

FUNDING & REIMBURSEMENT AGREEMENT

THIS FUNDING & REIMBURSEMENT AGREEMENT (the "**Agreement**"), dated as of Dec. 20, 2022, is by and between the COUNTY OF MADERA, a political subdivision of the State of California, and its agencies (the "**County**"), GROVELAND DEVELOPMENT CORPORATION, a California corporation ("**Groveland**"), RIVERSTONE DEVELOPMENT, LLC, a California limited liability company ("**Riverstone**"), and LENNAR HOMES OF CALIFORNIA, LLC, a California limited liability company ("**Lennar**"). Riverstone, Groveland, and Lennar may be referred to herein individually as a "**Developer**" and collectively as the "**Developers**." The County and the Developers are the "**Parties**," or if only one of them is referenced, a "**Party**."

RECITALS

A. The Board of Supervisors of the County has previously approved the Gateway Village Specific Plan (the "**Specific Plan**") and the Gateway Village Area Plan (the "**Area Plan**"), and various Tract Maps within the area covered by the Specific Plan and Area Plan, including Tracts 270, 277, 279, 284, 285, 287, 288, 290, 293, 294, 295, 296, 297, 300, 303, 305, 306, 307, 308, 311 and 312.

B. Groveland and Riverstone are the master developers of a portion of the master-planned community described in the Specific Plan (the "**Riverstone Development**"), each as to a separate portion thereof. Lennar owns a substantial amount of land in the Riverstone Development.

C. The Riverstone Development includes regional traffic and regional transportation improvements, including certain improvements on State Route 41 (such route, "**SR 41**," and such improvements, as more particularly described herein, the "**SR 41 Project**") and on Avenue 12 (such improvements, as more particularly described herein, the "**Facilities**," and such project, the "**Avenue 12 Project**");

D. The County, Groveland, and Riverstone are parties to that certain Development Agreement No. 8437-C-2007 dated September 11, 2007 (as amended, if at all, the "**Development Agreement**"), which relates to the Riverstone Development. Among other things, the Development Agreement addresses the responsibility for the design, engineering, construction, and funding of the SR 41 Project and the Avenue 12 Project.

E. The Development Agreement provides that (1) the SR 41 Project may be designed, engineered, and constructed by the County, and the Avenue 12 Project will be designed, engineered, and constructed by the County, and (2) the Riverstone Development will pay its fair share of the cost of both Projects in full via the County's regional traffic impact fees pursuant to the County "**Road Impact Fees Ordinance**," Chapter 14.70 of the Madera County Code ("**Road Impact Fees**"). Road Impact Fees imposed on residential and commercial construction within the Riverstone Development are estimated to generate between approximately Ninety Million Dollars (\$90,000,000) and One Hundred Fifty Million Dollars (\$150,000,000).

F. To avoid overlapping, redundant, and/or inconsistent work, the County has determined that the most efficient method of widening SR 41 is to undertake an integrated project that includes the SR 41 Project along with the continued widening of SR 41 north from the 12/41 Intersection to just north of Avenue 15 (such combined project, the **"Expanded SR 41 Project"**). In implementation of the Expanded SR 41 Project, the County, in coordination with Caltrans, **(1)** has completed its environmental review of the Expanded SR 41 Project; **(2)** has identified funding sources for the Expanded SR 41 Project; **(3)** has submitted sixty percent (60%) of the Expanded SR 41 Project construction documents to Caltrans for approval; and **(4)** anticipates commencing construction of the Expanded SR 41 Project in calendar year 2024. Therefore, pursuant to the Development Agreement, the County acknowledges and confirms that the SR 41 Project requirement is being satisfied by the Expanded SR 41 Project.

G. Turning to the Avenue 12 Project, the Avenue 12 Facilities are necessary, in part, to mitigate impacts arising from the Riverstone Development, and the County will benefit from a coordinated plan of design, engineering, and construction of the Facilities and the development of the land owned by the Developers. Such Facilities also will benefit other properties outside the Riverstone Development (**"Other Benefitted Properties"**).

H. The County desires to proceed with the design, engineering, and construction of the Avenue 12 Project, but considers the SR 41 Project a priority.

I. The Developers consider the Avenue 12 Project to be for the mutual benefit of the Parties and are willing to advance certain costs related to the Facilities subject to the terms and conditions set forth herein. The County acknowledges that such advances are not required by the Development Agreement but are being made in consideration of the benefits provided in this Agreement. This Agreement implements certain traffic policies and elements of the Specific Plan and Area Plan.

J. The Parties have reached an agreement on the foregoing and certain other matters, and are memorializing such agreement in this Agreement.

DEFINITIONS

Capitalized terms used in this Agreement, in addition to those defined elsewhere in this Agreement, shall have the following meanings:

"12/41 Intersection" means the intersection of Avenue 12 and SR 41.

"Acceptable Title" means title that is free and clear of all liens, taxes, assessments, easements, leases, or other encumbrances (whether recorded or not), except for **(a)** those encumbrances which the County's Public Works Director agrees to accept, **(b)** those encumbrances that the County's Public Works Director determines in writing will not interfere with the use of such Ave 12 Right-of-Way as a public street, and **(c)** the Underground Irrigation Facilities.

“Actual Cost” means, with respect to a Facility, an amount equal to the sum of the following actual costs: (a) the cost of constructing such Facility, including labor, material, procurement, mobilization, construction water, equipment costs, and restoration, (b) the cost of preparing the PS&E for such Facility, (c) the cost of environmental evaluations required in the County’s reasonable determination specifically for such Facility, including those related to cultural resources and habitat protection, (d) fees and charges paid to governmental agencies in order to obtain permits, licenses, inspections, connections, or other necessary governmental approvals for such Facility, (e) the cost for construction management services for such Facility, (f) the cost for professional services directly related to the construction of such Facility, including engineering, inspection, construction staking, materials testing, and similar professional services, (g) the cost of any title insurance, if required, for Rights-of-Way, (h) the cost of any payment and performance bonds required to construct the Facility, and (i) the cost of any real property or interest therein acquired from a party other than a Developer, which real property or interest therein is either necessary for the construction of such Facility (e.g., temporary construction easements, haul roads, etc.) or is required to be conveyed with such Facility in order to convey Acceptable Title thereto to the County, all as specified in a Disbursement Request that has been reviewed and approved by the Public Works Director who will be responsible for administering the construction of the Facility, and (i) the cost of providing the accountings pursuant to Section 16. Provided, however, that no item of cost relating to a Facility shall be included in more than one category of cost under this definition; and provided further, however, that each item of cost shall be of the type required to be capitalized under generally accepted accounting. For clarity, real property or interest therein acquired from a Developer are separately addressed herein. The Party who incurs any cost included in Actual Costs shall use commercially reasonable efforts to minimize such cost.

