

**BROWNS VALLEY IRRIGATION DISTRICT
FUNDING AGREEMENT FOR
SPRING VALLEY DEVELOPMENT PROJECT APPLICATION PROCESSING**

THIS AGREEMENT is made effective on November 8, 2010, by and between the Browns Valley Irrigation District, a California public agency (“BVID”), and Axel Karlshoej, an individual (“Developer”), who agree as follows:

1. Recitals. This Agreement is made with reference to the following background recitals:

1.1. Developer owns approximately 750 acres of land and has an option to purchase approximately 1,700 additional acres, all of which land is located in the southwest portion of BVID. Both the owned and optioned lands are intended to be part of the development project described in the Spring Valley Specific Plan approved by the Yuba County Board of Supervisors and ratified by the County’s voters in 1992. On those lands, Developer proposes to build a residential and commercial development known as the Spring Valley Project (the “Project”). Developer has entered into a development agreement for the Project with Yuba County, which currently will expire on December 7, 2015. At an unspecified date in the future, Developer intends to submit a development application for the Project to Yuba County (the “Application”).

1.2. Before the County will begin processing the Application, Developer is required to demonstrate that a water supply is available to serve the Project. For that purpose, Developer requested that BVID issue a “will-serve” letter stating that BVID currently has available up to 4,000 acre feet of annual raw water supplies for the Project. BVID originally issued such a will-serve letter on November 8, 2005 (the “Letter”). Developer has requested that BVID renew the Letter, which will expire on November 8, 2010. On the same date that BVID issued the first Letter, the Developer and BVID also entered into the Funding Agreement for Spring Valley Development Project Application Processing (the “Agreement”). The renewal of the Letter also requires a renewal of the Agreement, which the parties have agreed to on the terms and conditions set forth herein. BVID will issue the renewal Letter, which requires Developer to satisfy certain conditions in order to secure the requested water supply, upon execution of this Agreement.

1.3. Pursuant to state law, BVID policies and the Letter, BVID is now obligated to process Developer’s request for purposes of firming up the requested water supply, including but not limited to the following tasks: reviewing and analyzing any requests for water and sewer services resulting from BVID’s issuance of the Letter; conducting water supply and treatment facilities analyses and studies; preparing and/or reviewing plans and specifications for facilities and providing related services; preparing staff reports and recommendations, conditions, resolutions, findings and other Project-related documents; noticing and conducting Board of Directors’ public hearings and meetings; and if the Project is built, completing any facilities BVID is required to construct to deliver the requested water supply to the Project or overseeing and inspecting any facilities constructed by Developer to be dedicated to BVID (the “Project Processing Tasks”).

1.4. The Board of Directors has determined that the Project does not provide any benefits to BVID's ratepayers other than Developer and therefore, that state law and policy requires Developer to fund BVID's costs of performing the Project Processing Tasks to avoid the gifting of ratepayer funds for a private purpose. To obtain the necessary services in a timely and appropriate manner, Developer therefore agrees to provide funding to BVID to cover such costs, on and subject to the terms of this Agreement.

2. Application Processing Tasks. BVID, through its staff, legal, engineering and other consultants, and Board of Directors, will perform and undertake the Project Processing Tasks.

3. Funding for Project Processing Tasks.

3.1. In accordance with the terms of the original Agreement, Developer made an initial deposit of \$25,000 and during the term has maintained a deposit of funds with BVID. The existing deposit has a current balance of \$13,280.20. BVID will draw on this deposit to pay or reimburse periodic invoices from BVID's consultants and to reimburse BVID for the cost of BVID staff time and materials to perform Project Processing Tasks. The funding may be used to reimburse BVID's costs incurred before execution of this renewal Agreement for preparing and issuing the renewal Letter and this renewal Agreement, and for performing Project Processing Tasks as necessary.

