

OAKLEY



CALIFORNIA

Agenda Date: 08/08/2017
Agenda Item: 3.9

STAFF REPORT

Date: Tuesday, August 8, 2017

To: Bryan H. Montgomery, City Manager

From: Kevin Rohani, P.E. Public Works Director/City Engineer

Subject: Approval of Subdivision Improvement Agreement and Final Map for Subdivision 9043 Aspen Lane (Northeast corner, Carpenter Road and Empire Avenue)

Approved and Forwarded to City Council:


Bryan H. Montgomery, City Manager

Background and Analysis

On November 27, 2006 the City Council adopted Resolution 146-06 conditionally approving the tentative map for Subdivision 9043, a 16-lot residential subdivision at the north east corner of Carpenter Road and Empire Avenue.

Discovery Builders, Inc. has now requested approval by the City Council for the final map for Subdivision 9043 Aspen Lane.

In order to satisfy all remaining conditions of approval, the applicant has requested that the City enter into a Subdivision Improvement Agreement.

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

Fiscal Impact

There is no fiscal impact associated with this action.

Staff Recommendation

Staff recommends that the City Council adopt the Resolutions authorizing the City Manager to execute the Subdivision Improvement Agreement and approving the Final Map for Subdivision 9043 Aspen Lane.

Attachments

- 1) City Council Resolution 146-06
- 2) Subdivision Improvement Agreement (SIA)
- 3) Resolution for SIA
- 4) Resolution Approving the Final Map titled Subdivision 9043 Aspen Lane
- 5) Reduction of Subdivision 9043 Aspen Lane Final Map

RESOLUTION NO. 146-06

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY MAKING FINDINGS AND APPROVING SUBDIVISION 9043 (ASPEN LANE) BY DISCOVERY BUILDERS INCORPORATED, LOCATED AT 3530 EMPIRE AVENUE (APN 034-020-010) NORTHEAST CORNER OF EMPIRE AVENUE AND CARPENTER ROAD, INCLUDING A REZONE, VESTING TENTATIVE SUBDIVISION MAP, CONDITIONAL USE PERMIT, DESIGN REVIEW AND CERTIFICATION OF A MITIGATED NEGATIVE DECLARATION

FINDINGS

WHEREAS, Discovery Builders, Inc., on behalf of the property owner, (together, "Applicants"), have submitted applications to develop approximately 5.0-acres, located 3530 Empire Avenue on the northeastern corner of Empire Avenue and Carpenter Road with 16 single family residential lots (the "Project"). The Project application includes requests for approval of the following:

- Rezoning the property from General Agriculture (A-2) to P-1 (Planned District) for Single Family Residential Development;
- Vesting Tentative Map 9043, which would subdivide the one 5.0 acre parcel into 16 single-family lots;
- Conditional Use Permit for a wall/fence combination;
- Design Review to construct 16 single family homes based on four floor plans, three elevation options for each, and associated landscaping and fencing; and
- Certification of a Mitigated Negative Declaration

WHEREAS, the Project site is designated Single-Family Residential Medium Density (SM) in the Oakley 2020 General Plan. The proposed unit densities of the Project are consistent with those General Plan designations.

WHEREAS, on The City prepared a Negative Declaration dated August 14, 2006, which reflected the independent judgment of the City as to the potential environmental effects of the Project. The City circulated a Notice of Intent for the Mitigated Negative Declaration on August 14, 2006. The Notice of Intent was circulated for the required 30-day public review period, from August 14, 2006 through September 15, 2006.

WHEREAS, on October 16, 2006, the Planning Commission held a properly noticed public hearing at which it received a report from City staff, oral and written testimony from the Applicants and the public, and deliberated on the applications. At the conclusion of its deliberations, the Commission took a vote and expressed its opinion that the applications should be approved, subject to the conditions recommended by staff and as revised by the Commission during its deliberations.

WHEREAS, on November 27, 2006, the City Council held a properly noticed public hearing at which it received a report from City Staff, oral and written testimony from the Applicants and the public, and deliberated on the applications. At the

conclusion of its deliberations, the City Council took a vote and adopted this resolution to approve the project, subject to the conditions recommended by the Planning Commission and as revised by the City Council during its deliberations.

WHEREAS These Findings are based on the City's General Plan, the City's Zoning and Subdivision Ordinances, the Residential Design Guidelines and the information submitted to the City Council at its November 27, 2006 meeting, both written and oral, including oral information provided by the Applicant, as reflected in the minutes of such meetings, together with the documents contained in the file for the Subdivision (hereafter the "Record").

NOW, THEREFORE, on the basis of the findings of fact and the entire Record, the City Council makes the following findings in support of the recommended approvals:

1. Regarding the rezoning of the Property from A-2 to P-1, the City Council finds that:

a. The change in zoning will comply with the General Plan, which prescribes single-family development on the Project property with densities consistent with those proposed for the Project - ***The General Plan designation on the property is SM (Single Family Medium density 2.48 to 3.8 dwelling units per acre). Therefore, the current zoning of A-2 (General Agricultural) is not in compliance with the General Plan land use designation. The proposed P-1 zoning will be consistent with the General Plan density requirements and will bring the property into compliance with the land use designation;***

b. The uses proposed in the land use district are compatible within the district and uses authorized in adjacent districts. All proposed uses within the district are for single-family housing, consistent with the allowable density range. Development on adjacent properties will also be residential - ***The General Plan designation on the property is SM (Single Family Medium Density). The proposed use for this property Single Family Dwellings at a density of 3.2 units per acre. The surrounding land uses are also Single Family Medium Density. The proposed project will blend seamlessly with the surrounding residential projects;*** and

c. A community need has been demonstrated for the proposed use. The Project will result in the construction of additional housing units, which is necessary to meet demand in the community. ***The City of Oakley falls under the jurisdiction of the Association of Bay Area Governments (ABAG). ABAG uses a predominately demographic formula to allocate the regional housing needs among the incorporated cities and unincorporated county. This process results in a Regional Housing Needs Assessment (RHNA) and the number reflected in that assessment becomes part the City of Oakley's estimated housing needs. Per this Assessment, the City of Oakley shall require 426 new units to be built by June 2007. The development of this project will help the city meet its regional fair share housing goal.***

2. Regarding the approval of Vesting Tentative Subdivision Map 9043, the City Council finds that the proposed subdivision, together with the provisions of its design and improvement, is consistent with the General Plan. ***The number of units, layout***

of lots and streets, identified improvements and dedications, and other technical requirements comply with the density prescribed by the General Plan and its applicable policies.

3. Regarding the Conditional Use Permit for the fence/wall combination the City Council finds that:

- *The proposed project, as approved, is not detrimental to the health, safety, and general welfare of the City - A soundwall is necessary to mitigate noise from adjacent roadways. The proposed height of the soundwall is required as a mitigation measure to reduce the noise levels thereby ensuring the health and safety of future residents;*
- *The proposed use will not adversely affect the orderly development of property within the City - The proposed soundwall will match the surrounding developments' soundwall, thereby reinforcing the seamless and orderly development of this property;*
- *The proposed use, will not adversely affect the preservation of property values and protection of tax base within the City - The proposed soundwall will mitigate noise from the existing roadway and is designed to match the existing soundwall thereby preserving the property values of surrounding properties;*
- *The proposed use will not adversely affect the policies and goals set by the General Plan – The proposed soundwall is in keeping with the policies and goals set by the General Plan as the wall is required to buffer the development from adjacent arterial and collector streets as well as mitigate noise impacts from said roads;*
- *The proposed use, as conditioned, will not create a nuisance and/or enforcement problems within the neighborhood - The proposed soundwall will be properly landscaped as per the Residential Design guidelines and is within the City's Right-of-Way in which sufficient maintenance personnel exist to prevent or mitigate any nuisances that may arise;*
- *The proposed use will not encourage marginal development within the neighborhood - The proposed landscaping and matching soundwall will further enhance the scenery from the street and reinforce that in-fill developments upgrade and blend with the surrounding neighborhood; and*
- *Special conditions or unique characteristics of the subject property and its location or surroundings have been established – The proposed soundwall is within close proximity to a major arterial and a collector street thereby requiring special height requirements to mitigate the sound.*

4. The Project complies with Measure C Growth Management requirements.

BE IT FURTHER RESOLVED THAT, on the basis of the foregoing Findings and the entire Record, the City Council shall take the following actions:

- Rezone the Project property from A-2 to P-1;
- Approve Vesting Tentative Map;
- Approve the Design Review; and
- Approve the Conditional Use Permit
- Certify the Mitigated Negative Declaration

BE IT FURTHER RESOLVED THAT, on the basis of the above Findings and the Record, the City Council approves the Applicant's request for the Rezoning of the Property, the Vesting Tentative Subdivision Map, the Conditional Use Permit, the Design Review and the Certification of a Mitigated Negative Declaration with the following conditions:

CONDITIONS OF APPROVAL

Rezone & Subdivision

1. This Rezone, Subdivision, Conditional Use Permit, Design Review approved, as shown on the exhibits (dated October 30, 2006) and attachments, and as modified by the following conditions of approval, subject to final review and approval by the Community Development Director.
2. This Subdivision, Conditional Use Permit, and Design Review approval shall be effectuated within a period of three (3) years from November 27, 2006, and if not effectuated shall expire on (three years from City Council approval). Prior to said expiration date, the applicant may apply for an extension of time, provided, however, this approval shall be extended for no more than a total of three years from (three years from City Council approval).
3. All conditions of approval and mitigation measures shall be satisfied by the owner/developer. All costs associated with compliance with the conditions shall be at the owner/developer's expense.

Development Standards

4. The plans submitted for the subdivision shall be consistent with the P-1 development standards for the Aspen Lane subdivision, as follows:
 - Minimum lot area: 6,000 square feet
 - Minimum lot frontage: 35-feet at the front property line
 - Minimum front yard setback: 20-feet for garages and living space, 15-feet to porches and side loaded garages
 - Minimum side yard setback: 5-feet minimum, sum of both sides 15-feet.
 - Minimum corner lot street side yard setback 15-feet.
 - Minimum rear yard setback: 15-feet

Landscaping and Fences

5. A final landscape and irrigation plan, with enhancements from the preliminary plans dated October 30, 2006, shall be submitted and approved, prior to issuance of building permits. The landscape area between the sound wall and Empire Road and Carpenter Road shall be landscaped consistent with the Residential Design Guidelines. Landscaping shall include a mix of low growing shrubs, a variety of different sized trees, and various groundcover within the

parkway and between the sidewalk and the sound wall, shrubs and groundcover as well as vines shall be planted along the based of the sound wall.

