

**CITY OF ROSEVILLE
SIERRA VISTA SPECIFIC PLAN
INFRASTRUCTURE FEE PROGRAM
INFRASTRUCTURE FEE CREDIT/FEE REIMBURSEMENT AGREEMENT**

**[LIST DEVELOPER HERE]
[LIST FACILITY HERE]**

This Credit/Reimbursement Agreement (the "Agreement") is entered into by and between the City of Roseville, a municipal corporation, (hereinafter the "City") and **[list developer here, including form of entity]**, and/or its successors in interest, (hereinafter the "Developer") as of the ____ day of _____ 20__ (the "**Effective Date**").

RECITALS

WHEREAS, Developer is the underlying owner of or has legal interest in certain real property under development within the City of Roseville, known as the **[list name of development]** (the "Project") located within the Sierra Vista Specific Plan ("SVSP"), as shown in Figure "A," attached hereto and incorporated herein by this reference; and

WHEREAS, Developer will be developing the Project, including all necessary backbone infrastructure that will serve the Project; and

WHEREAS, on April 20, 2011, the City Council of the City of Roseville adopted Ordinance No. 4932 which added Chapter 4.47 to Title 4 of the Roseville Municipal Code relating to the Sierra Vista Infrastructure Fee Program (the "SV Fee Program"); implemented fees to pay for a variety of public lands and public facilities (the "SV Fees"); and set forth policies associated with Infrastructure Fee Credits (as defined below) and Fee Reimbursements (as defined below) within the Sierra Vista Specific Plan ("SVSP") area. The SV Fee related to the construction of the Facilities (as defined below) is referred to herein as the "SV Infrastructure Fee"; and

WHEREAS, pursuant to the applicable Development Agreement ("DA") for the SVSP, Developer is required, as a condition of development of the Project, to construct or cause to be constructed those SV Fee Program eligible facilities and improvements shown on Exhibit "A" and described in Exhibit "B" attached hereto, which are included within the City approved improvement plans titled **[list Name of Improvement Plan Set]**, dated **[list Date of Improvement Plan Set]** (hereinafter the "Facilities"); and

WHEREAS, Developer has entered into a contract with (**name of Contractor**) for construction of the Facilities (the "Construction Contract"); and

WHEREAS, the total cost of the design and construction of the Facilities as estimated using current prevailing wages and in accordance with the Improvement Plans is estimated as approximately _____ (\$_____) ("Facility Improvement Costs"), as more particularly set out in the estimation of costs ("Estimated Eligible Facility Costs"), Exhibit "C," attached hereto and incorporated herein by this reference; and

WHEREAS, City and Developer desire to enter into an agreement to provide for allowable Infrastructure Fee Credits and/or Fee Reimbursements by the City to Developer for certain costs of design and construction of the Facilities; and

WHEREAS, this Agreement will not apportion the Infrastructure Fee Credits granted herein to any particular real property. Such apportionment shall be accomplished at Developer's discretion as described herein;

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

SECTION 1. DEFINITIONS

All capitalized terms used herein, including, but not limited to the definition of the "Administrator", shall have the meaning described thereto in the Ordinance.

SECTION 2. CONSTRUCTION OF FACILITIES

Developer shall cause the construction of the Facilities in accordance with the plans and specifications accepted by City staff, and in accordance with City improvement standards and this Agreement. Developer understands and acknowledges that the terms and conditions contained in any contract that Developer has or may execute with any contractors or material suppliers regarding the construction of the Facilities have no force or effect upon this Agreement.

SECTION 3. PERMITS

Developer shall be responsible for obtaining all necessary permits.

SECTION 4. PRIOR TO COMMENCEMENT OF WORK

Prior to commencement of work on the Project, Developer shall comply with the following: (1) obtain pre-approval from City of Developer's construction documents; (2) cause its contractor to obtain an encroachment permit from City prior to commencement of construction activities in City's right of way (and adjacent thereto); and (3) cause its contractor to provide insurance and related documentation to City in accordance with Section 17 of this Agreement.

