

RESOLUTION NO. 2004-46

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELK GROVE AUTHORIZING THE EXECUTION OF AN ASSIGNMENT AGREEMENT BETWEEN THE CITY AND SACRAMENTO COUNTY RELATING TO A REIMBURSEMENT AGREEMENT FOR PRELIMINARY ENGINEERING COSTS FOR THE EAST ELK GROVE SPECIFIC PLAN FINANCING PLAN

WHEREAS, the County of Sacramento (the "County" entered into an agreement dated September 26, 1995 (the "Agreement") with a number of property owners and developers for the reimbursement of preliminary engineering costs pertaining to the East Elk Grove Specific Plan Financing Plan; and

WHEREAS, the City has now assumed responsibility for implementation of the East Elk Grove Financing Plan and the County intends to transfer to the City any funds remaining in its possession relating thereto; and

WHEREAS, the County desires to assign all of its rights and obligations under the Agreement to the City pursuant to the "Assignment Agreement," a draft of which has been submitted to the City Council.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Elk Grove that:

1. **Recitals.** Each of the above recitals is incorporated herein and is true and correct.

2. **Authorization of Officers to Execute and Deliver Assignment Agreement.** The City Council hereby authorizes and directs the Mayor, the City Manager, and the City Clerk, and each of them individually (the "Designated Officers"), for and in the name of and on behalf of the City, to execute the Assignment Agreement in substantially the form of the draft presented to this meeting, which agreement is hereby approved, with such changes, insertions, revisions, corrections, or amendments as shall be approved by the Designated Officer or Officers executing the Assignment Agreement for the City. The execution of the Assignment Agreement by a Designated Officer or Officers of the City shall constitute conclusive evidence of such officer's or officers' and the City Council's approval of the Assignment Agreement and any such changes, insertions, revisions, corrections, or amendments. The City Council hereby authorizes and directs the Designated Officers, and each of them individually, to deliver the Agreement to the County following receipt by the City from the County of the remaining funds (\$553,670 plus any additional accrued interest) relating to the East Elk Grove Specific Plan Financing Plan.

3. **General Authorization.** The Designated Officers and other officers of the City, and each of them individually, are hereby authorized and directed, for and in the name of and on behalf of the City, to do any and all things and take any and all actions that may be necessary or advisable, in their discretion, in order to effect the purposes of

this resolution. All actions heretofore taken by officers, employees, and agents of this City that are in conformity with the purposes and intent of this resolution are hereby approved, confirmed, and ratified.

4. **Effective Date.** This resolution shall take effect immediately upon its adoption.

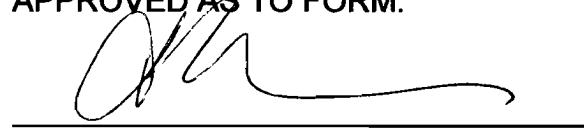
PASSED AND ADOPTED by the City Council of the City of Elk Grove this 17th day of March 2004.


SOPHIA SCHERMAN, MAYOR of the
CITY OF ELK GROVE

ATTEST:


PEGGY E. JACKSON, CITY CLERK

APPROVED AS TO FORM:


ANTHONY B. MANZANETTI,
CITY ATTORNEY

FEB 09 2004

ASSIGNMENT AGREEMENT

This Assignment Agreement is entered into _____, (the "Reference Date") by and between the City of Elk Grove, a municipal corporation organized and existing under the laws of the State of California ("Assignee"), and the County of Sacramento, a political subdivision of the State of California ("Assignor"), Assignee and Assignor are sometimes referred to in this Agreement individually as a "Party" and collectively as the "Parties."

RECITALS

Whereas, Assignor and JAS Developments, Inc., a California Corporation; Winncrest Homes, Inc., a California Corporation; Elk Grove Development Company L.L.C., a California Limited Liability Company, Stevens Family Trust; Tim Lewis Construction, Inc., a California Corporation; and Greater Mountain Financial, Inc., a Nevada Corporation (collectively referred to as the "Owners") have entered into an Agreement for reimbursement of preliminary engineering costs pertaining to the East Elk Grove Specific Plan Financing Plan, dated September 26, 1995 ("Agreement");

Whereas, Assignor desires to assigns all of its rights, title and interest in the Agreement to Assignee;

Whereas, Assignee desires to accept the assignment of the Agreement; and

Whereas, Owners desire to consent to the assignment of the Agreement.

AGREEMENT

In consideration of the foregoing Recitals (which are incorporated in this Assignment Agreement) and the mutual covenants and agreements contained in this Assignment Agreement, the Parties agree as follows:

1. Assignment of Agreement. For good and valuable consideration, receipt of which is acknowledged, Assignor transfers and assigns to Assignee all of Assignor's right, title, and interest in and to the Agreement. The transfer and assignment shall take effect immediately upon execution of this Assignment Agreement by the Parties.
2. Acceptance of Assignment. Assignee hereby accepts the assignment of the Agreement and agrees to assume all of Assignor's rights and obligations of the Agreement, subject to the terms and conditions of this Assignment Agreement.
3. Modification of Assignment Agreement. No alteration, amendment, or modification of the terms of this Assignment Agreement shall be valid or effective unless in writing and signed by both Parties.

