

Law Offices of

WILLIAM A. VAUGHN

Telephone
209-826-3531

525 J Street, Suite A
Los Banos, CA 93635

Facsimile
209-826-2431

DATE: October 7, 2020

TO: Mayor Villalta and City Council Members

FROM: William A. Vaughn, City Attorney

RE: Placing on the Agenda a resolution accepting public improvements for lots 145-155 for the East Center Development Phase 2A.

Recommendation:

By motion make a determination:

- there is an immediate need to take action;
- the need arose after the posting of the agenda (notified of request after City's agenda was posted); and
- the above referenced item be placed on today's Agenda for consideration pursuant to California Government Code section 54954.2(b)(2).

Background:

The Brown Act generally prohibits any action or discussion of items not on the posted agenda. However, under California Government Code section 54954.2(b), there are three specific situations in which a legislative body can act on an item not on the agenda:

1) Upon a determination by a majority vote of the legislative body that an emergency situation exists; or

2) Upon a determination by a two-thirds vote of the members of the legislative body present at the meeting, or, if less than two-thirds of the members are present, a unanimous vote of those members present, that there is a need to take immediate action and that the need for action came to the attention of the local agency subsequent to the agenda being posted; or

3) The item was posted for a prior meeting of the legislative body occurring not more than five calendar days prior to the date action is taken on the item, and at the prior meeting the item was continued to the meeting at which action is being taken.

Discussion:

After the Agenda was posted staff was informed by the applicant that several relocating first time home buyers in the East Center Phase 2A development were in jeopardy of losing their loan lock should the requested acceptance of public improvements be delayed to the next City Council agenda. According to the applicant a change in escrow closing date is not a viable option for these first time home buyers. Acceptance of the public improvements by the City would be the deciding factor in whether or not these first time home buyers are able to complete the purchase of their new home.

Staff is requesting that the item be placed on today's agenda (consideration and adoption of the above referenced resolution) because the need to take action "came to the attention of the [city] subsequent to the agenda being posted" and there is a degree of urgency affecting the home buyer's ability to close escrow. (California Government Code section 54954.2(b)(2)).



City of
Los Banos
At the Crossroads of California

Agenda Staff Report

TO: Mayor & City Council Members

FROM: Mark Fachin, P.E., Public Works Director/City Engineer

DATE: October 7, 2020

TYPE OF REPORT: Agenda Item

SUBJECT: Accepting Public Improvements which have been Substantially Completed for Lots 145-155 fronting Amabile Drive of East Center Phase 2A, Tract No. 2016-02.

Recommendation:

That the City Council adopts the Resolution accepting Public Improvements which have been Substantially Completed for Lots 145-155 fronting Amabile Drive of East Center Phase 2A, Tract No. 2016-02.

Background:

The Tentative Tract Map No. 2016-02 was approved by the City of Los Banos Community Development Department on August 10, 2016 by Resolution No. 2016-40. In March 2018, the Public Works staff was contacted by the developer, Pioneer Development Company, Inc., for Final Map approval for Phase 2. In April 2019, the developer split Phase 2 into Phase 2A and Phase 2B. In May 2019, the Public Works staff was contacted by the developer, Pioneer Development Company, Inc., for Final Map approval. The City Council adopted the resolution approving the Final Map for East Center Phase 2A with accompanying Subdivision Improvement Agreement on November 6, 2019. In October 2020, Pioneer Development Company, Inc. contacted the Public Works Department for partial acceptance of Public Improvements for Lots 145-155 fronting Amabile Drive of East Center Phase 2A, Tract No. 2016-02. The letter requesting this action from the developer is attached to this staff report.

Discussion:

East Center Phase 2A, Tract No. 2016-02 is generally located within the area bounded by Center Ave to the west, Pioneer Road to the south, Rainier Drive to the east, more specifically identified as APN. 431-270-005. The applicant, Pioneer Development Company, Inc. has requested partial acceptance of East Center Phase 2A, Tract No. 2016-02. Public Improvements for 10 single family homes fronting Amabile Drive, specifically identified as Lots 145-155, have been substantially completed. The partial Public Improvements have been subject to all Subdivision Improvement Agreement Conditions set forth in said agreement attached to this staff report. A Landscape and Lighting District Letter of Inclusion was executed for the parcel.

Fiscal Impact:

None. The existing Labor and Material Bond as well as the Performance Bond shall remain on file with the City of Los Banos until all public improvements for the remaining portion of East Center Phase 2A has been accepted by City Council. All other required processing, development, plan check and inspection fees to date have been paid.

Reviewed by:



Alex Terrazas, City Manager



Sonya Williams, Finance Director

Attachments:

Resolution

Site Map

Recorded Final Map

Subdivision Improvement Agreement for East Center Phase 2A

Exhibit A Original Engineers Estimate

Exhibit B Conditions of Approval

Letter from Developer requesting Partial Acceptance of East Center Phase 2A

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS BANOS ACCEPTING PUBLIC IMPROVEMENTS WHICH HAVE BEEN SUBSTANTIALLY COMPLETED FOR LOTS 145-155 FRONTING AMABILE DRIVE OF EAST CENTER PHASE 2A.

WHEREAS, the City Council of the City of Los Banos has received a request from the developers of East Center Phase 2A that Public Improvements which have been substantially completed for Lots 145-155 fronting Amabile Drive of East Center Phase 2A be accepted by the City of Los Banos; and,

WHEREAS, the City Council of the City of Los Banos has reviewed said request and finds that the substantially completed Public Improvements of said project are in a position to be accepted by the City of Los Banos.

WHEREAS, acceptance of the current Public Improvements as well as the remaining Public Improvements shall be completed per the conditions of the East Center Phase 2A Subdivision Improvement Agreement dated November 8, 2019.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Los Banos that is does hereby accept the Public Improvements which have been substantially completed for Lots 145-155 fronting Amabile Drive for East Center Phase 2A as presented.

The foregoing Resolution was introduced at a regular meeting of the City Council of the City of Los Banos held on the 7th day of October, 2020 by Council Member _____ who moved its adoption, which motion was duly seconded by Council Member _____ and the Resolution adopted by the following vote:

AYES:
NOES:
ABSENT:

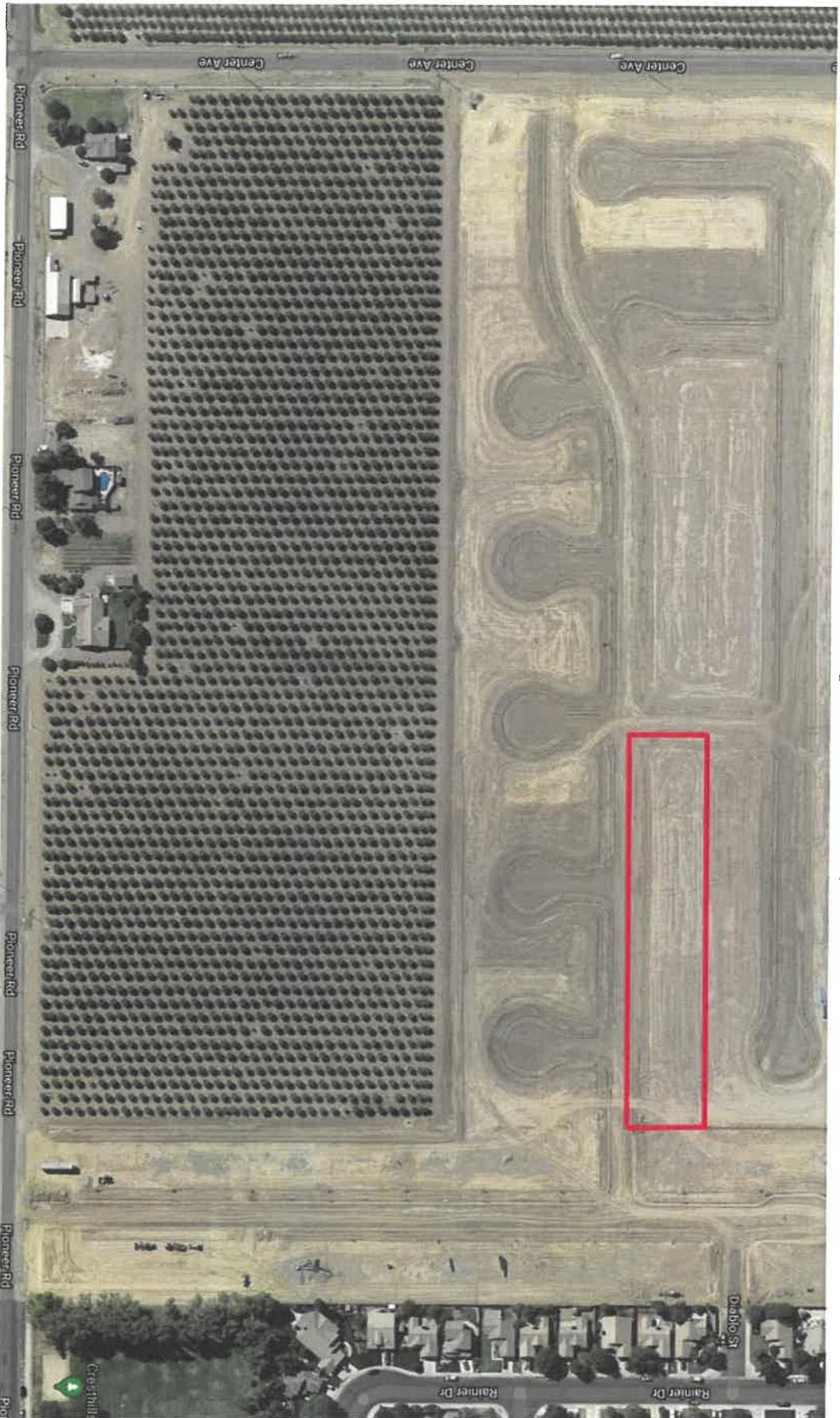
APPROVED:

Michael Villalta, Mayor

ATTEST:

Lucille L. Mallonee, City Clerk

Site Map:
East Center Phase 2A
(Partial Acceptance of Lots 145-155)



OWNER'S STATEMENT

WE, THE UNDERSIGNED, DO HEREBY STATE THAT WE ARE THE OWNERS OR HAVE SOME RIGHT, TITLE OR INTEREST OF RECORD IN THE LAND SHOWN ON THIS MAP AND WE CONSENT TO THE PREPARATION AND RECORDATION OF THIS FINAL MAP. WE ALSO HEREBY OFFER AN IRREVOCABLE EASEMENT TO THE CITY OF LOS BANOS IN FEE FOR PUBLIC USE THE FOLLOWING: THE EAST 20 FEET OF CENTER STREET AND THE 20 FEET OF CENTER STREET FROM THE EAST SIDE OF CENTER STREET WITHIN THE BOUNDARY OF THIS FINAL MAP.

