

GHAD RESOLUTION NO. 02-2012

A RESOLUTION APPROVING TWO SETTLEMENT AGREEMENTS RELATING TO NUMEROUS LAWSUITS CONCERNING CONSTRUCTION DEFECTS AND LAND MOVEMENT IN THE OAKHURST COUNTRY CLUB DEVELOPMENT

**THE BOARD OF DIRECTORS
Oakhurst Geological Hazard Abatement District
City of Clayton, California**

WHEREAS, since 2005, numerous lawsuits alleging damages caused by construction defects and land movement in City-owned open space have been filed by property owners in the Oakhurst Country Club development against the project developer, Presley Homes (now William Lyon Homes), the City, the Oakhurst Geological Hazard Abatement District (GHAD), and various contractors (the Parties); and

WHEREAS, two settlement agreements ("Agreements") entitled "Settlement Agreement and Partial Release of All Claims" and "Settlement Agreement, Release, and Covenant Not To Sue", each Agreement attached hereto and labeled as Attachment 1 and 2, respectively, have been negotiated and tentatively agreed to by all of the Parties; and

WHEREAS, the Agreements resolve the outstanding lawsuits and provide for the installation of dewatering wells in Kelok Way in order to stabilize the slope movement in the City-owned open space north of Kelok Way; and

WHEREAS, City staff and legal counsels have recommended approval of the Agreements;

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the Oakhurst Geological Hazard Abatement District does hereby adopt this Resolution approving the Agreements as noted and described above, and does hereby authorize the Chairman to execute each Agreement on behalf of the GHAD.

PASSED, APPROVED AND ADOPTED by the Board of Directors of the Oakhurst Geological Hazard Abatement District at a regular public meeting thereof held on the 17th day of July, 2012 by the following vote:

AYES: Vice Chairman Medrano, Boardmembers Geller and Shuey.

NOES: None.

ABSTAIN: None.

ABSENT: Chairman Stratford and Boardmember Pierce.

THE BOARD OF DIRECTORS OF GHAD


HANK STRATFORD, Chairman

ATTEST:


Laci Jackson, City Clerk

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I hereby certify that the foregoing resolution was duly and regularly passed by the Board of Directors of the Oakhurst Geological Hazard Abatement District at its regular public meeting held on July 17, 2012.


Laci J. Jackson, Secretary

**SETTLEMENT AGREEMENT AND
PARTIAL RELEASE OF ALL CLAIMS**

I

INTRODUCTION

This Settlement Agreement (the "Agreement") is entered into by and between the CITY OF CLAYTON (hereinafter "CITY") and OAKHURST GEOLOGICAL HAZARD ABATEMENT DISTRICT (hereinafter "GHAD") and THE PRESLEY COMPANIES, PRESLEY HOMES and WILLIAM LYON HOMES, INC. (hereinafter "LYON"). Collectively, the above parties are referred to as "the Settling Parties."

For valuable consideration as between the Settling Parties herein, this Agreement is incorporated into, modifies and controls the Settlement Agreement and Release of All Claims in the matter of *Lorna Belskey, et al. v. The Presley Companies, et al.*, Contra Costa County Superior Court Case No. C05-00837. This Settlement Agreement applies to the following cases:

1. **Daniel Katzman, et al., Plaintiffs v. City of Clayton, et al., Defendants**, and related cross-actions, Contra Costa Superior Court Case No. C07-00707.
2. **Andrew Brown, et al., Plaintiffs v. The Presley Company, et al., Defendants**, and related cross-actions, Contra Costa Superior Court Case No. C07-01461.
3. **Glade Gaffney, an individual, Plaintiff v. City of Clayton, et al., Defendants**, and related cross-actions, Contra Costa Superior Court Case No. C07-02677.
4. **Francis Achim, et al., Plaintiffs v. The Presley Company, et al., Defendants**, and related cross-actions, Contra Costa Superior Court Case No. C08-01079. The Achims are proceeding in pro per.
5. **Alan R. Brooks, et al., Plaintiffs v. The Presley Company, et al., Defendants**, and related cross-actions, Contra Costa Superior Court Case No. C08-00442. All plaintiffs, except Nancy Robinson Beaver, have dismissed their Complaints with prejudice.
6. **Lorna Belskey, et al., Plaintiffs v. The Presley Companies, et al., Defendants**, and related cross-actions, Contra Costa Superior Court Case No. C05-00837. Currently, five Plaintiffs (homes) remain.
7. **Robert Sheffield, et al., Plaintiffs v. William Lyon Homes, Inc., Defendants**, Contra Costa Superior Court Case No. C07-00694.

II

THE PARTIES

The following are the parties to this Agreement and shall hereinafter be referred to as the "Settling Parties":

1. The CITY OF CLAYTON including, but not limited to, its City Council members, City Manager, employees, attorneys, experts, agents and representatives;
2. The OAKHURST GEOLOGICAL HAZARD ABATEMENT DISTRICT including, but not limited to, its Board members, District Manager, employees, attorneys, experts, agents and representatives;
3. WILLIAM LYON HOMES, INC., THE PRESLEY COMPANIES, PRESLEY HOMES including, but not limited to, their predecessor or successor owners or entities, past, present and future parent companies, subsidiaries, divisions, subdivisions, affiliates, related companies, general partners, limited partners, partnerships, partners, joint ventures, shareholders, investors, owners, directors, officers, employees, attorneys, experts, consultants, assigns, agents and representatives. This Agreement does not apply to any insurers of the above-named entities related to LYON.

III

THE CLAIMS

The claims herein shall refer, except as otherwise set forth in this Agreement, to any and all claims or causes of action that were brought, related to the development, planning, improvement, design, construction, maintenance and ownership of all common areas, open spaces, lots and any Plaintiffs' homes related to the above-named seven lawsuits in the Oakhurst Development. In the seven above-referenced actions, LYON and the CITY/GHAD have Cross-Complaints against one another for various causes of action, including equitable indemnity, contribution, breach of contract and express indemnity. The Settling Parties wish to resolve these claims, with such limitations as are set forth below.

IV

MODIFICATIONS TO THE OVERALL BELSKEY v. PRESLEY HOMES SETTLEMENT

LYON and the CITY/GHAD agree to the following terms modifying any global Settlement Agreement between all of the parties in the above-named actions.