SECTION 5. BONDS

Prior to commencement of work on the Project, Developer shall post, or cause its contractor to post, performance and payment bonds for the Facilities in favor of the City in an amount and form acceptable to the City. City acknowledges that performance and payment bonds posted and accepted by the City in connection with any community facilities district acquisition agreement with Developer for the Facilities will be acceptable to the City for this Agreement as well. In addition, prior to City acceptance of the completed Facilities, Developer shall post, or cause its contractor to post, a warranty bond in the amount of ten percent (10%) of the Facility Improvement Costs.

SECTION 6. REIMBURSEMENT/CREDIT OF THE COSTS FOR FACILITIES

In consideration of the satisfactory completion of the Facilities as specified in Exhibits "A" through "C," City shall reimburse or credit Developer for the Facility Improvement Costs, with funds collected within the SVSP Infrastructure Mitigation Fee account, in accordance with the

terms hereof (the "Reimbursable Costs"). City and Developer acknowledge that the actual Reimbursable Costs may vary from the estimated costs, depending upon the actual costs of constructing and installing the Facilities. Any variation in costs shall be agreed to and/or resolved by the parties as provided in Section 18 below.

The Reimbursable Costs shall include the contract bid amount for the Facilities as reflected on Exhibit "C" and reasonable change orders, as approved by the City.

SECTION 7. ALLOWABLE FEE CREDIT/REIMBURSEMENT

In consideration of the satisfactory completion of the Facilities as specified in Exhibits "A" through "C," the City shall credit/reimburse the Developer for all amounts spent, or authorized to be spent, in connection with the planning, financing, acquisition and development of the Facilities, based upon the Eligible Hard Costs thereof, as approved by the Administrator in consultation with the City Engineer, plus an allowance for Soft Costs equal to twenty percent (20%) of the Eligible Hard Costs. The Infrastructure Fee Credits hereunder shall be available upon full execution of this Agreement and the posting of the performance and payment bonds, or other acceptable security, required above. Fee Reimbursements for the Facilities shall be payable to Developer only after satisfactory completion thereof by Developer and City acceptance thereof.

"Hard Costs" shall consist of the costs of (i) construction of the Facilities, based on the price included in the Construction Contract for the construction of the Facilities, and (ii) traffic control, staging and storm water pollution prevention implementation measures (i.e., structural BMPs) related to such construction. Hard Costs shall include the costs of any changes in scope or standards required by the City during the course of construction thereof that are added to the Construction Contract. Hard Costs shall also include the cost for any materials that exceeded the minimum specifications required by the City, so long as the bid for the contract clearly describes the allowed minimum specification. "Eligible Hard Costs" means all of the Hard Costs incurred by the Developer to construct the Facilities, except to the extent the Administrator excludes costs found to be commercially unreasonable. "Soft Costs" include the costs of storm water pollution prevention monitoring & management (i.e., non-structural BMPs), engineering, inspection, testing, surveying and bonding related to the construction of the Facilities; in consideration of the foregoing 20% allowance for Soft Costs based on the Eligible Hard Costs, Developer shall not be obligated to provide contracts, invoices or any other form of documentation to substantiate the actual amount of Soft Costs incurred, nor shall Developer be allowed to request a greater amount due to actual Soft Costs exceeding this fixed-percentage allowance. The amount of such Infrastructure Fee Credits, subject to the limitation set forth in Section 8 below, and subject to the final "true up" as described in Section 10 below, shall be set forth on Exhibit "D" upon execution of this Agreement.

In the event of any disagreement between the Developer and the City on the initial calculation of these Infrastructure Fee Credits, if all other conditions to the entry of this Agreement have been satisfied, the Developer may elect to enter this Agreement without having the amount of Infrastructure Fee Credits resolved and listed on Exhibit "D" (or having only the undisputed amount listed thereon). In such case, Developer's right to use any Infrastructure Fee Credits (or disputed amount) hereunder will be deferred until such disagreement is resolved by the Developer and Administrator. The parties shall meet and confer to resolve any such dispute within sixty (60) calendar days of the entry of this Agreement pursuant to Section 18 below. Pending the resolution of any such dispute, the Project will pay any and all required SV Infrastructure Fees (except as may be offset by Infrastructure Fee Credits assigned thereto pursuant to other fee credit agreements) and Developer may request

