

Appendix 600-L ANNEXATION AGREEMENT

ANNEXATION AGREEMENT FOR (NAME OF PROJECT) TO GROVELAND COMMUNITY SERVICES DISTRICT

(Note: This document is a template. The Board reserves the right to add or delete sections that address unique conditions of each development.)

This Annexation Agreement (the "Agreement") is made and entered into this ____ day of _____, 200__, by and between GROVELAND COMMUNITY SERVICES DISTRICT, a political subdivision of the State of California formed and operated pursuant to California Government Code Section 61000 et seq., (hereinafter "District") and _____ (hereinafter "Developer").

RECITALS

1. Developer has obtained approval from the County of Tuolumne ("County") for a general plan amendment, rezone, and vesting tentative subdivision map (collectively, the "Approvals") for a residential and recreational project formerly known as _____ (the "Project"). Prior to approving the Project the County prepared, reviewed, approved and certified a Final Environmental Impact Report (hereinafter "EIR") for the Project.
2. Developer has entered into a Development Agreement with the County with respect to the Project and the construction of the infrastructure required therein (the "Development Agreement").
3. Development of the Project will result in a need for municipal services and/or facilities for water supply and distribution, water treatment, sewage collection and treatment, and fire suppression services, as discussed in the EIR and as required in part by the Approvals. Both the County, as a condition of the Approvals, and District pursuant to Section 600 of its Operational Policies and Procedures Manual requires the Developer to enter into an agreement with the District with respect to the annexation of the Project to the District in order to obtain from the District public water supply, wastewater, parks and recreation, and fire suppression services for the Project.
4. To facilitate the annexation of the Project, Developer and District have agreed to enter into this Agreement in order to have clarity as to District requirements. Both consider that this Agreement will provide the Tuolumne County Local Agency Formation Commission ("LAFCO") the plan of services it requires for approval of annexation. The Project lies within the sphere of influence of the District.
5. The Developer hereby agrees to the following, as more fully described in this Agreement: (a) design, plan, engineer, and construct all on-site wastewater, water, parks and recreation, and fire improvements (hereinafter referred to collectively as "On-Site Improvements") and pay for the design, engineering and construction of all incremental off-site water, wastewater, parks and recreation, and fire Improvements required to serve the Project at Developer's sole cost and expense pursuant to existing adopted District standards and those plans and specifications to be approved by the District; (b) pay certain water and wastewater connection fees, standby charges and other fees and assessments pursuant to District ordinances and policies applicable to all customers within the District; (c) dedicate any real property or easements as hereinafter required for specified on-site water, and wastewater infrastructure to serve the Project; (d) dedicate to District certain real property for parks and recreation and fire suppression facilities; (e) consent in writing, on behalf of all real property in the Project, to inclusion of the Project in a community facilities district and to annexation of such real property to an existing assessment district; and (f) reimburse District for its administrative costs and expenses and legal expenses incurred in conducting the annexation process, negotiating, drafting and implementing this Agreement, reviewing the engineering analyses and the plans and specifications for the improvements, and

inspecting construction of the improvements prior to acceptance by the District of those to be constructed by Developer. Developer agrees to contribute to the costs of such water, wastewater, parks and recreation, and fire suppression facilities and services as required herein to mitigate impacts of the Project.

6. Upon approval of the annexation by LAFCO and completion of all of the conditions for annexation as provided for herein, District agrees to provide all public water supply, wastewater, parks and recreation, and fire suppression facilities and services required by the Project (hereinafter referred to collectively as "Improvements"). District further agrees to cause to be undertaken or to allow Developer to undertake those off-site water, wastewater, parks and recreation, and fire improvements (hereinafter referred to collectively as "Off-site Improvements") required to serve the Project under the control of District in a timely fashion, at Developer's cost, to assure that Developer may proceed with complete development of the Project in accordance with the Approvals. District also agrees, subject to Developer's agreement to pay all costs associated with facilities needed to deliver the same, to provide irrigation water from wastewater effluent treated to the standards required by applicable law and regulations of the state, regional water quality control board and County, if requested by Developer for all or any portion of the Project when developed.

7. Developer and District acknowledge that Developer will be required to enter into one or more Subdivision Improvement Agreements with Tuolumne County in order to obtain approval and recordation of final subdivision maps for the Project. Developer and District agree to jointly cooperate to seek County approval of Plans and Specifications for on-site water, wastewater, parks and recreation, and fire Improvements which conform to adopted District standards and requirements.

8. Developer has completed all Sub-Area Master Plan (SAMP) analyses for District and California Environmental Quality Act (CEQA) documentation for County. County has approved CEQA documents and requires that Developer to address to the satisfaction of County Conditions of Approval. Such Conditions of Approval address, among other things, mitigation of environmental issues, provisions for providing infrastructure, and considerations for community fit and quality of life, as prescribed by the County General Plan and amendments thereto. Prior to final acceptance of infrastructure to be dedicated to District, Developer shall have met all Conditions of Approval to the satisfaction of the County

9. District and Developer recognize and agree that each party's performance under this Agreement is in reliance upon the covenants and conditions provided for in this Agreement.

AGREEMENT

NOW, THEREFORE, the parties hereto in consideration of the mutual performance of the covenants and conditions hereinafter set forth agree as follows:

1. Annexation of Property into District.

1.1 Developer agrees that this Agreement shall constitute Developer's agreement to annex the property constituting the Project to the District (with the exception of any portion of such property which cannot be annexed into the District due to its location outside the sphere of influence of the District). Developer further agrees to execute any further documents necessary to consent to such annexation if the District so requests or if required by District or LAFCO and shall consent to terms and conditions imposed by LAFCO consistent with this Agreement and the Approvals.

1.2 Subject to Developer's payment of applicable filing and processing fees, and reimbursement of the District's administrative, legal, engineering and other consultant costs incurred in reviewing Developer's application, District agrees that this Agreement shall constitute its agreement to annex the property constituting the Project (except as indicated above) to the District and shall initiate proceedings to do so and to obtain LAFCO's consent to such annexation upon terms and conditions consistent with this Agreement and the Approvals.

1.3 Upon annexation Developer shall have the right to receive from District domestic water supply and distribution, wastewater collection and treatment, and fire suppression services to real property comprising the Project on the same basis as do other owners of properties within the District (with the exception of possible improvement district obligations) so long as Developer complies with the terms and conditions of this Agreement, the Approvals, and the terms and conditions of LAFCO consistent with this Agreement and the Approvals. Developer's right to receive such services within the Project from the District shall be subject to subsequent District approvals, as provided herein.

