ORDINANCE NO. 20-2022

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELK GROVE FINDING NO FURTHER ENVIRONMENTAL REVIEW IS REQUIRED PURSUANT TO STATE CEQA GUIDELINES SECTION 15162 FOR THE RICHLAND COMMUNITIES LAGUNA RIDGE DEVELOPMENT AGREEMENT PROJECT (PLNG18-069) AND APPROVING A DEVELOPMENT AGREEMENT WITH RICHLAND PLANNED DEVELOPMENT, INC. AND BEAZER HOMES HOLDINGS, LLC.

WHEREAS, the Development Services Department of the City of Elk Grove (the "City") received an application on May 19, 2022, from Richland Planned Communities, Inc. (the "Applicant") for the Richland Communities Laguna Ridge Development Agreement Project (PLNG22-032) requesting approval of Development Agreement (the "Project"); and

WHEREAS, the proposed Project, as generally described on Exhibit A, is located on real property in the incorporated portions of the City more particularly described as APNs: 132-0050-020, -024, -057, -065, -066, -141, -149, -155, -173, and -174; and

WHEREAS, the Development Services Department considered the Project request pursuant to the Elk Grove General Plan, the Elk Grove Municipal Code (EGMC) Title 23 (Zoning), Title 22 (Land Development), the Laguna Ridge Specific Plan (LRSP), and all other applicable state and local regulations; and

WHEREAS, State CEQA Guidelines Section 15162 (Subsequent EIRs and Negative Declarations) states no further environmental review is required under CEQA for projects where no subsequent EIR or Negative Declaration is required because no new significant effects and no new information of substantial importance has been identified by the lead agency; and

WHEREAS, the Planning Commission of the City (the "Planning Commission") held a duly-noticed public hearing on July 7, 2022, as required by law to consider all of the information presented by staff, information presented by the Applicants, and public testimony presented in writing and at the meeting and voted 4-0 (Fernandez Absent) to recommend approval of the Development Agreement by the City Council.

WHEREAS, the City Council held a duly-noticed public hearing on July 27, 2022, as required by law to consider all of the information presented by staff, property owners, and public testimony presented at the meeting concerning the Richland Communities Laguna Ridge Development Agreement.

NOW, THEREFORE, the City Council of the City of Elk Grove does hereby ordain as follows:

<u>Section 1: Purpose</u>

The purpose of this Ordinance is to approve the Richland Communities Laguna Ridge Development Agreement in substantially the form attached hereto as Exhibit B and incorporated herein by reference.

Section 2: Findings

This Ordinance is adopted based upon the following findings:

California Environmental Quality Act (CEQA)

Finding: No further environmental review is required under the California Environmental Quality Act pursuant to State CEQA Guidelines Section 15162 (Subsequent EIRs and Negative Declarations).

Evidence: CEQA requires analysis of agency approvals of discretionary "projects." A "project," under CEQA, is defined as "the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment" (State CEQA Guidelines Section 15378). The proposed Project is a project under CEQA.

No further environmental review is required under CEQA pursuant to State CEQA Guidelines 15162 (Subsequent EIRs and Negative Declarations). State CEQA Guidelines Section 15162 provides that when an EIR has been certified for an adopted project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in light of the whole record, that one or more of the following exists:

1. 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 significant 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 exercise of reasonable diligence at the time of 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 measure or alternative; 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 measures or alternative.

In 2003, the City Council certified an EIR for the Laguna Ridge Specific Plan (LRSP, State Clearinghouse No. 2000082139). The LRSP EIR analyzed full buildout of LRSP based upon the land plan, development standards, and policies contained in the General Plan and LRSP, as well as the improvements identified in the accompanying infrastructure master plans. The build out of the Tentative Subdivision Maps (TSMs) covered by the proposed Development Agreement (DA) will continue to be subject to the LRSP Mitigation, Monitoring and Reporting Program (MMRP).

The DA will result in extensions to the TSMs that were previously approved and found to be consistent with the LRSP EIR. Approval of the DA will not result in any increase to the density or intensity of the approved projects. Furthermore, all covered TSMs will continue to subject to all previously-approved conditions of approval. No potential new impacts related to the Project have been identified that would necessitate further environmental review beyond the impacts and issues already disclosed and analyzed in the LRSP EIR. No other special circumstances exist that would create a reasonable possibility that the Project will have a significant adverse effect on the environment. Therefore, the prior LRSP EIR is sufficient to support the proposed action and, pursuant to State CEQA Guidelines Section 15162, no further environmental review is required.

Development Agreement

Finding #1: The development agreement is consistent with the General Plan objectives, policies, land uses, and implementation programs and the LRSP.

> Evidence #1: The DA will allow the TSMs covered by the DA to be constructed pursuant to their respective approvals and subject to the associated conditions of approval. The covered TSM approvals were found to be consistent with the General Plan and LRSP land use designations at the time of their approval. Specifically in relation to the LRSP, the Project area includes a mix of single-family residential zoning districts (RD-4, RD-5, RD-7, and RD-8), and public/open space districts (Parks/Parkway, Schools, and Water Treatment Facility). There will be no changes to the intensity or density of development that was approved under these TSMs and the development of all subdivisions associated with the DA will continue to comply with the development anticipated in these LRSP zoning districts. Furthermore, development of these subdivisions will have to meet all obligations related to infrastructure and other public facilities.

Finding #2: The development agreement is in conformance with the public convenience and general welfare of persons residing in the immediate area and will not be detrimental or injurious to property or persons in the general neighborhood or to the general welfare of the residents of the City as a whole.

> Evidence #2: The DA will allow the associated residential subdivisions to be built out consistent with the General Plan and LRSP land use designations. Build-out of these subdivisions must still comply with the associated conditions of approval and all obligations related to infrastructure and public facilities must still be met.

Finding #3: The development agreement will promote the orderly development of property or the preservation of property values.

Evidence #3: The DA will promote the orderly development of property and the preservation of property values in that the DA will not modify the underlying land uses and will require all necessary infrastructure improvements. The DA would allow the Project site to develop consistent with the General Plan and LRSP.

Section 3: Action

The City Council hereby approves the Richland Communities Laguna Ridge Development Agreement between the City of Elk Grove, Richland Planned Communities, Inc., and Beazer Homes Holdings, LLC in substantially the form attached hereto as Exhibit B, and incorporated herein by this reference, all subject to approval as to form by the City Attorney. The City Manager is hereby authorized and directed to execute the Development Agreement on behalf of the City.

Section 4: No Mandatory Duty of Care.

This ordinance is not intended to and shall not be construed or given effect in a manner that imposes upon the City or any officer or employee thereof a mandatory duty of care towards persons and property within or without the City, so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

Section 5: Severability

If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. This City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the ordinance be enforced.

