

**REIMBURSEMENT AGREEMENT FOR THE IMPROVEMENT AND GRADING OF BASS  
LAKE ROAD  
BETWEEN THE COUNTY AND THE DEVELOPER**

**THIS REIMBURSEMENT AGREEMENT**, (hereinafter called "Agreement"), made and entered into by and between the **COUNTY OF EL DORADO**, a political subdivision of the State of California, (hereinafter referred to as "County"), and **SERRANO ASSOCIATES, LLC**, a California Limited Liability Company duly qualified to conduct business in the State of California, whose principal place of business is 4525 Serrano Parkway, El Dorado Hills, CA 95762; (hereinafter referred to as "Developer"), concerning the construction of the extension of Serrano Parkway to Bass Lake Road, hereinafter "**Connector Project**", as accepted by the County Board of Supervisors on July 17, 2007 as Resolution 186-2007;

**RECITALS**

**WHEREAS**, the El Dorado Hills Specific Plan, The Development Agreement By and Between The County of El Dorado and El Dorado Hills Investors, dated January 19, 1989, and the El Dorado Hills Specific Plan Public Improvements Financing Plan together require the connection of Serrano Parkway (a.k.a. Country Club Drive) to Bass Lake Road when the collective number of units in villages C,E,F,G,H,I,J and K reaches 1,500;

**WHEREAS**, the Findings and Conditions of Approval for TM01-1375/Villages F&G, Condition 9, and Findings and Conditions of Approval for TM01-1376/PD01—03, Condition 6 require Developer to construct Serrano Parkway as a two-lane divided road between its terminus and the old Bass Lake Road consistent with the alignment as shown on Exhibit A - "*Connection of Serrano Parkway and Bass Lake Road*" dated May 2001, prior to the issuance of permits for 1,500 building permit within the combined projects of Villages C,E,F,G,H,I,J and K;

**WHEREAS**, the Findings and Conditions of Approval for TM01-1375, Condition number 10, required Developer to construct a segment of new Bass Lake Road to the South Boundary of Village J4 however this segment was constructed by an unrelated developer (Pulte Homes) in the Bass Lake Hills Specific Plan thereby satisfying this Condition 10;

**WHEREAS**, as shown on Exhibit A, the connection to old Bass Lake Road required the construction of an extension to Serrano Parkway, hereinafter "**Serrano Parkway Segment**" and the Developer has been fully reimbursed for said segment from CFD 1992-1 funding (reference DOC 2004-0068099, I.O.D. for Village G, Lot 13, Final Map J22 and Resolution 186-2007);

**WHEREAS**, as shown on Exhibit "A", the connection to old Bass Lake Road required the construction of a segment of new Bass Lake Road, hereinafter "**BLR Segment**". The BLR Segment is included in the 2004 General Plan Traffic Impact

Mitigation Fee Program (TIM CIP) as project # 73354 and is eligible for reimbursement from the El Dorado Hills Traffic Impact Mitigation Fee program (reference DOC 2004-0067712 (Lot MM, Final Maps H81), DOC 2005-0077617, Final Map H81 (Lot NN) dated February 24, 1994, Resolution 186-2007);

**WHEREAS**, the Serrano Parkway Segment and the BLR Segment together constituted the Connector Project completed on August 31, 2005 and opened to the public;

**WHEREAS**, the Agreement for Reimbursement of Road Improvement Costs (R.I.F. Fees) between the County and El Dorado Hills Development Company, dated November 8, 1995, provided for reimbursement from road impact fees for specific roadways within the El Dorado Hills Specific Plan but the Serrano Parkway to Bass Lake Road connection, as currently aligned and built, was not contemplated by that agreement. As a consequence, the parties have agreed that this Agreement will control the reimbursement terms for the Connector Project, inclusive of the segments described herein;

