

RESOLUTION NO. 2012-86

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELK GROVE
AUTHORIZING THE CITY MANAGER TO EXECUTE AN ACQUISITION
AGREEMENT WITH TAYLOR MORRISON OF CALIFORNIA, LLC FOR PRIVATELY
CONSTRUCTED PUBLIC FACILITIES WITHIN THE CITY OF ELK GROVE
COMMUNITY FACILITIES DISTRICT NO. 2003-1 (POPPY RIDGE)**

WHEREAS, development within the geographic area included in the East Franklin Specific Plan area (the "Plan Area") requires the construction of public facilities and improvements, some of which will be owned by the City and some of which will be owned by other public agencies (each an "operating agency"); and

WHEREAS, the City has, in conjunction with some of the landowners and developers within the Plan Area, determined to finance certain facilities through the formation by the City of Community Facilities Districts ("CFD"s), the CFD that is the subject of this agreement being City of Elk Grove CFD No. 2003-1 (Poppy Ridge) ("CFD 2003-1"), pursuant to the Mello-Roos Community Facilities Act of 1982, as amended (Government Code Sections 53311, et seq. (the "Act")); and

WHEREAS, on January 15, 2003, the City Council adopted Resolution No. 2003-15 (the "Resolution of Formation") and thereby established CFD 2003-1 and provided for the levy of a special tax to pay for the acquisition and construction of certain public facilities, as provided therein; and

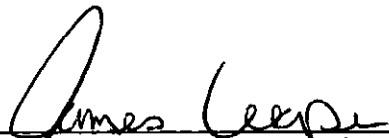
WHEREAS, on January 15, 2003, a special election was held by the landowners within CFD 2003-1, at which election more than two-thirds (2/3) of the votes were cast in favor of the special tax and issuing bonds to pay for the public facilities to be acquired and/or constructed for CFD 2003-1; and

WHEREAS, Taylor Morrison of California, LLC (the "Developer") constructed certain of the improvements that serve CFD 2003-1, which improvements (the "Projects") and the costs thereof are describe in Exhibit A, attached hereto and incorporated herein by this reference; and

WHEREAS, the Projects are identified in, and are a party of, the Capital Improvement Program ("CIP") of the Plan Area, which CIP may from time to time be amended by the City.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Elk Grove hereby authorizes the City Manager to execute the Acquisition Agreement with Taylor Morrison of California, LLC for privately constructed public facilities within the City of Elk Grove Community Facilities District No. 2003-1 (Poppy Ridge), in substantially the form presented attached as Exhibit A, granting staff the ability to work with opposing counsel.

PASSED AND ADOPTED by the City Council of the City of Elk Grove this 23rd day of May 2012.




JAMES COOPER, MAYOR of the
CITY OF ELK GROVE

ATTEST:



JASON LINDGREN, CITY CLERK

APPROVED AS TO FORM:



JONATHAN HOBBS,
INTERIM CITY ATTORNEY

CITY OF ELK GROVE

**AGREEMENT FOR ACQUISITION OF PRIVATELY-CONSTRUCTED
FACILITIES WITHIN THE CITY OF ELK GROVE
COMMUNITY FACILITIES DISTRICT NO. 2003-1 (POPPY RIDGE)**

This Agreement, dated _____ 2012, 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, development within the geographic area included in the East Franklin Specific Plan area (the "Plan Area") requires the construction of public facilities and improvements, some of which will be owned by the City and some of which will be owned by other public agencies (each an "operating agency");

WHEREAS, the City has, in conjunction with some of the landowners and developers within the Plan Area, determined to finance certain facilities through the formation by the City of a community facilities district to be known as the City of Elk Grove Community Facilities District No. 2003-1 (Poppy Ridge) ("CFD 2003-1"), pursuant to the Mello-Roos Community Facilities Act of 1982, as amended (California Government Code Sections 53311, et seq. (the "Act")), and the authorization of special tax levies and bond issues that will be used in part to pay for the public facilities and improvements;

WHEREAS, on January 15, 2003, the City Council of the City adopted Resolution No. 2003-15 ("Resolution of Formation") and thereby established CFD 2003-1 and provided for the levy of a special tax to pay for the acquisition and construction of certain public facilities, as provided therein;

WHEREAS, on January 15, 2003, a special election was held by the landowners within CFD 2003-1, at which election more than two-thirds (2/3) of the votes were cast in favor of the special tax and issuing bonds to pay for the public facilities to be acquired and/or constructed for CM 2003-1;

WHEREAS, the Developer or other entities designated by Developer have or will construct certain improvements that serve CFD 2003-1, which improvements ("Projects") are described in Exhibit A-1 and Exhibit A-2 and depicted in Exhibit B, each attached hereto and incorporated herein by this reference;

WHEREAS, the Projects are contained in, and are a part of, the Capital Improvement Program ("CIP") of the Plan Area, which CIP may from time to time be amended by the City,

and the Projects are eligible for acquisition by the City in accordance with Section 53313.5 of the Act, provided certain construction requirements are satisfied;

WHEREAS, Exhibit A-1 and Exhibit A-2 further describes the particular Projects that are to be acquired from Developer and the amounts eligible for payment thereof; and

WHEREAS, City and Developer desire to enter into an agreement to provide for the acquisition by the City of the Projects and for the payment to the Developer certain costs of construction of the Projects.

