



# *County of Yuba*

## **Community Development & Services Agency**

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915 8<sup>th</sup> Street, Suite 123, Marysville, CA 95901

### **Planning Department**

Phone: (530) 749-5470

Fax: (530) 749-5434

Web: [http:// www.co.yuba.ca.us](http://www.co.yuba.ca.us)

### **PLANNING COMMISSION STAFF REPORT**

**Hearing Date:** November 15, 2023

**Case Number:** DEVELOPMENT AGREEMENT: DA2020-0001 (Feather River Center)

**Request:** A request by the owners of the Feather River Center to lock in the development fees and rights of the existing commercial center known as the Feather River Center for a term of 10 years in exchange for community amenities and improvements.

**Location:** The project is located between North Beale Road, Lindhurst Ave and State Highway 70 in the community of Linda.

**Applicant:** Hust Brothers, Inc  
Sierra Limited, LP  
Hilbers Properties LP  
Sean O'Neil

**Recommendation:** Adopt the attached resolution recommending that the Board of Supervisors approve the Development Agreement between the project ownership group and Yuba County.

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### **BACKGROUND:**

The Feather River Center was a 489,000 square foot commercial center located along both North Beale Road and Lindhurst Ave and east of State Highway Route 70 in the community of Linda that acted in the 1980's as the main commercial center for the Yuba-Sutter communities. In 1986 the Feather River Center experienced a significant flood event when the nearby Yuba River levee system suffered a catastrophic levee breach. Following the 1986 flooding of the Feather River Center, the robust commercial power center started to fade as commercial activities in the commercial center never returned to their pre-flooding levels. Over the next 25 years the Feather River Center fell into a state of disrepair, became void of commercial tenants besides FoodMaxx, and experienced significant visual blight for the community of Linda.

As the 489,000 square foot building was legally constructed and paid all County development impact fees and building permit fees at the time of its construction, the Feather River Center had built in fee credits that would not need to be repaid if the commercial center found new tenants or was going to be redeveloped. The owners had a vested interest in keeping the visually blighted structure standing. Started around 2019 the County and Feather River Center ownership group started having discussions about the ownership group entering into a Development Agreement with the County that would allow the ownership team to retain the development impact fees and development rights of the commercial center in exchange for the ownership group demolishing the commercial center and removing the visual blight the center had become.

Over the last four years, the Feather River Center experienced a catastrophic fire that affected all of the commercial center besides the FoodMaxx building and the fire damaged buildings were subsequently demolished ending the visual blight concern. Additionally, over the last few years the site has experienced a huge economic catalyst with the new construction of a Costco on the commercial center that will be the impetus to the economic revitalization the commercial center has desperately needed. The proposed draft Development Agreement before the Planning Commission is intended to finalize the original terms of the agreement between the owners of the Feather River Center and the County so the property can return it its pre-1986 prosperity.

### **DISCUSSION:**

In order to strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic cost of development, the Legislature of the State of California adopted Section 65864 of the Government Code, authorizing local governments to enter into development agreements with applicants for development projects. The objective of such an agreement is to provide assurances that, upon approval of the project, the applicant may proceed with the project in accord with existing policies, rules, and regulations, subject to the conditions of approval, thus vesting certain development rights in the property.

Yuba County Ordinance Code Section 11.66.010 further states that a development agreement may be appropriate where one or more of the following circumstances exist:

- To facilitate development projects for which there is significant applicant contribution toward infrastructure, public facilities, open space or other amenities, or other programs of benefit to the County and its residents;
- To assure the applicant that upon approval of the subject project, the project may proceed in accordance with existing County policies, rules and regulations in place at the time of Development Agreement approval;
- To encourage private participation in comprehensive planning and provision of public facilities, including, but not limited to, streets, sewerage, transportation, potable water, schools and utilities; and
- To provide a net benefit to the County and its residents not otherwise obtainable through other processes.

The property ownership group as demonstrated that they have met the appropriateness of entering into a development agreement as listed above. In addition Chapter 11.66 requires that a public hearing be held by both the Planning Commission and the Board of Supervisors prior to approval of a development agreement.

A draft of the proposed development agreement is provided in Attachment 2 for the Commission's review (the final documents will be forwarded to the Board of Supervisors for action). It is important to note that the development agreement are still subject to modification until they are adopted by the Board of Supervisors. As a part of the new development agreement, the developer and the County have agreed to the following main points that meet the circumstances in 11.66.010. The following is a summary of the provisions of the proposed agreements:

1. The agreements shall commence on the effective date of the adopting ordinance and shall continue in force for a period of ten (10) years from date of the adopted ordinance.
2. During the term of the agreements the Developer's rights shall be vested only as to the entitlements already approved.
3. No moratorium, quotas or other growth limitations will be imposed on the properties being vested by the agreements unless uniformly applied by the County for a health or safety issue.
4. In the agreements the County agrees to make best efforts to process building permits for approved master plans within thirty (30) days.
5. Developer will have fee credits for 204,120 square feet of commercial buildings. Developer will have full credits for the first five (5) years of this agreement. Fee credits shall decrease by 20% a year for the next five (5) years of the agreement.
6. Developer shall complete improvements as part of TPM2005-0025.
7. Developer shall maintain landscaping along street frontages and enter into a Landscape Maintenance Agreement that will cover future landscaping maintenance.
8. Developer shall develop a master architectural theme for future commercial building to follow.
9. Developer shall pay an in-lieu fee of \$50,000 to the Yuba County Planning Department to cover the costs the Planning Department will experience to administrate the agreement in the future.

**FISCAL IMPACT:**

None.

**ENVIRONMENTAL DETERMINATION:**

The development agreements are exempt from further environmental review pursuant to Section 15182 of the California Environmental Quality Act regarding "Residential Projects Pursuant to a Specific Plan", due to the fact the development agreements proposed do not alter the maps, the conditions of approval of the maps or the environmental determinations made at the approval of the maps.