A. The CITY/GHAD will contribute TWO HUNDRED FIFTY THOUSAND DOLLARS (\$250,000.00) toward the BELSKEY Plaintiffs' claims payable to the BELSKEY Plaintiffs and their counsel of record. This money is solely for the alleged property damage to the Plaintiffs' homes and real property. This money will not be used for any hillside repairs.

B. The CITY/GHAD and LYON do not release each other or their respective insurers from any future liability. The CITY/GHAD and LYON agree to reserve any and all arguments and defenses concerning the interpretation of the 2003 Settlement Agreement between LYON and the CITY, the Oakhurst Country Club Development Agreement, any and all Subdivision Agreements and related Addendums and Amendments including whether or not these Agreements remain valid. Neither LYON nor the CITY/GHAD waive or release any factual or legal arguments concerning the above-referenced documents, including that the documents have expired.

C. LYON and the CITY/GHAD agree to mutually waive all claims against each other to recover past, present and future attorneys' fees and costs incurred relating to the ACHIM, BROOKS, BELSKEY, BROWN, KATZMAN, GAFFNEY and SHEFFIELD actions.

D. LYON and the CITY/GHAD agree to "stand down" on the ACHIM and BROOKS actions. LYON will take the lead in the defense of both these actions. LYON agrees to indemnify, but not defend, the CITY and GHAD for the ACHIM and BROOKS actions. The indemnity will apply except where there is a determination by a finder of fact that the liability to the ACHIMS and NANCY ROBINSON BEAVER Plaintiffs for their property damage was the "sole negligence" of the CITY/GHAD. The CITY and GHAD agree to bear their own attorneys' fees and costs for the ACHIM and BROOKS matters.

E. Lyon and the CITY/GHAD agree that all arguments and defenses as to the interpretation of the the Oakhurst Development Agreement, all Subdivision Agreements, the 2003 Settlement Agreement and Release and related written agreements between LYON and the CITY/GHAD shall remain unaffected by this Agreement.

F. Upon full funding by all settling parties to the BELSKEY settlement, GHAD will contract with Engineered Soil Repairs, Inc. (ESR) or another qualified contractor for the repairs/remediation of the "Katzman slide." The ESR contract is a fixed price contract to perform work on the hillside for a total of SIX HUNDRED THIRTY-FIVE THOUSAND FOUR HUNDRED EIGHTY DOLLARS (\$635,480.00), plus an additional cost of THIRTEEN THOUSAND THREE HUNDRED NINETY-THREE DOLLARS (\$13,393.00) if it is determined that the project is a "prevailing wage" project. Neither the CITY/GHAD nor LYON shall be responsible for any contract overages. In the event that ESR cannot or will not sign a contract for the work acceptable to the CITY or GHAD, GHAD will put out the repair work to bid using the Contract Documents prepared by Stevens, Ferrone & Bailey. The total amount of money being contributed by LYON and/or its subcontractors for the hillside repairs is SEVEN HUNDRED TWENTY-FIVE THOUSAND DOLLARS (\$725,000.00). In addition to the ESR (or other qualified contractor) contract price, additional fees and expenses out of the SEVEN HUNDRED TWENTY-FIVE THOUSAND DOLLARS (\$725,000.00) shall include expert fees paid to Stevens, Ferrone & Bailey for inspections and/or any other fees and costs associated and/or performed with the repairs including any required inspections by the CITY or GHAD. Upon full funding by all settling parties to the BELSKEY settlement, GHAD will contract with Stevens, Ferrone & Bailey. The invoices of Stevens, Ferrone & Bailey will be reviewed by the GHAD District Manager whose time will be compensated out of the SEVEN HUNDRED TWENTY-FIVE THOUSAND DOLLARS (\$725,000.00) in an amount NOT TO EXCEED \$5,000. ESR or

another qualified contractor has agreed or will agree to pay all permitting and required GHAD inspection/bond fees. Any money not used out of the SEVEN HUNDRED TWENTY-FIVE THOUSAND DOLLARS (\$725,000.00) will be split between LYON HOMES and the CITY/GHAD on an 80/20 basis with eighty percent (80%) going back to LYON HOMES and twenty percent (20%) going to the CITY/GHAD. ESR or another qualified contractor has agreed or will agree to defend and indemnify LYON HOMES, the CITY and GHAD. In addition, neither LYON nor the CITY/GHAD shall be responsible for any additional costs above the fixed price contract work.

V

MISCELLANEOUS

A. LYON and the CITY/GHAD agree that they are not relying on any representations made by the other in agreeing to the settlement other than what is Included in this Release Agreement. LYON HOMES and the CITY/GHAD further represent that they understand that they are dismissing their respective cross complaints against each other voluntarily and not in reliance of any representation or promise or inducement not expressed herein.

B. This AGREEMENT is the result of a compromise among the SETTLING PARTIES and shall never at any time or for any purpose be considered as an admission of liability and/or responsibility on the part of any party herein released as to this agreement, nor shall the payment of any sum of money in consideration for the execution of this AGREEMENT constitute or be construed as an admission of any liability whatsoever by any party herein released, each of which continues to deny such liability and disclaim such responsibility.

C. This Agreement and the terms of this Agreement are contractual and not a mere recital. Each Party has carefully read and understands the contents of this Agreement and signs the same as the undersigned's own free act.

D. This Agreement shall bind and be binding upon the heirs, executors, administrators and assigns of each Party.

E. Should any provision of this Agreement be declared or determined by any court of competent jurisdiction to be wholly or partially illegal, invalid or unenforceable, the legality, validity and enforceability of the remaining parts, terms or provisions of this Agreement shall not be affected thereby. Said illegal, unenforceable or invalid part, term or provision shall be deemed not to be a part of this Agreement.

F. This Agreement may be signed in counterparts which, when taken together, shall constitute the same Agreement. This document sets forth the entire Agreement between the Parties hereto. It supersedes any and all prior agreements (except as noted herein) or understandings, written or oral, among the Parties pertaining to the specific subject matter (the Belskey Settlement) of this Agreement.

G. This Agreement shall be effective as of the date it is fully executed by all of the undersigned (the "Effective Date").

