

## STAFF REPORT

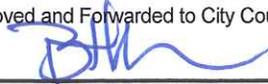
**Date:** Tuesday, March 8, 2016

**To:** Bryan Montgomery, City Manager

**From:** Kevin Rohani, Public Works Director/City Engineer

**Subject:** Deferred Improvement Agreement, Subdivision Assessment and Annexation Authorization Deferral Agreement and Parcel Map for Minor Subdivision MS 14-977 (3351 Doyle Road)

Approved and Forwarded to City Council:

  
Bryan H. Montgomery, City Manager

### Background and Analysis

On February 24<sup>th</sup>, 2015, the City Council of the City of Oakley adopted Resolution No. 30-15 which conditionally approved the tentative map for Minor Subdivision MS 14-977 at 3351 Doyle Road which includes two proposed parcels.

Stephen B. Cockman, Jr., OWNER, has submitted the parcel map to the City Engineer for review. In order to satisfy all remaining conditions of approval, with the exception of annexing to the landscaping and lighting district, the applicant has requested that the City enter into a Deferred Improvement Agreement (DIA). The DIA requires OWNER to complete the public improvements as required by the conditions of approval for MS 14-977. Pursuant to the DIA, improvement plans are to be prepared prior to or concurrent with submitting a building permit application and OWNER shall commence construction of the improvements as soon as possible after plans are approved. The work is required to be completed no later than 180 days from the start of construction.

The City Engineer and City Surveyor have reviewed the tentative map approval documents and the parcel map, and have found the parcel map to be technically correct, in substantial compliance with the conditionally approved tentative map, and all parcel map conditions of approval have been met (or are being secured by way of the agreements).

The final conditions of approval that remain to be satisfied are related to the annexation of the property to the City of Oakley Street Lighting and Landscape Assessment District No. 1 (Conditions 50, 51 & 52), participating in the special police tax area (Condition 53), forming a district to fund the operations and maintenance for storm drainage (Condition 54). Those items take several months to complete, and

are more efficient when grouped with other projects. In the past the City Council has been receptive to recording parcel maps prior to completion of the annexation process so long as there was an agreement guaranteeing the annexations would be completed. A similar agreement has been prepared.

**Fiscal Impact**

There is no fiscal impact associated with this action.

**Staff Recommendation**

Staff recommends that the City Council:

- 1) Adopt the attached resolution approving the Deferred Improvement Agreement with Stephen B. Cockman, Jr. for MS 14-977 and authorizing the City Manager to sign it.
- 2) Adopt the attached resolution approving the Subdivision Annexation and Assessment Authorization Deferral Agreement with Stephen B. Cockman, Jr. for MS 14-977 and authorizing the City Manager to sign it.
- 3) Adopt the attached resolution approving the Parcel Map entitled "PARCEL MAP MS 14-977".

The City Council should be aware that by approving the parcel map without approving the Subdivision Annexation and Assessment Authorization Deferral Agreement, it is possible that additional voters will be introduced into the assessment district formation process or that the applicant will not cooperate with the district formation. Staff recommends that if the Resolution approving the Subdivision Annexation and Assessment Authorization Deferral Agreement is not adopted, the Resolution approving the Parcel Map should not be adopted either.

**Attachments**

- 1) Deferred Improvement Agreement (DIA)
- 2) Subdivision Assessment and Annexation Authorization Deferral Agreement (SAAADA)
- 3) Resolution for DIA
- 4) Resolution for SAAADA
- 5) Resolution for Parcel Map
- 6) Reduction of MS 14-977 Parcel Map

**Recording Requested by:**

City Engineer  
City of Oakley  
3231 Main Street  
Oakley, CA 94561

**When Recorded Mail To:**

City Engineer  
City of Oakley  
3231 Main Street  
Oakley, CA 94561

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A.P.N. 033-080-017      Space above this line for Recorder's Use

**DEFERRED IMPROVEMENT AGREEMENT BETWEEN  
THE CITY OF OAKLEY AND  
STEPHEN B. COCKMAN, JR.**

This Deferred Improvement Agreement (the "AGREEMENT") is made and entered into this 8th day of March 2016, by and between the City of Oakley, a municipal corporation ("CITY") and Stephen B. Cockman ("OWNER").

**RECITALS**

A. OWNER is the owner of certain real PROPERTY located within the City of Oakley, County of Contra Costa, at 3351 Doyle Road, and more particularly described in Exhibit A (legal description), attached hereto and incorporated herein ("PROPERTY"). The Parcel Map showing the location of the PROPERTY is attached as Exhibit B (parcel map).

B. OWNER submitted an application for approval of a Tentative Parcel Map (MS 14-977), which consists of two parcels, Parcel A and Parcel B. OWNER received approval of the Tentative Parcel Map and certain entitlements as described by City of Oakley City Council Resolution 30-15 in Exhibit C attached hereto and incorporated herein.

C. Resolution 30-15 requires the OWNER to submit to the City for review and approval, grading plans, improvement plans and landscaping plans and to construct certain public improvements for the Parcels prior to the filing of a final parcel map. Resolution 30-15 also allows the OWNER to enter into a deferred improvement

agreement to be approved by the City Council prior to the filing of the final parcel map to secure these requirements.

D. OWNER has requested that the CITY approve Parcel Map MS 14-977 which will create two parcels, Parcel A and Parcel B, as shown on the approved Tentative Map.

E. CITY has agreed to defer OWNER's obligation to make certain improvements listed below. By entering into this Agreement, OWNER remains obligated to make such improvements, but in accordance with the period of time set forth herein.

## **AGREEMENT**

### **1. Recitals**

The foregoing Recitals are true and correct and are made a part hereof.

### **2. Improvements to be Constructed**

OWNER of the PROPERTY shall construct all improvements required by City Council Resolution 30-15 as a condition of approving the Parcel Map.