**Attachments:**

1. Resolution
2. Draft Development Agreement

Report Prepared By:

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Kevin Perkins  
Assistant CDSA Director

**BEFORE THE COUNTY OF YUBA  
PLANNING COMMISSION**

**RESOLUTION RECOMMENDING THAT THE )  
BOARD OF SUPERVISORS APPROVE THE ) RESOLUTION NO.: \_\_\_\_\_  
DEVELOPMENT AGREEMENT BETWEEN )  
THE FEATHER RIVER CENTER, LLC AND )  
THE COUNTY OF YUBA (FILE REF: DA2020- )  
0001) )**

**WHEREAS**, the Feather River Center, LLC has requested approval of a Development Agreement for the areas identified on ‘**EXHIBIT A**’, incorporated by reference, located within the community of Linda and

**WHEREAS**, the Development Agreement (File Ref: DA2020-0001) is a request to secure development fees and rights to the existing commercial center known as the Feather River Center for a ten-year period; and

**WHEREAS**, an exemption in accordance with Section 15301 of the California Environmental Quality Act Guidelines have been prepared for the project. This exemption is due to the fact the development agreement proposed is for an existing facility that is seeking to vest its development impact fees and rights and not expand its current building square footage footprint; and

**WHEREAS**, the Community Development & Services Agency of the County of Yuba has provided due notice of a public hearing before this Commission for the consideration of the proposed project in accordance with Government Code Sections 65090 and 65091; and

**WHEREAS**, the documents and other materials constituting the administrative record of the proceedings upon which the Planning Commission’s decision is based are located at the Yuba County Government Center offices at 915 8<sup>th</sup> Street, Marysville, CA 95901, and that the custodian of the records is the Yuba County Planning Department.

**NOW, THEREFORE, BE IT RESOLVED**, after due deliberation, study, and public hearing the following circumstances exist:

1. The foregoing recitals are true and correct.
2. The Planning Commission finds that the Development Agreement will provide clear and substantial benefits to the County and its residents.
3. The Planning Commission finds that the Development Agreement complies with applicable policies and regulations set forth in the Zoning Ordinance, other County ordinances, the General Plan and any other applicable community or specific plan,

and the Improvement Standards.

4. The Planning Commission finds that the Development Agreement complies with the requirements of California Government Code Sections 65864 et seq.
5. The Planning Commission finds that the Development Agreement will promote the public health, safety and welfare, and will not be detrimental to or cause adverse effects to the residents, property, or improvements in the vicinity of the subject project.
6. The Planning Commission finds that the Development Agreement will be compatible with the uses allowed in, and the regulations that apply to, the zone in which the subject property is located.
7. The Planning Commission finds that the Development Agreement will not cause adverse effects to the orderly development of property or the preservation of property values in the county.
8. The Planning Commission finds that the Development Agreement will further important countywide goals and policies that have been officially recognized by the Board of Supervisors.
9. The Planning Commission finds that the Development Agreement will provide the county with important, tangible benefits beyond those that may be required by the County through project conditions of approval.

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10. The Planning Commission recommends that the Yuba County Board of Supervisors approve the Development Agreement between the Feather River Center, LLC and the County (File Ref: DA2020-0001).

**PASSED AND ADOPTED** at a special meeting of the Planning Commission of the County of Yuba, State of California, on the 18<sup>th</sup> day of October 2023, by the following vote.

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

\_\_\_\_\_  
CHAIRMAN

Yuba County Planning Commission

ATTEST:  
Planning Commission Secretary

APPROVED AS TO FORM:  
Joe Larmour, County Counsel

BY: \_\_\_\_\_

BY:   \_\_\_\_\_

**RECORDING REQUESTED BY  
AND WHEN RECORDED, MAIL TO:**

Clerk of the Board  
County of Yuba  
915 8th St. Suite 109  
Marysville, CA 95901

*Space above for Recorders Use Only*

**DEVELOPMENT AGREEMENT  
BY AND BETWEEN  
THE COUNTY OF YUBA AND  
HUST BROTHERS, INC., A CALIFORNIA CORPORATION, CAL  
SIERRA LIMITED, LP, A CALIFORNIA LIMITED PARTNERSHIP,  
HILBERS PROPERTIES LP, A CALIFORNIA LIMITED PARTNERSHIP  
AND SEAN O'NEILL, AN INDIVIDUAL  
  
RELATIVE TO THE DEVELOPMENT KNOWN AS  
FEATHER RIVER CENTER**

This document, including exhibits, totals \_\_\_\_\_ pages.



**REFERENCE SHEET**

**Project:** A Portion of the Feather River Center

**Developer:** Hust Brothers, Inc., a California corporation, Cal Sierra Limited, LP, a California limited partnership, Hilbers Properties LP, a California limited partnership and Sean O'Neill, an individual

**Developer's Address for Purpose of Written Notice:**

6000 A Lindhurst Ave.  
Marysville, CA 95901

**Landowner:**

Hust Brothers, Inc., a California corporation, Cal Sierra Limited, LP, a California limited partnership, Hilbers Properties LP, a California limited partnership and Sean O'Neill, an individual  
6000 A Lindhurst Ave.  
Marysville, CA 95901

**Term:**

The Term of the Development Agreement, as provided for in section 1.8 is ten (10) years, which begins (30) days after the Board of Supervisors enacts the Adopting Ordinance (noted below)

**Entitlements:**

As referred to in Recital 5 shall mean TPM 2005-0025 and future permits to reconstruct and or construct structures on the Subject Property for uses in accordance with the County's General Plan adopted on June 7, 2011 and in intensity of use that does not exceed the 370,000 square feet of commercial structures previously permitted on the Subject Property.

**CEQA document:** General Plan EIR certified on June 7, 2011  
(SCH#2010062054)

**Adopting Ordinance:**

As defined in Section 1.3 (a), refers to Ordinance No. \_\_\_\_\_ enacted by the Board of Supervisors on \_\_\_\_\_, 20\_\_\_\_.

**Exhibits which are attached to this Development Agreement are as follows:**

- A. Legal Description of Subject Property
- B. Assumption Agreement
- C. Sample Notice of Termination

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THIS DEVELOPMENT AGREEMENT ("Agreement") is made by and between the COUNTY OF YUBA, a political subdivision of the State of California ("County"), and HUST BROTHERS, INC., a California corporation, CAL SIERRA LIMITED, LP, a California limited partnership, HILBERS PROPERTIES LP, a California limited partnership and SEAN O'NEILL, an individual (collectively, "Developer") pursuant to the authority of Article 2.5, Chapter 4, Division 1, Title 7 (§ 65864 et seq. of the Government Code) relating to Development Agreements.

### **RECITALS**

1. In order to strengthen the public land use planning process, to encourage private participation in the process, to reduce the economic risk of development and to reduce the waste of resources, the Legislature adopted the Development Agreement Law (Gov. Code, § 65864 et seq.)

2. The Development Agreement Law permits cities and counties to contract with private interests for their mutual benefit in a manner not otherwise available to the contracting parties. Such agreements, as authorized by the Development Agreement Law and by common law, assure property developers that they may proceed with their projects with the assurance that approvals granted by public agencies will not change during the period of development. Cities and counties are equally assured that costly infrastructure such as roads, sewers, fire protection facilities, etc., will be available in a timely manner.

