

**RESOLUTION NO. 2011-264**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELK GROVE  
AUTHORIZING THE CITY MANAGER TO EXECUTE A FEE DEFERRAL  
AGREEMENT WITH PAPPAS INVESTMENTS DBA LAGUNA SPRINGS  
CORPORATE CENTER PHASE II, LLC**

**WHEREAS**, pursuant to City of Elk Grove Resolution No. 13-2008 (the "Resolution"), the City has approved a Fee Deferral Program; and

**WHEREAS**, the City Council established certain standard terms and conditions for approved fee deferrals; and

**WHEREAS**, Laguna Springs Corporate Center Phase II, LLC has requested alternative terms and conditions; and

**WHEREAS**, the order of magnitude of the CCHCS relocation (1,500 employees and 265,000 sq. ft of office space) makes it a significant project in the City; and

**WHEREAS**, the relocation will redirect the commute for a significant number of CCHSC employees who are Elk Grove residents; and

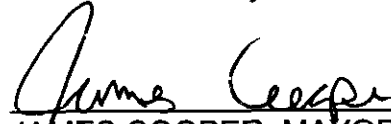
**WHEREAS**, increasing the daytime population will increase retail sales locally as well as enhance Elk Grove's market potential for future retail business recruitment; and

**WHEREAS**, the assessed value increased by the construction of two additional office buildings, along with the associated increase in construction jobs for associated with a project of this scale will both have a positive impact on the City; and

**WHEREAS**, CCHSC is medical in nature and its relocation further solidifies Elk Grove's position as a premier location for medical based businesses, in alignment with the recent Market Study.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Elk Grove hereby authorizes the City Manager to execute a Fee Deferral Agreement, in substantially the form presented under Exhibit A, with Laguna Springs Corporate Center Phase II, LLC and to allow a revision of the Agreement to include deferral of the Fire fees in an amount of \$308,092.12 if a deferral of this fee is approved by the Board of Directors of the Cosumnes Community Services District.

**PASSED AND ADOPTED** by the City Council of the City of Elk Grove this 14<sup>th</sup> day of December 2011.

  
\_\_\_\_\_  
JAMES COOPER, MAYOR of the  
CITY OF ELK GROVE

ATTEST:

  
\_\_\_\_\_  
JASON LINDGREN, CITY CLERK

APPROVED AS TO FORM:

  
\_\_\_\_\_  
JONATHAN HOBBS,  
INTERIM CITY ATTORNEY

EXHIBIT A



**CITY OF ELK GROVE**

**AGREEMENT FOR DEFERRAL OF CERTAIN**

**CITY IMPACT FEES**

**Laguna Springs Corporate Center Phase II**

This agreement for the deferral of City impact Fees for Laguna Springs Corporate Center Phase II ("Agreement") is made and entered into this 22 day of December, 2011 by and between the City of Elk Grove, (the "City"), a municipal corporation of the State of California and Laguna Springs Corporate Center Phase II, LLC (hereinafter "Company"), a California Limited Liability Company (hereinafter "Applicant").

**WHEREAS**, Applicant is developing property within the City of Elk Grove as identified in Exhibit A attached hereto by constructing thereon its project known as Laguna Springs Corporate Center Phase II (the "Project"); and

**WHEREAS**, Applicant has requested deferral of certain impact fees on said Project; and

**WHEREAS**, the City is agreeable to defer collection of a portion of certain impact fees under certain conditions;

**NOW, THEREFORE**, the parties hereto agree as follows:

Section 1. The City shall defer payment and collection of the Capital Facilities Fee, Very Low-Income Housing Trust Fund Fee, and the Citywide Roadway Fee beyond the time of issuance of a building permit for the construction of the Project consistent with the terms and conditions of this Agreement.

Section 2. The City Council (Council) has determined that the deferral of the fees set forth in this Agreement will not adversely impact any approved or programmed capital facility.

