

Olivehurst Public Utility District



Agenda Item Staff Report

Meeting Date: 8/15/24

Item description/summary:

Consider Accepting Phase 2 Park Improvements for Bear River Park via Cresleigh Homes Incorporation.

Olivehurst Public Utility District (OPUD) is in the final stages of Phase 2 improvements of Bear River Park which includes small children's playground (0-5 years), full court basketball court, shade structure, benches, large grass land area, additional trees and landscaping, and additional walkway. Additionally, the park will fully be irrigated via an existing domestic well which has been converted to irrigation use for the park only. The site is already under OPUDs ownership but was split into two phases due to development construction requirements at the time.

Fiscal Analysis:

n/a

Employee Feedback

n/a

Sample Motion:

Accept Phase 2 Bear River Park Improvements

Prepared by: Swarnjit Boyal, Public Work Engineer

ATTACHMENT A – Park Development Agreement

PARK DEVELOPMENT AGREEMENT
(Plumas Ranch, Village 2B, Meadows)

THIS AGREEMENT is made and entered into this 20th day of November, 2008, by and between the OLIVEHURST PUBLIC UTILITY DISTRICT, a public utility district formed and operating under California Public Utilities Code sections 15501 et seq. ("OPUD"); and CRESLEIGH HOMES CORPORATION, a California corporation ("**Developer**"), with respect to the following:

RECITALS

A. Developer owns certain real property, commonly referred to as Plumas Ranch, consisting of the residential lots, a school site and three (3) neighborhood park sites shown on the map in **Exhibit A** (the "**Overall Property**"). The Overall Property is part of the specific plan development approved by the County of Yuba ("**County**") and known as the Plumas Lake Specific Plan (PLSP), in Yuba County, California.

B. The Overall Property is the subject of two, approved, Tentative Subdivision Maps and is being developed in phases or villages (each, a "**Village**"), which are shown on **Exhibit A**. The subject of this Agreement is the development of the park site located within Village 2B, as shown on **Exhibit A** (the "**Park Site**"). The Park Site is generally shown in the Plumas Lake Specific Plan Area Park Master Plan (the "**Park Master Plan**") adopted by OPUD on June 16, 2005.

C. The County requires that Developer dedicate and develop lands for park and recreational purposes or pay fees in lieu thereof that will be used for parkland acquisition and for park development. The parkland acquisition fees are sometimes referred to as "**Quimby Fees**," and the park development fees are referred to as "**Park Development Fees**." Under the PLSP and the County's conditions of development, Developer is further required to enter into a park development agreement (a "PDA") with OPUD, as owner and operator of the parks in the Park Master Plan Area governing the financing, development, and dedication to OPUD of the parks within the Overall Property. The Park Development Fee paid to the County must be sufficient to fund Developer's fair share of the park improvements within the Plumas Lake Specific Plan and the North Arboga Study area, two specific planned areas that the County has combined for development purposes ("**PLSP/NASA**"). If Developer does the improvement work, Developer may be entitled to claim refunds and reimbursement of Park Development Fees turned over to OPUD by the County. Implementation of these refunds and reimbursements, if applicable to the Park Site, are to be governed by the terms and conditions of this Agreement between Developer and OPUD.

D. The Final Maps for Villages 1, 2A and 2B (collectively, "**Villages 1 and 2**") were approved by the Board of Supervisors of the County without an approved PDA. As a result of delays in reaching a PDA governing the development of parks within the Overall Property,

including the Park Site, OPUD sent a written notice to the County, dated June 19, 2008, advising the County that Developer was not in compliance with the County's conditions governing the development of the Overall Property and recommending that the County cease issuing building permits for development within the Overall Property until an acceptable Park Development Agreement (PDA) was executed. On September 25, 2008, OPUD further advised the Developer that it would not provide occupancy permit inspections for any residences on the Overall Property until the conditions of development applicable to OPUD, including an acceptable plan for park development, and PDA, are completed.

E. Development within the Overall Property has slowed to the point where insufficient Park Development Fees are available to build the required parks, but the Park Development Fees received to date will permit the development of a portion of the Park Site to provide some park amenities to existing residents within the Overall Property. Therefore, Developer desires to enter into a phased PDA to allow Developer to construct park improvements for the Park Site in two phases. OPUD is willing to provide Developer reimbursement of the neighborhood park fee component of the Park Development Fees (the "**Neighborhood Park Fees**") collected to date within the Overall Property, totaling \$485,653.57, to finance Developer's construction of the initial phase of the park improvements on the Park Site, in accordance with the terms and conditions set forth in this Agreement, with the understanding that a PDA for all park sites on the Overall Property will follow soon thereafter.

NOW THEREFORE, in consideration for the mutual promises, conditions and covenants hereinafter set forth, the parties agree as follows:

1. Conveyance and Acceptance. Upon completion of the Phase 1 Improvements (as defined below), Developer shall convey and OPUD shall accept fee title to the Park Site. The form of the grant deed is attached hereto as **Exhibit B**. The description of the Park Site includes the portion thereof encumbered by a prior easement (the "**Well Easement Area**") from Developer to OPUD for water system purposes and improved with a back-up water well occupying a portion of the Well Easement Area (the "**Existing Well Area**").

Title to the Park Site must be free and clear of any wells (except for the well within the Existing Well Area), storage tanks, vernal pools, wetlands, or endangered species habitat. The Park Site shall also be free and clear of any and all liens, easements and encumbrances, except the easement to OPUD for the Existing Well Area and those easements required by the County as conditions of approval for the Overall Property, and such other exceptions, if any, approved in writing by OPUD. Upon recordation of the grant deed to OPUD, Developer shall provide to OPUD a policy of title insurance equal to a value of \$10,000 per acre for the property, showing title subject only to such permitted exceptions. Any accrued and unpaid real property taxes, special taxes, or assessments for the Park Site shall be paid by Developer through the date of recordation of the grant deed.

