

DEVELOPER DEPOSIT AGREEMENT

DELAWARE

This Agreement is made and entered into by and between Rancho Murieta Community Services District ("District") and Cosumnes River Land LLC a ~~California~~ limited liability company (~~collectively~~, "Developer"). The purpose of this Agreement is to provide a mechanism whereby Developer will fund the District's attorneys' fees and costs associated with processing the Murieta Gardens I & II ("Project") as outlined below:

A. The District accepts the Project for the following processing:

- 1. County Environmental Review & Entitlement Approval X
- 2. Sewer Facilities Extension X
- 3. Water Facilities Extension X
- 4. Drainage Facilities Extension X
- 5. Improvement Plan Review _____
- 6. Construction Inspection _____
- 7. Drainage Permit _____

B. District staff time, perhaps consultants as well, will be necessary to provide input to the County, Rancho Murieta Association (RMA), and/or other agencies as appropriate, as part of the District's processing of the Project.

1. **DEVELOPER OBLIGATION TO ADVANCE FUNDS**

- A. For the purpose of funding the District's costs, including all attorneys' fees and associated costs and those cost estimated at Exhibit A, to process the Project for Developer's and/or other landowner/developers' proposed development project(s), and subject to the terms and conditions of this Agreement, Developer will provide the District one hundred percent (100%) of the costs to process the Project as identified below in subsections B.
- B. The parties estimate that Developer's funding for the District's legal counsel services to review, negotiate, draft, and/or complete documents for the Project will total approximately \$15,000 for District costs to process the Project. All parties acknowledge and agree that this amount, and the amount set forth at Exhibit A, is only an estimate of the fees and costs of the District and that, notwithstanding any other provision of this Agreement, Developer will fund the actual costs, whether greater or lesser than the estimate set forth herein subject to the termination rights of Developer in Section 4 below. All District costs advanced by Developer to the District shall be recorded and accounted for by the District in a separate general ledger account ("Project Fund").

2. **INITIAL DEPOSIT**

Upon execution of this Agreement, Developer shall provide the District an initial deposit of \$15,000 for District costs, which amount will be deposited into the Project Fund. Payment of such deposit is a condition precedent to the exercise of any rights of Developer, or any obligations of the District, under this Agreement. The Project Fund shall be used by District solely for District's services to process the Project.

3. **PERIODIC ADVANCES BY DEVELOPER**

When charges against the Project Fund for District costs reduce the fund below \$1,000, the District shall prepare a written estimate of the expenditures necessary to process the project and shall submit this estimate to Developer. If the estimate exceeds the amount remaining in the Project Fund, Developer shall either (i) promptly pay the District the amount needed to pay all currently due and unpaid obligations and in addition to such amount, to increase the Project Fund by the lesser of (a) the amount needed to process the Project or (b) \$10,000; or (ii) terminate this Agreement in accordance with Section 4 below.

4. **DEVELOPER RIGHT TO TERMINATE ITS OBLIGATIONS**

- A. Developer may terminate its obligation to provide funding under this Agreement by written notice delivered to the District. The District shall thereafter promptly notify all individuals and entities processing the Project that the Agreement has been terminated and shall otherwise promptly take action to stop all work on the Project that is chargeable to Developer under this Agreement.
- B. In any contract between District and a third party which obligates funds from Developer pursuant to this Agreement, the District will include a provision that the District may terminate such contract by written notice and the District shall have no obligation to fund any costs relating to work done after receipt of the notice. The District shall not be required by this Agreement to enter into any contract with a third party if the party refuses to include such a provision.
- C. Upon the delivery by Developer of a notice to terminate, Developer shall have no obligation to fund any Project costs for services performed after the District's receipt of the notice to terminate except those services performed by District's legal counsel prior to District's receipt of actual notice of termination of this Agreement and winding-up expenses. Winding-up expenses shall be limited to costs incurred by the District to stop the work on the Project, to pay and terminate Project obligations to District's legal counsel incurred prior to the notice of termination, and to perform accountings or other obligations of the District to Developer under the Agreement. Winding-up expenses shall not include the cost to complete work in progress when the notice of termination was delivered.
- D. Within thirty (30) days after receipt of a notice to terminate, the District shall refund to Developer any District legal costs paid by Developer to the District pursuant to this Agreement after deduction of amounts properly chargeable to Developer pursuant to this Agreement.

