



Agenda Date: 08/11/2015
Agenda Item: 3.5

STAFF REPORT

Date: Tuesday, July 14, 2015

To: Bryan H. Montgomery, City Manager

From: Kevin Rohani, Public Works Director/City Engineer

Subject: Subdivision Improvement Agreement, Subdivision Annexation and Assessment Authorization Deferral Agreement and Final Map for Subdivision 8728 (Cypress Estates, south end of Fuschia Way, east end of Mallard Lane)

Approved and Forwarded to City Council:


Bryan H. Montgomery, City Manager

Background and Analysis

On October 3, 2005 the Planning Commission of the City of Oakley adopted Resolution 35-05 conditionally approving the tentative map for Subdivision 8728, a 30-lot residential subdivision at the south end of Fuschia Way and the east end of Mallard Lane.

Forecast Land Company, LLC has requested approval by the City Council of the final map for Subdivision 8728 consisting of 30 lots.

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

The Subdivision Improvement Agreement requires the applicant to complete the public improvements as required by the conditions of approval for Subdivision 8728. As part of this agreement, the applicant is required to provide various securities up to the amount of the estimated cost of public improvements and drainage, (currently estimated to be a total of \$616,372.00). None of these improvements have been completed and accepted at this time. The applicant is required to commence construction no later than December 31, 2016 and to complete the public improvements within twelve months in accordance with the Subdivision Map Act (Government Code §66410) and the 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 the agreements).

The final conditions of approval that remain to be satisfied are related to the participation in the special police tax area (Condition 64), participating in the formation of an assessment district for the construction of off-site improvements (Condition 65) and participating in the formation of a mechanism to fund the operation and maintenance of the storm drain system (Condition 66). Those items take several months to complete, and are more efficient when grouped with other projects.

The City Council has been receptive to recording final maps prior to completion of the annexation process for other projects, so staff prepared a similar agreement to those used in the past. The agreements used previously allowed the map to record, but prohibited the sale of lots until the annexation was complete.

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, the Subdivision Assessment and Annexation Authorization Deferral Agreement and approving the Final Map for Subdivision 8728.

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

Attachments

- 1) Subdivision Improvement Agreement (SIA)
- 2) Subdivision Assessment and Annexation Authorization Deferral Agreement (SAAADA)
- 3) Resolution for SIA
- 4) Resolution for SAAADA
- 5) Resolution Approving the Final Map titled Subdivision 8728
- 6) Reduction of Subdivision 8728 Final Map

**CITY OF OAKLEY
SUBDIVISION IMPROVEMENT AGREEMENT
SUBDIVISION 8728**

This agreement is made and entered into this 14th day of July, 2015 by and between the City of Oakley, a municipal corporation, hereinafter referred to as "CITY", and FORECAST LAND DEVELOPMENT, LLC, a California Limited Liability Company, 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 8728, desires to improve and dedicate those public improvements (hereafter "The Improvements") required by the conditions of approval for the project as adopted by the Planning Commission of the City of Oakley via Resolution Number 35-05 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 CYPRESS ESTATES SUBDIVISION 8728" and "IMPROVEMENT PLANS CYPRESS ESTATES SUBDIVISION 8728" as prepared by Isakson & Associates, Inc. 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 35-05 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 8728 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 December 31, 2016. 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 \$64,199.00 for Grading and \$552,173.00 for Public Improvements,. Said amounts include costs and reasonable expenses and fees which may be incurred in enforcing the obligation secured.

3. Bonds Furnished.

Concurrently 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:

3231. 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. A minimum of one percent (1%) of the security shall be a cash deposit.
- 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 with 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:

Forecast Land Investment, LLC,
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:

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

Albert D. Seeno, III

APPROVED AS TO FORM:

Derek P. Cole
City Attorney

ATTEST:

Libby Vreonis, City Clerk

- Exhibits:
- Exhibit A – City of Oakley, Planning Commission Resolution 35-05
 - Exhibit B – Prevailing Wage
 - Exhibit C - Insurance Requirements
 - Exhibit D - Verification of Required Insurance

EXHIBIT A

PLANNING COMMISSION RESOLUTION 35-05

CITY OF OAKLEY

PLANNING COMMISSION

RESOLUTION NO. 35-05

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF OAKLEY
MAKING FINDINGS AND CONDITIONALLY APPROVING
SUBDIVISION 8728 LOCATED WITHIN A VACANT ALMOND ORCHARD SOUTHEAST
OF FUSCHIA WAY, NEAR MALLARD LAND AND DUARTE AVENUE, INCLUDING A
TENTATIVE MAP, DEVELOPMENT PLAN, LAND USE PERMIT AND A TREE PERMIT**

FINDINGS

WHEREAS, On November 1998, the voters approved the incorporation of the City of Oakley, to be effective July 1, 1999; and

WHEREAS, On July 1, 1999, the City of Oakley was incorporated; and

WHEREAS, After incorporation, the City adopted the Contra Costa County General Plan for the Oakley Area as its general plan, the County's subdivision ordinance as its subdivision ordinance, and the County's zoning ordinance as its zoning ordinance (Ordinance Nos. 1-99, 17-99, 22-99). Since that time, the City has prepared its own general plan, as required by Government Code Section 65360; and

WHEREAS, in December 2002, the Oakley City Council adopted the Oakley 2020 General Plan; and

WHEREAS, in February 2003 Discovery Homes submitted an application to the city requesting Tentative Map and Rezone approval; and

WHEREAS, the Property is currently designated Single Family High Density in the General Plan. The property is currently zoned P-1 Planned Development for single family residential within the City's Redevelopment Area; and

WHEREAS, the City prepared a Negative Declaration dated August 22, 2005, 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 22, 2005. The Notice of Intent was circulated for the required 30-day public review period, from August 22, 2005 through September 23, 2005.

WHEREASE, on October 3, 2005, 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 straw vote and unanimously 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.

WHEREASE, these Findings are based on the City's General Plan, the City's Zoning and Subdivision Ordinances, and the information submitted to the Planning

Commission at its October 3, 2005 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 above Findings and the entire Record, the Planning Commission makes the following additional findings in support of the approvals:

1. Regarding the approval of Tentative Map 8728, the Commission 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.

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

3. Regarding the Land Use Permit for the eight-foot fence/wall combinations the Commission finds that:

a. The retaining wall/fence combinations will provide adequate six-foot good neighbor fences for all existing and future residents to ensure the general welfare and safety of residents within the City.

b. The proposed use will not adversely affect the orderly development of property within the City. The construction of fence/walls over six feet will not affect the orderly development of the City and will ensure all residents have adequate privacy fencing.

c. The construction of the fence/wall combinations will not affect property values or does not have any relation to the tax base in the City. Therefore, the proposed use will not adversely affect the preservation of property values and protection of tax base within the City.

d. The General Plan sets up policies for future development and looks to the Zoning Ordinance for specific development standards. The Zoning Ordinance states that fences and walls shall be a maximum height of 6'. Any fences or walls above 6' require a Land Use Permit. Therefore, the approval of this project will not adversely affect the policies and goals set by the General Plan.

e. The construction of six foot fences or higher provide adequate security and privacy for home owners. The approval of this permit would not create any nuisances or enforcement problems within the City.

f. The proposed Land Use Permit is in association with the development of a 30-lot subdivision. The subdivision meets all of the standards of the City of Oakley as set forth in the Zoning and Subdivision Ordinances. The proposed use will not encourage marginal development.

g. The locations of the retaining wall/fence combinations are located at the edge of the property adjacent to developed properties. The retaining walls will

provide for adequate drainage on-site and will allow for 6' good neighbor fences. These unique characteristics at the edge of the property make the Land Use Permit necessary.