3.2. If at any time before completion of the Project Processing Tasks the deposit balance is drawn down to less than \$10,000, BVID reserves the right to either demand that Developer make additional deposits in an amount sufficient to replenish the deposit fund up to the initial deposit amount of \$25,000 or to request payment from Developer on an invoice-by-invoice basis. Developer will make any deposit or payment to BVID within 15 days of the date of BVID's invoice or demand.

3.3. In addition to funding on-going Project Processing Tasks in accordance with Paragraph 3.1 above, any Project Processing Task that requires BVID to enter into an agreement with a consultant or to purchase materials and supplies costing \$10,000 or more shall be funded in advance by Developer. To obtain such advance funding, BVID will advise Developer in writing of the cost and purpose of the proposed Project Processing Task. If Developer concurs that the work is a necessary Project Processing Task, it will advance the total estimated cost of the work under the consultant agreement to BVID within 15 days of the written notice of the proposed Project Processing Task. If Developer objects to the proposed work, it will send BVID a written notice of its objections and specific grounds therefor within ten days of receipt of the District's notice, and request that BVID meet and confer to modify the proposal to address Developer's concerns or to otherwise resolve the dispute within 30 days of Developer's written notice to BVID. If, after meeting and conferring, the dispute is not resolved BVID in its sole discretion may give written notice to Developer that BVID will proceed with the proposed Project Processing Task and require Developer to fund such task. If Developer then refuses to fund the work in the time provided in Paragraph 3.2, such refusal will constitute a default and District may elect to terminate this Agreement as provided in Paragraph 8.2.

3.4. If any requested deposit or payment is not timely made in accordance with Paragraph 3.2, BVID will notify Developer and Developer will have ten days to cure the default. If Developer does

not make a deposit or payment within the ten-day cure period or if the deposit funds become depleted, then BVID may suspend all work on the Project Processing Tasks until receipt of Developer's deposit or payment and/or may elect to declare a default and terminate the Agreement in accordance with Section 8 hereof.

3.4. BVID will deposit Developer's deposits into a special accounting fund for the purpose of tracking and reimbursing BVID costs on the Project Processing Tasks (the "Project Fund"). Any Developer deposit remaining upon completion of the Project Processing Tasks will be refunded without interest to Developer. If the final total costs of the Project Processing Tasks exceed the amount of the deposits into the Project Fund, Developer will pay the difference to the BVID within the time specified in Paragraph 3.2 above.

4. Option Maintenance Payment. To secure its reservation of the maximum 4,000 acre foot per year untreated water supply requested, Developer shall make an annual option maintenance payment to BVID. The annual option maintenance payment will be calculated based on the full yearly per acre foot charge incurred by BVID to maintain its contract for 9,500 acre feet of water annually supplied by the Yuba County Water Agency, multiplied by the maximum 4,000 acre foot annual supply optioned by Developer. The current charge is \$1.93 per acre foot, which would calculate as a current annual option maintenance payment of \$7,720. The first annual option maintenance payment shall be due to BVID on or before Developer's execution of this Agreement, with subsequent payments being made annually on or before the anniversary date of this Agreement. BVID may adjust this charge from time to time to reflect changes in the per acre foot charge BVID incurs to purchase its YCWA water commitment, but not more than once annually. Developer consents to making the annual option maintenance payment as a means of reimbursing BVID for lost opportunity costs related to reserving the requested amount of water for Developer's benefit and to help defray recurring and non-recurring District costs related to the Project that are not otherwise reimbursable under this Agreement.

5. Record Keeping. BVID will keep and maintain accurate accounting and bookkeeping records relating to the Project Processing Tasks costs and Project Fund, including all deposits into the fund and all BVID costs paid or reimbursed from the fund. Developer and its employees, accountants, attorneys and agents may review, inspect, copy and audit these records, including all source documents, during normal business hours upon 48-hours notice to BVID.