6. Within the subdivision good neighbor fences shall be constructed of six-foot tall wood fences with steel posts or acceptable alternative as reviewed and approved by the City of Oakley. Fences at corner lots with secondary frontages and front facing connector fences (between houses), visible from the street, shall be constructed with enhanced materials to include a 2-foot tall lattice top panel, consistent with the landscape plans submitted for the project. The fences shall be stained or painted on both sides to prevent weather damage to the satisfaction of the Community Development Director.
7. The applicant shall improve and enhance the existing good neighbor fences adjacent to lots 10 and 11. Proposed measures shall be submitted to the Community Development Director for approval. If the applicant does not receive permission from the adjacent property owners to improve the existing fence, the applicant shall submit an alternate plan to the Community Development Director as to how the applicant will provide the new residents of Lots 10 and 11 with comparable fencing.
8. The retaining wall adjacent to lots 11 thru 16 shall be of decorative masonry construction as approved by the Community Development Director.
9. Landscaping shall conform to the Oakley Landscape Guidelines and the City's Water Conservation Landscape Ordinance 82-26 and shall be installed prior to final occupancy. The plan shall be prepared by a licensed landscape architect and shall be certified to be in compliance with the City's Water Conservation Ordinance.
10. California native drought tolerant plants shall be used as much as possible. All trees shall be a minimum fifteen-gallon size and all shrubs shall be a minimum five-gallon size, except as otherwise noted. At least 50% of the trees along Empire Road and Carpenter Road, shall be 24-inch box trees.
11. Each lot shall have a minimum of two different types of trees along the street frontage, with the exception of corner lots, which shall have four.
12. The landscape plans shall include 24-inch box trees at the corner of Empire Avenue and Carpenter Road and shall also include a mix of 15 gallon and 24-inch box trees and shrubbery adequately placed to enhance the streetscape per the review and approval of the Community Development Director.
13. The applicant shall maintain all landscaping until occupancy and shall annex the site into a landscaping and lighting district. The applicant is required to annex to a lighting and landscaping district and notify future homeowners by deed, notice of the fact that the land is within a landscaping and lighting district.

Design Review

14. The architectural and site plans shall be modified such that 40% of the garage doors shall have windows.
15. The use of stone veneer shall be carried to the fence line per the review of the Community Development Director.
16. Trim shall be provided around all doors and windows.
17. Architectural "bellyband" shall be carried to the fence line or other logical termination point per the review of the Community Development Director.
18. Plan for Lot 16 shall incorporate enhanced articulation (a dormer) as approved by the Community Development Director.
19. Re-circulating water heaters and dual zone air conditioning shall be included for all units greater than 3,500 square feet.
20. Front yard setbacks shall vary from those of adjacent lots by at least 5 feet, for every three lots.

General

21. Noise generating construction activities, including such things as power generators, shall be limited to the hours of 7:30 a.m. to 5:30 p.m. Monday through Friday, and shall be prohibited on City, State and Federal Holidays. The restrictions on allowed working days may be modified on prior written approval by the Community Development Director.
22. Should archaeological materials be uncovered during grading, trenching or other on-site excavation(s), earthwork within 30 yards of these materials shall be stopped until a professional archaeologist who is certified by the Society of Professional Archaeology (SOPA) has had an opportunity to evaluate the significance of the find and suggest appropriate mitigation(s), if deemed necessary.
23. The street names shall be approved by the Community Development Department and the East Contra Costa Fire District.
24. The following statement shall be recorded at the County Recorder's Office for each parcel to notify future owners of the parcels that they own property in an agricultural area:

"This document shall serve as notification that you have purchased land in an agricultural area where you may regularly find farm equipment using local roads; farm equipment causing dust or blowing sand; crop dusting and spraying occurring regularly; burning associated with agricultural activities; noise associated with farm equipment such as zone guns and aerial crop dusting and certain animals, including equestrian trails as well as flies may exist on

surrounding properties. This statement is again, notification that this is part of the agricultural way of life in the open space areas of the City of Oakley and you should be fully aware of this at the time of purchase."

When a Final Subdivision Public Report issued by the California Department of Real Estate is required, the applicant shall also request that the Department of Real Estate insert the above note in the report.

25. Where a lot/parcel is located within 300' of a high voltage electric transmission line, the applicant shall record the following notice:

"The subject property is located near a high voltage electric transmission line. Purchasers should be aware that there is ongoing research on possible potential adverse health effects caused by the exposure to a magnetic field generated by high voltage lines. Although much more research is needed before the question of whether magnetic fields actually cause adverse health effects can be resolved, the basis for such a hypothesis is established. At this time no risk assessment has been made."

26. The applicant shall indemnify, defend, and hold harmless the City of Oakley, the City Approving Authorities, and the officers, agents, and employees of the City from any and all claims, damages and liability (including, but not limited to, damages, attorney fees, expenses of litigation, costs of court).

Public Works and Engineering Conditions

Applicant shall comply with the requirements of City Municipal Code. Any Code exceptions must be stipulated in these Conditions of Approval. Conditions of Approval are based on the site plan received by the Community Development Department on October 30, 2006.

The following conditions of approval shall be satisfied prior to filing any final map unless otherwise noted:

General:

27. Submit improvement plans prepared by a registered civil engineer to the City Engineer for review and approval and pay the appropriate processing costs in accordance with the Municipal Code and these conditions of approval. The plans shall be consistent with the Stormwater Control Plan for the project including treatment areas such as drywells to be incorporated in the front yards if necessary, or other alternatives as approved by the City Engineer. The plans shall include the drawings and specifications necessary to implement the required stormwater control measures and be accompanied by a Construction Plan C.3 Checklist as described in the Stormwater C.3 Guidebook. The applicant shall incorporate dry-wells and other infiltration mechanisms within the

front yard of the lots in lieu of utilizing grassy swales within the public right of way.

28. Submit a final map prepared by a licensed land surveyor or qualified registered civil engineer to the City Engineer for review and approval and pay processing costs in accordance with the Municipal Code and these conditions of approval.
29. Submit grading plans including erosion control measures and revegetation plans prepared by a registered civil engineer to the City Engineer for review and approval and pay appropriate processing costs in accordance with the Municipal Code and these conditions of approval.
30. Submit landscaping plans for publicly maintained landscaping, including planting and irrigation details, as prepared by a licensed landscape architect to the City Engineer for review and approval and pay appropriate processing costs in accordance with the Municipal Code and these conditions of approval.
31. Execute any agreements required by the Stormwater Control Plan which pertain to the transfer of ownership and/or long term maintenance of stormwater treatment mechanisms required by the plan prior to the final inspection of the first house within the subdivision.
32. Building permits for house construction shall not be issued until the subdivision streets serving the lots have been paved.

On-Site Roadway Improvements:

33. Construct the frontage of Empire Avenue to City public road standards for a half width of forty-one feet from centerline to curb within an ultimate half width right of way of sixty-three feet including a six-foot detached sidewalk (meandering within the landscape area so that the minimum landscape width is no less than six feet), parkway strip, right of way landscaping, necessary longitudinal and transverse drainage, pavement widening, and conforms to existing improvements. Any conforms to existing improvements must take place outside of the limits of the project. The center median and inside lane are included in the City's Traffic Impact Fee Program and may be eligible for reimbursement subject to a future reimbursement agreement. The agreement must be approved by the City Council prior to approving the final map for the costs to be reimbursable. The City and/or Subdivision 8731 may construct a portion of the frontage improvements required by this project as part of the Capital Improvement Program. Should that occur this project shall be responsible for repaying the City for the costs associated with the frontage improvements that should have been the obligation of this project.
34. Construct the frontage of Carpenter Road to City public road standards for a half width of twenty feet from centerline to curb within an ultimate half width right of way of thirty eight feet including curb, gutter, six-foot detached sidewalk (separated from the face of curb by six feet), landscaped parkway, right of way landscaping behind the sidewalk, necessary longitudinal and transverse drainage, pavement widening, and conforms to existing improvements. As part of the design of the frontage improvements the applicant shall collect core

samples of the existing pavement and determine if the pavement section is capable of handling the anticipated traffic loads for the roadway. The existing pavement shall be reviewed by the City Engineer and if found to be inadequate the applicant shall reconstruct the pavement to a minimum width of twenty eight feet from the north face of curb south. Any conforms to existing improvements must take place outside of the limits of the project.

35. Construct a bus turnout on the east side of Empire Avenue north of Carpenter Road west of lots 1 and 2. The turnout shall be consistent with Tri Delta Transit and City standards and shall include any necessary shelters and appurtenances. The right of way adjacent to the turnout shall be widened so that the buffer area behind the face of curb is consistent with the remainder of the frontage (22 feet from face of curb to right of way).
36. Construct the project streets to City public road standards and as shown on the Tentative Maps with the following exceptions:
 - A. The minimum street grade may be lowered from the standard 1% to 0.75% provided that the project proponent demonstrates that the City's drainage standards can be achieved.
37. Submit a turning radius exhibit to the City Engineer for review and approval to illustrate that the ninety-degree turns of project streets can accommodate the largest expected vehicle to use the streets without the inclusion of City standard elbows. If the exhibit illustrates that elbows are necessary to accommodate the expected traffic then they shall be included in the improvement plans.
38. Install traffic control devices such as stop signs and other signing and striping on the project streets to the satisfaction of the City Engineer.
39. Submit a phasing plan for the project streets to the City Engineer for review if the street improvement will be phased. The plan shall include provisions for emergency vehicle access, temporary turn-around facilities, and access to the occupied lots.
40. Design all public and private pedestrian facilities in accordance with Title 24 (Handicap Access) and the Americans with Disabilities Act.

Road Alignment/Sight Distance:

41. Submit a preliminary plan and profile to the City Engineer for review showing all required improvements to Empire Avenue and Carpenter Road. The sketch plan shall be to scale, show horizontal and vertical alignments, transitions, curb lines, lane striping and cross sections and shall provide sight distance for a design speed of 55 miles per hour for Empire Avenue and 45 miles per hour for Carpenter Road. The plan shall extend a minimum of 150 feet \pm beyond the limits of the proposed work.

