CITY OF WHEATLAND

CITY COUNCIL MEETING
STAFF REPORT

July 25, 2023

SUBJECT: Consideration to Amend the Development Agreement between the City of Wheatland and Dale Investments Concerning the Caliterra Ranch (formerly known as Jones Ranch) Subdivision.

PREPARED BY: Tim Raney, Community Development Director

Recommendation

Staff recommends that the Wheatland City Council approve the Resolution of Intent to process an amendment to the Caliterra Ranch (formerly known as Jones Ranch) Development Agreement.

Background and Discussion

On December 27, 2005, the City of Wheatland entered into a Development Agreement with Lakemont Overland Crossing for the Jones Ranch Subdivision. The Development Agreement subsequently was amended on June 10, 2008 and further amended on November 9, 2010 with RBC Real Estate Finance. Thereafter, the project was renamed Caliterra Ranch.

On November 25, 2014, the City of Wheatland approved a Third Amended and Restated Development Agreement with Dale Investments regarding the Caliterra Ranch (formerly known as Jones Ranch) Subdivision (see Attachment 3). Section 2.21 of this Development Agreement includes the following term:

> *If, prior to December 31, 2023, final subdivision maps have been recorded for 276 or more parcels of the Project, then the termination date will be extended to December 31, 2026.*

Since 2014, the Third Amended and Restated Caliterra Ranch Development Agreement has been amended two additional times. Amendment No. 1, which was approved by the Wheatland City Council on June 30, 2017, provided development impact fee protections and extended the deadline for the recording of the final map for the first 50 lots (see Attachment 4). Amendment No. 2, which was approved by the Wheatland City Council on December 8, 2020 (see Attachment 5), reduced the development impact fees by 50 percent for the first 145 units and included the following additional terms.

Specific Performance Standards:

- Requires the Caliterra Ranch property owner to record the sale of the phase 1 site of 145 lots to a home builder by March 31, 2021.

- Requires home builder to enter into a new subdivision improvement agreement with the City of Wheatland and begin construction by September 30, 2021

- Requires completion of the subdivision improvements for the 145 lots in phase 1 and acceptance by the City by September 30, 2022.

- Requires the home builder to receive approval and fund building permits for a minimum of 10 of the 145 units by December 31, 2022.

To date, the Final Maps for Phase 1 (Village I and Village II) have been approved and 145 lots have been sold to the home builder K.Hovnanian Homes (KHOV). Internal streets and improvements to Wheatland Road have been constructed, 61 building permits have been approved, and 28 final inspections have been approved. Dale Investments and the project engineers have been working with City staff on Phase 2 of the project and preparing to sell the next phase to KHOV or another builder.

The housing market has now slowed in the region due to the rise in interest rates. Currently, the pace of sales for the Caliterra Ranch project is 0.5 sales per week or 26 sales per year. Using that sales rate, it is projected that Caliterra Ranch would meet the required 276 recorded lots by December 2027 rather than December 2023. Due to the slower than anticipated sales, Dale Investments has indicated it needs additional time to continue with the project. City staff has met with the Dale Investments representatives on several occasions to discuss the framework for a third amendment to the Third Amended and Restated Development Agreement that would provide a time extension from December 31, 2023 for another 10 years.

In response, staff has requested that Dale Investments will ensure that if the proposed 5-acre park is not constructed as part of the next phase of lots within the next three years, at least 2.6 acres of the proposed 5-acre park consisting of grading, irrigation, and planting turf would be constructed by December 31, 2026. In the event this next phase of development does not develop within the next five years, Dale Investments will complete the remaining improvements for the 2.6-acre portion of the park site by December 31, 2028.

In order to ensure the secondary access is provided in a timely manner, the applicant is willing to grant an easement, dedicated to the City, that will allow access to Bishop's prior to the 2023 Bishop's Pumpkin Farm season opening. The City is requesting the easement be granted to the City by August 31, 2023. The easement would not conflict with the parcel that is planned to be donated to the school district.

Based on City staff's discussion, Dale Investments provided a letter to the City outlining these deal terms. City staff has prepared the attached Resolution of Intent to provide the direction to staff to prepare and process a Development Agreement Amendment between the City of Wheatland and Dale Investments.

With the potential of extending the expiration date of the Development Agreement, City staff expressed concerns that the neighborhood park might not be constructed for another ten years.

As a result, City staff has negotiated with the applicant that the park will be constructed with the next phase of lots to be developed, beginning with lot 146. In the event that the next phase of lots is not developed within the next three years, the applicant has agreed to proceed with grading, irrigation, and planting turf on the northern 2.6-acre portion of the park site. This will provide a usable area for the existing homeowners within the Caliterra Ranch community. In the event the same next phase of lots is not developed within five years, the remaining improvements will be completed on the 2.6-acre portion of the park site.

Fiscal Impact

All City staff time spent preparing staff reports, the amendment, and other documents will be funded by the applicant.

The current Development Agreement states that if prior to December 31, 2023, final subdivision maps have been recorded for 276 or more parcels, then the termination date would have been extended to December 31, 2026. The proposed Development Agreement Amendment would add 10 years to the term of the Development Agreement; however, the reduced fees would not be extended beyond the original extension date of December 31, 2026. Therefore, beginning January 1, 2027, the project would be subject to the most current City Development Fees in place at the time of building permit.

Conclusion

Staff recommends that the Wheatland City Council approve the attached Resolution of Intent for staff to prepare a Development Agreement Amendment with Dale Investments based on the deal points outlined in the attached applicant's letter.

Attachments

1. City Council Resolution of Intent
2. Letter from Dale Investments, LLC
3. Third Amended and Restated City of Wheatland Development Agreement Concerning Jones Ranch Subdivision
4. Amendment No. 1 to Third Amended and Restated City of Wheatland Development Agreement Concerning Jones Ranch Subdivision
5. Amendment No. 2 to Third Amended and Restated City of Wheatland Development Agreement Concerning Jones Ranch Subdivision

Attachment 1

WHEATLAND CITY COUNCIL
RESOLUTION NO. 29-23

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHEATLAND DECLARING ITS INTENT TO PROCESS A DEVELOPMENT AGREEMENT AMENDMENT FOR, AND ACCEPT DEDICATION OF EASEMENT FROM, THE CALITERRA RANCH PROJECT

WHEREAS, the City of Wheatland ("City") received a request from Rick Langdon to amend the Development Agreement concerning the Caliterra Ranch (formerly Jones Ranch) Subdivision, located south of Wheatland Road and west of State Route 65, in order to grant a ten-year time extension; and

WHEREAS, on November 25, 2014, the City of Wheatland approved a Third Amended and Restated Development Agreement with Dale Investments regarding the Caliterra Ranch (formerly known as Jones Ranch) Subdivision (the "Caliterra Ranch Development Agreement"); and

WHEREAS, on June 30, 2017, the Wheatland City Council approved Amendment No. 1 to the Third Amended and Restated City of Wheatland Development Agreement regarding the Caliterra Ranch (formerly known as Jones Ranch) Subdivision; and

WHEREAS, on December 8, 2020, the Wheatland City Council approved Amendment No. 2 to the Third Amended and Restated City of Wheatland Development Agreement regarding the Caliterra Ranch (formerly known as Jones Ranch) Subdivision; and

WHEREAS, the parties have agreed that a ten-year extension of the Caliterra Ranch Development Agreement would not extend the Impact Fee Protection for ten years, and the Impact Fee Protection would expire on December 31, 2026; and

WHEREAS, in order to ensure the timely construction of secondary access to the Bishop Pumpkin Farm, the project developer has agreed to grant an easement, dedicated to the City of Wheatland, to allow access to the Bishop Pumpkin Farm by August 31, 2023; and

WHEREAS, the requested ten-year extension of the Development Agreement is contingent upon dedication of the access easement to the City by August 31, 2023; and

WHEREAS, to ensure the timely construction of the park facility for the Caliterra Ranch community, the project developer has agreed to commence construction of the park simultaneously with the next phase of lots; and if the next phase of lots is not developed within three years of the approval of the Amendment, the 2.6 acre northern portion of the project site will be graded, irrigated, and planted with turf; and if the third phase of lots is not developed within five years of the approval of the Amendment, the 2.6-acre northern portion of the park site will be developed with the remaining improvements.

NOW, THEREFORE, BE IT RESOLVED AND DETERMINED by the City Council of the City of Wheatland that:

A. The foregoing recitals are true and correct.

B. The City Council hereby declares its intent to receive a dedication from Dale Investment, LLC, consisting of the easement within the Caliterra Ranch project site to provide permanent secondary access to Bishop's Pumpkin Farm prior to the 2023 season opening.

C. The City Council hereby declares its intent to prepare a Development Agreement Amendment for the Caliterra Ranch Project to extend the Development Agreement expiration date by ten years, but the provision regarding Development Impact Fees shall not be extended.

* * * * * * *

PASSED AND ADOPTED by the City Council of City of Wheatland on this 25th day of July 2023, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

APPROVED:

_____

Mayor of the City of Wheatland

ATTEST:

_____

Lisa Thomason, City Clerk

Dale Investments, LLC

May 4, 2023 VIA EMAIL

Mr. Jim Goodwin - City Manager
Mr. Tim Raney - Community Development Director
City of Wheatland
111 C Street
Wheatland, CA 95692

RE: Caliterra Ranch

Dear Messrs. Goodwin and Raney,

On September 28, 2022, I sent a letter requesting a modification to the Development Agreement ("DA") for Caliterra Ranch. That modification request was to eliminate the requirement to have 276 recorded lots by December 31, 2023 or the DA would expire. The request is to replace that language to say the Development Agreement would expire in ten years which would allow the appropriate amount of time for the subdivision to sell out and furnish lots as they are needed by the builder. As it stands now, the pace of sales in the Caliterra Ranch project is averaging approximately .5 sales per week or 26 per year. Using that math there is currently in excess of 4 years of lots recorded and available.

We understand there are two main concerns with the revisions to the DA which are the temporary secondary access to the pumpkin farm during the peak season and the timing of the park construction.

Regarding the secondary temporary access, Dale investments is willing to grant an easement that does not conflict with the parcel that is to be donated to the school district that will allow access to the pumpkin farm. The easement will be in favor of the City of Wheatland therefore giving the City the ability to allow the Bishops access as needed.

In regard to the park construction, Dale Investments agrees to construct the park with the next phase of lots to be developed beginning with lot 146. For clarification purposes, we are referring to the lots not currently owned by K Hovnanian Homes. In the event the next phase of lots does not develop within the next three years, Dale Investments agrees to proceed with grading, irrigation and planting turf on the northern 2.6 acre portion of the park site. This will provide a usable area for the existing homeowners within the Caliterra Ranch community to use for various activities. In the event the same next phase of lots does not develop within five years, Dale investments will commence and complete the remaining improvements on the 2.6 acre portion of the park site.

I think you in advance for your consideration in this matter and look forward to hearing back from you.

Sincerely,

Rick Langdon
Caliterra Ranch Project Manager

2015-001148
02/03/2015 02:39 PM Page 1 of 30
Total Fee: $0.00
Recorded in Official Records
County of Yuba State of CA
Terry A. Hansen
County Clerk and Recorder

Recording requested by, and
when recorded return to:

City of Wheatland
111 C Street
Wheatland, CA 95692

Exempt from recording fees (Government Code sections 6103 & 27383)

305

THIRD AMENDED AND RESTATED CITY OF WHEATLAND DEVELOPMENT AGREEMENT CONCERNING JONES RANCH SUBDIVISION

This Third Amended and Restated Development Agreement (the "**Agreement**") is made and entered into this November 25, 2014, by and between the City of Wheatland, a general law city ("City"), and Dale Investments, LLC, a California limited liability company ("Developer"), (collectively the "Parties"), who agree as follows:

1. RECITALS. This Agreement is made with reference to the following background recitals:

1.1. Authorization. To strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic risk of development, the California Legislature adopted Government Code section 65864 et seq. (the "**Development Agreement Law**"), which authorizes the City and a property owner to enter into a development agreement, establishing certain development rights in the real property that is the subject of a development project application. This Agreement is entered into pursuant to the authority of the Development Agreement Law.

1.2. Agreement Goals. City and Developer desire to enter into this Agreement relating to the Property in order to facilitate the creation of a physical environment that will conform to and complement the goals of the City, protect natural resources from adverse impacts, assist in implementing the goals of the City General Plan, and reduce the economic risks of development to Developer and City.

1.3. Property. The subject of this Agreement is the development of that certain parcel of land located within the City, consisting of approximately 190.8± acres (the "**Property**") as described in Exhibit A, attached hereto and incorporated herein by this reference. Developer owns the Property in fee. The Property was annexed to the City in 2006.

