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## Attachment H

September 18, 2012

Board of Supervisors  
330 Fair Lane  
Placerville, CA 95667

**SUBJECT:** Silver Springs, LLC Tentative Map TM97-1330, Final Map TM97-1330F Unit 1 (53 Lots), Subdivision Improvement Agreement ("SIA") AGMT#06-1060 Amendment III, Road Improvement Agreement ("RIA") AGMT#06-1111 Amendment II, Reimbursement Agreement ("RA") AGMT#07-1468, SCIP Agreement AGMT#11-53219, Assignment and Assumption Agreement AGMT#11-53221, and Road Improvement Agreement AGMT# 12-53452

**MEETING DATE:** September 25, 2012

Dear Members of the Board:

### **INTRODUCTION**

The County has been working with Silver Springs, LLC ("Developer") to collaborate on funding, reimbursement terms, and construction of several Capital Improvement Program ("CIP") Projects related to Silver Springs Parkway and the Silver Springs Subdivision. These efforts are associated with the Silver Springs Subdivision (TM97-1330) Conditions of Approval ("COA"). This Staff Report provides background and a summary of relevant issues arising from negotiations between the Developer and the County. The purpose of the summary is to clarify and advise the Board of various events that have transpired over the past several years that have culminated in the terms and provisions contained within the subject agreements ("Silver Springs Agreements")

Through collaborative discussions between the County, Developer, and the California Statewide Communities Development Authority Statewide Community Infrastructure Program ("SCIP") administrator, it was decided that the County would be better suited to administer the construction of the CIP Projects. This is due to the County's ability to receive reimbursement payments directly from the SCIP via monthly construction progress payments versus after all construction is complete and accepted by the County in accordance with the Mello-Roos Guidelines.

### **BACKGROUND**

On April 6, 1993, the County of El Dorado Board of Supervisors adopted the Final Environmental Impact Report ("Bass Lake Road EIR") (State Clearinghouse # 90021120) for the Bass Lake Road Realignment Project (See Environmental Review within this Staff Report for further discussion). The Bass Lake Road EIR was a County effort that preceded the Silver Springs Subdivision.

Tentative Map TM97-1330 in the Bass Lake Area of El Dorado County on Assessor's Parcel Numbers 115-370-01, 115-370-02, 115-370-03, 115-370-04, 115-370-07, and 115-370-11 was approved by the Board on December 15, 1998, with an expiration date of June 2, 2006. The Tentative Map Approval Time Limit has been extended several times pursuant to the Subdivision Map Act §66452.6, Senate Bill 1185, Assembly Bill 333, and Assembly Bill 208 to August 1, 2014. The Conditions of Approval of the approved Tentative Map require the Developer to make improvements including the construction of the Green Valley Road/Deer Valley Road Turn Lanes, Green Valley Road/Silver Springs Parkway Intersection, and onsite and offsite portions of Silver Springs Parkway ("Conditioned Projects")

On September 26, 2006 Developer and County entered into the Agreement to Make Subdivision Improvements for Class I Subdivision Between County and Silver Springs LLC, AGMT #06-1060, ("SIA") which more fully describes the project and responsibilities of parties related to the onsite portion of Silver Springs Parkway.

On October 31, 2006, the Board of Supervisors approved the RIA for the on-site and off-site public road improvements associated with the development of Silver Springs Unit 1 subdivision. In January of 2006, the Department received a request from the developer of Silver Springs to substitute the bonds accepted by the Board of Supervisors in October 2006 with different bonds issued by a different surety. The Developer advised the Department at that time that no work was initiated since the Board's approval of the original RIA. The Department verified in February, 2007, and again on June 8, 2007, that no labor was engaged or contracted for, and that no materials were ordered or provided for this project. The new bonds provided a specific Rider that the Surety expressly accepted all obligations retroactively to the date of the original RIA.

On December 5, 2006, the Board of Supervisors adopted Resolution 394-2006 authorizing the County to join the California Statewide Communities Development Authority Statewide Community Infrastructure Program ("SCIP") giving property owners an option to finance Traffic Impact Mitigation (TIM) fees and construction of public improvements.