1.4 District will provide the following services to the Development:

- Water: Including water supply, treatment, storage and distribution and facilities constructed and dedicated to the District during the course of developing this Project.
- Wastewater: Including wastewater collections, treatment and disposal and facilities constructed and dedicated to the District during the course of developing this Project.
- Parks and Recreation: Including access to existing parks and recreation facilities and facilities constructed and dedicated to the District during the course of developing this Project.
- Fire: Including full-time fire department and facilities constructed and dedicated to the District during the course of developing this Project.
- Community Facilities: Including access to existing District-owned community facilities and facilities constructed and dedicated to the District during the course of developing this Project.

1.5 Provisions for development of plans and specifications for water, wastewater system, parks and recreation, and/or fire suppression improvements; construction of water, wastewater, parks and recreation, and/or fire suppression improvements; reservation or dedication of land to the District for public purposes; location and maintenance of onsite and offsite improvements; and location, nature and extent of public utilities shall be those set forth in this Agreement and/or a Development Agreement entered into by the parties hereto subsequently to this Agreement. District acknowledges that the Approvals provide for the following land uses and approximate acreages for the Project:

(Description of Project)

2. Plans and Specifications for Water, Wastewater, Parks and Recreation, and Fire System Improvements.

2.1 Developer shall be responsible for funding all the costs for design, engineering, and construction of water, wastewater, parks and recreation, fire Improvements necessary to serve the Project without imposing level of service reductions on existing customers of the District. Such improvements will consist of both improvements within the Project for public water, wastewater, parks and recreation, and fire services (the "On-site Improvements") to be undertaken by Developer as a part of Project development in accordance with the established standards of the District and in accordance with the Approvals, and those incremental improvements to the District's current public water supply, wastewater, parks and recreation, and fire systems and facilities outside the Project boundaries (the "Off-site Improvements") needed to serve the Project. The Off-site Improvements shall either be constructed by Developer or funded by Developer at District's option and the District may select different options for different portions where feasible. Where District combines the Off-site Improvements with other improvements desired or needed by District to serve other needs within the District, Developer shall contribute its prorata share of the incremental costs thereof.

2.2 After annexation, Developer shall arrange for the preparation of a sub-area master plan ("Sub-area Master Plan") for those Off-site Improvements required for the Project for District's review and approval. To the extent that District desires to incorporate other improvements not related to the Project, and after public review and Board approval, District shall contribute funds for such portions or credit Developer with the expenses involved in incorporating the same into the Sub-area Master Plan. For all On-site Improvements, Developer shall prepare construction plans and specifications at Developer's sole cost and expense (the "Plans and

Specifications”). The Plans and Specifications for On-site Improvements shall comply with all applicable District standards and be approved in writing by the District’s engineers. Developer agrees that construction of the On-site Improvements shall not commence until the Plans and Specifications for said improvements have been approved in writing by District. Developer agrees to arrange for the final engineering and construction of Off-site Improvements in a timely manner so as to be available to serve the Project as needed.

3. Construction of Water, Wastewater, Parks and Recreation, and Fire System Improvements.

3.1 Developer shall, without expense to District, furnish all labor, materials, equipment, mechanical workmanship, appliances, supervision, coordination, building permits, other required permits, sales taxes, and samples to complete construction of the On-site Improvements in a workmanlike manner.

3.2 Developer shall complete those Off-site Improvements, which are to be constructed directly by Developer in accordance with the Plans and Specifications to the satisfaction of the District for each approved phase of the Project for which a final map is to be or has been recorded in accordance with the requirements of applicable law and any applicable Approvals. Should Developer fail to complete construction of the On-site Improvements and/or Off-site Improvements as required, or performs work that does not comply with the Plans and Specifications, the District may terminate Developer’s right to perform all or any portion of said improvements and complete the work itself, subject to the rights of those who have bonded performance and completion. The cost of completion by the District shall include reasonable reimbursement for additional executive and administrative expense including legal fees together with all damages for delay and other damages sustained by District as a result of Developer’s default.

3.3 The Parties hereto acknowledge that Tuolumne County may require Developer to post performance and payment bonds to secure the obligation of the Developer to construct certain On-site Improvements pursuant to a Subdivision Improvement Agreement between the Developer and the County pursuant to Title 16 of the Ordinances of Tuolumne County. Developer shall, at the time of District approval of the Plans and Specifications for the On-site Improvements and the Off-site Improvements and the cost estimates associated with such work, file two (2) separate bonds with the District, each made payable to the District. These bonds shall be issued by a surety company admitted to do business in the State of California as an insurer and shall be maintained during the entire life of this Agreement at the expense of Developer. One bond shall be in the amount of One Hundred Percent (100%) of the cost estimate for any On-site Improvements not covered by Developer’s performance and payment bonds issued to the County, and One Hundred Percent (100%) of the cost estimate for construction of the Off-site Improvements and shall guarantee the faithful performance by Developer of all aspects of this Agreement and Developer’s obligation to fund all costs of design, engineering and construction of the On-site Improvements and the Off-site Improvements. The second bond shall be the payment bond required by Division Three, Part 4, Title 15, Chapter 7 of the Civil Code of the State of California, and shall be in the amount of One Hundred Percent (100%) of the construction cost estimate approved by District’s engineer for those On-site Improvements not covered by Developer’s performance and payment bonds issued to the County and the Off-site Improvements, to guarantee the payment of wages and for materials, supplies or equipment used in the construction of such On-site Improvements and Off-site Improvements. Any alterations made in the specifications for the On-site and Off-site Improvements shall not operate to release any surety from liability on any bond required hereunder, and the consent to make such alterations is hereby given, and any surety on said bonds hereby waives the provisions of Section 2819 of the Civil Code. At the time of submitting such bonds to the District, Developer shall provide a Certificate of Fact issued by the County of Tuolumne, County Clerk, or Certificate of Authority issued by the State of California, Department of Insurance for any and all sureties issuing the bonds required under this Agreement. By execution of this Agreement, Developer further certifies and represents that any and all sureties issuing the bonds required under this Agreement are authorized to do business in the State of California and that the bonds fully comply with Civil Code Sections 3247 and 3248, and the Bond and Undertaking Law, Code of Civil Procedure Section 995.010, et seq.

3.4 After acceptance of the dedication of the On-site Improvements by District, said Improvements shall be operated to provide water supply, wastewater, parks and recreation, and fire services to the Project upon receipt and approval of an application for service submitted to and approved by the District. All services made available by District to the Project shall be subject to all rates, charges, fees and assessments established by District’s

Board of Directors from time to time applicable to all properties within the District, as well as any fees that are specific to this development, such as for improvement districts. Construction of the On-site Improvements by Developer and use of such improvements by owners of real property within the Project shall be subject to the District's water and/or wastewater ordinance, as amended from time to time.