1.4. Approval of Initial Agreement and Prior Amendments. On December 27, 2005, City and Lakemont Overland Crossing, LLC entered into the City of Wheatland Development Agreement Concerning Jones Ranch Subdivision, a copy of which is on file in the City Clerk's office. The Development Agreement was recorded in the Yuba County Recorder's Office on April 18, 2006 as Document No. 2006R--007611. The Development Agreement was approved January 26, 2006 and became effective after annexation of the property on April 18, 2006 (the "**Effective Date**"). City and Lakemont Overland Crossing

amended the Development Agreement in Amendment No. 1 dated June 10, 2008 and recorded on September 11, 2008 as Document No. 2008R-014197. RBC Real Estate Finance acquired the Property in 2010. City and RBC amended the Development Agreement in Amendment No. 2 dated November 9, 2010 and recorded on November 24, 2010 as Document No. 2010R-014746. The changes made by and the reasons for Amendment Nos. 1 and 2 are explained in those documents, which are available from the City Clerk.

1.5. Current Amendment and Restatement. Developer (Dale Investments) acquired the Property in 2013 and assumed the rights and obligations under the 2005 development agreement, as amended. After its acquisition, Developer and City negotiated an extension of the term of the Development Agreement and other amendments. Those changes are set forth in this amended and restated agreement together with the agreement amendments made by Amendment Nos. 1 and 2. This Third Amended and Restated Development Agreement affirms, continues in effect and amends the initial 2005 Development Agreement, as amended. The development agreement as amended and restated in this document is referred to as the Agreement.

1.6. CEQA.

1.6.1. City caused a final environmental impact report ("**EIR**") to be prepared and certified pursuant to the California Environmental Quality Act (CEQA) for the Project described below. See City Council Resolution No. 55-03.

1.6.2. The City Council has determined that all environmental impacts associated with the development of the Project as provided under this Agreement have been adequately addressed in the EIR, and that the adoption of this Agreement will not result in any new or different environmental impacts than those considered in the certified EIR; therefore, the City Council determines that no further environmental review relating to the adoption of this Agreement is required under CEQA.

1.7. Entitlements. Following certification and consideration of the EIR, together with the CEQA findings, the City Council has approved the following land use entitlements for the Property, which entitlements are the subject of this Agreement:

1.7.1. The City's General Plan as it existed on the Effective Date, including General Plan amendment of the Property as approved by Resolution No. 57-03, adopted December 9, 2003;

1.7.2. Prezoning/Rezoning of the Property as approved by Ordinance No. 382, adopted on January 13, 2004;

1.7.3. Tentative Subdivision Map of the Property as approved by Resolution No. 41-05, adopted on December 13, 2005, and as to be amended pursuant to section 3.14 of this Agreement (the "**Tentative Map**");

1.7.4. Jones Ranch Design Guidelines dated September 2004, as approved on December 13, 2005, as to be revised pursuant to section 3.14 of this Agreement (the "**Design Guidelines**").

1.7.5. Such other ordinances, rules, regulations and official policies governing permitted uses of the Property, density, design, development, improvement and construction standards and specifications applicable to development of the Property in force on the Effective Date, except as they may be in conflict with a provision of this Agreement; and,

1.7.6. This Agreement as approved by Ordinance No. 452 (the "Adopting Ordinance"), adopted on November 25, 2014 and as effective on December 25, 2014.

The approvals described above are referred to as the "Entitlements." The development of the Property in accordance with the Entitlements is the "Project" for purposes of this Agreement.

1.8. General Plan. Development of the Property in accordance with this Agreement and the other Entitlements will provide orderly growth and development of the area in accordance with the policies set forth in the General Plan. Having duly examined and considered this Agreement and having held properly noticed public hearings, the City finds and declares that this Agreement is consistent with the City General Plan, as amended.

1.9. Substantial Costs to Developer. Developer has incurred and will incur substantial costs in order to comply with conditions of approval of the Entitlements and to assure development of the Property in accordance with the Entitlements, including the terms of this Agreement.

1.10. Need for Services and Facilities. Development of the Property will result in a need for municipal services and facilities, which services and facilities will be provided by City to such development, subject to the performance of the obligations of Developer under this Agreement. Developer agree to contribute to the costs of such public facilities and services as are required to mitigate impacts of the development of the Property on the City, and City agrees to provide such public facilities and services to assure that Developer may proceed with and complete development of the Property in accordance with the terms of this Agreement. City and Developer recognize and agree that but for Developer's contributions to mitigate the impacts arising as a result of development entitlements granted pursuant to this Agreement, City would not and could not approve the development of the Property as provided by this Agreement and that, but for City's covenant to provide the facilities and services necessary for development of the Property, Developer would not and could not commit to provide the mitigation as set forth in this Agreement. City's vesting of the right to develop the Property is in reliance upon and in consideration of the agreement of Developer to make contributions toward the cost of public improvements and services as provided in this Agreement to mitigate the impacts of development of the Property as such development occurs.

1.11. Developer's Faithful Performance. The Parties acknowledge and agree that Developer's performance in developing the Project on the Property and in constructing and installing certain public improvements and complying with the Entitlements and the terms of this Agreement will fulfill substantial public needs. The City acknowledges and agrees that there is good and valuable consideration to the City resulting from Developer's assurances and faithful performance of this Agreement, and that the same is in balance with the benefits conferred by the City on the Project. The Parties further acknowledge and agree that the exchanged consideration is fair, just and reasonable.

2. GENERAL PROVISIONS.

2.1. Property Description and Binding Covenants. The Property is that real property described and shown in Exhibit A. It is intended and determined the provisions of this Agreement shall constitute covenants that shall run with the Property for the term of the Agreement and the benefits and burdens of this Agreement shall bind and inure to all successors in interest to the Parties.

2.2. Term.

2.2.1. Commencement; Expiration. The term of this Agreement shall commence upon the date set forth above and shall expire on December 31, 2023, unless the term is terminated, modified or extended as provided by this Agreement or by mutual written consent of the Parties. Developer agrees that a final subdivision map for a first phase of a minimum of 50 parcels must be recorded prior to June 31, 2017 or this Agreement will be terminated on that date. If, prior to December 31, 2023, final subdivision maps have been recorded for 276 or more parcels of the Project, then the termination date will be extended to December 31, 2026. If litigation is filed against City and/or Developer challenging the approval of this Agreement and/or the Entitlements, then the term of this Agreement shall be extended for the period of time from the date of filing the complaint until the date that the litigation is dismissed or otherwise finally concluded. If a federal or state agency with jurisdiction issues an order that prohibits development of the Project, then the term of this Agreement shall be extended for the period of time that the order and prohibition are in effect. If there is uncertainty regarding the date of final conclusion of any litigation or the time period that a federal or state agency order and prohibition are in effect, then that uncertainty shall be decided by the City Attorney.

2.2.2. Automatic Termination Upon Completion and Sale of Individual Lot. This Agreement shall be terminated automatically, without any further action by any party or need to record any additional document, with respect to any single lot within the Property, upon completion of construction of, and issuance by the City of a final inspection for, a dwelling unit or non-residential structure upon such lot and conveyance of such improved lot by Developer to a bona-fide good-faith purchaser. In connection with its issuance of a final inspection for such improved lot, and prior to issuing a certificate of occupancy, City shall confirm that the lot is included within the CFD Services District required by Section 3.12.2 or other financing mechanism acceptable to the City. The termination of this Agreement for any such lot as provided for in this section shall not in any way be construed to terminate or modify any assessment district or Mello-Roos community facilities district lien affecting such lot at the time of termination.

2.2.3. Amendment of Agreement. This Agreement may be amended from time to time by mutual written consent of the Parties in accordance with the Development Agreement Law. Amendment by City requires approval by the City Council of City. If the proposed amendment affects less than the entire Property, then such amendment need only be approved by the owner(s) in fee of the portion(s) of the Property that is(are) subject to or affected by such amendment. The parties acknowledge that under the City Zoning Code and applicable rules, regulations and policies of the City, the Planning Director has the discretion to approve minor modifications to approved land use entitlements without the requirement for a public hearing or approval by the City Council. Accordingly, the approval by the Planning Director of any minor modifications to the Entitlements that are

consistent with this Agreement shall not constitute nor require an amendment to this Agreement to be effective.

2.2.4. Recordation. Except when this Agreement is automatically terminated due to the expiration of its term or section 2.2.2, the City shall cause any amendment to it or any other termination of it to be recorded, at Developer's expense with the County Recorder within 10 days of the date of the amendment or termination becoming effective. Any amendment or termination of the Agreement to be recorded that affects less than all the Property shall describe the portion that is the subject of such amendment or termination.

2.3. Development of the Property.

2.3.1. Permitted Uses. The permitted uses of the Property, the density and intensity of use, the maximum height and size of proposed buildings, provisions for reservation or dedication of land for public purposes, and location of public improvements, and other terms and conditions of development applicable to the Property shall be those set forth in this Agreement and the other Entitlements.

2.3.2. Vested Entitlements. Subject to the provisions of this Agreement, and any amendments thereto City hereby grants a fully vested entitlement and right to develop the Property in accordance with the terms and conditions of this Agreement and the other Entitlements. The Project land uses allowed by the Entitlements are permitted to be developed in accordance with the Entitlements, as such Entitlements provide on the Effective Date of this Agreement. Developer's vested right to proceed with the development of the Property shall be subject to subsequent City land use and building approvals, provided that, except as otherwise allowed by this Agreement, any conditions, terms, restrictions and requirements for such subsequent approvals shall not prevent or substantially restrict development of the Property for the uses, or reduce the density and intensity of development, or limit the rate or timing of development set forth in this Agreement, so long as Developer is not in default under this Agreement.

2.3.3. Future City Rules and Regulations. To the extent any future City rules, ordinances, regulations or policies applicable to development of the Property are inconsistent with the permitted uses, density and intensity of use, rate or timing of construction, maximum building height and size, or provisions for reservation and dedication of land for public purposes under the Entitlements as provided in this Agreement, the terms of the Entitlements and this Agreement shall prevail, unless the parties agree otherwise in writing or agree to amend this Agreement. To the extent any future rules, ordinances, fees, regulations or policies applicable to development of the Property are not inconsistent with the permitted uses, density and intensity of use, rate or timing of construction, maximum building height and size, or provisions for reservation or dedication of land under the Entitlements or under any other terms of this Agreement, such rules, ordinances, fees, regulations or policies shall be applicable.

2.4. Exceptions; Application of Changes. This Agreement shall not preclude, prohibit or limit the application of any of the following to the Property or Project:

2.4.1. Any new or amended City-wide ordinance, resolution, rule, regulation or policy that does not conflict with the Entitlements or those ordinances, resolutions, rules,

regulations and policies in effect at the Effective Date, and that is generally applied equally to all real property in the City with similar zoning designations and/or land uses.

2.4.2. Any new or amended City ordinance, resolution, rule, regulation or policy that is mandated by changes in applicable federal or state law or regulation that may be applicable to the Property or Project.

2.4.3. Any new or amended building codes, including, but not limited to, the Uniform Building Code, Uniform Fire Code, Uniform Mechanical Code, Uniform Plumbing Code, National Electrical Code, Uniform Housing Code, and Uniform Sign Code, that generally apply equally to all buildings, structures and real property in City.

2.4.4. Any new or amended City-wide public works improvement standards that are generally applied equally to all real property and public improvements in the City.

2.5. Moratorium, Quotas, Restrictions or Other Growth Limitations. Developer and City intend that, except as otherwise provided herein, this Agreement shall vest the Entitlements against subsequent City resolutions, ordinances, initiatives and referenda that directly or indirectly limit the rate, timing, or sequencing of development, or prevent or conflict with the permitted uses, density and intensity of uses as set forth in the Entitlements. However, Developer shall be subject to any growth limitation ordinance, resolution, rule, regulation or policy (including, but not limited to, a City sewer and water connection moratorium or limitation) that is adopted on a uniformly applied, City-wide or area-wide basis and is necessary to prevent a condition injurious to the health, safety or welfare of City residents, in which case City shall treat Developer in a uniform, equitable and proportionate manner with all properties, public and private, which are impacted by that public health, safety or welfare issue. Any sewer connection moratorium must be based on the need to comply with a federal or state agency regulation, license, permit or order. Because the California Supreme Court held in *Pardee Construction Co. v. City of Camarillo*, 37 Cal.3d 465 (1984) that failure of the parties to provide for the timing of development resulted in a later-adopted initiative restricting the timing of development to prevail over the parties' agreement, it is the intent of the Developer and City to cure that deficiency by acknowledging and providing that Developer shall have the right (without the obligation) to develop the Property in such order and at such rate and at such time as it deems appropriate within the exercise of its subjective business judgment, subject to the terms of this Agreement.