WE ALSO HEREBY OFFER AS AN IRREVOCABLE EASEMENT TO THE CITY OF LOS BANOS AS A PASSEYER FOR PUBLIC USE ALL PUBLIC UTILITY EASEMENTS (IF ANY) AND THE 1 FOOT WIDE EASEMENT (IF ANY) SHOWN ON THIS FINAL MAP. THIS ALSO RELATES TO THE CITY OF LOS BANOS ALL ACCESS RIGHTS OF LOT 100 TO AND FROM CENTER STREET SHOWN ON THIS FINAL MAP.

OWNER: **POWER DEVELOPMENT COMPANY, INC.** A CALIFORNIA CORPORATION

NAME: **Gregory H. Johnson** PRINT NAME

TITLE: **President**

DATE: **7-15-20**

CITY: **Los Banos, CA 95201**

STATE OF: **CA**

COUNTY OF: **Merced**

PERSONALLY APPEARED: **Gregory H. Johnson** ANOTHER PUBLIC

WHO PROVED TO ME ON THE BASIS OF PERSONAL KNOWLEDGE TO BE THE PERSONS WHOSE NAMES WERE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT RESPECTIVELY SAID PERSONS ARE THE OWNERS OR HAVE SOME RIGHT, TITLE OR INTEREST IN THE WITHIN INSTRUMENT AND THAT BY HEREBY SIGNING SAID INSTRUMENT THEY AGREE TO THE TERMS AND CONDITIONS THEREOF AND THAT THE PERSONS WHOSE NAMES WERE SUBSCRIBED TO THE WITHIN INSTRUMENT UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING PARAGRAPH IS TRUE AND CORRECT.

WITNESS MY HAND

PRINT NAME: **Gregory H. Johnson** NOTARY PUBLIC

COMMISSION NUMBER: **41955812**

PRINCIPAL OFFICE LOCATION (COUNTY): **Merced** (DO NOT STAMP)

NOTARY STATEMENT (TRUSTEE)

A NOTARY PUBLIC OR OTHER OFFICER CARRYING THE CERTIFICATE APPEARS FOR THE COUNTY OF THE FOREGOING AND SOLEMNLY SWORE TO ME THAT THE FOREGOING INSTRUMENT WAS THE ACT AND DEED OF THE PERSONS WHOSE NAMES WERE SUBSCRIBED TO THE WITHIN INSTRUMENT.

STATE OF: **CA**

COUNTY OF: **Merced**

ON: **July 15, 2020** BEFORE ME: **L. Kioni Delara** ANOTHER PUBLIC

PERSONALLY APPEARED: **Diana M. Robinson** ANOTHER PUBLIC

WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSONS WHOSE NAMES WERE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT RESPECTIVELY SAID PERSONS ARE THE OWNERS OR HAVE SOME RIGHT, TITLE OR INTEREST IN THE WITHIN INSTRUMENT AND THAT BY HEREBY SIGNING SAID INSTRUMENT THEY AGREE TO THE TERMS AND CONDITIONS THEREOF AND THAT THE PERSONS WHOSE NAMES WERE SUBSCRIBED TO THE WITHIN INSTRUMENT UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING PARAGRAPH IS TRUE AND CORRECT.

WITNESS MY HAND

PRINT NAME: **L. Kioni Delara** NOTARY PUBLIC

COMMISSION NUMBER: **81592826**

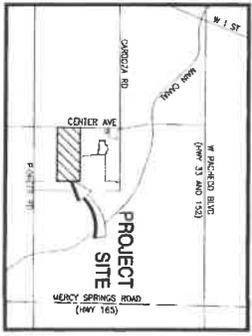
PRINCIPAL OFFICE LOCATION (COUNTY): **Merced** (DO NOT STAMP)

**TRACT NO: 2016-02
EAST CENTER, PHASE 2A**

BEING A SUBDIVISION OF PARCEL 1 OF PARCEL MAP FILED IN BOOK 24 OF PARCEL MAPS AT PAGE 6, MERCED COUNTY RECORDS, LYING IN THE SOUTHWEST QUARTER OF SECTION 23, TOWNSHIP 10 SOUTH, RANGE 10 EAST, MOUNT Diablo Base and Meridian, CALIFORNIA



185 South State Ave
Merced, CA 95201
Ph: 209.571.1785 odellengineering.com



PLANNING COMMISSION STATEMENT:

I, THE CITY CLERK, COUNTY OF LOS BANOS, STATE OF CALIFORNIA, DO HEREBY STATE THAT AT THE REQUEST OF THE CITY PLANNING COMMISSION, I HAVE REVIEWED THE SUBMISSIONS SUBMITTED TO ME ON THE DATE OF JULY 15, 2020, AND THAT THE SUBMISSIONS ARE SUBSTANTIALLY THE SAME AS THAT SHOWN ON THE EAST CENTER PHASE 2A MAP APPROVED BY THE CITY PLANNING COMMISSION ON THE 27th DAY OF MAY, 2017, AND THAT THIS FINAL MAP OF TRACT NO. 2016-02, EAST CENTER PHASE 2A, COMPLETES WITH ALL REQUIREMENTS OF SAID PLANNING COMMISSION.

DATED THIS 15th DAY OF July 2020.

BY: **Patricia S. Hill** CITY CLERK

TRUSTEE STATEMENT

WE, THE TRUSTEES OF THE COMPANY, AS TRUSTEES UNDER THE GENERAL USE OF TRUST RECORDS ACT, DO HEREBY STATE THAT WE HAVE REVIEWED THE SUBMISSIONS SUBMITTED TO ME ON THE DATE OF JULY 15, 2020, AND THAT THE SUBMISSIONS ARE SUBSTANTIALLY THE SAME AS THAT SHOWN ON THE EAST CENTER PHASE 2A MAP APPROVED BY THE CITY PLANNING COMMISSION ON THE 27th DAY OF MAY, 2017, AND THAT THIS FINAL MAP OF TRACT NO. 2016-02, EAST CENTER PHASE 2A, COMPLETES WITH ALL REQUIREMENTS OF SAID PLANNING COMMISSION.

DATED THIS 15th DAY OF July 2020.

BY: **Diana M. Robinson** TRUSTEE

SURVEYOR'S STATEMENT

THIS MAP WAS PREPARED BY ME OR UNDER MY SUPERVISION AND IS BASED UPON A FIELD SURVEY IN CONFORMANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND LOCAL ORDINANCE AT THE REQUEST OF POWER DEVELOPMENT COMPANY. I HAVE REVIEWED THE SUBMISSIONS SUBMITTED TO ME ON THE DATE OF JULY 15, 2020, AND THAT THE SUBMISSIONS ARE SUBSTANTIALLY THE SAME AS THAT SHOWN ON THE EAST CENTER PHASE 2A MAP APPROVED BY THE CITY PLANNING COMMISSION ON THE 27th DAY OF MAY, 2017, AND THAT THIS FINAL MAP OF TRACT NO. 2016-02, EAST CENTER PHASE 2A, COMPLETES WITH ALL REQUIREMENTS OF SAID PLANNING COMMISSION.

DATED THIS 15th DAY OF July 2020.

BY: **Gregory H. Johnson** SURVEYOR



CITY ENGINEER'S STATEMENT:

I HEREBY STATE THAT I HAVE EXAMINED THIS FINAL MAP AND IT COMPLETES WITH ALL THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND LOCAL ORDINANCE AT THE REQUEST OF POWER DEVELOPMENT COMPANY. I HAVE REVIEWED THE SUBMISSIONS SUBMITTED TO ME ON THE DATE OF JULY 15, 2020, AND THAT THE SUBMISSIONS ARE SUBSTANTIALLY THE SAME AS THAT SHOWN ON THE EAST CENTER PHASE 2A MAP APPROVED BY THE CITY PLANNING COMMISSION ON THE 27th DAY OF MAY, 2017, AND THAT THIS FINAL MAP OF TRACT NO. 2016-02, EAST CENTER PHASE 2A, COMPLETES WITH ALL REQUIREMENTS OF SAID PLANNING COMMISSION.

DATED THIS 15th DAY OF July 2020.

