

REIMBURSEMENT AGREEMENT
FOR REGIONAL RETENTION BASIN "B"

This Reimbursement Agreement ("Agreement") for Regional Retention Basin "B" is entered into and is effective this ___th day of May, 2008 (the "Effective Date") by and between the County of Santa Barbara and the Santa Barbara County Flood Control and Water Conservation District (hereinafter collectively referred to as "COUNTY"); and Di-Mac Development, Inc., a California Corporation, successor in interest to Wellmack LLC, a California limited liability company (hereinafter "DEVELOPER"), and provides for partial reimbursement of the costs associated with certain infrastructure improvements constructed by DEVELOPER.

RECITALS

WHEREAS, the COUNTY adopted the Orcutt Community Plan (OCP) in July 1997; and

WHEREAS, the OCP provides for, among other things, regional stormwater retardation basins as storm water mitigation for new development; and

WHEREAS, the Jensen Crossing / Cobblestone Creek subdivision (Tract 14,429 - approved March 1, 2000) located on OCP Key Site 5, and consisting of 110 developable lots, was the initial project conditioned to install Regional Retention Basin "B" (hereinafter "Basin B") to mitigate runoff from that development and others; and

WHEREAS, certain other Tract Maps, lot groupings, and individual lots located in the OCP-planning area, including but not limited to all or portions of Tract 14,556 (Vintage Ranch), Tract 14,430 (Rice Ranch), Tract 14,478 (Harp Springs), and Tract 14,303 (Mesa Verde) were conditioned to pay regional drainage impact fees for their contribution to the costs of Basin B; and

WHEREAS, in December 2003, DEVELOPER entered into a Cooperative Agreement with COUNTY (subsequently amended in 2005), for purposes of facilitating DEVELOPER's construction and dedication of Basin B to COUNTY, including an agreement by DEVELOPER to (1) acquire certain permanent easements and temporary construction easements over parcels of land held in private ownership; (2) complete all work necessary for construction of Basin B; and (3) dedicate the easements and improvements to COUNTY upon completion of Basin B (the "Cooperative Agreement"); and

WHEREAS, said Cooperative Agreement provided for reimbursement of costs of right-of-way and construction of Basin B to DEVELOPER to the extent that COUNTY has collected, or will collect, regional drainage impact fees for Basin B from other developments, and

WHEREAS, DEVELOPER has completed construction of Basin B and COUNTY and DEVELOPER wish to provide a mechanism for reimbursement to DEVELOPER for costs that have been paid on behalf of other developments for their contribution to Basin B; and

WHEREAS, all of the proposed developments in the OCP Planning Area proposed to utilize Basin B for purposes of retardation of stormwater runoff have been approved and conditioned to pay regional drainage impact fees by the County Planning Commission.

AGREEMENT

NOW THEREFORE, in consideration of the foregoing recitals and the covenants and conditions contained herein, and to provide for reimbursement of costs to DEVELOPER for Basin B, DEVELOPER and COUNTY agree as follows:

1. Accounting of Costs

Developer has submitted total costs attributable to Basin B and such information has been reviewed and accepted by the County Auditor Controller and is on file with the County Flood Control and Water Conservation District. As of the Effective Date, such costs are in excess of Nine Hundred Seventeen Thousand One Hundred Forty Four Dollars (\$917,144).

2. Reimbursement of Fees Collected

(a) As of the Effective Date, COUNTY has collected a total of Two Hundred Thirteen Thousand Nine Hundred Ninety Four Dollars (\$213,994) in regional drainage impact fees from approved developments that will utilize Basin B pursuant to the Orcutt Area Regional Drainage Fee Ordinance and conditions of approval for stormwater runoff mitigation. An additional Thirty One Thousand Seven Hundred and Fifty Two Dollars (\$31,752) in accrued interest has accumulated on said fees. The total summary of fees collected for Basin B plus interest accumulated prior to the Effective Date is described in Exhibit A, attached hereto and incorporated herein by reference.