2.6. Authority of City. This Agreement shall not be construed to limit the authority or obligation of City to hold necessary public hearings, or to limit discretion of City or any of its officers or officials with regard to rules, regulations, ordinances, laws and entitlements of use that require the exercise of discretion by City or any of its officers or officials, provided that subsequent discretionary actions (a) shall not prevent or delay development of the Property for the uses and to the density and intensity of development as provided by this Agreement and the other Entitlements in effect as of the Effective Date of this Agreement, and (b) shall not be inconsistent with the Entitlements.

2.7. City Fees.

2.7.1. Processing Fees and Charges. Developer shall pay those processing, inspection, plan checking, and monitoring fees and charges required by City under the then

current and applicable regulations (including any post-Effective Date increases in such fees and charges) for processing applications and requests for tentative maps, final map, building permits, inspections of subdivision improvements, other permits, approvals and actions, and monitoring compliance with any permits issued or approvals granted or the performance of any conditions. Developer also agrees to pay any subsequent approved City fee or charge collected at building permit for the preparation or update of City planning, development and housing-related plans, including the General Plan, housing element, master parks plan, trails and bikeway plan, drainage plan and transit plan.

2.7.2. Development Fees. The parties acknowledge that at the time of the initial development agreement City had recently begun preparation of a thorough study, review and update of City development fees, impact fees, capital facilities fees and connection charges (collectively "**City Development Fees**"). At the time of the initial development agreement, the final amount of and details concerning the City Development Fees were uncertain because of the need to first complete development fee studies and adopt the fees. As a condition of this Agreement, it is important to City that Developer commit to pay the future City Development Fees or some other agreeable amount, and it is important to Developer that its obligation to pay City Development Fees be certain and finite and not be uncertain and subject to the completion of future fee studies. Consequently, the Parties have negotiated a flat rate amount to be paid by Developer as City Development Fees.

2.7.2.1. Developer agrees to pay $32,100 per single family dwelling as City Development Fees for Project development. City shall use the fee revenue for any of the purposes described in Wheatland Municipal Code chapter 3.26 as currently stated. For Project development other than a single family house, the City Engineer shall determine an equivalent dwelling unit amount based on $32,100 per single family dwelling. Commencing January 1, 2015, the $32,100 amount shall increase based on the previous year's percentage change in the Engineering News-Record (ENR) Construction Cost Index for 20 U.S. cities. City Development Fees shall be due upon issuance of building permits for the Project, except as otherwise provided under this Agreement.

2.7.2.2. The $32,100 amount (as adjusted by the ENR index) shall cover all City Development Fees and, except as provided below, City shall not levy, impose or collect any other or additional City Development Fees against the Project. In the event after the Effective Date of the Agreement, the City adopts a City Development Fee on new development to fund a Highway 65 bypass/relocation and/or a relocation of the existing railroad tracks, then that fee shall apply to Project building permits issued after the adoption of the fee. Nothing in this Agreement shall apply to, limit or restrict development fees and similar fees imposed by governmental agencies other than City, including, but not limited to, local school districts, County of Yuba, regional agencies, and joint powers agencies (including joint powers agencies in which City is a member).

2.7.3. Developer agrees not to oppose, protest or challenge the flat rate $32,100 (as adjusted by the ENR index) City Development Fees to be imposed and collected pursuant to this Agreement. Except as provided above and in sections 2.7.2 and 3.12, nothing in this section shall be construed to limit the right of Developer to oppose, protest or challenge any proposal to adjust existing fees or charges or to adopt new fees or charges. In addition, nothing in this section shall prevent or preclude the City from adopting assessments, fees and charges (other than fees imposed on new development) or special taxes on property within the City to fund capital facilities, public improvements and/or services.

2.8. Compliance with Laws. Developer shall comply with all applicable federal, state, City (except as restricted by sections 2.3 to 2.5), and other governmental statutes, regulations, codes, ordinances and other laws (including permit and license requirements) relating to the development of the Property and including those pertaining to the design and construction of subdivision improvements and City infrastructure.

3. DEVELOPER'S OBLIGATIONS. Developer's obligations under this section 3 shall be at Developer's sole cost and expense, unless expressly provided otherwise.

3.1. Development, Connection and Mitigation Fees. Except as otherwise provided herein, any and all required payments of City Development Fees by Developer shall be made at the time and in the amount specified by section 2.7.2.1.

3.2. Parks and Open Space. In satisfaction of the City's General Plan parks and open space policies, Developer shall dedicate acreage to the City's parks program, and provide park facility improvements, all as set forth in this section 3.2.

3.2.1. Park Improvement. Developer agrees to dedicate park land and design, install and construct the park and recreation improvements to Project parks as follows:

3.2.1.1. A 2.6 acre portion of the 5.0 acre park (as shown on the Preliminary Bubble Concept Plan #3 dated August 7, 2013 (the "**Concept Plan**"), which is on file with the City Clerk of City, and to be shown on the updated Tentative Map (see section 3.14) and Design Guidelines) shall be graded and improved with drainage, irrigation, turf, trees, walkways and playground equipment in accordance with the approved Design Guidelines and to the satisfaction of the City Manager or his or her designee. Prior to construction, Developer shall prepare a park site improvement plan for review and approval by the City Manager or his or her designee. The park improvements shall be installed pursuant to the approved site plan at the same time as the subdivision improvements for the first final subdivision map phase that is adjacent to the park site and shall be completed within 45 days after the issuance of the first certificate of occupancy for that phase.

3.2.1.2. The paseos, basin areas and landscape corridors/open space (as shown on the Concept Plan and to be shown on the updated Tentative Map) shall be graded and improved with drainage, irrigation, turf, walkways and other improvements in accordance with the approved Design Guidelines and to the satisfaction of the City Manager or his or her designee. For each site, prior to construction, Developer shall prepare a site improvement plan for review and approval by the City Manager or his or her designee. The park improvements shall be installed pursuant to the approved site plan at the same time as the subdivision improvements for the final subdivision map phase containing or adjacent to the park or landscape corridor and shall be completed within 45 days after the issuance of the first certificate of occupancy for that phase.

3.2.1.3. Developer shall dedicate the 4.6 acres (+/-) of land designated as the Flex Site on the Concept Plan (and to be incorporated into the updated Tentative Map) to the City for a City park or other City uses as determined by City. Nothing in this Agreement will restrict City from conveying the Flex Site to a third party. Except for the curb, gutter and sidewalk improvements on the perimeter of the site to be installed with the subdivision improvements, the Flex Site land shall be dedicated in its unimproved condition. Dedication of 5.0 acres of Park Site as shown on the Concept Plan to the City

shall satisfy and replace any requirement for the High School Site Addition joint use. Dedication of the 4.6 acres (+/-) of Flex Site to the City shall be considered excess park land dedication and the Project therefore shall receive park fee credit for the value of 4.6 acres (+/-). The value of the excess consideration for the 4.6 acres (+/-) shall be $34,382 per acre for a total Project park fee credit of $158,157. A park fee credit in the amount of $1,000 per unit shall apply as provided below until the depletion of the total park fee credit of $158,157. This equates to 158.16 units receiving the $1,000 park fee credit.

3.2.2. Parks and Open Space Dedication. Developer shall dedicate to City the 5.0 acre park, Flex Site, paseos and landscape corridors/open space described in section 3.2.1, except the 6.5 acre High School site (as shown on the Concept Plan), which shall be dedicated to the Wheatland Union High School District. The parks and landscape corridors/open space shall be dedicated in their improved condition, except that the Flex Site and 2.4 acres of the 5.0 acre park site shall be dedicated in their unimproved condition. The park, paseos and landscape corridors/open space shall be dedicated to City at the time of the approval of the final subdivision map containing or located adjacent to the park, paseo or landscape corridor/open space area. City agrees to accept the dedication so long as the dedication is in accordance with this Agreement and the Entitlements. The High School site will be dedicated to the Wheatland Union High School District at the time of the approval of the final subdivision map for the parcels that are located adjacent to the site (unless otherwise defined in a future District-Developer contract).

3.2.3. The parks and landscape corridors/open space dedicated to the City shall be maintained by City with funding provided by the CFD Services District to be established in accordance with section 3.12.2.

3.2.4. Entire Park Land Obligation. The City agrees that the commitments contained in this section 3.2 fully satisfy the Developer's General Plan, Quimby Act, and all other park obligations imposed by law for the dedication of neighborhood/community and City-wide parks and open space and for the improvement of such parklands. Further, in consideration for Developer's excess park land dedication as described in section 3.2.1.3 in accordance with this Agreement, Developer shall be entitled to a credit against the City Development Fee, as described in Section 2.7.2.2 in the amount of $158,157. The credit shall be applied after dedication to the Flex Site. The credit shall be applied against the payment of the City Development Fee at the rate of $1,000 per single family dwelling (or equivalent unit, as determined by the City Engineer) beginning with building permits issued after dedication of the Flex Site and continuing until the credit amount is depleted.

3.3. School Facilities Mitigation. Developers agree that, prior to City approval of each building permit for the Property, Developer shall pay school facilities impact fees applicable to each residential unit or commercial building to the Wheatland School District to mitigate the impacts of development of the Property on elementary and middle schools within the district and to the Wheatland Union High School District to mitigate the impacts of development of the Property on high schools within the district, in accordance with and subject to the requirements of Senate Bill 50 (Government Code § 65995 et. seq.) and other applicable laws. City agrees that so long as Developer is not in default of the obligation to pay School Facilities Impact Fees, City shall not refrain from approving a subdivision map or other such entitlements for the Property or from issuing any building permits for development of the Project consistent with the Entitlements on the basis of adverse impacts of such development on school facilities.

3.4. Drainage and Special Grading Improvements. Developer shall provide drainage and special grading improvements as provided in this section.

3.4.1. Drainage Plan. Prior to approval of any improvement plans for subdivision improvements for the Property, Developer shall prepare a Drainage Plan for its on-site and off-site drainage facilities to the satisfaction of the City Engineer. The Drainage Plan shall identify the size, location and construction timing of all major drainage facilities proposed for the Property and shall be accompanied by all supporting technical information and calculations required by the City Engineer. The Drainage Plan also shall comply with the design requirements and criteria for the Project as set forth in the *Jones Ranch Drainage Study* dated February 20, 2000 (EIR Technical Appendix E).

3.4.2. Other Agency Approvals. Prior to issuance of any building permit or grading permit for the Project, Developer shall obtain all permits and agreements as required by other agencies having jurisdiction over drainage, water quality and/or wetlands issues including, but not limited to, the Regional Water Quality Control Board ("RWQCB"), U.S. Army Corps of Engineers, California Department of Fish and Game and Reclamation District No. 2103.

3.4.3. Developer shall prepare and implement a Storm Water Pollution and Prevention Plan and implement, construct and maintain Best Management Practices as required by law and the Storm Water Pollution and Prevention Plan and as approved by the RWQCB, concurrently with the construction of any improvements. Developer shall obtain a permit from the RWQCB for the General Construction Storm Water Permit Compliance Program, as required by law, prior to the start of any construction, including grading.

3.4.4. Developer shall design, construct and install the storm drain mains and laterals and other drainage improvements in accordance with the approved Drainage Plan and the City's then current public works improvement standards in effect at the time of construction, and including permit acquisition and land and rights-of-way acquisition. All drainage improvements shall be subject to City plan review, construction inspection and final approval.

3.5. Water System Improvements. Developer shall provide improvements to the City water system as provided in this section.

3.5.1. Water System Plan. Prior to approval of any improvement plans for subdivision improvements for the Property, Developer shall prepare a Water System Plan for the on-site water facilities, to the satisfaction of the City Engineer. The Water System Plan shall identify the size and locations of the water lines, pressure reducing stations and flow monitoring stations required to serve the Property, as well as the construction timing of such improvements, and shall be accompanied by all supporting technical information and calculations required by the City Engineer. The Water System Plan shall comply with the City's water system master plan and then current public works improvement standards. If required by the City Engineer, the Water System Plan also shall include the installation and dedication of a new domestic water supply well and related improvements.

3.5.2. Construction. Developer shall design, construct and install the water system improvements in accordance with the approved Water System Plan and City's then current

public works improvement standards in effect at the time of construction, and including permit acquisition and land and rights-of-way acquisition. All water system improvements shall be subject to City plan review, construction inspection and final approval. With the exception of those facilities identified in the approved Water System Plan, Developer shall have no obligation to install or pay for the installation of any water supply, storage or treatment facilities or off-site water transmission facilities, except through the payment of City Development Fees (which include water connection fees) levied and collected by the City at the time of development pursuant to this Agreement.