“Advance” means any amount paid by a Developer (a) to the County hereunder, or (b) in direct payment of Actual Costs.

“Advances Ratio” is defined in Section 5.

“Agreement” is defined in the Preamble.

“Area Plan” is defined in Recital A.

“Ave 12 Right-of-Way” is defined in Section 3.a.

“Avenue 12 Obligation” means the County’s obligations hereunder to pay the Right-of-Way Payment and the Cost Reimbursements.

“Avenue 12 Project” is first mentioned in Recital C and means the widening of Avenue 12 to its ultimate width as set forth in the Specific Plan between the 12/41 Intersection and Road 40, and any required transition lanes west of Road 40, not including the Expanded SR 41 Project.

“Avenue 12 Segment” means the portion of Avenue 12 between the 12/41 Intersection and Road 40, and any required transition lanes west of Road 40.

“Certificate of Completion” is defined in Section 4.b.

“Compensation Conditions” is defined in Section 3.b.

“Conditional Earliest Start Date” is defined in Section 2.a.

“Conditions of Approval” means the conditions of approvals and mitigation measures imposed in connection with the granting of the land use entitlements for the development of land for the Riverstone Development, and any subdivision improvement, owner participation agreement, development or other agreement with the County relating to the development of the Riverstone Development.

“Construction Contract” is defined in Section 4.a.

“Construction Phase” is defined in Section 4.a.

“Cost Reimbursement” is defined in Section 5.

“County” is defined in the Preamble.

“Deposit” is defined in Section 5.a.

“Developer(s)” is defined in the Preamble.

“Developer Indemnatee” is defined in Section 9.

“Design Phase” is defined in Section 2.a.

“Development Agreement” is defined in Recital D.

“Estimated Deposit Exhaustion Date” is defined in Section 5.a(iii).

“Expanded SR 41 Project” is defined in Recital F.

“Facility” or **“Facilities”** is first mentioned in Recital C and means the public facilities listed on Exhibit “A” hereto.

“FIFO Basis” is defined in Section 6.

“Funding Sources” means, collectively, (A) fees collected by the County from within the Riverstone Development through its Road Impact Fees and Vehicle License Fees programs (not otherwise committed or pledged to the Expanded SR 41 Project), (B) Riverstone EIFD Funds, (C) a regional public infrastructure financing mechanism, and/or (D) any other sources that may exist or come to exist in the future through which funds for the Avenue 12 Project legally may be obtained (including, but not limited to, sources referenced in the Development Agreement); provided, however, that no new CFD

assessments or taxes shall be imposed on the Riverstone Development for purposes of reimbursement under this Agreement without the written consent of the Developers.

“Groveland” is defined in the Preamble.

“Initial Construction Advance” is defined in Section 5.a(ii).

“Lennar” is defined in the Preamble.

“Notice of Acceptance” is defined in Section 4.b(ii).

“Other Benefitted Properties” is defined in Recital G.

“Party(ies)” is defined in the Preamble.

“Plans” means the complete, engineered plans and specifications, including all schedules, for the Facilities, prepared pursuant to the applicable standards of the County.

“PS&E” means the Plans and related cost estimates, ready for construction bid.

“PS&E Contract” is defined in Section 2.a.

“Public Works Director” means the Public Works Director of the County or such other official of the County acting in such capacity, or the designee of such official.

“Qualified Mediator” is defined in Section 18.b.

“Remaining Costs Deposit Notice” is defined in Section 5.a(iii).

“Representative” is defined in Section 17.a.

“Right-of-Way Dedication Offer” is defined in Section 3.a.

“Right-of-Way Payment” is defined in Section 3.a.

“Riverstone” is defined in the Preamble.

“Riverstone Development” is defined in Recital B.

“Riverstone EIFD Funds” means funds generated by County of Madera Enhanced Infrastructure Financing District No. 2018-3.

“Riverstone Impact Fees” means Road Impact Fees collected from within the Riverstone Development.

“Road Impact Fees” is defined in Recital E.

“Road Impact Fees Ordinance” is defined in Recital E.

“Second Construction Advance” is defined in Section 5.a(iii).

“Specific Plan” is defined in Recital A.

“SR 41” is defined in Recital C.

“SR 41 Project” is first mentioned in Recital C and means (1) the four-lane extension of SR 41 from near Avenue 10½ to Avenue 12, including the Avenue 11 bridge, and (2) the ultimate intersection of the 12/41 Intersection, consisting of two through lanes on all four approaches; dual left turn lanes on all four approaches and separate right turn lanes on all four legs; excepting the eastbound approach, which will have dual right turn lanes.

“Underground Irrigation Facilities” is defined in Section 3.c.

AGREEMENTS

In consideration of the foregoing recitals and the mutual promises and covenants set forth herein, and for other valuable consideration, the sufficiency of which is hereby acknowledged, the County and the Developers agree as follows:

1. Recitals. The Parties agree to the above recitals, which are incorporated herein. Further, the County represents and warrants to the Developers, and the Developers represent and warrant to the County, that the above recitals, as applicable to each, are true and correct.