Developer has obtained financing for the Conditioned Projects through the California Statewide Communities Development Authority Statewide Community Infrastructure Program ("SCIP"). The SCIP financing has been completed and the funds were deposited into the Silver Springs Improvements Subaccount on June 13, 2007. The SCIP advance funding is not a reimbursement but is an advance obtained through debt secured by Developer's property.

On May 22, 2007, the Board of Supervisors authorized the Chair to sign the Acquisition Agreement with Silver Springs, LLC, related to a bond issuance through the SCIP subject to approval and modifications by County Counsel and Risk Management. Soon thereafter, the Department, Owner/Developer, and SCIP bond counsel engaged in discussions to revise the SCIP to allow the County to construct one or more of the Silver Springs Projects associated with TM97-1330 Findings/Conditions of Approval. These discussions and revisions were not approved by the Board, hence the May 22, 2007 SCIP Acquisition Agreement was not executed.

On July 17, 2007, the Board of Supervisors approved the First Amendment to the SIA, which allowed the Owner to substitute the original Performance and Labor and Materialsmen Bonds with bonds issued by a different surety. Subsequently, the Owner requested a one-year time extension to the required completion date. The Director of Transportation granted the time extension requested to September 26, 2009 pursuant to authority granted by the Board of Supervisors. The Department, however, did not thereafter process a written amendment to the Agreement.

On April 6, 2010, the Board of Supervisors approved the Second Amendment to the SIA which allowed the Owner a second one-year extension of September 26, 2010, to the required completion date.

On March 8, 2011, the Board of Supervisors approved an Addendum to the Silver Springs Subdivision EIR (State Clearinghouse # 970720221) that included the road improvement work related to the RIA AGMT#06-1111 for the intersection of Green Valley Road/Deer Valley Road.

Throughout the time period between 2004 and September, 2012, the County and the Developer have been discussing issues and terms (“deal points”) associated with the TM97-1330 Findings/Condition of Approval, Silver Springs Capital Improvement Projects and SCIP. Initially, some deal points were captured within written correspondence between the County and Developer. Later, other deal points resulted from subsequent negotiations between previous County staff members and the Developer. The written correspondence related to the initial deal points is included as Attachment I and Attachment J. Additional details related to the deal points will be further described within the Discussion Section of this Staff Report.

The County’s recent efforts have been focused on capturing the substance of prior negotiations within the Silver Springs Agreements and reaching agreement on the salient deal points such that the Silver Springs Agreements could be brought to the Board for consideration.

## **DISCUSSION**

The following list provides the main Transportation COA items that have been clarified during the County and Developer negotiations:

### **I. Main Deal Points as described in TM97-1330 COA:**

#### **A.) CIP Projects 66107 (Silver Springs Parkway/Green Valley Road Intersection) & 66114 (On-site Silver Springs Parkway) :**

- i. Developer shall construct a traffic signal and appurtenant intersection improvements at Green Valley Road and Silver Springs Parkway (COA #8);
- ii. Developer shall construct the on-site Silver Springs Parkway in phases commensurate with construction of subdivision phases (COA #8);
- iii. Projects are eligible for reimbursement from County El Dorado Hills/Salmon Falls Road Impact Fee account (RIF) (currently the EDH TIM Fee Zone 8) and County Traffic Impact Mitigation Fee programs (TIM) (COA #8).
- iv. At the time of the Board approval of TM97-1330, Bass Lake Road was split between the RIF and TIM Zones based upon trip contributions in the following proportions:

61% - TIM  
39% - RIF

Silver Springs Parkway is the northerly extension of Bass Lake Road and was assumed at the time to be funded using the same proportions.

- v. Developer is entitled to receive reimbursement at the time that Silver Springs Parkway is scheduled for construction in the County’s five-year CIP (COA #8) (Projects are in the current County CIP); and,
- vi. Developer is entitled to receive reimbursement for CIP projects five years after the construction of the off-site portion of Silver Springs Parkway is completed (COA #8c).

