

**THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
BOARD ACTION SUMMARY**

DEPT: Public Works

BOARD AGENDA:5.C.3
AGENDA DATE: April 24, 2018

SUBJECT:

Approval of Assignment of the Del Rio Lago Subdivision Improvement Agreement to Del Rio Lago, LLC

BOARD ACTION AS FOLLOWS:

RESOLUTION NO. 2018-0182

On motion of Supervisor Chiesa Seconded by Supervisor Monteith
and approved by the following vote,

Ayes: Supervisors: Olsen, Chiesa, Withrow, Monteith, and Chairman DeMartini

Noes: Supervisors: None


Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

- 1) Approved as recommended
- 2) Denied
- 3) Approved as amended
- 4) Other:

MOTION:

ATTEST:



ELIZABETH A. KING, Clerk of the Board of Supervisors

File No.

**THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
AGENDA ITEM**

DEPT: Public Works

BOARD AGENDA:5.C.3
AGENDA DATE: April 24, 2018

CONSENT:

CEO CONCURRENCE:

4/5 Vote Required: No

SUBJECT:

Approval of Assignment of the Del Rio Lago Subdivision Improvement Agreement to Del Rio Lago, LLC

STAFF RECOMMENDATION:

1. Approval of the Assignment of the Del Rio Lago Subdivision Improvement Agreement to Del Rio Lago, LLC.
2. Approval to return financial securities for the construction of subdivision improvements to the Bank of Stockton.
3. Authorize the Director of Public Works to take any appropriate action necessary to carry out the purpose and intent of these recommendations.

DISCUSSION:

The Del Rio Lago Subdivision is a 47-lot subdivision located on Carver Road in the Del Rio area, north of Modesto. On April 22, 2008, the Board of Supervisors approved the Subdivision Improvement Agreement and filing and recording of the final map for the Del Rio Lago Subdivision. The Subdivider, Paramount, LLC, entered into a Subdivision Improvement Agreement with the County prior to recording the final map agreeing to complete the subdivision improvement within two years. Paramount, LLC provided the County with performance and payment bonds through Western Insurance Company as security for the construction of all the subdivision improvements.

In accordance with the Subdivision Improvement Agreement and because good cause existed as a result of the downturn in the economy, on March 31, 2010, Stanislaus County Public Works extended the term of the Subdivision Improvement Agreement to April 22, 2012. Subsequently, the Bank of Stockton foreclosed on the property and acquired title to the Del Rio Lago Subdivision on February 4, 2011.

On August 21, 2012, the Board of Supervisors approved the current Subdivision Improvement Agreement with the Bank of Stockton, with a five-year term. On August 29, 2017 the Board of Supervisors approved extending the term of the Subdivision Improvement Agreement to February 28, 2021.

The Bank of Stockton is under contract to sell the project to Del Rio Lago, LLC and is seeking the County's approval to assign the Subdivision Improvement Agreement to the new owner (see Exhibit A). Section 12 of the Subdivision Improvement Agreement provides for assignment to a new owner contingent upon the County consenting to the assignment (see Exhibit B).

Del Rio Lago, LLC has teamed with George Reed, Inc. to build the Del Rio Lago Subdivision. George Reed, Inc. has provided new performance and payment bonds in the total amount of \$13,260,626 for the construction of all the subdivision improvements. Existing financial securities for the construction of all the subdivision improvements can be returned to the Bank of Stockton with the approval of this assignment. These include the following:

- Bank of Stockton Irrevocable Letter of Credit No. 1221086 \$1,960,773.32
- Bank of Stockton Irrevocable Letter of Credit No. 1221087 \$1,956,002.40
- Bank of Stockton Irrevocable Letter of Credit No. 1221088 \$ 978,001.20
- Bank of Stockton Irrevocable Letter of Credit No. 1221089 \$3,921,546.64
- Bank of Stockton Irrevocable Letter of Credit No. 1221090 \$ 292,600.00
- Bank of Stockton Irrevocable Letter of Credit No. 1221091 \$ 585,200.00

POLICY ISSUE:

Section 20.56.010 of the Stanislaus County Code authorizes the Board of Supervisors to enter into Subdivision Improvement Agreements in order to ensure all improvements are completed.