2. Design and Engineering of Facilities.

a. Design and Engineering of Facilities by County. Except as provided in Section 2.b, and subject to the Conditional Earliest Start Date (defined below), the County shall arrange for the preparation of the PS&E for the Avenue 12 Project, covering the design and engineering of the Facilities in compliance with County road standards (such portion of the Avenue 12 Project, the **“Design Phase”**), subject to the Developers’ funding obligations pursuant to Section 5. Each purchase order or contract the County issues or enters into for PS&E is a **“PS&E Contract.”** Such PS&E will be subject to County review and approval. The County shall review the PS&E when submitted and approve them when the County confirms that they meet County road standards. The County is solely responsible for all road standards and the review and approval of the PS&E prior to any construction, and the Developers are under no duty to review or comment on the PS&E. Further, any review and comment by a Developer shall not subject such Developer to any liability or alter the County’s sole responsibility for the road standards and review and approval of the design, even if a Developer’s comments are acted upon by the County. Notwithstanding any other provision hereof, any portion of the Design Phase that is reliant on Developer Advances shall not begin before January 1, 2024 (the **“Conditional Earliest Start Date”**), unless otherwise agreed by the Parties in writing. For clarity, County may begin the Design Phase prior to the Conditional

Earliest Start Date, but such earlier start does not affect the due date of the Developers' PS&E Advance pursuant to Section 5.a(i).

b. Design and Engineering of Facilities by Groveland and/or Riverstone. Groveland and/or Riverstone may elect, in their sole discretion, to arrange for the preparation of the PS&E. Any such PS&E shall be in compliance with the County road standards and subject to the County's review and approval pursuant to Section 2.a. All costs incurred in connection with Groveland and/or Riverstone arranging for the preparation of the PS&E and the County review/approval process are Advances to be paid by the Developers in the Advances Ratio and are subject to reimbursement pursuant to Section 6. Groveland's and/or Riverstone's arrangement of, and the Developers' payment for, the design and engineering of the Facilities shall not subject any Developer to any liability for such design and engineering, which responsibility is solely that of the design professionals and the County.

3. Avenue 12 Segment Right-of-Way.

a. Acquisition of Ave 12 Right-of-Way. Groveland and Riverstone have made or arranged for offers to dedicate portions of the Avenue 12 Segment right-of-way ("**Ave 12 Right-of-Way**") to the County. Each Developer shall offer to dedicate any remaining Ave 12 Right-of-Way to the County (each such past or future offer of dedication, a "**Right-of-Way Dedication Offer**"). The County shall pay each Developer for the fair market value of each Ave 12 Right-of-Way as of the corresponding Right-of-Way Dedication Offer date (each such amount, a "**Right-of-Way Payment**"), which payment shall be made from Funding Sources when available. Payment for any Right-of-Way Dedication Offers made by anyone other than the Developers shall be made to Groveland and/or Riverstone as those Parties direct in writing. All Right-of-Way Dedication Offers needed for the Ave 12 Right-of-Way shall be completed and delivered to the County by June 30, 2023.

b. County's Receipt, Acceptance, and/or Payment for Right-of-Way Dedication Offers Prior to Satisfaction of Compensation Conditions. Right-of-Way Payments are subject to certain conditions applicable to each Funding Source (the "**Compensation Conditions**"). The Compensation Conditions pursuant to the County Road Impact Fees Ordinance include an appraisal of the Ave 12 Right-of-Way and related property tax information. The County desires to receive Right-of-Way Dedication Offers before all of the Compensation Conditions have been satisfied, and when that occurred or occurs, it is without prejudice to any Developer's right to receive such compensation for each Right-of-Way Dedication Offer upon satisfaction of the remaining Compensation Conditions. Further, the offer to convey or conveyance of Ave 12 Right-of-Way to the County prior to receipt of payment therefor shall not be construed as a gift or a waiver of the payment of the compensation provided for herein, or any part thereof.

c. Right to Farm. Some of the Ave 12 Right-of-Way is currently being farmed. Such farming operations may continue until each affected portion of the Ave 12 Right-of-Way is needed for Avenue 12 Project construction-related activities. Any offers of dedication shall recognize such continued farming activities, including underground private irrigation facilities (the "**Underground Irrigation Facilities**"), via an encroachment permit

similar to the manner in which the County and Riverstone and its affiliate addressed them in connection with Road 40 offers of dedication along the westerly boundary of the Riverstone Development (sample attached as Exhibit "B," which shall be revised as appropriate to reflect the details of the current transaction).

4. Construction of Facilities.

a. Bid Package; Contract for, and Construction of, Facilities. Subject to the Condition Earliest Start Date provided below, after the PS&E for the Facilities are approved, Groveland and Riverstone shall assist or arrange for assistance to the County in preparing a bid package for construction of the Facilities in accordance with the Plans, and the County shall let one or more construction contract for such construction (each, a "**Construction Contract**") in its own name; pay amounts due under each Construction Contract; and enforce each Construction Contract so that the Facilities are completed in accordance with the Plans (such portion of the Avenue 12 Project, the "**Construction Phase**"), subject to the Developers' payment obligations pursuant to Section 5. The County shall provide copies of all Construction Contracts to the Developers. Notwithstanding any other provision hereof, any portion of the Construction Phase that is reliant on Developer Advances shall not begin before the Conditional Earliest Start Date.

b. County's Actions Upon Completion.

(i) Certificates of Completion. When the Chief of Development Services and/or Deputy Public Works Director, or their designees, determine that construction of the Facilities has been satisfactorily completed, they shall file a certificate (the "**Certificate of Completion**") with the Clerk of the Board of Supervisors. The Certificate of Completion shall state the following information:

- (A) The nature of Improvement(s);
- (B) The date of inspection;
- (C) The name of the inspector;
- (D) A statement that the Facilities have been satisfactorily completed and are thereby approved.

(ii) Acceptance by Board Supervisors. The County's Board of Supervisors shall consider the Certificate of Completion. If County's Board of Supervisors finds that the facts in the Certificate of Completion are true and correct, then it shall accept such Facilities and record a notice of the foregoing action(s) (the "**Notice of Acceptance**") in the Office of the County Recorder.

c. Village C Utilities. If Lennar is ready to install utilities in the Riverstone Development planning area commonly known as Village C (Grove District) at the time the County is ready to construct the Facilities, the Parties shall coordinate their work so it proceeds efficiently. Construction of the Village C utilities shall be at Lennar's expense.

5. Advances by Developers. Groveland and Riverstone collectively shall advance one-half (½) of the amounts required to be paid by the Developers hereunder, and Lennar shall advance the other one-half (½) of such amounts (the "**Advances Ratio**"), with each Developer entitled to reimbursement of its Advances (each, a "**Cost Reimbursement**") as provided herein. As between the Developers only, if any Developer pays more than its share of Advances, the Developer(s) who did not pay its/their share shall promptly pay such shortfall to the other Developer(s) entitled thereto, so that the Advances Ratio is restored on a cumulative basis.

a. Deposit.

