

RESOLUTION NO. 2016-036

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELK GROVE
AUTHORIZING THE MAYOR TO EXECUTE REIMBURSEMENT AGREEMENT
RC2016-01 WITH TAYLOR MORRISON OF CALIFORNIA, LLC, FOR PRIVATELY
CONSTRUCTED PUBLIC FACILITIES INCLUDED IN THE ELK GROVE ROADWAY
FEE PROGRAM IN SUBSTANTIALLY THE FORM PRESENTED, AND AMENDING
THE FISCAL YEAR 2015-16 BUDGET TO REFLECT THE EXPENSES AUTHORIZED
IN THE AGREEMENT**

WHEREAS, Elk Grove Municipal Code Section 16.95.070 provides for reimbursement to developers for the private construction of any facilities designated in the Roadway Fee Program subject to entering into a reimbursement agreement with the City of Elk Grove; and

WHEREAS, Taylor Morrison of California, LLC is constructing a traffic signal in the City on Lotz Parkway and Auto City Drive, which is included in the Roadway Fee Program; and

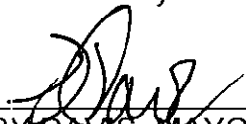
WHEREAS, a budget amendment is necessary to reflect the expenses authorized in the agreement.

<u>Account</u>	<u>Current Budget</u>	<u>Adjustment</u>	<u>Revised Budget</u>	<u>Action</u>
3281540-5121702	\$1,533,014	\$337,100	\$1,870,114	Establish Roadway Fee Credit


NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Elk Grove hereby authorizes the Mayor to execute Reimbursement Agreement RC2016-01 for reimbursement by way of credits against future fees and/or cash reimbursement from the Roadway Fee Program with Taylor Morrison of California, LLC. as presented in substantially the form presented as Exhibit A; and

BE IT FURTHER RESOLVED that the City Council of the City of Elk Grove hereby authorizes an amendment to the FY 2015-16 Budget from the Elk Grove Roadway Fee Program to establish the eligible fee credits.


PASSED AND ADOPTED by the City Council of the City of Elk Grove this 9th day of March 2016.



GARY DAVIS, MAYOR of the
CITY OF ELK GROVE

ATTEST:


JASON LINDGREN, CITY CLERK

APPROVED AS TO FORM:


JONATHAN P. HOBBS,
CITY ATTORNEY

EXHIBIT A

CITY OF ELK GROVE

REIMBURSEMENT AGREEMENT FOR PRIVATELY CONSTRUCTED PUBLIC FACILITIES INCLUDED IN THE ELK GROVE ROADWAY FEE PROGRAM

Agreement No. RC2016-01

This Agreement, dated as of _____, 2016, is by and between the City of Elk Grove, a municipal corporation ("City"), and Taylor Morrison of California, LLC, a California limited liability company ("Developer").

WITNESSETH

WHEREAS, Developer is the owner of that certain real property in the Laguna Ridge Specific Plan ("LRSP") with approved tentative map for Madeira East Villages 5 and 7 ("Project"), in the City of Elk Grove, State of California, and Developer proposes to construct improvements associated with the development, which improvements are more commonly referred to as 4 Way Traffic Signal at Lotz Parkway and Auto City Drive;

WHEREAS, Chapter 16.95 of the Elk Grove Municipal Code established development fees ("Roadway Improvement Fees") and special funds as part of the City's Roadway Fee Program ("Roadway Fee Program");

WHEREAS, Chapter 16.95.070 of the Elk Grove Municipal Code authorizes the City to enter into reimbursement agreements for the construction of any facilities designated in the Roadway Fee Program upon application of property developers;

WHEREAS, Developer has constructed or will construct certain eligible improvements and related facilities that would otherwise be financed by the Roadway Fee Program.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the City and the Developer hereby agree as follows:

A G R E E M E N T

Section 1. Scope

Subject to the terms of this reimbursement agreement ("Agreement"), the City agrees to provide reimbursement for privately constructed public facilities included in the Roadway Fee Program and specifically those depicted in Exhibit A and listed in Exhibit B ("Improvements"), in the form of credits listed below and future payment of cash reimbursement when funds become available. The Developer may be reimbursed for the Improvements from the City through a combination of (i) credits against Roadway Improvement Fees as provided in Section 2 below and/or (ii) cash reimbursement as provided in Section 3 below. The Developer and the City agrees as follows:

1.1 The Improvements, quantities, and prices shown in Exhibits A and B may be supplemented or otherwise revised by an amendment executed by the City Manager and the Developer to balance cost overruns and underruns when all the Improvements originally listed in Exhibit B have been completed and actual costs have been determined by the City. In the event the total actual cost of all segments of an Improvement would exceed the total estimated cost shown in Exhibit B by ten percent (10%) or greater, up to Fifty Thousand and 00/100 Dollars (\$50,000.00), the City Manager may, in the exercise of his or her sole discretion, prepare such amendment without further action by the City Council. Should the amount exceed \$50,000.00, the City Manager may, in the exercise of his or her sole discretion, prepare such amendment for action by the City Council.

1.2 If another entity constructs improvements that are portions of the Improvements in Exhibit B, the City, at its sole discretion, may make payment for the construction thereof to the constructor only if: (i) the Improvements are constructed in accordance with all of the requirements of this Agreement; and (ii) the constructor assumes the obligations of the Developer under this Agreement as applicable to such construction, including without limitation, the obligations under Section 9, 10, 11, and 12 and (iii) the City consents in writing, which consent shall not be unreasonably withheld. Additionally, the Developer agrees that they shall not be entitled to such payment if City remits payment to constructor.

Section 2. Allowable Credits

2.1 Credit Against Roadway Improvement Fees. The City will issue fee credits ("Fee Credit(s)") to the Developer as reimbursement for privately constructed public facilities in the Roadway Fee Program listed in Exhibit B. When, and as Roadway Improvement Fees are imposed for each building permit, the Developer shall receive a Fee Credit, on a dollar for dollar basis, equal to sixty percent (60%) of the total Roadway Improvement Fees to be paid for each building permit (excluding the administrative component of the fee) and the Developer shall not be required to pay such portion of the Roadway Improvement Fees ("Credit Amount"). Notwithstanding the foregoing, in no event shall the Credit Amount issued to the Developer exceed the total actual Improvement Cost (defined in Section 3.1 below) owed to the Developer for the construction of the Improvements. The City, in its sole discretion, may increase the percentage of Fee Credits available to the Developer.

2.2 Remaining Roadway Improvement Fee Payment. After receiving sixty percent (60%) in Fee Credits, the Developer shall pay the remaining forty percent (40%) of the Roadway Improvement Fee and administrative component for each building permit in cash, and such amount shall accrue to the Roadway Fee Program as a cash payment.

Section 3. Reimbursement Amount

The City agrees to reimburse the Developer for the acquisition and installation of the Improvements an amount based on the lesser of (such lesser amount shall be referred to herein as the "Improvement Cost"):

- (a) The actual construction cost of the Improvements, as determined by the City, in its sole discretion, through its review of the construction contract for the Improvements plus an allowance for soft costs associated with the actual construction costs, as determined by the City, but in no event shall such soft costs exceed the amount of twenty-five percent (25%) of the actual construction costs, less the Credit Amount; or
- (b) The total of allowable costs for all Improvements less the Credit Amount, based on the total amount in the cost schedules set forth in the Roadway Fee Program (without interest) listed in Exhibit B (“Cost Schedule Amount”). The total allowable costs for the Improvements shall be based on the sum of all segments listed in Exhibit B, such that actual costs in any one segment that are greater than or less than the allowable costs shown for such segment may be offset against any other segments.

Section 4. Reimbursement Timing

4.1. Reimbursement Priority. The City has, and shall continue to, collect Roadway Improvement Fees from all property owners benefiting from the Improvements in the amount required by the Roadway Fee Program as such Roadway Fee Program may be amended or updated from time to time and shall place such fees in a separate capital facilities account in accordance with Section 16.95.030 of the City of Elk Grove Municipal Code. The parties acknowledge that a number of developer-constructed projects are identified for reimbursement in the Roadway Fee Program. As set forth in Chapter 16.95 of the Elk Grove Municipal Code, developers who have constructed improvements reimbursable from one (1) or more of the funds associated with the Roadway Fee Program (“Fund(s)”) shall be reimbursed in the order in which their respective improvements are formally accepted by the City. The City shall prioritize the developer-constructed public facilities identified in the Roadway Fee Program when accepted by the City. A Developer shall only be eligible to receive Funds and enter the priority queue for receipt of funds upon submittal of a Payment Request Form that is approved by the City. Until such time Developer does not have a priority for receipt of Funds over any other developer and the City maintains the sole and exclusive right to put other Developers in a higher priority to receive payment based on the City’s needs and objectives. As funds are available, reimbursements will be paid to the next developer awaiting reimbursement on such priority list until such developer is paid in full, then to the next developer on such list, subject to and in accordance with the Section 4.2 below.