Road and Easement Dedications:

42. Convey to the City, by offer of dedication, the right of way for the planned ultimate half width of sixty-three feet along the Empire Avenue project frontage, including any necessary widening for the bus turnout. The right of way shall be dedicated immediately following the approval of the tentative map.
43. Convey to the City, by offer of dedication, the right of way for Carpenter Road for the planned ultimate half width of thirty-eight feet along the project frontage. The right of way shall be dedicated immediately following the approval of the tentative map.
44. Convey to the City, by Offer of Dedication, the right of way for the project streets.
45. Furnish necessary rights of way, rights of entry, permits and/or easements for the construction of off-site, temporary or permanent, public and private road, utility and drainage improvements.
46. Relinquish abutter's rights for non-primary frontages to the satisfaction of the City Engineer.

Street Lights:

47. Install streetlights along all project streets, Empire Avenue and Carpenter Road. The City Engineer shall determine the final number and location of the lights, and the lights shall be on an LS2-A rate service. The lights on the project streets and Carpenter Road shall be decorative per City standards and the lights along Empire Avenue shall be General Electric "cobra head" style.

Grading:

48. Submit a geotechnical report to the City Engineer for review that substantiates the design features incorporated into the subdivision including, but not limited to grading activities, compaction requirements, utility construction, slopes, retaining walls, and roadway sections.
49. At least one week prior to commencement of grading, the applicant shall post the site and mail to the owners of property within 300 feet of the exterior boundary of the project site notice that construction work will commence. The notice shall include a list of contact persons with name, title, phone number and area of responsibility. The person responsible for maintaining the list shall be included. The list shall be kept current at all times and shall consist of persons with authority to indicate and implement corrective action in their area of responsibility. The names of the individual responsible for noise and litter control shall be expressly identified in the notice. The notice shall be reissued with each phase of major grading activity. A copy of the notice shall be concurrently transmitted to the City Engineer. The notice shall be accompanied by a list of the names and addresses of the property owners noticed, and a map identifying the area noticed.

50. Grade any slopes with a vertical height of four feet or more at a slope of 3 to 1. Retaining walls that may be installed to reduce the slope must be masonry and comply with the City's building code.
51. Grade all pads so that they drain directly to the public street at a minimum of one percent without the use of private drainage systems through rear and side yards.
52. Submit a dust and litter control plan to the City Engineer prior to beginning any construction activities.
53. Submit a haul route plan to the City Engineer for review and approval if grading activities require importing or exporting any material from the site. The plan shall include the location of the borrow or fill area, the proposed haul routes, the estimated number and frequency of trips, and the proposed schedule of hauling. Based on this plan the City Engineer shall determine whether pavement condition surveys must be conducted along the proposed haul routes to determine what impacts the trucking activities may have. The project proponents shall be responsible to repair to their pre-construction condition any roads along the utilized routes.
54. Prior to commencement of any site work that will result in a land disturbance of one acre or more; the applicant shall provide evidence to the City Engineer that the requirements for obtaining a State General Construction Permit have been met. Such evidence may be a copy of the Notice of Intent letter sent by the State Water Resources Control Board. The WDID Number shall be shown on the grading plan prior to approval by the City Engineer.
55. Submit an updated erosion control plan reflecting current site conditions to the City Engineer for review and approval no later than September 1st of every year while the Notice of Intent is active.
56. Grade all pad elevations or install levees to satisfy Chapter 914-10 of the City's Municipal Code, including the degree of protection provisions.

Utilities/Undergrounding:

57. Underground all new and existing utility distribution facilities, including those along the frontage of Empire Avenue and Carpenter Road. The developer shall provide joint trench composite plans for the underground electrical, gas, telephone, cable television and communication conduits and cables including the size, location and details of all trenches, locations of building utility service stubs and meters and placements or arrangements of junction structures. The joint trench composite plans must be endorsed by the City Engineer prior to the approval of the Improvement Plans for the project. The composite drawings and/or utility improvement plans shall be signed by a licensed civil engineer.
58. All utility boxes shall be installed underground and all wires and cables must be installed in conduits. Compliance with this condition shall be at the discretion of the City Engineer.

Drainage Improvements:

59. Collect and convey all stormwater entering and/or originating on these properties, without diversion and within an adequate storm drainage facility, to an adequate natural watercourse having definable bed and banks, or to an existing adequate public storm drainage facility that conveys the storm waters to an adequate natural watercourse, in accordance with Division 914 of the Ordinance Code.
60. Submit a final hydrology and hydraulic report including 10-year and 100-year frequency event calculations for the proposed drainage system to the City Engineer for review and approval.
61. Design and construct all storm drainage facilities in compliance with the Ordinance Code and City design standards.
62. Prevent storm drainage from draining across the sidewalk(s) and driveway(s) in a concentrated manner.
63. Dedicate a public drainage easement over the drainage system that conveys storm water run-off from public streets.

Landscaping in the Public Right of Way:

64. Install public right of way landscaping along the Empire Avenue and Carpenter Road frontages prior to issuance of the 16th building permit.
65. Maintain all landscaping within the public right of way until such time that the adjacent roadway improvements have been accepted for maintenance.

National Pollutant Discharge Elimination System (NPDES):

66. Comply with all rules, regulations and procedures of the National Pollutant Discharge Elimination System (NPDES) for municipal, construction and industrial activities as promulgated by the California State Water Resources Control Board, or any of its Regional Water Quality Control Boards (Central Valley - Region IV), including the Stormwater C.3 requirements as detailed in the Guidebook available at www.cccleanwater.org.

Compliance shall include developing long-term best management practices (BMP's) for the reduction or elimination of storm water pollutants. The project design shall incorporate wherever feasible, the following long-term BMP's in accordance with the Contra Costa Clean Water Program for the site's storm water drainage:

- Offer pavers for household driveways and/or walkways as an option to buyers.
- Minimize the amount of directly connected impervious surface area.
- Delineate all storm drains with "No Dumping, Drains to the Delta" permanent metal markers per City standards and approval of the City Engineer.

- Construct concrete driveway weakened plane joints at angles to assist in directing run-off to landscaped/pervious areas prior to entering the street curb and gutter.
- Distribute public information items regarding the Clean Water Program to buyers.
- Other alternatives as approved by the City Engineer.

Fees and Assessments:

67. Comply with the requirements of the development impact fees listed below, in addition to those noticed by the City Council in Resolution 00-85 and 08-03. The applicant shall pay the fees in the amounts in effect at the time each building permit is issued.

- A. Traffic Impact Fee (authorized by Ordinance No. 14-00, adopted by Resolution 49-03);
- B. Regional Transportation Development Impact Mitigation Fee (authorized by Ordinance No. 14-00, adopted by Resolution No. 73-05);
- C. Park Land Dedication In-Lieu Fee (adopted by Ordinance No. 03-03);
- D. Park Impact Fee (authorized by Ordinance No. 05-00, adopted by Resolution No. 19-03);
- E. Public Facilities Fee (authorized by Ordinance No. 05-00, adopted by Resolution No. 18-03); and
- F. Child Care Facilities "In Lieu" Fee (adopted by Ordinance Nos. 18-99 and 23-99).
- G. Fire Impact Fee collected on behalf of the East Contra Costa Fire Protection District (adopted by Resolution No. 09-01)
- H. South Oakley Infrastructure Master Plan Fee (adopted by Resolution No. 52-03).
- I. General Plan Fee (adopted by Resolution No. 53-03).

The applicant should contact the City Engineer prior to constructing any public improvements to determine if any of the required improvements are eligible for credits or reimbursements against the applicable traffic benefit fees or from future developments. The applicant may be eligible for a credit against the East County Transportation Improvement Impact Fee that is equal to the amount of the Eastern Contra Costa Sub-Regional Transportation Mitigation Fee paid. The Applicant may also be eligible for a credit against the Park Land Acquisition component of the Park Impact Fee that is equal to the amount of the Park Land Dedication In-Lieu Fee paid.

68. Annex the property to the City of Oakley Landscape and Lighting District No. 1 for citywide landscaping and park maintenance, subject to an assessment for

maintenance based on the assessment methodology described in the Engineer's Report for the District. The assessment shall be the per parcel annual amount (with appropriate future cost of living adjustment) as established at the time of voting by the City Council. Any required election and/or ballot protest proceedings shall be completed prior to approval of the final map. The Applicant shall apply for annexation and provide all information and documents required by the City or its agents in processing the annexation. All costs of annexation shall be paid by Applicant.

69. Annex the property to the City of Oakley Landscape and Lighting District No. 1 for citywide street lighting costs and maintenance, subject to an assessment for street light maintenance based on the assessment methodology described in the Engineer's Report. The assessment shall be the per parcel annual amount (with appropriate future cost of living adjustment) as established at the time of voting by the City Council. Any required election and/or ballot protest proceedings shall be completed prior to filing of the Final Map. The applicant shall apply for annexation and provide all information and documents required by the City or its agents in processing the annexation. All costs of annexation shall be paid by Applicant.
70. Annex the property to the City of Oakley Landscape and Lighting District No. 1 for project specific landscaping maintenance, subject to an assessment for landscape operation and maintenance based on the assessment methodology described in the Engineer's Report. The assessment shall be the per parcel annual amount (with appropriate future cost of living adjustment) as established at the time of voting by the City Council. Any required election and/or ballot protest proceedings shall be completed prior to filing of the Final Map. The applicant shall apply for annexation and provide all information and documents required by the City or its agents in processing the annexation. All costs of annexation shall be paid by Applicant.
71. Participate in the provision of funding to maintain police services by voting to approve a special tax for the parcels created by this subdivision approval. The tax shall be the per parcel annual amount (with appropriate future cost of living adjustment) as established at the time of voting by the City Council. The election to provide for the tax shall be completed prior to filing of the final map. Should the homes be occupied prior to the City receiving the first disbursement from the tax bill, the project proponent shall be responsible for paying the pro-rata share for the remainder of the tax year prior to the City conducting a final inspection.
72. Participate in the formation of an assessment district for the construction of off-site improvements should the City deem such a mechanism necessary. The assessment district shall be formed prior to the filing of any final or parcel map, and the project proponent shall fund all costs of formation.
73. Participate in the formation of a mechanism to fund the operation and maintenance of the storm drain system, including Citywide stormwater management and discharge control activities. 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. The funding mechanism shall be formed prior to filing of the final map, and the project proponent shall fund all costs of the formation.

74. Applicant shall comply with the drainage fee requirements for Drainage Area 30A as adopted by the County Board of Supervisors. The applicant shall pay the fee in effect at the time of building permit issuance. Certain improvements required by the Conditions of Approval for this development or the Code may be eligible for credit or reimbursement against the drainage area fee. The developer should contact the City Engineer to personally determine the extent of any credit or reimbursement for which he might be eligible. Any credit or reimbursements shall be determined prior to filing the final map or as approved by the Flood Control District.
75. Participate in the City's South Oakley Infrastructure Master Plan both by cooperating with the City's consultant team in the design and implementation of specific infrastructure projects and by providing this project's fair share contribution to the costs of preparing the study. The fair share contribution shall be paid in accordance with Resolution 52-03.