H. This Agreement is the product of arms length negotiations prepared by and among the Parties and their counsel. All Parties expressly acknowledge and agree that this Agreement shall not be deemed prepared or drafted by one Party or another. No presumption of drafting or interpretation based on drafting for or against the Parties shall apply.

I. This Agreement is made and entered into in the State of California and shall, in all respects, be interpreted, enforced and governed by and under the laws of the State of California, without reference to choice of law rules.

WILLIAM LYON HOMES, INC.

Dated: _____, 2012.

By _____
Print Name: _____
Title: _____

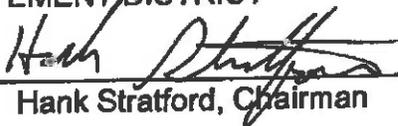
CITY OF CLAYTON

Dated: _____, 2012.

By  _____
Howard Geller, Mayor

OAKHURST GEOLOGICAL HAZARD
ABATEMENT DISTRICT

Dated: _____, 2012.

By  _____
Hank Stratford, Chairman

E. Should any provision of this Agreement be declared or determined by any court of competent jurisdiction to be wholly or partially illegal, invalid or unenforceable, the legality, validity and enforceability of the remaining parts, terms or provisions of this Agreement shall not be affected thereby. Said illegal, unenforceable or invalid part, term or provision shall be deemed not to be a part of this Agreement.

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G. This Agreement shall be effective as of the date it is fully executed by all of the undersigned (the "Effective Date").

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I. This Agreement is made and entered into in the State of California and shall, in all respects, be interpreted, enforced and governed by and under the laws of the State of California, without reference to choice of law rules.

Dated: _____, 2011.

WILLIAM LYON HOMES, INC.

By _____
Print Name: Richard S. Robinson
Title: Senior Vice President

Dated: _____, 2011.

CITY OF CLAYTON

By _____
David T. Shuey, Manager

Dated: _____, 2011.

OAKHURST GEOLOGIC HAZARD
ABATEMENT DISTRICT

By _____
Rick Angrisani, District Manager

SETTLEMENT AGREEMENT, RELEASE, AND COVENANT NOT TO SUE

INTRODUCTION

This Settlement Agreement, Release and Covenant Not to Sue ("AGREEMENT") was effectively entered into on the 7th day of September 2011, by and between Plaintiffs Lailuma and Hamid Hossaini, William J. and Beverly J. Plambeck, Gregory S. and Phyllis O. Redmond, Debra Vanslambrook, and Amin and Nahida Zafari, and all other legal or equitable owners of the properties and all Related Persons or Entities, as defined herein, whether or not named as plaintiffs herein (herein collectively referred to as "PLAINTIFFS"), and Presley Homes, The Presley Companies and William Lyon Homes, Inc. (herein collectively referred to as "LYON"), DMC Concrete, Inc., Merit Concrete, Inc., Rivera Company, City of Clayton, and Oakhurst Geological Hazard Abatement District and all other Related Person or Entities, as defined herein.

1. DEFINITIONS

The following definitions shall apply in this AGREEMENT:

1.1 "AGREEMENT" shall mean and refer to this Settlement Agreement, Release and Covenant Not to Sue.

1.2 "PLAINTIFFS" shall mean and refer to Lailuma and Hamid Hossaini, William J. and Beverly J. Plambeck, Gregory S. and Phyllis O. Redmond, Debra Vanslambrook, and Amin and Nahida Zafari and all other current legal or equitable owners of the properties and all related person or entities whether or not named as plaintiffs herein.

1.3 "CITY" shall mean and refer to the City of Clayton.

1.4 "GHAD" shall mean and refer to the Oakhurst Geological Hazard Abatement District.

1.5 "SETTLING SUBCONTRACTORS" shall mean and refer to DMC Concrete, Inc., Merit Concrete, Inc., and Rivera Company, and all who are Related Persons.

1.6 "SETTLING PARTIES" shall mean and refer to PLAINTIFFS, LYON, DMC Concrete, Inc., Merit Concrete, Inc., Rivera Company, CITY, and GHAD.

1.7 "THE ACTION" shall mean and refer to the case filed individually by PLAINTIFFS, on or about April 25, 2005, against LYON and others, and more particularly described as follows: *Lorna Belskey, et al. v. The Presley Companies, et al.*, bearing the Contra Costa County Superior Court Case Number MSC05-00837.

1.8 "THE CROSS-ACTION" shall mean and refer to any and all cross-complaints filed in THE ACTION by any party.

1.9 "SUBJECT PROPERTIES" shall mean and refer to all right, title and interest that PLAINTIFFS have in the five (5) single-family homes, including the real property and improvements thereon located at the Falcon Ridge subdivision at the Oakhurst Country Club located in Clayton, California. Specifically, "SUBJECT PROPERTIES" are described with particularity in Exhibit "A" attached hereto and incorporated by reference.

1.10 "CITY OWNED ADJACENT LAND" shall mean and refer to the hillside slopes owned by the City and adjacent to the SUBJECT PROPERTIES. The CITY OWNED ADJACENT LAND includes primarily tract 7261, and peripherally tracts 7264 and 7263.

1.11 "RELATED PERSONS AND ENTITIES" as it pertains to LYON, the CITY, GHAD, and the SETTLING SUBCONTRACTORS shall mean and refer to any and all of their past, present and future parent companies, divisions, subsidiaries, affiliates, related corporations and entities, members, stockholders, directors, officers, officials, employees, lenders, mortgage holders, predecessors, partners, joint venturers, legal representatives, agents, experts, consultants, heirs, administrators, trusts, trustees, trust beneficiaries, creditors, assignees, and each of their predecessors, successors, and assigns as to this case only and not as to any future third party claims related to the SUBJECT PROPERTIES.

1.12 "RELATED PERSONS AND ENTITIES" as it pertains to the PLAINTIFFS shall mean and refer to any and all legal and equitable owners of the SUBJECT PROPERTIES and their legal representatives, insurers, lenders, mortgage holders, agents, experts, consultants, heirs, trusts, trustees, trust beneficiaries, creditors, assignees, lessees, tenants, residents of the SUBJECT PROPERTIES, administrators and conservators, and each of their predecessors, successors and assigns.