BY: **Patricia S. Hill** CITY ENGINEER



CITY SURVEYOR'S STATEMENT:

I HEREBY STATE THAT I HAVE EXAMINED THIS FINAL MAP AND IT COMPLETES WITH ALL THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND LOCAL ORDINANCE AT THE REQUEST OF POWER DEVELOPMENT COMPANY. I HAVE REVIEWED THE SUBMISSIONS SUBMITTED TO ME ON THE DATE OF JULY 15, 2020, AND THAT THE SUBMISSIONS ARE SUBSTANTIALLY THE SAME AS THAT SHOWN ON THE EAST CENTER PHASE 2A MAP APPROVED BY THE CITY PLANNING COMMISSION ON THE 27th DAY OF MAY, 2017, AND THAT THIS FINAL MAP OF TRACT NO. 2016-02, EAST CENTER PHASE 2A, COMPLETES WITH ALL REQUIREMENTS OF SAID PLANNING COMMISSION.

DATED THIS 15th DAY OF July 2020.

BY: **Patricia S. Hill** CITY SURVEYOR



CITY CLERK'S STATEMENT:

I, THE CITY CLERK, COUNTY OF LOS BANOS, STATE OF CALIFORNIA, DO HEREBY STATE THAT AT THE REQUEST OF THE CITY CLERK, COUNTY OF LOS BANOS, STATE OF CALIFORNIA, I HAVE REVIEWED THE SUBMISSIONS SUBMITTED TO ME ON THE DATE OF JULY 15, 2020, AND THAT THE SUBMISSIONS ARE SUBSTANTIALLY THE SAME AS THAT SHOWN ON THE EAST CENTER PHASE 2A MAP APPROVED BY THE CITY PLANNING COMMISSION ON THE 27th DAY OF MAY, 2017, AND THAT THIS FINAL MAP OF TRACT NO. 2016-02, EAST CENTER PHASE 2A, COMPLETES WITH ALL REQUIREMENTS OF SAID PLANNING COMMISSION.

DATED THIS 15th DAY OF July 2020.

BY: **Patricia S. Hill** CITY CLERK

RECORDERS STATEMENT

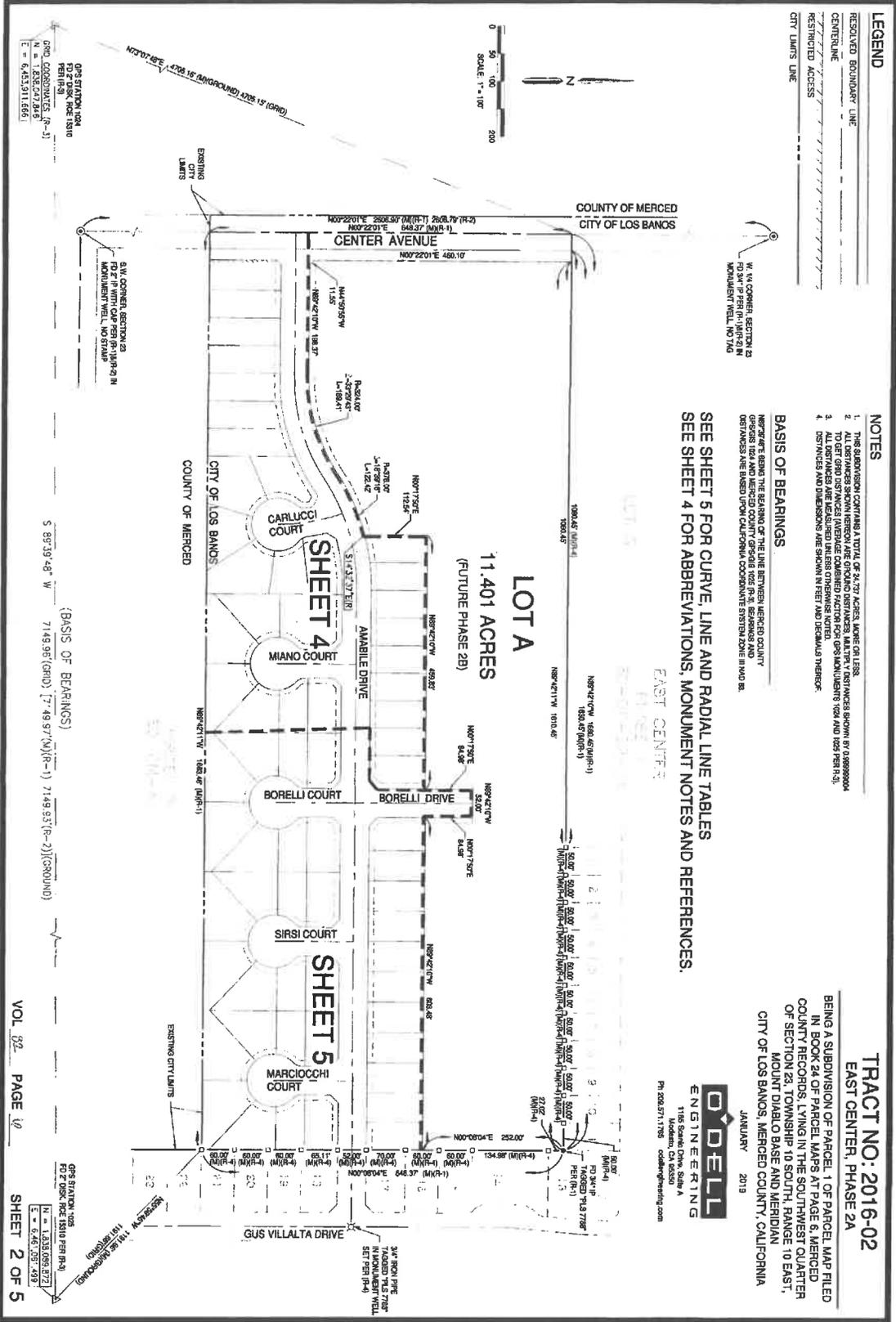
I, THE COUNTY CLERK, COUNTY OF LOS BANOS, STATE OF CALIFORNIA, DO HEREBY STATE THAT AT THE REQUEST OF POWER DEVELOPMENT COMPANY, I HAVE REVIEWED THE SUBMISSIONS SUBMITTED TO ME ON THE DATE OF JULY 15, 2020, AND THAT THE SUBMISSIONS ARE SUBSTANTIALLY THE SAME AS THAT SHOWN ON THE EAST CENTER PHASE 2A MAP APPROVED BY THE CITY PLANNING COMMISSION ON THE 27th DAY OF MAY, 2017, AND THAT THIS FINAL MAP OF TRACT NO. 2016-02, EAST CENTER PHASE 2A, COMPLETES WITH ALL REQUIREMENTS OF SAID PLANNING COMMISSION.

DATED THIS 15th DAY OF July 2020.

BY: **Patricia S. Hill** COUNTY CLERK

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Sheet 2 of 5

East Center Phase 2A
Tract No. 2016-02



LEGEND

- 1. RESOLVED BOUNDARY LINE
- 2. CENTERLINE
- 3. RESTRICTED ACCESS
- CITY LIMITS LINE

NOTES

1. THIS SUBDIVISION CONTAINS A TOTAL OF 24.77 ACRES, MORE OR LESS.
2. THE SUBDIVISION SHOWN HEREON IS BASED UPON THE DATA AND DISTANCES SHOWN IN THE RECORDS OF THE COUNTY OF MERCED, CALIFORNIA.
3. ALL DISTANCES ARE BASED UPON CALIFORNIA COORDINATE SYSTEM ZONE 10N AND 1029 FTMS.
4. DISTANCES AND DIMENSIONS ARE SHOWN IN FEET AND DECIMALS THEREOF.

BASIS OF BEARINGS

BEING A SUBDIVISION OF PARCEL 1 OF PARCEL MAP FILED IN BOOK 24 OF PARCEL MAPS AT PAGE 6, MERCED COUNTY RECORDS, LYING IN THE SOUTHWEST QUARTER OF SECTION 23, TOWNSHIP 10 SOUTH, RANGE 10 EAST, MOUNT Diablo Base and Meridian, CITY OF LOS BANOS, MERCED COUNTY, CALIFORNIA

SEE SHEET 5 FOR CURVE, LINE AND RADIAL LINE TABLES
SEE SHEET 4 FOR ABBREVIATIONS, MONUMENT NOTES AND REFERENCES.