ADVISORY NOTES

THE FOLLOWING ADVISORY NOTES ARE PROVIDED TO THE APPLICANT AS A COURTESY BUT ARE NOT A PART OF THE CONDITIONS OF APPROVAL. ADVISORY NOTES ARE PROVIDED FOR THE PURPOSE OF INFORMING THE APPLICANT OF ADDITIONAL ORDINANCE REQUIREMENTS THAT MUST BE MET IN ORDER TO PROCEED WITH DEVELOPMENT.

- A. The applicant/owner should be aware of the expiration dates and renewing requirements prior to requesting building or grading permits.
- B. The project will require a grading permit pursuant to the Ordinance Code.
- C. Applicant shall comply with the requirements of Ironhouse Sanitary District.
- D. The applicant shall comply with the requirements of the Diablo Water District.
- E. Comply with the requirements of the East Contra Costa Fire Protection District.
- F. Comply with the requirements of the Building Inspection Division. Building permits are required prior to the construction of most structures.
- G. This project may be subject to the requirements of the Department of Fish and Game. It is the applicant's responsibility to notify the Department of Fish and Game, P.O. Box 47, Yountville, California 94599, of any proposed construction within this development that may affect any fish and wildlife resources, per the Fish and Game Code.
- H. This project may be subject to the requirements of the Army Corps of Engineers. It is the applicant's responsibility to notify the appropriate district of

the Corps of Engineers to determine if a permit is required, and if it can be obtained.

- I. The applicant shall obtain an encroachment permit for construction within existing City rights of way.
- J. The applicant shall obtain an encroachment permit from Caltrans for construction within the State right of way.

Fire District

- 1. Comply with Contra Costa County's Fire Districts rules and regulations.

PASSED AND ADOPTED by the City Council of the City of Oakley at a meeting held on the 27th day of November, 2006, by the following vote:


AYES: Anderson, Connelley, Nix, Rios, Romick

NOES: None

ABSTENTIONS: None

ABSENT: None

APPROVED:



MAYOR

ATTEST:



CITY CLERK

**CITY OF OAKLEY
SUBDIVISION IMPROVEMENT AGREEMENT
SUBDIVISION 9043**

This agreement is made and entered into this 8th day of August 2017 by and between the CITY OF OAKLEY, a municipal corporation, hereinafter referred to as "CITY", and DISCOVERY BUILDERS, INC., A CALIFORNIA CORPORATION, hereinafter referred to as "DEVELOPER".

RECITALS

WHEREAS, it has been determined by the City Council of the City of Oakley, State of California, that DEVELOPER, the subdivider of Subdivision 9043, desires to improve and dedicate those public improvements (hereafter "The Improvements") required by the conditions of approval for the project as adopted by the City Council of the City of Oakley via Resolution Number 146-06 in accordance with the requirements and conditions set forth in approvals, the requirements of the Subdivision Map Act of the State of California, and those certain plans and specifications for said development approved by CITY and titled "GRADING PLANS ASPEN LANE – SUB 9043" and "IMPROVEMENT PLANS FOR ASPEN LANE – SUB 9043" as prepared by BKF Engineers and "LANDSCAPE CONSTRUCTION DOCUMENTS" as prepared by Thomas Baak & Associates, LLP now on file in the office of the City Engineer, which are hereby referred to for a more definite and distinct description of the work to be performed under this Agreement as though set forth at length herein; and

WHEREAS, DEVELOPER and CITY acknowledge that not all conditions of approval ("COA") contained in Resolution Number 146-06 have been satisfied, but nevertheless, DEVELOPER desires to file a final map. The satisfaction of all COA are the subject of this Agreement. DEVELOPER's agreement to satisfy all COA and construct the Improvements identified in the aforementioned COA is a material part of the consideration for this Agreement; and

WHEREAS, DEVELOPER intends to satisfactorily complete The Improvements within the time hereinafter specified, and CITY intends to accept DEVELOPER's offer(s) of dedication of The Improvements in consideration for DEVELOPER's satisfactory performance of the terms and conditions of this Agreement:

NOW, THEREFORE, in consideration of the mutual promises, conditions and covenants herein contained, the parties agree as follows:

1. Improvements.

DEVELOPER agrees to install the road improvements (both public and private), sewer and drainage improvements, signs, street lights, fire hydrants, landscaping, and such other improvements (including appurtenant equipment) as required as conditions of approval of Tentative Map 9043 as set forth in Exhibit A to this Agreement, which is

incorporated herein as if set forth at this point, or as otherwise required in the subdivision ordinance., including without limitation all Improvements identified in the COA. In the event that any provision of this Agreement conflicts with the provisions of Exhibit A the provisions of Exhibit A shall prevail to the extent that the conflicting provision in Exhibit A requires a greater or more extensive improvement or expenditure, or to the extent that that provision extends DEVELOPER's obligations over a greater period of time than the specific provision set forth herein. Such improvements shall also be made in conformance with the City of Oakley Municipal Code and Contra Costa County Ordinance Code as adopted and enforced by the City of Oakley.

DEVELOPER will commence construction of The Improvements not later than 30 days from the execution date of this agreement and DEVELOPER shall complete said work not later than 12 months following the date when work is commenced in a good workmanlike manner, in accordance with accepted construction practices and in a manner equal or superior to the requirements of the City of Oakley Municipal Code and Contra Costa County Ordinance Code and rulings made thereunder; and where there is a conflict between the improvement plans and the City Municipal Code or County Ordinance Code, the stricter requirements shall govern. It is understood that the City of Oakley was incorporated effective July 1, 1999, and as such continues to rely on certain laws, ordinances and design standards of the County of Contra Costa. References herein to the County Code or County Ordinance Code are understood to refer to such ordinances and codes as if adopted by the City of Oakley.

Time is of the essence in this Agreement. Upon completion, DEVELOPER shall furnish CITY with a complete and reproducible set of final as-built plans of The Improvements, including any authorized modifications.

2. Estimated Cost of Improvements and Possible Future Cash Deposit.

The estimated cost of constructing The Improvements required by this Agreement as adjusted for inflation is agreed to be \$8,195 for Grading, \$362,641 for Public Improvements and \$212,066.87 for landscaping. Said amounts include costs and reasonable expenses and fees which may be incurred in enforcing the obligation secured.

3. Bonds Furnished.

Concurrent with the execution of this Agreement, DEVELOPER 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 said Government Code forms:

- a. 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 Paragraph 2 and sufficient to assure CITY that The Improvements will be satisfactorily completed.

- b. 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 fifty percent (50%) of the estimate set forth in Paragraph 2 and sufficient to assure CITY that DEVELOPER'S contractors, subcontractors, and other persons furnishing labor, materials, or equipment shall be paid therefor.
- c. If required by CITY, a cash deposit, corporate surety bond, or instrument of credit sufficient to assure CITY that the surface water drainage of the subdivision shall not interfere with the use of neighboring property, including public streets and highways.

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. DEVELOPER may request that portions or all of the bonds may be substituted by other parties in the event that portions or all of the Subdivision is sold to other parties, and such substitution shall not be unreasonably withheld by CITY.

4. Prevailing Wage.

CITY has determined that construction of The Improvements falls within the definition of "public works" set forth in California Labor Code Section 1720. Subject to any amendments to Labor Code Section 1720 et seq., DEVELOPER shall comply with Labor Code Section 1720 et seq., shall comply with the provisions set forth in Exhibit B and shall ensure that any contractors and subcontractors comply with the provisions of Exhibit B. DEVELOPER shall waive, indemnify, hold harmless and defend CITY concerning any liability arising out of Labor Code Section 1720 et seq.

5. Insurance Required.

Concurrently with the execution hereof, DEVELOPER shall obtain or cause to be obtained and filed with the CITY, all insurance required in this paragraph and as set forth in Exhibit C, and such insurance shall have been approved by the Finance Director of CITY, or his designee, as to form, amount and carrier. Prior to the commencement of work under this Agreement, DEVELOPER's general contractor shall obtain or cause to be obtained and filed with the Finance Director, all insurance required under this paragraph and as set forth in Exhibit C, evidenced herein as Exhibit D, and such insurance shall have been approved by the Finance Director of CITY, as to form, amount and carrier. DEVELOPER shall not allow any contractor or subcontractor to commence work on this contract or subcontract until all insurance required for DEVELOPER and DEVELOPER's general contractor shall have been so obtained and approved. Said insurance shall be maintained in full force and effect until the completion of work under this Agreement and the final acceptance thereof by CITY. All

requirements herein provided shall appear either in the body of the insurance policies or as endorsements and shall specifically bind the insurance carrier.

6. Work Performance and Guarantee.

Except as otherwise expressly provided in this Agreement, and excepting only items of routine maintenance, ordinary wear and tear and unusual abuse or neglect, DEVELOPER guarantees all work executed by DEVELOPER and/or DEVELOPER's agents, and all supplies, materials and devices of whatsoever nature incorporated in, or attached to the work, or otherwise delivered to CITY as a part of the work pursuant to the Agreement, to be free of all defects of workmanship and materials for a period of one (1) year after initial acceptance of the entire work by CITY. DEVELOPER shall repair or replace any or all such work or material, together with all or any other work or materials which may be displaced or damaged in so doing, that may prove defective in workmanship or material within said one-year guarantee period without expense or charge of any nature whatsoever to CITY. DEVELOPER further covenants and agrees that when defects in design, workmanship and materials actually appear during the one-year guarantee period, and have been corrected, the guarantee period shall automatically be extended for an additional year to insure that such defects have actually been corrected.

In the event the DEVELOPER shall fail to comply with the conditions of the foregoing guarantee within thirty (30) days time, after being notified of the defect in writing, CITY shall have the right, but shall not be obligated, to repair or obtain the repair of the defect, and DEVELOPER shall pay to CITY on demand all costs and expense of such repair. Notwithstanding anything herein to the contrary, in the event that any defect in workmanship or material covered by the foregoing guarantee results in a condition which constitutes an immediate hazard to the public health, safety, or welfare, CITY shall have the right to immediately repair, or cause to be repaired, such defect, and DEVELOPER shall pay to CITY on demand all costs and expense of such repair. The foregoing statement relating to hazards to health and safety shall be deemed to include either temporary or permanent repairs which may be required as determined in the sole discretion and judgment of CITY.

