



**MEMORANDUM
PUBLIC WORKS
TRANSPORTATION DIVISION**
County of Placer

TO: Honorable Board of Supervisors **DATE:** August 23, 2022
FROM: Ken Grehm, Director of Public Works
BY: Phil Vassion, Associate Civil Engineer
SUBJECT: Placer Vineyards Specific Plan Property 1A Traffic Fee Credit/Reimbursement for Walerga Road Agreement / Placer County and Lennar Homes of California, LLC.

ACTION REQUESTED

Approve a Traffic Fee Credit/Reimbursement Agreement with Lennar Homes of California, LLC. for improvements to Walerga Road and the intersection of Walerga Road and Town Center Avenue as part of Placer Vineyards Specific Plan Property 1A included in the Dry Creek District of the Capital Improvement Program and Countywide Traffic Fee Program constructed as part of the Placer Vineyards Specific Plan (PLN17-00265), and authorize the Director of Public Works, or designee to sign the agreement.

BACKGROUND

On February 26, 2019, the County approved the Conditions of Approval for the Placer Vineyards Specific Plan Property 1A project (PLN17-00265), which included conditions for the widening of Walerga Road and the construction of a new road named Town Center Avenue. On July 20, 2020, improvement plans (ESD19-00121) were approved for the construction of these improvements and on November 30, 2021, your Board accepted these improvements as complete. The improvements included the widening of Walerga Road from two to four lanes from just north of Farrier Way to Springhill Drive and the installation of a new traffic signal at Walerga Road and Town Center Avenue. These improvements are regionally beneficial and are eligible for fee credit to Lennar Homes up to the amount included in the Dry Creek District of the Placer County Capital Improvement Program and Countywide Traffic Fee Program in an amount not to exceed \$1,310,000. The specific amount of reimbursement will be based upon the agreement and upon the number of building permits that have been issued at the time of execution of the agreement.

ENVIRONMENTAL IMPACT

On July 16, 2007, the Board of Supervisors certified the Placer Vineyards Specific Plan Final Environmental Impact Report (FEIR) (State Clearinghouse #1999062020). Addendums to the FEIR were approved by the Board on September 11, 2012 and January 6, 2015.

FISCAL IMPACT

This will be a one-time reimbursement to Lennar Homes of California, LLC that will be funded from the Dry Creek District of the Countywide Traffic Fee Program, Trust Fund number FD12112, not to exceed \$1,310,000. There is no impact to the general fund.

Honorable Board of Supervisors

August 23, 2022

Placer Vineyards Specific Plan Property 1A Traffic Fee Credit/Reimbursement for Walerga
Road Agreement / Placer County and Lennar Homes of California, LLC.

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ATTACHMENTS

Attachment A – Placer Vineyards Specific Plan Property 1A Traffic Fee Credit/Reimbursement
Agreement

Attachment B – Vicinity Map

Attachment A

TRAFFIC FEE CREDIT/REIMBURSEMENT AGREEMENT

PROJECT NAME: PLACER VINEYARDS SPECIFIC PLAN PROPERTY 1A

ENTITLEMENT NO: PLN17-00265

DEVELOPER: Lennar Homes of California, LLC

This TRAFFIC FEE CREDIT/REIMBURSEMENT AGREEMENT (this “Agreement”) is made this ____ day of _____, 2022, by and between this County of Placer, a political subdivision of the State of California (“County”) and Lennar Homes of California, LLC, a California limited liability company (“Developer”).

RECITALS

WHEREAS, Developer developed the Placer Vineyards Specific Plan Property 1A project (ESD19-00121) located within Dry Creek and approved on July 20, 2020 (the “Project”); and

WHEREAS, Developer’s entitlements and environmental review required that they construct improvements to Walerga Road and the intersection of Walerga Road/Town Center Avenue (the “Improvements”); and

WHEREAS, the County has established the Dry Creek Traffic Mitigation Fee District within the Countywide Traffic Fee Program and mitigation fees associated therewith (“Dry Creek District Fees”), and has adopted a Capital Improvement Program for the Dry Creek Traffic Mitigation Fee District (the “CIP”) that includes the Improvements; and

WHEREAS, descriptions of the Project are on file with the County’s Department of Public Works; and