FISCAL IMPACT:

There is no fiscal impact to this action.

BOARD OF SUPERVISORS' PRIORITY:

The recommended action is consistent with the Board's priorities of *Delivering Efficient Public Services and Community Infrastructure* by supporting sustainable land use planning and ensuring that the subdivision improvements are installed in a safe and orderly manner.

STAFFING IMPACT:

Existing Public Works staff will continue to manage and administer this agreement.

CONTACT PERSON:

Matt Machado, Public Works Director

Telephone: (209) 525-4153

ATTACHMENT(S):

1. EXHIBIT A - Bank of Stockton Assignment Request
2. EXHIBIT B - Del Rio Lago Subivision Improvement Agreement

EXHIBIT A

PETRULAKIS LAW & ADVOCACY, APC

1130 12TH STREET, SUITE B
MODESTO, CALIFORNIA 95354
TELEPHONE 209 522-0500
FACSIMILE 209 522-0700

GEORGE A. PETRULAKIS

PLANNING & POLICY
ANALYSTS
GILBERT D. BOSTWICK
CHRIS A. ESTHER

MAILING ADDRESS
POST OFFICE BOX 92
MODESTO, CA 95353-0092

March 29, 2018

Mr. Frederic Clark
Deputy Director of Public Works
Stanislaus County
1010 10th Street, Suite 4204
Modesto, CA 95354

VIA EMAIL AND HAND DELIVERY

Re: Assignment of Del Rio Lago Subdivision Improvement Agreement and Retrieval of All Of Bank of Stockton Letters of Credit (Securities)

Dear Mr. Clark:

As you are aware, the Bank of Stockton ("Bank") is under contract to sell the Del Rio Lago Subdivision. Therefore, the existing Subdivision Improvement Agreement (SIA) should be assigned, with County's approval, to the buyer. The buyer under the contract is Tahoe Group, Inc. but our understanding is that title will be transferred to a new single purpose entity named Del Rio Lago, LLC that will develop the property.

We request assignment of the SIA **conditioned upon the provision by buyer or buyer's agent of County-approved security to replace all of the current Letters of Credit from the Bank.**

Following are the type, dollar amounts, and number of the Bank's Letters of Credit (all of which are dated August 3, 2017) currently on file with the County:

- **Performance Security-Site Work** - \$585,200.00 - No. 1221091
- **Labor and Material Security-Site Work** - \$292,600.00 - No. 1221090
- **Performance Security-Demolition, Concrete, Paving, Electroliers, Fences & Walls, and Miscellaneous** - \$3,921,546.64 - No. 1221089
- **Labor and Material-Demolition, Concrete, Paving, Electroliers, Fences & Walls, and Miscellaneous** - \$1,960,773.32 - No. 1221086

Mr. Frederic Clark

March 29, 2018

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- **Performance Security-Water, Sewer, and Storm Drain - \$1,956,002.40 - No. 1221087**
- **Labor and Material Security-Water Sewer, and Storm Drain - \$978,001.20 - No. 1221088**

The buyer is required to deliver the new securities to you prior to the closing of escrow for the property. Please inform us immediately of County's: (i) receipt of the replacement security; (ii) approval of the replacement security; and (iii) confirmation that the replacement security allows return to us of all the Bank's Letters of Credit listed above.

We are instructed by our client to take physical possession of the Bank's Letters of Credit immediately upon the County's receipt of evidence of transfer of title. Gil Bostwick in my office has confirmed with you that upon presentation to you of a copy of the Grant Deed, with recording information affixed, you will relinquish the Bank's Letters of Credit to us for return to our client.

If my understanding is not correct, please inform me and Gil immediately.