that the City retain any SV Infrastructure Fees paid by the Project after the Effective Date of this Agreement for potential refund upon resolution of such Infrastructure Fee Credit dispute. The amount of SV Infrastructure Fees that may be retained pending resolution of any Infrastructure Fee Credit dispute shall not exceed the maximum amount of Infrastructure Fee Credits that could be allocated to Developer hereunder, as may be limited by Section 8 below. Upon resolution of any Infrastructure Fee Credit dispute, the amount of Infrastructure Fee Credits allowed hereunder, as may be limited by Section 8, shall be completed on Exhibit "D." Developer shall then have fifteen (15) calendar days after receipt of the completed Exhibit "D" to retroactively apply such Infrastructure Fee Credits to the Project and obtain an equivalent refund of SV Infrastructure Fees that were collected and retained from the Project after the effective date of this Agreement pending the resolution of the Infrastructure Fee Credit dispute. If Developer does not elect within such time to have any of the Infrastructure Fee Credits applied to the Project in order to receive an equivalent refund of SV Infrastructure Fees, then the SV Infrastructure Fees previously collected and retained from the Project shall be deposited into the SV Fee Program and no longer restrained by this Agreement.

SECTION 8. LIMITATION ON AND ANNUAL ADJUSTMENTS TO INFRASTRUCTURE FEE CREDITS

Notwithstanding Section 7 above, the amount of fee credits granted to Developer pursuant to this Agreement (the "Infrastructure Fee Credits") shall not exceed the amount of SV Infrastructure Fees due from the Developer arising out of the Project based upon the approved small lot tentative subdivision map for the Project (the "SV Infrastructure Fee Obligation"). If the amount of Infrastructure Fee Credit/Fee Reimbursement from Section 7, when aggregated with any Infrastructure Fee Credits previously issued to Developer pursuant to any other fee credit agreements, exceeds the SV Infrastructure Fee Obligation of the Developer for the Project, the remaining balance shall be paid as a reimbursement to Developer pursuant to the procedures set forth in Section 9 below (the "Fee Reimbursement").

City and Developer agree that the amount of Infrastructure Fee Credits granted to Developer hereunder, and the amount of the Fee Reimbursement owed to Developer hereunder, if any, shall be as set forth on Exhibit "D" hereto and made a part hereof, subject to the final "true up" as described in Section 10 hereof. As provided in the SV Fee Program, on each Annual Adjustment Date after the Effective Date, the amount of the Infrastructure Fee Credits shall be adjusted, up or down, by the annual change in the Engineering News Record Construction Cost Index or comparable index (the "CCI"), provided any such downward adjustment shall not go below the actual cost of the Facilities, as approved by the City. If the Effective Date of this Agreement occurs in June of any calendar year, then such CCI adjustment shall not be made until the Annual Adjustment Date for the following calendar year.

No fee credits shall be available for the Administrative Fee and the City Park Land Fee and such fees shall be due and payable at such time as the Developer, or its successors or assigns, are issued building permits.

SECTION 9. FEE REIMBURSEMENTS

If, pursuant to Section 8 above, Developer is owed a Fee Reimbursement for any costs of the Facilities, the priority of payment of such Fee Reimbursement shall be on a "First-in, First-out" basis ("FIFO") as described in the SV Fee Program. Such Fee Reimbursement shall be paid to Developer when the Facilities are complete and accepted for ownership by the City ("Completion").

The Fee Reimbursement, if any, shall be paid by the City as fee revenues are collected within the SV Fee Program area. After Completion of the Facilities, such payments shall be made by the City at least quarterly throughout the year as funds become available. Prior to such Completion, if the Fee Reimbursement hereunder is eligible for payment on a FIFO basis subject only to Completion of the Facilities (including acceptance thereof by the City), then fee revenues collected within the SV Fee Program area, up to the outstanding amount of the Fee Reimbursement, shall be held by the City in reserve for payment of the Fee Reimbursement pending Completion of the Facilities.

In accordance with the SV Fee Program, any Fee Reimbursement shall accrue interest thereon at the simple rate of Four Percent (4%) per annum, commencing as of the Effective Date of this Agreement and continuing until the Fee Reimbursement is paid in full. The amount of such accrued interest shall be adjusted in accordance with any adjustment to the amount of the Fee Reimbursement pursuant to the "true up" provisions of Section 10 below. Payments of the Fee Reimbursement shall be credited first against accrued interest, and then against the principal amount of the Fee Reimbursement.