BE IT FURTHER RESOLVED THAT, on the basis of the foregoing Findings and the entire Record, the Planning Commission takes the following actions:

- Certify the Negative Declaration
- Approve the Tentative Map;
- Approve the Land Use Permit;
- Approve the Tree Permit; and
- Approve the Design Review

BE IT FURTHER RESOLVED THAT, on the basis of the above Findings and the Record, the Planning Commission approves the Applicants' request for the Vesting Tentative Map, Design Review, Land Use Permit and Tree Permit with the following conditions:

CONDITIONS OF APPROVAL

Subdivision

1. The Subdivision, Design Review, Land Use Permit, and Tree Permit are approved, as shown on the Exhibits A-C 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, Design Review, Land Use Permit, and Tree Permit approval shall be effectuated within a period of three (3) years from this date and if not effectuated shall expire on **October 4, 2008**. 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 October 4, 2008**.
3. All conditions of approval shall be satisfied by the owner/developer. All costs associated with compliance with the conditions shall be at the owner/developer's expense with exception to the City's contribution towards the construction of Drainage Line J.
4. Prior to issuance of any permits the applicant shall submit an Affordable Housing Plan demonstrating compliance with Section 8 of Ordinance 14-04 by details for the construction of an affordable unit, or agreement to pay a fee in-lieu of providing the inclusionary affordable units.
5. The applicant shall construct a single story residence on lot number 30, and may swap the proposed building plans for lots numbers 2 and 30 to accomplish this.
6. The building plans for lots 1 and 2 shall be revised with front elevations that feature varied footprints and additional design elements for enhancement.
7. If revisions to the development plan involve structural encroachment into the required yard setback the applicant shall submit an application for variance

- approval. An exception is made for covered porches or similar structures that do not include living space.
8. No pop-out features such as bay windows shall encroach into the required side yard setbacks.
 9. There shall be a minimum 15-foot aggregate side yard setback between the second story portions of adjacent residences.
 10. The development plan shall be revised to establish equal distribution of single story residences throughout the subdivision.
 11. The applicant shall attempt to utilize wrap around porches on corner lots.
 12. The revised development plan shall identify side elevations with increased visibility from streets. Architectural embellishments shall be provided to increase articulation and enhance these side elevations. Preferred embellishments include belly-bands to wrap around side elevations, the use of raised moulding around windows, and the use of wrap around porches on corner lots.
 13. Tree number 195 shall be retained. The applicant shall submit a revised arborist report with a detailed analysis of the proposed construction for lot 26 and proposed mitigation measures to protect the tree during and after construction activities. The applicant shall adhere to the recommended mitigation measures.
 14. The applicant shall submit a revised arborist report that analyzes the cost and feasibility of relocating Tree #194. In the event that Tree #194 must be removed the applicant shall provide mitigation for the removal of the 12-inch Interior live oak. The mitigation shall be provided by either paying an in-lieu fee of \$75.00 per inch or replacement plantings with a credit of one inch for every 15-gallon tree plated above trees required for the project landscaping, per approval of the Community Development Department.
 15. If construction is delayed until Spring/Summer 2006 pre-construction surveys for burrowing owls by a qualified biologist shall be conducted not more than 30 days before ground disturbance, reporting to the City and DFG, and mitigation according to DFG guidelines if burrowing owls are detected using burrows on the site.
 16. The applicant shall collect soil samples from the near surface of the property to assess the potential presence of residual pesticide contamination. In the event that pesticide contamination exist at the site the proper measures shall be taken to mitigate the site.
 17. The applicant shall further investigate the potential presence of an underground storage tank as stated in the Environmental Assessment prepared by Ceres Associates. If a UST exists it shall be evaluated for potential impacts to the environment.
 18. 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.

19. 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.
20. A landscaping and irrigation plan for all front yard landscaping areas and the plan shall be submitted for review and approval of the Community Development Director prior to the issuance of building permits. 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.
21. 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.
22. 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.
23. 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.
24. The street trees shall be inter-mixed throughout the subdivision, so there are a variety of trees on every street.
25. When necessary front and side yard landscaping shall be designed to shield from view side elevation that lack articulation and enhancements.
26. The street names shall be approved by the Community Development Department and the East Contra Costa Fire District
27. 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."

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.

28. The following statements 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 zon 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.

29. 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 Title 6 of the Municipal Code and Title 9 of the County Code (adopted as the City Subdivision Ordinance. Any exceptions must be stipulated in these Conditions of Approval. Conditions of Approval are based on the site plan received by the Community Development Department and dated February 3, 2005.

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

General:

30. Submit improvement plans prepared by a registered civil engineer to the City Engineer for review and approval and pay appropriate fees in accordance with the Code and these conditions of approval. The plans shall be consistent with the Stormwater Control Plan for the project, including any modifications required by or approved by the City Engineer, and shall include the drawings and specifications necessary to implement the required measures and be accompanied by a Construction Plan C.3 Checklist as described in the Stormwater C.3 Guidebook. Specifically, the City reserves the right to replace the vegetated swale concept with either a drywell system based on a site specific review of the infiltration characteristics, or other concept as approved by the City Engineer.
31. 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 appropriate fees in accordance with the Code and these conditions of approval.

32. 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 Code and these conditions of approval.
33. 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.
34. Building permits for house construction shall not be issued until the subdivision streets serving the lots have been paved.

Roadway Improvements:

35. Construct frontage improvements along the east side of Fuchsia Way from the north boundary of the project to location opposite the end of the curb return on the north side of Ashwood Drive consistent with the standard cross section for a 36-foot wide curb to curb roadway within a 56-foot wide right of way. The improvements shall include curb, gutter, a five-foot monolithic sidewalk, street lighting, longitudinal and transverse drainage, and any necessary conforms to existing improvements.
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. Install traffic control devices such as stop signs and other signing and striping on the project streets and within the adjacent neighborhoods to mitigate traffic impacts from the project to the satisfaction of the City Engineer. Specifically a four-way stop shall be installed at the intersection of Mallard and Oak Forrest.
38. 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.
39. Design all public and private pedestrian facilities in accordance with Title 24 (Handicap Access) and the Americans with Disabilities Act.

Road and Easement Dedications:

40. Convey to the City, by offer of dedication, the required off-site right of way for the east side of Fuchsia Way from the north boundary of the project to location opposite the end of the curb return on the north side of Ashwood Drive consistent with the standard cross section for a 36-foot wide curb to curb roadway within a 56-foot wide right of way.
41. Convey to the City, by Offer of Dedication, the right of way for the project streets.

42. 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.
43. Relinquish abutter's rights for non-primary frontages to the satisfaction of the City Engineer.