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

1. Project List. The City's Public Works Director and the Developer are authorized to supplement or otherwise revise the list of Projects, quantities, and bid or engineer's estimate shown in Exhibit A-1 and Exhibit A-2 by an amendment executed by both Parties.
2. Construction. For Projects, or portion thereof, that will be completed after the adoption of the Resolution of Formation, the Developer or applicable Contractor shall competitively bid and award to the responsible bidder submitting the lowest responsive bid for the construction of the Projects, or portion thereof, as if the Projects were City projects. All construction contracts shall require the payment of prevailing wages and follow all California Labor Code requirements from Sections 1720 et seq., including, but not limited to maintaining certified payroll records under California Labor Code Section 1776. Projects shall be constructed using plans and specifications that conform to the City Standard Construction Specifications and Improvement Standards (or the comparable specifications and standards of the operating agency) and that have been approved by the Public Works Director of the City. The Developer shall enter into a contract pursuant to which the successful bidder ("Contractor") agrees to construct the Projects, or portion thereof, shown on the plans and specifications and the Developer agrees to pay the Contractor for constructing the Projects shown on the plans and specifications. The Developer shall furnish the City with a copy of the contract upon its execution. In instances of the Agreement where the Contractor may provide performance instead of the Developer, this in no way alleviates the Developer from responsibility of performance and delivery of Projects.
3. Inspection. The City will review and inspect the construction of the Projects using the same standards as if the contract were a public contract awarded by the City or will arrange for review and inspection of Projects by the operating agency.
4. Approval and Payment. (a) Following substantial completion of the construction of the Projects, or portion thereof, approval thereof by the City or the operating agency (with appropriate reserves for punch-list items), and receipt and approval by the City of a request for payment in the form attached hereto as Exhibit C and all applicable items listed on the City's Reimbursement Submittal Checklist attached hereto as Exhibit D, the City will pay the Developer for the actual

costs of construction of the Projects, or portion thereof as determined by the City, but not to exceed the amount stated in Section 4(b) below. In particular, with respect to the road and utility improvements to be constructed generally around the perimeter of the Plan Area, the waterlines to be constructed therein shall be deemed to be substantially complete upon successful pressure testing thereof and the roadways shall be deemed substantially complete upon the completion of the paving and striping therefore (subject to appropriate reserves for the completion of all punch list items related thereto). Payment by the City to the Developer for the cost of a Project shall be made only upon a formal request submitted by the Developer and approval of the request by the City.

(b) The City shall determine the actual costs of the Projects, or portion thereof, to be paid to the Developer. The total amount to be reimbursed to the Developer, however, shall not exceed the net bond proceeds for the Projects equal to \$2,694,100 as set forth in Exhibit A-1.

(c) The Public Works Director of the City shall have the right, during normal Business hours and upon the giving of ten (10) days written notice to the Developer, to review all books and records of the Developer or applicable Contractor pertaining to costs and expenses incurred by the Developer or applicable Contractor in constructing any of the Projects, including, but not limited to any and all construction contracts, subcontracts, change orders, invoices and payroll records.

5. Payment. (a) Payment by the City to the Developer shall be made only from the CFD 2003-1 Acquisition and Construction Fund.

(b) If another entity constructs improvements that are portions of the Project as identified in Exhibit A, the Developer may direct the City in writing to make payment for the construction thereof to the applicable entity only if, (1) the improvements are constructed in accordance with all of the requirements of this Agreement; and (2) the entity assumes the obligations of the Developer under this Agreement as applicable to such construction, including and without limitation, the obligations under paragraphs 7, 8 and 9, as evidenced by a written assumption that shall be supplied to the City by the entity prior to payment.

6. Title. Upon completion of the Projects, the Developer shall convey the Projects, with a free and clear title, to the City, the Sacramento County Water Agency, the County of Sacramento and/or the Sacramento Area Sewer District, as appropriate.
7. Guarantee. Prior to payment, the Developer shall provide a guarantee and assurance to the City and the operating agency that there are no liens on the Projects at the time of acquisition and payment by the City, together with releases from all contractors and/or materials suppliers for the Projects. The City shall have no obligation to acquire and make payment for the Projects until the Developer has cleared any and all liens and monetary encumbrances from the Projects.

8. Warranty and Repair.

- a. Warranty. The Developer hereby, by its acceptance of payment for any Project, or portion thereof, warrants the Projects as to materials and workmanship and should any failure of the Projects occur within a period of one year after final acceptance thereof by the City, the Developer shall promptly cause the needed repairs to be made without cost to the City or the operating agency. 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.
- b. Repair. The City or the operating agency are hereby authorized to make such repairs if the Developer fails to make or undertake with due diligence the aforesaid repairs within twenty (20) days after it is given written notice of such failure. In case of emergency where, in the sole opinion of the City Public Works Director, 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 Project within the warranty period where the City or the operating agency has taken action in accordance with this paragraph, the Developer shall reimburse the City or the operating agency, as appropriate for all costs, direct and indirect, incurred by the City or the operating agency.

9. 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. Notwithstanding the foregoing, this indemnification shall apply for any Improvement only to Liabilities occurring and accruing during the period commencing with the start of the Work and ending upon the expiration of one-year warranty period for such Improvement (the one-year warranty period begins upon acceptance by the City of the Improvements), and solely for Liabilities for which City has notified Developer in writing on or before the date that is six (6) months after the expiration of the warranty period for such Improvement. Any action or claim received by the City in which the

accrual of the cause of action did not occur prior to expiration of the warranty period, or for which City has not notified Developer on or before six (6) months after the expiration of the warranty period, will not be the responsibility of the Developer. The foregoing indemnification for Liabilities related to any repair work performed by Developer within the warranty period shall extend for one (1) year from the date of completion of such repair work, provided that the City must notify Developer of any such Liability in writing on or before the date that is six (6) months after the expiration of such warranty period for such repair work.

10. 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 specification for the Projects.
11. City Obligations. The obligations arising from this Agreement are not 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 revenues of the CFD 2003-1 Acquisition and Construction Fund arising from the record of proceeds of bond sales with respect to the CFD 2003-1 and the receipt of special taxes, fees or charges collected solely for the benefit of the CFD 2003-1. Neither the General Fund nor any other fund of the City, except as previously described, 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.
12. Tax Exemption. Interest on the bonds to be issued by the City in order to finance the Project will be excluded from gross income for federal income tax purposes. Notwithstanding anything in this Agreement to the contrary, the City shall not be required to take any action hereunder that, in the opinion of the City Attorney for CFD 2003-1 would result in interest on the bonds being included in gross income for federal income tax purposes.
13. Insurance. The Developer and/or Contractor shall procure and maintain for the term of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Work hereunder by the Contractor, his agents, representatives, employees or subcontractors.
 - (a) Neither the Contractor nor any Subcontractors shall commence any work until all required insurance has been obtained at their or the Developer's own expense. Such insurance shall have the approval of the City as to limit, form, and amount, and shall be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise approved by the City. An exception will be made where the State Compensation Insurance Fund is used to satisfy the Workers' Compensation insurance requirement.