3.5.3. Availability of Water Supply. In accordance with Government Code section 65867.5(c), the Parties acknowledge that when approving the 2005 tentative map for the Project, the City Council verified the availability of a sufficient water supply for the Project pursuant to Government Code section 66473.7.

3.6. Sewer Improvements. Developer shall provide improvements to the City sewer system and related funding as described in this section.

3.6.1. Sewer System Plan. Prior to approval of any improvement plans for subdivision improvements for the Property, Developer shall prepare a Sewer System Plan for its on-site and off-site wastewater facilities, to the satisfaction of the City Engineer. The Sewer System Plan shall identify the size of the wastewater lines, pump stations and related facilities required to serve the Property, as well as the construction timing of such improvements, and shall be accompanied by all supporting technical information and calculations required by the City Engineer. The Sewer System Plan shall comply with the City's sewer system master plan and then current public works improvement standards. The Sewer System Plan also shall comply with the design requirements and criteria for the Project as set forth in the *Jones Ranch Sewer Study* dated September 20, 2000 (EIR Technical Appendix C).

3.6.1.1. Sewer service to the Project will require the Developer to construct an on-site sewer lift station and an on-site/off-site sewer force main. The existing gravity collection system to the east of the Property lacks the capacity to accommodate full Project development. However, the City acknowledges that it has confirmed that up to 50 single-family dwelling units could be accommodated through the existing gravity collection system to the east. The City also confirms that there may be additional capacity within the existing gravity collection system to the east. Developer and its engineer may further study and evaluate the possible additional capacity at Developer's expense. Upon completion of any such study, City and its engineer will evaluate the study results and if the City Engineer in his reasonable discretion determines that there is additional collection system capacity in the existing system, then Developer and the City Manager may sign an addendum confirming the additional single family dwelling units that may be accommodated through the existing system.

3.6.2. Construction. Developer shall design, construct and install the sewer system improvements in accordance with the approved Sewer System Plan and City's then current public works improvement standards in effect at the time of construction, and including permit acquisition and land and rights-of-way acquisition. All sewer system improvements shall be subject to City plan review, construction inspection and final approval.

3.6.3. Financing of Wastewater Treatment Plant Improvements. In accordance with sections 3.6.3 and 3.8.2 of the initial development agreement, Developer's predecessor and the developers of the Heritage Oaks-East and Heritage Oaks-West subdivisions provided advance sewer connection charge funding to the City for wastewater treatment plant improvements. Because of those advances, City agrees to provide wastewater treatment and disposal capacity for the Jones Ranch Project and the other subdivisions. The following table shows the number of dwelling units (and equivalent dwelling units) of the Project and other projects with wastewater treatment and disposal capacity that will be set-aside for the Project for the term of this Agreement:

Developer	Equivalent Dwelling Units (EDUs) With WWTP Capacity
Heritage Oaks East	496
Heritage Oaks West	174
Jones Ranch	552
Total	1,222

3.6.3.1. The advance funding of $10,000 per unit is included within, and will be applied toward, the flat rate $32,100 per unit (as adjusted) City Development Fees. The advanced and prepaid wastewater treatment plant improvement fees therefore will be applied toward the Developer's $32,100 per unit (as adjusted) City Development Fees obligation, at the rate of $10,000 per single family dwelling unit or equivalent unit.

3.6.4. Developer shall have no obligation to install or pay for the installation of any off-site wastewater treatment or transmission facilities, except as specifically provided by the terms of this Agreement. In consideration for Developer's installation of off-site sewer collection mains (i.e., mains not located within the Property), Developer shall be entitled to a credit against the City Development Fee in the amount of Developer's direct, actual, identifiable and commercially reasonable costs of the design, installation and construction (excluding land and rights-of-way acquisition costs) of the completed off-site sewer mains (as determined by the City Engineer). The credit shall be applied after the completion and City acceptance of the off-site sewer main improvements. The credit shall be applied against the payment of the City Development Fee at the rate of $2,000 per single family dwelling (or equivalent unit, as determined by the City Engineer) beginning with building permits issued after completion and City acceptance of the off-site sewer main improvements and continuing until the credit amount is depleted or completion of the Project. If the application of the credit at $2,000 per unit over the units remaining after completion and acceptance of the off-site sewer main improvements will not exhaust the full credit amount prior to Project buildout, then the $2,000 rate will be adjusted by the City Engineer so that the full credit amount will be applied over the remaining units.

3.7. Street Improvements. In accordance with the street improvements required pursuant to the Tentative Map, subsequent final subdivision map(s), Subdivision Map Act and City subdivision ordinance, Developer shall provide the following with respect to street improvements in the manner and at the time as provided in this section.

3.7.1. Main Street and First Street Extensions. As part of the street system improvements for the first phase of the Property development, Developer shall construct (including design, land acquisition, permitting, construction, installation and related costs) the extension of First Street to the Project as shown on and in accordance with the Tentative Map. Prior to the issuance of the 250th building permit for the Project, Developer shall construct (including design, land and rights-of-way acquisition, permitting, construction, installation and related costs) the extension of Main Street from the Property to existing western terminus of Main Street.

3.7.2. Other Streets. All other streets shall be constructed in accordance with the Tentative Map and the Entitlements.

3.7.3. As to any street improvements to be constructed by Developer under this Agreement, Developer shall have the responsibility of securing all county, state and federal permits and entitlements that may be necessary for such construction, with the assistance and cooperation of the City as needed.

3.7.4. Street Improvement Standards. All City street improvements to be designed and installed by Developer shall comply with the Entitlements and City's then current public works improvement and street and highway standards as determined by the City Engineer. All improvements shall be subject to City plan review, construction inspection and final approval.

3.8. Excise Tax on New Development. Developer shall pay the Excise Tax on New Development in accordance with Wheatland Municipal Code chapter 3.30 (Ordinance No. 384), subject to reimbursement as provided in the City of *Wheatland Funding Agreement for Administrative Consulting Services*, previously entered into by the Parties.

3.9. EIR Mitigation Measures and Conditions of Approval. Notwithstanding any other provision in this Agreement to the contrary, as and when Developer elects to develop the Property, Developer shall be bound by, and shall perform, all mitigation measures contained in the certified final EIR related to such development that are adopted by the City and identified in the mitigation monitoring plan as being a responsibility of Developer, the Property prezoning conditions of approval (Ordinance No. 382, Exhibit B), and the Tentative Map conditions of approval.

3.10. Completion of Improvements. City requires that all improvements necessary to provide adequate service to the portion of the Property being developed be substantially completed prior to issuance of certificates of occupancy for that portion (except model home permits as may be provided by the Subdivision Map Act and City Subdivision Ordinance).

3.11. Utility System Sequencing and Alignment. Water, sewer, storm drainage and other utility system improvements to be located within a City street shall be installed prior to or concurrent with the installation of the corresponding street improvement. For water, sewer, storm drainage and other utility system improvements to be installed by Developer, Developer shall be responsible for coordinating the alignment of all such planned and future utilities within the applicable rights-of-way to the satisfaction of the City Engineer.

3.12. Community Facilities District and Financing.

3.12.1. Community Facilities District – Capital Improvements.

3.12.1.1. City and Developer agree that, if requested by Developer, the Parties will use their best efforts to cause to be formed a Mello-Roos community facilities district ("CFD") and City will levy a special tax for the purpose of financing the acquisition or construction of certain improvements or facilities to be determined by the City and Developer (the "CFD Improvements"). The Parties agree that, to the extent permitted by law, City shall use its best efforts to cause bonds to be issued, in amounts sufficient to finance the acquisition or construction of the CFD Improvements.

3.12.1.2. If the bonds issued by the CFD do not provide sufficient funding for the completion of the CFD Improvements, then Developer shall remain liable for the amount of the shortfall. Nothing in this section shall be construed to limit Developer's option to install the CFD Improvements or other improvements through the use of private financing or to limit reimbursement from bond revenue pursuant to the CSD to the Developer for costs incurred for the construction of CFD Improvements.

3.12.2. Community Facilities District – Services.

3.12.2.1. Formation. No residential building permit, excluding permits for model homes, shall be issued until the Property has been included in a Mello-Roos community facilities district or other funding entity acceptable to the parties ("CFD") and the City has levied a special tax or assessment (with Developer's vote in support) (the "CFD Services District") for the purpose of funding City services and maintenance obligations (the "CFD Services") as provided by this section 3.12.2. Developer consents to and shall support the inclusion of the Property in a CFD Services District to fund the CFD Services and further consents to the levy of such special taxes as may be required for these purposes. The purposes and amount of the special tax shall be determined in accordance with section 3.12.2.2. Although the funding district is referred to as a "CFD" the parties agree that such entity may be a landscaping or lighting district or other funding entity upon which the parties agree.

3.12.2.2. City agrees to retain a qualified financial consultant(s) and attorney(s) to (a) prepare a special tax study in consultation with City that will identify the City services, operations and maintenance work to be funded by the CFD Services special tax and determine the appropriate special tax formula, and (b) prepare the appropriate notices, resolutions, ordinances and other documents and perform other tasks necessary and appropriate to form the CFD Services District and approve and levy the special tax (collectively the "CFD Services District Formation Costs"). Developer agrees to pay the CFD Services District Formation Costs. As the City receives bills and invoices for CFD Services District Formation Costs, they will be forwarded to Developer and Developer within 30 days will pay to City the invoiced or billed amount. City agrees to include reimbursement of the CFD Services District Formation Costs within the special tax formula and to repay to Developer its payment of CFD Services District Formation Costs from the CFD Services special tax proceeds. When the City begins to receive CFD Services special tax revenue, one-half of the tax proceeds will be paid as reimbursement to Developer until the reimbursement obligation under this section is paid in full, and the other one-half will be retained by City for other special tax purposes.

3.12.2.3. Public Parcel Exclusion. Any real property parcels conveyed or to be conveyed to City or any other governmental agency and designated for governmental use shall be excluded from any special tax for CFD Services to be imposed by the CFD Services District.

3.12.3. Homeowners Association.

3.12.3.1. Formation. Developer may, at Developer's option, establish a homeowners association with the authority to levy assessments against property owners or alternative private financing mechanism acceptable to City for the purpose of funding some or all of the services and maintenance obligations described in section 3.12.2.2. As provided by section 3.12.2, the homeowners association or other private financing mechanism also may provide for the funding of all or some of the CFD Services obligations, if such CFD Services obligations are not separately funded pursuant to the CFD.

3.12.4. Waiver of Protest Rights. In conjunction with any proceedings creating an assessment district or other applicable financing mechanism pursuant to this Agreement, Developer hereby waives any right to protest the formation of such entity that it may have under applicable state law, but Developer shall have the right to comment on and protest the amount of tax or assessment to be charged; provided, however, that Developers shall not protest a special tax or assessment formed pursuant to section 3.12.2.1.

3.13. Land and Right(s)-of-Way Acquisition.

3.13.1. Public Utility Easements. If any water, sewer, storm drainage or other utility improvements to be constructed by Developer and later owned and maintained by City are not located within existing street rights-of-way or public utility easement, then as and when Developer install such improvements, Developer shall grant and City shall accept a non-exclusive public utility easement for the ownership and maintenance of such improvement, together with access, in a form acceptable to the City Attorney. Easement widths shall be granted in accordance with the City Engineer's requirements.

3.13.2. To the extent that the acquisition of off-site property or right(s)-of-way are necessary for Developer to construct off-site improvements including, but not limited to, streets, water, sewer, storm drainage or other utility improvements, or trails, Developer shall be responsible for acquiring the necessary property or right(s)-of-way through good faith negotiations with the property owner. In the event Developer is unable to obtain the property or right(s)-of-way through good faith negotiations, Developer may request that City acquire the property or right(s)-of-way. City shall review promptly any such request and notify Developer as to whether or not City is prepared to acquire the property or right(s)-of-way in question through the exercise of its power of eminent domain. In the event City determines to exercise its power of eminent domain, it shall promptly proceed in accordance with the Eminent Domain Law (Code of Civil Procedure section 1230.010 et seq.) and use its best efforts to expedite acquisition. Prior to City initiating any condemnation action, Developer shall provide funding for all costs of such property or right(s)-of-way acquisition, including attorney's fees, appraisal and court costs as the City may deem necessary and appropriate. If City's final costs exceed the amount deposited by Developer, Developer shall pay the balance to City promptly upon request by City. If City's final costs are less than the amount deposited by Developer, City promptly shall pay the difference to Developer. If the City determines not to exercise its power of eminent domain,

Developer's obligation to construct the off-site improvement in question shall be terminated.