3. The parties have, in good faith, negotiated the terms hereinafter set forth which carry out the legislative purpose set forth above and will assure the parties to this Agreement of mutually desirable development in a manner consistent with the CEQA document, the Entitlements, and this Agreement.

4. Developer owns in fee the Subject Property commonly referred to as a portion of the **Feather River Center** and more particularly described on **Exhibit A** hereto, located in the County. Developer and County acknowledge and agree that a substantial portion of the Project is not owned by Developer. None of the requirements of this Agreement shall apply to areas of the Feather River Center outside of the Project, and the Project shall not be bound by any agreements which affect such other areas of the Feather River Center.

5. County, in response to Developer's application(s), after public hearings and extensive environmental analysis, has granted approval of the Entitlements, as set forth on the Reference Sheet.

6. In support of the various Entitlements described in paragraph 5 above, and in accord with the California Environmental Quality Act ("CEQA") and State and County guidelines, County has accepted and ratified a CEQA document, as set forth in the Reference Sheet.

7. Development of the Subject Property pursuant to the terms and conditions of the Entitlements, the General Plan and appropriate environmental determinations will provide for orderly growth and development consistent with the County's General Plan and other development policies and programs.

8. The Planning Commission considered this Agreement, and recommended its adoption to the Board of Supervisors.

9. Having duly considered this Agreement and having held the noticed public hearings, County finds and declares that the provisions of this Agreement are consistent with the maps and text of the County's General Plan.

**NOW, THEREFORE**, the parties hereto agree as follows:

## **ARTICLE 1**

### **GENERAL PROVISIONS**

**Section 1.1. The Project.** The Project is defined as set forth on the Reference Sheet.

**Section 1.2. Subject Property.** The Subject Property is more specifically described in **Exhibit A**, which is incorporated herein and made part of this Agreement.

**Section 1.3. Definitions.** As used in the Agreement, the following terms, phrases and words shall have the meanings and be interpreted as set forth in this Section.

(a) **Adopting Ordinance** means the ordinance which approves this Agreement as required by Government Code section 65867.5.

(b) **Applicable Laws** means the General Plan, Specific Plan (if applicable), County Laws, rules, ordinances, regulations, and official policies governing the processing of entitlements, the permitted uses of the Subject Property, the density or intensity of use, the rate and timing of development, design, improvements, reservation or dedication of land for public improvements, fees, exactions, construction and building setbacks, occupancy and specifications, and state or federal statutory or common law applicable to the Subject Property in effect on the Effective Date of this Agreement.

(c) **Assumption Agreement** means an agreement substantially conforming to the model assumption agreement described in **Exhibit B**, or other agreement in a form approved by the County Counsel, executed by a Landowner with the Developer, expressly assuming various obligations relating to the development of the Project, or portion thereof.

(d) **CEQA** means the California Environmental Quality Act section 21000 et seq., of the Public Resources Code of the State of California.

(e) **County** means the County Board of Supervisors for the County of Yuba, or its designee.

(f) **County Laws** means ordinances, resolutions, rules, regulations, policies, motions, directives, mitigation measures, conditions, standards, specifications, dedications, fees, taxes (including without limitation general, special and excise taxes), assessments, liens, other exactions and impositions, and any other actions having the force of law, that are enacted or adopted by County, or by its electorate through the initiative or referendum process.

(g) **Developer** shall mean that person or entity that has applied for this Development Agreement as defined on the Reference Sheet.

(h) **Director** means the Community Development Director for the County, or his/her designee.

(i) **Effective Date** means the effective date of the Adopting Ordinance.

(j) **Entitlements** shall mean those approvals listed on the Reference Sheet of this Agreement, approved copies of which are on file with the Board of Supervisors.

(k) **General Plan** means the General Plan of the County, adopted on June 7, 2011, including the text and maps, as may have been amended in connection with the Project.

(l) **Landowner** is a party who has acquired any portion of the Subject Property from the Developer who, unless otherwise released as provided in this Agreement, shall be subject to the applicable provisions of this Agreement.

(m) **Planning Commission** shall mean the County's Planning Commission.

(n) **Reserved Powers** shall mean those powers explicitly reserved to the County by this Agreement.

(o) **Subject Property** means the property described in Section 1.2, or the remaining portions thereof after releases from the provisions of this Agreement have been executed as authorized by this Agreement.

**Section 1.4. Exhibits.** Exhibits to this Agreement are as follows:

<b>Exhibit A</b>	Legal Description of Subject Property
<b>Exhibit B</b>	Assumption Agreement

**Exhibit C      Sample Notice of Termination**

**Section 1.5. Incorporation of Recitals.** Recitals 1 through 9 are incorporated herein, including all exhibits referred to in the Recitals. In the event of inconsistency between the Recitals and the provisions of Articles 1 through 5, the provisions of Articles 1 through 5 shall prevail.

**Section 1.6. Parties to Agreement.** The parties to this Agreement are:

(a) **The County of Yuba.** A political subdivision of the State of California exercising general governmental functions and powers. The principal office of the County is located at 915 8th Street, Marysville, California 95901.

(b) **Developer.** Hust Brothers, Inc., a California corporation, Cal Sierra Limited, LP, a California limited partnership, Hilbers Properties LP, a California limited partnership and Sean O'Neill, an individual, who collectively own the Subject Property in fee.

(c) **Landowner.** From time to time, as provided in this Agreement, Developer may sell or otherwise lawfully dispose of a portion of the Subject Property to a Landowner who, unless otherwise released, shall be subject to the applicable provisions of this Agreement related to such portion of the Subject Property.

**Section 1.7. Project is a Private Undertaking.** It is agreed among the parties that the Project is a private development and that the County has no interest therein except as authorized in the exercise of its governmental functions.

**Section 1.8. Term of Agreement.** This Agreement shall commence upon the Effective Date of the Adopting Ordinance approving this Agreement and shall continue in force for the period shown on the Reference Sheet under "Term." Upon the expiration of the Term as provided for in this section, this Agreement shall automatically terminate and be of no further force and effect; provided however, such termination shall not affect the rights or duties arising from the entitlements for the Subject Property which were approved prior to, concurrently with, or subsequent to the approval of this Agreement.

**Section 1.9. Assignment and Assumption.**

(a) Developer shall have the right to sell, assign, or transfer this Agreement with all the rights, title and interests therein to any person, firm or corporation who qualifies as a Landowner at any time during the term of this Agreement.