Street Lights:

44. Install streetlights along all project streets. 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 shall be decorative per City standards.

Grading:

45. 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.
46. 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.
47. 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.
48. 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.
49. 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.
50. 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.

51. 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.
52. Submit a Letter of Map Revision application or the appropriate application to FEMA to remove any building pads that are currently within the Special Flood Hazard Area Zone A from the flood zone. FEMA must issue no less than a Conditional Letter of Map Revision prior to the City issuing building permits for the lots affected by the Zone A designation.

Utilities/Undergrounding:

53. Underground all new and existing utility distribution facilities, including those along the frontage of Fuschia Way. 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.
54. 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:

55. 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 the Municipal Code. This includes construction of Line J of Drainage Area 29D from the northern boundary of the project to its current terminating point downstream.
56. 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.
57. Design and construct all storm drainage facilities in compliance with the Ordinance Code and City design standards.
58. Prevent storm drainage from draining across the sidewalk(s) and driveway(s) in a concentrated manner.
59. Dedicate a public drainage easement over the drainage system that conveys storm water run-off from public streets.

National Pollutant Discharge Elimination System (NPDES):

60. 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.
- Stenciling all storm drains with "No Dumping, Drains to Delta" thermoplastic decals.
- 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/Assessments:

61. 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).

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 Regional Transportation Development Impact 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.

62. 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. 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.
63. 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. 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.
64. 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.
65. 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.
66. Participate in the formation of a mechanism to fund the operation and maintenance of the storm drain system, including storm water quality monitoring and reporting. 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.
67. At the discretion of the City Redevelopment Agency an agreement may be negotiated between the applicant and the Agency for a funding contribution of up to \$100,000 for the construction of Line J of Drainage Area 29D. The scope and terms of the agreement are subject to the approval of the City Redevelopment Agency and

if the agreement is not executed prior to the approval of the final map the applicant shall not be eligible to receive the funding contribution.

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.

PASSED AND ADOPTED by the Planning Commission of the City of Oakley at a meeting held on the 3rd day of October, 2005, by the following vote:

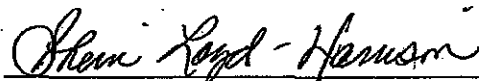
AYES: Huerta, Nunn, Obregon, Person, Rogers-Engle
NOES:
ABSTENTIONS:
ABSENT:

APPROVED:



CHAIRPERSON

ATTEST:



SECRETARY TO THE PLANNING COMMISSION

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

Recording Requested By:

Forecast Land Investment, LLC
4061 Port Chicago Highway,
Ste H
Concord, CA 94520

When Recorded Mail To:

City Clerk
City of Oakley
3231 Main Street
Oakley CA 94561

**SUBDIVISION ANNEXATION AND
ASSESSMENT AUTHORIZATION
DEFERRAL AGREEMENT
SUBDIVISION 8728**

This agreement ("Agreement") is made at Oakley, California, effective as of July 14, 2015, by and between the CITY OF OAKLEY, a municipal corporation ("City") and Forecast Land Investment LLC, a California Limited Liability Company ("Owner").

Recitals

A. On October 3, 2005 the Planning Commission of the City of Oakley adopted Resolution 35-05 which conditionally approved the tentative map for Subdivision 8728, a 30 unit subdivision ("Subdivision") located within the City of Oakley, which Subdivision is further described in the map and legal description attached hereto and incorporated herein as Exhibits A and B respectively.

B. Condition of Approval 64 requires participation in the provision of funding to maintain police services by voting to approve a special tax ("Special Tax") for the parcels created by this subdivision approval.

C. Condition of Approval 65 requires participation in the formation of an assessment district for the construction of off-site improvements should the City deem such a mechanism necessary ("Assessment District").

D. Condition of Approval 66 requires participation in the formation of a mechanism to fund the operation and maintenance of the storm drain system, including storm water quality monitoring and reporting ("Funding Mechanism").

E. City and Owner, by this Agreement, are implementing conditions of approval Numbers 64, 65 and 66.

AGREEMENT

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

1. Recitals.

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

2. Support for Annexation.

Owner shall support and take any and all actions necessary to participate in the provision of funding to maintain police services. Owner shall also support and take any and all actions necessary to participate in the formation of an assessment district for the construction of off-site improvements should the City deem such a mechanism necessary. Owner shall also support and take any and all actions necessary to participate in the formation of a Funding Mechanism for the operation and maintenance of the storm drain system, including storm water quality monitoring and reporting.

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

Upon receipt of a special tax ballot regarding the special tax annually imposed for maintenance of police services and/or a ballot or written request from the City regarding participation in the formation of an assessment district for construction of offsite improvements, and/or a ballot or written request from the City regarding the participation in the formation of a mechanism to fund the operation and maintenance of the storm drain system, Owner shall promptly indicate its support for such assessments and/or special taxes by marking the ballot(s) and submitting it as instructed in the ballot materials. Owner specifically understands that the current special taxes for maintenance of police services may increase due to inflation and Owner agrees to pay any such increase.

4. Restrictions on Conveyances and Transfers of Title.

Owner shall not convey or otherwise transfer of title to any residential parcel in the Subdivision until the approval of the Special Tax, formation of the Assessment District and formation of the Funding Mechanism including the completion of the ballot proceedings is finalized, and the assessments and special taxes are authorized to be levied on all the residential parcels in the Subdivision. Owner may, however, enter into reservation contracts with potential purchasers of residential parcels within the Subdivision, provided that such contracts include a prominent warning that shall be reviewed by and acceptable

to the City identifying the existence of this Agreement and summarizing its critical requirements.

5. Restrictions on Issuance and Processing of Building Permits.

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

6. Recordation of Agreement.

Prior to issuance of the Final Map, Owner shall record this Agreement in the chain of title for all the residential parcels in the Subdivision, such that this Agreement will be identified in any title report prepared for a potential purchaser of a residential parcel in the Subdivision.

7. Issuance of Final Map.

City shall not withhold approval of the final map for the Subdivision prior to completion of the approval of the Special Tax, formation of the Assessment District and formation of the Funding Mechanism on residential parcels in the Subdivision on account of failure to complete approval of the Special Tax, formation of the Assessment District and formation of the Funding Mechanism provided that the Subdivision is in substantial compliance with all other conditions of approval and full compliance with applicable laws.

8. Severability and Integration of Agreement.

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

APPROVED AS TO FORM:

CITY OF OAKLEY

Derek P. Cole, City Attorney

Bryan H. Montgomery, City Manager

ATTEST:

DEVELOPER

Libby Vreonis, City Clerk

By: _____
Albert D. Seenon, III

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

State of California
County of Contra Costa

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

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

Witness my hand and official seal.

Signature _____
Signature of Notary Public

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

State of California
County of Contra Costa

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

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

Witness my hand and official seal.

