ORDINANCE No. 2197

OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA

AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT BETWEEN THE COUNTY OF NEVADA AND WILDWOOD RESOLUTION, LLC FOR THE WILDWOOD RIDGE SUBDIVISION ON 206 ACRES ON PLEASANT VALLEY ROAD, NEAR PENN VALLEY (M105-025)

WHEREAS, Wildwood Resolution, LLC ("Developer") filed a development agreement application pursuant to Government Code §65864 *et seq.* and Nevada County Land Use & Development Code Sec. L-II 5.18 and the proposed Development Agreement (the "Development Agreement"), a copy of which is attached as Exhibit "A", was duly reviewed and recommended for approval by the Planning Commission after a public hearing on January 19, 2006; and

WHEREAS, the Commission's recommendation has been received; the Subsequent Environmental Impact Report certified by Planning Commission Resolution No. 05-002 adopted by the Planning Commission for the project including the Development Agreement therefore on December 22, 2005, has been reviewed and considered; and the public hearing has been held and concluded as required for approval of Development Agreement; and

WHEREAS, the Board finds that the information presented or obtained at the public hearing substantiates all of the facts necessary for approval of the Development Agreement and in adopting this Ordinance has made and set forth the required findings, determining that the Development Agreement is consistent with the Nevada County General Plan and County Zoning regulations L-II 5.18.

THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA, STATE OF CALIFORNIA, ORDAINS AS FOLLOWS:

SECTION I:

The development agreement application is approved and the Chair of the Board of Supervisors is hereby authorized upon the effective date of this Ordinance to execute, on behalf of the County of Nevada, the Development Agreement by and between the County of Nevada and Wildwood Resolution, LLC, in the form attached, with authorized changes, if any, approved by the Board prior to adoption of this Ordinance, and subject to such minor and clarifying changes consistent with the terms thereof as may be necessary to complete references to and status of planning approvals as approved by County Counsel prior to execution thereof. Within ten (10) days after execution of the Development Agreement on behalf of the County, the Clerk of the Board of Supervisors shall record the Development Agreement and this Ordinance with the Recorder of the County of Nevada.

SECTION II:

This Ordinance shall take effect and be in force at the expiration of thirty (30) days from and after its passage, and it shall become operative on the 16th day of March, 2006, and before the expiration of fifteen (15) days after its passage a summary shall be published once, with the names of the Supervisors voting for and against same in The Union, a newspaper of general circulation printed and published in the County of Nevada.

PASSED AND ADOPTED by the Board of Supervisors of the County of Nevada at a regular meeting of said Board, held on the 14th day of February, 2006, by the following vote of said Board:

Ayes: Supervisors Nate Beason, Sue Horne, John Spencer, Robin Sutherland & Ted S. Owens.

Noes: None.

Absent: None.

Abstain: None.

ATTEST:

CATHY R. THOMPSON
Clerk of the Board of Supervisors

By: Donna Stoff, Deputy

Chair

DATE	COPIES SENT TO
02/21/06	Planning
	Counsel
	The Union

RECORDING REQUESTED BY AND WHEN RECORDED RETURN TO:	
County of Nevada 950 Maidu Avenue Nevada City, CA 95959 ATTN: Planning Director	

DEVELOPMENT AGREEMENT

BY AND BETWEEN

THE COUNTY OF NEVADA

and

WILDWOOD RESOLUTION, LLC

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DEVELOPMENT AGREEMENT
BY AND BETWEEN THE COUNTY OF NEVADA
AND WILDWOOD RESOLUTION, LLC

THIS DEVELOPMENT AGREEMENT ("Development Agreement") is made and entered into this 16th day of March, 2006 by and between the COUNTY OF NEVADA, a political subdivision of the State of California ("County") and WILDWOOD RESOLUTION, LLC, a limited liability company ("Developer"). For the purposes of this Agreement, County and Developer are referred to individually as "Party," and collectively as the "Parties." The term "Party" or "Parties" shall not refer to Landowners unless otherwise noted

RECITALS

A. State Law. In order to strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic costs and risk of development, the Legislature of the State of California enacted Section 65864 et seq. of the Government Code (the "Development Agreement Legislation") which authorizes County and a developer having a legal or equitable interest in real property to enter into a binding, long-term development agreement, establishing certain development rights in real property.

B. County Rules and Regulations. Pursuant to Government Code Section 65865, the County has adopted rules and regulations establishing procedures and requirements for consideration of development agreements, which procedures and requirements are contained in Section L-II 5.18 of the Nevada County Land Use and Development Code. This Development Agreement has been processed in accordance with County Development Agreement Regulations.

C. Land Ownership. Developer owns in fee approximately 206.59 acres of real property in the County which property is described in attached Exhibit A, and shown on the map set forth in attached Exhibit B (the "Property").

D. Developer's Efforts to Resolve Wildwood Estates Bond Delinquency. Developer has been integrally involved in and has expended substantial resources towards the resolution of tax delinquencies resulting from the default on Mello-Roos bonds issued in the Wildwood Estates Mello-Roos District (the "Bond Default"). Developer's contributions toward resolving the Bond Default include: Selling sixty-eight (68) parcels in Phase I of the Wildwood Estates project so as to clear the existing tax delinquencies on those parcels; expending substantial costs to settle litigation between an adjacent landowner, Theodore M. Schall, and the County, Developer, Lake Wildwood Association, Stone & Youngberg, LLC, and S&Y Capital Group, LLC; providing thirty (30) equivalent dwelling units in sewer capacity to help settle the above-referenced litigation; and proceeding with the development of the Property in order to resolve the tax delinquencies existing on the Property as a result of the Bond Default. The County recognizes and acknowledges that Developer's efforts toward resolution of the Bond Default provide substantial public benefit, and the complete resolution of the Bond Default would not be possible without the approval of this Development Agreement.

E. Certainty Desired. Developer desires to construct a residential project consisting of 383 residential units on 352 lots (the "Project"). Thirty-six (36) of the lots will be affordable units in accordance with the County's Inclusionary Affordable Housing Component. The complexity, magnitude and long-term buildout of the Project would be difficult for Developer to undertake if the County had not determined, through this Development Agreement, to inject a sufficient degree of certainty in the land use regulatory process to justify the substantial financial investment associated with development of the Project. As a result of the execution of this Development Agreement, both Parties can be assured that the Project can proceed without disruption caused by a change in County planning and development policies and requirements, which assurance will thereby reduce the actual or perceived risk of planning, financing and proceeding with construction of the Project.

F. Developer Intention. As with other major private undertakings, the development of the Project is subject to significant economic and demographic uncertainties. These uncertainties, together with other currently unknown factors, which may arise during the Term (as defined in Section 1.3(b) herein) of this Development Agreement, prevent Developer from presently predicting the precise timing for development of the facilities described in Recital E above. Nevertheless, assuming that market and demographic conditions perform as currently anticipated and no force majeure events occur, it is Developer's present intention to construct the Project during the Term of this Development Agreement.

G. Public Benefits. County is desirous of advancing the socio-economic interests of the County and its residents by encouraging quality development and economic growth, thereby enhancing employment opportunities for residents and expanding the County's tax base. County is also desirous of gaining the public benefits that will result from the development of this Property, including but not limited to the resolution of the Wildwood Estates Bond Default. These public benefits are in addition to those dedications, conditions and exactions required by laws or regulations, and advance the planning objectives of, and provide benefits to the County.