(b) The conditions and covenants set forth in this Agreement and incorporated herein shall run with the land and the benefits and burdens shall bind and inure to the benefit of the parties. Developer shall provide County with a copy of the Assumption Agreement. Express written assumption by such purchaser, assignee or transferee, to the reasonable satisfaction of the County Counsel, of the obligations and



other terms and conditions of this Agreement with respect to the Subject Property or such portion thereof sold, assigned or transferred, shall relieve the Developer selling, assigning or transferring such interest of such obligations so expressly assumed. Any such assumption of Developer's obligations under this Agreement shall be deemed to be to the satisfaction of the County Counsel if executed in the form of the Assumption Agreement attached hereto as **Exhibit B** and incorporated herein by this reference, or such other form as shall be approved by the County Counsel.

**Section 1.10. Covenants Running with the Land.** Each and every purchaser, assignee or transferee of an interest in the Subject Property, or any portion thereof, shall be obligated and bound by the terms and conditions of this Agreement, and shall be the beneficiary thereof and a party thereto, but only with respect to the Subject Property, or such portion thereof, sold, assigned or transferred to it. Any such purchaser, assignee or transferee shall observe and fully perform all of the duties and obligations of a Developer contained in this Agreement, as such duties and obligations pertain to the portion of the Subject Property sold, assigned or transferred to it. Provided however, notwithstanding anything to the contrary above, if any such sale, assignment or transfer relates to a completed residential unit or non-residential building which has been approved by the County for occupancy, this Agreement shall automatically terminate with respect to the Completed Lot. The termination of this Agreement for any Completed Lot shall not be construed to terminate or modify any assessment district, landscape maintenance agreement, or Mello-Roos community facilities district lien affecting such Completed Lot at the time of termination. Upon the request of a Developer, County shall execute such documents as are reasonably requested to remove this Agreement from the public records as it affects each Completed Lot. The County may charge a reasonable fee to process this request.

**Section 1.11. Amendment to Agreement (Developer and County).** This Agreement may be amended by mutual consent of Developer and County in writing, in accordance with the provisions of Government Code section 65868 and provided that any proposed amendment shall require a noticed public hearing before the parties may execute an amendment, pursuant to Government Code section 65687. Any amendment entered into shall require the signature of each of Developer and County.

**Section 1.12. Amendment to Agreement (Landowner and County).** This Agreement may also be amended, subject to the provisions of Government Code section 65868, between a Landowner who has acquired a portion of the Subject Property from Developer and the County as to the portions of the Subject Property then owned by Landowner.

Any amendment entered into between the County and a Landowner shall require the signature of each Landowner of any portion of the Subject Property or the Developer to the extent the amendment modifies the Agreement as to that Landowner's or the Developer's property.

**Section 1.13. Releases.** Developer, and any subsequent Landowner, shall be deemed released from all further obligations relating to the sold, assigned, or transferred property, upon the date that the Yuba County Clerk of the Board receives a copy of the Assumption Agreement provided for in Section 1.9.

**Section 1.14. Notices.** Notices, demands, correspondence, and other communication shall be deemed received and complete if dispatched by prepaid first-class mail to the principal offices of the parties as designated in Section 1.6(a) and on the Reference Sheet for the Developer. Notice to the County shall be to the attention of both the County Administrator and the Director. Notices to subsequent Landowners shall be required to be given only for those Landowners who have given written notice of their address for such notices. The parties hereto may, from time to time, advise the other of new addresses for such notices, demands or correspondence.

**Section 1.15.** Intentionally omitted. See Section 2.14.

**Section 1.16. Recordation of Agreement.** The Clerk of the Board shall cause a copy of this Agreement to be recorded with the County Recorder not later than ten (10) days after execution of this Agreement by the County and Developer.

**Section 1.17. Applicable Law.** This Agreement shall be construed and enforced in accordance with the laws of the State of California.

**Section 1.18. Invalidity of Agreement/Severability.** If this Agreement in its entirety is determined by a court to be invalid or unenforceable, this Agreement shall automatically terminate as of the date of final entry of judgment. If any provision of this Agreement shall be determined by a court to be invalid and unenforceable, or if any provision of this Agreement is rendered invalid or unenforceable according to the terms of any federal or state statute, which became effective after the Effective Date, the remaining provisions shall continue in full force and effect.

**Section 1.19. Third Party Legal Challenge.** In the event any legal action or special proceeding is commenced by any person or entity other than a party to this Agreement, challenging this Agreement, the Entitlements or any approval subsequently granted by the County for the development of the Subject Property, the parties and any Landowner agree to cooperate with each other in good faith. Developer and/or Landowner(s) (to the extent the litigation, in part or in whole, seeks to overturn or invalidate this Agreement, the Entitlements or any subsequent approval granted for the Subject Property held by or granted to Developer and/or Landowner), and, in such event, Developer and/or such Landowner(s) shall indemnify, hold the County harmless from and defend the County from all costs and expenses incurred in the defense of such legal action or other proceeding, including, but not limited to, damages, attorneys' fees and expenses of litigation awarded to the prevailing party or parties in such litigation. For purposes of this section only, "County" shall include all employees, consultants and agents acting on behalf of the County. Neither party shall settle any such legal action or other proceeding without the consent of the other party. The County may elect to

participate in the litigation, in which case the Developer and/or Landowner agree to reimburse the County for its costs and fees, including the retention of outside legal counsel and all staff costs. It is the intent of the parties that the County's participation not result in unnecessary duplication of legal services, but rather that the County's active involvement in the litigation be limited to supervising the preparation of the administrative record or discovery as applicable, monitoring of litigation, and responsive pleadings regarding issues which, in the sole opinion of the County, involve broader County concerns than those immediately affecting the Landowner and/or Developer. Upon written demand of the County, Developer and/or Landowner shall deposit with the County such sums as may be specified by the County as its estimated litigation costs and fees for the following thirty (30) day period. Both parties shall act in good faith, and shall not unreasonably withhold consent to settle. In the event that the County elects to settle a claim, and Developer refuses to also settle, County at its sole option may require Developer to post security in a form and amount reasonably acceptable to the County, for the performance of Developer's duties under this section to indemnify, hold harmless, and defend. If the Developer, within thirty (30) days of receiving written notice from County, fails to post this security, the Developer shall settle the claim on terms as previously approved by the County. This provision shall survive the termination of this Agreement. See Section 2.14.

**Section 1.20. Priority of Enactment.** In the event of conflict between the Development Agreement, the Entitlements and the County Laws, the parties agree that the following sequence of approvals establishes the relative priority of approvals, each approval superior to the approvals listed thereafter: (1) the Development Agreement; (2) the Entitlements; and (3) the County Laws. In the event of a conflict between two or more of the foregoing documents, the language of that document which is superior in priority as provided above shall govern.