(i) PS&E Advance. If the County arranges for the PS&E pursuant to Section 2.a, by the later of (x) thirty (30) days after receipt of the County's written request with reasonable supporting PS&E costs estimate, or (y) the Conditional Earliest Start Date, the Developers shall make an Advance in the form of a deposit with the County in the full amount of such estimated PS&E costs (the "**Deposit**"), to be held and used as provided in this Section 5. All other Advances paid to the County hereunder shall be considered part of the Deposit.

(ii) Initial Construction Contract Amount Advance. The Developers shall make an Advance to the County of fifty percent (50%) of the Construction Contract amount (the "**Initial Construction Advance**") by the later of (x) completion of the Expanded SR 41 Project; provided that the date in this item (x) shall be no later than July 1, 2025 unless otherwise agreed by the Parties, (y) thirty (30) days after written request therefor by the County with an estimated construction start date and a copy of the signed Construction Contract, or (z) thirty (30) days prior to the issuance of a notice to proceed pursuant to the Construction Contract. On or before the due date of the Initial Construction Advance, each Developer shall provide adequate proof to County of such Developer's ability to make the Second Construction Advance (defined in Section 5.a(iii)) when due.

(iii) Advance of Remainder of Construction Contract Amount. The County shall notify the Developers at least sixty (60) days prior to the reasonably estimated date when the Deposit will be exhausted (such date, the "**Estimated Deposit Exhaustion Date**") and such notice, the "**Remaining Costs Deposit Notice**"). The Developers shall make an Advance to the County of the remainder of the Construction Contract amount (the "**Second Construction Advance**") by the later of (x) thirty (30) days prior to the Estimated Deposit Exhaustion Date, or (y) sixty (60) days after receipt of the Remaining Costs Deposit Notice.

b. Additional Rules Regarding Deposit. The County shall maintain the Deposit in a separate, segregated account; shall use such funds solely for the purpose of paying Actual Costs; shall only disburse funds to vendors and contractors pursuant to commercially reasonable procedures, including appropriate releases of stop payment rights; and when all amounts due pursuant to the Construction Contract have been paid or this Agreement is terminated, the County shall promptly refund to the Developers the remaining balance, if any, of the Deposit. Such refund obligation also shall apply to any

amounts funded by the Developers that are later recovered by the County from, or reimbursed to the County by, the contractor, consultants, insurers, or any other source.

6. Payment of Avenue 12 Obligation from Funding Sources. The County shall (i) collect Funding Sources, and (ii) pay the Avenue 12 Obligation to the Developers without interest on a first-in, first-out basis based on the timing of Right-of-Way Dedication Offers and Advances ("**FIFO Basis**"), in accordance with this Agreement. Without limiting the generality of item (i) or the scope of Funding Sources, the County shall collect appropriate Road Impact Fees from Other Benefitted Properties so that such Other Benefitted Properties pay their fair share of the Avenue 12 Project.

a. One-Time Payment Upon Acceptance of the Avenue 12 Project. Notwithstanding any other provision hereof, the County shall pay the Developers Three Million Dollars (\$3,000,000) from available Funding Sources within thirty (30) days after the Notice of Acceptance of the Avenue 12 Project as provided in Section 4.b(ii), which shall be applied to the Avenue 12 Obligation.

b. Quarterly Installments of Unpaid Balance of Avenue 12 Obligation as Funds from Funding Sources to the Developers When Available. Commencing upon completion of the Expanded SR 41 Project, the County shall pay the remaining balance of the Avenue 12 Obligation in quarterly installment payments as Funding Sources become available. Said payments shall continue until the Avenue 12 Obligation is paid in full.

c. True-Up of Right-of-Way Payments and Cost Reimbursements Among Developers. If any Developer receives more than its share of any Right-of-Way Payments or Cost Reimbursements, or receives such funds earlier than on a FIFO Basis, such Developer shall promptly pay such excess funds to the other Developer(s) entitled thereto. For clarity, such payments between Developers are without prejudice to each Developer's right to receive its portion of Right-of-Way Payments and Cost Reimbursements from the County as provided herein.

d. Expectations of the Parties. The County understands and agrees that (A) some or all of the Ave 12 Right-of-Way may be offered for dedication to and accepted by the County when there are insufficient Funding Sources to pay the Right-of-Way Payments, (B) the Developers will be making Advances prior to the availability of Funding Sources that will be used to reimburse them (which is why the Advances are required), and (C) in any such case, the Right-of-Way Payments and Cost Reimbursements will be deferred until there are sufficient Funding Sources available from time to time, at which time the County will make such payments in accordance with this Agreement. At all times, the Developers will be making such Right-of-Way Dedication Offers and Advances with the expectation that the corresponding Right-of-Way Payments and Cost Reimbursements will be paid from the Funding Sources, and not as gifts.

e. No Effect on Other Reimbursement Obligations. Nothing in this Agreement limits any obligation of the County to reimburse any Developer for the costs of public facilities or the dedication of right-of-way under any other agreement.

7. Periodic Meetings. From time to time at the request of the Public Works Director or any Developer, representatives of each Developer shall meet and confer with County staff, consultants and contractors regarding matters arising hereunder with respect to the Facilities and the progress in constructing same, and as to any other matter related to this Agreement.

8. Overall Cooperation. The Parties shall cooperate in good faith to achieve the completion of the Avenue 12 Project, and to resolve any issues that arise in connection with the Avenue 12 Project.

9. Hold Harmless and Indemnification. Each Party agrees to indemnify, defend, and hold harmless the other Party from any and all loss or liability arising from the death or injury of any person, or damage to real or personal property caused by the indemnifying Party or its agent or employee. Without limiting the mutuality of the foregoing, the County agrees to hold harmless, defend and indemnify each Developer and its members, managers, officers, and employees (each, a “**Developer Indemnatee**”) from every claim, demand, suit, loss and damage arising from any of the following that occurs during the construction of the Facilities, except to the extent resulting from the negligence or willful misconduct of a Developer Indemnatee:

- Any act, omission, neglect or fault of the County.
- Any injury to, or death of, any person or damage to any property sustained while on the real property immediately adjacent to the construction zone of the Avenue 12 Project, or upon any street or highway running through such construction zone, to the extent (in either case) resulting from the construction of the Avenue 12 Project.
- Any injury to, or death of any person, or damage to, the property of any Developer Indemnatee, or its agents, engineers or contractors, or their employees resulting from the construction of the Avenue 12 Project.