H. Project Approvals. Developer has applied for, and County has granted, the Project Approvals (as defined in Section 1.4 herein). As part of the Project Approvals, County has undertaken, pursuant to the California Environmental Quality Act (Public Resources Code § 21000 et seq., hereinafter "CEQA"), the required analysis of the environmental effects which would be caused by the Project and has determined those feasible mitigation measures which will eliminate, or reduce to an acceptable level, the adverse environmental impacts of the Project. County has completed and certified an Environmental Impact Report ("EIR") in connection with the Project, including the Project Approvals. County has also adopted a monitoring program to ensure that those mitigation measures incorporated as part of, or imposed on, the Project are enforced and completed.

I. Subsequent Approvals. In addition to the Project Approvals, The Project may require various additional land use and construction approvals, termed "Subsequent Approvals" (as defined in Section 1.4(d) herein), from County in connection with development of the Project.

J. Consistent with General Plan. County has given the required notice of its intention to adopt this Development Agreement and has conducted public hearings thereon

pursuant to Government Code Section 65867. As required by Government Code Section 65867.5, County has found that the provisions of this Development Agreement and its purposes are consistent with the goals, policies, standards and land use designations specified in County's General Plan.

K. Planning Commission Approval. On January 19, 2006, the Nevada County Planning Commission (the "Planning Commission"), the initial hearing body for purposes of Development Agreement review, recommended approval of this Development Agreement. On February 14, 2006, the Nevada County Board of Supervisors (the "County Board of Supervisors") adopted its Ordinance No. 2197 approving this Development Agreement and authorizing its execution, and that Ordinance ("Enacting Ordinance") became effective on March 16, 2006.

L. Project Provides Substantial Benefits. For the reasons recited herein, County and Developer have determined that the Project is a development for which this Development Agreement is appropriate. This Development Agreement will eliminate uncertainty regarding Project Approvals and Subsequent Approvals, thereby encouraging planning for, investment in and commitment to use and development of the Property. Continued use and development of the Property will in turn provide substantial employment, tax benefits, and other public benefits to County, and contribute to the provision of needed infrastructure for area growth, thereby achieving the goals and purposes for which the Development Agreement Legislation was enacted.

M. County Best Served. The terms and conditions of this Development Agreement have undergone extensive review by County staff, its Planning Commission and its County Board of Supervisors at publicly noticed meetings and have been found to be fair, just and reasonable and in conformance with the County General Plan, the Development Agreement Legislation, and the County Development Agreement Regulations and, further, the County Board of Supervisors finds that the economic interests of County's residents and the public health, safety and welfare will be best served by entering into this Development Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth herein, County and Developer agree as follows

ARTICLE 1.

GENERAL PROVISIONS

1.1. Parties.

(a) County. County is a political subdivision, with offices located at 950 Maidu Avenue, Nevada City, CA 95959. "County," as used in this Development Agreement, shall include the County and any assignee of or successor to its rights, powers and responsibilities.

(b) Developer. Developer is a limited liability company, with offices located at 515 South Figueroa Street, #1060, Los Angeles, CA 90071. "Developer," as used in

this Development Agreement, shall include any permitted assignee or successor in interest as herein provided.

1.2. Property Subject to this Development Agreement. All of the Property, as described in Exhibit A and shown in Exhibit B, shall be subject to this Development Agreement.

1.3. Term.

(a) Effective Date. This Development Agreement shall become effective upon the date the Enacting Ordinance becomes effective ("Effective Date").

(b) Term of Agreement. The term ("Term") of this Development Agreement shall commence upon the Effective Date and shall continue in full force and effect for fifteen (15) years thereafter unless extended or earlier terminated as provided herein. The Development Agreement may be extended for five (5) years at the option of Developer, subject to approval by the County, which approval shall be granted provided that Developer is diligently proceeding with the development of the Project. The Term has been established by the Parties as a reasonable estimate of the time required to develop the Project and obtain the Public Benefits of the Project.

1.4. Project Approvals. Developer has applied for and obtained various environmental and land use approvals and entitlements related to the development of the Project, as described below. For purposes of this Development Agreement, the term "Project Approvals" shall mean all of the approvals described in this Section 1.4.

(a) Subsequent Environmental Impact Report. A Subsequent Environmental Impact Report for the Project (State Clearinghouse No. 2004032045) prepared pursuant to the California Environmental Quality Act and known as Wildwood Ridge was certified as adequate and complete by written findings by the County Planning Commission, on December 22, 2005, and a Mitigation Monitoring Program was adopted by the Planning Commission on January 19, 2006. The original Lake Wildwood Estates Environmental Draft Impact Report on the Lake Wildwood Estates Project (State Clearinghouse No. 87072011) received by the State Clearinghouse on June 3, 1988, was recirculated as a part of the circulation of the Draft Subsequent Environmental Impact Report.

(b) Tentative Map. On January 19, 2006, following Planning Commission review, and after a duly noticed public hearing, the County Planning Commission approved a Tentative Map (FM03-102) for the creation of 352 parcels. ("Tentative Map").

(c) Comprehensive Master Plan. On January 19, 2006, following Planning Commission review, and after a duly noticed public hearing, the Planning Commission approved a Use Permit for the Comprehensive Master Plan for the Project. The Comprehensive Master Plan is incorporated herein by reference

(d) Subsequent Approvals. The Parties agree that in order to develop the Property as contemplated in this Development Agreement, the Project may require additional entitlements, development permits, and use and/or construction approvals other than the Project Approvals, which may include without limitation: conditional use permits, variances, subdivision

approvals, street and easement abandonments, development plan review approvals, sign programs and permits, improvement agreements, grading permits, building permits, lot line adjustments, site plans, sewer and water connection permits, certificates of occupancy, landscaping plans and encroachment permits (collectively, "Subsequent Approvals"). At such time as any Subsequent Approval is approved by the County, such Subsequent Approval shall become subject to all the terms and conditions of this Development Agreement applicable to Project Approvals and shall be treated as a "Project Approval" under this Development Agreement.

ARTICLE 2.

DEVELOPMENT OF THE PROPERTY

2.1. Project Development. Developer shall have the right to develop the Project on the Property in accordance with the Vested Elements (as defined in Section 2.2 below).

2.2. Vested Elements. The permitted uses of the Property, the maximum density and/or number of residential units, the intensity of use, the maximum height, size and square footage of the proposed buildings, types of land uses, provisions relating to subsequent discretionary actions, provisions for reservation or dedication of land for public purposes, provisions for public improvements and financing of public improvements, and other terms and conditions of development applicable to the Property are as set forth in:

(a) The General Plan of County on the Effective Date, including the amendments adopted concurrently with this Development Agreement ("Applicable General Plan");

(b) The Nevada County Land Use and Development Code on the Effective Date, including the amendments adopted concurrently with this Development Agreement ("Applicable Land Use and Development Code");

(c) Other rules, regulations, ordinances and policies of the County applicable to development of the Property on the Effective Date (collectively, together with the Applicable General Plan and Applicable Land Use and Development Code, the "Applicable Rules");

(d) The Project Approvals;

(e) This Development Agreement; and

(f) The Development Fees as set forth in Exhibit C attached hereto;

and are hereby vested subject to the provisions of this Development Agreement ("Vested Elements"). County hereby agrees to be bound with respect to the Vested Elements, subject to Developer's compliance with the terms and conditions of this Development Agreement. The intent of this Section 2.2 is to cause all development rights which may be required to develop the Project in accordance with this Development Agreement to be deemed vested in Developer upon

the Effective Date to the greatest extent permitted by law. Upon execution of this Development Agreement, the County shall provide Developer with a full copy of the Vested Elements. The Developer shall reimburse the County for the cost of preparing and copying the Vested Elements. County shall additionally maintain a copy of the Vested Elements on file in the County Planning Department for the full term of this Development Agreement.

