** In this Agreement, the neuter gender includes the feminine and masculine, and the singular includes the plural, the word "person" includes corporations, partnerships, firms or associations, wherever the context so requires.

Section 5.7. **Mandatory and Permissive.** "Shall" and "will" and "agrees" are mandatory. "May" is permissive.

Section 5.8. **Term Includes Extensions.** All references to the term of this Agreement or the Agreement Term shall include any extensions of such term.

Section 5.9. **Successors and Assigns.** All representations, covenants and warranties specifically set forth in this Agreement, by or on behalf of, or for the benefit of any or all of the parties hereto, shall be binding upon and inure to the benefit of such party, its successors and assigns.

Section 5.10. **Modification.** No, modification or waiver of any provisions of this Agreement or its attachments shall be effective unless such waiver or modification is in writing, signed by all parties, and then shall be effective only for the period and on the condition, and for the specific instance for which given.

Section 5.11. **Counterparts.** This Agreement may be executed simultaneously and in several counterparts, each of which shall be deemed an original, but which together shall constitute one and the same instrument.

Section 5.12. **Other Documents.** The parties agree that they shall cooperate in good faith to accomplish the object of this Agreement and to that end, agree to execute and deliver such other and further instruments and documents as may be necessary and convenient to the fulfillment of these purposes.

Section 5.13. **Partial Invalidity.** If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provision and/or provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

Section 5.14. **Controlling Law.** The validity, interpretation and performance of this Agreement shall be controlled by and construed under the laws of the State of California.

Section 5.15. **Time Is of the Essence.** Time is of the essence of this Agreement and each covenant and term a condition herein.
Section 5.16. **Authority.** All parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles and capacities herein stated and on behalf of any entities, persons, estates or firms represented or purported to be represented by such entity(s), person(s), estate(s) or firm(s) and that all formal requirements necessary or required by any state and/or federal law in order to enter into this Agreement have been fully complied with. Further, by entering into this Agreement, neither party hereto shall have breached the terms or conditions of any other contract or agreement to which such party is obligated, which such breach would have a material effect hereon.

Section 5.17. **Document Preparation.** This Agreement will not be construed against the party preparing it, but will be construed as if prepared by all parties.

Section 5.18. **Advice of Legal Counsel.** Each party acknowledges that it has reviewed this Agreement with its own legal counsel, and based upon the advice of that counsel, and freely entered into this Agreement.

Section 5.19. **Estoppel Certificate.** Within thirty (30) days following any written request which either party may make from time to time, and upon payment of a fee to the County to reimburse the County for its reasonable expenses associated herewith, the other party to this Agreement shall execute and deliver to the requesting party a statement certifying that:

(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; and

(b) there are not current uncured defaults under this Agreement or specifying the date, nature of any default and manner of cure.

This certificate may be executed by the Director.

Section 5.20. **Attorneys Fees and Costs.** If any action at law or in equity, including an action for declaratory relief, is brought to enforce or interpret provisions of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and costs, which may be set by the Court in the same action or in a separate action brought for that purpose, in addition to any other relief to which such party may be entitled.

Section 5.21. **Consent/Subordination.** Unless waived in writing by the County Counsel, Developer shall furnish proof satisfactory to the County, prior to approval of the Agreement that all persons possessing a legal interest in the Subject Property have consented to the recording of this Agreement in the County Recorder's Office against the Subject Property. Unless waived in writing by the County Counsel, the County shall require subordination by all lenders of record as a condition precedent to the County approval of the Agreement. The County shall have no duty to subordinate its interest in this Agreement.

Section 5.22. **Calculation of Time Periods.** All calculation of time periods shall be based upon calendar days unless a different intent is clearly stated.
IN WITNESS WHEREOF, this Agreement was executed by the parties thereto on the
dates set forth in the Preamble.

COUNTY:
COUNTY OF YUBA,
a political subdivision of the State of California

By: ________________________________
Name: ______________________________
Title: ______________________________

ATTEST:

By: ________________________________
Name: ______________________________
Title: County Clerk

APPROVED AS TO FORM:

By: ________________________________
Name: PAT GARAHONE
Title: County Counsel

DEVELOPER:
MS RIALTO RIVER OAKS CA, LLC, a Delaware limited liability company
By: MS RIALTO RESIDENTIAL HOLDINGS, LLC, a Delaware limited liability company, its
member
  By: MSR HOLDING COMPANY, LLC, a Delaware limited liability company, its member
    By: LENNAR HOMES OF CALIFORNIA, a California corporation, its California
        manager

By: ________________________________
Name: ______________________________
Title: VP

APPROVED AS TO FORM:

By: ________________________________
Name: ______________________________
Title: Counsel

Development Agreement Between the County of Yuba
and River Oaks East
TRLIA:
Three Rivers Levee Improvement Authority
a joint powers authority

By: ____________________________
Name: __________________________
Title: __________________________

APPROVED AS TO FORM:

By: ____________________________
Name: __________________________
Title: Counsel
CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of __ Placer____) ss.

On ___________ June 2, 2009 before me, ___________________________________, Notary Public,

personally appeared __________________________________________________________

who proved to me on the basis of satisfactory evidence to be the person(x) 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 signatures(x) on the instrument the person(x), or the entity upon behalf of which the person(x) 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.

__ Monique Reynolds
Signature
My Commission Expires Nov. 24, 2012

OPTIONAL INFORMATION

Date of Document: ____________________________ Thumbprint of Signer

Type or Title of Document: ____________________________

Number of Pages in Document: ____________________________

Document in a Foreign Language: ____________________________

Type of Satisfactory Evidence:

____ Personally Known with Paper Identification

____ Paper Identification

____ Credible Witness(es)

Capacity of Signer:

____ Trustee

____ Power of Attorney

____ CEO / CFO / COO

____ President / Vice-President / Secretary / Treasurer

____ Other: ____________________________

Other Information: ____________________________

___ Check here if no thumbprint or fingerprint is available.
**LIST OF EXHIBITS**

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EXHIBIT A

SUBJECT PROPERTY

LEGAL DESCRIPTION

Real property in the unincorporated area of the County of Yuba, State of California, described as follows:

TRACT ONE:


EXCEPTING THEREFROM ALL OIL, GAS AND OTHER HYDROCARBONS AND MINERALS NOW OR AT ANY TIME HEREAFTER SITUATE THEREIN AND THEREUNDER, AS RESERVED IN DEEDS RECORDED JANUARY 31, 1974 IN BOOK 568 YUBA COUNTY OFFICIAL RECORDS, AT PAGES 687, 691 AND 694.

TRACT TWO:


EXCEPTING THEREFROM ALL THAT PORTION OF LOT 25 LYING WESTERLY FROM THE FOLLOWING DESCRIBED LINE:

BEGINNING AT A 1/2" DIAMETER REBAR LS 3341 FOUND MARKING THE NORTHWEST CORNER OF SAID LOT 25, FROM WHICH A SIMILAR REBAR FOUND MARKING THE NORTHEAST CORNER OF LOT 26 PER SAID MAP BEARS NORTH 88° 29' 06" EAST 394.556 METERS; THENCE FROM SAID POINT OF BEGINNING, ALONG THE NORTHERLY LINE OF SAID LOT 25, NORTH 88° 29' 06" EAST 1.499 METERS; THENCE, LEAVING SAID LINE, SOUTH 00° 00' 45" EAST 28.676 METERS; THENCE ALONG A TANGENT CURVE TO THE LEFT WITH A RADIUS OF 2400.400 METERS, THROUGH A CENTRAL ANGLE OF 03° 39' 17", AN ARC DISTANCE OF 153.108 METERS; THENCE SOUTH 03° 40' 02" EAST 274.807 METERS; THENCE ALONG A TANGENT CURVE TO THE RIGHT WITH A RADIUS OF 2478.000 METERS, THROUGH A CENTRAL ANGLE OF 03° 24' 43", AN ARC DISTANCE OF 147.563 METERS; THENCE SOUTH 00° 13' 19" EAST 297.797 METERS; THENCE SOUTH 03° 38' 46" EAST 68.403 METERS; THENCE FROM A TANGENT THAT BEARS SOUTH 05° 53' 04" EAST, ALONG A CURVE TO THE LEFT WITH A RADIUS OF 842.000 METERS, THROUGH A CENTRAL ANGLE OF 07° 45' 05", AN ARC DISTANCE OF 113.914 METERS, TO A POINT ON THE SOUTHERLY LINE OF SAID LOT 25; THENCE, ALONG SAID SOUTHERLY LINE, NORTH 89° 59' 45" WEST 20.904 METERS TO THE SOUTHWESTERLY CORNER OF SAID LOT 25 AND THE END OF THIS DESCRIBED LINE. AS GRANTED TO THE STATE OF CALIFORNIA IN A GRANT DEED RECORDED AUGUST 13, 2003 AS INSTRUMENT NO. 2003-13759 OF OFFICIAL RECORDS, AND A QUITCLAIM DEED RECORDED AUGUST 13, 2003 AS INSTRUMENT NO. 2003-13757 OF OFFICIAL RECORDS.

ALSO EXCEPTING THEREFROM ALL THAT PORTION OF LAND SHOWN ON THAT MAP ENTITLED "TRACT MAP NO. 95-570 RIVER OAKS EAST VILLAGE I", FILED AUGUST 2, 2006 IN BOOK 85 OF MAPS, PAGES 15-19 IN THE OFFICE OF THE COUNTY RECORDER OF YUBA COUNTY, STATE OF CALIFORNIA.

ALSO EXCEPTING THEREFROM ALL OIL, GAS AND OTHER HYDROCARBONS AND MINERALS.
NOW OR AT ANY TIME HEREAFTER SITUATE THEREIN AND THEREUNDER, AS RESERVED IN DEEDS RECORDED JANUARY 31, 1974 IN BOOK 568 YUBA COUNTY OFFICIAL RECORDS, AT PAGES 687, 691 AND 694.

APN'S AND AFFECTS

022-221-002 through 022-221-006 (Affects: Lots 1 through 5)
022-222-002 (Affects: Lot 14)
022-222-006 through 022-222-010 (Affects: Lots 18 through 22)
022-243-007 (Affects: Lot 68)
022-243-006 (Affects: Lot 69)
022-243-005 (Affects: Lot 70)
022-243-004 (Affects: Lot 71)
022-243-003 (Affects: Lot 72)
022-243-002 (Affects: Lot 73)
022-243-001 (Affects: Lot 74)
022-234-003 (Affects: Lot 75)
022-234-002 (Affects: Lot 76)
022-234-001 (Affects: Lot 77)
022-233-006 (Affects: Lot 78)
022-233-005 (Affects: Lot 79)
022-233-004 (Affects: Lot 80)
022-242-008 (Affects: Lot 81)
022-242-007 (Affects: Lot 82)
022-242-006 (Affects: Lot 83)
022-242-005 (Affects: Lot 84)
022-242-004 (Affects: Lot 85)
022-242-003 (Affects: Lot 86)
022-242-002 (Affects: Lot 87)
022-242-001 (Affects: Lot 88)
022-233-003 (Affects: Lot 89)
022-233-002 (Affects: Lot 90)
022-233-001 (Affects: Lot 91)
022-232-001 through 022-232-004 (Affects: Lots 92 through 95)
022-241-001 through 022-241-004 (Affects: Lots 96 through 99)
022-040-010 & 022-040-015 (Affects Tract Two)
EXHIBIT B

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (hereinafter "this Agreement") is entered into this ___ day of ____________, 200___, by and between __________ (hereinafter called "Owner") and ______________ (hereinafter "Assignee").

RECITALS

A. On ______________ ___, 200___, the County of Yuba and Owner entered into that certain agreement entitled "Development Agreement," approved by Ordinance ______________ (hereinafter "Agreement"), relative to the development known as ______________ (hereinafter "Subject Property").

B. Owner entered into a purchase and sale agreement whereby a portion of the Subject Property will be sold to Assignee, which portion of the Subject Property is identified and described in Exhibit A, attached hereto and incorporated herein by this reference (hereinafter the "Assigned Parcel(s)").

C. Owner desires to assign all of its interests, rights and obligations under the Agreement with respect to the Assigned Parcel(s).

D. Assignee desires to assume all Owner's rights and obligations under the Agreement with respect to the Assigned Parcel(s).

NOW, THEREFORE, Owner and Assignee hereby agree as follows:

1. Owner hereby assigns effective as of Owner's conveyance of the Assigned Parcel(s) to Assignee, all of the rights, interest, burdens and obligations of Owner under the Agreement with respect to the Assigned Parcel(s). Owner retains all the rights, interest, burdens and obligations under the Agreement with respect to all other property within the Subject Property owned thereby.

2. Assignee hereby assumes all of the burdens and obligations of Owner under the Agreement, and agrees to observe and fully perform all of the duties and obligations of Owner under the Agreement, and to be subject to all the terms and conditions thereof, with respect to the Assigned Parcel(s), it being the express intention of both Owner and Assignee that, upon the execution of this Agreement and conveyance of the Assigned Parcel(s) to Assignee, Assignee shall be come substituted for Owner as the "Developer" under the Agreement with respect to the Assigned Parcel(s).

3. All of the covenants, terms, and conditions set forth herein shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, successors and assigns.
IN WITNESS HEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

ASSIGNOR / OWNER

By: ______________________________

Name: ____________________________

Title: ____________________________

ASSIGNEE

By: ______________________________

Name: ____________________________

Title: ____________________________
This Exhibit C is attached to and made a part of that certain Development Agreement dated as of __________, 2009 (the "Development Agreement"), by and between the County, TRLIA and the Developer named therein. For purposes of this Exhibit C, "Developer" shall mean MS Rialto River Oaks CA, LLC. The terms and conditions of this exhibit shall survive should the Development Agreement terminate prior to completion of reimbursements required herein.

Section 1.1 Background. Developer, or Developer's predecessor in interest as owners of the subject Property, was a party to (a) that certain Agreement For Advanced Funding and Reimbursement of Costs for Levee Improvements dated April 19, 2005 ("2005 Advanced Funding Agreement") and (b) the Second Agreement for Advanced Funding and Reimbursement of Costs for Levee Improvements, dated as of August 29, 2006, ("Second Funding Agreement"), (the 2005 Advance Funding Agreement and the Second Funding Agreement being sometimes collectively referred to herein as the "Funding Agreements"), which relates to the construction of certain flood protection improvements benefitting the Plumas Lake Specific Plan and the North Arboga Study Area, which area is generally described as the South Yuba Basin. In order to pay for costs associated with levee improvements in the South Yuba Basin, on November 18, 2008, the Board of Supervisors of the County of Yuba adopted Ordinance No. 1465, enacting the Three Rivers Levee Impact Fee ("Levee Fee"). The Levee Fee was based on the then estimated cost to complete the levee improvements. As a party to the Funding Agreements, Developer advanced funded certain amounts for the Levee Fee to be used for the levee improvements described above. By making advanced payments pursuant to the Second Funding Agreement, Developer became authorized under the terms of the Second Funding Agreement to record final maps and to have a certain number of building permits issued upon request for the Project.

At the time of the execution of the Second Funding Agreement, the anticipated levee improvements included strengthening in place improvements to the existing left (east) Feather River levee from the Bear River Setback levee to the Yuba River, however, a Feather River setback levee from Star Bend to Shanghai Bend (the "Feather River Setback Levee") was contemplated. In early 2008, the decision was made to change certain portions of the levee improvement project to include the Feather River Setback Levee. By doing this, the state of California committed to providing more than $135 million in funding, pursuant to Prop 1E and 84. Due to the receipt of the State grant funds, the amount of local funds needed to complete the levee improvements was reduced. This reduction caused the Levee Fee to be reduced. The Levee Fee was reduced with the adoption of Ordinance No. 1465 by the Board of Supervisors of the County of Yuba on November 18, 2008.

Due to the reduction of the Levee Fee, Developer claims a right of reimbursement and/or credit. This right is based on prior advanced funding made in excess of the amount required under the Levee Fee, as adjusted by Ordinance No. 1465 (herein "Prior Advanced Funding").

The County of Yuba has adopted certain policies to address the claimed rights of reimbursement or credit for Prior Advanced Funding. Those policies are set forth in the Three Rivers Levee Development Agreement Between the County of Yuba and River Oaks East.
Credit and Reimbursement Policies and Procedures (the "Credit and Reimbursement Policy"). The Credit and Reimbursement Policy is hereby incorporated into and made a part of the Agreement, and is attached as Exhibit E. To the extent there is any inconsistency between this Agreement and the Credit and Reimbursement Policy as to the timing, manner or amount of credit or reimbursement due, the Credit and Reimbursement Policy shall control.

Section 1.2 Use of Credits. The Parties to this Agreement agree that the Credit and Reimbursement Policy sets forth the amount of credit and reimbursement owed the Developer in connection with Prior Advanced Funding. The Credit and Reimbursement Policy shall control as to the amount of credit or reimbursement due and how any credit or reimbursement will be applied.

Section 1.2.1. For those units included in the Project for which Developer has applied for a building permit after April 19, 2005 and on or before October 21, 2008, the Levee Fee shall be levied at the current rate as set forth in Ordinance No. 1465 and the Developer shall receive full credit for such fees from the amount advance funded, as more specifically set forth in the Credit and Reimbursement Policy.

Section 1.2.2. For those units for which the Developer has applied for a building permit after October 21, 2008, Developer shall receive credit for the Levee Fee imposed on the Project on a proportionate basis for the remainder of the Project. For those building permits applied for after October 21, 2008, Developer will pay a portion of the Levee Fee at the rate set forth in Ordinance No. 1465 and at the time and in the manner required herein, based on the relative proportionality between the remainder of the Project not able to be funded from credit and the total remaining acreage left in the Project after all previously absorbed units, all consistent with the provisions of the Credit and Reimbursement Policy. The County will calculate the amount of the Levee Fee due after the credit at the time the individual building permits are issued for each unit to be constructed on the Project pursuant to a building permit applied for after October 21, 2008. The amount of the credit and how it will be applied is more specifically set forth in the Credit and Reimbursement Policy.

Section 1.2.3. To the extent that the Developer is developing multiple projects which were subject to the Second Funding Agreement and one project has advanced funded Levee Fees in excess of its total obligation and is due reimbursement, that reimbursement may be applied and added to the credit of any of Developer's other projects that will have a remaining obligation to pay Levee Fees. The manner in which the credit from a project that has paid fees in excess of its total obligation may be applied to the credit of Developer's other projects is set forth in Appendix A of the Credit and Reimbursement Policy.

Section 1.3. Reimbursement of Levee Fees. If the amount owed to Developer for Prior Advanced Funding in excess of obligations owed under the current Levee Fee is not satisfied by application of credit to the Project or transfer of the credit to another project as set forth in Section 1.2.3., the remaining amount due will be reimbursed to Developer, solely from Levee Fees collected from others, and then only as follows:
Section 1.3.1. **Before Levee Certification.** Prior to certification by the Federal Emergency Management Agency (FEMA) of those levees to be constructed or improved pursuant to the Levee Improvement Program defined in Section 3 of the Second Funding Agreement, including the Feather River Setback Levee (the "Levee" or "Levees"), no reimbursement of Prior Advanced Funding will be made to the County, YCWA or Developer from any Levee Fees collected. Levee Fees collected through and until such certification date will be used to directly fund improvements to the Levees. However, it is understood by all parties that, to the extent Levee Fees are collected prior to such certification date, this funding may go to offset the additional required contribution of funds to the TRLIA Levee Improvement Program by the County and YCWA consistent with the intent of the July 22, 2008 Agreement Concerning Levee Impact Fees Among County of Yuba, Yuba County Water Agency, and Yuba Levee Financing Authority.

Section 1.3.2. **After Certification of the Levees and before March 1, 2015.** During the time period between when the Levees are certified by FEMA and before March 1, 2015 twice per year distribution of Levee Fee revenue not needed to pay any Levee improvement costs incurred prior to such certification but not yet paid will occur. The revenues collected before March 1, 2015 will be split between those parties determined by the County to be due reimbursements (including the County and YCWA on a proportionate basis, based upon the aggregate principal amount of their outstanding reimbursement. Table 6 of the Credit and Reimbursement Policy sets forth an example of the proportionality of outstanding reimbursements due.

Section 1.3.3. **From and After March 1, 2015 and until all Reimbursements are Complete.** Commencing on March 1, 2015 twice per year distributions of Levee Fee revenue will occur as follows: (a) initially, 100% of the revenues collected will go to fund the scheduled debt service due on the borrowing to fund levee improvements secured by lease and installment payment obligations of the County and YCWA and (b) any remaining Levee Fee revenue will be split between those parties determined by the County to be due reimbursements (including the County and YCWA) on a proportionate basis, based upon the aggregate principal amount of their outstanding reimbursement.

Section 1.3.4. **Interest.** Any reimbursement owed to Developer, as well as to County or YWCA, will accrue interest at a rate of 5.534% per annum. Interest will be calculated on a monthly compounding rate.

Section 1.3.5. **Acknowledgment.** Except as set forth in this Exhibit C and the Credit and Reimbursement Policy. Developer acknowledges and agrees that no other reimbursement or Credit is due for funds advanced under prior agreements concerning construction of the Levees, including the 2005 Funding Agreement and/or the Second Funding Agreement.

Section 1.3.6. **Inspection of Records.** Developer shall have the right to review and inspect records of the County with respect to Levee Fees and other revenue sources available to make payments or reimbursements to Developer under this Section 1.3. Developer must give the County reasonable notice of any such request.
Section 1.4. **Extension of Tentative Map Life.** The expiration date of any existing tentative map within the Subject Property, subject to the Credit and Reimbursement Policy, is extended for twenty (20) years from the original approval date, inclusive of any and all other extensions which may be provided by law.

Section 1.5. **County Imposed Development Fees.** The County shall not impose any New Fees relating to the Project for ten (10) years from the Effective Date of this Development Agreement. Notwithstanding the forgoing, the County may impose New Fees as follows: (a) any Traffic Impact (Road Improvements) component of the County-Wide Capital Facility Fee and, (b) any fees levied for the purpose of offsetting the cost of regional park improvements, provided, however, that the cumulative new fees levied for regional park improvements shall not exceed Two Thousand Dollars ($2,000) per dwelling unit contained in the Project. To the extent a New Fee is levied against the Project pursuant to one of the exclusions listed herein, that New Fee shall be imposed and levied in a manner consistent with all applicable State and local laws and regulations. Development impact fees imposed by entities other than the County or by the County on behalf of other entities are not subject to this provision.

Section 1.6. **Impact Fee Lock.** The County shall not increase any Current Fees relating to the Project for 10 years from the Effective Date of this Development Agreement. Notwithstanding the forgoing, the County may increase Current Fees as follows: (a) any currently incorporated escalator adopted with and incorporated into the Current Fee; (b) any increase to the current Traffic Impact (Road Improvements) component of the County-Wide Capital Facility Fee; (c) and any change or increase to the current PLSP/NASA Road Improvement Fee. To the extent a Current Fee levied against the Project is changed or increased pursuant to one of the exclusions listed herein, that change or increase shall be imposed and levied in a manner consistent with all applicable State and local laws and regulations. Development impact fees imposed by entities other than the County or by the County on behalf of other entities are not subject to this provision.

Section 1.7. **Developer to Receive Benefit of Reduction in Fees.** Notwithstanding any of the other terms of this Agreement, any reduction to Current Fees or New Fees that is applied to development within the County generally shall be applied to the Project.

Section 1.8. **Deferral of Collection of Impact Fees.** The balance of the Levee Fee due after application of credit as described in 1.2 above with respect to units in the Project, shall be calculated for each unit at the time a building permit is issued for that unit, but the collection by the County of the amount due shall be deferred until the final inspection of the unit for which the building permit is issued (in a manner consistent with Yuba County Ordinance No. 1461). The duration of this fee deferral will be for ten (10) years from the Effective Date of this Development Agreement. The collection of all other development impact fees and County-Wide Capital Facility Fees will be deferred in a manner consistent with the Yuba County Ordinance No. 1461, except that, the duration of the deferral will be ten (10) years from the date of this Development Agreement. Following any such deferral period, all fees will be due and payable as and when levied in accordance with County policy. Development impact fees imposed by
entities other than the County or by the County on behalf of other entities are not subject to this provision.

Section 1.9. **Builder Bonds.** In the event that the Developer is the registered owner of any Builder Bonds (as such term is defined in the Second Funding Agreement) issued by TRLIA for CFD 2006-1 or CFD 2006-2 (as such community facilities districts are described in Section 7.A.(1) of the Second Funding Agreement), the County and TRLIA agree to take all reasonable actions on its part necessary or appropriate, at the written request and cost of the Developer, in the redemption or refunding of such bonds, so long as any such request is consistent with the procedures and requirements described in Appendix B to the Three Rivers Levee Impact Credit and Reimbursement Policy. The County and TRLIA acknowledge and agree that all special tax revenues collected by TRLIA from special tax levies for CFD 2006-1 and CFD 2006-2 shall be disposed of by TRLIA as provided in Section 4.01 of the respective Fiscal Agent Agreement for the Builder Bonds for the respective community facilities district, in the rate and method of apportionment for the respective community facilities district and, to the extent not inconsistent with the foregoing, as described in Appendix C to the Credit and Reimbursement Policy.

Section 1.10. **Failure of Consideration.** The terms and conditions set forth in Sections 1.4. through 1.8. of this Exhibit C are granted by the County in consideration of the Developer’s agreement to the credit and reimbursement terms in Section 1.2 and 1.3 et seq. If any term of the credit and reimbursement policies as set forth in Sections 1.2 and 1.3 et seq. is deemed invalid or a legal challenge to any such terms is made by Developer, then there shall be deemed a failure of consideration and the provisions of Section 1.4 through 1.8 shall be void and unenforceable by Developer.

Section 1.11.1 **Flood Insurance.** Developer shall provide, at no cost to all new residents (including the initial sale by the Developer and all subsequent resales) of homes constructed by such Developer within the Affected Area (as defined in the Second Funding Agreement) since 2003 (i.e., homes for which building permits were issued from and after January 1, 2003), flood insurance and renewals of flood insurance only through the Completion of the Levee or until December 31, 2010 (whichever occurs first). As used in this Section, “Completion” shall mean the earlier of: (i) the date on which a notice of completion is recorded by the general contractors performing TRLIA’s Phase 4 work, or (ii) the date on which a determination of substantial completion of TRLIA’s Phase 4 work is made by the Executive Officer of the Central Valley Flood Protection Board. The County and TRLIA will reasonably cooperate in assisting Developer to fulfill this requirement, including but not limited to providing for notice of resales of homes within the Project to be provided to Developer. The renewals and subsequent issuance of flood insurance provided by the Developer shall satisfy the minimum requirements of the National Flood Insurance Program for a standard dwelling policy.

Section 1.11.2 **Notice Requirements to New and Existing Homeowners.** Developer shall take the following steps to increase the awareness of flood risk by new and existing purchasers of homes within the Project:

(a) At the time of execution of a sales contract for a new home within the Project, Developer shall distribute an informational packet prepared by TRLIA on the status of the Levee Improvement Program. Purchasers will then be requested to sign an acknowledgment...
sheet that they have received the packet and are aware of the flood risks associated with the Project.

(b) At the time of closing on a new home within the Project, Participant shall require execution by the new purchaser of the home of a Notice of Acknowledgement stating that the purchaser understands that the Developer (home builder) is purchasing flood insurance for the purchaser of the home (including the terms of that insurance and the period for which that insurance will be purchased) and that the purchaser of the home has received an information packet on the Levee Improvement Program and the risk of purchasing a home within the Project.

(c) Four times a year until certification of all levees required under the Levee Improvement Program, TRLIA shall prepare and distribute through the mail to new and existing purchasers of new homes within the Project an information packet on the Levee Improvement Program and any information provided by the County or TRLIA to the Developer on steps that such purchasers may take to reduce the risk of flooding to homes within the Project, such as being aware of the County's pre-hazard mitigation program, time-inundation maps, and hazard evacuation routes. Developer shall reasonably assist TRLIA to provide such information packets.

Section 1.11.3 Evacuation and Prehazard Mitigation Program. County commits to continue to use reasonable diligence to inform residents within the Project, including portions of Reclamation District 784, of the risk of flooding and to further refine, improve, and make available the County's Evacuation Plan and Prehazard Mitigation Plan.

Section 1.11.4 Accounting, Auditing and Reporting.

(a) TRLIA and County shall use best efforts to properly account for all sums paid to and grants received by TRLIA and County for the Levee Improvement Program.

(b) Developer has the right, upon not less than three (3) business days notice, at all reasonable times, to inspect the books and records of TRLIA and County pertaining to the Levee Improvement Program, as pertinent to the purposes of this Agreement.

(c) Upon request each year by Developer, TRLIA shall deliver to Developer the audited financial statement prepared by a qualified independent auditor pertaining to the Levee Improvement Program for each fiscal year, including all revenues and expenditures of TRLIA relating thereto for the prior year's period. The audited financial statement shall be delivered to Developer within 30 days following submission of such statement to the TRLIA Board.

Section 1.11.5 Maintenance of Levees. TRLIA shall be responsible to assure levee maintenance until certification, as the improvements are completed, in accordance with the Levee Improvement Program and consistent with relevant State and Federal standards.

Section 1.11.6 Preparation of Informational Packets. TRLIA shall prepare and update informational packets on the status of the Levee Improvement Program which shall be distributed to new home purchasers by the Developer. Purchasers will then be requested to sign
an acknowledgement sheet that they have received the packet and are aware of the flood risks associated with the Project.

**Section 1.12. Status of Second Funding Agreement.** The County, TRLIA and the Developer hereby acknowledge and agree that following State Approval all rights, duties, or obligations set forth in, or required by, the Second Funding Agreement as applied to each of them are hereby terminated and neither of the Funding Agreements is of any force or effect as to the County, TRLIA and Developer. "State Approval" shall mean receipt by TRLIA of a letter from the Central Valley Flood Protection Board which confirms that TRLIA has satisfied all of its obligations under the Second Implementation Agreement (referenced in Recital N to the Second Funding Agreement). The County, TRLIA, and the Developer further acknowledge and agree that (i) this Development Agreement supersedes both the 2005 Advanced Funding Agreement (referenced in Recital J to the Second Funding Agreement) as well as the Second Funding Agreement, (ii) all reimbursable amounts that may have been due to the Developer under the 2005 Advanced Funding Agreement have been deemed paid, and (iii) all funding advanced by the Developer to TRLIA under the Second Funding Agreement shall be applied pursuant to this Development Agreement. All obligations, rights and duties set forth in the Second Funding Agreement that apply to the County, TRLIA and Developer are hereby superseded by this Development Agreement. Notwithstanding anything in this Section 1.12 to the contrary, if a third party that was not a party to either Funding Agreements (meaning any party other than a party to this Agreement or a successor or related entity) shall make a claim under or to enforce the Second Funding Agreement against any party hereto, then solely for purposes of defending against, responding to, and/or making cross or counter claims in connection with the third party claim, the Second Funding Agreement shall not be deemed terminated, but only to the extent necessary to defend against, respond to, and/or make such cross or counter claims in connection with the third party claim.
EXHIBIT D
NOTICE OF TERMINATION

THIS NOTICE OF TERMINATION (hereinafter "this Notice") is given this ___ day of ______________ , 200__, by the County of Yuba (hereinafter "County") for the benefit of ________________________, (hereinafter "Owner").

1. On ______________, 200__, the County of Yuba and ______________ entered into that certain agreement entitled "Development Agreement," approved by Ordinance ______________ (hereinafter "Agreement"), relative to the development known as ________________ (hereinafter "Subject Property").

2. Owner has fully performed all its duties with respect to that portion of the Subject Property, which portion of the Subject Property is identified and described in Exhibit A, attached hereto and incorporated herein by this reference (hereinafter the "Released Property").

3. Pursuant to Section 4.1 of the Development Agreement, the Development Agreement is no longer in effect with respect to the Released Property.

COUNTY OF YUBA

By: ______________________________

Name: ______________________________

Title: ______________________________

[NOTE: SIGNATURE MUST BE NOTARIZED]
NOTARY

State of California
County of _____________

On _____________, 20__, before me, ________________, Notary Public, personally appeared ________________________________________________________________________________, personally known to me (or proved 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 capacit(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.

________________________________________
Notary Signature

WITNESS MY HAND AND OFFICIAL SEAL.
ADDENDUM TO DEVELOPMENT AGREEMENT

County, TRLIA and Developer hereby agree to supplement the terms and provisions of the Development Agreement to which this is attached as follows:

The parties acknowledge that, as shown on Table 1 of the Credit and Reimbursement Policy, a portion of the levee fee credits allocated to the Property were based on an advance funding adjustment of $430,185 between Rio Del Oro (Village 15) ("RDO 15") and the Property. When the funds were advanced pursuant to the levee funding agreements, both properties were owned by Lennar Renaissance, Inc. ("Lennar") or affiliates thereof. When Developer acquired the Property, Developer acquired Lennar's rights to all credits and reimbursements associated with funds advanced by Lennar on behalf of the Property, but as to funds advanced by Lennar on behalf of RDO 15. Lennar is affiliated with Developer, however, the credits/reimbursements associated with Lennar's advance funding on behalf of RDO 15 have not yet been formally assigned to Developer for the benefit of the Property.

Notwithstanding anything to the contrary in the Development Agreement, including Exhibit "C" thereto, the parties agree that the advance funding adjustment set forth in Table 1 of the Credit and Reimbursement Policy is dependent upon a formal written assignment from Lennar to Developer of the $430,185 of credits associated with advances made by Lennar on behalf of RDO 15. Prior to issuance of the first building permit within the Property, Developer shall provide to the County and TRLIA a copy of a written assignment of these credits, signed by Lennar. IfDeveloper fails to provide a copy of the written assignment signed by Lennar when applying for the first building permit within the Property, then prior to the issuance thereof, the County shall re-adjust Table 1 (and any other corresponding Tables within the Credit and Reimbursement Policy) to eliminate the $430,185 adjustment between RDO 15 and the Property, adjust the resulting levee fee amount to be paid by development within the Property, and reflect that Lennar shall retain a right to reimbursement of such amount in accordance with the terms of the Credit and Reimbursement Policy. If and when Developer provides to County and TRLIA a copy of a written assignment of these credits signed by Lennar, then the provisions of this Addendum will be deemed satisfied and of no further force or effect.

COUNTY OF YUBA
a political subdivision of the State of California

By: ________________________________

Name: ______________________________

Title: ______________________________

Development Agreement between the County of Yuba
and River Oaks East

Exhibit F
TRLIA:

Three Rivers Levee Improvement Authority
a joint powers authority

By:______________________________

Name:______________________________

Title:______________________________

DEVELOPER:

By:______________________________

Name:______________________________

Title:______________________________

APPROVED BY:

LENNAR RENAISSANCE, INC.,
a California corporation

By:______________________________

Name:______________________________

Title:______________________________
EXHIBIT "A"

All that real property situate in the County of Yuba, State of California lying within the NE quarter of Section 30 Township 15 North Range 4 East, M. D. B. & M., being a portion of Parcel B as shown on Parcel Map 5.75 filed in Book 21 of Maps at Page 4, Yuba County Official Records and described in Deed to L.B. Ward, Trustee of the L.B. Ward 1998 Revocable Trust recorded at document number 2008R-007808 Yuba County Official Records, more particularly described as follows;

Beginning at a point on the Northeasterly line of said parcel B from which a 1 inch iron rod marking the northern most corner of said parcel bears N44°26'12"W a distance of 15.65 feet, being the TRUE POINT OF BEGINNING, thence Southwesterly at a right angle to the Northeasterly line of said parcel a distance of 3.50 feet thence Southeasterly parallel to the Northeasterly line of said parcel B a distance of 10.67 feet thence Northeasterly at a right angle a distance of 3.50 feet to the northeasterly line of said parcel thence Northwesterly on said line 10.67 feet to the point of beginning.
DEVELOPMENT AGREEMENT
BY AND BETWEEN
THE COUNTY OF YUBA, THE THREE RIVERS LEVEE IMPROVEMENT AUTHORITY AND RIVER LANDINGS INVESTMENTS LLC (DEVELOPER)
RELATIVE TO THE DEVELOPMENT KNOWN AS
RIO DEL ORO VILLAGE 14

This document, including exhibits, totals __ pages.
REFERENCE SHEET

**Project:**
Rio Del Oro Village 14 – TSTM 1998-0578

**Developer:**
River Landings Investments LLC

**Developer’s Address for Purpose of Written Notice:**
1640 Lead Hill Blvd., Suite 220
Roseville, CA 95661

**Landowner:**
Same as above.

**Term:**
The Term of the Development Agreement, as provided for in section 1.8 begins thirty (30) days after the Board of Supervisors enacts the Adopting Ordinance (noted below) and expires on October 15, 2022, twenty (20) years from the original date of approval of TSTM 1998-0578.

**Entitlements:**
As referred to in Recital 5 shall mean TSTM 1998-0578 and all associated tentative and final maps.

**CEQA document:**
This project is located within the Plumas Lake Specific Plan area. A Final Environmental Impact Report for the Plumas Lake Specific Plan was adopted by the Yuba County Board of Supervisors on September 21, 1993 (State Clearinghouse No. 92072070). A residential project that is consistent with a specific plan is exempt from further environmental review (Section 15182 of the CEQA Guidelines.)