3.5 Developer, at its sole cost and expense, shall perform all necessary survey work to prepare a legal description for and dedicate to District twenty-foot (20-ft) wide perpetual easements for the purpose of construction, installation, operation, maintenance and replacement of the On-site Improvements constructed by Developer pursuant to this Agreement. The Developer shall dedicate such easements to the District at no cost to the District and free and clear of all liens and encumbrances. All such easements shall include District rights of ingress and egress to the easements in order to perform operation, maintenance and repair of the On-site Improvements.

3.6 Developer shall dedicate to District any and all parcels of real property within the Project as approved by District that are necessary as the location for the On-site Improvements to serve the Project. Such parcels shall be certified to be in sound environmental condition prior to dedication. The District must approve in writing the location and size of such sites to serve the Project. Said real property, unencumbered by any financial obligations, comprising those sites necessary to house on-site water and/or wastewater Infrastructure, as well as fire and parks facilities shall be dedicated to District without cost to District prior to Developer's recordation of its first final subdivision map for any part of the Project.

4. Provision of Fire Suppression Facilities.

4.1 The Approvals for the Project require Developer to dedicate to District a parcel of real property with a minimum size of _____ acres to serve as a site for _____. The District must approve in writing the location and size of said site. Said real property shall be dedicated to District, unencumbered by any financial obligations, without cost to District by Developer prior to the recordation of any final subdivision map for any part of the Project. Said real property to be dedicated for fire suppression facility purposes is set forth more specifically in Exhibit ____ attached hereto and incorporated herein by this reference as the "Dedicated Land."

4.2 [Reserved for discussion of specific requirements imposed on Project to finance fire suppression facilities will vary from Project to Project.]

4.3 [Reserve for Parks and Recreation Provisions]

4.3 The Parties recognize that it is necessary to provide a source of revenue to fund the provision of fire suppression services to adequately serve the Project. Developer agrees to consent in writing, on behalf of all real property in the Project to inclusion of the Project in a community facilities district to be formed by the District. Said consent shall be attached to this Agreement as Exhibit ____ and incorporated herein by this reference. The real property in the Project may be included in a community facilities district formed under the provisions of the Mello-Roos Community Facilities Act of 1982 (Government Code Section 53311, et seq.), any amendments thereto, or any other applicable provision of the law. The community facilities district shall be used to provide funding for fire suppression services in an amount sufficient to provide, beginning with the issuance of the first building permit for the Project, the level of service described in the District's Fire Master Plan dated February 2, 2007 specified in Exhibit ____ attached hereto and incorporated herein by this reference. Said special tax will include an annual inflationary adjustment provision to reflect the estimated annual increase in the cost of providing fire service to the Project. Developer will be responsible for funding all costs relative to the formation of the CFD and the levying of the special tax. Developer shall record a notice of this consent and any liens created as a result of the formation of said community facilities district to ensure that prospective purchasers of individual lots within the Project are given the appropriate notice. Developer shall also provide to each purchaser, and the District, a copy of a preliminary title report giving notice of the inclusion of the real property in the community facilities district, and notice regarding any ad valorem taxes imposed as a result thereof, if a real estate public report is not yet available, or a copy of the real estate public report giving notice of the inclusion of the real property in a community facilities district and any resultant ad valorem taxes upon its availability. Developer further agrees not to cause to be filed, or encourage the filing of, and waives its rights to file, any written protests

to the inclusion of the Project in a community facilities district, or the levy of special taxes within such community facilities district. Developer further agrees to cast its votes in any land owner election for inclusion of the real property in the Project in a newly created community facilities district and the levying of special taxes upon property within said community facilities district in favor of including said real property in said community facilities district and in favor of the levying of such special taxes. Any ad valorem taxes levied against the real property in the Project pursuant to the Mello-Roos Community Facilities Act of 1982 shall be in addition to any and all dedicated land and in addition to any development fee levied pursuant to Government Code Section 66000. No credit shall be allowed against any such ad valorem taxes levied against the real property, regardless of whether such taxes are owing by Developer or any prospective purchaser of the real property contained within the Project.

4.4 Developer further agrees to consent in writing, on behalf of all real property in the Project, to inclusion of the Project in a fire suppression assessment district to be formed by the District, or to annexation of such real property to an existing assessment district. Said consent shall be attached to this Agreement as Exhibit ___ and incorporated herein by this reference. The real property in the Project may be included in, or annexed to, an assessment district formed under the provisions of Government Code Section 50078 et seq., any amendments thereto, or any other applicable provision of law. Said consent shall include Developer's approval of and consent to the levy of an annual assessment upon all real property comprising the Project at the same rate as levied on other parcels within the District receiving the same benefit from such fire suppression services as proposed by the District. The fire suppression assessment district assessment proceeds shall be used to provide funding for the District to provide fire suppression services to serve the Project. Developer shall record a notice of this consent and any liens created as a result of the formation of said assessment district, or annexation to an existing assessment district, to ensure that prospective purchasers of individual lots within the Project are given the appropriate notice. Developer shall also provide to each purchaser, and the District, a copy of a preliminary title report giving notice of the assessment lien if a real estate public report is not yet available, or a copy of the real estate public report giving notice of the assessment lien upon its availability. Developer further agrees not to cause to be filed, or encourage the filing of, and waives its rights to file, any written protests to the inclusion of the Project in an assessment district, and/or the annexation of the real property encompassing the Project to an existing assessment district and/or the levying of assessments. Any assessments levied against the real property in the Project shall be in addition to any and all dedicated land, in addition to any development fees levied pursuant to Government Code Section 66000, and in addition to any special taxes levied in a community facilities district which includes the Project. No credit shall be allowed against any such assessments levied against the real property, regardless of whether such assessments are owing by Developer or any prospective purchaser of the real property contained within the Project.

4.5 Developer agrees to pay any and all costs incurred by District, including legal, engineering and other consultant fees, with respect to the formation and/or annexation of the community facilities and/or assessment districts pursuant to this Agreement.

4.6 Developer, at its sole cost and expense, shall perform all necessary survey work to prepare a legal description for and dedicate to District all necessary rights-of-way for emergency access as specified in the Approvals to provide efficient fire suppression services to the Project. Developer shall dedicate such rights-of-way to the District at no cost to the District and free and clear of all financial liens and encumbrances. Dedication of such rights-of-way to District shall be completed prior to issuance of the first building permit for a structure within the Project.

