

CITY OF OAKLAND
Agenda Report

OFFICE OF THE CITY CLERK
2007 JAN 25 PM 6:57

TO: Office of the City Administrator
ATTN: Deborah Edgerly
FROM: Community and Economic Development Agency
DATE: February 6, 2007

RE: A Report And Resolutions Approving A Final Map For Tract 7396 and A Subdivision Improvement Agreement With Siena Homes LLC For Deferred Construction Of Public Infrastructure Improvements For Siena Hill At 4301 Keller Avenue

SUMMARY

Two resolutions have been prepared approving:

- A Final Map for Tract No. 7396, Siena Hill, for the subdivision of an existing parcel (APN 040A-3457-033-01) by the developer, Siena Homes LLC, a California limited liability company (no. 200519010054), into thirty-two (32) lots for single-family “duet” homes with a privately maintained street, Siena Drive (future gating to limit public access prohibited).
- A Subdivision Improvement Agreement (SIA) with the developer for deferred construction of off-site sidewalk and utility improvements in Keller Avenue and on-site street, sidewalk, and utility improvements.

The project’s land use permit (PUDF05081) and environmental review determination (ER020012) were approved on March 5, 2005. The Tentative Tract Map was approved on June 17, 2005. The Geologic Hazards Assessment District (GHAD) was formed on July 18, 2006 (Resolution No. 80058 CMS). The City Engineer has determined that the Final Map is in substantial compliance with the approved tentative map. Approval of the Final Map will be a ministerial action by the City Council, and approval of the Subdivision Improvement Agreement will be a discretionary action.

FISCAL IMPACT

Staff costs for processing the Final Map and Subdivision Improvement Agreement will be covered by fees set by the Master Fee Schedule and paid by the developer and deposited in the special revenue Development Service Fund (2415), Engineering Services organization (88432), Tract Map account (45119), Engineering and Architectural Program (PS30). The standard conditions of the Subdivision Improvement Agreement require that the property owner maintain liability and property damage insurance and to include the City as a named insured on the policy.

The property owners will maintain Siena Drive and new and replacement public infrastructure improvements, including sanitary sewers, storm drains, and sidewalks. The public utility companies will maintain water, natural gas, electricity, and telecommunication mains.

Item No. _____
City Council
February 6, 2007

PROJECT DESCRIPTION

Subdivision

The residential subdivision is located on the northeast side of Keller Avenue between the intersections of Greenridge Drive and Rilea Way. The project will subdivide an existing four (4) acre parcel into thirty-two (32) single-family "duet" lots (exterior walls constructed along the common side-yard property line). All of the homes will front onto a public access easement (Siena Drive) which will be privately maintained by the homeowners' association. The Fire Marshal has requested two on-grade stairs that will connect Siena Drive with Keller Avenue.

Dedications and Public Improvements

The developer is constructing Siena Drive to connect Greenridge Drive with Keller Avenue. Because Oakland Municipal Code Section 16.32.020 limits approval of a subdivision map with a private access easement to a project with not more than four (4) lots, the "private" street is being dedicated to the City as a public access easement, which will preclude future gating by the homeowners association.. The proposed street crosses the adjoining parcel that abuts Greenridge Drive (APN 040A-3457-021-01) through a private access easement that has been dedicated to the Siena Hill property owners. The conditions of approval for the Final Map will also preclude future gating of this private access easement.

New on-site storm drain and sanitary sewer mains and new off-site public sidewalk improvements will be privately maintained by the homeowners' association. The City Council has previously approved an encroachment permit (ENMJ0505132) for the retaining wall along Keller Avenue (Resolution No. 80237 CMS).

Construction

The City Engineer has approved the plans and specifications prepared by the developer for construction of public and private infrastructure improvements (permit PX0500056), and the Fire Marshal has approved the private street for fire apparatus access. The developer has provided surety bonding (150% of the estimated cost of construction) that guarantees the completion of the infrastructure improvements and payment of the contractors and suppliers and warrants the performance of the completed work and the maintenance by the developer for one year following acceptance by the City Engineer.

KEY ISSUES AND IMPACTS

Final Map

As set forth in California Government Code section 664474.1 (Subdivision Map Act), approval of the Final Map is an administrative, ministerial, and mandatory action by the City Council once the City Engineer has determined that the Final Map conforms substantially with the approved Tentative Map and is technically correct (correct map size and medium, correct metes and bounds, required signatures, required statements, required licensures, etc.). The controlling discretionary action to be taken by the City relating to a subdivision map is at the Tentative Map

stage. The purpose of submitting the Final Map to the City Council is to ensure that the Council and the public remain informed about development in the City. Upon discretionary approval of an SIA with the subdivider, the City Council has no discretionary authority to withhold approval of a Final Map.

Subdivision Improvement Agreement

Whenever public infrastructure improvements are made necessary by a proposed subdivision, state law and City ordinance require that the subdivider execute an SIA with the City (on mutually agreeable terms) as a condition for approving a Final Map. An SIA, with its accompanying security (bond, letter of credit, etc. for 150% of the construction cost), guarantees the completion of the infrastructure improvements within a prescribed period of time (typically not more than one year) and the payment of the contractors and suppliers and also warrants the performance of the completed work and maintenance by the developer over a determinate period of time (typically, not more than one year). Upon expiration of the warrantee period, the City assumes maintenance of the infrastructure.

The SIA allows the City Administrator to extend the completion date beyond one year for cause without return to Council. Issuance of the Certificate of Completion by the City Engineer will be contingent upon submittal by the contractor of all required employee pay records and supplier payment releases. The City Attorney has reviewed the SIA for form and legality and the surety bonds provided by the developer for conformance with the requirements of the state Subdivision Map Act (California Government Code section 664933 et seq.).

SUSTAINABLE OPPORTUNITIES

Economic

The Siena Hill development will provide opportunities for professional services and construction related jobs for the Oakland community.

Environmental

Land use approvals and construction permits for public infrastructure improvements and new buildings require that the permittee comply with City ordinances and regional Best Management Practices for reducing nuisance noise, fugitive dust, construction debris disposal, and storm drainage pollutant runoff. The infrastructure work will not require pile driving.

Social Equity

The Siena Hill development will provide housing ownership opportunities and will support the infusion and recurrence of diverse multi-cultural activities, businesses, and events.

DISABILITY AND SENIOR CITIZEN ACCESS

The new sidewalk on Keller Avenue and Siena Drive will conform to Caltrans and City requirements for handicapped accessibility.

RECOMMENDATIONS

Adoption of the resolution approving the Final Map is a ministerial action of the City Council, which does not require an action by a Committee of the Council.

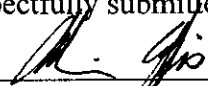
ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the Council accept this report for the Siena Hill subdivision, and

- adopt the proposed resolution, as a ministerial action,
 - conditionally approving the Final Map for Tract 7396 , and
 - accepting the off-site public infrastructure improvements for maintenance by the City after expiration of the one-year construction warrantee period; and
 - accepting the offers of dedication of public access and public utility easements after acceptance by the City Engineer of the construction; and
 - prohibiting gating of Siena Drive, including the adjoining private access easement; and
 - authorizing the City Engineer and City Clerk to execute the Final Map, and
 - directing the City Clerk to file the executed Final Map with Alameda County for recordation, and

- adopt the proposed resolution, as a discretionary action,
 - conditionally approving the Subdivision Improvement Agreement with Siena Homes LLC, and
 - authorizing the City Administrator to execute the Subdivision Improvement Agreement and to grant an extension of time, without returning to Council, to complete the work, and
 - directing the City Clerk to file the executed Subdivision Improvement Agreement with the Alameda County Recorder concurrently with the Final Map for simultaneous recordation.