**Adopting Ordinance:**
As referred to in Section 1.3 (a), shall mean Ordinance No. ___________ enacted by the Board of Supervisors on ____________, 20___.

**Exhibits which are attached to this Development Agreement are as follows:**
A. Legal Description
B. Assumption Agreement
C. Special Conditions and Requirements
D. Sample Notice of Termination
E. Credit and Reimbursement Policy
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THIS DEVELOPMENT AGREEMENT ("Agreement") is made by and between the
COUNTY OF YUBA, a political subdivision of the State of California (County"), the THREE
RIVERS LEVEE IMPROVEMENT AUTHORITY , a joint powers authority ("TRLIA") and
River Landings Investments LLC ("Developer") pursuant to the authority of Article 2.5, Chapter
4, Division Title 7 (§ 65864 et seq. of the Government Code) relating to Development
Agreements.

RECITALS

1. In order to strengthen the public land use planning process, to encourage private
participation in the process, to reduce the economic risk of development and to reduce the waste
of resources, the Legislature adopted the Development Agreement Law (Gov. Code, § 65864 et seq.)

2. The Development Agreement Law permits cities and counties to contract with
private interests for their mutual benefit in a manner not otherwise available to the contracting
parties. Such agreements, as authorized by the Development Agreement Law and by common
law, assure property developers that they may proceed with their projects with the assurance that
approvals granted by public agencies will not change during the period of development. Cities
and counties are equally assured that costly infrastructure such as roads, sewers, fire protection
facilities, etc., will be available in a timely manner.

3. The parties have, in good faith, negotiated the terms hereinafter set forth which
carry out the legislative purpose set forth above and will assure the parties to this Agreement of
mutually desirable development in a manner consistent with the CEQA document, the
Entitlements, and this Agreement.

4. Developer owns in fee (or holds an option to purchase for a term that is or may be
extended for at least the term of this Agreement) the Subject Property as more particularly
described on Exhibit A hereto, located in the County.

5. County, in response to Developer's application(s), after public hearings and
extensive environmental analysis, has granted approval of the Entitlements, as described on the
Reference Sheet.

6. In support of the various Entitlements described in paragraph 5 above, and in
accord with the California Environmental Quality Act ("CEQA") and State and County
guidelines, County has accepted and ratified a CEQA document, as described on the Reference
Sheet.

7. Development of the Subject Property pursuant to the terms and conditions of the
Entitlements, the General Plan and appropriate environmental determinations will provide for
orderly growth and development consistent with the County's General Plan and other
development policies and programs.

8. The Planning Commission considered this Agreement, and recommended its
adoption to the Board of Supervisors.

Development Agreement Between the County of Yuba
and Rio Del Oro Village 14

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9. Having duly considered this Agreement and having held the noticed public hearings, County finds and declares that the provisions of this Agreement are consistent with the maps and text of the County's General Plan.

**NOW, THEREFORE,** the parties hereto agree as follows:

**ARTICLE 1**

**GENERAL PROVISIONS**

**Section 1.1. The Project.** The Project is defined as set forth on the Reference Sheet.

**Section 1.2. Subject Property.** The Subject Property is more specifically described in Exhibit A, which is incorporated herein and made part of this Agreement.

**Section 1.3. Definitions.** As used in the Agreement, the following terms, phrases and words shall have the meanings and be interpreted as set forth in this Section.

(a) **Adopting Ordinance** means the ordinance which approves this Agreement.

(b) **Applicable Laws** means the General Plan, Specific Plan (if applicable), County Laws, rules, ordinances, regulations, and official policies governing the processing of entitlements, the permitted uses of the Subject Property, the density or intensity of use, the rate and timing of development, design, improvements, reservation or dedication of land for public improvements, fees, exactions, construction and building setbacks, occupancy and specifications applicable to the Subject Property in effect on the Effective Date of this Agreement.

(c) **Assumption Agreement** means an agreement substantially conforming to the model assumption agreement described in Exhibit B, or other agreement in a form approved by the County Counsel, executed by a Landowner with the Developer, expressly assuming various obligations relating to the development of the Project, or portion thereof.

(d) **CEQA** means the California Environmental Quality Act section 21000 et seq., of the Public Resources Code of the State of California.

(e) **Completed Lots** shall mean any single-family residence, any other residential dwelling unit(s), or any non-residential building, and the lot or parcel upon which such residence or building is located, when it has been approved by the County for occupancy.

(f) **County** means the County of Yuba or, if the context otherwise requires, the Board of Supervisors for the County of Yuba, or its designee.

(g) **County Laws** means ordinances, resolutions, rules, regulations, policies, motions, directives, mitigation measures, conditions, standards, specifications, dedications, fees, taxes (including without limitation general, special and excise taxes), assessments, liens, other exactions and impositions, and any other actions having the force of law, that are enacted or adopted by County, or by its electorate through the initiative or referendum process.
Current Fees means those County development impact fees in effect as of the Effective Date and any currently incorporated adjustments or increases therein adopted as of the Effective Date.

Developer shall mean that person or entity that has applied for this Development Agreement as defined on the Reference Sheet.

Director means the Community Development Director for the County, or his/her designee.

Effective Date means the effective date of the Adopting Ordinance.

Entitlements shall mean those approvals listed on the Reference Sheet of this Agreement, approved copies of which are on file with the Board of Supervisors.

General Plan means the General Plan of the County, including the text and maps, as may have been amended in connection with the Project.

Landowner is a party who has acquired any portion of the Subject Property from the Developer who, unless otherwise released as provided in this Agreement, shall be subject to the applicable provisions of this Agreement.

New Fees means those development impact fees adopted by the County after the Effective Date of this Development Agreement.

Planning Commission shall mean the County’s Planning Commission, or its designee.

Reserved Powers shall mean those powers explicitly reserved to the County by this Agreement.

Revenue Bonds means the Yuba Levee Financing Authority Revenue Bonds, Series A and Taxable Revenue Bonds, Series B.

Second Funding Agreement has the meaning given in Section 1.1 of Exhibit C to this agreement.

Settlement Agreement means the written Settlement Agreement executed by Developer and the County/TRLIA on or about the date hereof and concerning, among other things, payment of sums due Developer or Towne Development of Plumas Lake LLC under Exhibit M of the Second Funding Agreement.

Subject Property means the property described in Section 1.2, or the remaining portions thereof after releases from the provisions of this Agreement have been executed as authorized by this Agreement.

TRLIA means the Three Rivers Levee Improvement Authority.
Section 1.4. **Exhibits.** The Exhibits listed herein are incorporated into this Agreement and made a part hereof. The Exhibits are:

- **Exhibit A** Subject Property
- **Exhibit B** Assumption Agreement
- **Exhibit C** Special Conditions and Requirements
- **Exhibit D** Sample Notice of Termination
- **Exhibit E** Credit and Reimbursement Policy

Section 1.5. **Incorporation of Recitals.** Recitals 1 through 9 are incorporated herein, including all exhibits referred to in the Recitals. In the event of inconsistency between the Recitals and the provisions of Articles 1 through 5, the provisions of Articles 1 through 5 shall prevail.

Section 1.6. **Parties to Agreement.** The parties to this Agreement are:

(a) **The County of Yuba.** A political subdivision of the State of California exercising general governmental functions and powers. The principal office of the County is located at 915 8th Street, Marysville, California 95901.

(b) **Three Rivers Levee Improvement Authority.** A joint powers authority created by the County and RD 784. The principal office of TRLIA is located at the County of Yuba Government Center, 915 Eighth Street, Suite 115, Marysville, California 95901.

(c) **Developer.** Developer owns in fee or has an equitable interest in the Subject Property.

(d) **Landowner.** From time to time, as provided in this Agreement, Developer may sell or otherwise lawfully dispose of a portion of the Subject Property to a Landowner who, unless otherwise released, shall be subject to the applicable provisions of this Agreement related to such portion of the Subject Property.

Section 1.7. **Project is a Private Undertaking.** It is agreed among the parties that the Project is a private development and that the County has no interest therein except as authorized in the exercise of its governmental functions.

Section 1.8. **Term of Agreement.** This Agreement shall commence upon the Effective Date of the Adopting Ordinance approving this Agreement and shall continue in force for the period shown on the Reference Sheet under "Term." Upon the expiration of the Term as provided for in this section, this Agreement shall automatically terminate and be of no further force and effect; provided however, such termination shall not affect the rights or duties arising from the entitlements for the Subject Property which were approved prior to, concurrently with, or subsequent to the approval of this Agreement.
Section 1.9. Assignment and Assumption. Developer shall have the right to sell, assign, or transfer this Agreement with all the rights, title and interests therein to any person, firm or corporation at any time during the term of this Agreement. The conditions and covenants set forth in this Agreement and incorporated herein shall run with the land and the benefits and burdens shall bind and inure to the benefit of the parties. Developer shall provide County with a copy of the Assumption Agreement. Express written assumption by such purchaser, assignee or transferee, to the satisfaction of the County Counsel, of the obligations and other terms and conditions of this Agreement with respect to the Subject Property or such portion thereof sold, assigned or transferred, shall relieve the Developer selling, assigning or transferring such interest of such obligations so expressly assumed. Any such assumption of Developer's obligations under this Agreement shall be deemed to be to the satisfaction of the County Counsel if executed in the form of the Assumption Agreement attached hereto as Exhibit B and incorporated herein by this reference, or such other form as shall be approved by the County Counsel.

Section 1.10. Covenants Running with the Land. Each and every purchaser, assignee or transferee of an interest in the Subject Property, or any portion thereof, shall be obligated and bound by the terms and conditions of this Agreement, and shall be the beneficiary thereof and a party thereto, but only with respect to the Subject Property or such portion thereof, sold, assigned or transferred to it. Any such purchaser, assignee or transferee shall observe and fully perform all of the duties and obligations of a Developer contained in this Agreement, as such duties and obligations pertain to the portion of the Subject Property sold, assigned or transferred to it. Provided however, notwithstanding anything to the contrary above, if any such sale, assignment or transfer relates to a completed residential unit or non-residential building which has been approved by the County for occupancy, this Agreement shall automatically terminate with respect to the Completed Lot. The termination of this Agreement for any Completed Lot shall not be construed to terminate or modify any assessment district or Mello-Roos community facilities district lien affecting such Completed Lot at the time of termination. Upon the request of a Developer, County shall execute such documents as are reasonably requested to remove this Agreement from the public records as it affects each Completed Lot. The County may charge a reasonable fee to process this request.

Section 1.11. Amendment to Agreement (Developer and County). This Agreement may be amended by mutual consent of the parties in writing, in accordance with the provisions of Government Code section 65868, provided that: any amendment which relates to the term, permitted uses, density, intensity of use, height and size of proposed buildings, or provisions for reservation and dedication of land shall require a noticed public hearing before the parties may execute an amendment. Unless otherwise provided by law, all other amendments may be approved without a noticed public hearing.

Any amendment entered into between the County and the Developer shall require the signature of each owner of any portion of the Subject Property to the extent the amendment modifies this Agreement as to that other owner's property.

Section 1.12. Amendment to Agreement (Landowner and County). This Agreement may also be amended, subject to the provisions of Government Code section 65868, between a
Landowner who has acquired a portion of the Subject Property from Developer and County as to the portions of the Subject Property then owned by Landowner.

Any amendment entered into between the County and a Landowner shall require the signature of each Landowner of any portion of the Subject Property or the Developer to the extent the amendment modifies the Agreement as to that Landowner's or the Developer's property.

Section 1.13. Releases. Developer, and any subsequent Landowner, shall be deemed released from all further obligations relating to the sold, assigned, or transferred property, upon the date that the County Clerk receives a copy of the Assumption Agreement provided for in Section 1.9.

Section 1.14. Notices. Notices, demands, correspondence, and other communication to County and Developer shall be deemed given if dispatched by prepaid first-class mail to the principal offices of the parties as designated in Section 1.6(a). Notice to the County shall be to the attention of both the County Administrator and the Director. Notices to subsequent Landowners shall be required to be given by the County only for those Landowners who have given the County written notice of their address for such notices. The parties hereto may, from time to time, advise the other of new addresses for such notices, demands or correspondence.

Section 1.15. Reimbursement for Agreement Expense of County. Developer agrees to reimburse County for a pro-rata share of the reasonable and actual expenses over and above fees paid by Developer as an applicant, specifically incurred by County for the modification of the County's form development agreement into the form of this Agreement, including recording fees, publishing fees, and reasonable staff and consultant costs not otherwise included within application fees then due and payable to the County. Such reimbursement shall be paid to the County within 10 days following invoice by the County. Developer shall also pay any and all delinquent installments of property tax then due for the Subject Property.

Section 1.16. Recordation of Agreement. The County Clerk shall cause a copy of this Agreement to be recorded with the County Recorder not later than ten (10) days after the effective date following execution of this Agreement by the County. Developer hereby covenants that during the period following execution and the recording of this Agreement by the County, Developer shall not, without prior written approval by the County Counsel, cause or allow to be recorded against the Subject Property any instrument affecting the priority, validity or enforceability of this Agreement.

Section 1.17. Applicable Law. This Agreement shall be construed and enforced in accordance with the laws of the State of California.

Section 1.18. Invalidity of Agreement/Severability. If this Agreement in its entirety is determined by a court to be invalid or unenforceable, this Agreement shall automatically terminate as of the date of final entry of judgment. If any provision of this Agreement shall be determined by a court to be invalid and unenforceable, or if any provision of this Agreement is rendered invalid or unenforceable according to the terms of any federal or state statute, which
became effective after the Effective Date, the remaining provisions shall continue in full force and effect.

Section 1.19. Third Party Legal Challenge. In the event any legal action or special proceeding is commenced by any person or entity other than a party or a Landowner, challenging this Agreement, the Entitlements or any approval subsequently granted by the County for the development of the Subject Property, then the parties and any Landowner agree to cooperate with each other in good faith in connection with the defense of the same. County may elect to tender the defense of any lawsuit filed by a third person or entity to Developer and/or Landowner(s) (to the extent the litigation, in part or in whole, seeks to overturn or invalidate this Agreement, the Entitlements or any subsequent approval granted for the Subject Property held by or granted to Developer and/or Landowner), and, in such event, Developer and/or such Landowner(s) shall indemnify, hold the County harmless from and defend the County from all costs and expenses incurred in the defense of such lawsuit, including, but not limited to, damages, attorneys' fees and expenses of litigation awarded to the prevailing party or parties in such litigation. For purposes of this section only, "County" shall include all employees, consultants and agents acting on behalf of the County. Neither party shall settle any such lawsuit without the consent of the other party. The County may elect to participate in the litigation, in which case the Developer and/or Landowner agree to reimburse the County for its litigation costs and fees, including the retention of outside legal counsel and all staff costs. It is the intent of the Parties that the County's participation not result in unnecessary duplication of legal services, but rather that the County's active involvement in the litigation be limited to supervising the preparation of the administrative record or discovery as applicable, monitoring of litigation, and responsive pleadings regarding issues which, in the sole opinion of the County, involve broader County concerns then those immediately affecting the Landowner and/or Developer. Upon written demand of the County, Developer and/or Landowner shall deposit with the County such sums as may be specified by the County as its estimated litigation costs and fees for the following thirty day period. Both parties shall act in good faith, and shall not unreasonably withhold consent to settle. In the event that the County elects to settle a claim, and Developer refuses to also settle, County at its sole option may require Developer to post security in a form and amount reasonably acceptable to the County, for the performance of Developer's duties under this section. If the Developer, within 30 days of receiving written notice from County, fails to post this security, the Developer shall settle the claim on terms as previously approved by the County. This provision shall survive the termination of this Agreement.

Section 1.20. Waiver of Claims. Except as expressly set forth herein and/or in other written agreements between Developer and/or Developer's predecessor in interest, on the one hand, and the County, on the other hand, Developer waives, as to the Subject Property only, any and all existing claims that Developer may have against the County, its agents, employees and consultants, arising out of the adoption and/or application of development requirements and standards, impact fees, the adoption of this Agreement or approval of the Entitlements and all of the proceedings, acts or determinations made prior thereto.

Section 1.21. Priority of Enactment. In the event of conflict between the Development Agreement, the Entitlements and the County Laws, the parties agree that the following sequence of approvals establishes the relative priority of approvals, each approval superior to the
approvals listed thereafter: (1) Exhibit C to this Agreement; (2) the Development Agreement; (3) the Entitlements and (4) the County Laws. In the event of a conflict between two or more of the foregoing documents, the language of that document which is superior in priority as provided above shall govern.

ARTICLE 2

THE PROJECT AND DEVELOPMENT OF THE SUBJECT PROPERTY

Section 2.1. Limited Vested Right. During the Term of and subject to the terms of this Agreement the Developer's rights shall be vested only as to the Entitlements. "Vested" shall mean that except as to express limitations and reservations contained in this Agreement, Developer has a fully vested right to develop the Property in accordance with the terms and conditions of this Agreement and the Entitlements, and Developer's Entitlements shall not be subject to changes in Applicable Laws. In the event that the County grants an approval or permit in the implementation of the Project, the approval or permit shall be pursuant to Applicable Laws and shall also be considered vested. This section shall not be construed to limit the authority, or obligation of the County to hold necessary public hearings, or to limit the discretion of the County or any of its officers or officials with regard to rules, regulations, ordinances, laws and entitlements, which require the exercise of discretion by the County or any of its officers or officials in accordance with the Applicable Laws, or those reserved powers set forth in Section 2.6. The foregoing shall not be deemed to limit Developer's rights to seek a modification or amendment to the Entitlements.

Section 2.2. No Moratorium, Quotas, Restrictions, or Other Growth Limitations. Except as otherwise provided by the terms and conditions of this Agreement or the Entitlements, no ordinance, resolution, rule, regulation or policy of County shall be applied, imposed or enacted by County, by resolution, ordinance, initiative, or otherwise, which in any way relates to the rate, timing or sequencing of the development or use of the Subject Property, or any improvements related thereto, including without limitation, any no-growth or slow-growth moratoriums or annual development allocations, quotas or limitations, or in any way conflicts with the permitted uses, density and intensity of uses, maximum building height and size set forth in the Entitlements; provided, however, Developer shall be subject to any such growth limitation ordinance, resolution, rule; regulation or policy which is adopted on a uniformly applied, County-wide basis and directly concerns an immediate, verifiable adverse risk to public health or safety, in which case County shall treat Developer in a uniform, equitable and proportionate manner with all properties which are zoned consistent with Developer's zoning set forth in the Entitlements. Without limitation of the foregoing, any future County rules, ordinances, regulations or policies, whether by specific reference to the development of the Subject Property or as part of a general enactment that directly or indirectly applies to the development of the Subject Property, shall be considered to conflict with this Agreement if it has any one or more of the following effects: (a) limits or reduces the number of lots or square footage which may be developed on the Subject Property, the density or intensity of use allowed under the Entitlements, (b) imposes or increases any fees, exactions or other monetary obligation from what is set forth in Applicable Law, the Entitlements or the terms of this Agreement, (c) limits utilities, services or related facilities or rights to use such utilities, services or privileges
for the Subject Property or that condition development or construction on the availability of public services and/or facilities (for example, the presence of a specified traffic level of service or water or sewer availability) other than as set forth in the Entitlements, (d) limits or controls in any manner the growth or other rate, timing, phasing, or sequencing of the approval or development of the Subject Property, whether by moratorium, growth restriction, or any mechanism by which the development is tied to the availability of public services, and/or facilities or otherwise, (e) limits the maximum height, bulk and size of proposed buildings from what is set forth in Applicable Law, (f) applies to the Subject Property any future County law otherwise allowed by this Agreement that is not applied on a County-wide basis to all substantially similar developments and properties, (g) changes any land use designation or permitted use vested by this Agreement on the Subject Property without the consent of Developers, (h) requires the issuance of additional permits or approvals by County other than those required by Applicable Laws, or (i) limits the processing of, or the obtaining of, any subsequent entitlements or approvals necessary for the development of the Subject Property as contemplated by this Agreement.

Section 2.3. Permitted Uses and Development Standards. The permitted uses and development standards shall be those as set forth in and permitted by the Entitlements, County Zoning, Applicable Laws and subdivision and land development standards as of the Effective Date.

Section 2.4. Application, Processing and Inspection Fees. Application fees, processing fees, and inspection fees that are revised during the term of this Agreement shall apply to the development pursuant to this Agreement, provided that such revised fees apply generally to similar private projects or works within County.

Section 2.5. Impact Fees. [Intentionally Omitted—See Exhibit C: Special Conditions and Requirements]

Section 2.6. Reserved Powers. Notwithstanding any other provision of this Agreement, and without limitation as to any other requirements or exceptions contained in this Agreement, the County retains the authority to take the following actions and apply the same to the Subject Property:

(a) The authority of the Board of Supervisors to adopt regulations to protect the County and its citizens from an immediate and significant adverse risk to health and safety. This shall include, but not be limited to, lack of sufficient sewer and/or water facilities, but not school facilities.

(b) Adopt new or amended building codes (as may be amended by the County), including, but not limited to, the Uniform Building Code, Uniform Fire Code, Uniform Mechanical Code, Uniform Plumbing Code, National Electrical Code, Uniform Housing Code, and Uniform Sign Code, that generally apply equally to all buildings, structures and real property in the County.

(c) Adopt land use regulations, ordinances, policies, programs, resolutions or fees generally applicable to similar development projects adopted or undertaken by County as
and only to the extent necessary to comply with state or federal laws, or regulations, provided that in the event that such state or federal laws or regulations prevent or preclude compliance with one or more provisions of this Agreement, such provision or provisions shall be modified or suspended as may be necessary to comply with such state or federal laws or regulations.

(d) Adopt county land use regulations, ordinances, policies, programs or resolutions adopted after the Effective Date, which are in conflict with the Applicable Laws, but the application of which to the development of the Subject Property has been consented to in writing by the Developer and/or the applicable Landowner by later separate document, which consent Developer and/or Landowner may withhold in their sole and exclusive discretion.

Section 2.7. Obligation and Rights of Mortgage Lenders. The holder of any mortgage, deed of trust or other security instrument with respect to the Subject Property, or any portion thereof, shall not be obligated under this Agreement to construct or complete improvements or to guarantee such construction or completion, but, in the event said holder takes title to the Subject Property through foreclosure of a mortgage or a deed of trust, or deed-in-lieu of such foreclosure, said holder shall be bound by all of the terms and conditions of this Agreement which pertain to the Subject Property or such portion thereof in which it holds an interest. Any such holder who comes into possession of the Subject Property, or any portion thereof, pursuant to a foreclosure of a mortgage or a deed of trust, or deed in lieu of such foreclosure, shall take the Subject Property, or such portion thereof, subject to any pro rata claims for payments or charges against the Subject Property, or such portion thereof, which accrue prior and subsequent to the time such holder comes into possession. Nothing in this Agreement shall be deemed or construed to permit or authorize any such holder to devote the Subject Property, or any portion thereof, to any uses, or to construct any improvements thereon, other than those uses and improvements provided for or authorized by this Agreement, subject to all of the terms and conditions of this Agreement.

Upon foreclosure or deed-in-lieu thereof, a lender has no obligation to pay any amounts related to the Subject Property, unless said lender or successor-in-interest elects to use the Entitlements to develop the Subject Property.

Section 2.8. Tolling and Extension During Legal Challenge or Moratoria.

(a) If this Agreement, any of the Entitlements or any subsequent entitlements, approvals or permits required to implement the Entitlements (such as any required fill permit) are subjected to legal challenge by a third party, other than Developer, and Developer cannot or elects not to proceed with development of the Subject Property during such litigation, the Term of this Agreement and timing for obligations imposed pursuant to this Agreement shall, upon written request of Developer to County, be extended and tolled during such litigation until the entry of final order or judgment upholding this Agreement, the Entitlements, subsequent entitlements, approvals and/or other permits required to implement the Entitlements, or the litigation is dismissed by stipulation of the parties.

(b) If this Agreement, any of the Entitlements or any subsequent entitlements, approvals or permits required to implement the Entitlements are subjected to moratoria, and Developer cannot or elects not to proceed with the development of the Subject Property during
such moratoria, the Term of this Agreement and timing for obligations imposed pursuant to this Agreement shall, upon written request of Developer to County, be extended and tolled during such moratoria. Moratoria shall be defined as restrictions, moratorium or de facto moratoria on approval or recordation of final maps, issuance of building permits, final inspections or certificates of occupancy, or approval or issuance of other such entitlements or permits, at the time of the transfer which would limit the reasonable ability to construct in a similar fashion a development project previously approved by the County.

Section 2.9. Timing of Construction and Completion. Notwithstanding any provision of this Agreement to the contrary, there is no requirement that Developer initiate or complete development of the Subject Property or any particular phase of development of the Subject Property within any particular period of time, and County shall not impose such a requirement on any subsequent approval. The parties acknowledge that Developer cannot at this time predict when, or the rate at which or the order in which, phases will be developed. Such decisions depend upon numerous factors that are not within Developer's control, such as market orientation and demand, interest rates, competition, and other similar factors. In light of the foregoing, the parties agree that Developer shall be able to develop in accordance with Developer's own time schedule as such schedule may exist from time to time, for whatever reason, and that Developer shall determine the order in which portions of the Subject Property shall be developed. Without limiting of any of the foregoing, the parties specifically desire to avoid the consequences of the holding of the California Supreme Court in Pardee Construction Co. v. County of Camarillo (1984) 37 Cal.3d 465, which held that the failure of the parties therein to consider and expressly provide for the timing of development resulted in a later-adopted initiative restricting the timing of development to prevail over such parties' agreement; consequently, the parties agree that Developer shall have the right to develop the Subject Property in such order and at such rate and at such times as Developer deems appropriate within the exercise of its subjective business judgment. Nothing in this Section 2.9 shall exempt Developer from completing work required by a subdivision agreement, road improvement agreement or similar agreement in accordance with the terms thereof.

Section 2.10. Property Tax. Developer shall pay all installments of property tax applicable to the Subject Property prior to such installments becoming delinquent.

ARTICLE 3

DEFAULT

Section 3.1. General Provisions. Subject to extensions of time by mutual consent in writing, any failure to perform any term or provision of this Agreement by County, by Developer or by Landowner not released from this Agreement to perform any term or provision of this Agreement, shall constitute a default in the event (a) the party alleging such default or breach gives the other party or Landowner not less than sixty (60) days notice in writing specifying the nature of the alleged default and the manner in which said default may be cured, and (b) the said other party does not cure the breach or default within said sixty (60) days (or, if the cure cannot be accomplished within 60 days, if said other party does not commence the cure within 60 days and diligently prosecute the cure thereafter.) During any such sixty (60) day
period, the party or Landowner charged shall not be considered in default for purposes of
termination or institution of legal proceedings.

After notice and expiration of the sixty (60) day period, if such default has not been cured
or is not being diligently cured in the manner set forth in the notice, the other party or
Landowner to this Agreement may, at his/her option, institute legal proceedings pursuant to this
Agreement or give notice of his/her intent to terminate this Agreement pursuant to California
Government Code section 65868 and any regulations of the County implementing said
Government Code section. Following notice of intent to terminate, or prior to instituting legal
proceedings, the matter shall be scheduled for consideration and review in the manner set forth in
Government Code sections 65865, 65867, and 65868 and County regulations implementing said
sections by the County within thirty (30) calendar days.

Following consideration of the evidence presented in said review before the County and
an additional 30-day period to cure, either party alleging the default by the other party or
Landowner may institute legal proceedings or may give written notice of termination of this
Agreement to the other party; provided, however, a Landowner may only give such notice with
respect to such portion of the Subject Property in which Landowner owns an interest.

Section 3.2. Annual Review. The County shall, at least every twelve (12) months
during the term of this Agreement, review the extent of good faith substantial compliance by
Developer and Landowner with the terms of this Agreement. Such periodic review by the
Director, unless referred to the Planning Commission or the County Board of Supervisors shall
be limited in scope to compliance with the terms of this Agreement pursuant to California
Government Code section 65865.1. Each said review shall be completed within sixty (60) days
of the first meeting of the Planning Commission and the County Board of Supervisors,
respectively, at which such review is undertaken, unless said period is extended by mutual
consent of the County and Developer. Failure to complete said review within the prescribed
period shall be deemed a finding of good faith substantial compliance. Notice of such annual
review shall include the statement that any review, the result of which the local agency finds and
determines on the basis of substantial evidence, that the Developer has not complied in good
faith with the terms or conditions of the Development Agreement, may result in amendment or
termination of this Agreement in accordance with Government Code section 65865.1. The
County may charge the Developer a reasonable fee for such annual review to defray the cost to
the County to process and conduct such annual review.

The County shall deposit in the mail or fax to Developer and/or Landowner a copy of all
staff reports and, to the extent practical, related exhibits concerning contract performance at least
seven (7) days prior to such periodic review. Developer or Landowner shall be entitled to appeal
da determination of the Director to the Commission and then to the Board of Supervisors. Any
appeal must be filed within ten (10) days of the decision of the Director, or the Commission, as
the case may be. Developer or Landowner shall be permitted an opportunity to be heard orally
and/or in writing regarding its performance under this Agreement before the Commission, Board
of Supervisors, and/or Director, as the case may be.

Section 3.3. Developer Default Limited to Property/Entity; Separate Obligations
of Owners. Except as specified herein in Section 3.1, no default hereunder in performance of a
covenant or obligation with respect to a particular portion of the Subject Property shall constitute a default applicable to any other portion of the Subject Property, and any remedy arising by reason of such default shall be applicable solely to the portion of Subject Property where the default has occurred. Similarly, the obligations of the Developer and Landowners shall be severable and no default hereunder in performance of a covenant or obligation by any one of them shall constitute a default applicable to any other owner who is not affiliated with such defaulting owner, and any remedy arising by reason of such default shall be solely applicable to the defaulting owner and the portion of the Subject Property owned thereby.

Section 3.4. Default by County. In the event the County does not accept, review, approve or issue necessary development permits or entitlements for use in a timely fashion as defined by this Agreement, or as otherwise provided in this Agreement, or the County otherwise defaults under the terms of this Agreement, Developer and/or Landowner may give written notice thereof to the County and if not cured within sixty (60) days following receipt of such notice, Developer shall have all rights and remedies provided herein or under applicable law, including without limitation the right to pursue actions for mandamus, specific performance, or injunctive or declaratory relief to enforce this Agreement. Notwithstanding the foregoing sentence, the County, Developer and Landowner each waives any and all rights to seek monetary damages from any other party as a result of any breach or alleged breach of such other party's obligations hereunder, excluding (a) any claim for refunds of fees or excess fee payments imposed inconsistent with this Agreement, and (b) County claims regarding payment of fees, taxes, assessment and other charges, including Levee Fees. In the event the County is in default under the terms of this Agreement, any resulting delays in Developer's performance caused thereby shall not constitute grounds for termination or cancellation of this Agreement.

Section 3.5. Default by and Remedies of TRLIA. TRLIA's rights and obligations under this Agreement are specifically limited to those rights and obligations specifically attributed to TRLIA as set forth in Exhibit C to this Agreement. TRLIA is considered a third party beneficiary of Exhibit C and shall have a right to enforce all obligations of Developer as set forth in Exhibit C to this Agreement. In the event that TRLIA defaults under the terms of this Agreement, Developer and/or Landowner may give written notice thereof to TRLIA with a copy to the County, and if not cured within sixty (60) days following receipt of such notice, Developer's sole remedy shall be the right to pursue actions for mandamus, specific performance, or injunctive or declaratory relief against TRLIA to enforce this Agreement. Notwithstanding the foregoing sentence, TRLIA, Developer and Landowner each waives any and all rights to seek monetary damages from any other party as a result of any breach or alleged breach of such other party's obligations hereunder, excluding any claim for refunds of fees or excess fee payments imposed inconsistent with this Agreement. In the event TRLIA is in default under the terms of this Agreement, any resulting delays in Developer's performance that are directly caused thereby shall not constitute grounds for termination or cancellation of this Agreement.

Section 3.6. Cumulative Remedies of Parties/Waiver of Right to Damages. In addition to any other rights or remedies, County, Developer and any Landowner may institute legal or equitable proceedings to cure, correct or remedy any default, to specifically enforce any covenant or agreement herein, to enjoin any threatened or attempted violation of the provisions
of this Agreement. Notwithstanding the foregoing sentence, the County, Developer and Landowner each waives any and all rights to seek monetary damages from the other party as a result of any breach or alleged breach of such other party's obligations hereunder, excluding any claim for refunds of fees or excess fee payments imposed inconsistent with this Agreement.

ARTICLE 4

TERMINATION

Section 4.1. Termination Upon Completion of Development. This Agreement shall terminate upon the expiration of the Term as defined on the Reference Sheet or when the Subject Property has been fully developed and all of the Developer's obligations in connection therewith are satisfied. Upon termination of this Agreement, the County shall record a notice of such termination in a manner substantially similar to the form attached hereto as Exhibit D. This Agreement shall automatically terminate and be of no further force or effect as to Completed Lots.

Section 4.2. Effect of Termination on Developer Obligations. Termination of this Agreement as to the Developer of the Subject Property or any portion thereof shall not affect any of the Developer's obligations to comply with the County General Plan and the terms and conditions of any applicable zoning, or subdivision map or other land use entitlements approved with respect to the Subject Property, any other covenants or any other development requirements specified in this Agreement to continue after the termination of this Agreement, or obligations to pay assessments, liens, fees, or taxes. Termination of this Agreement shall not affect Developers rights and duties under Exhibit C to this Agreement.

Section 4.3. Effect of Termination on County. Upon any termination of this Agreement, as provided for under the terms and conditions of this Agreement, as to the Developer of the Subject Property, or any portion thereof, the entitlements, conditions of development, limitations on fees and all other terms and conditions of this Agreement shall no longer be vested hereby with respect to the Subject Property affected by such termination (provided vesting of entitlements, conditions or fees applicable to the Subject Property shall be governed by planning and zoning law) and the County shall no longer be limited, by this Agreement, to make any changes or modifications to such entitlements, conditions or fees applicable to such property. Except as may be set forth in section 1.10 of Exhibit C, termination of this Agreement shall not affect County or TRLIA rights and duties under Exhibit C to this Agreement.

ARTICLE 5

STANDARD TERMS AND CONDITIONS

Section 5.1. Venue. Venue for all legal proceedings shall be in the Superior Court for the County of Yuba.

Section 5.2. Waiver. A waiver by any party of any breach of any term, covenant or condition herein contained or a waiver of any right or remedy of such party available hereunder
at law or in equity shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant or condition herein contained or of any continued or subsequent right to the same right or remedy. No party shall be deemed to have made any such waiver unless it is in writing and signed by the party so waiving.

**Section 5.3. Completeness of Instrument.** This Agreement, together with its specific references and attachments, constitutes all of the agreements, understandings, representations, conditions, warranties and covenants made by and between the parties hereto. Unless set forth herein, neither party shall be liable for any representations made express or implied.

**Section 5.4. Supersedes Prior Agreements.** It is the intention of the parties hereto that this Agreement shall supersede any prior agreements, discussions, commitments, representations or agreements, written or oral, between the parties hereto.

**Section 5.5. Captions.** The captions of this Agreement are for convenience in reference only and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

**Section 5.6. Number and Gender.** In this Agreement, the neuter gender includes the feminine and masculine, and the singular includes the plural, the word "person" includes corporations, partnerships, firms or associations, wherever the context so requires.

**Section 5.7. Mandatory and Permissive.** "Shall" and "will" and "agrees" are mandatory. "May" is permissive.

**Section 5.8. Term Includes Extensions.** All references to the term of this Agreement or the Agreement Term shall include any extensions of such term.

**Section 5.9. Successors and Assigns.** All representations, covenants and warranties specifically set forth in this Agreement, by or on behalf of, or for the benefit of any or all of the parties hereto, shall be binding upon and inure to the benefit of such party, its successors and assigns.

**Section 5.10. Modification.** No modification or waiver of any provisions of this Agreement or its attachments shall be effective unless such waiver or modification is in writing, signed by all parties, and then shall be effective only for the period and on the condition, and for the specific instance for which given.

**Section 5.11. Counterparts.** This Agreement may be executed simultaneously and in several counterparts, each of which shall be deemed an original, but which together shall constitute one and the same instrument.

**Section 5.12. Other Documents.** The parties agree that they shall cooperate in good faith to accomplish the object of this Agreement and to that end, agree to execute and deliver such other and further instruments and documents as may be necessary and convenient to the fulfillment of these purposes.
Section 5.13. Partial Invalidity. If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provision and/or provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

Section 5.14. Controlling Law. The validity, interpretation and performance of this Agreement shall be controlled by and construed under the laws of the State of California.

Section 5.15. Time Is of the Essence. Time is of the essence of this Agreement and each covenant and term a condition herein.

Section 5.16. Authority. All parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles and capacities herein stated and on behalf of any entities, persons, estates or firms represented or purported to be represented by such entity (s), person(s), estate(s) or firm(s) and that all formal requirements necessary or required by any state and/or federal law in order to enter into this Agreement have been fully complied with. Further, by entering into this Agreement, neither party hereto shall have breached the terms or conditions of any other contract or agreement to which such party is obligated, which such breach would have a material effect hereon.