4.7 As required by the Approvals Developer shall prepare a fuel reduction/fuel management program in cooperation with the District and the County Fire Department in order to provide for control and removal of flammable vegetation with rights-of-way, vacant lots and within a mutually agreeable distance from residential or commercial structures. Developer shall prepare such fuel reduction/fuel management program at no cost to District. Said program shall include a fee component to reimburse District for the administrative costs incurred in providing the necessary inspections to ensure that the goals and objectives of the fuel reduction/fuel management program are being achieved. Said fuel reduction/fuel management program shall be submitted to District for approval and any fees payable to District for review of such program shall be paid prior to the issuance of the first building permit for a structure within the Project.

4.8 The Approvals require Developer to install at its own cost and expense fire hydrants of various capacities within certain zones of the Project. No such fire hydrant shall be installed by Developer unless the location of each such hydrant has been approved by District in writing. The fire hydrants and lines serving the same shall be deemed a part of the On-site Improvements.

5. Permits and Inspections.

5.1 Developer agrees and understands that it is the responsibility of Developer to obtain and pay for all necessary permits required for the construction of the Improvements from any and all jurisdictions that have authority over the work. Developer also agrees and understands that it is the responsibility of Developer to call for and obtain all required inspections from any and all governmental agencies having jurisdiction over the work during the course of the construction of the Improvements. Developer is not relieved of its obligations to secure all permits and obtain all inspections by virtue of District's assistance in procuring the necessary permits. It is generally understood that the District shall be responsible for Off-site Improvements and the permitting related thereto, at Developer's cost, although District and Developer may agree that Developer shall partially or wholly take on such responsibilities on behalf of the District.

6. Inspection of Construction.

6.1 The District General Manager or his agent may inspect the construction of the Improvements to assure that they are installed in accordance with the approved Plans and Specifications. Said inspection shall be funded by an inspection fee paid by Developer as specified in District's fee schedule in effect on the date of such inspection. District is not, by inspection of the construction or installation of the Improvements, providing a substitute for inspection and control of the work by Developer. Any failure of District to note variances in the work from the Plans and Specifications does not excuse or exempt Developer from complying with all of the provisions of the Plans and Specifications. The fact that District inspects the construction of the Improvements and fails to discover deviations or failures to construct them pursuant to the Plans and Specifications shall not be deemed to constitute a guarantee by District that the Improvements have been built in accordance with the Plans and Specifications. At no time shall the District be responsible for any trench settlement or road failure associated with such work. Any such settlement shall be the sole responsibility of Developer. Construction of the Improvements shall not commence until the estimated inspection fee is deposited with the District. The District General Manager or his designated agent shall notify Developer of a failure to construct the Improvements in accordance with the Plans and Specifications, or defective work pursuant to District standards as soon as such failure or defect is brought to its attention. Developer shall immediately correct any such failure or defect, including removal and replacement of any non-conforming work at Developer's expense. In no event shall any of the work of installing the Improvements be covered until District has inspected all of the work and has approved the covering of the work.

7. Dedication of Improvements.

7.1 Upon completion of construction and operational verification and acceptance of the On-site Water System Improvements and On-site Wastewater System Improvements (referred to collectively as "Improvements"), Developer agrees to dedicate all such Improvements to District to become a part of the District's water, wastewater, parks and recreation, and fire systems. District shall accept the offer of dedication of the Improvements if it finds all of the following: (1) that the design and construction of the Improvements complies with all applicable building codes, the Plans and Specifications, and all applicable District standards, policies and ordinances; (2) that Developer has paid to District all applicable District fees then due pursuant to the District's fee schedule existing as of the date of construction, and Developer's pro rata share the costs of all Off-site Improvements; and (3) that Developer has reimbursed District all of District's administrative costs and expenses incurred in reviewing, approving, and inspecting the design, construction, and operational start-up of the Improvements, negotiating and drafting this Agreement and participating in approval of LAFCO of the proposed annexation; and (4) all mutually agreed to terms and conditions have been met. At such time as the District finds that Developer has fully complied with each of the foregoing three (3) criteria, District shall accept the offer of dedication of the Improvements in writing and assume responsibility for all maintenance, repair, and operation of the Improvements constructed by Developer.

7.2 Developer shall dedicate the Improvements to District by conveying title to the completed Improvements to District at Developer's sole cost and expense, free and clear of all liens, encumbrances, and environmental liabilities from prior land use. Developer shall be responsible for preparing the appropriate documents for conveying title to the Improvements to District in a form reasonably acceptable to District and pursuant to any applicable County requirements.

7.3 Developer shall provide District with one set of twenty-four-inch by thirty-six-inch original (24" x 36") and one set of reproducible "record" drawings of the completed Improvements on matte Mylar (5 mil minimum). Developer shall also provide these drawings in an electronic format acceptable to the District. Developer shall also provide final plans and specifications for the Project, including change orders.

7.4 District shall accept the conveyance of title of the completed Improvements and at that time the Improvements will become part of the District's water, wastewater, parks and recreation, and fire systems.

8. Maintenance of Facilities.

8.1 In consideration for the Improvements constructed by Developer for the benefit of District, and dedicated to District, District will perform all necessary maintenance commencing immediately upon completion of construction, dedication by Developer and acceptance of dedication by District. After the date of acceptance, District shall be solely responsible for all costs of maintenance of the Improvements.

9. Project as Private Undertaking.

9.1 No partnership, joint venture, or other association of any kind between Developer, on the one hand, and the District on the other, is formed by this Agreement. The only relationship between the District and Developer is that of a governmental entity providing water, wastewater, parks, and fire suppression services to the Project area.

10. Environmental Review.

10.1 The District has retained an environmental consultant to review the existing EIR to determine if any supplemental CEQA review is necessary with respect to the On-site Improvements prior to the District approving this Agreement. District and Developer agree to complete CEQA documentation regarding approval of this Annexation Agreement as determined by said consultant, at the sole expense of Developer.

11. Project Phasing.

11.1 The parties acknowledge that uncertainties associated with market conditions, availability of financing, and other factors may alter the timing of Developer's ability to construct the Project. After annexation, Developer shall use all reasonable efforts to provide District with a phasing plan in order to assist District in its planning and Developer shall then use commercially reasonable efforts to substantially complete each phase of the Project in accordance with the phasing plan.

12. Applicable District Rules, Regulations and Policies.

12.1 Rules Regarding Design and Construction. All construction of the Improvements shall comply with all District standards, ordinances, resolutions and policies in effect as of the date of this Agreement.