The obligation arising from this Agreement is 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, and is payable only from the SV Infrastructure Fees deposited in the SV Fee Program.

SECTION 10. "TRUE UP" OF INFRASTRUCTURE FEE CREDIT/FEE REIMBURSEMENT

Upon Completion of the Facilities, the final determination of actual Eligible Hard Costs upon which Infrastructure Fee Credit/Fee Reimbursement amounts are based shall be determined by the Administrator, in consultation with the City Engineer, based on documentation thereof provided by Developer to the Administrator's and City Engineer's reasonable satisfaction. For construction change orders to be given consideration for Fee Reimbursement, the Developer must:

- Present the change order request and estimated cost along with supporting information to City upon Completion of the Facilities.
- Fully document any work performed under a change order to verify all associated costs.

Failure to comply with any of these procedures may result in the ineligibility of the requested change order for Infrastructure Fee Credit/Fee Reimbursement.

In order to secure final Infrastructure Fee Credit and/or commitment for Fee Reimbursement, Developer shall provide the following items to the Administrator upon Completion of the Facilities in order for the City to determine the actual Eligible Hard Costs incurred by Developer for the Facilities that qualify for Infrastructure Fee Credits/Fee Reimbursement:

(1) Copies of the original Construction Contract and any change orders that have been agreed to by the Developer, contractor, and the City. The portion of each change order associated with the Facilities must be itemized separately;

(2) Copies of all invoices and certified payroll records, with unconditional lien releases, submitted by the contractor;

- (3) Copies of all checks issued by the Developer with related invoices indicated;
- (4) A summary tabulation of all contractor invoices and Developer payments;
- and

If, when the final reconciliation of Eligible Hard Costs for the Facilities is conducted by the Administrator, the actual Eligible Hard Costs for the Facilities, together with the 20% allowance for Soft Costs, exceeds the amount of Infrastructure Fee Credits/Fee Reimbursements initially provided hereunder, the Administrator shall review items (1) through (4) above and determine if the actual Eligible Hard Costs that will serve as the basis for determination of the amount of the Infrastructure Fee Credits/Fee Reimbursements due or owed to the Developer should be increased above the amount described in Exhibit "D" of this Agreement. The Administrator, in consultation with the City Engineer, shall determine how much of the actual construction costs should be included in any increase to the Eligible Hard Costs.

If the final reconciliation determines that total Eligible Hard Costs of the Facilities, together with the 20% allowance for Soft Costs, is less than the amount of Infrastructure Fee Credits/Fee Reimbursements initially provided hereunder, the Administrator shall notify the City that the Developer is required to first reduce the amount of any Fee Reimbursement and then relinquish the amount of the unused Infrastructure Fee Credits comprising any remaining difference. If and to the extent any Infrastructure Fee Credits have been used in excess of such adjustment, Developer, or Developer's assigns, shall repay such excess in cash, within thirty (30) calendar days of receipt of notice from the Administrator of the amount to be repaid.

SECTION 11. APPLICATION OF INFRASTRUCTURE FEE CREDITS

Infrastructure Fee Credits provided pursuant to this Agreement are personal to Developer and are not limited to the Project. Infrastructure Fee Credits may be applied by Developer to any property located in the SVSP, upon request of the Developer, in accordance with the form attached hereto as Exhibit "E." Such Infrastructure Fee Credits shall only apply to the SV Infrastructure Fees within the SV Fee Program.

SECTION 12. DISCLOSURE RE TIMING OF PAYMENT OF INFRASTRUCTURE FEES

As of the Effective Date of this Agreement, there [_____] ARE [_____] ARE NO] [*check applicable blank*] outstanding fee reimbursements ("**Outstanding Fee Reimbursements**") payable to other developers under other fee credit/fee reimbursement agreements with the City for improvements within the SVSP. Accordingly, if the final small lot subdivision map for the Project (the "**Final Project Map**") is being recorded as of the Effective Date of this Agreement, Developer acknowledges that:

- _____ Because there are Outstanding Fee Reimbursements, the Infrastructure Fees for the Project will need to be paid for all the lots within the Project upon recordation of the Final Project Map.
- _____ Because there are no Outstanding Fee Reimbursements, the Infrastructure Fees for the Project will not be required to be paid upon recordation of the Final Project Map, but will be required to be paid upon issuance of each building permit for the lots within the Project.