B.) CIP Project 76108 (Off-site Silver Springs Parkway):

- i. Developer can either:
  - a) Construct the total on-site portion of the Realigned Bass Lake Road concurrent with Phase II of the development and post a deposit with County for the design, construction and right of way costs for the off-site portion of Silver Springs Parkway and County will construct, or cause to construct the off-site Silver Springs Parkway within one year after completion of the on-site Silver Springs Parkway (COA #8); or
  - b) Construct the off-site Silver Springs Parkway (COA #8).

**II. Reimbursement Terms as described within TM97-1330 COA:**

- A. Developer is entitled to reimbursement for fifty percent (50%) of the Green Valley/Realigned Bass Lake Road Intersection (Silver Springs Parkway/Green Valley Road Intersection) Project costs (CIP #76107) (COA #8a).
- B. Developer is entitled to reimbursement for fifty percent (50%) of the on-site Silver Springs Parkway Project costs (CIP Project #76107) (COA #8a) At the time, the Developer was conditioned to fund the additional two-lanes of Silver Springs Parkway as Subdivision frontage improvements.;
- C. Developer is entitled to one hundred percent (100%) of the off-site Silver Springs Parkway Project costs (CIP Project #76108) (COA #8a);
- D. Reimbursement amounts shall include all earthwork, storm drainage and roadway construction from back of curb to back of curb ((COA #8b) (improvements outside back of curb are considered on-site Developer obligations);
- E. Median landscaping, sidewalks, landscaping and utility improvements will not be subject to reimbursement (COA #8b) (these improvements are considered on-site Developer obligations);
- F. Schedule for reimbursements will be 20% for five years beginning five years after completion of the full Silver Springs Parkway from Green Valley Road to the existing Bass Lake Road (CIP Projects #76107 and #76108) (COA #8c);
- G. Interest is "pooled rate of funds" (COA #8c);
- H. Reimbursement shall be subject to the availability of funds in the TIM fee account (Conditions did not specifically distinguish and/or identify the RIF fund, however, County interprets this provision to include all impact fee funds) (COA #8c);
- I. No road fund or County General fund monies shall be obligated for reimbursement to the Projects (COA #8c);
- J. Projects shall be competitively bid to be eligible for reimbursement from County TIM Fee program (COA #8d)
- K. Fifty percent (50%) of the reimbursable amount may be taken as TIM Fee credits;

- L. Conditions for Transit require construction of four bus pull outs and shelter. (The reimbursement terms were not included within COA #26);
- M. Green Valley Road/Green Springs Road and Deer Valley Road (CIP Project #76114):
  - a) Developer shall construct right & left turn lanes at this intersection (Conditions do not specify terms of reimbursement-County has assumed reimbursement pursuant to Guidelines) (COA #56).

The following lists the modified deal point events that transpired through various meetings culminating within written correspondence between prior County staff and the Developer's attorney (Attachments I and J):

**III.) Modified Deal Points per County and Developer written correspondence:**

- A. Developer is prepared to make the election to construct the off-site portion of the roadway subject to Developer and County's agreement on terms of reimbursement and financing (COA #8);
- B. Developer will finance and construct the entire on-site portion of the roadway as a Phase 1 improvement, rather than in stages as provided in the conditions (COA #8);
- C. The County will provide the funding for the design, engineering, regulatory permits and right of way acquisition for the off-site portion of the roadway from funds already earmarked in the TIM five year CIP;
- D. The cost of the design and permitting will be reimbursed to Developer from the TIM Fee account at such time as those elements of the Project have been successfully completed (because of reference to "*physical improvements*" within the letter from the Developer's attorney, staff has interpreted this discussion to mean when the Board accepts and approves Project plans)
- E. The County shall initiate the process of obtaining any necessary right of way once the ultimate requirements have been established through road design;
- F. Once County obtains right of way, Developer will undertake the financing and construction of the off-site Silver Springs Parkway;
- G. Developer may utilize Mello-Roos financing or other public assessment financing (SCIP) to initially finance the improvements;
- H. Developer is subject to reimbursement through the TIM Fee program in accordance with a reimbursement agreement between Developer and County; and,
- I. Developer is prepared to waive any reimbursement rights against RIF (EDH TIM Fee Zone 8) program (39%) in consideration for the County's funding of the pre-construction costs.