4.2. Payment Preconditions. No payment from the Fund(s) shall be made unless all of the following conditions, together with any other conditions set forth in this Agreement, have been met to City’s satisfaction:

- (a) City has given final approval to and has formally accepted the Improvement(s) as complete (with reimbursement for an Improvement separately identified in the Roadway Fee Program being eligible for reimbursement on acceptance of such improvement, notwithstanding the

status of construction of any other improvement to be constructed by Developer);

- (b) City, in its sole discretion, has determined that there are adequate monies available in the applicable Fund(s) associated with the Roadway Fee Program;
- (c) City has received complete roadway funding for: (i) Big Horn Extension, (ii) Lotz Road Extension, (iii) Bilby Road Extension, (iv) Kammerer Road Widening/Extension (v) Bradshaw/Sheldon Road Intersection Improvements, (vi) Sheldon/Waterman Intersection Improvements, (vii) Whitelock Interchange Design, (viii) Intelligent Transportation System Phase 4;
- (d) Developer shall not be in default of any monetary obligation to the City, including without limitation plan check and inspection fees and any loan repayment due to the City. City agrees that it shall invoice Developer, and provide reasonably necessary detailed documentation of the charges incurred, for all amounts due within sixty (60) days of such amount accruing ("City Invoice"). Developer shall then have thirty (30) days from its receipt of the City Invoice to accept or object to it ("Protest Period"), and should Developer fail to object within that time, Developer shall be deemed to have accepted the City Invoice and shall not be entitled to dispute such City Invoice. Developer shall pay City all amounts due, for which no objection has been raised within the Protest Period, within fifteen (15) business days following expiration of the Protest Period. Payment of such City Invoice shall be full and final satisfaction of the amounts due for work specified in such City Invoice, and City shall not have the right to increase or modify such amounts. Any amounts not paid by such date shall be deemed defaulted amounts. Upon receipt of any such written notice of default from City, Developer shall cure the identified default(s) within three (3) days after receipt of any such notice. If Developer fails to cure such default within such three (3) day period, City shall have the right to withhold such defaulted amounts from the reimbursement due to Developer hereunder and to use such reimbursement amount to satisfy the default. Payment in full of defaulted amounts from the reimbursement due to Developer hereunder shall be deemed full and final satisfaction for such amounts owed, and upon such collection of reimbursement funds by City, City waives all other remedies for such default. Following City's collection of any defaulted amounts, any remaining available reimbursement owed Developer shall be promptly paid to Developer. In the event City does not collect such defaulted amounts from reimbursement due Developer hereunder, City retains all other remedies, at law or in equity, for such default. In the event a timely objection to the City Invoice is made by Developer, City and Developer shall meet and confer for a period of at least thirty (30) days in an effort to resolve any dispute between them and, if the dispute is not so resolved,

either party may then resort to any remedy available to it at law or in equity.

- (e) Developer has not received reimbursement payments from any other agency (including but not limited to the Sacramento Sewer District and the Sacramento County Water Agency) or other reimbursement programs such as payment from a community facilities district for the improvements listed in Exhibit B. If Developer has received other reimbursement such reimbursement shall be subtracted from the Maximum Reimbursement Payment as listed on Exhibit B.

Section 5. Process and Procedures

The Developer's construction contracts, construction work, and requests for reimbursement relating to the Improvements shall be performed in conformance with the City's most current "Reimbursement Policies and Procedures for Privately Constructed Public Facilities" document which is available from the City Engineer, and upon receipt and approval by the City of a request for payment in form attached hereto as Exhibit C, and subject to cost limitations set forth in Section 3.1 above. The Developer shall be responsible for complying with all applicable laws, codes, and regulations relating to contracting and construction procedures for publicly-funded public works projects, including, but not limited to competitively bidding the construction work and paying prevailing wages.