6. No BVID Commitment on Project. BVID reserves complete discretion regarding the Project Processing Tasks and related documents and BVID's decisions concerning the Project, including provision of water supplies or services. Nothing in this Agreement will in any way require BVID to make a final, binding commitment to reserve capacity for to provide any specific type of service to the Project, to approve the Project, or to consent to the Application or any other development project application filed by Developer. BVID also reserves complete discretion regarding the contents, analysis and conclusions of any Project Processing Task documents, including the scope and nature of any water service commitments and determination of Developer's compliance with BVID ordinances, rules and regulations and satisfaction of any conditions precedent to obtaining a water supply or water service. BVID employee staff and consultants will work directly for BVID and be responsible only to BVID.

7. Documents. Any documents prepared or compiled by BVID staff or consultants under contract with BVID relating to the Project Processing Tasks will be and remain the property of BVID.

8. Term and Termination.

8.1. The term of this Agreement is five years beginning on its effective date; provided that BVID may request at any time on or before the expiration date that Developer renegotiate any term or terms of this Agreement. If Developer refuses to renegotiate any such term or terms with BVID, such refusal shall be deemed a default in accordance with subdivision (a) of Paragraph 8.2 below and BVID may terminate this Agreement.

8.2. This Agreement will remain in effect for the term provided in Paragraph 8.1 above, unless earlier terminated upon the occurrence of: (a) Developer's failure to cure any default of its obligations under this Agreement; (b) Developer's failure to satisfy any conditions of the Application or Letter or expiration of the Application or Letter; (c) Developer's written notice to BVID that the Application or Project is being withdrawn, suspended or terminated; (d) any determination by BVID that it has inadequate water supplies to serve the Project or that it is unable to provide services to the Project due to a change in any applicable federal, state or local law, ordinance, rule, regulation or policy; (e) upon approval by the Yuba County Local Agency Formation Commission of any detachment of the Project lands from BVID or any determination that a public utility other than BVID will provide water supplies and/or utility services to the Project; or (f) BVID and Developer's termination of this Agreement upon 30 days mutual written notice. Unless otherwise mutually agreed in writing, any termination of this Agreement will automatically terminate the Letter.

8.3. If Developer defaults on any obligation under this Agreement, BVID will have the right to exercise any and all rights and remedies available to it under law and equity, including the right to terminate this Agreement and to withdraw or terminate the Letter, and to collect the costs of such cure from Developer, including attorneys' fees as provided in Paragraph 9.7 of this Agreement. If this Agreement is terminated as provided in this section, any unpaid, reimbursable costs incurred by BVID for the Project will be immediately due and payable by Developer to BVID in accordance with Section 3 of this Agreement. Developer's obligations under this paragraph will survive the termination of this Agreement.

9. General Provisions.

9.1. Integration. This Agreement constitutes the sole, final, complete, and integrated statement of the terms of the contract between the parties concerning the subject matter addressed herein, and supersedes all prior negotiations, representations or agreements, either oral or written, that may be related to the subject matter of this Agreement, except those other documents that are expressly referenced in this Agreement.

9.2. Assignment. Developer may not assign this Agreement to any other party except upon notice to BVID and BVID's written consent to the proposed assignment.

9.3. Successors and Assigns. This Agreement will bind and inure to the benefit of the respective approved successors, assigns, heirs, devisees and personal representatives of the parties.

9.4. Amendment. This Agreement may be modified or amended only by a subsequent written agreement approved and executed by both parties. Amendment by BVID requires approval of the Board of Directors and execution by the Board President or General Manager.

9.5. Governing Law and Venue. Except as otherwise required by law, this Agreement will be interpreted, governed by, and construed under the laws of the State of California. The County of Yuba will be venue for any state court litigation, and the Eastern District of California will be venue for any federal court litigation, concerning the enforcement or construction of this Agreement.

9.6. No Third Party Beneficiaries. Developer will not be deemed to be a third party beneficiary to any consultant services contract funded in whole or in part by this Agreement.