2.3. Development Timing and Restrictions. The Parties agree that it is extremely difficult for the Parties to presently predict when or at what rate or in what order portions of the Project would be developed on the Property. Such decisions depend upon numerous factors which may not be within the control of Developer, such as market orientation and demand, interest rates, competition and other similar factors. Because the California Supreme Court held in *Pardee Construction Co. v. City of Camarillo*, 37 Cal.3d 465 (1984), that the failure of the parties therein to provide for the timing of development resulted in a later adopted initiative which restricted the timing of development and controlled the parties' agreement, it is the intent of County and Developer to hereby acknowledge and provide for the right of Developer to develop the Project in such order and at such rate and times as Developer deems appropriate within the exercise of its prudent business judgment in accordance with the Project Approvals. County acknowledges that such a right is consistent with the intent, purpose and understanding of the Parties to this Development Agreement, and that without such a right, Developer's development of the Project would be subject to the uncertainties sought to be avoided by the Development Agreement Legislation, the County Development Agreement Regulations and this Development Agreement.

2.4. Effect of Project Approvals and Applicable Rules; Future Rules.

(a) Except as otherwise provided herein, development of the Property shall be subject to the Vested Elements.

(b) New County laws, rules, regulations, and official policies (including amendments to the Applicable Rules) ("Future Rules") shall not be applicable to the Property unless such Future Rules meet one of the following requirements: (i) the changes are mandated by State or Federal law; or (ii) the changes are required for reasons of public health or safety, based on findings by the County Board of Supervisors identifying the conditions of public health or safety requiring such changes in the law applicable to the Project and how such changes shall prevent or mitigate adverse impacts which otherwise may occur because of such conditions of public health or safety.

(c) The procedure described in this Section 2.4 shall not be construed to interfere with County's right to adopt or apply the Future Rules with regard to all areas of the County except for the Property.

(d) There shall be a rebuttable presumption that any Future Rules affecting the Project and having the following effect shall be considered inconsistent with the Project Approvals and Applicable Rules:

(i) Limiting or reducing, directly or indirectly, the total number of Residential Units in the Project in excess of one percent (1.0%).

(ii) Limiting or materially changing the location of Residential Units, buildings, grading, or other improvements on the Property.

(iii) Imposing new or additional dedication requirements or materially affecting the costs of infrastructure and/or public improvements to be provided by Developer.

(iv) Imposition of a moratorium. This limitation on the County shall not apply when a moratorium is imposed by the County to avoid a situation where the failure to impose the moratorium would violate State or Federal law or expose persons or property to a condition dangerous to their health or safety, or both; provided that any such Moratorium shall be limited in both scope and time to only effectuate the purpose for which it was imposed.

(e) Upon execution of this Agreement, the County shall prepare two (2) sets of the Vested Elements as provided in Section 2.2, one (1) set for County and one (1) set for Developer, so that if it becomes necessary in the future to refer to any of the Vested Elements, there will be a common set available to both Parties.

(f) In the event that any state or federal law or regulation enacted or adopted after the Effective Date, or other action of any governmental entity not under the control of County, shall prevent or preclude compliance with any of the provisions of this Development Agreement, such provisions shall be modified or suspended only to the extent and for the time necessary to achieve compliance with said law, regulation of action. In such an event, this Development Agreement (together with any required modifications) shall continue in full force and effect. Upon repeal of said law, regulation or action, or other circumstances removing the effect thereof upon this Development Agreement (including but not limited to a successful challenge by Developer), the provisions hereof shall be restored to their full original effect. Notwithstanding the foregoing, if any material provision of this Development Agreement is adversely affected by the change in federal or state law, Developer (in its sole and absolute discretion) may terminate this Development Agreement by providing written notice of such termination to the County.

(g) If any future local, state or federal law expands, extends, enlarges, or broadens Developer's rights to develop the Project, the provisions of this Development Agreement and the Vested Elements shall, at the election of Developer, be modified as may be necessary to comply or conform with such new law. Immediately after enactment of any such new law, the Parties shall meet and confer in good faith for a period not exceeding sixty (60) days (unless such period is extended by mutual written consent of the parties) to prepare such modification. Developer shall have the right to challenge County's refusal to apply any new law expanding Developer's rights under this Development Agreement, and, in the event such challenge is successful, this Development Agreement and the Vested Elements shall be modified to comply or conform with the new law.

2.5. Processing of Subsequent Approvals. In consideration of Developer entering into this Development Agreement, County agrees that it will accept and process all applications for land use and construction approvals, permits, plans and maps necessary to

implement the Project, including all Subsequent Approvals, in accordance with the terms of this Development Agreement and the Project Approvals. County shall commence and complete all steps necessary to act on all applications for Subsequent Approvals including, without limitation, providing notice and holding public hearings if legally required. Application requirements for Subsequent Approvals shall be those requirements applicable as of the Effective Date. County agrees that the scope of the review of applications for Subsequent Approvals shall be limited to a review of substantial conformity with the Vested Elements (except as otherwise provided by Section 2.4), and compliance with CEQA. The payment of any fees in connection with the Subsequent Approval shall be made in accordance with Section 2.6 of this Development Agreement.

2.6. Development Fees, Exactions, Dedications and Conditions.

(a) Development Fee. Development Fees applicable to the Project in effect as of the Effective Date of this Development Agreement are set forth in attached Exhibit C. Development Fees are designated either as "Processing Fees" or "Impact Fees."

(b) Processing Fees. Applications for development approvals, permits and entitlements shall be subject to the Processing Fees in effect at the time of the application for such approval.

(c) Impact Fees.

(i) An Impact Fee is a monetary exaction other than a tax or assessment that is legally imposed by County on Developer in connection with any approval for the Project for the purpose of defraying all or a portion of the cost of public services and/or facilities (including but not limited to construction, improvement, operation, and maintenance of such facilities) attributable to the burden created by the Project. No Impact Fees shall be applicable to the Project except as provided in this Development Agreement.

(ii) Developer shall be obligated to pay only those County Impact Fees as set forth in Exhibit C attached and incorporated herein by this reference, except as provided for herein, and the County shall not impose or exact any additional Impact Fees. The amount of each Impact Fee shall be fixed as set forth in Exhibit C upon the effective date of this Development Agreement. The Parties agree that the Impact Fees charged under this Development Agreement as set forth in Exhibit C shall not be increased by more than seven and one-half percent (7.5%) of the amounts set forth therein upon each five (5) year anniversary of the effective date of this Development Agreement, provided that the County enacts an increase to the Impact Fees. The Impact Fees as permitted herein shall be set in accordance with this Section 2.6 and Exhibit C and made an obligation of Developer at the time that Developer receives a building permit for each Residential Unit. However, the Developer shall not be required to pay the applicable Impact Fees until such time that the Developer receives a certificate of occupancy for the applicable Residential Units, without interest or penalties. This Development Agreement does not purport to restrict payment nor limit the amount of applicable impact fees imposed by entities other than the County, such as school mitigation fees regularly adopted in compliance with State law.