Very truly yours,

PETRULAKIS LAW & ADVOCACY, APC



George A. Petoulakis

cc: Mr. Matt Machado
Client

EXHIBIT B

RECORDING REQUESTED BY
AND RETURN TO:

STANISLAUS COUNTY
DEPARTMENT OF PUBLIC
WORKS
1010 10th Street, Suite 4204
MODESTO, CA 95354
Attn: Angie Halverson

Stanislaus, County Recorder
Lee Lundrigan Co Recorder Office
DOC- 2017-0067367-00
Thursday, SEP 14, 2017 09:17:38
Ttl Pd \$0.00 Rcpt # 0004022370
AKN/R2/1-18

SUBDIVISION IMPROVEMENT AGREEMENT FOR THE DEL RIO LAGO SUBDIVISION

THIS SUBDIVISION IMPROVEMENT AGREEMENT ("Agreement") is entered into on

August 29, 2017, by and between the County of Stanislaus, a political subdivision of the State of California, hereinafter referred to as "County," and Bank of Stockton, A California Corporation, hereinafter referred to as "Subdivider."

RECITALS

This Agreement is made with respect to the following facts, which each party acknowledges as true and correct:

- A. Subdivider is the owner of, and intends to subdivide or sell to a third party, Lots 1-47 and Lots A-K of the Del Rio Lago Map recorded May 15, 2008 in Book 43 of Maps, at Page 85, Stanislaus County Records, such land situated in the County of Stanislaus, California, and described in Exhibit "A" attached hereto. ("Subdivision") The Subdivision previously was generally known and described as Vesting Tentative Map No. 2003-02 (known as Del Rio Lago) which was approved by the Stanislaus County Board of Supervisors on December 14, 2004.
- B. Subdivider is required to satisfy certain conditions of development after the filing of the final map, specifically Subdivider and its successors are required to construct certain Improvements.
- C. Subdivider has prepared, and the County has approved, complete Improvement Plans for the construction, installation and completion of the Improvements.
- D. County and Subdivider desire to assure that all Improvements will be constructed in

RECORDING REQUESTED BY
AND RETURN TO:

STANISLAUS COUNTY
DEPARTMENT OF PUBLIC
WORKS
1010 10th Street, Suite 4204
MODESTO, CA 95354
Attn: Angie Halverson

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AGREEMENT FOR THE DEL RIO LAGO
SUBDIVISION**

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- B. Subdivider is required to satisfy certain conditions of development after the filing of the final map, specifically Subdivider and its successors are required to construct certain Improvements.
- C. Subdivider has prepared, and the County has approved, complete Improvement Plans for the construction, installation and completion of the Improvements.
- D. County and Subdivider desire to assure that all Improvements will be constructed in

accordance with the Improvement Plans, the Conditions and Specifications, the Stanislaus County Code and the Subdivision Map Act, and that all remaining conditions of development are performed or satisfied within the time set forth herein.

NOW, THEREFORE, in consideration of the approval and recording of the final map, and the mutual covenants and agreements contained herein, the parties agree as follows:

1. Definitions

1.1. "Acceptance of the Improvements" or "Accept(s) the Improvements" means the Board of Supervisors' formal acceptance, of the Improvements or adoption of a resolution reflecting that the Improvements are complete and meet the requirements of the Conditions and Specifications.

1.2. "Improvements" includes the Improvements required by the Conditions and Specifications, including but not limited to: road and street improvements, drainage facilities, sidewalks, curbs, gutters, street signs, sanitary sewer system, water system, fire hydrants, street lights, monuments, other facilities, structures, grading, mitigation measures or conditions of development.

1.3. "Improvement Plans" means the plans and specifications applicable to the Subdivision that have been approved by the County. The Improvement Plans are on file with the Director of Public Works and are incorporated into this Agreement and made a part hereof.

1.4. "Conditions and Specifications" includes the Improvement Plans, the latest version of County of Stanislaus Department of Public Works Improvement Standards as amended from time to time, the Stanislaus County Code, all applicable laws, rules, regulations, ordinances, policies, resolutions, mitigation measures, planned development guidelines, zoning restrictions, conditions of development, and tentative map conditions. A copy of the tentative map conditions is attached hereto as Exhibit "B".