3.13.3. Liens, Encumbrances, Covenants, Conditions and Restrictions. Except as otherwise approved by City or provided for by this Agreement, all property to be dedicated or conveyed in fee to City pursuant to this Agreement or the Tentative Map shall be free of any liens, encumbrances, special taxes, special assessments, deed covenants, conditions and restrictions, or hazardous materials. For each such conveyance, Developer shall provide to City, at Developer's expense, a current preliminary title report and preliminary site assessment for hazardous materials in a form approved by the City Attorney. Any policy of title insurance required by City shall be at City's expense.

3.13.4. Developer shall dedicate the 1.5 acre (+/-) parcel of land currently designated as a fire station site on the Concept Plan (and to be incorporated into the amended Tentative Map) to the City for future use as a fire station or other City use as determined by City. Except for the curb, gutter and sidewalk improvements on the perimeter of the site to be installed with the adjacent subdivision improvements, the land shall be dedicated in its unimproved condition. The site will be dedicated to the City at the time of the approval of the final subdivision map for the parcels located adjacent to the site.

3.14. Tentative Map Update. Developer agrees to apply pursuant to Wheatland Municipal Code section 17.05.200 for a minor amendment and update of the approved Tentative Map to be consistent with the Concept Plan. The updated Tentative Map will incorporate a minimum street width of 46 feet throughout the Project area (plus public utility easement on each side of the street). Developer will prepare and submit the Tentative Map minor amendment application prior to submitting any subdivision improvement plans or final map to the City. Upon receipt of a complete Tentative Map minor amendment application, the City will process and review the application to determine whether the proposed changes are consistent with the Concept Plan and the intent and spirit of the original Tentative Map, and whether the amendment would result in any violations of the Wheatland Municipal Code. If the City Planning Director and City Engineer determine that the Tentative Map minor application is consistent with the Concept Plan, the intent and spirit of the original tentative map, and the Municipal Code, then the City will approve the updated Tentative Map and Developer will proceed with final maps and subdivision improvement plans based on the updated Tentative Map. If the City Planning Director or City Engineer determines that the updated Tentative Map proposal is not substantially consistent with the Concept Plan, the intent and spirit of the original tentative map, or the Municipal Code, then the proposed Tentative Map amendment application shall be processed and noticed for hearing and consideration by the City Planning Commission and City Council as a regular map amendment pursuant to the procedures and standards of the Subdivision Map Act and Wheatland Municipal Code sections 17.05.110 and 17.05.120. City will not consider or process any final map or subdivision improvement plans until the Tentative Map has been updated pursuant to this provision. Concurrent with the review, consideration and approval of the updated Tentative Map, City reserves the right to also revise and update the Design Guidelines to be consistent with this Agreement and the Concept Plan and to incorporate other revisions determined to be necessary by the City Planning Director or City Engineer.

4. CITY FUNDING ADVANCE FOR LEVEE WORK; REPAYMENT BY DEVELOPER

4.1. The City agreed to grant to RD 2103 a sum up to $2,700,000 on and subject to the terms of the City of Wheatland – RD 2103 Grant Agreement dated April 8, 2008. The first $700,000 provided by City to RD 2103 shall be deemed the $700,000 on behalf of Developer under this Agreement.

4.2. The parties acknowledge that the City, Developer and other funding developers have entered into the Bear River Phase 1 Flood Protection Project and Advance Funding and Reimbursement Agreement dated October 10, 2006, which obligated the City to adopt and collect a City levee improvement development fee to assist in funding the Bear River Phase 1 Flood Protection Project ("**Levee Project**") and reimbursement of developer advance funding toward the Project. City has proceeded with the adoption and collection of the levee improvement development fee in accordance with the October 10, 2006 agreement, as the same may be amended.

4.3. The parties acknowledge that the City's financial contribution toward the Levee Project was provided through an inter-fund transfer and loan from the City sewer impact fee fund, which is a restricted fund, and that the amount transferred from that fund is subject to repayment or replenishment with interest pursuant to the terms of City Council Resolution No. 07-08. The $700,000 advance will be repaid pursuant to section 4.4. (As of June 30, 2013, the balance (principal and interest) owed by Developer was $711,338.63.) The balance of the inter-fund transfer/loan (the "Remainder") shall be repaid pursuant to sections 4.5 to 4.7. (As of June 30, 2013, the balance (principal and interest) of the Remainder owed by Developer was $911,174.) The interest shall be calculated at the rate provided by Resolution 07-08 from the date the City provided funds to RD 2103 (which may be made in multiple installments) until paid in full by Developer to City.

4.4. Developer shall pay the $700,000 advance with interest to City from a $2,000/single family house portion of each City Development Fee. For each single family dwelling (or equivalent dwelling unit) City Development Fee payment, $2,000 will be credited against payment of principal and interest until the sum is fully repaid. Thereafter, the $2,000 portion of the City Development Fee will continue in effect.

4.5. The Remainder shall be repaid with interest from a $3,000/single family house portion of each City Development Fee and future City levee improvement development fees paid by other developers. For each single family dwelling (or equivalent dwelling unit) City Development Fee payment, $3,000 will be credited against payment of principal and interest until the sum is fully repaid. Thereafter, the $3,000 portion of the City Development Fee will continue in effect.

4.6. Developer agrees that the first proceeds from the City levee improvement development fee from other development projects shall be allocated to repay the Remainder with interest and that City's right to repayment or reimbursement shall be senior to Developer's reimbursement rights under the October 10, 2006 agreement, as the same may be amended. Additionally, each future City levee improvement development fee collected from other developers and applied to repayment of the Remainder shall be credited against payment of principal and interest until the sum is fully repaid.

4.7. Proceeds from the City levee improvement development fees paid by developers other than Developer shall continue to be allocated to repay the Developer's portion of the Remainder until full repayment plus interest of the Remainder from a combination of levee improvement development fees and the $3,000/single family house portion of each City Development Fee paid by Developer. The City's right to repayment from the City levee improvement development fees shall continue to be senior to Developer's reimbursement rights under the October 10, 2006 agreement, as the same may be amended. In other words, while the $3,000/single family house portion of each City Development Fee paid by Developer shall be considered in determining when Developer has satisfied its repayment obligation under section 4.5, the City shall be entitled to continue to receive first priority payment from the City levee improvement development fees from other projects until the entirety of the Remainder is fully repaid with interest from City levee improvement development fees.

4.8. Upon Developer's on-going repayment of the $700,000 advance, the repayment the Remainder from other developer's payment of City levee improvement development fee, and the Developer's repayment of the Remainder with $3,000/single family house portion of each City Development Fee with interest pursuant to sections 4.4 and 4.5, the City will transfer and assign to Developer on an annual basis (if requested) all of the City's rights and interests in and to the Jones Ranch portion of the reimbursement owed to City under City Ordinance No. 448 and the Levee Project development fee program.

4.9. If Developer in writing irreversibly waives and relinquishes its reimbursement rights owed to it under City Ordinance No. 448 and the Levee Project development fee program, then City within 30 days of receipt of Developer's written waiver, will provide a memo to Developer confirming the waiver and acknowledging the related value of the canceled City obligation.

4.10. If this Agreement expires or terminates prior to repayment in full of the principal and interest repayment obligation described in this section 4, then (a) City will continue to collect payments from the City levee improvement development fees toward repayment of that obligation, and (b) City will not issue any further building permits, approve any other final maps, or approve any other discretionary or ministerial permit or entitlement for the Project until City and Developer or its successor have entered into a successor agreement acceptable to both parties concerning the repayment of the $700,000 advance and the Remainder.

5. CITY OBLIGATIONS.

5.1. City Cooperation. City agrees to cooperate with Developer in securing all permits and entitlements that may be required by City. In the event state or federal laws or regulations enacted after the Effective Date, or other actions of any other governmental agency with jurisdiction, prevent, delay or preclude compliance with one or more provisions of this Agreement, or require changes in plans, maps or permits approved by City, the Parties agree that the provisions of this Agreement shall be modified, extended or suspended as may be necessary to comply with such state and federal laws or regulations or the regulations of other governmental agencies. Each party agrees to reasonably cooperate in so modifying this Agreement or approved plans.

5.2. Applications for Permits and Entitlements.

5.2.1. Action by City. City agrees that it will accept for processing, review and action, all applications for development permits or other entitlements for use of the Property in accordance with the Entitlements and this Agreement, and shall act upon the review of and approval of such applications in a timely manner. City staff review and comments on applications for development permits and entitlement applications shall be provided to Developer at the earliest feasible date.

5.2.2. Schedule of Processing. City agrees to process improvement plans for backbone infrastructure and in-tract improvement and grading plans relating to the development of the Property (the "Plans") in accordance with the following schedule:

5.2.2.1. Prior to submitting any Plans, Developer shall meet with the City Engineer and other appropriate City staff for the City staff to explain what constitutes a complete submittal. In order for Plans to be considered complete under this section, the Plans must comply with the requirements of the City Engineer and City Planning Director and customary engineering standards and quality.

5.2.2.2. Upon the submittal of any Plans, the City Engineer shall promptly determine whether the submittal is complete. If the submittal is complete, then the City Engineer and other City staff shall complete their review of the Plans and provide comments to Developer within four weeks from the date of the submittal. If the submittal is incomplete, then the City Engineer shall return the incomplete submittal to Developer.

5.2.2.3. Within five days after the City Engineer provides its initial comments on a set of Plans, the City Engineer and other appropriate staff will make themselves available to meet with Developer's representatives to review and discuss the comments and strive to decide on solutions and acceptable revisions at that time. The purpose of this meeting is to facilitate the prompt completion of the Plans and minimize the number of revised Plan submittals and plan rechecks.

5.2.2.4. Upon the submittal of any revised plans, the City Engineer shall promptly determine whether the re-submittal is complete. If the re-submittal is complete, then the City Engineer and other City staff shall complete their review of the revised Plans and provide comments to Developer within two weeks from the date of the re-submittal. If the re-submittal is incomplete, then the City Engineer shall return the incomplete re-submittal to Developer.

5.2.3. Maps and Permits. Provided that Developer is in compliance with, and not in default under, this Agreement, City shall not refrain from approving any final subdivision map nor shall it cease to issue building permits, certificates of occupancy or final inspections for development of the Property that is consistent with the Entitlements. The approval of any application for a final subdivision map or other permit or entitlement may be conditioned upon compliance with this Agreement or any provision of it or with applicable conditions of the Entitlements, as applicable. If Developer requests City to approve and record a final map before the construction of the subdivision improvements, then nothing in this Agreement shall restrict City from requiring Developer (or the successor subdivider) to enter into and comply with a subdivision improvement agreement

and post subdivision bonds in accordance with City's ordinary subdivision approval practices.

5.2.4. Personnel. If requested by Developer, City shall use its best efforts to retain the services of additional personnel by special contract for the purposes of evaluating, processing or reviewing applications for permits, maps or other entitlements or for the design, engineering, construction or inspection of public facilities associated with the Project, subject to the written agreement of Developer to provide payment to City for the full cost of such personnel. Notwithstanding the above, nothing in this Agreement shall be construed to require the City to hire or retain City employees in excess of those provided in the normal and customary budgeting process and fee schedules of City.

5.2.5. Processing During Third Party Litigation. The filing of any third party lawsuit(s) against City and Developer relating to this Agreement or to other development issues affecting the Property shall not delay or stop the development, processing or construction of the Project or issuance of additional permits or approvals for Project development, unless the third party obtains a court order preventing the activity. City shall not stipulate to or fail to oppose the issuance of any such order.

5.3. Reimbursement of Main Street Extension Costs.

5.3.1. General. Section 3.7.1 requires Developer at its cost to design, acquire rights-of-way for, permit and construct the Main Street extension, which includes off-site street improvements that will pass through the north side of the Roddan Ranch property (Yuba Co. APN 015490014000; the "Benefitted Property"). A portion of the Main Street extension also will benefit and allow for improved street access to the Benefitted Property. The purpose of this section 5.3 is to provide for potential reimbursement from a subdivider of the Benefitted Property to Developer for the Benefitted Property's fair share of the costs of the Main Street extension. This section is approved pursuant to Government Code section 66486 and other applicable law. The right to reimbursement under this section will terminate concurrent with the termination of this Agreement.