If CITY, at its sole option, makes or causes to be made the necessary repairs or replacements or performs the necessary work, DEVELOPER shall pay, in addition to actual costs and expenses of such repair or work, fifty percent (50%) of such costs and expenses for overhead and interest at the maximum rate of interest permitted by law accruing thirty (30) days from the date of billing for such work or repairs.

7. Inspection of the Work.

DEVELOPER shall guarantee free access to CITY through its City Engineer and his designated representative for the safe and convenient inspection of the work throughout its construction. Said CITY representative shall have the authority to reject all materials and workmanship which are not in accordance with the plans and

specifications, and all such materials and or work shall be removed promptly by DEVELOPER and replaced to the satisfaction of CITY without any expense to CITY in strict accordance with the improvement plans and specifications.

8. Agreement Assignment.

This Agreement shall not be assigned by DEVELOPER without the written consent of CITY.

9. Abandonment of Work.

Neither DEVELOPER nor any of DEVELOPER's agents or contractors are or shall be considered to be agents of CITY in connection with the performance of DEVELOPER's obligations under this Agreement.

If DEVELOPER refuses or fails to obtain prosecution of the work, or any severable part thereof, with such diligence as will insure its completion within the time specified, or any extension thereof, or fails to obtain completion of said work within such time, or if DEVELOPER should be adjudged as bankrupt, or should make a general assignment for the benefit of DEVELOPER's creditors, or if a receiver should be appointed, or if DEVELOPER, or any of DEVELOPER's contractors, subcontractors, agents or employees should violate any of the provisions of this Agreement, the CITY through its Public Works Director may serve written notice on DEVELOPER and DEVELOPER's surety or holder of other security of breach of this Agreement, or of any portion, thereof, and default of DEVELOPER.

In the event of any such notice of breach of this Agreement, DEVELOPER's surety shall have the duty to take over and complete The Improvements herein specified; provided, however, that if the surety, within thirty (30) days after the serving upon it of such notice of breach, does not give CITY written notice of its intention to take over the performance of the contract, and does not commence performance thereof within thirty (30) days after notice to CITY of such election, CITY may take over the work and prosecute the same to completion, by contract or by any other method CITY may deem advisable, for the account and at the expense of DEVELOPER and DEVELOPER's surety shall be liable to CITY for any damages and/or reasonable and documented excess costs occasioned by CITY thereby; and, in such event, CITY, without liability for so doing, may take possession of, and utilize in completing the work, such materials, appliances, plant and other property belonging to DEVELOPER as may be on the site of the work and necessary therefor.

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 DEVELOPER shall be addressed as follows:

Discovery Builders, Inc.
Attn: Albert D. Seeno III
4061 Port Chicago Highway, Ste. H
Concord, CA 94520

Notices required to be given surety of DEVELOPER shall be addressed as follows:

Lexon Insurance Company
12890 Lebanon road
Mt Juliet Tn 37122

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

Concurrently with the execution of this Agreement, DEVELOPER has executed and has caused to be acknowledged an abstract of this Agreement. DEVELOPER agrees CITY may record said abstract in the Official Records of Contra Costa County.

10. Use of Streets or Improvements.

At all times prior to the final acceptance of the work by CITY, the use of any or all streets and improvements within the work to be performed under this Agreement shall be at the sole and exclusive risk of DEVELOPER. The issuance of any building or occupancy permit by CITY for dwellings located within the tract shall not be construed in any manner to constitute a partial or final acceptance or approval of any or all such improvements by CITY. DEVELOPER agrees that CITY's Building Official may withhold the issuance of building or occupancy permits when the work or its progress may substantially and/or detrimentally affect public health and safety.

11. Safety Devices.

DEVELOPER shall provide and maintain such guards, watchmen, fences, barriers, regulatory signs, warning lights, and other safety devices adjacent to and on the tract site as may be necessary to prevent accidents to the public and damage to the property. DEVELOPER shall furnish, place, and maintain such lights as may be necessary for illuminating the said fences, barriers, signs, and other safety devices. At the end of all 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 plans and included in the items of work) shall be removed from site of the work by the DEVELOPER, and the entire site left clean and orderly.

12. Acceptance of Work.

Upon notice of the completion of the work covered by this agreement and the delivery of a set of final as-built plans to CITY by DEVELOPER, CITY, through its City Engineer or his designated representative, shall examine the work without delay, and, if found to be in accordance with said plans and specifications and this Agreement, shall recommend acceptance of the work to the City Council and, upon such acceptance, shall notify DEVELOPER or his designated agents of such acceptance. CITY reserves the right to not accept the work until all construction activities, including those related to building construction, within the project boundaries has been completed.

13. Patent and Copyright Costs.

In the event that said plans and specifications require the use of any material, process or publication which is subject to a duly registered patent or copyright, DEVELOPER shall be liable for, and shall indemnify CITY from any fees, costs or litigation expenses, including attorneys' fees and court costs, which may result from the use of said patented or copyrighted material, process or publication.

14. Alterations in Plans and Specifications.

Any alteration or alterations made in the plans and specifications which are a part of this Agreement or any provision of this Agreement shall not operate to release any surety or sureties from liability on any bond or bonds attached hereto and made a part hereof, and consent to make such alterations is hereby given, and the sureties to said bonds hereby waive the provisions of Section 2819 of the Civil Code of the State of California.

15. Liability.

- a. DEVELOPER Primarily Liable. DEVELOPER hereby warrants that the design and construction of The Improvements will not adversely affect any portion of adjacent properties and that all work will be performed in a proper manner. DEVELOPER agrees to indemnify,

defend, release, and hold harmless CITY, and each of its elective and appointive boards, commissions, officers agents and employees, 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 from an act or omission of DEVELOPER, its employees, agents, or independent contractors in connection with DEVELOPER'S actions and obligations hereunder; provided as follows:

1. That CITY does not, and shall not, waive any rights against DEVELOPER which it may have by reason of the aforesaid hold harmless agreement, because of the acceptance by CITY, or the deposit with CITY by DEVELOPER, of any of the insurance policies described in Paragraph 4 hereof.
 2. That the aforesaid hold harmless agreement by DEVELOPER 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 paragraph, regardless of whether or not CITY has prepared, supplied, or approved of plans and/or specifications for the subdivision, 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 improvement becomes apparent during the course of construction, or within one (1) year following acceptance by the CITY of the improvements, and said design defect, in the opinion of the CITY, may substantially impair the public health and safety, DEVELOPER shall, upon order by the CITY, correct said design defect at his sole cost and expense, and the sureties under the Faithful Performance and Labor and Materials Bonds shall be liable to the CITY for the corrective work required.

- c. Litigation Expenses. In the event that legal action is instituted by either party to this Agreement, and said 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 said action, the prevailing party shall be entitled to recover its attorneys' fees and court costs. If CITY is the prevailing party, CITY shall also be entitled to recover its attorney's fees and costs in any action against DEVELOPER's surety on the bonds provided under paragraph 3.

16. Recitals.

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

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in duplicate at Oakley, California, the day and year first above written.

CITY OF OAKLEY

DEVELOPER

By: _____
Bryan H. Montgomery
City Manager

APPROVED AS TO FORM:

Derek P. Cole
City Attorney

ATTEST:

Libby Vreonis, City Clerk

- Exhibits:
- Exhibit A – City of Oakley, Planning Commission Resolution 146-06
 - Exhibit B – Prevailing Wage
 - Exhibit C - Insurance Requirements
 - Exhibit D - Verification of Required Insurance

EXHIBIT A

CITY COUNCIL RESOLUTION 146-06

EXHIBIT B

PROVISIONS REQUIRED FOR PUBLIC WORKS PROJECTS PURSUANT TO CALIFORNIA LABOR CODE SECTION 1720 *ET SEQ.*

The Developer will ensure that any contract issued by the Developer or any privities of the Developer concerning the Improvements includes, and requires the parties to such contract to comply with, all applicable provisions contained in this Exhibit A and any other applicable requirements contained in California Labor Code Section 1720 and following.

HOURS OF WORK:

- A. In accordance with California Labor Code Section 1810, eight (8) hours of labor in performance of the Services shall constitute a legal day's work under this Agreement.
- B. In accordance with California Labor Code Section 1811, the time of service of any worker employed in construction of the Improvements is limited to eight hours during any one calendar day, and forty hours during any one calendar week, except in accordance with California Labor Code Section 1815; which provides that work in excess of eight hours during any one calendar day and forty hours during any one calendar week is permitted upon compensation for all hours worked in excess of eight hours during any one calendar day and forty hours during any one calendar week at not less than one-and-one-half times the basic rate of pay.
- C. The Developer and its contractors and subcontractors shall forfeit as a penalty to the City \$25 for each worker employed in the construction of the Improvements for each calendar day during which the worker is required or permitted to work more than eight (8) hours in any one calendar day, or more than forty (40) hours in any one calendar week, in violation of the provisions of California Labor Code Section 1810 and following.

WAGES:

- A. In accordance with California Labor Code Section 1773.2, the City has determined the general prevailing wages in the locality in which the Improvements are to be constructed for each craft or type of work needed to be as published by the State of California Department of Industrial Relations, Division of Labor Statistics and Research. The Developer, and contractors and subcontractors engaged in the construction of the Improvements shall pay no less than these rates to all persons engaged in construction of the Improvements.

B. In accordance with Labor Code Section 1775, the Developer and any contractors and subcontractors engaged in construction of the Improvements shall comply with Labor Code Section 1775 which establishes a penalty of up to \$50 per day for each worker engaged in the construction of the Improvements who the Developer or any contractor or subcontractor pays less than the specified prevailing wage. The amount of such penalty shall be determined by the Labor Commissioner and shall be based on consideration of the mistake, inadvertence, or neglect of the Developer, contractor or subcontractor in failing to pay the correct rate of prevailing wages, or the previous record of the Developer, contractor or subcontractor in meeting applicable prevailing wage obligations, or the willful failure by the Developer, contractor or subcontractor to pay the correct rates of prevailing wages. A mistake, inadvertence, or neglect in failing to pay the correct rate of prevailing wages is not excusable if the Developer, contractor or subcontractor had knowledge of their obligations under the California Labor Code. The Developer, contractor or subcontractor shall pay the difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate. If a subcontractor worker engaged in construction of the Improvements is not paid the general prevailing per diem wages by the subcontractor, subject to applicable law, the prime contractor is not liable for any penalties therefore unless the prime contractor had knowledge of that failure or unless the prime contractor fails to comply with all of the following requirements:

1. Any agreement executed between the Developer and a contractor or a contractor and a subcontractor for the construction of part of the Improvements shall include a copy of the provisions of California Labor Code Sections 1771, 1775, 1776, 1777.5, 1813, and 1815.
2. The contractor shall monitor payment of the specified general prevailing rate of per diem wages by the subcontractor by periodic review of any subcontractor's certified payroll records.
3. Upon becoming aware of a subcontractor's failure to pay the specified prevailing rate of wages, the contractor shall diligently take corrective action to halt or rectify the failure, including, but not limited to, retaining sufficient funds due the subcontractor for construction of the Improvements.
4. Prior to making final payment to the subcontractor, the contractor shall obtain an affidavit signed under penalty of perjury from the subcontractor that the subcontractor has paid the specified general prevailing rate of per diem wages employees engaged in the

construction of the Improvements and any amounts due pursuant to California Labor Code Section 1813.