(b) Within fourteen days of execution of this Agreement by both parties, COUNTY shall pay to DEVELOPER the sum of One Hundred Ninety Four Thousand One Hundred Fifty One Dollars (\$194,151), which sum represents the total fees collected by COUNTY from benefiting development in the amount of Two Hundred Thirteen Thousand Nine Hundred Ninety Four Dollars (\$213,994), plus interest accumulated thereon in the amount of Thirty One Thousand Seven Hundred Fifty Two Dollars (\$31,752), minus Fifty One Thousand Five Hundred Ninety Five Dollars (\$51,595), which is the amount owed by DEVELOPER to COUNTY under the Cooperative Agreement.

(c) DEVELOPER may assign all or any portion of its right to reimbursement pursuant to Paragraph 2(b) of this Agreement without the prior written consent of

COUNTY by presenting to COUNTY an executed Reimbursement Assignment in the form attached hereto as Exhibit C and a Federal Tax W-9 Form within One (1) day of execution of this Agreement by COUNTY. In the event of an assignment, COUNTY shall satisfy its obligation to DEVELOPER under Paragraph 2(b) by paying that portion assigned by DEVELOPER directly to DEVELOPER's assignee.

3. Reimbursement of Fees To Be Collected

(a) In addition to the regional drainage fees collected and identified in Paragraph 2(a), additional fees for Basin B are anticipated to be collected from certain other projects that have been approved but have not yet recorded final maps pursuant to the Subdivision Map Act. The total summary of future residential units or equivalents (hereinafter "lots") currently expected to pay fees for Basin B is described in Exhibit B, attached hereto and incorporated herein by reference. However, fee projections based on future lots identified in Exhibit B are only estimates, and COUNTY makes no representation that the lots will proceed to fee payment as anticipated. In addition, the number of lots identified in the table for each development reflects the number of lots that regional drainage fees for Basin B will be assessed and which will be forwarded to DEVELOPER pursuant to this Agreement. It does not necessarily represent the total number of lots in each development, as not all of the lots in each development will drain to Basin B.

(b) COUNTY shall pay to DEVELOPER all regional drainage impact fees collected by COUNTY for those lots identified in Exhibit B within sixty (60) days after the COUNTY's collection of said fee for each new residential unit or equivalent thereof that is planned to utilize Basin B. The COUNTY shall provide DEVELOPER the Subdivision Tract and lot number of the parcels for which reimbursement is made. Fees collected by COUNTY for reimbursement to DEVELOPER shall be forwarded to DEVELOPER by certified mail at the following address:

Di-Mac Development Company
Attention: Anthony E. Wells
124 W. Main Street, Suite G
Santa Maria, CA 93458

DEVELOPER shall notify COUNTY in writing of any address changes.

(c) The estimated fees to be collected from lots described in Exhibit B are estimated based on the number of Subdivision Map Act lots that are currently approved for each project pursuant to the conditions of approval for that project. The parties acknowledge and agree that only those lots identified in Exhibit B that are approved for development (typically residential or commercial structures) are conditioned to pay such fees. The parties also acknowledge that regional drainage impact fees will only be paid for those projects that move forward to recordation. Further, any amendments to the projects that reduce the number of buildable lots could lead to a reduction in the amount of regional drainage impact fees paid by them.

(d) DEVELOPER may assign all or any portion of its right to future reimbursement pursuant to Section 3(b) without the prior consent of COUNTY by presenting COUNTY with an executed Reimbursement Assignment in the form attached hereto as Exhibit C within fifteen (15) days of execution of this Agreement by COUNTY. In the event of such an assignment, COUNTY shall satisfy its obligation to DEVELOPER under Section 3(b) by paying that portion assigned by DEVELOPER directly to DEVELOPER's assignee. Any other assignment of DEVELOPER's right to reimbursement pursuant to Section 3(b) not made within fifteen (15) days of execution of this Agreement by COUNTY shall require the prior written consent of the COUNTY, which consent shall not be unreasonably withheld.