Section 3. Applicant may defer payment of the following sums (check box  if applicable):

**Building C**

**\$109,731.44** due for the Capital Facilities Fee;



- \$102,375.67 due for the Very Low-Income Housing Trust Fund Fee;
- \$398,831.58 due for the Citywide Roadway Fee; and

**Building D**

- \$109,731.44 due for the Capital Facilities Fee;
- \$102,375.67 due for the Very Low-Income Housing Trust Fund Fee;
- \$398,831.58 due for the Citywide Roadway Fee; and

**\$1,221,877.38** total due for fees to be deferred.

These amounts represent the total payable amount on each of the fees; this includes the appropriate administrative fees, for the issuance of a building permit for the Project. The \$1,221,877.38 is subject to annual inflationary increases and interest under Section 7 below.

**Section 4. Term of Agreement.** The term of this agreement shall be ten (10) years commencing on December 14, 2011 (the date of Council approval of the deferral of City impact Fees for Laguna Springs Corporate Center Phase II) and terminating on December 14, 2021. Applicant guarantees that it shall pay the City the Outstanding Balance Due in full on the deferred building permit fees, plus any applicable annual inflationary increases, and any interest accrued (hereinafter "OBD") prior to the expiration of this Agreement. Payment shall be made subject to Section 5 of this Agreement.

**Section 5. Payment Terms and Conditions.** No payment shall be due on the OBD until December 14, 2021 which is ten (10) years from the date the Council approved the deferral of City impact Fees for Laguna Springs Corporate Center Phase II.

**Section 6. Security.** To further guarantee payment of the OBD, a Personal Guaranty has been provided by Louie J. Pappas, an individual in the amount of \$1,221,877.38. The Personal Guaranty shall serve as security and shall detail the payment obligations and commitment to pay the City. The Personal Guaranty is hereby incorporated into this Agreement by this reference and is included as Exhibit B. The City shall use the Personal Guaranty to pay the OBD if payment is not received by the City on or before the termination of this Agreement. The expiry date of any security provided to the City under this section shall be no earlier than 30 days after the termination of this Agreement.

**Section 7. Interest.** No interest shall accrue on the unpaid OBD for the first three (3) years of the Term. Beginning in year (4) of the Term (i.e., as of December 14, 2014), any unpaid portion of the OBD shall be subject to interest charges. Interest shall be calculated quarterly based on the rate of interest earned by the City of Elk Grove on the investment of pooled funds.



Section 8. Nothing herein shall relieve Applicant from the obligation to pay additional impact fees that may become due in the future in accordance with the provisions of the Elk Grove Municipal Code or City Ordinances.

Section 9. Any notice or other communication to be given to either party pursuant to this Agreement shall be given by delivering same in writing to the parties at the addresses set forth below:

Applicant: John Pappas  
Laguna Springs Corporate Center Phase II, LLC  
2020 L Street, 5<sup>th</sup> Floor  
Sacramento, CA 95811

City: Assistant City Manager – Development Services  
City of Elk Grove  
8401 Laguna Palms Way  
Elk Grove, CA 95758

Such notice shall be deemed given when deposited into the United States mail, postage prepaid, addressed to the parties at the addresses above. Nothing herein shall preclude the giving of personal notice.

Section 10. This Agreement shall terminate upon the payment of the OBD by Applicant.

Section 11. The City, by establishing the procedures and entering into this Agreement, does not warrant the Agreement against legal challenge or warrant its enforceability. Applicant specifically waives any defense against the enforcement of its obligation hereunder to the extent such defense is related in whole or part to the validity of this Agreement. Should this Agreement or any provision be found to be invalid or unenforceable, the OBD shall become immediately thereon due and payable.

Section 12. Modifications or amendments affecting the terms and conditions contained in this Agreement shall be in writing and executed by all parties.

Section 13. The Applicant, by execution of this Agreement, specifically agrees to assume the defense of, indemnify, and hold harmless the City and its officers, employees, consultants, and agents from and against all liabilities, actions, damages, claims, losses or expenses of every type and description, including attorneys' and consultants' fees and expenses (collectively "Liabilities"), to which they may be subjected or put, by reason of, or resulting from this Agreement, except Liabilities arising from the negligence or willful misconduct of the



City. Applicant's obligations under this Section 13 shall survive the expiration or earlier termination of this Agreement.