12.2 Changes in State or Federal Law. Any changes in District ordinances, policies, regulations, or rules, the terms of which are specifically mandated and/or required by changes in federal or state laws and/or regulations shall be applicable to construction of Improvements to be dedicated to District pursuant to this Agreement.

12.3 Codes and Standards Applicable. Unless otherwise expressly provided in this Agreement, all Improvements constructed pursuant to the terms of this Agreement shall comply with the provisions of the state, County and District codes and standards for Building, Mechanical, Plumbing, Electrical and Fire , in effect at the

time of approval of the appropriate encroachment, grading, building or other construction permits necessary for the Project. If no permits are required for construction by Developer of such infrastructure improvements to be dedicated to District, such improvements shall be constructed in accordance with the provisions of the state, County, and District codes and standards for Building, Mechanical, Plumbing, Electrical and Fire in effect at the start of the construction of such infrastructure.

13. Subsequently Enacted Fees, Dedications, Assessments and Taxes.

13.1 Processing Fees and Charges. Developer shall pay those processing, inspection and plan checking fees and charges required by District and uniformly applicable to all property owners in the District under then current regulations for processing development applications and requests for permits, approvals and other actions, and monitoring compliance with any permits issued or approvals granted by District or the performance of any conditions or obligations required of Developer pursuant to this Agreement.

13.2 Development Exactions and Dedications. Except as otherwise provided herein, any and all dedications of land, connection or mitigation fees and exactions required by District to be paid by Developer to support the construction of any public facilities and improvements or the provision of any public services with respect to the Project (hereinafter the "Exactions") shall be the Exactions authorized as of the effective date of this Agreement. However, Developer shall be obligated to pay all Exactions authorized by District after the effective date hereof provided that said Exactions otherwise comply with applicable law and are (1) required on a District-wide basis; or (2) apply uniformly to all properties within the District which are zoned consistent with the property comprising the Project; or (3) which apply uniformly to all properties which are similarly situated within the District, whether by geographic location, drainage patterns, or other distinguishing characteristics and (4) do not duplicate Exactions provided for herein for the same purpose. Wherever this Agreement obligates Developer to design, construct or install any public improvements or to contribute to the design, construction or installation of the same to be dedicated to the District, the cost thereof (including the value of land or easements dedicated to the District) may be provided by Developer through a Community Facilities District, Assessment District or other such financing mechanism, in accordance with the provisions thereof and District hereby agrees to initiate proceedings for the formation thereof at Developer's request, and at Developer's cost .

13.3 Mitigation Measures. Notwithstanding any other provision of this Agreement to the contrary, as and when Developer elects to construct the Project, Developer shall be bound by, and shall perform, all mitigation measures required by the Approvals.

14. Amendment or Cancellation.

14.1 Modification Because of Conflict with State or Federal Laws. In the event that state or federal laws or regulations enacted after the effective date of this Agreement prevent or preclude compliance with one or more provisions of this Agreement or require changes in plans, maps or permits approved by the District, the parties shall meet and confer in good faith in a reasonable attempt to modify this Agreement to comply with such federal or state law or regulation. Any such amendment shall be approved by the Board of Directors of District.

14.2 Amendment by Mutual Consent. This Agreement may be amended in writing from time to time by mutual consent of the parties hereto.

14.3 Cancellation by Mutual Consent. Except as otherwise permitted herein, this Agreement may be cancelled in whole or in part only by the mutual written consent of the parties or their successors-in-interest. Any fees paid pursuant to this Agreement prior to the date of cancellation shall be retained by District.

15. Default.

15.1 Subject to any applicable extension of time, failure by any party to perform any term or provision of this Agreement required to be performed by such party shall constitute an event of default ("Event of Default"). For

purposes of this Agreement a party claiming another party is in default shall be referred to as the "Complaining Party" and the party alleged to be in default shall be referred to as the "Party in Default."

15.2 Procedure Regarding Defaults.

15.2.1 Notice. The Complaining Party shall give written notice of default to the Party in Default, specifying the default complained of by the Complaining Party. Delay in giving such notice shall not constitute a waiver of any default nor shall it change the time of default.

15.2.2 Cure. The Party in Default shall diligently endeavor to cure, correct or remedy the matter complained of, provided such cure, correction or remedy shall be completed within the applicable time period set forth herein after receipt of written notice (or such additional time as may be deemed by the Complaining Party to be reasonably necessary to correct the matter).

15.2.3 Failure to Assert. Any failures or delays by a Complaining Party in asserting any of its rights and remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies. Delays by a Complaining Party in asserting any of its rights and remedies shall not deprive the Complaining Party of its right to institute and maintain any actions or proceedings, which it may deem necessary to protect, asset or enforce any such rights or remedies,

15.2.4 Notice of Default. If an Event of Default occurs prior to exercising any remedies, the Complaining Party shall give the Party in Default written notice of such default. If the default is reasonably capable of being cured within thirty (30) days, the Party in Default shall have such period to effect a cure prior to exercise of remedies by the Complaining Party. If the nature of the alleged default is such that it cannot practicably be cured within such 30 day period, the cure shall be deemed to have occurred within such 30 day period if: (a) the cure shall be commenced at the earliest practicable date following receipt of the notice; (b) the cure is diligently prosecuted to completion at all times thereafter; (c) at the earliest practicable date (in no event later than thirty (30) days after the curing party's receipt of the notice), the curing party provides written notice to the other party that the cure cannot practicably be completed within such 30 day period; and (d) the cure is completed at the earliest practicable date. In no event shall Complaining Party be precluded from exercising remedies if a default is not cured within one hundred twenty (120) days after the first notice of default is given.

15.2.5 Legal Proceeding. Subject to the foregoing, if the Party in Default fails to cure a default in accordance with the foregoing, the Complaining Party, at its option, may institute legal proceedings pursuant to this Agreement or, in the event of a material default, terminate this Agreement. Upon the occurrence of an event of default, the parties may pursue all other remedies at law or in equity, which are not otherwise provided for or prohibited by this Agreement, or in the District's regulations governing development agreements, expressly including the remedy of specific performance of this Agreement.

15.2.6 Effect of Termination. If this Agreement is terminated following any event of default of Developer or for any other reason, such termination shall not affect the validity of any improvement required to be constructed by Developer with respect to the Project which is completed as of the date of termination, provided that such building or improvement has been constructed pursuant to a building permit issued by the County. Furthermore, no termination of this Agreement shall prevent Developer from completing any improvement to be constructed pursuant to this Agreement pursuant to a valid building permit previously issued by the County that is under construction at the time of termination, provided that any such improvement is completed in accordance with said building permit in effect at the time of such termination.