WHEREAS, Developer has paid for and constructed the Improvements which were completed in October, 2021; and

WHEREAS, the parties have agreed that Developer’s Fee Credits (as defined below) against Dry Creek District Fees associated with the Improvements total \$1,310,000; and

NOW, THEREFORE, THE PARTIES HERETO AGREE AS FOLLOWS:

1 CONSTRUCTION OF IMPROVEMENTS

1.1 **CONSTRUCTION.** The parties agree that Developer has constructed the Improvements, pursuant to plans and specifications, reviewed and approved by the County, and has conveyed the Improvements to the County or appropriate other public entities as the County has determined.

2 COUNTY ACCEPTANCE; CONVEYANCE OF IMPROVEMENTS

2.1 **ACCEPTANCE AND CONVEYANCE.** The Improvements were formally accepted by County as of November 30, 2021 (the “County Acceptance”). Upon the County Acceptance, the Improvements automatically became the property of the County, and Developer has taken any and all actions reasonably necessary to convey and vest full, complete and clear title in the Improvements to County.

Attachment A

- 2.2 **RELEASE OF LIENS.** Developer has provided, in form satisfactory to the Director of Public Works, evidence that all of the costs of the Improvements have been fully paid, including any and all lien claims.
- 2.3 **INDEMNIFICATION.** Developer has provided indemnification to the County as provided in the Subdivision Improvement Agreement for the Project (the "Subdivision Improvement Agreement").
- 2.4 **WARRANTY.** Developer has provided a warranty for the Improvements as set forth in the Subdivision Improvement Agreement.

3 FEE CREDIT

- 3.1 **CREDIT AMOUNT.** Developer is entitled to Fee Credits (the "Fee Credits") against the Dry Creek District Fees in accordance with the terms of this Agreement in an agreed amount of \$1,310,000 (hereinafter the "Credit Amount"). The Fee Credits may be applied against Dry Creek District Fees otherwise due at the time of issuance of a building permit. The County acknowledges and agrees that the Credit Amount of any unapplied Fee Credits shall be increased in the same manner and amount as and when there is any increase in the Dry Creek District Fees. Developer will provide copies of all contracts and invoices for the costs of the Improvements and such other documentation as may be reasonably requested by the County to verify the total Improvement costs incurred by Developer.
- 3.2 **FEE CREDITS PERSONAL TO DEVELOPER; APPLICATION OF FEE CREDITS.** The Fee Credits are personal to Developer and do not run with the Project. Developer may, at its sole discretion and upon written notice to the County, transfer any of its unapplied Fees Credits to any builder, developer, or other such entity or person who owns real property within the Dry Creek Traffic Mitigation Fee District (each a "Fee Credit Transferee"). The County shall have the obligation to keep and maintain a ledger which details the initial Fee Credits, any assignment or transfer thereof to a Fee Credit Transferee, and the amount of the Fee Credits which have been applied and/or reimbursed as provided hereinbelow and the total amount of the unapplied Fee Credits remaining.

At the direction of Developer and/or any Fee Credit Transferee, until the Fee Credits are exhausted, in conjunction with the issuance of building permits the County shall apply Fee Credits against the Dry Creek District Fees in such amounts as are then applicable to each residential unit for which a building permit is sought.

Developer and/or any Fee Credit Transferee will pay the remaining balance of traffic impact fees at the time of building permit issuance at the rate in force at time of building permit.

- 3.3 **REIMBURSEMENT RIGHT.** Developer and/or any Fee Credit Transferee shall each have the right in its discretion, in lieu of application of the Fee Credits in the manner described in Section 3.2 above, to receive reimbursement for any unapplied Fee Credits, with the County being obligated to pay such reimbursement from funds

Attachment A

available from the Countywide Traffic Fee Program allocable to the Dry Creek Traffic Mitigation Fee District. If Developer and/or any Fee Credit Transferee shall be entitled to reimbursement pursuant to this Section 3.3, then, not less than on a semi-annual basis, the County will distribute to Developer and/or any applicable Fee Credit Transferee that portion of funds available Countywide Traffic Fee Program allocable to the Dry Creek Traffic Mitigation Fee District. This Agreement shall not be construed to modify, amend, waive or supersede any of the Conditions of Approval of PLN17-00265 as approved by the County as of the execution date of this agreement, which shall remain unchanged and in full force and effect. Developer shall comply in full with all such conditions.

