

ORIGINAL

FIFTH AMENDMENT TO
AGREEMENT TO MAKE SUBDIVISION IMPROVEMENTS
FOR CLASS 1 SUBDIVISION
BETWEEN COUNTY AND OWNER

THIS FIFTH AMENDMENT, to that certain Agreement to Make Subdivision Improvements for Class 1 Subdivision Between County and Owner (hereinafter referred to as the "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 **TOLL LAND XXIII Limited Partnership, a California Limited Partnership**, duly qualified to conduct business in the State of California, whose principal place of business is 3103 Philmont Avenue, Huntingdon Valley, Pennsylvania 19006 and whose local office address is 8125 Trevi Way, El Dorado Hills, California 95762 (hereinafter referred to as "Owner"); concerning **THE PROMONTORY VILLAGE NO. 5 – UNIT 2** (hereinafter referred to as "Subdivision"); the Final Map of which was filed with the El Dorado County Board of Supervisors on the 25th day of April, 2006.

RECITALS

WHEREAS, County, and Owner entered into that certain Subdivision Improvements Agreement on April 25, 2006, entered into the First Amendment to the Agreement on January 13, 2009, entered into the Second Amendment to the Agreement on June 30, 2009, entered into the Third Amendment to the Agreement on June 10, 2014, and entered into the Fourth Amendment to the Agreement on August 12, 2014, in connection with the Subdivision, copy of which Agreement is incorporated herein and made by reference a part hereof;

WHEREAS, the Agreement, as amended, requires Owner to complete the subdivision improvements thereunder on or before April 25, 2015, and Owner has not completed all of the improvements but has requested an extension of time to complete the subdivision improvements subject to the terms and conditions contained herein, to April 25, 2016;

WHEREAS, the County officer or employee with responsibility for administering this Agreement and Owner have changed;

NOW, THEREFORE, the parties hereto, in consideration of the recitals, terms and conditions herein, do hereby agree to amend the terms of the Agreement in this Fifth Amendment to read as follows:

Section 3 is amended to read as follows:

3. Complete the Subdivision improvements contemplated under this Agreement on or before April 25, 2016.

RECEIVED

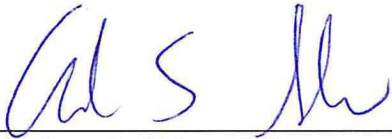
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Section 30 shall be amended to read as follows:

30. The County officer or employee with responsibility for administering this Agreement is Andrew S. Gaber, Deputy Director Development/ROW/Environmental, Community Development Agency, or successor.

Except as herein amended, all other parts and sections of that certain Agreement dated April 25, 2006, as thereafter amended, shall remain unchanged and in full force and effect.

Requesting Division and Contract Administrator Concurrence:

By: 
Andrew S. Gaber, P.E.
Deputy Director
Development/ROW/Environmental
Community Development Agency

Dated: April 19, 2015

Requesting Department Concurrence:

By: 
Steven M. Pedretti, Director
Community Development Agency

Dated: 4/20/15

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

--COUNTY OF EL DORADO--

By: _____

Dated: _____

Board of Supervisors
"County"

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

By: _____

Dated: _____

Deputy Clerk

--TOLL LAND XXIII LIMITED PARTNERSHIP--
A California Limited Partnership

By: TOLL CA GP Corp.,
a California Corporation
its General Partner

By:  _____

Dated: 2-20-15

Gary M. Mayo
Group President

Notary Acknowledgment Attached

OWNER

ACKNOWLEDGMENT

State of ~~California~~ Nevada
County of Clark

On 2-20-15 before me, Lisa Job, Notary
~~Notary Public~~
(here insert name and title of the officer)

personally appeared
Gary Mayo

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 Job



(Seal)

Amended Certificate of Partial Completion of Subdivision Improvements

I hereby certify that the following cost estimates have been revised to reflect the current economy and that improvements in the **The Promontory, Village 5 Unit 2 Subdivision, TM 98-1356** have been completed, to wit:

	Total Amount	Percent Complete	Remaining Amount
Street Improvements	\$5,674,232.22	78.98%	\$1,192,723.61
Water Improvements	\$318,778.05	90.00%	\$31,877.81
Sewer Improvements	\$457,766.80	90.00%	\$45,776.68
Underground Power & Telephone Improvements	\$480,000.00	60.00%	\$192,000.00
Dust Control	\$40,000.00	50.00%	\$20,000.00
Implement SWPPP	\$50,000.00	50.00%	\$25,000.00
Construction Staking & Engineering	\$702,077.71	85.00%	\$105,311.66
Project Administration	\$280,831.08	85.00%	\$42,124.66
Contingency	\$702,077.71	85.00%	\$105,311.66
Total	\$8,705,763.57		\$1,760,126.08

I estimate the revised total cost of completing the improvements agreed to be performed by the Owner to be **Eight Million Seven Hundred Five Thousand Seven Hundred Sixty-Three Dollars and 57/100 (\$8,705,763.57)**.

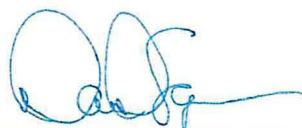
I estimate the revised total cost of completing the remainder of the improvements to be **One Million Seven Hundred Sixty Thousand One Hundred Twenty-Six Dollars and 08/100 (\$1,760,126.08)** and the revised cost of the completed work to be **Six Million Nine Hundred Forty-Five Thousand Six Hundred Thirty-Seven Dollars and 49/100 (\$6,945,637.49)**.

The revised amount of the Performance Bond is **Two Million Eight Hundred Eleven Thousand Nine Hundred Seventy-Four Dollars and 21/100 (\$2,811,974.21)**, representing a reduction of 90% of the revised cost estimate for the work completed.

The revised amount of the Laborers and Materialmens Bond is **Four Million Three Hundred Fifty-Two Thousand Eight Hundred Eighty-One Dollars and 79/100 (\$4,352,881.79)**, which is 50% of the revised Total Cost of the Improvements.

There will be no reduction of the bond until acceptance of the project.

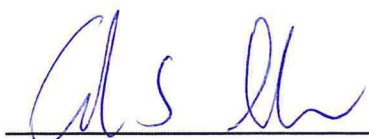
DATED: 2/10/2015



**David D. Sagan, RCE 60506
R.E.Y., Inc.
905 Sutter Street, Suite 200
Folsom, CA 95630**

ACCEPTED BY THE COUNTY OF EL DORADO

DATED: 4/14/2015



**Andrew S. Gaber, P.E.
Deputy Director
Development/ROW/Environmental**