## ARTICLE 2

### PROJECT DEVELOPMENT

**Section 2.1. Vested Right.** During the Term of and subject to the terms of this Agreement, the Developer's rights shall be vested only as to the Entitlements. "Vested" shall mean that except as to express limitations and reservations contained in this Agreement, Developer has a fully vested right to develop the Subject Property in accordance with the terms and conditions of this Agreement and the Entitlements, and Developer's Entitlements shall not be subject to changes in Applicable Laws. To the extent that any changes in the Applicable Laws are in conflict with Developer's vested rights secured by this Agreement, the vested rights shall prevail. Notwithstanding the foregoing, Developer may elect, in its sole discretion, to comply with or receive the benefits of changes in Applicable Laws by providing notice to the County of said election. If the Developer seeks any additional entitlements, approvals, or permits in the implementation of the Project, the County's consideration of such subsequent entitlements, approvals, and permits shall be in accordance with Applicable Laws. Upon approval of such subsequent entitlements, approvals, or permits, such subsequent

entitlements, approvals, or permits shall also be considered vested. This section shall not be construed to limit the authority or obligation of the County to hold necessary public hearings, or to limit the discretion of the County or any of its officers or officials with regard to rules, regulations, ordinances, laws and entitlements, which require the exercise of discretion by the County or any of its officers or officials in accordance with the Applicable Laws, or exercise those reserved powers as set forth in Section 2.9.

**Section 2.2. No Moratorium.** Except as otherwise provided by the terms and conditions of this Agreement or the Entitlements, no ordinance, resolution, rule, regulation or policy of County shall be applied, imposed or enacted by County, by resolution, ordinance, initiative or otherwise, which in any way relates to the rate, timing or sequencing of the development or use of the Property, or any improvements related thereto, including without limitation, any no-growth or slow-growth moratoriums or annual development allocations, quotas or limitations, or in any way conflicts with the permitted uses, density and intensity of uses, maximum building height and size set forth in the Entitlements; provided, however, Developer shall be subject to any such growth limitation ordinance, resolution, rule, regulation or policy which is adopted on a uniformly applied, County-wide basis and directly concerns a public health or safety issue, in which case County shall treat Developer in a uniform, equitable and proportionate manner with all properties which are zoned consistent with Developer's zoning set forth in the Entitlements.

**Section 2.3. Permitted Uses, Development Standards and Condition of the Subject Property.** The permitted uses and development standards shall be those as set forth in and permitted by the County's zoning, and subdivision ordinances that are consistent with the General Plan adopted on June 7, 2011. Building codes are determined based on the date of application of the applicable building permit. The Developer agrees to provide proper care and maintenance of the Subject Property, by keeping it in a neat and clean manner that does not create a public nuisance and/or blight, especially as viewed by the public from the State Highway and County roads. Enforcement costs incurred by the County associated with enforcing the County's nuisance ordinances shall be paid within sixty (60) days. Failure to pay timely will be grounds for default of the Agreement by the Developer.

**Section 2.4. Landscape Maintenance.** Developer agrees to maintain the street frontage landscaping, including repair and/or replace, and to upgrade as may be needed said landscaping to conform to current street frontage landscaping requirements within twelve (12) months of the execution of this agreement. Developer shall create a Landscape Maintenance Agreement that details the landscaping maintenance responsibilities of the entire subject property for all current and future owners of the subject property. A copy of the Landscape Maintenance agreement shall be submitted for review and approval by the County within sixty (60) days of execution of this agreement and may be recorded at the discretion of the County.

**Section 2.5. Application, Processing and Inspection Fees.** Application fees, processing fees, and inspection fees that are revised during the term of this Agreement

shall apply to the development pursuant to this Agreement, provided that such revised fees would apply generally to any similar private projects or works within the County.

**Section 2.6. Development Impact Fees.** The County and Developer agree that there shall be credit of County development impact fees of 204,120 square feet (370,000 square feet – 165,880 of Costco and Costco gas station) of commercial buildings that was demolished on the subject property that may be applied toward replacement structures located on the subject property, with intensity of uses of replacement structures not cumulatively exceeding what is principally permitted to occur within the existing buildings, and subject to the limitations listed below:

- (a) Development Impact fees for this Section shall include those category of facility types, as of the effective date of this agreement that are collected by the County. This Section shall not apply to new categories of facility impact fees that are established after the effective date of this agreement that are a result of a new obligation of the respective agency and the fee is generally applied to all future building permits within the agency's jurisdiction.
- (b) For replacement structures, equivalent intensity of replaced square footage to that of the demolished square footage will be determined by the agency whose facility is impacted by the replacement square footage
- (c) County shall maintain a development impact fee credit tracking spreadsheet that covers all reductions to the 204,120 square feet of credited development impact fees. At such time a reduction in credit is applied on the development impact fee credit tracking spreadsheet, the County will provide notification to the Developer of said change.
- (d) Developer shall receive full County fee credits for the first five (5) years of this agreement. Fee credits shall decrease by 20% a year for the next five (5) years of the agreement.

**Section 2.7. Demolition of Existing Buildings.**

- (a) Intentionally omitted.
- (b) County agrees that stockpiling, processing, and resale of the non-hazardous demolished building materials is allowed so long as the materials associated with each demolition permit are removed from the Subject Property within one (1) year following the execution of this agreement:
  - Prior to stockpiling and resale activities, Developer must first obtain all required local permits including, but not limited to a grading permit. Developer shall not import material to the Subject Property and shall pay the export material fee for all stockpiled material.
  - Developer shall provide temporary fencing of stockpile area that will adequately secure the materials from unauthorized access.
  - Developer shall obtain any required Federal or State permits associated with stockpiling and reselling the material.

**Section 2.8. Processing of Building Permits.**

- (a) The County shall make best efforts to process and approve within sixty (60) days all building permits consistent with principally approved uses requested by Developer that do not in aggregate exceed the equivalent intensity of allowable uses of the 370,000 square feet of commercial buildings, provided that the Developer submits to the County all required materials, including building and plot plans, and pays all required submittal fees at the time of submission.
- (b) The Developer shall complete the offsite traffic improvements contained in conditions of approval of TPM2005-0025. These improvements are required to be completed prior to issuance of certificate of occupancy. In addition, Developer agrees to dedicate, free of charge, additional right of way along the frontage of the Subject Property not to exceed 15' if needed to accommodate expansion of North Beale Road, Lindhurst Avenue, and/or the future reconfiguration of the intersection of these two roads in order to address future traffic capacity and/or multi-modal transportation improvement projects.
- (c) Developer agrees to develop an architectural theme and master site layout for the Subject Property (excluding existing buildings) and submit it to the County for approval by the Community Development Director prior to submittal of any building permits for new buildings on the Subject Property.