Section 6: Savings Clause

The provisions of this ordinance shall not affect or impair an act done or right vested or approved or any proceeding, suit or prosecution had or commenced in any cause before such repeal shall take effect; but every such act done, or right vested or accrued, or proceeding, suit or prosecution shall remain in full force and effect to all intents and purposes as if such ordinance or part thereof so repealed had remained in force. No offense committed and no liability, penalty or forfeiture, either civilly or criminally incurred prior to the time when any such ordinance or part thereof shall be repealed or altered by said Code shall be discharged or affected by such repeal or alteration; but prosecutions and suits for such offenses, liabilities, penalties or forfeitures shall be instituted and proceeded with in all respects as if such prior ordinance or part thereof had not been repealed or altered.

Section 7: Effective Date and Publication

This ordinance shall take effect thirty (30) days after its adoption. In lieu of publication of the full text of the ordinance within fifteen (15) days after its passage, a summary of the ordinance may be published at least five (5) days prior to and fifteen (15) days after adoption by the City Council and a certified copy shall be posted in the office of the City Clerk, pursuant to GC 36933(c)(1).

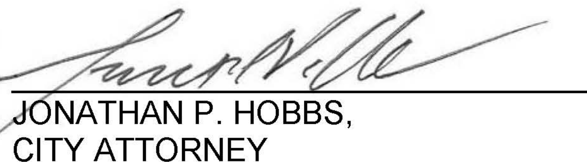
ORDINANCE: **20-2020**
INTRODUCED: July 27, 2022
ADOPTED: August 10, 2022
EFFECTIVE: September 9, 2022

BOBBIE SINGH-ALLEN, MAYOR of the CITY OF ELK GROVE

ATTEST:

JASON LINDGREN, CITY CLERK

APPROVED AS TO FORM:



JONATHAN P. HOBBS, CITY ATTORNEY

Date signed: August 15, 2022

Exhibit A – Project Description

The Applicant, Richland Planned Communities, Inc. is requesting to enter into a Development Agreement (DA) that would extend the life of the previously-approved Tentative Subdivision Maps for the Arbor Ranch, Moser, Tuscan Ridge South, Treasure Homes, and Madeira South (Phase 4) subdivision projects through June 1, 2027. Beazer Homes Holdings, LLC will be a party to the DA.

EXHIBIT B

OFFICIAL CITY BUSINESS
NO Recording fee
Government Code Section 6103

RECORDING REQUESTED BY:

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

WHEN RECORDED MAIL TO:

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

Richland Planned Communities
3161 Michelson Drive, Suite 425
Irvine, CA 92612
Attn: Legal Dept.

Beazer Homes Holdings
2710 Gateway Oaks Dr. Ste 190-N
Sacramento, CA 95833
Attn: Legal Dept.

Space Above This Line for Recorder's Use
(Exempt from Recording Fees per Gov't Code § 6103)

DEVELOPMENT AGREEMENT

BETWEEN

THE CITY OF ELK GROVE,

RICHLAND PLANNED COMMUNITIES, INC.,

AND

BEAZER HOMES HOLDINGS, LLC

________ 2022

DEVELOPMENT AGREEMENT

This Development Agreement (this "Agreement") is entered into by the City of Elk Grove ("City") on the one hand, and Richland Planned Communities, Inc., a California corporation and Beazer Homes Holdings, LLC, a Delaware limited liability company (collectively "Developers" and individually "Developer"), on the other hand. City and Developers each may be referred to herein individually as a "Party" and collectively may be referred to as the "Parties".

RECITALS

A. The Laguna Ridge Specific Plan ("LRSP") encompasses approximately 1,900 acres in the southwestern portion of the City. Approved land uses within the LRSP include single and multifamily residential, commercial, office, City civic center, paseos, pedestrian corridors, and parks.

B. The LRSP was approved and an Environmental Impact Report (State Clearinghouse No. 2000082139) ("EIR") for the LRSP was certified by the Elk Grove City Council ("City Council") on June 16, 2004.

C. The City Council previously approved tentative subdivision maps for several residential development projects located within the LRSP. These developments include projects known as: Arbor Ranch, Madeira South, Moser, Treasure Homes II, and Tuscan Ridge South II. These developments are referred to herein individually as a "Project" and collectively as the "Projects."

D. In total, the Projects propose 1,310 single-family residential lots, school lots, park lots, parkway lots, detention basins, and landscape lots. The Projects are located on approximately 320 acres of real property in the incorporated portion of the City and are individually described in the legal descriptions attached hereto as Exhibits 1A through 1E (referred to herein individually as a "Property" and collectively as the "Properties").

E. Developers hereby represent and warrant that certain of Developers' affiliates (the "Property Owners") hold legal, fee title interest in the Properties, described in Exhibit 1, which properties collectively comprises approximately 298 acres of land.

F. The current expiration dates of the Projects' tentative subdivision maps range from September 14, 2022, to December 7, 2023.

G. City wishes to obtain commitments from Developers to provide for: (a) residential growth anticipated to result from the development of the Properties in accordance with the Project Approvals and this Agreement; (b) an increase in tax revenues anticipated to result from development of the Property; (c) the achievement of the goals and directives of its General Plan; and (d) the completion of major area wide infrastructure improvements only partially completed to date.

H. As consideration for providing such commitments to City, Developers wishes to obtain certain vested rights as specifically laid out within the Agreement, and to receive other City

commitments and assurances regarding Developers' rights and abilities to develop the Projects on the Properties, as set forth herein.

I. The Parties wish to accomplish these purposes by entering into this Agreement pursuant to the Development Agreement Law.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and legal sufficiency of which is hereby acknowledged, the Parties do hereby agree as follows:

TERMS AND CONDITIONS

1.0 DEFINITIONS.

1.1 Definitions. This Agreement uses a number of terms having specific meanings, as defined below. These specially defined terms are distinguished by having the initial letter capitalized when used in this Agreement. The defined terms include the following:

"Adopting Ordinance" means City Ordinance No. __________ of the City Council adopted on ____________________, 2022 approving this Agreement.

"Agreement" means this Development Agreement as set forth in the first paragraph of this Agreement.

"Arbor Ranch Tentative Subdivision Map" means that certain Tentative Subdivision Map (EG-10-060) approved by City Council Resolution No. 2011-221 and attached hereto as Exhibit 2A.

"CCSD" means the Cosumnes Community Services District and depending on the context, may include its agents, officers, employees, representatives and elected and appointed officials.

"CFD" means a Community Facilities District formed pursuant to the Mello-Roos Community Facilities Act of 1982 (Government Code § 53311 et seq.).

"City" means the City of Elk Grove and depending on the context, may include its agents, officers, employees, representatives and elected and appointed officials.

"City Council" means the City Council of the City of Elk Grove and its designees.