**WHEREAS**, County has adopted "County of El Dorado Department of Transportation Guidelines for Road Impact Fee/Traffic Impact Mitigation Fee Reimbursement Projects" (hereinafter referred to as "Guidelines"), that identify requirements for pre-construction procedures, bid/proposal procedures, project award, construction, reimbursement and cost reimbursement policies, a copy of which is on file and available at the El Dorado County Department of Transportation's main office located at 2850 Fairlane Court, Placerville, California 95667, and is incorporated herein and made a part hereof as though fully set forth;

**NOW, THEREFORE**, it is the intent of the parties hereto that the performance of this Agreement shall be in conformity with all applicable state and local laws, rules and regulations and the parties hereto in consideration of the recitals, terms, and conditions herein, do hereby agree as follows:

**ARTICLE I: SEGMENT ELIGIBLE FOR REIMBURSEMENT**

The only segment of the Connector Project that may be eligible for reimbursement pursuant to the terms and conditions of this Agreement is the BLR Segment. The Serrano Parkway Segment has previously been reimbursed and no further reimbursement is due and owing to Developer. The segment of new Bass Lake Road to the South Boundary of Village J4 is not eligible for reimbursement to Developer.

**ARTICLE II: EDH TIM REIMBURSEMENT**

- A.** Developer acknowledges and agrees that to be eligible for reimbursement, the Connector Project, and each segment thereto, must be competitively bid in accordance with all applicable provisions of the California Public Contract Code, the California Labor Code prevailing wage requirements, County competitive bidding requirements, state licensing regulations and County policies. Further,

the design and construction of the improvements must be performed in accordance with the plans and specifications, change orders and itemized cost estimates approved by County and shall be in accordance with all applicable state and local rules, regulations and ordinances.

- B.** County agrees to reimburse Developer for eligible reimbursable costs for the BLR Segment pursuant to Guidelines (excluding Board of Supervisors suspended section 7.0 as pertains to the El Dorado Hills Traffic Impact Mitigation Fee program only and with the exception that BLR Segment shall be considered complete on the day it became available for public use and therefore is not consistent with the definition provided in section 5.5). Final reimbursement amounts will be determined upon receipt of supporting documentation as outlined in sections 6.0-6.6 of the Guidelines (hereinafter referred to as "Eligible Reimbursement Costs").
- C.** Eligible Reimbursable Costs shall be reimbursed only from the Local Road Component of Fee Zone Number 8 of the 2004 General Plan TIM Fee Program, excluding the 30% portion reserved for the Silva Valley Interchange set-aside, (hereinafter "EDH TIM") where cash payments shall be made on a ten-year basis without interest, except as provided in this section. Payments each year shall be 10% of the Eligible Reimbursement Costs. The annual payment date shall be established by adding 90 days to the date the BLR Project was opened for public use, or November 29, 2005. The initial payment shall be made within 30 days of acceptance of this agreement and will include three annual payments due for November 2005, November 2006 and November 2007. Subsequent payments shall be made by November 29<sup>th</sup> of each year until paid in full. The ability of County to fully reimburse Eligible Reimbursement Costs is dependent upon the amount of uncommitted funds available in the EDH TIM fund.

The initial payment for years, 2005, 2006 and 2007 as described above shall not include interest. If in any year after 2007, there are insufficient funds in the EDH TIM fund to make payment, any unpaid residual shall bear interest at the Treasurer's pooled rate of funds, computed annually from the due date of the next regularly scheduled payment to a maximum of ten (10) years from the due date for each annual payment. In the event that there are insufficient funds to provide the scheduled reimbursement in any year after 2007, Developer may elect to utilize the amount of the insufficiency as credits against EDH TIM fees, exclusive of the 30% Silva Valley Interchange set-aside, said election to identify the parcel(s) to which it applies. Developer shall make election to utilize insufficiency for credits within 60 days of being notified by County that the annual payment will be reduced to an amount less than the amount scheduled. The credits shall be applied by County at time of Developer's application for building permit(s) against the mitigation fees in existence at the time of building permit application. Any insufficiency not applied to use as credits shall continue to earn interest until paid as provided for in this Agreement. Nothing contained in this Agreement shall preclude the County, in County's sole discretion, from including

this same credit provision related to insufficient payment amounts in subsequent agreements entered into with third parties for reimbursement for developer advanced projects within the EDH TIM area on an equal pro-rata basis.