1.5. "Subdivision Costs and Fees" includes all labor, materials, equipment, costs and fees associated with the construction, installation, completion, inspection and acceptance of the Improvements, and all fees imposed or required by the Conditions and Specifications.

1.6. The documents comprising this Agreement consist of this Agreement and its attachments and the Improvement Plans.

2. Scope of Work

2.1. Subdivider shall to the satisfaction of the County construct, install

and complete, at Subdivider's sole cost and expense, all Improvements in accordance with the Conditions and Specifications.

2.2. Subdivider shall perform or satisfy, in a timely manner, any work or act to be performed as set forth in the Conditions and Specifications.

2.3. If the approved tentative map is amended, Subdivider must also apply for and obtain an amendment of this Agreement.

3. Improvement Security and Release of Improvement Security

3.1. Subdivider has filed with the County a cash deposit, a letter of credit, or a bond from a California admitted surety, pursuant to Stanislaus County Code §20.56.030 ("Improvement Security") in an amount determined by the County pursuant to Government Code §§66499 through §66499.10, as faithful performance and payment security. Faithful performance security shall be delivered in the amount of 100% of the Subdivision Costs and Fees to guarantee construction and installation of all the Improvements. Payment security shall be delivered in the amount of 50% of the Subdivision Costs and Fees to secure payment to any contractor, subcontractor, persons renting equipment, or furnishing labor and materials for the Improvements.

3.2. The faithful performance security must be in a form approved by the office of County Counsel and in accordance with Government Code §66499.1 shall include a guarantee of (a) faithful performance of all of the provisions of this Agreement; (b) the performance of any changes or alterations in such work provided; (c) the guarantee and warranty of the work for a period of one year following Acceptance of the Improvements, against any defective work or labor done or defective materials furnished, in the performance of this Agreement; (d) costs and reasonable expenses and fees, including reasonable attorneys' fees.

3.3. The payment security must be in a form approved by the office of County Counsel and shall secure payment for the contractor, subcontractors, and persons renting equipment or furnishing labor or materials to them for the work required pursuant to this Agreement.

3.4. The Improvement Security shall reflect the requirements of Government Code §§ 66499 through 66499.10, and any provisions of the Bond and Undertaking Law (Gov't Code §§995.010- 995.190) that are not inconsistent with those Government Code sections.

3.5. For Improvements to be dedicated to the County or other governmental body, Subdivider shall deliver a Warranty Bond or security to the County in a form approved by the Office of County Counsel in the amount of 20% of the Subdivision

Costs and Fees, which shall guarantee and warrant all work for one year following the completion and acceptance thereof by the Board against any defective work or labor done, or defective materials furnished, and to maintain such work to the satisfaction of the County.

3.6. Prior to commencing construction or installation of the Improvements, Subdivider shall deliver a cash deposit in the amount of \$7500 to secure the estimated costs related to the inspection of the Improvements. If the costs of inspection exceed the deposit, the Subdivider shall deposit an additional amount as determined by the County. Any balance remaining upon completion and acceptance of the Improvements will be refunded.

3.7. Prior to commencing construction or installation of the Improvements, Subdivider shall deliver a Monumentation Security in the form of a cash deposit in the amount of 100% of the estimated cost for the installation of survey monuments. The Monumentation Security shall be released upon certification by the Subdivider's surveyor that the monuments have been set and the surveyor has been paid.

3.8. Subdivider shall within 30 days give notice of the event and provide additional or new security to the County in the following circumstances:

- a. In the event any changes or alterations in the construction of the Improvements exceed 10% of the original estimated Subdivision Costs and Fees.
- b. Upon the transfer of 50% or more of Subdivider's ownership of the Project.
- c. As a condition of any extension of time for the completion of the Improvements, a new estimate of the Subdivision Costs and Fees shall be prepared and approved by the Director of Public Works, and Subdivider shall provide new security in an amount determined in accordance with paragraph 3.1 above.