The following represents additional deal points that were negotiated subsequent to the agreement described above:

**IV.) Subsequent Deal Points to complete Off-site Parkway Project (CIP #76108):**

- A. Developer will provide a completed design (contract documents) for the off-site Silver Springs Parkway improvements subject to County's approval;
- B. Developer will enter into an assignment and assumption agreement for off-site Silver Springs Parkway Contract Documents;
- C. The Developer has represented that he cannot obtain new bonds for the project. County staff have proposed to deviate from the standard bonding requirements with respect to the Developer providing County a Bond prior to executing the RIA. To clarify terms of the conditions of approval related to bonding, the County staff and the Developer have agreed to reserve the amount of the reimbursements as security in lieu of requiring the Developer to obtain new bonds. As a part of the proposed terms, County staff propose to only require a new Bond to be posted at the time the County is ready to request that the Board to advertize the Off-Site Silver Springs Project for bids. It is anticipated that the Developer may later be in a position to have sufficient bonding capacity when the on-site portion of the Silver Springs Parkway Project is completed and the County releases 90% bonding capacity. At that time it is anticipated that the Developer will provide the County the necessary Bonds for the off-site improvements (subsequent to the Notice of Acceptance of the On-site Silver Springs Parkway Improvements County would reduce the bonds to 10% and require the Developer to provide the bonds for the Off-Site Silver Springs Parkway Project).

It is currently anticipated that the Developer will use SCIP funding to provide the capital to construct the Silver Springs Parkway Projects. If, at the time of completion of the on-site portion of Silver Springs Parkway, there is insufficient funds remaining in the SCIP Sub-Account, under the COA, the Developer is required to provide funding to make up the shortfall. If the Developer does not provide a bond for the Off-site Silver Springs Parkway, and there is insufficient funds remaining within the SCIP Sub-Account advancement for the Off-site Silver Springs Parkway, then it is proposed to have the County construct the off-site Silver Springs Parkway Project using those TIM Fees reserved for Developer reimbursements associated with these agreements. The amounts forecasted to be reserved for Developer reimbursement are identified within the associated Reimbursement Agreement. Should the County be required to resort to this option, then the Developer would forfeit the reimbursement amount total for the off-site Parkway improvements

- D. County will update the Environmental Document for the off-site Silver Springs Parkway obtain necessary right of way utilizing TIM Fee revenues from Zones 1-7 that are currently programmed within the County's 2012 Capital Improvement Program for the Off-Site Silver Springs Parkway Project in an amount not to exceed \$1,000,000 (Staff currently anticipates that these elements of the Off-site Silver Springs Parkway Project will not exceed the programmed funds).
- E. Developer shall advance any remaining cost in excess of \$1,000,000 update for the necessary right of way for the off-site Silver Springs Parkway and for the County to update the Environmental Document for the off-site Silver Springs project (subject to reimbursement pursuant to COA #8a);
- F. County will update the existing Environmental Document for Bass Lake Road Realignment prior to commencing ROW activities.

- G. County will not begin the right of way acquisition process for the Off-site Silver Springs Parkway until the Developer provides advance funding and the Bonds for the estimated costs for the construction and construction administration elements of the Off-site Silver Springs Project (Source of Developer's funding currently proposed to come from remaining SCIP funding)
- H. County will commence the construction of the Off-site Silver Springs Parkway Project within one year after the Board has certified all right of way necessary to construct the Off-site Silver Springs Parkway Project
- I. Upon final acceptance of the Off-site Silver Springs Parkway Project by the Board, County will begin reimbursement for those elements subject to reimbursement upon the completion of the off-site Silver Springs Parkway Project pursuant to reimbursement terms within the Reimbursement Agreement; and,
- J. Developer agreed to forego the RIF Fee reimbursement component as documented within the July 8, 2004 letter from the Developer's attorney. Reimbursement terms related to Developer costs associated with the Off-site Silver Springs Parkway are proposed to be modified from the 100% reimbursement identified within the COA to 61%, representing only the TIM Fee component of the associated improvements.