2.7. Dedications. No dedication of an interest in land shall be imposed by the County, as a condition of Project development or otherwise, except as set forth in the Vested Elements.

2.8. Taxes and Assessments. The County may impose new taxes and assessments without consent of Developer on the Property in accordance with the then-applicable laws but only if such taxes or assessments are also equally imposed on other land, and projects and land similarly situated, within the jurisdiction of the County, and only if the impact thereof does not fall disproportionately on the Property as compared with other land and projects within the County's jurisdiction or portion of the County's jurisdiction subject to the tax or assessment. The amount of any taxes or assessments may be increased over time so long as the increase is applied consistently to all land or projects subject thereto. Nothing herein shall be construed so as to limit Developer from exercising whatever rights it may otherwise have in connection with protesting or otherwise objecting to the imposition of taxes or assessments on the Property.

2.9. Life of Subdivision Maps, Development Approvals and Permits.

(a) It is the intent of the Parties that the Term of the Vested Elements, Project Approvals and Subsequent Approvals shall be, at a minimum, the same as, and coterminous with, the Term of this Development Agreement. To accomplish this intent, any tentative map, including, without limitation, any tentative parcel map, tentative tract map, or vesting tentative map, which has been or may be adopted for the Project shall automatically be extended for the Term of the Development Agreement.

(b) Without limiting the foregoing, the Term of this Development Agreement and any subdivision map or any of the other Vested Elements, Project Approvals or Subsequent Approvals shall not include any period of time during which (i) the actions of public agencies that regulate land use, development or the provision of services to the Property prevent, prohibit or delay the construction of the Project; (ii) a condition of approval of any of the Project Approvals could not be satisfied because the condition of approval necessitated action by a public agency, and the public agency did not take such action; (iii) a condition of approval of any of the Project Approvals necessitates the acquisition of real property or an interest in real property from a public agency other than the County, and that public agency fails or refuses to convey the property interest necessary to satisfy the condition of approval; or (iv) a lawsuit involving the Vested Elements, Project Approvals, or Subsequent Approvals is pending. The Term of this Development Agreement and Vested Elements, Project Approvals and Subsequent Approvals shall therefore be extended by the length of the period of time during which any situation described in (i) through (iv) exists.

2.10. Further CEQA Environmental Review. The County has conducted extensive environmental review of the Project Approvals and has certified the EIR pursuant to the requirements of CEQA. The Parties acknowledge that certain discretionary Subsequent Project approvals, if any, may be legally required to be subject to review under CEQA. Upon submission of complete application materials and payment of fees applicable to the Subsequent Project approvals, the County shall process any and all initial studies and assessments required by CEQA, and to the extent permitted or required by CEQA, the County shall process all

documents required under CEQA including, but not necessarily limited to, any EIR, negative declaration, addendum, or supplement to any existing EIR for the Project. Notwithstanding any other provision of this Agreement, nothing contained in the Agreement is intended to limit or restrict the discretion of the County to take any appropriate action as may be required by CEQA with respect to any such discretionary Subsequent Project Approvals.

2.11. Building Code. The Building Code applicable to building and construction throughout the County at the time Developer applies for a building permit for construction of the Project shall be applicable to the building and construction authorized by such permit, except if any provision of that Building Code (i) restricts development of the Project such that the amount of land allowed to be utilized for structures and/or improvements is significantly less than that permitted pursuant to this Development Agreement; (ii) results in a significant reduction in the amount of units or square footage permitted in development of the Project; (iii) requires open space in an amount significantly greater than that provided in the Project, or (iv) conflicts in any manner with the Vested Elements or frustrates the intent or purpose of the Vested Elements. In the event of any of the foregoing, that provision shall not apply to or govern development or construction of the Project unless determined by the County and evidenced through findings of fact adopted by the County Board of Supervisors that the provision is reasonably required in order to prevent a condition injurious to the public health or safety, to the extent allowed by state law.

2.12. Private Road Division. Upon request of Developer, the County shall cooperate with Developer to establish a Permanent Road Division in accordance with the requirements of Streets and Highways Code section 1160, *et seq.*, or other required mechanism for the maintenance of roads, associated drainage facilities and any other public facilities allowed by state law and specified by Developer.

2.13. Affordable Housing Requirements. The Parties acknowledge that the Applicable Rules include the County's Inclusionary Affordable Housing Component as set forth in Chapter IV, Section 3.12 of the County's Land Use and Development Code, which requires that the Project include an inclusionary affordable housing component of ten percent (10%) of the total number of units in the Project. Developer shall satisfy the requirements of the Inclusionary Affordable Housing Component in the following manner:

(a) The Project shall include thirty-six units that shall be subject to a declaration of affordable housing restriction (the "Declaration") in a form to be agreed on prior to recordation of the final map (the "Affordable Units"). The Declaration shall require that the units remain affordable to very-low, low and moderate income households, as applicable, for a period of ten (10) years from the date of approval of final occupancy.

(b) Twelve (12) Affordable Units shall be developed in Phase 4 of the Project, as more particularly described in the Comprehensive Master Plan. These Affordable Units shall be constructed in accordance with the standards set forth for Second Dwelling Units in Section L-II. 3.19(D), of the Nevada County Land Use and Development Code and Government Code section 65852.2, as applicable, to include four (4) Affordable Units affordable for persons of Very Low Income, three (3) Affordable Units for persons of Low Income, and five (5) Affordable Units for persons of Moderate Income.

(c) Ten (10) Affordable Units shall be developed in Phase 2 of the Project, as more particularly described in the Comprehensive Master Plan. These Affordable Units be constructed in accordance with the standards set forth for Second Dwelling Units in Section L-II 3.19(D), of the Nevada County Land Use and Development Code and Government Code section 65852.2, as applicable, to include four (4) Affordable Units affordable for persons of Very Low Income, four (4) Affordable Units for persons of Low Income, and two (2) Affordable Units for persons of Moderate Income.

(d) Fourteen (14) Affordable Units shall be developed in Phase 3 of the Project, as more particularly described in the Comprehensive Master Plan. These Affordable Units shall be constructed in accordance with the standards set forth for Second Dwelling Units in Section L-II, 3.19(D), of the Nevada County Land Use and Development Code and Government Code section 65852.2, to include four (4) Affordable Units affordable for persons of Very Low Income, four (4) Affordable Units for persons of Low Income, and six (6) Affordable Units for persons of Moderate Income.

(e) The Parties agree that Second Dwelling Units as permitted by Section L-II, 3.19(D), of the Nevada County Land Use and Development Code and Government Code section 65852.2 shall be permitted as set forth herein for the full term of this Development Agreement.

ARTICLE 3.

OBLIGATIONS OF THE PARTIES

3.1. Developer.

(a) Development of the Property. Developer agrees that development of the Property shall be in conformance with all of the terms, covenants and requirements of the Project Approvals and this Development Agreement.