3.9 The Board of Supervisors will not partially or wholly release the Improvement Security until the Improvements for which Improvement Security is being released are completed to the satisfaction of the County in accordance with the Conditions and Specifications, or upon reversion to acreage of the Subdivision pursuant to Section 4.4. Partial release of Improvement Security may occur if the Improvement Security is a cash deposit and by following the requirements of Stanislaus County Code §20.56.020.

3.10 The Improvement Security shall be released in whole or in part in the manner set forth in Government Code §66499.7. Prior to releasing the payment security in whole or in part in the manner set forth in Government Code §66499.7, the Subdivider shall provide the County with a mechanics lien guarantee to the benefit of Stanislaus County in the amount of the payment bond, which is dated at least 35 days after recordation of a Notice of Completion. The release shall not apply to any required guarantee and warranty period nor to costs and reasonable expenses and fees, including reasonable attorney's fees.

4. Completion

4.1. Subdivider shall complete all Improvements within forty-two (42) months from the date of this Agreement in a good and workmanlike manner in accordance with accepted construction practices and in a manner equal or superior to the Conditions and Specifications, and, where there is a conflict among any of the individual Conditions and Specifications, the stricter requirement shall govern.

4.2. Once begun, all work on the Improvements shall be completed within eighteen (18) months from the start of construction. The time for the completion of the Improvements may, in the sole discretion of the Department of Public Works, be extended for good cause, upon application by the Subdivider.

4.3. If Subdivider fails to complete the Improvements within the period stated in paragraphs 4.1 and 4.2 above, the Subdivider shall not proceed further with any work on the improvements unless and until approval to do so is obtained from the Department of Public Works. Subdivider agrees that and consents to the following: if the work on the Improvements is not completed on time, is defective or deficient, or is not completed in accordance with accepted construction practices and the Conditions and Specifications, or if Subdivider abandons the project, or the Subdivider otherwise fails to perform its obligations herein, the County may take any appropriate action to enforce the terms of this Agreement, including but not limited to:

4.3.1 Exercising the County's rights to the Improvement Security;

4.3.2. Completing the Improvements and recovering all Subdivision Costs and Fees associated with completion of the Improvements from Subdivider or from the Improvement Security;

4.3.3. Instituting proceedings for reversion to acreage pursuant to Government Code §66499.11, et seq.

4.4. If the term of this Agreement expires without the construction or installation of the Improvements commencing and without a new subdivision improvement agreement replacing this Agreement being entered into, Subdivider specifically consents, and waives any objection it may have, to reversion of the Project to acreage pursuant to Government Code §66499.12, et seq., and will take all reasonable steps and do all things reasonably necessary to assist the County in the reversion to acreage.

5. Improvement Plan Warranty

5.1. Subdivider warrants that its Improvement Plans are adequate to accomplish the work in accordance with the Conditions and Specifications, and if at any time

before the Acceptance of the Improvements the Improvement Plans prove to be inadequate in any respect, Subdivider shall make changes necessary to complete the work required in accordance with the Conditions and Specifications.

6. Guarantee, Warranty and Maintenance

6.1. Subdivider guarantees and warrants that the work to be performed pursuant to this Agreement will be free from defects and will meet the requirements of the Conditions and Specifications. Subdivider shall maintain, repair, replace defective, stolen or damaged work or materials and work that does not meet the requirements of the Conditions and Specifications. Subdivider shall be responsible for any Subdivision work or Improvements damaged by Subdivider, its contractors or builders, before or after the Board Accepts the Improvements or accepts the work. This guarantee and warranty shall extend for a period of one year after Acceptance of the Improvements, and shall be secured for one year after Acceptance of the Improvements by a bond, cash, or letter of credit, in a form and in amounts acceptable to the County.

7. Fees and Costs

7.1. Subdivider shall pay when due all Subdivision Costs and Fees.

7.2. Subdivider shall pay for the cost of relocating any existing utilities or poles as may be required in the Conditions and Specifications.