1185 Santa Ana, Suite A
Modesto, CA 95230
PH: 209.571.1785 odelldesign.com

JANUARY 2018

TRACT NO: 2016-02
EAST CENTER, PHASE 2A

GPS STATION 1004
ORIG. COORDINATES (N-S)
N = 1,238,017.818
E = 6,453,911.666

9. W. CORNER SECTION 23
FD 2 P WITH CAP PER 89-1149-2 IN
MONUMENT WELL, NO STAMP

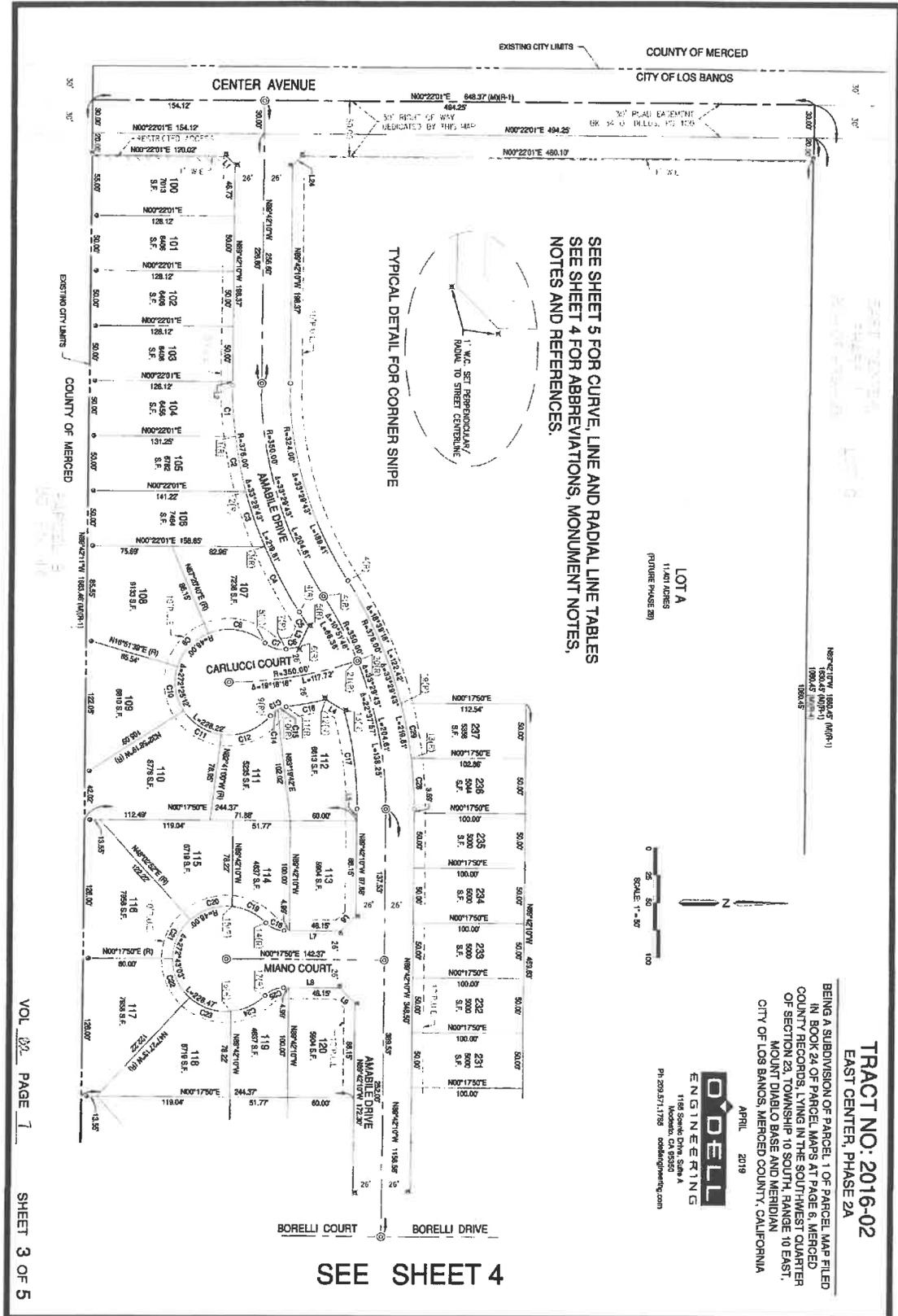
(BASIS OF BEARINGS)
S 89°39'48" W 7148.96' (GRND) [7°49'57" (S) (R-1) 7148.53' (R-2)] (GROUND)

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SHEET 2 OF 5

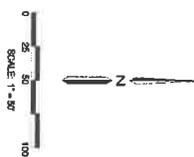
Use B2, Pg. 7
Sheet 3 of 5

East Center Phase 2A
Tract No. 2016-02



SEE SHEET 5 FOR CURVE, LINE AND RADIAL LINE TABLES
SEE SHEET 4 FOR ABBREVIATIONS, MONUMENT NOTES,
NOTES AND REFERENCES.

LOT A
11.401 ACRES
FUTURE PHASE 2B



TRACT NO: 2016-02
EAST CENTER, PHASE 2A

BEING A SUBDIVISION OF PARCEL 1 OF PARCEL MAP FILED
IN BOOK 24 OF PARCEL MAPS AT PAGE 8, MERCED
COUNTY RECORDS LYING IN THE SOUTH WEST QUARTER
OF SECTION 23 TOWNSHIP 10 SOUTH RANGE 10 EAST,
MOUNT DIABLO BASE AND MENDIAN
CITY OF LOS BANOS, MERCED COUNTY, CALIFORNIA

ODELL
ENGINEERING
1188 Serrano Drive, Suite A
Los Banos, CA 95207
PH 209.571.1782 odelldesign.com

APRIL 2019

SEE SHEET 4

Recording Requested By:

City of Los Banos

And When Recorded Mail to:

Lucille L. Mallonee, City Clerk
City of Los Banos
520 J Street
Los Banos CA 93635

Recorded in Official Records,
MERCED COUNTY
Doc#: 2019038058
11/19/2019 08:30 AM

Space above this line for Recorder's use.

SUBDIVISION IMPROVEMENT AGREEMENT

THIS AGREEMENT made this 8th day of November, 2019, between PIONEER DEVELOPMENT COMPANY, INC., a California Corporation, Parties of the First Part, hereinafter designated and called "DEVELOPER(S)", and the CITY OF LOS BANOS, a municipal corporation, the Parties of the Second Part, hereinafter designated and called "CITY".

WHEREAS, the DEVELOPER(S) have presented to the CITY a certain Final Map located within the corporate limits of the CITY, and known and described as Tract No 2016-02, East Center, Phase 2A, comprised of Lot A and 65 single lots, a copy of which is on file at the City of Los Banos Planning Department and made a part of this AGREEMENT by reference, and said DEVELOPER(S) have requested the CITY to accept the dedications delineated and shown on said Final Map in order that the same may be recorded as required by law; and,

WHEREAS, the CITY requires a condition precedent to the acceptance and approval of said Final Map, the dedication of said easements as are delineated and shown on said Final Map, and deems the same as necessary for public use, and requires and deems as necessary for the public use that any and all street improvements delineated and shown thereon shall be improved by the construction thereon and the installation therein of the improvements hereinafter specified in Paragraph One herein; and,

WHEREAS, certain sections of the Los Banos Municipal Code require the DEVELOPER(S) to enter into this AGREEMENT with the CITY whereby DEVELOPER(S) agree to do, perform, and complete the works and matters hereinafter in this AGREEMENT mentioned and set forth in details, within the time hereinafter mentioned, in consideration of the acceptance of the offers of dedication by the CITY; and,

WHEREAS, the City Council of the City of Los Banos has found said Final Map by Resolution No. _____ to be in substantial compliance with the designs and Conditions of Approval of Vesting Tentative Tract Map No. 2016-02.

NOW, THEREFORE, in consideration of the acceptance of the offers of dedication of easements, and facilities as shown and delineated on said Final Map, and the approval of said Final Map for filing and recording as provided and required by law, it is mutually agreed and understood by and between DEVELOPER(S) and CITY as follows:

SUBDIVISION AGREEMENT

1. That the CITY has fixed and does fix the time within which DEVELOPER(S) shall do and perform the work and improvements hereinafter specified and at such time during this period as designated by the Public Works Director/City Engineer of the CITY, but no later than the 30th day of December 2020, with the said provision that this time may be extended by consent of the City Council, and that the DEVELOPER(S) will, within the period of time stated herein above in this paragraph stated and fixed, do or cause to be done and performed, the following described work and improvements,(as detailed in attached Exhibit A) all at their own cost and expense, to the satisfaction of the Public Works Director/City Engineer in accord with the approved subdivision improvement plans and existing City Policies and adopted Standards, including all costs of inspection, to-wit;

IMPROVEMENTS:

1. SITE PREPARATION	\$	5,000.00
2. WATER	\$	139,620.00
3. SANITARY SEWER	\$	81,710.00
4. STORM DRAINAGE	\$	55,807.00
5. CONCRETE	\$	148,209.00
6. PAVING	\$	154,047.65
7. ELECTROLIERS	\$	32,500.00
8. MISCELLANEOUS	\$	<u>11,290.00</u>
TOTAL	\$	628,183.65

2. The DEVELOPER(S) shall furnish bonding or other forms of security for the estimated cost of the remaining improvements, agreed to by the CITY for Performance at 100%, \$628,183.65 and

Labor and Materials at 50%, \$314,091.83 and prior to the release of other security, for Warranty and Guarantee at 10% in the amount of \$62,813.37. In addition, the DEVELOPER(S) shall provide a bond or other form of security in the amount of \$3,500.00 for survey monuments, per §66496 of the Government Code.

4. The DEVELOPER(S) agrees to pay the following fees at the time of signing the AGREEMENT less any amount previously paid.

ENGINEERING AND INSPECTION

5% of Approved Engineer's estimate of \$1,273,446	\$	63,672.30
Less: Deposit for Plan Check (Rec#1149372)	\$	(24,712.06)
Less: Payment (Rec#1391834)	\$	(38,960.24)
SUB-TOTAL		\$ 0.00

FINAL MAP REVIEW

Charges for Phase 2 Review	\$	2,609.89
Charges for Phase 2A Review	\$	1,559.25
Less: Deposit for Phase 2 Map Review (Rec#1206587)	\$	(1,000.00)
Less: Deposit for Phase 2A Map Review (Rec#1329423)	\$	(1,000.00)
Less: Payment (Rec#1391834)	\$	(2,169.14)
SUB-TOTAL		\$ 0.00
TOTAL	\$	0.00

5. In accordance with adopted City Policy, security funds may be released for each category of improvements, as per Engineer's cost estimates for \$628,183.65 (attached as Exhibit "A"), as approved by Public Works Director/City Engineer and accepted by the City Council.

