



RESOLUTION No. _____

OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA

RESOLUTION APPROVING AN INFRASTRUCTURE REIMBURSEMENT AGREEMENT BETWEEN THE COUNTY OF NEVADA AND KKP-LAKE OF THE PINES, LLC, REGARDING THE CONSTRUCTION AND FUNDING OF PUBLIC ROAD AND SEWER IMPROVEMENTS, AN AUTHORIZING THE CHAIR OF THE BOARD OF SUPERVISORS TO EXECUTE THE AGREEMENT

WHEREAS, KKP-Lake of the Pines, LLC (“Developer”) is in escrow to acquire an approximately 20.07 acre unimproved parcel commonly known as the Higgins Marketplace Center, State Highway 49 & Woodridge Court (APN 57-260-17), located in the unincorporated area of Nevada County (the “Property” or “Project Site”); and

WHEREAS, on April 13, 2010, the Nevada County Board of Supervisors approved an Environmental Impact Report(EIR04-001) and a Conditional Use Permit (U04-019) for the Higgins Marketplace project, an approximately 75,710 sf commercial center (collectively the “Project”); and

WHEREAS, the Project consists of four stand-alone commercial buildings, anchored by an approximately 50,000 sf grocery store (which includes expansion area) as shown in Exhibit A, attached hereto and incorporated herein by this reference; and,

WHEREAS, the Project conditions of approval require that Developer install certain off-site road improvements on Combie Road to serve the Project and mitigate certain traffic-related impacts (collectively the “Road Improvements”) and an off-site force main in Combie Road from Cascade Crossing to the intersection of Combie and Higgins Road to serve the Project and mitigate certain sewer-related impacts (collectively the “Sewer Improvements”); and

WHEREAS, the Project’s CUP expires on January 13, 2021 (“Expiration Date”) and the County believes that the Project is not entitled to any further time extensions under the County’s Land Use and Development Code except with additional discretionary County approvals; and

WHEREAS, the County maintains a General Fund Economic Development Infrastructure assignment fund in which a very limited amount of money is available to fund infrastructure projects which support commercial, industrial and other economic development projects in unincorporated areas of the County; and

WHEREAS, the County has determined that it is in the public interest to widen portions of the Combie Road Corridor regardless of whether the Project proceeds or not and, as a part of such road widening work, it is convenient to install the Road Improvements and Sewer Improvements at the same time to avoid disruption of the road after the road widening work is completed; and

WHEREAS, the County has agreed to pay for, construct and install the Road Improvements primarily using Local Traffic Mitigation Funds and Sewer Improvements using County Economic Development Infrastructure funds, both subject to certain potential reimbursements by Developer; and

WHEREAS, a County capital project fund will be established for the purpose of funding construction of the Sewer Improvements and, upon completion, the Sewer Improvements will be accepted by the Sanitation District; and,

WHEREAS, the County believes it is in the best interests of the County to encourage and incentivize Developer to either (a) expeditiously complete the Project in order to generate jobs and tax revenues for the County or (b) contribute to the cost of the Road Improvements and Sewer Improvements; and,

WHEREAS, to encourage and incentivize the expeditious completion of the Road Improvements and Sewer Improvements, Developer has agreed to make certain payments to the County as more fully set forth in this Agreement, and County has agreed to expedite construction of the Road Improvements and Sewer Improvements prior to the Expiration Date; and,

WHEREAS, the Sewer Improvements will serve certain existing developments and may also serve additional new developments adjacent to the new force main who will benefit from installation of the Sewer Improvements; and,

WHEREAS, the Developer has requested, and County has agreed, that Developer be credited for a portion of the County's cost of installing the Sewer Improvements from monies the County may collect, if any, from certain developments and new developments if those developments connect to the Sewer Improvements on or before the Credit Expiration Date, as defined in Paragraph 3.e. below; and,

WHEREAS, the parties now desire to document and memorialize their respective understandings and commitments, and to set forth the terms and conditions of their Agreement.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Nevada County Board of Supervisors that the Infrastructure Reimbursement Agreement by and between the County of Nevada and KKP-Lake of the Pines, LLC, be and hereby is approved in substantially the form attached hereto and that the Chair of the Board of Supervisors is authorized to execute the Agreement.