7.3 The original dollar values for the traffic mitigations listed in No. 14 of the Development Standards and Development Schedule are in 2004 dollars. These amounts shall be updated annually for the year in which building permits are issued using the Engineering News Record 20-Cities Construction Cost Index (ENR CCI). Specifically, the original fee amounts shall be indexed as follows:

a. Original Fee Value. The Original Fee Value was established as of November 2004 with an ENR CCI of 7312. The Project's fair share of Ladd/Carver intersection realignment was determined to be \$128,760.00. \$30,000 was prepaid prior to recording of Final Map (the Final Map was recorded on May 15, 2008 and the prepayment was made on December 15, 2006, DP# 63853) leaving a balance of \$98,760.00 to be paid.

b. Base Amount of Fee Before Adjustment. Subdivider shall pay the remainder of \$98,760.00 in equal installments with the issuance of a building permit for each of the 47 lots ("Individual Lot Fees") as adjusted in subsection (c).

c. Current Year Fee Value. The Current Year Fee Value will be determined by an adjustment utilizing the ENR CCI from December of the year prior to the current year.

The Remainder shall be updated to the Current Year Value using this formula:

$$\text{Current Year Value} = \text{Original Value} \times [1 + (\text{Dec. Prior Year ENR CCI} - 7312)/7312]$$

and

$$\text{Individual Lot Fee} = \text{Current Year Value} \div 47.$$

8. Inspections

8.1. It is the responsibility of the Subdivider to request inspections as needed to ensure that the Improvements conform to the Conditions and Specifications. The County reserves the right to inspect all Improvements at any time. The Subdivider shall pay the County for the cost of all inspections.

8.2. The Department of Public Works shall have the right to reject any or all of the Improvements to be performed under this Agreement if the Improvements do not conform to the Conditions and Specifications.

8.3. Inspection of the work required under this Agreement or any statement by any officer, agent, or employee of the County indicating the Improvements or any part thereof comply with the requirements of this Agreement, or Acceptance of the Improvements, shall not relieve Subdivider of the obligation to perform the work in accordance with this Agreement; nor shall the County be thereby estopped from bringing any action for damages arising from the failure to comply with any of the terms and conditions hereof.

9. Indemnity

9.1. Subdivider shall defend, indemnify and hold harmless the County from any and all claims, losses, damages or liability arising out of or relating in any way to this Agreement or to the Subdivision, except the active negligence of the County.

10. Insurance

10.1. Prior to the approval of this Agreement, the Subdivider shall procure and maintain at Subdivider's expense for the duration of this Agreement the following insurance:

General liability: \$2,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project, or the general aggregate limit shall be twice the

required occurrence limit.

Auto liability: Owned/Non-owned automobile liability insurance providing combined single limits covering bodily injury liability with limits of no less than One Million Dollars (\$1,000,000) per accident, and providing property damage liability of no less than One Hundred Thousand Dollars (\$100,000) per accident.

Workers' Compensation: Workers' Compensation insurance as required by the Labor Code of the State of California.

10.2. Requirements of All Insurance: All insurance required herein is expressly subject to the following:

10.2.1. The insurance coverage shall contain, or be endorsed to contain a provision stating that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to County.

10.2.2. Insurance shall be placed with California admitted insurers with a Best's rating of no less than A-:VII; provided, however, that if no California admitted insurance company provides the required insurance, it is acceptable to provide the required insurance through a United States domiciled carrier that meets the required Best's rating and that is listed on the current List of Eligible Surplus Line Insurers maintained by the California Department of Insurance.

10.2.3. Prior to performing any term or condition of this Agreement, Subdivider shall furnish County with certificates of insurance and with original endorsements effecting coverage required by this section. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements shall be received and, in County's sole and absolute discretion, approved by County before any term or condition of this Agreement is performed by Subdivider. County reserves the right to require complete copies of all required insurance policies and endorsements, at any time.