6. The DEVELOPER(S) shall install improvements in accordance with the requirements of the City of Los Banos Municipal Code, the Standard Specifications of the City of Los Banos, the approved Subdivision Improvements and Grading Plans and the Conditions of Approval of Vesting Tentative Tract Map 2016-02. All public improvements and utilities must be installed prior to occupancy of units.

7. In the event that the DEVELOPER(S) shall damage, destroy, or tear up any existing improvements, DEVELOPER(S) agree to repair or replace such destroyed or damaged improvements at their cost whenever such damage shall occur.

8. Street lights shall be furnished and installed by the DEVELOPER(S). It is solely the DEVELOPER(S) responsibility to coordinate the installation of street lights with the Pacific Gas and Electric Company and pay any and all fees necessary for their installation. At the time of acceptance, the street lights, including conductors to utility owner splice boxes, shall become the property of the CITY.

9. Any improvements not shown on the approved Improvement Plans which are to be dedicated to the CITY or which are to be placed within the proposed City right-of-way, including mailboxes, private and utility works, shall not be constructed without written approval from the CITY. It shall be the DEVELOPER(S) responsibility to ensure that mailboxes for use by the U.S. Postal Service are available for residents at the time of occupancy; installation to be per plans approved by the Postmaster and the CITY.

10. All earthwork and construction shall meet the requirements and recommendations of the Soils Report, the Amended Soils Report for the Project and the adopted Improvement Standards and Specifications of the City. The DEVELOPER(S) shall, at their expense, provide a Soils Engineer whose responsibility includes the professional inspection and approval concerning the preparation of ground to receive fills, excavation and backfill operations, stability of all finished slopes, and testing for required compaction. Prior to the issuance of structural permits and prior to occupancy release, the Soils Engineer shall certify, in writing, that all earthwork including trench backfill meets the requirements and recommendations of the Soils Report and the adopted Improvement Standards and Specifications of the City.

11. Neither the CITY nor any of its officers or agents shall be liable to DEVELOPER(S) or their contractors for any error or omission arising out of or in connection with any work to be performed under this AGREEMENT. During the progress of the work, if it becomes necessary to modify the design because of errors or omissions on the plans or unforeseen conditions which render a portion of the project inoperable, unsafe, or prohibits a part of the project from performing satisfactorily in the opinion of the CITY, the plans shall be modified in accordance

with the recommendations of the CITY. The DEVELOPER(S) shall be responsible for all costs incurred in revising the plans and performing the work in accordance with the modified plans.

12. The Improvement Plans may be modified upon approval by the CITY at no cost to the CITY.

13. The CITY shall not be liable to the DEVELOPER(S) or to any other person, firm, or corporation whatsoever, for any injury or damage that may result to any person or property by or from any cause whatsoever in, on, or about the subdivision of said land covered by this AGREEMENT, or any part thereof.

14. The DEVELOPER(S) hereby release and agree to indemnify and hold the CITY harmless from and against any and all injuries to and deaths of persons and injuries to property, and all claims, demands, costs, loss, damage, and liability, howsoever the same may be caused and whensoever the same may appear, resulting directly or indirectly from the performance or nonperformance of any or all work to be done in and upon the street rights-of-way in said subdivision and upon the premises adjacent thereto pursuant to this AGREEMENT, and also from any and all injuries to and deaths of persons and injuries to property or other interests, and all claims, demands, costs, loss, damage, and liability, howsoever the same may be caused and whensoever the same may appear, either directly or indirectly made or suffered by the DEVELOPER(S), the DEVELOPER(S) agents, employees, and subcontractors, while engaged in the performance of said work.

15. The DEVELOPER(S) agree that the use for any purpose and by any persons of any and all of the improvements herein before specified, shall be at the sole and exclusive risk of the DEVELOPER(S) at all times prior to final acceptance by the CITY of the completed improvements. Thereon and therein; provided, that acceptance by the CITY shall in no way eliminate or lessen any of DEVELOPER(S) obligations and undertakings contained in this AGREEMENT. The issuance of any occupancy permits by the CITY for dwellings located within said subdivision shall not be construed in any manner to constitute an acceptance and approval of any or all of the improvements in said subdivision.

16. It is mutually agreed by the parties hereto that the Public Works Director/City Engineer shall have the right to reject any or all of the work to be performed under this AGREEMENT if such work does not conform with the plans and specifications mentioned herein or the ordinances of the CITY. Reinspection of corrected work shall be at the expense of the DEVELOPER(S). The cost of such reinspection is not included in the Engineering and Inspection Fee described in Paragraph 4 of this AGREEMENT. Any damage to the sewer system, utilities, concrete work, or street paving that occurs after installation shall be repaired by the DEVELOPER(S) to the satisfaction of the Public Works Director/City Engineer by the DEVELOPER(S) before release of bond or final acceptance of completed work.

17. DEVELOPER(S) shall provide for adequate erosion control as determined by the Public Works Director/City Engineer on individual lots and from exterior property draining into the area of the subdivision, to protect the public rights-of-way and improvements. Erosion control on individual lots shall continue until such a time as front and street side yard landscaping is installed.

18. Without limiting the foregoing, DEVELOPER(S) warrant and guarantee materials used and workmanship performed on said work for a period of one (1) year after completion and acceptance thereof by the City Council, or the Public Works Director/City Engineer.

19. Upon completion of the improvements, specified herein the DEVELOPER(S) shall file a Notice of Completion with Merced County and submit to the City "As Built" drawings on mylar, of the improvements. The Notice of Completion shall be filed no later than thirty-five (35) days prior to consideration for acceptance of the improvements by the City Council. As part of the request for acceptance of improvements, the DEVELOPER(S) shall submit a title report encompassing each of the parcels within the Subdivision which discloses all liens or claims which may have been recorded in or prior to thirty-one (31) days following the date of recordation of the Notice of Completion. If any liens or claims are thus revealed, the DEVELOPER(S) shall either remove the liens and claims and submit an updated title report prior to acceptance of the Subdivision by the CITY, or shall enter into an agreement with the CITY that provides to the satisfaction of the CITY a method for the removal of such liens and claims at no cost to the CITY.

20. It is hereby mutually covenanted and agreed by the parties hereto that DEVELOPER(S) contractors are not agents of the CITY and that the contractors' relations to CITY, if any, are those of independent contractors.

21. That the applicant furnish the CITY with a reproducible 8 1/2" x 11" map of the Final Map of this development prior to issuance of permits.

22. DEVELOPER(S) shall comply with all applicable original or amended Conditions of Approval of Vesting Tentative Tract Map 2016-02 prior to acceptance of public improvements or final of any housing units.

23. No work shall commence under the terms of this AGREEMENT prior to all of the following being completed: deposit of improvement security per City Council resolution; issuance of a Subdivision Improvements grading permit other than rough grading and site preparation; and payment of all required development fees.

24. All costs for engineering and inspection services which exceed the 5% fee specified above will be invoiced to the DEVELOPER(S) and must be paid in full prior to acceptance of the subject improvements by the CITY.

25. If construction of improvements has not begun within one (1) year from the date of this AGREEMENT, then prior to commencement of work the Public Works Director/City Engineer shall review the improvement plans and determine if revisions are required. In any case, a new engineer's cost estimate shall be submitted by the applicant to the Public Works Director/City Engineer. The applicant shall be responsible for any modification to the plans required by the Public Works Director/City Engineer and shall pay all plan check fees plus the difference in inspection fees due based on the new cost estimate.

26. The DEVELOPER(S) acknowledge the requirement to comply with the environmental mitigation measures for Vesting Tentative Tract Map 2016-02, and the conditions of approval for said tentative map, (attached herein as Exhibit 'B'), in the development of this Subdivision.

27. The terms of this AGREEMENT are not intended to, nor do they, relieve the DEVELOPER(S) of any conditions of approval, compliance with City Standards or compliance

with mitigation measures of adopted environmental documents, the compliance with which may be placed as a condition of permit issuance or occupancy.

28. Time is of the essence of this AGREEMENT. It is agreed that the provisions of this AGREEMENT shall apply to and bind the heirs, executors, administrators, successors, devisees, and assignees of the respective parties hereto.

IN WITNESS WHEREOF, the parties have executed these presents or caused the same to be executed by the officers thereunto duly authorized on the date and year in this AGREEMENT first above written.