Nothing in this Agreement is intended to waive or reduce any defenses or immunities any Party might have to an otherwise indemnified claim, and each indemnified Party shall assert all defenses or immunities in a commercially reasonable manner so as to minimize the amount of an indemnification obligation, if any.

10. Financial Responsibility. Each Party is responsible for the costs it incurs in performing its obligations under this Agreement unless otherwise stated in this Agreement. This Section 10 does not waive or alter any rights of the County pursuant to Section 5, rights of any Developer pursuant to Section 2.b, 3, 6, or indemnification rights pursuant to Section 9, when such rights are applicable.

11. Use of Riverstone Impact Fees. Riverstone Impact Fees shall be used in the following priority, and for no other purpose until such priority uses have been fully satisfied: First, to pay the Riverstone Development's prorated share contribution toward the SR 41 Project portion of the Expanded SR 41 Project. Next, to pay the Avenue 12 Obligation.

12. Limitation of Liability; Excess Costs. Developers agree that any and all obligations of the County arising out of or related to this Agreement are special and limited obligations of the County and the County's obligations to make any payments hereunder are restricted entirely to the Funding Sources, as set forth herein, and from no other source. No member of the Board of Supervisors, County staff member, employee or agent, in their individual capacities, shall incur any liability hereunder to the Developers or any other Party by reason of their actions hereunder or execution hereof.

13. Representations and Covenants.

a. Representations and Covenants of Developers. Each Developer represents, warrants and covenants for itself, and not on behalf of the other Developers, the benefit of the County as follows:

(i) Organization. Such Developer is a corporation (Groveland) or limited liability company (Riverstone and Lennar) duly organized and validly existing under the laws of the State of California and has the power and authority to own its properties and assets and to carry on its business as now being conducted and as now contemplated.

(ii) Authority. Such Developer has the power and authority to enter into this Agreement and has taken all action necessary to cause this Agreement to be executed and delivered. This Agreement has been duly and validly executed and delivered by such Developer.

(iii) Binding Obligation. This Agreement is a legal, valid and binding obligation of the Developer, enforceable against the Developer in accordance with its terms, subject to bankruptcy and other equitable principles.

(iv) Compliance with Laws. Such Developer shall not with knowledge commit, suffer or permit any act to be done in, upon or to the Facilities in violation of any law, ordinance, rule, regulation or order of any governmental authority or any covenant, condition or restriction now or hereafter in effect.

b. Representations and Covenants of the County. The County represents and covenants for the benefit of the Developers as follows:

(i) Authority. The County has the power and authority to enter into this Agreement and has taken all action necessary to cause this Agreement to be executed and delivered. This Agreement has been duly and validly executed and delivered by the County.

(ii) Binding Obligation. This Agreement is a legal, valid and binding obligation of the County, enforceable against the County in accordance with its terms, subject to bankruptcy and other equitable principles.

14. Limitation. Except as specifically set forth herein, nothing in this Agreement shall be construed as affecting any Developer's or the County's duty to perform their respective obligations under the Conditions of Approval and any other agreements, land use regulations, or subdivision requirements related to the property being developed by such Developer. Any such obligations are and shall remain independent of the applicable Developer's and the County's rights and obligations under this Agreement. Further, this Agreement is not intended to and shall not alter, amend, affect, or disturb the permits, approvals, and other governmental entitlements that the Developers and other third parties have obtained with respect to the Riverstone Development and properties therein.

15. General Standard of Reasonableness. Any provision of this Agreement which requires the consent, approval or acceptance of either Party hereto or any of their respective employees, officers or agents shall be deemed to require that the consent, approval or acceptance not be unreasonably withheld or delayed, unless the provision expressly incorporates a different standard. The foregoing provision shall not apply to provisions in the Agreement which provide for decisions to be in the sole discretion of the Party making the decision.

16. Accounting. The County shall provide the Developers with a written accounting, including copies of supporting invoices, of Advances received and Actual Costs incurred and paid pursuant to this Agreement on a monthly basis. Further, upon reasonable notice to the County, the County shall provide any other information requested by the Developers, and shall make its books and records available to the Developers, to allow the Developers determine the amount and status of the Deposit of the Funding Sources.

17. Additional Provisions.

a. Authorized Representatives. Not later than fifteen (15) days after the execution hereof, each Party shall designate at least one individual manager, officer, or employee who will be its representative and will be authorized to act on behalf of such Party for all purposes in performing the provisions of this Agreement ("**Representative**"). Each Party shall also designate an alternate Representative who will serve in the place of (and with the same authority as) the Representative if the latter is unavailable. A Party may also designate more than one Representative. The designation may be changed from time to time. Any designation under this Section 17.a shall be made in a writing delivered to the other Party.

b. Licensees, Designees, and Other Agents. The Parties each acknowledge and agree that their respective rights and obligations under this Agreement may be exercised by and performed by their respective contractors and subcontractors, licensees, designees, and other agents.

c. No Release. Each Party is responsible for the acts or omissions of its contractors and subcontractors, licensees, designees, other agents, and Representative(s). The designation of a Representative by a Party does not release the Party from responsibility for performance of its obligations under this Agreement.

d. Attorney's Fees. In the event of the bringing of any action or suit arising out of this Agreement, the Party in whose favor final judgment is entered shall be entitled to recover from the other Party all costs and expenses of suit, including reasonable attorneys' fees. This provision shall apply separately to each Developer and to any assignee of all or any part of this Agreement with respect to the obligations assumed by the assignee. The Developers shall not be liable for attorney's fees resulting from an action or suit against an assignee.

e. Notices. Any notice, payment or instrument required or permitted by this Agreement to be given or delivered to either Party shall be deemed to have been received when personally delivered or one week following deposit of the same in any United States Post Office, registered or certified mail, postage prepaid, addressed as follows:

Groveland: Groveland Development Corporation,
a California corporation
Attn: Timothy Jones, President
265 East River Park Circle, Suite 310
Fresno, CA 93720
Phone: (559) 237-7000
E-mail: tjones@vdccllc.com

Riverstone: Riverstone Development, LLC,
a California limited liability company
Attn: Timothy Jones, President
265 East River Park Circle, Suite 310
Fresno, CA 93720
Phone: (559) 237-7000
E-mail: tjones@vdccllc.com