Signature _____
Signature of Notary Public

EXHIBIT A
MAP OF SUBDIVISION

**[THE COUNTY RECORDER WILL REQUIRE A VERY HIGH RESOLUTION
COPY ON 8 ½ BY 11 INCH PAPER**

EXHIBIT B
LEGAL DESCRIPTION OF SUBDIVISION

RESOLUTION NO. XX-15

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY APPROVING THE SUBDIVISION IMPROVEMENT AGREEMENT WITH FORECAST LAND DEVELOPMENT, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY, FOR SUBDIVISION 8728 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 Forecast Land Development, LLC, for the development of a residential subdivision known as Subdivision 8728; and

WHEREAS, this agreement will require the developer to complete approximately \$616,372.00 in public improvements and drainage in accordance with the project conditions of approval and City standard construction design.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Oakley that the Subdivision Improvement Agreement with Forecast Land Development, LLC is hereby approved and the City Manager is hereby authorized to execute the Subdivision Improvement Agreement for the development of Subdivision 8728 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 14th day of July 2015 by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

APPROVED:

Doug Hardcastle, Mayor

ATTEST:

Libby Vreonis, City Clerk

Date

RESOLUTION NO. ___-15

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY,
CALIFORNIA, APPROVING A SUBDIVISION ANNEXATION AND
ASSESSMENT AUTHORIZATION DEFERRAL AGREEMENT WITH
FORECAST LAND DEVELOPMENT, LLC, A CALIFORNIA LIMITED LIABILITY
COMPANY FOR SUBDIVISION 8728**

WHEREAS, Condition of Approval 64 requires the Subdivision's participation in the provision of funding to maintain police services by voting to approve a special tax ("Special Tax") created by this subdivision approval; and

WHEREAS, Condition of Approval 65 requires participation in the formation of an assessment district for the construction of off-site improvements should the City deem such a mechanism necessary ("Assessment District"); and

WHEREAS, Condition of Approval 66 requires participation in the formation of a mechanism to fund the operation and maintenance of the storm drain system, including storm water quality monitoring and reporting ("Funding Mechanism"); and

WHEREAS, Forecast Land Development, LLC (Forecast) is requesting that the Final Map for Subdivision 8728 be filed, and is willing to enter into an agreement that, among other things, will allow Forecast to file the map but will prohibit Forecast from selling any lots until the approval of the Special Tax, formation of the Assessment District and participation in the formation of the Funding Mechanism are complete.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED, by the City Council of the City of Oakley that the Subdivision Annexation and Assessment Authorization Deferral Agreement with Forecast Land Development, LLC is hereby approved and the City Manager is hereby authorized to execute the Subdivision Annexation and Assessment Authorization Deferral Agreement for Subdivision 8728, subject to review and approval by the City Attorney.

PASSED AND ADOPTED by the City Council of the City of Oakley at a meeting held on this 14th Day of July, 2015 by the following vote:

AYES:
NOES:
ABSTENTIONS:
ABSENT:

APPROVED:

ATTEST:

Doug Hardcastle, Mayor

Libby Vreonis, City Clerk

Date

RESOLUTION NO. ____-15

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY
APPROVING THE FINAL MAP OF SUBDIVISION 8728**

WHEREAS, FORECAST LAND DEVELOPMENT, LLC, a California Limited Liability Company has satisfied the necessary conditions of approval for Subdivision 8728, as approved by the Planning Commission of the City of Oakley on October, 2005 by Resolution Number 30-05; 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 8728", as prepared by Isakson & Associates, Inc. be approved.

PASSED AND ADOPTED by the City Council of the City of Oakley, California, this 14th day of July 2015 by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

APPROVED:

Doug Hardcastle, Mayor

ATTEST:

Libby Vreonis, City Clerk

Date

OWNER'S STATEMENT

THE UNDERSIGNED, BEING THE ONLY PARTY HAVING A RECORD TITLE INTEREST IN THE LANDS DELINEATED WITHIN THE HEAVY BLACK LINE UPON THIS MAP, DOES HEREBY CONSENT TO THE PREPARATION AND RECORDATION OF THE SAME, AND DOES HEREBY DEDICATE IN FEE TO THE PUBLIC FOR PUBLIC USE AND TO THE CITY OF OAKLEY, FOR ROADWAY PURPOSES THOSE PORTIONS OF SAID LANDS DESIGNATED ON SAID MAP AS: FUSCHIA WAY, FUSCHIA COURT AND MALLARD LANE.

THE AREA DESIGNATED "PUBLIC UTILITIES EASEMENT" OR "P.U.E." IS DEDICATED TO THE CITY OF OAKLEY OR ITS DESIGNEE AND TO THE PUBLIC 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.

THE AREA DESIGNATED "STORM DRAIN EASEMENT" OR "S.D.E." IS DEDICATED TO THE CITY OF OAKLEY OR ITS DESIGNEE AND TO THE PUBLIC FOR PUBLIC USE FOR STORM, FLOOD AND SURFACE WATER DRAINAGE INCLUDING CONSTRUCTION, ACCESS TO AND MAINTENANCE OF WORKS, IMPROVEMENTS, AND STRUCTURES, WHETHER COVERED OR OPEN, AND THE CLEARING OF OBSTRUCTIONS AND VEGETATION.

THE AREA DESIGNATED AS "REMAINDER" IS HEREBY RETAINED BY FORECAST LAND INVESTMENT, LLC.

THE UNDERSIGNED DOES FURTHER RELINQUISH ALL ABUTTERS RIGHTS OF ACCESS ALONG THE PROPERTY LINE ADJACENT TO FUSCHIA LANE AND AS SHOWN ON THIS MAP AS INDICATED BY THE SYMBOL |||||

THIS MAP SHOWS ALL EASEMENTS ON THE PREMISES OR OF RECORD.

FORECAST LAND INVESTMENT, LLC.
A CALIFORNIA LIMITED LIABILITY COMPANY

BY: ALBERT D. SEENO III
PRESIDENT
DATE: _____

OWNER'S ACKNOWLEDGMENT

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

STATE OF CALIFORNIA)
COUNTY OF CONTRA COSTA) SS

ON _____, 20____, BEFORE ME, _____, A NOTARY PUBLIC, PERSONALLY APPEARED _____ WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE/THEY EXECUTED THE SAME IN HIS/HER/THEIR AUTHORIZED CAPACITY(IES), AND THAT BY HIS/HER/THEIR SIGNATURE(S) ON THE INSTRUMENT THE PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON(S) ACTED, EXECUTED THE INSTRUMENT.

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

WITNESS MY HAND

SIGNATURE OF NOTARY: _____

NAME (PRINTED OR TYPED): _____

MY COMMISSION EXPIRES: _____

COUNTY OF NOTARY: _____

PRINCIPAL PLACE OF BUSINESS: _____

JOB NO. 200520

**SUBDIVISION 8728
"CYPRESS ESTATES"**

BEING A PORTION OF THE NORTHEAST ¼ OF SECTION 26, T2N, R2E, M.D.B.& M.

CITY OF OAKLEY
CONTRA COSTA COUNTY, CALIFORNIA

JUNE 2015

ISAKSON & ASSOCIATES INC
CIVIL ENGINEERING & LAND SURVEYING
2255 YSNACIO VALLEY ROAD SUITE 'C'
WALNUT CREEK, CALIFORNIA

TRUSTEE'S STATEMENT

THE UNDERSIGNED AS TRUSTEE UNDER THE DEEDS OF TRUST RECORDED SEPTEMBER 13, 2007 UNDER RECORDERS SERIAL NUMBER 2007-262881, 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 DEDICATION THEREON.

