

**Funding Agreement
Between
County of El Dorado and Marble Valley Company, LLC**

Funding Agreement #24-0007

COUNTY FILE NUMBER A14-0004/Z14-0006/SP12-0003/DA14-0002/PD14-0005

THIS FUNDING AGREEMENT made and entered by and between the County of El Dorado, a political subdivision of the State of California (hereinafter referred to as "County"), and Marble Valley Company LLC; a Delaware Corporation, (hereinafter referred to as "Applicant") whose principal place of business is located at 4525 Serrano Parkway, El Dorado Hills, California 95762.

RECITALS

WHEREAS, Applicant is proposing to develop real property composed of approximately 2,341 acres in the El Dorado Hills area. The property is located on the south side of State Highway 50 and southeast of the intersection of Marble Valley Road and Marble Ridge Road (Assessor's Parcels 087-200-074; 119-020-057; 119-030-013 thru -019; 119-330-001). Applicant has filed for a development application for a General Plan Amendment, Rezone, Specific Plan (Village of Marble Valley Specific Plan), Development Agreement, and Planned Development. Applicant proposes to construct approximately 3,236 residential units and 475,000 square feet of commercial use with approximately 1,284 acres of open space and 87 acres of public facility uses (Project);

WHEREAS, an Environmental Impact Report (EIR) is required for the processing of the Project pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15064;

WHEREAS, CEQA Section 21082.1 authorizes County to enter into agreements to prepare environmental documents for a proposed project including the preparation of an EIR and Mitigation Monitoring Program;

WHEREAS, CEQA Section 21089 authorizes County to collect fees to recover the costs for the preparation and processing of environmental documents;

WHEREAS, under Funding Agreement No. 006D-F-12/13-BOS and associated Amendments, the County collected a deposit in a total amount of \$281,745, representing thirty percent (30%) of the costs associated with preparation of the EIR and related

planning services, to be drawn against once completion of the Project EIR reached seventy percent (70%);

WHEREAS, in September 2016, the County began to draw on Funding Agreement No. 006D-F-12/13-BOS deposit of \$281,745, as the Project EIR was estimated to be at seventy percent (70%) completion per the assigned County Project Planner;

WHEREAS, Funding Agreement No. 006D-F-12/13-BOS deposit was depleted over time and the Applicant continued to pay invoices associated with the development of the Project EIR through monthly Time and Materials billings;

WHEREAS, currently the EIR for the Project is not yet complete, nor has final County action and/or withdrawal of the Project occurred due to comprehensive amendments to the CEQA Guidelines, including a new Fire Hazard section and a suite of provisions aimed at improving the analysis of greenhouse gas (GHG) emissions and climate change impacts in state environmental reviews, necessary revisions to the Air Quality section, and a general hold on the Project as requested by Applicant;

WHEREAS, the Project has resumed as of early 2023;

WHEREAS, County has determined that additional funding is required to complete the preparation of the EIR and provide related planning and professional consulting services for the Project; and

WHEREAS, due to Funding Agreement No. 006D-F-12/13-BOS deposit being depleted, the parties hereto desire to enter into this new Agreement, and upon execution, this Agreement shall supersede Funding Agreement No. 006D-F-12/13-BOS.

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

ARTICLE I

Purpose: The purpose of this Agreement is to provide a mechanism for Applicant to reimburse County for the costs incurred in the preparation of an EIR and planning services for the Project. Both County and Applicant make this Agreement with full knowledge of the requirements of 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 the County of El Dorado relating to payment of monies for services rendered.

ARTICLE II

Work: The work to be funded is the preparation of an EIR which considers the impacts of and alternatives to the proposed Project for the Village of Marble Valley Specific Plan, and planning services to implement the plan on that real property described as Assessor Parcel Numbers: 087-200-074; 119-020-057; 119-030-013 thru -019; 119-330-001.

ARTICLE III

Employment of Consultant as Independent Contractor: County has engaged various Consultants as independent contractors for preparation of the EIR and to provide planning services for the development of the Village of Marble Valley Specific Plan located in El Dorado County, California.

The EIR shall be prepared for the County. It shall be prepared to be legally adequate to allow the County to meet its obligations as the CEQA lead agency to consider all discretionary actions necessary for the Project (Public Resources Code, §21082). Consultant shall prepare the EIR to be accurate and objective. Consultant shall act solely as Consultant to County and shall not act in any capacity as consultant to, representative of, or agent of Applicant. Applicant shall not engage in communications or contact with Consultant without prior written authorization of 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 IV

Funding for this Agreement: Funding of this Agreement is provided entirely by Applicant. Applicant acknowledges and agrees that Applicant is the sole source of funding for the agreements between County and its Consultants for the preparation of the Project EIR and related Project planning services, as well as compensation for County staff time.