Lennar: Lennar Homes of California, LLC,
a California limited liability company
Attn: Mike Miller, Vice President
8080 N. Palm Ave., Suite 110
Fresno, CA 93711
Phone: (559) 447-3400
Email: mike.miller@lennar.com

County: County of Madera
200 W. 4th Street
Madera, California 93637
Attn: County Administrative Officer

Each Party may change its address or addresses for delivery of notice by delivering written notice of such change of address to the other Party.

f. Severability. If any part of this Agreement is held to be illegal or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall be given effect to the fullest extent reasonably possible.

g. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the Parties hereto. This Agreement may not be assigned by any Developer without the prior written consent of the County, which consent shall not be unreasonably withheld or delayed. In connection with any such consent of the County, the County may condition its consent upon the acceptability of the financial condition of the proposed assignee.

h. Waiver. Failure by a Party to insist upon the strict performance of any of the provisions of this Agreement by the other Party, or the failure by a Party to exercise its rights upon the default of the other Party, shall not constitute a waiver of such Party's right to insist and demand strict compliance by the other Party with the terms of this Agreement thereafter.

i. Merger. No other agreement, statement or promise made by any Party or any employee, officer or agent of any Party with respect to any matters covered hereby that is not in writing and signed by all the Parties to this Agreement shall be binding.

j. Counterparts and Electronic Signatures. This Agreement may be executed in counterparts, each of which shall be deemed an original. This Agreement may be signed electronically, including via DocuSign. Electronic signatures and signatures delivered via facsimile or scanned and e-mailed shall have the same effect as originals.

k. Amendments. Amendments to this Agreement shall be made only by written instrument executed by each of the Parties hereto.

l. Governing Law. The provisions of this Agreement shall be governed by the laws of the State of California applicable to contracts made and performed in the State of California, without regard to the conflicts of law principles thereof.

m. Construction of Agreement. The words "herein," "hereof," "hereunder," and other words of similar import refer to this Agreement as a whole and not to any particular Section, unless specifically designated otherwise. Unless otherwise specifically referring to another instrument or document, references to "Sections" refer to the indicated portion of this Agreement. References to a Section or subsection hereof includes all of its subsections and sub-subsections. Non-exclusive terms such as "including," "such as," "for example," and "e.g.," list examples only, and do not indicate an exhaustive list of situations in which a clause applies. Such terms have the same meaning as the phrase "including, without limitation." Whenever used in this Agreement, the singular shall include the plural and vice versa, and gender-specific pronouns and references shall apply to all genders and trusts or entities, all as the context and meaning of this Agreement requires. Any reference to any statute, regulation, rule, ordinance, law, or recorded document includes any amendment, replacement, restatement, or recodification thereof, and all subsections of the referenced section or clause. Any deletion of language from this Agreement prior to its execution shall

not be construed to raise any presumption, canon of construction or implication, including, without limitation, any implication that the Parties intended thereby to state the converse of the deleted language. Each Party acknowledges that it is freely and voluntarily entering into this Agreement, uncoerced by any other person and that it has been represented by legal counsel of its choice with regard to this Agreement in its entirety and understands the same. Each Party and attorneys for each Party have participated in the negotiation and drafting of this Agreement and any documents or certificates executed pursuant hereto. Therefore, the provisions of this Agreement and such other documents or certificates shall not be construed in favor of or against either Party, but shall be construed as if all Parties equally prepared this Agreement.

n. Headings. The paragraph headings herein are used only for the purpose of convenience only and shall not be deemed to limit the subject of the sections or paragraphs of this Agreement or to be considered in their construction.

o. Incorporation of Recitals, Exhibits, Etc. All recitals, appendices, schedules, and exhibits to this Agreement are incorporated herein by this reference and constitute part hereof.

p. Entire Agreement. This Agreement and the Development Agreement constitute the entire agreement between the Parties pertaining to the subject matter hereof, and shall supersede all other prior and contemporaneous agreements on such subject matter, representations, negotiations and understandings of the Parties, oral or written, including all letters of intent. The foregoing sentence shall in no way affect the validity of any instrument executed by the Parties in the form of the exhibits attached to this Agreement.

q. Notice and Opportunity to Cure. Except as otherwise provided in a separate cure provision herein or as provided below, prior to taking any action to enforce its rights under this Agreement in the event of an alleged breach of any matter that is subject to cure, the Party alleging the existence of a breach shall give the alleged breaching Party written notice of the specific nature of the alleged breach, together with a demand that the alleged breach be cured within (a) thirty (30) days for a monetary default, or (b) forty-five (45) days—or such shorter period as is reasonable in exigent circumstances—for a nonmonetary default that is subject to cure by its nature; but if (i) a curable nonmonetary default cannot, with due diligence, be cured within forty-five (45) days, and (ii) the allegedly defaulting Party commences a cure within that initial forty-five (45)-day period and thereafter diligently prosecutes it to completion, the cure period shall be extended through such cure efforts. If the Party receiving such notice cures the alleged breach as provided in this Section 17.q, the alleged breach shall be deemed not to have occurred, and no claims shall result therefrom. Notwithstanding any other provision of this Agreement, if a breach is incapable of cure by its nature or if giving notice of an alleged breach is legally prevented for any reason or if any agreed cure period would be tolled for any reason (including in either case, bankruptcy stay, if such stay would have the noted result), then in that situation, the provisions of this Section 17.q and any other notice and cure provision in this Agreement shall be ignored, and no notice is required before a Party who fails to perform as agreed pursuant to this Agreement is deemed to be in default.

r. No Third-Party Beneficiaries Except as Expressly Provided. Except as otherwise expressly provided herein, if at all, nothing in this Agreement is intended to confer any rights or remedies under or by reason of this Agreement on any person other than the Parties to it and their respective permitted successors and assigns, nor is anything in this Agreement intended to relieve or discharge any obligation of any third person to any Party to this Agreement or give any third person any right of subrogation or action over or against any Party to this Agreement. This Agreement does not create any duty, liability or standard of care to any person who is not a Party.

s. Relationship of Parties. Each Party is an independent entity. This Agreement will not constitute either Party as the agent of the other Party, except as otherwise provided in this Agreement or as otherwise agreed by the Parties. This Agreement will not constitute the Parties as partners or joint venturers (or as co-owners of a business entity) for common law purposes, federal, state or local income tax purposes, or otherwise. The Parties will not conduct business under a common name, or execute an agreement identifying any or all of them as partners, shareholders or members of a business entity.