AMERICAN SECURITIES COMPANY, A CALIFORNIA CORPORATION

BY: _____

TRUSTEE'S ACKNOWLEDGMENT

STATE OF CALIFORNIA)
COUNTY OF CONTRA COSTA) SS

ON _____ BEFORE ME, _____ PERSONALLY APPEARED _____ WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE/THEY EXECUTED THE SAME IN HIS/HER/THEIR AUTHORIZED CAPACITY(IES), AND THAT BY HIS/HER/THEIR SIGNATURE(S) ON THE INSTRUMENT THE PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON(S) ACTED, EXECUTED THE INSTRUMENT.

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

WITNESS MY HAND

SIGNATURE OF NOTARY: _____

NAME (PRINTED OR TYPED): _____

MY COMMISSION EXPIRES: _____

COUNTY OF NOTARY: _____

PRINCIPAL PLACE OF BUSINESS: _____

ENGINEER'S STATEMENT

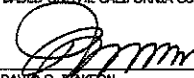
THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECTION AND IS BASED UPON A FIELD SURVEY IN CONFORMANCE WITH THE SUBDIVISION MAP ACT AND LOCAL ORDINANCE AT THE REQUEST OF FORECAST LAND INVESTORS, LLC IN AUGUST 2005 AND IS TRUE AND COMPLETE AS SHOWN.

I HEREBY STATE THAT ALL THE MONUMENTS ARE OF THE CHARACTER AND OCCUPY THE POSITIONS INDICATED OR THAT THEY WILL BE SET IN THOSE POSITIONS BEFORE FOR DECEMBER, 2017, AND THAT THE MONUMENTS ARE, OR WILL BE, SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACED, AND THAT THIS FINAL MAP SUBSTANTIALLY CONFORMS TO THE CONDITIONALLY APPROVED TENTATIVE MAP.

THE SUBDIVISION CONTAINS 6.37 ACRES MORE OR LESS, AND LIES WITHIN THE CITY OF OAKLEY, COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA.

ALL BEARINGS ON THIS MAP ARE BASED ON THE CALIFORNIA COORDINATE SYSTEM ZONE III (CCS 27).

DATE: 6/16/15


DAVID O. ISAKSON,
R.C.E. 21764



COUNTY RECORDER'S STATEMENT

THIS MAP ENTITLED, "SUBDIVISION 8728, CYPRESS ESTATES", 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 FINAL MAPS.

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

SERIES NUMBER: _____

JOE CANCEMI
COUNTY RECORDER
COUNTY OF CONTRA COSTA
STATE OF CALIFORNIA

BY: _____
DEPUTY COUNTY RECORDER

(PRINT NAME)

**SUBDIVISION 8728
"CYPRESS ESTATES"**

BEING A PORTION OF THE NORTHEAST ¼ OF
SECTION 26, T2N, R2E, M.D.B. & M.

**CITY OF OAKLEY
CONTRA COSTA COUNTY, CALIFORNIA**

JUNE 2015

ISAKSON & ASSOCIATES INC
CIVIL ENGINEERING & LAND SURVEYING
2255 YGNACIO VALLEY ROAD SUITE "C"
WALNUT CREEK, CALIFORNIA

CITY COUNCIL STATEMENT

I, KOUROSH ROHANI, PUBLIC WORKS DIRECTOR OF THE CITY OF OAKLEY, HEREBY STATE THAT THE CITY COUNCIL OF THE CITY OF OAKLEY HAS APPROVED THE TENTATIVE MAP OF SUBDIVISION NO. 8728 DATED OCTOBER 3, 2005, WHICH INCLUDES THIS SUBDIVISION, UPON WHICH THIS FINAL MAP IS BASED.

DATE: _____

KOUROSH ROHANI
COMMUNITY DEVELOPMENT DIRECTOR
CITY OF OAKLEY, CONTRA COSTA COUNTY,
STATE OF CALIFORNIA

SOILS REPORT

A SOILS REPORT, PREPARED BY THE FIRM ENGED INC., DATED JUNE 5, 2007 PROJECT NO. 7275.2.001.01, IS ON FILE IN THE OFFICE OF THE CITY ENGINEER OF THE CITY OF OAKLEY, COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA.

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 8728, CYPRESS ESTATES"; THAT SAID SUBDIVISION AS SHOWN IS IN SUBSTANTIAL CONFORMANCE WITH THE TENTATIVE MAP APPROVED BY THE CITY OF OAKLEY PLANNING COMMISSION ON OCTOBER 3, 2005; 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
CITY ENGINEER, CITY OF OAKLEY,
CONTRA COSTA COUNTY, STATE OF CALIFORNIA
R.C.E. #51138

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 8728, CYPRESS ESTATES" AND 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

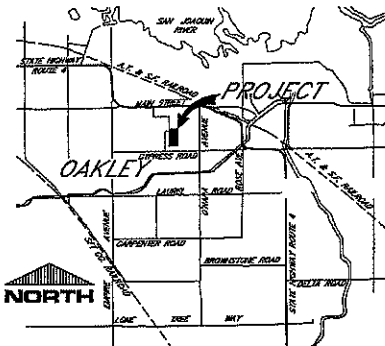
CERTIFICATE OF DEDICATION FOR SAME PUBLIC USE

FORECAST LAND INVESTMENT, LLC, A CALIFORNIA LIMITED LIABILITY CORPORATION (4021 PORT CHICAGO HWY, CONCORD CALIFORNIA) HAS DEDICATED HEREON CERTAIN PUBLIC RIGHTS OF WAY FOR FUSCHIA WAY, FUSCHIA COURT AND MALLARD LANE. THE CITY OF OAKLEY SHALL RECONVEY THE PROPERTY TO FORECAST LAND INVESTMENT, LLC, OR ITS SUCCESSOR IN INTEREST IF THE CITY OF OAKLEY SUBSEQUENTLY MAKES A DETERMINATION PURSUANT TO SECTION 66477.5 OF THE SUBDIVISION MAP ACT THAT THE SAME PUBLIC PURPOSE FOR WHICH THE PROPERTY OR ANY PORTION THEREOF WAS DEDICATED FOR DOES NOT EXIST OR THE PROPERTY IS NOT NEEDED FOR PUBLIC UTILITIES.

SIGNATURE OMISSIONS STATEMENT

PURSUANT TO SECTION 66436 OF THE SUBDIVISION MAP ACT, THE SIGNATURES OF THE FOLLOWING OWNERS OF EASEMENTS AND/OR OTHER INTERESTS HAVE BEEN OMITTED, THEIR INTERESTS BEING SUCH THAT THEY CANNOT RIPEN INTO A FEE.