Respectfully submitted,



CLAUDIA CAPPIO
Development Director
Community and Economic Development Agency

Prepared by:

Raymond M. Derania
Interim City Engineer
Building Services Division

APPROVED FOR FORWARDING
TO THE CITY COUNCIL



OFFICE OF THE CITY ADMINISTRATOR

Introduced by

OFFICE OF THE CITY CLERK

Approved for Form and Legality

Councilmember

2010 MAR 05 PM 6:57

F. Faiz

City Attorney

OAKLAND CITY COUNCIL

Resolution No. _____ C.M.S.

RESOLUTION CONDITIONALLY APPROVING THE FINAL MAP FOR TRACT 7396 FOR THE SIENA HILL RESIDENTIAL SUBDIVISION AT 4301 KELLER AVENUE AND CONDITIONALLY ACCEPTING IRREVOCABLE OFFERS OF DEDICATION FOR PUBLIC ACCESS AND PUBLIC UTILITY EASEMENTS

WHEREAS, the developer of a single-family residential subdivision project, Siena Homes Group LLC, a California limited liability company (no. 200519010054), is the Subdivider of a four (4) acre vacant parcel identified by the Alameda County Assessor as APN 040A-3457-033-01, by the Alameda County Recorder as Tract 7396, and by the City of Oakland as 4301 Keller Avenue; and

WHEREAS, the Subdivider has acquired by purchase for valuable consideration the real property comprising Tract 7396; and

WHEREAS, the Subdivider has previously applied to the City of Oakland to subdivide said parcel comprising Tract 7396 into thirty-two (32) residential lots for individual ownership and construction of single-family dwellings; and

WHEREAS, the site is located in the R-50 land use zone (Medium Density Residential); and

WHEREAS, the Planning Commission of the City of Oakland approved the land use permit (PUDF05081) and environmental review determination (ER020012) on March 5, 2005, and the Tentative Map for Tract 7396 on June 17, 2005, which proposed a subdivision of the vacant parcel into thirty-two (32) residential lots for individual ownership; and

WHEREAS, the Council of the City of Oakland approved the formation of a Geologic Hazards Abatement District (GHAD), which included the proposed subdivision, by Resolution no. 80058 CMS on July 18, 2006; 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 7396, upon which the Final Map for Tract 7396 is based; and

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

- the Final Map for Tract 7396, attached hereto as *Exhibit A*, is substantially the same as the Tentative Map approved by the Planning Commission, and

- the Final Map 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 of the thirty-two (32) proposed 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 7396; 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 existing public right-of-way of Keller Avenue and the proposed on-site public easement; and

WHEREAS, the City Engineer has approved infrastructure permit (PX0500056) and the Subdivider's plans and specifications for construction of the required public infrastructure improvements, included with *Exhibit B* and attached hereto; and

WHEREAS, the Council of the City of Oakland has approved by Resolution no. 80237 CMS on October 31, 2006, an encroachment (permit ENMJ 0505132) within the public right-of-way along Keller Avenue for the locating of a retaining wall to support up-slope earthwork on which said infrastructure improvements will be constructed; 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 C*, 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 C*, 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, Oakland Municipal Code Section 16.32.020 limits the dedication of a private access easement for the subdivision of real property into no more than four (4) parcels; and

WHEREAS, the Subdivider has irrevocably offered to the City of Oakland the dedication of a non-exclusive public easement under, on, and over said parcel and said subdivided lots, as described and delineated in the Final Map, for unimpeded ingress and egress in perpetuity and without limitation by the residents of said subdivision, the general public, utility maintenance personnel, and emergency response vehicles; and

WHEREAS, the owner of parcel no. 040A-3457-021-01 immediately adjoining said subdivision has granted a private access easement to the current and future property owners of said subdivision for their exclusive access to and from Greenridge Drive along the extension of Siena Drive; and

WHEREAS, an Environmental Impact Report (EIR), which complies with the requirements of the California Environmental Quality Act (CEQA) was prepared and certified for the subdivision, and approval of a final map is ministerial and exempt from CEQA; and

WHEREAS, the requirements of the California Environmental Quality Act (CEQA), the Guidelines as prescribed by the Secretary of Resources, and the provisions of the Statement of Objectives, Criteria and Procedures for Implementation of the California Environmental Quality Act: City of Oakland, have been satisfied; now, therefore, be it

RESOLVED: That the Final Map, as conditioned herein, does comply with the California Environmental Quality Act; and be it

FURTHER RESOLVED: That the Final Map for Tract 7396 is hereby approved; and be it

FURTHER RESOLVED: That the approval of the Final Map for Tract 7396 is hereby conditioned upon the performance by the Subdivider of its obligations to construct, warrant, and

maintain required public infrastructure improvements, as set forth in the Subdivision Improvement Agreement; and be it

FURTHER RESOLVED: That the City Engineer of the City of Oakland is hereby authorized to endorse the Final Map for Tract 7396; and be it

FURTHER RESOLVED: That the City Clerk of the City of Oakland is hereby authorized to endorse the Final Map for Tract 7396, upon its execution by the City Engineer, and directed to file the fully endorsed Final Map and the fully executed Subdivision Improvement Agreement concurrently with the Alameda County Recorder for simultaneous recordation; and be it

FURTHER RESOLVED: That this Resolution shall become effective upon the recordation of the Final Map for Tract 7396 and the Subdivision Improvement Agreement; and be it

FURTHER RESOLVED: That upon issuance of a Certificate of Completion by the City Engineer for construction of the required public infrastructure improvements, the irrevocable offers of dedication of the on-site public access and public utility easements are hereby accepted by the City of Oakland; and be it

FURTHER RESOLVED: That upon expiration of the warrantee and maintenance period, as identified in the Subdivision Improvement Agreement, following the issuance of a Certificate of Completion by the City Engineer, the maintenance of newly constructed public infrastructure improvements is hereby accepted by the City of Oakland, excepting from said maintenance all off-site infrastructure improvements within the public right-of-way, including but not limited to sidewalks, curbs, gutters, trees and landscaping, irrigation, sanitary sewer piping, and storm water piping, that are identified in the California Streets and Highways Code and the Oakland Municipal Code to be the responsibility of the abutting property owner and also excepting from said maintenance all off-site and one-site infrastructure improvements that are otherwise regulated by California Public Utilities Commission, and also excepting from said maintenance all on-site infrastructure improvements within the real property that are associated with public access, including but not limited to roadway, sidewalks, curbs, gutters, trees and landscaping, and irrigation, and with sanitary sewer and storm water drainage; and be it

FURTHER RESOLVED: That private maintenance of the required public and private infrastructure improvements shall remain the responsibility in perpetuity of the property owners of Tract 7396 and their homeowners association, both severally and jointly, and their representatives, agents, heirs, successors, and assigns; and be it

FURTHER RESOLVED: That no gate, bollard, wheel stop, or other traffic control device or other mechanical or electronic apparatus shall be installed across or within Siena Drive roadway or sidewalk at any point along its length between its intersection with Greenridge Drive and its

intersection with Keller Avenue that will impede, delay, prevent, or otherwise selectively limit, or have the effect of so doing, the free and immediate ingress and egress of the general public and other individuals and entities.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2007

PASSED BY THE FOLLOWING VOTE:

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

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____

LATONDA SIMMONS

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

TRACT MAP 7396 "SIENA HILL"

BEING A SUBDIVISION OF A PORTION OF LOT 13 IN BLOCK 2, TRACT 2127,
BOOK 42, PAGE 27, CITY OF OAKLAND, ALAMEDA COUNTY, CALIFORNIA

VICINITY MAP:



TRACT MAP 7396
"SIENA HILL"
CITY OF OAKLAND,
ALAMEDA COUNTY,
CALIFORNIA

OWNER'S STATEMENT:

THE UNDERSIGNED, SIENA HOMES LLC, HEREBY STATE THAT IT IS THE ONLY PARTY HAVING RECORD TITLE INTEREST IN THE REAL PROPERTY ENRAGED WITHIN THE DISTINCTIVE BORDER UPON SHEET 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19 AND 20 OF OF THAT CERTAIN MAP ENTITLED TRACT MAP 7396, SIENA HILL, CITY OF OAKLAND, ALAMEDA COUNTY, CALIFORNIA; THIS STATEMENT BEING ON SHEET 1 OF 20 SHEETS OF SAID MAP; THAT HE CONSENT TO THE PREPARATION AND FILING OF SAID MAP, THAT SAID MAP PARTICULARLY SETS FORTH THE DIMENSIONS OF ALL PARCELS INTENDED FOR SALE WITH THEIR PRECISE LENGTHS AND WIDTHS; AND THAT EACH PARCEL IS DESIGNATED THEREON BY A NUMBER.