1.13 "CLAIM" or "CLAIMS" shall mean and refer to any and all claims, demands, liabilities, causes of action of any kind, arising out of the matters alleged in the ACTION, including but not limited to strict liability, breach of implied warranty, breach of contract, negligence per se, breach of express warranty, negligence, trespass, inverse condemnation, nuisance, and all losses and damages, whether economic or non-economic, including, but not limited to, losses and damages associated with patent or latent defects, loss of compensation, property damage, indemnity, loss of use, loss of services, attorney's fees, expert's fees, repair costs, investigative costs, relocation costs, diminution in value claims, and any other actionable omissions, conduct or damages of any kind and nature whatsoever, whether subrogated or non-subrogated, whether in tort, contract or extracontractual, at law or in equity, actual or contingent, foreseen or unforeseen, known or unknown, past or future

1.14 "CLAIM" or "CLAIMS" specifically excludes from this Settlement Agreement: (1) Any and all CLAIMS as that term is defined herein which LYON and its respective RELATED PERSONS AND ENTITIES have or may have against any party, person, or entity other than PLAINTIFFS, SETTLING SUBCONTRACTORS and their respective RELATED PERSONS AND ENTITIES; (2) Any and all CLAIMS as that term is defined herein which LYON and its respective RELATED PERSONS AND ENTITIES have or may have pursuant to their status as named or additional insureds to the insurance policies issued to any individual or entity; (3) any and all claims for personal injury or bodily injury, which PLAINTIFFS have not alleged in the present ACTION; (4) any and all future damages arising out the maintenance of the hillside slopes adjacent to the SUBJECT PROPERTIES that are owned by the CITY and maintained by the GHAD and/or any repairs performed in the future to the hillside slopes that are unrelated to the CLAIMS released herein which are caused by the negligent acts or omissions of the CITY and GHAD occurring after the date of this Agreement.

1.15 Section 1.14 above does not apply as between LYON and the CITY and GHAD and all issues concerning claims by and between LYON and the CITY and GHAD shall be governed by a separate agreement.

2. RECITALS

2.1 On or about April 25, 2005, PLAINTIFFS filed THE ACTION against LYON claiming damages for strict liability, breach of implied warranty, breach of contract, negligence per se, breach of express warranty, negligence, and nuisance, with claims of alleged defects in the design, construction, grading and repair of the SUBJECT PROPERTIES and all component parts of the SUBJECT PROPERTIES. PLAINTIFFS also claimed damages against the CITY and GHAD for inverse condemnation and nuisance regarding the CITY OWNED ADJACENT LAND.

2.2 On or around June 30, 2005, LYON filed THE CROSS-ACTION against certain subcontractors whose work was implicated in THE ACTION and/or tendered claims to them or their representatives. Pursuant to THE CROSS-ACTION, LYON sought indemnification and contribution from THE SETTLING SUBCONTRACTORS, as well as the CITY and GHAD. The CITY and GHAD filed a CROSS ACTION against LYON seeking, among other things, indemnification.

2.3 On or about September 7, 2011, a settlement was reached between PLAINTIFFS, LYON, the CITY, GHAD, and the SETTLING SUBCONTRACTORS for a total of \$1,325,000. \$725,000 of the settlement funds will be used by GHAD to perform a dewatering repair of the hillside. No settlement funds from the CITY or GHAD shall be used for hillside repairs. GHAD agrees to be the contracting party for the hillside repair and the construction management oversight contracts.

2.4 The SETTLING PARTIES desire and intend by this AGREEMENT to now settle, finally and completely, all claims, demands, actions, causes of action and obligations, known or unknown, relating to drainage, grading, foundation, concrete,

geotechnical and all below-ground soils, including allegations of faulty soil compaction, adjacent landslides, faulty existing underlying soils and expansive soils resulting in soil movement and damage to the structures, concrete slabs, flatwork and foundation defects including any and all resulting damages associated with and arising from the ACTION or CROSS ACTION. All issues by and between LYON and the CITY and GHAD shall be governed by a separate agreement.

2.5 Upon approval of this Agreement, GHAD will contract with Engineered Soil Repair, Inc. ("ESR"). GHAD will retain ESR to install dewatering wells on CITY OWNED ADJACENT LAND. GHAD will retain Stevens, Ferrone & Bailey Engineering Company, Inc. to inspect, manage and supervise the construction.

2.6 This AGREEMENT does not modify, diminish, or release the CITY or GHAD from any duty or obligation to maintain the CITY OWNED ADJACENT LAND.

3. PAYMENT AND ASSIGNMENT

3.1 Settlement Payments. The total amount to be collectively paid to PLAINTIFFS by LYON, the CITY, GHAD, and the SETTLING SUBCONTRACTORS, pursuant to the settlement reached between SETTLING PARTIES is \$600,000.00. The remaining payments (excluding all funds from the CITY and GHAD) are to be used for payment of the hillside repairs and construction management oversight expenses or costs.

3.2 The settlement contributions are broken down as follows:

LYON	\$1,000,000
CITY and GHAD	\$250,000
DMC Concrete	\$25,000
Merit Concrete	\$25,000
Rivera Company	\$25,000

3.3 ASSIGNMENT. In exchange for the monetary contribution of LYON, PLAINTIFFS agree to assign to LYON any all claims they may have against any NON-SETTLING PARTY, known or unknown, including, but not limited to equitable and implied indemnity rights.

3.4 In exchange for the settlement amount described above, PLAINTIFFS shall dismiss any and all CLAIMS in THE ACTION and/or arising from or related to the SUBJECT PROPERTIES, with prejudice, as to LYON, the SETTLING SUBCONTRACTORS, the CITY, and GHAD.

3.5 All Parties agree that the settlement amount described above was made in good faith in accord with Code of Civil Procedure sections 877 and 877.6.

3.6 All Settlement Payments due PLAINTIFFS shall be forwarded to plaintiffs' counsel by December 1, 2011 for SETTLING PARTIES. Timing of settlement payments by LYON and/or LYON's carriers is governed by a separate agreement between PLAINTIFFS and LYON. Settlement checks shall be made payable to the "Milstein Adelman Client Trust Account" (Federal Tax ID No. 95-4598207) and delivered to PLAINTIFFS' counsel.

3.7 Each party shall be responsible to pay only their contribution to the total settlement amount and shall not be responsible or liable for any other party's settlement contribution.