- 1) AN EASEMENT IN FAVOR OF HOWARD RECORDED JULY 5, 1956 BOOK 2800 OR 477
- 2) AN EASEMENT IN FAVOR OF URENDA RECORDED JULY 20, 1966 BOOK 5165 OR 254
- 3) AN EASEMENT IN FAVOR OF GREAT YELLOWSTONE CORP. RECORDED JUNE 30, 1969 BOOK 5910 OR 131
- 4) AN EASEMENT IN FAVOR OF CONTRA COSTA COUNTY RECORDED OCTOBER 28, 1983 BOOK 11505 OR 25 AND ASSIGNED TO THE CITY OF OAKLEY PER DOC# 2008-15684 RECORDED JANUARY 25, 2008
- 5) AN EASEMENT IN FAVOR OF CONTRA COSTA COUNTY RECORDED OCTOBER 28, 1983 BOOK 11505 OR 28 AND ASSIGNED TO THE CITY OF OAKLEY PER DOC# 2008-15684 RECORDED JANUARY 25, 2008



VICINITY MAP
NO SCALE

CITY CLERK'S STATEMENT

I, LIBBY VREONIS, CITY CLERK AND CLERK OF THE COUNCIL OF THE CITY OF OAKLEY, DO HEREBY CERTIFY THAT THE HEREIN EMBODIED FINAL MAP ENTITLED "SUBDIVISION 8728, CYPRESS ESTATES", CONSISTING OF FIVE (5) SHEETS, THIS STATEMENT BEING ON SHEET TWO (2) THEREOF, WAS PRESENTED TO THE CITY COUNCIL, AS PROVIDED BY LAW, AT A REGULAR MEETING THEREOF HELD ON THE _____ DAY OF _____, 201____, 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, COURTS, WAYS, LANES, PARCELS OR EASEMENTS SHOWN THEREON AS DEDICATED FOR PUBLIC USE.

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

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND THIS ____ DAY OF _____, 201____.

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

CLERK OF THE BOARD OF SUPERVISORS' STATEMENT

I STATE THAT WHICH IS CHECKED BELOW:

____ A TAX BOND ASSURING THE 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.

DATE: _____ **DAVID TWA**
CLERK OF THE BOARD OF SUPERVISORS
AND COUNTY ADMINISTRATOR OF CONTRA COSTA
COUNTY, STATE OF CALIFORNIA

BY: _____
DEPUTY CLERK

PRINT NAME

SUBDIVISION 8728 "CYPRESS ESTATES"

BEING A PORTION OF THE NORTHEAST 1/4 OF SECTION 26, T2N, R2E, M.D.B.& M.

CITY OF OAKLEY
CONTRA COSTA COUNTY, CALIFORNIA
JUNE 2015

ISAIXSON & ASSOCIATES INC
CIVIL ENGINEERING & LAND SURVEYING
2255 YONACIO VALLEY ROAD SUITE "C"
WALNUT CREEK, CALIFORNIA

LEGEND

- ⊙ FOUND STANDARD CITY MONUMENT, AS NOTED
- ⊙ SET STANDARD CITY MONUMENT, R.C.E. 21764
- FOUND IRON PIPE OR REBAR AS NOTED
- SET 1/2" REBAR WITH PLASTIC CAP, R.C.E. 21764
- (M-B) MONUMENT TO BOUNDARY
- (M-M) MONUMENT TO MONUMENT
- (MEAS) MEASURED
- (R) RADIAL
- (T) TOTAL
- I.P. IRON PIPE
- P.U.E. PUBLIC UTILITY EASEMENT
- S.D.E. STORM DRAIN EASEMENT
- ▬▬▬▬ SUBDIVISION BOUNDARY
- ▬▬▬▬ RELINQUISHMENT OF ACCESS RIGHTS (PEDESTRIAN OR VEHICULAR)

REFERENCES:

- (R1) RECORD PER 318 M 10
- (R2) RECORD PER 247 M 28
- (R3) RECORD PER 312 M 44
- (R4) RECORD PER 04-0107680 LLA 04-01
- (R5) RECORD PER 82 M 3

BASIS OF BEARINGS:

TAKEN AS NORTH 00° 52' 58" EAST BETWEEN FOUND STANDARD STREET MONUMENTS ON DUARTE AVE PER SUBDIVISION 6865 (318 M 10), AND IS BASED ON THE CALIFORNIA COORDINATE SYSTEM ZONE III (C.C.S. 27). ALL DISTANCES SHOWN ARE GROUND TO OBTAIN GRID MULTIPLY BY 0.999904672.

NOTE:
1. FOUND 1" IRON PIPE TAGGED RCE 9267 PER 247 M 28, REPLACED WITH STANDARD CITY MONUMENT, RCE 21764

LINE	LENGTH	BEARING
L1	150.37	S89°06'40"E
L2	135.26	S89°06'40"E
L3	135.16	S89°06'40"E
L4	150.37	S89°06'22"E (R2)
L5	135.26	S89°06'22"E (R2)
L6	135.16	S89°06'22"E (R2)

FND ROUND HEAD BOLT
ACCEPTED AS CENTER OF
SECTION 25 T2N R2E MDB&M
PER (R1)

FND MON W/ 2" BRASS
DISK STAMPED RCE 21856
PER 247 M 28

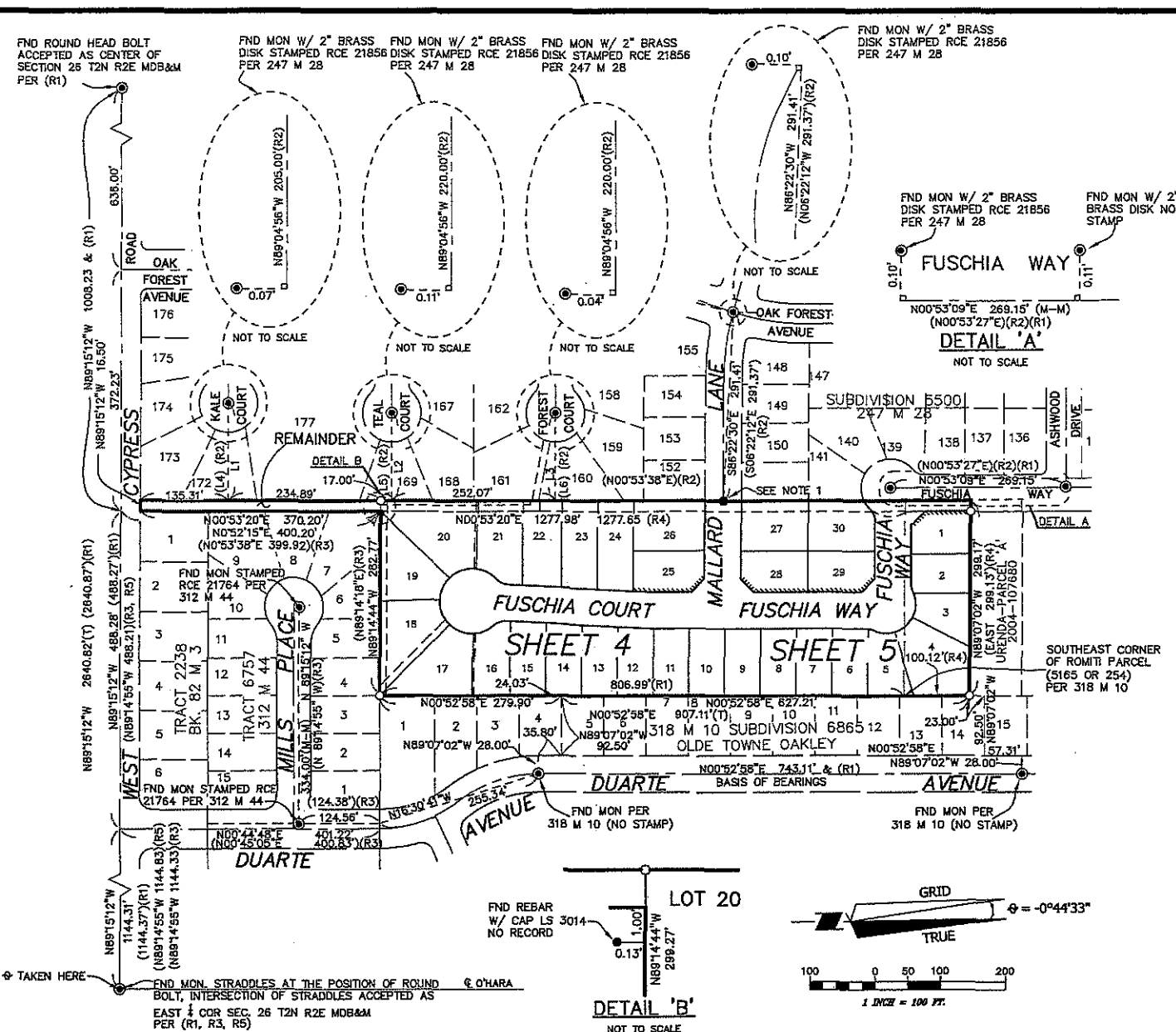
FND MON W/ 2" BRASS
DISK STAMPED RCE 21856
PER 247 M 28