**V.) Project elements added subsequent to conditioning and Attachment I & J Correspondence:**

- A. County requested and Developer agreed to construct the following Project elements within the 66106, 66107 and 66114 Contract Documents:
  - i. Madera right turn pocket
  - ii. Overlay at Green Valley Road/Deer Valley-Green Springs Road
  - iii. Overlay at Green Valley Road/Silver Springs Parkway Intersection
  - iv. Signal Interconnect Conduits
- B. County proposed to fund the above Project elements at 100% (100% at completion of Project containing extra work at time of County Board of Supervisors acceptance of Project. Construction funding from SCIP and subsequent reimbursement to Developer using Tim Fees and Road Fund);
- C. Condition #25 and #26 for Transit requires construction of three bus pull outs and shelter within the Silver Springs Parkway and Green Valley Road areas. The Developer has entered into an Agreement dated May 16, 2006 with El Dorado County Transit Authority ("EDCTA") which allows for construction of the three bus turn-out and shelter locations). The bus turn-out areas and pad will be constructed as part of the CIP Project #76107, however, the Developer will be responsible to install the bus shelters at the three locations as part of his Subdivision Unit 1 improvements or update the exiting Agreement with EDCTA to allow for direct in-lieu payment for EDCTA to install;
- D. Developer has elected and County proposes to construct the on-site portion of roadway (Project 66107) (Subsequently modified due to Developer cash-flow issues associated with the utilization of SCIP funding);
- E. Developer has elected and County proposed to construct On-site and Off-site Silver Springs Parkway Projects (CIP Projects 66106 and 66114) (Subsequently modified due to Developer cash-flow issues associated with the utilization of SCIP funding);

- F. Developer has requested that language be included to allow the Developer a 10-day right to cure (Issue contained within the Silver Springs, LLC, August 18, 2011 Memorandum) (staff concurs and language is included within agreements);
- G. Developer has requested that language be included that provides the Developer with an opportunity to provide input to the staff recommendation of award to the Board of Supervisors regarding the lowest responsive, responsible bidder. (Staff concurs and language is included within agreements);
- H. Developer has requested that he has input on all Contract Change Orders that are issued during the construction phase of the projects. (staff concurs and language is included within agreements);
- I. Developer has requested that the SCIP funding be considered as security in lieu of providing bonding for Developer's funding responsibilities associated with the Off-site Silver Springs Parkway Project (CIP Project 66108) (Staff does not concur and has included modified language within the agreements that utilizes funding reserved for Developer reimbursement if the Developer defaults by not providing advanced funding); and,
- J. For the Green Valley Road/Deer Springs Road Intersection Project (CIP Project 66114), Developer has agreed to waive reimbursement amount from Zone 8 (RIF) and will accept reimbursement from only Zones 1-7 (50% of total Project hard costs excluding overlay component) if the schedule for reimbursement for this project component is at the time of completion of Project construction. (Acceptance by the Board) (Staff concurs and 50% immediate reimbursement terms included within the Reimbursement Agreement).

**VI.) SCIP:**

- A. SCIP has currently reserved funding within the Silver Springs Improvements Subaccount solely for the purpose of funding the On-site and Off-Site Silver Springs Parkway Projects and the Green Valley Road/Deer Valley Road Intersection Project. SCIP will continue to hold those funds in that subaccount until the funds are used for construction costs and incidental costs for the Conditioned Projects. The *"Requisition and Shortfall Agreement by and Among the County of El Dorado, California Statewide Communities Development Authority and Silver Springs, LLC"* ("SCIP Agreement") is a three-party agreement that allows the County to submit requisitions to the California Statewide Communities Development Authority to immediately reimburse the County for payments made to the contractors building the Conditioned Projects up to the full Available Amount, and to reimburse the County and/or Developer for engineering, construction management, and other incidental costs expended in the process of constructing the Conditioned Projects. This is a deviation from the standard SCIP procedure of reimbursing the Developer for costs it incurs while constructing required infrastructure that is accepted by the County as a public improvement only after such infrastructure projects are complete.
- B. Developer had requested and County staff proposes to cash-flow project construction from the County's TIM Fund and be reimbursed monthly from SCIP, consistent with timing of construction progress payments based upon amounts from progress payments to the County's contractor (and expenditures of associated construction management, inspection, material testing and surveying);
- C. Prioritization for use of SCIP funding: Developer will agree to subordinate reimbursements for EID costs from the SCIP fund (along with any other non-roadway project costs) until after all of the roadway projects have been funded;