Section 6. Limited City Obligation

The obligations arising from this Agreement are neither a debt of the City nor a legal or equitable pledge, charge, lien, or encumbrance upon any of its property or upon any of its income, receipts, or revenues, except the fees collected for the Improvements. Neither the General Fund nor any other fund of the City, except the applicable fund(s) associated with the Roadway Fee Program, shall be liable for the payment of any obligations arising from this Agreement. The credit or taxing power of the City is not pledged for the payment of any obligation arising from this Agreement. The Developer shall not compel the forfeiture of any of the City's property to satisfy any obligations arising from this Agreement.

Section 7. Completion

At such time as the Developer believes the Improvement is complete, the Developer shall provide written notice of completion to the City, requesting an inspection. Within ten (10) business days following the date of receipt of the Developer's written notice of completion, the City shall conduct a final inspection of the Improvement(s). If, during the final inspection, the City determines that the Improvement(s) have not been completed in accordance with all applicable codes, regulations, permits and approved plans, the City shall prepare a punch list of all items to be completed by the Developer and shall provide such punch list to the Developer within five (5) business days following the final inspection. If the City delivers such punch list

to the Developer within said five (5) business day period, then the Developer shall undertake to repair such punch list items in a diligent manner within sixty (60) calendar days. Upon completion of the punch list work, the Developer shall request another final inspection from the City and within five (5) business days following such written notice from the Developer, the City shall conduct another final inspection. If the City determines that the punch list work is complete and no other deficiencies are identified, the Developer will be deemed to have successfully completed the final inspection. If the City determines that the punch list work is not complete, then City and Developer shall repeat the inspection/punch list procedures specified in this Section 7 until the successful completion of the punch list work and a final inspection. At such time as Developer has successfully completed the final inspection, City shall recommend acceptance of the completed Improvements to the City Council within thirty (30) calendar days thereafter.

Section 8. Final Payment Request

The Developer shall submit their final payment request for cash reimbursement or approved credit ("Final Request") no later than two (2) years from the date of conveyance of the Improvements as defined in Section 7 above. Should no Final Request be received at the end of the two year period Developer shall forfeit any right to reimbursement. If multiple Improvements of this Agreement are constructed and conveyed at different times, the Final Request shall be submitted no later than two (2) years from the date of the last conveyance to the City. Reimbursement of the Final Request is subject to the priorities and payment preconditions pursuant to Section 4 above. Once the amount of the Final Request has been reviewed and approved by the City and all Fee Credits have been assigned and/or a total Credit Amount has been established, no further reimbursement requests will be granted by the City and the remaining amount, if any, less the total amount of Fee Credits and reimbursements due, if any, will be considered unencumbered and cease to be a liability of the City as part of this Agreement. This amount will be placed back in the Roadway Fee Program funds for future allocation by the City to other Agreements and/or Capital Improvement Projects.

Section 9. Conveyance of the Improvements

Once the Improvements are accepted by the City and no liens have been identified as attached to the Improvements, the Improvements automatically become the property of the City. The Developer shall take any and all actions necessary to convey to the City and vest in the City full, complete and clear title to the Improvements.

Section 10. Delivery of Plans and Specifications

Prior to acceptance of the Improvements by the City, the Developer shall deliver to the City copies of all plans, specifications, shop drawings, as-built plans, operating manuals, service manuals, warranties and other documents relating to the design, construction, installation and operation of the Improvements.

Section 11. Liens, Claims, and Encumbrances

Prior to acceptance of the Improvements by the City, the Developer shall provide a written guarantee and assurance to the City that there are no liens, claims, or encumbrances on the Improvements, together with unconditional final releases from all contractors and material suppliers, and with copies of invoices and corresponding checks issued by the Developer for all items for which reimbursement is requested under this Agreement for the Improvements. Notwithstanding any other provision or term of this Agreement, the City shall have no obligation to make any reimbursement payments until the Developer has cleared any and all liens, claims and encumbrances from the Improvements and provided the required documentation, guarantee and assurance in writing, to the satisfaction of the City.