5. **DISTRICT'S RIGHT TO TERMINATE**

Should Developer default in any of its obligations under this Agreement, or if District determines, in its reasonable discretion, that Developer has not proceeded with reasonable diligence under this Agreement, the District may terminate this Agreement with written notice delivered to Developer. Should the District terminate this Agreement, the District will refund any unused District legal costs paid by Developer remaining in the Project Fund, without interest.

6. **PERIODIC ACCOUNTING**

The District shall provide an accounting to Developer of expenditures for the Project when Developer is requested to make a payment to the Project Fund, when three (3) months has expired since the last accounting, and when the Agreement is terminated or the Project is completed. The accounting shall describe the nature and amount of all expenditures for the Project that is chargeable to Developer under this Agreement.

7. **MISCELLANEOUS**

- A. The District and Developer agree that nothing in this Agreement shall be construed to constitute approval or favorable action with respect to approvals of the financing plan and/or county entitlement approvals. Developer acknowledges and agrees that notwithstanding its reimbursement obligations under this Agreement, the District retains all authority and discretion granted to it by law with respect to any approval of any entitlements for Developer or other parties. The preceding sentence is not intended to affect or modify any right which Developer already has.
- B. Developer shall have no right hereunder, by virtue of providing funds hereunder, to recommend, approve or deny District's selection of any District staff members, consultants or advisors that it may retain with regard to the Project.
- C. In consideration of the funding obligations of Developer hereunder, District agrees to act reasonably promptly and further agrees to instruct its staff and legal counsel to act reasonably diligently to review and complete the Project, and to process the Project for final approval by District's Board in a reasonably expeditious manner.
- D. In any action to enforce the provisions of this Agreement, the prevailing party shall be entitled to its reasonable attorneys fees.
- E. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which, together shall constitute but one and the same instrument.
- F. The terms of this Agreement may not be modified or amended except by an instrument in writing executed by each of the parties hereto.
- G. The waiver or failure to enforce any provisions of this Agreement shall not operate as a waiver of any future breach of any such provision or any other provision hereof.

- H. This Agreement shall be governed by and construed in accordance with the laws of the State of California. Any legal action or proceeding brought relative to this Agreement shall be heard in a court of competent jurisdiction in the County of Sacramento, California
- I. This Agreement constitutes the entire understanding between all of the parties relating to the payment of the District's costs as described herein. This Agreement shall be deemed jointly drafted by the parties, no one party shall be considered the draftsperson, and any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement.
- J. This Agreement may not be assigned by Developer without the prior and express written consent of the District. This Agreement and each of its terms shall be binding upon Developer and District and their respective successors and assigns.
- K. If any term or provision of this Agreement is found to be invalid or unenforceable, the parties agree that they would have executed this Agreement notwithstanding the invalidity of such term or provision. The invalid term or provision may be severed from the Agreement and the remainder of the Agreement may be enforced in its entirety.
- L. Each party signing this Agreement hereby represents and warrants to the other party that all necessary legal prerequisites to that party's execution of this Agreement have been satisfied and that he or she is authorized to sign this Agreement and bind the party on whose behalf he or she signs.