SAID OWNER HEREBY DEDICATES EASEMENTS FOR PUBLIC ACCESS AND PUBLICLY MAINTAINED UTILITIES WITH THE UNQUALIFIED AND UNRESTRICTED RIGHT OF INGRESS AND EGRESS AND FOR THE CONSTRUCTION, MAINTENANCE AND REPAIR OF APPLICABLE STRUCTURES AND APPURTENANCES UNDER, UPON AND OVER ANY AREA OF LAND DESIGNATED AS "PAE" (PUBLIC ACCESS EASEMENT) AND "PUE" (PUBLIC UTILITY EASEMENT), AS DELINEATED AND DESIGNATED WITHIN OR OUTSIDE THE EXTERIOR BOUNDARY LINES OF THIS MAP, SAID AREAS OR STRIPS OF LAND TO BE KEPT OPEN AND FREE FROM BUILDINGS AND STRUCTURES OF ANY KIND EXCEPT APPLICABLE UNDERGROUND UTILITY STRUCTURES AND APPURTENANCES, AND LAWFUL FENCES.

THE RIGHTS OF SAID OWNER OF SAID MAP AS DOMINANT TENEMENT PURSUANT TO THE DESCRIBED EASEMENT GRANTED IN THE AGREEMENT TO HILLSIDE HOMES GROUP, INC., RECORDED JANUARY 26, 2004, SERIES NO.2004-30525, OFFICIAL RECORDS OF ALAMEDA COUNTY AND AS AMENDED _____ SERIES NO. _____ OFFICIAL RECORDS OF ALAMEDA COUNTY ARE ASSIGNED TO LOTS 1 THROUGH 32, INCLUSIVE.

BY: SIENA HOMES, CALIFORNIA LIMITED LIABILITY COMPANY

BY: Edward Patton 12/30/06
PRESIDENT

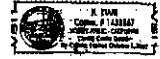
OWNER'S ACKNOWLEDGMENT:

STATE OF CALIFORNIA } ss Contra Costa
COUNTY OF ALAMEDA

ON Dec. 30, 2006, before me, a Notary Public, personally appeared Edward Patton, personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the foregoing statement and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the statement, the person or the entity upon behalf of which the person acted, executed the statement.

WITNESS MY HAND

SIGNATURE: H.K.
PRINT NAME: H. KIANI



NOTARY PUBLIC IN AND FOR THE COUNTY OF ALAMEDA STATE OF CALIFORNIA.

PRINCIPAL PLACE OF BUSINESS: Contra Costa County

MY COMMISSION EXPIRES: Oct 8th 2007

NOTARY COMMISSION NO. 1438867

BY: SIENA HOMES, CALIFORNIA LIMITED LIABILITY COMPANY

BY: Edward Patton 12/30/06
PRESIDENT

LEGAL DESCRIPTION

THE LAND REFERRED TO HEREIN IS SITUATED IN THE STATE OF CALIFORNIA, COUNTY OF ALAMEDA, CITY OF OAKLAND, AND IS DESCRIBED AS FOLLOWS.

LOT 13 IN BLOCK 2 AS SAID LOT AND BLOCK ARE SHOWN ON THE MAP OF TRACT 2127, OAKLAND, ALAMEDA COUNTY, CALIFORNIA, FILED JULY 28, 1980 IN BOOK 42 OF MAPS, PAGE 27, ALAMEDA COUNTY RECORDS,

EXCEPTING THEREFROM:

THOSE PORTIONS THEREOF DESCRIBED IN PARCELS 2, 3, 4, 5 AND 6, AS DESCRIBED IN THE DEED TO OODSTEAD HOMES, RECORDED FEBRUARY 19, 1962, REEL 518, IMAGE 315, INSTRUMENT NO. AT/22258, ALAMEDA COUNTY RECORDS.

NO PART OF SUBDIVISION WITH RIGHTS ASSIGNED TO SUBDIVISION:

EASEMENT GRANTED IN THE AGREEMENT TO HILLSIDE HOMES GROUP, INC., RECORDED JANUARY 26, 2004, SERIES NO.2004-30525, OFFICIAL RECORDS OF ALAMEDA COUNTY AND AS AMENDED _____ SERIES NO. _____ OFFICIAL RECORDS OF ALAMEDA COUNTY ARE ASSIGNED TO LOTS 1 THROUGH 32, INCLUSIVE.

ENGINEER'S STATEMENT:

THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECTION AND IS BASED UPON A FIELD SURVEY IN CONFORMANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND LOCAL ORDINANCE AT THE REQUEST OF SIENA HOMES, CALIFORNIA LIMITED LIABILITY COMPANY, IN DECEMBER, 2006. I HEREBY STATE THAT THIS FINAL MAP SUBSTANTIALLY CONFORMS TO THE CONDITIONALLY APPROVED TENTATIVE MAP. I HEREBY STATE THAT THE MONUMENTS WILL BE OF THE CHARACTER AND OCCUPY THE POSITION INDICATED ON THE TRACT MAP 7396, AND WILL BE SET IN POSITIONS INDICATED ON OR BEFORE JULY 26, 2008. THE MONUMENTS WILL BE SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACED. THE AREA OF THIS SUBDIVISION IS 3.75 ACRES, MORE OR LESS.

Raymond M. Derania
MARVIN L. KINNEY, P.E.
R.C.E. No. 19893
Exp. Date: 9/30/07

DATE: 12/27/2006



CITY ENGINEER'S STATEMENT:

I, RAYMOND M. DERANIA, INTERIM CITY ENGINEER, HAVING BEEN AUTHORIZED TO PERFORM THE FUNCTIONS OF THE CITY ENGINEER OF THE CITY OF OAKLAND, COUNTY OF ALAMEDA, STATE OF CALIFORNIA, FOR THE PURPOSES OF REVIEWING SUBDIVISION MAPS, DO HEREBY CERTIFY THAT I HAVE EXAMINED THE HEREON EMBODIED FINAL MAP; THAT THE SUBDIVISION SHOWN UPON SAID FINAL MAP IS SUBSTANTIALLY THE SAME AS THAT APPEARING ON THE APPROVED TENTATIVE MAP AND ANY APPROVED ALTERATIONS THEREOF THAT SAID FINAL COMPLES WITH ALL PROVISIONS OF THE SUBDIVISION MAP ACT OF THE GOVERNMENT CODE AND THE LOCAL ORDINANCE APPLICABLE AT THE TIME OF APPROVAL OF THE TENTATIVE MAP; AND THAT I AM SATISFIED THAT THE FINAL MAP IS TECHNICALLY CORRECT.