FND MON W/ 2" BRASS
DISK STAMPED RCE 21856
PER 247 M 28

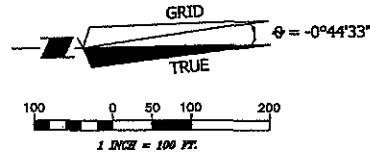
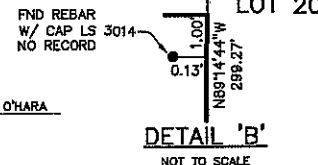
FND MON W/ 2" BRASS
DISK STAMPED RCE 21856
PER 247 M 28

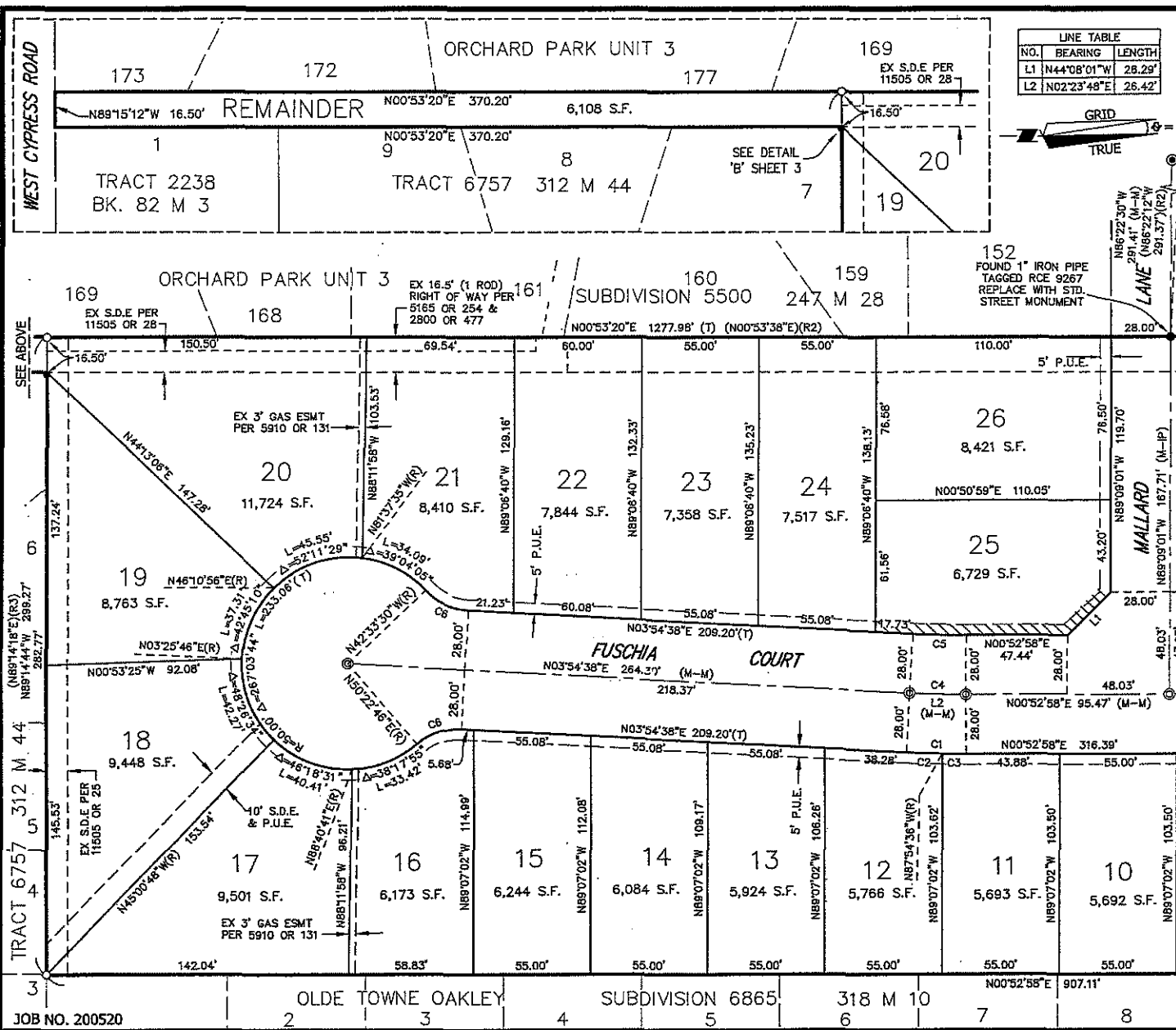
FND MON W/ 2" BRASS
DISK STAMPED RCE 21856
PER 247 M 28

FND MON W/ 2" BRASS
DISK NO STAMP



⊙ TAKEN HERE
FND MON, STRADDLES AT THE POSITION OF ROUND BOLT, INTERSECTION OF STRADDLES ACCEPTED AS EAST 1/2 COR SEC. 26 T2N R2E MDB&M PER (R1, R3, R5)





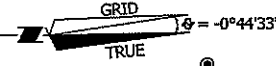
LINE TABLE		
NO.	BEARING	LENGTH
L1	N44°08'01"W	28.29'
L2	N02°23'48"E	28.42'

SUBDIVISION 8728 "CYPRESS ESTATES"

BEING A PORTION OF THE NORTHEAST 1/4 OF SECTION 26, T2N, R2E, M.D.B. & M.