[Signature Page Follows Immediately]

EXHIBIT A

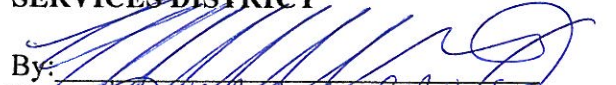
Initial Scope and Cost Estimate

1. County Environmental Review and Entitlement Approval	
a. County land use entitlement processing	\$ 5,000
b. Outside agency coordination/review	\$ 3,000
c. Other incidental costs	<u>\$ 2,000</u>
Subtotal	\$ 10,000
2. Sewer Facilities Extension	
a. Construction drawing review	\$ 1,000
b. Easement preparation/review	\$ 1,000
c. Other incidental costs	<u>\$ 1,000</u>
Subtotal	\$ 3,000
3. Water Facilities Extension	
a. Construction drawing review	\$ 1,000
b. Easement preparation/review	\$ 1,000
c. Other incidental costs	<u>\$ 1,000</u>
Subtotal	\$ 3,000
4. Drainage Facilities Extension	
a. Construction drawing review	\$ 1,000
b. Easement preparation/review	\$ 2,000
c. Other incidental costs	<u>\$ 1,000</u>
Subtotal	\$ 4,000
5. Improvement Plan Review	
a. Construction drawing review	\$ _____
b. Easement preparation/review	\$ _____
c. Other incidental costs	\$ _____
Subtotal	\$ _____
6. Construction Inspection	
a. Construction drawing review	\$ _____
b. Easement preparation/review	\$ _____
c. Other incidental costs	\$ _____
Subtotal	\$ _____
7. Drainage Permit	
a. Construction drawing review	\$ _____
b. Easement preparation/review	\$ _____
c. Other incidental costs	\$ _____
Subtotal	\$ _____

This Agreement is executed and effective as of the last date signed below by the parties.

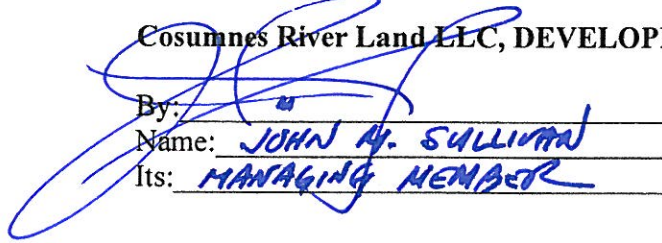
Dated: MAY 25, 2013

**RANCHO MURIETA COMMUNITY
SERVICES DISTRICT**

By: 
Name: EDMUNDO A. CEREUSE
Its: GENERAL MANAGER

Dated: MAY 23, 2013

Cosumnes River Land LLC, DEVELOPER

By: 
Name: JOHN A. SULLIVAN
Its: MANAGING MEMBER

Cosumnes River Land, LLC
Jos. Stutz Companies, LLC Manager
 7200 Lone Pine Drive Suite 200
 Rancho Murieta, CA 95683

Bank of America.
 63-4/630 FL 9832 

5204

5/23/2013

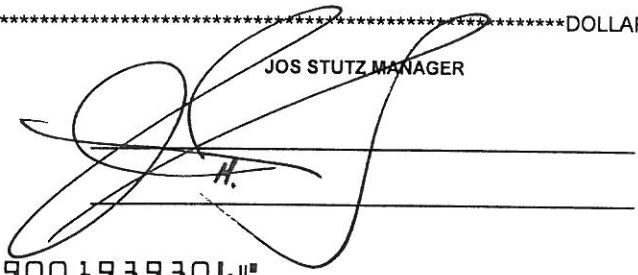
PAY TO THE ORDER OF Rancho Murieta CSD

\$ **15,000.00

Fifteen Thousand and 00/100 *****DOLLARS

Rancho Murieta CSD

JOS STUTZ, MANAGER



Memo

⑈005204⑈ ⑆063000047⑆ 229001939304⑈

Cosumnes River Land, LLC

5204

Rancho Murieta CSD				5/23/2013		
Date	Type	Reference	Original Amt.	Balance Due	Discount	Payment
5/23/2013	Bill	05-23-13	15,000.00	15,000.00		15,000.00
				Check Amount		15,000.00

Checking

15,000.00

Cosumnes River Land, LLC

5204

Rancho Murieta CSD				5/23/2013		
Date	Type	Reference	Original Amt.	Balance Due	Discount	Payment
5/23/2013	Bill	05-23-13	15,000.00	15,000.00		15,000.00
				Check Amount		15,000.00

Checking

15,000.00

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