"Conditions of Approval" refers to the conditions imposed by the City Council in connection with its approval of the Tentative Subdivision Maps.

"Development" means the improvement of the Properties for the purposes of constructing structures, improvements and facilities on the Properties. "Development" also includes the maintenance, repair and replacement of any building, structure, improvement, landscaping or facility after the construction and completion thereof on the Properties.

"Development Agreement Law" means Government Code Section 65864, et seq.

"Development Fees" means and includes all fees charged by the City and other applicable agencies in connection with a development of property for the purpose of defraying all or a portion of the cost of mitigating the impacts of the property and development of the public facilities related to development of the property; and any similar governmental fees, charges and exactions required for the development of the property. Development Fees does not mean and excludes processing fees and charges of every kind and nature imposed by City generally to cover the estimated actual costs to City of processing applications for development approvals. Development Fees does not mean and excludes fees established by federal, state, county, and multi-jurisdictional laws and regulations which City is required to enforce as against properties or developments.

"Developers" means Richland Planned Communities, Inc., a California corporation and Beazer Homes Holdings, LLC, a Delaware limited liability company and also where specified in this Agreement, Successor(s) to all or any part of the Properties. The singular term "Developer" shall mean either of the Developers, as indicated by the context of this Agreement.

"Effective Date" means September 9, 2022.

"EIR" means that certain Draft and Final Environmental Impact Report for the Laguna Ridge Specific Plan, State Clearinghouse No. 2000082139, as certified by the City Council.

"Final Map" means a "final map," as that term is used in the Subdivision Map Act (Government Code Section 66410, et seq.) that has been approved by the City Council.

"Land Use Regulations" means all ordinances, resolutions, codes, rules, regulations and official written policies of City adopted and effective on or before the Effective Date governing the Development and use of the Properties, including, without limitation, the permitted use of land, the density or intensity of use, the rate of development of land, subdivision requirements, the maximum height and size of proposed buildings, the provisions for reservation or dedication of land for public purposes, and the design, improvement and construction standards and specifications applicable to the Development of the Properties, including, but not limited to, the Project Approvals. Land Use Regulations includes the City's Land Secured Financing Policy dated May 22, 2019. Land Use Regulations does not mean and excludes Development Fees.

"LRSP" means the Laguna Ridge Specific Plan as adopted by the City Council in June 2004 and last amended by the City Council in December 2019.

"Madeira South Tentative Subdivision Map" means that certain Tentative Subdivision Map (EG-05-943) approved by City Council Resolution No. 57-2006 and attached hereto as Exhibit 2B.

"Mitigation Measures" means the mitigation measures included in the EIR or the Mitigation Monitoring and Reporting Program as adopted by the City Council.

"Mitigation Monitoring and Reporting Program" means the Mitigation Monitoring and Reporting adopted by the City Council in connection with its certification of the EIR.

"Moser Tentative Subdivision Map" means that certain Tentative Subdivision Map (EG-17-001) approved by City Council Resolution No. 2017-28 and attached hereto as Exhibit 2C.

"NGA Project" means New Growth Area Projects (Big Horn Blvd, Bilby Road and Sewer Lift Station) previously delivered by the City which partially benefit adjacent developments within the LRSP and Southeast Policy Area.

"Project(s)" has the meaning set forth in Recital C.

"Project Approvals" means every land use approval granted by the City for the Projects as of the Effective Date, as further described by the land use approvals listed in Exhibits 2A through 2E .

"Properties" means the real property described in Exhibits 1A through 1E.

"Required Improvements" means any and all infrastructure and facilities, on-site or off-site, necessary to serve the Project(s), including but not limited to streets, curb, gutter, sidewalks, drainage facilities, public utilities (i.e., sewer, water, recycled water), streetlights, traffic signals, parks, trails, landscape corridors/parkways, and similar.

"Successor" means any assignee approved by the City pursuant to Section 11 (i.e., any recognized successor-in-interest under this Agreement), and all subsequent assignees approved by the City pursuant to Section 11.

"Subdivision Map Act" means Government Code Section 66410, et seq.

"Subsequent Approval(s)" means any and all land use, environmental, building and development approval(s), entitlement(s) and permit(s) granted by the City after the initial Project Approvals to develop and operate the Projects on the Properties, including but not limited to amendments and modifications to any Project Approvals; boundary changes; final subdivision maps and lot line adjustments; subdivision improvement agreements; development review; site plan review; use permits and conditional use permits; design review; building permits; grading permits; improvement plans; encroachment permits; certificates of occupancy; formation of financing districts or other financing mechanisms; and any amendments thereto (administrative or otherwise).

"Subsequently Adopted Rule(s)" means any Land Use Regulations adopted and effective after the Effective Date governing development and use of the Properties.

"Tentative Subdivision Maps" means the Arbor Ranch Tentative Subdivision Map, the Madeira South Tentative Subdivision Map, the Moser Tentative Subdivision Map, the Treasure Tentative Subdivision Map, and the Tuscan Ridge South Tentative Subdivision Map.

"Term" means the term of this Agreement and the Tentative Subdivision Maps as defined in Sections 3.1 and 5.0 respectively.

"Treasure Tentative Subdivision Map" means that certain Tentative Subdivision Map (EG-03-486A) approved by City Council Resolution No. 2018-060 and attached hereto as Exhibit 2D.

"Tuscan Ridge South Tentative Subdivision Map" means that certain Tentative Subdivision Map (EG-15-038) approved by City Council Resolution No. 2018-061 and attached hereto as Exhibit 2E.

"Vested Rights" are the rights to proceed with Development of the Projects in accordance with the terms and scope of the Project Approvals and the Land Use Regulations.

2.0 REPRESENTATIONS, WARRANTIES AND ACKNOWLEDGMENTS.

2.1 Title to Properties. Developers hereby represent and warrant that legal, fee title interest in the Properties is vested in the Property Owners.

2.2 Authority. The Parties represent and warrant that the persons signing this Agreement are duly authorized to enter into and execute this Agreement on behalf of their respective principals.

2.3 Brokers. The Parties represent and warrant that they have had no dealings with any real estate broker or agent in connection with the negotiation of this Agreement, and that they know of no other real estate broker or agent who is entitled to a commission in connection with this Agreement. In the event any real estate broker or agent shall come forward and claim the right to a commission or other form of compensation in connection with this Agreement, each Developer shall, severally but not jointly, defend, indemnify, and hold harmless City for such Developer's actions in accordance with Section 10.

2.4 Compliance with Government Code Section 66473.7. A subdivision, as defined in Government Code Section 66473.7, shall not be approved unless any tentative map prepared for the subdivision complies with the provisions of said Section 66473.7. This provision is included in this Agreement to comply with Section 65867.5(c) of the Government Code.