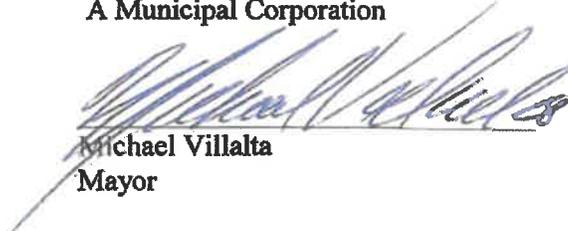
Pioneer Development Company, Inc.,
A California Corporation



Greg Hostetler
President

PARTIES OF THE FIRST PART

CITY OF LOS BANOS
A Municipal Corporation



Michael Villalta
Mayor

PARTIES OF THE SECOND PART

ATTEST:



Lucille L. Mallonee
City Clerk
City of Los Banos

**Signatures need to be notarized.
Attach a Notary Acknowledgement.**

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 Merced)

On October 15, 2019 before me, A. Gonzalez, Notary Public
(insert name and title of the officer)

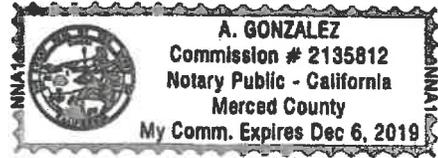
personally appeared Greg Hostetler
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) 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 

(Seal)



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 Merced

On November 8, 2019 before me, Jennifer Matthews, Notary Public
(insert name and title of the officer)

personally appeared Michael Villalta
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 Jennifer Matthews (Seal)





OPINION OF PROBABLE COST

Project name: East Center - Phase 2 / 29044

LOS BANOS, CA

Phasing: Option 2A - 65 Lots

3/4/2019

ITEM DESCRIPTION	UNIT	QUANT.	UNIT COST	AMOUNT
A. SITE PREPARATION				
1 EROSION CONTROL	LS	1	\$5,000.00	\$5,000.00
SUB-TOTAL				\$5,000.00
B. WATER				
1 8" WATER	LF	2,686	\$16.00	\$42,976.00
2 10" WATER	LF	23	\$20.00	\$460.00
3 12" WATER (CENTER AVE)	LF	1,772	\$22.00	\$38,984.00
4 8" WATER VALVE	EA	14	\$1,000.00	\$14,000.00
5 10" WATER VALVE	EA	1	\$1,050.00	\$1,050.00
6 12" WATER VALVE	EA	1	\$1,500.00	\$1,500.00
7 HYDRANT, BURY & GATE VALVE	EA	11	\$2,000.00	\$22,000.00
8 CONNECT TO EX. WATER	EA	2	\$1,200.00	\$2,400.00
9 HOUSE SERVICE INCLUDING METER BOX	EA	65	\$250.00	\$16,250.00
SUB-TOTAL				\$139,620.00
C. SANITARY SEWER				
1 6" SEWER MAIN	LF	684	\$14.00	\$9,576.00
2 10" SEWER MAIN	LF	1,824	\$16.00	\$29,184.00
3 STD. SEWER MANHOLE	EA	13	\$2,000.00	\$26,000.00
4 4" STD. LATERAL	EA	65	\$250.00	\$16,250.00
5 CONNECT TO EX. SEWER	EA	1	\$700.00	\$700.00
SUB-TOTAL				\$81,710.00
D. STORM DRAINAGE				
1 12" STORM DRAIN	LF	107	\$18.00	\$1,926.00
2 15" STORM DRAIN	LF	213	\$21.00	\$4,473.00
3 18" STORM DRAIN	LF	272	\$24.00	\$6,528.00
4 24" STORM DRAIN	LF	616	\$30.00	\$18,480.00
5 STD. MANHOLE	EA	6	\$2,000.00	\$12,000.00
6 CATCH BASIN	EA	8	\$1,450.00	\$11,600.00
7 CONNECT TO EX. STORM DRAIN	EA	1	\$800.00	\$800.00
SUB-TOTAL				\$55,807.00
E. CONCRETE				
1 6" VERTICAL CURB & GUTTER (INCL. RETURNS & DRIVEWAYS)	LF	3,897	\$10.00	\$38,970.00
2 ROLLED CURB & GUTTER	LF	1,278	\$14.00	\$17,892.00
3 SIDEWALK (INCL. RAMPS, RETURNS & DRIVEWAYS)	SF	28,049	\$3.00	\$84,147.00
4 WHEEL CHAIR RAMP (LABOR ONLY)	EA	12	\$600.00	\$7,200.00
SUB-TOTAL				\$148,209.00

F. PAVING

1	2.5" A.C. OVER 10.5" A.B.	SF	83,269	\$1.85	\$154,047.65
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				SUB-TOTAL	\$154,047.65
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G. ELECTROLIERS

1	ELECTROLIERS	EA	13	\$2,500.00	\$32,500.00
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				SUB-TOTAL	\$32,500.00
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H. MISCELLANEOUS

1	R-1 STOP SIGN AND STREET NAME SIGN W/ LEGEND	EA	7	\$350.00	\$2,450.00
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2	STRIPING	LS	1	\$1,500.00	\$1,500.00
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3	MONUMENT WELLS	EA	13	\$300.00	\$3,900.00
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4	STREET BARRICADE	LF	43	\$80.00	\$3,440.00
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				SUB-TOTAL	\$11,290.00
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				Construction Total	\$628,183.65
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Notes:

1. This estimate does not include surveying, engineering, landscaping, street trees, joint trench, or irrigation.
2. This estimate does not include cost for removal and/or replacement of existing utility poles and the utilities associated with the utility poles.
3. This estimate does not include cost for irrigation ditch removal, relocation, or pipe lining.
4. Estimate grading cost can vary due to shrinkage, stripping, site consolidation and other variable factors associated with earthwork.
5. Items not included as part of this estimate:

A. Good Neighbor Fencing	J. Easement acquisitions
B. Permits	K. Retaining Walls
C. Utility Fees	L. Landscape Design Improvements
D. City Fees, bond fees	M. Street Trees
E. Engineering/design fees	N. Tree Removal
F. Soils engineering cost	O. Mail Boxes
G. Power Pole Relocation	P. Existing Irrigation Facility Demolition
H. Construction Surveying	
I. Landscaping Fees	
6. This estimate is not intended for bidding purposes.

Exhibit B

CONDITIONS OF APPROVAL FOR VESTING TENTATIVE TRACT MAP #2016-02 – HILL PROPERTY

General

1. The applicant shall submit a revised Vesting Tentative Tract Map to the Community and Economic Development Department reflecting any modifications, additions, and/or conditions of approval, within 30 days from Planning Commission approval. If necessary, the revised Vesting Tentative Tract Map shall be reviewed by the City Engineer and the Community and Economic Development Director and signed by the Community and Economic Development Director for purposes of providing a clear record of the approved Vesting Tentative Tract Map.
2. The Vesting Tentative Tract Maps, Final Maps, and Improvement Plans shall be consistent with the Final Development Plan, as conditioned.
3. Approval and life of the Vesting Tentative Tract Maps shall be as set forth in the Los Banos Municipal Code.
4. All development shall be consistent with the Vesting Tentative Tract Map #2016-02 and approved Final Development Plan #2016-02, reflecting any amendments added during approval.
5. The Final Map(s) shall be in substantial compliance with the approved Vesting Tentative Tract Map, including any changes set forth in the conditions of approval.
6. A Final Map shall be prepared by a professional land surveyor licensed in California or a professional engineer licensed in California and qualified to practice land surveying, according to the Subdivision Map Act, and local ordinances.
7. At least two points on the Final Map shall be tied to the California State Plane Coordinate System (NAD 83) with ties shown and closure calculations depicting the tie bearings and distances.
8. A letter from the Tax Collector shall be submitted prior to the recording of the Final Map which indicates that taxes have been paid or a bond has been posted.
9. A Final Map Guarantee shall be prepared and provided to the County Recorder.

10. When the submittal has been technically approved, the original mylars and a conforming mylar will be signed and notarized (notary shall not be stamped on the map) and delivered to the Public Works Department.
11. Developer shall include a Public Utility Easement of ten (10) feet along all road frontages.
12. For all properties within 1,000 feet of agricultural operations, deed notices shall be recorded with the final map. The deed notice shall require property purchasers to acknowledge the existing and ongoing commercial and/or agricultural uses on adjacent and nearby properties, and the Merced County Right-to-farm Ordinance.
13. Building Master Plans shall be approved by the Community and Economic Development Department and Building Department prior to issuance of the first building permit and shall be consistent with Final Development Plan #2016-02.
14. Improvement Plans shall be submitted to the City for approval prior to/or concurrent with the application for each final map and the following note shall be required: "The Contractor is responsible for protecting and preserving survey monuments and other survey markers. Any survey monuments damaged as a direct or indirect result of construction activities shall be re-established by a duly licensed land surveyor at the Contractor's sole expense. A corner record shall be filed in accordance with State law for any reset monuments at the Contractor's sole expense."
15. Improvement Plans shall include a street signage and striping plan to be approved by the Public Works Director.
16. On-site improvements may be constructed prior to the recording of the final map subject to City approval of Improvement Plans and payment of applicable plan check and inspection fees, and satisfaction of all construction conditions of approval.
17. Off-site public improvement plan(s) shall be submitted to the Public Works Department for approval prior to/or concurrent with the application for the Final Map. The developer shall not commence off-site improvements until approval is received by the Public Works Department. The developer shall enter into a subdivision improvement agreement with the City and provide labor and maintenance bonds in an amount of 100% of the Engineer's Estimate for public improvements to be completed following recordation of the Final Map.
18. The project is subject to the appropriate Development Impact Fees as established by the City.