Section 5.17. Document Preparation. This Agreement will not be construed against the party preparing it, but will be construed as if prepared by all parties.

Section 5.18. Advice of Legal Counsel. Each party acknowledges that it has reviewed this Agreement with its own legal counsel, and based upon the advice of that counsel, and freely entered into this Agreement.

Section 5.19. Estoppel Certificate. Within thirty (30) days following any written request which either party may make from time to time, and upon payment of a fee to the County to reimburse the County for its reasonable expenses associated herewith, the other party to this Agreement shall execute and deliver to the requesting party a statement certifying that:

(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; and

(b) there are not current uncured defaults under this Agreement or specifying the date, nature of any default and manner of cure.

This certificate may be executed by the Director.

Section 5.20. Attorneys Fees and Costs. If any action at law or in equity, including an action for declaratory relief, is brought to enforce or interpret provisions of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and costs, which may be set by the Court in the same action or in a separate action brought for that purpose, in addition to any other relief to which such party may be entitled.
Section 5.21. Consent/Subordination. Unless waived in writing by the County Counsel, Developer shall furnish proof satisfactory to the County, prior to approval of the Agreement that all persons possessing a legal interest in the Subject Property have consented to the recording of this Agreement in the County Recorder's Office against the Subject Property. Unless waived in writing by the County Counsel, the County shall require subordination by all lenders of record as a condition precedent to the County approval of the Agreement. The County shall have no duty to subordinate its interest in this Agreement.

Section 5.22. Calculation of Time Periods. All calculation of time periods shall be based upon calendar days unless a different intent is clearly stated.
IN WITNESS WHEREOF, this Agreement was executed by the parties thereto on the dates set forth in the Preamble.

COUNTY:
COUNTY OF YUBA,
a political subdivision of the State of California

By:__________________________
Name:________________________
Title:________________________

ATTEST:

By:__________________________
Name:________________________
Title: County Clerk

APPROVED AS TO FORM:

By: _________________________
Name: PAT GARAMONE
Chief Deputy
Title: County Counsel

DEVELOPER:

By: _________________________
Name: Jeffery Penkein
Title: Vice President

APPROVED AS TO FORM:

By: _________________________
Name: _________________________
Title: Counsel
TRLIA:
Three Rivers Levee Improvement Authority
a joint powers authority

By: ____________________________
Name: __________________________
Title: ____________________________

APPROVED AS TO FORM:

By: ____________________________
Name: ____________________________
Title: Counsel
JOINDER

Developer named herein is successor in interest to Towne Development of Plumas Lake LLC, a California limited liability company ("Towne") as to all matters relating to ownership of the Subject Property and the Entitlements with the exception of reimbursements or Excess Levee Fees described in this Agreement (and/or in Exhibit C attached hereto) and/or arising from the Funding Agreements and accruing prior to the date hereof ("Reimbursement Rights"). Towne continues to own and hold the Reimbursement Rights. Therefore, the undersigned, Towne, does hereby join in this Agreement (including without limitation Exhibit C attached hereto) for the sole purpose of approving and agreeing to the provisions of this Agreement as they may concern and affect the Reimbursement Rights.

IN WITNESS WHEREOF, this Joinder was executed by the undersigned as of the date first written above in the Agreement.

"Towne"

TOWNE DEVELOPMENT OF PLUMAS LAKE LLC, a California limited liability company

By: TOWNE DEVELOPMENT OF SACRAMENTO, INC., a California corporation, its Managing Member

By: [Signature]
Name: [Name]
Its: [Title]
ACKNOWLEDGMENT

State of California
County of Placer

On June 5, 2009 before me, Joan L. Sampson, Notary Public (insert name and title of the officer)

personally appeared Jeffrey Pinstein 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 Joan L. Sampson (Seal)

Attention Notary: Although the information requested below is OPTIONAL, it could prevent fraudulent attachment of this certificate to another document.

THIS CERTIFICATE MUST BE ATTACHED TO THE DOCUMENT DESCRIBED AT RIGHT.

Title of Document Development Agreement
Number of Pages
Date of Document
Signer(s) other than named above

RIGHT THUMBPRINT

[Blank space for thumbprint]
LIST OF EXHIBITS

Exhibit A  Legal Description of Subject Property
Exhibit B  Assumption Agreement
Exhibit C  Special Conditions and Requirements
Exhibit D  Sample Notice of Termination
Exhibit E  Credit and Reimbursement Policy
EXHIBIT A

SUBJECT PROPERTY

Real property in the unincorporated area of County of Yuba, State of California, described as follows:

Lots 1, 7 through 35, 37 through 73, 78 through 89, as shown on the map of “Rio del Oro Village 14 Final Map”, Tract Map No. 2004-19, filed in the office of the County Recorder of Yuba County, California on August 25, 2004 in Book 78 of Maps, at pages 36 through 43 inclusive.


APN: 016-360-001 (Lot 1), 016-360-007 thru 022 (Lots 7 thru 22), 016-370-001 thru 004 (Lots 23 thru 26), 016-370-009 thru 017 (Lots 27 thru 35), 016-370-018 (Lot 37), 016-370-008 (Lot 38), 007 (Lot 39), 006 (Lot 40), 005 (Lot 41), 016-380-001 thru 032 (Lots 42 thru 73), 016-370-022 thru 026 (Lots 78 thru 82), 016-360-023 thru 029 (Lots 83 thru 89)
EXHIBIT B
ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (hereinafter "this Agreement") is entered into this ___ day of ____________, 200__, by and between ___________ (hereinafter called "Owner") and ________________ (hereinafter "Assignee").

RECITALS

A. On ______________, 200__, the County of Yuba and Owner entered into that certain agreement entitled "Development Agreement," approved by Ordinance ______________ (hereinafter "Agreement"), relative to the development known as ______________ (hereinafter "Subject Property").

B. Owner entered into a purchase and sale agreement whereby a portion of the Subject Property will be sold to Assignee, which portion of the Subject Property is identified and described in Exhibit A, attached hereto and incorporated herein by this reference (hereinafter the "Assigned Parcel(s)").

C. Owner desires to assign all of its interests, rights and obligations under the Agreement with respect to the Assigned Parcel(s).

D. Assignee desires to assume all Owner's rights and obligations under the Agreement with respect to the Assigned Parcel(s).

NOW, THEREFORE, Owner and Assignee hereby agree as follows:

1. Owner hereby assigns effective as of Owner's conveyance of the Assigned Parcel(s) to Assignee, all of the rights, interest, burdens and obligations of Owner under the Agreement with respect to the Assigned Parcel(s). Owner retains all the rights, interest, burdens and obligations under the Agreement with respect to all other property within the Subject Property owned thereby.

2. Assignee hereby assumes all of the burdens and obligations of Owner under the Agreement, and agrees to observe and fully perform all of the duties and obligations of Owner under the Agreement, and to be subject to all the terms and conditions thereof, with respect to the Assigned Parcel(s), it being the express intention of both Owner and Assignee that, upon the execution of this Agreement and conveyance of the Assigned Parcel(s) to Assignee, Assignee shall be come substituted for Owner as the "Developer" under the Agreement with respect to the Assigned Parcel(s).

3. All of the covenants, terms, and conditions set forth herein shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, successors and assigns.

Development Agreement Between the County of Yuba and Rio Del Oro Village 14

Exhibit B – Page 1
IN WITNESS HEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

ASSIGNOR / OWNER

By: ____________________________
Name: ____________________________
Title: ____________________________

ASSIGNEE

By: ____________________________
Name: ____________________________
Title: ____________________________
EXHIBIT C

SPECIAL CONDITIONS AND REQUIREMENTS

This Exhibit C is attached to and made a part of that certain Development Agreement dated as of ______________, 2009 (the “Development Agreement”), by and between the County, TRLIA and the Developer named therein. For purposes of this Exhibit C, “Developer” shall mean River Landings Investments LLC and/or its predecessor in interest Towne Development of Plumas Lake LLC. The terms and conditions of this exhibit shall survive should the Development Agreement terminate prior to completion of reimbursements required herein.

Section 1.1 Background. Developer, or Developer’s predecessor in interest as owners of the subject Property, was a party to (a) that certain Agreement For Advanced Funding and Reimbursement of Costs for Levee Improvements dated April 19, 2005 (“2005 Advanced Funding Agreement”) and (b) the Second Agreement for Advanced Funding and Reimbursement of Costs for Levee Improvements, dated as of August 29, 2006, ("Second Funding Agreement"), (the 2005 Advance Funding Agreement and the Second Funding Agreement being sometimes collectively referred to herein as the “Funding Agreements”), which relates to the construction of certain flood protection improvements benefitting the Plumas Lake Specific Plan and the North Arboga Study Area, which area is generally described as the South Yuba Basin. In order to pay for costs associated with levee improvements in the South Yuba Basin, on November 18, 2008, the Board of Supervisors of the County of Yuba adopted Ordinance No. 1465, enacting the Three Rivers Levee Impact Fee ("Levee Fee"). The Levee Fee was based on the then estimated cost to complete the levee improvements. As a party to the Funding Agreements, Developer advanced funded certain amounts for the Levee Fee to be used for the levee improvements described above. By making advanced payments pursuant to the Second Funding Agreement, Developer became authorized under the terms of the Second Funding Agreement to record final maps and to have a certain number of building permits issued upon request for the Project.

At the time of the execution of the Second Funding Agreement, the anticipated levee improvements included strengthening in place improvements to the existing left (east) Feather River levee from the Bear River Setback levee to the Yuba River, however, a Feather River setback levee from Star Bend to Shanghai Bend (the "Feather River Setback Levee") was contemplated. In early 2008, the decision was made to change certain portions of the levee improvement project to include the Feather River Setback Levee. By doing this, the state of California committed to providing more than $135 million in funding, pursuant to Prop 1E and 84. Due to the receipt of the State grant funds, the amount of local funds needed to complete the levee improvements was reduced. This reduction caused the Levee Fee to be reduced. The Levee Fee was reduced with the adoption of Ordinance No. 1465 by the Board of Supervisors of the County of Yuba on November 18, 2008.

Due to the reduction of the Levee Fee, Developer claims a right of reimbursement and/or credit. This right is based on prior advanced funding made in excess of the amount required under the Levee Fee, as adjusted by Ordinance No. 1465(herin “Prior Advanced Funding”).

The County of Yuba has adopted certain policies to address the claimed rights of reimbursement or credit for Prior Advanced Funding. Those policies are set forth in the Three Rivers Levee
Credit and Reimbursement Policies and Procedures (the "Credit and Reimbursement Policy"). The Credit and Reimbursement Policy is hereby incorporated into and made a part of the Agreement, and is attached as Exhibit E. To the extent there is any inconsistency between this Agreement and the Credit and Reimbursement Policy as to the timing, manner or amount of credit or reimbursement due, the Credit and Reimbursement Policy shall control.

Section 1.1.1. Reimbursement to Towne under Exhibit M to Second Funding Agreement. The Parties acknowledge that Developer is owed reimbursement as reflected in Exhibit M to the Second Funding Agreement. Developer and the County have entered into a Settlement Agreement concerning those reimbursement. This Agreement shall not control or otherwise affect the reimbursement covered under the Settlement Agreement.

Section 1.2. Use of Credits. The Parties to this Agreement agree that the Credit and Reimbursement Policy sets forth the amount of credit and reimbursement owed the Developer in connection with Prior Advanced Funding. The Credit and Reimbursement Policy shall control as to the amount of credit or reimbursement due and how any credit or reimbursement will be applied.

Section 1.2.1. For those units included in the Project for which Developer has applied for a building permit after April 19, 2005 and on or before October 21, 2008, the Levee Fee shall be levied at the current rate as set forth in Ordinance No. 1465 and the Developer shall receive full credit for such fees from the amount advance funded, as more specifically set forth in the Credit and Reimbursement Policy.

Section 1.2.2. For those units for which the Developer has applied for a building permit after October 21, 2008, Developer shall receive credit for the Levee Fee imposed on the Project on a proportionate basis for the remainder of the Project. For those building permits applied for after October 21, 2008, Developer will pay a portion of the Levee Fee at the rate set forth in Ordinance No. 1465 and at the time and in the manner required herein, based on the relative proportionality between the remainder of the Project not able to be funded from credit and the total remaining acreage left in the Project after all previously absorbed units, all consistent with the provisions of the Credit and Reimbursement Policy. The County will calculate the amount of the Levee Fee due after the credit at the time the individual building permits are issued for each unit to be constructed on the Project pursuant to a building permit applied for after October 21, 2008. The amount of the credit and how it will be applied is more specifically set forth in the Credit and Reimbursement Policy.

Section 1.2.3. To the extent that the Developer is developing multiple projects which were subject to the Second Funding Agreement and one project has advanced funded Levee Fees in excess of its total obligation and is due reimbursement, that reimbursement may be applied and added to the credit of any of Developer's other projects that will have a remaining obligation to pay Levee Fees. The manner in which the credit from a project that has paid fees in excess of its total obligation may be applied to the credit of Developer's other projects is set forth in Appendix A of the Credit and Reimbursement Policy.
Section 1.3. **Reimbursement of Levee Fees.** If the amount owed to Developer for Prior Advanced Funding in excess of obligations owed under the current Levee Fee is not satisfied by application of credit to the Project or transfer of the credit to another project as set forth in Section 1.2.3., the remaining amount due will be reimbursed to Developer, solely from Levee Fees collected from others, and then only as follows:

**Section 1.3.1. Before Levee Certification.** Prior to certification by the Federal Emergency Management Agency (FEMA) of those levees to be constructed or improved pursuant to the Levee Improvement Program defined in Section 3 of the Second Funding Agreement, including the Feather River Setback Levee (the "Levee" or "Levees"), no reimbursement of Prior Advanced Funding will be made to the County, YCWA or Developer from any Levee Fees collected. Levee Fees collected through and until such certification date will be used to directly fund improvements to the Levees. However, it is understood by all parties that, to the extent Levee Fees are collected prior to such certification date, this funding may go to offset the additional required contribution of funds to the TRLIA Levee Improvement Program by the County and YWCA consistent with the intent of the July 22, 2008 Agreement Concerning Levee Impact Fees Among County of Yuba, Yuba County Water Agency, and Yuba Levee Financing Authority.

**Section 1.3.2. After Certification of the Levees and before March 1, 2015.** During the time period between when the Levees are certified by FEMA and before March 1, 2015 twice per year distribution of Levee Fee revenue not needed to pay any Levee improvement costs incurred prior to such certification but not yet paid will occur. The revenues collected before March 1, 2015 will be split between those parties determined by the County to be due reimbursements (including the County and YCWA on a proportionate basis, based upon the aggregate principal amount of their outstanding reimbursement. Table 6 of the Credit and Reimbursement Policy sets forth an example of the proportionality of outstanding reimbursements due.

**Section 1.3.3. From and After March 1, 2015 and until all Reimbursements are Complete.** Commencing on March 1, 2015 twice per year distributions of Levee Fee revenue will occur as follows: (a) initially, 100% of the revenues collected will go to fund the scheduled debt service due on the borrowing to fund levee improvements secured by lease and installment payment obligations of the County and YCWA and (b) any remaining Levee Fee revenue will be split between those parties determined by the County to be due reimbursements (including the County and YCWA) on a proportionate basis, based upon the aggregate principal amount of their outstanding reimbursement.

**Section 1.3.4. Interest.** Any reimbursement owed to Developer, as well as to County or YWCA, will accrue interest at a rate of 5.534% per annum. Interest will be calculated on a monthly compounding rate.

**Section 1.3.5. Acknowledgment.** Except as set forth in this Exhibit C, the Credit and Reimbursement Policy and the Settlement Agreement, Developer acknowledges and agrees that no other reimbursement or Credit is due for funds advanced under prior agreements concerning

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Development Agreement Between the County of Yuba and Rio Del Oro Village 14

Exhibit C – Page 3
construction of the Levees, including the 2005 Funding Agreement and/or the Second Funding Agreement.

**Section 1.3.6. Inspection of Records.** Developer shall have the right to review and inspect records of the County with respect to Levee Fees and other revenue sources available to make payments or reimbursements to Developer under this Section 1.3. Developer must give the County reasonable notice of any such request.

**Section 1.4. Extension of Tentative Map Life.** The expiration date of any existing tentative map within the Subject Property, subject to the Credit and Reimbursement Policy, is extended for twenty (20) years from the original approval date, inclusive of any and all other extensions which may be provided by law.

**Section 1.5. County Imposed Development Fees.** The County shall not impose any New Fees relating to the Project for ten (10) years from the Effective Date of this Development Agreement. Notwithstanding the forgoing, the County may impose New Fees as follows: (a) any Traffic Impact (Road Improvements) component of the County-Wide Capital Facility Fee and, (b) any fees levied for the purpose of offsetting the cost of regional park improvements, provided, however, that the cumulative new fees levied for regional park improvements shall not exceed Two Thousand Dollars ($2,000) per dwelling unit contained in the Project. To the extent a New Fee is levied against the Project pursuant to one of the exclusions listed herein, that New Fee shall be imposed and levied in a manner consistent with all applicable State and local laws and regulations. Development impact fees imposed by entities other than the County or by the County on behalf of other entities are not subject to this provision.

**Section 1.6. Impact Fee Lock.** The County shall not increase any Current Fees relating to the Project for 10 years from the Effective Date of this Development Agreement. Notwithstanding the forgoing, the County may increase Current Fees as follows: (a) any currently incorporated escalator adopted with and incorporated into the Current Fee; (b) any increase to the current Traffic Impact (Road Improvements) component of the County-Wide Capital Facility Fee; (c) and any change or increase to the current PLSP/NASA Road Improvement Fee. To the extent a Current Fee levied against the Project is changed or increased pursuant to one of the exclusions listed herein, that change or increase shall be imposed and levied in a manner consistent with all applicable State and local laws and regulations. Development impact fees imposed by entities other than the County or by the County on behalf of other entities are not subject to this provision.

**Section 1.7. Developer to Receive Benefit of Reduction in Fees.** Notwithstanding any of the other terms of this Agreement, any reduction to Current Fees or New Fees that is applied to development within the County generally shall be applied to the Project.

**Section 1.8. Deferral of Collection of Impact Fees.** The balance of the Levee Fee due after application of credit as described in 1.2 above with respect to units in the Project, shall be calculated for each unit at the time a building permit is issued for that unit, but the collection by the County of the amount due shall be deferred until the final inspection of the unit for which the
building permit is issued (in a manner consistent with Yuba County Ordinance No. 1461). The duration of this fee deferral will be for ten (10) years from the Effective Date of this Development Agreement. The collection of all other development impact fees and County-Wide Capital Facility Fees will be deferred in a manner consistent with the Yuba County Ordinance No. 1461, except that, the duration of the deferral will be ten (10) years from the date of this Development Agreement. Following any such deferral period, all fees will be due and payable as and when levied in accordance with County policy. Development impact fees imposed by entities other than the County or by the County on behalf of other entities are not subject to this provision.

Section 1.9. Builder Bonds. In the event that the Developer is the registered owner of any Builder Bonds (as such term is defined in the Second Funding Agreement) issued by TRLIA for CFD 2006-1 or CFD 2006-2 (as such community facilities districts are described in Section 7.A.(1) of the Second Funding Agreement), the County and TRLIA agree to take all reasonable actions on its part necessary or appropriate, at the written request and cost of the Developer, in the redemption or refunding of such bonds, so long as any such request is consistent with the procedures and requirements described in Appendix B to the Three Rivers Levee Impact Credit and Reimbursement Policy. The County and TRLIA acknowledge and agree that all special tax revenues collected by TRLIA from special tax levies for CFD 2006-1 and CFD 2006-2 shall be disposed of by TRLIA as provided in Section 4.01 of the respective Fiscal Agent Agreement for the Builder Bonds for the respective community facilities district, in the rate and method of apportionment for the respective community facilities district and, to the extent not inconsistent with the foregoing, as described in Appendix C to the Credit and Reimbursement Policy.

Section 1.10. Failure of Consideration. The terms and conditions set forth in Sections 1.4. through 1.8. of this Exhibit C are granted by the County in consideration of the Developer's agreement to the credit and reimbursement terms in Section 1.2 and 1.3 et seq. If any term of the credit and reimbursement policies as set forth in Sections 1.2 and 1.3 et seq. is deemed invalid or a legal challenge to any such terms is made by Developer, then there shall be deemed a failure of consideration and the provisions of Section 1.4 through 1.8 shall be void and unenforceable by Developer.

Section 1.11.1 Flood Insurance. Developer shall provide, at no cost to all new residents (including the initial sale by the Developer and all subsequent resales) of homes constructed by such Developer within the Affected Area (as defined in the Second Funding Agreement) since 2003 (i.e., homes for which building permits were issued from and after January 1, 2003), flood insurance and renewals of flood insurance only through the Completion of the Levee or until December 31, 2010 (whichever occurs first). As used in this Section, "Completion" shall mean the earlier of: (i) the date on which a notice of completion is recorded by the general contractors performing TRLIA's Phase 4 work, or (ii) the date on which a determination of substantial completion of TRLIA's Phase 4 work is made by the Executive Officer of the Central Valley Flood Protection Board. The County and TRLIA will reasonably cooperate in assisting Developer to fulfill this requirement, including but not limited to providing for notice of resales of homes within the Project to be provided to Developer. The renewals and subsequent issuance of flood insurance provided by the Developer shall satisfy the minimum requirements of the National Flood Insurance Program for a standard dwelling policy.
Section 1.11.2 Notice Requirements to New and Existing Homeowners. Developer shall take the following steps to increase the awareness of flood risk by new and existing purchasers of homes within the Project:

(a) At the time of execution of a sales contract for a new home within the Project, Developer shall distribute an informational packet prepared by TRLIA on the status of the Levee Improvement Program. Purchasers will then be requested to sign an acknowledgment sheet that they have received the packet and are aware of the flood risks associated with the Project.

(b) At the time of closing on a new home within the Project, Participant shall require execution by the new purchaser of the home of a Notice of Acknowledgement stating that the purchaser understands that the Developer (home builder) is purchasing flood insurance for the purchaser of the home (including the terms of that insurance and the period for which that insurance will be purchased) and that the purchaser of the home has received an information packet on the Levee Improvement Program and the risk of purchasing a home within the Project.

(c) Four times a year until certification of all levees required under the Levee Improvement Program, TRLIA shall prepare and distribute through the mail to new and existing purchasers of new homes within the Project an information packet on the Levee Improvement Program and any information provided by the County or TRLIA to the Developer on steps that such purchasers may take to reduce the risk of flooding to homes within the Project, such as being aware of the County's pre-hazard mitigation program, time-inundation maps, and hazard evacuation routes. Developer shall reasonably assist TRLIA to provide such information packets.

Section 1.11.3 Evacuation and Prehazard Mitigation Program. County commits to continue to use reasonable diligence to inform residents within the Project, including portions of Reclamation District 784, of the risk of flooding and to further refine, improve, and make available the County's Evacuation Plan and Prehazard Mitigation Plan.

Section 1.11.4 Accounting, Auditing and Reporting.

(a) TRLIA and County shall use best efforts to properly account for all sums paid to and grants received by TRLIA and County for the Levee Improvement Program.

(b) Developer has the right, upon not less than three (3) business days notice, at all reasonable times, to inspect the books and records of TRLIA and County pertaining to the Levee Improvement Program, as pertinent to the purposes of this Agreement.

(c) Upon request each year by Developer, TRLIA shall deliver to Developer the audited financial statement prepared by a qualified independent auditor pertaining to the Levee Improvement Program for each fiscal year, including all revenues and expenditures of TRLIA relating thereto for the prior year's period. The audited financial statement shall be delivered to Developer within 30 days following submission of such statement to the TRLIA Board.
Section 1.11.5 Maintenance of Levees. TRLIA shall be responsible to assure levee maintenance until certification, as the improvements are completed, in accordance with the Levee Improvement Program and consistent with relevant State and Federal standards.

Section 1.11.6 Preparation of Informational Packets. TRLIA shall prepare and update informational packets on the status of the Levee Improvement Program which shall be distributed to new home purchasers by the Developer. Purchasers will then be requested to sign an acknowledgement sheet that they have received the packet and are aware of the flood risks associated with the Project.

Section 1.12. Status of Second Funding Agreement. The County, TRLIA and the Developer hereby acknowledge and agree that following State Approval all rights, duties, or obligations set forth in, or required by, the Second Funding Agreement as applied to each of them are hereby terminated and neither of the Funding Agreements is of any force or effect as to the County, TRLIA and Developer. "State Approval" shall mean receipt by TRLIA of a letter from the Central Valley Flood Protection Board which confirms that TRLIA has satisfied all of its obligations under the Second Implementation Agreement (referenced in Recital N to the Second Funding Agreement). The County, TRLIA, and the Developer further acknowledge and agree that (i) this Development Agreement supersedes both the 2005 Advanced Funding Agreement (referenced in Recital J to the Second Funding Agreement) as well as the Second Funding Agreement, (ii) all reimbursable amounts that may have been due to the Developer under the 2005 Advanced Funding Agreement have been deemed paid, and (iii) all funding advanced by the Developer to TRLIA under the Second Funding Agreement shall be applied pursuant to this Development Agreement. All obligations, rights and duties set forth in the Second Funding Agreement that apply to the County, TRLIA and Developer are hereby superseded by this Development Agreement. Notwithstanding anything in this Section 1.12 to the contrary, if a third party to either Funding Agreements (meaning any party other than a party to this Agreement or a successor or related entity) shall make a claim under or to enforce the Second Funding Agreement against any party hereto, then solely for purposes of defending against, responding to, and/or making cross or counter claims in connection with the third party claim, the Second Funding Agreement shall not be deemed terminated, but only to the extent necessary to defend against, respond to, and/or make such cross or counter claims in connection with the third party claim. Further until a Settlement Agreement between Developer and the County is executed and binding on the parties hereto with respect to settlement of disputes between the parties relating to Exhibit M to the Second Funding Agreement, then the provisions of Exhibit M to the Second Funding Agreement and/or any provisions of the Second Funding Agreement to the extent applying or administering Exhibit M to the Second Funding Agreement shall continue to be binding upon the parties hereto and shall not be deemed terminated or superseded by this Development Agreement.
EXHIBIT D

NOTICE OF TERMINATION

THIS NOTICE OF TERMINATION (hereinafter "this Notice") is given this ___ day of ___ , 200___, by the County of Yuba (hereinafter "County") for the benefit of ________________, (hereinafter "Owner").

1. On ______________ , 200___, the County of Yuba and ______________ entered into that certain agreement entitled "Development Agreement," approved by Ordinance _____________ (hereinafter "Agreement"), relative to the development known as ________________ (hereinafter "Subject Property").

2. Owner has fully performed all its duties with respect to that portion of the Subject Property, which portion of the Subject Property is identified and described in Exhibit A, attached hereto and incorporated herein by this reference (hereinafter the "Released Property").

3. Pursuant to Section 4.1 of the Development Agreement, the Development Agreement is no longer in effect with respect to the Released Property.

COUNTY OF YUBA

By: ________________________________

Name: ______________________________

Title: ______________________________

[NOTE: SIGNATURE MUST BE NOTARIZED]
NOTARY

State of California
County of __________________

On _____________, 20__, before me, ________________, Notary Public, personally appeared ________________________________, personally known to me (or proved 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.

______________________________
Notary Signature

WITNESS MY HAND AND OFFICIAL SEAL.
DEVELOPMENT AGREEMENT
BY AND BETWEEN
THE COUNTY OF YUBA, THE THREE RIVERS LEVEE IMPROVEMENT AUTHORITY AND KB HOME SACRAMENTO INC. (DEVELOPER)
RELATIVE TO THE DEVELOPMENTS KNOWN AS
HAWES RANCH ESTATES AND PLUMAS LAKE-COBBLESTONE

This document, including exhibits, totals __ pages.
REFERENCE SHEET

Projects:
Hawes Ranch Estates – TSTM2002-0602
Plumas Lake-Cobblestone – TSTM2002-0598

Developer:
KB Home Sacramento Inc.

Developer's Address for Purpose of Written Notice:
2420 Del Paso Road, Suite 200
Sacramento, CA 95834

Landowner:
Same as above.

Term:
The Term of the Development Agreement, as provided for in section 1.8 begins thirty (30) days after the Board of Supervisors enacts the Adopting Ordinance (noted below) and expires for each project twenty (20) years from the original date of approval of each project. Portion of DA covering TSTM2002-0602 expires on July 16, 2023 and portion of DA covering TSTM2002-0598 expires on September 24, 2022.

Entitlements:
As referred to in Recital 5 shall mean TSTM2002-0602, TSTM2002-0598, and all associated tentative and final maps.

CEQA document:
TSTM2002-0602 is located within the North Arboga Study Area. On July 16, 2003 the Yuba County Planning Commission adopted a Mitigated Negative Declaration for TSTM2002-0602. This Agreement is consistent with the project evaluated in the Initial Study/Mitigated Negative Declaration and therefore no further environmental review is required.

TSTM2002-0598 is located within the Plumas Lake Specific Plan area. A Final Environmental Impact Report for the Plumas Lake Specific Plan was adopted by the Yuba County Board of Supervisors on September 21, 1993 (State Clearinghouse No. 92072070). A residential project that is consistent with a specific plan is exempt from further environmental review (Section 15182 of the CEQA Guidelines.)

Adopting Ordinance:
As referred to in Section 1.3 (a), shall mean Ordinance No. ___________ enacted by the Board of Supervisors on ______________, 20__.

Exhibits which are attached to this Development Agreement are as follows:
A. Legal Description
B. Assumption Agreement
C. Special Conditions and Requirements
D. Sample Notice of Termination
E. Credit and Reimbursement Policy
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THIS DEVELOPMENT AGREEMENT ("Agreement") is made by and between the COUNTY OF YUBA, a political subdivision of the State of California (County"), the THREE RIVERS LEVEE IMPROVEMENT AUTHORITY, a joint powers authority ("TRLIA") and KB Home Sacramento Inc. ("Developer") pursuant to the authority of Article 2.5, Chapter 4, Division Title 7 (§ 65864 et seq. of the Government Code) relating to Development Agreements.

RECITALS

1. In order to strengthen the public land use planning process, to encourage private participation in the process, to reduce the economic risk of development and to reduce the waste of resources, the Legislature adopted the Development Agreement Law (Gov. Code, § 65864 et seq.)

2. The Development Agreement Law permits cities and counties to contract with private interests for their mutual benefit in a manner not otherwise available to the contracting parties. Such agreements, as authorized by the Development Agreement Law and by common law, assure property developers that they may proceed with their projects with the assurance that approvals granted by public agencies will not change during the period of development. Cities and counties are equally assured that costly infrastructure such as roads, sewers, fire protection facilities, etc., will be available in a timely manner.

3. The parties have, in good faith, negotiated the terms hereinafter set forth which carry out the legislative purpose set forth above and will assure the parties to this Agreement of mutually desirable development in a manner consistent with the CEQA document, the Entitlements, and this Agreement.

4. Developer owns in fee (or holds an option to purchase for a term that is or may be extended for at least the term of this Agreement) the Subject Property as more particularly described on Exhibit A hereto, located in the County.

5. County, in response to Developer's application(s), after public hearings and extensive environmental analysis, has granted approval of the Entitlements, as described on the Reference Sheet.

6. In support of the various Entitlements described in paragraph 5 above, and in accord with the California Environmental Quality Act ("CEQA") and State and County guidelines, County has accepted and ratified a CEQA document, as described on the Reference Sheet.

7. Development of the Subject Property pursuant to the terms and conditions of the Entitlements, the General Plan and appropriate environmental determinations will provide for orderly growth and development consistent with the County's General Plan and other development policies and programs.

8. The Planning Commission considered this Agreement, and recommended its adoption to the Board of Supervisors.
9. Having duly considered this Agreement and having held the noticed public hearings, County finds and declares that the provisions of this Agreement are consistent with the maps and text of the County's General Plan.

NOW, THEREFORE, the parties hereto agree as follows:

ARTICLE 1

GENERAL PROVISIONS

Section 1.1. The Project. The Project is defined as set forth on the Reference Sheet.

Section 1.2. Subject Property. The Subject Property is more specifically described in Exhibit A, which is incorporated herein and made part of this Agreement.

Section 1.3. Definitions. As used in the Agreement, the following terms, phrases and words shall have the meanings and be interpreted as set forth in this Section.

(a) Adopting Ordinance means the ordinance which approves this Agreement.

(b) Applicable Laws means the General Plan, Specific Plan (if applicable), County Laws, rules, ordinances, regulations, and official policies governing the processing of entitlements, the permitted uses of the Subject Property, the density or intensity of use, the rate and timing of development, design, improvements, reservation or dedication of land for public improvements, fees, exactions, construction and building setbacks, occupancy and specifications applicable to the Subject Property in effect on the Effective Date of this Agreement.

(c) Assumption Agreement means an agreement substantially conforming to the model assumption agreement described in Exhibit B, or other agreement in a form approved by the County Counsel, executed by a Landowner with the Developer, expressly assuming various obligations relating to the development of the Project, or portion thereof.

(d) CEQA means the California Environmental Quality Act section 21000 et seq., of the Public Resources Code of the State of California.

(e) Completed Lots shall mean any single-family residence, any other residential dwelling unit(s), or any non-residential building, and the lot or parcel upon which such residence or building is located, when it has been approved by the County for occupancy.

(f) County means the County of Yuba or, if the context otherwise requires, the Board of Supervisors for the County of Yuba, or its designee.

(g) County Laws means ordinances, resolutions, rules, regulations, policies, motions, directives, mitigation measures, conditions, standards, specifications, dedications, fees, taxes (including without limitation general, special and excise taxes), assessments, liens, other exactions and impositions, and any other actions having the force of law, that are enacted or adopted by County, or by its electorate through the initiative or referendum process.
(h) **Current Fees** means those County development impact fees in effect as of the Effective Date and any currently incorporated adjustments or increases therein adopted as of the Effective Date.

(i) **Developer** shall mean that person or entity that has applied for this Development Agreement as defined on the Reference Sheet.

(j) **Director** means the Community Development Director for the County, or his/her designee.

(k) **Effective Date** means the effective date of the Adopting Ordinance.

(l) **Entitlements** shall mean those approvals listed on the Reference Sheet of this Agreement, approved copies of which are on file with the Board of Supervisors.

(m) **General Plan** means the General Plan of the County, including the text and maps, as may have been amended in connection with the Project.

(n) **Landowner** is a party who has acquired any portion of the Subject Property from the Developer who, unless otherwise released as provided in this Agreement, shall be subject to the applicable provisions of this Agreement.

(o) **New Fees** means those development impact fees adopted by the County after the Effective Date of this Development Agreement.

(p) **Planning Commission** shall mean the County's Planning Commission, or its designee.

(q) **Reserved Powers** shall mean those powers explicitly reserved to the County by this Agreement.

(r) **Revenue Bonds** means the Yuba Levee Financing Authority Revenue Bonds, Series A and Taxable Revenue Bonds, Series B.

(s) **Subject Property** means the property described in Section 1.2, or the remaining portions thereof after releases from the provisions of this Agreement have been executed as authorized by this Agreement.

(t) **TRLIA** means the Three Rivers Levee Improvement Authority.

(u) **YCWA** means the Yuba County Water Agency.

Section 1.4. **Exhibits.** The Exhibits listed herein are incorporated into this Agreement and made a part hereof. The Exhibits are:

- **Exhibit A** Subject Property
- **Exhibit B** Assumption Agreement
- **Exhibit C** Special Conditions and Requirements
Section 1.5. **Incorporation of Recitals.** Recitals 1 through 9 are incorporated herein, including all exhibits referred to in the Recitals. In the event of inconsistency between the Recitals and the provisions of Articles 1 through 5, the provisions of Articles 1 through 5 shall prevail.

Section 1.6. **Parties to Agreement.** The parties to this Agreement are:

(a) **The County of Yuba.** A political subdivision of the State of California exercising general governmental functions and powers. The principal office of the County is located at 915 8th Street, Marysville, California 95901.

(b) **Three Rivers Levee Improvement Authority.** A joint powers authority created by the County and RD 784. The principal office of TRLIA is located at the County of Yuba Government Center, 915 Eighth Street, Suite 115, Marysville, California 95901.

(c) **Developer.** Developer owns in fee or has an equitable interest in the Subject Property.

(d) **Landowner.** From time to time, as provided in this Agreement, Developer may sell or otherwise lawfully dispose of a portion of the Subject Property to a Landowner who, unless otherwise released, shall be subject to the applicable provisions of this Agreement related to such portion of the Subject Property.

Section 1.7. **Project is a Private Undertaking.** It is agreed among the parties that the Project is a private development and that the County has no interest therein except as authorized in the exercise of its governmental functions.

Section 1.8. **Term of Agreement.** This Agreement shall commence upon the Effective Date of the Adopting Ordinance approving this Agreement and shall continue in force for the period shown on the Reference Sheet under "Term." Upon the expiration of the Term as provided for in this section, this Agreement shall automatically terminate and be of no further force and effect; provided however, such termination shall not affect the rights or duties arising from the entitlements for the Subject Property which were approved prior to, concurrently with, or subsequent to the approval of this Agreement.