3.0 TERM AND TERMINATION.

3.1 Term. The Term of this Agreement shall commence on the Effective Date and shall continue until 11:59 p.m. on June 1, 2027.

3.2 Automatic Termination Upon Sale and Completion of Individual Lots. Except as otherwise provided herein, this Agreement shall automatically be terminated with respect to any improved residential lot within a parcel that is shown on a Final Map and designated by the Project Approvals for such use, without any further action by any Party or need to execute or record any additional document(s), upon issuance by City of a final occupancy certificate for a residential structure or dwelling unit upon such lot and conveyance of such lot by Developers, or either of them, to a bona-fide, good-faith purchaser. In connection with its issuance of a final inspection for such lot, City shall confirm that all improvements which are required to serve the lot have been completed and dedicated to and accepted by City, and all applicable fees have been paid by the applicable Developer. Termination of this Agreement as to any such lot shall not be construed to terminate or modify any applicable assessment district or special tax lien with respect to such lot.

3.3 Termination by Mutual Consent. This Agreement may be terminated in whole or in part by the mutual written consent of the Parties. Any fees paid or improvements dedicated to the City prior to the effective date of such termination shall be retained by City.

3.4 Effect of Termination. Termination of this Agreement, whether by mutual written consent as provided in Section 3.3, default as provided in Section 9, or by expiration of its own accord, shall not: (1) affect any obligation under this Agreement owed by one Party to another which has already arisen under the terms of this Agreement as of the date of such termination; (2) affect those provisions of this Agreement which provide that they shall survive the termination of this Agreement; (3) be construed to terminate or modify any applicable covenant, condition, servitude or restriction that runs with the land and binds Successor(s); (4) affect the validity of any structure on the Properties or improvement which is completed as of the date of termination and is in compliance with all necessary permits; or (5) prevent Developers, or either of them, from completing any structure on the Properties or improvement under construction at the time of termination, provided that any such structure or improvement is completed in accordance with all necessary permits.

a. Upon termination of this Agreement, whether by mutual written consent as provided in Section 3.3, default as provided in Section 9, or by expiration of its own accord, the Project Approvals and any amendments thereto shall remain in effect and not automatically be repealed or rescinded, but Developers shall no longer have Vested Rights to them except to the extent that Developers have independently acquired a common law vested right to them.

4.0 PROJECT APPROVALS AND VESTED RIGHTS.

4.1 Vesting of Project Approvals and Land Use Regulations. Commencing on the Effective Date, and all times during the Term of this Agreement, each Developer shall have Vested Rights in the Project Approvals and Land Use Regulations, subject only to the limitations set forth in this Agreement.

4.2 Subsequent Approvals. The Parties acknowledge that to develop the Projects on the Properties, Developers will need to obtain City approval of various Subsequent Approvals. For any Subsequent Approval proposed by Developers, or either of them, the applicable Developer shall file an application with City for the Subsequent Approval at issue in accordance with the requirements of the City Municipal Code. Provided that such application is in a proper form and includes all required information and payment of any applicable fees, City shall diligently and expeditiously process each such application and City shall exercise its reasonable discretion and the applicable Developer shall pay all costs associated therewith. City shall retain the full range of its discretion in its consideration of any and all Subsequent Approvals as provided for under applicable law.

a. To the extent that an application for a Subsequent Approval does not propose a net increase in the number of single-family residential units within the Projects above that approved in conjunction with the LRSP, the proposed modification(s) may be deemed by the City to substantially conform to the Project Approvals and to all previously-issued Subsequent Approvals, and the fact that such application would result in adjustments to street and lot patterns, lot sizes and specific land uses within the Properties (without increasing the number of permitted residential units) may not, in and of itself, be a basis for the City to deny such application, at the discretion of the City.

4.3 City's Reserved Discretion; Subsequently Adopted Rules. City may apply to the Properties and the Projects any Subsequently Adopted Rules, only to the extent that such Subsequently Adopted Rules are generally applicable to other similar residential developments in the City and only to the extent that such application would not conflict with any of the Vested Rights granted to Developers under this Agreement.

a. For purposes of this Agreement, any Subsequently Adopted Rules shall be deemed to conflict with a Developer's Vested Rights if it:

i. Seeks to limit or reduce the density or intensity of development of the Properties or the Projects or any part thereof;

ii. Would change any land use designation or permitted use of the Properties without the consent of the impacted Developer;

iii. Would limit or control the location of buildings, structures, grading, or other improvements of the Projects, in a manner that is inconsistent with the Project Approvals, subject to this Agreement;

iv. Would limit the timing or rate of the development of the Projects. City hereby acknowledges and agrees that Developers, and each of them, shall have the right to develop the Projects on the Properties (or any portion thereof) at such rate, and at such times as each Developer deems appropriate within its exercise of subjective business judgment. City further acknowledges and agrees that this Agreement does not require either Developer to commence or complete development of the Projects or any portion thereof within any specific period of time unless incompletion of the development of the Projects or any portion thereof would pose an imminent threat to public health and safety. This limitation on Subsequently Adopted Rules is expressly intended to prohibit City Council initiated moratoria or other City Council initiated land use or growth controls for the Term of the Agreement. Such moratoria or land use growth controls that are adopted by a vote of the electorate of the City pursuant to initiative are not prohibited; or

v. Seeks to amend or modify any Land Use Regulations governing the Development and use of the Properties.

b. Notwithstanding the foregoing, and by way of example but not as a limitation, City shall not be precluded from applying any Subsequently Adopted Rules to development of the Projects on the Properties where the Subsequently Adopted Rules are:

i. Specifically mandated by changes in state or federal laws or regulations adopted after the Effective Date as provided in Government Code Section 65869.5;

ii. Specifically mandated by a court of competent jurisdiction;

iii. Changes to the Uniform Building Code or similar uniform construction codes, or to City's local construction standards for public improvements so long as any such code or standard has been adopted by the City Council and is in effect on a Citywide basis.

c. Notwithstanding the foregoing, and as provided in Section 11.5 below, Developers, or either of them, or any Successor may request, and the City may consent to the application of Subsequently Adopted Rules as provided for in an amended LRSP or other City regulation that would be applicable to the Properties subject to the terms of this Agreement. Application of the Subsequently Adopted Rules shall not constitute an amendment to this Agreement. A Developer's or Successor's agreement to apply Subsequently Adopted Rules shall be applicable only to the Developer's or Successor's interest in the Project(s) and/or Property(ies) and shall not be binding on other Successor(s) without their express written consent.

d. Notwithstanding any other provision of this section or this Agreement, any Subdivision Improvement Agreement ("SIA") approved pursuant to and subject to this Agreement shall require that the applicable Developer complete all required improvements under the SIA within three (3) years of approval of the SIA by the City unless time extensions of the SIA are granted by the City at their sole discretion.