- C. In accordance with California Labor Code Section 1776, the Developer and each contractor and subcontractor engaged in construction of the Improvements, shall keep accurate payroll records showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed in construction of the Improvements. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:
1. The information contained in the payroll record is true and correct.
 2. The employer has complied with the requirements of Sections 1771, 1811, and 1815 for any services performed by the employer's employees on the public works project.

The payroll records required pursuant to California Labor Code Section 1776 shall be certified and shall be available for inspection by the City and its authorized representatives, the Division of Labor Standards Enforcement, the Division of Apprenticeship Standards of the Department of Industrial Relations and shall otherwise be available for inspection in accordance with California Labor Code Section 1776.

- D. In accordance with California Labor Code Section 1777.5, the prime contractor, on behalf of the Developer and any contractors or subcontractors engaged in construction of the Improvements, shall be responsible for ensuring compliance with California Labor Code Section 1777.5 governing employment and payment of apprentices on public works contracts.
- E. In case it becomes necessary for the Developer or any contractor or subcontractor engaged in construction of the Improvements to employ on the construction of the Improvements any person in a trade or occupation (except executive, supervisory, administrative, clerical, or other non manual workers as such) for which no minimum wage rate has been determined by the Director of the Department of Industrial Relations, the Developer, contractor or subcontractor shall pay the minimum rate of wages specified therein for the classification which most nearly corresponds to services to be performed by that person. The minimum rate thus furnished shall be applicable as a minimum for such trade or occupation from the time of the initial employment of the person affected and during the continuance of such employment.

EXHIBIT C

INSURANCE REQUIREMENTS

CONSTRUCTION CONTRACTS

MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than **\$5,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit (i.e., \$10,000,000)
2. **Automobile Liability:** Insurance Services Office Form Number CA 0001 covering Code 1 (any auto), with limits no less than **\$5,000,000** per accident for bodily injury and property damage.
3. **Workers' Compensation** insurance as required by the State of California, with Statutory Limits, and Employers' Liability insurance with a limit of no less than \$1,000,000 per accident for bodily injury or disease.
4. **Builder's Risk (Course of Construction)** insurance utilizing an "All Risk" (Special Perils) coverage form, with limits equal to the completed value of the project and no coinsurance penalty provisions.
5. **Surety Bonds** as described below.
6. **Professional Liability** (if Design/Build), with limits no less than \$1,000,000 per occurrence or claim, and \$2,000,000 policy aggregate.
7. **Contractors' Pollution Legal Liability** and/or Asbestos Legal Liability and/or Errors and Omissions (if project involves environmental hazards) with limits no less than \$1,000,000 per occurrence or claim, and \$2,000,000 policy aggregate.

If the contractor maintains higher limits than the minimums shown above, the City requires and shall be entitled to coverage for the higher limits maintained by the contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

Contractor shall procure and maintain for the duration of the contract, and if Contractor has a claims-made policy, Contractor shall maintain for two years thereafter, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Contractor, its agents, representatives, employees or subcontractors.

Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the City. At the option of the City, either: the contractor shall cause the insurer to reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, officials, employees, and volunteers; or the Contractor shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

1. **The City, its officers, officials, employees, and volunteers are to be covered as additional insureds** on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations and automobiles owned, leased, hired, or borrowed by or on behalf of the Contractor. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance (at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10 10 01 and CG 20 37 10 01 forms if later revisions used).
2. For any claims related to this project, the **Contractor's insurance coverage shall be primary** insurance as respects the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers shall be in excess of the Contractor's insurance and shall not contribute with it.
3. Each insurance policy required by this clause shall provide notice will be provided to City in the event that the policy is terminated. Contractor shall immediately notify City of any insurance cancellation or termination and shall provide replacement insurance policy documentation to the City.

Builder's Risk (Course of Construction) Insurance

Contractor may submit evidence of Builder's Risk insurance in the form of Course of Construction coverage. Such coverage shall **name the City as a loss payee** as their interest may appear.

If the project does not involve new or major reconstruction, at the option of the City, an Installation Floater may be acceptable. For such projects, a Property Installation Floater shall be obtained that provides for the improvement, remodel, modification, alteration, conversion or adjustment to existing buildings, structures, processes, machinery and equipment. The Property Installation Floater shall provide property damage coverage for any building, structure, machinery or equipment damaged, impaired, broken, or destroyed during the performance of the Work, including during transit, installation, and testing at the City's site.

Claims Made Policies

If any coverage required is written on a claims-made coverage form:

1. The retroactive date must be shown, and this date must be before the execution date of the contract or the beginning of contract work.
2. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of contract work.
3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the contract effective, or start of work date, the Contractor must purchase extended reporting period coverage for a minimum of five (5) years after completion of contract work.
4. A copy of the claims reporting requirements must be submitted to the City for review.
5. If the services involve lead-based paint or asbestos identification/remediation, the Contractors Pollution Liability policy shall not contain lead-based paint or asbestos exclusions. If the services involve mold identification/remediation, the Contractors Pollution Liability policy shall not contain a mold exclusion, and the definition of Pollution shall include microbial matter, including mold.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best rating of no less than A:VII, unless otherwise acceptable to the City.

Waiver of Subrogation

Contractor hereby agrees to waive rights of subrogation which any insurer of Contractor may acquire from Contractor by virtue of the payment of any loss. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation. **Worker's Compensation policies shall be endorsed with a waiver of subrogation** in favor of the City for all work performed by the Contractor, its employees, agents and subcontractors.

Verification of Coverage

Contractor shall furnish the City with original certificates and amendatory endorsements, or copies of the applicable insurance language, effecting coverage required by this contract. All certificates and endorsements are to be received and approved by the City before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements, required by these specifications, at any time.

Subcontractors

Contractor shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Contractor shall ensure that City is an additional insured on insurance required from subcontractors. For CGL coverage subcontractors shall provide coverage with a format least as broad as CG 20 10 10 01 and CG 20 37 10 01.

Surety Bonds

Contractor shall provide the following Surety Bonds:

1. Bid bond
2. Performance bond
3. Payment bond
4. Maintenance bond

The Payment Bond and the Performance Bond shall be in a sum equal to the contract price. If the Performance Bond provides for a one-year warranty a separate Maintenance Bond is not necessary. If the warranty period specified in the contract is for longer than one year a Maintenance Bond equal to 10% of the contract price is required. Bonds shall be duly executed by a responsible corporate surety, authorized to issue such bonds in the State of California and secured through an authorized agent with an office in California.

Special Risks or Circumstances

City reserves right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other circumstances.

EXHIBIT D
VERIFICATION OF INSURANCE

RESOLUTION NO. XX-17

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY APPROVING THE SUBDIVISION IMPROVEMENT AGREEMENT WITH DISCOVERY BUILDERS, INC. FOR SUBDIVISION 9043 ASPEN LANE AND AUTHORIZING THE CITY MANAGER TO SIGN THE AGREEMENT

WHEREAS, the City Council of the City of Oakley, California, wishes to enter into a Subdivision Improvement Agreement with Discovery Builders, Inc. for the development of a residential subdivision known as Subdivision 9043 Aspen Lane; and

WHEREAS, this agreement will require the developer to complete approximately \$583,000 in public improvements and drainage infrastructure 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 Subdivision Improvement Agreement with Discovery Builders, Inc. is hereby approved and the City Manager is hereby authorized to execute the Subdivision Improvement Agreement for the development of Subdivision 9043 Aspen Lane in the form attached hereto as Exhibit A and is made part of this resolution.

PASSED AND ADOPTED by the City Council of the City of Oakley, California, this 8th day of August 2017 by the following vote:

AYES:
NOES:
ABSTENTIONS:
ABSENT:

APPROVED:

Sue Higgins, Mayor

ATTEST:

Libby Vreonis, City Clerk

Date

RESOLUTION NO. XX-17

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY APPROVING THE FINAL MAP OF SUBDIVISION 9043 ASPEN LANE

WHEREAS, Discovery Builders, Inc. has satisfied the necessary conditions of approval for Subdivision 9043 Aspen Lane, as approved by the City Council on November 27, 2006 by Resolution Number 146-06; and

WHEREAS, the City Engineer has determined that the conditions of approval for the project have been satisfied; and

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

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Oakley that the final map labeled "Subdivision 9043 Aspen Lane", as prepared by BKF, Inc. be approved.

PASSED AND ADOPTED by the City Council of the City of Oakley, California, this 8th day of August 2017 by the following vote:

- AYES:
- NOES:
- ABSTENTIONS:
- ABSENT:

APPROVED:

Sue Higgins, Mayor

ATTEST:

Libby Vreonis, City Clerk

Date

OWNER'S STATEMENT

THE UNDERSIGNED, BEING THE PARTY HAVING A RECORD TITLE INTEREST IN THE LANDS DELINEATED WITHIN THE HEAVY BLACK LINES UPON THIS MAP, DOES HEREBY CONSENT TO THE MAKING AND RECORDATION OF THE SAME, AND DOES HEREBY DEDICATE IN FEE TO THE PUBLIC FOR PUBLIC USE TO THOSE PORTIONS OF SAID LANDS DESIGNATED ON SAID MAP AS: ACACIA DRIVE AND PINNUT STREET.

THE AREAS DESIGNATED "PUBLIC UTILITY EASEMENT" OR "P.U.E." ARE HEREBY DEDICATED TO THE CITY OF OAKLEY, OR ITS DESIGNEE, FOR THE USE OF ALL PUBLIC UTILITIES, AND INCLUDES RIGHTS FOR CONSTRUCTION, RECONSTRUCTION, ACCESS TO AND MAINTENANCE OF IMPROVEMENTS AND STRUCTURES, WHETHER COVERED OR OPEN, AND THE CLEARING OF OBSTRUCTIONS AND VEGETATION.