Section 12. Warranty and Repair

- 12.1 Warranty. The Developer hereby warrants each Improvement as to materials and workmanship and, should any failure of an Improvement occur within a period of one (1) year after final acceptance of such Improvement by the City, the Developer shall promptly cause the needed repairs to be made without cost to the City (“Warranty Period”). The provisions contained herein shall not be deemed to limit any rights the Developer has or may have to seek damages or other relief from any acts or omissions of any contractor involved in the construction or design of the Improvements. Notwithstanding the foregoing, the Developer’s warranty excludes remedy for damage or defect caused by ordinary wear and tear under normal usage, abuse, neglect, modifications not performed by the Developer or its agents, and improper or insufficient maintenance not performed by the Developer or its agents. Nothing herein shall be construed to limit any other warranties the City may have from the manufacturer or any materials used in the Improvements, but the warranty contained in this Section 11 shall be the exclusive warranty of the Developer, and all other express or implied warranties of the Developer are expressly disclaimed.
- 12.2 Repair. The City is hereby authorized to make such repairs if the Developer fails to make or undertake with due diligence the aforesaid repairs within twenty (20) calendar days after the City has given written notice of such failure. In case of emergency where, in the sole opinion of the City Engineer, delay would cause serious hazard to the public, the necessary repairs may be made or lights, signs and barricades erected, without prior notice to the Developer. In all cases of failure of the Improvements within the Warranty Period where the City has taken action in accordance with this paragraph, the Developer shall reimburse the City as appropriate for all costs, direct and indirect, incurred by the City.

Section 13. Indemnity

The Developer, 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, the acquisition or installation of the Improvements, except Liabilities arising from the sole negligence, active negligence, or willful misconduct of the City. This indemnification shall extend to Liabilities occurring after this Agreement is terminated as well as while it is in force.

Section 14. No Third Party Beneficiary

The City and the Developer enter into no contract or agreement with any general contractor, subcontractor, or other party by entering into this Agreement; nor is any general contractor, subcontractor, or other party a third party beneficiary of this Agreement; and the City shall have no obligation to pay any general contractor, subcontractor, or other party for any work that such general contractor, subcontractor, or other party may do pursuant to the plans and specifications for the Improvements except as provided for in Section 1.2 and Section 14.

Section 15. Assignment of Fee Credits

Fee Credits to be issued to the Developer are personal to the Developer and shall not automatically run with the land or the subsequent purchasers of the Developer's property. The Developer may transfer or assign any or all Fee Credits associated with this Agreement by providing written notice to the City. Assigned Fee Credits shall be applicable to any Roadway Fees within the LRSP, and shall be accepted by the City on a dollar-for-dollar basis and adjusted each year in the same amount as the annual inflationary adjustment of the City's Roadway Fees. In order to utilize a portion of the Credit Amount as provided for herein, the Developer shall deliver an executed copy of a Roadway Improvement Fee voucher (Voucher) to the City, or such other document or letter (Written Assignment) as may be acceptable to the City. The Voucher or Written Assignment shall notify the City of the Credit Amount that the Developer intends to transfer or assign. After receipt of such written request from the Developer and prior to issuance of building permits, the City shall reduce any Roadway Improvement Fees that would normally be collected by the City for that development listed on the Voucher or Written Assignment in the amount stated in the Developer's Voucher or Written Assignment. Any Roadway Improvement Fees not collected as a result of the receipt of such Voucher or Written Assignment from the Developer shall be deducted from the Developer's Credit Amount. In the absence of any such Voucher or Written Assignment, a subsequent purchaser of any portion of the Developer's property shall have no rights to any Fee Credits under Section 2 above or reimbursements under Section 3 above. This Agreement shall not automatically terminate on a lot-by-lot basis upon issuance of a certificate of occupancy for a dwelling unit on each applicable lot.

Section 16. Notice

Any notice, payment, or instrument required or permitted by this Agreement to either party shall be deemed to have been received when personally delivered to that

party or seventy-two (72) hours following deposit of the same in any United States Post Office, first class, postage prepaid, addressed as follows:

City: City of Elk Grove
8401 Laguna Palms Way
Elk Grove, CA 95758
Attn: City Engineer

With a copy to: City of Elk Grove
Public Works
Administrative Services
8401 Laguna Palms Way
Elk Grove, CA 95758
Attn: Finance Administrator

Developer: Taylor Morrison of California, LLC,
a California Limited Liability Company
81 Blue Ravine Rd., Suite 220
Folsom, CA 95630
Attn: Jay Pawlek, Vice President

Either party hereto may, by notice given hereunder, designate a different address to which subsequent notices, payments, and instruments shall be delivered to it.