(b) Any insurance bearing on adequacy of performance shall be maintained after completion of the project for the full guarantee period.

(c) Prior to any commencement of work, the Developer and/or Contractor shall furnish the City certified copies or original endorsements effecting coverage for all policies by sending to the City's certificate processor at the address listed below. The form of endorsements included herewith, or equivalents thereto, as approved by the City, shall be used. The Developer and/or Contractor shall not permit any Subcontractor identified in the Designation of Subcontractors form to commence work on this project until such Subcontractor has furnished the City, through the City's certificate processor at the address below, with certified copies or original endorsements effecting coverage for all insurance policies required by the City. The endorsements shall be signed by a person authorized by the insurer to bind coverage on its behalf. The endorsements are to be on forms provided or approved by the City. The City may require the Developer and/or Contractor or any subcontractor to furnish complete certified copies of all insurance policies affecting the coverage. No work shall commence prior to receipt and approval of all insurance requirements by the City.

By MAIL:

Certificate Holder: The City of Elk Grove
c/o EBIX BPO
P.O. Box 257, Ref# (assigned number)
Portland, MI 48875-0257

By FAX:

(517) 647-7900

By EMAIL:

certonly@periculum.com

ALL certificates and endorsements shall include the EBIX reference number (Zxxxxxxx).

(d) The Developer and/or Contractor shall serve the City notice, in writing by certified mail, within 2 days of any notices received from any insurance carriers providing insurance coverage under this Agreement that concern the suspension, voidance, cancellation, termination, reduction in coverage or limits, non-renewal, or material changes of coverage proposed or otherwise.

(e) Any policy or policies of insurance that the Developer and/or Contractor elects to carry as insurance against loss or damage to its construction equipment and tools shall include a provision therein providing a waiver of the insurer's right to subrogation against the City and the Engineer.

(f) The requirements as to the types, limits, and the City's approval of insurance coverage to be maintained by the Developer and/or Contractor are not intended to and shall not in any manner

limit or qualify the liabilities and obligations assumed by the Developer and/or Contractor under the terms of this Agreement.

(g) In addition to any other remedy the City may have, if the Developer and/or Contractor or any of the subcontractors fails to maintain the insurance coverage as required in this Section, the City may obtain such insurance coverage as is not being maintained, in form and amount substantially the same as required herein, and the City may deduct the cost of such insurance from any amounts due or which may become due to the Developer under the terms of this Agreement.

(h) The Developer and/or Contractor and all Subcontractors shall, at their expense, maintain in effect at all times during the performance of work set forth in this Agreement not less than the following coverage and limits of insurance, which shall be maintained with insurers and under forms of policy satisfactory to the City. The maintenance by the Developer and/or Contractor and all Subcontractors of the following coverage and limits of insurance is a material element of this Agreement. The failure of the Developer and/or Contractor or any Subcontractor to maintain or renew coverage or to provide evidence of renewal may be treated by the City as a material breach of this Agreement.

a. Workers' Compensation and Employer's Liability Insurance

The Developer and/or Contractor and all Subcontractors shall maintain insurance to protect the Developer and/or Contractor or Subcontractor from all claims under Workers' Compensation and any form of Employer's Liability Acts, including, where applicable, Longshoremen's and Harbor Workers' Act. Such coverage shall be maintained, in type and amount, in strict compliance with all applicable State and Federal statutes and regulations. The Developer and/or Contractor shall execute a certificate in compliance with Labor Code section 1861. The insurer shall agree to waive all rights of subrogation against the City, its officers, employees, volunteers, and agents for losses arising from work falling within the terms of this Agreement.

b. Commercial General Liability Insurance

The Developer and/or Contractor shall maintain in effect at all times during the performance of the work hereunder not less than the following coverages and limits of Commercial General Liability insurance:

The insurance shall include, but shall not be limited to, protection against claims arising from death, bodily injury, personal injury, or damage to property resulting from actions, failures to act, operations or equipment of the insured, or by its employees, agents or consultants, or by anyone directly or indirectly employed by the insured. The amount of insurance coverage shall not be less than \$2,000,000.00 per occurrence with an aggregate no less than two (2) times the required per occurrence limit applying to bodily injury, personal injury, and property damage, or any combination of the three. Any deductibles greater than \$5,000.00 shall be declared to

and approved by the City. At the option of the City, either: the insurer shall reduce or eliminate such deductibles as respects the entity, its officers, officials, employees, volunteers and agents; or the Developer and/or Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration expenses, and defense expenses.

c. Additional Requirements

The commercial general liability insurance coverage shall also include the following:

- i. Provision or endorsement naming the City, the Engineer and its consultants, and each of their officers, employees, volunteers, and agents, each as additional insured with respect to any potential liability arising out of the performance of any work under this Agreement. The recommended form for the Additional Insured endorsement is Insurance Services Office form CG 20 10 11 85 or form CG 20 10 10 01 coupled with form CG 20 37 10 01 or equivalent.
- ii. Provision or endorsement that such insurance is primary insurance as respects the interest of the City and Engineer, and its consultants, and each of their officers, employees, volunteers, and agents that any other insurance, risk pool membership, or other liability protection maintained by the City or maintained by the Engineer is excess to the insurance required hereunder, and will not be called upon to contribute to any loss unless and until all limits available under the contractor's and subcontractor's insurance policy/policies have been paid.
- iii. Broad Form Property Damage, Personal Injury, Contractual Liability, and Completed Operations coverages, and, if applicable, elimination of any exclusion regarding loss or damage to property caused by explosion or resulting from collapse of buildings or structures or damage to property underground, commonly referred to by insurers as the "XCU" hazards.
- iv. If applicable, provision or endorsement stating that any failure to comply with reporting or other provisions of the policies, including breaches of warranties, shall not affect coverage provided to the City, its officers, officials, employees, volunteers, or agents.
- v. Provision or endorsement waiving all rights of subrogation against the City, its officers, employees, volunteers, and agents.
- vi. "Cross Liability" or "Severability of Interest" clause(s) providing that the Developer's and/or Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

vii. Provision of prescribed insurance, Insurance Services Offices Commercial General Liability Coverage CG001, or its equivalent, shall not be construed as either a limitation on or satisfaction of the hold harmless or indemnity agreement contained in the contract's F-2 Indemnity and Litigation Cost set forth herein below.