Section 1.9. **Assignment and Assumption.** Developer shall have the right to sell, assign, or transfer this Agreement with all the rights, title and interests therein to any person, firm or corporation at any time during the term of this Agreement. The conditions and covenants set forth in this Agreement and incorporated herein shall run with the land and the benefits and burdens shall bind and inure to the benefit of the parties. Developer shall provide County with a copy of the Assumption Agreement. Express written assumption by such purchaser, assignee or transferee, to the satisfaction of the County Counsel, of the obligations and other terms and conditions of this Agreement with respect to the Subject Property or such portion thereof sold, assigned or transferred, shall relieve the Developer selling, assigning or
transferring such interest of such obligations so expressly assumed. Any such assumption of Developer’s obligations under this Agreement shall be deemed to be to the satisfaction of the County Counsel if executed in the form of the Assumption Agreement attached hereto as Exhibit B and incorporated herein by this reference, or such other form as shall be approved by the County Counsel.

Section 1.10. Covenants Running with the Land. Each and every purchaser, assignee or transferee of an interest in the Subject Property, or any portion thereof, shall be obligated and bound by the terms and conditions of this Agreement, and shall be the beneficiary thereof and a party thereto, but only with respect to the Subject Property or such portion thereof, sold, assigned or transferred to it. Any such purchaser, assignee or transferee shall observe and fully perform all of the duties and obligations of a Developer contained in this Agreement, as such duties and obligations pertain to the portion of the Subject Property sold, assigned or transferred to it. Provided however, notwithstanding anything to the contrary above, if any such sale, assignment or transfer relates to a completed residential unit or non-residential building which has been approved by the County for occupancy, this Agreement shall automatically terminate with respect to the Completed Lot. The termination of this Agreement for any Completed Lot shall not be construed to terminate or modify any assessment district or Mello-Roos community facilities district lien affecting such Completed Lot at the time of termination. Upon the request of a Developer, County shall execute such documents as are reasonably requested to remove this Agreement from the public records as it affects each Completed Lot. The County may charge a reasonable fee to process this request.

Section 1.11. Amendment to Agreement (Developer and County). This Agreement may be amended by mutual consent of the parties in writing, in accordance with the provisions of Government Code section 65868, provided that: any amendment which relates to the term, permitted uses, density, intensity of use, height and size of proposed buildings, or provisions for reservation and dedication of land shall require a noticed public hearing before the parties may execute an amendment. Unless otherwise provided by law, all other amendments may be approved without a noticed public hearing.

Any amendment entered into between the County and the Developer shall require the signature of each owner of any portion of the Subject Property to the extent the amendment modifies this Agreement as to that other owner’s property.

Section 1.12. Amendment to Agreement (Landowner and County). This Agreement may also be amended, subject to the provisions of Government Code section 65868, between a Landowner who has acquired a portion of the Subject Property from Developer and County as to the portions of the Subject Property then owned by Landowner.

Any amendment entered into between the County and a Landowner shall require the signature of each Landowner of any portion of the Subject Property or the Developer to the extent the amendment modifies the Agreement as to that Landowner’s or the Developer’s property.

Section 1.13. Releases. Developer, and any subsequent Landowner, shall be deemed released from all further obligations relating to the sold, assigned, or transferred property, upon
the date that the County Clerk receives a copy of the Assumption Agreement provided for in Section 1.9.

Section 1.14. Notices. Notices, demands, correspondence, and other communication to County and Developer shall be deemed given if dispatched by prepaid first-class mail to the principal offices of the parties as designated in Section 1.6(a). Notice to the County shall be to the attention of both the County Administrator and the Director. Notices to subsequent Landowners shall be required to be given by the County only for those Landowners who have given the County written notice of their address for such notices. The parties hereto may, from time to time, advise the other of new addresses for such notices, demands or correspondence.

Section 1.15. Reimbursement for Agreement Expense of County. Developer agrees to reimburse County for a pro-rata share of the reasonable and actual expenses over and above fees paid by Developer as an applicant, specifically incurred by County for the modification of the County's form development agreement into the form of this Agreement, including recording fees, publishing fees, and reasonable staff and consultant costs not otherwise included within application fees then due and payable to the County. Such reimbursement shall be paid to the County within 10 days following invoice by the County. Developer shall also pay any and all delinquent installments of property tax then due for the Subject Property.

Section 1.16. Recordation of Agreement. The County Clerk shall cause a copy of this Agreement to be recorded with the County Recorder not later than ten (10) days after the effective date following execution of this Agreement by the County. Developer hereby covenants that during the period following execution and the recording of this Agreement by the County, Developer shall not, without prior written approval by the County Counsel, cause or allow to be recorded against the Subject Property any instrument affecting the priority, validity or enforceability of this Agreement.

Section 1.17. Applicable Law. This Agreement shall be construed and enforced in accordance with the laws of the State of California.

Section 1.18. Invalidity of Agreement/Severability. If this Agreement in its entirety is determined by a court to be invalid or unenforceable, this Agreement shall automatically terminate as of the date of final entry of judgment. If any provision of this Agreement shall be determined by a court to be invalid and unenforceable, or if any provision of this Agreement is rendered invalid or unenforceable according to the terms of any federal or state statute, which became effective after the Effective Date, the remaining provisions shall continue in full force and effect.

Section 1.19. Third Party Legal Challenge. In the event any legal action or special proceeding is commenced by any person or entity other than a party or a Landowner, challenging this Agreement, the Entitlements or any approval subsequently granted by the County' for the development of the Subject Property, then the parties and any Landowner agree to cooperate with each other in good faith in connection with the defense of the same. County may elect to tender the defense of any lawsuit filed by a third person or entity to Developer and/or Landowner(s) (to the extent the litigation, in part or in whole, seeks to overturn or invalidate this Agreement, the Entitlements or any subsequent approval granted for the Subject
Property held by or granted to Developer and/or Landowner), and, in such event, Developer and/or such Landowner(s) shall indemnify, hold the County harmless from and defend the County from all costs and expenses incurred in the defense of such lawsuit, including, but not limited to, damages, attorneys' fees and expenses of litigation awarded to the prevailing party or parties in such litigation. For purposes of this section only, "County" shall include all employees, consultants and agents acting on behalf of the County. Neither party shall settle any such lawsuit without the consent of the other party. The County may elect to participate in the litigation, in which case the Developer and/or Landowner agree to reimburse the County for its litigation costs and fees, including the retention of outside legal counsel and all staff costs. It is the intent of the Parties that the County's participation not result in unnecessary duplication of legal services, but rather that the County's active involvement in the litigation be limited to supervising the preparation of the administrative record or discovery as applicable, monitoring of litigation, and responsive pleadings regarding issues which, in the sole opinion of the County, involve broader County concerns then those immediately affecting the Landowner and/or Developer. Upon written demand of the County, Developer and/or Landowner shall deposit with the County such sums as may be specified by the County as its estimated litigation costs and fees for the following thirty day period. Both parties shall act in good faith, and shall not unreasonably withhold consent to settle. In the event that the County elects to settle a claim, and Developer refuses to also settle, County at its sole option may require Developer to post security in a form and amount reasonably acceptable to the County, for the performance of Developer's duties under this section. If the Developer, within 30 days of receiving written notice from County, fails to post this security, the Developer shall settle the claim on terms as previously approved by the County. This provision shall survive the termination of this Agreement.

Section 1.20. Waiver of Claims. Developer waives, as to the Subject Property only, any and all existing claims that it may have against the County, its agents, employees and consultants, arising out of the adoption and/or application of development requirements and standards, impact fees, the adoption of this Agreement or approval of the Entitlements and all of the proceedings, acts or determinations made prior thereto.

Section 1.21. Priority of Enactment. In the event of conflict between the Development Agreement, the Entitlements and the County Laws, the parties agree that the following sequence of approvals establishes the relative priority of approvals, each approval superior to the approvals listed thereafter: (1) Exhibit C to this Agreement; (2) the Development Agreement; (3) the Entitlements and (4) the County Laws. In the event of a conflict between two or more of the foregoing documents, the language of that document which is superior in priority as provided above shall govern.

ARTICLE 2

THE PROJECT AND DEVELOPMENT OF THE SUBJECT PROPERTY

Section 2.1. Limited Vested Right. During the Term of and subject to the terms of this Agreement the Developer's rights shall be vested only as to the Entitlements. "Vested" shall mean that except as to express limitations and reservations contained in this Agreement, Developer has a fully vested right to develop the Property in accordance with the terms and
conditions of this Agreement and the Entitlements, and Developer's Entitlements shall not be subject to changes in Applicable Laws. In the event that the County grants an approval or permit in the implementation of the Project, the approval or permit shall be pursuant to Applicable Laws and shall also be considered vested. This section shall not be construed to limit the authority, or obligation of the County to hold necessary public hearings, or to limit the discretion of the County or any of its officers or officials with regard to rules, regulations, ordinances, laws and entitlements, which require the exercise of discretion by the County or any of its officers or officials in accordance with the Applicable Laws, or those reserved powers set forth in Section 2.6. The foregoing shall not be deemed to limit Developer's rights to seek a modification or amendment to the Entitlements.

Section 2.2. **No Moratorium, Quotas, Restrictions, or Other Growth Limitations.**

Except as otherwise provided by the terms and conditions of this Agreement or the Entitlements, no ordinance, resolution, rule, regulation or policy of County shall be applied, imposed or enacted by County, by resolution, ordinance, initiative, or otherwise, which in any way relates to the rate, timing or sequencing of the development or use of the Subject Property, or any improvements related thereto, including without limitation, any no-growth or slow-growth moratoriums or annual development allocations, quotas or limitations, or in any way conflicts with the permitted uses, density and intensity of uses, maximum building height and size set forth in the Entitlements; provided, however, Developer shall be subject to any such growth limitation ordinance, resolution, rule; regulation or policy which is adopted on a uniformly applied, County-wide basis and directly concerns an immediate, verifiable adverse risk to public health or safety, in which case County shall treat Developer in a uniform, equitable and proportionate manner with all properties which are zoned consistent with Developer's zoning set forth in the Entitlements. Without limitation of the foregoing, any future County rules, ordinances, regulations or policies, whether by specific reference to the development of the Subject Property or as part of a general enactment that directly or indirectly applies to the development of the Subject Property, shall be considered to conflict with this Agreement if it has any one or more of the following effects: (a) limits or reduces the number of lots or square footage which may be developed on the Subject Property, the density or intensity of use allowed under the Entitlements, (b) imposes or increases any fees, exactions or other monetary obligation from what is set forth in Applicable Law, the Entitlements or the terms of this Agreement, (c) limits utilities, services or related facilities or rights to use such utilities, services or privileges for the Subject Property or that condition development or construction on the availability of public services and/or facilities (for example, the presence of a specified traffic level of service or water or sewer availability) other than as set forth in the Entitlements, (d) limits or controls in any manner the growth or other rate, timing, phasing, or sequencing of the approval or development of the Subject Property, whether by moratorium, growth restriction, or any mechanism by which the development is tied to the availability of public services, and/or facilities or otherwise, (e) limits the maximum height, bulk and size of proposed buildings from what is set forth in Applicable Law, (f) applies to the Subject Property any future County law otherwise allowed by this Agreement that is not applied on a County-wide basis to all substantially similar developments and properties, (g) changes any land use designation or permitted use vested by this Agreement on the Subject Property without the consent of Developers, (h) requires the issuance of additional permits or approvals by County other than those required by Applicable Laws, or (i) limits the processing of, or the obtaining of, any
subsequent entitlements or approvals necessary for the development of the Subject Property as contemplated by this Agreement.

Section 2.3. **Permitted Uses and Development Standards.** The permitted uses and development standards shall be those as set forth in and permitted by the Entitlements, County Zoning, Applicable Laws and subdivision and land development standards as of the Effective Date.

Section 2.4. **Application, Processing and Inspection Fees.** Application fees, processing fees, and inspection fees that are revised during the term of this Agreement shall apply to the development pursuant to this Agreement, provided that such revised fees apply generally to similar private projects or works within County.

Section 2.5. **Impact Fees.** [Intentionally Omitted—See Exhibit C: Special Conditions and Requirements]

Section 2.6. **Reserved Powers.** Notwithstanding any other provision of this Agreement, and without limitation as to any other requirements or exceptions contained in this Agreement, the County retains the authority to take the following actions and apply the same to the Subject Property:

(a) The authority of the Board of Supervisors to adopt regulations to protect the County and its citizens from an immediate and significant adverse risk to health and safety. This shall include, but not be limited to, lack of sufficient sewer and/or water facilities, but not school facilities.

(b) Adopt new or amended building codes (as may be amended by the County), including, but not limited to, the Uniform Building Code, Uniform Fire Code, Uniform Mechanical Code, Uniform Plumbing Code, National Electrical Code, Uniform Housing Code, and Uniform Sign Code, that generally apply equally to all buildings, structures and real property in the County.

(c) Adopt land use regulations, ordinances, policies, programs, resolutions or fees generally applicable to similar development projects adopted or undertaken by County as and only to the extent necessary to comply with state or federal laws, or regulations, provided that in the event that such state or federal laws or regulations prevent or preclude compliance with one or more provisions of this Agreement, such provision or provisions shall be modified or suspended as may be necessary to comply with such state or federal laws or regulations.

(d) Adopt county land use regulations, ordinances, policies, programs or resolutions adopted after the Effective Date, which are in conflict with the Applicable Laws, but the application of which to the development of the Subject Property has been consented to in writing by the Developer and/or the applicable Landowner by later separate document, which consent Developer and/or Landowner may withhold in their sole and exclusive discretion.

Section 2.7. **Obligation and Rights of Mortgage Lenders.** The holder of any mortgage, deed of trust or other security instrument with respect to the Subject Property, or any
portion thereof, shall not be obligated under this Agreement to construct or complete improvements or to guarantee such construction or completion, but, in the event said holder takes title to the Subject Property through foreclosure of a mortgage or a deed of trust, or deed-in-lieu of such foreclosure, said holder shall be bound by all of the terms and conditions of this Agreement which pertain to the Subject Property or such portion thereof in which it holds an interest. Any such holder who comes into possession of the Subject Property, or any portion thereof, pursuant to a foreclosure of a mortgage or a deed of trust, or deed in lieu of such foreclosure, shall take the Subject Property, or such portion thereof, subject to any pro rata claims for payments or charges against the Subject Property, or such portion thereof, which accrue prior and subsequent to the time such holder comes into possession. Nothing in this Agreement shall be deemed or construed to permit or authorize any such holder to devote the Subject Property, or any portion thereof, to any uses, or to construct any improvements thereon, other than those uses and improvements provided for or authorized by this Agreement, subject to all of the terms and conditions of this Agreement.

Upon foreclosure or deed-in-lieu thereof, a lender has no obligation to pay any amounts related to the Subject Property, unless said lender or successor-in-interest elects to use the Entitlements to develop the Subject Property.

Section 2.8. **Tolling and Extension During Legal Challenge or Moratoria.**

(a) If this Agreement, any of the Entitlements or any subsequent entitlements, approvals or permits required to implement the Entitlements (such as any required fill permit) are subjected to legal challenge by a third party, other than Developer, and Developer cannot or elects not to proceed with development of the Subject Property during such litigation, the Term of this Agreement and timing for obligations imposed pursuant to this Agreement shall, upon written request of Developer to County, be extended and tolled during such litigation until the entry of final order or judgment upholding this Agreement, the Entitlements, subsequent entitlements, approvals and/or other permits required to implement the Entitlements, or the litigation is dismissed by stipulation of the parties.

(b) If this Agreement, any of the Entitlements or any subsequent entitlements, approvals or permits required to implement the Entitlements are subjected to moratoria, and Developer cannot or elects not to proceed with the development of the Subject Property during such moratoria, the Term of this Agreement and timing for obligations imposed pursuant to this Agreement shall, upon written request of Developer to County, be extended and tolled during such moratoria. Moratoria shall be defined as restrictions, moratorium or de facto moratoria on approval or recordation of final maps, issuance of building permits, final inspections or certificates of occupancy, or approval or issuance of other such entitlements or permits, at the time of the transfer which would limit the reasonable ability to construct in a similar fashion a development project previously approved by the County.

Section 2.9. **Timing of Construction and Completion.** Notwithstanding any provision of this Agreement to the contrary, there is no requirement that Developer initiate or complete development of the Subject Property or any particular phase of development of the Subject Property within any particular period of time, and County shall not impose such a requirement on any subsequent approval. The parties acknowledge that Developer cannot at this
time predict when, or the rate at which or the order in which, phases will be developed. Such decisions depend upon numerous factors that are not within Developer's control, such as market orientation and demand, interest rates, competition, and other similar factors. In light of the foregoing, the parties agree that Developer shall be able to develop in accordance with Developer's own time schedule as such schedule may exist from time to time, for whatever reason, and that Developer shall determine the order in which portions of the Subject Property shall be developed. Without limiting any of the foregoing, the parties specifically desire to avoid the consequences of the holding of the California Supreme Court in *Pardee Construction Co. v. County of Camarillo* (1984) 37 Cal.3d 465, which held that the failure of the parties therein to consider and expressly provide for the timing of development resulted in a later-adopted initiative restricting the timing of development to prevail over such parties' agreement; consequently, the parties agree that Developer shall have the right to develop the Subject Property in such order and at such rate and at such times as Developer deems appropriate within the exercise of its subjective business judgment. Nothing in this Section 2.9 shall exempt Developer from completing work required by a subdivision agreement, road improvement agreement or similar agreement in accordance with the terms thereof.

Section 2.10. **Property Tax.** Developer shall pay all installments of property tax applicable to the Subject Property prior to such installments becoming delinquent.

**ARTICLE 3**

**DEFAULT**

Section 3.1. **General Provisions.** Subject to extensions of time by mutual consent in writing, any failure to perform any term or provision of this Agreement by County, by Developer or by Landowner not released from this Agreement to perform any term or provision of this Agreement, shall constitute a default in the event (a) the party alleging such default or breach gives the other party or Landowner not less than sixty (60) days notice in writing specifying the nature of the alleged default and the manner in which said default may be cured, and (b) the said other party does not cure the breach or default within said sixty (60) days (or, if the cure cannot be accomplished within 60 days, if said other party does not commence the cure within 60 days and diligently prosecute the cure thereafter.) During any such sixty (60) day period, the party or Landowner charged shall not be considered in default for purposes of termination or institution of legal proceedings.

After notice and expiration of the sixty (60) day period, if such default has not been cured or is not being diligently cured in the manner set forth in the notice, the other party or Landowner to this Agreement may, at his/her option, institute legal proceedings pursuant to this Agreement or give notice of his/her intent to terminate this Agreement pursuant to California Government Code section 65868 and any regulations of the County implementing said Government Code section. Following notice of intent to terminate, or prior to instituting legal proceedings, the matter shall be scheduled for consideration and review in the manner set forth in Government Code sections 65865, 65867, and 65868 and County regulations implementing said sections by the County within thirty (30) calendar days.
Following consideration of the evidence presented in said review before the County and an additional 30-day period to cure, either party alleging the default by the other party or Landowner may institute legal proceedings or may give written notice of termination of this Agreement to the other party; provided, however, a Landowner may only give such notice with respect to such portion of the Subject Property in which Landowner owns an interest.

Section 3.2. Annual Review. The County shall, at least every twelve (12) months during the term of this Agreement, review the extent of good faith substantial compliance by Developer and Landowner with the terms of this Agreement. Such periodic review by the Director, unless referred to the Planning Commission or the County Board of Supervisors shall be limited in scope to compliance with the terms of this Agreement pursuant to California Government Code section 65865.1. Each said review shall be completed within sixty (60) days of the first meeting of the Planning Commission and the County Board of Supervisors, respectively, at which such review is undertaken, unless said period is extended by mutual consent of the County and Developer. Failure to complete said review within the prescribed period shall be deemed a finding of good faith substantial compliance. Notice of such annual review shall include the statement that any review, the result of which the local agency finds and determines on the basis of substantial evidence, that the Developer has not complied in good faith with the terms or conditions of the Development Agreement, may result in amendment or termination of this Agreement in accordance with Government Code section 65865.1. The County may charge the Developer a reasonable fee for such annual review to defray the cost to the County to process and conduct such annual review.

The County shall deposit in the mail or fax to Developer and/or Landowner a copy of all staff reports and, to the extent practical, related exhibits concerning contract performance at least seven (7) days prior to such periodic review. Developer or Landowner shall be entitled to appeal a determination of the Director to the Commission and then to the Board of Supervisors. Any appeal must be filed within ten (10) days of the decision of the Director, or the Commission, as the case may be. Developer or Landowner shall be permitted an opportunity to be heard orally and/or in writing regarding its performance under this Agreement before the Commission, Board of Supervisors, and/or Director, as the case may be.

Section 3.3. Developer Default Limited to Property/Entity; Separate Obligations of Owners. Except as specified herein in Section 3.1, no default hereunder in performance of a covenant or obligation with respect to a particular portion of the Subject Property shall constitute a default applicable to any other portion of the Subject Property, and any remedy arising by reason of such default shall be applicable solely to the portion of Subject Property where the default has occurred. Similarly, the obligations of the Developer and Landowners shall be severable and no default hereunder in performance of a covenant or obligation by any one of them shall constitute a default applicable to any other owner who is not affiliated with such defaulting owner, and any remedy arising by reason of such default shall be solely applicable to the defaulting owner and the portion of the Subject Property owned thereby.

Section 3.4. Default by County. In the event the County does not accept, review, approve or issue necessary development permits or entitlements for use in a timely fashion as defined by this Agreement, or as otherwise provided in this Agreement, or the County otherwise
defaults under the terms of this Agreement, Developer and/or Landowner may give written notice thereof to the County and if not cured within sixty (60) days following receipt of such notice, Developer shall have all rights and remedies provided herein or under applicable law, including without limitation the right to pursue actions for mandamus, specific performance, or injunctive or declaratory relief to enforce this Agreement. Notwithstanding the foregoing sentence, the County, Developer and Landowner each waives any and all rights to seek monetary damages from any other party as a result of any breach or alleged breach of such other party's obligations hereunder, excluding (a) any claim for refunds of fees or excess fee payments imposed inconsistent with this Agreement, and (b) County claims regarding payment of fees, taxes, assessment and other charges, including Levee Fees. In the event the County is in default under the terms of this Agreement, any resulting delays in Developer's performance caused thereby shall not constitute grounds for termination or cancellation of this Agreement.

Section 3.5. Default by and Remedies of TRLIA. TRLIA's rights and obligations under this Agreement are specifically limited to those rights and obligations specifically attributed to TRLIA as set forth in Exhibit C to this Agreement. TRLIA is considered a third party beneficiary of Exhibit C and shall have a right to enforce all obligations of Developer as set forth in Exhibit C to this Agreement. In the event that TRLIA defaults under the terms of this Agreement, Developer and/or Landowner may give written notice thereof to TRLIA with a copy to the County, and if not cured within sixty (60) days following receipt of such notice, Developer's sole remedy shall be the right to pursue actions for mandamus, specific performance, or injunctive or declaratory relief against TRLIA to enforce this Agreement. Notwithstanding the foregoing sentence, TRLIA, Developer and Landowner each waives any and all rights to seek monetary damages from any other party as a result of any breach or alleged breach of such other party's obligations hereunder, excluding any claim for refunds of fees or excess fee payments imposed inconsistent with this Agreement. In the event TRLIA is in default under the terms of this Agreement, any resulting delays in Developer's performance that are directly caused thereby shall not constitute grounds for termination or cancellation of this Agreement.

Section 3.6. Cumulative Remedies of Parties/Waiver of Right to Damages. In addition to any other rights or remedies, County, Developer and any Landowner may institute legal or equitable proceedings to cure, correct or remedy any default, to specifically enforce any covenant or agreement herein, to enjoin any threatened or attempted violation of the provisions of this Agreement. Notwithstanding the foregoing sentence, the County, Developer and Landowner each waives any and all rights to seek monetary damages from the other party as a result of any breach or alleged breach of such other party's obligations hereunder, excluding any claim for refunds of fees or excess fee payments imposed inconsistent with this Agreement.

ARTICLE 4

TERMINATION

Section 4.1. Termination Upon Completion of Development. This Agreement shall terminate upon the expiration of the Term as defined on the Reference Sheet or when the Subject Property has been fully developed and all of the Developer's obligations in connection therewith
are satisfied. Upon termination of this Agreement, the County shall record a notice of such
termination in a manner substantially similar to the form attached hereto as Exhibit D. This
Agreement shall automatically terminate and be of no further force or effect as to Completed
Lots.

Section 4.2. Effect of Termination on Developer Obligations. Termination of this
Agreement as to the Developer of the Subject Property or any portion thereof shall not affect any
of the Developer's obligations to comply with the County General Plan and the terms and
conditions of any applicable zoning, or subdivision map or other land use entitlements approved
with respect to the Subject Property, any other covenants or any other development requirements
specified in this Agreement to continue after the termination of this Agreement, or obligations to
pay assessments, liens, fees, or taxes. Termination of this Agreement shall not affect Developers
rights and duties under Exhibit C to this Agreement.

Section 4.3. Effect of Termination on County. Upon any termination of this
Agreement, as provided for under the terms and conditions of this Agreement, as to the
Developer of the Subject Property, or any portion thereof, the entitlements, conditions of
development, limitations on fees and all other terms and conditions of this Agreement shall no
longer be vested hereby with respect to the Subject Property affected by such termination
(provided vesting of entitlements, conditions or fees applicable to the Subject Property shall be
governed by planning and zoning law) and the County shall no longer be limited, by this
Agreement, to make any changes or modifications to such entitlements, conditions or fees
applicable to such property. Except as may be set forth in section 1.10 of Exhibit C, termination
of this Agreement shall not affect County or TRLIA rights and duties under Exhibit C to this
Agreement.

ARTICLE 5

STANDARD TERMS AND CONDITIONS

Section 5.1. Venue. Venue for all legal proceedings shall be in the Superior Court for
the County of Yuba.

Section 5.2. Waiver. A waiver by any party of any breach of any term, covenant or
condition herein contained or a waiver of any right or remedy of such party available hereunder
at law or in equity shall not be deemed to be a waiver of any subsequent breach of the same or
any other term, covenant or condition herein contained or of any continued or subsequent right
to the same right or remedy. No party shall be deemed to have made any such waiver unless it is
in writing and signed by the party so waiving.

Section 5.3. Completeness of Instrument. This Agreement, together with its specific
references and attachments, constitutes all of the agreements, understandings, representations,
conditions, warranties and covenants made by and between the parties hereto. Unless set forth
herein, neither party shall be liable for any representations made express or implied.
Section 5.4. **Supersedes Prior Agreements.** It is the intention of the parties hereto that this Agreement shall supersede any prior agreements, discussions, commitments, representations or agreements, written or oral, between the parties hereto.

Section 5.5. **Captions.** The captions of this Agreement are for convenience in reference only and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

Section 5.6. **Number and Gender.** In this Agreement, the neuter gender includes the feminine and masculine, and the singular includes the plural, the word "person" includes corporations, partnerships, firms or associations, wherever the context so requires.

Section 5.7. **Mandatory and Permissive.** "Shall" and "will" and "agrees" are mandatory. "May" is permissive.

Section 5.8. **Term Includes Extensions.** All references to the term of this Agreement or the Agreement Term shall include any extensions of such term.

Section 5.9. **Successors and Assigns.** All representations, covenants and warranties specifically set forth in this Agreement, by or on behalf of, or for the benefit of any or all of the parties hereto, shall be binding upon and inure to the benefit of such party, its successors and assigns.

Section 5.10. **Modification.** No modification or waiver of any provisions of this Agreement or its attachments shall be effective unless such waiver or modification is in writing, signed by all parties, and then shall be effective only for the period and on the condition, and for the specific instance for which given.

Section 5.11. **Counterparts.** This Agreement may be executed simultaneously and in several counterparts, each of which shall be deemed an original, but which together shall constitute one and the same instrument.

Section 5.12. **Other Documents.** The parties agree that they shall cooperate in good faith to accomplish the object of this Agreement and to that end, agree to execute and deliver such other and further instruments and documents as may be necessary and convenient to the fulfillment of these purposes.

Section 5.13. **Partial Invalidity.** If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provision and/or provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

Section 5.14. **Controlling Law.** The validity, interpretation and performance of this Agreement shall be controlled by and construed under the laws of the State of California.

Section 5.15. **Time Is of the Essence.** Time is of the essence of this Agreement and each covenant and term a condition herein.

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Development Agreement Between the County of Yuba and KB Home - 15
Section 5.16. **Authority.** All parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles and capacities herein stated and on behalf of any entities, persons, estates or firms represented or purported to be represented by such entity (s), person(s), estate(s) or firm(s) and that all formal requirements necessary or required by any state and/or federal law in order to enter into this Agreement have been fully complied with. Further, by entering into this Agreement, neither party hereto shall have breached the terms or conditions of any other contract or agreement to which such party is obligated, which such breach would have a material effect hereon.

Section 5.17. **Document Preparation.** This Agreement will not be construed against the party preparing it, but will be construed as if prepared by all parties.

Section 5.18. **Advice of Legal Counsel.** Each party acknowledges that it has reviewed this Agreement with its own legal counsel, and based upon the advice of that counsel, and freely entered into this Agreement.

Section 5.19. **Estoppel Certificate.** Within thirty (30) days following any written request which either party may make from time to time, and upon payment of a fee to the County to reimburse the County for its reasonable expenses associated herewith, the other party to this Agreement shall execute and deliver to the requesting party a statement certifying that:

(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; and

(b) there are not current uncured defaults under this Agreement or specifying the date, nature of any default and manner of cure.

This certificate may be executed by the Director.

Section 5.20. **Attorneys Fees and Costs.** If any action at law or in equity, including an action for declaratory relief, is brought to enforce or interpret provisions of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and costs, which may be set by the Court in the same action or in a separate action brought for that purpose, in addition to any other relief to which such party may be entitled.

Section 5.21. **Consent/Subordination.** Unless waived in writing by the County Counsel, Developer shall furnish proof satisfactory to the County, prior to approval of the Agreement that all persons possessing a legal interest in the Subject Property have consented to the recording of this Agreement in the County Recorder's Office against the Subject Property. Unless waived in writing by the County Counsel, the County shall require subordination by all lenders of record as a condition precedent to the County approval of the Agreement. The County shall have no duty to subordinate its interest in this Agreement.

Section 5.22. **Calculation of Time Periods.** All calculation of time periods shall be based upon calendar days unless a different intent is clearly stated.
IN WITNESS WHEREOF, this Agreement was executed by the parties thereto on the dates set forth in the Preamble.

COUNTY:
COUNTY OF YUBA,
a political subdivision of the State of California

By: ____________________________
Name: __________________________
Title: __________________________

ATTEST:

By: ____________________________
Name: __________________________
Title: County Clerk

APPROVED AS TO FORM:

By: ____________________________
Name: PAT GARALONE
Title: Chief Deputy

DEVELOPER:

By: ____________________________
Name: STEVEN TIERNEY
Title: V.P. Land and Planning

APPROVED AS TO FORM:

By: ____________________________
Name: __________________________
Title: Counsel
TRLIA:
Three Rivers Levee Improvement Authority
a joint powers authority

By: __________________________
Name: ________________________
Title: _________________________

APPROVED AS TO FORM:

By: __________________________
Name: ________________________
Title: Counsel
Acknowledgment Form:

State of _____ California _____
County of _____ Alameda__________

On ____ June 2, 2009 ____ before me, Gina M. Curtis, Notary Public, personally appeared ____ Stephen Tierney and Matthew Schenonoe ___, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) 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)
**LIST OF EXHIBITS**

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EXHIBIT A

SUBJECT PROPERTY

Hawes Ranch Estates/Mapleton

LEGAL DESCRIPTION

All that real property situated in Yuba County, State of California described as follows:

Lots 1, 3 through 10, 12, 69, 92, 93, 96 through 102, 149, 178 through 183 inclusive as shown on the Map entitled “Tract Map No. 02-602, Hawes Ranch Estates” filed in the Office of the County Recorder of Yuba County, California on July 8, 2004 in Book 78 of Maps, at Pages 9 through 12 inclusive.

Plumas Lake Cobblestone

LEGAL DESCRIPTION

All that real property situated in Yuba County, State of California described as follows:

Lots 529, 530, 532 through 545, 791 through 805, inclusive as shown on the Map entitled “Tract Map No. 2004-57, Plumas Lake Phase 2B-1” filed in the Office of the County Recorder of Yuba County, California on February 9, 2007 in Book 87 of Maps, at Pages 7 through 9 inclusive.


Parcel 3, as said parcel is shown and so designated on Parcel Map No. 2004-09 for the Edwin F. Leak Marital Q-Tip Trust, filed in Book 77 of Maps, at Pages 34 through 41 inclusive, Yuba County Records. EXCEPTING THEREFROM all that certain real property contained within the boundaries of Tract Map No. 2004-57 “Plumas Lake Phase 2B-1” filed in Book 87 of Maps, at Pages 7 through 9 inclusive, Yuba County Records, and Tract Map No. 2006-43, Plumas Lake Phase 2B-2A” filed in the Office of the County Recorder of Yuba County, California on May 22, 2008 in Book 90 of Maps, at Pages 5 through 10 inclusive.

APN 16-350-16
EXHIBIT B

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (hereinafter "this Agreement") is entered into this ___ day of ___________, 200_, by and between ______________ (hereinafter called "Owner") and ______________ (hereinafter "Assignee").

RECITALS

A. On _____________, 200_, the County of Yuba and Owner entered into that certain agreement entitled "Development Agreement," approved by Ordinance _____________ (hereinafter "Agreement"), relative to the development known as ______________ (hereinafter "Subject Property").

B. Owner entered into a purchase and sale agreement whereby a portion of the Subject Property will be sold to Assignee, which portion of the Subject Property is identified and described in Exhibit A, attached hereto and incorporated herein by this reference (hereinafter the "Assigned Parcel(s)").

C. Owner desires to assign all of its interests, rights and obligations under the Agreement with respect to the Assigned Parcel(s).

D. Assignee desires to assume all Owner's rights and obligations under the Agreement with respect to the Assigned Parcel(s).

NOW, THEREFORE, Owner and Assignee hereby agree as follows:

1. Owner hereby assigns effective as of Owner's conveyance of the Assigned Parcel(s) to Assignee, all of the rights, interest, burdens and obligations of Owner under the Agreement with respect to the Assigned Parcel(s). Owner retains all the rights, interest, burdens and obligations under the Agreement with respect to all other property within the Subject Property owned thereby.

2. Assignee hereby assumes all of the burdens and obligations of Owner under the Agreement, and agrees to observe and fully perform all of the duties and obligations of Owner under the Agreement, and to be subject to all the terms and conditions thereof, with respect to the Assigned Parcel(s), it being the express intention of both Owner and Assignee that, upon the execution of this Agreement and conveyance of the Assigned Parcel(s) to Assignee, Assignee shall be come substituted for Owner as the "Developer" under the Agreement with respect to the Assigned Parcel(s).

3. All of the covenants, terms, and conditions set forth herein shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, successors and assigns.
IN WITNESS HEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

ASSIGNOR / OWNER

By: __________________________
Name: _________________________
Title: _________________________

ASSIGNEE

By: __________________________
Name: _________________________
Title: _________________________
EXHIBIT C

SPECIAL CONDITIONS AND REQUIREMENTS

This Exhibit C is attached to and made a part of that certain Development Agreement dated as of ____________, 2009 (the "Development Agreement"), by and between the County, TRLIA and the Developer named therein. For purposes of this Exhibit C, "Developer" shall mean KB Home Sacramento Inc. The terms and conditions of this exhibit shall survive should the Development Agreement terminate prior to completion of reimbursements required herein.

Section 1.1 Background. Developer, or Developer's predecessor in interest as owners of the subject Property, was a party to (a) that certain Agreement For Advanced Funding and Reimbursement of Costs for Levee Improvements dated April 19, 2005 ("2005 Advanced Funding Agreement") and (b) the Second Agreement for Advanced Funding and Reimbursement of Costs for Levee Improvements, dated as of August 29, 2006, ("Second Funding Agreement"), (the 2005 Advance Funding Agreement and the Second Funding Agreement being sometimes collectively referred to herein as the "Funding Agreements"), which relates to the construction of certain flood protection improvements benefitting the Plumas Lake Specific Plan and the North Arboga Study Area, which area is generally described as the South Yuba Basin. In order to pay for costs associated with levee improvements in the South Yuba Basin, on November 18, 2008, the Board of Supervisors of the County of Yuba adopted Ordinance No. 1465, enacting the Three Rivers Levee Impact Fee ("Levee Fee"). The Levee Fee was based on the then estimated cost to complete the levee improvements. As a party to the Funding Agreements, Developer advanced funded certain amounts for the Levee Fee to be used for the levee improvements described above. By making advanced payments pursuant to the Second Funding Agreement, Developer became authorized under the terms of the Second Funding Agreement to record final maps and to have a certain number of building permits issued upon request for the Project.

At the time of the execution of the Second Funding Agreement, the anticipated levee improvements included strengthening in place improvements to the existing left (east) Feather River levee from the Bear River Setback levee to the Yuba River, however, a Feather River setback levee from Star Bend to Shanghai Bend (the "Feather River Setback Levee") was contemplated. In early 2008, the decision was made to change certain portions of the levee improvement project to include the Feather River Setback Levee. By doing this, the state of California committed to providing more than $135 million in funding, pursuant to Prop 1E and 84. Due to the receipt of the State grant funds, the amount of local funds needed to complete the levee improvements was reduced. This reduction caused the Levee Fee to be reduced. The Levee Fee was reduced with the adoption of Ordinance No. 1465 by the Board of Supervisors of the County of Yuba on November 18, 2008.

