

Funding Agreement Between the County of El Dorado and Dixon Ranch Venture, LLC for Preparation of an Environmental Impact Report for the Dixon Ranch Subdivision

COUNTY FILE NUMBERS TM11-1505, A11-0006, PD11-0006, Z11-0008

Funding Agreement #105-F1511

THIS FUNDING AGREEMENT made and entered by and between County of El Dorado, a political subdivision of the State of California (hereinafter referred to as "County"), and Dixon Ranch Venture, LLC, a California limited liability company, (hereinafter referred to as "Applicant") whose principal place of business is located at 12647 Alcosta Boulevard, Suite 470, San Ramon, California 94583 and whose local office address is 1508 Eureka Road, Suite 235, Roseville, California 95661.

WITNESSETH

WHEREAS, Applicant is proposing to develop certain real property in El Dorado County described as Assessor Parcel Numbers 126-020-01, 126-020-02, 126-020-03, 126-020-04, and 126-150-23 and has submitted an application for a proposed subdivision project, the subject of pending application number(s) TM11-1505, A11-0006, PD11-0006, Z11-0008; and

WHEREAS, County has determined an Environmental Impact Report (hereinafter to as "EIR") is clearly required for the processing of the aforementioned project to CEQA Guidelines Section 15064; and

WHEREAS, the California Environmental Quality Act, Section 21082.1 authorizes County to enter into agreements to prepare environmental assessments for a proposed project including the preparation of an EIR and Mitigation Monitoring Program; and

WHEREAS, the California Environmental Quality Act, Section 21089 authorizes the County to collect fees to recover the costs for the preparation and processing of environmental documents.

NOW, THEREFORE, County and Applicant mutually agree as follows:

ARTICLE I

Purpose: The purpose of this Funding Agreement (Agreement) is to provide a mechanism for Applicant to reimburse County for the costs incurred in the preparation of an EIR for the aforementioned project. Both County and Applicant make this Agreement with full knowledge of the requirements of the California Environmental Quality Act (CEQA) of 1970 (Public Resources Code, §21000 et seq.) and the State CEQA Guidelines (California Administrative Code, Title 14, Division 6, §15000 et seq.) adopted pursuant

thereto. This Agreement is subject to all other applicable laws, regulations, and ordinances including those of County of El Dorado relating to payment of monies for services rendered.

ARTICLE II

Project: The project is the consideration of applications to amend the general plan, zone the property, and process a tentative map and development plan to allow development of a residential subdivision, the subject of pending application number(s) TM11-1505, A11-0006, PD11-0006, Z11-0008 on that real property described as Assessor's Parcel Numbers: 126-020-01, 126-020-02, 126-020-03, 126-020-04, and 126-150-23.

ARTICLE III

Employment of Consultants as Independent Contractor: County, in furtherance of this Agreement, shall engage LSA Associates, Inc., as an independent contractor, to provide planning assistance to coordinate and support the preparation of a legally and technically adequate EIR and Goodwin Consulting Group, Inc., as an independent contractor to provide professional consulting services for the development of the Dixon Ranch subdivision located in El Dorado Hills in El Dorado County, California. LSA Associates, Inc. and Goodwin Consulting Group, Inc. hereinafter referred to as "Consultants".

The EIR shall be prepared for County in fulfillment of the obligations of County as the public agency having primary responsibility for discretionary actions involved in said project (Public Resources Code, §21082). Accordingly, Consultants shall prepare said report so as to be as accurate and objective as reasonably possible. It is further agreed that in all matters pertinent to this Application, Consultants shall act solely as Consultants to County and shall not act, in any capacity as consultants to, representatives of, or agents of Applicant. Applicant shall not engage in communications or contact with Consultants without prior written authorization of County.

ARTICLE IV

Funding for this Agreement: Funding of this Agreement is provided entirely by Applicant, who shall make a deposit of 30% of the total funding amount and maintain deposit amount funds with County to pay the cost of the consulting services. Applicant, upon execution of this Agreement, shall deposit with County the sum of **Forty-Nine Thousand Five Hundred Eight Dollars and Zero Cents (\$49,508.00)** as compensation for Consultants to be engaged by County for the preparation of the EIR. The amount on deposit with County shall be maintained at \$49,508.00. Funds shall be replenished within fifteen (15) days of notice from County of expenditure until the balance remaining on the agreement falls below the deposit amount; at which time the deposit will be drawn down zero.

The total amount of this Agreement **SHALL NOT EXCEED One Hundred Sixty-Five Thousand Twenty-Nine Dollars and No Cents (\$165,029.00).**

It is understood that the deposit, or deposits, made by Applicant to fund this Agreement are the only source of funding for this Agreement and the Agreement contemplated between County and its Consultants. By deposit of the above-referenced funds, and by

execution hereof, Applicant agrees that County may utilize said funds to compensate its Consultants to do the necessary work.

ARTICLE V

Deposit: County shall place Applicant deposit under this Agreement into a separate fund. The deposit shall not bear interest.

ARTICLE VI

Reimbursement: Upon completion of the EIR or termination of this Agreement, County shall reimburse Applicant for the difference between County's costs to fund its Consultants, as set forth above, and the amount deposited if the total costs are less than the amount deposited by Applicant.