3. Interpretation of Assignment Agreement.

a. Choice Of Law. This Assignment Agreement shall be construed in accordance with the laws of the State of California.

b. Venue. The parties agree that all actions or proceedings arising in connection with this Assignment Agreement shall be tried and litigated exclusively in the state or federal (if permitted by law and a Party elects to file an action in federal court) courts located in the County of Sacramento, State of California. This choice of venue is intended by the Parties to be mandatory and not permissive in nature, and to preclude the possibility of litigation between the Parties with respect to, or arising out of, this Agreement in any jurisdiction other than that specified in this Section. Each Party waives any right it may have to assert the doctrine of forum non conveniens or similar doctrine or to object to venue with respect to any proceeding brought in accordance with this Section.

c. Agreement Drafted By All Parties. This Assignment Agreement is the result of arm's length negotiations between the Parties and shall be construed to have been drafted by all Parties such that any ambiguities in this Assignment Agreement shall not be construed against either Party.

d. Section Headings. The section headings contained in this Assignment Agreement are for convenience in reference and are not intended to define or limit the scope of any provision of this Assignment Agreement.

e. Counterparts. This Assignment Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and will become effective and binding upon the parties as of the Reference Date at such time as all the signatories to this Assignment Agreement have signed a counterpart of this Assignment Agreement.

4. Notices. Any notices required or permitted to be given under this Assignment Agreement by either Party to the other shall be given in writing: (1) by personal delivery; (2) by electronic facsimile with confirmation sent by United States first class registered or certified mail, postage prepaid, return receipt requested; (3) by bonded courier or by a nationally recognized overnight delivery company; or (4) by United States first class registered or certified mail, postage prepaid, return receipt requested, in each case, addressed to the Parties as follows (or to such other addresses as the Parties may request in writing by notice given pursuant to this Section):

TO: City Manager
8400 Laguna Springs Drive
Elk Grove, CA 95758

and

TO: Administrator, Public Works Agency
827 7th Street, Room 304
Sacramento, CA 95814

Notices shall be deemed received on the earliest of personal delivery; upon delivery by electronic facsimile with confirmation from the transmitting machine that the transmission was completed; twenty-four (24) hours following deposit with a bonded courier or overnight delivery company; or seventy-two (72) hours following deposit in the U.S. Mail as required in this Assignment Agreement.

5. Entire Agreement. This Assignment Agreement contains the entire agreement between the Parties with respect to the subject matter of this Assignment Agreement, and it supersedes all other prior and contemporary agreements, understandings, and commitments between the Parties with respect to the subject matter of this Assignment Agreement.

6. Successors and Assigns. This Assignment Agreement is binding on and shall inure to the benefit of the respective successors and/or assigns of the Parties. The Parties have executed this Assignment Agreement to become effective as of the Reference Date.

City of Elk Grove, a municipal Corporation

By: _____
Mayor, City of Elk Grove

County of Sacramento, a political subdivision of the State
of California

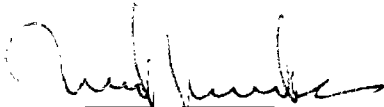
By: _____
Chair, Board of Supervisors

CONSENT TO ASSIGNMENT OF AGREEMENT

Owners, by signing below, hereby consent to and agrees with the Assignment of the Agreement from the County of Sacramento to the City of Elk Grove.

Owners:

JAS Development, Inc.,
A California Corporation



Jack A. Sioukas
President

Winncrest Homes, Inc.,
A California Corporation

President

Stevens Family Trust

Tim Lewis Construction, Inc.,
A California Corporation

Clark L. Stevens
Trustee

Jay T. Lewis
President

Elk Grove Development Company
A California Limited Liability Company

Greater Mountain Financial, Inc.,
a Nevada Corporation

Russell J. Lugli
President

Russell J. Lugli
Preseident

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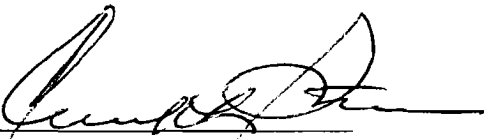
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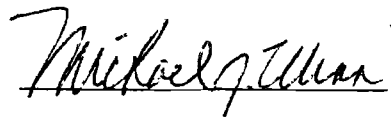
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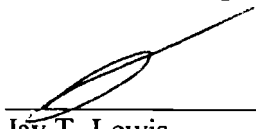
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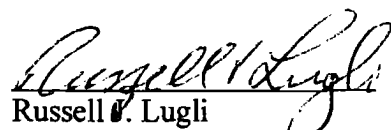
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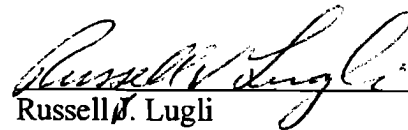
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Russell J. Lugli
President



Russell J. Lugli
Preseident

CERTIFICATION
ELK GROVE CITY COUNCIL RESOLUTION NO. 2004-46

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

I, Peggy E. Jackson, 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 the 17th day of March 2004 by the following vote:

AYES 5: COUNCILMEMBERS: Scherman, Soares, Briggs, Cooper, Leary

NOES 0: COUNCILMEMBERS:

ABSTAIN 0: COUNCILMEMBERS:

ABSENT 0: COUNCILMEMBERS:





Peggy E. Jackson, City Clerk
City of Elk Grove, California