DATE: _____

RAYMOND M. DERANIA, R.C.E. No. 27815
Exp. Date: 3/31/08
INTERIM CITY ENGINEER
CITY OF OAKLAND, COUNTY OF ALAMEDA
STATE OF CALIFORNIA

CERTIFICATE OF SECRETARY OF PLANNING COMMISSION:

I, GARY V. PATTON, SECRETARY OF THE CITY PLANNING COMMISSION OF THE CITY OF OAKLAND, STATE OF CALIFORNIA, DO HEREBY CERTIFY THAT THE TENTATIVE MAP OF THE HEREON EMBODIED FINAL MAP WAS PRESENTED TO THE CITY PLANNING COMMISSION AS PROVIDED BY THE SUBDIVISION MAP ACT AT A REGULARLY SCHEDULED MEETING, HELD ON THE _____ DAY OF _____, 2006, AND THAT SAID COMMISSION APPROVED SAID TENTATIVE MAP UPON WHICH THIS MAP WAS BASED.

DATE: _____

GARY V. PATTON
SECRETARY OF THE PLANNING COMMISSION
OF THE CITY OF OAKLAND
STATE OF CALIFORNIA

CITY CLERK'S STATEMENT:

I, CEDA FLOYD, CITY CLERK AND CLERK OF THE CITY COUNCIL OF THE CITY OF OAKLAND, STATE OF CALIFORNIA, DO HEREBY CERTIFY THAT THE HEREON EMBODIED MAP WAS PRESENTED TO THE CITY COUNCIL OF THE CITY COUNCIL OF THE CITY OF OAKLAND, AT A REGULAR MEETING THEREOF, HELD ON THE _____ DAY OF _____, 2006, AND THAT SAID COUNCIL DID AT SAID MEETING BY RESOLUTION NO. _____ DID APPROVE SAID MAP.

DATE: _____

CEDA FLOYD, CITY CLERK OF THE
COUNCIL OF THE CITY OF OAKLAND
COUNTY OF ALAMEDA, STATE OF CALIFORNIA

COUNTY RECORDER'S STATEMENT:

FILED THIS _____ DAY OF _____, 2006, AT _____ M. IN BOOK _____ OF MAPS AT PAGES _____ AT THE REQUEST OF OLD REPUBLIC TITLE COMPANY.

FEES \$ _____ PAID.

PATRICK J. O'CONNELL
COUNTY RECORDER IN AND FOR THE
COUNTY OF ALAMEDA, STATE OF CALIFORNIA

BY: _____
DEPUTY COUNTY RECORDER

CLERK OF THE BOARD OF SUPERVISOR'S STATEMENT:

I, CRYSTAL K. HISHIDA, CLERK OF THE BOARD OF SUPERVISORS OF THE COUNTY OF ALAMEDA, STATE OF CALIFORNIA, HEREBY STATE, AS CHECKED BELOW THAT:

- AN APPROVED BOND HAS BEEN FILED WITH THE SUPERVISORS OF THE SAID COUNTY AND THAT STATE IN THE AMOUNT OF \$ _____ CONDITIONED FOR THE PAYMENT OF ALL THE TAXES AND SPECIAL ASSESSMENTS COLLECTED AS TAXES WHICH ARE NOW A LIEN AGAINST SAID LAND OR ANY PART THEREOF BUT NOT YET PAYABLE, AND WAS FULLY APPROVED BY SAID BOARD IN SAID AMOUNT.
- ALL TAXES AND SPECIAL ASSESSMENTS COLLECTED AS TAXES HAVE BEEN PAID, AS CERTIFIED BY THE TREASURER-TAX COLLECTOR OF THE COUNTY OF ALAMEDA.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND THIS _____ DAY OF _____ A.D.

CRYSTAL K. HISHIDA
CLERK OF THE BOARD OF SUPERVISORS OF
THE COUNTY OF ALAMEDA, STATE OF CALIFORNIA

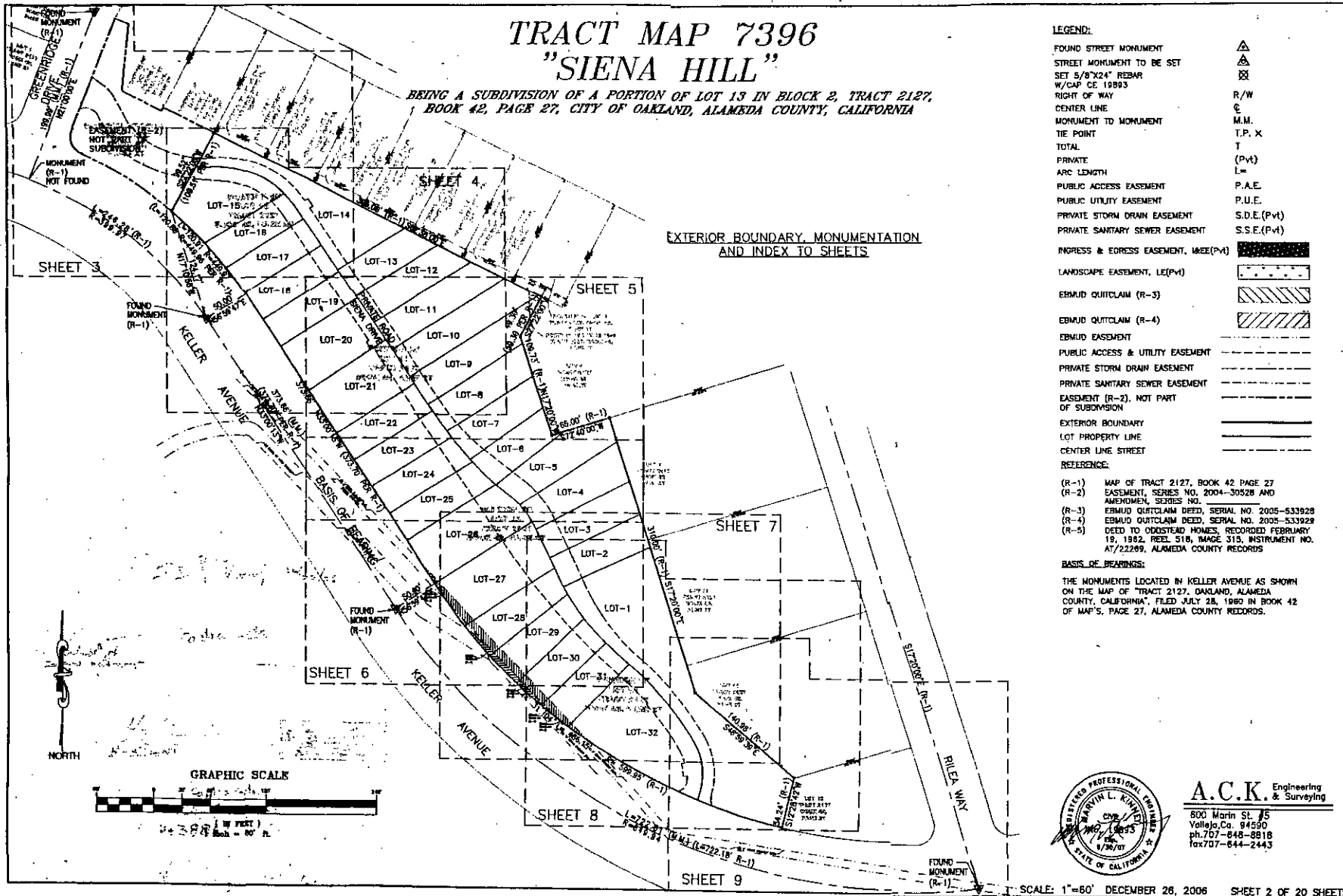
BY: _____
DEPUTY COUNTY CLERK

EXHIBIT A

A.C.K. Engineering
& Surveying
600 Marin St. #5
Vallejo, Ca. 94590
ph. 707-648-8818
fax 707-644-2443