**Section 2.9. Life of Tentative Maps.** The life of any tentative map or parcel map approved as of the Effective Date is extended for the Term of this Agreement or the duration of such entitlement approval according to law, whichever occurs later, as provided in Government Code sections 66452.6(a) and 65863.9. In the event that this Agreement is terminated for any reason, any extension to a tentative subdivision map or parcel map provided by this Agreement shall automatically expire.

**Section 2.10. Reserved Powers.** Notwithstanding any other provision of this Agreement, and without limitation as to any other requirements or exceptions contained in this Agreement, the County retains the authority to take the following actions and apply the same to the Subject Property:

- (a) The authority of the Board of Supervisors to adopt regulations to protect the County and its citizens from an immediate and significant adverse risk to health and safety. This shall include, but not be limited to, lack of sufficient sewer and/or water facilities, but not school facilities.
- (b) Adopt new or amended building codes (as may be amended by the County), including, but not limited to, the California Code of Regulations that generally apply equally to all buildings, structures, and real property in the County.
- (c) Adopt land use regulations, ordinances, policies, programs, resolutions or fees generally applicable to similar development projects adopted or undertaken by County in order to comply with state or federal laws, or regulations, provided that in the event that such state or federal laws or regulations prevent or preclude compliance with one or more provisions of this Agreement, such provision or

provisions shall be modified or suspended as may be necessary to comply with such state or federal laws or regulations.

(d) Adopt County land use regulations, ordinances, policies, programs or resolutions after the Effective Date, which are in conflict with the Applicable Laws, but the application of which to the development of the Subject Property has been consented to in writing by the Developer and/or the applicable Landowner by later separate document, which consent Developer and/or Landowner may withhold in their sole and exclusive discretion.

**Section 2.11. Obligation and Rights of Mortgage Lenders.** The holder of any mortgage, deed of trust or other security instrument with respect to the Subject Property, or any portion thereof, shall not be obligated under this Agreement to construct or complete improvements or to guarantee such construction or completion, but, in the event said holder takes title to the Subject Property through foreclosure of a mortgage or a deed of trust, or deed-in-lieu of such foreclosure, said holder shall be bound by all of the terms and conditions of this Agreement which pertain to the Subject Property or such portion thereof in which it holds an interest. Any such holder who comes into possession of the Subject Property, or any portion thereof, pursuant to a foreclosure of a mortgage or a deed of trust, or deed in lieu of such foreclosure, shall take the Subject Property, or such portion thereof, subject to any pro rata claims for payments or charges against the Subject Property, or such portion thereof, which accrue prior and subsequent to the time such holder comes into possession. Nothing in this Agreement shall be deemed or construed to permit or authorize any such holder to devote the Subject Property, or any portion thereof, to any uses, or to construct any improvements thereon, other than those uses and improvements provided for or authorized by this Agreement, subject to all of the terms and conditions of this Agreement.

Upon foreclosure or deed-in-lieu thereof, a lender has no obligation to pay any amounts related to the Subject Property, except for any abatement liens placed by the County, unless said lender or successor-in-interest elects to use the Entitlements to develop the Subject Property.

**Section 2.12 Tolling and Extension During Legal Challenge or Moratoria.**

(a) If this Agreement, any of the Entitlements or any subsequent entitlements, approvals or permits required to implement the Entitlements are subjected to legal challenge by a third party, other than Developer, and Developer cannot or elects not to proceed with development of the Subject Property during such litigation, the Term of this Agreement and timing for obligations imposed pursuant to this Agreement shall, upon written request of Developer to County, be extended and tolled during such litigation until the entry of final order or judgment upholding this Agreement, the Entitlements, subsequent entitlements, approvals and/or other permits required to implement the Entitlements, or the litigation is dismissed by stipulation of the parties.

(b) If this Agreement, any of the Entitlements or any subsequent entitlements, approvals or permits required to implement the Entitlements are subjected to moratoria, and Developer cannot or elects not to proceed with the development of the Subject Property during such moratoria, the Term of this Agreement and timing for obligations imposed pursuant to this Agreement shall, upon written request of Developer to County, be extended and tolled during such moratoria. Moratoria shall be defined as restrictions, moratorium or de facto moratoria on approval or recordation of final maps, issuance of building permits, final inspections or certificates of occupancy, or approval or issuance of other such entitlements or permits, at the time of the transfer which would limit the reasonable ability to construct in a similar fashion a development project previously approved by the County

**Section 2.13 Property Tax.** Developer shall pay all installments of property tax applicable to the Subject Property, prior to such installments becoming delinquent, when due.

**Section 2.14 Administrative Fees.** Developer shall pay an in-lieu fee of \$50,000 to the Yuba County Planning Department to cover the costs of administering the terms of this Agreement, including tracking of development impact fee credits, which fee shall be paid in lieu of any costs payable by Developer pursuant to Section 1.15 above. This in-lieu fee also includes all cost and fees associated with such Annual Review as specified in Section 3.2 and payment of the in-lieu fee shall be made on or before Sixty (60) days after the Effective Date.

### ARTICLE 3

#### DEFAULT

**Section 3.1. General Provisions.** Subject to extensions of time by mutual consent in writing, failure or delay by either party or Landowner not released from this Agreement to perform any term or provision of this Agreement, shall constitute a default. In the event of alleged default or breach of any terms or conditions of this Agreement, the party alleging such default or breach shall give the other party or Landowner not less than sixty (60) days' notice in writing specifying the nature of the alleged default and the manner in which said default may be cured. During any such sixty (60) day period, the party or Landowner charged shall not be considered in default for purposes of termination or institution of legal proceedings.

After notice and expiration of the sixty (60) day period, if such default has not been cured or is not being diligently cured in the manner set forth in the notice, the other party or Landowner to this Agreement may, at its option, institute legal proceedings pursuant to this Agreement or give notice of its intent to terminate this Agreement pursuant to California Government Code section 65868 and any regulations of the County implementing said Government Code section. Following notice of intent to terminate, or prior to instituting legal proceedings, the matter shall be scheduled for



consideration and review in the manner set forth in Government Code sections 65865, 65867, and 65868 and County regulations implementing said sections by the County within thirty (30) days.

Following consideration of the evidence presented in said review before the County and an additional 30-day period to cure, either party alleging the default by the other party or Landowner may institute legal proceedings or may give written notice of termination of this Agreement to the other party; provided, however, a Landowner may only give such notice with respect to such portion of the Subject Property in which Landowner owns an interest.