4. RELEASES

4.1 PLAINTIFFS' Release. For and in consideration of the settlement amount as described in Paragraph 3 of this AGREEMENT, and the other representations and promises contained herein, and except as otherwise set forth herein, PLAINTIFFS, individually and collectively, and on behalf of their RELATED PERSONS AND ENTITIES, do hereby fully and finally settle, release, acquit and forever discharge, in the broadest possible manner, LYON, the CITY, GHAD, and the SETTLING SUBCONTRACTORS and their respective RELATED PERSONS AND ENTITIES, of and from all CLAIMS in the action, as defined herein, which arose out of or are connected in any way with the SUBJECT PROPERTIES and/or the CITY OWNED ADJACENT LAND, and are not specifically excluded herein. Conditioned upon the promises made herein, this AGREEMENT may be pled as a full and complete defense to any action or other proceeding by which any PLAINTIFF pursues any of the CLAIMS released herein, as well as a basis for abatement of, or injunction against, such action or other proceeding.

4.2 LYON and SETTLING SUBCONTRACTORS' Releases. For and in consideration of the Release of PLAINTIFFS, as described herein, and the other representations and promises contained herein, and except as otherwise set forth herein, LYON and SETTLING SUBCONTRACTORS, on their own behalf and on behalf of their respective RELATED PERSONS AND ENTITIES, do hereby fully and finally settle, release, acquit and forever discharge, in the broadest possible manner, each other and their respective RELATED PERSONS AND ENTITIES, of all CLAIMS made by PLAINTIFFS in THE ACTION and the associated CROSS-ACTION, as defined herein, which arose out of or are connected in any way with the SUBJECT PROPERTIES, except for any claim brought in the future by an individual or entity not a named party to these proceedings. Conditioned upon fulfillment of the promises made herein, this AGREEMENT may be pled as a full and complete defense to any action or other proceeding by which LYON or any SETTLING SUBCONTRACTOR pursues any of the

CLAIMS released herein, as well as a basis for abatement of, or injunction against, such action or other proceeding.

4.3. The specific terms of the ongoing relationship and release of claims between LYON and the CITY and GHAD shall be governed by a separate agreement.

4.4 **WAIVER OF CIVIL CODE SECTION 1542.** PLAINTIFFS acknowledge and understand that there is a risk that, subsequent to the execution of this AGREEMENT, they may accrue, obtain, incur, suffer or sustain CLAIMS which in some conceivable way arise out of, are caused by, are connected with or related to SETTLING PARTIES, the SUBJECT PROPERTIES, and/or the CITY OWNED LAND and that such CLAIMS may be unknown and unanticipated at the time this AGREEMENT is signed, or are not presently capable of being ascertained. PLAINTIFFS further acknowledge that there is a risk that any CLAIMS as are known or should be known may become more serious than they now expect or anticipate. Nevertheless, PLAINTIFFS hereby expressly waive all rights they may have in such unknown and unexpected consequences or results, unless such rights are specifically excluded herein. PLAINTIFFS acknowledge that they have had the benefit of or opportunity to consult with counsel, understand the import of California Civil Code section 1542 and expressly waive the protection of Civil Code section 1542, which provides as follows:

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of the executing the release which, if known by him or her must have materially affected his or her settlement with the debtor.

PLAINTIFFS hereby specifically waive any and all rights and benefits that could accrue under this section or any successor statute, unless such rights are specifically excluded herein. SETTLING PARTIES acknowledge that this AGREEMENT would not be made without such a waiver

5. CONFIDENTIALITY AND COVENANT NOT TO PUBLISH

5.1 PLAINTIFFS, and their attorneys, experts and all those associated with them, agree to refrain from disclosing, advertising, or publicizing in any way, including but not limited to, via newspapers, magazines, jury verdicts publications, law firm marketing brochures or materials, television, radio, newsletters, the Internet, or other publications, the amounts to be paid or received separately, individually or collectively by SETTLING PARTIES, the total amount of the Settlement Payments, except as specifically set forth herein.

5.2 SETTLING PARTIES hereby acknowledge that substantial work has been performed by their legal counsel, agents, representatives, expert witnesses and/or consultants, at the express direction of the SETTLING PARTIES, related to the

prosecution and/or defense of THE ACTION and THE CROSS-ACTION, as defined herein. Such work includes, but is not limited to, tests, reports, studies, examinations, inspections and research and analyses regarding, among other things, the SUBJECT PROPERTIES. SETTLING PARTIES hereby expressly assume responsibility for an ownership of such work performed by their legal counsel, agents, representatives, expert witnesses and/or consultants, and, pursuant to the terms of this AGREEMENT, SETTLING PARTIES shall take all appropriate steps to ensure such work, as defined herein, shall remain confidential. For instance, SETTLING PARTIES shall advise their legal counsel, agents, representatives, expert witnesses and/or consultants, who have performed such work at their express direction related to the prosecution and/or defense of THE ACTION and THE CROSS-ACTION, that such work shall remain confidential.

5.3 Notwithstanding this AGREEMENT, nothing in this AGREEMENT will prohibit, narrow, or abrogate the PLAINTIFFS' obligations to comply with disclosure requirements of the State of California related to or regarding the SUBJECT PROPERTIES. However, in making any and all necessary disclosures, the PLAINTIFFS shall not reveal the monetary terms of this AGREEMENT, except PLAINTIFFS may indicate that all applicable CLAIMS relating to the original construction and repairs of the SUBJECT PROPERTIES have been fully released by them under California law and that the release runs with the land and is applicable to subsequent purchasers of the SUBJECT PROPERTIES.

5.4 LYON and SETTLING SUBCONTRACTORS agree that, except as set forth herein, they also shall not disclose the Settlement Payments provided to PLAINTIFFS pursuant to this AGREEMENT. However, LYON and SETTLING SUBCONTRACTORS may share any of the terms of this AGREEMENT with their RELATED PERSONS AND ENTITIES as needed in the ordinary course of conducting their business.