If the Final Project Map is not being recorded as of the Effective Date, then the timing for payment of the SV Infrastructure Fees for the Project may be contingent on whether

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Outstanding Fee Reimbursements exist as of the recordation of the Final Project Map. The amount of such SV Infrastructure Fees to be paid by Developer may be reduced by Developer's election to apply Infrastructure Fee Credits against such SV Fees in accordance with Section 11 above.

SECTION 13. TRANSFER OF INFRASTRUCTURE FEE CREDITS/FEE REIMBURSEMENTS

Infrastructure Fee Credits/Fee Reimbursements granted to Developer pursuant to this Agreement may be transferred to other owners, builders, or developers. To effect such a transfer, Developer shall submit a completed form to the Administrator and the City in substantially the same format as set forth in Exhibit "F" that will (i) reference this Agreement; (ii) identify the Developer and assignee if Infrastructure Fee Credits or Fee Reimbursements are being assigned to a builder or other party; and (iii) identify the Infrastructure Fee Credit or Fee Reimbursement balance before and after the transfer. The form must be signed by the Developer, its Assignee, and the Administrator, and an executed copy of the form shall be kept on file. The parties acknowledge that, except in the limited case where a Fee Reimbursement is in first priority for payment, Fee Reimbursements generally may not be converted to be used as Infrastructure Fee Credits by the Assignee of such Fee Reimbursements.

SECTION 14. INSPECTION

City shall, at all times, upon reasonable advance notice, have access to the construction site during construction of the Facilities and Developer shall furnish City with all reasonable information necessary for ascertaining full knowledge of the Facilities with respect to the progress, workmanship, and character of materials and equipment used and employed in the work.

Whenever the contractors retained by Developer vary the normal period during which work or any portion of it is carried out on each day, Developer shall give timely notice to the City so that the City's representative may, if he or she wishes, be present to observe the work in progress. If Developer fails to give such timely notice, any work done in the absence of the City representative will be subject to rejection. Developer shall give timely notice to the City in advance of backfilling or otherwise covering any part of the work so that the City's representative may, if he or she wishes, observe the work before it is concealed.

Observation of the work by the City shall not relieve Developer of any of its obligations to complete construction in accordance with the plans and specifications approved by the City Engineer.

SECTION 15. PREVAILING WAGES

Pursuant to the provisions of Articles 1 and 2 of Chapter 1, Part 7, Division II of the Labor Code of the State of California, not less than the general prevailing rate of per diem wages, and not less than the general prevailing rate of per diem wages for holidays and overtime work, for each craft, classification or type of worker needed to execute the work contemplated under this Agreement shall be paid to all workers, laborers, and mechanics employed in the execution of said work by Developer's contractor, or by any subcontractor doing or contracting to do any part of said work. The appropriate determination of the Director of the California Department of Industrial Relations is filed with, and available for inspection at the office of, the City Clerk.

Developer shall require its contractor to post, at each jobsite, a copy of such prevailing rate of per diem wages as determined by the Director of the California Department of Industrial Relations.

SECTION 16. CONTRACTOR REGISTRATION

No contractor or subcontractor may be listed on a bid proposal for construction of the Facilities or work on construction of the Facilities unless registered with the Department of Industrial Relations pursuant to Labor Code Section 1725.5. Developer shall be responsible for ensuring that these contractor registration requirements are adhered to.

SECTION 17. INSURANCE

Developer shall require its contractor to carry and maintain during the life of this Agreement, commercial general liability, property damage and contractual liability, auto, Workers' Compensation and Builders' Risk Insurance as follows:

<u>POLICY</u>	<u>LIMITS OF LIABILITY</u>
Commercial General Liability, Including endorsements for comprehensive form, premises operations, products/completed operations, broad form property damage, independent contractors, contractual, personal injury, explosion/collapse and underground hazard	Bodily Injury: \$5,000,000 each occurrence \$10,000,000 aggregate Property Damage: \$5,000,000 each occurrence Personal Injury: \$5,000,000 each occurrence \$10,000,000 aggregate
Workers' Compensation	Statutory
Automobile Liability	\$1,000,000 combined single limit

The contractor shall name the City as an additional insured and adhere to any additional insurance requirements required by the City's Risk Manager.