4. Shortfall of Fees

It is expected that regional drainage impact fees for Basin B that have been and will be collected will be less than the costs supplied by DEVELOPER to construct Basin B. The Cooperative Agreement provides that DEVELOPER shall be entitled to reimbursement from COUNTY only to the extent regional drainage impact fees are paid by developers of other subdivided lots that are to be served by Basin B, and in no event shall the reimbursement amount be greater than the amount of fees actually received from the developers of said lots. The County is not liable for any costs over and above actual regional drainage impact fees collected for the development of Basin B.

Developer recognizes that the only funds to be reimbursed from COUNTY to DEVELOPER pursuant to this Agreement are those fees already collected and on deposit plus interest accrued thereon, and whatever regional drainage impact fees the COUNTY ultimately collects for the construction of Basin B, if any.

5. Term

The Parties' rights and obligations under this Agreement shall commence on the Effective Date and shall persist until the earlier of the following:

(a) Such time as County has distributed through this Agreement all of the regional drainage impact fees collected for Basin B from those lots identified in Exhibits A and B; or

(b) Twenty-Five (25) years from the Effective Date of this Agreement.

Upon the occurrence of the earlier, this Agreement shall terminate and the parties shall have no further rights or obligations.

6. Effect of Termination. Upon the expiration of the term of this Agreement as set forth in Section 5, all fees thereafter collected by the COUNTY as a Reimbursement Charge for Basin "B" shall belong to the COUNTY and the COUNTY shall have no more obligations to DEVELOPER.

7. Entire Agreement. This Agreement (including the attachments and exhibits hereto) (a) constitutes the entire agreement between the Parties concerning reimbursement, and supersedes all prior or contemporaneous understandings, whether oral or written including but not limited to those contained in the Cooperative Agreement; and (b) may not be modified or amended, except by a written instrument signed by the Parties.

8. Governing Law; Venue. This Agreement shall be governed by and subject to and construed according to the laws of the State of California. The Parties agree that this Agreement was formed and shall be performed in Santa Barbara County, California, and that the exclusive venue for all disputes arising under or in connection with this Agreement shall be the Superior Court in and for Santa Barbara County, California, and further hereby waive any right to object that such venue is inconvenient or otherwise inappropriate.

9. Construction. Should any provision of this Agreement require judicial interpretation, it is agreed that the Court interpreting or construing the same shall not apply a presumption that the terms hereof shall be more strictly construed against one Party by reason of the rule of construction that a document is to be construed more strictly against the person who himself or through his agent prepared the same, it being agreed that the agents of both Parties have participated in the preparation hereof.

10. Counterpart Signatures. This Agreement may be executed in one or more counterparts, all of which together shall be one instrument, and all of which shall be considered duplicate originals.

11. No Third Party Beneficiaries. This Agreement is made and entered into for the sole protection and benefit of the Parties hereto. No other party shall have any right of action based upon any provisions of this Agreement.

12. Certification of Developer. DEVELOPER represents and warrants that it is in all respects successor in interest to Wellmack LLC, and that the person signing this Agreement on its behalf has the authority to execute this Agreement and that no additional signatures are required to bind DEVELOPER to the provisions contained herein. DEVELOPER further represents and warrants that it is not aware of any additional parties, beyond those described herein who claim entitlement to reimbursement for costs, work or expenses associated with Basin B.

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IN WITNESS WHEREOF, DEVELOPER and COUNTY have executed this Agreement by the respective authorized officers as set forth below to be effective as of the date executed by the COUNTY.

COUNTY OF SANTA BARBARA

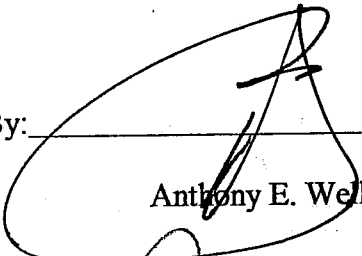
SANTA BARBARA COUNTY FLOOD CONTROL & WATER CONSERVATION DISTRICT

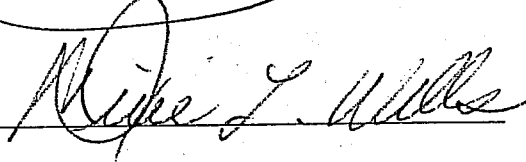
By: _____
Supervisor Salud Carbajal
Chair, Board of Supervisors/Directors

DI-MAC DEVELOPMENT, INC.

