

**MEMORANDUM**  
OFFICE OF THE  
COUNTY EXECUTIVE  
COUNTY OF PLACER

**TO:** Honorable Board of Supervisors

**FROM:** David Boesch, County Executive Officer  
By Linda Oakman, Principal Management Analyst

**DATE:** December 11, 2012

**SUBJECT:** Approve the termination of the Funding Augmentation Agreement with Dry Creek Residential for Fire Department Operations for the Dry Creek – West Placer Project upon a one-time payment of \$30,000 to cover the estimated remaining liability.

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**ACTION REQUESTED**

Approve the termination of the Funding Augmentation Agreement between Placer County and Morgan Creek Residential, LLC for Fire Department Operations for the Dry Creek – West Placer Project upon a one-time payment of \$30,000 to cover the estimated remaining liability.

**BACKGROUND**

On October 24, 2001 an agreement was entered into by Placer County and Morgan Creek Residential LLC, a Delaware limited liability company (the Company), to pay an annual fee of \$280 per parcel for fire and emergency services for each undeveloped parcel owned by the Company in the Dry Creek – West Placer Community plan project area. This fee was to augment revenues to Dry Creek Fire due to a pre-construction property tax shortfall for fire services. Upon completion of construction on each lot the fee is replaced by a share of property taxes and an additional assessment of \$150 per parcel paid by the homeowner. The original property owner, Morgan Creek Residential, LLC remains liable for the augmentation fee on all undeveloped parcels.

In 2001 there were 579 undeveloped lots in the plan area owned by the Company. As of June 30, 2012, 45 lots remain undeveloped with current permits on approximately 20% of those parcels. Future revenue projected for 5 years under this agreement ranges between \$28,000 and \$32,000.

The Company submitted a proposal to make a one-time payment of \$30,000 to prepay future liability for unfinished parcels and terminate the agreement. Staff have analyzed the request and determined that \$30,000 is a reasonable estimate of the outstanding liability on the remaining unfinished parcels in the plan area and receiving the funding in one lump sum would save staff time tracking and billing for a diminishing number of parcels. Therefore Staff recommends acceptance of the offer of \$30,000 to terminate the agreement.

**FISCAL IMPACT**

Dry Creek Fire will receive a lump sum payment of \$30,000 and will in return give up potential future revenues estimated between \$28,000 and \$32,000 over 5 or more years. The \$30,000 lump sum payment will be budgeted for operating expenses over a 5 year period. Prepayment in one lump sum vs. collection over a number of years is expected to have a minimal effect on Dry Creek Fire.

Attachment:  
Termination of Funding Augmentation Agreement

RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:

County of Placer  
175 Fulweiler Avenue  
Auburn, CA 95603  
Attn: County Executive Office

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

TERMINATION OF FUNDING AUGMENTATION AGREEMENT FOR FIRE DEPARTMENT  
OPERATIONS FOR THE DRY CREEK – WEST PLACER PROJECT

THIS AGREEMENT is made and entered into this 11<sup>th</sup> day of December, 2012 by and between COUNTY OF PLACER, a political subdivision of the State of California (COUNTY), and Morgan Creek Residential, LLC, a Delaware limited liability company (COMPANY)

RECITALS:

WHEREAS, in October 2001 the Board of Supervisors of Placer County approved the funding augmentation agreement for fire department operations for the Dry Creek – West Placer Project; and

WHEREAS, the Morgan Creek Project consists of 579 lots identified in **Exhibit A**

WHEREAS, section 4.1 of the agreement provides for termination of the agreement by written mutual consent of the parties; and

WHEREAS, Morgan Creek Residential, LLC has offered to pay \$30,000, in addition to augmentation fees previously paid, as a one-time settlement to terminate the agreement and the County has accepted \$30,000 as sufficient to cover projected future revenues; and

WHEREAS, County and Company agree to terminate the agreement,

NOW, THEREFORE, County and Company agree as follows:

1. Company will pay \$30,000 (THIRTY THOUSAND AND 00/100 DOLLARS) as a one-time payment (payment) in lieu of continued annual assessments
2. Company will make the payment within 30 days of the approval of this agreement by County
3. County will accept the payment as full settlement of funding augmentation fees for fire in the Morgan Creek subdivision
4. Termination of the agreement inures to Successors in Interest of the parties
5. The County shall cause the termination of the agreement to be recorded with the County Recorder within ten (10) days of the receipt of the payment.

SIGNATURE PAGE ATTACHED

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Morgan Creek Residential, LLC,

By: OMCR Manager, LLC, a Delaware limited liability company, its manager

By: ORA California II, LLC, a Delaware limited liability company, its manager

By: Resmark Equity Partners, LLC, a Delaware limited liability company, its managing member

By: \_\_\_\_\_  
Name: Robert N. Goodman  
Title: Chairman and Chief Executive Officer

Date: \_\_\_\_\_

COUNTY OF PLACER, a political subdivision of the State of California

BY: \_\_\_\_\_  
Name: Jennifer Montgomery  
Title: Chairwoman, Board of Supervisors

ATTEST:

\_\_\_\_\_  
Ann Holman, Clerk of the Board

APPROVED AS TO FORM:

\_\_\_\_\_  
County Counsel

## EXHIBIT A

The property is situated in the State of California, County of Placer and described as follows:

MORGAN CREEK RESIDENTIAL, LLC:

PARCEL ONE:

Area 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 and 13 as shown on that certain Record of Survey filed in Book 16 of Surveys at Page 26, Placer County Records, on February 15, 2000.

PARCEL TWO:

A non-exclusive easement for road, drainage, and public utility purposes over, under and across the land shown and designated as Area "K" of Parcel Map No. 74386 filed in the office of the Placer County Recorder on June 24, 1985 in Book 21 of Parcel Maps at Page 148.

LAKE HOLDINGS, LLC:

Area 11 and 12 as shown on that certain Record of Survey filed in Book 16 of Surveys at Page 26, Placer County Records, on February 15, 2000.