- D. Developer has proposed to use funding from SCIP account for non-road related improvements. (e.g.: water and utility construction and non-TIM Fee reimbursable project elements.) Developer also agreed to subordinate payment for these project elements until subsequent to the road projects have been funded and up to the limit of any remaining SCIP funding. (Staff concurs and terms have been included within the agreements);
- E. Utility Joint Trench is a non-reimbursable Developer responsibility and is eligible to be funded from SCIP account; and,
- F. Landscaping and Sidewalks are non-reimbursable Developer responsibilities and are eligible to be funded from SCIP account.

**VII.) Soft cost reimbursement from County TIM Fee program:**

- A. County will reimburse the Developer for Soft Costs not to exceed 20% of actual construction amount pursuant to the County Reimbursement Guidelines (3% undocumented developer project management costs and 17% documented costs);
- B. Current project development costs (design costs) for Insert Specific Project names) Projects 66106, 66107, 66114 and 66108 are estimated to be equal to or in excess of the allowable reimbursements based upon the 20% cap described within the County Reimbursement Guidelines;
- C. Developer will be responsible to fund the construction management costs associated with the non-reimbursable elements of Green Valley Road/Silver Springs Parkway and Silver Springs Parkway Projects 66106 and 66107 and are not eligible for reimbursement from the County. (Consistent with obligations pursuant to the hard cost obligations outlined within COA #8a);
- D. Soft costs will be reimbursed in proportion to the same reimbursement percentages associated with the COA. (Calculating the proportional costs for all Projects; 50% of 66106, 50% of 66107, 100% of 66114 and 100% of 66108 and applying 20% cap to all eligible soft costs.) Developer will be directly responsible for all soft costs associated with non-reimbursable elements of the Projects and would not be reimbursed by the County for these non-eligible costs;
- E. For Green Valley Road/Silver Springs Parkway and Silver Springs Parkway Projects 66106 and 66107, Developer will fund 50% of construction management costs from SCIP and these costs are not eligible for reimbursement. (non-eligible costs per COA #8 ) and County will fund 50% of Construction Management costs directly from Zones 1-7 TIM Fee account;
- F. For Green Valley Road/Deer Valley Road Project 66114, Developer will fund 50% of construction management costs from SCIP and has agreed to forfeit reimbursement for Zone 8 portion. County will fund 50% of Construction Management costs directly from Zones 1-7 TIM Fee account for Zone 1-7 TIM Fee component;
- G. For Off-site Silver Springs Parkway Project 66108, Developer will fund 100% of construction management costs from SCIP account, subject to reimbursement by the County from Zones 1-7 TIM Fee account per provisions within COA #8;
- H. Developer requested to be reimbursed for 100% of all soft costs associated with the design and development of contract documents for the off-site Silver Springs Parkway Project rather than 61% (TIM Fee portion). (Because the Project is no longer split between Zone 8 and Zones 1-7, County staff proposes to agree to this

request within the limitation of the County Reimbursement Guidelines (20% maximum soft costs cap. These terms have been included within the Reimbursement Agreement); and,

- I. Developer has requested that the County make a single lump sum payment for a large percentage of the off-site project (66108) design soft costs upon acceptance and approval of the Project Contract Documents by the County. County staff proposes to provide reimbursement in the amount of one-half the allowable amount per County Reimbursement Guidelines (one-half of 20% cap) at the time that the Contract Documents are approved with remaining amount paid upon project completion. (When the maximum allowable costs can be determined, based upon final actual costs per the County Reimbursement Guidelines.) (These terms have been included within the Reimbursement Agreement).