5.5 Nothing in this AGREEMENT will prohibit the explanation of settlement terms in pleading filed with the Contra Costa Superior Court, including but not limited to, motions for good faith settlement. However, SETTLING PARTIES agree that any such pleadings, declarations, and other papers filed with the Court in this regard shall be treated as confidential materials and will not be provided or referenced in any way, shape or form to anyone, including, but not limited to, newspapers, magazines, jury verdict publications, law firm marketing brochures, television, radio, newsletters, the Internet, any publication, and etc. except as required for said pleadings and proceedings or as ordered by Court. Further, to the extent that a SETTLING PARTY must file any part of this AGREEMENT with the Court, the SETTLING PARTY doing so may only file those portion of this AGREEMENT that are necessary for the motion or pleading. The CITY and GHAD as public entities must make public this AGREEMENT upon execution pursuant to California law.

5.6 Nothing in this AGREEMENT shall prohibit disclosure to third parties to the extent necessary to comply with applicable laws, or for financial planning or tax purposes to financial advisors.

6. REPRESENTATIONS

SETTLING PARTIES make the following material representations with the understanding that each of them enters into this AGREEMENT in reliance upon each of these representations and that, without these representations, none of them would enter into this AGREEMENT:

6.1 SETTLING PARTIES intend that the terms and conditions of this AGREEMENT, and the AGREEMENT as a whole, shall be binding upon them, and their RELATED PERSONS AND ENTITIES, and are intended by SETTLING PARTIES to run with the land, as to the SUBJECT PROPERTIES, pursuant to applicable California law. A memorandum of settlement or other similar document shall be executed before a notary public by PLAINTIFFS and delivered to counsel for LYON with this AGREEMENT for recordation as to each of the SUBJECT PROPERTIES, and all parties shall cooperate and take all steps necessary to ensure recordation of a memorandum of settlement. An exemplar copy of the memorandum of settlement is attached hereto and incorporated by reference as "Exhibit B".

6.2 PLAINTIFFS and/or signatories hereto represent that they own the SUBJECT PROPERTIES and that they have not sold, transferred, conveyed, or assigned any interest therein which may affect the final and full resolutions of all CLAIMS. PLAINTIFFS represent that there are no other legal or equitable owners who should sign this AGREEMENT and that all such owners have been identified and are signatories to this AGREEMENT. PLAINTIFFS represent that the SUBJECT PROPERTIES are not currently in escrow, nor is any sale related to the SUBJECT PROPERTIES pending.

6.3 PLAINTIFFS and signatories hereto represent that they have not sold, transferred, conveyed, assigned, hypothecated and/or subrogated any of the CLAIMS released herein.

6.4 PLAINTIFFS and signatories hereto represent that they have standing to sue herein as the real parties-in-interest as to THE ACTION.

6.5 SETTLING PARTIES have selected and retained their own attorneys, experts and consultants to inspect, analyze and advise them regarding the nature, extent and cause of the CLAIMS. SETTLING PARTIES acknowledge that all of the terms and provisions of this AGREEMENT have been explained to them by their legal counsel. SETTLING PARTIES further represent that they understand and accept all of the terms and provisions of this AGREEMENT voluntarily and not in reliance of any representation or promise or inducement not expressed herein.

6.6 Each of the signatories hereto warrants and represents that he or she is competent and authorized to enter in this AGREEMENT on behalf of the SETTLING PARTY for whom he or she purports to sign.

7. AGREEMENT NOT TO PROSECUTE

PLAINTIFFS shall never commence or prosecute any action, and hereby expressly agree not to assist in any way, shape or form in the commencement or prosecution of any action against LYON, the CITY, GHAD, or SETTLING SUBCONTRACTORS, in law or equity, based upon, arising from or in any way connected to the SUBJECT PROPERTIES and/or CITY OWNED ADJACENT LAND, based upon the CLAIMS released herein, or upon said parties' acts or omissions relating to the SUBJECT PROPERTIES and/or CITY OWNED ADJACENT LAND at any time up to and including the effective date of this AGREEMENT. Pursuant to this Paragraph, in addition to the other representations made in this AGREEMENT (including but not limited to Paragraph 5) PLAINTIFFS and their RELATED PERSONS AND ENTITIES agree not to provide such assistance in the prosecution or commencement of any action against LYON or SETTLING SUBCONTRACTORS by disclosing work performed by their legal counsel, agents, representatives, expert witnesses and/or consultants, based upon, arising from or in any way connected to the SUBJECT PROPERTIES and/or CITY OWNED ADJACENT LAND and the CLAIMS related thereto, unless required by law or ordered by court.

This AGREEMENT may be pled as a full and complete defense to any action or other proceeding, as a basis for abatement of, or injunction against such action.

8. HOLD HARMLESS

8.1 PLAINTIFFS will hold harmless LYON, the CITY, and GHAD and its officers, directors, shareholders, agents, representatives, predecessors, successors, assigns, affiliated and related entities and all persons acting by, through, under or in concert with it from any loss, claim, action, expense, demand, subrogation or cause of action of any kind or character whatsoever brought by or on behalf of any past, present or future owner(s) of the SUBJECT PROPERTY relating to any released CLAIM which is the subject matter of this Agreement, unless specifically excluded herein.

8.2 PLAINTIFFS acknowledge that in consideration of the promises and agreements contained herein, LYON, and SETTLING SUBCONTRACTORS and the RELATED PARTIES AND ENTITIES bear no responsibility whatsoever as to redesign, repair, remediation, corrective work and/or maintenance performed or not performed on the SUBJECT PROPERTIES. All such responsibility is fully and completely assumed by PLAINTIFFS only, and PLAINTIFFS agree to hold LYON, the SETTLING SUBCONTRACTORS, the CITY, GHAD and their RELATED PARTIES AND ENTITIES harmless of and from any past, present or future claims related to the failure to undertake repairs, deficient for defective repairs, and/or any other claim related to or arising out of the redesign, repair, remediation, corrective work and/or maintenance performed or not performed on the SUBJECT PROPERTIES.

9. INDEMNIFICATION FOR FAILURE TO DISCLOSE

9.1 PLAINTIFFS agree to fully comply with California law relating to the duty to disclose conditions of a residence upon the sale or transfer of same.

9.2 PLAINTIFFS further agree to hold LYON, the SETTLING SUBCONTRACTORS, and the CITY and GHAD harmless, should they be sued, for any failure and/or alleged failure of PLAINTIFFS to disclose conditions of their residences and matters raised in connection with the released CLAIMS herein, as required pursuant to California law, relating to the SUBJECT PROPERTIES.