18. Dispute Resolution. This Section 18 governs the resolution of all disputes that arise under this Agreement.

a. Good Faith Negotiations. A Party that believes a dispute exists under this Agreement shall first refer the dispute to the Representatives for resolution. The Representatives of each Party shall personally meet (which may be via Zoom or similar videoconferencing) and attempt in good faith to resolve the dispute. If the Representatives cannot resolve the dispute within thirty (30) days, a Party that still believes a dispute requires resolution may avail itself of the provisions of Section 18.b.

b. Mandatory Mediation. Prior to initiating any reference proceeding, arbitration, or litigation, the Parties shall attempt in good faith to resolve all disputes regarding this Agreement and the transactions contemplated hereby via formal mediation. To initiate the mediation process, a Party shall deliver written notice to the other Party summarizing any matter(s) in dispute. Within ten (10) days thereafter, the Parties shall engage a neutral mediator who shall be a retired judge or justice with substantial expertise in real estate law (a "**Qualified Mediator**") and pursue mediation in good faith at a mutually convenient time and place, taking into account any exigencies posed by the matter(s) in dispute. If the Parties cannot agree on a Qualified Mediator within ten (10) days after any Party delivers a written demand for mediation to the other Party, then upon application by any Party summarizing the matters in dispute, the Madera County Superior Court shall appoint a Qualified Mediator. The mediator's charges and the costs of any rented room or other mediation expenses shall be borne equally by the Parties involved in the dispute. All statutes of limitation and other time-related defenses related to the matters being mediated shall be tolled while the Parties are actively pursuing mediation. If a Party breaches this Section 18, it shall not be entitled to recover its attorney's fees and other costs even if it would otherwise be entitled to pursuant to this Agreement. This mediation clause does not preclude the Parties from filing an action for the limited purpose of seeking provisional relief

in anticipation of or during the mediation, provided that immediately following the issuance of any such equitable relief by the court, the Parties will stay any further judicial proceeding pending mediation as provided herein.

[Signatures follows]

* * * * *

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first-above written.

COUNTY OF MADERA


Chairman, Board of Supervisors

ATTEST:


Clerk, Board of Supervisors

Approved as to Legal Form:
COUNTY COUNSEL

Dale E.
By: Bacigalupi 

GROVELAND DEVELOPMENT CORPORATION,
a California corporation

By: _____
Timothy Jones, President

RIVERSTONE DEVELOPMENT, LLC, a
California limited liability company

By: CENTRAL VALLEY DEVELOPMENT, LLC, a
California limited liability company, its
Manager

By: _____
Timothy Jones, Manager

LENNAR HOMES OF CALIFORNIA, LLC,
a California limited liability company

By: _____
Mike Miller, Vice President

ACCOUNT NUMBER(S)



* * * * *

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first-above written.

COUNTY OF MADERA

GROVELAND DEVELOPMENT CORPORATION,
a California corporation

By: _____
Timothy Jones, President

Chairman, Board of Supervisors

ATTEST:

RIVERSTONE DEVELOPMENT, LLC, a
California limited liability company

By: CENTRAL VALLEY DEVELOPMENT, LLC, a
California limited liability company, its
Manager

By: _____
Timothy Jones, Manager

Clerk, Board of Supervisors

Approved as to Legal Form:
COUNTY COUNSEL

LENNAR HOMES OF CALIFORNIA, LLC,
a California limited liability company

By: _____

By: _____
Mike Miller, Vice President

ACCOUNT NUMBER(S)

* * * * *

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first-above written.

COUNTY OF MADERA

GROVELAND DEVELOPMENT CORPORATION,
a California corporation

By: _____
Timothy Jones, President

Chairman, Board of Supervisors

ATTEST:

RIVERSTONE DEVELOPMENT, LLC, a
California limited liability company

By: CENTRAL VALLEY DEVELOPMENT, LLC, a
California limited liability company, its
Manager

By: _____
Timothy Jones, Manager

Clerk, Board of Supervisors

Approved as to Legal Form:
COUNTY COUNSEL

LENNAR HOMES OF CALIFORNIA, LLC,
a California limited liability company

By: _____

By:  _____
Mike Miller, Vice President

ACCOUNT NUMBER(S)

EXHIBIT "A"

FACILITIES

The Facilities consist of street improvements, including without limitation paving, curbs, gutters, sidewalks, medians, landscaping, traffic controls and streetlights, for the improvement of Avenue 12 between Road 40 and the Ave 12/SR 41 intersection, and any required transition lanes west of Road 40, which will be described in further detail in the Plans.

For specific items of work and quantities, measurements, sizes, and types, see the Plans for the Facility approved by the County, as well as contracts and change orders.

EXHIBIT "B"

SAMPLE ENCROACHMENT PERMIT

**COUNTY OF MADERA
PUBLIC WORKS DEPARTMENT**

ENCROACHMENT PERMIT

No. _____

TO: Riverstone Farms, LLC and Groveland Development Corporation
Attn: Timothy Jones
265 E. River Park Circle, Suite 310
Fresno, California 93720
Owners of Madera
County APNs 049-026-008, 049-024-010, 080-170-002, 080-170-003, 080-170-004 & 080-160-008

ROAD: Avenue 12 within the limits identified on Grant Deed(s) recorded as
Document No(s). _____

Permission is granted for the owners of the above-referenced Madera County APNs ("Permittee") from time to time to use the real property described in the Grant Deed recorded as Document No. _____, Official Records of Madera County (the "Grant Deed"), for agricultural cultivation operations including (a) for the planting, growing, pruning, removal, and replacement of trees and shrubs, and the harvesting of crops therefrom ("Surface Agricultural Operations"), and (b) the utilization and operation of existing underground private irrigation pipelines within the fee title granted therein (the "Irrigation Pipelines"), including the right to repair, replace, or modify such existing pipelines, for purposes of moving irrigation water between Madera County Assessor's Parcel Numbers ("APN") 049-026-008 and 049-024-010 (the "Northside Parcels") and APNs 080-170-002, 080-170-003, 080-170-004 & 080-160-008 (the "Southside Parcels") (such item (b) activities, "Subsurface Pipeline Activities").