- 3.4 **SOURCES FOR CREDIT OR REIMBURSEMENT.** Nothing in this Agreement shall be construed to create an obligation of, or be attributable to, County's general or special funds, County Service Area accounts, or any other funds in the hands of the County or its accounts now and in the future, except as otherwise expressly provided herein. County's obligation hereunder to provide Fee Credits or reimbursements in lieu thereof is limited to the Countywide Traffic Fee Program allocable to the Dry Creek Traffic Mitigation Fee District.
- 3.5 **TERM OF AGREEMENT; TIMING OF CREDIT.** The term of this Agreement shall commence upon the full execution hereof and expire when all Fee Credits are either applied by, or reimbursed to, Developer and/or any Fee Credit Transferee; provided, however, if not terminated earlier the term of this Agreement shall expire on the thirtieth (30th) anniversary of the full execution hereof. Developer acknowledges and agrees that Developer has no further rights to (i) any additional credits associated with Developer's construction of the Improvements, (ii) make any changes to how Fee Credits shall be applied other than in accordance with terms and conditions of this Agreement.
- 3.6 **INDEMNIFICATION.** Developer hereby agrees to protect, defend, indemnify, and hold County free and harmless from any and all losses, claims, liens, demands, and causes of action of every kind and character including, but not limited to, the amounts of judgments, penalties, interest, court costs, legal fees, and all other expenses incurred by County arising in favor of any party, including claims, liens, debts, personal injuries, death, or damages to property (including employees or property of County) and without limitation by enumeration, all other claims or demands of every character occurring in connection with or arising directly out of this Agreement except to the extent caused by the sole negligence or willful misconduct of County or its respective agents or employees. This provision is not intended to create any cause of action in favor of any third party against Developer or County or to enlarge in any way Developer's liability but is intended solely to provide for indemnification of County from liability for damages or injuries to third persons or property arising from Developer's performance pursuant to this Agreement except to the extent caused by the negligence or willful misconduct of County or its respective agents or employees.

4 MISCELLANEOUS

- 4.1 **ENTIRE AGREEMENT.** This Agreement represents the entire agreement of the parties relating to the subjects covered by this Agreement. No oral or written statement, representation, or agreement not included within this Agreement shall be of any force or effect whatsoever, and shall be deemed to have been superseded by the terms thereof.

- 4.2 **NOTICES.** Each notice, request, offer, approval, consent or other communication required or permitted to be given by or on behalf of either party to the other shall be given or communicated in writing by personal delivery, reputable overnight courier service which keep receipts of deliveries (e.g. Federal Express or UPS), or United States certified mail (return receipt requested with postage fully prepaid), addressed to the appropriate party as follows:

IF TO COUNTY: Placer County Public Works
3091 County Center Drive, Ste. 220
Auburn, California 95603
Attention: Director of Public Works

TO DEVELOPER: Lennar Homes of CA, LLC
1025 Creekside Ridge Drive, Suite 240
Roseville, California 95678
Attention: Larry Gualco

Or at such other address as may be specified from time to time in the manner required herein. All such notices shall be deemed to have been given on the date personally delivered, the date marked on the return receipt, unless delivery is refused or cannot be made, in which case the date of the postmark shall be deemed the date notice has been given, or the next business day if delivered by an overnight courier service permitted by the terms of this Section 4.2.

- 4.3 **EFFECTIVE DATE.** This Agreement shall become effective upon its execution by all parties.

- 4.4 **JURISDICTION AND VENUE.** This Agreement shall be governed by the laws of the State of California. Initial venue for any action shall be Placer County, California. Each party waives federal court removal and/or original jurisdiction right it may have.

[Signatures on Next Page]

Attachment A

COUNTY

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

By: _____

Name: _____

Title: _____

DEVELOPER:

LENNAR HOMES OF CALIFORNIA, LLC,
a California limited liability company

By: _____

Name: _____

Title: _____

APPROVED AS TO FORM:

County Counsel

Attachment B