- A. Applicant shall continue to pay invoices associated with the development of the Project EIR through monthly Time and Materials billings, as set forth in the Agreement for Payment of Processing Fees, dated November 19, 2012 and executed by Applicant as the Financially Responsible Party (SP12-0003). The Agreement for Payment of Processing Fees is attached hereto as Exhibit A and incorporated herein by reference as if set forth in full.
 - a. Through the Agreement for Payment of Processing Fees, Applicant is responsible for payment of all applicable fees associated with the Project, including fees and costs for consultant services, and is required to make payment within twenty-five (25) days of the date of the invoice. Additionally, any outstanding balances must be paid in full prior to being scheduled for County action. If payment is not received by County within ninety (90) days of said invoice, collection is initiated.

B. Within thirty (30) days of execution of this Agreement, Applicant shall deposit with County the sum of \$69,869.99. The total deposit amount represents thirty percent (30%) of the estimated remaining costs for completing the Project EIR and related planning and professional consulting services. The total estimated remaining costs to finalize the Project EIR are \$232,899.97.

Applicant agrees the deposit will be held until final County action and payment of any and all final Planning Division invoices associated with preparation of the Project EIR. By deposit of the above-referenced funds and by execution hereof, Applicant agrees that County may utilize said funds to compensate its Consultants and County staff if Applicant fails to pay any outstanding invoices after final County action and/or withdrawal of the Project.

It is understood that County may request an additional deposit if there is a substantial increase in costs associated with development of the EIR. Such request shall require processing of an amendment to this Agreement.

ARTICLE V

Deposit: County will place all deposits paid by Applicant pursuant to this Agreement into the Project account in the Planning Project Special Revenue Fund. The deposit shall not bear interest.

ARTICLE VI

Reimbursement: Upon final County action and/or withdrawal of the Project, or termination of this Agreement, County shall retain fees from the funds deposited in an amount equal to all consultant fees, County staff time, and other costs incurred prior to the effective date of said termination. The remaining balance, if any, deposited by Applicant shall be reimbursed to Applicant.

ARTICLE VII

Interest of Applicant and Consultant: Applicant covenants that it shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with Consultant's services hereunder. Applicant covenants that it will notify the County if the 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 VIII

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
PLANNING AND BUILDING DEPARTMENT
2850 FAIRLANE COURT
PLACERVILLE, CA 95667
ATTN: Ande Flower, Planning Manager

Or to such other location as the County directs.

Notices to Consultant shall be addressed as follows:

MARBLE VALLEY
c/o KIRK BONE
4525 SERRANO PARKWAY
EL DORADO HILLS, CA 95762

Or to such other location as the Applicant directs.

ARTICLE IX

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 X

Administrator: The County officer or employee with responsibility for administering this Agreement is Ande Flower, Planning Manager, or successor.

ARTICLE XI

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 consultant fees and other costs incurred prior to the effective date of said termination. The remaining balance, if any, deposited by Applicant shall be reimbursed to Applicant. Any termination of this Agreement will not impact the terms and conditions set forth in the Agreement for Payment of Processing Fees which remains in full force and effect until all of its terms and conditions are satisfied.

ARTICLE XII

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

ARTICLE XIII

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 XIV

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. Upon execution, this Agreement shall supersede Funding Agreement No. 006D-F-12/13-BOS.

ARTICLE XV


Indemnity: To the fullest extent permitted by law, Applicant shall defend at its own expense, indemnify, and hold the County harmless, its officers, employees, agents, and volunteers, against and from any and all liability, claims, suits, losses, damages, or expenses of every name, kind and description, including attorney's 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 the acts or omissions of Applicant or its officers, agents, or employees in rendering the services, operations, or performance hereunder, except for liability, claims, suits, losses, damages or expenses arising from the sole negligence or willful acts of the 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 Concurrence:

By: 
Ande Flower, Deputy Director
Planning and Building Department

Dated: 5/7/2024

Requesting Department Head Concurrence:

By: 
Karen L. Garner, Director
Planning and Building Department

Dated: 5/7/24

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

- - COUNTY OF EL DORADO - -

By: Wendy Thomas
Board of Supervisors
"COUNTY"