4.4 Building Codes Applicable. The Project shall be constructed in accordance with the California Building Standards Codes, Title 24 of the California Code of Regulations, as adopted and amended by City, as the same shall be in effect as of the time of approval of the permit in question. If no permit is required for a given infrastructure improvement or other improvement, such improvement will be constructed in accordance with said codes in effect in the City as of the commencement of construction of such improvement.

4.5 Meet and Confer. If either Developer believe that City is taking action that may impair Vested Rights conferred by this Agreement, such Developer shall provide written notice to City describing the basis for Developer's position within thirty (30) days of such claim and shall request a meeting with City within thirty (30) days thereafter. The failure to provide notice and/or request a meeting shall not impair the Developer's right to interim relief such as an injunction or temporary restraining order. Before taking such action, the Developer shall meet and confer with City in a good faith effort to arrive at a mutually agreeable solution.

4.6 Referendum. Developers shall not acquire Vested Rights under this Agreement (or to any amendment thereto): (1) while such approval is or amendment is still potentially subject to referendum as provided in Section 9235 of the California Elections Code, or (2) in the event that such approval or amendment is reversed by referendum.

4.7 Court Order or Judgment. Notwithstanding anything in this Agreement to the contrary, any Vested Rights acquired by Developers, or either of them, with respect to any Project Approvals or Land Use Regulations shall be deemed a nullity without compensation to the impacted Developer(s) in the event that such Project Approvals or Land Use Regulations are overturned or set aside by a court of law. Any invalidated Project Approvals or Land Use Regulations shall regain its vested right status in the event the court's decision invaliding the Project Approvals or Land Use Regulations is reversed on appeal.

5.0 TERMS OF TENTATIVE SUBDIVISION MAPS.

5.1 Term of Arbor Ranch Tentative Subdivision Map. The Arbor Ranch Tentative Subdivision Map shall be valid until 11:59 p.m. on June 1, 2027.

5.2 Term of Madeira South Tentative Subdivision Map. The Madeira South Tentative Subdivision Map shall be valid until 11:59 p.m. on June 1, 2027.

5.3 Term of Moser Tentative Subdivision Map. The Moser Tentative Subdivision Map shall be valid until 11:59 p.m. on June 1, 2027.

5.4 Term of Treasure Tentative Subdivision Map. The Treasure Tentative Subdivision Map shall be valid until 11:59 p.m. on June 1, 2027.

5.5 Term of Tuscan Ridge South Tentative Subdivision Map. The Tuscan Ridge South Tentative Subdivision Map shall be valid until 11:59 p.m. on June 1, 2027.

6.0 FEES, IMPROVEMENTS, AND MITIGATION MEASURES.

6.1 Development Fees. Each Developer shall pay or cause to be paid, at the time normally required by the City or as specified in the Conditions of Approval, any applicable Development Fees in the amount due and in effect at the time of payment, unless otherwise noted herein or in conformance with a fee deferral program administered by any specific agency or district. These Development Fees include but are not limited to the following: Application Fees, Capital Facilities Fee, Affordable Housing Fee, Roadway Fee, Active Transportation Fee (pending), I-5 Freeway Sub-Regional Corridor Mitigation Fee, NGA Project In-Lieu Payment, LRSP Phase 3 Drainage Fee, LRSP Parks Fee, LRSP Supplemental Park Fee, and any applicable fees required by outside agencies other than the City.

6.2 Credits and Reimbursements. Each Developer shall be eligible for reimbursement in the form of cash or credits for all development of the Projects on the Properties, including without limitation, all land acquisitions and dedications, in accordance with City Municipal Code Chapters 16.95 and 22.40 and all other applicable City Codes and Policies for cash or credit and reimbursement, and as otherwise provided herein. City will provide reimbursement to the Projects against public improvements and land dedications covered under existing Development Fees or CFDs or those created to apply to the LRSP by the City Council. The applicable fee programs and/or use of CFD bond proceeds or special taxes as a source of cash or credit reimbursement shall be governed by their respective governing documents (as to CFDs, including but not limited to, the bond indenture and acquisition agreement and as to Development Fees, the applicable nexus reports), which shall set forth how reimbursement is to occur and which shall include applicable limitations imposed by the City in accordance with the Laguna Ridge Community Facilities District Guiding Principles and the City's Land Secured Financing Policy, which shall include that in no event may Developers, or either of them, be reimbursed twice (as determined by the City) for the same facility.

6.3 Sewer Impact Fee Credits. To the extent available and applicable, Developers shall purchase sewer impact fee credits from the City to mitigate impacts associated with any component of the Project(s) located within the LRSP South Sewer Shed. Should City have no remaining sewer credits available, a Developer may purchase sewer credits from other sources, including without limitation the Sacramento Area Sewer District (SASD), and/or satisfy its sewer impact obligation by other proper and lawful means. Developers shall remit payment for credits directly to the City when the fees are typically due to SASD. City agrees to sell City sewer credits to Developers in a timely manner at a price equivalent to that being charged by SASD at the time the

credits are purchased by Developers from the City. This Section 6.3 shall not apply to the "Arbor Ranch" Project, attached hereto as Exhibit 1A, as it is anticipated that Developers will satisfy their sewer impact obligations by constructing eligible sewer improvements within the "Arbor Ranch" Project.

6.4 Required Improvements. Developers, and each of them, hereby agree to undertake the dedication and/or acquisition, design and delivery of Required Improvements as defined in Section 1.0 and as set forth in the Conditions of Approval for each Project as provided in Exhibits 2A through 2E. Required Improvements for any Final Map or phased Final Map shall follow an orderly progression of development and shall be delivered to adequately serve the Final Map area or phased Final Map area as determined by the City and applicable outside agencies in consultation with the Developers. Any Final Map or phased Final Map shall include a collector and/or local street system that provides at least two points of access arterial and/or thoroughfare streets, to the satisfaction of the City, unless the street system serves forty (40) residential units or fewer, in which case the City may allow a single point of access to be provided. Interim improvements may be delivered by the Developers, or either of them, to the satisfaction of the City, however, the Developers acknowledge that interim improvements may not be eligible for credits and reimbursements under Section 6.2 of this Agreement. All public rights-of-way, easements, and/or other interest in land to be transferred to the City, associated with any Final Map or phased Final Map shall be dedicated in a form acceptable to the City as part of the Final Map process.

6.5 Mitigation of EIR Impacts. Development of the Projects on the Properties shall conform to and implement the Mitigation Measures in accordance with the Mitigation Monitoring and Reporting Program.

6.6 Liens. Whenever Developers, or either of them, shall dedicate an interest in land to the City, the property shall be free and clear of all liens, taxes, assessments and encumbrances except as allowed by the City.

6.7 Escrow Account. An escrow account may be used at the City's reasonable discretion, in connection with any of Developers' required dedications. All fees and costs of such escrow accounts shall be shared equally by the Parties.