ATTEST:
MICHAEL F. BROWN
CLERK OF THE BOARD

By: _____
Deputy

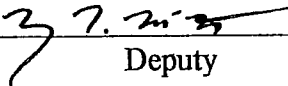
By: 
Anthony E. Wells

By: 
Secretary

Soc Sec or Tax ID No. 42-1635578

APPROVED AS TO FORM:
DANIEL J. WALLACE
COUNTY COUNSEL

APPROVED AS TO FORM:
ROBERT W. GEIS, CPA
AUDITOR-CONTROLLER

By: 
Deputy

By: 
Deputy

EXHIBIT "A"

Regional Drainage Impact Fees Collected for Regional Retention Basin "B" Plus Interest
Prior to the Effective Date

Project Name	# Lots	Amt Paid	Date
<i>ON DEPOSIT</i>			
HARP SPRINGS (Tract 14,478)	44	\$ 73,876	01/2006
MESA VERDE (Tract 14, 303)	64	\$ 103,040	11/2004
KEYSITE 9/OAKNOLLS	sq ft	\$ 24,182	08/1999
R COLE	3	\$ 5,037	12/2005
ESKRIDGE	1	\$ 1,479	12/2002
JENSEN BROS.	1	\$ 1,479	06/2003
CANFIELD	1	\$ 1,479	07/2003
WLM BROTHERS	1	\$ 1,679	01/2006
TRUER	1	\$ 1,743	06/2007
	Total 116 plus sq. ft.	\$ 213,994	
TOTAL DEPOSITS		\$213,994.00	
TOTAL INTEREST		\$ 31,752.00	

EXHIBIT "B"

Approved Development Utilizing Regional Retention Basin B and Conditioned to Pay
Regional Drainage Impact Fees for Basin B

Development	Residential Units or Equivalents Utilizing Basin B
Tract 14,556 (Vintage Ranch) – Key Site 7	52
A portion of Tract 14,430 (Rice Ranch) – Key Site 12	159
Miscellaneous: Jensen Brothers - either APN 103-760-02 or APN 103-760-03 (not both)	1
Total	212

EXHIBIT "C"

IRREVOCABLE PARTIAL ASSIGNMENT

For consideration received, DI-MAC DEVELOPMENT, INC ("DI-MAC") hereby transfers and assigns to _____ (Assignee) the rights under the agreement between DI-MAC and the County of Santa Barbara and the Santa Barbara County Flood Control and Water Conservation District (hereinafter collectively referred to as "COUNTY") effective as of _____ (Reimbursement Agreement) to receive payments under Section _____ [specify section] of the Reimbursement Agreement in the amount of \$_____ (hereinafter the "Assigned Portion") which represents all or any portion of the total amount due under said Section _____ [specify subsection].

DI-MAC agrees that payment to Assignee under this Partial Assignment will satisfy fully COUNTY's obligations under Section _____ of the Reimbursement Agreement with respect to the Assigned Portion of the total amount due under said Section _____ [specify subsection].

This Partial Assignment is intended to convey to Assignee all of DI-MAC's right, title and interest in the Assigned Portion of the total amount due under said Section _____ [specify section], with full power to collect the sum when it becomes due; give a receipt evidencing the discharge of that portion of the underlying obligation and reassign.

All payments to be made by COUNTY pursuant to this Partial Assignment shall be forwarded to Assignee by certified mail at the following address: [specify address].

This Partial Assignment shall be binding on and shall inure to the benefit of the respective heirs, devisees, legatees, executors, administrators, trustees, successors, and assigns of the parties to this Assignment.

This Assignment shall be governed by and construed in accordance with laws of California.

DI-MAC DEVELOPMENT, INC.

By: _____
Anthony E. Wells