9.7. Attorney's Fees. In the event any legal action is brought to enforce or construe this Agreement, the prevailing party will be entitled to an award of reasonable attorney's fees, expert witness and consultant fees and costs, litigation costs, and costs of suit

9.8. Notices. Any notice or other communication required or permitted to be given under this Agreement will be in writing and will be deemed to be properly given if delivered, mailed or sent by facsimile or e-mail in the manner provided in this paragraph, to the following persons:

BVID:

Browns Valley Irrigation District
Attn: Walter Cotter, General Manager
P.O. Box 6
9370 Browns Valley School Road
Browns Valley, CA 95918
Facsimile: (530) 743-0445
E-mail: walter@bvid.org

Developer:

Axel Karlshoej Properties
Attn: Ronald G. Erny
417 7th Street, Suite B
Marysville, CA 95901
Facsimile: (530) 749-2436
E-mail: rerny@succeed.net

If sent by mail, any notice, delivery or other communication will be effective or deemed to have been given three days after it has been deposited in the United States mail, with postage prepaid, and addressed as set forth above. If sent by facsimile or e-mail, any notice, delivery or other communication will be deemed to have been given only after it has been confirmed in writing as received. If delivered personally or by overnight delivery service, any such notice, delivery or other communication will be deemed to have been given on the date of delivery. Either party may change that party's address or contact person by giving written notice of the change to the other party in the manner provided in this paragraph.

9.9. Indemnification. Developer will exonerate, hold harmless, indemnify and defend BVID, and its directors, officers, employees, agents, consultants and volunteers from and against any and all suits, actions, judgments, legal or administrative proceedings, arbitrations, claims, demands, causes of action, damages, liabilities, interest, attorneys' fees, fines, penalties, losses, costs or expenses of whatsoever kind or nature (collectively, "Claims"), directly arising out of: 1) the District's issuance of the Letter; 2) performance of any Project Processing Tasks; or 3) in any other way related to the subject matter of this Agreement or the Project, if any such Claim arises out of any act or omission of

Developer or its directors, officers, employees, independent contractors, lenders, guests, invitees or agents. Neither the expiration nor earlier termination of this Agreement nor completion of the acts to be performed under this Agreement shall release Developer from its obligation to indemnify BVID as to any Claim, so long as the event upon which the Claim is predicated shall have occurred prior to effective date of any such expiration or earlier termination or completion and arose out of or was in any way connected with performance or operations under this Agreement, the Letter or Project Processing Tasks by Developer, its directors, officers, employees, independent contractors, lenders, guests, invitees or agents, or any one of them.

9.10. Reasonable Cooperation. The parties will reasonably cooperate with each other, including executing all necessary documents and providing assistance in obtaining approvals and permits from any agencies required to perform the obligations under this Agreement and to carry out the purpose and intent of this Agreement.

9.11. Construction and Interpretation. Each party has entered into this Agreement freely and voluntarily with full knowledge and understanding of their respective rights and obligations hereunder. This Agreement has been arrived at through negotiation, and each Party has had a full and fair opportunity to revise the terms of this Agreement. Consequently, the normal rule of construction that any ambiguities are to be resolved against the drafting party will not apply in construing or interpreting this Agreement.

9.12. Signatories' Authority. The persons signing this Agreement represent that they have the due and legal authority to execute and to bind the party on whose behalf they execute it.

IN WITNESS WHEREOF, BVID and Developer have executed this Agreement and this Agreement becomes effective on the day and year first written above.

BROWNS VALLEY IRRIGATION
DISTRICT:

By: Russell C. Woods
Russell Woods
President, Board of Directors

AXEL KARLSHOEJ PROPERTIES

By: Ronald G. Erny
Ronald G. Erny for
Axel Karlshøj

Attest:

By: Walter L. Cotter
Walter Cotter
Secretary, Board of Directors