Section 14. This Agreement and its above referenced Exhibits constitutes the entire agreement and understanding between the City and Applicant concerning the deferral of the payment of the above mentioned fees.

Section 15. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed this agreement the day and year first above written.

**CITY OF ELK GROVE**

Dated: 12/22, 2011

By: Laura S. Gill

Laura Gill, City Manager

**Approved as to form:**

By: Jennifer Alves

for Jonathan Hobbs, Interim City Attorney

**ATTEST:**

\_\_\_\_\_  
Jason Lindgren, City Clerk

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_, 2011

**APPLICANT**

Laguna Springs Corporate Center Phase II, LLC

By: PAPPAS GATEWAY, L.P., a California limited partnership, its Sole Member

By: JCP Properties, LLC, a California limited liability company, its General Partner

By: [Signature]  
John Pappas, its Manager



**Exhibit A**  
**Legal Description of the Property**

**Parcel 1:**

Parcels 1 and 2 as shown on the Parcel Map of Laguna Springs Corporate Center Phase II entitled, "A Resubdivision of Resultant parcel A Book 20050429, at Page 2547 Sacramento County Records, A portion of Section 35, T.07N, R.05E., M.D.M. City of Elk Grove, Sacramento County California" recorded in Parcel Map dated June 16, 2008 in Book 208 of Parcel Maps, at Page 9, Sacramento County Records.

Excepting Therefrom all oil, gas, casinghead gasoline and other hydrocarbon substances below a point 500 feet below the surface of said land together with the right to take, remove, mine, pass through and dispose of all said oil, gas, casinghead gasoline and other hydrocarbon and mineral substances, as reserved by Floyd Pedersen and Jean Pedersen, his wife, as joint tenants, by Deed recorded January 17, 1975, in Book 750117 page 516, Official Records, in and to that portion of the herein above described land lying within Section 35, T.7N., R.5E., M.D.B.&M.

Also Excepting Therefrom all mineral, oil, gas, and other hydrocarbon substances lying below a depth of 500 feet from the surface of said land, as reserved in the Deed from Laguna High Tech Development Corporation, recorded January 27, 1984, in Book 840127 page 1863, Official Records.

Apn: 116-1490-022

Apn: 116-1490-023

**Parcel 2:**

Being all of Lot 17, as said lot is shown on the Plat entitled "Laguna Business Park", according to the office plat thereof filed in the office of the Recorder of Sacramento, California on September 21, 2004 in Book 335 of Maps, Map No. 1, as corrected by that certain Certificate recorded in Book 20090917, Page 563, Official Records. Excepting therefrom a portion of said Lot 17 described herein as "Transfer Parcel B" and described as the following:

Beginning at a point on the Westerly right-of-way line of Laguna Springs Drive; said point being the Southeasterly corner of aforesaid Lot 17; thence North 89°52'33" West 494.19 feet along the Southerly line of Lot 17 to the Southwesterly corner of said Lot 17; thence North 22°28'13" West 184.13 feet to the Northwesterly corner of said Lot 17; thence North 51°58'16" East 309.38 feet along the common line between Lot 16 and Lot 17 to a point on a curve; thence leaving last said line curving to the left on an arc having a radius of 116.18 feet, whose center bears North 75°48'44" East, a central angle of 101°51'43"; thence along said arc 206.55 feet with a chord South 65°07'07" East 180.41 feet; thence North 63°57'01" East 4.13 feet to a point on a non-tangent curve; said curve with an arc having a radius of 898.50 feet whose center bears South 62°19'27" West a central angle of 06°30'08"; thence along said arc 101.97 feet with a chord South 24°25'229" East 101.91 feet; thence North 68°49'35" East 59.50 feet to a point on the Westerly right-of-way line of Laguna Springs Drive; thence curving to the right along the Westerly right-of-way line of Laguna Springs Drive on an arc having a radius of 958.00 feet, whose center bears south 68°49'35" West a central angle of 13°23'55"; thence along said arc 224.03 feet with a chord South 14°28'27" East 223.52 feet to the point of beginning.