SECTION 18. APPEALS/DISPUTE RESOLUTION

Developer may appeal any final determination by the Administrator to the City Manager and thereafter to the City Council. Prior to submitting the matter to the City Council, the City Manager may, in his/her discretion, elect to engage the services of a mediator to attempt to mediate the dispute in a non-binding fashion, not to exceed a total of thirty (30) calendar days. Any decision of the City Council shall be final with no right of further appeal or action thereafter.

SECTION 19. ACCEPTANCE AND CONVEYANCE OF FACILITIES

Once Developer has completed construction of the Facilities and the Facilities are accepted and deemed satisfactory by the City, the Facilities automatically become the property of the City. Developer shall take any and all actions necessary to convey and vest full, complete and clear title in said Facilities to the City. [THIS SECTION TO BE ELIMINATED IN THE CASE OF FACILITIES THAT ARE TO BE OWNED BY OTHER JURISDICTIONS]

SECTION 20. LIENS, CLAIMS, AND ENCUMBRANCES

Notwithstanding any other provision or term of this Agreement, the City shall have no obligation to apply Infrastructure Fee Credits or pay Fee Reimbursements after final acceptances for the Facilities until Developer has cleared any and all liens, claims and encumbrances from said facility, and provided the required guarantee documentation, guarantee, and assurance in writing, to the satisfaction of the City. Nothing herein shall prevent the application of Infrastructure Fee Credits prior to final acceptance of the Facilities, so long as Developer is not otherwise in breach of this Agreement and the required performance and payment bonds have been posted and have been accepted by the City.

SECTION 21. DELIVERY OF AS-BUILT PLANS AND SPECIFICATIONS

Prior to acceptance of the Facilities by City, Developer shall deliver to City copies of all as-built plans (if any), specifications, operating manuals, service manuals, warranties and other documents relating to the design, construction, and operation of the Facilities described in this Agreement.

SECTION 22. INDEMNIFICATION

The Developer, by execution of this Agreement, specifically agrees to assume the defense of, indemnify and hold harmless City and its elected representatives, officers, employees, agents, consultants, and volunteers (the "Indemnitees"), 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 design, construction, or installation of the Facilities, except to the extent the Liabilities arise from the sole negligence, active negligence, or willful misconduct of City and/or the Indemnitees. This indemnification shall extend to Liabilities occurring after this Agreement is terminated as well as while it is in force. Notwithstanding the foregoing, following the acceptance of the improvements by City, or if there is an applicable warranty, following the end of any applicable warranty period, the Developer shall not be obligated to indemnify the Indemnitees for Liabilities to the extent that such Liabilities arise from Indemnitees' active or passive negligence. The defense and indemnity obligations of this Agreement are undertaken in addition to, and shall not in any way be limited by, the insurance obligations contained in this Agreement. The parties intend that this provision shall be broadly construed.

SECTION 23. THIRD PARTY LIABILITY

City does not assume any liability, duty or obligation to Developer's contractors, subcontractors or agents by execution or performance of this Agreement and no contractors, subcontractors, agents or any parties are third party beneficiaries of this Agreement.

SECTION 24. WARRANTY

Developer hereby warrants the Facilities as to materials, design and workmanship and should any failure of the Facilities or any parts thereof occur within a period of one (1) year after final acceptance by City, Developer shall promptly cause the needed repairs to be made without any expense or cost to the City. Final acceptance shall be deemed to have occurred under this Agreement when the Facilities have been accepted by the City and may be placed into service. City shall provide written notification to Developer of final acceptance by the City.

City is hereby authorized to make repairs if Developer fails to make, or undertake with due diligence, the aforesaid repairs within twenty (20) calendar days after it is given written notice of such failure. In case of emergency, where in the opinion of the City Engineer delay may cause serious hazard to the public, the necessary repairs may be made by the City without prior notice to Developer. In all cases of failure within the warranty period where the City has taken action in accordance with this paragraph, Developer shall reimburse City for any and all costs or expenses, direct or indirect, incurred by the City.

SECTION 25. BINDING ON SUCCESSORS AND ASSIGNS

Each and every provision of this Agreement shall be binding upon and shall inure to the benefit of the respective successors and assigns of the parties hereto, in the same manner as if such parties had been expressly named herein.

