

ORIGINAL

15-54268

**Funding Agreement Between the
County of El Dorado
and the
Shingle Springs Band of Miwok Indians Development Corporation
for
Preparation of California Environmental Quality Act Documents
for the
Shingle Springs Village**

COUNTY SITE PLAN REVIEW NUMBER 15-0003

Funding Agreement #092-F1611

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 Shingle Springs Band of Miwok Indians Development Corporation, a federally chartered corporation of the Shingle Springs Band of Miwok Indians, whose principal place of business is 5168 Honpie Road, Placerville, California 95667 (hereinafter referred to as "Applicant");

W I T N E S S E T H

WHEREAS, Applicant is proposing to develop certain real property in El Dorado County described as Assessor Parcel Number (APN) 319-220-18 and has submitted an application for the proposed commercial development of Shingle Springs Village Project (Project), the subject of pending Site Plan Review (SPR) 15-0003; and

WHEREAS, County has determined environmental assessments and California Environmental Quality Act (CEQA) documents are 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 complete environmental assessments and prepare CEQA documents for a proposed project including the preparation of an Initial Study and Negative Declaration; and

WHEREAS, the California Environmental Quality Act, Section 21089 authorizes the County to collect fees to recover the costs for the completion of the environmental assessments and 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 completion of the environmental assessment and the preparation of CEQA documents for the

forementioned 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 County's Site Plan Review to authorize Applicant's development plan to allow for the development of commercial property known as Shingle Springs Village, the subject of Site Plan Review (SPR) 15-0003 on that real property described as Assessor's Parcel Number: 319-22-018.

ARTICLE III

Employment of Consultants as Independent Contractor: County, in furtherance of this Agreement, shall engage Hauge Brueck Associates, LLC, as an independent contractor, to provide environmental assessments and other related services to coordinate and support the preparation of legally and technically adequate CEQA documents and for the development of the Shingle Springs Village Project (Project) located in Shingle Springs in El Dorado County, California. Hauge Brueck Associates, LLC is hereinafter referred to as "Consultant."

The environmental assessment and CEQA documents 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, Consultant shall prepare and review said reports so as to be as accurate and objective as reasonably possible. It is further agreed that in all matters pertinent to this Application, Consultant shall act solely as Consultant to County and shall not act, in any capacity as Consultant to, representatives of, or agents of Applicant. Applicant shall not engage in communications or contact with Consultant without prior written authorization of County.

ARTICLE IV

Funding for this Agreement: Funding for this Agreement is provided entirely by Applicant, who shall make a deposit of 100% of the total funding amount funds with County to pay the cost of the environmental services. Applicant, upon execution of this Agreement, shall deposit with County the sum of **Forty Thousand Dollars and Zero Cents (\$40,000.00)** as compensation for Consultant to be engaged by County for the completion of environmental assessments and the preparation of CEQA documents. The amount on deposit with County shall be used to pay Consultant monthly in arrears, within forty-five (45) days following County's receipt and approval of itemized invoices detailing the services rendered.

The total amount of this Agreement **SHALL NOT EXCEED Forty Thousand Dollars and Zero Cents (\$40,000.00).**

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 Consultant. By deposit of the above-referenced funds, and by execution hereof, Applicant agrees that County may utilize said funds to compensate its Consultant to do the necessary work.

ARTICLE V

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

ARTICLE VI

Reimbursement: Upon completion of the environmental assessment and the CEQA documents, or termination of this Agreement, County shall reimburse Applicant for the difference between County's costs to fund its Consultant, 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 environmental assessment and CEQA documents 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 CEQA documents shall be certified or that the Project will be approved.

ARTICLE VIII

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 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

Attn.: Roger Trout
Development Services Division
Director

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

Attn.: Michele Weimer
Administrative Services Officer
Contracts & Procurement Unit

or to such other location as County directs.

Notices to Applicant shall be addressed as follows:

Shingle Springs Band of Miwok Indians Development Corporation
5168 Honpie Road
Placerville, California 95667

Attn.: Tamara Murray
Chairperson

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 Consultant's 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.

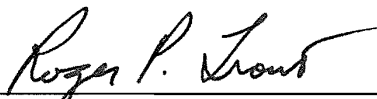
ARTICLE XV

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

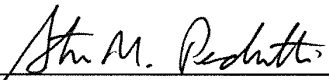
Indemnity: Applicant shall defend, indemnify, and hold County harmless against and from any and all claims, suits, losses, damages, and liability for damages of every name, kind and description, including attorney fees and costs incurred, brought for, or on account of, injuries to or death of any person, 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, Consultant, 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
Community Development Agency

Dated: 8-10-15

Requesting Department Concurrence:

By: 
Steven M. Pedretti, Director
Community Development Agency

Dated: 8/10/15

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

--COUNTY OF EL DORADO--

By: _____

Dated: _____


Board of Supervisors
"County"

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

By: _____
Deputy Clerk

Dated: _____

--SHINGLE SPRINGS BAND OF MIWOK INDIANS
DEVELOPMENT CORPORATION--

By:  _____
Tamara Murray
Chairperson
"Applicant"

Dated: 8-18-15