The conveyance of the Park Site, net of the Existing Well Area, shall be credited against Developer's "**Parkland Dedication**" obligations for the Overall Property pursuant to the requirements of OPUD and County, including County Ordinance Code section 11.15.661. OPUD acknowledges that, with Developer's dedication of the Park Site, subject to compliance with all terms hereof, Developer will have fulfilled its Parkland Dedication for Villages 1 and 2. Within fifteen (15) days of recordation of the grant deed for the Park Site to OPUD, OPUD shall provide written confirmation to the County that Landowner has conveyed the Park Site to OPUD in satisfaction of its park land dedication requirements for Villages 1 and 2.

2. Construction of Improvements.

(a) Development Plan. Developer and OPUD have met and agreed upon a Concept Plan for the development of the entire Park Site, which Concept Plan is attached as Exhibit E hereto. A condition subsequent to the effectiveness hereof is that OPUD shall have received and approved a plan, jointly prepared and submitted by the OPUD park consultant and Developer, for the improvement of the Park Site (the "Development Plan") with the detail of the Final Improvements as described in Exhibit C. The Development Plan shall describe in sufficient detail the particular improvements to be installed in each phase of the development of the Park Site. Said Development Plan shall be completed and submitted to the Board of OPUD for approval no later than December 12, 2008. Failure to approve the Development Plan by said date, unless extension thereof is approved by the General Manager of OPUD, shall result in failure of the condition subsequent and the termination of this Agreement. Once approved, said Development Plan shall be inserted herein as "**Revised Exhibit C**", to describe the Final Improvements to be installed in each phase of development of the Park Site. (References hereafter to "**Exhibit C**" shall include "**Revised Exhibit C**" as appropriate) Developer shall construct the Final Improvements as described in **Revised Exhibit C** in two phases, as set forth below. The Development Plan will meet the requirements of the Park Master Plan and build-out of the park improvements shown on the Development Plan will satisfy the requirements of the Park Master Plan with respect to the Park Site.

(b) Initial Improvements. Except for the fencing adjacent to home sites (which will be installed by Developer when such home sites are improved), Developer has completed, at its sole cost, without entitlement to refund or reimbursement therefore, all of the design, engineering, and construction of all the "**Initial Improvements**" for the entire Park Site, as more particularly described in **Exhibit C**. Initial improvements have not been confirmed by OPUD.

(c) Final Improvements. Developer shall be responsible for funding and completing, with refunds and reimbursement as set forth hereafter, all of the design, engineering and construction of the "**Final Improvements**" on the entire Park Site, to be more particularly described in **Exhibit C**. Included within Developer's cost of funding the Final Improvements shall be an amount of 2% of the estimated costs of the Final Improvements, representing OPUD's cost of engineering for plan development, checking of plans and specifications, and inspection during the course of construction. Said amount will be deposited by Developer prior

to the commencement of construction and shall be reimbursable to Developer in accordance with Paragraphs 4(b) (i) and (ii) below. In lieu of a deposit, at the request of Developer, the amount will be deducted by OPUD from the funds described in Paragraph 2(f) hereof. The Final Improvements shall be constructed in phases: the "**Phase 1 Improvements**" and "**Phase 2 Improvements**", as set forth below.

(d) Phase 1 Improvements. The Phase 1 Improvements are intended to produce a stand alone park on a portion of the Park Site, that is a park containing sufficient landscaping, playground facilities, hardscape, and other amenities to provide a full park experience with the funds available. Construction of the Phase 1 Improvements shall commence no later than June 1, 2009 and shall be completed no later than October 1, 2009. Commencement of construction on the described schedule shall be conditioned upon review and approval of the detailed plans and specifications for the Phase 1, and review and approval by OPUD of the final design of the Phase 2 Improvements. Developer's plans and specifications (Phase 1) and design (Phase 2), for both Phases shall be delivered to OPUD for review no later than January 30, 2009. Said deadline maybe extended in the reasonable discretion of the General Manager provided such extension does not delay the construction. The purpose of the submittal and review of the Phase 2 design (but not plans and specifications until required for construction) with the Phase 1 plans is to assure that the Development Plan is consistent with the Park Master Plan. All Phase 1 Improvements shall be subject to the inspection of OPUD's representatives, and approval of such Improvements shall not be unreasonably withheld. The foregoing times for commencement and completion of the Phase 1 Improvements assume OPUD's review and approval of the final improvement plans for the Phase 1 Improvements within 30 days after submittal by Developer without Developer being required to correct and/or modify said improvement plans. Such times shall be extended for the period of any delay by OPUD or Developer in reviewing, correcting, or modifying said plans, but both parties will diligently and continuously proceed with their respective duties in the preparation, review, correction, and re-submittal of said plans so as to not to unreasonably delay the completion of the Phase 1 Improvements.

Prior to its acceptance of the grant deed for the Park Site, OPUD shall have the opportunity to review and approve, or require correction if needed, of the Phase 1 Improvements installed by Developer to assure compliance with the approved plans. No such approval shall be required before the completion of Developer's 90 day warranty on plantings has been completed. OPUD shall thereafter promptly accept the offer of dedication of the Park Site and authorize recordation of the grant deed without unreasonable delay, subject only to Developer's one (1) year warranty against any defects in workmanship and materials, which warranty shall be provided by Developer or Developer's contractors upon OPUD's acceptance of the Park Site. Acceptance of OPUD of a warranty for Developer's Contractor shall not relieve Developer of any obligation in connection with the correction of any defective materials or workmanship. Once the Park Site is accepted by OPUD, subject to Developer's warranty obligations, Developer's remaining construction obligations related to the Park Site shall be to install the Phase 2 Improvements, as and when required under subsection 2(e), below; to install the fencing described in Exhibit C between the Park Site and adjacent homes, as and when Developer commences the construction of any or all of such adjacent homes; and, to repair any

damage to Phase 1 caused by the construction of Phase 2. The fencing to be installed by Developer shall be completed prior to the issuance of an occupancy permit or final inspection for the applicable adjacent homes.