And together with a portion of Lot 16 described herein as Transfer Parcel A, and described as the following:

Beginning at a point on the Westerly right-of-way line of Laguna Springs Drive; said point being the most Easterly corner of aforesaid Lot 16, said corner also being the most Northeasterly corner of Lot 17 per said Maps; thence leaving said right-of-way line South  $51^{\circ}58'16''$  West 160.33 feet along the common line between Lot 16 and Lot 17 to a point on a curve; thence leaving last said line curving to the right on an arc having a radius of 116.18 feet, whose center bears North  $75^{\circ}48'44''$  East, a central angle of  $60^{\circ}48'31''$ ; thence along said arc 123.31 feet with a chord North  $16^{\circ}12'59''$  East 117.60 feet to a non-tangent curve; said curve with an arc having a radius of 895.75 feet whose center bears South  $47^{\circ}34'17''$  West a central angle of  $06^{\circ}00'23''$ ; thence along said arc 93.90 feet with a chord North  $45^{\circ}25'54''$  West 93.86 feet; thence North  $41^{\circ}33'54''$  East 62.25 feet to a point on the Westerly right-of-way line of Laguna Springs Drive; thence curving to the right along the Westerly right-of-way line of Laguna Springs Drive on an arc having a radius of 958.00 feet, whose center bears South  $41^{\circ}33'54''$  West a central angle of  $10^{\circ}24'22''$ ; thence along said arc 173.99 feet with a chord South  $43^{\circ}13'55''$  East 173.75 feet to the point of beginning.

The above described Resultant Parcel B is more particularly described as follows:

Beginning at the Southeasterly corner of aforesaid Lot 17, said corner also being a point on a curve of the Westerly right-of-way line of Laguna Springs Drive; thence curving to the left on an arc having a radius of 958.00 feet whose center bears South  $82^{\circ}13'30''$  West a central angle of  $13^{\circ}23'55''$ ; thence along said arc 224.03 feet with a chord South  $14^{\circ}28'27''$  East 223.52 feet to the true point of beginning; thence continuing along last said right-of-way line on an arc having a radius of 958.00 feet whose center bears South  $68^{\circ}49'35''$  West a central angle of  $27^{\circ}15'41''$ ; thence along said arc 455.82 feet with a chord North  $34^{\circ}48'15''$  West 451.53 feet; thence leaving last said line South  $41^{\circ}33'54''$  West 62.25 feet to a point on a non-tangent curve; thence curving to the right on an arc having a radius of 895.75 feet whose center bears South  $41^{\circ}33'55''$  West a central angle of  $06^{\circ}00'23''$ ; thence along said arc 93.90 feet with a chord South  $45^{\circ}25'54''$  East 93.86 feet; thence curving to the left on an arc having a radius of 116.18 feet whose center bears South  $43^{\circ}22'47''$  East a central angle of  $162^{\circ}40'12''$ ; thence along said arc 329.86 feet with a chord South  $34^{\circ}42'53''$  East 229.71 feet; thence North  $63^{\circ}57'01''$  East 4.13 feet; thence curving to the right on an arc having a radius of 898.50 feet whose center bears South  $62^{\circ}19'27''$  West a central angle of  $06^{\circ}30'09''$ ; thence along said arc 101.97 feet with a chord South  $24^{\circ}25'29''$  East 101.91 feet; thence North  $68^{\circ}49'35''$  East 59.50 feet to the true point of beginning.

As Described as Resultant Parcel "B" in that certain Boundary Line Adjustment recorded April 29, 2005, in Book 20050429 page 25-47, Official Records.