**Section 3.2. Annual Review.** This Agreement may be reviewed by the County as frequent as every 12 months, at which time the Developer and Landowner shall demonstrate good faith compliance with the terms of the agreement and consent to physical inspection of the Property if requested. Review shall be undertaken by the Community Development Director. Such periodic review by the Community Development Director may be referred to the County Board of Supervisors and shall be limited in scope to compliance with the terms of this Agreement pursuant to California Government Code section 65865.1. Notice of such review shall include the statement that any review, the result of which the local agency finds and determines on the basis of substantial evidence, that the Developer has not complied in good faith with the terms or conditions of the Development Agreement, may result in amendment or termination of this Agreement in accordance with Government Code section 65865.1. The County is being reimbursed by the Developer for the cost of this service as included in Section 2.14.

The County shall deposit in the mail or email to Developer and/or Landowner a copy of all staff reports and, to the extent practical, related exhibits concerning contract performance at least seven (7) days prior to such periodic review. Developer or Landowner shall be permitted an opportunity to be heard orally or in writing regarding its performance under this Agreement before the Board of Supervisors, pursuant to the provisions of the Yuba County Ordinance Code Section 11.66.090, at the next regularly-scheduled meeting of the Board of Supervisors after the Developer has notified the County of its intention to be heard and the matter has been timely placed on the Board of Supervisors' meeting agenda.

**Section 3.3. Developer Default Limited to Property/Entity; Separate Obligations of Owners.** Except as specified herein in Section 3.1, no default hereunder in performance of a covenant or obligation with respect to a particular portion of the Subject Property shall constitute a default applicable to any other portion of the Subject Property, and any remedy arising by reason of such default shall be applicable solely to the portion of Subject Property where the default has occurred.

**Section 3.4. Cumulative Remedies of Parties/Waiver of Right to Damages.** In addition to any other rights or remedies, the County, Developer and any Landowner may institute legal or equitable proceedings to cure, correct or remedy any default, to

specifically enforce any covenant or agreement herein, to enjoin any threatened or attempted violation of the provisions of this Agreement.

## ARTICLE 4

### TERMINATION

**Section 4.1. Termination Upon Completion of Development.** This Agreement shall terminate upon the expiration of the Term as defined on the Reference Sheet or when the Subject Property has been fully developed and all of Developer's obligations in connection therewith are satisfied. Upon termination of this Agreement, the County shall record a notice of such termination in a manner substantially similar to the form attached hereto as **Exhibit C**. This Agreement shall automatically terminate and be of no further force or effect as to Completed Lots.

**Section 4.2. Effect of Termination on Developer Obligations.** Termination of this Agreement as to Developer of the Subject Property or any portion thereof shall not affect any of Developer's obligations to comply with the County General Plan and the terms and conditions of any applicable zoning, or subdivision map or other land use entitlements approved with respect to the Subject Property or any other development requirements specified in this Agreement to continue after the termination of this Agreement. Termination shall not affect any independent obligations to pay assessments, liens, or taxes.

**Section 4.3. Effect of Termination on County.** Upon any termination of this Agreement, as provided for under the terms and conditions of this Agreement, as to Developer of the Subject Property, or any portion thereof, the entitlements, conditions of development, limitations on fees and all other terms and conditions of this Agreement shall no longer be vested hereby with respect to the Subject Property affected by such termination (provided vesting of entitlements, conditions or fees applicable to the Subject Property shall be governed by planning and zoning law) and the County shall no longer be limited, by this Agreement, to make any changes or modifications to such entitlements, conditions or fees applicable to such property.

## ARTICLE 5

### STANDARD TERMS AND CONDITIONS

**Section 5.1. Venue.** Venue for all legal proceedings shall be in the Superior Court for the County of Yuba.

**Section 5.2. Waiver.** A waiver by any party of any breach of any term, covenant or condition herein contained or a waiver of any right or remedy of such party available hereunder at law or in equity shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant or condition herein contained or of any continued or subsequent right to the same right or remedy. No party shall be

deemed to have made any such waiver unless it is in writing and signed by the party so waiving.

**Section 5.3. Completeness of Instrument.** This Agreement, together with its specific references and attachments, constitutes all of the agreements, understandings, representations, conditions, warranties and covenants made by and between the parties hereto. Unless set forth herein, neither party shall be liable for any representations made express or implied.

**Section 5.4. Supersedes Prior Agreements.** It is the intention of the parties hereto that this Agreement shall supersede any prior agreements, representations or agreements, written or oral, between the parties hereto relating to the adoption of the Development Agreement.

**Section 5.5. Captions.** The captions of this Agreement are for convenience in reference only and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

**Section 5.6. Number and Gender.** In this Agreement, the neuter gender includes the feminine and masculine, and the singular includes the plural, the word “person” includes corporations, partnerships, firms or associations, wherever the context so requires.

**Section 5.7. Mandatory and Permissive.** “Shall” and “will” and “agrees” are mandatory. “May” is permissive.

**Section 5.8. Term Includes Extensions.** All references to the term of this Agreement or the Agreement Term shall include any extensions of such term.

**Section 5.9. Successors and Assigns.** All representations, covenants and warranties specifically set forth in this Agreement, by or on behalf of, or for the benefit of any or all of the parties hereto, shall be binding upon and inure to the benefit of such party, its successors and assigns.

**Section 5.10. Modification.** No modification or waiver of any provisions of this Agreement or its attachments shall be effective unless such waiver or modification is in writing, signed by all parties, and then shall be effective only for the period and on the condition, and for the specific instance for which given.

**Section 5.11. Counterparts.** This Agreement may be executed simultaneously and in several counterparts, each of which shall be deemed an original, but which together shall constitute one and the same instrument.

**Section 5.12. Other Documents.** The parties agree that they shall cooperate in good faith to accomplish the object of this Agreement and to that end, agree to execute

and deliver such other and further instruments and documents as may be necessary and convenient to the fulfillment of these purposes.

**Section 5.13. Partial Invalidity.** If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provision and/or provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

**Section 5.14. Controlling Law.** The validity, interpretation and performance of this Agreement shall be controlled by and construed under the laws of the State of California.

**Section 5.15. Time Is of the Essence.** Time is of the essence in this Agreement and each covenant and term a condition herein.

**Section 5.16. Authority.** All parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles and capacities herein stated and on behalf of any entities, persons, estates or firms represented or purported to be represented by such entity(s), person(s), estate(s) or firm(s) and that all formal requirements necessary or required by any state and/or federal law in order to enter into this Agreement have been fully complied with. Further, by entering into this Agreement, neither party hereto shall have breached the terms or conditions of any other contract or agreement to which such party is obligated, which such breach would have a material effect hereon.

**Section 5.17. Document Preparation.** This Agreement will not be construed against the party preparing it, but will be construed as if prepared by all parties.