(e) Phase 2 Improvements. Construction of the Phase 2 Improvements shall commence no later than the date upon which building permits for 90% of the planned residences for Villages 1 and 2 (including Villages 2-A and 2-B) have been pulled. Once commenced, construction shall proceed continuously and diligently until the completion of Phase 2, which completion shall occur no later than 120 days after commencement. No construction shall commence until the construction plans and specifications for Phase 2 have been reviewed and approved. All Phase 2 Improvements shall be subject to the inspection of OPUD's representatives, and approval of such Improvements shall not be unreasonably withheld. The foregoing times for commencement and completion of the Phase 2 Improvements assume OPUD's review and approval of the final improvement plans for the Phase 2 Improvements within 30 days after submittal by Developer without Developer being required to correct and/or modify said improvement plans. Such times shall be extended for the period of any delay by OPUD or Developer in reviewing, correcting, or modifying said plans, but both parties will diligently and continuously proceed with their respective duties in the preparation, review, correction, and re-submittal of said plans so as to not to unreasonably delay the completion of the Phase 2 Improvements

(f) Funding for Final Improvements. Reimbursement to Developer for the Final Improvements during construction shall be provided by and limited to the Neighborhood Park Component of Park Development Fees paid for development on the Overall Property. In addition, in accordance with the Park Master Plan, Developer may be entitled to reimbursement from Neighborhood Park Fees paid by other Developers, upon completion of the park improvements within the PLSP/NASA area. The total amount to be reimbursed by OPUD for the Final Improvements shall not exceed the amount authorized for the Final Improvements under the Park Master Plan.

The parties acknowledge that, as of the date of this Agreement, the amount of Neighborhood Park Fees collected with the issuance of building permits within the Overall Property is \$485,653.57 which is the amount available to complete the Phase 1 Improvements (the "**Phase 1 Budget Amount**"). The parties further acknowledge that the Phase 1 Budget Amount includes Park Development Fees paid by Developer upon issuance of building permits for residential units (including but not limited to Village 5) throughout the Overall Property. OPUD and Developer have used good faith efforts to develop a park plan for the Park Site with the mutual intent that the costs for design, engineering and construction of the Phase 1 Improvements not exceed the Phase 1 Budget Amount, and Developer shall use good faith efforts to keep the cost of construction within the budget amount. Developer shall construct all Final Improvements in the approved plans, but Developer shall not be obligated to construct any additional improvements within Phase 1, not included in the approved plans, which would cause Developer to incur costs in excess of the Phase 1 Budget Amount. Reimbursement to Developer

for its costs for design, engineering and construction of the Phase 1 Improvements shall be in accordance with Section 4, below.

The total costs for the Phase 2 Improvements (the "**Phase 2 Budget Amount**") shall be the budgeted cost for Phase 1 and Phase 2, necessary to complete the improvements per the approved improvement plans, less the Phase 1 Budget Amount. The combined Phase 2 Budget Amount and the Phase 1 Budget Amount shall not exceed the amount estimated under the Park Master Plan for the construction of the Village 2 Park, save and except for those incremental costs reasonably incurred as a result of the phased construction, such as demobilization and remobilization, capping and reconnection of irrigation systems, repair and maintenance of Phase 1 required due to construction of Phase 2 and similar costs attributable to the phasing of construction of the Park Site. OPUD and Developer shall use good faith efforts to ensure that the cost for design, engineering and construction of the Phase 2 Improvements does not exceed the Phase 2 Budget Amount. Notwithstanding the Phase 2 Budget Amount, the Developer shall be obligated to complete all the Final Improvements to the Park Site as set forth in the approved Park Development Plan. Developer shall be reimbursed for its costs for design, engineering and construction of the Phase 2 Improvements in accordance with Section 4, below.

3. Screening of Existing Well Area. OPUD agrees that the Phase 1 Improvements shall include adequate, temporary, landscaping and screening around the Existing Well Area to screen it from the balance of the Park Site. OPUD further agrees that such temporary screening will include sufficiently mature shrubbery to provide a visual screen around the Existing Well Area within three (3) years of the planting thereof. Provided that OPUD has confirmed the location of all of its planned water system improvements to be placed within the Well Easement Area prior to the construction of Phase 2, Developer shall have the option, upon express written approval of OPUD, to construct a masonry or other permanent wall structure around the Well Easement Area bordering the Village 2 Park as part of the Phase 2 Improvements. Notwithstanding the location of the temporary screening, OPUD may use the full area, in square feet, of the Well Easement Area for water system improvements, and the dimensions thereof maybe modified to accommodate the location of the water improvements to be installed within the Well Easement Area provided the total computed area, in square feet, of the Well Easement Area shall not be substantially increased. Nothing herein shall require OPUD to complete the design of its water system improvements prior to the time of construction of the Phase 2 Improvements nor to grant approval for the installation of a permanent wall structure by Developer.

4. Credits/Reimbursements.

(a) Parkland Dedication Credits. Developer acknowledges that it is not entitled to any credits or reimbursement from OPUD for any dedication of park land by Developer that might be in excess of the park land dedication obligations of the County for Villages 1 and 2. Developer hereby releases and discharges OPUD from and against any and all claims in and to any park land dedication credits generated by the dedication of parkland within the Overall Property. Nothing in this Section 4(a) shall prohibit Developer from seeking to

receive from the County credits against park land dedication requirements for Developer's other Villages for the amount of acreage in the Park Site in excess of the County's park land dedication obligations for Villages 1 and 2. OPUD shall not be prohibited hereby from opposing Developer's request to the County. Nothing herein shall relieve Developer from providing park acreage, or paying fees in lieu thereof, consistent with the County's park acquisition and development ordinances governing development of the Overall Property.