6.8 Other Public Agencies. Nothing in this Agreement is intended to affect the authority of public agencies other than the City to impose dedications or improvement conditions or fees on development of the Properties.

6.9 City Engineer. All improvements and work performed by Developers, or either of them, in connection with the Projects shall be to the reasonable satisfaction of either the City Engineer or Public Works Director or Development Services Director, or their designee(s).

7.0 PARTICIPATION IN EXISTING CITY COMMUNITY FACILITIES AND/OR ASSESSMENT DISTRICTS.

7.1 Annexation. Prior to the approval of any Final Map for any Project, the applicable Developer shall consent to annexation of the Property/parcels included in the Project to the City's facilities financing, maintenance, and services districts provided that such annexation is required by the Conditions of Approval for the Project.

7.2 Assessment Rate. The assessment rate for each facilities, maintenance, or service district shall be calculated and determined by the City in its reasonable discretion and shall be subject to annual adjustments in accordance with the provisions of the applicable district, state and local rules and regulations and City policies and practices.

8.0 AMENDMENTS TO THIS AGREEMENT

8.1 Amendment by Mutual Consent. This Agreement may be amended in writing from time to time by mutual consent of all of the Parties hereto and in accordance with the procedures of the Development Agreement Law. An amendment to this Agreement which only impacts a particular Project or Projects (but less than all of the Projects identified at Recital C) shall only require the consent of the City and the relevant Developer and Property Owner for that Project or Projects.

8.2 Amendment of Project Approvals. Any amendment of Project Approvals shall require an amendment of this Agreement in accordance with the procedures of the Development Agreement Law. Amendments of Subsequent Approvals shall not require amendment of this Agreement.

9.0 DEFAULT

9.1 Default. The failure of any Party to this Agreement to perform any obligation or duty under this Agreement within the time required by this Agreement shall constitute an event of default. For purposes of this Agreement, a Party asserting that another Party is in default shall be referred to as the "Complaining Party" and the Party asserted to be in default shall be referred to as the "Defaulting Party."

9.2 Notice. The Complaining Party may not place the Defaulting Party in default unless it has first given written notice to the Defaulting Party, specifying the nature of the default and the manner in which the default may be cured. Any failure or delay by the Complaining Party in giving such notice shall not waive such default or waive any of the Complaining Party's remedies.

9.3 Cure. The Defaulting Party shall have thirty (30) days from the receipt of notice to cure the default. If the default is not cured within thirty (30) days of receipt of such notice, the Defaulting Party shall be in breach of this Agreement; provided, however, that if the default cannot be reasonably cured within such thirty (30)-day period, the default shall be deemed cured if: (1) the cure is commenced at the earliest practicable date following receipt of notice; (2) the cure is diligently prosecuted to completion at all times thereafter; (3) at the earliest practicable date (but in no event later than thirty (30) days after receiving the notice of default), the Defaulting Party provides written notice to the Complaining Party that the cure cannot be reasonably completed within such thirty (30) day period; and (4) the default is cured at the earliest practicable date, but in no event later than ninety (90) days after receipt of the first notice of default.

9.4 Remedies. If the Defaulting Party fails to cure a default in accordance with the foregoing, the Complaining Party shall have the right to terminate this Agreement with respect to the relevant Project or Projects upon notice to the Defaulting Party and may pursue such legal and equitable remedies as are available under this Agreement.

9.5 Waiver of Damages. Developers, and each of them, acknowledge that under the Development Agreement Law, land use approvals (including development agreements) must be approved by the City Council and that under law, the City Council's discretion to vote in any particular way may not be constrained by contract. Developers, and each of them, therefore, waive all claims for damages against the City in the event that this Agreement or any Project Approval is: (1) not approved by the City Council or (2) is approved by the City Council, but with new changes, amendments, conditions or deletions to which Developers, or either of them, are opposed. Developers further acknowledge that as an instrument which must be approved by ordinance, a development agreement is subject to referendum; and that under law, the City Council's discretion to avoid a referendum by rescinding its approval of the underlying ordinance may not be constrained by contract, and Developers, and each of them, waive all claims for monetary damages against the City in this regard. Notwithstanding anything in this Agreement to the contrary, the Parties acknowledge that the City would not have entered into this Agreement had it been exposed to liability for monetary damages from Developers, or either of them, and that therefore, Developers, and each of them, hereby waive any and all claims for monetary damages against the City for breach or default of this Agreement. Nothing in this section is intended to nor does it limit Developers' or the City's rights to equitable remedies as permitted by law, such as injunctive and/or declaratory relief, provided that the applicable Developer(s) waive any claims to monetary damages in conjunction with any such requested relief.

9.6 Rescission. In the event Developers, or either of them, believe that the purposes of this Agreement have been frustrated by the City Council's approval of this Agreement or any Project Approvals with new changes, amendments, conditions or deletions to which Developers are opposed, Developers, or either of them, shall have ten (10) days after such approval in which to provide written notice to the City that this Agreement shall be rescinded with respect to such Developer's Projects, without any further liability of the Parties.

10.0 INSURANCE AND INDEMNITY

10.1 Indemnification, Defense and Hold Harmless. Developers, severally but not jointly, shall indemnify, defend, and hold harmless to the fullest extent permitted by law, the City from and against and all claims, liability, loss, damage, expense, costs (including without limitation costs and fees of litigation) of every nature arising out of or in connection with this Agreement relating to such Developer's Project(s) (including any challenge to the adoption or validity of any provision of this Agreement); provided, however, that Developers shall have no obligation under this Section for such loss or damage which was caused by the negligence or willful misconduct of the City, or with respect to the maintenance, repair or condition of any improvement after dedication to and acceptance by the City or another public entity (except as provided in an improvement agreement or warranty bond). This indemnification obligation shall survive this Agreement and shall not be limited by any insurance policy, whether required by this Agreement or otherwise.

a. In the event that any Developer herein disputes whether a matter arises out of or is connected or related to that Developer's Project(s) so as to impose an obligation to indemnify, defend, and/or hold harmless the City pursuant to the foregoing paragraph, then the City, in its sole and reasonable discretion, shall have the right to determine which Developer(s), either individually or collectively, shall be obligated to indemnify, defend, and hold harmless the City pursuant to the foregoing paragraph, and such Developer(s), as determined by the City, shall

then be obligated to indemnify, defend, and hold harmless the City in accordance with the foregoing paragraph to the fullest extent permitted by law.

b. In the event of any administrative, legal or equitable action instituted by any third party challenging this Agreement or any City approval, consent or action made in connection with this Agreement (each a "Third Party Challenge"), the City may tender the defense to the Developer(s) whose Project(s) are implicated by such Third Party Challenge. In the event of such tender, such Developer(s) shall indemnify the City against any and all fees and costs arising out of the defense such Third Party Challenge. Developers shall be entitled to direct the defense of such Third Party Challenge, provided the City's consent shall be required for any settlement.

c. If Developers, or either of them, should fail to timely accept a tender of defense as provided above, City may assume the control of the defense and settlement of such Third Party Challenge and make any decisions in connection therewith in its reasonable discretion. Such assumption of the defense by the City shall not relieve Developers, or either of them, of their indemnification obligation for such Third Party Challenge.