(b) Infrastructure, Public Facilities and Roadway Improvements. Developer agrees that infrastructure and roadway improvements shall be constructed in accordance with the terms, covenants and requirements of the Project Approvals.

(c) Credits for Off-Site Roadway and Traffic Signal Improvements. Developer shall be eligible and receive dollar for dollar fee credit toward payment of the County's Traffic Impact Mitigation Fee for costs expended toward any public roadway improvements constructed by Developer and the installation of a traffic signal at Pleasant Valley Road and Lake Wildwood Drive, as included in the County's Capital Improvement Plan and Traffic Impact Mitigation Fee Program adopted in 2003.

ARTICLE 4.

ANNUAL REVIEW

4.1 Annual Review. The annual review required by Government Code §65865.1 shall be conducted as provided in Section L-II 5.18 (F) of the Nevada County Land Use and Development Code, as of the date of this Agreement.

4.2 Relationship to Default Provisions. The above procedures shall supplement and shall not replace that provision of Section 6.1 of this Development Agreement whereby either County or Developer may, at any time, assert matters which either Party believes have not been undertaken in accordance with this Development Agreement by delivering a written Notice of Default and following the procedures set forth in said Section 6.1.

ARTICLE 5.

AMENDMENTS

5.1. Amendments to Development Agreement Legislation. This Development Agreement has been entered into in reliance upon the provisions of the Development Agreement Legislation, as those provisions existed at the Agreement Date of this Development Agreement. No amendment or addition to those provisions which would adversely affect the interpretation or enforceability of this Development Agreement or would prevent or preclude compliance with one or more provisions of this Development Agreement shall be applicable to this Development Agreement unless such amendment or addition is specifically required by the change in law, or is mandated by a court of competent jurisdiction. In the event of the application of such a change in law, the Parties shall meet in good faith to determine the feasibility of any modification or suspension that may be necessary to comply with such new law or regulation and to determine the effect such modification or suspension would have on the purposes and intent of this Development Agreement and the Vested Elements. Following the meeting between the Parties, the provisions of this Development Agreement may, to the extent feasible, and upon mutual agreement of the Parties, be modified or suspended but only to the minimum extent necessary to comply with such new law or regulation. If such amendment or change is permissive (as opposed to mandatory), this Development Agreement shall not be amended or affected by same unless the Parties mutually agree in writing to amend this Development Agreement to permit such applicability. Any proposed amendment to this Development Agreement shall comply with Government Code Section 65868.

5.2. Amendments to or Cancellation of Development Agreement. This Development Agreement may be amended from time to time or canceled in whole or in part by mutual consent of both Parties or their successors-in-interest or assigns in writing in accordance with the provisions of the Development Agreement Legislation and the County Development Agreement Regulations. Review and approval of an amendment to this Development Agreement shall be strictly limited to consideration of only those provisions to be added or modified. No amendment, modification, waiver or change to this Development Agreement or any provision hereof shall be effective for any purpose unless specifically set forth in a writing which expressly refers to this Development Agreement and is signed by the duly authorized representatives of

both Parties, their successors or assigns. All amendments to this Development Agreement shall automatically become part of the Project Approvals and Vested Elements.

5.3. Amendments to Project Approvals (Including Subsequent Approvals). Notwithstanding any other provision of this Development Agreement, Developer may seek and County may review and grant amendments or modifications to the Project Approvals (including the Subsequent Approvals) subject to the following (except that the procedures for amendment of this Development Agreement are set forth in Section 5.2 herein).

5.4. Project Approvals Independent. All Project Approvals granted by the County with respect to the Project constitute independent actions and approvals by the County. If any provision of this Agreement or the application of any provision of this Agreement to a particular situation is held by a court of competent jurisdiction to be invalid or unenforceable, or if this Agreement terminates for any reason, the validity of the Project Approvals shall not be affected, and will remain in effect according to their own terms, provisions and conditions.

ARTICLE 6.

DEFAULT, REMEDIES, TERMINATION

6.1. Events of Default. Subject to any extensions of time by mutual consent of the Parties in writing, and subject to the provisions of Section 10.2 hereof regarding permitted delays and a mortgagee's right to cure pursuant to Section 9.3 hereof, any failure by either Party to perform any material term or provision of this Development Agreement (but not including terms, provisions or conditions of any other Project Approvals) shall constitute an "Event of Default," (i) if such defaulting Party does not cure such failure within sixty (60) days following written notice of default from the other Party, where such failure is of a nature that can be cured within such sixty (60) day period, or (ii) if such failure is not of a nature which can be cured within such sixty (60) day period, the defaulting Party does not within such sixty (60) day period commence substantial efforts to cure such failure, or thereafter does not within a reasonable time prosecute to completion with diligence and continuity the curing of such failure. Any notice of default given hereunder shall specify in detail the nature of the failures in performance which the noticing Party claims constitutes the Event of Default and the manner in which such failure may be satisfactorily cured in accordance with the terms and conditions of this Development Agreement. During the time periods herein specified for cure of a failure of performance, the Party charged therewith shall not be considered to be in default for purposes of (a) termination of this Development Agreement, (b) institution of legal proceedings with respect thereto, or (c) issuance of any Project Approvals with respect to the Project (including Subsequent Approvals). The waiver by either Party of any default under this Development Agreement shall not operate as a waiver of any subsequent breach of the same or any other provision of this Development Agreement.

6.2. Remedies and Termination. If after notice and expiration of the cure periods and procedures set forth in Sections 6.1, the alleged Event of Default is not cured, the non-defaulting Party, at its option, may institute legal or arbitration proceedings pursuant to Sections 6.3 or 6.4 of this Development Agreement and/or terminate this Development Agreement. In the event that this Development Agreement is terminated pursuant to this Section

6.2 and litigation, mediation or arbitration is instituted which results in a final decision that such termination was improper, then this Development Agreement shall immediately be reinstated as though it had never been terminated.

6.3. Legal Action by Parties. Either Party may, in addition to any other rights or remedies, institute legal action to cure, correct or remedy any default, enforce any covenant or agreement herein, enjoin any threatened or attempted violation thereof, enforce by specific performance the obligations and rights of the Parties hereto or to obtain any remedies consistent with the purpose of this Development Agreement. All remedies shall be cumulative and not exclusive of one another, and the exercise of any one or more of these remedies shall not constitute a waiver or election with respect to any other available remedy.

6.4. Arbitration. Upon the mutual agreement by both Parties, any legal action shall be submitted to binding arbitration in accordance with rules to be mutually agreed upon by the Parties.

6.5. Termination.

(a) Expiration of Term. Except as otherwise provided in this Development Agreement, this Development Agreement shall be deemed terminated and of no further effect upon the expiration of the Term of this Development Agreement as set forth in Section 1.3.

(b) Survival of Obligations. Upon the termination of this Development Agreement pursuant to Section 6.2 or this Section 6.5, neither Party shall have any further right or obligation with respect to the Property under this Development Agreement except with respect to any obligation which is specifically set forth as surviving this Development Agreement. The termination of this Development Agreement shall not affect the validity of the Project Approvals (other than this Development Agreement) or Subsequent Approvals.

ARTICLE 7.