SECTION 26. ATTORNEY'S FEES

If any suit, action or proceeding in law or equity is brought to enforce the provisions of this Agreement, the prevailing party shall be entitled to reasonable costs and attorneys' fees.

SECTION 27. AUTHORITY TO ENTER INTO AGREEMENT

Developer and City certify that they are legally empowered to enter into this Agreement.

SECTION 28. NOTICES

Any notices, requests, demands or other communications required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given on the date of service if served personally (FedEx and similar services, each of which is hereinafter called an "Express Courier," shall be considered to be personal service) or by telephone facsimile or other electronic transmission (provided that the sender of a telephone facsimile or other electronic transmission has received confirmation of successful transmission by the sending fax machine), and upon receipt, if mailed to the party to whom notice is to be given, by first-class mail, registered or certified, postage prepaid, return receipt requested, and properly addressed as follows:

(a) If to City:

City of Roseville
Development Services, Engineering
Attn: City Engineer
311 Vernon Street
Roseville, CA 95678
Telephone: (916) 774-5339
Email – DSEngineering@Rosville.ca.us

With a copy to:

Economic & Planning Systems, Inc.
Attn: SV Infrastructure Fee Administrator
400 Capitol Mall, 28th Floor
Sacramento, CA 95814
Telephone: (916) 649-8010

Facsimile: (916) 649-2070

(b) If to Developer:

[fill in notice information for Developer]

Either party may change its mailing address at any time by giving written notice of such changes to the other party in the manner provided herein.

SECTION 29. NOTICE OF CONTRACTORS

Developer shall provide a copy of this Agreement to any contractors, subcontractors, or other parties performing work on the Facilities, prior to commencement of construction by said party.

SECTION 30. TERM

The term of this Agreement shall start on the day and year duly executed by all parties and shall remain in effect until all the terms and conditions contained in this Agreement have been satisfied.

SECTION 31. SEVERABILITY

If any provision of this Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining portions hereof shall not in any way be affected or impaired thereby.

SECTION 32. CONFLICTS

This Agreement is intended to implement and be consistent with the requirements of Ordinance No. 4932. Therefore, in the event of any conflicts between Ordinance 4932 and this Agreement, the requirements of the Ordinance shall prevail and control.

SECTION 33. EXHIBITS

The Exhibits attached hereto are hereby incorporated herein by this reference. In the event of any conflict between this Agreement and its Exhibits, the provisions of this Agreement shall govern.

SECTION 34. ENTIRE AGREEMENT

This Agreement constitutes the entire understanding of the parties regarding the subject matter hereof. The Agreement may be amended only by writing executed by both parties.

SECTION 35. EFFECTIVE DATE

The City's execution of this Agreement shall be contingent upon confirmation by the City that (i) a Construction Contract has been properly bid and entered into for construction of the Facilities, (ii) performance and payment bonds have been posted in form and amount required by the City, and (iii) a Notice to Proceed has been given to the contractor for the Facilities. The date of approval by the City Council of this Agreement, based in part on the City's confirmation of the satisfaction of the foregoing conditions, shall be deemed to be the "**Effective Date**" of this Agreement. Upon execution of this Agreement by the City, the City shall insert the Effective

Date in the Preamble to this Agreement and provide a copy of this fully executed and dated Agreement to Developer.

IN WITNESS WHEREOF, the City of Roseville, a municipal corporation, has authorized the execution of this Agreement in duplicate by its City Manager and attestation by its City Clerk under authority of Resolution No. 18-____, adopted by the Council of the City of Roseville on the ____ day of _____, 2018, and DEVELOPER has caused this Agreement to be executed.

CITY:

CITY OF ROSEVILLE,
a municipal corporation

DEVELOPER:

(INSERT DEVELOPER SIGNATURE BLOCK)

By: _____
Its: City Manager

_____ a _____

ATTEST:

By: _____
Name: _____
Title: _____

By: _____
Its: City Clerk

and

APPROVED AS TO FORM:

By: _____
Name: _____
Title: _____

By: _____
Its: City Attorney

APPROVED AS TO SUBSTANCE:

By: _____
Its: Development Services Director

FIGURE “A”

**PROJECT LOCATION MAP
SIERRA VISTA INFRASTRUCTURE FEE PROGRAM**

(Insert name of Developer here)
(List Project Name Here)
(Date)

EXHIBIT "A"

**DEPICTION OF ELIGIBLE FACILITY IMPROVEMENTS
SIERRA VISTA INFRASTRUCTURE FEE PROGRAM**

(Insert name of Developer here)
(List Project Name Here)
(Date)

This Exhibit shows a depiction of the eligible improvements subject to the SVSP Fee Program.