10.2 Required Policies. Each Developer shall at all times during any construction activity with respect to the Project maintain a policy in an amount of Two Million Dollars ($2,000,000.00) combined single limit of: (1) comprehensive general liability insurance with policy limits reasonably acceptable to the City; and Workers' Compensation insurance for all persons employed by Developers for work at the Project site. Each Developer shall require each contractor and subcontractor similarly to provide Workers' Compensation insurance for their respective employees.

10.3 Policy Requirements. The aforesaid required policies shall: (1) contain an additional insured endorsement naming the City, its elected and appointed boards, commissions, officers, agents, employees and representatives; (2) include either a severability of interest clause or cross-liability endorsement; (3) require the carrier to give the City at least fifteen (15) business days' prior written notice of cancellation or reduction in coverage; (4) be issued by a carrier admitted to transact insurance business in California; and (5) be in a form reasonably satisfactory to the City.

10.4 Evidence of Insurance. Prior to commencement of any construction activity with respect to the Project, each Developer shall furnish evidence satisfactory to the City of the insurance required above.

11.0 BINDING EFFECT ON SUCCESSORS.

11.1 Assignment. Subject to the provisions of this Section 11, Developers, and each of them, shall have the right to assign or transfer all or any portion of its interests, rights, or obligations under the Project Approvals, this Agreement, and the Subsequent Approvals to one or more successor(s) acquiring a legal or equitable interest in the Properties, or any portion thereof, as provided for herein. Each Developer agrees to promptly notify the City of any sale, transfer, or assignment of all or any portion of the Properties. No sale, transfer, or assignment of all or any portion of the Properties shall operate to release a Developer from any liability or obligation hereunder unless and until the review and approval by City of a Successor and a Transfer

Agreement (as defined below) with respect to the Properties or portion thereof being sold, transferred, or assigned.

11.2 Transfer Agreements. In connection with the transfer or assignment by Developers, or either of them, of all or any portion of the Properties, such Developer(s) and the Successor shall enter into a written transfer agreement that is substantially in the form attached hereto as Exhibit 4 ("Transfer Agreement") regarding the respective interests, rights, and obligations of the applicable Developer(s) and the Successor in and under the Project Approvals, this Agreement, and the Subsequent Approvals. Such Transfer Agreement shall:

a. Release the applicable Developer(s) from obligations under the Project Approvals and this Agreement, or the Subsequent Approvals that pertain to that portion of the Property being transferred, as described in the Transfer Agreement, provided that the Successor expressly assumes such obligations;

b. Transfer to the Successor Vested Rights, to the extent provided in this Agreement, to improve that portion of the Property being transferred; and

c. Require the Successor to secure all required bonds and insurance as required under this Agreement and/or the Project Approvals.

City's review and approval of the Transfer Agreement shall be performed by the City Manager and the City Attorney (or their designee) and such approval shall not be unreasonably conditioned or withheld. The applicable Developer(s) and/or Successor shall pay to City all of City's reasonable costs associated with review, approval or denial, and/or appeal of the Transfer Agreement. Any Transfer Agreement shall be binding on the applicable Developer(s) and the Successor. Once approved by the City Manager and the City Attorney, the Transfer Agreement shall be recorded by the City on the subject Property at Successor's expense.

11.3 <u>Subsequent Assignments</u>. Any Successor may assign its rights under this Agreement by complying with the procedures set forth in this Section.

11.4 <u>Runs with the Land</u>. Except as otherwise provided in this Section, all of the provisions, rights, terms, covenants, and obligations contained in this Agreement shall be binding upon the Parties and their respective heirs, successors and assignees, representatives, lessees, and all other persons acquiring the Properties or any portion thereof, or any interest therein, whether by operation of law or in any manner whatsoever. All of the provisions of this Agreement shall be enforceable as equitable servitudes and shall constitute covenants running with the land pursuant to applicable laws, including, but not limited to, Section 1466 of the Civil Code of the State of California. Each covenant to do, or refrain from doing, some act on the Properties hereunder: (a) is for the benefit of such properties and is a burden upon such properties; (b) runs with such properties; and (c) is binding upon each Party and each successive owner during its ownership of such properties or any portion thereof, and shall be a benefit and a burden upon each Party and its properties hereunder and each other person succeeding to an interest in such properties.

11.5 <u>Subsequently Adopted Rules</u>. As provided in Section 4.3(c) above, the City and any individual Successor may mutually agree, in a writing signed by the Parties, to apply to the

Property and the Project any Subsequently Adopted Rules that would otherwise not be applicable to the Property and the Project under this Agreement.

12.0 MISCELLANEOUS

12.1 Estoppel Certificate. Any Party may at any time request the other Party to certify in writing that: (1) this Agreement is in full force and effect; (2) this Agreement has not been amended except as identified by the other Party; and (3) to the best knowledge of the other Party, the requesting Party is not in default, or if in default, the other Party shall describe the nature and any amount of any such default. The other Party shall use its best efforts to execute and return the estoppel certificate to the requesting Party within thirty (30) days of the request. The City Manager shall have authority to execute such certificates on behalf of the City.

12.2 Recordation. This Agreement shall not be operative until recorded with the Sacramento County Recorder's office. The City Clerk shall cause the recording of this Agreement at Developers' expense with the County Recorder's office within ten (10) days of its execution by all Parties and shall cause any amendment to this Agreement or any instrument affecting the Term of this Agreement to be recorded within ten (10) days from the date on which the same becomes effective. Any amendment to this Agreement or any instrument affecting the Term of this Agreement which affects less than all of the Properties shall contain a legal description of the portion thereof that is the subject of such amendment or instrument.

12.3 Notices. All notices required by this Agreement or the Development Agreement Law shall be in writing and personally delivered or sent by certified mail, postage prepaid, return receipt requested.

Notice required to be given to the City shall be addressed as follows:

City of Elk Grove
Attn: Development Services Director
8401 Laguna Palms Way
Elk Grove, CA 95758
(With a copy to the City Manager)

Notice required to be given to Developers shall be addressed as follows:

Richland Planned Communities, Inc.
Attn: Mike Byer
3161 Michelson Drive, Suite 425
Irvine, CA 92612

Beazer Homes Holdings
Attn: Lucas C. Wissmann
2710 Gateway Oaks Dr. Ste 190-N
Sacramento, CA 95833

Any Party may change the address stated herein by giving notice in writing to the other Party, and thereafter notices shall be addressed and transmitted to the new address. All notices shall be deemed received on the earlier of the date that personal delivery is effected or the date shown on the return receipt.