Excepting Therefrom all oil, gas, casinghead gasoline and other hydrocarbon substances below a point 500 feet below the surface of said land together with the right to take, remove, mine, pass through and dispose of all said oil, gas, casinghead gasoline and other hydrocarbon and mineral substances, as reserved by Floyd Pedersen and Jean Pedersen, his wife, as joint tenants, by Deed recorded January 17, 1975, in Book 750117 page 516, Official Records, in and to that portion of the herein above described land lying within Section 35, T.7N., R.5E., M.D.B.&M.





Also Excepting Therefrom all mineral, oil, gas, and other hydrocarbon substances lying below a depth of 500 feet from the surface of said land, as reserved in the Deed from Laguna High Tech Development Corporation, recorded January 27, 1984, in Book 84-01-27 page 1863, Official Records.

Apn: 116-1490-021

**Parcel 3:**

Lots 7 through 11, inclusive, as shown on Subdivision No. 02-3005.00 Laguna Business Park, filed September 21, 2004 in Book 335 of Maps, Map No. 1, Sacramento County Records. Certificate of Correction recorded September 17, 2009, in Book 20090917, Page 563, Official Records.

Excepting Therefrom all oil, gas, casinghead gasoline and other hydrocarbon substances below a point 500 feet below the surface of said land together with the right to take, remove, mine, pass through and dispose of all said oil, gas, casinghead gasoline and other hydrocarbon and mineral substances, as reserved by Floyd Pedersen and Jean Pedersen, his wife, as joint tenants, by Deed recorded January 17, 1975, in Book 7501-17, Page 516, Official Records, in and to that portion of the herein above described land lying within Section 35, T.7N., R.5E., M.D.B.&M.

Also Excepting Therefrom all mineral, oil, gas, and other hydrocarbon substances lying below a depth of 500 feet from the surface of said land, as reserved in the Deed from Laguna High Tech Development Corporation, recorded January 27, 1984, in Book 84-01-27, Page 1863, Official Records.

Apn: 116-1480-007 through 116-1480-011



## EXHIBIT B

### PERSONAL GUARANTY

This Personal Guaranty (the "**Guaranty**") is given by Louie J. Pappas, an individual ("**Guarantor**") in favor of the City of Elk Grove ("**Creditor**") to induce Creditor to enter into an agreement with Laguna Springs Corporate Center Phase II, LLC ("**Debtor**") for the deferral of City impact Fees for Laguna Springs Corporate Center Phase II project ("**Deferral Agreement**").

#### Guaranty

1. **Guaranty.** Guarantor unconditionally guarantees the full performance by Debtor of payment of \$1,221,877.38, and agrees to perform, all of Debtor's obligations under the Deferral Agreement. Guarantor shall assume responsibility for and shall fully perform all of such obligations, at Guarantor's sole cost and expense, promptly upon receiving written notice from Creditor that Debtor has failed to perform any of such obligations in accordance with the Deferral Agreement.

2. **Creditor's Remedies.** If Guarantor fails promptly to perform its obligations under Section 1 above, Creditor shall have the following remedies:

Creditor may bring any action at law or in equity or both, or commence mutually agreed upon arbitration proceeding to compel Guarantor to perform its obligations under **Section 1** above, and to collect any and all compensation available at law or in equity for damages proximately caused by Guarantor's failure to perform its obligations hereunder.

Creditor from time to time may bring such an action regardless of whether Creditor has first required performance by Debtor.

3. **Rights of Creditor.** Guarantor authorizes Creditor to perform any or all of the following acts at any time in its sole and absolute discretion, all without notice to Guarantor and without affecting Guarantor's obligations under this Guaranty:

3.1 Creditor may, with Debtor's written agreement, alter any terms of the Deferral Agreement or any part of it, including renewing, compromising, extending or accelerating, or otherwise changing the time for payment of, or increasing or decreasing the rate of interest on, the Deferral Agreement or any part of it.

3.2 Creditor may apply any payments or recoveries from Debtor, Guarantor or any other source, and any proceeds of any security, to Debtor's obligations under the Deferral Agreement in such manner, order and priority as Creditor may elect.