The improvements deferred by this Agreement include those described in Condition 22, more specifically described as: Construct the frontage of Doyle Road and Hill Avenue to City public road standards for a 36-foot wide roadway within a 56-foot right-of-way, including curb, five-foot monolithic sidewalk (width measured from the curb face), necessary longitudinal and transverse drainage, pavement widening to a minimum of 28 feet, and conforms to existing improvements. The face of curb shall be located 18 feet from the centerline and any conforms to existing improvements must take place outside of the limits of the project. The current amount of the estimated cost is \$262,110.00.

### **3. Completion Time.**

Notwithstanding the typical requirement for a residential project that all required improvements be constructed prior to occupancy or use of the project, OWNER shall have improvement plans prepared prior to or concurrent with submitting a building permit application and shall commence construction of the improvements as soon as possible after plans are approved.

Construction of the Improvements shall be completed within 180 days after commencement of construction.

OWNER shall submit improvement plans as described in Conditions 16 and 22 for the Improvements, prepared by a registered civil engineer, to the City Engineer and pay all applicable fees.

Time is of the essence of this Agreement.

#### 4. Security

a. Concurrent with the submission of the improvement plans to the City Engineer pursuant to Section 3(c) above, OWNER shall furnish CITY with the following security in the forms specified in Government Code sections 66499.1 and 66499.2 or in a form satisfactory to the City Attorney if different from such Government Code forms:

- i. Faithful Performance. Either a cash deposit, a corporate surety bond issued by a company duly and legally licensed to conduct a general surety business in the State of California, or an instrument of credit equivalent to one hundred percent (100%) of the estimate set forth in Section 2(b) above and sufficient to assure CITY that the Improvements will be satisfactorily completed.
- ii. Labor and Materials. Either a cash deposit, a corporate surety bond issued by a company duly and legally licensed to conduct a general surety business in the State of California, or an instrument of credit equivalent to one hundred percent (100%) of the estimate set forth in Section 2(b) above and sufficient to assure CITY that OWNER'S contractors, subcontractors, and other persons furnishing labor, materials, or equipment shall be paid therefor.

b. CITY shall be the sole indemnitee named on any instrument required by this Agreement. Any instrument or deposit required herein shall conform to the provisions of Chapter 5 of the Subdivision Map Act (Government Code sections 66499-66499.10), except as may be otherwise approved by the City Attorney.

## 5. Insurance Required

a. Prior to the commencement of work under this Agreement, OWNER shall obtain or cause to be obtained and filed with the CITY, all insurance required by CITY as set forth in its standard insurance requirements at the time such work is to commence, and such insurance must be approved by the City Engineer, or his or her designee, as to form, amount and carrier. Prior to the commencement of work under this Agreement, OWNER, at its own cost and expense, shall also procure "occurrence coverage" insurance against claims for injuries to persons or damages to PROPERTY that may arise from or in connection with the performance of the work hereunder by the OWNER and its agents, representatives, employees, and subcontractors. OWNER shall provide proof satisfactory to CITY of such insurance that meets the requirements of this Agreement and under forms and amounts of insurance satisfactory in all respects to the CITY. OWNER shall maintain in full force and effect the insurance coverage in the forms and amounts specified by the CITY throughout the term of the work to be completed, and until final completion and acceptance of the Improvements by the CITY. OWNER shall not allow any work to commence until OWNER has obtained all insurance required by this Agreement and has provided evidence thereof to CITY.

b. The CITY may approve a variation in the insurance requirements, upon a determination that the coverages, scope, limits, and forms of such insurance are either not commercially available, or that the CITY'S interests are otherwise fully protected.

- i. **Notice of Reduction in Coverage.** In the event that any coverage required by this Section 5 is reduced, limited, or materially affected in any other manner, OWNER shall provide written notice to CITY as OWNER'S early as practicable and in no case later than five (5) days after OWNER is notified of such change in coverage.
- ii. **Failure to Maintain Insurance.** Throughout the term of the work to be completed pursuant to this Agreement, and until final completion and acceptance of the work by CITY, OWNER shall maintain in full force and effect insurance coverage in the forms and amounts required by this Agreement.
- iii. **Workers' Compensation and Employers Liability Coverage.** OWNER shall use commercially reasonable efforts to cause the insurer to agree to waive all rights of subrogation against the CITY, its officers, officials, employees and volunteers for losses arising from work performed by the OWNER pursuant to this Agreement for the CITY.

- iv. **All Coverages.** Each insurance policy required by this Section 5 shall be endorsed to provide that coverage shall not be suspended, voided, cancelled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the CITY.
- v. **Acceptability of Insurers.** Insurance is to be placed with insurers with a Bests' rating of no less than A:VII.
- vi. **Verification of Coverage.** OWNER shall furnish CITY with certificates of insurance and with original endorsements effecting coverage required by this Section 5. The certificates and endorsements are to be received and approved by the CITY before work pursuant to this Agreement commences. The CITY reserves the right to require complete, certified copies of all required insurance policies, at any time.
- c. **Subcontractors.** OWNER and/or OWNER'S general contractor shall include all subcontractors as insureds under its policies or shall obtain separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements provided in this Section 5.