d. Commercial Automobile Liability Insurance

The Developer and/or Contractor shall maintain during the term of this Agreement automobile liability insurance providing protection against claims of bodily injury and property damage arising out of the ownership, operation, maintenance, or use of owned, hired, and non-owned automobiles. Coverage shall be at least as broad as "Insurance Services Office Business Auto Coverage Form CA 0001," symbol 1 (any auto). Use of any symbols other than symbol 1 for Commercial Automobile Liability Insurance shall not be permitted without written permission of the City. The limits shall not be less than:

Combined Single Limit	Two Million Dollars (\$2,000,000)
	Or, If Split Limits
Bodily Injury Liability	One Million Dollars (\$1,000,000) Per Person Two Million Dollars (\$2,000,000) Per Accident
Property Damage Liability	Five Hundred Thousand (\$500,000) Per Accident

14. Notice. Any notice, payment or instrument required or permitted by this Agreement to any party shall be deemed to have been received when personally delivered to any 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
Public Works Department
8401 Laguna Palms Way
Elk Grove, CA 95758
Attn: Darren Wilson

Developer: Taylor Morrison of California, LLC
1180 Iron Point Road, Suite 100
Folsom, CA 95630
Attention: Division President

15. Term. The term of this Agreement shall start on the day and year first above written and shall remain in effect until all terms and conditions contained in this Agreement have been satisfied.

16. Captions. Captions to paragraphs of this Agreement are for convenience purposes only, and are not part of this Agreement.
17. Severability. If any portion of this Agreement is declared by a court of competent jurisdiction to be invalid or unenforceable under the laws of the State of California, 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.
18. Successors and Assigns. This Agreement shall be binding upon and inure to the heirs, devisees, assignees and successors-in-interest of the parties hereto in the same manner as if such parties had been expressly named herein.
19. Survivorship. Any responsibility of Developer for warranties, insurance, indemnity record-keeping or compliance with laws with respect to this Agreement shall not be invalidated due to the expiration, termination, or cancellation of this Agreement.
20. Construction and Interpretation. Developer and City agree that the provisions of this Agreement have been arrived at through negotiation and that each part has had a full and fair opportunity to revise the provisions reviewed by legal counsel. Therefore, any ambiguities in constructing or interpreting this Agreement shall not be resolved against the drafting party.
21. Waiver. The waiver at any time by any party of any of its rights with respect to a default or other matter arising in connection with this Agreement shall not be deemed a waiver with respect to any subsequent default or other matter.
22. 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.
23. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one instrument.
24. Authority to Execute. The person or persons executing on behalf of the Developer warrant and represent that they have the authority to execute this agreement on behalf of their agency and further warrant and represent they have the authority to bind Developer to the performance of the obligations herein.

[SIGNATURES ON FOLLOWING PAGE]

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

CITY OF ELK GROVE:

By: _____
Laura S. Gill, City Manager

ATTEST:

Jason Lindgren, City Clerk

APPROVED AS TO FORM:



Jonathan Hobbs, Interim City Attorney

DEVELOPER:

TAYLOR MORRISON OF CALIFORNIA, LLC,
a California limited liability company

By: 

Name: KENNETH DAR ATKINS

Title: VICE PRESIDENT

Address:

Taylor Morrison of California, LLC
1180 Iron Point Road, Suite 100
Folsom, CA 95630
Attention: Division President

CALIFORNIA ALL PURPOSE ACKNOWLEDGMENT

STATE OF California)SS
COUNTY OF Sacramento)

On 3/28/2012, before me, Kathleen Faye Lopez, Notary Public, personally appeared Kenneth Dar Ahrens, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature

Kathleen Faye Lopez

My Commission Expires: July 31, 2013

This area for official notarial seal

Notary Name: Kathleen Faye Lopez

Notary Phone: 916-355-8900

Notary Registration Number: 1859582

County of Principal Place of Business: Sacramento

Exhibit A-1
 City of Elk Grove CFD No. 2003-1 (Poppy Ridge)
 Estimated Franklin Crossing Facilities and Costs

Item	Amount
CFD No. 2003-1 Bond Proceeds for Project	\$2,731,800
Less Reimbursements [1]	(\$37,700)
Estimated Net Bond Proceeds for Project	\$2,694,100
Eligible Facilities and Costs [2]	
Bilby Road	
1.A Earthwork	\$103,387
1.B Streetworks	\$284,885
1.C Concrete	\$79,062
1.D Sanitary Sewer	\$45,663
1.E Storm Drain System	\$66,117
1.F Water Distribution	\$43,988
1.G Street Lights	\$10,500
1.H Dry Utilities	\$82,500
Soft Costs	\$245,305
Subtotal Bilby Road	\$946,177
Willard Parkway Phase 1	
1.A Earthwork	\$205,175
1.B Streetworks	\$576,888
1.C Concrete	\$109,302
1.D Sanitary Sewer	\$105,146
1.E Storm Drain System	\$250,250
1.F Water Distribution	\$114,500
1.G Street Lights	\$39,750
1.H Dry Utilities	\$145,500
Soft Costs	\$572,780
Subtotal Willard Parkway Phase 1	\$2,209,296
Total Eligible Facilities and Costs [3]	\$3,155,472

Source: City of Elk Grove and EPS.

"Exhibit A-1"

- [1] Reimbursements for non-creditable common facilities costs allocated to all CFD property based on the December 2005 CFD Cost and Fee Credit Allocation Analysis prepared by EPS.
- [2] Excludes Zone 40 facilities that are in a credit/reimbursement agreement.
- [3] CFD reimbursement will not exceed estimated net bond proceeds for the project unless authorized by the City.