3.3 Creditor may release Debtor of its liability for the Deferral Agreement or any part of it.



**3.4** Creditor may substitute, add, or release any one or more guarantors or endorsers.

**3.5** In addition to the Deferral Agreement, Creditor may extend other credit to Debtor, and may take and hold security for the credit so extended, all without affecting Guarantor's liability under this Guaranty.

**4. Guaranty to be Absolute.** Guarantor expressly agrees that until the obligations under the Deferral Agreement are fully satisfied, Guarantor shall not be released by or because of:

**4.1** Any act or event which might otherwise discharge, reduce, limit, or modify Guarantor's obligations under this Guaranty;

**4.2** Any waiver, extension, modification, forbearance, delay, or other act or omission of Creditor, or its failure to proceed promptly or otherwise as against Debtor, Guarantor or any security;

**4.3** Any action, omission or circumstance which might increase the likelihood that Guarantor may be called upon to perform under this Guaranty or which might affect the rights or remedies of Guarantor as against Debtor;

**4.4** Any dealings occurring at any time between Debtor and Creditor, whether relating to the Deferral Agreement or otherwise; or

**4.5** Any action of Creditor described in Section 3 above.

Guarantor hereby acknowledges that absent Section 5, Guarantor might have a defense to the enforcement of this Guaranty as a result of one or more of the foregoing acts, omissions, agreements, waivers, or matters. Guarantor hereby expressly waives and surrenders any defense to any liability under this Guaranty based upon any of such acts, omissions, agreements, waivers, or matters. It is the express intent of Guarantor that Guarantor's obligations under this Guaranty are and shall be absolute, unconditional, and irrevocable.

**5. Guarantor's Waivers.** Guarantor waives:

**5.1** All statutes of limitations as a defense to any action or proceeding brought against Guarantor by Creditor, to the fullest extent permitted by law;

**5.2** Any right it may have to require Creditor to proceed against Debtor, proceed against or exhaust any security held from Debtor, or pursue any other remedy in Creditor's power to pursue;

**5.3** Any defense based on any claim that Guarantor's obligations exceed or are more burdensome than those of Debtor;



**5.4** Any defense based on: (a) any legal disability of Debtor, (b) any release, discharge, modification, impairment or limitation of the liability of Debtor to Creditor from any cause, whether consented to by Creditor or arising by operation of law or from any bankruptcy or other voluntary or involuntary proceeding, in or out of court, for the adjustment of debtor-creditor relationships, including any proceeding under the Bankruptcy Reform Act of 1978, as amended or recodified (the "**Bankruptcy Code**"), or under any other present or future state or federal law regarding bankruptcy, reorganization or other relief to debtors (any such proceeding referred to as an "**Insolvency Proceeding**"), or (c) any rejection or disaffirmance of the Deferral Agreement, or any part of it, or any security held for it, in any such Insolvency Proceeding;

**5.5** Any defense based on any action taken or omitted by Creditor in any Insolvency Proceeding involving Debtor, including any election to have Creditor's claim allowed as being secured, partially secured or unsecured, any extension of credit by Creditor to Debtor in any Insolvency Proceeding, and the taking and holding by Creditor of any security for any such extension of credit;

**5.6** All presentments, demands for performance, notices of nonperformance, protests, notices of protest, notices of intention to accelerate, notices of acceleration, notices of default, notices of acceptance of this Guaranty and of the existence, creation, or incurring of new or additional indebtedness, and demands and notices of every kind, except for any demand or notice by Creditor to Guarantor expressly provided for in **Section 1** above;

**5.7** Any defense based on or arising out of any defense that Debtor may have to the payment or performance of the Deferral Agreement or any part of it; and

**5.8** Any defense based on or arising out of any action of Creditor described in **Section 2** or **Section 3** above.

**6. Events of Default.** Creditor may declare Guarantor to be in default under this Guaranty upon the occurrence of any of the following events (each an "**Event of Default**"):

**6.1** Guarantor fails to perform any of its obligations under this Guaranty within five business days of Creditor's notice of default; or

**6.2** Guarantor purports to revoke this Guaranty or this Guaranty becomes ineffective for any reason due to an action or inaction of Guarantor or Debtor; or