15.2.7 Remedies. Upon the occurrence of an Event of Default, each party hereto shall the right, in addition to all other rights and remedies available under this Agreement to: (1) bring any proceeding in the nature of specific performance, injunctive relief or mandamus and/or (2) bring any action at law or in equity as may be permitted by California law or this Agreement. Notwithstanding the foregoing, however, neither party shall ever be liable to the other party for any consequential damages on account of the occurrence in an Event

of Default (including claims for lost profits, loss of opportunity, lost revenues, or similar consequential damage claims). The parties hereto waive and relinquish any claims for consequential damages on account of an Event of Default, which waiver and relinquishment the parties acknowledge has been made after full and complete disclosure and advice regarding the consequences of such waiver and relinquishment by counsel to each party.

16. Estoppel Certificate.

16.1 Either party may, at any time, and from time to time, request written notice from the other party requesting such party to certify in writing that, (a) this Agreement is in full force and effect and a binding obligation of the parties, (b) this Agreement has not been amended or modified either orally or in writing, or if so amended, identifying the amendments, and (c) to the knowledge of the certifying party the requesting party is not in default in the performance of its obligations under this Agreement, or if in default, to describe therein the nature and amount of any such defaults. A party receiving a request hereunder shall execute and return such certificate within thirty (30) days following the receipt thereof, or such longer period as may reasonably be agreed to by the parties. General Manager of District shall be authorized to execute any certificate requested by Developer. Should the party receiving the request not execute and return such certificate within the applicable period, this shall not be deemed to be a default.

17. Mortgagee Protection; Certain Rights of Cure.

17.1 Mortgagee Protection. This Agreement shall be superior and senior to any lien placed upon the Property, or any portion thereof after the date of recording this Agreement, including the lien for any deed of trust or mortgage ("Mortgage"). Notwithstanding the foregoing, no breach hereof shall defeat, render invalid, diminish or impair the lien of any Mortgage made in good faith and for value, but all the terms and conditions contained in this Agreement shall be binding upon and effective against any person or entity, including any deed of trust beneficiary or mortgagee ("Mortgagee") who acquires title to the Property, or any portion thereof, by foreclosure, trustee's sale, deed in lieu of foreclosure, or otherwise.

17.2 Mortgagee Not Obligated. Notwithstanding the provisions of Section 16.1 above, no Mortgagee, unless such Mortgagee becomes a transferee or assignee of this Agreement, shall have any obligation or duty under this Agreement, before or after foreclosure or a deed in lieu of foreclosure, to construct or complete the construction of Improvements, or to guarantee such construction of Improvements, or to guarantee such construction or completion, or to pay, perform or provide any fee, dedication, improvements or other exaction or imposition. However, the Mortgagee shall not be entitled to undertake any new construction or improvement projects, or to otherwise have the benefit of any rights of Developer under this Agreement, or to devote the Property comprising the Project to any uses or to construct any improvements other than those uses or improvements authorized by the County Condition of Approvals, or Developer's Development Agreement with County, the provisions of the Environmental Impact Report with respect to the Project, and the provisions of this Agreement.

17.3 Notice of Default to Mortgagee and Extension of Right to Cure. If District receives notice from a Mortgagee requesting a copy of any notice of default given Developer hereunder and specifying the address for service thereof, then District shall deliver to such Mortgagee, concurrently with service thereon to Developer, any notice given to Developer with respect to any claim by District that Developer has committed an Event of Default. Each Mortgagee shall have the right during the same period available to Developer to cure or remedy, or to commence to cure or remedy, the Event of Default claimed set forth in the District's notice. District, through its General Manager, may extend the cure period provided in Section 15.2.2 and 15.2.4 for not more than an additional sixty (60) days upon request of Developer or a Mortgagee.

18. Transfers and Assignments.

18.1 From and after recordation of this Agreement against the property comprising the Project, Developer shall have the full right to assign this Agreement as to the property comprising the Project, or any portion thereof, in connection with any sale, transfer or conveyance thereof, with the written consent of District which shall not be unreasonably withheld. Upon the express written assignment by Developer and assumption by the assignee of such assignment in a form provided by District and the conveyance of Developer's interest in the property comprising the Project related thereto, Developer shall be released from any further liability or obligation hereunder related to the portion of the property comprising the Project so conveyed and the assignee shall be deemed to be the "Developer," with all rights and obligations related thereto, with respect to such conveyed property comprising the Property.

19. Agreement Runs with the Land.

19.1 All of the provisions, rights, powers, standards, terms, covenants, and obligations contained in this Agreement shall be binding upon the parties and their respective heirs, successors and assignees, representatives, lessees, and all other persons acquiring the property comprising the Project, or any portion thereof, or any interest therein, whether by operation of law or in any manner whatsoever and shall insure to the benefit of the Parties and their respective heirs, successors and assigns. All of the provisions of this Agreement shall be enforceable as equitable servitude and shall constitute covenants running with the land pursuant to applicable laws, including, but not limited to, Section 1468 of the Civil Code of the State of California. Each covenant to do, or refrain from doing, some act on the property comprising the Project hereunder, or with respect to any owned property, (a) is for the benefit of such properties and is a burden upon such properties, (b) runs with the properties, and (c) is binding upon each party and each successive owner during its ownership of such properties or any portion thereof, and shall be a benefit to and a burden upon each party and its property hereunder and each other person succeeding to an interest in such properties.

20. Other Governmental Approvals.

20.1 Developer shall promptly and timely apply for and diligently pursue all required governmental agency approvals from governmental agencies other than District, such as the County of Tuolumne, as and when each such governmental approval is required during the course of design, development, and construction of the Improvements specified in this Agreement and the delivery of water, wastewater and fire suppression services to the Project. Developer shall diligently take all reasonable steps necessary to obtain all such governmental approvals and shall bear all costs and expenses for obtaining such governmental approvals. Developer shall comply with, and shall cause the Project to comply with all governmental agency regulations and laws related to the development, use and operation of, and provision of services to the Project. District shall reasonably cooperate with Developer in such endeavors upon Developer's written request for such cooperation. Developer shall be solely responsible for undertaking any investigation and acquiring necessary knowledge of governmental agency regulations and laws applicable to or affecting the Project, including existing or imposed restrictions, environmental and land use laws and regulations to which the Project may be subject. Developer shall reimburse District for all costs and expenses, including those of District staff, legal counsel and/or other consultants incurred in connection with obtaining governmental agency approvals.