Exhibit A-2
CFD REIMBURSEMENT ESTIMATE FOR
Franklin Crossing Major Roads Phase 1
City of Elk Grove

QUANTITY	UNIT DESCRIPTION	UNIT PRICE	AMOUNT
I. BILBY ROAD			
LA. EARTHWORK AND EROSION CONTROL			
1.	1.5 acres Clearing & Grubbing	\$2,950.00	\$4,425
2.	1,300 cy Rough Grading	\$5.55	\$7,215
3.	1 ls Misc erosion control/ DI protection	\$5,400.00	\$5,400
4.	20,089 sf Landscaping - Frontage	\$4.00	\$80,356
5.	749 sf Landscaping - Median	\$4.00	\$2,996
6.	1 ea Stabilized Construction Entrance	\$2,995.00	\$2,995
TOTAL EARTHWORK			\$103,397
I.B. STREETWORK			
1.	898 sf AC Paving, 3"	\$1.25	\$970
2.	479 sf AC Paving, 4"	\$9.95	\$4,718
3.	1,175 sf Aggregate Base, 8"	\$3.60	\$4,230
4.	25,032 sf AC Paving, 5.5"	\$2.25	\$56,322
5.	25,032 sf Aggregate Base, 10"	\$1.40	\$35,045
6.	28,820 sf Lime Treatment, 12" depth	\$0.60	\$17,172
7.	68 lf Timber Barricade	\$31.00	\$2,108
8.	791 lf Soundwall	\$200.00	\$159,200
9.	1 ea Survey Monument	\$500.00	\$500
10.	1 ls Misc. Striping & Signage	\$5,500.00	\$5,500
TOTAL STREETWORK			\$294,865

FRANKLIN CROSSING MAJOR ROADS
CFD Reimbursement Estimate

Prepared: TSB
1187.039
Updated: March 2011

I.C. CONCRETE

1.	1,739	sf	4' Attached Sidewalk (4" PCC w/ 5" AB)	\$4.75	\$8,260
2.	3,539	sf	4' Detached Sidewalk (4" PCC w/ 5" AB)	\$5.95	\$20,897
3.	2	ea	20' wide As Driveway	\$1,900.00	\$3,800
4.	2	ea	Sidewalk Handicap Ramp w/ tiles	\$2,315.00	\$4,630
5.	1,012	lf	Type 2 Curb & Gutter w/ 6" AB	\$21.50	\$21,758
6.	1,177	lf	Type 3 Curb w/ 6" AB	\$14.50	\$17,067
7.	160	lf	Type 5 Curb w/ 6" AB	\$15.00	\$2,400
TOTAL CONCRETE					\$79,052

I.D. SANITARY SEWER

1.	547	lf	9" VCP Sewer	\$57.50	\$31,453
2.	1	ea	Flushing Branch	\$1,350.00	\$1,350
3.	1	ea	Connect to Existing	\$1,600.00	\$1,600
4.	2	ea	Concrete Dam	\$675.00	\$1,350
5.	3	ea	Sanitary Sewer Manhole, 48"	\$3,300.00	\$9,900
TOTAL SANITARY SEWER SYSTEM					\$46,653

I.E. STORM DRAIN SYSTEM

1.	38	lf	12" Drain	\$41.00	\$1,558
2.	160	lf	15" Drain	\$49.00	\$9,310
3.	309	lf	18" Drain	\$51.00	\$15,708
4.	122	lf	30" Drain	\$78.00	\$9,516
5.	2	ea	Drain Inlet, Type B	\$2,500.00	\$5,000
6.	3	ea	Drain Inlet, Type F	\$1,350.00	\$4,050
7.	3	ea	Storm Drain Manhole, 48"	\$3,275.00	\$9,825
8.	1	ea	Storm Drain Manhole, 60"	\$5,075.00	\$5,075
9.	1	ea	Brick and Mortar Drain Plug	\$450.00	\$450
10.	5	ea	Concrete Trench Dam	\$675.00	\$3,375
11.	1	ea	Connect to Existing	\$2,250.00	\$2,250
TOTAL STORM DRAIN SYSTEM					\$86,117

FRANKLIN CROSSING MAJOR ROADS
CFD Reimbursement Estimate

Prepared: TSB
1187.089
Updated: March 2011

I.F. WATER DISTRIBUTION SYSTEM

1.	561	lf	12" Water Main (incl. fittings & restraints)	\$54.00	\$30,294
2.	2	ea	2" Temporary BOV	\$1,800.00	\$3,200
3.	1	ea	Fire Hydrant	\$8,500.00	\$8,500
4.	1	ea	Remove Ex BOV & Connect to Existing	\$1,400.00	\$1,400
5.	2	ea	12" Butterfly Valve	\$2,250.00	\$4,500
5.	182	lf	(1) 4" x (1) 6" Irrigation Sleeve	\$17.00	\$3,094
TOTAL WATER DISTRIBUTION SYSTEM					\$48,988

I.G. STREET LIGHTS

1.	3	ea	Streetlight, Type B including conduit, wiring, & appurtenances	\$3,500.00	\$10,500
TOTAL STREET LIGHTS					\$10,500

I.H. Dry Utilities

1.	1	ls	Dry Utilities including trenching, conduits & appurtenances	\$82,500.00	\$82,500
TOTAL DRY UTILITIES					\$82,500

CFD REIMBURSEMENT ESTIMATE SUMMARY (BILBY ROAD)

I.A. EARTHWORK	\$103,387
I.B. STREETWORK	\$284,865
I.C. CONCRETE	\$79,062
I.D. SANITARY SEWER SYSTEM	\$45,653
I.E. STORM DRAIN SYSTEM	\$66,117
I.F. WATER DISTRIBUTION SYSTEM	\$48,988
I.G. STREET LIGHTS	\$10,500
I.H. DRY UTILITIES	\$62,500
SOFT COSTS (Engineering, Plan Chk and Insp 35 %)	\$245,305
BILBY ROAD CFD REIMBURSEMENT ESTIMATE	\$946,177