**6.3** Any representation or warranty made or given by Guarantor to Creditor proves to be false or misleading in any material respect; or

**6.4** Guarantor becomes insolvent or the subject of any Insolvency Proceeding; provided, however, that an involuntary Insolvency Proceeding shall not be considered an Event of Default hereunder if it is either (a) consented to in writing by Creditor, or (b) has been dismissed within ninety (90) days of the filing thereof; or



**6.5** Guarantor dissolves or liquidates; or

**6.6** Any Guarantor which is a natural person dies; provided, however, (i) it shall not be an Event of Default hereunder if prior to the date which is sixty (60) days after the last day for filing a claim in the estate of such deceased party, the claim of Creditor shall have been accepted and approved by the court administering that estate and a plan satisfactory to Creditor shall have been approved by the court to ensure that sufficient assets will be available to pay that claim, if and when it matures, and (ii) nothing in this Guaranty shall prevent Creditor from filing a claim and such supporting documentation as may be required in the estate of the deceased party; or

**6.7** Any Guarantor which is a trust dissolves or liquidates, or there is a change or substitution of any trustee of Guarantor not approved in writing by Creditor, or the trust agreement is revoked or materially modified; or

**6.8** A material adverse change occurs in Guarantor's financial condition, operations or properties, which change results in a material adverse effect on Guarantor's ability to pay or perform under this Guaranty.

**7. Authorization; No Violation.** Guarantor is authorized to execute, deliver and perform under this Guaranty, which is a valid and binding obligation of Guarantor. To Guarantor's actual knowledge, no provision or obligation of Guarantor contained in this Guaranty violates any applicable law, regulation or ordinance, or any order or ruling of any court or governmental agency that is applicable to Guarantor. No such provision or obligation conflicts with, or constitutes a breach or default under, any agreement to which Guarantor is a party. No consent, approval or authorization of or notice to any person or entity is required in connection with Guarantor's execution of and obligations under this Guaranty.

**8. No Waiver; Consents; Cumulative Remedies.** Each waiver by Creditor shall be in writing, and no waiver shall be construed as a continuing waiver. No waiver shall be implied from Creditor's delay in exercising or failure to exercise any right or remedy against Debtor, Guarantor or any security. Consent by Creditor to any act or omission by Debtor or Guarantor shall not be construed as consent to any other or subsequent act or omission, or as a waiver of the requirement for Creditor's consent to be obtained in any future or other instance. All remedies of Creditor against Debtor and Guarantor are cumulative.

**9. Heirs, Successors and Assigns; Participations.** The terms of this Guaranty shall bind and benefit the heirs, legal representatives, successors, and assigns of Creditor and Guarantor; provided, however, that Guarantor may not assign this Guaranty, or assign or delegate any of its rights or obligations under this Guaranty, without the prior written consent of Creditor.

**10. Notices.** All notices given under this Guaranty shall be in writing and be given by personal delivery, overnight receipted courier (such as Federal Express), or by registered or certified United States mail, postage prepaid, sent to the party at its address appearing below its



signature. Notices shall be effective upon the first to occur of receipt, when proper delivery is refused, or the expiration of forty-eight (48) hours after deposit in registered or certified United States mail as described above.