(b) Development Fee Refunds or Reimbursements. Developer shall be entitled to a refund from OPUD of the Neighborhood Park Fees collected to date by the County from Developer for development within the Overall Property that have been turned over to OPUD, and entitled to reimbursement from fees to be collected, as set forth hereafter.

(i) Phase 1. The Neighborhood Park component of the Park Development Fees collected on the Overall Property to be refunded for the Phase 1 Improvements shall be refunded to Developer in three (3) installments: the first installment occurring when OPUD confirms, based on work performed and payments by Developer consistent with the contractor's schedule of values, that approximately 1/3 of the Phase 1 Improvements have been completed; the second installment to occur when approximately 2/3 of the Phase 1 Improvements have been completed, measured as set forth above; and, the final installment to occur upon completion of the Phase 1 Improvements and acceptance thereof by OPUD. In no event shall such final installment be paid until 35 days have elapsed from recordation of a notice of completion. All reimbursements to Developer shall be subject to the prior, reasonable approval of OPUD. In no event will OPUD be required to reimburse any fees unless it reasonably confirms that sufficient funds, or other security provided by Developer, are in place to assure the completion of the Phase 1 work.

(ii) Phase 2. Neighborhood Park Fees for the Phase 2 Improvements shall be refunded to Developer in two (2) installments: the first installment occurring when approximately 1/2 of the Phase 2 Improvements have been completed, measured as set forth above; the final installment to occur upon completion of the Phase 2 Improvements and acceptance thereof by OPUD, subject to the provisions set forth above regarding a notice of completion. If the amount of Neighborhood Park Fees from the Overall Property held by OPUD are less than the Phase 2 Budget Amount, OPUD shall reimburse Developer from any additional Neighborhood Park Fees thereafter collected and paid to OPUD with respect to the Overall Property, up to, but not in excess of, the then remaining Phase 2 Budget Amount. Such additional reimbursements shall be paid within thirty (30) days after OPUD's receipt of confirmation from the Treasurer of Yuba County that the additional Neighborhood Park Fees collected with respect to the Overall Property have been turned over to OPUD and are available for distribution.

Each request for refund of fees already held by OPUD shall be made on a form approved by OPUD. OPUD shall make the refunds not later than thirty (30) days after receipt of the refund request. Developer will submit unconditional releases from each person or entity performing labor or supplying materials confirming that they have been fully paid.

If, during the course of construction, Developer anticipates that the actual costs of construction of Phase 2 will exceed the budgeted amount therefore, then Developer may receive, in the sole discretion of OPUD, additional reimbursement for such cost overruns if OPUD determines that additional Park Development funds are available for such purpose.

OPUD shall use good faith efforts to comply with any requirements of the County to cause the Neighborhood Park Fees paid by development in the Overall Property to be transferred to OPUD for funding the costs of the Final Improvements to the Park Site and, subject to execution of a park development agreement for the balance of the parks, for funding of park improvements by Developer for the other park sites. Notwithstanding the foregoing, it is agreed that the Neighborhood Park Fees generated by the Overall Property are development fees levied and collected by the County and OPUD does not guaranty nor shall it be obligated to enforce County's obligation to collect said fees.. The obligation of OPUD to make refunds and reimbursements hereunder is limited to funds from the Neighborhood Park Component of the Park Development Fees paid on the Overall Property, or received from other properties obligated to provide reimbursement for such parks, and shall not be a general obligation of OPUD nor a lien on or obligation of any other funds of OPUD.

5. Village 5 Fees. OPUD hereby acknowledges that Developer has paid Park Development Fees concurrently with issuance of building permits for residential units constructed or to be constructed in Village 5 of the Overall Property (the "**Existing Village 5 Units**"). OPUD further acknowledges that it is holding such fees as a portion of the Neighborhood Park Fees received from the Overall Property but that it does not account for such fees on a village by village basis. Notwithstanding the foregoing, OPUD confirms that it will not increase, retroactively, the Park Development Fee already paid upon pulling the building permit for any Existing Village 5 Unit as long as the building permit therefore remains outstanding. Upon Developer's request, and provided Developer and/or the County confirms payment of Park Development Fees therefore, OPUD agrees to provide to Developer or Developer's assignee an estoppel certificate, in substantially the form attached hereto as **Exhibit F** and incorporated herein by reference, or equivalent instrument confirming that as to those units for which the Park Development Fee has been paid, they have satisfied their Park Development Fee obligation and there will be no retroactive increase or adjustment thereto.

6. Maintenance of Park Improvements. Prior to completion of the Phase 1 Improvements, including a 90 day planting maintenance period, and OPUD's acceptance of the Park Site, Developer shall be obligated to maintain and repair the Park Improvements, including the Initial Improvements and the Phase 1 Improvements. From and after OPUD's acceptance of the Park Site, OPUD shall be solely responsible for maintaining, operating and repairing the Park Site, including the Initial Improvements and the Phase 1 Improvements constructed by Developer, subject to the one-year warranty for any defects in workmanship and materials with respect to the Phase 1 Improvements.

During any period of construction of the Phase 2 Improvements, Developer shall be obligated to maintain and repair the Phase 2 Improvements, as well as any damage to the

Phase 1 improvements caused by such construction. Following completion of the Phase 2 Improvements and OPUD's acceptance of the Phase 2 Improvements, OPUD shall be solely responsible for maintaining, operating and repairing the entire Park Site, including all improvements constructed by Developer, subject however to the one-year warranty for any defects in workmanship and materials with respect to the Phase 2 Improvements.

7. Entire Agreement. This Agreement, which includes the exhibits attached hereto and incorporated herein by this reference, contains the entire agreement of the parties with regard to the development of Villages 1 and 2 and the dedication of the Park Site and the financing and construction of the Park Improvements related thereto and there are no representations, oral or written, except as set forth herein. This Agreement supersedes all prior communications, discussions, disputes or negotiations with regard to Villages 1 and 2 and to the funding of Park Improvements for the Park Site, including without limitation, the prior three-party drafts.