## 6. **Warranty Period**

a. Except as otherwise expressly provided in this Agreement, and excepting only items of routine maintenance, ordinary wear and tear and unusual abuse or neglect, for a period of one (1) year after the date CITY accepts the Improvements, OWNER agrees to maintain the Improvements and repair any defects or unsatisfactory work to the reasonable satisfaction of the City Engineer. CITY shall provide written notice to OWNER of any repair or correction work which in the reasonable opinion of the City Engineer, must be completed. OWNER shall repair or make such correction of such Improvements without expense or charge of any nature whatsoever to CITY.

b. In the event the OWNER shall fail to comply with the conditions of Section 6(a) above, within thirty (30) days (or such reasonably longer period if the repair or correction work cannot be reasonably completed within such thirty (30) day period), after being notified of the repair or correction in writing, CITY shall have the right, but shall not be obligated, to make, or cause to be made, the repair or correction, and

OWNER shall promptly pay to CITY the reasonable costs and expense of such repair or correction. Notwithstanding anything herein to the contrary, in the event that any repair or correction results in a condition which constitutes an immediate hazard to the public health, safety, or welfare, CITY shall have the right to immediately make, or cause to be made, such repair or correction, and OWNER shall promptly pay to CITY the reasonable costs and expense of such repair or correction. The foregoing statement relating to hazards to health and safety shall be deemed to include either temporary or permanent repairs that may be required, as determined in the sole discretion and reasonable judgment of CITY.

#### **7. Inspection of the Work**

OWNER shall provide reasonable access to CITY through its City Engineer and his or her designated representative for the inspection of the work throughout construction of the Improvements. Such CITY representative shall have the authority to reject all materials and workmanship which are not in accordance with the Approved Plans, and all such materials and or work shall be removed promptly by OWNER and replaced to the reasonable satisfaction of CITY without any expense to CITY in strict accordance with the Approved Plans.

#### **8. Agreement Assignment**

This Agreement shall not be assigned by OWNER without the written consent of CITY which consent shall not be unreasonably withheld, conditioned or delayed.

#### **9. No Agency Relationship; Defaults**

a. Neither OWNER nor any of OWNER'S, employees, agents or contractors are or shall be considered, construed or implied to be agents of CITY in connection with the performance of OWNER'S obligations under this Agreement.

b. If, subject to Force Majeure (as defined below), OWNER refuses or fails to complete, or cause the completion of, the Improvements pursuant to this Agreement within the time specified in Section 3 above, or any extension thereof, or if OWNER should be adjudged as bankrupt, or should make a general assignment for the benefit of OWNER'S creditors, or if a receiver should be appointed, or if OWNER, or subject to notice and cure periods, any of OWNER'S contractors, subcontractors, agents or employees should violate any of the provisions of this Agreement and fails to cure such violation within the applicable cure period, the CITY, through its City Engineer may serve written notice on OWNER and OWNER'S surety or holder of other security of

breach of this Agreement, or of any portion, thereof, and default of OWNER. "Force Majeure" shall mean for purposes of this Agreement delay in OWNER'S performance of its obligations under this Agreement which are beyond the reasonable control of OWNER, including but not limited to work stoppage, acts of nature, acts of war, civil disorders and/or similar acts.

#### **10. Use of Improvements**

At all times prior to the final acceptance of the Improvements by CITY, the use of any or all such Improvements shall be at the sole and risk of OWNER.

#### **11. Safety Devices**

OWNER shall provide and maintain such guards, watchmen, fences, barriers, regulatory signs, warning lights, and other safety devices adjacent to and on the construction site of the Improvements as may be reasonably necessary to prevent accidents to the public and damage to the PROPERTY. At completion of the work to be performed under this Agreement, all fences, barriers, regulatory signs, warning lights, and other safety devices (except such safety items as may be shown on the Approved Plans and included in the Improvements) shall be removed from site of the work by the OWNER, and the construction site of the Improvements left clean and orderly.

#### **12. Acceptance of Work**

Upon notice of the completion of all construction of the Improvements and the delivery of the set of final as-built plans required by Section 2(c) above to CITY by OWNER, CITY through its City Engineer or his or her designated representative, shall examine the work without delay, and, if found to be in accordance with the Approved Plans and this Agreement, shall recommend acceptance of the Improvements to the City Council. The City Council may accept the Improvements by the adoption of a resolution, and the City Engineer shall notify OWNER or its designated agents of such acceptance.

#### **13. Liability**

- a. Indemnity. OWNER hereby warrants that all work will be performed in a workmanlike manner. OWNER agrees to indemnify, defend, release, and hold harmless CITY, and each of its elective and appointive boards, commissions, officers, agents and employees (collectively, the "Indemnified Parties"), from and against any and all loss, claims, suits,

liabilities, actions, damages, or causes of action of every kind, nature and description, directly or indirectly arising out of OWNER'S or its employees, agents, or independent contractors performance or failure to comply with the obligations under this Agreement, except to the extent caused by the negligence or willful misconduct of the Indemnified Parties; provided as follows:

- i. That CITY does not, and shall not, waive any rights against OWNER which it may have by reason of the aforesaid hold harmless agreement, because of the acceptance by CITY, or the deposit with CITY by OWNER, of any of the insurance policies described in Section 5 hereof.
  - ii. That the aforesaid hold harmless agreement by OWNER shall apply to all damages and claims for damages of every kind suffered, or alleged to have been suffered, by reason of any of the aforesaid operations referred to in this Section 14(a), regardless of whether or not CITY has prepared, supplied, or approved of plans and/or specifications for the subdivision, except to the extent caused by the negligence or willful misconduct of the Indemnified Parties, or regardless of whether or not such insurance policies shall have been determined to be applicable to any of such damages or claims for damages.
- b. Design Defect. If, in the opinion of the CITY, a design defect in the work of the improvements becomes apparent during the course of construction and such design defect, in the reasonable opinion of the CITY, may substantially impair the public health and safety, OWNER shall, upon order by the CITY, correct, or cause the correction of such design defect at its cost and expense.
- c. Litigation Expenses. In the event that legal action is instituted by either party to this Agreement, and such action seeks damages for breach of this Agreement or seeks to specifically enforce the terms of this Agreement, and, in the event judgment is entered in such action, the prevailing party shall be entitled to recover its attorneys' fees and court costs.

**14. Recordation**

This Agreement shall be recorded in the office of the County Recorder of Contra Costa County, California.