Section 17. Term

The term of this Agreement shall start as of the date first written above and shall remain in effect until all the terms and conditions contained in this Agreement have been satisfied.

Section 18. Captions

Captions to Sections of this Agreement are for convenience purposes only, and are not part of this Agreement.

Section 19. Severability

If any portion of this Agreement is declared by a court of competent jurisdiction to be invalid or unenforceable, such portion shall be deemed severed from this Agreement and the remaining parts shall remain in full effect as though such invalid or unenforceable provision had not been a part of this Agreement.

Section 20. Governing Law; Venue

This Agreement is made under, and shall in all respects be interpreted, enforced, and governed by, the laws of the State of California. In the event of a dispute concerning the terms of this Agreement, the venue for any legal action shall be with the appropriate court in the County of Sacramento, State of California.

Section 21. Entire Agreement

This Agreement contains the entire agreement between the parties with respect to the matters contained herein and may be amended only by subsequent written agreement signed by both parties.

Section 22. Counterparts

This Agreement may be executed in counterparts, each of which shall be deemed an original, but both of which together shall constitute one instrument.

Section 23. Construction and Interpretation

Developer and City agree and acknowledge that the provisions of this Agreement have been arrived at through negotiation and that each party has had a full and fair opportunity to revise the provisions of this Agreement and to have such provisions reviewed by legal counsel. Therefore, any ambiguities in construing or interpreting this Agreement shall not be resolved against the drafting party.

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

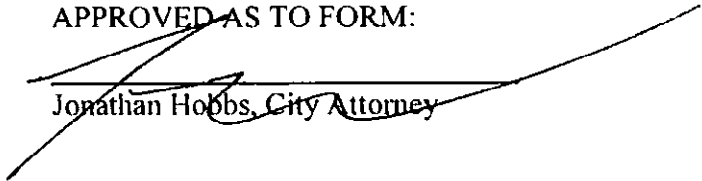
CITY OF ELK GROVE:

By: _____
Gary Davis, Mayor

ATTEST:

Jason Lindgren, City Clerk

APPROVED AS TO FORM:


Jonathan Hobbs, City Attorney

DEVELOPER:

Taylor Morrison of California, LLC, a California
Limited Liability Company

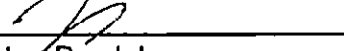
By  _____
Title Jay Pawlek
Its Vice President

Exhibit A

PROJECT NO. 21084.07	CITY OF ELK GROVE CALIFORNIA
EXHIBIT A	
MACKAY & SOMPS	
DATE: 11/15/15	SCALE: AS SHOWN
BY: [Signature]	CHECKED: [Signature]
APP. [Signature]	DATE: 11/15/15

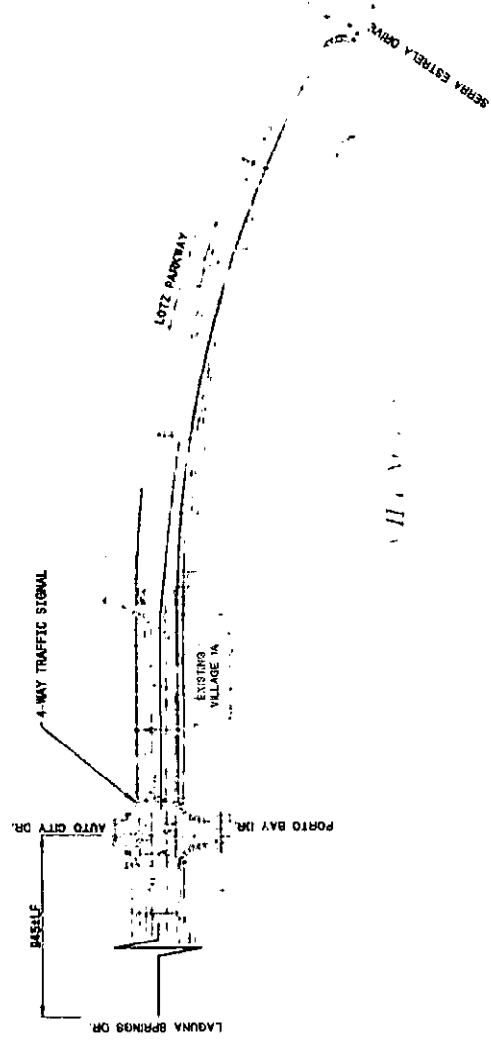
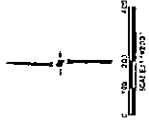
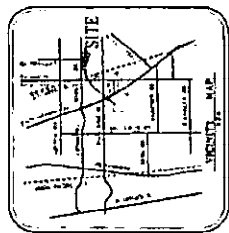