8. Rescission of Notice to County for Villages 1 and 2. OPUD and Developer have confirmed with the County that the form of this Agreement satisfies the park construction conditions of the County's final map requirements for Villages 1 and 2. Promptly following execution by Developer and OPUD of this Agreement, OPUD shall notify the County that the parties have entered this Agreement as the means for causing the Park Improvements for the Park Site to be constructed for the benefit of Villages 1 and 2. Such notice to the County shall also include notification by OPUD that it no longer has objection to the issuance of building permits with respect to Villages 1 and 2. OPUD further confirms hereby that it will inspect and clear, upon request of County, certificates of occupancy by the County for completed homes in Villages 1 and 2.

9. Agreement Limited to Villages 1 and 2. Developer acknowledges that this Agreement is limited to the Village 2 Park. Developer remains obligated to enter into a Park Development Agreement with OPUD providing for construction by Developer of the balance of park development within the Overall Property. The parties hereto shall diligently commence, and process to completion, such agreement. No building permits or certificates of occupancy shall be requested for any other Villages, except Villages 1 and 2, until such agreement is executed.

10. No Joint Venture. The relationship of the parties to this Agreement is determined solely by the provisions of this Agreement. This Agreement does not create and shall not be construed to create an agency, partnership, joint venture, trust or other relationship with duties or incidents different from those to parties at an arm's length transaction.

11. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties.

12. Notices. All notices required or provided for under this Agreement shall be in writing and faxed, delivered in person or sent by certified mail, with postage prepaid, return receipt requested, to the parties at the addresses listed below.

If to OPUD:

Olivehurst Public Utility District
P.O. Box 670
Olivehurst, CA 95691
Attention: General Manager

If to Developer:

Cresleigh Homes Corporation
2024 Opportunity Drive, Suite 150
Roseville, CA 95678
Attn: Deana Ellis

with a copy to:

Cresleigh Homes Corporation
433 California Street, Suite 700
San Francisco, CA 94104
Attn: Tom Wong

13. Governing Law. This Agreement shall be governed by the laws of the State of California.

14. Headings. The headings of this Agreement are for reference purposes only and are not to be considered in construing this Agreement.

15. Severability. If any of the provisions of this Agreement shall be held invalid by a court of competent jurisdiction, such decision shall not affect the validity of any remaining provision, and the remaining provisions shall remain in full force and effect as if this Agreement had been executed with the invalid portion thereof eliminated.

16. Counterparts. This Agreement may be signed in counterparts and all counterparts together shall constitute one document. This Agreement may also be signed and delivered via facsimile.

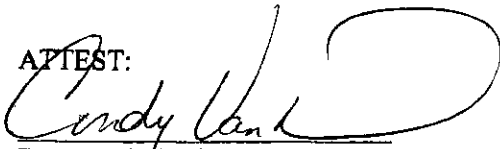
17. Prevailing Wages. All work performed by Developer, including the work of its contractor in the performance of either Phase 1 or Phase 2, shall be considered Public Work under the provisions of Labor Code 1720, et. seq, and shall be subject to all the applicable laws, rules and regulations applicable to Public Works Projects, including without limitations, the laws and regulations applicable to a legal days work, and to prevailing wages. Developer shall insure that all laborers, including employees of any contractor or subcontractor, employed in the work shall be paid not less than the prevailing wages applicable to such work, and Developer shall be obligated to pay all applicable wages, and penalties, assessed for failure to so comply. A copy of the applicable prevailing wage is on file at the OPUD office, and Developer is aware of the terms thereof, and waives notice by OPUD of such rates.

18. Indemnity. Developer shall defend, indemnify, and hold harmless OPUD, its employees and officers, from all claims, demands, damages, and liabilities, including penalties and wages imposed by any agency regulating the work of Developer or its contractors, and attorneys fee and consultants costs incurred in defense thereof, arising from Developer's performance of the terms hereof, or from any willful or negligent act or omission of Developer, or its contractor, including without limitation the construction of any phase of the Park Site, except and to the extent such claim, demand, or damages are caused by the act or omission of OPUD.

OPUD shall defend, indemnify, and hold harmless Developer, its employees and officers, from all claims, demands, damages and liabilities, including attorneys fees and consultant costs incurred in the defense thereof, arising from OPUD's performance of the terms hereof, or from any willful or negligent act or omission of OPUD, or its employees, including without limitation its operation and maintenance of the Park Site following its acceptance thereof, except and to the extent such claim, demand, or damages result from the act or omission of Developer or its Contractor(s).

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first herein above written.

ATTEST:


Deputy Clerk of the Board

OPUD:

OLIVEHURST PUBLIC UTILITY
DISTRICT

By:


President of the Board of Directors

DEVELOPER:

CRESLEIGH HOMES CORPORATION,
a California corporation

By:

Name:

Title:

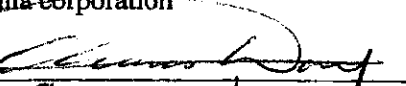

Thomas Wong
GM & SVP

EXHIBIT A
Map of Overall Property,
Including Designation of Villages and Park Site within Village 2B

