

F. Fair
City Attorney

OAKLAND CITY COUNCIL

Resolution No. 80811 C.M.S.

**RESOLUTION APPROVING A SUBDIVISION IMPROVEMENT AGREEMENT
WITH KG PARTNERS LP FOR THE FINAL MAP FOR TRACT 7763 FOR
CONSTRUCTION OF PUBLIC INFRASTRUCTURE IMPROVEMENTS FOR
A SUBDIVISION AT 5920 SAN PABLO AVENUE**

WHEREAS, the developer of a residential dwelling project, KG Partners LP, a California limited partnership (no. 200518600009), is the Subdivider of a single parcel identified by the Alameda County Assessor as APN 015-1336-011-02, and by the Alameda County Clerk-Recorder as Tract 7763, and by the City of Oakland as 5920 San Pablo Avenue; and

WHEREAS, the Subdivider has acquired by purchase for valuable consideration the real property comprising Tract 7763; and

WHEREAS, the Subdivider has previously applied to the City of Oakland to subdivide the platted land into the nine (9) contiguous lots comprising Tract 7763; and

WHEREAS, the Planning Commission of the City of Oakland approved the environmental determination (categorically exempted) and land use entitlements (CDV06140) and the Tentative Map (TTM 7763) for the subdivision on July 19, 2006, which proposed the subdivision of the single parcel into eight (8) developable "mini lots" fronting on 60th Street with irrevocable offers of dedication of coterminous easements for public access and public utilities for the construction of single-family dwellings and an additional ninth (9th) lot fronting on San Pablo Avenue which will be occupied by an existing non-residential building; and

WHEREAS, the Secretary of the Planning Commission of the City of Oakland has certified to the Council of the City of Oakland that the Planning Commission approved the Tentative Map for Tract 7763, upon which the Final Map for Tract 7763 is based; and

WHEREAS, the City Engineer of the City of Oakland has determined that

- the Final Map for Tract 7763, attached hereto as Exhibit A, is substantially the same as the Tentative Map approved by the Planning Commission, and
- the Final Map for Tract 7763 complies in all manners with the provisions of the California Government Code (Section 66400, et seq. - Subdivision Map Act), and the City of Oakland's local ordinance (Municipal Code Title 16 - Subdivisions); and

WHEREAS, the City Engineer has further determined that the Final Map is technically correct and accurately delineates the metes and bounds for the proposed nine (9) lots and the proposed on-site public and private easements, the limits of which have been established by field survey and can be re-established from the monuments, property corners, radii, bearings, and distances shown on the Final Map for Tract 7763; and

WHEREAS, the Subdivider has employed a competent and qualified design professional, who is licensed by the State of California to practice civil engineering, to prepare plans and specifications for the construction of required surface and subsurface public infrastructure improvements within the proposed on-site public easements; and

WHEREAS, the City Engineer has approved infrastructure permit no. PX0700061 and the Subdividers' plans and specifications for construction of the required public infrastructure improvements, included by reference with Exhibit *B*; and

WHEREAS, at the time of approval of the Final Map by the Council of the City of Oakland, the Subdivider will not have commenced nor competed construction of the required public infrastructure improvements, and consequently the City Engineer will not have approved the construction of nor issued a Certificate of Completion for the required improvements; and

WHEREAS, pursuant to Government Code section 66462 and Municipal Code section 16.20.100, the Subdivider may record a Final Map before completing construction of required public infrastructure improvements by entering into an agreement with the City giving assurance that the required improvements will be completed within a determinate period of time; and

WHEREAS, pursuant to Government Code section 66462 and Municipal Code section 16.20.100 as a condition precedent to approval of the Final Map, the Subdivider has executed a Subdivision Improvement Agreement, attached hereto as Exhibit *B*, assuring the timely construction, unconditional warrantee, and prescribed maintenance of all required public infrastructure improvements; and

WHEREAS, pursuant to Government Code section 66499 et seq. and Municipal Code section 16.20.100, the Subdivider has deposited securities in the form of surety bonds, included by reference with Exhibit *A*, and in sufficient amounts, as estimated by the City Engineer, to secure the Subdivider's performance under Exhibit *B* as a:

- guarantee that the required public infrastructure improvements will be constructed in accordance with the approved plans and specifications, and as a
- guarantee that the contractor and his subcontractors and all persons renting equipment or furnishing labor and materials will receive full payment, and as a
- warrantee that the required public infrastructure improvements will perform as designed and intended, and as a
- guarantee that the Subdivider will maintain the required public infrastructure improvements for the duration prescribed Subdivision Improvement Agreement; and

WHEREAS, that upon City Attorney's approval for form and legal sufficiency of the Subdivision Improvement Agreement and the surety bonds, the City Administrator is authorized to execute the Subdivision Improvement Agreement on behalf of the City of Oakland; and

WHEREAS, the requirements of the California Environmental Quality Act (CEQA) have been complied with and the project was determined to be categorically exempt under Section 15332 of the CEQA Guidelines; and the approval of a final map is ministerial and exempt from CEQA, now, therefore, be it

RESOLVED: That the Subdivision Improvement Agreement with KG Partners LP for the Final Map for Tract 7763 is hereby conditionally approved; and be it

FURTHER RESOLVED: That the City Attorney's review and approval of the Agreement and the surety bonds securing the Subdivider's performance under the Agreement shall be obtained prior to execution of the Agreement by the City Engineer on behalf of the City of Oakland; and be it

FURTHER RESOLVED: That the City Clerk is hereby directed to file the executed Subdivision Improvement Agreement concurrently with the fully endorsed Final Map for Tract 7763 for simultaneous recordation by the Alameda County Clerk-Recorder; and be it

FURTHER RESOLVED: That upon recommendation of the City Engineer, the City Administrator is further authorized, without returning to City Council, to extend the time period designated in the Subdivision Improvement Agreement for completion of the public infrastructure improvements upon demonstration of good cause by the Subdivider, as determined by the City Administrator at his or her sole discretion.

IN COUNCIL, OAKLAND, CALIFORNIA, SEP 18 2007, 2007

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, BRUNNER, CHANG, ~~KERNIGHAN~~, NADEL, QUAN, REID, and
PRESIDENT DE LA FUENTE - 7

NOES - 0

ABSENT - Kernighan - 1

ABSTENTION - 0

ATTEST:


LATONDA SIMMONS

City Clerk and Clerk of the Council
of the City of Oakland, California