**15. Notices**

a. All notices herein required shall be in writing, and delivered in person or sent by registered mail, postage prepaid.

Notices required to be given to CITY shall be addressed as follows:

City Manager and City Engineer  
City of Oakley  
3231 Main Street  
Oakley, CA 94561

Notices required to be given to OWNER shall be addressed as follows:

Stephen B. Cockman, Jr.  
3351 Doyle Road  
Oakley, CA 94561

b. Any party may change such address by notice in writing to the other party and thereafter notices shall be addressed and transmitted to the new address.

**16. Miscellaneous Provisions**

a. This Agreement contains the entire agreement between OWNER and the CITY with respect to the Improvements. No modification to this Agreement shall be effective unless it is in writing, signed by the OWNER and the CITY.

b. The laws of the State of California shall govern this Agreement. The invalidity, in whole or in part, of any provision of this Agreement will not void or affect the validity of any other provision of this Agreement.

c. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

**CITY:**

**OWNER:**

**CITY OF OAKLEY, a municipal corporation**

By: \_\_\_\_\_  
Bryan H. Montgomery, City Manager

By: \_\_\_\_\_  
Stephen B. Cockman, Jr.

**ATTEST:**

\_\_\_\_\_  
Libby Vreonis, City Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Derek P. Cole, City Attorney

A Notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA )  
 ) ss  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, before me, \_\_\_\_\_, Notary Public, personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public

(Seal)

A Notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA )  
 ) ss  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, before me, \_\_\_\_\_, Notary Public, personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public

(Seal)

## **EXHIBIT A**

### **LEGAL DESCRIPTION**

The land referred to is situated in the City of Oakley, County of Contra Costa, State of California, and is described as follows:

Parcel C as shown on the Record of Survey MS No. 72-66, Filed May 31, 1966, in Book 42 of Licensed Surveyors Maps, Page 43, Contra Costa County Records.

**EXHIBIT B**

**Parcel Map**

**[attached behind this page]**

**EXHIBIT C**

**City Council Resolution No. 30-15**

**[attached behind this page]**

**Recording Requested By:**

Stephen B. Cockman, Jr.  
3351 Doyle Road  
Oakley, CA 94561

**When Recorded Mail To:**

City Clerk  
City of Oakley  
3231 Main Street  
Oakley CA 94561

**SUBDIVISION ANNEXATION AND  
ASSESSMENT AUTHORIZATION  
DEFERRAL AGREEMENT  
MINOR SUBDIVISION MS 14-977**

This agreement ("Agreement") is made at Oakley, California, effective as of March 8, 2016, by and between the CITY OF OAKLEY, a municipal corporation ("City") and Stephen B. Cockman, Jr. ("Owner").

**Recitals**

- A. On February 24<sup>th</sup>, 2015 the City Council of the City of Oakley adopted Resolution No. 30-15 which conditionally approved the tentative map for Minor Subdivision MS 14-977 at 3351 Doyle Road which consists of two proposed parcels and is further described in the map and legal description attached hereto and incorporated herein as Exhibits A and B respectively.
- B. Conditions of Approval 50, 51 and 52 require the Parcel's annexation to City of Oakley Street Lighting and Landscape Assessment District No. 1 ("District") and approval of assessments for Citywide landscaping and park maintenance, Citywide street lighting costs and maintenance and project specific landscaping maintenance.
- C. Condition of Approval 53 requires the Parcel's participation in the provision of funding to maintain police services by voting to approve a special tax ("Special Tax") created by this minor subdivision approval.
- D. Condition of Approval 54 requires the Parcel's participation in the formation of a mechanism to fund the operation and maintenance of the storm drain system, including storm water quality monitoring and reporting, storm water ponds and any proposed pump stations as well as any levees proposed to be maintained by the City. The appropriate funding mechanism shall be determined by the City and may include, but not be limited to, an assessment district, community services district, or community facilities district. Condition of Approval 48 further requires that the funding mechanism shall be formed prior to filing of any final or parcel map, and the project proponent shall fund all costs of formation.

E. City and Owner, by this Agreement, are implementing Conditions of Approval Numbers 50, 51, 52, 53 and 54.

## AGREEMENT

With reference to the foregoing Recitals and in consideration of the mutual provisions, obligations and covenants herein contained, City and Owner agree as follows:

1. Recitals.

The foregoing Recitals are true and correct and are made a part hereof.

2. Support for Annexation.

Owner shall support and take any and all actions necessary to annex the Parcel into Street Lighting and Landscape Assessment District No. 1 for the future maintenance and costs of Citywide parks, Citywide street lighting, and landscaping and irrigation facilities in median islands, parkways and other areas designated in the District.

Owner shall support and take any and all actions necessary to participate in the provision of funding to maintain police services by the Parcel's annexation to Oakley Special Police Tax Area.

Owner shall support and take any and all actions necessary for the Parcel's participation in the formation of a Funding Mechanism for the operation and maintenance of the storm drain system, including City-wide storm water management and discharge control activities.

3. Submission of Assessment Ballots in Favor of Assessment, Special Tax Ballot in Favor of Special Tax and Ballot for Storm Drain Maintenance Funding Mechanism

Upon receipt of an assessment ballot regarding the assessments that shall be annually imposed by the District and/or a special tax ballot regarding the special tax annually imposed for maintenance of police services and/or a ballot regarding the assessments that shall be annually imposed for storm drain maintenance Funding Mechanism on the Parcel, Owner shall promptly indicate its support for such assessments and/or special taxes and/or requests by marking the ballot(s) and submitting it as instructed in the ballot materials or as directed in the request. Owner specifically understands that the current assessments levied by the District and the current special taxes for maintenance of police services and the current special taxes for the Funding Mechanism may increase due to inflation and Owner agrees to pay any such increase.