AND THE UNDERSIGNED HEREBY DEDICATE TO THE PUBLIC FOREVER THE RIGHT TO CONSTRUCT, RECONSTRUCT AND MAINTAIN SIDEWALKS AND APPURTENANCES, IN, ON, OVER AND UNDER THOSE STRIPS OF LAND SHOWN UPON SAID MAP AND DESIGNATED "SIDEWALK EASEMENT" OR "S.E." THEREON, AS EMBODIED WITHIN THE BOUNDARY LINES OF THE HEREIN EMBODIED MAP, TOGETHER WITH THE RIGHT TO ENTER UPON SAID STRIPS FOR THE PURPOSES OF PUBLIC ACCESS, CONSTRUCTION, RECONSTRUCTING, MAINTAINING OR REPAIRING SAID SIDEWALKS AND APPURTENANCES THEREON.

THE MAP SHOWS ALL THE EASEMENTS ON THE PREMISES, OR OF RECORD WITHIN THE BOUNDARY LINES OF THE HEREIN EMBODIED MAP AS SHOWN ON THE PRELIMINARY-TITLE REPORT ORDER NUMBER 0147002877, DATED JANUARY 30, 2007, PREPARED BY OLD REPUBLIC TITLE COMPANY.

THE UNDERSIGNED FURTHER RELINQUISHES TO THE CITY OF OAKLEY ALL ADJUTER'S RIGHTS OF ACCESS ALONG THE PROPERTY LINES ADJACENT TO EMPIRE AVENUE, CARPENTER ROAD AND EASTERLY LINE OF ACACIA DRIVE AND IN THOSE AREAS DEPICTED HEREON BY THE SYMBOL

DISCOVERY BUILDERS, INC., A CALIFORNIA CORPORATION

BY: [Signature]
ALBERT D. SEENO III, PRESIDENT

OWNER ACKNOWLEDGMENT

STATE OF California ss.
COUNTY OF Contra Costa
ON September 25 2014, BEFORE ME, Robin Valenzuela, A NOTARY PUBLIC,

PERSONALLY APPEARED Albert D. Seeno III, WHO PROMISED 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/IT/HEY EXECUTED THE SAME IN HIS/HER/THEIR AUTHORIZED CAPACITIE(S); 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.
NOTARY SIGNATURE: Robin Valenzuela
PRINTED NAME: Robin Valenzuela
COUNTY OF PRINCIPAL PLACE OF BUSINESS: Contra Costa
COMMISSION NO.: 1977578
COMMISSION EXPIRATION DATE: May 7, 2016

SURVEYOR'S STATEMENT

THIS MAP WAS PREPARED 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 DISCOVERY BUILDERS, INC., A CALIFORNIA CORPORATION ON MAY 2007. 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 ON OR BEFORE AUGUST 31, 2018, AND THAT THE MONUMENTS, ARE OR WILL BE SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACTED, AND THAT THIS FINAL MAP SUBSTANTIALLY CONFORMS TO THE CONDITIONALLY APPROVED TENTATIVE MAP, AND FURTHER STATE THAT THIS SUBDIVISION ENTITLED "SUBDIVISION 9034" IS A SUBDIVISION CONTAINING 3.984 ACRES, MORE OR LESS. THE BEARINGS SHOWN HEREON ARE BASED ON THE BEARING N 86°22'31" W OF THE CENTER LINE OF CARPENTER ROAD AS SHOWN ON MAP OF SUBDIVISION 7830, FILED MARCH 22, 2001 IN BOOK 429 OF MAPS AT PAGE 1, RECORDS OF CONTRA COSTA COUNTY.

DAVIS THRESH
P.L.S. NO. 6868
L.G. EXP. 9-30-2018



OMITTED SIGNATURES

IN ACCORDANCE WITH SECTION 68436 OF THE SUBDIVISION MAP ACT, THE SIGNATURES OF THE FOLLOWING HOLDERS OF RIGHTS OF WAY OR EASEMENTS, WHICH CANNOT OPEN INTO FEE, HAVE BEEN OMITTED.

1. AN EASEMENT FOR UNDERGROUND MINERAL RIGHTS GRANTED TO THE CITY OF OAKLEY, SERIES NO. 2006-4811.
2. AN EASEMENT FOR UNDERGROUND IRRIGATION WATER PIPE LINE GRANTED TO BARBARA J. CAVALLI, ET AL; SERIES NO. 2001-306481
3. AN EASEMENT FOR UNDERGROUND IRRIGATION WATER PIPE LINE GRANTED TO LEO C. MASTER, ET AL; SERIES NO. 2001-306480

CITY ENGINEER'S STATEMENT

I, KOUROSH ROHANI, CITY ENGINEER OF THE CITY OF OAKLEY, DO HEREBY STATE THAT I HAVE EXAMINED THIS MAP ENTITLED "SUBDIVISION 9043" THAT SAID SUBDIVISION AS SHOWN IS IN SUBSTANTIAL CONFORMANCE WITH THE TENTATIVE MAP APPROVED BY THE CITY OF OAKLEY COUNCIL ON NOVEMBER 27, 2006; AND THAT ALL PROVISIONS OF STATE LAWS AND LOCAL ORDINANCES WHICH GOVERNED THE FILING OF SUBDIVISION MAPS AT THE TIME SAID TENTATIVE MAP WAS APPROVED HAVE BEEN COMPLIED WITH.

DATE: _____
KOUROSH ROHANI, R.C.E. NO. 51138
CITY ENGINEER, CITY OF OAKLEY,
CONTRA COSTA COUNTY, CALIFORNIA
REG. EXPIRES SEPTEMBER 30, 2015

CITY SURVEYOR'S STATEMENT

I, FRANCIS JOSEPH KENNEDY, CITY SURVEYOR OF THE CITY OF OAKLEY, DO HEREBY STATE THAT I HAVE EXAMINED THIS MAP ENTITLED "SUBDIVISION 9043" AND I AM SATISFIED THAT SAID MAP IS TECHNICALLY CORRECT.

DATE: _____
FRANCIS JOSEPH KENNEDY
CITY SURVEYOR, CITY OF OAKLEY, CONTRA
COSTA COUNTY, STATE OF CALIFORNIA
R.C.E. NO. 21771
EXPIRATION DATE 9-30-18

CERTIFICATE OF DEDICATION FOR SAME PUBLIC PURPOSE

DISCOVERY BUILDERS, INC., A CALIFORNIA CORPORATION, HAS DEDICATED HEREON CERTAIN PUBLIC RIGHTS OF WAY FOR ACACIA DRIVE, PINNUT STREET, AND EASEMENTS FOR PUBLIC UTILITY. THE CITY OF OAKLEY SHALL RECONVEY THE PROPERTY TO DISCOVERY BUILDERS, INC., AT 4061 PORT CHICAGO HIGHWAY, SUITE H, CONCORD, CA 94620, OR ITS SUCCESSOR IN INTEREST IF THE CITY OF OAKLEY SUBSEQUENTLY MAKES A DETERMINATION PURSUANT TO THE PROVISIONS OF SECTION 68477.8 OF THE SUBDIVISION MAP ACT THAT THE SAME PUBLIC PURPOSE FOR WHICH THE PROPERTY OR ANY PORTION THEREOF WAS DEDICATED DOES NOT EXIST OR THE PROPERTY IS NOT NEEDED FOR PUBLIC UTILITIES.

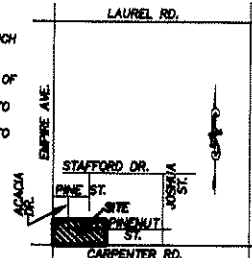
CITY CLERK'S STATEMENT

I, LIBBY WREONIS, CITY CLERK AND CLERK OF THE COUNCIL OF THE CITY OF OAKLEY, DO HEREBY CERTIFY THAT THE HEREIN EMBODIED FINAL MAP ENTITLED "SUBDIVISION 9043", CONSISTING OF THREE (3) SHEETS, THIS STATEMENT BEING ON SHEET ONE (1) THEREOF, WAS PRESENTED TO THE CITY COUNCIL, AS PROVIDED BY LAW, AT A REGULAR MEETING THEREOF HELD ON THE ____ DAY OF _____, 20____, AND THAT SAID COUNCIL DID THEREUPON BY RESOLUTION NUMBER _____ PASSED AND ADOPTED AT SAID MEETING, APPROVE SAID MAP AND DO ACCEPT; SUBJECT TO IMPROVEMENT ANY OF THE STREETS, ROADS, AVENUES, DRIVES, OR EASEMENTS SHOWN THEREON AS DEDICATED TO PUBLIC USE.

I FURTHER STATE THAT ALL AGREEMENTS AND SURETY AS REQUIRED BY LAW TO ACCOMPANY THE WITHIN FINAL MAP HAVE BEEN APPROVED BY THE CITY COUNCIL OF THE CITY OF OAKLEY AND ARE FILED IN MY OFFICE.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND THIS ____ DAY OF _____, 20____.

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



VICINITY MAP
NOT TO SCALE

SUBDIVISION 9043

ASPHEN LANE
CONSISTING OF 3 SHEETS
A PORTION OF THE SOUTH 1/2
OF THE SOUTHWEST 1/4
OF THE NORTHWEST 1/4 OF SECTION 33,
TOWNSHIP 2 NORTH, RANGE 2 EAST,
MOUNT Diablo Base and Meridian
LYING ENTIRELY WITHIN THE
CITY OF OAKLEY, CONTRA COSTA COUNTY, CALIFORNIA
DATE: OCTOBER 2014



CLERK OF THE BOARD OF SUPERVISOR'S CERTIFICATE
I STATE, AS CHECKED BELOW, THAT

- () A TAX BOND ASSURING PAYMENT OF ALL TAXES WHICH ARE NOW A LIEN, BUT NOT YET PAYABLE, HAS BEEN RECEIVED AND FILED WITH THE BOARD OF SUPERVISORS OF CONTRA COSTA COUNTY, STATE OF CALIFORNIA.
- () ALL TAXES DUE HAVE BEEN PAID, AS CERTIFIED BY THE COUNTY REDEMPTION OFFICER.