10. WARRANTY OF AUTHORIZED SIGNATORIES

Each of the signatories hereto warrants and represents that he or she is competent and authorized to enter into this AGREEMENT on behalf of the party for whom he or she purports to sign.

11. PROTECTION AGAINST SUBROGATION OR SUBSEQUENT CLAIMS

PLAINTIFF represents and warrants that it has not initiated, nor concluded, nor is it aware of, nor will it make any other claims for property damage, based upon the CLAIMS released herein and involving the SUBJECT PROPERTY.

12. WARRANTY REGARDING NON-ASSIGNMENT OR TRANSFER OF CLAIMS

PLAINTIFF hereby represents and warrants that the homeowner has not subrogated their rights to any and all CLAIMS involved in THE ACTION, and it is the sole and rightful owner of all those rights, title, and interest in the settlement proceeds and every claim and other matter which it releases herein and has not heretofore assigned or otherwise transferred any interest in any claim which it may have against the parties to this AGREEMENT, any entity released or discharged pursuant to this AGREEMENT, or the settlement proceeds.

13. COMPROMISE

This AGREEMENT is the result of a compromise among the SETTLING PARTIES and shall never at any time or for any purpose be considered as an admission of liability and/or responsibility on the part of any party herein released, nor shall the payment of any sum of money in consideration for the execution of this AGREEMENT constitute or be construed as an admission of any liability whatsoever by any party herein released, each of which continues to deny such liability and disclaim such responsibility.

14. ATTORNEY FEES

The SETTLING PARTIES acknowledge and agree that each of them will bear their own costs, expenses and attorney fees arising out of and /or connected with the CLAIMS, the negotiation, drafting, and execution of this AGREEMENT, and all matters arising out of or connected therewith except that in the event any action is brought by any party hereto to enforce this AGREEMENT, the prevailing party shall be entitled to reasonable attorney fees and costs in addition to all other relief to which that party or those parties may be entitled, including without limitation, attorney fees and costs incurred if this Agreement must be enforced in Bankruptcy proceedings. The issue of attorney fees and costs by and between LYON and the CITY and GHAD shall be governed by separate agreement.

15. SEVERABILITY

If any provision of this AGREEMENT is held by a court of competent jurisdiction to be invalid, void or unenforceable for whatever reason, the remaining provisions not so declared shall nevertheless, continue in full force and effect, without being impaired in any manner whatsoever. In addition, if any party to this AGREEMENT fails or refuses to sign said AGREEMENT, the AGREEMENT will continue to have full force and effect and will be binding upon the remaining parties to the AGREEMENT.

16. CONSTRUCTION OF AGREEMENT

This AGREEMENT is the product of negotiation and preparation by and among the SETTLING PARTIES and their respective attorneys. The SETTLING PARTIES therefore expressly acknowledge and agree that this AGREEMENT shall not be deemed prepared or drafted by one party or another, or its attorneys, and will be construed accordingly.

17. PERSONS BOUND AND BENEFITED

Except as limited and/or excluded herein, this AGREEMENT shall be binding upon and inure to the benefit of SETTLING PARTIES, any and all legal or equitable owners of the SUBJECT PROPERTY, their principals, agents, employees, attorneys, representatives, predecessors, successors in interest, beneficiaries, respective insurance carriers, heirs, successors in interest, agents, employees, servants, principals, assigns, assignors, officers, directors, stockholders, partners, representatives, parent corporations, subsidiary corporations, sister corporations, affiliate corporations, subsequent corporations, partnerships, limited partnerships, joint ventures, executors, grantors, associates, adjusters, affiliates, including but not limited to all RELATED PERSONS AND ENTITIES, as that term is defined herein.

18. INTEGRATION/MODIFICATION

18.1 This AGREEMENT constitutes the entire AGREEMENT between the SETTLING PARTIES relating to the settlement of all CLAIMS arising out of THE ACTION, THE CROSS-ACTION and the facts set forth in the recitals to this AGREEMENT. All prior or contemporaneous agreements, understandings, representations and statements, whether oral or written, and whether by a party or such party's legal counsel, are integrated into the AGREEMENT. There are no representations, warranties, agreements, arrangements, undertakings, oral or written, between or among the parties hereto relating to the subject matter of this AGREEMENT which are not fully expressed herein. Notwithstanding the above, the ongoing relationship between William Lyon Homes and the CITY and GHAD shall be governed by a separate agreement.

18.2 No modification, waiver, amendment, discharge or change of this AGREEMENT shall be valid unless it is in writing and is signed by the party against whom enforcement of such modification, waiver, amendment discharge or change is, or may be, sought.

19. GOVERNING LAW

This AGREEMENT shall be interpreted in accordance with and governed by the laws of the State of California.

20. EFFECTIVE DATE

The parties hereto deem this Agreement to be immediately effective as of the date this Agreement was entered into on .

21. RIGHT TO INDEPENDENT COUNSEL.

SETTLING PARTIES acknowledge and represent that they have had the right to and benefit of consultation with independent legal counsel and expert consultants. SETTLING PARTIES further acknowledge and represent that in evaluating, finalizing and executing this AGREEMENT, they are not relying on anything other than the advice of their independent legal counsel and/or expert consultants. SETTLING PARTIES have read and understand the entirety of this AGREEMENT, and have been advised as to the legal effects of this AGREEMENT, as to, for example, their rights and obligations hereunder, and hereby willingly and voluntarily agree to every single term of this AGREEMENT.

22. EXECUTION OF AGREEMENT

This AGREEMENT may be executed in multiple counterparts, such that when the executed signature pages are taken together they shall constitute the entire AGREEMENT. SETTLING PARTIES shall execute this AGREEMENT. If a

SETTLING PARTY is unable to sign this AGREEMENT, due to its dissolution, insolvency, liquidation, receivership or similar disability, the SETTLING PARTY's attorney of record in THE ACTION may execute this AGREEMENT on behalf of said party. If the SETTLING PARTY's attorney is unable or unwilling to execute this AGREEMENT, SETTLING PARTIES stipulate that the Court Clerk or other qualified individual appointed by the Court is hereby authorized to sign the AGREEMENT on behalf of said party. True photocopies of signatures shall be deemed as effective as original signatures.