TRACT MAP 7396 "SIENA HILL"

BEING A SUBDIVISION OF A PORTION OF LOT 13 IN BLOCK 2, TRACT 2127,
BOOK 42, PAGE 27, CITY OF OAKLAND, ALAMEDA COUNTY, CALIFORNIA



EXTERIOR BOUNDARY, MONUMENTATION
AND INDEX TO SHEETS

LEGEND:

- FOUND STREET MONUMENT
- STREET MONUMENT TO BE SET
- SET 5/8"x24" REBAR
- W/CAP CE 19893
- RIGHT OF WAY
- CENTER LINE
- MONUMENT TO MONUMENT
- TIE POINT
- TOTAL
- PRIVATE
- ARC LENGTH
- PUBLIC ACCESS EASEMENT
- PUBLIC UTILITY EASEMENT
- PRIVATE STORM DRAIN EASEMENT
- PRIVATE SANITARY SEWER EASEMENT
- INGRESS & EGRESS EASEMENT, MEE(Pv)
- LANDSCAPE EASEMENT, LE(Pv)
- EBMUD QUITCLAIM (R-3)
- EBMUD QUITCLAIM (R-4)
- EBMUD EASEMENT
- PUBLIC ACCESS & UTILITY EASEMENT
- PRIVATE STORM DRAIN EASEMENT
- PRIVATE SANITARY SEWER EASEMENT
- EASEMENT (R-2), NOT PART OF SUBDIVISION
- EXTERIOR BOUNDARY
- LOT PROPERTY LINE
- CENTER LINE STREET

- REFERENCE:**
- (R-1) MAP OF TRACT 2127, BOOK 42 PAGE 27
 - (R-2) EASEMENT, SERIES NO. 2004-30528 AND AMENDMENT, SERIES NO.
 - (R-3) EBMUD QUITCLAIM DEED, SERIAL NO. 2005-533928
 - (R-4) EBMUD QUITCLAIM DEED, SERIAL NO. 2005-533929
 - (R-5) DEED TO ODDSTEAD HOMES, RECORDED FEBRUARY 19, 1982, REEL 518, PAGE 315, INSTRUMENT NO. AT/22269, ALAMEDA COUNTY RECORDS

BASIS OF BEARINGS:
THE MONUMENTS LOCATED IN KELLER AVENUE AS SHOWN ON THE MAP OF TRACT 2127, OAKLAND, ALAMEDA COUNTY, CALIFORNIA, FILED JULY 28, 1980 IN BOOK 42 OF MAP'S, PAGE 27, ALAMEDA COUNTY RECORDS.

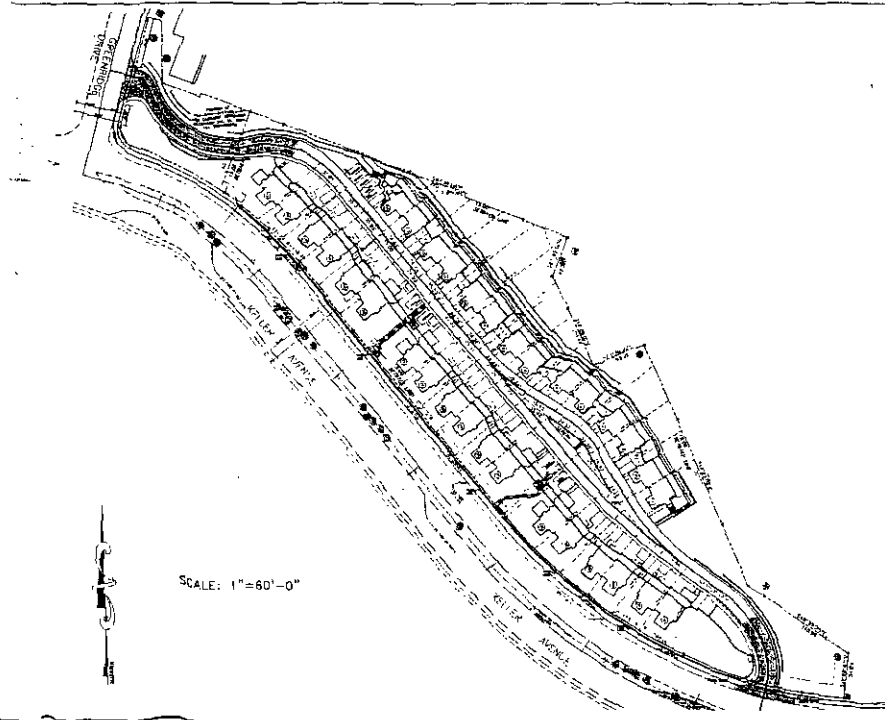


A.C.K. Engineering & Surveying
800 Marin St. #5
Vallejo, Ca. 94590
ph. 707-648-8818
fax 707-644-2443



SIENA HILL SUBDIVISION
SIENA HILL, OAKLAND, CALIFORNIA

SITE PLAN



LEGEND:

- EASEMENT
- RETAINING WALL
- EXISTING SIDEWALK, CURB, & GUTTER
- PROPOSED SIDEWALK, CURB, & GUTTER
- CONTOUR / ELEVATION
- MANHOLE
- CATCH BASIN
- WATER METER
- VALVE
- FIRE HYDRANT
- ELECTRIC METER
- JOINT POLE
- SANITARY SEWER LINE
- STORM DRAIN LINE
- WATER LINE
- FENCE
- SPOT ELEVATION
- DIRECTION OF FLOW

ABBREVIATIONS

- | | |
|--------|--------------------------------|
| B.O.W. | BACK OF WALK |
| B.V.C. | BEGINNING OF VERTICAL CURVE |
| B.W. | BOTTOM OF WALL |
| C | CENTERLINE |
| C.S.G. | CURB & GUTTER |
| CONC. | CONCRETE |
| CMP | CORRUGATED METAL PIPE |
| CTV | CABLE TELEVISION BOX |
| D.W.Y. | DRIVEWAY |
| EB | EXISTING |
| EB | ELECTRICAL BOX |
| EP | EDGE OF PAVEMENT |
| E.V.C. | END OF VERTICAL CURVE |
| FD | FOURTH |
| F.F. | FINISH FLOOR |
| FGD | FINISH GRADE AT DRIVEWAY |
| E | FLOWLINE |
| I.P. | IRON PIPE |
| J.P. | JUNCTION BOX |
| JB | JOINT POLE |
| M | MOUNTAIN |
| M.H. | MANHOLE |
| MTR | METER (BOX) |
| PL | PROPERTY LINE |
| P.L. | PROPERTY LOT LINE |
| PB | PACIFIC BELL TELEPHONE |
| PG&E | PACIFIC GAS & ELECTRIC COMPANY |
| POS | POINT OF BEGINNING |
| RCP | REINFORCED CONCRETE PIPE |
| R.O.W. | RIGHT OF WAY |
| SD | STORM DRAIN |
| S.O.E. | STORM DRAINAGE EASEMENT |
| SS | SANITARY SEWER |
| T.C. | TOP OF CURB |
| T.W. | TOP OF WALL |
| T.M.B. | TRIPLE POINT OF BEGINNING |
| WM | WATER METER |
| WV | WATER VALVE |