19. Private property owners shall be responsible for the maintenance of sound walls and decorative masonry walls located on private property. A maintenance easement shall be provided as required by the Public Works Director.
20. The applicant shall obtain City approval in advance for permanent and temporary on-site and off-site signs through separate sign reviews and bonding consistent with the development criteria of the Los Banos Municipal Code – Sign Ordinance.
21. It is the applicant's responsibility to ensure that the development complies with the Americans with Disabilities Act requirements.
22. It shall be the responsibility of the applicant to convey copies of the conditions of approval to all contractors and sub-contractors.
23. Building permits will be issued in accordance with the City Subdivision Policy that identifies the improvements required in order for a building permit to be issued.
24. All structures, foundations, and footings for future buildings on the project site shall be designed and constructed to conform to the current Uniform Building Code for Seismic Zone 4 to minimize structural damage resulting from potential seismic activity.
25. An engineering soils report shall be prepared for all projects in order to identify soil characteristics requiring special structural design. On-site and off-site structural design shall conform to the findings and recommendation of the engineering soils report. The report shall be prepared prior to issuance of a grading permit, subject to review and approval of the Los Banos City Engineer.
26. Prior to issuance of building permits for development of sensitive residential land uses (e.g. houses, schools, parks, day care), or other uses in which persons may contact soils), a Phase 1 environmental assessment shall be prepared to determine if soils contain hazardous materials. If necessary, a remediation plan shall be created and implemented. The assessment and any necessary remediation plans shall be subject to the approval of the Community and Economic Development Department.
27. Improvement Plans and Grading Plans shall delineate the location and design of all required walls including retaining walls.
28. Improvement Plans shall include mailbox locations, which must be approved by the US Postmaster and the City of Los Banos.
29. Due to the possibility that significant buried cultural resources might be found during construction, the following language shall be included in any

permits issued for the project site, including, but not limited to building permits for future development, subject to the review and approval of the Los Banos Community and Economic Development Department:

If archaeological resources or human remains are discovered during construction, work shall be halted at a minimum of 200 feet from the find and the area shall be staked off. The project developer shall notify a qualified professional archaeologist. If the find is determined to be significant, appropriate mitigation measures shall be formulated and implemented.

30. In the event of an accidental discovery or recognition of any human remains in any location other than a dedicated cemetery, the City shall ensure that this language is included in all permits in accordance with CEQA Guidelines section 15064.5(e):

If human remains are found during construction there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until the Los Banos Police Department contacts the coroner of Merced County to determine that no investigation of the cause of death is required. If the coroner determines the remains to be Native American, the coroner shall contact the Native American Heritage Commission within 24 hours. The Native American Heritage Commission shall identify the person or persons it believes to be the most likely descendent from the deceased Native American. The most likely descendent may then make recommendations to the landowner or the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains and associated grave goods as provided in Public Resources Code Section 5097.98. The landowner or his authorized representative shall rebury the Native American human remains and associated grave goods with appropriate dignity on the property in a location not subject to further disturbance if: a) the Native American Heritage Commission is unable to identify a most likely descendent or the most likely descendent failed to make a recommendation within 24 hours after being notified by the commission; b) the descendent identified fails to make a recommendation; or c) the landowner or his authorized representative rejects the recommendation of the descendent, and the mediation by the Native American Heritage Commission fails to provide measures acceptable to the landowner.

Pre-Construction and Construction

32. A minimum 200-foot separation shall be maintained between residences and material stockpiles, debris piles or containers and equipment storage during the construction process. If such storage must be located within 200 feet of a residence, a six-foot high opaque fence shall shield the storage area from view when the storage area is inactive for more than

eight hours. This requirement shall be incorporated into the specifications for all construction plans, subject to review and approval by the City of Los Banos Community and Economic Development Department.

33. Two points of all-weather access shall be provided to all areas of the development during all phases of construction to the satisfaction of the Fire Department in areas where residential units are under construction.
34. Temporary construction trailers shall be permitted only in areas immediately adjacent to or within that portion of the subdivision where active subdivision construction is taking place. Placement of said construction trailer is subject to the Community and Economic Development Director approval in accordance with Title 9, Chapter 3, Article 38, Temporary Use Ordinance of the Los Banos Municipal Code.
35. During construction, and for safety purposes, the developer and assigned contractors shall keep the public right-of-way clear of obstructions, and provide for clean up on a daily basis.
36. Prior to acceptance of public improvements, all entries to the subdivision shall be barricaded to prevent the public from entering the construction site.
37. Undeveloped portions of development sites shall be controlled of weeds and free of debris and litter. The applicant shall provide protection against wind and water soil erosion on undeveloped portions of the project site. Temporary vegetation on undeveloped portions of the project site shall not be allowed to grow taller than eighteen inches.
38. All contractors and subcontractors performing work relative to this project shall obtain City of Los Banos Business Licenses, prior to start of work on the project. All work performed on the project shall comply with the requirements of the State Business and Professions Code.
39. Construction shall be limited to those times allowed by City Ordinance: Monday through Friday from 7:00 am to 7:00 pm; Saturday from 8:00 am to 7:00 pm; and Sunday from 9:00 am to 7:00 pm. Properly muffled equipment shall be used.
40. The developer shall incorporate soil erosion control measures into grading and drainage plans that comply with NPDES storm water regulations. These measures shall be monitored for effectiveness by the City of Los Banos. Such measures may include, but not be limited to, the following:
 - a. Limit disturbance of soils and vegetation disturbance removal to the minimum area necessary for access and construction;
 - b. Confine all vehicular traffic associated with construction to the right-of-

way of designated access roads;

- c. Silt fencing installed in accordance with the American Society for Testing and Materials standard D6462.
 - d. Adhere to construction schedules designed to avoid periods of heavy precipitation or high winds;
 - e. Ensure that all exposed soil is provided with temporary drainage and soil protection when construction activity is shut down during the winter periods;
 - f. Inform construction personnel prior to construction and periodically during construction activities of environmental concerns, pertinent laws and regulations, and elements of the proposed erosion control measures;
 - g. Compliance with National Pollution Discharge Elimination System (NPDES) permits administered by the California Regional Water Quality Control Board; and
 - h. Development of a plan to employ best management practices that reduce the level of pollutants discharged into natural waterways and wetlands.
41. Where standard corner lot side yards abut a street, a minimum three-foot landscaping area shall be provided between the back of sidewalk and the fence.
42. Restricted access rights shall be irrevocably offered for dedication to the City along the rear edge of private property where properties back onto streets, and shall be shown on final maps.
43. Masonry walls shall be decorative and in conformance with the Final Development Plan. A minimum 3 foot landscape area shall be provided between the back of the sidewalk and any masonry walls.
- 43.44. Where the project boundary abuts existing good-neighbor residential fences, the Developer shall replace with new fences in accordance with the requirements of the Los Banos Municipal Code.

Air Quality:

- 44.45. All residences shall exceed Title 24 energy requirements. As many energy conserving features as possible shall be included in the design and construction of new buildings. Examples include, but are not limited to, increased wall and ceiling insulation, energy efficient lighting, high efficiency appliances, and solar assisted water heating.

45.46. Housing units shall be oriented to maximize passive solar cooling and heating when practicable.

46.47. Gas fired appliances shall be low NOx emitting appliances complying with California NOx Emission Rule #1121.

47.48. Natural gas line and electrical outlets shall be included in the backyard or patio areas of residences to encourage the use of gas and/or electric barbecues.

48.49. Electrical outlets shall be installed around the exterior of residences to encourage use of electrical landscape maintenance equipment.

49.50. Only low emitting, EPA approved fireplace inserts and/or wood stoves or natural gas fireplaces shall be installed. No open hearth fireplaces shall be allowed.

50.51. The developer shall comply with all applicable Indirect Source Rule requirements of the San Joaquin Valley Air Pollution Control District. Developer shall prepare an air emissions reduction if required.

Access and Circulation:

52. Prior to occupancy of the first residence, the developer shall construct Center Avenue for the full length of the Vesting Tentative Map. Frontage improvements shall be provided for the full width of right-of-way including curb/gutter improvements fronting the cemetery. The improvements shall include median, travel lanes, bike lane as applicable, sidewalk, 5' landscape lot, and decorative masonry in accordance with the East Center Area Plan.

54.53. Street G shall be designed and constructed in accordance with the East Center Area Plan approved January 18, 2006, which consists of 60 foot right-of-way and separated sidewalk with street trees.

52.54. The developer shall design and install traffic calming along Street G, provide a street stub at Court L for future development to the south, and open Court G or Court I to Street G as approved by the City Engineer.

53.55. Traffic calming may include, but is not limited to the following: raised intersections, speed cushions, stop signs, varied cross sections, and round-bouts as approved by the City Engineer.

54.56. The Class I and II bicycle paths shall be designed in conformance with Caltrans design standards, and shall specifically be designed to reduce intersection conflicts between cyclists and automobiles, using signage, lighting, and/or special street pavement treatments at and near points of intersection.

~~55-57.~~ The developer shall be responsible for constructing public streets per the Vesting Tentative Tract Map including, but not limited to curb, gutter and sidewalk, decorative masonry wall, and landscaping where noted. Improvements to arterials and collector streets shall be completed prior to occupancy of any use within the project boundaries, and improvements to neighborhood streets shall be complete prior to occupancy of any house that requires the street for access.

~~56-58.~~ The developer shall construct at least a half-section of any adjacent street on which the project borders, regardless of whether project access is taken from that street. The half-section shall be constructed in accordance with City standards, or as otherwise approved in the Vesting Tentative Tract Map, including, but not limited to curb, gutter, sidewalk, one-half of the planned travel lanes, median, decorative masonry wall, and landscaping.

~~57-59.~~ All street signage and striping within the project area shall be approved by the Public Works Department and shall meet all line-of-sight requirements.

~~58-60.~~ Prior to acceptance of subdivision improvements, the developer shall install all street and traffic control signs, pavement striping, and street name signs in accordance with the public improvement plans and City standards.

~~59-61.~~ Prior to approval of Final Improvement Plans, street sections for all streets shall be approved by the City Engineer.