EXHIBIT “B”

**DESCRIPTION OF ELIGIBLE FACILITY IMPROVEMENTS
SIERRA VISTA INFRASTRUCTURE FEE PROGRAM**

(Insert name of Developer here)
(List Project Name Here)
(Date)

This Exhibit describes the eligible improvements subject to the SVSP Fee Program.

EXHIBIT “C”

**ESTIMATED ELIGIBLE FACILITY COSTS
SIERRA VISTA INFRASTRUCTURE FEE PROGRAM**

(Insert name of Developer here)
(List Project Name Here)
(Date)

This Exhibit to show a detailed cost estimate of the eligible improvements subject to the SVSP
Fee Program.

EXHIBIT "D"

IDENTIFICATION OF INFRASTRUCTURE FEE CREDITS AND FEE REIMBURSEMENTS

SIERRA VISTA INFRASTRUCTURE FEE PROGRAM

[Insert Name of Developer Here]

[List Project Name Here]

Date of Agreement: _____, 20____

Project Obligation per SV Infrastructure Fee:

Infrastructure Fee = $\frac{\text{_____}}{\text{(no of lots)}} \times \frac{\text{_____}}{\text{(fee per lot)}} = \frac{\text{_____}}{\text{(Total Due)}}$

- MINUS -

Estimated Infrastructure Fee Credits = _____
(From Exhibit "C")

- EQUALS -

Total Infrastructure Fee Due (positive no.) or
Fee Reimbursement Due (negative no.) = _____

EXHIBIT "E"

**FORM OR CERTIFICATE OF APPLICATION OF
SIERRA VISTA INFRASTRUCTURE FEE CREDITS**

The undersigned Developer, as the holder of certain Sierra Vista Infrastructure Fee Credits related to the Credit / Reimbursement Agreement between Developer and the City of Roseville, dated _____ (the "Agreement"), hereby elects to apply the amount of Infrastructure Fee Credits indicated below as a credit against the SV Infrastructure Fee otherwise payable in connection with the recordation of a small-lot subdivision map or issuance of building permit(s) for development of the property within the Sierra Vista Specific Plan described below:

Developer's Legal Name: _____

Project Name: _____

Amount of Applied Infrastructure Fee Credits: \$_____

Infrastructure Fee Credit Balance Available under Agreement Before Application: \$_____

Infrastructure Fee Credit Available under Agreement After Application: \$_____

APPROVED: Administrator: _____

DEVELOPER:

a _____

By: _____

Name: _____

Title: _____

Date: _____

EXHIBIT "F"

**FORM OF CERTIFICATE OF ASSIGNMENT AND TRANSFER OF
SIERRA VISTA INFRASTRUCTURE FEE CREDIT**

The undersigned Developer, as the holder of certain Sierra Vista Infrastructure Fee Credits related to the Credit / Reimbursement Agreement between Developer and the City of Roseville, dated _____ (the "Agreement"), hereby assigns, transfers and conveys to the undersigned Assignee the amount of Sierra Vista Infrastructure Fee Credits as indicated below:

Developer's Legal Name: _____

Assignee's Legal Name: _____

Amount of Assigned Infrastructure Fee Credits: \$ _____

Infrastructure Fee Credit Balance Available under Agreement Before Transfer: \$ _____

Infrastructure Fee Credit Balance Available under Agreement After Transfer: \$ _____

APPROVED: Administrator: _____

DEVELOPER:

ASSIGNEE/HOME BUILDER:

a _____

a _____

By: _____
Name: _____
Title: _____
Date: _____

By: _____
Name: _____
Title: _____
Date: _____

Developer Contact:

Assignee/Home Builder Contact:

Name: _____
Address: _____

Telephone: _____
Facsimile: _____
E-Mail: _____

Name: _____
Address: _____

Telephone: _____
Facsimile: _____
E-Mail: _____