4. Restrictions on Conveyances and Transfers of Title.

Owner shall not convey or otherwise transfer title to the Parcel until the annexation and/or approval of the assessments and special taxes including the completion

of the ballot proceedings is finalized, and the assessments and special taxes are authorized to be levied on the Parcel.

Owner also may enter into reservation contracts with potential purchasers of parcels within the Subdivision, provided that such contracts include a prominent warning that shall be reviewed by and acceptable to the City identifying the existence of this Agreement and summarizing its critical requirements.

Notwithstanding the terms of this provision, any restrictions on conveyance or other transfer of the designated remainder under the Subdivision Map Act remain in effect.

5. Restrictions on Issuance and Processing of Building Permits.

Owner shall not request, and City shall neither issue nor process, any building permits for the Parcel or any structure in/on the Parcel until the annexation to the District, approval of the Special Tax and formation of Funding Mechanism (including the completion of the ballot proceedings is finalized and the assessments and special taxes are authorized to be levied) for the Parcel.

6. Recordation of Agreement.

Prior to issuance of the parcel map, Owner shall record this Agreement in the chain of title for both the Parcel and the designated remainder, such that this Agreement will be identified in any title report prepared for a potential purchaser of either the Parcel or the designated remainder.

7. Issuance of Parcel Map.

City shall not withhold approval of the parcel map for the Subdivision prior to completion of the annexation of the Parcel to the District, approval of the Parcel's Special Tax and formation of the Parcel's Funding Mechanism and authorization of the levy of the District assessment, authorization of the levy of the Special Tax, authorization of the levy of Funding Mechanism assessment and pre-payment of eligible development impact fees on the Parcel on account of failure to complete annexation to the District, approval of the Special Tax and formation of Funding Mechanism provided that the Parcel is in substantial compliance with all other conditions of approval and the Parcel is in full compliance with applicable laws.

8. Severability and Integration of Agreement.

This Agreement is an integrated agreement containing the entire understanding of the Parties regarding the matters addressed herein. No amendment or variation of the terms of this Agreement shall be effective unless made in writing and executed by both parties. In the event that any provision of this agreement is finally held or determined to be illegal or void by a court having jurisdiction, the remaining portions of the Agreement remain in full force and effect unless the parts found to be void are wholly inseparable from the remaining portion of the Agreement.

**APPROVED AS TO FORM:**

**CITY OF OAKLEY**

\_\_\_\_\_  
Derek P. Cole, City Attorney

\_\_\_\_\_  
Bryan H. Montgomery, City Manager

**ATTEST:**

**OWNER**

\_\_\_\_\_  
Libby Vreonis, City Clerk

\_\_\_\_\_  
Stephen B. Cockman, Jr.

**EXHIBIT A**  
**MAP OF SUBDIVISION**

**EXHIBIT B**  
**LEGAL DESCRIPTION OF SUBDIVISION**

**RESOLUTION NO. XX-16**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY  
APPROVING THE DEFERRED IMPROVEMENT AGREEMENT WITH  
STEPHEN B. COCKMAN JR. FOR MINOR SUBDIVISION MS 14-977**

**WHEREAS**, the City Council of the City of Oakley, California, wishes to enter into a Deferred Improvement Agreement with Stephen B. Cockman Jr. for the development of a minor subdivision known as MS 14-977; and

**WHEREAS**, this agreement will require the developer to complete approximately \$262,110.00 in public improvements and drainage in accordance with the project conditions of approval and City standard construction design.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Oakley that the Deferred Improvement Agreement with Stephen B. Cockman Jr. is hereby approved and the City Manager is hereby authorized to execute the Deferred Improvement Agreement for the development of MS 14-977 in the form attached hereto as Exhibit A.

PASSED AND ADOPTED by the City Council of the City of Oakley at a meeting held on the 8th of March, 2016 by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

APPROVED:

ATTEST:

\_\_\_\_\_  
Kevin Romick, Mayor

\_\_\_\_\_  
Libby Vreonis, City Clerk

\_\_\_\_\_  
Date

RESOLUTION NO. XX-16

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY, CALIFORNIA, APPROVING A SUBDIVISION ANNEXATION AND ASSESSMENT AUTHORIZATION DEFERRAL AGREEMENT WITH STEPHEN B. COCKMAN JR. FOR MINOR SUBDIVISION 14-977**

**WHEREAS**, Conditions of Approval 50, 51 and 52 for Minor Subdivision 14-977 require the project to be annexed into assessment districts for the ongoing maintenance and operation of citywide parks and landscaping and citywide street lights; and

**WHEREAS**, Condition of Approval 53 for Minor Subdivision 14-977 requires the project to participate in the funding to maintain police services; and

**WHEREAS**, Condition of Approval 54 for Minor Subdivision 14-977 requires the project to participate in the formation of a mechanism to fund the operation and maintenance of the storm drain system; and

**WHEREAS**, Stephen B. Cockman Jr. is requesting that the Parcel Map for Minor Subdivision 14-977 be filed, and is willing to enter into an agreement that, among other things, will allow him to file the map but will prohibit him from selling any lots until the assessment district annexations are complete.

**NOW, THEREFORE, BE IT RESOLVED AND ORDERED**, by the City Council of the City of Oakley that the Subdivision Annexation and Assessment Authorization Deferral Agreement with Stephen B. Cockman Jr. is hereby approved and the City Manager is hereby authorized to execute the Subdivision Annexation and Assessment Authorization Deferral Agreement for Minor Subdivision 14-977, subject to review and approval by the City Attorney.