- This permit does not allow for a road closure without separate written consent from the Road Commissioner.
- This permit does not allow for installation of new subsurface agricultural infrastructure (i.e. irrigation lines, pumps, wells, etc.) without separate written consent from the Road Commissioner

This permit is issued under Chapter 5.5 of Division 2 of the Streets and Highway Code. It is understood and agreed to by the Permittee that by doing any of the work under this permit he or she accepts the conditions listed below. The granting of this permit does not establish any precedent concerning the kind of encroachments permitted within public right-of-way.

SPECIAL CONDITIONS

1. All Surface Agricultural Operations activities shall be contained to the area dedicated in the recorded grant deed documents. No operations will be allowed for within the Avenue 12 right of way that existed prior to that which was grant deeded to the County.

2. All Subsurface Pipeline Activities shall include the repair, replacement, and modification to existing irrigation pipelines as shown in the attached exhibit illustrating such facilities.

Commented [A1]: When this sample form is used, Riverstone to provide exhibit showing existing facility locations within/crossing Ave 12

Phase-Out of Surface Agricultural Operations

This permit is subject to the phase-out of Surface Agricultural Operations subject to the terms and conditions set forth in the Grant Deed.

Possible Relocation of Subsurface Pipeline Operations

This permit shall remain in effect with respect to the Subsurface Pipeline Operations as long as any owner of any portion of the referenced APNs remains in agricultural use.

Upon one-hundred eighty (180) days' written notice, however, the County may require a Permittee to relocate some or all of the Irrigation Pipelines serving its property to one or more different locations under Avenue 12 designated by the County of Madera Road Commissioner or his/her authorized designee, so long as the relocated Irrigation Pipelines will allow the reasonably efficient flow of sufficient irrigation water between the Northside Parcels and the Southside Parcels.

Permit Issued as Condition of Grant Deed

This permit is being issued concurrently with and as a condition of the Grant Deed, and although the Irrigation Pipelines are subject to relocation as provided above, this permit may not be revoked except for a material breach by such Permittee that is not cured within thirty (30) days after written notice from the County; provided, however, that if the matter is not reasonably subject to cure within that period, the cure period shall be extended a reasonable time so long as such Permittee initiates the cure within such initial thirty (30)-day period and diligently prosecutes it to completion.

Pre-Construction Notice

Prior to Avenue 12 construction, the County shall have its contractor notify Permittee and have Permittee mark the location of the Irrigation Pipelines.

GENERAL CONDITIONS

1. The Permittee is responsible for furnishing the contractor (s) with a copy of this permit.
2. Prior to any work, the Permittee will secure, whenever required by law, written consent from the Railroad Commission of the State of California or any other public board having jurisdiction.
3. All work will conform to Madera County Code and either California Department of Transportation (CALTRANS) or the American Association of State Highway and Transportation Officials (AASHTO) standards and approved by the Public Works Director.
4. All work will be inspected by the applicant's project Registered Civil Engineer who will certify that all work meets or exceeds Madera County Ordinance and accepted standards and/or complies with the County approved project plans.

Exhibit "B"
Page 2

5. Madera County Public Works Department must be notified 72 hours prior to the commencement of final grade preparation, placement of asphalt, and at the completion of construction.
6. Prior to excavation, the Permittee will call USA Underground Alert: 1-800-642-2444.
7. During construction, all traffic control will be in accordance with the most recent California Department of Transportation (CALTRANS) Manual of Traffic Controls for Construction and Maintenance Work Zones. *One lane of traffic will be open at all times.*
8. Traffic control during construction is the responsibility of the Permittee and/or their contractors. The Permittee will furnish and maintain all necessary safety devices and/or construction signs to properly protect and direct traffic.
9. No material shall be stored within eight feet from the edge of pavement or travel way or within the shoulder line where shoulders are wider than eight feet.
10. The Permittee is responsible for all liability for personal injury and /or property damage, which may arise out of work permitted, or which may arise out of the Permittee's failure to perform their obligations. In the event of any claim of liability against the County of Madera, department, officer, or employee, the Permittee shall defend, indemnify and hold them and each of them harmless from such a claim.
11. Permittee and/or any others who conduct work under this permit shall be responsible for preservation of any and all survey monuments within the limits of, and/or affected by, the work completed under this permit, in accordance with Section 8771 of the Business and Professions Code. Copies of all records related to identification and preservation/re-establishing any affected monuments shall be provided to the County.
12. Any damage to private or public facilities will be immediately reported to the Public Works Department, repaired and/or replaced at the expense of the Permittee.
13. Work will not interfere with established drainage.
14. During grading and/or excavation, should archaeological resources be encountered, work will cease. The contractor must immediately contact the Madera County Public Works Department and a qualified archaeologist to determine whether the find is significant. The archeologist will make appropriate photo documentation and record a Historic Architectural Survey report if required. Any materials collected will be donated to an appropriate institution. The archaeologist will monitor further grading and /or excavation. He or she will have the power to halt or redirect these activities to allow for evaluation and recover. Should human remains be disturbed, the contractor will also contact the County Coroner (State Health and Safety Code Section 7050.5). Work will not resume until the Coroner has determined the origin and disposition of the remains (Public Resources code 5097.98).
15. Upon completion of work, all brush, timber, scraps and material will be entirely removed and the right-of-way left in a safe and clean condition.
16. Upon completion of work, As-Built plans, signed and stamped by either a California licensed land surveyor or a California registered civil engineer (as applicable) will be provided to the Public Works Department.
17. The Permittee will not release the contractor(s) or any bond prior to acceptance of the work by the Public Works Department.
18. Unless revoked by the Public Works Director or his designee as provided above, this permit is valid for the duration stated in the special conditions. Before an extension may be granted, an extension request must be presented in writing and approved by the Public Works Director or his designee.
19. Whenever construction, reconstruction, or maintenance work on the road may require, the Permittee will immediately remove, at his or her own expense, all improvements from the right-of-way upon the written request or direction of the Public Works Director.

For the County of Madera
Public Works Department

By: _____
Ted Michel
Assistant Engineer

By: _____
Madera County
Road Commissioner

We/I agree to all terms and conditions of this Permit and will hereby abide by such.

By: _____
Permittee

For: _____
Company/Agency

Title: _____

Date: _____