

**AGREEMENT FOR CARSON CROSSING DRIVE DRAINAGE
ZONE OF BENEFIT 98310, FORMATION
BETWEEN COUNTY AND OWNER**

THIS 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 **LENNAR HOMES OF CALIFORNIA, INC.**, a California Corporation, duly qualified to conduct business in the State of California, whose principal place of business is 1420 Rocky Ridge Drive, Suite 320 Roseville, California, 95661 (hereinafter referred to as “Owner”); concerning the formation of the Zone of Benefit for Carson Crossing Drive Drainage Zone of Benefit 98310 located within **CARSON CREEK UNIT 1 –PHASE A-D, TM 04-1391R-2** (hereinafter referred to as “Subdivision”); the Final Map of which was filed with the El Dorado County Board of Supervisors on the ____ day of _____, 2015.

RECITALS

Owner is vested with fee title to Subdivision; a tract of land located in the County of El Dorado, State of California, and described as Carson Creek Unit 1 – Phase A-D, TM 04-1391R. Owner is required to form a Drainage Zone of Benefit (ZOB) or other appropriate entity to ensure that all storm water drainage facility maintenance requirements are met in connection with the Subdivision which will include funding a proportionate amount for Carson Crossing Drive (Findings/Mitigation Measures/Conditions of Approval for TM 04-1391 Carson Creek2/Carson Creek Phase 2, Unit 1, item number 44).

In consideration for the approval and acceptance by County’s Board of Supervisors of the Conditions of Approval, and the Final Map filed and recorded on _____, the parties agree as follows:

AGREEMENT

OWNER WILL:

1. Complete the requirements for the formation of the Carson Crossing Drive Drainage Zone of Benefit, 98310 (ZOB) in accordance with Condition #44 of the Conditions of Approval for TM04-1391R-2 as amended and approved by the Planning Director on August 6, 2014.
2. Owner shall not close escrow on the sale of, nor transfer titles on any property located within the Subdivision prior to the time that the Drainage ZOB is fully formed consistent with provision of County Service Area Law and, specifically, Government Code §25217.1, noting the Zone is not formed until the funding is approved through the appropriate proceedings.

3. Post cash security (in addition to the \$1,000 deposit already received) with the County to cover cost of balloting and all other expenses that may be incurred in the formation of the Drainage ZOB in the amount of \$5,500.00. In addition a cash security for the drainage maintenance cost for one (1) year which is approximately \$29,883.16. These cash securities will be placed in the CSA 9 Administration account to be used for ZOB formation costs and drainage maintenance costs should Owner not complete the requirements for formation of the ZOB in accordance with this agreement. The County is also requiring a performance bond to cover the drainage maintenance costs for two (2) years which is approximately \$59,766.32.

4. Complete the ZOB formation contemplated under this Agreement within two (2) years from the date that the Subdivision Final Map is filed with the El Dorado County Board of Supervisors.

5. To the fullest extent allowed by law, defend, indemnify and hold County and its officers, agents, employees and representatives 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 other economic or consequential losses, which are claimed to or in any way arise out of or are connected with Owner's work, design, operation, construction of the improvements, or performance of this Agreement, regardless of the existence or degree of fault or negligence on the part of County, Owner, any contractor(s), subcontractor(s) and employee(s) of any of these, except for the sole, or active negligence of County, its officers, agents, employees and representatives, or as expressly provided by statute. This duty of Owner to indemnify and save County harmless includes the duties to defend set forth in California Civil Code section 2778.

This duty to indemnify is separate and apart from any insurance requirements and shall not be limited thereto.

COUNTY WILL:

6. Upon execution of this Agreement and upon compliance with all requirements of law, including all County ordinances, approve the filing of Final Map, Book_____, Page_____, of Subdivision Maps;

7. Return to Owner any remaining funds from the formation security when the ZOB is fully formed and funded.

8. Transfer the remaining balance of the cash security deposited into the CSA 9 Administration fund into the Special District account for this ZOB when the Drainage ZOB is fully formed.

9. Release the performance bond after the drainage maintenance costs for the individual parcels have been posted to the tax roll.

10. Require Owner to pay County for costs, expenses and reasonable attorneys' fees to be paid by Owner should County be required to commence an action to enforce the provisions of this Agreement, to enforce the security obligations provided herein, and all attorneys' fees, costs, and expenses of litigation incurred by County even if Owner subsequently proceeds to complete the work.

ADDITIONAL PROVISIONS:

11. This Agreement is intended to allow the approval of the final map for Phases A and B only. County will not consider approval of final maps for later phases of the subdivision until the drainage zone of benefit has been formed in accordance with this Agreement and Condition 44 of the Conditions of Approval for TM04-1391.

12. 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.

13. Neither this Agreement, nor any part thereof may be assigned by Owner without the express written approval of County.

14. 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:

County of El Dorado
Community Development Agency
Transportation Division
2850 Fairlane Court
Placerville, CA 95667

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

County of El Dorado
Community Development Agency
Transportation Division
2850 Fairlane Court
Placerville, CA 95667

Attn.: Gregory Hicks, P.E.
Senior Civil Engineer

or to such other location as County directs.

Notices to Owner shall be addressed as follows:

Lennar Homes of California, Inc.
1420 Rocky Ridge Drive, Suite 320
Roseville, CA 95661
Attn.: Larry Gualco,
Vice President

Lennar Homes of California, Inc.
1420 Rocky Ridge Drive, Suite 320
Roseville, CA 95661
Attn.: Eric Johnson

or to such other location as Owner directs.

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

16. Any action arising out of this Agreement, including, but not limited to, litigation, mediation, or arbitration, shall be brought in El Dorado County, California, and shall be resolved in accordance with the laws of the State of California.

17. 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.

Requesting Division and Contract Administrator Concurrence:

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

Requesting Department Concurrence:

By: _____ Dated: _____
Steven M. Pedretti, Director
Community Development Agency

IN WITNESS WHEREOF, the parties hereto 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: _____

Board of Supervisors
"County"

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

By: _____
Deputy Clerk

Dated: _____

--LENNAR HOMES OF CALIFORNIA, INC.--

By: _____
Larry Gualco
Vice President
"Owner"

Dated: _____

By: _____
Earl Keith
Vice President/
Division Controller

Dated: _____

Notary Acknowledgment Attached

OWNER

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 _____

On _____ before me, _____,
(here insert name and title of the officer)

personally appeared _____,

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 _____

(Seal)