5.3.2. Cost Substantiation. Upon Developer's completion of the construction of the Reimbursable Portion and City's acceptance of the completed work, Developer will calculate and substantiate its actual, direct, necessary and reasonable costs to design, permit, acquire land and rights-of-way for (which will include surface street use rights and subsurface utility rights), procure materials for, and construct the portion of the Main Street extension project located on and to the east of the Benefitted Property (the "Reimbursable Portion"). Developer then will prepare and submit to City a cost substantiation certificate listing the type and amount of all costs, describing the competitive or other process utilized by Developer to obtain fair and competitive prices, certifying that the costs were actually and directly incurred and paid by Developer in the construction of the Reimbursable Portion, and including appropriate documentation of each expense (e.g., copies of invoices, bills, canceled checks, credit card statements, timesheets, expense reports, receipts and other proof of payment). The documentation shall be in a format reasonably acceptable to City and shall include reasonably detailed information concerning all contracts and expenses. Developer's reimbursable costs will be limited to actual and direct costs and will not include any mark-up for profit, administration, overhead or other reason. Upon receipt of the complete cost substantiation certificate, City will evaluate it and determine whether Developer's costs are actual, direct, necessary,

reasonable and substantiated and limited to the Reimbursable Portion of the work. The actual, direct, necessary, reasonable and substantiated costs as approved by City will be the "Substantiated Costs."

5.3.3. Reimbursement Upon Subdivision of Benefitted Property. If the owner of the Benefitted Property applies to City to subdivide the Benefitted Property for residential or other non-agricultural development, then City will condition the approval of any tentative map on payment of reimbursement of the Benefitted Property's fair share of the Reimbursable Portion and Substantiated Costs to City. The tentative map condition will impose a charge against the Benefitted Property pursuant to Government Code section 66487 and Wheatland Municipal Code section 17.09.060, which will require the subdivider of the Benefited Property to pay the reimbursement amount as a condition of map approval. The reimbursement amount will be the Benefitted Property's fair share of the Substantiated Costs as determined by the City Engineer based on the relative usage of the Reimbursable Portion of Main Street at build-out by the Project and the Benefitted Property subdivision project. Upon receipt of any reimbursement payment made by the subdivider or developer of the Benefitted Property, City will remit the reimbursement to Developer. The reimbursement amount also may include reimbursement of City's administrative costs and expenses related to the processing and administering of the reimbursement program, including the imposition and collection of the reimbursement, accounting, and preparation of periodic reports. City will pay reimbursement to Developer solely from reimbursement payments received by City from the subdivider or developer of the Benefitted Property if and when the Benefitted Property subdivides for non-agricultural development. City will have no obligation to pay or reimburse Developer from any other revenue source or fund.

6. DEFAULT, REMEDIES, TERMINATION.

6.1. Default.

6.1.1. Subject to extensions of time by mutual consent in writing, failure or unreasonable delay by either party to perform any term or provision of this Agreement shall constitute a default. In the event of alleged default or breach of any term or condition of this Agreement, the party alleging such default or breach shall give the other party not less than 30 days notice in writing specifying the nature of the alleged default and the manner in which the default may be satisfactorily cured. During any such 30-day period, the party charged shall not be considered in default for purposes of termination or institution of legal proceedings. An event of default by a single Developer party shall not be construed or acted upon as a collective default by all Developer.

6.1.2. After notice and expiration of the 30-day period, if the default has not been satisfactorily cured or remedied, the non-defaulting party at its option may institute legal proceedings pursuant to section 5.2 or give notice of intent to terminate the Agreement pursuant to the Development Agreement Law and implementing City ordinance. Following notice of intent to terminate, the matter shall be scheduled for consideration and review by the City Council within 30 days as provided by the Development Agreement Law and implementing City ordinance.

6.1.3. Following consideration of the evidence presented in the review before the City Council, either party alleging the default by the other party may give written notice of termination of this Agreement to the other party.

6.2. Legal Action. In addition to any other rights or remedies, either party may institute legal action to cure, correct or remedy any default, to enforce any covenant or agreement herein, to enjoin any threatened or attempted violation, or to compel specific performance. In no event shall City or its officers, employees or agents be liable in damages for any breach of this Agreement, it being expressly understood and agreed that the sole remedy available to Developer for a breach of this Agreement by City shall be a legal action in mandamus, specific performance, injunction or declaratory relief to enforce the Agreement.

6.3. Effect of Termination. If this Agreement is terminated following any event of default by Developer or for any other reason, such termination shall not affect the validity of any building or improvement within the Property that is completed as of the date of termination, provided that such building or improvement has been constructed pursuant to a valid building permit issued by the City. Furthermore, no termination of this Agreement shall prevent Developer from completing and occupying any building or other improvement authorized pursuant to a valid building permit previously issued by the City that is under construction at the time of termination, provided that any such building or improvement is completed in accordance with the building permit in effect at the time of such termination.

6.4. Force Majeure. In addition to specific provisions of this Agreement, performance by either party under this Agreement shall not be deemed to be in default where delays or default are due to war, insurrection, strikes, walkouts, riots, floods, drought, earthquakes, fires, casualties, acts of God, governmental restrictions imposed or mandated by other governmental entities, enactment of conflicting state or federal laws or regulations, new or supplementary environmental regulation, litigation (including litigation and appeals brought by any third party challenging City approval of any or all of the Entitlements), or similar bases for excused performance. If written notice of such delay is given to City within 30 days of the commencement of such delay, an extension of time for such cause shall be granted in writing for the period of the enforced delay, or longer as may be mutually agreed upon.

6.5. Annual Review. At least every 12 months during the term of this Agreement, City shall review the extent of good faith substantial compliance by Developer with the terms of this Agreement. Such periodic review shall be limited in scope to compliance with the terms of this Agreement pursuant to Government Code § 65865.1 and the monitoring of EIR mitigation measures. Developer shall be responsible for the cost reasonably and directly incurred by the City to conduct such annual review, the payment of which shall be due within 30 days after conclusion of the review and receipt from City of the bill for such costs. Upon written request by the City Planning Director, Developer shall provide such information as may be necessary or appropriate in order to ascertain compliance with this Agreement.

7. INDEMNIFICATION AND HOLD HARMLESS.

7.1. Indemnity. Developer and its successors-in-interest and assigns shall indemnify, defend, protect and hold harmless City, and its officers, employees, agents and volunteers,

from and against any and all liability, losses, claims, damages, expenses, and costs (including attorney, expert witness and consultant fees, and litigation costs) of every nature arising out of or in connection with performance and actions under this Agreement by Developer and/or its contractors, subcontractors, consultants, agents or employees, or failure to perform or act under this Agreement, except such loss or damage that was caused by the sole negligence or willful misconduct of City or except as otherwise limited by law. Developer also shall defend, indemnify and hold harmless City, and its officers, employees, agents and volunteers from any lawsuit, claim or liability arising out of the execution, adoption or implementation of this Agreement and/or the Entitlements. The indemnification obligations under this section shall survive and continue in full force and effect after termination of this Agreement for any reason with respect to any actions or omissions that occurred before the date of termination.

7.2. Waiver. In consideration of the benefits received pursuant to this Agreement, Developer, on behalf of itself and its successors-in-interests and assigns, waives and covenants not to sue City or any of its officers, employees, agents or volunteers for any and all causes of action or claims that it might have under City ordinances or the laws of the State of California or the United States with regard to any conveyance or dedication of real property or easements over the Property required by this Agreement, improvements that are provided for by this Agreement, fees and payments provided by this Agreement, or other conditions imposed by this Agreement.

7.3. Defense of Agreement. City and Developer agree to cooperate, and to timely take all actions necessary or required to uphold the validity and enforceability of this Agreement and the Entitlements, subject to the indemnification provisions of Section 6.1. The City and Developer shall promptly notify one another of any claim, action, or proceeding brought forth within this time period. Developer and City shall select joint legal counsel to conduct such defense and which legal counsel shall represent both the City and Developer in defense of such action (unless, under the circumstances, single legal counsel could not represent both Parties because of a conflict of interest).

8. DEEDS OF TRUST AND MORTGAGES.

8.1. Mortgagee Protection. This Agreement shall be superior and senior to all liens placed upon the Property or any portion of it after the date on which this Agreement is recorded, including the lien of any deed of trust or mortgage ("Mortgage"). Notwithstanding the foregoing, no breach of this Agreement shall defeat, render invalid, diminish or impair the lien of any Mortgage made in good faith and for value, but all of the terms and conditions contained in this Agreement shall be binding upon and effective against all persons and entities, including all deed of trust beneficiaries or mortgagees ("Mortgagees") who acquire title to the Property or any portion thereof by foreclosure, trustee's sale, deed in lieu of foreclosure or otherwise.

8.2. Mortgagee Obligations. Upon receipt of a written request from a foreclosing Mortgagee, City shall permit the Mortgagee to succeed to the rights and obligations of Developer under this Agreement, provided that all defaults by Developer under this Agreement that are reasonably susceptible of being cured are cured by the Mortgagee as soon as is reasonably possible. The foreclosing Mortgagee shall comply with all of the provisions of this Agreement.

8.3. Notice of Default to Mortgagee. If City receives notice from a Mortgagee requesting a copy of any notice of default given to Developer and specifying the address for sending notice, City shall endeavor to deliver to the Mortgagee, concurrently with notice to Developer, all notices given to Developer describing all claims by the City that Developer has defaulted under this Agreement. 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 condition of default claimed, or the areas of noncompliance set forth in City's notice.

9. MISCELLANEOUS PROVISIONS.

9.1. Estoppel Certificate. Either party may from time to time deliver written notice to the other party requesting such party to certify in writing that, to the knowledge of the certifying party, (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) the requesting party is not in default in the performance of its obligations under this Agreement, or if in default, to describe the nature of such default. The party receiving a request under this Agreement shall execute and return such certificate within 30 days following the receipt thereof. City acknowledges that transferees and mortgagees of Developer may rely upon a certificate under this Agreement.

9.2. Assignment and Successors. From and after recordation of this Agreement against the Property, Developer may assign this Agreement as to the Property, or any portion of it, in connection with the development of the Property, any sale, transfer or conveyance of the Property, subject to the express written assignment by Developer and assumption by the assignee of such assignment pursuant to an assignment and assumption agreement in a form approved by the City Attorney. City shall not unreasonably withhold approval of such an assignment and assumption agreement, and hereby expressly authorizes an assignment of the rights and obligations created hereunder to a new entity formed and controlled by Developer. Upon the conveyance of Developer's interest in the Property and execution of the assignment and assumption agreement, Developer shall be released from any further liability or obligation under this Agreement related to the portion of the Property so conveyed and the assignee shall be deemed to be the "Developer," with all rights and obligations under this Agreement with respect to such conveyed property.

9.3. Counterparts. This Agreement is executed in two duplicate originals, each of which is deemed to be an original.

9.4. Integration. This Agreement constitutes the sole, final, complete, exclusive and integrated expression and statement of the terms of this contract among the parties concerning the subject matter addressed herein, and supersedes all prior negotiations, representations or agreements, either oral or written, that may be related to the subject matter of this Agreement, except those other documents that are expressly referenced in this Agreement.

9.5. Construction and Interpretation. The parties agree and acknowledge that this Agreement has been arrived at through negotiation, and that each party has had a full and fair opportunity to revise the terms of this Agreement. Consequently, the normal rule of

construction that any ambiguities are to be resolved against the drafting party shall not apply in construing or interpreting this Agreement.

9.6. Waiver. The waiver at any time by any party of its rights with respect to a default or other matter arising in connection with this Agreement shall not be deemed a waiver with respect to any subsequent default or matter. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the party against whom enforcement of a waiver is sought.

9.7. Severability. If any term, covenant or condition of this Agreement or the application of the Agreement to any person, entity or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term, covenant or condition to persons, entities or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant or condition of this Agreement shall remain valid and enforceable to the fullest extent permitted by law; provided, however, if any provision of this Agreement is determined to be invalid or unenforceable and the effect thereof is to deprive a party of an essential benefit of its bargain under this Agreement, then such party so deprived shall have the option to terminate this entire Agreement from and after such determination.

9.8. Relationship of Parties. Nothing in this Agreement shall be construed to create an association, joint venture, trust or partnership, or to impose a trust or partnership covenant, obligation, or liability on or with regard to any one or more of the parties.

9.9. No Third Party Beneficiaries. This Agreement shall not be construed to create any third party beneficiaries. This Agreement is for the sole benefit of the Parties, their respective successors and permitted transferees and assignees, and no other person or entity shall be entitled to rely upon or receive any benefit from this Agreement or any of its terms.

9.10. Governing Law. Except as otherwise required by law, this Agreement shall be interpreted, governed by, and construed under the laws of the State of California.