VILLAGE EXHIBIT
for WOODSIDE AND PLUMAS RANCH

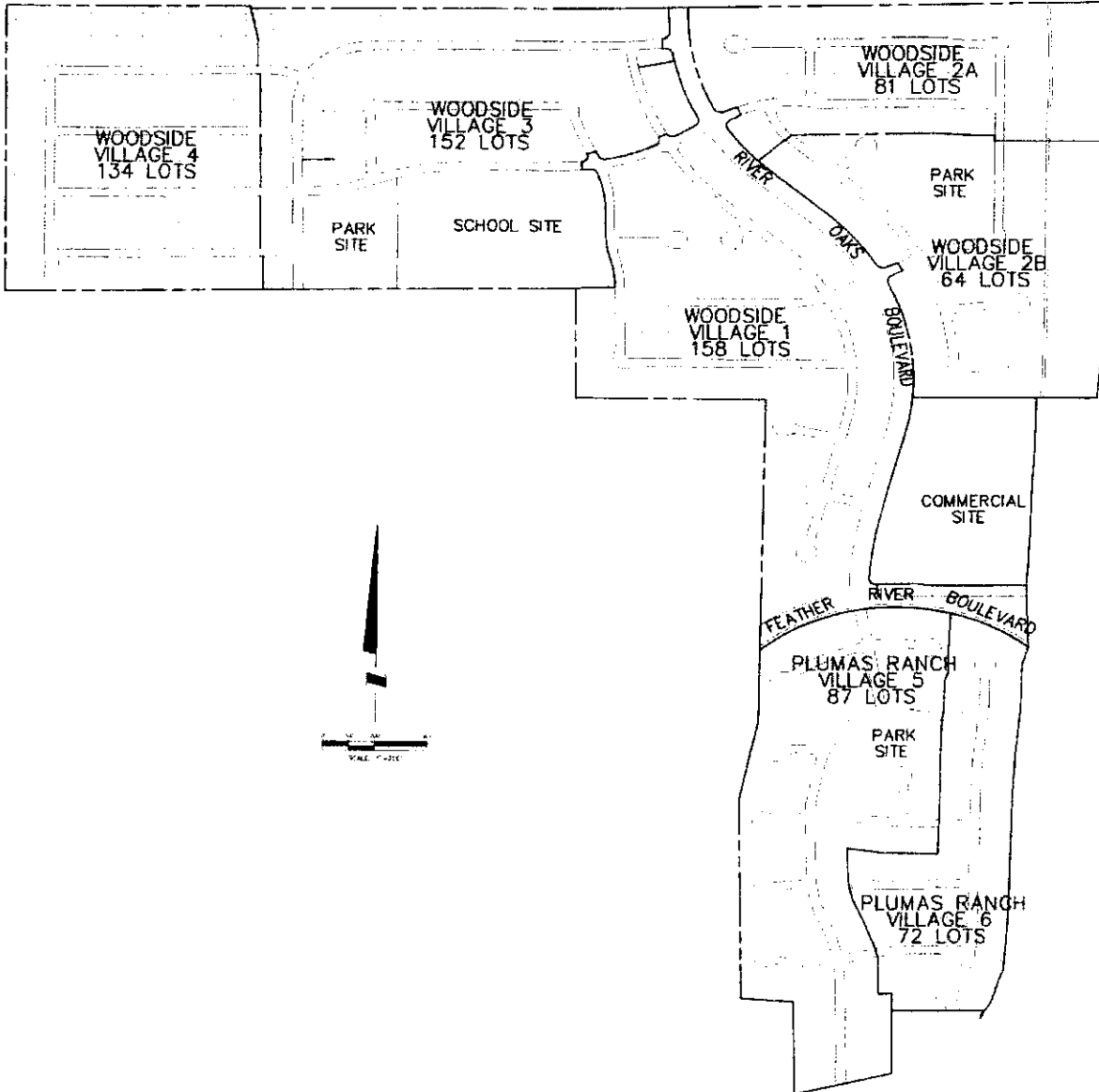


Exhibit B

FORM OF GRANT DEED FOR PARK SITE

RECORDING REQUESTED BY
AND WHEN RECORDED, MAIL TO:

Olivehurst Public Utility District
P.O. Box 670
Olivehurst, CA 95691
Attention: General Manager

(SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE)

GRANT DEED

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, CRESLEIGH HOMES CORPORATION, a California corporation ("**Grantor**"), hereby GRANTS to OLIVEHURST PUBLIC UTILITY DISTRICT, a public utility district formed and operating under California Public Utilities Code sections 15501 et seq. ("**Grantee**"), for park purposes, all of its right, title and interest in and to that certain real property, together with all improvements thereon and appurtenances thereto, situated in the County of Yuba, State of California, as particularly described on Exhibit "A" attached hereto and made a part hereof (the "**Park Site**").

Except for the portion of the Park Site previously described by an Easement from Grantor to Grantee for the construction of certain water well improvements, as more particularly described in Exhibit "B" attached hereto and made a part hereof (the "**Existing Well Area**"), the balance of the Park Site shall be developed and used for park purposes consistent with Grantee's Master Park Plan, as may be revised by Grantee from time to time. Uses that do not materially interfere with the aboveground use of the Park Site for park purposes (such as installation of underground water mains and utilities) are consistent with and not limited by this Grant. The dimensions of the Existing Well Area may be modified by Grantee within the Park Site, so long as the relative area between the Existing Well Area and the balance of the Park Site to be used for park purposes is substantially maintained.

Executed on _____, at _____, California.

CRESLEIGH HOMES CORPORATION,
a California corporation

By: _____
Name: _____
Title: _____

OLIVEHURST PUBLIC UTILITY DISTRICT

CERTIFICATE OF ACCEPTANCE

This is to certify that the Grant Deed from Cresleigh Homes Corporation to the Olivehurst Public Utility District, a political subdivision of the of the State of California, is hereby accepted by order of the Board of Directors of said District on _____, 2008, and said District consents to the recordation thereof by its duly authorized officer.