FRANKLIN CROSSING MAJOR ROADS
CFD Reimbursement Estimate

Prepared: TSB
1187.089
Updated: March 2011

QUANTITY	UNIT DESCRIPTION	UNIT PRICE	AMOUNT
II. WILLARD PARKWAY PHASE 1			
II.A. EARTHWORK AND EROSION CONTROL			
1.	5.0 acres Clearing & Grubbing - Subdivision	\$2,950.00	\$14,750
2.	11,236 cy Rough Grading	\$5.55	\$62,354
3.	1 ls Misc erosion control/ CI protection	\$12,700.00	\$12,700
4.	11,298 sf Landscaping - Frontage	\$4.00	\$45,192
5.	39,296 sf Landscaping - Median	\$4.00	\$157,184
6.	1 ea Stabilized Construction Entrance	\$2,995.00	\$2,995
TOTAL EARTHWORK			\$295,175
II.B. STREETWORK			
1.	500 sf AC Paving, 4"	\$9.85	\$4,925
2.	500 sf Aggregate Base, 6"	\$3.60	\$1,800
3.	72,428 sf AC Paving, 8.5"	\$2.95	\$191,929
4.	72,428 sf Aggregate Base, 12"	\$1.35	\$97,775
5.	77,700 sf Lime Treatment, 12" depth	\$0.90	\$46,930
6.	182 lf Timber Barricade	\$31.00	\$5,842
7.	559 lf Soundwall (6" high min. w/ up to 2' retaining)	\$200.00	\$111,600
8.	1 ea Signal Modification	\$91,350.00	\$91,350
9.	3 ea Survey Monument	\$500.00	\$1,500
10.	1 ea Misc. Striping & Signage	\$12,900.00	\$12,900
11.	1 ls Epoch Drive Advance Signal Conduit	\$10,400.00	\$10,400
12.	1 ea Caltrans Pedestrian Barricade	\$445.00	\$445
TOTAL STREETWORK			\$576,886

FRANKLIN CROSSING MAJOR ROADS
 CFD Reimbursement Estimate

Prepared: TSB
 1187.089
 Updated: March 2011

II.C. CONCRETE

1.	3,080	sf	4' detached Sidewalk (6" PCC w/ 6" AB)	\$5.85	\$17,901
2.	2	ea	Sidewalk Handicap Ramp w/ tiles(single)	\$2,315.00	\$4,630
3.	1	ea	Sidewalk Handicap Ramp w/ tiles(double)	\$3,755.00	\$3,755
4.	1,261	lf	Type 2 Curb & Gutter w/ 6" AB	\$21.50	\$25,922
5.	871	lf	Type 3 Curb & Gutter w/ 6" AB	\$14.50	\$12,630
6.	2,971	lf	Type 5 Curb & Gutter w/ 6" AB	\$15.00	\$44,565
TOTAL CONCRETE					\$109,302

II.D. SANITARY SEWER

1.	89	lf	8" VCP Sewer	\$57.50	\$5,118
2.	1,143	lf	16" VCP Sewer	\$74.50	\$85,154
3.	1	ea	Flushing Branch	\$1,350.00	\$1,350
4.	1	ea	Connect to Existing	\$1,600.00	\$1,600
5.	3	ea	Concrete Dam	\$675.00	\$2,025
6.	3	ea	Sanitary Sewer Manhole, 48"	\$3,300.00	\$9,900
TOTAL SANITARY SEWER SYSTEM					\$105,146

II.E. STORM DRAIN SYSTEM

1.	371	lf	12" Drain	\$41.00	\$15,211
2.	149	lf	30" Drain	\$78.00	\$11,622
3.	1,121	lf	54" Drain, CL 5 RCP	\$152.00	\$170,392
4.	5	ea	Drain Inlet, Type B	\$2,500.00	\$12,500
5.	3	ea	Drain Inlet, Type F	\$1,350.00	\$4,050
6.	1	ea	Storm Drain Manhole, 48"	\$3,275.00	\$3,275
7.	1	ea	Storm Drain Manhole, 84"	\$8,450.00	\$8,450
8.	4	ea	Storm Drain Saddle Manhole	\$4,050.00	\$16,200
9.	5	ea	Brick and Mortar Plug	\$450.00	\$2,250
10.	6	ea	Concrete Trench Dam	\$675.00	\$4,050
11.	1	ea	Connect to Existing	\$2,250.00	\$2,250
TOTAL STORM DRAIN SYSTEM					\$250,250

Major Roads

5 of 6

Wood Rodgers Inc.

FRANKLIN CROSSING MAJOR ROADS
CFD Reimbursement Estimate

Prepared: TSB
1187.029
Updated: March 2011

II.F. WATER DISTRIBUTION SYSTEM

1.	1,351	lf	12" Water Main (incl. fittings & restraints)	\$54.00	\$72,954
2.	4	ea	12" Butterfly Valve	\$2,250.00	\$9,000
3.	3	ea	2" Temporary BOV	\$1,600.00	\$4,800
4.	1	ea	4" Blow Off Valve	\$3,350.00	\$3,350
5.	2	ea	Remove Existing BOV and Connect	\$1,400.00	\$2,800
6.	2	ea	Fire Hydrant	\$6,500.00	\$13,000
7.	500	lf	(1) 4" x (1) 8" Irrigation Sleeve	\$17.00	\$8,502
TOTAL WATER DISTRIBUTION SYSTEM					\$114,506

II.G. STREET LIGHTS

1.	3	ea	Street Light, Type A including conduit, wiring, & appurtenances	\$8,000.00	\$38,000
2.	1	ea	Street Light Service Point including conduit, wiring, & appurtenances	\$3,750.00	\$3,750
TOTAL STREET LIGHTS					\$39,750

II.H. Dry Utilities

1.	1	ts	Dry Utilities including trenching, conduits & appurtenances	\$145,500.00	\$145,500
TOTAL DRY UTILITIES					\$145,500

CONSTRUCTION COST SUMMARY

II.A. EARTHWORK	\$295,175
II.B. STREETWORK	\$576,886
II.C. CONCRETE	\$109,302
II.D. SANITARY SEWER SYSTEM	\$105,146
II.E. STORM DRAIN SYSTEM	\$250,250
II.F. WATER DISTRIBUTION SYSTEM	\$114,506
II.G. STREET LIGHTS	\$39,750
II.H. DRY UTILITIES	\$145,500
SOFT COSTS (Engineering, Plan Chk and Insp 35 %)	\$572,780
WILLARD PKWY CFD REIMBURSEMENT ESTIMATE	\$2,209,296
GRAND TOTAL CFD REIMBURSEMENT ESTIMATE	\$3,155,472