23. COPY ADMISSIBLE

In any action or proceeding relating to this AGREEMENT, SETTLING PARTIES stipulate that a copy of this AGREEMENT may be admissible to the same extent as the original AGREEMENT unless the exceptions set forth in California Evidence Code section 1511 are found to be applicable.

24. CAPTIONS AND INTERPRETATIONS

Paragraph titles or captions contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend or describe the scope of this AGREEMENT or any provision hereof.

IN WITNESS THEREOF, the parties enter into and date this Agreement:

PLAINTIFFS' SIGNATURES (pages 13 through 14)

DATED: _____

LAILUMA HOSSAINI

BY: *Lailuma Hossaini*

ITS: _____

DATED: _____

HAMID HOSSAINI

BY: *Hamid Hossaini*

ITS: _____

DATED: _____

WILLIAM J. PLAMBECK

BY: _____

ITS: _____

DATED: _____

BEVERLY J. PLAMBECK

BY: _____

ITS: _____

DATED: _____

GREGORY S. REDMOND

BY: _____

ITS: _____

DATED: _____

PHYLLIS O. REDMOND

BY: _____

ITS: _____

DATED: _____

LAILUMA HOSSAINI

BY: _____

ITS: _____

DATED: _____

HAMID HOSSAINI

BY: _____

ITS: _____

DATED: 11-1-11

WILLIAM J. PLAMBECK

BY: William J. Plambeck

ITS: _____

DATED: 11-1-2011

BEVERLY J. PLAMBECK

BY: Beverly J. Plambeck

ITS: _____

DATED: _____

GREGORY S. REDMOND

BY: _____

ITS: _____

DATED: _____

PHYLLIS O. REDMOND

BY: _____

ITS: _____

DATED: _____

LAILUMA HOSSAINI

BY: _____

ITS: _____

DATED: _____

HAMID HOSSAINI

BY: _____

ITS: _____

DATED: _____

WILLIAM J. PLAMBECK

BY: _____

ITS: _____

DATED: _____

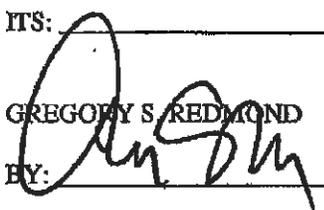
BEVERLY J. PLAMBECK

BY: _____

ITS: _____

DATED: 12/5/2011

GREGORY S. REDMOND

BY: 

ITS: _____

DATED: 12/7/11

PHYLLIS O. REDMOND

BY: 

ITS: _____

DATED: 10/28/11

DEBRA VANSLAMBROOK

BY: Debra VanSlambrook

ITS: _____

DATED: _____

AMIN ZAFARI

BY: _____

ITS: _____

DATED: _____

NAHIDA ZAFARI

BY: _____

ITS: _____

DATED: _____

DEBRA VANSLAMBROOK

BY: _____

ITS: _____

DATED: 10-31-11

AMIN ZAFARI

BY: Amin Zafari

ITS: _____

DATED: 10-31-11

NAHIDA ZAFARI

BY: Nahida Zafari

ITS: _____

DATED: _____

WILLIAM LYON HOMES, INC.

BY: Richard S. Robinson
ITS: Senior Vice President

DATED: _____

CITY OF CLAYTON

BY: _____
ITS: _____

DATED: _____

OAKHURST GEOLOGICAL HAZARD
ABATEMENT DISTRICT

BY: _____
ITS: _____

DATED: _____

DMC CONCRETE, INC.

BY: _____
ITS: _____

DATED: _____

RIVERA COMPANY

BY: _____
ITS: _____

DATED: 11/28/11

MERIT CONCRETE, INC.

BY: Jennifer M. Gray
ITS: Secretary

DATED: _____

WILLIAM LYON HOMES, INC.

BY: _____

ITS: _____

DATED: _____

CITY OF CLAYTON

BY: Richard Collier

ITS: Mayor

DATED: _____

OAKHURST GEOLOGICAL HAZARD
ABATEMENT DISTRICT

BY: Hal Stratton

ITS: Chairman

DATED: _____

DMC CONCRETE, INC.

BY: _____

ITS: _____

DATED: _____

RIVERA COMPANY

BY: _____

ITS: _____

DATED: _____

MERIT CONCRETE, INC.

BY: _____

ITS: _____

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WILD CAREY AND FIFE

Page:17-17

DATED: _____

WILLIAM LYON HOMES, INC.

BY: _____

ITS: _____

DATED: _____

CITY OF CLAYTON

BY: _____

ITS: _____

DATED: _____

OAKHURST GEOLOGICAL HAZARD
ABATEMENT DISTRICT

BY: _____

ITS: _____

DATED: _____

DMC CONCRETE, INC

BY: *Emagene Betz-Waite*

ITS: *President*

3/27/2012

DATED: _____

RIVERA COMPANY

BY: _____

ITS: _____

DATED: _____

MERIT CONCRETE, INC

BY: _____

ITS: _____

DATED: _____

WILLIAM LYON HOMES, INC.

BY: _____

ITS: _____

DATED: _____

CITY OF CLAYTON

BY: _____

ITS: _____

DATED: _____

OAKHURST GEOLOGICAL HAZARD
ABATEMENT DISTRICT

BY: _____

ITS: _____

DATED: _____

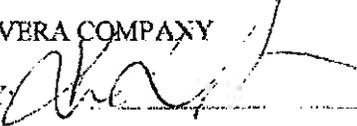
DMC CONCRETE, INC.

BY: _____

ITS: _____

DATED: Nov 21, 2011

RIVERA COMPANY

BY: 

ITS: counsel of record

DATED: _____

MERIT CONCRETE, INC.

BY: _____

ITS: _____

EXHIBIT A

SUBJECT PROPERTIES

1. **Lailuma and Hamid Hossaini, 8010 Kelok Way, Clayton, California**
2. **William J. and Beverly J. Plambeck, 8016 Kelok Way, Clayton, California**
3. **Gregory S. and Phyllis O. Redmond, 5174 Keller Ridge Drive, Clayton, California**
4. **Debra Valns lambrook, 8003 Kelok Way, Clayton, California**
5. **Amin and Nahida Zafari, 8004 Kelok Way, Clayton, California**