Due to the reduction of the Levee Fee, Developer claims a right of reimbursement and/or credit. This right is based on prior advanced funding made in excess of the amount required under the Levee Fee, as adjusted by Ordinance No. 1465 (herein "Prior Advanced Funding").

The County of Yuba has adopted certain policies to address the claimed rights of reimbursement or credit for Prior Advanced Funding. Those policies are set forth in the Three Rivers Levee

Development Agreement Between the County of Yuba and KB Home
Credit and Reimbursement Policies and Procedures (the "Credit and Reimbursement Policy"). The Credit and Reimbursement Policy is hereby incorporated into and made a part of the Agreement, and is attached as Exhibit E. To the extent there is any inconsistency between this Agreement and the Credit and Reimbursement Policy as to the timing, manner or amount of credit or reimbursement due, the Credit and Reimbursement Policy shall control.

Section 1.2 Use of Credits. The Parties to this Agreement agree that the Credit and Reimbursement Policy sets forth the amount of credit and reimbursement owed the Developer in connection with Prior Advanced Funding. The Credit and Reimbursement Policy shall control as to the amount of credit or reimbursement due and how any credit or reimbursement will be applied.

Section 1.2.1. For those units included in the Project for which Developer has applied for a building permit after April 19, 2005 and on or before October 21, 2008, the Levee Fee shall be levied at the current rate as set forth in Ordinance No. 1465 and the Developer shall receive full credit for such fees from the amount advance funded, as more specifically set forth in the Credit and Reimbursement Policy.

Section 1.2.2. For those units for which the Developer has applied for a building permit after October 21, 2008, Developer shall receive credit for the Levee Fee imposed on the Project on a proportionate basis for the remainder of the Project. For those building permits applied for after October 21, 2008, Developer will pay a portion of the Levee Fee at the rate set forth in Ordinance No. 1465 and at the time and in the manner required herein, based on the relative proportionality between the remainder of the Project not able to be funded from credit and the total remaining acreage left in the Project after all previously absorbed units, all consistent with the provisions of the Credit and Reimbursement Policy. The County will calculate the amount of the Levee Fee due after the credit at the time the individual building permits are issued for each unit to be constructed on the Project pursuant to a building permit applied for after October 21, 2008. The amount of the credit and how it will be applied is more specifically set forth in the Credit and Reimbursement Policy.

Section 1.2.3. To the extent that the Developer is developing multiple projects which were subject to the Second Funding Agreement and one project has advanced funded Levee Fees in excess of its total obligation and is due reimbursement, that reimbursement may be applied and added to the credit of any of Developer's other projects that will have a remaining obligation to pay Levee Fees. The manner in which the credit from a project that has paid fees in excess of its total obligation may be applied to the credit of Developer's other projects is set forth in Appendix A of the Credit and Reimbursement Policy.

Section 1.3. Reimbursement of Levee Fees. If the amount owed to Developer for Prior Advanced Funding in excess of obligations owed under the current Levee Fee is not satisfied by application of credit to the Project or transfer of the credit to another project as set forth in Section 1.2.3., the remaining amount due will be reimbursed to Developer, solely from Levee Fees collected from others, and then only as follows:
Section 1.3.1. **Before Levee Certification.** Prior to certification by the Federal Emergency Management Agency (FEMA) of those levees to be constructed or improved pursuant to the Levee Improvement Program defined in Section 3 of the Second Funding Agreement, including the Feather River Setback Levee (the "Levee" or "Levees"), no reimbursement of Prior Advanced Funding will be made to the County, YCWA or Developer from any Levee Fees collected. Levee Fees collected through and until such certification date will be used to directly fund improvements to the Levees. However, it is understood by all parties that, to the extent Levee Fees are collected prior to such certification date, this funding may go to offset the additional required contribution of funds to the TRLIA Levee Improvement Program by the County and YWCA consistent with the intent of the July 22, 2008 Agreement Concerning Levee Impact Fees Among County of Yuba, Yuba County Water Agency, and Yuba Levee Financing Authority.

Section 1.3.2. **After Certification of the Levees and before March 1, 2015.** During the time period between when the Levees are certified by FEMA and before March 1, 2015 twice per year distribution of Levee Fee revenue not needed to pay any Levee improvement costs incurred prior to such certification but not yet paid will occur. The revenues collected before March 1, 2015 will be split between those parties determined by the County to be due reimbursements (including the County and YCWA on a proportionate basis, based upon the aggregate principal amount of their outstanding reimbursement. Table 6 of the Credit and Reimbursement Policy sets forth an example of the proportionality of outstanding reimbursements due.

Section 1.3.3. **From and After March 1, 2015 and until all Reimbursements are Complete.** Commencing on March 1, 2015 twice per year distributions of Levee Fee revenue will occur as follows: (a) initially, 100% of the revenues collected will go to fund the scheduled debt service due on the borrowing to fund levee improvements secured by lease and installment payment obligations of the County and YCWA and (b) any remaining Levee Fee revenue will be split between those parties determined by the County to be due reimbursements (including the County and YCWA) on a proportionate basis, based upon the aggregate principal amount of their outstanding reimbursement.

Section 1.3.4. **Interest.** Any reimbursement owed to Developer, as well as to County or YWCA, will accrue interest at a rate of 5.534% per annum. Interest will be calculated on a monthly compounding rate.

Section 1.3.5. **Acknowledgment.** Except as set forth in this Exhibit C and the Credit and Reimbursement Policy. Developer acknowledges and agrees that no other reimbursement or Credit is due for funds advanced under prior agreements concerning construction of the Levees, including the 2005 Funding Agreement and/or the Second Funding Agreement.

Section 1.3.6. **Inspection of Records.** Developer shall have the right to review and inspect records of the County with respect to Levee Fees and other revenue sources available to make payments or reimbursements to Developer under this Section 1.3. Developer must give the County reasonable notice of any such request.
Section 1.4. **Extension of Tentative Map Life.** The expiration date of any existing tentative map within the Subject Property, subject to the Credit and Reimbursement Policy, is extended for twenty (20) years from the original approval date, inclusive of any and all other extensions which may be provided by law.

Section 1.5. **County Imposed Development Fees.** The County shall not impose any New Fees relating to the Project for ten (10) years from the Effective Date of this Development Agreement. Notwithstanding the forgoing, the County may impose New Fees as follows: (a) any Traffic Impact (Road Improvements) component of the County-Wide Capital Facility Fee and, (b) any fees levied for the purpose of offsetting the cost of regional park improvements, provided, however, that the cumulative new fees levied for regional park improvements shall not exceed Two Thousand Dollars ($2,000) per dwelling unit contained in the Project. To the extent a New Fee is levied against the Project pursuant to one of the exclusions listed herein, that New Fee shall be imposed and levied in a manner consistent with all applicable State and local laws and regulations. Development impact fees imposed by entities other than the County or by the County on behalf of other entities are not subject to this provision.

Section 1.6. **Impact Fee Lock.** The County shall not increase any Current Fees relating to the Project for 10 years from the Effective Date of this Development Agreement. Notwithstanding the forgoing, the County may increase Current Fees as follows: (a) any currently incorporated escalator adopted with and incorporated into the Current Fee; (b) any increase to the current Traffic Impact (Road Improvements) component of the County-Wide Capital Facility Fee; (c) and any change or increase to the current PLSP/NASA Road Improvement Fee. To the extent a Current Fee levied against the Project is changed or increased pursuant to one of the exclusions listed herein, that change or increase shall be imposed and levied in a manner consistent with all applicable State and local laws and regulations. Development impact fees imposed by entities other than the County or by the County on behalf of other entities are not subject to this provision.

Section 1.7. **Developer to Receive Benefit of Reduction in Fees.** Notwithstanding any of the other terms of this Agreement, any reduction to Current Fees or New Fees that is applied to development within the County generally shall be applied to the Project.

Section 1.8. **Deferral of Collection of Impact Fees.** The balance of the Levee Fee due after application of credit as described in 1.2 above with respect to units in the Project, shall be calculated for each unit at the time a building permit is issued for that unit, but the collection by the County of the amount due shall be deferred until the final inspection of the unit for which the building permit is issued (in a manner consistent with Yuba County Ordinance No. 1461). The duration of this fee deferral will be for ten (10) years from the Effective Date of this Development Agreement. The collection of all other development impact fees and County-Wide Capital Facility Fees will be deferred in a manner consistent with the Yuba County Ordinance No. 1461, except that, the duration of the deferral will be ten (10) years from the date of this Development Agreement. Following any such deferral period, all fees will be due and payable as and when levied in accordance with County policy. Development impact fees imposed by
entities other than the County or by the County on behalf of other entities are not subject to this
provision.

Section 1.9. **Builder Bonds.** In the event that the Developer is the registered owner of
any Builder Bonds (as such term is defined in the Second Funding Agreement) issued by TRLIA
for CFD 2006-1 or CFD 2006-2 (as such community facilities districts are described in Section
7.A.(1) of the Second Funding Agreement), the County and TRLIA agree to take all reasonable
actions on its part necessary or appropriate, at the written request and cost of the Developer, in
the redemption or refunding of such bonds, so long as any such request is consistent with the
procedures and requirements described in Appendix B to the Three Rivers Levee Impact Credit
and Reimbursement Policy. The County and TRLIA acknowledge and agree that all special tax
revenues collected by TRLIA from special tax levies for CFD 2006-1 and CFD 2006-2 shall be
disposed of by TRLIA as provided in Section 4.01 of the respective Fiscal Agent Agreement for
the Builder Bonds for the respective community facilities district, in the rate and method of
apportionment for the respective community facilities district and, to the extent not inconsistent
with the foregoing, as described in Appendix C to the Credit and Reimbursement Policy.

Section 1.10. **Failure of Consideration.** The terms and conditions set forth in Sections
1.4. through 1.8. of this Exhibit C are granted by the County in consideration of the Developer's
agreement to the credit and reimbursement terms in Section 1.2 and 1.3 et seq. If any term of the
credit and reimbursement policies as set forth in Sections 1.2 and 1.3 et seq. is deemed invalid or
a legal challenge to any such terms is made by Developer, then there shall be deemed a failure of
consideration and the provisions of Section 1.4 through 1.8 shall be void and unenforceable by
Developer.

Section 1.11.1 **Flood Insurance.** Developer shall provide, at no cost to all new
residents (including the initial sale by the Developer and all subsequent resales) of homes
constructed by such Developer within the Affected Area (as defined in the Second Funding
Agreement) since 2003 (i.e., homes for which building permits were issued from and after
January 1, 2003), flood insurance and renewals of flood insurance only through the Completion
of the Levee or until December 31, 2010 (whichever occurs first). As used in this Section,
"Completion" shall mean the earlier of: (i) the date on which a notice of completion is recorded
by the general contractors performing TRLIA's Phase 4 work, or (ii) the date on which a
determination of substantial completion of TRLIA's Phase 4 work is made by the Executive
Officer of the Central Valley Flood Protection Board. The County and TRLIA will reasonably
cooperate in assisting Developer to fulfill this requirement, including but not limited to providing
for notice of resales of homes within the Project to be provided to Developer. The renewals and
subsequent issuance of flood insurance provided by the Developer shall satisfy the minimum
requirements of the National Flood Insurance Program for a standard dwelling policy.

Section 1.11.2 **Notice Requirements to New and Existing Homeowners.** Developer
shall take the following steps to increase the awareness of flood risk by new and existing
purchasers of homes within the Project:

(a) At the time of execution of a sales contract for a new home within the
Project, Developer shall distribute an informational packet prepared by TRLIA on the status of
the Levee Improvement Program. Purchasers will then be requested to sign an acknowledgment
sheet that they have received the packet and are aware of the flood risks associated with the Project.

(b) At the time of closing on a new home within the Project, Participant shall require execution by the new purchaser of the home of a Notice of Acknowledgement stating that the purchaser understands that the Developer (home builder) is purchasing flood insurance for the purchaser of the home (including the terms of that insurance and the period for which that insurance will be purchased) and that the purchaser of the home has received an information packet on the Levee Improvement Program and the risk of purchasing a home within the Project.

(c) Four times a year until certification of all levees required under the Levee Improvement Program, TRLIA shall prepare and distribute through the mail to new and existing purchasers of new homes within the Project an information packet on the Levee Improvement Program and any information provided by the County or TRLIA to the Developer on steps that such purchasers may take to reduce the risk of flooding to homes within the Project, such as being aware of the County's pre-hazard mitigation program, time-inundation maps, and hazard evacuation routes. Developer shall reasonably assist TRLIA to provide such information packets.

Section 1.11.3 Evacuation and Prehazard Mitigation Program. County commits to continue to use reasonable diligence to inform residents within the Project, including portions of Reclamation District 784, of the risk of flooding and to further refine, improve, and make available the County's Evacuation Plan and Prehazard Mitigation Plan.

Section 1.11.4 Accounting, Auditing and Reporting.

(a) TRLIA and County shall use best efforts to properly account for all sums paid to and grants received by TRLIA and County for the Levee Improvement Program.

(b) Developer has the right, upon not less than three (3) business days notice, at all reasonable times, to inspect the books and records of TRLIA and County pertaining to the Levee Improvement Program, as pertinent to the purposes of this Agreement.

(c) Upon request each year by Developer, TRLIA shall deliver to Developer the audited financial statement prepared by a qualified independent auditor pertaining to the Levee Improvement Program for each fiscal year, including all revenues and expenditures of TRLIA relating thereto for the prior year's period. The audited financial statement shall be delivered to Developer within 30 days following submission of such statement to the TRLIA Board.

Section 1.11.5 Maintenance of Levees. TRLIA shall be responsible to assure levee maintenance until certification, as the improvements are completed, in accordance with the Levee Improvement Program and consistent with relevant State and Federal standards.

Section 1.11.6 Preparation of Informational Packets. TRLIA shall prepare and update informational packets on the status of the Levee Improvement Program which shall be distributed to new home purchasers by the Developer. Purchasers will then be requested to sign
Section 1.12. **Status of Second Funding Agreement.** The County, TRLIA and the Developer hereby acknowledge and agree that following State Approval all rights, duties, or obligations set forth in, or required by, the Second Funding Agreement as applied to each of them are hereby terminated and neither of the Funding Agreements is of any force or effect as to the County, TRLIA and Developer. "State Approval" shall mean receipt by TRLIA of a letter from the Central Valley Flood Protection Board which confirms that TRLIA has satisfied all of its obligations under the Second Implementation Agreement (referenced in Recital N to the Second Funding Agreement). The County, TRLIA, and the Developer further acknowledge and agree that (i) this Development Agreement supersedes both the 2005 Advanced Funding Agreement (referenced in Recital J to the Second Funding Agreement) as well as the Second Funding Agreement, (ii) all reimbursable amounts that may have been due to the Developer under the 2005 Advanced Funding Agreement have been deemed paid, and (iii) all funding advanced by the Developer to TRLIA under the Second Funding Agreement shall be applied pursuant to this Development Agreement. All obligations, rights and duties set forth in the Second Funding Agreement that apply to the County, TRLIA and Developer are hereby superseded by this Development Agreement. Notwithstanding anything in this Section 1.12 to the contrary, if a third party that was not a party to either Funding Agreements (meaning any party other than a party to this Agreement or a successor or related entity) shall make a claim under or to enforce the Second Funding Agreement against any party hereto, then solely for purposes of defending against, responding to, and/or making cross or counter claims in connection with the third party claim, the Second Funding Agreement shall not be deemed terminated, but only to the extent necessary to defend against, respond to, and/or make such cross or counter claims in connection with the third party claim.
EXHIBIT D
NOTICE OF TERMINATION

THIS NOTICE OF TERMINATION (hereinafter "this Notice") is given this ___ day of
__________, 200_, by the County of Yuba (hereinafter "County") for the benefit of
__________________________________________________, (hereinafter "Owner").

1. On ____________, 200_, the County of Yuba and ___________ entered
into that certain agreement entitled "Development Agreement," approved by Ordinance
___________ (hereinafter "Agreement"), relative to the development known as
_____________________________ (hereinafter "Subject Property").

2. Owner has fully performed all its duties with respect to that portion of the Subject
Property, which portion of the Subject Property is identified and described in Exhibit A,
attached hereto and incorporated herein by this reference (hereinafter the "Released Property").

3. Pursuant to Section 4.1 of the Development Agreement, the Development
Agreement is no longer in effect with respect to the Released Property.

COUNTY OF YUBA

By:____________________________________

Name:____________________________________

Title:____________________________________

[NOTE: SIGNATURE MUST BE NOTARIZED]
NOTARY

State of California
County of ________________

On ________________, 20__, before me, ________________, Notary Public, personally appeared __________________________________________, personally known to me (or proved 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 capacit(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.

______________________________
Notary Signature

WITNESS MY HAND AND OFFICIAL SEAL.
EXHIBIT E

CREDIT AND REIMBURSEMENT POLICY
Revised Final Study

Three Rivers Levee Impact Fee
Advanced Funding Credit and Reimbursement Policies and Procedures

Prepared for:
Yuba County

Prepared by:
Economic & Planning Systems, Inc.

March 11, 2009

EPS #16497.7

Exhibit E
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1. **OVERVIEW**

**Purpose of Study**

Economic & Planning Systems, Inc. (EPS) has prepared this Three Rivers Levee Impact Fee Advanced Funding Credit and Reimbursement Policies and Procedures Study (Study) at the request of Yuba County (County). The purposes of this document are as follows:

- Account for and establish the amounts of prior advance-funding of the Three Rivers Levee Impact Fee (Fee or Levee Impact Fee) by the landowners participating in prior and current advance-funding agreements.
- Establish the corresponding amounts of acreage credit toward the Fee by those landowners as a result of their prior advance-funding.
- Establish the corresponding amounts of reimbursements due to certain landowners as a result of advance-funding amounts in excess of the Fee due on their project.
- Establish the policies and demonstrate the methodology by which acreage credit toward the Fee will be used by those landowners with homes left to construct in their projects.
- Establish the policies and procedures and demonstrate the methodology by which reimbursements for funding in excess of the Fee due on a project is paid.
- Document the negotiated terms to be incorporated into agreements between the County, Landowners, and Three Rivers Levee Improvement Authority to effectuate the credit and reimbursements.

This study is divided into four chapters including this Overview as **Chapter 1.** **Chapter 2** provides the relevant data regarding prior advance-funding and project acreage. It also provides the credit and reimbursement amount calculations based on the revised Fee. **Chapter 3** outlines the credit policies and how the credit for prior advance-funding is to be used by landowners as they build out the remainder of their projects. **Chapter 4** provides the reimbursement policies and describes how and when the reimbursements for funding in excess of the Fee obligation will be paid.

**Background**

**Levee Impact Fee**

On May 16, 2006, the County Board of Supervisors (BOS) adopted Ordinance No. 1372, the Levee Impact Fee, and the associated Nexus Study. This ordinance established the obligation of new development to fund levee improvements in the area affected by flooding along the Yuba, Feather, and Bear Rivers and the Western Pacific Interceptor Canal. On November 18, 2008, the BOS adopted Ordinance No. 1465 which revised the adopted Nexus Study and reset the rates of the fees.
The revised Levee Impact Fee Ordinance No. 1465 and associated Nexus Study provided revisions as a result of the following factors:

- The scope and costs of projects funded by the Fee:
  - Specifically, TRLIA is now constructing a set-back levee on the Feather River. The prior Nexus Study reflected a strengthen-in-place project on the Feather River. More refined cost estimates are also available as a result of the progress made on the various phases of the levee improvement project.

- The amount of non-local funding for the projects:
  - TRLIA has received funds from the State through Propositions 1E and 84, which were approved by California voters in November 2006. This additional source of funding is reflected in the revised Nexus Study.

- The cost and structure of local financing for the projects:
  - The County and Yuba County Water Agency (YCWA) are providing up-front funding for construction of the improvements before receiving impact fees from future development. The County and YCWA are borrowing these funds. The cost of this borrowing is reflected in the revised Nexus Study.

- The amount and relative proportionality of planned development benefiting from the improvements.

- The administrative procedures for fee calculation and collection.

The revised Levee Impact Fee Ordinance became effective January 17, 2009. This Study reflects the revised Levee Impact Fee.

**Prior Advance Funding of the Three Rivers Levee Impact Fee**

Landowners and residential home builders in the area subject to the Fee have advance-funded the obligations of the Fee through the following funding mechanisms:


- Three Rivers Levee Improvement Authority (TRLIA) Community Facilities District (CFD) 2004–1.

- The April 19, 2005, Agreement for Advanced Funding and Reimbursement of Costs for Levee Improvements (First Funding Agreement).

- The August 29, 2006, Second Agreement for Advanced Funding and Reimbursement of Costs for Levee Improvements (Second Funding Agreement).

- TRLIA CFDs 2006–1 and 2006–2.
The separate Agreement between the County and Axel Karlshoej signed by the County on March 27, 2008.

The following discussion provides a brief outline of the history of the key advanced-funding events that have taken place since the start of landowner advanced funding of the levee improvement program.

**First Funding Agreement**

TRLIA entered into the First Funding Agreement with the County, Reclamation District 784 (RD 784), and 21 different landowners each with holdings in the Plumas Lake Specific Plan. That agreement outlined a process by which the landowners would collectively continue to advance fund levee improvement costs and receive credit for that advanced funding, and correspondingly TRLIA and the County would proceed expeditiously with constructing the levee improvements, obtain all of the necessary permits, and satisfy conditions of those permits. The First Funding Agreement resulted in the landowners providing approximately $36.9 million in funding. In accordance with Section 8(a) of the First Funding Agreement, a study was to be produced by TRLIA that established the basis for funding obligation of each of the landowners party to the agreement. The study was to take into consideration the following items:

- The costs and expenses of the Program that had been incurred to date.
- The best estimates available for the remaining cost estimates for completion of the levee improvement program.
- The properties benefiting from levee improvements and available to contribute funding.
- The amount of money necessary to provide reimbursement to those landowners contributing beyond their allocated fair share of Program costs, based upon the study.

In addition, the study was to account for all funding advanced from before the date it was produced. On July 24, 2006, EPS produced the “Revised July 2006 Report of Three Rivers Levee Fair Share Funding Study” (Fair Share Funding Report). This Study will take data from the prior Fair Share Funding Report that reflects the funding advanced by landowners through the following mechanisms:

- The 2003 Agreement.
- TRLIA CFD 2004–1.
- The First Funding Agreement.

**Second Funding Agreement**

The Second Funding Agreement was entered into by TRLIA, the County, RD 784 and 13 different landowners to generate the remaining funding required to complete the levee improvement program by TRLIA. This agreement recognized the prior First Funding Agreement and the funding that it generated, including the funding mechanisms listed above. The Second Funding Agreement also recognized the reimbursements because of certain participant landowners by that agreement. The Second Funding Agreement laid out a plan by which additional funding would be advanced by the participating landowners. By the agreement, the funding would come...
either from a schedule of cash calls or pay-as-you-go special tax revenue collections from the two Mello-Roos CFDs proposed to be formed by the agreement, TRLIA CFDs 2006-1 and 2. Furthermore, the agreement identified a process by which the landowners would be able to determine how much of their funding would be in excess of their Fee obligation once all of the levee improvement costs had been incurred and the project was completed. The Second Funding Agreement and associated CFDs were to generate $135 million; however, it only provided and additional $20.3 million from the landowners.

As a result of several critical events affecting the progress of funding for TRLIA's project, including the passage of Propositions 1E and 84 in November 2006 and TRLIA's award of funding by DWR, the TRLIA Board's decision to pursue a setback levee on the Feather River as the preferred public safety improvement and the economic downturn in the real estate market, the specific funding terms in the Second Funding Agreement were not met. The landowners ceased funding any additional revenue into the program. The County and landowners worked to try to amend the funding agreement; however, an amendment to the funding agreement was not reached. The necessity for additional funding to complete the project led to a financing partnership between the County and YCWA.

**County and YCWA Joint Financing**

To secure the funding awarded by Propositions 1E and 84 for the Feather River Setback Levee project, TRLIA was required to demonstrate to DWR that it could provide the local share of the costs in a timely fashion. TRLIA, in its original draft of its financial plan submitted to DWR, had been relying on the local share of costs to be provided from an amended funding agreement with the landowners. To backfill the void left from a lack of an amended funding agreement, the County and YCWA agreed on March 27 and 28, 2008, respectively to proceed with a joint borrowing to yield $46.6 million of construction proceeds. TRLIA ultimately secured the funding from the State based on this planned borrowing.

On July 22, 2008, the County and YCWA formed a Joint Powers Authority (JPA) called the Yuba Levee Financing Authority (YLFA). The purpose of the YLFA was to provide a vehicle for the issuance of $78.37 million of revenue bonds to provide the $46.6 million of funding for the project. On August 5, 2008, the respective Boards of the County, YCWA, and YLFA all approved the borrowing, which subsequently sold on September 3, 2008.

The County and YCWA issued the bonds intending that the source of repayment for the borrowing was to be revenues from collection of the Fee. On July 22, 2008, the same day the County and YCWA formed YLFA, the County, YCWA, and YLFA entered into the Agreement Concerning Levee Impact Fees (Impact Fee Agreement). This agreement laid out the rules by which the County and YCWA would use Fee revenue to repay the borrowing.
2. **CREDIT AND REIMBURSEMENT AMOUNTS**

The purpose of this chapter is to establish the amount of fee credit, in terms of acreage, or any applicable cash reimbursement due to the individual landowners and their projects based on funding received to date. To do this, information regarding the amount of advanced funding and acreage in each project, must be established. In addition, for projects that are currently underway, information regarding acreage and unit counts must be gathered on a map-by-map basis.

**Advance-Funding Amounts**

As described in the Background section of Chapter 1, landowners provided advance funding of the Fee through several mechanisms. The funding can be divided into two major categories.

- Funding provided prior to and through the First Funding Agreement
- Funding provided through the Second Funding Agreement and separate individual agreements.

Table 1 details the amount of funding creditable toward the Fee advanced by the landowners by their associated projects before and through the First Funding Agreement. The information in this table is primarily derived from the prior Fair Share Funding Report. **Table 2** details the amount of funding creditable toward the Fee advanced by the landowners by their associated projects through the Second Funding Agreement and subsequent funding mechanisms. **Table 3** provides a summary of the prior two funding tables.

As a matter of policy, the County associates funding by a landowner on behalf of a project to remain with that project unless otherwise specified. Funds advanced toward the Fee on behalf of a project will remain as advance funding of the Fee regardless of whether the property changes ownership over time. Consideration for the investment of the advanced Fee into the project is the responsibility of the buyer and seller of the projects.

**Project Acreage**

The Fee is charged on a Gross Developable Acres (GDAs) basis and is normally due before the recordation of a Final Map in the case of single-family residential development. To determine the obligation of each project and associated remaining obligation, information regarding the number of GDAs subject to the Fee, the total number of units, and number of remaining units must be determined for each project with associated advance funding. **Table 4** provides this relevant information for all but five of the landowners and their projects that have provided advance funding. For the five projects (identified as “Other Projects” on **Table 3**) that have provided advance funding and are to receive credit the utilization of the credit will be the same as outlined in the study, however, the details of the project are currently insufficient to provide calculations within this Study at this time.
### Table 1
Three Rivers Levee Fee Credit & Reimbursement
Advanced Funding: First Funding Agreement & Prior

<table>
<thead>
<tr>
<th>Builder / Landowner</th>
<th>Project Description</th>
<th>2003 Agreement Leave Study Advances</th>
<th>TRLIA CFD Special Tax Collections</th>
<th>Allocated Units</th>
<th>First Funding Agreement Amounts</th>
<th>Adjustments Between Projects [1]</th>
<th>First Funding Agreement Reimbursement [2]</th>
<th>Interest Earned on Funding</th>
<th>Total Advanced Funding</th>
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</thead>
<tbody>
<tr>
<td>Beazer</td>
<td>Rio Del Oro (Villages 1-5 &amp; 9-13)</td>
<td>$0</td>
<td>$236,083 (80)</td>
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<td>$3,399,031</td>
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<td>Cassano / Kamilo</td>
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<td>Feather Glenn Land Holding Company [3]</td>
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<td>Rio Del Oro (Villages 16)</td>
<td>$270,864</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$270,864</td>
<td>$0</td>
<td>$0</td>
<td>$270,864</td>
</tr>
<tr>
<td>Ryland Homes</td>
<td>Thoroughbred Acres (Unit 1)</td>
<td>$0</td>
<td>$525,840 (64)</td>
<td>$1,287,080</td>
<td>$0</td>
<td>$2,403,920</td>
<td>$-375</td>
<td>$2,400,545</td>
<td>$2,400,545</td>
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<tr>
<td>Wheeler Land LLC</td>
<td>Wheeler Ranch Phase 2</td>
<td>$395,184</td>
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<td>$1,287,080</td>
<td>$0</td>
<td>$3,024,790</td>
<td>$0</td>
<td>$6,042</td>
<td>$3,030,832</td>
</tr>
<tr>
<td>Yuba Investors (Mark Enstrom)</td>
<td>The Greens (Plumas Lake Estates)</td>
<td>$28,217</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$28,217</td>
<td>$0</td>
<td>$28,217</td>
<td>$28,217</td>
</tr>
</tbody>
</table>

Total Payments Subject to Credit
$1,751,013  | $8,335,566  | 1,288  | $36,818,010  | $0  | $47,002,278  | -336,218  | $130,606  | $46,796,667  |

Source: Revised July 2006 Report Three Rivers Levee Fair Share Funding Study prepared by EPS dated July 24, 2006 and EPS

[1] Through the Fair Share Funding Report, projects owned by the same entity were provided the ability to transfer excess funding between projects.

[2] Based upon the First Funding Agreement and its associated terms, Hornes by Towne is owed a reimbursement of this amount. This amount of reimbursement will be paid separately from any reimbursement owed through subsequent funding.

[3] Lakemont Homes financed their Prior Advanced Funding, $2,191,526, through TRLIA CFD 2006-2. The property securing the funding was subsequently foreclosed upon and was purchased by Feather Glenn Land Holding Company. The associated amount of financed funding has been transferred to Feather Glenn Land Holding Company.

## Table 2
Three Rivers Levee Fee Credit & Reimbursement
Advanced Funding: Second Funding Agreement & Later

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Cassano/Kamilos</td>
<td>Rio Del Oro (Villages 6 &amp; 8)</td>
<td>$239,377</td>
<td>$0</td>
<td>$0</td>
<td>$239,377</td>
</tr>
<tr>
<td>Cresleigh</td>
<td>Creekside Plumas Ranch</td>
<td>$433,690</td>
<td>$0</td>
<td>$0</td>
<td>$433,690</td>
</tr>
<tr>
<td>Cresleigh</td>
<td>Woodside</td>
<td>$1,167,802</td>
<td>$0</td>
<td>$0</td>
<td>$1,167,802</td>
</tr>
<tr>
<td>Dansk-Californisk</td>
<td>Rio Del Oro (Danna 70)</td>
<td>$1,421,862</td>
<td>$0</td>
<td>$2,017,424</td>
<td>$3,439,286</td>
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<tr>
<td>DR Horton</td>
<td>Wheeler Ranch (Units 4 &amp; 5)</td>
<td>$2,114,160</td>
<td>$0</td>
<td>$0</td>
<td>$2,114,160</td>
</tr>
<tr>
<td>Feather Glenn Land Holding Company [3]</td>
<td>Feather Glen (Phase A &amp; B)</td>
<td>$321,606</td>
<td>$0</td>
<td>$0</td>
<td>$321,606</td>
</tr>
<tr>
<td>Homes by Towne</td>
<td>Rio Del Oro (Village 14)</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>K Hovnanian/Forecast</td>
<td>Wheeler Ranch I (Units 2, 3, 6 &amp; 7)</td>
<td>$450,341</td>
<td>$0</td>
<td>$0</td>
<td>$450,341</td>
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<tr>
<td>KB Home</td>
<td>Hawes Ranch</td>
<td>$1,316,797</td>
<td>$11,564</td>
<td>$0</td>
<td>$1,328,361</td>
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<tr>
<td>KB Home</td>
<td>Plumas Lake Cobblestone</td>
<td>$3,540,078</td>
<td>$4,186</td>
<td>$0</td>
<td>$3,544,264</td>
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<td>Lakemont [3]</td>
<td>Feather Glen</td>
<td>$258,857</td>
<td>$0</td>
<td>$0</td>
<td>$258,857</td>
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<tr>
<td>Lennar - Renaissance</td>
<td>River Oaks East</td>
<td>$1,005,064</td>
<td>$16,885</td>
<td>$0</td>
<td>$1,021,949</td>
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<tr>
<td>Lennar - Renaissance</td>
<td>River Oaks North</td>
<td>$770,296</td>
<td>$0</td>
<td>$0</td>
<td>$770,296</td>
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<tr>
<td>Lennar - US Homes</td>
<td>Rio Del Oro (Village 15)</td>
<td>$0</td>
<td>$10,285</td>
<td>$0</td>
<td>$10,285</td>
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<tr>
<td>Matthews Homes</td>
<td>Riverside Meadows</td>
<td>$2,661,845</td>
<td>$16,800</td>
<td>$0</td>
<td>$2,678,645</td>
</tr>
<tr>
<td>Meritage Homes</td>
<td>Draper Ranch North</td>
<td>$1,972,505</td>
<td>$0</td>
<td>$0</td>
<td>$1,972,505</td>
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<tr>
<td>Rio Del Oro Farms</td>
<td>Rio Del Oro (Villages 16)</td>
<td>$944,112</td>
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<td>$2,212,513</td>
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<tr>
<td>Ryland Homes</td>
<td>Thoroughbred Acres (Unit 1)</td>
<td>$1,669,453</td>
<td>$0</td>
<td>$0</td>
<td>$1,669,453</td>
</tr>
<tr>
<td><strong>Total Payments</strong></td>
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<td><strong>$20,287,845</strong></td>
<td><strong>$69,720</strong></td>
<td><strong>$3,285,825</strong></td>
<td><strong>$23,633,390</strong></td>
</tr>
</tbody>
</table>

Source: Second Funding Agreement, First American Title Company Escrow Statements, Yuba County Auditor Controller, Yuba County and EPS

---

[1] Includes Special Tax Revenues Received for Fiscal Year 07/08 only. Credit for Special Tax Revenues for later FY's will be handled separately.

[2] Includes funding to be received through December 2008 from Axel Karlshoej.