CITY OF OAKLEY
CONTRA COSTA COUNTY, CALIFORNIA

JUNE 2015
ISAISON & ASSOCIATES INC
CIVIL ENGINEERING & LAND SURVEYING
2255 YGNACIO VALLEY ROAD SUITE 'C'
WALNUT CREEK, CALIFORNIA



LEGEND

- ⊙ FOUND STANDARD CITY MONUMENT, AS NOTED
- ⊙ SET STANDARD CITY MONUMENT, R.C.E. 21764
- ⊙ FOUND IRON PIPE OR REBAR AS NOTED
- SET 1/2" REBAR WITH PLASTIC CAP, R.C.E. 21764
- (M-B) MONUMENT TO BOUNDARY
- (M-M) MONUMENT TO MONUMENT
- (MEAS) MEASURED
- (R) RADIAL
- (T) TOTAL
- I.P. IRON PIPE
- P.U.E. PUBLIC UTILITY EASEMENT
- S.D.E. STORM DRAIN EASEMENT
- SUBDIVISION BOUNDARY
- ////// RELINQUISHMENT OF ACCESS RIGHTS (PEDESTRIAN OR VEHICULAR)

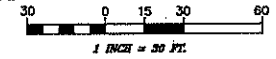
REFERENCES:

- (R1) RECORD PER 318 M 10
- (R2) RECORD PER 247 M 28
- (R3) RECORD PER 312 M 44
- (R4) RECORD PER 04-0107680 LLA 04-01
- (R5) RECORD PER 82 M 3

CURVE TABLE			
NO.	RADIUS	DELTA	LENGTH
C1	528.00'	03°01'40"	27.90'
C2	528.00'	01°49'14"	16.78'
C3	528.00'	01°12'28"	11.12'
C4	500.00'	03°01'40"	26.42'
C5	472.00'	03°01'40"	24.94'
C6	30.00'	43°31'52"	22.79'

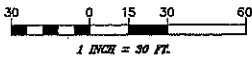
BASIS OF BEARINGS:

TAKEN AS NORTH 00° 52' 58" EAST BETWEEN FOUND STANDARD STREET MONUMENTS ON DUARTE AVE PER SUBDIVISION 6865 (318 M 10), AND IS BASED ON THE CALIFORNIA COORDINATE SYSTEM ZONE III (C.C.S. 27). ALL DISTANCES SHOWN ARE GROUND TO OBTAIN GRID MULTIPLY BY 0.999994672.



JOB NO. 200520

SHEET 4 OF 5

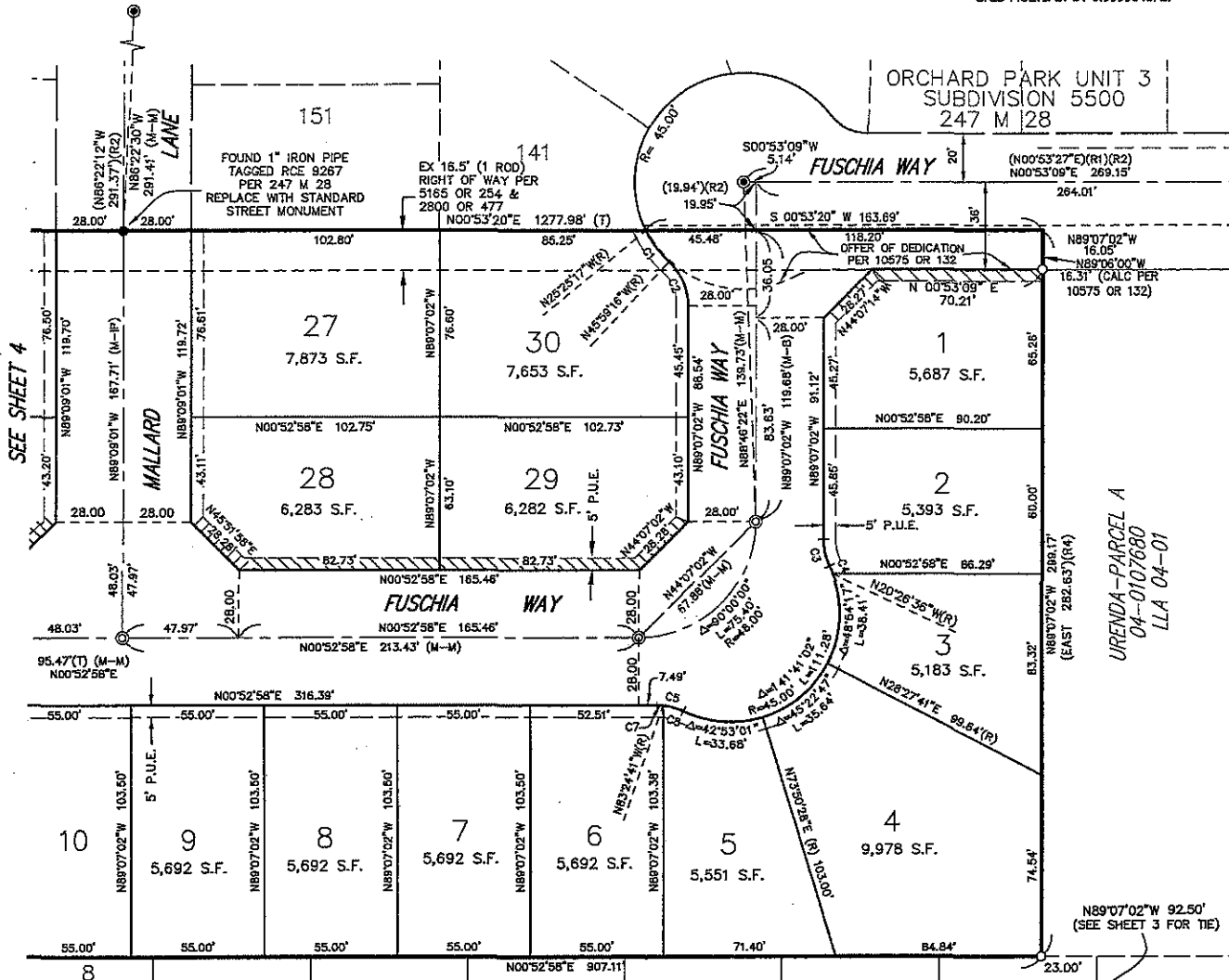


BASIS OF BEARINGS:

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- (R5) RECORD PER 82 M 3



**SUBDIVISION 8728
"CYPRESS ESTATES"**

BEING A PORTION OF THE NORTHEAST 1/4 OF SECTION 26, T2N, R2E, M.D.B. & M.

CITY OF OAKLEY
CONTRA COSTA COUNTY, CALIFORNIA

JUNE 2015

ISAKSON & ASSOCIATES INC
CIVIL ENGINEERING & LAND SURVEYING
2255 YGNACIO VALLEY ROAD SUITE 'C'
WALNUT CREEK, CALIFORNIA

LEGEND

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- SUBDIVISION BOUNDARY
- ////// RELINQUISHMENT OF ACCESS RIGHTS (PEDESTRIAN OR VEHICULAR)

CURVE TABLE			
NO.	RADIUS	DELTA	LENGTH
C1	45.00'	20°33'59"	16.15'
C2	25.00'	46°52'14"	20.45'
C3	25.00'	25°50'31"	11.28'
C4	45.00'	04°30'57"	3.55'
C5	25.00'	25°50'31"	11.28'
C7	25.00'	05°42'21"	2.49'
C8	25.00'	20°08'10"	8.79'