21. Insurance.

21.1 Developer shall carry and maintain during the life of this Agreement, such public liability, property damage and contractual liability insurance and workers' compensation insurance as specified below.

A. Public Liability, Property Damage and Contractual Liability Insurance. Developer shall furnish public liability and property damage insurance which includes, but is not limited to, personal injury, property damage, losses relating to independent contractors, products and equipment, explosion, collapse and underground hazards in a minimum amount of not less than a combined single limit of Two Million Dollars (\$2,000,000.00) for one or more persons injured and property damaged in each occurrence.

The public liability and property damage insurance furnished by Developer shall also name the District as an additional insured and shall directly protect, as well as provide the defense for the District, its officers, agents and employees, as well as Developer, all subcontractors and suppliers, if any, from all suits, actions, damages, losses or claims of every type and description to which they may be subjected by reason of, or resulting from Developer's construction of the Improvements pursuant to this Agreement, and all insurance policies shall so state. Said insurance shall also specifically cover the contractual liability of Developer. Said insurance shall also specify that it acts as primary insurance.

B. Workers' Compensation Insurance. Developer shall be permissibly self-insured or shall carry full workers' compensation insurance coverage for all persons employed, either directly or through subcontractors, in carrying out the work contemplated by this Agreement, in accordance with the Workers' Compensation Act contained in the Labor Code of the State of California.

By execution of this Agreement, Developer certifies as follows:

"I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code, I will comply with such provisions before commencing the performance of the work of this contract."

As part of the execution of this Agreement, Developer agrees to furnish to the District a certified copy of the insurance policies it has taken out for public liability, property damage and workers' compensation insurance set forth above for the period covered by this Agreement. Such insurance shall be placed with an insurance carrier acceptable to the District under terms satisfactory to the District. Said certified policies of insurance shall be furnished to the District prior to commencing the work contemplated by this Agreement. Each such certified policy shall bear an endorsement precluding the cancellation or reduction in coverage of any such policy before the expiration of thirty (30) days after the District shall have received written notification of such cancellation or reduction.

Should Developer fail to obtain and keep in force the insurance coverage hereinabove required, the District shall have the right to cancel and terminate this Agreement forthwith and without regard to any other provisions of this Agreement.

22. Indemnification.

22.1 Developer shall assume the defense of, and indemnify and save harmless, the District, its officers, employees and agents, and each and every one of them from and against all actions, liability, damages, claims, losses or expenses of every type and description to which they may be subjected or put to by reason of or resulting from: (1) the performance of, or failure to perform, the work or any other obligations of this Agreement by Developer, any subcontractor or Developer's agents or employees; (2) any alleged negligent act or omission of Developer, any subcontractor, Developer's agents or employees, in connection with any acts performed or required to be performed pursuant to this Agreement; (3) any dangerous or defective condition arising or resulting from any of the actions or omissions of Developer, Developer's agents or employees in carrying out the provisions of this Agreement. This indemnification is effective and shall apply whether or not any such action is alleged to have been caused in part by the District as a party indemnified hereunder. This indemnification shall not include any claim arising from the sole negligence or willful misconduct of the District or its employees.

22.2 Developer agrees to indemnify, defend, and hold harmless the District, its officials, officers, employees, agents and consultants from any and all administrative, legal or equitable actions or other proceedings instituted by any person not a party to this Agreement challenging the validity of the Agreement, or otherwise arising out of or stemming from this Agreement, its approval, and/or the process relating thereto, including, but not limited to any legal proceeding alleging that the District has failed to comply with the California Environmental Quality Act (CEQA) with respect to this Annexation Agreement or the Project. Developer may select its own legal counsel to represent Developer's interests at Developer's sole cost and expense. The Parties shall cooperate in defending such action or proceeding. Developer shall pay for District's costs of defense, whether directly or by

timely reimbursement on a monthly basis. Such costs shall include, but not be limited to, all court costs and attorneys' fees expended by District in defense of any such action or other proceeding, plus staff and District's attorney time spent in regard to defense of the action or proceeding. The Parties shall use best efforts to select mutually agreeable defense counsel but, if the Parties cannot reach agreement, District may select its own legal counsel and Developer agrees to pay directly or timely reimburse on a monthly basis District for all court costs, attorney fees, and time referenced herein.

22.3 The Parties agree that this Section 22 shall constitute a separate agreement entered into concurrently, and that if any other provision of this Agreement, or the Agreement as a whole, is invalidated, rendered null, or set aside by a court of competent jurisdiction, the Parties agree to be bound by the terms of this Section 22, which shall survive such invalidation, nullification or setting aside.

23. Warranty.

23.1 Developer agrees that construction of the Improvements, including any regulatory fees and charges associated with the project, shall be in accordance with the Plans and Specifications and industry standards. Developer unconditionally guarantees all materials and workmanship furnished under this Agreement, and agrees to replace at its sole cost and expense, and to the satisfaction of District, any and all materials which may be defective through faulty, improper or inferior workmanship or materials. Developer shall repair or replace to the satisfaction of District any or all such work that may prove defective in workmanship or materials, ordinary wear and tear excepted, together with any other work which may be damaged or displaced in so doing. This guarantee shall remain in effect for three years from the date of District's acceptance of the work. This guarantee does not excuse Developer for any other liability related to defective work discovered after the guarantee period. Developer shall transfer to District all manufacturer and supplier warranties relating to the Improvements, if any, upon completion of the work. Developer shall provide a warranty bond in the amount of twenty-five per cent (25%) of the final cost of the installed Improvements, which bond shall be released at the expiration of the two-year warranty period.

23.2 In the event of failure of Developer to comply with the above stated conditions within a reasonable time, District may have the defective work repaired and made good at the expense of Developer who will pay the costs and charges therefor immediately upon demand, including any reasonable management and administrative costs, and engineering, legal and other consultant fees incurred by District in enforcing this guarantee.