PROJECT LOCATION:
KELLER AVENUE @ GREENRIDGE & RILEA
OAKLAND, CALIFORNIA

SHEET INDEX

- CS-1 SITE PLAN, VICINITY MAP, INDEX
- C-4 GENERAL NOTES
- C-5 GENERAL NOTES
- C-6 STREET IMPROVEMENT
- C-7 STREET IMPROVEMENT
- C-8 STREET IMPROVEMENT
- C-9 GRADING & RETAINING WALLS
- C-10 GRADING & RETAINING WALLS
- C-11 EROSION CONTROL
- C-12A EROSION CONTROL
- C-12B EROSION CONTROL
- C-12C EROSION CONTROL
- C-13 CROSS SECTIONS
- C-14 CROSS SECTIONS
- C-14A ROAD SECTIONS
- C-14B ROAD SECTIONS
- C-14C ROAD SECTIONS
- C-14D ROAD SECTIONS
- C-14E ROAD SECTIONS
- C-14F ROAD SECTIONS
- C-15 CITY OF OAKLAND STANDARD DETAILS
- C-16 DETAILS
- C-17 DETAILS
- C-17A DETAILS
- C-18 WATER, PG&E, & CABLE
- C-18 WATER, PG&E, & CABLE
- C-19 DRAINAGE PLAN & PROFILE
- C-20 DRAINAGE PLAN & PROFILE
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- C-22 DRAINAGE PLAN & PROFILE
- C-23 DRAINAGE PLAN & PROFILE
- C-24A ROOF STORM DRAIN DISCHARGE PLAN
- C-24B ROOF STORM DRAIN DISCHARGE PLAN
- C-25 SEWER PLAN & PROFILE
- C-26 SEWER PLAN & PROFILE

VICINITY MAP



PROPOSED	EXISTING
RETAINING WALL	RETAINING WALL
CONCRETE	CONCRETE
IRON PIPE	IRON PIPE
WATER METER	WATER METER
WATER VALVE	WATER VALVE

A.C.K. Engineering & Surveying
8000 Lakeside Dr.
Vallejo, CA 94591
Tel: 707/431-2441

COVER SHEET
SIENA HILL
KELLER AVENUE @ GREENRIDGE & RILEA
OAKLAND, CA



DRAWN BY	W.P. DALLAN
CHECKED BY	ALZ
DATE	08/05/04
SCALE	AS SHOWN
REVISION	AS SHOWN
SHEET	CS-1
OF 43 SHEETS	

EXHIBIT B

recording requested by:

CITY OF OAKLAND

when recorded mail to:

City of Oakland
CEDA - Building Services
Dalziel Administration Building
250 Ogawa Plaza - 2nd Floor
Oakland, CA 94612
Attn: City Engineer

EXHIBIT C

----- space above for Recorder's use only -----

APPROVED FOR FORM AND LEGALITY

CITY ATTORNEY

SUBDIVISION IMPROVEMENT AGREEMENT

Deferred Construction of Public Infrastructure Improvements

4301 Keller Avenue - Siena Hill

Final Map - No. 7396

This Agreement is between Siena Homes LLC (DEVELOPER), a California limited liability company (no. 200519010054), and its successors or assigns, affiliated companies or corporations, parent companies or corporations, or partners, and the City of Oakland (CITY), a California municipal corporation.

RECITALS

The DEVELOPER is the owner in fee title and subdivider of an originally subdivided and undeveloped lot located within the corporate limits of the CITY, which is identified by the Alameda County Assessor as parcel number 040A-3457-033-01 and by the CITY as 4301 Keller Avenue, who has presented a proposed Final Map, which is identified by the Alameda County Recorder as No. 7396, to the Council of the CITY that proposes a subdivision of this platted land into thirty-two (32) developable lots.

As a condition precedent to the approval of the proposed Final Map, the CITY requires the irrevocable dedication of public right-of-way and public easements shown on the map. In addition, the CITY requires the construction of public infrastructure improvements off-site in the CITY right-of-way and on-site in dedicated right-of-way and easements that customarily includes grading, paving, striping and lettering, curbs, gutters and sidewalks, trees, landscaping and irrigation, retaining walls, storm drains and sanitary sewers, street name and public transportation signs, survey monuments, electricity, communication, water, and natural gas utility mains and branch piping and wiring, fire hydrants, street light electroliers, traffic control and curb parking signs, signals and meters, and all appurtenances thereto.

The DEVELOPER has asked the CITY and local public utility companies to accept the permanent maintenance of the required public infrastructure improvements shown on the construction plans accompanying permit number PX 0500056 and included in *Exhibit A*, attached hereto.

Construction of the required public infrastructure improvements, however, has not commenced nor been accepted by the CITY. Consequently and in consideration of the approval of the proposed Final Map and acceptance of the irrevocable offers of dedication of public right-of-way and easements and acceptance of the permanent maintenance of the required public infrastructure improvements, the parties desire to establish an Agreement binding the DEVELOPER to complete the required improvements within the time duration set forth in paragraph 4 below.

THEREFORE, it is agreed as follows:

1. Approval of Parcel Map

Approval of the proposed Final Map No. 7396 by the CITY shall be conditioned upon recordation of this Agreement with the Alameda County Recorder, as well as DEVELOPER's satisfactory performance of its obligations specified in this Agreement, as determined by the CITY.

2. Construction of Improvements

The DEVELOPER shall construct all required off-site and on-site public infrastructure improvements in strict accordance with all permits, specifications, plans and applicable CITY standards and performance criteria as specified in *Exhibit A* and set forth below in paragraph 3, Special Conditions.

3. Special Conditions

The DEVELOPER shall comply with the special conditions as follows:

A. Public infrastructure improvements shall conform with the performance criteria specified in Oakland Municipal Code Chapter 16.16 - Design Standards and in Standard Details for Public Works Construction 2002 Edition and Standard Specifications for Public Works Construction 2002 Edition.

B. The time duration for the completion of required public infrastructure improvements, as set forth in paragraph 4 below, shall include allowance for construction workday delays attributable to consecutive and intermittent inclement weather, as has been recorded by the United States Weather Bureau for the CITY and surrounding area and seasonally averaged for the previous ten years.

C. Hours, days, and months of operation and control of public nuisance conditions for the construction of required public infrastructure improvements shall conform with the requirements of all CITY Conditions of Approval for the project and the Oakland Municipal Code, including section 15.04.780 and subsections 3304.6 and 3304.11. No work shall be performed on Saturdays or Sundays or holidays nor commence before 8:00 am local time nor be performed after 5:00 pm local time without the written authorization of the City Engineer.

D. Performance standards for the construction of required public infrastructure improvements shall comply with the requirements of Oakland Municipal Code chapter 17.120 and with regional, state, and federal regulations for "Best Management Practices" for erosion and sedimentation control.

E. In order to safeguard life, public and private property, and to ensure that the work will be carried out in an orderly manner in conformance with all regulations and without creating a public nuisance, the City Engineer may add to, remove, or change these Special Conditions from time to time during the duration of the permit as he or she deems reasonably necessary.

4. Completion of Improvements

A. All construction of required public infrastructure improvements shall be completed by the DEVELOPER within one (1) year of the date of recordation of this Agreement, except those required

improvements for which another completion date is stated in *Exhibit A* or set forth above in paragraph 3, Special Conditions. Construction shall not be deemed complete until the public infrastructure permit has been finalized and an unconditional Certificate of Completion has been issued by the City Engineer.

B. The City Administrator may extend the time for completion of the required public infrastructure improvements. Upon consultation with the City Engineer, the City Administrator shall be the sole and final judge as to whether or not good cause has been shown to entitle the DEVELOPER to an extension under this paragraph 4B.

C. An extension may be granted without notice to the DEVELOPER's surety, and extensions so granted shall not relieve the surety's liability on any of the bonds required by this Agreement.