COOPERATION AND IMPLEMENTATION

7.1. Further Actions and Instruments. The Parties to this Development Agreement shall cooperate with and provide reasonable assistance to the other Party and take all actions necessary to ensure that the Parties receive the benefits of this Development Agreement, subject to satisfaction of the conditions of this Development Agreement. Upon the request of any Party, the other Party shall promptly execute, with acknowledgment or affidavit if reasonably required, and file or record such required instruments and writings and take any actions as may be reasonably necessary under the terms of this Development Agreement to carry out the intent and to fulfill the provisions of this Development Agreement or to evidence or consummate the transactions contemplated by this Development Agreement.

7.2. Regulation by Other Public Agencies. It is acknowledged by the Parties that other public agencies not within the control of County may possess authority to regulate aspects of the development of the Property separately from or jointly with County, and this Development Agreement does not limit the authority of such other public agencies. Developer

or County (whichever is appropriate) shall apply in a timely manner for the permits and approvals which may be required from other governmental or quasi-governmental agencies having jurisdiction over the Project as may be required for the development of, or provision of services to, the Project. County shall cooperate with Developer in its endeavors to obtain such permits and approvals and shall, from time to time, at the request of Developer, attempt with due diligence and in good faith to enter into binding agreements with any such entity to ensure the availability of such permits and approvals, or services, at each stage of the development of the Project.

7.3. Cooperation in the Event of Legal Challenge. In the event of any legal action instituted by a third party challenging the validity of any provision of this Development Agreement, the procedures leading to its adoption, or the issuance of Project Approvals and/or Subsequent Approvals for the Project, the Parties hereby agree to affirmatively cooperate in defending said action. Developer agrees to bear the litigation expenses of defense, including reasonable attorneys' fees. Developer shall be entitled to any award of reasonable attorneys' fees arising out of any such legal action. Developer shall have sole authority to select legal counsel for defense. Developer's obligation to pay for legal counsel shall not extend to fees incurred on appeal unless otherwise authorized by Developer. Developer shall have sole discretion to terminate its defense at any time. As part of the cooperation in defending an action, County and Developer shall coordinate their defense in order to make the most efficient use of legal counsel.

7.4. Revision to Project. In the event of a court order issued as a result of a successful legal challenge, County and Developer shall, to the extent permitted by law or court order, in good faith seek to comply with the court order in such a manner as will maintain the integrity of the Project Approvals (including the Development Agreement and the Subsequent Approvals) and avoid or minimize to the greatest extent possible (i) any impact to the development of the Project as provided for in, and contemplated by, the Vested Elements, or (ii) any conflict with the Vested Elements or frustration of the intent or purpose of the Vested Elements.

7.5 Indemnification Agreement. County and Developer shall enter into a mutually acceptable indemnification agreement in a form substantially similar to Exhibit D attached hereto.

ARTICLE 8.

TRANSFERS AND ASSIGNMENTS

8.1. Right to Assign. Developer shall be permitted to sell, transfer or assign its rights and interests under this Agreement with respect to all or a portion of the Property concurrent with the sale, transfer or assignment of the underlying portion of the Property with the prior approval of the County, not to be unreasonably withheld.

8.2. Release upon Transfer. Upon the sale, transfer or assignment of Developer's rights and interests under this Development Agreement pursuant to Section 8.1, Developer shall be released from its obligations and liabilities under this Development

Agreement with respect to that portion of the Property sold, transferred or assigned and any subsequent default or breach with respect to the transferred or assigned rights and/or obligations shall not constitute a default or breach with respect to the retained rights and/or obligations under this Development Agreement, provided that (a) Developer has provided to County notice of such transfer, and (b) the transferee executes and delivers to County a written agreement in which (i) the name and address of the transferee is set forth and (ii) the transferee expressly and unconditionally assumes all of the obligations of Developer under this Development Agreement with respect to that portion of the Property sold, transferred or assigned. Failure to deliver a written assumption agreement hereunder shall not affect the running of any covenants herein with the land, as provided in Section 8.3 below, nor shall such failure negate, modify or otherwise affect the liability of any transferee pursuant to the provisions of this Development Agreement.

8.3. Covenants Run with the Land. All of the provisions, agreements, rights, powers, standards, terms, covenants and obligations contained in this Development Agreement shall be binding upon the Parties and their respective successors in interest, and all persons or entities acquiring the Property or any portion thereof, or any interest therein, whether by operation of law or in any manner whatsoever, and shall inure to the benefit of the Parties and their respective successors and assigns. All of the provisions of this Development Agreement shall be enforceable as equitable servitudes and constitute covenants running with the land pursuant to applicable law, including but not limited to, Section 1468 of the Civil Code of the State of California. Each covenant to do or refrain from doing some act on the Property hereunder (a) is for the benefit of such Property and is a burden upon such Property, (b) runs with such Property, (c) is binding upon each Party and each successive owner during its ownership of such Property or any portion thereof, and each person or entity having any interest therein derived in any manner through any owner of such Property, or any portion thereof, and shall benefit the Property hereunder, and each other person or entity succeeding to an interest in such Property.

8.4. Termination of Agreement with Respect to Individual Residential Parcels Upon Sale to Public. Upon the final map recordation, completion of building construction on any residential parcel, and individual sale of such residential parcel to the purchaser thereof, such parcel shall be released from and no longer be subject to the provisions of this Development Agreement without the execution or recordation of any further document or instrument.

ARTICLE 9.

MORTGAGEE PROTECTION; CERTAIN RIGHTS OF CURE

9.1. Mortgagee Protection. This Development Agreement shall be superior and senior to any lien placed upon the Property or any portion thereof after the date of recording this Development Agreement, including the lien of any deed of trust or mortgage ("Mortgage"). Notwithstanding the foregoing, no breach hereof shall defeat, render invalid, diminish or impair the lien of any Mortgage made in good faith and for value, but all of the terms and conditions contained in this Development Agreement shall be binding upon and effective against any person or entity, including any deed of trust beneficiary or mortgagee ("Mortgagee") who acquires title

to the Property, or any portion thereof, by foreclosure, trustee's sale, deed in lieu of foreclosure, or otherwise.

9.2. Mortgagee Not Obligated. Notwithstanding the provisions of Section 9.1 above, no Mortgagee shall have any obligation or duty under this Development Agreement to perform Developer's obligations or other affirmative covenants of Developer hereunder, including any obligation to construct or complete the construction of improvements, or to guarantee such construction or completion.

9.3. Notice of Default to Mortgagee; Right of Mortgagee to Cure. If County receives a notice from a Mortgagee requesting a copy of any Notice of Default given Developer hereunder and specifying the address for service thereof, then County shall deliver to such Mortgagee, concurrently with service thereon to Developer, any notice given to Developer with respect to any claim by County that Developer has committed a default, and if County makes a determination of noncompliance hereunder, County shall likewise serve notice of such noncompliance on such Mortgagee concurrently with service thereon on Developer. Each Mortgagee shall have the right (but not the obligation) during the same period available to Developer to cure or remedy, or to commence to cure or remedy, the Event of Default claimed or the areas of noncompliance set forth in County's notice.

9.4. Technical Amendments to this Article 9. The County agrees to reasonably consider and approve technical amendments to the provisions of this Article 9 which are required by lenders for the acquisition and construction of the improvements on the Property or any refinancing thereof and to otherwise cooperate in good faith to facilitate Developer's negotiations with lenders.

ARTICLE 10.