[3] Funding received through the Second Funding Agreement from Lakemont Homes for the Feather Glen project, $580,463, has been allocated proportionately to each Phase on an acreage basis.
### Table 3
Three Rivers Levee Fee Credit & Reimbursement
Advanced Funding: Total Funding

<table>
<thead>
<tr>
<th>Developer</th>
<th>Project</th>
<th>First Funding Agreement &amp; Prior</th>
<th>Second Funding Agreement &amp; Later</th>
<th>Total</th>
<th>Applicable Acreage Credit [1]</th>
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</thead>
<tbody>
<tr>
<td><strong>Projects with Advance Funding Detailed in the Study</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Beazer</td>
<td>Rio Del Oro (Villages 1-5, 7 &amp; 9-13)</td>
<td>$2,598,107</td>
<td>$0</td>
<td>$2,598,107</td>
<td>43.187</td>
</tr>
<tr>
<td>Cassano/Kamilos</td>
<td>Rio Del Oro (Villages 6 &amp; 8)</td>
<td>$2,449,324</td>
<td>$239,377</td>
<td>$2,688,701</td>
<td>44.693</td>
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<tr>
<td>Cresleigh</td>
<td>Creekside Plumas Ranch</td>
<td>$1,528,348</td>
<td>$433,690</td>
<td>$1,962,038</td>
<td>32.614</td>
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<tr>
<td>Cresleigh</td>
<td>Woodside</td>
<td>$3,350,841</td>
<td>$1,167,802</td>
<td>$4,518,643</td>
<td>75.112</td>
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<tr>
<td>Dansk-Californisk</td>
<td>Rio Del Oro (Danna 70)</td>
<td>$0</td>
<td>$3,439,286</td>
<td>$3,439,286</td>
<td>64.320 [2]</td>
</tr>
<tr>
<td>DR Horton</td>
<td>Wheeler Ranch (Units 4 &amp; 5)</td>
<td>$4,973,100</td>
<td>$2,114,160</td>
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<td>117.809</td>
</tr>
<tr>
<td>Feather Glenn Land Holding Company</td>
<td>Feather Glen (Phase A &amp; B)</td>
<td>$1,151,826</td>
<td>$321,606</td>
<td>$1,473,433</td>
<td>24.492</td>
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<tr>
<td>Homes by Towne</td>
<td>Rio Del Oro (Village 14)</td>
<td>$2,340,707</td>
<td>$0</td>
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<td>38.909</td>
</tr>
<tr>
<td>K Hovnanian/Forecast</td>
<td>Wheeler Ranch I (Units 2, 3, 6 &amp; 7)</td>
<td>$5,607,911</td>
<td>$450,341</td>
<td>$6,258,252</td>
<td>104.029</td>
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<tr>
<td>KB Home</td>
<td>Hawes Ranch</td>
<td>$530,084</td>
<td>$1,328,361</td>
<td>$1,858,445</td>
<td>30.892</td>
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<tr>
<td>KB Home</td>
<td>Plumas Lake Cobblestone</td>
<td>$3,468,604</td>
<td>$3,544,264</td>
<td>$7,012,868</td>
<td>116.572</td>
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<tr>
<td>Lennar - Renaissance</td>
<td>River Oaks East</td>
<td>$3,134,045</td>
<td>$1,021,949</td>
<td>$4,155,994</td>
<td>69.083</td>
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<tr>
<td>Lennar - Renaissance</td>
<td>River Oaks North</td>
<td>$633,268</td>
<td>$770,296</td>
<td>$1,403,564</td>
<td>21.585</td>
</tr>
<tr>
<td>Lennar - US Homes</td>
<td>Rio Del Oro (Village 15)</td>
<td>$2,120,234</td>
<td>$10,285</td>
<td>$2,130,519</td>
<td>35.415</td>
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<td>Matthews Homes</td>
<td>Riverside Meadows</td>
<td>$3,988,148</td>
<td>$2,678,645</td>
<td>$6,666,794</td>
<td>110.986</td>
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<tr>
<td>Meritage Homes</td>
<td>Draper Ranch North</td>
<td>$3,030,832</td>
<td>$1,972,505</td>
<td>$4,903,337</td>
<td>83.169</td>
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<tr>
<td>Rio Del Oro Farms</td>
<td>Rio Del Oro (Villages 16)</td>
<td>$270,864</td>
<td>$2,212,513</td>
<td>$2,483,376</td>
<td>46.443 [2]</td>
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<tr>
<td>Ryland Homes</td>
<td>Thoroughbred Acres (Unit 1)</td>
<td>$2,403,545</td>
<td>$1,669,453</td>
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<td>67.704</td>
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<td><strong>Other Projects with Advance Funding</strong></td>
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<tr>
<td>DeValentine</td>
<td>Sawyer's Landing</td>
<td>$52,542</td>
<td>$0</td>
<td>$52,542</td>
<td>0.873</td>
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<tr>
<td>DR Horton (Western Pacific Housing)</td>
<td>River Oaks South (Villages 1, 2 &amp; 3)</td>
<td>$411,249</td>
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<td>$411,249</td>
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<td>Gilbert Retail Holdings</td>
<td>The Meadows</td>
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<td>$353,175</td>
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<tr>
<td>Wheeler Land LLC</td>
<td>Wheeler Ranch Phase 2</td>
<td>$1,691,953</td>
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<td>$1,691,953</td>
<td>28.124</td>
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<tr>
<td>Yuba Investors (Mark Engstrom)</td>
<td>The Greens (Plumas Lake Estates)</td>
<td>$28,217</td>
<td>$0</td>
<td>$28,217</td>
<td>0.469</td>
</tr>
<tr>
<td><strong>Total Payments from Funding Agreements</strong></td>
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<td>$46,796,567</td>
<td>$23,633,390</td>
<td>$70,429,957</td>
<td>1,183,043</td>
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</table>

Source: Tables 1 & 2

[1] The acreage credit is determined by dividing the total funding amount by $60,159 which is the initial Three Rivers Levee Fee rate for Single Family residential development is Plumas Zone.

[2] For these projects, the Acreage Credit is determined by dividing the Total funding by $53,471 based upon proposed development agreements for these projects.
Table 4
Three Rivers Levee Fee Credit & Reimbursement
Land Use Information for Second Funding Agreement Participants

<table>
<thead>
<tr>
<th>Landowner/Project/Map</th>
<th>GDAs</th>
<th>Units</th>
<th>GDA/Unit</th>
<th>Units Absorbed [t]</th>
<th>GDAs Absorbed</th>
<th>Remaining GDAs</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Formula</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>A</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>C = A / B</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>D</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>E = C * D</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>F = A - E</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Beazer**

Río Del Oro [6]
- Villages 1-5, 7 & 9-13
  - 37,300

**Cassano/Kamilo**

Río Del Oro
- Village 6
  - 13,882
- Village 8
  - 30,385

Subtotal Río Del Oro
- 44,267

**Cresleigh Homes**

Plumas Ranch
- Village 5 (TM 99-585)
  - 24,859
- Village 6 (TM 2004-23)
  - 15,645

Subtotal Plumas Ranch
- 40,504

Woodside [5]
- Village 1 (TM 99-582)
  - 14,727
- Village 2A (TM 2003-39)
  - 16,495
- Village 2B (TM 2003-40)
  - 13,829
- Village 3 (TM 2005-12)
  - 27,841
- Village 4 (TM 2005-13)
  - 24,569

Subtotal Woodside
- 97,261

Total Cresleigh Homes
- 137,765

**Darke-California**

Río Del Oro
- Danza 70
  - 64,320

**DR Horton**

Wheeler Ranch
- Unit 4
  - 26,581
- Unit 6
  - 39,776

Subtotal Wheeler Ranch
- 66,357

**Lakeomont Homes and Feather Glenn Land Holding Company (FGLHC)**

Feather Glenn - FGLHC
- Phase 1A
  - 17,850
- Phase 1B
  - 13,260

Subtotal Feather Glenn - FGLHC
- 31,110

Feather Glenn - Lakemont Homes
- Phase 1C
  - 9,850
- Phase 1D
  - 15,190

Subtotal Feather Glenn
- 25,040

### Table 4
Three Rivers Levee Fee Credit & Reimbursement
Land Use Information for Second Funding Agreement Participants

<table>
<thead>
<tr>
<th>Landowner/Project/Map</th>
<th>GDAs</th>
<th>Units</th>
<th>GDA/Unit</th>
<th>Units Absorbed [1]</th>
<th>GDAs Absorbed</th>
<th>Remaining GDAs</th>
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</thead>
<tbody>
<tr>
<td><strong>Towne Development of Plumas Lake LLP</strong></td>
<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td><strong>K Hovnanian</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wheeler Ranch</td>
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<td></td>
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<tr>
<td>Phase 1, Unit 2 (TM 2004-21)</td>
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<tr>
<td><strong>KB Homes</strong></td>
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</tr>
<tr>
<td>Plumas Lake [3]</td>
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<td>Phase 1A</td>
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<td>0.211</td>
<td>164</td>
<td>34.685</td>
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<td>Phase 2B-2A</td>
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<td>Phase 2B-3</td>
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<td>Subtotal Plumas Lake</td>
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<tr>
<td><strong>Total KB Homes</strong></td>
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<td><strong>Lennar</strong></td>
<td></td>
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<tr>
<td>Rio Del Oro</td>
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<td>28.264</td>
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<tr>
<td>River Oaks East</td>
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<td></td>
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<tr>
<td>Village 1</td>
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<tr>
<td>Village 2</td>
<td>31.547</td>
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<td>Village 3</td>
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<td>Subtotal River Oaks East</td>
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<tr>
<td>River Oaks North</td>
<td>35.697</td>
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<td>0.334</td>
<td>0</td>
<td>0.000</td>
<td>35.697</td>
</tr>
<tr>
<td><strong>Total Lennar</strong></td>
<td>162.265</td>
<td>475</td>
<td></td>
<td>160</td>
<td>46.802</td>
<td>105.463</td>
</tr>
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<td></td>
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</tr>
<tr>
<td>Riverside Meadows</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Village 1</td>
<td>29.372</td>
<td>82</td>
<td>0.358</td>
<td>73</td>
<td>26.148</td>
<td>3.224</td>
</tr>
<tr>
<td>Village 2</td>
<td>24.672</td>
<td>90</td>
<td>0.274</td>
<td>39</td>
<td>10.691</td>
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</tr>
<tr>
<td>Village 3</td>
<td>23.111</td>
<td>97</td>
<td>0.238</td>
<td>0</td>
<td>0.000</td>
<td>23.111</td>
</tr>
<tr>
<td>Village 4</td>
<td>23.187</td>
<td>90</td>
<td>0.258</td>
<td>0</td>
<td>0.000</td>
<td>23.187</td>
</tr>
<tr>
<td>Village 5</td>
<td>22.900</td>
<td>74</td>
<td>0.309</td>
<td>0</td>
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<td>22.900</td>
</tr>
<tr>
<td>Village 6</td>
<td>27.388</td>
<td>85</td>
<td>0.322</td>
<td>0</td>
<td>0.000</td>
<td>27.388</td>
</tr>
<tr>
<td>Village 7</td>
<td>23.121</td>
<td>81</td>
<td>0.285</td>
<td>0</td>
<td>0.000</td>
<td>23.121</td>
</tr>
<tr>
<td>Subtotal Riverside Meadows</td>
<td>173.761</td>
<td>699</td>
<td>0.247</td>
<td>112</td>
<td>36.839</td>
<td>136.912</td>
</tr>
</tbody>
</table>

Table 4
Three Rivers Levee Fee Credit & Reimbursement
Land Use Information for Second Funding Agreement Participants

<table>
<thead>
<tr>
<th>Landowner/Project/Map</th>
<th>GDAs</th>
<th>Units</th>
<th>GDA/Unit</th>
<th>Units Absorbed [1]</th>
<th>GDAs Absorbed</th>
<th>Remaining GDAs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Formula</td>
<td>A</td>
<td>B</td>
<td>C = A / B</td>
<td>D</td>
<td>E = C * D</td>
<td>F = A - E</td>
</tr>
<tr>
<td>Draper Ranch North</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Phase 1</td>
<td>27,650</td>
<td>98</td>
<td>0.282</td>
<td>96</td>
<td>27.086</td>
<td>0.564</td>
</tr>
<tr>
<td>Remaining Phases</td>
<td>78,440</td>
<td>328</td>
<td>0.239</td>
<td>0</td>
<td>0.000</td>
<td>78.440</td>
</tr>
<tr>
<td>Subtotal Draper Ranch North</td>
<td>106,090</td>
<td>426</td>
<td>96</td>
<td>27.086</td>
<td>79.004</td>
<td></td>
</tr>
<tr>
<td>Rio Del Oro Farms</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rio Del Oro Village 16</td>
<td>46.443</td>
<td>155</td>
<td>0.300</td>
<td>0</td>
<td>0.000</td>
<td>46.443</td>
</tr>
<tr>
<td>Ryland Homes</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Thoroughbred Acres</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Phase 1</td>
<td>36,951</td>
<td>158</td>
<td>0.234</td>
<td>143</td>
<td>33.443</td>
<td>3.508</td>
</tr>
<tr>
<td>Phase 2</td>
<td>10,011</td>
<td>35</td>
<td>0.286</td>
<td>0</td>
<td>0.000</td>
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</tr>
<tr>
<td>Phase 3</td>
<td>58,710</td>
<td>252</td>
<td>0.233</td>
<td>0</td>
<td>0.000</td>
<td>58.710</td>
</tr>
<tr>
<td>Subtotal Thoroughbred Acres</td>
<td>105,672</td>
<td>445</td>
<td>143</td>
<td>33.443</td>
<td>72.229</td>
<td></td>
</tr>
</tbody>
</table>

Source: KASL Engineering, draft and final tract Maps, Yuba County and EPS data

[1] Absorbed units are assumed to be those units with building permits applied for before October 21, 2008.
[2] As of the date of the First Funding Agreement, April 19, 2005, only 102 of 183 lots remained in the Hawes Ranch Project to fund levee improvements. Therefore only a proportionate amount GDAs are included here. (i.e., 37,685 / 183 * 102 = 21,005 GDAs)
[3] As of the date of the First Funding Agreement, April 19, 2005, 167 lots within Plumas Lake Cobblestone had building permits and the obligation for funding was satisfied for 36.9 acres. Reference the July 24, 2006 Fair Share Funding Report. The acreage and associated units have been removed from the Phase 1A Map.
[4] As of the date of the First Funding Agreement, April 19, 2005, 107 lots within Rio Del Oro Village 14 had building permits and the obligation for funding was satisfied for 27.8 acres. Reference the July 24, 2006 Fair Share Funding Report. The acreage and associated units have been removed from the Village 14 Map.
[5] As of the date of the First Funding Agreement, April 19, 2005, 84 lots within Woodside Village 1 had building permits and the obligation for funding was satisfied for 16.3 acres. Reference the July 24, 2006 Fair Share Funding Report. The acreage and associated units have been removed from the Village 1 Map.
[6] Because Beazer has funded in excess of the obligation for all of the individual acreage remaining for its Villages with the Rio Del Oro project, individual Village information has determined not to be necessary. In addition, as of the date of the First Funding Agreement, April 19, 2005, 833 lots within Rio Del Oro Villages 1-5, 7, & 9-13 had building permits and the obligation for funding was satisfied for 247.0 acres. Reference the July 24, 2006 Fair Share Funding Report. The acreage and associated units have been removed from the Village 1-5, 7, & 9-13 Maps and only the remaining acreage and units are shown.
Calculation of Credit and Reimbursement Amounts

Table 5 presents a summary of the credit and reimbursement calculations presented in Appendix A. The calculations presented in Appendix A use the information contained in Tables 3 and 4 to calculate the amount of credit available on an acreage basis to each individual map in a development project. In addition, based on this credit, the tables show the additional acreage that must be funded on a lot-by-lot basis.

The following are the underlying assumptions that predicate this analysis and the establishment of credits and reimbursements:

- All prior advance funding of the Fee has been collected on behalf of development projects as identified by the tables included in this Study.

- All prior advance funding of the Fee is proportionately allocable to the individual tract maps/phases/units/villages in projects based upon the projects' GDAs.

- Units are assumed to have been previously absorbed if a permit for the unit has been applied for before October 21, 2008.

- The Fee obligation for all remaining developable acreage after April 19, 2005, and absorbed before October 21, 2008, is the Initial Fee Rate for Single-Family Residential Development in the Plumas Zone as identified in the October 13, 2008, Revised Three Rivers Levee Fee Nexus Study of $60,159 per GDA as adopted by Yuba County Ordinance 1465 on November 18, 2008 (reference Table 1 of that Nexus Study).¹

- The credit for prior advanced funding will be expressed in terms of GDAs as shown in Table 3 and has been determined by taking the amount of prior advance funding and dividing it by the Initial Fee Rate of $60,159 per GDA.² The amount of GDA credit will be set by this methodology and will not be recalculated in the future by any escalating fee rate.

- All permits that have previously been applied for before October 21, 2008, (i.e., absorbed) are assumed to have been fully funded with credit from prior advance funding and no additional levee fees will be required to be paid for these units.

- The use of credit on the remaining units (units not yet absorbed) will take place as discussed in Chapter 3.

¹ The Levee Impact Fee obligation for the Rio Del Oro 4—Dansk Californisk Danna 70 project and Rio Del Oro Farms #2 Rio Del Oro Village 16 is $53,471. This is based on the analysis included in the respective Exhibit C of the proposed development agreement for each of the projects.

² Except in the case of the Danna 70 project and Rio Del Oro Village 6 project as noted in footnote #2.
<table>
<thead>
<tr>
<th>Developer</th>
<th>Project</th>
<th>Reimbursements Due</th>
<th>Gross Credit Acreage [1]</th>
<th>Additional Fees Due [2]</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Second Funding Agreement Participant Projects</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Projects with Reimbursement</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Beazer</td>
<td>Rio Del Oro (Villages 1-5, 7, &amp; 9-13)</td>
<td>$354,176</td>
<td>N/A</td>
<td>$0</td>
</tr>
<tr>
<td>Cassano/Kamilos</td>
<td>Rio Del Oro (Villages 6 &amp; 8)</td>
<td>$25,843</td>
<td>N/A</td>
<td>$0</td>
</tr>
<tr>
<td>DR Horton</td>
<td>Wheeler Ranch (Units 4 &amp; 5)</td>
<td>$3,095,289</td>
<td>N/A</td>
<td>$0</td>
</tr>
<tr>
<td>Homes by Towne</td>
<td>Rio Del Oro (Village 14)</td>
<td>$482,093</td>
<td>N/A</td>
<td>$0</td>
</tr>
<tr>
<td>K Hovnanian/Forecast</td>
<td>Wheeler Ranch I (Units 2, 3, 6 &amp; 7)</td>
<td>$254,925</td>
<td>N/A</td>
<td>$0</td>
</tr>
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<td><strong>Projects with No Obligation or Reimbursement</strong></td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dansk-Californisk</td>
<td>Rio Del Oro (Danna 70)</td>
<td>$0</td>
<td>N/A</td>
<td>$0</td>
</tr>
<tr>
<td>Rio Del Oro Farms</td>
<td>Rio Del Oro (Villages 16)</td>
<td>$0</td>
<td>N/A</td>
<td>$0</td>
</tr>
<tr>
<td><strong>Projects Utilizing a Transfer of Reimbursement with Remaining Fees</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>KB Home [3]</td>
<td>Hawes Ranch</td>
<td>$0</td>
<td>N/A</td>
<td>$0</td>
</tr>
<tr>
<td>KB Home</td>
<td>Plumas Lake Cobblestone</td>
<td>N/A</td>
<td>86.458</td>
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<tr>
<td>Lennar - US Homes [4]</td>
<td>Rio Del Oro (Village 15)</td>
<td>$0</td>
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<tr>
<td>Lennar - Renaissance</td>
<td>River Oaks East</td>
<td>N/A</td>
<td>57.697</td>
<td>$726,101</td>
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<td>Lennar - Renaissance</td>
<td>River Oaks North</td>
<td>N/A</td>
<td>13.856</td>
<td>$1,313,932</td>
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<td><strong>Projects with Remaining Fees</strong></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Cresleigh</td>
<td>Creekside Plumas Ranch</td>
<td>N/A</td>
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<td>Woodside</td>
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<td>FGLHC</td>
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<td>Lakemont</td>
<td>Feather Glen (Phase C &amp; D)</td>
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<td>Matthews Homes</td>
<td>Draper Meadows</td>
<td>N/A</td>
<td>74.146</td>
<td>$3,775,893</td>
</tr>
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<td>Meritage Homes</td>
<td>Draper Ranch North</td>
<td>N/A</td>
<td>56.083</td>
<td>$1,378,931</td>
</tr>
<tr>
<td>Ryland Homes</td>
<td>Thoroughbred Acres (Unit 1)</td>
<td>N/A</td>
<td>34.281</td>
<td>$2,284,124</td>
</tr>
<tr>
<td><strong>Totals</strong></td>
<td></td>
<td>$4,192,128</td>
<td>442.358</td>
<td>$12,948,869</td>
</tr>
</tbody>
</table>

Source: Appendix A

[1] After transfer of remaining credit acreage from transfer projects noted.
[2] Additional Fees due based upon starting Fee rate of $60,159 per GOA. Additional Fees will be due to the extent the fee has escalated at the time of collection.
[3] The KB Homes Hawes Ranch reimbursement is transferred to KB Homes Plumas Lake Cobblestone Project
• For multiple projects that are being developed by a common landowner:

If one project is determined to have advanced funded in excess of the obligation due by the Fee and is due a reimbursement, the reimbursement will be applied and added to the credit of the next project currently underway with the consent of the landowner.
3. CREDIT POLICY

Use of Credit for Prior Advanced Funding

Policy Question

Table 5 and Appendix A demonstrate that, for the projects analyzed in this Study, 10 projects have paid levee fees in excess of the amount due based on their projects' absorption to date. However, those same projects have an insufficient amount of credit through prior advance funding to fully pay the remainder of their projects' Levee Impact Fees. The policy questions that arise are as follows:

- How will these projects use the credit they have accumulated over the remainder of their projects?
- When, in the development process will the projects pay the remainder of the Levee Impact Fees due?

Possible Policy Approaches

There are several ways to approach the answer to these questions:

1. Provide full credit for the remaining units as they are pulled until all of the credit is used, i.e., a first-in-first-to-use-credit approach. This would delay the payment of any additional fees until all the acreage credit accumulated is absorbed.

2. Require full payment of the Fee as the remaining units are developed until the entire obligation of the project is funded. Subsequently the last portion of a project will use the credit for prior advance funding, i.e., a first-in-first-to-pay approach. This will accelerate the payment of additional fees until the total obligation of a project is met.

3. Allow for the use of accumulated credit on a proportionate basis as the remainder of a project is developed. The basis for the proportionality would be the ratio of the remaining credit acreage to the total remaining acres to be developed. This concept would essentially spread the credit accumulated on a project over its remaining acreage to be developed.

Adopted Approach

The third approach is the approach recommended by staff and adopted by the Board of Supervisors by Resolution No. 2008-153 on November 18, 2008. This policy would apply for the use of credit for all projects having provided advance-funding of the Levee Impact Fee. Specifically, within Attachment A of Resolution No. 2008-153, the Credit Policy for Prior Advance Funding is as follows:

The Crediting Policy will allow for the use of the accumulated credit on a proportionate basis as the remainder of a project is developed. The basis for the
proportionality will be the ratio of Remaining Credit Acreage to Total Remaining Acres to be developed.

- "Remaining Credit Acreage" will be defined as the credit accumulated by the prior advance funding less the amount of credit utilized by units that have been absorbed prior to October 21, 2008.

- "Total Remaining Acres" to be developed will be defined as the difference between the total developable GDAs in a project after April 19, 2005 and the amount of acres absorbed before October 21, 2008, or as subsequently revised by County and Landowner."

Further details on the mechanics of implementing this policy are provided below.

**Development Agreement Terms**

In exchange for providing additional funding on the proportionate basis, the County may enter into individual development agreements with the landowners of the projects upon proper application and payment of County fees, subject to review by the Planning Commission and approval by the Board of Supervisors with terms that may generally include these:

- The form of development agreement will contain the terms set forth below and substantially conform to the form available from the County’s website:3

- The Tentative Map life for any tentative map included in the project will be extended to a total of 20 years from the date of approval of the Tentative Map.

- No new County imposed development impact fees will be imposed on the project for 10 years from the date of the development agreement with the following exclusions.
  - Any impact fees associated with any Traffic Impact (Road Improvements) within the County.
  - Any fees levied to offset the cost of regional park improvements up to a maximum of $2,000 dollars per dwelling unit or equivalent.

- All currently County imposed development impact fees will not be increased for 10 years from the date of the development agreement with the following exclusions.
  - Any currently incorporated escalator adopted with the fee.

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3 The document URL is http://www.co.yuba.ca.us/Departments/Community%20Development/Planning/documents/Forms%20&%20Applications/Planning2008/DA-PART2_6-08.pdf
— Any increase of fees associated with the current Traffic Impact (Road Improvement) Fee component of the County Capital Facilities Fee and any change or increase associated with the current PLSP/NASA Road Improvement Fee.

- The collection of the balance of the Levee Fees due after the application of credit as described above will be determined at the time a building permit is pulled but will be deferred collection until the final inspection of home (in a manner consistent with Yuba County Ordinance 1461). The duration of this fee deferral will be 10 years from the effective date of the development agreement.

- The collection of all development impact fees and County Capital Facilities Fees will deferred in a manner consistent with Yuba County Ordinance 1461, however, the duration of the deferral will be 10 years from the effective date of the development agreement.

With respect to Mello-Roos financing by TRUA for landowners Levee Impact Fee obligations, the County will work with TRUA to incorporate its acceptance of the following.

- The redemption of any outstanding builder bonds through the issuance of private placement or conventional Mello-Roos bonds issued by TRUA associated with TRUA CFDs 2006-1 and 2006-2 will be recommended by the County to TRUA to be subject to the terms outlined in Appendix B.

- The application of revenues from special tax collections associated with TRUA CFDs 2006-1 and 2006-2 will be as outlined in Appendix C.

Miscellaneous provisions:

- Mutual agreement by all parties (i.e. each Landowner who accepts the Credit and Reimbursement Policy, County and TRUA) that the Second Funding Agreement for Advance Funding and Reimbursement of Costs for Levee Improvements ("Second Funding Agreement") is terminated as to those parties and of no force and effect and that any obligations or provisions that survive will be restated and incorporated into the development agreement (e.g., mandatory flood insurance provisions, TRUA is not responsible for repayment) along with any other provisions that the parties might mutually agree upon.

- Landowners shall receive benefit of any development impact fee or capital facilities fee reduction applied to the County generally.

- TRLIA to execute Development Agreement only as to acceptance and compliance with sections related to redemption of outstanding builder bonds (Appendix B), application of revenues from special tax collections associated with TRLIA CFDs 2006-1 and 2006-2 (Appendix C), restatement of obligations that survive the Second Funding Agreement, and approval of Credit & Reimbursement Policies.
Implementation

With the adoption of Resolution No. 2008-153 by the BOS, the County Administrator is authorized to negotiate development agreements with the landowners that effectuate the adopted policy.

In general, credit for prior advance funding in excess of that used on all permits that have previously been applied for is to be allocated proportionately among the remaining lots in all tract maps/phases/units/villages (either previously created or proposed) that have not yet been applied for.

This means that for the projects identified in this Study, as additional homes are constructed, the landowner will fund a portion of the Fee based on the relative proportionality between the remainder of a project not able to be funded from credit and the total remaining acreage left in the project after all previously absorbed units. For purposes of this discussion, a unit is to be considered absorbed if its building permit has been applied for.

For purposes of implementing this policy, the County will calculate this remaining amount of the Fee due as the individual building permits are issued for units to be constructed in the project. However, collection of the Fee will be deferred until the final inspection of the home.

To calculate the amount of the fee due at the issuance of the building permit, the number of GDAs for each lot must be determined. This is a function of total GDAs in each tract map/phase/unit/village and the number of lots created in each of the tract maps/phases/units/villages. The tables in Appendix A provide this information and identify the specific amount of acreage that the levee Fee must be paid for at the final inspection of each building permit. This information is provided on a map-by-map basis for each project by landowner.

The amount of the Fee due will be determined at the time the building permit is issued based on the acreage identified in the tables in Appendix A and the applicable fee rate at the time of building permit issuance. The collection of the fee will be deferred until the final inspection of the unit for which the permit was issued.
4. **REIMBURSEMENT POLICY**

**Reimbursement of Funds Advanced in Excess of the Fee Obligation Due**

**Policy Question**

Table 5 and Appendix A demonstrate that, for the projects analyzed in this Study, 7 projects have advance funded levee fees in excess of the total amount of Levee Impact Fees due on the project. Two of these 7 projects are able to apply this additional funding to other projects through a transfer policy (as described in Chapter 2); however, for the remaining 5 projects, the policy question that arises is this: When and how will the projects receive a reimbursement for this excess funding?

The source of funds that will provide this reimbursement is not in question. Under all circumstances by which this funding was advanced, the source of repayment was identified as the collection of Levee Impact Fees from other development. Therefore, the County (and all other public agencies involved for that matter) is under no obligation to pay this reimbursement from other sources.

The primary issue involved is that the County and YCWA have also borrowed funds under the premise that the borrowing will be repaid from the same source of funds, the Levee Impact Fee. Therefore, a second policy question arises: How does the timing of repayment of the reimbursement due to landowners relate to the repayment of the County and YCWA borrowing?

**Possible Approaches**

There are many ways to approach the answer to these questions. The following list provides examples of various approaches:

1. Reimburse the landowners that are due reimbursements with any new funds that come into the levee improvement program, e.g., new fee collections and the funds from the County and YCWA borrowing.

2. Share any additional new funds that come into the program on a split basis (Landowners: County and YCWA) based on some proportionality.

3. Reimburse those landowners from new funds that come into the program only after the levee improvement program is complete and the levees are certified, regardless of when new funds arrive.

4. Reimburse private landowner funding until after the County and YCWA borrowing has been repaid.

**Underlying Principles**

To derive a policy direction on this issue, certain underlying principles should be established that help guide the determination of a policy. Listed below are the principles that are incorporated
into the adopted resolution that established the policy direction for reimbursement. These principles have previously been incorporated into prior decisions made by the BOS and should be considered in this circumstance:

- No reimbursements should be made to any party advancing funds into the levee improvement program until all project costs are paid and the levee improvement program has been complete and certified, unless otherwise determined by the County and YCWA that payment of such reimbursements are financially and legally advantageous to the County and YCWA.

- The Board should make decisions that consider the impact to the General Fund and the services provided to the County at large.

- The Board should make decisions that consider the proportionality of the investment made into the levee improvement program.

- The Board should consider the timing of repayment of capital to those investing in the levee improvement program.

**Adopted Approach**

The following list outlines the reimbursement approach adopted by Resolution 2008-153. This approach takes into consideration the aforementioned principles and provides a plan for reimbursement of the advance funding of levee improvements. The approach takes into consideration all reimbursements that are to be paid from the future collection of levee impact fees as shown in Table 5 and the debt service obligations of the County and YCWA borrowing in the future. The approach is divided into three stages based on the following time periods:

- Period 1: Before Levee Certification.
- Period 2: After Levee Certification, before March 1, 2015.
- Period 3: After March 1, 2015, until all reimbursements are complete.

**Period 1: Before Levee Certification**

During this time period no reimbursements will be made to the County, YCWA, or landowners unless otherwise determined to be financially and legally advantageous and directed by the County and YCWA. All new Levee Impact Fees collected will be used to directly fund the levee improvements and ultimately offset the additional investment by the County and YCWA into the levee improvements program.

**Period 2: After Levee Certification, before March 1, 2015**

During the time period between when the levees are certified and before the County and YCWA will be required to pay debt service on their borrowing, twice per year distributions of Levee Impact Fee revenue will occur as follows:

- One hundred percent of revenues collected from Levee Impact fees will first be used to reimburse any outstanding reimbursement due under the First Funding Agreement to Homes by Towne:
The principal amount of this reimbursement due is $366,218 as of November 29, 2005. It will accrue interest at 7.5 percent per annum.

- After the full reimbursement of this amount to Homes by Towne, revenues collected before March 1, 2015, will be split by those parties determined by the County to be due reimbursements (including the County and YCWA) on a proportionate basis of the principal amount of their outstanding reimbursement. Table 6 has been provided to demonstrate an example of the proportionality of outstanding reimbursements:

- It will be assumed that landowners' reimbursement will accrue and capitalize interest onto their principal amounts at the same interest rate as the County and YCWA joint borrowing of 5.534 percent per annum. Interest will be calculated on a monthly compounding rate that is equivalent to an effective interest rate of 5.534 percent per annum.

**Period 3: After March 1, 2015, until Reimbursements are Complete**

Commencing on March 1, 2015, when debt service is due on the County and YCWA joint borrowing, twice-per-year distributions of Levee Impact Fee revenue will occur as follows:

- One hundred percent of Fee revenue collected will go fund the debt service due on the borrowing up to the debt service amount.\(^4\)

- After March 1, 2015, any fee revenue collected in excess this debt service due will first be used to complete the reimbursement due to Homes by Towne under the Second Funding Agreement to the extent it was not completed before March 1, 2015.

- After this reimbursement to Homes by Towne, any fee revenue will be split between those parties determined by the County to be due reimbursement (including the County and YCWA) on a proportionate basis of the principal amount of their outstanding reimbursement.

- It will be assumed that landowners' reimbursement will accrue and capitalize interest onto their principal amounts at the same interest rate as the County and YCWA joint borrowing of 5.534 percent per annum. Interest will be calculated on a monthly compounding rate that is equivalent to an effective interest rate of 5.534 percent per annum. Because the County and YCWA will be amortizing the principal amount of their reimbursement through the payment of debt service, their outstanding reimbursement amount will be reduced by this amount.

---

\(^4\) The debt service amount is defined as the total debt service due on the outstanding Taxable and Tax-Exempt Bonds.
Table 6
Three Rivers Levee Fee Credit & Reimbursement
Summary of Reimbursements from Levee Impact Fees

<table>
<thead>
<tr>
<th>Entity</th>
<th>Project</th>
<th>Reimbursements [1] as of October 21, 2008</th>
<th>Estimated Proportionate Amount of Total Reimbursement</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>First Entity with Reimbursement Due from Levee Impact Fees</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Homes by Towne</td>
<td>Rio Del Oro (Village 14) [2]</td>
<td>$415,173</td>
<td></td>
</tr>
<tr>
<td><strong>Remaining Entities with Reimbursements Due from Levee Impact Fees [3]</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Beazer</td>
<td>Rio Del Oro (Villages 1-5, 7 &amp; 9-13)</td>
<td>$354,176</td>
<td>0.428%</td>
</tr>
<tr>
<td>Cassano/Kamilos</td>
<td>Rio Del Oro (Villages 6 &amp; 8)</td>
<td>$354,176</td>
<td>0.428%</td>
</tr>
<tr>
<td>DR Horton</td>
<td>Wheeler Ranch (Units 4 &amp; 5)</td>
<td>$25,643</td>
<td>0.031%</td>
</tr>
<tr>
<td>Homes by Towne</td>
<td>Rio Del Oro (Village 14)</td>
<td>$3,095,289</td>
<td>3.745%</td>
</tr>
<tr>
<td>K Hovnanian/Forecast</td>
<td>Wheeler Ranch I (Units 2, 3, 6 &amp; 7)</td>
<td>$462,093</td>
<td>0.559%</td>
</tr>
<tr>
<td><strong>Total Remaining Entities with Reimbursements</strong></td>
<td></td>
<td>$4,291,377</td>
<td>5.192%</td>
</tr>
</tbody>
</table>

**Public Entity**

| Yuba County                                    | $39,185,000                     | 47.404%                                 |
| Yuba County Water Agency                       | $39,185,000                     | 47.404%                                 |
| **Subtotal Public Borrowing**                  | $78,370,000                     | 94.808%                                 |

**Total Remaining Entities with Reimbursements**

|                                                            | $82,661,377                     | 100.000%                                |

"percentage"

Source: Appendix A

[1] Represents the principal amount of reimbursements as of October 21, 2008 including, in the case of the Homes by Towne reimbursement from the First Funding Agreement, the capitalized interest amount due from that agreement.

[2] Homes by Towne, from the Second Funding Agreement was due a principal amount of $336,218 with interest to accrue at an effective 7.5% per annum from November 29, 2005.

[3] Remaining Entities will accrue interest on their outstanding balances at the Public Bond rate of 5.534%.
Implementation

As previously stated, the County, YCWA, and YLFA entered into an Impact Fee Agreement to provide a vehicle for repayment of their joint borrowing. This Impact Fee Agreement, as identified in Section 2.1, recognized that the County would, at some point in the future, enter into reimbursement agreements with the landowners that have advance funded costs of the levee improvement program beyond their otherwise applicable levee fee obligation.

For purposes of implementing the preferred approach for reimbursements, the County should proceed with these:

• Draft, negotiate, and execute the contemplated reimbursement agreements that are consistent with the approach outlined in this Study.