**VIII.) Other Department and Owner/Developer Issues discussed:**

- A. Project 66115 (Off-site old Bass Lake Road) to be constructed at the time the adjacent Silver Springs subdivision phase is constructed. Will be covered in a future RIA to be developed at the time of construction of the subdivision;
- B. Developer shall retain TLA Engineering and Planning (Design Engineer) and all Design subs so that these firms are available during construction to respond to Request for Information from County/County's contractor;
- C. Developer is in the process of providing the County all acquisition of construction easements for CIP Project #76114;
- D. The current Assignment and Assumption agreement only covers CIP Projects 76107 & 76114. A separate Assignment and Assumption agreement will have to be executed for CIP Project #76108 at the time the Developer completes those Project contract documents and they are approved by the County.
- E. The Developer will provide an updated Final Tree Mitigation Plan for the entire on-site Project area, inclusive of the subdivision units and on-site parkway. Developer has agreed to utilize the on-site subdivision area for the entire Tree mitigation requirements as stated within the Draft Tree Mitigation Plan. The Developer has agreed to assist the Department with the off-site Tree Mitigation Plan during the off-site parkway Design.
- F. Developer agreed to offer to the County at no additional cost all export material that would be available on the subdivision site beyond that which is needed for the project 76114. This provision is included within the SIA and RIA amendments.
- G. Developer's requested to be reimbursed for Phase 1 of on-site road improvements (culverts & roadway prism grading). However, the Phase 1 Project was not competitively bid; therefore based on the TIM Fee Guidelines, these improvements are not eligible for TIM reimbursement. Developer subsequently requested reimbursement from SCIP.

**ENVIRONMENTAL REVIEW**

The following Environmental Documents are related to the Silver Springs Improvements:

On April 6, 1993, the County of El Dorado Board of Supervisors adopted the Final Environmental Impact Report ("EIR") (State Clearinghouse # 90021120) for the Bass Lake Road Realignment Project.

On December 15, 1998, the Tentative Map TM97-1330 for the Silver Springs development with Findings/Conditions of Approval and associated Final EIR (State Clearinghouse # 970720221) was approved by the Board of Supervisors.

On January 23, 2001, the Board approved an Addendum to the EIR for the Bass Lake Road Realignment Project (State Clearinghouse # 90021120) that addressed some inconsistencies between the Army Corp. Nationwide Permit and the approved EIR mitigation measures related to wetlands and streambeds.

On March 8, 2011, the Board of Supervisors approved an Addendum to the Silver Springs Subdivision EIR (State Clearinghouse # 970720221) that included the road improvement work related to the RIA AGMT#06-1111 for the intersection of Green Valley Road/Deer Valley Road.

The Department will update the Bass Lake Road Realignment EIR in coordination with the off-site Silver Springs Project CIP #76108.

### **FINANCIAL IMPACT**

There is no impact to the General Fund. Future reimbursement for County accepted infrastructure would be made to Silver Springs, LLC ("Developer") from the Zone 1-7 account of the 2004GP Traffic Impact Mitigation Program fund ("TIM Fund"), plus contributions from the County's Road Fund for a non-conditioned asphalt overlay on Green Valley Road at Deer Valley Road. Anticipated reimbursement amount for construction and non-construction soft costs to the Developer is approximately \$6.6 M, however, reimbursements will be based upon actual costs. The Capital Improvement Projects associated with the Agreements are included within the approved 2012 CIP.

### **NEXT STEPS:**

1. Department will continue to work with the Developer and County Counsel to finalize the Silver Springs Agreements;
2. Upon County Counsel's review and approval, obtain the Developer's signature on two (2) originals of each of the Silver Springs Agreements;
3. Department will submit two (2) signed originals of each of the Silver Springs Agreements to the Acting Clerk of the Board to obtain Board Chairs signature; and,
4. Department will submit one executed original of each Silver Springs Agreement to the Developer.

Respectively submitted,

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Kimberly A. Kerr  
Interim Director, Department Of Transportation

### **ATTACHMENTS**

- A – Third Amendment to SIA #06-1060
- B – Second Amendment to RIA #06-1111
- C – Reimbursement Agreement for Onsite & Offsite Road Improvements
- D – Requisition & Shortfall Agreement (SCIP)
- E – Assignment & Assumption Agreement
- F – Road Improvement Agreement for Silver Springs Parkway, Offsite
- G – Vicinity Map
- H – Staff Report
- I – 7/8/04 Correspondence
- J – 8/2/04 Correspondence