D. In the event that an extension is granted, DEVELOPER agrees to promptly extend the term of all surety bonds securing its performance under this Agreement, and/or provide additional bonds or other surety acceptable to the CITY. All such bonds and/or other surety are subject to review and approval by the City Attorney for legal sufficiency, and if no bonds or other surety acceptable to the City Attorney are provided to secure DEVELOPER's performance, the extension shall be void.

5. Acceptance of Dedications and Ownership of Improvements

Upon final approval of the public infrastructure improvement permit and unconditional issuance of a Certificate of Completion, all irrevocable offers of dedication of public rights-of-way and public easements will be accepted by the CITY, and all improvements required by this Agreement shall become the sole property of the CITY. The CITY will subsequently accept the permanent maintenance of these improvements as set forth below in paragraphs 7, Maintenance, and 8, Guarantee and Warranty.

6. Responsibility for Dedications and Improvements

Until the Certificate of Completion is unconditionally issued, the DEVELOPER shall give good and adequate warning to the public of each and every defective or dangerous condition existing or arising within all public right-of-way and public easements offered for dedication and shall adequately protect the public from said unsafe conditions. Warning to and protection of the public shall remain the sole responsibility and expense of the DEVELOPER until such time as the Certificate of Completion is unconditionally issued.

7. Maintenance of Improvements

Until one (1) year has elapsed following unconditional issuance of the Certificate of Completion, the DEVELOPER shall maintain the construction of the required public infrastructure improvements and shall immediately perform or cause to be performed at its sole expense all necessary repairs, replacements, additions, or other corrective actions.

8. Guarantee of Workmanship and Warranty of Equipment, Materials, and Expertise

Until one (1) year has elapsed following the unconditional issuance of the Certificate of Completion, the DEVELOPER warrants that the required public infrastructure improvements, including the equipment and materials provided for the required improvements, are and will be free from defects and guarantees that the construction of the required improvements is and will be free from deficiencies and that the required improvements will perform satisfactorily in accordance with the specifications, plans and applicable CITY standards and performance criteria as specified in *Exhibit A* and set forth above in paragraph 3, Special Conditions. DEVELOPER further warrants that its design professionals are competent, that their analyses are adequate, and that their designs will meet or exceed the applicable CITY standards and performance criteria as specified in *Exhibit A* and set forth above in paragraph 3, Special Conditions.

If at any time before the expiration of the guarantee and warranty period specified herein said designs prove to be inadequate in any respect, as determined by the City Engineer, the DEVELOPER shall make changes at its sole expense necessary to assure conformance with said standards and criteria.

9. Inspection of Construction

Inspection of the construction and equipment and materials, or approval of the construction and equipment and materials inspected, or statement by any officer, agent, or employee of the CITY indicating the construction and equipment and materials, or any part thereof, comply with the requirements and conditions of this Agreement, or acceptance of the whole or any part of the construction and materials, or payments thereof, or any combinations, or any combination, or all of these acts shall not relieve the DEVELOPER of its obligation to fulfill this Agreement as prescribed herein; nor shall the CITY be thereby estopped from bringing any action for damages arising from the failure of the DEVELOPER to comply with any of the requirements and conditions of this Agreement.

10. Payment of Fees and Penalties and Accrued Interest

Prior to issuance of the Certificate of Completion and prior to acceptance by the CITY of the on-site and off-site required public infrastructure improvements for permanent maintenance, the DEVELOPER shall pay all fees and penalties and accrued interest to the CITY and other Public Agencies that remain unpaid. Interest on amounts owed to the CITY shall accrue at the rates set forth in its Master Fee Schedule and from date that the fees and penalties are assessed and shall continue until full payment is received, whether or not any conditions of this Agreement are extended or modified.

11. Reversion to Acreage

If the DEVELOPER fails to perform its obligations under this Agreement, DEVELOPER, as the subdivider, consents to the reversion to acreage of the land which is the subject to this Agreement pursuant to Government Code section 66499.16 and to bear all applicable costs.

12. Property Acquisition

If the DEVELOPER is unable to acquire property required for the construction of required improvements, the DEVELOPER agrees to execute the standard CITY Contract for Real Property Acquisition to provide for acquisition through eminent domain.

13. Security

The DEVELOPER shall present to the CITY surety bonds, in a form satisfactory to the City Attorney, issued by a corporate surety authorized to issue said security in the State of California as follows:

A. Before execution of this Agreement, the following securities shall be presented:

1. Faithful Performance Bond in a face amount not less than **\$ 324,608.00**, which is the full amount (one-hundred percent) of the City Engineer's total estimated cost for constructing the on-site and off-site public infrastructure improvements, to secure faithful performance of this Agreement by the DEVELOPER; and

2. Labor and Materials Bond in a face amount not less **\$ 162,304.00**, which is one-half (fifty percent) of the full amount of the City Engineer's total estimated cost for constructing the required on-site and off-site public infrastructure improvements, to secure payment by the DEVELOPER to its contractor, subcontractors, laborers and materialmen furnishing supervision, labor, materials and equipment engaged in the construction pursuant to this Agreement, and further to secure payment as required by the Unemployment Insurance Act.

B. Before final approval of the public infrastructure permit, the following security shall be presented:

Maintenance Bond in a face amount not less than \$ 81,152.00, which is one-quarter (twenty-five percent) of the full amount of the City Engineer's total estimated cost for constructing the required on-site and off-site public infrastructure improvements, to secure faithful performance of paragraphs 7, Maintenance, and 8, Guarantee and Warrantee, above. This Maintenance Bond shall remain in effect for not less than one year after the date of the unconditional issuance of the Certificate of Completion of the required public infrastructure improvements.

C. Pursuant to Government Code section 66499.4, the obligation guaranteed by each bond shall include costs and reasonable expenses and fees, including reasonable attorney fees and expert witness fees, incurred by the CITY in successfully enforcing said obligations and shall be in addition to the face amount of each bond.

14. Alternative Security

In lieu of the bonds required above in paragraph 13, Security, alternative securities may be substituted by the DEVELOPER in a form provided by Government Code Section 66499.3 and subject to review and approval by the City Attorney.

15. Hold Harmless

The DEVELOPER shall indemnify, defend and hold the CITY and its officers, officials, employees, representatives, agents and volunteers harmless against any and all claims, injuries, damages, losses and suits, including attorney fees and expert witness fees, arising out of or in connection with the performance of this Agreement, except for injuries and damages directly caused by the sole gross negligence of the CITY and its officers, official, employees, representative, agents, or volunteers.

Not in limitation of the foregoing, DEVELOPER further agrees to defend and protect the CITY and its officers, officials, employees, representatives, agents and volunteers from all liability or claim because of, or arising out of the use of any patent or patented articles in the construction of said improvements.

DEVELOPER waives all claims and recourse against the CITY, including, without limitation, the right of contribution for loss or damage to persons or property, arising from, growing out of, or in any way connected with or incident to the work performed or failed to be performed under this Agreement, except claims and recourse arising directly from the sole gross negligence of the CITY and its officers, officials, employees, representatives, agents or volunteers.

This indemnification clause shall survive the termination of this Agreement.

16. Insurance Required

DEVELOPER shall procure and maintain for the duration of the Agreement sufficient insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work hereunder by the DEVELOPER and his agents, representatives, employees or subcontractors.

A. Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage ("occurrence" form CG 0001).

2. Insurance Services Office form number CA 0001 covering Automobile Liability, code 1 "any auto."

3. Workers' Compensation insurance as required by the Labor Code of the State of California and Employers Liability insurance.