10.2.4. Subdivider shall require that all of its contractors and subcontractors be subject to all of the indemnity and insurance requirements stated in this Agreement.

10.2.5. The limits of insurance described herein shall not limit the liability of Subdivider and Subdivider's agents, representatives, employees, contractors or subcontractors.

10.2.6. All deductibles, self-insured retentions or named insured's must be declared in writing and approved by County. At the option of the County, either: the

insurer shall reduce or eliminate such deductibles, self-insured retentions or named insured's; or the Subdivider shall provide a bond, cash or letter of credit guaranteeing payment of losses and related investigations, claim administration and defense expenses.

10.3. Requirements of General Liability and Auto Liability Insurance: The general liability and automobile liability insurance policies are to contain, or be endorsed to contain, the following provisions:

10.3.1. The Subdivider shall provide a specific endorsement naming the County and County's officers, officials, employees, and volunteers as insured's regarding: liability arising from or in connection with the performance or omission to perform any term or condition of this Agreement by or on behalf of the Subdivider, including the insured's general supervision of the Subdivider; services, products and completed operations of the Subdivider; premises owned, occupied or used by the Subdivider; and automobiles owned, leased, hired or borrowed by the Subdivider. The coverage shall contain no special limitations on the scope of protection afforded to the County or County's officers, officials, employees, or volunteers.

10.3.2. The Subdivider's insurance coverage shall be primary insurance regarding the County and County's officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the County or County's officers, officials, employees, or volunteers shall be excess of the Subdivider's insurance and shall not contribute with Subdivider's insurance.

10.3.3. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to County or County's officers, officials, employees, or volunteers.

10.3.4. The Subdivider's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

10.4. Requirements of Workers' Compensation Insurance: The Worker's Compensation insurance coverage shall contain, or be endorsed to contain, that insurer shall agree to waive all rights of subrogation against the County and County's officers, officials, employees, and volunteers for losses arising from the performance of or the omission to perform any term or condition of this Agreement by the Subdivider.

11. The Subdivision Site The Subdivider, its contractors and builders shall keep the Subdivision property clean and free of debris. No construction materials shall be stored in, on or along any County right of way.

12. Assignment

12.1. This Agreement shall not be assigned by Subdivider without the prior written consent of the County.

13. Runs with Land and Recordation

13.1. This Agreement and all obligations of the Subdivider herein shall run with the land and is binding on the Subdivider's heirs, successors and assigns. The Subdivider and its heirs, successors and assigns shall inform potential buyers of parcels of land created by the underlying subdivision of the obligation created by this paragraph on successors and assigns to complete the Improvements pursuant to this Agreement. Subdivider and its heirs, successors and assigns shall provide copies of this executed agreement to those potential buyers. Subdivider acknowledges and agrees that the sale of all or any portion of the subdivision shall not relieve the Subdivider from its obligations herein. The Subdivider agrees that it shall have the obligation, in addition to and concurrent with the obligation of its successors and assigns, to maintain the securities set forth in this Agreement until either all obligations under this Agreement have been completed, or the execution of a replacement agreement and deposit with the County of replacement securities by the Subdivider's heirs, successors or assigns. The County shall cause this Agreement to be recorded with the County Recorder and shall provide Subdivider copies of the recorded Agreement to the addresses in the notice provisions of this Agreement within ten (10) days of County's receipt of the recorded Agreement.

14. Notice of Completion and As Built Drawings

14.1. Subdivider shall execute, acknowledge and record in the manner provided by law, a notice of completion of the Improvements within 10 days after the Department of Public Works provides written notice to the Subdivider that it has passed the final inspection.

14.2. Upon completion of the Improvements, the Subdivider's Engineer shall supply to the County one mylar set of "as built drawings." These drawings shall be certified on each page by a Registered Civil Engineer as being "as built drawings" and shall reflect the job as actually constructed, with all changes incorporated therein.