• As further identified in the Impact Fee Agreement, instruct the Community Development and Services Agency to administer the reimbursement agreements and Impact Fee Agreement consistent with policies and procedures outlined by this Study.
APPENDICES:

Appendix A: Credit and Reimbursement Detailed Calculations

Appendix B: Terms Associated with the Issuance of Private Placement and Conventional Bonds for TRLIA CFDs 2006-1 and 2006-2

Appendix C: Special Considerations for Projects in TRLIA CFDs 2006-1 and 2006-2
**APPENDIX A:**

Credit and Reimbursement
Detailed Calculations

**Projects with Transfer of Reimbursement for Credit**
- Table A-1 KB Homes Credit ........................................... A-1
- Table A-2 Lennar Credit ................................................ A-2

**Projects with Reimbursement**
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- Table A-6 K Hovnanian Credit ............................................. A-6
- Table A-7 Beazer Credit ................................................... A-7

**Projects with No Reimbursement**
- Table A-8 Dansk-Californisk Danna 70 Credit ......................... A-8
- Table A-9 Rio Del Oro Farms Village 16 Credit .................... A-9

**Projects with Credit**
- Table A-10 Cresleigh Credit ........................................... A-10
- Table A-11 Meritage Homes Credit ..................................... A-11
- Table A-12 Matthews Homes Credit .................................. A-12
- Table A-13 Feather Glenn Credit ..................................... A-13
- Table A-14 Ryland Homes Credit ....................................... A-14
Projects with Transfer of Reimbursement for Credit
## Table A-1
### Three Rivers Levees Fee Credit & Reimbursement

#### KB Homes Credit

<table>
<thead>
<tr>
<th>Project / Map</th>
<th>GDAs</th>
<th>GDAs Absorbed</th>
<th>Total Fee Obligation</th>
<th>Fee Credit Used on Absorbed GDAs</th>
<th>Total Funding Creditable to Date</th>
<th>Transfer of Credits</th>
<th>Remaining Funding after Absorbed GDAs</th>
<th>Remaining Credit Acreage</th>
<th>Acreage Not Subject to Credit</th>
<th>Acreage to be Funded on a Per Unit Basis</th>
<th>Fee Due (per Unit) or Reimbursement Due</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Hawes Ranch Estates</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Hawes Ranch Map 02-602</td>
<td>21,005</td>
<td>13,591</td>
<td>$1,263,625</td>
<td>$817,540</td>
<td>$1,858,445</td>
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<td>$1,040,805</td>
<td>17.301</td>
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<td>$594,020.13</td>
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<tr>
<td><strong>Plumas Lake</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>Phase 1A</td>
<td>1,402</td>
<td>1,402</td>
<td>$8,684,520</td>
<td>$2,406,480</td>
<td>$7,012,800</td>
<td>$594,200</td>
<td>$5,231,208</td>
<td>86.458</td>
<td>17.567</td>
<td>0.022</td>
<td>$1,294.86</td>
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<tr>
<td>Phase 1B</td>
<td>34.685</td>
<td>34.685</td>
<td>$2,086,615</td>
<td>$2,086,615</td>
<td>$2,086,615</td>
<td>$2,086,615</td>
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<td>$2,086,615</td>
<td>$2,086,615</td>
<td>0.036</td>
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<tr>
<td>Phase 2A</td>
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<td>3.815</td>
<td>$915,921</td>
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<td>$235,522</td>
<td>$235,522</td>
<td>$235,522</td>
<td>$235,522</td>
<td>$235,522</td>
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<tr>
<td>Phase 2B</td>
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<td>$490,897</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>0.043</td>
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<td>Phase 2 (Remainder)</td>
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<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>0.038</td>
<td>$1,294.86</td>
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<tr>
<td><strong>Total KB Homes</strong></td>
<td>165,032</td>
<td>53,593</td>
<td>$9,028,145</td>
<td>$3,224,120</td>
<td>$8,724,013</td>
<td>$6,242,013</td>
<td>103,759</td>
<td>17,567</td>
<td><strong>Total Remaining Fee</strong></td>
<td>$1,056,832</td>
<td></td>
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</table>

Prepared by EPS 12/12/2008
<table>
<thead>
<tr>
<th>Project / Map</th>
<th>GDAs Absorbed</th>
<th>Total Fee Obligation</th>
<th>Fee Credit Used on Absorbed GDAs</th>
<th>Total Funding Creditable to Date</th>
<th>Transfer of Credits</th>
<th>Remaining Funding after Absorbed GDAs</th>
<th>Remaining Credit Acreage</th>
<th>Acreage Not Subject to Credit</th>
<th>Acreage to be Funded on a Per Unit Basis</th>
<th>Fee Due (per Unit) or Reimbursement Due</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Rio Del Oro</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Village 15</td>
<td>28.264</td>
<td>28.264</td>
<td>$1,700,334</td>
<td>$1,700,334</td>
<td>$2,130,519</td>
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<td>$430,165</td>
<td>7.151</td>
<td>N/A</td>
<td>$430,165.07</td>
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<td><strong>River Oaks East</strong></td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Village 1</td>
<td>32.772</td>
<td>18.538</td>
<td>$5,315,280</td>
<td>$1,115,209</td>
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<td>$3,470,970</td>
<td>57.697</td>
<td>12.070</td>
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<tr>
<td>Village 2</td>
<td>31.847</td>
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<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$3,445.24</td>
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<td>Village 3</td>
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<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$3,471.89</td>
</tr>
<tr>
<td><strong>River Oaks North</strong></td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>River Oaks North 2004-24</td>
<td>35.697</td>
<td>0.000</td>
<td>$2,147,496</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$12,279.74</td>
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<tr>
<td><strong>Total Lennar</strong></td>
<td>152.265</td>
<td>46.802</td>
<td>$9,160,110</td>
<td>$2,815,543</td>
<td>$7,120,077</td>
<td>$4,734,719</td>
<td>78.703</td>
<td>33.911</td>
<td>$2,040,033</td>
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</tr>
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</table>
Projects with Reimbursement
Table A-3
Three Rivers Levee Fee Credit & Reimbursement
Cassano/Kamilos Credit

<table>
<thead>
<tr>
<th>Project / Map</th>
<th>GDAs Absorbed</th>
<th>Total Fee Obligation</th>
<th>Fee Credit Used on Absorbed GDAs</th>
<th>Total Funding Creditable to Date</th>
<th>Transfer of Credits</th>
<th>Remaining Funding after Absorbed GDAs</th>
<th>Remaining Credit Acreage</th>
<th>Acrgae Not Subject to Credit</th>
<th>Acreage to be Funded on a Per Unit Basis</th>
<th>Reimbursement Due</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>A * Table 1</td>
<td>B * Table 1</td>
<td>C = A * $60159</td>
<td>D = B * $60159</td>
<td>E</td>
<td>F</td>
<td>G = E * D</td>
<td>H = G / $60159</td>
<td>I = Remaining GDAs - H * GDA per Unit</td>
<td>J = 1 / Remaining GDAs</td>
</tr>
<tr>
<td>Rio Del Oro</td>
<td>44,267</td>
<td>11.512</td>
<td>$2,863,058</td>
<td>$692,545</td>
<td>$2,868,701</td>
<td>N/A</td>
<td>$1,998,157</td>
<td>33.181</td>
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<td>N/A</td>
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<td>Village 6</td>
<td>13,882</td>
<td>11.512</td>
<td>$835,127</td>
<td>$692,545</td>
<td>$1,827,931</td>
<td>$0</td>
<td>$0</td>
<td>N/A</td>
<td>N/A</td>
<td>$8,041.45</td>
</tr>
<tr>
<td>Village 8</td>
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<td>0.000</td>
<td>$1,827,931</td>
<td>$0</td>
<td>$0</td>
<td>N/A</td>
<td>$17,601.17</td>
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<td>N/A</td>
<td>$17,601.17</td>
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<tr>
<td></td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>$25,642.62</td>
</tr>
</tbody>
</table>

Total Reimbursement: $25,642.62

Prepared by EPS 12/12/2008
<table>
<thead>
<tr>
<th>Project / Map</th>
<th>GDAs Absorbed</th>
<th>GDA Reimb</th>
<th>Total Fee Obligation</th>
<th>Fee Credit Used on Absorbed GDAs</th>
<th>Total Funding Creditable to Date</th>
<th>Fee Credit Remaining Funding after Absorbed GDAs</th>
<th>Remaining Credit to be Funded on a Per Unit Basis</th>
<th>Remaining Credit Acreage</th>
<th>Acreage Not Subject to Credit</th>
<th>Reimbursement Due</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wheeler Ranch</td>
<td>66.357</td>
<td>86.357</td>
<td>$3,091,971</td>
<td>$3,091,971</td>
<td>$7,087,269</td>
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<td>$3,095,289</td>
<td>$1,452</td>
<td>N/A</td>
<td>$1,239,897.45</td>
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<tr>
<td>Unit 4</td>
<td>26.581</td>
<td>26.581</td>
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<td>$1,599,086</td>
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<td>N/A</td>
<td>$1,855,391.48</td>
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<td>N/A</td>
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</tr>
<tr>
<td>Unit 6</td>
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<td>39.776</td>
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<td>$2,392,884</td>
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<td>N/A</td>
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<td>N/A</td>
<td></td>
</tr>
<tr>
<td><strong>Total Reimbursement</strong></td>
<td></td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>$3,095,288.93</td>
</tr>
</tbody>
</table>

Formulate: 
- \( A = \text{Table 1} \)
- \( B = \text{Table 1} \)
- \( C = A \times 60159 \)
- \( D = B \times 60159 \)
- \( E = F \)
- \( G = E - D \)
- \( H = G / 60159 \)
- \( I = \text{Remaining GDAs} / H \)
- \( J = (I / \text{Remaining GDAs}) \times \text{GDA per Unit} \)

Prepared by EPS 12/1/2008
## Table A-5
Three Rivers Levee Fee Credit & Reimbursement
Towne Development of Plumas Lake LLP Credit

<table>
<thead>
<tr>
<th>Project / Map</th>
<th>GDAs Absorbed</th>
<th>Total Fee Obligation</th>
<th>Fee Credit Used on Absorbed GDAs</th>
<th>Total Funding Creditable to Date</th>
<th>Transfer of Credits</th>
<th>Remaining Funding after Absorbed GDAs</th>
<th>Remaining Credit Acreage</th>
<th>Acreage Not Subject to Credit</th>
<th>Acreage to be Funded on a Per Unit Basis</th>
<th>Reimbursement Due</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rio Del Oro Village 14</td>
<td>31.227</td>
<td>18.476</td>
<td>$1,878,615</td>
<td>$1,111,514</td>
<td>N/A</td>
<td>$1,229,194</td>
<td>20.432</td>
<td>N/A</td>
<td>N/A</td>
<td>$462,093</td>
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</table>

Formula:

\[ A = \text{Table 1} \]
\[ B = \text{Table 1} \]
\[ C = A \times 950159 \]
\[ D = B \times 950159 \]
\[ E = \text{Total Fee} \]
\[ F = \text{Transfer of Credits} \]
\[ G = E - D \]
\[ H = \frac{G}{950159} \]
\[ I = \frac{1}{\text{Remaining GDAs}} \times \text{GDA per Unit} \]
\[ J = \frac{1}{\text{Remaining GDAs}} \times \text{GDA per Unit} \]

\[ \text{Total Reimbursement} = \text{J} \]

Prepared by EPS 12/12/2008
### Table A-6
Three Rivers Levee Fee Credit & Reimbursement
K Hovnanian Credit

<table>
<thead>
<tr>
<th>Project / Map</th>
<th>Total Funding Creditable</th>
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<th>Remaining Credit Acreage</th>
<th>Acreage Not Subject to Credit</th>
<th>Acreage to be Funded on a Per Unit Basis</th>
<th>Reimbursement Due</th>
</tr>
</thead>
<tbody>
<tr>
<td>Formula</td>
<td>A = Table 1</td>
<td>B = Table 1</td>
<td>C = A * $60159</td>
<td>D = B * $60159</td>
<td>E = F</td>
<td>J = Remaining GDAs - H</td>
</tr>
<tr>
<td>Wheeler Ranch</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Phase 1, Unit 2 (TM 2004-21)</td>
<td>$6,003,327</td>
<td>$3,332,800</td>
<td>$6,258,252</td>
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<td>$2,925,451</td>
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<td>Phase 1, Unit 3 (TM 2004-33)</td>
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<td>Phase 1, Unit 6 (TM 2004-31)</td>
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<td>Phase 1, Unit 7 (TM 2004-32)</td>
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<td>$409,361</td>
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<td>N/A</td>
<td>N/A</td>
<td>$53,391</td>
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<tr>
<td>Total Reimbursement</td>
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<td>N/A</td>
<td>$254,925</td>
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*RMN_3rd_Levee_Credit*
Table A-7
Three Rivers Levee Fee Credit & Reimbursement
Beazer Credit

<table>
<thead>
<tr>
<th>Project / Map</th>
<th>GDAs Absorbed</th>
<th>GDAs Absorbed</th>
<th>Total Fee Obligation</th>
<th>Fee Credit Used on Absorbed GDAs</th>
<th>Total Funding Creditable to Date</th>
<th>Transfer of Credits</th>
<th>Remaining Funding after Absorbed GDAs</th>
<th>Remaining Credit Acreage</th>
<th>Acreage Not Subject to Credit</th>
<th>Acreage to be Funded on a Per Unit Basis</th>
<th>Reimbursement Due</th>
</tr>
</thead>
<tbody>
<tr>
<td>Formula</td>
<td>A = Table 1</td>
<td>B = Table 1</td>
<td>C = A * $60159</td>
<td>D = B * $60159</td>
<td>E</td>
<td>F</td>
<td>G = E - D</td>
<td>H / G / $60159</td>
<td>I = Remaining GDAs</td>
<td>J = (1 / Remaining GDAs) * GDA per Unit</td>
<td></td>
</tr>
<tr>
<td>Rio Del Oro</td>
<td>37,300</td>
<td>23,683</td>
<td>$2,243,931</td>
<td>$1,424,718</td>
<td>$2,598,107</td>
<td>N/A</td>
<td>$1,173,389</td>
<td>19.505</td>
<td>N/A</td>
<td>N/A</td>
<td>$354,176</td>
</tr>
<tr>
<td>Villages 1-5, 7 &amp; 9-13</td>
<td>37,300</td>
<td>23,683</td>
<td>$2,243,931</td>
<td>$1,424,718</td>
<td>N/A</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>N/A</td>
<td>$354,176</td>
</tr>
<tr>
<td><strong>Total Reimbursement</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>N/A</td>
<td>$354,176</td>
</tr>
</tbody>
</table>
Projects with No Reimbursement
Table A-8
Three Rivers Levee Fee Credit & Reimbursement
Dansk-Californisk Dana 70 Credit

<table>
<thead>
<tr>
<th>Project / Map</th>
<th>GDAs Absorbed</th>
<th>GDAs Absorbed</th>
<th>Total Fee Obligation [1]</th>
<th>Fee Credit Used on Absorbed GDAs</th>
<th>Total Funding Creditable to Date</th>
<th>Transfer of Credits</th>
<th>Remaining Funding after Absorbed GDAs</th>
<th>Remaining Credit Acreage</th>
<th>Acreage Not Subject to Credit</th>
<th>Acreage to be Funded on a Per Unit Basis</th>
<th>Reimbursement Due</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Formula</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>A</strong> = Table 1</td>
<td><strong>B</strong> = Table 1</td>
<td><strong>C</strong> = <strong>A</strong> $53,471</td>
<td><strong>D</strong> = <strong>B</strong> $53,471</td>
<td><strong>E</strong></td>
<td><strong>F</strong></td>
<td><strong>G</strong> = <strong>E</strong> $53,471</td>
<td><strong>H</strong> = <strong>G</strong> / $53,471</td>
<td><strong>I</strong> = Remaining GDAs - <strong>H</strong></td>
<td><strong>J</strong> = (1 / Remaining GDAs) * GDA per Unit</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rio Del Oro</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dana 70</td>
<td>64.320</td>
<td>0.000</td>
<td>$3,439,286</td>
<td>$0</td>
<td>$3,439,286</td>
<td>N/A</td>
<td>$3,439,286</td>
<td>64.320</td>
<td>0.000</td>
<td>0.000</td>
<td>$0.00</td>
</tr>
</tbody>
</table>

**Total Reimbursement** $0.00

[1] Based on Exhibit C of Development Agreement.
### Table A-9

<table>
<thead>
<tr>
<th>Project / Map</th>
<th>GOAs</th>
<th>GDAs</th>
<th>Total Fee Obligation [1]</th>
<th>Fee Credit Used on Absorbed GDAs</th>
<th>Total Funding Creditable to Date</th>
<th>Remaining Funding after Absorbed GDAs</th>
<th>Remaining Credit Acreage</th>
<th>Acreage Not Subject to Credit</th>
<th>Acreage to be Funded on a Per Unit Basis</th>
<th>Reimbursement Due</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rio Del Oro Village 16</td>
<td>46,443</td>
<td>0.000</td>
<td>$2,483,376</td>
<td>$0</td>
<td>$2,483,376</td>
<td>N/A</td>
<td>$2,483,376</td>
<td>46.443</td>
<td>0.000</td>
<td>$0.00</td>
</tr>
</tbody>
</table>

Total Reimbursement: $0.00

---

**Formula:**

\[
A = \text{Table 1} \\
B = \text{Table 1} \\
C = A \times 53,471 \\
D = B \times 53,471 \\
E = \text{Transfer of Credits} \\
F = \text{Remaining Credit Acreage} \\
G = E - D \\
H = G / 53,471 \\
I = \text{Remaining GDAs - } H \\
J = (I / \text{Remaining GDAs}) \times \text{GOA per Unit} \\
\]

[1] Based on Exhibit C of Development Agreement.

Prepared by EPS 12/12/2006
**Table A-10**

**Three Rivers Levee Fee Credit & Reimbursement**

<table>
<thead>
<tr>
<th>Project / Map</th>
<th>GDAs Absorbed</th>
<th>Total Fee Obligation</th>
<th>Fee Credit Used on Absorbed GDAs</th>
<th>Total Funding Creditable to Date</th>
<th>Transfer of Credits</th>
<th>Remaining Funding after Absorbed GDAs</th>
<th>Remaining Credit Acreage</th>
<th>Acreage Not Subject to Credit</th>
<th>Acreage to be Funded on a Per Unit Basis</th>
<th>Estimated Fee Due (par Unit) [1]</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Plumas Ranch</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Village 5</td>
<td>46,594</td>
<td>9,715</td>
<td>$2,436,880</td>
<td>$584,445</td>
<td>$1,962,038</td>
<td>N/A</td>
<td>$1,377,903</td>
<td>22.899</td>
<td>7.890</td>
<td>0.0732</td>
</tr>
<tr>
<td>Village 6</td>
<td>24,859</td>
<td>9,715</td>
<td>$1,495,493</td>
<td>$584,445</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>0.0557</td>
</tr>
<tr>
<td><strong>Woodside</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Village 1 (TM 99-562)</td>
<td>97.281</td>
<td>18.529</td>
<td>$5,851,121</td>
<td>$1,114,707</td>
<td>N/A</td>
<td>$3,403,936</td>
<td>56.582</td>
<td>22.149</td>
<td></td>
<td>0.0550</td>
</tr>
<tr>
<td>Village 2A (TM 2003-39)</td>
<td>15.495</td>
<td>10.946</td>
<td>$885,958</td>
<td>$658,482</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>0.0559</td>
</tr>
<tr>
<td>Village 2B (TM 2003-40)</td>
<td>13.829</td>
<td>7.584</td>
<td>$831,938</td>
<td>$456,225</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>0.0627</td>
</tr>
<tr>
<td>Village 3 (TM 2005-12)</td>
<td>27.641</td>
<td>0.000</td>
<td>$1,062,855</td>
<td>$0</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>0.0540</td>
</tr>
<tr>
<td>Village 4 (TM 2005-13)</td>
<td>24.569</td>
<td>0.000</td>
<td>$1,478,046</td>
<td>$0</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>0.0487</td>
</tr>
<tr>
<td><strong>Total Cresleigh Homes</strong></td>
<td>137.785</td>
<td>28.244</td>
<td>$8,287,801</td>
<td>$1,698,152</td>
<td>$6,480,681</td>
<td>$4,781,529</td>
<td>78.482</td>
<td>30.039</td>
<td>Total Remaining Fees $1,807,120</td>
<td></td>
</tr>
</tbody>
</table>

**Notes:**
- Fee shown is based upon the initial starting fee rate of $60,159.
- Remaining Fee $474,642
- Remaining Fee $1,332,478
- Total Remaining Fees $1,807,120

---

[1] Fee shown is based upon the initial starting fee rate of $60,159.
### Table A-11

#### Three Rivers Levee Fee Credit & Reimbursement

<table>
<thead>
<tr>
<th>Meritage Homes Credit w/ Additional Funding</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Project / Map</th>
<th>GDAs</th>
<th>GDAs Absorbed</th>
<th>Total Fee Obligation</th>
<th>Fee Credit Used on Absorbed GDAs</th>
<th>Total Funding Creditable to Date</th>
<th>Transfer of Credits</th>
<th>Remaining Funding after Absorbed GDAs</th>
<th>Remaining Credit Acreage</th>
<th>Acreage Not Subject to Credit</th>
<th>Acreage to be Funded on a Per Unit Basis</th>
<th>Estimated Fee Due (per Unit) [1]</th>
</tr>
</thead>
<tbody>
<tr>
<td>Draper Ranch North</td>
<td>106.090</td>
<td>27.086</td>
<td>$6,382,268</td>
<td>$1,629,449</td>
<td>$5,003,337</td>
<td>N/A</td>
<td>$3,373,888</td>
<td>$6,083</td>
<td>22.921</td>
<td></td>
<td>$4,924</td>
</tr>
<tr>
<td>Phase 1</td>
<td>27.650</td>
<td>27.086</td>
<td>$1,663,396</td>
<td>$1,629,449</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>$4,174</td>
</tr>
<tr>
<td>Remaining Phases [2]</td>
<td>78.440</td>
<td>0.000</td>
<td>$4,718,872</td>
<td></td>
<td>$0</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Total Remaining Fees</strong></td>
<td></td>
<td></td>
<td><strong>$1,378,931</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

[1] Fee shown is based upon the initial starting fee rate of $60,159.
[2] Remaining Phase Maps have not yet been submitted. As additional maps are submitted this table should be revised to reflect the actual density of the phased maps.
### Table A-12
Three Rivers Levee Fee Credit & Reimbursement
Matthews Homes Credit

<table>
<thead>
<tr>
<th>Project / Map</th>
<th>GDAs</th>
<th>GDAs Absorbed</th>
<th>Total Fee Obligation</th>
<th>Fee Credit Used on Absorbed GDAs</th>
<th>Total Funding Creditable to Date</th>
<th>Remaining Funding after Absorbed GDAs</th>
<th>Remaining Credit Acreage</th>
<th>Acreage Not Subject to Credit</th>
<th>Remaining Acreage to be Funded on a Per Unit Basis</th>
<th>Estimated Fee Due (per Unit)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Riverside Meadows</td>
<td>173.751</td>
<td>36.839</td>
<td>$10,452,686</td>
<td>$2,216,224</td>
<td>$8,236,462</td>
<td>74.146</td>
<td>62.766</td>
<td>0.164</td>
<td>9,878.99</td>
<td>$9,878.99</td>
</tr>
<tr>
<td>Village 1</td>
<td>29.372</td>
<td>26.148</td>
<td>$1,766,990</td>
<td>$1,573,052</td>
<td>N/A</td>
<td>$4,480,569</td>
<td></td>
<td>0.126</td>
<td>7,560.34</td>
<td>$7,560.34</td>
</tr>
<tr>
<td>Village 2</td>
<td>24.672</td>
<td>10.691</td>
<td>$1,488,243</td>
<td>$643,172</td>
<td>0.109</td>
<td>$6,570.93</td>
<td></td>
<td>0.118</td>
<td>7,105.29</td>
<td>$7,105.29</td>
</tr>
<tr>
<td>Village 3</td>
<td>25.111</td>
<td>0.000</td>
<td>$1,360,335</td>
<td>$0</td>
<td>0.142</td>
<td>$8,534.60</td>
<td></td>
<td>0.148</td>
<td>$8,886.30</td>
<td>$8,886.30</td>
</tr>
<tr>
<td>Village 4</td>
<td>23.187</td>
<td>0.000</td>
<td>$1,384,507</td>
<td>$0</td>
<td>0.131</td>
<td>$7,972.29</td>
<td></td>
<td>0.131</td>
<td>$7,972.29</td>
<td>$7,972.29</td>
</tr>
<tr>
<td>Village 5</td>
<td>22.900</td>
<td>0.000</td>
<td>$1,377,641</td>
<td>$0</td>
<td>0.164</td>
<td>$9,878.99</td>
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<td>0.164</td>
<td>9,878.99</td>
<td>$9,878.99</td>
</tr>
<tr>
<td>Village 6</td>
<td>27.388</td>
<td>0.000</td>
<td>$1,647,635</td>
<td>$0</td>
<td>0.142</td>
<td>$8,534.60</td>
<td></td>
<td>0.142</td>
<td>$8,534.60</td>
<td>$8,534.60</td>
</tr>
<tr>
<td>Village 7</td>
<td>23.121</td>
<td>0.000</td>
<td>$1,390,936</td>
<td>$0</td>
<td>0.131</td>
<td>$7,972.29</td>
<td></td>
<td>0.131</td>
<td>$7,972.29</td>
<td>$7,972.29</td>
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</tbody>
</table>

Total Remaining Fees: $3,775,893

[1] Fee shown is based upon the initial starting fee rate of $601,598.
<table>
<thead>
<tr>
<th>Project / Map</th>
<th>GDAs Absorbed</th>
<th>Total Fee Obligation</th>
<th>Fee Credit Used on Absorbed GDAs</th>
<th>Total Funding Creditable to Date</th>
<th>Transfer of Credits</th>
<th>Remaining Funding after Absorbed GDAs</th>
<th>Remaining Credit Acreage</th>
<th>Acreage Not Subject to Credit</th>
<th>Acreage to be Funded on a Per Unit Basis</th>
<th>Estimated Fee Due (per Unit) [1]</th>
</tr>
</thead>
<tbody>
<tr>
<td>FGLHC</td>
<td>31,110</td>
<td>5.702</td>
<td>$1,971,546</td>
<td>$343,032</td>
<td>$1,473,433</td>
<td>N/A</td>
<td>$1,130,401</td>
<td>18.790</td>
<td>6.618</td>
<td>0.065</td>
</tr>
<tr>
<td>Phase 1A</td>
<td>17.850</td>
<td>5.702</td>
<td>$1,073,838</td>
<td>$343,032</td>
<td>$797,708</td>
<td>$0</td>
<td>$3,884.58</td>
<td>0.075</td>
<td>$4,516.72</td>
<td></td>
</tr>
<tr>
<td>Phase 1B</td>
<td>13.260</td>
<td>0.000</td>
<td>$913,565</td>
<td>$0</td>
<td>$913,565</td>
<td>$0</td>
<td>$1,738.39</td>
<td>0.038</td>
<td>$2,292.21</td>
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</tr>
<tr>
<td>Total Remaining Fees</td>
<td>$398,114</td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lakemont Homes</td>
<td>28.040</td>
<td>0.000</td>
<td>$1,506,381</td>
<td>$0</td>
<td>$1,298,558</td>
<td>N/A</td>
<td>$1,298,558</td>
<td>21.585</td>
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</tr>
<tr>
<td>Phase 1C</td>
<td>9.850</td>
<td>0.000</td>
<td>$922,566</td>
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<td>$922,566</td>
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<td>$922,566</td>
<td>0.038</td>
<td>$2,292.21</td>
<td></td>
</tr>
<tr>
<td>Phase 1D</td>
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<td>$913,815</td>
<td>$0</td>
<td>$913,815</td>
<td>$0</td>
<td>$913,815</td>
<td>$0</td>
<td>$2,292.21</td>
<td></td>
</tr>
<tr>
<td>Total Remaining Fees</td>
<td>$207,623</td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

[1] Fee shown is based upon the initial starting fee rate of $60,159.

Prepared by EPS 12/23/2006
## Ryland Homes Credit w/ Additional Funding

<table>
<thead>
<tr>
<th>Project / Map</th>
<th>GDAs Absorbed</th>
<th>Total Fee Obligation</th>
<th>Fee Credit Used on Absorbed GDAs</th>
<th>Total Funding Creditable to Date</th>
<th>Remaining Funding after Absorbed GDAs</th>
<th>Remaining Credit Acreage</th>
<th>Acreage Not Subject to Credit</th>
<th>Acreage to be Funded on a Per Unit Basis</th>
<th>Estimated Fee Due (per Unit) [1]</th>
</tr>
</thead>
<tbody>
<tr>
<td>Thoroughbred Acres</td>
<td>105.672</td>
<td>33.443</td>
<td>$6,357,122</td>
<td>$2,011,897</td>
<td>$4,072,998</td>
<td>N/A</td>
<td>$2,061,101</td>
<td>34,261</td>
<td>37.968</td>
</tr>
<tr>
<td>Phase 1</td>
<td>38.951</td>
<td>33.443</td>
<td>$2,222,935</td>
<td>$2,011,897</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Phase 2</td>
<td>10.011</td>
<td>0.000</td>
<td>$602,252</td>
<td>$0</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Phase 3</td>
<td>58.710</td>
<td>0.000</td>
<td>$3,531,935</td>
<td>$0</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Formula: $A = \text{Table 1} \quad B = \text{Table 1} \quad C = A \times 60159 \quad D = B \times 60159 \quad E = F \quad G = E \times D \quad H = G / 60159 \quad I = \text{Remaining GDAs} - H \quad J = (I / \text{Remaining GDAs}) \quad K = J \times 60159

Total Remaining Fee: $2,284,124

[1] Fee shown is based upon the initial starting fee rate of $60,159.
APPENDIX B:

Terms Associated with the Issuance of Private Placement and Conventional Bonds for TRLIA CFDs 2006-1 and 2006-2
APPENDIX B

TERMS ASSOCIATED WITH THE ISSUANCE OF PRIVATE PLACEMENT AND CONVENTIONAL BONDS FOR TRLIA CFD’S 2006-1 & 2006-2

TRLIA will consider from time to time, and otherwise at the written request of the owner of a Builder Bonds, the issuance of Private Placement Bonds or Conventional Bonds to refund Builder Bonds. Landowners shall cooperate with TRLIA in such effort. In order to promote the sale of Private Placement Bonds and Conventional Bonds to outside parties prior to the completion of the Levee Improvement Program, TRLIA shall agree to consider, given current market conditions, eligible investors and the use of call protection for such Bonds, the use of tax-exempt interest rates that reflect actual market rates for bonds with similar credit characteristics to the Bonds being marketed, and the use of other bondholder incentives (that do not require any funding from TRLIA, other than from Special Tax Revenues from the respective Tax Zone of the respective CFD) as may be necessary to attract investors for the Bonds. Notwithstanding the preceding, TRLIA shall not be obligated to issue Private Placement Bonds or Conventional Bonds that have significant credit risk of default or otherwise, at tax exempt interest rates that are in excess of the outstanding related Builder Bond interest rates. TRLIA shall consider investors willing to purchase Private Placement Bonds who are proposed by the owners of the Builder Bonds, and approval of such investors shall not be unreasonably withheld as long as such investors comply with the terms and qualifications for bond purchasers listed below. A guideline of the terms for such bond issuances are contained below. The cost of issuance shall be paid from the proceeds of the sale of Private Placement Bonds and Conventional Bonds to outside parties. TRLIA may require a deposit in a reasonable and customary amount towards the cost of issuance. So long as (i) the applicable Landowners fully and timely cooperates with respect to the provision of customary requests for information, certificates, legal opinions, and execution of continuing disclosure certificates, (ii) the proposed financing is in compliance with the requirements below, and (iii) with respect to Private Placement Bonds, a purchaser has been identified, TRLIA expects that Private Placement Bonds can be issued within 90 days of a request by an owner of Builder Bonds therefore and Conventional Bonds can be issued within 180 days of an owner of Builder Bonds request therefore; subject in any event to general market conditions for land secured financings.

1. Owners of Builder Bonds with property located within TRLIA CFD’s 2006-1 & 2006-2 may request that TRLIA issue Private Placement Bonds and Conventional Bonds on behalf of the Tax Zones applicable to such Builder Bonds.

2. For owners of Builder Bonds that are willing to provide individual collateral (e.g., a letter of credit from a financial institution acceptable to TRLIA), TRLIA will use reasonable efforts to seek willing investors for a fixed rate interest bond issue in the conventional marketplace to refund Builder Bonds, without satisfying the terms of Section 3 (except subparagraphs b., d. and i. shall apply in any event) and 4 (except subparagraphs b.(i), b.(ix), b.(x), b.(xi) and b.(xiii) shall apply in any event).
(3) **Private Placement Bonds.** Terms under which Private Placement Bonds for a Tax Zone may be issued are listed below, as determined by TRLIA; however, neither the County nor TRLIA can guarantee that a buyer will exist even if the following criteria are satisfied:

a. Purchasers of such Private Placement Bonds shall be "qualified institutional investors" as such term is defined in Subsection (a) of Rule 144A of the Securities Act of 1933 or "accredited investors" as such term is defined in Subsection (a) of Rule 501 of Regulation D under the Securities Act of 1933;

b. The EIR and/or EIS for the Phase 4 Work is approved and certified, with no legal challenge pending.

c. Bonds for the Tax Zone are supported by at least a 3:1 value-to-lien ratio in accordance with all provisions of Section (4)a, below. Parcels of undeveloped land within such Tax Zone with a 2:1 value-to-lien ratio, or lower, shall not be included for purposes of determining land values or tax revenue capacity. However, notwithstanding Section 4(a), all appraisals utilized to determine the 3:1 and 2:1 value-to-lien ratios for purposes of issuing Private Placement Bonds shall assume the completion of all Phase 4 Work, with all disclosure documents for such Bonds clearly stating that, if applicable, although Phase 4 Work has in fact not yet been completed, its completion has been assumed in determining the appraised value of the CFD and all parcels located therein.

d. All net refunding proceeds generated by Private Placement Bonds within a Tax Zone shall be placed with the fiscal agent for the CFD and expended as necessary to pay the future Levee Impact Fee obligations of the Landowner for that Tax Zone, until all of such Landowner's future Levee Impact Fee Obligations have been satisfied. Once sufficient funding has been collected to cover all future projected Levee Impact Fees for a specific Landowner, any additional net refunding proceeds generated by Private Placement Bonds within a Tax Zone shall be used to redeem the Builder Bonds that were refunded with the proceeds of the Private Placement Bonds.

e. California Debt Issuance Advisory Committee (CDIAC) compliant appraisal has been provided;

f. Annual tax levy in effect and customary foreclosure covenant on the Landowner's property, there are no significant delinquencies in payment of Special Taxes levied in the applicable Tax Zone, and the requirements of (4)(b)(ix) are met;

g. Customary reserve fund(s) established;

h. The Private Placement Bonds shall have at least $100,000 face value denominations (to preclude owners from re-offering portions of the bonds) and such bonds shall be in certificated (not book-entry) form; and
i. The Landowners complete questionnaires and provide sufficient data for TRLIA to compile and deliver a suitable initial disclosure document to the targeted investor(s); there is an agreement in place with TRLIA to enable it to fully comply with continuing disclosure requirements; TRLIA has reason to believe that it will be furnished all required customary 10(b)-5 opinions and certificates required to close the offering; and the sale of the bonds is accompanied by a "traveling" investment letter and occurs through a registered broker dealer.

j. Private Placement Bonds may be current interest bonds or capital appreciation bonds.

k. Tax-exempt interest rates assigned to Private Placement Bonds shall reflect actual market interest rates for bonds with similar credit characteristics to the Bonds being marketed, as may be necessary to attract investors for the Bonds.

(4) Conventional Bonds. For Conventional Bonds to be issued for a Tax Zone, one of the following conditions must be met within such Tax Zone:

a. The standards established within the then current TRLIA's adopted Goals and Policies for Land Secured Financings and the requirements of (4)(b)(ix) are satisfied; or

b. Improved land value to public lien ratio must be at least 3 to 1, and supported by an as-built appraisal plus all of the following criteria must be satisfied as determined by TRLIA:

   (i) there are no delinquent ad valorem or special taxes on any parcels owned by the owner of Builder of the Builder Bonds in the applicable Tax Zone;

   (ii) the combined total of the projected assigned special taxes on all parcels in a Tax Zone are equal to or greater than 110% of projected gross (not net) debt service of the proposed Private Placement Bonds and Conventional Bonds for the next year (or at peak level, if debt service is escalating), based on projected interest rates for the Bonds;

   (iii) special taxes on developed (final mapped) property will provide at least 50% of the projected debt service requirement for the next fiscal year on the proposed Conventional Bonds and Private Placement Bonds;

   (iv) the special tax revenues for undeveloped parcels with a land value to public lien ratio of less than 2 to 1 shall not be included for purposes of calculation of the 110% coverage factor;
Appendix B
February 24, 2009

(v) no impediment to development exists from restrictions imposed by agencies such as FEMA, the State Reclamation Board or any other agency having jurisdiction over the levees and levee-related matters;

(vi) a customary reserve fund(s) established;

(vii) the Conventional Bonds shall be in "standard" (i.e., $5,000) denominations;

(viii) the Conventional Bonds shall be structured so as to pay periodic interest;

(ix) special taxes required to amortize the debt, when combined with overlapping ad valorem property taxes, other special taxes or assessments, and other property taxes, are limited to 1.8% of the projected average residential sales price for properties included in each final map in the Tax Zone, and shall provide minimum coverage levels of 110% of projected debt service requirements;

(x) typical validity and tax exemption opinions of counsel are provided;

(xi) standard initial disclosures shall be provided (with typical comfort letters and opinions) and shall be accompanied by appropriate ongoing disclosure agreement(s);

(xii) such other material features as the several underwriters for such Conventional Bonds may require to establish suitability for intended offerees; and

(xiii) The Landowners complete questionnaires and provide sufficient data for TRLIA to compile and deliver a suitable initial disclosure document to the targeted investor(s); there is an agreement in place with TRLIA to enable it to fully comply with continuing disclosure requirements; TRLIA has reason to believe that it will be furnished all required customary 10(b)-5 opinions and certificates required to close the offering.

(5) Builder Bonds Status in the Event of Issuance of Private Placement Bonds or Conventional Bonds. IN THE EVENT OF A SALE OF A PRIVATE PLACEMENT BOND OR CONVENTIONAL BOND, THE LIEN OF ANY REMAINING BUILDER BONDS SHALL BE SUBORDINATE TO THE PRIVATE PLACEMENT BOND OR THE CONVENTIONAL BOND AND SUCH LIEN AND OBLIGATION TO PAY THE BUILDER BOND WILL BE EXTINGUISHED IN THE EVENT OF A DEFAULT AND FORECLOSURE AGAINST THE PROPERTY SECURING SUCH PRIVATE PLACEMENT BOND OR CONVENTIONAL BOND.

(6) The terms of bond issues by or on behalf of TRLIA shall be subject to the approval by the Board of Directors of TRLIA, and all such terms not
expressly described above shall be as determined by TRLIA consistent with similar land secured financings in the County of Yuba or adjacent areas.
APPENDIX C:

Special Considerations for Projects in TRLIA CFDs 2006-1 and 2006-2
APPENDIX C

SPECIAL CONSIDERATION FOR PROJECTS
IN TRLIA CFDS 2006–1 AND 2006–2

The purpose of this Appendix is to discuss the use of Special Tax revenue collected from those projects that have land within TRLIA CFDs 2006-1 and 2006-2. Specifically, this Appendix will explain how that Special Tax revenue relates to the Three Rivers Levee Impact Fee fee ordinance (Levee Impact Fee) and the obligation to fund the Levee Impact Fee (Fee Obligation) prescribed therein.