- D. Developer acknowledges and agrees that the sole source of funds that Developer shall look to for the repayment of the Eligible Reimbursement Costs shall be the unobligated EDH TIM fund, and that the County shall not be required to fund the Eligible Reimbursement Costs from any other funds or revenues, including but not limited to, the County General Fund. In the event that the cash reimbursements generated by the EDH TIM fund are insufficient to fully fund the Eligible Reimbursement Costs, such insufficiency alone shall not be deemed an event of default by the County hereunder and shall not entitle Developer to accelerate any payment or payments under this Agreement. Notwithstanding any other provision to the contrary, in no event shall Developer be entitled to accelerate any payment or payments under this Agreement, whether for insufficient funds or otherwise
  
- E. Nothing contained herein shall affect the County's ability to modify the 2004 General Plan TIM Fee Program as required by law, or as required in conjunction with other land use decisions such as modification of the General Plan. The foregoing shall not be construed as obligating the County to, or precluding the County in its sole discretion from, increasing, decreasing, or adjusting the amounts of its fee programs.

### **ARTICLE III: INDEMNIFICATION**

For the Connector Project, to the fullest extent allowed by law, Developer shall defend, indemnify and hold County harmless against and from any and all claims, suits, losses, damages, and liability for damages of every name, kind, and description, including attorneys' fees and costs incurred, brought for, or on account of, injuries to or death of any person including but not limited to workers, County employees, and the public, or damage to property, or any economic or consequential losses, which are claimed to or in any way arise out of or are connected with Developer or Developer's contractors, subcontractors, consultants, agents, or representative's design, work, operation and/or construction of the Connector Project improvements, or performance of this Agreement, regardless of the existence or degree of fault or negligence on the part of the County, Developer, any Contractor(s), Subcontractor(s), and employee(s) of any of these, except for the sole or active negligence of County, its officers and employees, or as expressly provided by statute. This duty of Developer to indemnify and hold County harmless includes the duties to defend set forth in California Civil Code Section 2778.

### **ARTICLE IV: ASSIGNMENT AND ASSUMPTION OF PLANS AND SPECIFICATIONS**

Contemporaneously with this Agreement, Developer will execute the attached Assignment and Assumption of Plans and specifications and assign to County all of Developer's right, title and interest in, to and under the Plans and Specifications signed and stamped on July

15, 2004 by Donald T. McCormick, a licensed registered professional engineer employed by R.E.Y. Engineers, Inc., entitled "PLANS FOR THE IMPROVEMENT AND GRADING OF SERRANO PARKWAY – BASS LAKE ROAD", and will obtain R.E.Y. Engineers, Inc. consent to the assignment.. Upon approval of this Agreement by County, County will accept this assignment of ownership of the assigned Plans and Specifications. Nothing by way of the Agreement or this assignment will obligate County to provide payment or compensation to R.E.Y. Engineers, Inc..

#### **ARTICLE V: VENUE**

This Agreement has been executed in California, and shall be governed by and construed in accordance with the laws of the State of California.

#### **ARTICLE VI: WAIVER**

Waiver by one party of the performance of any covenant, condition, or promise shall not invalidate this Agreement, nor shall it be considered to be a waiver by such party of such matters in the future or of any other covenant, condition, or promise hereunder. Any waiver, to be effective, shall be expressed and in writing and shall be delivered to the other party.

#### **ARTICLE VII: CONSTRUCTION**

This Agreement shall be construed as a whole, the captions being for the convenience of the parties only and not intended to describe or define the provisions in the portions of the Agreement to which they pertain. Each party hereto acknowledges and agrees that each has had independent counsel and review and participated in the drafting of this Agreement, and each hereby fully waives the application of any law, statute or rule of construction or interpretation to the effect that any ambiguities are to be resolved against the drafting party.

#### **ARTICLE VIII: CHANGES TO AGREEMENT**

This Agreement may be amended by mutual consent of the parties hereto. Said amendments shall become effective only when in writing and fully executed by duly authorized officers of the parties hereto.