9.11. Notices. Any notice, demand, invoice or other communication required or permitted to be given under this Agreement, the Development Agreement Law or implementing ordinance shall be in writing and either served personally or sent by prepaid, first class U.S. mail and addressed as follows:

City:	Developer:
City Clerk City of Wheatland 111 C Street Wheatland, CA 95692	Dale Investments, LLC P.O. Box 272 Yuba City, CA 95992

Any party may change its address by notifying the other party in writing of the change of address.

CITY OF WHEATLAND

By: * Stephen L. Wright
City Manager

* Stephen L. Wright

DEVELOPER

Dale Investments, LLC

By: _____
Sundeep S. Dale
Owner

~~Owner~~ _____ /title/

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

ACKNOWLEDGEMENT BY NOTARY PUBLIC
[Cal. Civ. Code, '1189]

State of California
County of Yuba

On February 3, 2015, before me, Lisa J. Thomason, Wheatland City Clerk, personally appeared Stephen L. Wright, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity (ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature Lisa J. Thomason (Seal)

CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF California)SS
COUNTY OF Sutter)

On January 27, 2015 before me, Ginger Harris , Notary Public, personally appeared Swadeep S Dale

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature X Ginger Harris

GINGER HARRIS
COMM. #1946956
Notary Public - California
Sutter County
My Comm. Expires Jan. 2, 2015

This area for official notarial seal.

OPTIONAL SECTION - NOT PART OF NOTARY ACKNOWLEDGEMENT
CAPACITY CLAIMED BY SIGNER

Though statute does not require the Notary to fill in the data below, doing so may prove invaluable to persons relying on the documents.

- ☐ INDIVIDUAL
- ☐ CORPORATE OFFICER(S) TITLE(S)
- ☐ PARTNER(S) ☐ LIMITED ☐ GENERAL
- ☐ ATTORNEY-IN-FACT
- ☐ TRUSTEE(S)
- ☐ GUARDIAN/CONSERVATOR
- ☐ OTHER

SIGNER IS REPRESENTING:

Name of Person or Entity Name of Person or Entity

OPTIONAL SECTION - NOT PART OF NOTARY ACKNOWLEDGEMENT

Though the data requested here is not required by law, it could prevent fraudulent reattachment of this form.

THIS CERTIFICATE MUST BE ATTACHED TO THE DOCUMENT DESCRIBED BELOW

TITLE OR TYPE OF DOCUMENT: _____

NUMBER OF PAGES _____ DATE OF DOCUMENT _____

SIGNER(S) OTHER THAN NAMED ABOVE _____

1074.009
8/25/04
BWE

EXHIBIT A
Description of Property

JONES RANCH- LEGAL DESCRIPTION
ANNEXATION TO
THE CITY OF WHEATLAND

A portion of the southeasterly quarter and the southwesterly quarter of Section 9, as shown on the Plat of the Johnson Rancho, filed in Book 29 of Surveys, at Page 4, Official Records of Yuba County, together with Lots 24, 25, 26, 27, 32, and the 'A Riechers Lot', as shown on the Plat of Oakley Homestead Tract, filed in Book 1 of Surveys, at Page 35, Official Records of Yuba County, in the County of Yuba, State of California, described as follows:

BEGINNING at a point which is the west quarter corner of said Section 12, also being the east quarter corner of said Section 9; thence from the True Point of Beginning, along the following twenty-one (21) courses and distances:

1) South 26°00'44" East, a distance of 1880.86 feet;
2) thence South 64° 11' 13" West, a distance of 2652.33 feet;
3) thence South 25° 52' 51" East, a distance of 16.49 feet;
4) thence South 40° 51' 36" West, a distance of 334.02 feet;
5) thence South 66° 55' 24" West, a distance of 202.76 feet;
6) thence South 42° 03' 12" West, a distance of 212.45 feet;
7) thence South 65° 20' 18" West, a distance of 166.82 feet;
8) thence North 66° 05' 17" West, a distance of 399.39 feet;
9) thence North 46° 19' 38" West, a distance of 282.44 feet;
10) thence North 56° 33' 23" West, a distance of 84.79 feet;
11) thence North 46° 33' 38" West, a distance of 198.29 feet;
12) thence North 82° 29' 24" West, a distance of 525.94 feet;
13) thence North 17° 50' 02" West, a distance of 115.12 feet;
14) thence North 40° 44' 50" West, a distance of 159.10 feet;
15) thence North 56° 22' 23" West, a distance of 333.65 feet;
16) thence North 71° 44' 17" West, a distance of 213.70 feet;
17) thence North 81° 20' 23" West, a distance of 510.61 feet;
18) thence North 25° 31' 51" West, a distance of 20.00 feet to the northerly right-of-way line of Wheatland Road;
19) thence North 64° 28' 09" East, a distance of 2549.83 feet;

EXHIBIT A
Description of Property

1074.009
8/25/04
BWE

20)thence along the centerline of Oakley Lane, North 25° 52′ 51″ West, a distance of 10.00 feet to the intersection of said centerline with the westerly prolongation of the northerly right-of-way line of Wheatland Road;

21)thence along said northerly right-of-way line, North 64° 11′ 14″ East, a distance of 2647.94 feet to a point on the existing City Limits; thence along said existing City Limits, (22) South 26° 00′ 44″ East, a distance of 30.00 feet to the east quarter corner of said Section 9, also being the Point of Beginning.

Containing 193.775 acres, more or less.

Basis of Bearings for this description is the centerline of Wheatland Road as shown on Parcel Map No. 5.47, filed in Book 19 of Maps, at Page 36, in said County. Said line is taken to bear North 64° 11′ 14″ East.

END OF DESCRIPTION

Douglas R. Owyang P.L.S. 6046
Expires June 30, 2005

Recording requested by, and when
recorded return to:

City of Wheatland
111 C Street
Wheatland, CA 95692

Exempt from recording fees (Government Code §§ 6103, 27383)

AMENDMENT NO. 1 TO THIRD AMENDED AND RESTATED CITY OF WHEATLAND DEVELOPMENT AGREEMENT CONCERNING JONES RANCH SUBDIVISION

This Amendment No. 1 to the Third Amended and Restated City of Wheatland Development Agreement Concerning Jones Ranch Subdivision (the "Amendment") is made effective on June 30, 2017 by and between the City of Wheatland, a general law city ("City"), and Dale Investments, LLC, a California limited liability company ("Developer") ("collectively the "Parties"), who agree as follows:

1. Recitals. This Amendment is made with reference to the following background recitals:

1.1. On November 25, 2014, the parties entered into the Third Amended and Restated City of Wheatland Development Agreement Concerning Jones Ranch Subdivision (the "Agreement"), a copy of which is on file in the City Clerk's office. The Agreement was recorded in the Yuba County Recorder's Office on February 3, 2015 as Document No. 2015-001148.

1.2. City and Developer desire to amend the Agreement in order to (a) increase the City development fees for the Project, (b) provide for a minor modification of the currently approved tentative map, and (c) extend the time under Agreement section 2.2.1 for recording a final subdivision map for the first phase (at least 50 parcels) of the subdivision project to allow Developer additional time to complete work on the subdivision improvement plans required as a condition of final map approval and to modify the tentative map as provided by this Amendment.

1.3. Developer requested an extension of the June 31, 2017 deadline (in Agreement section 2.2.1)[1] well in advance of the deadline. City staff supported the extension. The City Planning Commission recommended approval of the extension at its meeting on June 6, 2017. The City Council scheduled a meeting on June 27, 2017 to consider approval of the extension.

1.4. At the June 27 meeting, the City Council continued discussion and consideration of the proposed amendment to the July 11, 2017 meeting in order for the Council members, City staff, and Developer to further consider and evaluate the extension request together with related issues raised by the City Council concerning desired

[1] June 31, 2017 (a nonexistent date) is the date used in Agreement section 2.2.1. The parties intended June 30, 2017.

modifications to the tentative map, lot sizes, and the amount of City development fees. At the July 11 meeting, the City Council again continued discussion and consideration of the proposed amendment to the August 22, 2017 meeting and the Council provided direction to City staff concerning additional Agreement changes to be addressed in the proposed amendment. Following the July 11 meeting, City staff and the Developer further discussed the proposed amendment and they prepared this version of the Amendment.

1.5. Because the Parties have been negotiating and working on this Amendment diligently and in good faith since before June 30, 2017, it is the Parties' intention to make this Amendment effective retroactive to June 30, 2017 such that the Agreement does not and it did not expire at June 30, 2017 under the terms of Agreement section 2.2.1.

2. Amendments to Agreement. The Parties amend the Agreement as follows:

2.1. The time for recording a final subdivision map for the first phase of a minimum of 50 parcels set forth in Agreement section 2.2.1 is extended to April 30, 2018. If the first phase final map is not recorded by April 30, 2018, then the Agreement will terminate on that date.

2.2. Agreement section 2.7.2.1 is amended to read as follows:

> 2.7.2.1. Developer agrees to pay $36,374 per single family dwelling as City Development Fees for Project development. City shall use the fee revenue for any of the purposes described in Wheatland Municipal Code chapter 3.26. For Project development other than a single family house, the City Engineer shall determine an equivalent dwelling unit amount based on $36,374 per single family dwelling. Commencing January 1, 2018, the $36,374 amount shall increase based on the previous year's percentage change in the Engineering News-Record (ENR) Construction Cost Index for 20 U.S. cities. City Development Fees shall be due upon issuance of building permits for the Project, except as otherwise provided under this Agreement.

2.3. Wherever the Agreement refers to "$32,100 (as adjusted by the ENR index)" or "$32,100 (as adjusted)," the phrase is amended to read "$36,374 (as adjusted by the ENR index under section 2.7.2.1)."

2.4. Section 3.14.1 is added to the Agreement to read as follows:

> 3.14.1. Further Tentative Map Modification. Developer agrees to apply to City pursuant to Wheatland Municipal Code section 17.05.200 for a further minor amendment and update of the approved Tentative Map to incorporate these modifications: (a) remove the Lot C-Remainder parcel; and (b) apply the acreage from the Lot C-Remainder parcel to increase the parcel sizes in Villages 1 and 8 on a pro rata basis among all the parcels in those two villages and reconfigure the street and parcel layout in the two villages and Lot C-Remainder area accordingly (the "Map Modifications"). Developer will prepare and submit the Tentative Map minor amendment application prior to submitting any subdivision improvement plans or final map to the City. Upon receipt of a complete Tentative Map minor amendment application, the City will process and review the application to determine whether

the proposed changes are consistent with the Map Modifications and the intent and spirit of the current-approved Tentative Map, and whether the amendment would result in any violations of the Wheatland Municipal Code. If the City Planning Director and City Engineer determine that the Tentative Map minor application is consistent with the Map Modifications, the intent and spirit of the current-approved Tentative Map, and the Wheatland Municipal Code, then the City Planning Department will approve the modified Tentative Map under Wheatland Municipal Code section 17.05.200(A) and Developer will proceed with final maps and subdivision improvement plans based on the modified Tentative Map. If the City Planning Director or City Engineer determines that the modified Tentative Map proposal is not substantially consistent with the Map Modifications, the intent and spirit of the current-approved Tentative Map, or the Municipal Code, then the proposed Tentative Map amendment application shall be processed and noticed for hearing and consideration by the City Planning Commission and City Council as a regular map amendment pursuant to the procedures and standards of the Subdivision Map Act and Wheatland Municipal Code sections 17.05.110, 17.05.120 and 17.05.200(C). City will not consider or process any final map or subdivision improvement plans until the Tentative Map has been modified pursuant to this section 3.14.1.

3. No Effect on Other Provisions. Except for the amendments in section 2, the remaining provisions of the Agreement shall be unaffected and remain in full force and effect.

CITY OF WHEATLAND

By: _____
Greg Greeson
City Manager

DALE INVESTMENTS, LLC

Signed in Counterpart

By: _____
Sundeep S. Dale
President

the proposed changes are consistent with the Map Modifications and the intent and spirit of the current-approved Tentative Map, and whether the amendment would result in any violations of the Wheatland Municipal Code. If the City Planning Director and City Engineer determine that the Tentative Map minor application is consistent with the Map Modifications, the intent and spirit of the current-approved Tentative Map, and the Wheatland Municipal Code, then the City Planning Department will approve the modified Tentative Map under Wheatland Municipal Code section 17.05.200(A) and Developer will proceed with final maps and subdivision improvement plans based on the modified Tentative Map. If the City Planning Director or City Engineer determines that the modified Tentative Map proposal is not substantially consistent with the Map Modifications, the intent and spirit of the current-approved Tentative Map, or the Municipal Code, then the proposed Tentative Map amendment application shall be processed and noticed for hearing and consideration by the City Planning Commission and City Council as a regular map amendment pursuant to the procedures and standards of the Subdivision Map Act and Wheatland Municipal Code sections 17.05.110, 17.05.120 and 17.05.200(C). City will not consider or process any final map or subdivision improvement plans until the Tentative Map has been modified pursuant to this section 3.14.1.