**Section 5.18. Advice of Legal Counsel.** Each party acknowledges that it has reviewed this Agreement with its own legal counsel, and based upon the advice of that counsel has freely entered into this Agreement.

**Section 5.19. Estoppel Certificate.** Within thirty (30) days following any written request which either party may make from time to time, and upon payment of a fee to the County to reimburse the County for its reasonable expenses associated herewith, the other party to this Agreement shall execute and deliver to the requesting party a statement certifying that:

(a) this Agreement is unmodified and in full force and effect, or if there have been modifications hereto, that this Agreement is in full force and effect as modified and stating the date and nature of such modifications; and

(b) there are not current uncured defaults under this Agreement or specifying the date, nature of any default and manner of cure.

This certificate may be executed by the Director.

**Section 5.20. Attorneys Fees and Costs.** If any action at law or in equity, including an action for declaratory relief, is brought to enforce or interpret provisions of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and costs, which may be set by the Court in the same action or in a separate action brought for that purpose, in addition to any other relief to which such party may be entitled.

**Section 5.21. Consent/Subordination.** Unless waived in writing by the County Counsel, Developer shall furnish proof satisfactory to the County, prior to approval of the Agreement that all persons possessing a legal interest in the property have consented to the recording of this Agreement. The County shall have no duty to subordinate its interest in this Agreement.

**Section 5.22. Calculation of Time Periods.** All calculation of time periods shall be based upon calendar days unless a different intent is clearly stated.

[SIGNATURES ON FOLLOWING PAGE]

**IN WITNESS WHEREOF**, this Agreement was executed by the parties thereto on the dates set forth in the Preamble.

**COUNTY:**  
**COUNTY OF YUBA,**  
a political subdivision of the State of California

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**ATTEST:**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: Clerk of the Board

**APPROVED AS TO FORM:**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: County Counsel

**DEVELOPER:**

\_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**APPROVED AS TO FORM:**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: Developer Counsel

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Development Agreement Between the County of Yuba  
and Hilbers Properties LP, et al.

**LIST OF EXHIBITS**

Exhibit A	Legal Description of Subject Property
Exhibit B	Assumption Agreement
Exhibit C	Sample Notice of Termination

DEVELOPMENT AGREEMENT NO. 2023-\_\_\_\_\_

Exhibit A

All that certain real property situates in the County of Yuba, State of California, being all of Parcels 8, 9, 10, 11 and 12, as all are shown on Parcel Map No. 2007-23 as filed in Book 88 of Maps at Pages 23 & 24, in the Official Records of Yuba County, California.

Also including:

All that certain real property situates in the County of Yuba, State of California, being all of Parcel 2 of Parcel Map No. 2006-0059 as filed in Book 87 of Maps at Page 24, in the Official Records of Yuba County, California.

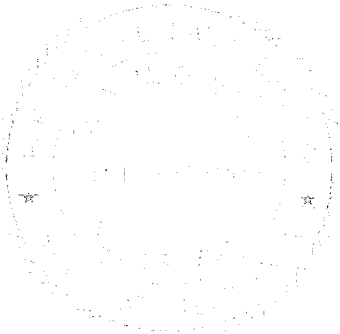
Total of all parcels containing 23.647 acres.

This description has been prepared for Development Agreement Number \_\_\_\_\_



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Sean M. O'Neill  
L.S. 7581-Exp 12-31-23



Note: There have been 2 Lot Line Adjustments which effected the interior lines of the above noted parcels but it did not effect the exterior boundary of the above noted parcels thus the entire parcels are still subject to the development agreement.



## EXHIBIT B

### ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (hereinafter "this Agreement") is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between \_\_\_\_\_ (hereinafter "Owner") and \_\_\_\_\_, (hereinafter "Assignee").

### RECITALS

A. On \_\_\_\_\_, 20\_\_, the County of Yuba and Owner entered into that certain agreement entitled "Development Agreement," approved by Ordinance \_\_\_\_\_ (hereinafter "Agreement"), relative to the development known as the \_\_\_\_\_ (hereinafter "Subject Property").

B. Owner entered into a purchase and sale agreement whereby a portion of the Subject Property will be sold to Assignee, which portion of the Subject Property is identified and described in **Exhibit A**, attached hereto and incorporated herein by this reference (hereinafter the "Assigned Parcel(s)").

C. Owner desires to assign all of its interests, rights and obligations under the Agreement with respect to the Assigned Parcel(s).

D. Assignee desires to assume all Owner's rights and obligations under the Agreement with respect to the Assigned Parcel(s).

NOW, THEREFORE, Owner and Assignee hereby agree as follows:

1. Owner hereby assigns effective as of Owner's conveyance of the Assigned Parcel(s) to Assignee, all of the rights, interest, burdens and obligations of Owner under the Agreement with respect to the Assigned Parcel(s). Owner retains all the rights, interest, burdens and obligations under the Agreement with respect to all other property within the Subject Property owned thereby.

2. Assignee hereby assumes all of the burdens and obligations of Owner under the Agreement, and agrees to observe and fully perform all of the duties and obligations of Owner under the Agreement, and to be subject to all the terms and conditions thereof, with respect to the Assigned Parcel(s), it being the express intention of both Owner and Assignee that, upon the execution of this Agreement and conveyance of the Assigned Parcel(s) to Assignee, Assignee shall become substituted for Owner as the "Developer" under the Agreement with respect to the Assigned Parcel(s).

3. All of the covenants, terms, and conditions set forth herein shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, successors and assigns.

IN WITNESS HEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

**ASSIGNOR / OWNER**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**ASSIGNEE**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBIT C**

**NOTICE OF TERMINATION**

THIS NOTICE OF TERMINATION (hereinafter "this Notice") is given this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by the County of Yuba (hereinafter "County") for the benefit of \_\_\_\_\_, (hereinafter "Owner").

1. On \_\_\_\_\_, 20\_\_, the County of Yuba and \_\_\_\_\_ entered into that certain agreement entitled "Development Agreement," approved by Ordinance \_\_\_\_\_ (hereinafter "Agreement"), relative to the development known as the \_\_\_\_\_ (hereinafter "Subject Property").

2. Owner has fully performed all its duties with respect to that portion of the Subject Property, which portion of the Subject Property is identified and described in **Exhibit A**, attached hereto and incorporated herein by this reference (hereinafter the "Released Property").

3. Pursuant to Section 4.1 of the Development Agreement, the Development Agreement is no longer in effect with respect to the Released Property.

**COUNTY OF YUBA**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

[NOTE: SIGNATURE MUST BE NOTARIZED]

**ACKNOWLEDGMENT**

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)