#### **ARTICLE IX: NOTICE TO PARTIES**

All notices to be given by the parties hereto shall be in writing and served by depositing same in the United States Post Office, postage prepaid and return receipt requested. Notices to County shall be in duplicate and addressed as follows:

To County:

County Of El Dorado  
Department Of Transportation  
2850 Fairlane Court  
Placerville, CA 95667

Attn.: Diana Buckley,  
Deputy Director of Administration

With a Copy to:

County Of El Dorado  
Department Of Transportation  
2850 Fairlane Court  
Placerville, CA 95667

Attn.: Tim Prudhel,  
Contract Services Officer

or to such other location as County directs.

Notices to Serrano Associates, LLC shall be addressed as follows:

Serrano Associates, LLC  
4525 Serrano Parkway  
El Dorado Hills, CA 95762  
Attn: William R. Parker  
President

or to such other location as directed.

#### **ARTICLE X: CONTRACT ADMINISTRATOR**

The County officer or employee with responsibility for administering this Agreement is Diana Buckley, Deputy Director of Administration, Department of Transportation, or successor.

#### **ARTICLE XI: ASSIGNMENT**

Neither this Agreement, nor any monies due or to become due hereunder, may be assigned by Developers without the approval of County.

#### **ARTICLE XII: AUTHORIZED SIGNATURES**

The parties to this Agreement represent that the undersigned individuals executing this Agreement on their respective behalf are fully authorized to do so by law or other appropriate instrument and to bind upon said parties to the obligations set forth herein.


#### **ARTICLE XIII: SEVERABILITY**

If any term of this Agreement, or the application thereof to any person or circumstance, shall to any extent be invalid or unenforceable, the remainder of this Agreement, or the application of such term to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

**ARTICLE XIV: RECORD DRAWINGS**

Developer shall have an engineer prepare Record Drawings describing the finished work. The Record Drawings shall be submitted to Department at the completion of the work but in no event later than execution of this Agreement.

**Requesting Department Concurrence:**

By:   
Richard W. Shepard, P.E.  
Director, Department of Transportation

Dated: 6/26/08

**IN WITNESS WHEREOF**, the parties have executed this Agreement on the dates indicated below, the latest of which shall be deemed to be the effective date of this Agreement.

**COUNTY OF EL DORADO**

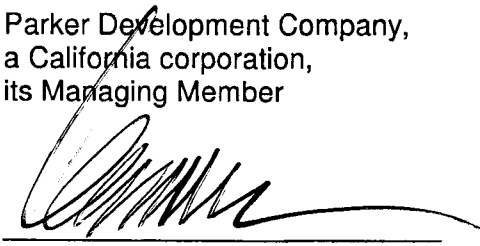

By: \_\_\_\_\_ Dated: \_\_\_\_\_  
Chairman  
BOARD OF SUPERVISORS

Attest:  
Cindy Keck  
Clerk of the Board of Supervisors

By: \_\_\_\_\_ Dated: \_\_\_\_\_  
Deputy Clerk

**SERRANO ASSOCIATES, LLC**  
A Delaware Limited Liability Company

By: Parker Development Company,  
a California corporation,  
its Managing Member

By:  \_\_\_\_\_ Dated: 6-23-08  
William R. Parker  
President 



**DEVELOPER**

**ACKNOWLEDGMENT**

State of California

County of El Dorado

On 6-23-08 before me, Florence Tanner, Notary Public,  
(here insert name and title of the officer)

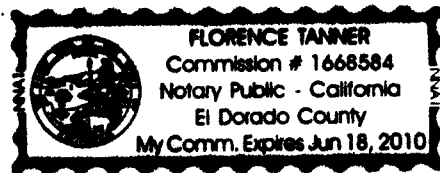
personally appeared William R. Parker

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 Florence Tanner



(Seal)

DEPARTMENT OF TRANSPORTATION

Exhibit A

Connection of Serrano Parkway and Bass Lake Road

May 2001