DATED: _____
DAVID J. TWA
CLERK OF THE BOARD OF SUPERVISORS
AND COUNTY ADMINISTRATOR OF CONTRA
COSTA COUNTY, STATE OF CALIFORNIA
BY: _____
DEPUTY CLERK
PRINT NAME

COUNTY RECORDER'S STATEMENT

THE MAP ENTITLED SUBDIVISION 9043 IS HEREBY ACCEPTED FOR RECORDATION SHOWING A CLEAR TITLE AS PER LETTER OF TITLE MADE BY OLD REPUBLIC TITLE COMPANY, DATED THE ____ DAY OF _____, 20____, AND AFTER EXAMINING THE SAME, I DEEM THAT SAID MAP COMPLIES IN ALL RESPECTS WITH THE PROVISIONS OF STATE LAWS AND LOCAL ORDINANCES GOVERNING THE FILING OF SUBDIVISION MAPS.

FILED AT THE REQUEST OF OLD REPUBLIC TITLE COMPANY AT _____ M. ON THIS ____ DAY OF _____, 20____, IN BOOK _____ OF MAPS AT PAGE(S) _____ AND _____ IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA.

JOSEPH E. CANCEMI
COUNTY RECORDER IN AND FOR THE
COUNTY OF CONTRA COSTA,
STATE OF CALIFORNIA
BY: _____
DEPUTY COUNTY RECORDER
PRINT NAME

GEOTECHNICAL SOILS REPORT

A SOILS REPORT HAS BEEN PREPARED BY ENGED INCORPORATED, PROJECT NO. 8884.3.001.01, DATED SEPTEMBER 27, 2008, AND IS ON FILE IN THE OFFICE OF THE CITY ENGINEER OF THE CITY OF OAKLEY, COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA.

DATE: _____
KOUROSH ROHANI, R.C.E. NO. 51138
CITY ENGINEER, CITY OF OAKLEY,
CONTRA COSTA COUNTY, CALIFORNIA
REG. EXPIRES SEPTEMBER 30, 2015

SUBDIVISION 9043

ASPEN LANE

CONSISTING OF 3 SHEETS

A PORTION OF THE SOUTH 1/2
OF THE SOUTHWEST 1/4
OF THE NORTHWEST 1/4 OF SECTION 35,
TOWNSHIP 2 NORTH, RANGE 2 EAST,
MOUNT Diablo BASE AND MERIDIAN

LYING ENTIRELY WITHIN THE
CITY OF OAKLEY, CONTRA COSTA COUNTY, CALIFORNIA

DATE: OCTOBER 2014



ENGINEERS-SURVEYORS-PLANNERS
1888 TECHNOLOGY DRIVE, SUITE 400
SAN JOSE, CALIFORNIA 95110

TRUSTEE'S STATEMENT

THE UNDERSIGNED AS TRUSTEE UNDER THE DEED OF TRUST RECORDED NOVEMBER 9, 2007 IN SERIES NUMBER 2007-31867 OF OFFICIAL RECORDS OF CONTRA COSTA COUNTY, (AS AMENDED, MODIFIED OR RESTATED FROM TIME TO TIME), ENCUMBERING THE LAND HEREIN SHOWN, DOES HEREBY JOIN IN AND CONSENT TO THE EXECUTION OF THE FOREGOING OWNER'S STATEMENT AND TO THE PREPARATION AND RECORDATION OF THIS MAP AND ALL DEEDING AND DEDICATIONS THEREON.

BY: AMERICAN SECURITIES COMPANY, A CALIFORNIA CORPORATION

NAME: Kristin P. Miller Kristin P. Miller
TITLE: Vice President

TRUSTEE ACKNOWLEDGMENT

STATE OF CALIFORNIA vs.
COUNTY OF CONTRA COSTA

ON Oct. 24 20 14 BEFORE ME, Robbin Valenzuela, A NOTARY PUBLIC,

PERSONALLY APPEARED Kristin P. Miller

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/IT/HEY EXECUTED THE SAME IN HIS/HER/THEIR AUTHORIZED CAPACITIES, 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.

NOTARY'S SIGNATURE: Robbin Valenzuela

PRINTED NAME: Robbin Valenzuela

COUNTY OF PRINCIPAL PLACE OF BUSINESS: CONTRA COSTA

COMMISSION No.: 19775-18

COMMISSION EXPIRATION DATE: May 7, 2016

SUBDIVISION 9043

ASPEN LANE

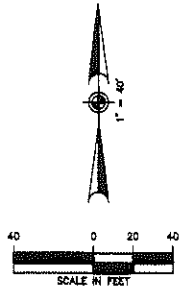
CONSISTING OF 3 SHEETS

A PORTION OF THE SOUTH 1/2
OF THE SOUTHWEST 1/4
OF THE NORTHWEST 1/4 OF SECTION 35,
TOWNSHIP 2 NORTH, RANGE 2 EAST,
MOUNT DIABLO BASE AND MERIDIAN

LYING ENTIRELY WITHIN THE
CITY OF OAKLEY, CONTRA COSTA COUNTY, CALIFORNIA

SCALE 1"=40'

DATE: OCTOBER 2014



MAP REFERENCES

(R1) SUBDIVISION 7630, 429 M 1

LEGEND

| | |
|--------|-------------------------------|
| EMT. | EASEMENT |
| MON | MONUMENT |
| M-M | MONUMENT TO MONUMENT DISTANCE |
| P.U.E. | PUBLIC UTILITY EASEMENT |
| S.E. | SEWALK EASEMENT |
| (R) | RADIAL BEARING |
| SF | SQUARE FEET |
| --- | DISTINCTIVE BOUNDARY LINE |
| --- | CENTER LINE |
| --- | EASEMENT LINE |

INDICATES NO ACCESS

● FOUND BRASS DISK MONUMENT WITH PUNCH MARK, STAMPED "LS 0000", PER SUBDIVISION 7630, 429 M 1

⊙ SET 3-1/2" BRASS DISK IN CONC BASE INSIDE MON WELL, STAMPED "LS 0000"

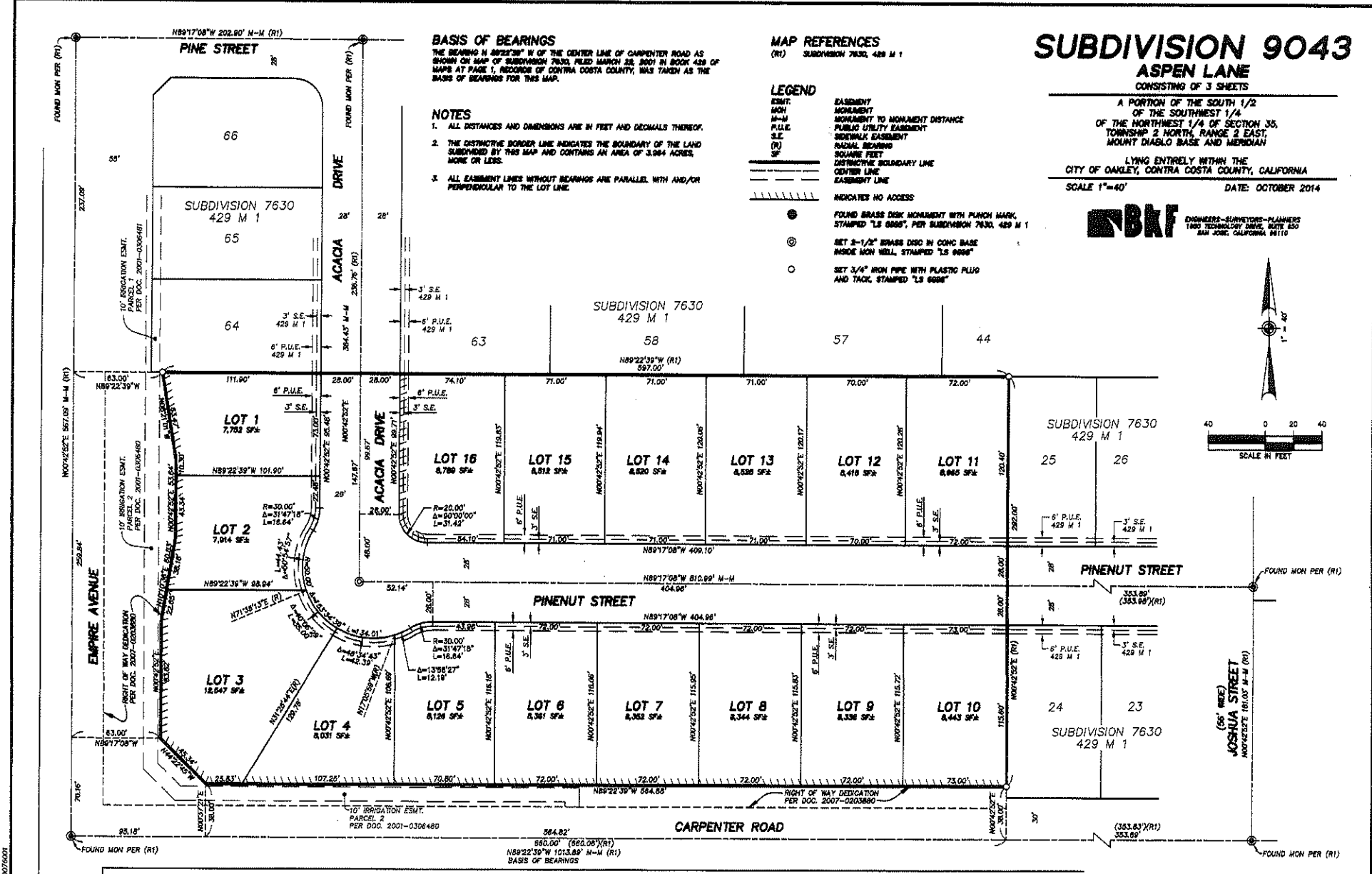
○ SET 3/4" IRON PIPE WITH PLASTO PLUS AND TACK, STAMPED "LS 0000"

BASIS OF BEARINGS

THE BEARING N 89°22'39" W OF THE CENTER LINE OF CARPENTER ROAD AS SHOWN ON MAP OF SUBDIVISION 7630, FILED MARCH 22, 2001 IN BOOK 429 OF MAPS AT PAGE 1, RECORD OF CONTRA COSTA COUNTY, WAS TAKEN AS THE BASIS OF BEARINGS FOR THIS MAP.

NOTES

1. ALL DISTANCES AND DIMENSIONS ARE IN FEET AND DECIMALS THEREOF.
2. THE DISTINCTIVE BORDER LINE INDICATES THE BOUNDARY OF THE LAND SURVEYED BY THIS MAP AND CONTAINS AN AREA OF 3.984 ACRES, MORE OR LESS.
3. ALL EASEMENT LINES WITHOUT BEARINGS ARE PARALLEL WITH AND/OR PERPENDICULAR TO THE LOT LINE.



REF 200716001