ARTICLE VII

Conformity with Statutes, Decisions, Guidelines, and Ordinances: The EIR shall be prepared in conformity with all applicable State statutes including but not limited to the California Environmental Quality Act (CEQA) of 1970 (Public Resources Code, §21000 et seq.), the State CEQA Guidelines (California Administrative Code, Title 14, Division 6, §15000 et seq.) adopted pursuant thereto, the Environmental Guidelines (objective, criteria, and procedures pursuant to CEQA) last adopted by County of El Dorado, and in the format prescribed by County. The execution of this Agreement shall not constitute a representation or assurance by County that the EIR shall be certified or that the project will be approved.

ARTICLE VIII

Interest of Applicant and Consultants: Applicant covenants that it shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with Consultants' services hereunder. Applicant covenants that it will notify County if County engages, or attempts to engage, a consultant who has performed any work or provided any services under contract or agreement directly with the project or any part of the project herein described or who has performed work or provided services for Applicant on any other development project within the preceding five (5) years.

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 addressed as follows:

County of El Dorado
Community Development Agency
Development Services Division
2850 Fairlane Court
Placerville, California 95667

County of El Dorado
Community Development Agency
Administration and Finance Division
2850 Fairlane Court
Placerville, California 95667

Attn.: Roger P. Trout
Development Services Division
Director

Attn.: Katy Sampson
Assistant Director
Administration and Finance

Or to such other location as County directs.

Notices to Applicant shall be addressed as follows:

Dixon Ranch Venture, LLC
1508 Eureka Road, Suite 235
Roseville, California 95661

Attn.: Russell K. Schaeffer
Chief Development Officer

Or to such other location as the Applicant directs.

ARTICLE X

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 XI

Administrator: The County officer or employee with responsibility for administering this Agreement is Roger P. Trout, Development Services Division Director, Community Development Agency, or successor.

ARTICLE XII

Termination: Either County or Applicant may terminate this Agreement by presentation to the other party hereto of written notice of said termination fifteen (15) days prior to effective date of said termination. In the event of termination by either party, County shall retain fees from the funds deposited in an amount equal to all Consultants' fees and other costs incurred prior to the effective date of said termination. The balance of funds deposited by Applicant shall be reimbursed to Applicant.

ARTICLE XIII

Assignment: This Agreement shall be binding upon the successors-in-interest and assigns of Applicant.

ARTICLE XIV

Agreement Negotiated: It is agreed and understood by the parties hereto that this Agreement has been arrived at through negotiation and that neither party is to be deemed the party which prepared this Agreement within the meaning of Civil Code Section 1654.

ARTICLE XV

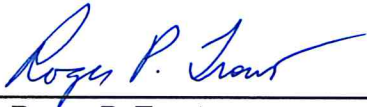
Entire Agreement: This document and the documents referred to herein or exhibits hereto are the entire Agreement between the parties and they incorporate or supersede all prior written or oral Agreements or understandings.

ARTICLE XVI

Indemnity: Applicant shall defend, indemnify, and hold County harmless against and from

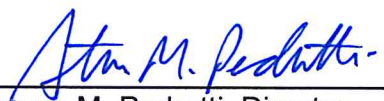
any and all claims, suits, losses, damages, and liability for damages of every name, kind and description, including attorney fees and costs incurred, brought for, or on account of, injuries to or death of any person, including but not limited to workers, County employees, and the public, or damage to property, or any economic or consequential losses, which are claimed to or in any way arise out of or are connected with Applicant's obligations and performance under this Agreement regardless of the existence or degree of fault or negligence on the part of County, Applicant, Consultants, subconsultant(s) and employee(s) of any of these, except for the sole, or active negligence of County, its officers and employees, or as expressly prescribed by statute. This duty of Applicant to indemnify and save County harmless includes the duties to defend set forth in California Civil Code Section 2778.

Requesting Contract Administrator and Division Concurrence:

By: 
Roger P. Trout
Development Services Division
Director

Dated: 10-27-14


Requesting Department Concurrence:

By: 
Steven M. Pedretti, Director
Community Development Agency

Dated: 10/29/14

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates indicated below.

--COUNTY OF EL DORADO--

By: 
Norma Santiago
Board of Supervisors
"County"

Dated: 12-9-14

Attest:
James S. Mitrison
Clerk of the Board of Supervisors

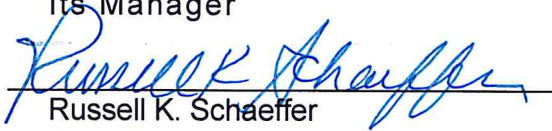
By: 
Deputy Clerk

Dated: 12-9-14

--DIXON RANCH VENTURE LLC--

By: DRV Holding Company, LLC
a California Limited Liability Company
Its Manager

By: The True Life Companies, LLC
(a.k.a. True Life Communities, LLC)
a Delaware Limited Liability Company
Its Manager

By: 
Russell K. Schaeffer
Chief Development Officer
"Applicant"

Dated: September 17, 2014