Dated: _____, 2008

OLIVEHURST PUBLIC UTILITY DISTRICT

By: _____
Name: _____
Title: _____

LIST OF GRANT DEED EXHIBITS

- Exhibit "A" - Legal Description of Park Site
- Exhibit "B" - Legal Description of Existing Well Area

Exhibit C

Description of Initial and Final Park Improvements for Village 2B Park Site

Initial Park Improvements

Initial Park Improvements installed (items 1-3) or to be installed (item 4) by Developer consist of the following:

- (1) Street frontage improvements currently abutting the dedicated park site, including vertical curb, gutter and sidewalks.
- (2) An appropriately sized water stub installed to the park site between the existing back-up well and Lot 57, but no stubs for sewer, electrical or gas. Water stub size shall be approved by OPUD.
- (3) Rough grading of the park site to the elevation in the grading plan previously approved by OPUD, provided Developer shall not be obligated to provide any pad certification with respect thereto nor shall Developer be obligated to install any drainage facilities to the site.
- (4) Installation of a six foot high wood fence along the Park Site adjacent to residential lots, to be constructed as and when homes on such adjacent lots are constructed by Developer.

Final Park Improvements

Final Park Improvements shall be as set forth in the Park Master Plan and more particularly described in the Development Plan for Village 2 as submitted by Developer and approved by OPUD. Said Development Plan, once approved, shall be inserted in place hereof as "Revised Exhibit C. Developer shall prepare construction plan according to the approved Development Plan and submit it to OPUD for review and approval. No park construction shall commence until OPUD approves the construction plan

EXHIBIT D

FORM OF GRANT OF TEMPORARY CONSTRUCTION EASEMENT

This Agreement is entered into as of _____, 20____, by and between OLIVEHURST PUBLIC UTILITY DISTRICT, a public utility district formed and operating under California Public Utilities Code sections 15501 et seq. ("**Grantor**"); and CRESLEIGH HOMES CORPORATION, a California corporation ("**Developer**"), with respect to the following:

Recitals

A. Grantor is the owner of certain real property (the "Park Site"), consisting of approximately _____ gross acres, located at _____, in the as shown on **Exhibit 1**, attached hereto and incorporated herein by reference.

B. Pursuant to that certain Park Development Agreement between Grantor (as "OPUD") and Developer, dated _____, 2008, (the "Park Development Agreement") Developer is required to construct certain improvements to the Park Site, referred to in the Park Development Agreement as the "Phase 2 Improvements."

C. Pursuant to the Park Development Agreement, Grantor agreed to grant to the Developer a temporary construction and access easement (the "Construction Easement") across a portion of the Park Site (the "Construction Easement Area") for the purpose of constructing the Phase 2 Improvements. The Construction Easement Area is located generally as shown on the Map (Exhibit 1).

D. In order to construct the Phase 2 Improvements, Developer requires the Construction Easement for purposes of construction and staging activities during the construction and development of the Phase 2 Improvements on the Park Site.

E. Grantor desires to grant a temporary construction easement over the Construction Easement Property to Developer for the purposes described above.

NOW, THEREFORE, the parties agree as follows:

Agreement

1. Grant of Temporary Construction Easement. Subject to the terms and conditions set forth herein and in the Park Development Agreement, Grantor hereby grants to Developer the Construction Easement for purposes of ingress and egress and construction and staging activities over that portion of the Park Site shown on Exhibit 1 as the Construction Easement Area. This

Temporary Construction Easement will be used solely during periods of construction of the Phase 2 Improvements on the Park Site.

2. Term of Easement. As used in this Agreement, the term "Construction Easement" means and includes a nonexclusive temporary easement on, over and under the Construction Easement Area, as shown on Exhibit 1 for purposes of construction and staging activities during the construction and development of the Phase 2 Improvements and activities provided for under the Park Development Agreement. The Construction Easement shall be granted pursuant to the terms and conditions set forth herein which Grant of Temporary Construction Easement shall be executed by the parties prior to commencement by Developer of any construction work on the Construction Easement Area. The Construction Easement will be effective during the construction phase, which is currently estimated to commence _____, and continue for a period of approximately four (4) months thereafter (the "Construction Easement Period").

3. Indemnification; Condition of the Park Site. Developer shall indemnify and hold Grantor harmless from and against all liability, claims, demands, damages or costs of any kind whatsoever arising from or connected with Developer's construction activities on the Park Site during the term of the Construction Easement granted above. Developer shall maintain, repair, and replace as necessary those portions of the Park Site, including within the Construction Easement, damaged as a result of construction.

GRANTOR:

OLIVEHURST PUBLIC UTILITY
DISTRICT

By: _____
Name: _____
Title: _____

DEVELOPER:

CRESLEIGH HOMES CORPORATION,
a California corporation

By: _____
Name: _____
Title: _____

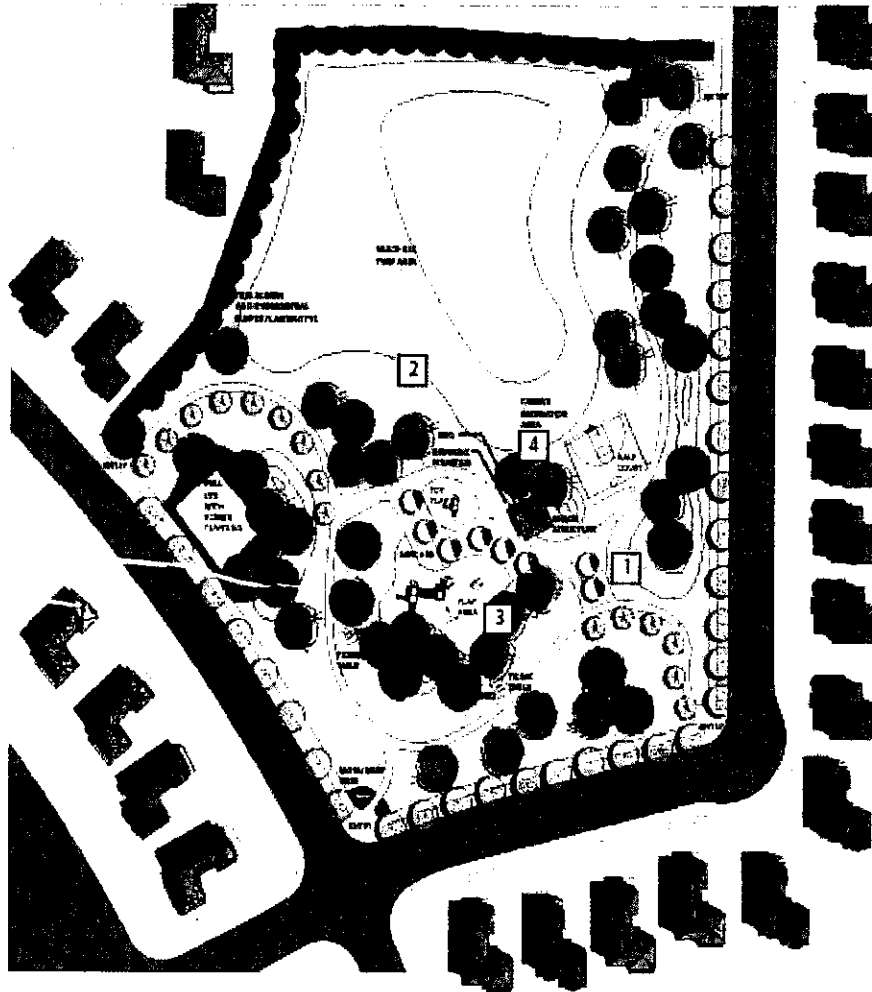
EXHIBIT E

CONCEPT PLAN OF PHASE 1 AND PHASE 2 OF PARK SITE

PLUMAS RANCH



VILLAGE 2 PARK



PARK IMPROVEMENTS

- 1** PASSIVE RECREATION
- PATHWAY SYSTEM FOR WALKING AND JOGGING.
 - ENHANCED CONCRETE AT SOCIAL GATHERING SPACE
 - SCREEN VINE PLANTING OF ON SITE WELL FACILITY ON CHAIN LINK FENCE

- 2** ACTIVE RECREATION
- OPEN TURF AREA FOR MULTI-USE SPORTS

- 3** PLAY AREAS
- PROVIDE ACCORDING TO GENERAL PARK STANDARDS
 - SEPARATE CHILDREN CREATIVE PLAY AREA AGE APPROPRIATE

- 4** FAMILY PICNIC AREAS
- PROVIDE SHADE STRUCTURE FOR 20 PERSON CAPACITY FOR GROUP RESERVATIONS
 - (4) TABLES FOR 4 TO 8 PEOPLE EACH
 - (4) BENCHES
 - (3) TRASH RECEPTACLES
 - (1) DRINKING FOUNTAIN
 - (3) BARBECUES



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OPUD Park Fee Implementation:

Woodside Village 2B - Lot C: 4.20AC Neighborhood Park
 November 13, 2008

1. General per Acre Cost (Neighborhood Park)		
▪ 4.20 Acres @ \$115,000.00	=	\$483,000.00
2. Play Apparatus (Neighborhood Park)	=	125,000.00
3. Group Picnic Area (Medium)	=	50,000.00
4. Basketball Court (Half-Court)	=	35,000.00
5. Miscellaneous Items		
▪ Park Sign (1)	=	8,500.00
▪ Drinking Fountain (1)	=	4,500.00
6. Site Furnishings (Neighborhood Park)	=	50,000.00

**SUBTOTAL PARK IMPROVEMENTS:
 \$756,000.00**

▪ Bonds (2%)	15,120.00
▪ Insurance (1%)	7,560.00
▪ Project Mobilization (3%)	22,680.00
▪ Contingency (15%)	113,400.00
▪ Design Fees (8%)	60,480.00
▪ Utility Fees (2%)	15,120.00
▪ Plan Check and Inspection (4%)	30,240.00

SUBTOTAL ADMINISTRATIVE COSTS: \$264,600.00

TOTAL PARK BUDGET: \$1,020,600.00

Exhibit F

FORM OF ESTOPPEL CERTIFICATE

This Estoppel Certificate is given by OLIVEHURST PUBLIC UTILITY DISTRICT, a public utility district formed and operating under California Public Utilities Code sections 15501 et seq. ("OPUD") to _____, a _____ ("Developer") and its successors and assigns, as of the date set forth below (the "Effective Date").

OPUD hereby certifies the following matters as of the Effective Date:

1. OPUD entered into that certain Park Development Agreement (Plumas Ranch, Village 2B, Meadows) (the "Village 2 Park Agreement") with Cresleigh Homes Corporation, a California corporation ("Cresleigh"), dated as of _____, 2008, with respect to the development of a park site located within that portion of the Overall Property referred to in the Village 2 Park Agreement as Village 2B. This Estoppel Certificate is provided pursuant to Section 5 of the Village 2 Park Agreement. All capitalized terms not otherwise defined herein shall have the meaning set forth therefor in the Village 2 Park Agreement.

2. Cresleigh, or its successor, has paid the Park Development Fees concurrently with issuance of the building permits for all the residential units constructed or to be constructed within Village 5 of the Overall Property (the "Existing Village 5 Units"). The Existing Village 5 Units for which Park Development Fees have been paid are identified in Exhibit A hereto.

3. As to all those Existing Village 5 Units identified in Exhibit A, the obligation to pay the Park Development Fee has been fully satisfied. OPUD will not increase or adjust, retroactively, the amount of the Park Development Fee already paid upon pulling the building permit for any Existing Village 5 Unit identified in Exhibit A as long as the building permit for such unit remains outstanding.

4. The Effective Date of this Estoppel Certificate is _____.

5. This Estoppel Certificate may be relied upon by Developer and its successors and assigns with the same effect as if given to Cresleigh.

OLIVEHURST PUBLIC UTILITY DISTRICT

By: _____

Name: _____

Title: _____