MISCELLANEOUS PROVISIONS

10.1. Project Is a Private Undertaking. It is specifically understood and agreed by the Parties that (a) the development contemplated by this Development Agreement is a private development, (b) that neither Party is acting as the agent of the other in any respect hereunder, and (c) that Developer shall have full power over the exclusive control of the Property herein described subject only to the limitations and obligations of Developer under this Development Agreement.

10.2. Force Majeure. The Term of this Development Agreement and the time within which Developer shall be required to perform any act under this Development Agreement shall be extended by a period of time equal to the number of days during which performance of such act is delayed unavoidably and beyond the reasonable control of the Party seeking the delay by strikes, lock-outs, Acts of God, inclement weather, failure or inability to secure materials or labor by reason of priority or similar regulations or order of any governmental or regulatory body, changes in local, state or federal laws or regulations, enemy action, civil disturbances, fire, unavoidable casualties, or any other cause beyond the reasonable control of Developer which substantially interferes with carrying out the development of the Project. Such extension(s) of time shall not constitute an Event of Default and shall occur at the request of the Developer.

10.3. Notices, Demands and Communications Between the Parties. Formal written notices, demands, correspondence and communications between County and Developer shall be sufficiently given if delivered personally (including delivery by private courier), dispatched by certified mail, postage prepaid and return receipt requested, or delivered by nationally recognized overnight courier service, or by electronic facsimile transmission followed by delivery of a "hard" copy to the offices of County and Developer indicated below. Such written notices, demands, correspondence and communications may be sent in the same manner to such persons and addresses as either Party may from time-to-time designate in writing at least fifteen (15) days prior to the name and/or address change and as provided in this Section 10.3.

County: Planning Director
County of Nevada
950 Maidu Avenue
Nevada City, CA 95959

Developer: Wildwood Resolution, LLC
515 South Figueroa Street, #1060
Los Angeles, CA 90071
Attn: Brian Masterman

with copy to: McDonough Holland & Allen PC
555 Capitol Mall, 9th Floor
Sacramento, California 95814
Attn: Seth Merewitz

Notices personally delivered shall be deemed to have been received upon delivery. Notices delivered by certified mail, as provided above, shall be deemed to have been given and received on the first to occur of (i) actual receipt by any of the addressees designated above as the Party to whom notices are to be sent, or (ii) within 5 days after a certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. Notices delivered by overnight courier service as provided above shall be deemed to have been received 24 hours after the date of deposit.

10.4. No Joint Venture or Partnership. Nothing contained in this Development Agreement or in any document executed in connection with this Development Agreement shall be construed as making County and Developer joint venturers or partners.

10.5. Severability. If any terms or provision(s) of this Development Agreement or the application of any term(s) or provision(s) of this Development Agreement to a particular situation, is (are) held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of this Development Agreement or the application of this Development Agreement to other situations, shall remain in full force and effect unless amended or modified by mutual consent of the Parties; provided that, if the invalidation, voiding or enforceability would deprive either County or Developer of material benefits derived from this Development Agreement, or make performance under this Development Agreement unreasonably difficult, then County and Developer shall meet and confer and shall make good faith efforts to amend or modify this

Development Agreement in a manner that is mutually acceptable to County and Developer. Notwithstanding the foregoing, if any material provision of this Development Agreement, or the application of such provision to a particular situation, is held to be invalid, void or unenforceable, Developer (in its sole discretion) may terminate this Development Agreement by providing written notice of such termination to County.

10.6. Section Headings. Article and Section headings in this Development Agreement are for convenience only and are not intended to be used in interpreting or construing the terms, covenants or conditions of this Development Agreement.

10.7. Construction of Agreement. This Development Agreement has been reviewed and revised by legal counsel for both Developer and County, and no presumption or rule that ambiguities shall be construed against the drafting Party shall apply to the interpretation or enforcement of this Development Agreement.

10.8. Entire Agreement. This Development Agreement is executed in two (2) duplicate originals, each of which is deemed to be an original. This Development Agreement consists of twenty-two (22) pages including the Recitals, and four (4) exhibits, attached hereto and incorporated by reference herein, which constitute the entire understanding and agreement of the Parties and supersedes all negotiations or previous agreements between the Parties with respect to all or any part of the subject matter hereof. The exhibits are as follows:

Exhibit A	Legal Description of the Property
Exhibit B	Map of the Property
Exhibit C	Development Fees
Exhibit D	Form of Indemnification Agreement

10.9. Estoppel Certificates. Either Party may, at any time during the Term of this Development Agreement, and from time to time, deliver written notice to the other Party requesting such Party to certify in writing that, to the knowledge of the certifying Party, (a) this Development Agreement is in full force and effect and a binding obligation of the parties, (b) this Development Agreement has not been amended or modified either orally or in writing, or if amended, the Party shall describe the amendments, and (c) the requesting Party is not in default in the performance of its obligations under this Development Agreement, or if in default, the Party shall describe the nature and amount of any such defaults. The Party receiving a request hereunder shall execute and return such certificate or give a written, detailed response explaining why it will not do so within twenty (20) days following the receipt thereof. The failure of either Party to provide the requested certificate within such twenty (20) day period shall constitute a confirmation that no default exists. Either the County Executive Officer or the Planning Director of County shall have the right to execute any certificate requested by Developer hereunder. County acknowledges that a certificate hereunder may be relied upon by transferees and Mortgagees.

10.10. Execution and Recordation. Pursuant to California Government Code Section 65868.5, within ten (10) days after the approval of the Enacting Ordinance, the County

shall execute this Development Agreement and the Clerk of the Board shall record this Development Agreement with the Nevada County Recorder. Thereafter, if this Development Agreement is terminated, modified or amended pursuant to Article 5, Article 6 or Article 7 of this Development Agreement, the County Clerk shall record notice of such action with the Nevada County Recorder.

10.11. No Waiver. No delay or omission by either Party in exercising any right or power accruing upon non-compliance or failure to perform by the other Party under any of the provisions of this Development Agreement shall impair any such right or power or be construed to be a waiver thereof. A waiver by either Party of any of the covenants or conditions to be performed by the other Party shall be in writing and signed by a duly authorized representative of the Party against whom enforcement of a waiver is sought, and any such waiver shall not be construed as a waiver of any succeeding breach or non-performance of the same or other covenants and conditions hereof.

10.12. Time Is of the Essence. Time is of the essence for each provision of this Development Agreement for which time is an element.

10.13. Applicable Law. This Development Agreement shall be construed and enforced in accordance with the laws of the State of California. The Parties agree that venue for any legal action brought under this Agreement shall be Nevada County.

10.14. No Third Party Beneficiaries. County and Developer hereby renounce the existence of any third party beneficiary to this Development Agreement and agree that nothing contained herein shall be construed as giving any other person or entity third party beneficiary status.

10.15. Constructive Notice and Acceptance. Every person who now or hereafter owns or acquires any right, title or interest in or to any portion of the Property is and shall be conclusively deemed to have consented and agreed to every provision contained herein, whether or not any reference to this Development Agreement is contained in the instrument by which such person acquired an interest in the Property.

10.16. Authority. The persons signing below represent and warrant that they have the authority to bind their respective Party and that all necessary board of directors', shareholders', partners', County Board of Supervisors', or other approvals have been obtained

[signatures on next page.]