~~60-62.~~ Final Map(s) shall show a non-access strip 12 inches in width on private property along the frontage of arterial and collector streets, except at driveways, for the purpose of constructing sound walls and decorative masonry walls.

~~61-63.~~ Prior to approval of the Final Improvement Plan(s), all curb return radii less than 40 feet shall be reviewed for adequacy for turning movements of moving vans, fire apparatus, and other large vehicles, and adjusted accordingly.

~~62-64.~~ The developer shall be responsible for obtaining encroachment permits from the City of Los Banos prior to performing any work within the City's right-of-way.

~~63-65.~~ Traffic calming measures throughout the project area shall be provided by the developer and approved by the Public Works Director.

Landscape and Lighting District:

~~64-66.~~ Prior to approval of any final or parcel map, the developer shall form or annex the subject property to a Lighting and Landscaping District created

for purposes of maintaining public landscape areas, signage and public lighting including a share of traffic signal maintenance costs as authorized pursuant to the Landscape and Lighting Act of 1972, Part 2 of Division 15 of the California Streets and Highways Code, and Article XIID of the California Constitution. The form, terms and conditions and the tax rate for the formation of the Lighting and Landscaping District, or in the alternative the annexation of the subject property to an existing district, shall be as approved by the City Council, as determined in its sole and exclusive discretion. It is the intent of the parties that the assessment of the subject property will be apportioned to each parcel in proportion to the special benefit it receives. District formation or annexation shall be at the sole cost of the developer.

Utilities:

~~65.~~67. The applicant shall construct water, sewer, and storm drainage facilities as noted on the Vesting Tentative Tract Map, in accordance with City standards. The project shall comply with the current City Plans, Standards, and Specifications, all Master Plan requirements, and the applicant shall work with the Public Works Department in regards to needed infrastructure and development during the Improvement Plan Review stage.

~~66.~~68. In conformance with the Subdivision Map Act, the developer shall permit installation of underground cable television delivery systems within public utility easements. All dwellings shall be made cable ready.

~~67.~~69. Prior to approval of Improvement Plans or Final Maps, the developer shall obtain any necessary easements for utilities across adjoining properties.

~~68.~~70. Easements shall be provided across public property for the purpose of providing access for maintenance of public infrastructure.

~~69.~~71. All existing overhead utilities shall be placed underground with the exception of high voltage power lines. No new overhead utility lines and equipment shall be shown on Improvement Plans and Grading Plans.

~~70.~~72. Where the invert is six feet or greater below finish grade, a minimum clearance of five feet from lip of gutter to the edge of pipe shall be provided for underground utility lines.

~~71.~~73. All street lighting shall be hooded and/or fitted with prismatic directional lenses to prevent illumination onto adjoining properties and glare into on-coming traffic. Streetlight locations shall be shown on Improvement Plans. Developer shall utilize decorative streetlights meeting the illumination standards required in the City street light standards, except that cobra-head streetlights shall be used on arterial streets.

Water:

~~72-74.~~ The proposed project shall conform to the requirements of the Los Banos Water Master Plan, including payment of the water connection impact fee.

~~73-75.~~ Approved backflow devices shall be installed as required.

~~74-76.~~ Domestic water services shall not be placed in driveways.

~~75-77.~~ Final Improvement Plans shall indicate the locations of water line elbows and manholes.

78. No building permit shall be issued prior to certification by the Central California Irrigation District that the property has been detached from CCID, or that remaining CCID lines will be intact or rerouted to the satisfaction of CCID.

~~76.~~

Sewer:

~~77-79.~~ The existing Bluff Drive Sewer Pump Station capacity shall be upgraded to 1,900 gpm as identified in the Area Plan.

~~78-80.~~ The existing force main in Page Avenue may need upgrades as determined by the Public Works Director as identified in the Area Plan.

~~79-81.~~ The developer shall construct all on-site and off-site sewer facilities necessary to serve the project, subject to reimbursement for over-sizing, as determined by the City.

~~80-82.~~ Prior to submission of improvement plans for the first phase of development, a Master Sewer Plan for the development shall be submitted, reviewed, and approved by the City Engineer.

~~81-83.~~ Final Improvement Plans shall indicate the locations of sewer line elbows and manholes.

~~82-84.~~ All sewer lines within the private property or common lots shall be privately owned and maintained, except that mains within private property may be publicly owned if an easement is provided for maintenance.

Storm Drainage:

~~83-85.~~ The development shall provide storm drainage to the new basin, and then discharge directly to CCID Canal, as described in the Storm Drain Conveyance and Pump Station Analysis dated January 14, 2005, subject to the review of and as may be modified by the City Engineer. All

improvements to conform to the City's Storm Drainage System Master Plan. All deviations to be approved by the City Engineer.

84.86. Final Improvement Plans for the storm drainage system shall utilize the TR-55 analysis method.

85.87. Prior to acceptance of Final Improvement Plans, the applicant shall submit verification from the manufacturer that the pump station capacity is adequate for full basin to shut-off operational conditions.

86.88. All development shall comply with the Phase II storm water regulations.

87.89. Final Improvement Plans for the storm drainage system shall be submitted to the City and reviewed and approved by the City Engineer prior to issuance of a grading permit.

88.90. The Developer shall generate a Storm Water Pollution Prevention Plan (SWPPP) for pre and post construction best management practices (BMPs). A Notice of Intent (NOI) shall be submitted and approved prior to construction by the State Department of Water Resources.

89.91. The storm drainage basin within The Villas Subdivision shall be complete to the satisfaction of the Public Works Director prior to occupancy of the first house (except model homes) within VTTM #2016-02.

90.92. The applicant shall pay reimbursements as applicable for the Gardens storm drainage improvements; and shall be entitled to reimbursement for future development elsewhere within the plan area.

91.93. The applicant and City shall revise the drainage agreement with CCID as necessary to accommodate drainage flow into the Main Canal.

92.94. All storm drain lines within the private property or common lots shall be privately owned and maintained.

Public Safety:

95. Prior to recordation of a Final Map, the developer shall form or annex the subject property to a Community Facilities District created for the purposes of funding public safety, as authorized by Government Code Section 53313(a) and (b). The form, terms and conditions, and the tax rate for the formation of the Mello-Roos district, or in the alternative the annexation of the subject property to an existing district, shall be as approved by the City Council, as determined in its sole and exclusive discretion. District formation or annexation shall be at the sole cost of the Developer.

~~93-96.~~ On-street parking shall be prohibited in locations where a minimum 20-foot travel lane will not be maintained.

~~94-97.~~ Emergency access to private property/ common areas shall be assured.

~~95-98.~~ Fire department requirements for the placement of fire hydrants shall be complete prior to approval of development permits.

~~96-99.~~ Fire hydrants shall be installed at locations approved during the Improvement Plan stage and shall be installed based upon City standards.

~~97-100.~~ The developer, as specified by City development standards, shall install "Blue Dot" fire hydrant locators.

~~98-101.~~ Each residence shall have a 6-inch lighted address numbers of contrasting color installed on the front elevations or alternative size as agreed to by developer and Fire Chief.

~~99-102.~~ The developer shall comply with the City Fire Codes and regulations subject to Fire Department approval in regards to building requirements, fire hydrant placement, and sprinkler requirements.

~~400-103.~~ Street names shall be approved by the Fire Department.

~~401-104.~~ Driveways, parking lots, water lines, fire hydrants, and underground utilities shall be completed prior to issuance of building permits.

~~402-105.~~ Upon completion and approval of the project plans, a CD shall be submitted to the Fire Department providing information on street layout, hydrant locations, water mains, storm drain inlets (i.e. Fire Department pre-planning).

Landscaping:

~~403-106.~~ All residential lots shall have fully landscaped front yards prior to occupancy of each dwelling. Front yard landscape plans shall be submitted with the development Master Plans prior to building permit issuance and shall be approved by the City Engineer and Community and Economic Development Director.

~~404-107.~~ The developer shall comply with the adopted street tree ordinance.

~~405-108.~~ Masonry walls shall be landscaped with vines to discourage graffiti.

~~406-109.~~ The applicant shall submit landscape and irrigation plans with each phase of the improvement plans for City review and approval of streetscape landscaping.

407.110. Landscape plans for single-family residences shall utilize drought tolerant plantings for no less than 75 percent of front yards. Turf varieties shall be chosen for drought tolerance. Irrigation systems shall be set to minimize water use and spillage onto paved areas.

111. Landscape plans shall be designed in accordance with Title 10, Chapter 2, Water Efficient Landscape Ordinance of the Los Banos Municipal Code.

408. Notice: This approval may contain fees, dedications, reservations or other exactions as defined by the Mitigation Fee Act (Government code sections 66000 et seq.) This notice triggers the 90 day protest period as provided for by the Mitigation Fee Act.



October 6, 2020

Dear Mr. Fachin,

The home Construction at East Center, Phase 2A Subdivision for 10 homes has been completed far before the projected timeline for City Acceptance of the whole subdivision. We have several working families who will be relocating to the Los Banos Community from the Bay Area and have secured mortgages for their first home and would like to begin closing this week. The Public Utilities, Street Improvements, and Public Safety Improvements have been completely installed. On behalf of Stonefield Home, Inc. I would like to request your consideration for a Partial Notice of Completion to be Approved by the Los Banos City Council at the October 7, 2020 City Council meeting to accommodate the new families in our Community.

Thank you,

A handwritten signature in blue ink, appearing to read "Jovan Granados", written over a faint circular stamp.

Jovan Granados

Agent