- 11. Governing Law.** This Guaranty is governed by the laws of the State of California.
- 12. Consideration.** Guarantor acknowledges that it expects to benefit from Creditor's extension of the Deferral Agreement to Debtor because of its relationship to Debtor, and that it is executing this Guaranty in consideration of that anticipated benefit.
- 13. Credit Verification.** Each legal entity and individual obligated on this Guaranty, whether as a Guarantor, a general partner of a Guarantor, or in any other capacity, hereby authorizes Creditor to obtain credit reports from credit reporting agencies of Creditor's choice in connection with any monitoring, collection, or future transaction concerning the Deferral Agreement, including any modification, extension, or renewal of the Deferral Agreement. Also in connection with any such monitoring, collection, or future transaction, Creditor is hereby authorized to check credit references.
- 14. Enforceability.** Guarantor acknowledges that Guarantor has had adequate opportunity to carefully read this Guaranty and to seek and receive legal advice from skilled legal counsel of Guarantor's choice in the area of financial transactions of the type contemplated herein prior to signing it. Given all of the above, Guarantor does hereby represent and confirm to Creditor that Guarantor is fully informed regarding, and that Guarantor does thoroughly understand: (i) the nature of such possible defenses, (ii) the circumstances under which such defenses may arise, (iii) the benefits which such defenses might confer upon Guarantor, and (iv) the legal consequences to Guarantor of waiving such defenses. Guarantor acknowledges that Guarantor makes this Guaranty with the intent that this Guaranty and all of the informed waivers herein shall individually and collectively be fully enforceable by Creditor, and that Creditor is induced to enter into this transaction in material reliance upon the presumed full enforceability thereof.
- 15. Miscellaneous.** This Guaranty may be executed in counterparts, and all counterparts shall constitute but one and the same document. The illegality or unenforceability of one or more provisions of this Guaranty shall not affect any other provision. Time is of the essence in the performance of this Guaranty by Guarantor. The death or legal incapacity of any Guarantor shall not terminate the obligations of such Guarantor or any other Guarantor under this Guaranty. Any Guarantor who is married, agrees that Creditor may look to all of his or her property, including but not limited to community property (if any), joint property (if any), equitable property (if any), and separate property to satisfy his or her obligations under this Guaranty.
- 16. Integration; Modifications.** This Guaranty (a) integrates all the terms and conditions mentioned in or incidental to this Guaranty, (b) supersedes all oral negotiations and prior writings with respect to its subject matter, and (c) is intended by Guarantor and Creditor as the final expression of the agreement with respect to the terms and conditions set forth in this Guaranty



and as the complete and exclusive statement of the terms agreed to by Guarantor and Creditor. No representation, understanding, promise or condition shall be enforceable against any party hereto unless it is contained in this Guaranty. This Guaranty may not be modified except in a writing signed by both Creditor and Guarantor. No course of prior dealing, usage of trade, parol or extrinsic evidence of any nature shall be used to supplement, modify or vary any of the terms hereof.

IN WITNESS WHEREOF, Guarantor has executed this Guaranty as of the date first above written.

"GUARANTOR"

Louie J. Pappas

Address for Notices to Guarantor:

Pappas Investments  
2020 L Street, Fifth Floor  
Sacramento, CA 95811  
Attention: Louie Pappas / Thad Johnson

ALL SIGNATURES MUST BE NOTARIZED



State of California

County of Sacramento

On December 21, 2011 before me, Merrilee Margetts, Notary Public  
(Here insert name and title of the officer)  
personally appeared Louie J Pappas

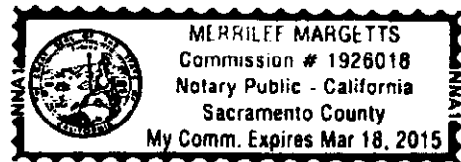
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), 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.

Merrilee Margetts

(Notary Seal)





**CERTIFICATION**  
**ELK GROVE CITY COUNCIL RESOLUTION NO. 2011-264**

STATE OF CALIFORNIA        )  
COUNTY OF SACRAMENTO    )     ss  
CITY OF ELK GROVE         )


*I, Jason Lindgren, City Clerk of the City of Elk Grove, California, do hereby certify that the foregoing resolution was duly introduced, approved, and adopted by the City Council of the City of Elk Grove at a special meeting of said Council held on December 14, 2011 by the following vote:*

**AYES :**        **COUNCILMEMBERS:**    *Cooper, Hume, Davis, Detrick, Scherman*

**NOES:**        **COUNCILMEMBERS:**    *None*

**ABSTAIN :**   **COUNCILMEMBERS:**    *None*

**ABSENT:**     **COUNCILMEMBERS:**    *None*

  
\_\_\_\_\_  
**Jason Lindgren, City Clerk**  
**City of Elk Grove, California**