12.4 Further Assurances, Consent and Cooperation. The Parties agree to execute such additional instruments as are reasonably necessary to effectuate the Parties' intent of this Agreement; provided however, that the City Council's discretion to vote in a particular manner cannot be constrained and that the City shall not be required to incur any costs thereby. Whenever the consent or approval of the other Party is required under this Agreement, such consent shall not be unreasonably withheld, conditioned or delayed. The Parties shall cooperate in good faith in obtaining any permits, entitlements or approvals required by other government entities for the Projects.

12.5 Business Relationship. The Parties acknowledge that neither Developer is an agent, joint venturer, or partner of the City or of each other.

12.6 Third Party Beneficiaries. This Agreement is entered into for the sole benefit of the Parties hereto and any Successor(s). No other party shall have any cause of action or the standing to assert any rights under this Agreement.

12.7 Force Majeure. No Party shall be liable for, and each Party shall be excused from, any failure to deliver or perform or for delay in delivery or performance (except any obligation to pay any sum of money) due to any act of God.

12.8 Bankruptcy. The obligations of this Agreement shall not be dischargeable in bankruptcy.

12.9 Liability of Officials. No City official or employee shall be personally liable under this Agreement.

12.10 Delegation. Any reference to any City body, official, or employee in this Agreement shall include any designee of that body, official or employee, except where delegation is prohibited by law.

12.11 Severability. Should any provision of this Agreement be found invalid or unenforceable by a court of law, the decision shall affect only the provision interpreted, and all remaining provisions shall remain enforceable.

12.12 Integration. This Agreement constitutes the entire understanding and agreement of the Parties with respect to the subject matter hereof and supersedes any previous oral or written agreement. This Agreement may be modified or amended only by a subsequent written instrument executed by all of the Parties.

12.13 Counterparts. This Agreement may be signed in one or more counterparts and will be effective when all of the Parties have affixed their signatures to the counterparts, at which time the counterparts together shall be deemed one original document; provided, however, that all executed counterparts are provided to the City Clerk.

12.14 Interpretation. The Parties acknowledge that this Agreement has been negotiated by all Parties and their legal counsel and agree that this Agreement shall be interpreted as if drafted by all Parties.

12.15 Inconsistency. In the event of any conflict or inconsistency between the provisions of this Agreement and the Project Approvals or Exhibits thereto, this Agreement shall prevail.

12.16 Incorporation. The recitals and defined terms in this Agreement are part of this Agreement. The following Exhibits attached hereto are incorporated into this Agreement and made a part hereof by this reference:

Exhibit 1: Legal Descriptions

- A: Legal Description for WSI Poppy Ridge, LLC, a Delaware limited liability company
- B: Legal Description for KLLB AIV LLC, A Delaware Limited Liability Company
- C: Legal Description for WSI Mojave Investments, LLC, a Delaware limited liability company
- D: Legal Description for Trilogy Land Holdings, LLC, a Florida limited liability company as to an undivided 29.41% interest and WSI Poppy Ridge, LLC, a Delaware limited liability company as to an undivided 70.59% interest, as tenants in common
- E: Legal Description for Trilogy Land Holdings, LLC, a Florida limited liability company and Legacy Land Partners, LLC, a Florida limited liability company, each as to an undivided 50.00% interest, as tenants in common, subject to Item No. 9, as to Parcels One and Two and WSI Poppy Ridge, LLC, a Delaware limited liability company, as to Parcel Three

Exhibit 2: Resolutions

- A: Resolution No. 2011-221, Arbor Ranch Tentative Subdivision Map
- B: Resolution No. 57-2006, Madeira South Tentative Subdivision Map
- C: Resolution No. 2017-28, Moser Tentative Subdivision Map
- D: Resolution No. 2018-060, Treasure Tentative Subdivision Map
- E: Resolution No. 2018-061, Tuscan Ridge South Tentative Subdivision Map

Exhibit 3: Project Site Plan

Exhibit 4: Transfer Agreement Form

12.17 Compliance with Laws. In connection with their performance under this Agreement, Developers shall comply with all applicable present and prospective Laws.

12.18 Applicable Law. This Agreement shall be construed and enforced in accordance with the laws of the State of California without regard to principles of conflicts of law. In the event of litigation arising under this Agreement, venue shall reside exclusively in the Superior Court of the County of Sacramento.

12.19 Time of the Essence. Time is of the essence with respect to all rights, obligations and provisions of this Agreement.

13.0 CONSENT AND AGREEMENT OF PROPERTY OWNERS. The undersigned Property Owners hereby consent to the terms of this Agreement and agree to have the Properties bound by the terms hereof.

[SIGNATURE PAGE FOLLOWS]

In witness whereof, the Parties and the Property Owners have executed this Agreement as of the dates below.

DEVELOPER:

Richland Planned Communities, Inc.,
a California corporation

By:_____________________________
Name:__________________________
Title:___________________________
Date:___________________________

Beazer Homes Holdings, LLC. a Delaware limited liability company.

By:_____________________________
Name:__________________________
Title:___________________________
Date:___________________________

PROPERTY OWNERS:

WSI Poppy Ridge, LLC,
a Delaware limited liability company

By:_____________________________
Name:__________________________
Title:___________________________

Legacy Land Partners, LLC,
a Florida limited liability company

By:_____________________________
Name:__________________________
Title:___________________________

Trilogy Land Holdings, LLC,
a Florida limited liability company

By:_____________________________
Name:__________________________
Title:___________________________

KLLB AIV LLC,
A Delaware Limited Liability Company

By:_____________________________
Name: Ryan Mott________________

Title: Managing Director

CITY OF ELK GROVE By: ______________________________ Name: Jason Behrmann Title: City Manager Date:	ATTEST: By: ______________________________ Name: Jason Lindgren Title: City Clerk
APPROVED AS TO FORM: By: ______________________________ Name: Jonathan P. Hobbs Title: City Attorney	

CERTIFICATION
ELK GROVE CITY COUNCIL ORDINANCE NO. 20-2022

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 ordinance, published and posted in compliance with State law, was duly introduced on July 27, 2022, and approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on August 10, 2022, by the following vote:

AYES: COUNCILMEMBERS: Singh-Allen, Suen, Hume, Spease, Nguyen

NOES: COUNCILMEMBERS: None

ABSTAIN: COUNCILMEMBERS: None

ABSENT: COUNCILMEMBERS: None

A summary of the ordinance was published pursuant to GC 36933(c) (1).

Jason Lindgren, City Clerk
City of Elk Grove, California