EXHIBIT FOR FRANKLIN CROSSING

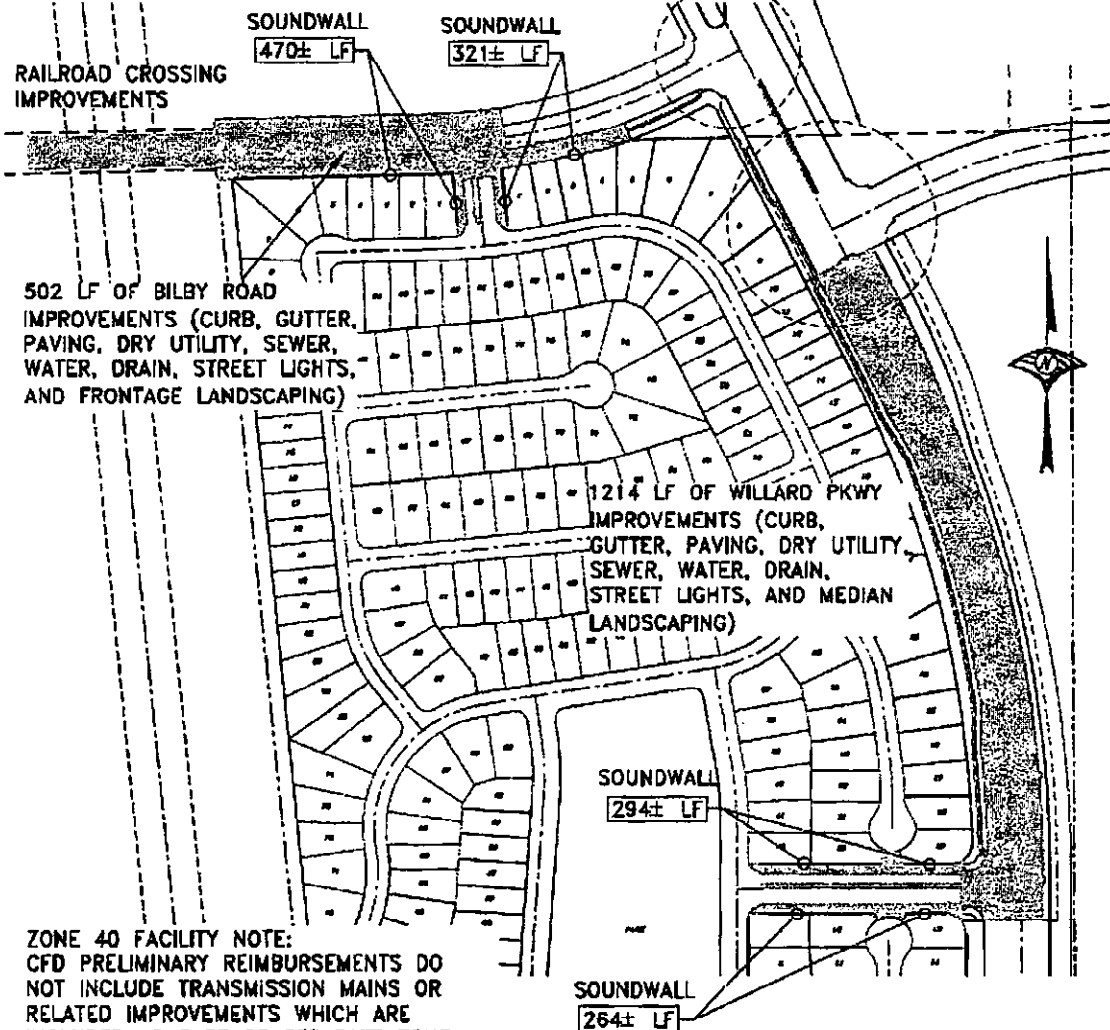
CFD PRELIMINARY REIMBURSEMENT

CITY OF ELK GROVE

CALIFORNIA

MARCH, 2011

SIGNAL MODIFICATION PER
FRANKLIN CROSSING MAJOR
ROADS IMPROVEMENT PLANS



502 LF OF BILBY ROAD
IMPROVEMENTS (CURB, GUTTER,
PAVING, DRY UTILITY, SEWER,
WATER, DRAIN, STREET LIGHTS,
AND FRONTAGE LANDSCAPING)

1214 LF OF WILLARD PKWY
IMPROVEMENTS (CURB,
GUTTER, PAVING, DRY UTILITY,
SEWER, WATER, DRAIN,
STREET LIGHTS, AND MEDIAN
LANDSCAPING)

ZONE 40 FACILITY NOTE:
CFD PRELIMINARY REIMBURSEMENTS DO
NOT INCLUDE TRANSMISSION MAINS OR
RELATED IMPROVEMENTS WHICH ARE
INCLUDED AS PART OF SEPARATE ZONE
40 CREDIT/REIMBURSEMENT AGREEMENTS.

LEGEND



EAST FRANKLIN CFD 2003-1
ELIGIBLE IMPROVEMENTS



WOOD RODGERS
DEVELOPING INNOVATIVE DESIGN SOLUTIONS
3301 C St. Bldg. 100-B Tel 916.341.7760
Sacramento, CA 95816 Fax 916.341.7767

d:\0000-s\1187-FranklinCrossing\FC-0A\Civil\Exhibits\C-EXH-FC-reimbursement-CFD.dwg 3/16/11 5:06pm mispokely

EXHIBIT C

Payment Request Form

City of Elk Grove
Poppy Ridge Community Facilities District No. 2003-1

Request for Payment

The undersigned (“Developer”) hereby requests payment pursuant to the Acquisition Agreement dated _____, 2011 (“Agreement”), between the City of Elk Grove and the Developer, in the amount of \$ _____ (Capitalized terms used herein shall have the meanings ascribed thereto in the Agreement). The payment requested is for Projects identified in Exhibit A to the Agreement that have been completed by the Developer or the party designated for payment herein (the “Contractor”) and are the subject of this request for payment, as more fully described in Schedule 1 hereto.