3. No Effect on Other Provisions. Except for the amendments in section 2, the remaining provisions of the Agreement shall be unaffected and remain in full force and effect.

CITY OF WHEATLAND

By: _____

Greg Greeson
City Manager

DALE INVESTMENTS, LLC

By: _____

Sundeep S. Dale
President

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Yuba)

On September 13, 2017 before me, Lisa J. Thomason, City Clerk
(insert name and title of the officer)

personally appeared Greg Greeson,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Lisa J. Thomason

LEGAL DESCRIPTION

Real property in the City of Wheatland, County of Yuba, State of California, described as follows:

PARCEL NO. 1: (APN: 015-180-074)

PORTION OF THE SOUTHEASTERLY QUARTER OF SECTION 9 OF THE JOHNSON RANCHO ACCORDING TO A MAP THEREOF ON FILE IN THE OFFICE OF THE COUNTY RECORDER OF SAID YUBA COUNTY, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE CENTER QUARTER SECTION CORNER OF SAID SECTION 9, SAID POINT BEING THE SOUTHWEST CORNER OF LOT 1 OF THE "OAKLEY TRACT", ON FILE IN THE OFFICE OF THE COUNTY RECORDER OF SAID YUBA COUNTY IN BOOK 1 OF MAPS AT PAGE 29, THENCE FROM SAID POINT OF BEGINNING, NORTH 64° 05' EAST ALONG THE NORTHWESTERLY LINE OF SAID SOUTHEASTERLY QUARTER OF SECTION 9, WHICH IS ALSO THE CENTER LINE OF A ROAD, 2647.05 FEET TO THE MOST NORTHERLY CORNER OF SAID SOUTHEASTERLY QUARTER; THENCE SOUTH 26° 07' EAST ALONG THE NORTHEASTERLY LINE OF SAID SOUTHEASTERLY QUARTER, 1880.86 FEET TO THE MOST NORTHERLY CORNER OF THAT CERTAIN PARCEL OF LAND CONVEYED TO J.P. URRERE, BY DEED OF RECORD IN BOOK 89 OF DEEDS, PAGE 23, OF YUBA COUNTY RECORDS; THENCE SOUTHWESTERLY ALONG THE NORTHWESTERLY LINE OF SAID LAND CONVEYED TO SAID J.P. URRERE, 2661.15 FEET TO THE NORTHWEST CORNER THEREOF ON THE LINE DIVIDING SAID SECTION 9 INTO NORTHEASTERLY AND SOUTHWESTERLY HALVES; THENCE NORTH 26° WEST 1880.86 FEET TO THE POINT OF BEGINNING.

PARCEL NO. 2: (PORTION OF APN: 015-180-079)

LOTS 24, 25, 26, 27 AND 32, AS SHOWN ON THE MAP ENTITLED, "PLAT OF OAKLEY HOMESTEAD TRACT", ON FILE IN THE OFFICE OF THE RECORDER OF THE COUNTY OF YUBA, STATE OF CALIFORNIA IN BOOK 1 OF MAPS AT PAGE 35.

PARCEL NO. 3: (PORTION OF APN: 015-180-079)

BEGINNING AT AN IRON STAKE SOUTH 64° WEST 235 FEET FROM THE MOST EASTERLY CORNER OF LOT 27, AS SHOWN ON THE MAP ENTITLED, "PLAT OF OAKLEY HOMESTEAD TRACT", ON FILE IN THE OFFICE OF THE COUNTY RECORDER OF YUBA COUNTY IN BOOK 1 OF MAPS AT PAGE 35, AND THENCE SOUTH 64° WEST 1007.88 FEET TO BAXTER SLOUGH; THENCE ALONG BAXTER SLOUGH THE FOLLOWING COURSES AND DISTANCES; SOUTH 56° 58' EAST 24.65 FEET; SOUTH 46° 24' EAST 247.51 FEET, SOUTH 86° 10' EAST 399.36 FEET; NORTH 65° 17' EAST 166.98 FEET; NORTH 42° 1½' EAST 212.72 FEET; NORTH 66° 52' EAST 202.95 FEET; NORTH 40° 50' EAST 79.45 FEET; THENCE LEAVING BAXTER SLOUGH AND RUNNING NORTH 26° WEST TO THE POINT OF BEGINNING.

PARCEL NO. 4: (PORTION OF APN: 015-180-079)

A PORTION OF THE SOUTHWEST QUARTER OF SECTION 9 OF THE JOHNSON RANCHO, AS SHOWN UPON A MAP OF SAID RANCHO ON FILE IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF YUBA, STATE OF CALIFORNIA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST NORTHERLY CORNER OF LOT 28, AS SHOWN UPON THE MAP ENTITLED, "PLAT OF OAKLEY HOMESTEAD TRACT", ON FILE IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF YUBA, STATE OF CALIFORNIA IN BOOK 1 OF MAPS AT PAGE

35, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THENCE NORTH 26° 0' WEST ALONG THE CENTER LINE OF A ROAD 385.35 FEET TO THE MOST EASTERLY CORNER OF LOT 27, AS SHOWN UPON THE MAP LAST ABOVE REFERRED TO; THENCE ALONG THE SOUTHEASTERLY LINE OF SAID LOT, SOUTH 84° WEST 235.0 FEET; THENCE SOUTH 26° EAST 395.0 FEET TO THE CENTER LINE OF BAXTER SLOUGH; THENCE ALONG SAID CENTER LINE WHICH IS ALSO THE NORTHWESTERLY LINE OF SAID LOT 28, NORTH 40° 50' EAST 255 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM, AN UNDIVIDED ONE-HALF INTEREST IN AND TO ALL OIL, GAS, PETROLEUM, NAPTHA AND OTHER HYDROCARBON SUBSTANCES AND MINERALS, IN, UPON AND BENEATH THE ABOVE DESCRIBED PROPERTY, AS EXCEPTED IN DEED FROM THE FEDERAL LAND OF BERKELEY, A CORPORATION TO DAVID N. JONES, ET UX, RECORDED NOVEMBER 10, 1949 IN BOOK 135 OF YUBA COUNTY OFFICIAL RECORDS, AT PAGE 285.

2021-001587
01/27/2021 03:05 PM Page 1 of 5
Total Fee: $0.00
Recorded in Official Records
County of Yuba State of CA
Terry A. Hansen
County Clerk and Recorder

Recording requested by, and when recorded return to:

City of Wheatland
111 C Street
Wheatland, CA 95692

Exempt from recording fees (Government Code §§ 6103, 27383)

5-

AMENDMENT NO. 2 TO THIRD AMENDED AND RESTATED CITY OF WHEATLAND DEVELOPMENT AGREEMENT CONCERNING JONES RANCH SUBDIVISION

This Amendment No. 2 to the Third Amended and Restated Development Agreement (the "Amendment") is made and entered into this 8th day of December, 2020 by and between the City of Wheatland, a general law city ("City"), and Dale Investments, LLC, a California limited liability company ("Developer") ("collectively the "Parties"), who agree as follows:

1. **Recitals**. This Amendment is made with reference to the following background recitals:

1.1. On November 25, 2014, the parties entered into the *Third Amended and Restated City of Wheatland Development Agreement Concerning Jones Ranch Subdivision* (the "Agreement"), a copy of which is on file in the City Clerk's office. The Agreement was recorded in the Yuba County Recorder's Office on February 3, 2015 as Document No. 2015-001148.

1.2. On June 30, 2017, the parties entered into an Amendment No. 1 to the Agreement, a copy of which is on file in the City Clerk's office. That amendment was recorded in the Yuba County Recorder's Office on December 14, 2017 as Document No. 2017-016375.

1.3. At Developer's request, City and Developer have agreed to amend the Agreement to impose express deadlines and obligations on Developer for an initial 145-lot phase of the Project as conditions for City's agreement to reduce development fees that will be imposed for that portion of the Project.

2. **Amendment to Agreement**. The Parties amend the Agreement as follows:

2.1. Section 2.7.4 added to the Agreement to read as follows:

2.7.4. Conditional Reduction of City Development Fees for Successor Developer and 145-Lot Phase 1 Development.

2.7.4.1. At Developer's request, City and Developer have agreed to conditionally reduce the amount of City Development Fees that would be paid under this Agreement for an initial 145 lots ("Phase 1 Development") subject to the conditions in section 2.7.4.2. City and Developer agree that the City

Development Fees calculated and due under section 2.7.2.1 and paid per single family dwelling for no more than 145 lots in the Phase 1 Development shall be reduced by 50%, rounded to the nearest dollar. For example, given the City Development Fees for 2020 under section 2.7.2.1 would be $39,690, as adjusted, Developer would be entitled to pay a reduced fee of $19,845 under this section.

2.7.4.2. As consideration for City's agreement to accept the reduced fees calculated under section 2.7.4.1 as satisfaction of the City Development Fees owed for the Phase 1 Development, Developer agrees to meet all the following conditions:

(a) Developer shall execute the sale of the 145-lot Phase 1 Development to a successor developer (the "Successor Developer") and record the sale deed no later than March 31, 2021;

(b) Developer shall assign this Agreement as to the Phase 1 Development to Successor Developer, and Successor Developer shall assume Developer's obligations under this Agreement, as amended, as to the Phase 1 Development, all in compliance with Agreement section 9.2, no later than March 31, 2021;

(c) Successor Developer shall execute a new or amended Subdivision Improvement Agreement with City for the Phase 1 Development;

(d) following execution of a new or amended Subdivision Improvement Agreement with City, Successor Developer shall begin construction on the Phase 1 Development subdivision improvements no later than September 30, 2021;

(e) Successor Developer shall complete all subdivision improvements for the Phase 1 Development, and obtain City's acceptance of these improvements, no later than September 30, 2022;

(f) Successor Developer shall apply for and obtain from City no less than 10 building permits for the Phase 1 Development no later than December 31, 2022;

(g) The City does not apply the $10,000 credit per single family development under section 3.6.3 to its calculation of the City Development Fees owed for the Phase 1 Development; and,

(h) Successor Developer is not in default under this Agreement.

2.7.4.3. City may, in its sole discretion, waive any of the conditions in section 2.7.4.2.

2.7.4.4. Should any of the conditions set forth in section 2.7.4.2 not be satisfied by Developer or Successor Developer or waived by City prior to the time that Successor Developer must pay any City Development Fee due under

section 2.7.2.1, then Successor Developer shall not be entitled to pay the reduced City Development Fee calculated under section 2.7.4.1. Nothing in this section shall be construed to limit City's default rights and remedies in the event of a default by Developer or Successor Developer.

2.2. Wherever the Agreement refers to "$32,100 (as adjusted by the ENR index)" or "$32,100 (as adjusted)," the phrase is amended to read "$39,690 (as adjusted by the ENR index under section 2.7.2.1)."

3. **No Effect on Other Provisions.** Except for the amendment in Section 2, the remaining provisions of the Agreement shall be unaffected and remain in full force and effect.

CITY OF WHEATLAND

By: _____
James Goodwin
City Manager

DEVELOPER

By: _____
Sundeep S. Dale
Owner, Dale Investments, LLC

ACKNOWLDEGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

State of California
County of Yuba

On December 28, 2020 before me, Lisa J. Thomason, City Clerk
personally appeared James Goodwin, Wheatland City Manager, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by
his signature on the instrument the person, or the entity upon
behalf of which the person acted, executed the instrument.

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

WITNESS my hand and official seal.

CITY OF WHEATLAND INCORPORATED 1874

Lisa J. Thomason, MMC

5/5

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Sutter)

On 1/22/2021 before me, Sunil Tumber, Notary Public
(insert name and title of the officer)

personally appeared Sundeep S. Dale,
who proved to me on the basis of satisfactory evidence to be the person~~(s)~~ whose name~~(s)~~ is~~/are~~ subscribed to the within instrument and acknowledged to me that he/~~she~~/~~they~~ executed the same in his/~~her~~/~~their~~ authorized capacity~~(ies)~~, and that by his/~~her~~/~~their~~ signature~~(s)~~ on the instrument the person~~(s)~~, or the entity upon behalf of which the person~~(s)~~ acted, executed the instrument.

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

WITNESS my hand and official seal.

SUNIL TUMBER
Notary Public – California
Sutter County
Commission # 2221378
My Comm. Expires Nov 10, 2021

Signature _____ **(Seal)**