24. Mello-Roos Community Facilities District.

24.1 As an alternative in part or entirely to the obligations of Developer for design, engineering, construction, funding and transfer of equipment under Sections 2, 3, 4, 7, and 8, District agrees, if requested by Developer in writing, to inclusion of the Project, or portions thereof in phases in a community facilities district to be formed by the District, to cause the formation of such a community facilities district under the provisions of the Mello-Roos Community Facilities Act of 1982 (Government Code Section 53311, et seq.), any amendments thereto, or any other applicable provision of the law. The community facilities district shall be used to provide funding for all those obligations of Developer under this Agreement to the extent possible within the financial resources reasonably available to such community facilities district based on the portions of the Project or the entirety of the Project included therein. Developer and District intend, by the formation of such a district, if requested by Developer, to provide for the construction and financing of all the On-site Improvements, Off-site Improvements, Fire Improvements, Park Improvements, Community Buildings Improvements, and transfers required by this Agreement, and including facilities for irrigation water from treated wastewater effluent, and for all other improvements and dedications required by the Approvals to the fullest extent permitted by Government Code Section 66462, including improvements not to be dedicated to or accepted by the District but to be dedicated to other public agencies such as the County as required by the Approvals. District shall, as the sponsoring public agency for the district, cooperate with Developer in satisfying Developer's obligations under the Approvals with respect to compliance with the County's subdivision ordinance, all at Developer's cost and expense, which may be included within the financing available to the community facilities district.

25. Disputes.

25.1 If any dispute arises regarding the meaning of the drawings or Contract Documents, the quality or quantity of materials or workmanship, or Change Orders, the dispute shall be decided by District's engineer whose decision shall be final and binding on both parties.

26. Term of Agreement.

26.1 The effective date of this Agreement is _____, 201__, which is the effective date of District Ordinance No. _____ adopting this Agreement.

26.2 Upon execution, the term of this Agreement shall commence on the Effective Date and extend for a period of five (5) years, unless said term is terminated, modified or extended by circumstances set forth in this Agreement. Following the expiration of the term, this Agreement shall be deemed terminated and of no further force and effect; provided, however, that if a building permit has not been issued by the County for any of the contemplated residential lots comprising the Project by that time, then this Agreement shall continue in full force and effect until all such lots comprising the Project have received both a building permit and a Certificate of Occupancy from County.

27. Payment of District Costs.

27.1 Developer shall pay for District costs in processing this Agreement and discretionary approvals, LAFCO related matters, and all further actions relating hereto. Such processing costs shall include, but not be limited to the time and related expenses of District staff, engineering and environmental consultants, and the District's legal counsel.

27.2 Developer shall, prior to commencement of construction of the Improvements, deposit as security with District the sum of _____ Dollars (\$_____) from which amount the District shall deduct all of its costs, fees, and expenses incurred as a result of the Project including, but not limited to administrative and staff costs, overhead, engineering costs, legal expenses and inspection fees incurred by District in connection with design, construction and inspection of the Improvements to be constructed by Developer.

27.3 If the amount on deposit with District at any time prior to final acceptance of all the Improvements to be constructed by Developer pursuant to this Agreement is reduced below a balance of _____ Dollars (\$_____), Developer shall, upon notice from District, deposit with District funds sufficient to restore the amount on deposit to the sum agreed to by the District with during the development of the Sub-Area Master Plan (SAMP) and environmental documentation. Failure of Developer to make any such additional deposits within ten (10) days after notice from the District will cause the District to suspend performance of the terms and conditions of this Agreement by Developer.

27.4 Upon completion of construction and operational certification of the Improvements by Developer, acceptance of dedication of the Improvements by District and the expiration of the warranty period or the satisfactory resolution of any and all warranty claims, the District will determine the final actual amount of its administrative, engineering and legal costs and expenses incurred with respect to the design, construction, inspection and acceptance of the Project. If the actual amount of such costs and expenses exceeds the deposits made by the Developer pursuant to this Agreement, the Developer shall pay to District the amount of any such expenses promptly upon demand. If the actual amount of costs and expenses incurred by District is less than the deposits previously made by Developer, the District shall refund any excess funds deposited by Developer to Developer, without interest. The District's determination of its costs and expenses incurred with respect to the Project shall be final and binding, provided that such determination shall be made upon the basis of generally accepted accounting principles consistently applied.

28. General Provisions.

28.1 The Recitals with all defined terms set forth herein are hereby incorporated into this Agreement.

28.2 Developer has a legal or equitable interest in all real property comprising the Project which is the subject of this Development Agreement, the description of which is attached hereto marked Exhibit A and incorporated herein by this reference (the "Property"). Developer represents that all persons holding legal or equitable interest in the Property shall be bound by this Agreement.

28.3 Relationship of District and Developer. It is understood that this Agreement is a contract that has been negotiated and voluntarily entered into by Developer and District and that Developer is not an agent of District. The District and Developer hereby renounce the existence of any form of joint venture or partnership between them, and agree that nothing contained herein or in any document executed in connection herewith shall be construed as making the District and Developer joint ventures or partners.

28.4 This Agreement shall inure to the benefit of and be binding upon the parties hereto, their respective heirs, successors, assigns and subsequent purchasers. Developer shall not assign its interest in this Agreement without District's prior written approval, which approval shall not be unreasonably withheld.

28.5 Notice shall be sent to the parties at the addresses set forth below. Either party may change the address by giving written notice to the other:

DEVELOPER:

Name
Address
Phone Number
Email Address

DISTRICT:

Groveland Community Services District
Attn: General Manager
18966 Ferretti Road (physical address)
P.O. Box 350 (mailing address)
Groveland, CA 95321-0350
Telephone: (209) 962-7161

28.6 Time is of the essence in the performance of this Agreement.

28.7 This Agreement constitutes the sole and only agreement between the parties concerning the matters set forth herein. This Agreement supersedes any and all other agreements, either oral and in writing, between the parties hereto with respect to the rendering of services by Developer to the District, and contains all the covenants and agreements between the parties with respect to such services. Each party to this Agreement acknowledges that no representations or promises have been made by any party hereto which are not embodied herein, and that no other agreement or promise not contained in this Agreement shall be valid or binding.

28.8 Waiver. The failure or omission by District to terminate this Agreement for any violation of its terms or conditions shall in no way bar, stop or prevent the District from terminating this Agreement thereafter, either for such or for any subsequent violation of any such term, condition or covenant. The filing of a Notice of Completion or acceptance of the Project shall not be, and shall not be construed to be a waiver of any breach of any term, covenant or condition of this Agreement.

28.9 Severability. If a court of competent jurisdiction finds or rules that any provisions of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall

remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.

28.10 The terms of this Agreement may be modified only in writing by mutual agreement on signature of the District and Developer. Said amendment shall be attached to this Agreement.

28.11 Attorneys' Fees. In the event that any action is initiated by either party seeking to enforce any of the terms or provisions of this Agreement, the prevailing party in such action shall be awarded its reasonable attorneys' fees and costs.

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Executed in Groveland, California, as of the date set forth above.

DISTRICT:

GROVELAND COMMUNITY
SERVICES DISTRICT, a political
subdivision of the State of California

By:

President, Board of Directors

By:

DEVELOPER:

By: _____