IN WITNESS WHEREOF, County and Developer have executed this Development Agreement as of the date first set forth above.

County:

County of Nevada, a political subdivision of the State of California

By: 3-16-06

Chairman, Board of Supervisors

ATTESTATION:

By:

Clerk of the Board

APPROVED AS TO FORM:

By:

County Counsel

Developer:

Wildwood Resolution, LLC, a California limited liability company

By:

Its: Authorized Rep.

APPROVED AS TO FORM:

By:

Seth Merewitz, Counsel to Developer

STATE OF CALIFORNIA)
) ss.
COUNTY OF Los Angeles)

On March 10, 2006, before me, Melissa Ramirez, Notary Public, personally appeared Brian Masterman, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he/~~she~~ executed the same in his/~~her~~ authorized capacity and that by his/~~her~~ signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Signature

[SEAL]

MELISSA RAMIREZ
Commission # 1557142
Notary Public - California
San Francisco County
My Comm. Expires Mar 6, 2009

811480v10 35374/0001

EXHIBIT A
DESCRIPTION OF PROPERTY

Real property in the unincorporated area of Penn Valley, County of Nevada, State of California, described as follows:

PARCEL 1:

All that land lying within the exterior boundaries of Final Map #84-8, Reversion to Acreage, Lake Wildwood Units 6B and 6C, filed September 24, 1984, in Book 7 of Subdivisions, at page 49, Nevada County Records.

The above described land is also shown as Remainder Parcel as shown on the map of Phase One, Wildwood Estates, filed February 27, 1992, in Book 7 of Subdivisions, page 125.

EXCEPTING THEREFROM all the Lots and Parcels shown on the map of Phase One, Wildwood Estates, filed February 27, 1992, in Book 7 of Subdivisions, page 125.

PARCEL 2:

Lots D, E, and F as shown on that certain map entitled "Final Map 90-10 Phase One Wildwood Estates", filed in the office of the County Recorder of Nevada County, California on February 27, 1992 in Book 7 of Subdivision, at page 125.

APN: 50-410-02 AND 50-410-01, AS TO PARCEL ONE

APN: 50-410-09, 50-410 AND 50-410-11, AS TO PARCEL TWO

EXHIBIT B

MAP OF THE PROPERTY

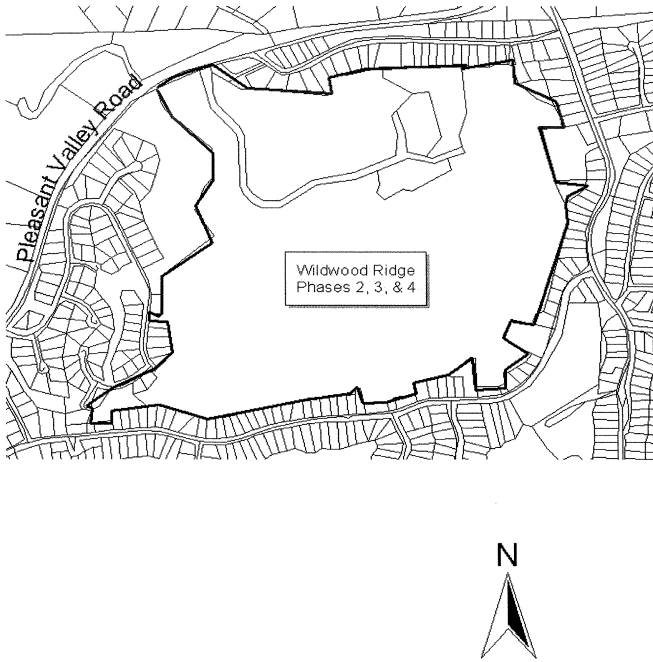

EXHIBIT C

DEVELOPMENT FEES

Impact Fees:

Capital Facilities fee:	$1462.00 per parcel, per MM 4.11.5.2 DEIR
Road fees per Resolution 03-460:	$ 836.00 per residence; $ 502.00 for Second Dwelling Units
Recreation fees per Resolution 97-528:	$ 917.00 per lot
PV Fire at building permit stage:	$ 0.21 per square foot if sprinklers are available and served by hydrants $ 0.41 per square foot if sprinklers are not available nor served by hydrants

EXHIBIT D

FORM OF INDEMNIFICATION AGREEMENT

This Indemnity Agreement ("Agreement") is made and entered on the date hereinafter set forth, effective on the date of project approval, by the WILDWOOD RESOLUTION, LLC, a California limited liability company, with regard to the following facts:

RECITALS

WHEREAS, Applicant is the record owners of that property located in the incorporated area of Western Nevada County near Penn Valley, CA 95946, on APNs 50-410-01, -02, -09, -10, and -11, on which the applicant applied for approval of a Tentative Map, FM03-102, to subdivide 206.97 acres into 352 single-family residential lots, and a Use Permit (U03-105) to implement a Comprehensive Master Plan.

WHEREAS, on Applicant's request the County of Nevada ("County") approved the application for a Tentative Map and Use Permit, subject to conditions, which actions are included within the subject "project approval."

WHEREAS, on Applicant's request the County of Nevada ("County") adopted a Subsequent Environmental Impact Report for the project (EIR 03-101) and approved the application for a Tentative Map and Use Permit, subject to conditions, which actions are included within the subject "project approval."

AND WHEREAS, the conditions of project approval include a requirement that the Applicant sign and file an indemnity agreement in substantially the following form approved by County Counsel.

NOW THEREFORE, in consideration of the above-referenced project approval and in satisfaction of an express condition of that approval, the Applicant hereby agrees as follows:

1. The Applicant agrees to defend, indemnify, and hold harmless the County and its agents, officers, and employees from any claim, action, or proceeding against the County or its agents, officers, or employees to attack, set aside, void or annul the above-referenced project approval or any prior or subsequent project related approvals or conditions imposed by the County or any of its agencies, departments, commissions, agents, officers, or employees concerning said project, or to impose personal liability against such agents, officers, or employees based upon the project approval, which claim, action, or proceeding is brought within the time provided by law, including, without limitation, any claim for private attorney general fees claimed by or awarded to any party from the County.

2. The County shall not be required to, but may, within its unlimited discretion, participate in the defense of any such claim, action, or proceeding in good faith, at its own

expense; but such participation shall not relieve Applicant of his obligations under this Agreement.

3. The Applicant shall not be required to pay or perform any settlement of such claim, action, or proceeding covered by this Agreement unless the settlement is approved by the Applicant.

4. This Agreement shall be binding upon Applicant and his heirs, executors, administrators, assigns and successors in interest.

5. Upon execution of this Agreement, it may be recorded with the County Recorder's Office.

6. It is agreed and understood that this Agreement shall be interpreted fairly in accordance with its terms to effectuate the intent of the parties and not strictly for or against any party by reason of authorship that none of them is to be deemed the party which prepared this Agreement within the meaning of Civil Code Section 1654.

7. Applicant agrees to cooperate in good faith with County in performance of obligations as set forth in this Agreement.

IN WITNESS WHEREOF, Applicant has so agreed on the date hereinafter set forth.

APPLICANT

Dated: _____

_____

_____

Approved as to Form:

_____
Counsel for County of Nevada

Approved as to Form:

_____
Counsel for Wildwood Resolution, LLC