PASSED AND ADOPTED by the City Council of the City of Oakley at a meeting held on the 8<sup>th</sup> of March, 2016 by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

APPROVED:

ATTEST:

\_\_\_\_\_  
Kevin Romick, Mayor

\_\_\_\_\_  
Libby Vreonis, City Clerk

\_\_\_\_\_  
Date

**RESOLUTION NO. XX-16**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY  
CALIFORNIA, APPROVING THE PARCEL MAP TITLED  
“PARCEL MAP MS 14-977” LOCATED AT 3351 DOYLE ROAD**

**WHEREAS**, on September 18<sup>th</sup>, 2014, Stephen B. Cockman Jr. (“OWNER”) submitted an application requesting approval of a Tentative Parcel Map (MS 14-977) to subdivide the 2.64 acre parcel located at 3351 Doyle Road, APN: 033-080-017 into two parcels; and

**WHEREAS**, on February 24<sup>th</sup>, 2015 the City of Oakley adopted Resolution 30-15 which conditionally approved the tentative map for Minor Subdivision MS 14-977; and

**WHEREAS**, OWNER has requested that the City Council approve the Parcel Map; and

**WHEREAS**, the City Engineer has determined that the final parcel map is in substantial compliance with the approved tentative parcel map and that the applicable conditions of approval have been satisfied; and

**WHEREAS**, the City Surveyor has determined that the map is technically correct.

**NOW, THEREFORE, BE IT RESOLVED AND ORDERED**, by the City Council of the City of Oakley that the parcel map labeled “Parcel Map, MS 14-977”, as prepared by Wood Rodgers be and hereby is approved.

PASSED AND ADOPTED by the City Council of the City of Oakley at a meeting held on the 8<sup>th</sup> of March, 2016 by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

APPROVED:

ATTEST:

\_\_\_\_\_  
Kevin Romick, Mayor

\_\_\_\_\_  
Libby Vreonis, City Clerk

\_\_\_\_\_  
Date

OWNER'S STATEMENT

THE UNDERSIGNED DOES HEREBY STATE THAT THEY ARE THE OWNERS OF ALL THE LANDS DELINEATED AND EMBRACED WITHIN THE BOUNDARY LINES OF THE HEREIN SUBMITTED MAP...

AND THE UNDERSIGNED DOES HEREBY DEDICATE TO THE PUBLIC IN SIMPLE FEE TITLE, THOSE STRIPS OF LAND DESIGNATED AS "PARCEL 1 AND PARCEL 2".

THE UNDERSIGNED FURTHER RELINQUISHES TO THE CITY OF OAKLEY, ALL ABUTTERS RIGHTS OF ACCESS DESIGNATED BY THIS SYMBOL [Symbol]

THIS MAP SHOWS ALL EASEMENT ON THE PREMISES OR OF RECORD AS REFLECTED ON THE PRELIMINARY TITLE REPORT ORDER NO. 521-1851225-63, PREPARED BY ORANGE COAST TITLE COMPANY OF NORTHERN CALIFORNIA, DATED APRIL 30, 2015

Signature of Stephen B. Cockman Jr. (Owner)

STEPHEN B. COCKMAN JR. (OWNER)

OWNER'S ACKNOWLEDGEMENT

A NOTARY PUBLIC OR OTHER OFFICER COMPLETING THIS CERTIFICATE VERIFIES ONLY THE IDENTITY OF THE INDIVIDUAL WHO SIGNED THE DOCUMENT TO WHICH THE CERTIFICATE IS ATTACHED, AND NOT THE TRUTHFULNESS, ACCURACY, OR VALIDITY OF THAT DOCUMENT.

STATE OF CALIFORNIA
COUNTY OF Contra Costa
ON 12.16.2015, 2016, BEFORE ME, Lori Quackenbush, WHO PROVED PERSONALLY APPEARED Stephen B. Cockman Jr., WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE EXECUTED THE SAME IN HIS/HER AUTHORIZED CAPACITY, AND THAT BY HIS/HER SIGNATURE ON THE INSTRUMENT INSTRUMENT, OR THE ENTITY UPON BEHALF OF WHICH THE PERSON ACTED, EXECUTED THE INSTRUMENT.

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING PARAGRAPH IS TRUE AND CORRECT.

WITNESS MY HAND:

Signature of Lori Quackenbush (Notary)
NAME: Lori Quackenbush
NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE.

PRINCIPLE COUNTY OF BUSINESS: Alameda

COMMISSION EXPIRES: 5.5.2018

COMMISSION # OF NOTARY: 20171163

PARCEL MAP
MS 14-977

BEING A SUBDIVISION OF PARCEL C, AS SHOWN ON THE RECORD OF SURVEY MS NO. 72-66, FILED ON MAY 31, 1966 IN BOOK 42 OF LICENSED SURVEYORS MAPS AT PAGE 43, CONTRA COSTA COUNTY RECORDS.

CITY OF OAKLEY, CONTRA COSTA COUNTY, CALIFORNIA



WOOD RODGERS
DEVELOPING • INNOVATIVE • DESIGN • SOLUTIONS
4201 MacLennan Drive, Suite 100
Pleasanton, CA 94566 Tel 925.847.1556

MAY 2015

TRUSTEE'S STATEMENT

THE UNDERSIGNED, AS TRUSTEE UNDER THE DEED OF TRUST RECORDED NOVEMBER 9, 2015 AS INSTRUMENT NO. 2015-0234390, OFFICIAL RECORDS OF CONTRA COSTA COUNTY, CALIFORNIA, DOES HEREBY JOIN IN, EXECUTE AND CONSENT TO THE PREPARATION AND FILING OF THIS PARCEL MAP, AND JOINS IN ALL OFFERS OF DESIGNATION HEREIN.

CHICAGO TITLE COMPANY.

Signature of Title Manager
BY: Title Manager
TITLE: Title Manager, AWP.