- First, in order to ensure that Special Tax revenue can be used in the same manner as revenue generated from the Levee Impact Fee, this document will analyze the relevant documents that prescribe the use of the Special Tax revenue.

- Second, this document will describe how Special Tax revenue will be treated with respect to satisfying the Fee Obligation by providing credit.

USE OF SPECIAL TAX REVENUE

The terms related to how Special Tax revenue collected from property within these CFDS is to be used are contained within the following documents;

- Description of Facilities Eligible to be funded by the Districts;
- Rate and Method of Apportionment of the Special Tax (RMA) for each CFD; and,
- The individual Fiscal Agent Agreements entered into for each Tax Zone within each CFD.

The relevant terms of these documents are summarized as follows.

Description of Eligible Facilities

The description of Eligible Facilities for both CFD 2006-1 and CFD 2006-2 includes the following:

"The District may finance all or a portion of the costs of the following:...The construction, repair and/or rehabilitation of flood control improvements, including but not limited to levee system and drainage..."
improvements, and any necessary habitat mitigation incident to any improvements."

And also includes the following:

"Reimbursement of costs related to the formation of the District advanced by the Authority, the County, Reclamation District No. 784 or any other governmental agency, or any landowner or developer within the District, as well as reimbursement of any costs advanced by the Authority or any related entity, or any landowner or developer within the District, for facilities, fees or other purposes or costs of the District."

Rate and Method of Apportionment

Special Tax revenues are used to pay “Annual Costs,” as defined in the RMA. Annual Costs are defined in the RMA for each of CFD 2006-1 and CFD 2006-2 as follows;

"Annual Costs" means, for any Fiscal Year, the total of these:

i. Debt Service for Bonds due in calendar year that commences in such Fiscal Year;

ii. Administrative Expenses for such Fiscal Year;

iii. The amount needed to replenish the Reserve Fund for the Bonds to the level required under the Bond Indenture;

iv. An amount to fund delinquencies in payments of Special Taxes from Taxable Parcels based upon the Special Tax levied in the previous Fiscal Year and/or anticipated for the current Fiscal Year;

v. Premiums for Bond credit enhancements; and

vi. Pay-As-You-Go Expenditures for Authorized Facilities to be constructed or acquired by the CFD, including the repayment of Builder Bonds, or to be used to reduce the amount of future Capital Calls.”

According to the RMA for each of CFD 2006-1 and CFD 2006-2, Pay-As-You-Go Expenditures means, “the use of annual Special Tax revenues to pay for Authorized Facilities, as determined by the Administrator.”

Fiscal Agent Agreements2

With respect to the use of Special Tax revenues as it relates to the repayment of the Builder Bonds, Sections 4.01 of the Fiscal Agent Agreements for each respective Tax Zones of CFD 2006-1 states the following;

__________________________

2 While there are separate Fiscal Agent Agreements entered into for each set bonds issued for each Tax Zone in the 2 CFD’s, the Fiscal Agent Agreements are substantially the same.
"With respect to Special Tax Revenues, if any, collected by or on behalf of the Authority, any Special Tax Revenues remaining in any Fiscal Year after the satisfaction of any and all other claims thereon and pledges thereof (including (i) the payment of debt service on any Private Placement Bonds or Conventional Bonds, as such terms are defined in the Second Funding Agreement; (ii) the payment of any debt service on any Refunding Bonds; and (iii) the payment of any other Annual Cost, as such term is defined in the RMA, other than the payment of the Bonds), as determined by the Treasurer, shall be transferred by the Treasurer to the Fiscal Agent for deposit by the Fiscal Agent to the Bond Fund; provided that any such Special Tax Revenues constituting payment of the portion of the Special Tax levy for Administrative Expenses shall be deposited by the Treasurer in the Administrative Expense Fund, and any such Special Tax Revenues constituting Special Tax Prepayments shall be transferred by the Treasurer to the Fiscal Agent for deposit by the Fiscal Agent (as specified in writing by the Treasurer to the Fiscal Agent) directly in the Special Tax Prepayments Account established pursuant to Section 4.04(A)."

Sections 4.01 of the Fiscal Agent Agreements for each respective Tax Zone of CFD 2006-2 contain similar language, except with respect to Zones 3 and 4 of CFD 2006-2 which make it clear that CFD 2006-1 Zone 5 and 4 bonds, respectively, get paid prior to Zone 3 and 4 bonds of CFD 2006-2.

SPECIAL TAX REVENUE AND CREDIT TOWARD FEE OBLIGATION

Two categories of land within the CFDs are affected by the application of Special Tax revenue. They are:

1. Those properties that have land within either of the CFDs and have a remaining Fee Obligation; and

2. Those properties that have land within either of the CFDs and have fully funded their Fee Obligation.

For projects that have an additional Fee Obligation -

Based upon the above referenced terms contained within the RMA, Description of Eligible Facilities and Fiscal Agent Agreement, Special Tax revenue collected from land within projects that have an additional Fee Obligation should be treated as Pay-As-You-Go expenditures to fund Authorized Facilities. As defined in the Description of Eligible Facilities, the term "Authorized Facilities" includes "reimbursement of any costs advanced by the Authority or any related entity (in this case the County and the Yuba County Water Agency), or any landowner or developer within the District, for facilities,
fees or other purposes or costs of the District” (italicized language added) is part of Authorized Facilities.

Therefore, Special Tax Revenue that is collected from those lands that have an additional Fee Obligation will be used to provide reimbursement to the County and YCWA for payments made by them with respect to their borrowing to pay levee improvement costs. This application of revenues is the same as will apply to revenue from the collection of the Three Rivers Levee Impact Fee which also would provide reimbursement to the County and YCWA for payments made by them with respect to their borrowing to pay levee improvement costs. Furthermore, the Fiscal Agent Agreement indicates that the payment of any Annual Cost is senior to the redemption of Builder Bonds from Special Tax revenue. Given the foregoing and the provisions of Sections 4.01 of the Fiscal Agent Agreements, the reimbursement of funds to the County and YCWA comes before the payment of Builder Bonds.

Hence, for those Projects that have an additional Fee Obligation:

- Special tax revenue will be credited toward funding the Fee Obligation due on the remaining units. The funds will be accounted for by the County Treasurer and upon remission by the County Treasurer to YLFA to pay project costs, YLFA will advise the County on the amount of acreage credit earned.

- The funds will be accounted for and utilized in the same manner as the disposition of Levee Impact Fees collected by the County. Special tax revenues can be used to pay project costs if the levee improvement project is still incomplete, or the revenues can be used to pay reimbursements due to those parties that advance-funded improvement costs (reference Chapter 4).

- The acreage credit will be determined based upon the fee applicable at the time the Special Tax revenues are transmitted to YLFA.

- Acreage credit generated from Special Tax revenues will be utilized by the landowner to satisfy the Levee Impact Fees due, as outlined in Chapter 3, for the next subsequent building permits issued. The credit will be applied to satisfy the remaining Fee Obligation due on the permit in the same manner as cash paid would.

- As a result of utilizing Special Tax revenues to satisfy a remaining Fee Obligation, Special Tax revenue will not be used toward the payment or redemption of Builder Bonds.

For projects that have fully funded their levee funding obligations -
Projects that have fully funded their Fee Obligation have no additional allocable costs remaining to pay and have no reimbursement obligation to the County, YCWA or any other landowner that advanced funded levee improvement costs. Therefore, Special Tax revenue collected from properties in such projects in any year that Builder Bonds are outstanding (and no additional debt has been issued) will be used pursuant to the Fiscal Agent Agreement to pay Administrative Expenses, with any remaining funds to be used to redeem the outstanding Builder Bonds of the applicable Zone of the applicable CFD. Sections 2.03 of the Fiscal Agent Agreements states the procedures for Builder Bond redemption. In summary, the Builder Bonds can be redeemed on any date, without premiums in increments of $5,000 of Maturity Amount.
June 16, 2009

TO: Three Rivers Levee Improvement Authority Board
FROM: Paul Brunner, Executive Director
SUBJECT: Acceptance of Budget for Fiscal Year 2009-10

Recommended Action

1. Accept the Executive Director's Proposed Budget for Fiscal Year 2009-10
2. Direct TRLIA Executive Director to make copies of the Proposed Budget available for inspection by the public
3. Direct Budget Hearing to be scheduled to begin on Tuesday, July 21, starting at 3:00 pm.

Discussion:

TRLIA continues to follow the same requirements for budget adoption as prescribed by the Yuba County Ordinance Code and state law. State law also requires the Board to notify the public when budget hearings will begin and to provide copies of the Proposed Budget for inspection by the Public.

Attached is the proposed Fiscal Year 2009-10 TRLIA budget for your consideration. Funding for the Fiscal Year 2009-10 budget comes from essentially two areas: 1) the Feather River Levee $138.5 million DWR/TRLIA Prop IE funding agreement and local funding agreements with Yuba County, YCWA, RD784, and a local landowner; 2) the proposed Yuba River Levee $67 million DWR/TRLIA Prop IE funding agreement.

This proposed budget represents a continuation of the aggressive actions that TRLIA has accomplished since its conception in 2004. Outlined in this budget submittal is an ambitious State and Local capital improvement program specifically aimed to enhance flood protection for Yuba County residents that reside in South Yuba County. The TRLIA Plan has been to improve the levees along the Feather, Yuba, and Bear Rivers, and the Western Pacific Inceptor Canal to achieve 200-year flood protection for South Yuba County. In its entirety, the proposed cost to complete this project is in excess of $400 million.
There are four phases to this capital improvement program.

\newpage

**RD784**

- Non TRLIA Levees (black): WPIC, and Bear River

**TRLIA & RD784 Levees**

- Phase 1 (red): Yuba River
- Phase 2 (green): Yuba River, Western Pacific Interceptor Canal (WPIC), and Bear River
- Phase 3 (purple): Bear River Setback
- Phase 4 (blue): Yuba River and Feather River

Key highlights from Fiscal Year 2008-2009:

- Major Portions of Feather River Segment 2 were completed that did not require Federal authorization
- The Federal Environmental Impact Statement (EIS), 408 Authorization, and 404 permit were completed, which allowed the Segment 2 levee tie-ins to begin construction and existing Segment 2 levee to be degraded.
- TRLIA formed the TRLIA Benefit Assessment District after a successful balloting process that yielded a 62% by weight favorable property owner vote.
- TRLIA discovered a new Native American Indian burial site near Star Bend that interfered with the existing Segment 2 levee alignment. TRLIA staff was able to reach a quick solution on how to proceed with State, Corps, and Enterprise Rancheria, the designated Most Likely Descendent (MLD).
- Feather River Segments 1 & 3 were substantially completed
- A crack in Segment 1 near Star Bend formed during construction of the slurry wall. Through out last year TRLIA worked with DWR and the Corps to gather needed information to determine final solution. The final solution is near and is planned to be implemented in this fiscal year.
- Within the last months of fiscal year 2009-10 it was determined that the previous hydraulic analysis for the Yuba River up stream of Simpson lane and below the Goldfields needed revision. This update has led to significant changes in levee design and cost growth. TRLIA staff quickly moved to apply for an additional $67 million EIP funding agreement to accomplish the
added work. This funding agreement is nearing approval. Below is the proposed State and Local cost share breakout for this work.

### TRILIA Yuba EIP Financial Plan

**Local Sources & Uses Statement**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
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#### YUBA PROJECT USES [1]

<table>
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<tr>
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<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prior Complete Yuba Work</td>
<td></td>
</tr>
<tr>
<td>Phase 2 and Phase 4 Yuba Work</td>
<td>$7,682,162</td>
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<tr>
<td>Upper Yuba Project</td>
<td></td>
</tr>
<tr>
<td>Slurry Wall - Sta 102+50 to 303+59</td>
<td>$52,206,800</td>
</tr>
<tr>
<td>Waterside Levee Slope Erosion Protection - Sta 272+00 to 303</td>
<td>$6,617,900</td>
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<tr>
<td>Flatten Waterside Levee Slope - Sta 3+00 to 33+50</td>
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<tr>
<td><strong>Sub-Total All Upper Yuba Costs</strong></td>
<td>$60,138,800</td>
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**TOTAL YUBA PROJECT USES**

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<thead>
<tr>
<th>Amount</th>
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</tr>
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<tbody>
<tr>
<td></td>
<td>$67,820,962</td>
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</table>

**State Share Uses [2]**

| Amount                                                          |             |
|                                                                | $47,474,674 |

**Local Share Uses**

| Amount                                                            |             |
|                                                                | $20,346,289 |

#### LOCAL FUNDING SOURCES

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
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<tbody>
<tr>
<td>Proposed Credit from Feather River Segment 1 EIP Grant</td>
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<tr>
<td>Proposed EIP Grant Funding [3]</td>
<td>$10,157,515</td>
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<tr>
<td>Credit from Prior Completed Yuba Work</td>
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<td>Proposed EIP Grant Funding [4]</td>
<td>$5,377,514</td>
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<td>Local Cash Sources</td>
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<td>Previously Expended Local Funds [5]</td>
<td>$2,304,649</td>
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<tr>
<td>Remaining Local Funding Budgeted for Upper Yuba</td>
<td>$5,397,182</td>
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</table>

**TOTAL LOCAL SOURCES**

| Amount                                                            |             |
|                                                                | $23,236,859 |

**Local Share Uses less Local Share Sources**

| Amount                                                            |             |
|                                                                | $(2,890,570)|

Key highlights that the proposed 2009-10 TRILIA Budget accomplishes:

- Completion of the Feather River Setback including levee tie-ins and existing Segment 2 levee degrade
- Completion of Feather River Segment Crack levee fix
- Completion of Feather River Erosion Site 2 which is contained in Feather River Segment 3
- FEMA Certification of Feather River levee Segments 1, 2, and 3
• Completion of Yuba River Levee slope flattening work between Hwy 70 and the UPRR railway
• Completion of environmental documents and design of the work proposed for the Upper Yuba River levee between Simpson Lane and Goldfields
• This year's proposed budget does contain an interim O&M line item

**Fiscal Impact**

Proposed appropriations for FY 2009-10 total in excess of $85 million, which includes substantial funding from State Prop 1E funding. The expenditures anticipated for the next fiscal year are estimated to be in excess of $75 million. This will leave approximately $10 million dollars to continue project work into Fiscal Year 2010-11.

Attachment:
Proposed TRLIA FY 09/10 Budget
THREE RIVERS LEVEE IMPROVEMENT AUTHORITY

2009/10 Budget Proposal

Paul G. Brunner, P.E.
Executive Director

June 16, 2009
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June 16, 2009

To: Three Rivers Levee Improvement Authority Board  
From: Paul G. Brunner, Executive Director  
Re: Proposed Budget for Fiscal Year 2009-10

I am pleased to submit this proposed TRLIA budget for FY08/09. This proposed budget represents a continuation of the aggressive actions that TRLIA has accomplished since its conception in 2004. Outlined in this budget submittal is an ambitious State and Local capital improvement program specifically aimed to enhance flood protection for Yuba County residents that reside in South Yuba County. The TRLIA Plan has been to improve the levees along the Feather, Yuba, and Bear Rivers, and the Western Pacific Inceptor Canal to achieve 200-year flood protection for South Yuba County. In its entirety, the proposed cost to complete this project is approximately $400 million. There are four phases to this capital improvement program.

**RD784**

- Non TRLIA Levees  
  (black): WPIC, and Bear River

**TRLIA & RD784 Levees**

- Phase 1 (red): Yuba River
- Phase 2 (green): Yuba River, Western Pacific Interceptor Canal (WPIC), and Bear River
- Phase 3 (purple): Bear River Setback
- Phase 4 (blue): Yuba River, and Feather River

![Figure 1](Image)
The most critical flood control projects were prioritized and done first in order to rapidly reduce the risk of flooding to residents as quickly as possible. The following list is a breakdown and status of each of the Phases:

• **Phase 1** – Strengthened the existing Yuba River left (south) levee between Highway 70 and approximate Yuba River Project Levee Mile (PLM) 0.8. This work was completed in 2004 and received certification from the Corps May 8, 2007.

• **Phase 2** - Strengthened and raised the existing upper Bear River right (north) levee from about 200 feet downstream from Highway 70 to the WPIC right (west) levee, added a seepage berm to the existing Yuba River left (south) bank levee from the Western Pacific Railroad (WPRR) to Highway 70 and from Highway 70 to the Southern Pacific Railroad (SPRR), strengthened and raised the existing WPIC levees, relocated Pump Station No. 6, and constructed the Olivehurst detention basin and ring levee. This work was completed in 2006 and received certification from the Corps May 8, 2007.

• **Phase 3** – Constructed the Bear River setback levee from the Feather River levee near Pump Station No. 2 to the west end of the Phase 2 Bear River levee work. This phase is referred to as the Bear River Setback Levee project (BRSL). Levee work was completed in 2006 and environmental restoration work is ongoing. Corps certification was received May 8, 2007.

• **Phase 4** – consists of multiple projects on the Feather River and Yuba River:
  
  **Phase 4 Feather** – This work is referred to as the Phase 4 Feather River Levee Repair Project (FRLRP) and is being funded through 2007 EIP and local funding. The FRLRP consists of three segments as described below:

  • **Segment 1:** Below Star Bend, from the Bear River setback levee (PLM 13.3) to PLM 17.1 - Embankment and foundation seepage mitigation consisting of cutoff walls, stability berms, relief wells, and monitoring wells. This work was substantially completed in 2008. 100-year certification is anticipated in 2009.

  • **Segment 2:** The levee is set back from Star Bend (FR PLM 17.1) to about one mile north of Murphy Road (FR PLM 23.6) - Setback levee construction following the ASB alignment and Pump Station No. 3 relocation. This includes the portion of levee that broke in 1997. Construction of the Setback levee began in 2008 and completion is scheduled for 2009. 100-year certification is anticipated in 2009.

  • **Segment 3:** From Feather River PLM 23.6 to PLM 26.1 and from Yuba River PLM 0.0 to the WPRR crossing at about PLM 0.3 - Embankment and foundation seepage mitigation consisting of cutoff walls, stability berms and monitoring wells; and levee freeboard mitigation. This work
was substantially completed in 2008. 100-year certification is anticipated in 2009.

- **Phase 4 Yuba** – The first portion of Phase 4 Yuba included strengthening the existing Yuba River left bank levee above the SPRR crossing to Simpson Lane and adding a seepage berm adjacent to the SPRR crossing. This work was completed in 2006 and received 100-year certification from the Corps May 8, 2007.

- **Phase 4 Yuba (remaining work between Highway 70 and Goldfields west boundary)** – This work is referred to as the Phase 4 Upper Yuba River Levee Improvement Project and is being proposed to be funded through the 2009 EIP and local funding. This work includes slope flattening, seepage remediation, correcting deficiencies in levee geometry, and erosion protection from Highway 70 upstream to the Yuba Goldfield. See figure 2.

**Figure 2 – Upper Yuba River Levee Improvement Project**
Key highlights from Fiscal Year 2008-2009:

- Major Portions of Feather River Segment 2 were completed that did not require Federal authorization

- The Federal Environmental Impact Statement (EIS), 408 Authorization, and 404 permit were completed, which allowed the Segment 2 levee tie-ins to begin construction and existing Segment 2 levee to be degraded.

- TRLIA formed the TRLIA Benefit Assessment District after a successful balloting process that yielded a 62% by weight favorable property owner vote.

- TRLIA discovered a new Native American Indian burial site near Star Bend that interfered with the existing Segment 2 levee alignment. TRLIA staff was able to reach a quick solution on how to proceed with State, Corps, and Enterprise Rancheria, the designated Most Likely Descendent (MLD).

- Feather River Segments 1 & 3 were substantially completed

- A crack in Segment 1 near Star Bend formed during construction of the slurry wall. Throughout last year TRLIA worked with DWR and the Corps to gather needed information to determine final solution. The final solution is near and is planned to be implemented in this fiscal year.

- Within the last months of fiscal year 2009-10 it was determined that the previous hydraulic analysis for the Yuba River up stream of Simpson lane and below the Goldfields needed revision. This update has led to significant changes in levee design and cost growth. TRLIA staff quickly moved to apply for an additional $67 million EIP funding agreement to accomplish the added work. This funding agreement is nearing approval. Below is the proposed State and Local cost share breakout for this work.
<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>YUBA PROJECT USES</strong></td>
<td></td>
</tr>
<tr>
<td>Prior Complete Yuba Work</td>
<td></td>
</tr>
<tr>
<td>Phase 2 and Phase 4 Yuba Work</td>
<td>$7,682,162</td>
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<td>Upper Yuba Project</td>
<td></td>
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<tr>
<td>Slurry Wall - Sta 102+50 to 303+59</td>
<td>$52,206,800</td>
</tr>
<tr>
<td>Waterside Levee Slope Erosion Protection - Sta 272+00 to 303+59</td>
<td>$6,617,900</td>
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<tr>
<td>Flatten Waterside Levee Slope - Sta 3+00 to 33+50</td>
<td>$1,314,100</td>
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<tr>
<td>Sub-Total All Upper Yuba Costs</td>
<td>$60,138,800</td>
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<td><strong>TOTAL YUBA PROJECT USES</strong></td>
<td>$67,820,962</td>
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<td>State Share Uses</td>
<td>$47,474,674</td>
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<tr>
<td>Local Share Uses</td>
<td>$20,346,289</td>
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<tr>
<td><strong>LOCAL FUNDING SOURCES</strong></td>
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<tr>
<td>Proposed Credit from Feather River Segment 1 EIP Grant</td>
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<tr>
<td>Proposed EIP Grant Funding</td>
<td>$10,170,436</td>
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<tr>
<td>Credit from Prior Completed Yuba Work</td>
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<tr>
<td>Proposed EIP Grant Funding</td>
<td>$5,377,514</td>
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<tr>
<td>Local Cash Sources</td>
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<tr>
<td>Previously Expended Local Funds</td>
<td>$2,304,649</td>
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<tr>
<td>Remaining Local Funding Budgeted for Upper Yuba</td>
<td>$5,397,182</td>
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<td><strong>TOTAL LOCAL SOURCES</strong></td>
<td>$23,249,780</td>
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<tr>
<td>Local Share Uses less Local Share Sources</td>
<td>$(2,903,492)</td>
</tr>
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</table>
Key highlights that the proposed 2009-10 TRLIA Budget accomplishes:

- Completion of the Feather River Setback including levee tie-ins and existing Segment 2 levee degrade
- Completion of Feather River Segment Crack levee fix
- Completion of Feather River Erosion Site 2 which is contained in Feather River Segment 3
- FEMA Certification of Feather River levee Segments 1, 2, and 3
- Completion of Yuba River Levee slope flattening work between Hwy 70 and the UPRR railway
- Completion of environmental documents and design of the work proposed for the Upper Yuba River levee between Simpson Lane and Goldfields
- This year's proposed budget does contain an interim O&M line item

Projected Overall Cost and Schedule of the TRLIA Program:

Below is a chart that outlines the anticipated program cost by Phase. TRLIA staff is working aggressively to complete all levee work by the end of calendar year 2010; however, weather or regularly issues may delay work into 2011.

<table>
<thead>
<tr>
<th>OVERALL PROJECT COSTS BY PHASE</th>
<th>OVERALL PROJECT TOTAL</th>
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<tbody>
<tr>
<td>PHASE 1</td>
<td>4,570,743</td>
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<tr>
<td>PHASE 2</td>
<td>39,600,030</td>
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<td>PHASE 3</td>
<td>60,342,896</td>
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<td>PHASE 4 (YUBA)</td>
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<td>PHASE 4 (FEATHER SEGMENT 1)</td>
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<tr>
<td>PHASE 4 (FEATHER SEGMENT 2)</td>
<td>162,718,211</td>
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<tr>
<td>PHASE 4 (FEATHER SEGMENT 3)</td>
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<td>OLIVEHURST DETENTION BASIN</td>
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<td>PROJECT CONTINGENCY</td>
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<td>INTERIM O&amp;M</td>
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<td>TRLIA OVERHEAD &amp; ADMIN</td>
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<td>TOTAL</td>
<td>397,753,930</td>
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### BUDGET ESTIMATED EXPENDITURE DETAIL ROLLUP

**BUDGET FOR THE FISCAL YEAR 2009-2010**

<table>
<thead>
<tr>
<th>ACCOUNT NUMBER</th>
<th>ACCOUNT DESCRIPTION</th>
<th>2009-10 REQUEST</th>
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<tr>
<td>805-3350-425-15-00</td>
<td>INSURANCE</td>
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<td>805-3350-425-20-00</td>
<td>MEMBERSHIP</td>
<td>10,000</td>
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<tr>
<td>805-3350-425-23-01</td>
<td>SPECIAL PROJECTS</td>
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<td>TRLIA Phase 2 Levee Repair</td>
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<td>TRLIA Phase 3 Levee Repair</td>
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<td></td>
<td>TRLIA Phase 4 Yuba Levee Repair</td>
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<td>TRLIA Phase 4 Feather Levee Repair (Segment 1)</td>
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<td>TRLIA Phase 4 Feather Levee Repair (Segment 2)</td>
<td>60,355,967</td>
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<td>TRLIA Phase 4 Feather Levee Repair (Segment 3)</td>
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<tr>
<td></td>
<td>Interim O&amp;M</td>
<td>0</td>
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<td></td>
<td>Project Contingency</td>
<td>2,450,000</td>
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<td>805-3350-425-23-02</td>
<td>PROFESSIONAL SERVICES</td>
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<td>805-3350-425-29-00</td>
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<td><strong>TOTAL</strong></td>
<td><strong>75,544,485</strong></td>
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### BUDGET FOR THE FISCAL YEAR 2009-2010

**ESTIMATED REVENUE 1/**

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<th>2009-10 AMOUNT</th>
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<tr>
<td>805-0000-361-62-36</td>
<td>PROP 13 (DWR Phases 2 &amp; 3)</td>
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<td>PROP 13 (DF&amp;G Phases 2 &amp; 3)</td>
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<td>PROP 1E Yuba</td>
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<td>PROP 1E Feather</td>
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<td>TRLIA Local from Seg 1 &amp; Prior Work</td>
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<td></td>
<td>COUNTY/YCWA JOINT FINANCING</td>
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<td>ENVIRONMENTAL RESTORATION FUNDING</td>
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<td>ENVIRONMENTAL REVENUE/ECO FUNDING</td>
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<td>AXEL KARLSHOEJ AGREEMENT</td>
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<td>FUND CARRYOVER FROM 08/09</td>
<td>21,541,867</td>
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<td><strong>TOTAL</strong></td>
<td><strong>85,599,699</strong></td>
<td></td>
</tr>
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</table>

**Fund Balance 6/30/10** 10,055,214

1/ Source for Special Project Budget is TRLIA Cash flow Spreadsheet 6.9.09
2/ Project Contingency over and above the amount included in each line item above
3/ Includes O&M Cost of County Vehicle Provided to TRLIA
## SPECIAL PROJECTS DETAIL

### (#2301)

Jul 09 - Jun 10

<table>
<thead>
<tr>
<th>PHASE</th>
<th>DESIGN</th>
<th>CONSTRUCTION CONTRACT</th>
<th>CONSTRUCTION MANAGEMENT</th>
<th>ROW ACQUISITION</th>
<th>ENVIRONMENTAL MITIGATION/RESTORATION</th>
<th>TRLIA PROJ MGT</th>
<th>CONTINGENCY</th>
<th>BUDGET AMOUNT</th>
</tr>
</thead>
<tbody>
<tr>
<td>TRLIA Phase 2 Levee Repair</td>
<td>Upper Bear, WPIC &amp; Yuba to UPRR</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>TRLIA Phase 3 Levee Repair</td>
<td>Bear River Setback Levee</td>
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<td>0</td>
<td>0</td>
<td>2,933,715</td>
<td>64,901</td>
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<tr>
<td>TRLIA Phase 4 Yuba Levee Repair</td>
<td>Yuba beyond UPRR</td>
<td>3,013,000</td>
<td>866,000</td>
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<td>1,292,520</td>
<td>850,000</td>
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<tr>
<td>TRLIA Phase 4 Feather Levee Repair</td>
<td>Segment 1 - Strengthen in Place</td>
<td>42,000</td>
<td>677,052</td>
<td>49,000</td>
<td>531,551</td>
<td>0</td>
<td>29,610</td>
<td>136,574</td>
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<tr>
<td>TRLIA Phase 4 Feather Levee Repair</td>
<td>Segment 2 - Setback</td>
<td>390,000</td>
<td>39,482,869</td>
<td>3,107,915</td>
<td>9,820,294</td>
<td>1,233,409</td>
<td>1,165,224</td>
<td>5,156,256</td>
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<tr>
<td>TRLIA Phase 4 Feather Levee Repair</td>
<td>Segment 3 - Strengthen in Place</td>
<td>70,000</td>
<td>631,540</td>
<td>52,000</td>
<td>59,341</td>
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</tr>
<tr>
<td>Interim O&amp;M</td>
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<td>0</td>
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<td>0</td>
<td>0</td>
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<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Project Contingency</td>
<td></td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
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<tr>
<td><strong>TOTALS</strong></td>
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<td>3,515,000</td>
<td>41,657,461</td>
<td>3,295,515</td>
<td>11,703,706</td>
<td>5,017,124</td>
<td>1,410,000</td>
<td>8,080,971</td>
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</table>

### TRLIA PROJECT MANAGEMENT CONTRACTS

<table>
<thead>
<tr>
<th>CONTRACTOR</th>
<th>Management</th>
<th>Permits-RoF 1/</th>
</tr>
</thead>
<tbody>
<tr>
<td>MBK (Prog Mgmt &amp; Design Mgmt)</td>
<td>400,000</td>
<td>200,000</td>
</tr>
<tr>
<td>EIP (Environmental Mgmt)</td>
<td>160,000</td>
<td>125,000</td>
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<tr>
<td>Downey Brand (General Counsel)</td>
<td>300,000</td>
<td>100,000</td>
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<tr>
<td>Downey Brand (RoF Counsel) 1/</td>
<td>0</td>
<td>600,000</td>
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<tr>
<td>BRI (ROW Mgmt and Acquisition)</td>
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<td>559,000</td>
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<tr>
<td>Peterson Consultants (Government Relations)</td>
<td>60,000</td>
<td>-</td>
</tr>
<tr>
<td>EPS (Financial Consultant)</td>
<td>230,000</td>
<td>-</td>
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<tr>
<td>MBK and Mike Hinz (Financial Support and Auditing)</td>
<td>60,000</td>
<td>-</td>
</tr>
<tr>
<td>Lucy Co (Public Relations)</td>
<td>100,000</td>
<td>-</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td>1,410,000</td>
<td>1,584,000</td>
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</table>

1/ Permits & RoF PM Contract Budget included within the Design and ROW Acquisition Budgets in the Special Projects Detail above.
## 2009/2010 PROFESSIONAL SERVICES DETAIL (#2302)

<table>
<thead>
<tr>
<th>DETAIL DESCRIPTION</th>
<th>2009/2010</th>
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</thead>
<tbody>
<tr>
<td>Public Works Admin Salaries &amp; Benefits</td>
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<tr>
<td>TRLIA General Expenses (Services, Supplies &amp; Office)</td>
<td>90,000</td>
</tr>
<tr>
<td>Executive Director Salary &amp; Benefits</td>
<td>148,000</td>
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<tr>
<td>CAO, Auditor &amp; Treasurer Salary &amp; Benefits</td>
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<tr>
<td>Administrative Assistants Salary &amp; Benefits</td>
<td>95,000</td>
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<tr>
<td>Clerk of the Board Salary &amp; Benefits</td>
<td>40,000</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>569,708</strong></td>
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</tbody>
</table>

1/ Includes $15,000 per year for temporary assistance as needed
### Future Expenditure and Revenue Projections

**Budget for the Fiscal Year 2010-2011**

<table>
<thead>
<tr>
<th>ACCOUNT NUMBER</th>
<th>ACCOUNT DESCRIPTION</th>
<th>2010-2011</th>
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</thead>
<tbody>
<tr>
<td>805-3350-425-15-00</td>
<td>INSURANCE</td>
<td>265,000</td>
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<tr>
<td>805-3350-425-20-00</td>
<td>MEMBERSHIP</td>
<td>10,000</td>
</tr>
<tr>
<td>805-3350-425-23-01</td>
<td>SPECIAL PROJECTS</td>
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<td>TRLIA Phase 2 Levee Repair</td>
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<tr>
<td></td>
<td>TRLIA Phase 3 Levee Repair</td>
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</tr>
<tr>
<td></td>
<td>TRLIA Phase 4 Yuba Levee Repair (Segment 1)</td>
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<tr>
<td></td>
<td>TRLIA Phase 4 Feather Levee Repair (Segment 2)</td>
<td>15,625,014</td>
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<td>TRLIA Phase 4 Feather Levee Repair (Segment 3)</td>
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<td>Olivehurst Detention Basin</td>
<td>259,088</td>
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<td>Interim O&amp;M</td>
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<td>805-3350-425-23-02</td>
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**Estimated Revenue**

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<tr>
<th>ACCOUNT NUMBER</th>
<th>REVENUE SOURCE 1/</th>
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<tbody>
<tr>
<td>805-0000-361-62-36</td>
<td>PROP 13 (DWR Phases 2 &amp; 3)</td>
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<td>PROP 13 (DF&amp;G Phases 2 &amp; 3)</td>
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<td>PROP 1E Yuba</td>
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<tr>
<td></td>
<td>PROP 1E Feather</td>
</tr>
<tr>
<td></td>
<td>TRLIA Local from Seg 1 &amp; Prior Work</td>
</tr>
<tr>
<td></td>
<td>COUNTY/YCWA JOINT FINANCING</td>
</tr>
<tr>
<td></td>
<td>ENVIRONMENTAL RESTORATION FUNDING</td>
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<td></td>
<td>ENVIRONMENTAL REVENUE/ECO FUNDING</td>
</tr>
<tr>
<td></td>
<td>AXEL KARLSHOEJ AGREEMENT</td>
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<td>FUND CARRYOVER FROM 09-10</td>
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<td><strong>TOTAL</strong></td>
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</table>

**Fund Balance 6/30/11** | 306,216

1/ Source for Special Project Budget is TRLIA Cash flow Spreadsheet 6.9.09

2/ Includes O&M Cost of County Vehicle Provided to TRLIA
**SPECIAL PROJECTS DETAIL**

*#2301*

**Jul '10 - Jun '11**

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<thead>
<tr>
<th>PHASE</th>
<th>DESIGN</th>
<th>CONSTRUCTION CONTRACT</th>
<th>CONSTRUCTION MANAGEMENT</th>
<th>R/W ACQ</th>
<th>ENVIRONMENTAL MITIGATION/RESTORATION</th>
<th>TRLIA PROJ MANAGEMENT</th>
<th>CONTINGENCY</th>
<th>BUDGET AMOUNT</th>
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<tbody>
<tr>
<td>TRLIA Phase 2 Levee Repair</td>
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<td>0</td>
<td>0</td>
<td>0</td>
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<tr>
<td>Upper Bear, WPIC &amp; Yuba to UPRR</td>
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<td></td>
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<td>TRLIA Phase 3 Levee Repair</td>
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<tr>
<td>Bear River Setback Levee</td>
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<td>0</td>
<td>800,000</td>
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<tr>
<td>Yuba beyond UPRR</td>
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<td></td>
<td></td>
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<td></td>
<td></td>
</tr>
<tr>
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<td>0</td>
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<tr>
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<td>15,625,014</td>
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<td>Project Contingency</td>
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<tr>
<td><strong>TOTALS</strong></td>
<td>430,000</td>
<td>38,154,200</td>
<td>4,019,800</td>
<td>13,956,299</td>
<td>361,148</td>
<td>900,000</td>
<td>7,379,239</td>
<td>65,200,686</td>
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### 2010-2011 Professional Services (#2302)

<table>
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<tr>
<th>DETAIL DESCRIPTION</th>
<th>2010/2011</th>
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<tbody>
<tr>
<td>Public Works Admin Salaries &amp; Benefits</td>
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<td>TRLIA General Expenses (Services, Supplies &amp; Office)</td>
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<td>Executive Director Salary &amp; Benefits</td>
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<td>Clerk of the Board Salary &amp; Benefits</td>
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<td><strong>TOTAL</strong></td>
<td><strong>289,819</strong></td>
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1/ Includes $15,000 per year for temporary assistance as needed
### Appendix A – Yuba River Levee EIP Project Schedule

<table>
<thead>
<tr>
<th>Task Name</th>
<th>Start</th>
<th>Finish</th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
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<tbody>
<tr>
<td>Slope Flattening</td>
<td>Tue 7/1/08</td>
<td>Mon 10/28/09</td>
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<tr>
<td>Design</td>
<td>Tue 7/1/08</td>
<td>Fri 5/15/09</td>
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<tr>
<td>Construction</td>
<td>Tue 9/15/09</td>
<td>Mon 10/25/09</td>
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<td>Sturty Wall</td>
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<td>Problem Identification</td>
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<td>Tue 7/1/08</td>
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<td>Elderberry Transplant Window</td>
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<td>Mon 2/15/10</td>
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<tr>
<td>Construction</td>
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<td>Mon 11/1/10</td>
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