EXHIBIT A
TRAFFIC SIGNAL AT LOTZ PKWY & AUTO CITY DR
ROADWAY FEE PROGRAM, ID #170A

MADEIRA EAST

City of Elk Grove
 Scale 1"=200'

California
 November 15, 2015
 27084.07D



EXHIBIT B

AGREEMENT NO. RC2016-01
ROADWAY FEE PROGRAM
PROJECT NAME: 4 Way Traffic Signal Lotz Parkway and Auto City Drive
SUBMITTED BY: Taylor Morrison of California, LLC

ID #170A 4-Way Traffic Signal

#	Description	ALLOWED IN THE FEE PROGRAM				Comments
		Qty	Unit	Unit \$	Total \$	
<i>A</i>	4-Way Signal	1.00	EA	\$ 337,100	\$ 337,100	Total includes Engineering & Contingency

Maximum Reimbursement Payment

\$ 337,100

EXHIBIT C

PAYMENT REQUEST FORM

**City of Elk Grove
Payment Request Form for
Reimbursement of Privately Constructed Public Facilities**

The undersigned (the "Developer") hereby requests payment pursuant to the Reimbursement Agreement RC20XX-XX dated _____, 2016 (the "Agreement"), between the City of Elk Grove and the Developer, in the total amount of \$_____. (Capitalized terms used herein shall have the meanings ascribed thereto in the Agreement.) The payment requested is for Projects identified in Agreement Exhibits A and B to the Agreement that have been completed by the Developer or party designated for payment herein (the "Constructor") and are the subject of this request for payment, as more fully described in the Agreement.

In connection with this request for payment, the undersigned hereby represents and warrants to the City as follows:

1. The person executing this request on behalf of the Developer is duly authorized to do so and is knowledgeable as to the matters set forth herein.
2. The Projects described in the Agreement have been completed in accordance with the approved plans. To the extent a Project is to be accepted, owned, and operated by a public agency other than the City, attached hereto is documentation from that agency acknowledging that the construction is complete and accepting the Project from the Developer.
3. The true and correct actual cost of each Project for which payment is requested is set forth in Exhibit B to the Agreement.
4. Attached hereto are invoices, receipts, worksheets and other evidence of actual cost that are in sufficient detail to allow the City's Public Works Director to verify the actual cost of the Project for which payment is requested.
5. There has not been filed with or served upon the Developer or Constructor notice of any lien, right to lien or attachment upon, or claim affecting the right to receive the payment requested herein that has not been released or will not be released simultaneously with the payment of such obligation, other than materialmen's or mechanics' liens accruing by operation of law. Copies of lien release for all work for which payment is requested hereunder are attached hereto.
6. With respect to all Projects, construction contracts were competitively bid and prevailing wages have been paid relative to the construction of the Project to the extent required by law if such Projects were City jobs.

7. Developer or other constructing entity has not received any other reimbursement pursuant to Section 4(e).

8. The Developer is in compliance with the terms and provisions of the Acquisition Agreement.

9. Payment should be made payable to:

and sent to: _____

at the following address: _____

I hereby declare under penalty of perjury that the above representations and warranties are true and correct.

Date: _____

DEVELOPER:

_____, a California Limited Liability Company

By:

(Signature)

(Print Name)

(Title)

CERTIFICATION
ELK GROVE CITY COUNCIL RESOLUTION NO. 2016-036

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 regular meeting of said Council held on March 9, 2016 by the following vote:

AYES : **COUNCILMEMBERS:** *Davis, Ly, Detrick, Hume, Suen*

NOES: **COUNCILMEMBERS:** *None*

ABSTAIN : **COUNCILMEMBERS:** *None*

ABSENT: **COUNCILMEMBERS:** *None*



Jason Lindgren, City Clerk
City of Elk Grove, California