DATE: 12-16-15

TRUSTEE'S ACKNOWLEDGEMENT

A NOTARY PUBLIC OR OTHER OFFICER COMPLETING THIS CERTIFICATE VERIFIES ONLY THE IDENTITY OF THE INDIVIDUAL WHO SIGNED THE DOCUMENT TO WHICH THE CERTIFICATE IS ATTACHED, AND NOT THE TRUTHFULNESS, ACCURACY, OR VALIDITY OF THAT DOCUMENT.

STATE OF CALIFORNIA
COUNTY OF Contra Costa
ON 12.16.2015, 2016, BEFORE ME, Lori Quackenbush, WHO PROVED PERSONALLY APPEARED Stephen B. Cockman Jr., WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE EXECUTED THE SAME IN HIS/HER AUTHORIZED CAPACITY, AND THAT BY HIS/HER SIGNATURE ON THE INSTRUMENT INSTRUMENT, OR THE ENTITY UPON BEHALF OF WHICH THE PERSON ACTED, EXECUTED THE INSTRUMENT.

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING PARAGRAPH IS TRUE AND CORRECT.

WITNESS MY HAND:

Signature of Lori Quackenbush (Notary)
NAME: Lori Quackenbush
NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE.

PRINCIPLE COUNTY OF BUSINESS: Alameda

COMMISSION EXPIRES: 5.5.2018

COMMISSION # OF NOTARY: 20171163

CITY ENGINEERS STATEMENT

I, KOURUSH ROHANI, CITY ENGINEER OF THE CITY OF OAKLEY, CONTRA COSTA COUNTY, CALIFORNIA, DO HEREBY STATE THAT I HAVE EXAMINED THIS MAP ENTITLED "PARCEL MAP MS 14-977" THAT SAID PARCEL MAP AS SHOWN IS IN SUBSTANTIAL CONFORMANCE WITH THE TENTATIVE PARCEL MAP BY THE CITY OF OAKLEY CITY AND COUNTY ENGINEER, CONTRA COSTA COUNTY, CALIFORNIA, AND THAT THE FILING OF SAID PARCEL MAP DOES NOT VIOLATE ANY STATE OR LOCAL ORDINANCES WHICH COVERED THE FILING OF SUBDIVISION MAPS AT THE TIME SAID TENTATIVE PARCEL MAP WAS APPROVED HAVE BEEN COMPLIED WITH.

Signature of Kourush Rohani
KOURUSH ROHANI - RCE 51138
CITY ENGINEER, CITY OF OAKLEY
CONTRA COSTA COUNTY, STATE OF CALIFORNIA

DATE

CITY SURVEYOR'S STATEMENT

I FRANCIS JOSEPH KENNEDY, CITY SURVEYOR FOR THE CITY OF OAKLEY, DO HEREBY STATE THAT I HAVE EXAMINED THE MAP ENTITLED "PARCEL MAP MS 14-977", AND I AM SATISFIED THAT SAID MAP IS TECHNICALLY CORRECT.

Signature of Francis Joseph Kennedy
FRANCIS JOSEPH KENNEDY, RCE 21771 CITY SURVEYOR, CITY OF OAKLEY, CONTRA COSTA COUNTY, STATE OF CALIFORNIA

DATE:

SURVEYOR'S STATEMENT

THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECTION AND IS BASED UPON A FIELD SURVEY IN CONFORMANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND LOCAL ORDINANCE AT THE REQUEST OF STEPHEN B. COCKMAN JR. ON MAY 2, 2014. I HEREBY STATE THAT ALL THE MONUMENTS ARE OF THE CHARACTER AND OCCUPY THE POSITIONS INDICATED OR THAT THEY WILL BE SET IN THOSE POSITIONS BEFORE DECEMBER 2016, AND THAT THE MONUMENTS ARE, OR WILL BE, SUFFICIENT TO EMBLE THE SURVEY AND THAT THE MONUMENTS ARE, OR WILL BE, SUFFICIENT TO EMBLE THE SURVEY APPROVED OR CONDITIONALLY APPROVED TENTATIVE MAP, IF ANY.

Signature of Ronald R. Archer
RONALD R. ARCHER
P.L.S. 8427
Notary Seal: LORI QUACKENBUSH, RCE 1827, Exp. 12/31/15

DATE: 12-16-15

# PARCEL MAP MS 14-977

BEING A SUBDIVISION OF PARCEL C, AS SHOWN ON THE RECORD OF SURVEY MS NO. 72-66 FILED ON MAY 31, 1966 IN BOOK 42 OF LICENSED SURVEYORS MAPS AT PAGE 43, CONTRA COSTA COUNTY RECORDS.

CITY OF OAKLEY, CONTRA COSTA COUNTY, CALIFORNIA



**WOOD RODGERS**  
DEVELOPING - INNOVATIVE - DESIGN - SOLUTIONS  
4301 Hacienda Drive, Suite 100  
Pittshampton, CA 94368 Tel 925.847.1658  
MAY 2015

## CLERK OF THE BOARD OF SUPERVISORS STATEMENT

STATE OF CALIFORNIA )  
COUNTY OF ALAMEDA ) SS

I HEREBY STATE, AS CHECKED BELOW:

[ ] AN APPROVED BOND HAS BEEN FILED WITH THE BOARD OF SUPERVISORS OF SAID COUNTY AND STATE IN THE AMOUNT OF \$ \_\_\_\_\_, CONDITIONED FOR THE PAYMENT OF THE SPECIAL ASSESSMENTS COLLECTED THEREON, WHICH ARE NOW A LIEN AGAINST SAID LAND OR ANY PART THEREOF BUT NOT YET PAYABLE, AND WAS DULY APPROVED BY SAID LOCAL BOARD IN SAID AMOUNT.

[ ] ALL TAXES AND SPECIAL ASSESSMENTS COLLECTED AS TAXES HAVE BEEN PAID, AS CERTIFIED BY THE TREASURER-TAX COLLECTOR OF THE COUNTY OF ALAMEDA.