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 certifying the accuracy of information set forth herein.
2. The Projects described in Schedule 1 hereto 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 Schedule 1.
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 the Contractor 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 releases for all work for which payment is requested hereunder are attached hereto.

6. With respect to Projects completed after the adoption of the Resolution of Formation, construction contracts were competitively bid with the award of the contract to the responsible bidder submitting the lowest responsive bid. With respect to all Projects, prevailing wages have been paid relative to the construction of the Projects.
7. The Developer and the Contractor are in compliance with the terms and provisions of the Acquisition Agreement.
8. 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:

TAYLOR MORRISON OF CALIFORNIA, LLC,
a California limited liability company

By: _____

Name: _____

Title: _____

EXHIBIT D

REIMBURSEMENT SUBMITTAL CHECKLIST
City of Elk Grove

Date Submitted

Date Completed

Project Name: _____

Agreement Number: _____

Benefit Districts: _____

- Executed Payment Request Form
- Letter Indicating Percent Complete (must be at least 90% complete before submitting request)
- Letter(s) of Acceptance (for 100% completion)
- Unconditional Lien Release (for 100% completion)
- Proof of payment (eg. Cancelled checks)
- Proof of Advertising
- Bid Summary to include list of all bidders
- Copy of the Executed Construction Contract
- Construction Contract Specifies that Prevailing Wage Rules Apply to the Job
- Plans (as needed)
- Letter or 11"x17" Size Exhibit Identifying Reimbursable Improvements
- Potential Change of Work Authorization for Change Orders OR approved by Design Engineer
- Construction Contract Schedule of Values that Identifies Reimbursable Items and lists Financing Program's Project ID Number Associated with Each Reimbursable Item
- Invoice Summary Matches Invoices Submitted
- Invoices Submitted are for Work Performed as Part of this Project

COMMENTS:

Completed By:

Print Name

Date

EXHIBIT A

Real property in the City of Elk Grove, County of Sacramento, State of California, described as follows:

PARCEL 1:

ALL OF SAID LANDS OF STATHOS DESCRIBED IN BOOK 20021213 AT PAGE 1546, OFFICIAL RECORDS OF SACRAMENTO COUNTY AND IN BOOK 20021213 AT PAGE 1547, OFFICIAL RECORDS OF SACRAMENTO COUNTY.

EXCEPTING THEREFROM:

THAT PORTION OF THE LANDS OF STATHOS DESCRIBED AS "TRANSFER PARCEL A" AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT SITUATE ON THE NORTH LINE OF THE NORTHEAST ONE-QUARTER OF SAID SECTION 17, FROM WHICH A FOUND NAIL AND SHINER ACCEPTED AS THE NORTHEAST CORNER OF SAID SECTION 17 AS SHOWN ON THAT CERTAIN FINAL MAP ENTITLED "BILBY RANCH UNIT 1" FILED FOR RECORD IN BOOK 331 OF MAPS AT PAGE 5, SACRAMENTO COUNTY RECORDS BEARS NORTH 88° 38' 55" EAST A DISTANCE OF 99.18 FEET; THENCE FROM SAID POINT OF BEGINNING, LEAVING SAID NORTH LINE OF THE NORTHEAST ONE-QUARTER OF SAID SECTION 17, FROM A RADIAL LINE WHICH BEARS NORTH 13° 06' 13" WEST, 59.33 FEET ALONG THE ARC OF A NON-TANGENT 650.00 FOOT RADIUS CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 05° 13' 48" TO A POINT OF COMPOUND CURVATURE; THENCE 158.71 FEET ALONG THE ARC OF A TANGENT 1036.00 FOOT RADIUS CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 08° 46' 38"; THENCE SOUTH 62° 53' 22" WEST A DISTANCE OF 46.37 FEET; THENCE NORTH 27° 06' 38" WEST A DISTANCE OF 6.00 FEET TO A POINT OF CURVATURE; THENCE FROM A RADIAL LINE WHICH BEARS SOUTH 27° 06' 38" EAST, 39.27 FEET ALONG THE ARC OF A NON-TANGENT 25.00 FOOT RADIUS CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 90° 00' 00"; THENCE SOUTH 62° 53' 22" WEST A DISTANCE OF 6.00 FEET; THENCE NORTH 27° 06' 38" WEST A DISTANCE OF 86.83 FEET TO A POINT ON THE NORTH LINE OF THE NORTHEAST ONE-QUARTER OF SAID SECTION 17; THENCE ALONG SAID NORTH LINE OF THE NORTHEAST ONE-QUARTER OF SECTION 17, NORTH 88° 38' 55" EAST A DISTANCE OF 325.99 FEET TO THE POINT OF BEGINNING.

PARCEL 2:

THAT PARCEL OF LAND DESCRIBED AS "TRANSFER PARCEL B" AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

ALL OF LOT J AS SHOWN ON THAT CERTAIN FINAL MAP ENTITLED "BILBY RANCH UNIT 1" FILED FOR RECORD IN BOOK 331 OF MAPS AT PAGE 5, SACRAMENTO COUNTY RECORDS, AS DESCRIBED AS "RESULTANT LANDS OF STATHOS" IN THAT BOUNDARY LINE ADJUSTMENT RECORDED JULY 19, 2005, IN BOOK 20050719, PAGE 1225, OFFICIAL RECORDS.

APN: 132-0132-042-0000 (Affects: Parcel 1) and 132-1680-032-0000 (Affects: Parcel 2)

**CERTIFICATION
ELK GROVE CITY COUNCIL RESOLUTION NO. 2012-86**

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

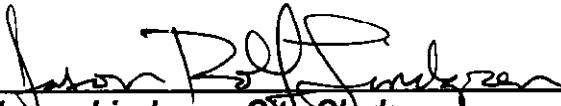
I, Jason Lindgren, City Clerk of the City of Elk Grove, California, do hereby certify that the foregoing resolution was duly introduced, approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on May 23, 2012 by the following vote:

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

NOES: **COUNCILMEMBERS:** *None*

ABSTAIN : **COUNCILMEMBERS:** *None*

ABSENT: **COUNCILMEMBERS:** *Cooper*



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