Dated: 5-21-24

Attest:
Kim Dawson
Clerk of the Board of Supervisors

By: [Signature]
Deputy Clerk

Dated: 5-21-24

- - APPLICANT - -

Marble Valley Company, LLC,
a Delaware limited liability company

By: W. R. Parker, Inc.,
A California corporation, Its Managing Member

By: [Signature]
William R. Parker
Its: President

Dated: 5/6/24

Funding Agreement #24-0007
Exhibit A - Agreement for Payment of Processing Fees



EL DORADO COUNTY PLANNING SERVICES

AGREEMENT FOR PAYMENT OF PROCESSING FEES

The parties, COUNTY OF EL DORADO, (hereinafter COUNTY) and

Marble Valley Company, LLC

SP12-0003

Name of Financially Responsible Party

Project File Number

the FINANCIALLY RESPONSIBLE PARTY (hereinafter FRP), agree as follows:

(The Village of Marble Valley Specific Plan)

1. This project is subject to time and materials method of billing or raises issues that may require significant staff and/or consultant time which might not be covered by the initial processing deposit/fee detailed in the County's land use development fee schedule included in Board of Supervisors Resolution No. 125-2010. Therefore, the FRP for this project will be billed at rate of \$100 per hour for time and materials for the processing of this project. The fee initially collected will be a deposit toward subsequent billings. If it is necessary to utilize consultant services, an additional deposit to cover consultant costs may be required prior to execution of the contract with the consultant.
2. Accounting of time spent on the project will be detailed monthly and a statement/invoice will be sent to the FRP.
3. The FRP is responsible for payment of all permit processing costs associated with this project. If payment is not received within 25 days of the date of an invoice, the County may elect to stop work and close the file. The County may require a new application and/or new deposit before resuming processing of the project. Projects with an outstanding balance due on their account that are not paid in full by the scheduled appearance on the Planning Commission, Zoning Administrator or Board of Supervisors agenda will not proceed until after any balance due is paid.
4. If during the course of processing, the FRP changes, the new FRP must complete an Agreement for Payment, which will release the previous FRP from further financial obligations and designate the new FRP.
5. The FRP understands and agrees that if the FRP owes any overdue balance for processing this project as defined in Item 2 above, Development Services will not accept any subsequent permit applications from the FRP until the outstanding balance due is paid.
6. FRP agrees to pay any and all remaining fees applicable under the County's land development fee resolution prior to map clearance for recordation or clearance for record of survey or issuance of any building or grading permits. No clearances or permits will be issued without receipt of full payment of fees applicable under the County's land development fee resolution, unless waived or adjusted in accordance with County Board of Supervisors Policy B-2.
7. COUNTY further advises FRP that if applicant appeals a decision on this project to another County entity, the full costs of processing the appeal will be charged to the FRP. An additional deposit of \$1,000 must be deposited with the County to defray appeal costs. If the County's costs for processing the appeal exceed this deposit, the FRP will be billed for the difference in a similar method as noted in Item 2 above.

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Exhibit A

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Project File No. _____ Date _____

The Village of Marble Valley Special Plan

- 8. If payment is not received within 90 days of said statement/invoice, collection will be processed through small claims court and/or by filing a lien on the subject property. Unpaid balances turned over to the County Revenue Recovery Division will be assessed an additional 15 percent.
- 9. A \$25.00 processing fee will be charged for any check returned for insufficient funds.

Executed this 19th day of November 2012

FINANCIALLY RESPONSIBLE PARTY

Print Name Marble Valley Company, LLC, a Delaware limited liability company, By: W.R. Parker, Inc., a California corporation, its Managing Member

FINANCIALLY RESPONSIBLE PARTY

Print Name _____

William R. Parker
Signature
William R. Parker
President
4525 Serrano Parkway

Signature

Street Address

Street Address

El Dorado Hills, CA 95762

City State Zip

City State Zip

Send courtesy notice to:

Name

Street Address

City

State

Zip

COUNTY OF EL DORADO by:

[Signature]
Development Services Representative

CHANGE OF FINANCIALLY RESPONSIBLE PARTY (FRP)

If this document supersedes a previous Agreement for Payment, due to change in financial responsibility, the previous FRP must also sign to acknowledge release of responsibilities. Upon project completion, any remaining deposit will be refunded to the FRP currently on record.

PREVIOUS FINANCIALLY RESPONSIBLE PARTY:

Print Name

Signature

Street

City

State

Zip

Date of release of financial responsibility: _____