N WITNESS, WHEREOF, I HAVE HEREUNTO SET MY HAND THIS  
DAY OF \_\_\_\_\_, 2016.

DAVID JWA  
CLERK OF THE BOARD OF SUPERVISORS AND  
COUNTY ADMINISTRATOR OF CONTRA COSTA  
STATE OF CALIFORNIA

BY: \_\_\_\_\_  
DEPUTY COUNTY CLERK

## COUNTY RECORDERS STATEMENT

FILED FOR RECORD THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2016, AT \_\_\_\_\_, IN  
BOOK \_\_\_\_\_ OF MAPS AT PAGES \_\_\_\_\_ THROUGH \_\_\_\_\_,  
INCLUSIVE, RECORDER'S SERIES NO. 2016 \_\_\_\_\_, AT THE REQUEST OF STEPHEN B.  
COCKMAN JR.

FEE: \_\_\_\_\_ PAID  
JOSEPH E. CAMACHILLA  
COUNTY RECORDER  
CONTRA COSTA COUNTY  
STATE OF CALIFORNIA

BY: \_\_\_\_\_  
DEPUTY COUNTY RECORDER

## CITY COUNCIL STATEMENT

I, KEVIN ROHANI, PUBLIC WORKS DIRECTOR OF THE CITY OF OAKLEY, HEREBY STATE THAT THE CITY COUNCIL HAS APPROVED THE TENTATIVE MAP FOR PARCEL MAP MS 14-977, WHICH INCLUDES THE SUBDIVISION WHICH THIS PARCEL MAP IS BASED.

\_\_\_\_\_  
KEVIN ROHANI  
PUBLIC WORKS DIRECTOR  
CITY OF OAKLEY, CONTRA COSTA COUNTY  
STATE OF CALIFORNIA

DATE: \_\_\_\_\_

## CITY CLERK'S STATEMENT

STATE OF CALIFORNIA )  
COUNTY OF ALAMEDA ) SS

I, LIBBY WREONS, CITY CLERK AND CLERK OF THE CITY COUNCIL OF THE CITY OF OAKLEY, CONTRA COSTA COUNTY, STATE OF CALIFORNIA, HEREBY STATE THAT THE TENTATIVE MAP ENTITLED "PARCEL MAP MS 14-977" OF THE CITY OF OAKLEY, CONTRA COSTA COUNTY, CALIFORNIA, WAS PRESENTED TO THE COUNCIL OF THE CITY OF OAKLEY AS PROVIDED BY LAW AT A REGULAR MEETING THEREOF HELD ON \_\_\_\_\_, 2016, AND THAT SAID CITY COUNCIL DID THEREUPON BY RESOLUTION NO. \_\_\_\_\_ PASS AND ADOPTED AT SAID MEETING, APPROVED SAID MAP AND DID ACCEPT SUBJECT TO APPROVEMENT OF ANY STREETS, EASEMENTS OR IMPROVEMENTS SHOWN THEREON AS OFFERED FOR DEDICATION FOR PUBLIC USE.

IN WITNESS, WHEREOF, I HAVE HEREUNTO SET MY HAND THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2016.

LIBBY WREONS  
CITY CLERK AND CLERK OF THE CITY COUNCIL  
CITY OF OAKLEY, CONTRA COSTA COUNTY,  
STATE OF CALIFORNIA

# PARCEL MAP MS 14-977

BEING A SUBDIVISION OF PARCEL C, AS SHOWN ON THE RECORD OF SURVEY MAP NO. 72-66, FILED ON MAY 31, 1966 IN BOOK 42 OF LICENSED SURVEYORS MAPS AT PAGE 43, CONTRA COSTA COUNTY RECORDS.

CITY OF OAKLEY, CONTRA COSTA COUNTY, CALIFORNIA



### NOTES

1. ALL DISTANCES SHOWN HEREON ARE EXPRESSED IN FEET AND DECIMALS THEREOF.
2. DUE TO ROUNDING THE SUM OF THE INDIVIDUAL DIMENSIONS MAY NOT EQUAL THE OVERALL DIMENSION.

### REFERENCES:

- (R1) ROS (42 LSM 43)
- (R2) TRACT 8391 (437 M 1)
- (R3) TRACT 8765 (466 M 33)
- (R4) PARCEL MAP (6 PM 47)
- (R5) DEED (2011-0177221)
- (R6) SUBD. 3750 (125 M 1)
- (R7) DEED (83 OR 304)

### BASIS OF BEARINGS

THE BEARING N 00° 12' 00" E BETWEEN THE FOUND MONUMENT AT THE SOUTH CORNER OF SECTION 31 AND THE FOUND MONUMENT AT THE SOUTH CORNER OF SECTION 32, AND THE BEARING N 00° 00' 00" E BETWEEN THE FOUND MONUMENT AT THE SOUTH CORNER OF SECTION 31 AND THE FOUND MONUMENT AT THE SOUTH CORNER OF SECTION 32, AS SHOWN ON THAT CERTAIN RECORD OF SURVEY MAP NO. 72-66, FILED IN BOOK 42 OF LICENSED SURVEYORS MAPS AT PAGE 43, CONTRA COSTA COUNTY RECORDS WAS TAKEN AS THE BASIS OF BEARINGS FOR THIS MAP.

### LEGEND

- SET 1/2" REBAR AND CAP LS 8427
- FOUND STREET MONUMENT AS NOTED
- FOUND MONUMENT AS NOTED
- SUBDIVISION BOUNDARY
- PROPOSED PROPERTY LINE
- ADJACENT PROPERTY LINE
- MONUMENT LINE
- EXISTING EASEMENT LINE
- DIMENSION LINE
- RELINQUISHMENT OF ABUTTERS RIGHTS
- SEARCHED NOT FOUND
- RECORD DATA