15. Acceptance of the Improvements and Occupancy

All required off-site improvements must be completed prior to or concurrently with on-site work. The County Department of Building Inspection shall not provide final inspection or occupancy approval of any structure within the Subdivision until all Improvements have been accepted by the Board of Supervisors. The Subdivider expressly agrees that any structures or residences within the Subdivision shall not be occupied until all

Improvements have been accepted by the Board of Supervisors. The Subdivider shall provide a written disclosure of the occupancy restriction to all purchasers of Subdivision property.

16. Effective Date of Agreement

16.1. This Agreement shall become effective on the date of its approval by the County Board of Supervisors.

17. Special Conditions

17.1 Any special conditions concerning the Subdivision are set forth on Exhibit "C" attached hereto and incorporated herein by this reference. Subdivider shall perform, in a timely manner, all Special Conditions identified on Exhibit "C".

18. General Terms

18.1. Any dispute concerning this Agreement or any action brought to enforce the terms and conditions of this Agreement, shall be submitted to a court of competent jurisdiction in the County of Stanislaus, State of California.

18.2. Any notices concerning this Agreement shall be mailed as follows to:

To County:

Stanislaus County
Department of
Public Works
1010 10th Street,
Suite 4204
Modesto, CA 95354

To Subdivider:

Bank of Stockton
Attn: Mr. W. Henry Claussen
P.O. Box 1110
Stockton, CA 95201

With a copy to:

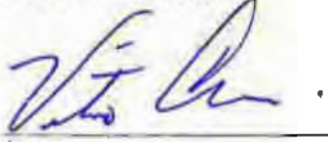
Petrolakis Law & Advocacy, APC
Attn: George A. Petrolakis, Esq.
P.O. Box 92

Modesto, CA 95353


18.3. If any section sentence, clause or phrase of this Agreement is held to be unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall remain effective and enforceable to the fullest extent allowed by law.

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

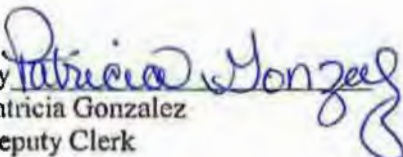
COUNTY OF STANISLAUS

By 
Vito Chies
Chairman of the Board of Supervisors
County of Stanislaus, State of California

SUBDIVIDER
BANK OF STOCKTON, a California
corporation

By 
Douglass M. Eberhardt II
Its: President

ATTEST
Elizabeth A. King
Clerk of the Board of Supervisors
of the County of Stanislaus,
State of California

By 
Patricia Gonzalez
Deputy Clerk

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

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 San Joaquin)

On August 2, 2017 before me, Dee Filippone, Notary Public
Date Here Insert Name and Title of the Officer
personally appeared Douglass M. Eberhardt II
Name(s) of Signer(s)

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 Dee Filippone
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: Subdivision Improvement Agreement Document Date: August 2, 2017
Number of Pages: 17 Signer(s) Other Than Named Above: Vito Chiesa

Capacity(ies) Claimed by Signer(s)

Signer's Name: Douglass M. Eberhardt II Signer's Name: _____
 Corporate Officer — Title(s): President Corporate Officer — Title(s): _____
 Partner — Limited General Partner — Limited General
 Individual Attorney in Fact Individual Attorney in Fact
 Trustee Guardian or Conservator Trustee Guardian or Conservator
 Other: _____ Other: _____
Signer Is Representing: Bank of Stockton Signer Is Representing: _____

APPROVED AS TO FORM

Jack Doering
County Counsel

By  _____
Amanda DeHart
Deputy County Counsel

APPROVED AS TO CONTENT
Department of Public Works

By  _____
Matt Machado
Director

EXHIBIT "A"

Lots 1-47 and Lots A-K of the Del Rio Lago Map recorded May 15, 2008 in Book 43 of Maps, at Page 85, Stanislaus County Records. (Map attached.)

EXHIBIT "B"

Development Standards and Development Schedule (As amended by the Board of Supervisors December 14, 2004)

EXHIBIT "C"

Special Conditions: None.