B. Minimum Limits of Insurance

1. **Commercial General Liability** insurance, including but not limited to, Bodily Injury, Broad Form Property Damage, Contractual Liability, Operations, Products and Completed Operations, Owners and Contractors Protective Liability, and/or XCU coverage, when applicable, with limits not less than **\$2,000,000.00** combined single limit per occurrence for bodily damage, personal injury and property damage. The limits of insurance shall apply separately to this project or location. The policy shall contain a severability of interest clause or cross liability clause or the equivalent thereof.

2. **Automobile Liability** with limits not less than **\$2,000,000.00** combined single limit per accident for bodily injury and property damage.

3. **Worker's Compensation** insurance as required by the laws of the State of California with limits not less than **\$1,000,000.00**. Statutory coverage may include Employers Liability coverage. The Contractor certifies that he/she is aware of the provisions of section 3700 of the California Labor Code, which requires every employer to provide Workers' Compensation coverage, or to undertake self-insurance in accordance with the provisions of that Code. The Contractor shall comply with the provisions of section 3700 of the California Labor Code before commencing performance of the work under this Agreement and thereafter as required by that code.

4. **Professional Liability/ Errors/ Omissions** insurance with limits not less than **\$1,000,000.00**.

5. **Builders' Risk/ Course of Construction** insurance covering all risks of loss with limits not less than the completed value of the project with no coinsurance penalty provisions. The CITY shall be named as loss payee under this policy. The insurer shall waive all rights of subrogation against the CITY.

C. Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the CITY. At the option of the CITY, either

1. the insurer shall reduce or eliminate such deductibles or self-insured retentions with respect to the CITY and its officers, officials, employees, agents and volunteers, or

2. the DEVELOPER shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

D. Other Insurance Provisions

The general and automobile liability policies shall contain, or be endorsed to contain, the following provisions:

1. The CITY and its officers, officials, employees, representatives, agents and volunteers are to be covered as additional insured as respects: liability arising out of activities performed by or on behalf of the DEVELOPER, products and completed operations of the DEVELOPER; premises owned, occupied or used by the DEVELOPER, or automobiles owned, leased, hired or borrowed by the DEVELOPER. The coverage shall contain no special limitations on the scope of protection afforded to the CITY and its officers, officials, employees, representatives, agents, and volunteers.

2. The DEVELOPER's insurance coverage shall be primary insurance as respects the CITY and its officers, officials, representatives, employees, agents and volunteers. Any insurance or self-insurance maintained by the CITY and its officers, officials, employees, representatives, agents, or volunteers shall be excess of the DEVELOPER's insurance and shall not contribute with it.

3. Any failure to comply with reporting provisions of the policies required by this clause, including breaches of warranties, shall not affect coverage provided to the CITY and its officers, officials, employees, representatives, agents, and volunteers.

4. The DEVELOPER'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.

5. The insurer shall agree to waive all rights of subrogation against the CITY and its officers, officials, employees, representatives, agents, and volunteers for losses arising from work performed by the DEVELOPER for the CITY.

6. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled, except for non-payment of premium, by either party, except after thirty (30) days prior written notice by certified mail, return receipt required, has been given to the CITY. In the event the policy is canceled for non-payment of premium, ten (10) days prior written notice, as stated above, will be given.

E. Acceptability of Insurers

If the insurance company providing coverage is licensed to do business in the State of California, the company shall have an A.M. Best rating of not less than A:VII. However, if the insurance company is not licensed to do business in California, the A.M. Best rating shall not be less than A+:X. The maximum A.M. Best rating is A++:XV.

F. Verification of Coverage

DEVELOPER shall furnish the CITY with certificates of insurance and with original endorsements effecting coverage required by this clause. 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. The Commercial General Liability endorsement shall be a form CG 20 10 (or proprietary equivalent), attached to this form. The Commercial Automobile Liability endorsement shall be a form CA 20 48, attached to this document. All certificates and endorsements are to be received and approved by the CITY before work commences. The CITY reserves the right to require complete, certified copies of all required insurance policies, at any time. A STATEMENT OF ADDITIONAL INSURED ENDORSEMENT ON THE ACORD INSURANCE CERTIFICATE FORM IS INSUFFICIENT AND WILL BE REJECTED AS PROOF OF THE ADDITIONAL INSURED REQUIREMENT.

G. Subcontractors

The DEVELOPER shall include all subcontractors as insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverage for subcontractors shall be subject to all of the requirements stated herein.

17. Participation in Benefit Districts

The DEVELOPER shall participate in all Benefit Districts formed by the CITY prior to the execution of this Agreement and shall pay the prorated fee due the CITY under the terms of Benefit District or Districts as applied to the real property covered by this Agreement.

18. Actions to Enforce

If any action at law or in equity, including an action for declaratory relief, is brought to enforce or interpret the provisions of this Agreement, the prevailing party shall be entitled to costs and reasonable expenses and fees, including reasonable attorneys' fees and expert witness fees, in addition to any other relief to which they may be entitled.

19. Beneficiaries, Heirs, Assigns, and Successors In Interest

This Agreement pertains to and runs with the real property included within Final Map No. 7396, which land is expressly agreed to benefit from the privileges granted to DEVELOPER under this Agreement, and binds the beneficiaries, heirs, assigns, and successors in interest of the DEVELOPER.

20. Attachments

The following documents are incorporated into this Agreement by reference:

CITY permits: Public Infrastructure PX 0500056 Planning PUDF050081, PUD02217
G.H.A.D. Building
Grading GR 0500061 Encroachment ENMJ 05132

Resolutions: _____ CMS _____ CMS

Subdivision: Final Map No. 7396 City Engineer's Estimate of the Cost of Improvements

Insurer: _____ Surety: _____

21. Constructive Notice

DEVELOPER shall cause this Agreement to be filed for recordation in the Official Records of Alameda County within five (5) calendar days following execution by the CITY.

22. Effective Date

This Agreement shall not become effective until recorded as provided in paragraph 21 above.

IN WITNESS WHEREOF, the DEVELOPER has caused its name to be subscribed hereto, and the CITY has caused its name to be affixed hereto on the dates indicated below.

SIENA HILL LLC *

CITY OF OAKLAND

signature

signature

name

DEBORAH EDGERLY
City Administrator

title

date

date

** notarized acknowledgment required*

Introduced by

OFFICE OF THE CLERK

Approved for Form and Legality

2007 JAN 23 PM 6:57

Councilmember

F. Faiz

City Attorney

OAKLAND CITY COUNCIL

Resolution No. _____ C.M.S.

RESOLUTION CONDITIONALLY APPROVING A SUBDIVISION IMPROVEMENT AGREEMENT WITH SIENA HOMES LLC FOR THE FINAL MAP FOR TRACT 7396 FOR THE SIENA HILL SUBDIVISION FOR CONSTRUCTION OF PUBLIC INFRASTRUCTURE IMPROVEMENTS AT 4301 KELLER AVENUE

WHEREAS, the developer of a single-family residential subdivision project, Siena Homes Group LLC, a California limited liability company (no. 200519010054), is the Subdivider of a four (4) acre vacant parcel identified by the Alameda County Assessor as APN 040A-3457-033-01, by the Alameda County Recorder as Tract 7396, and by the City of Oakland as 4301 Keller Avenue; and

WHEREAS, the Subdivider has acquired by purchase for valuable consideration the real property comprising Tract 7396; and

WHEREAS, the Subdivider has previously applied to the City of Oakland to subdivide said parcel comprising Tract 7396 into thirty-two (32) residential lots for individual ownership and construction of single-family dwellings; and

WHEREAS, the Planning Commission of the City of Oakland approved the land use permit (PUDF05081) and environmental review determination (ER020012) on March 5, 2005, and the Tentative Map for Tract 7396 on June 17, 2005, which proposed a subdivision of the vacant parcel into thirty-two (32) residential lots for individual ownership; and

WHEREAS, the Council of the City of Oakland approved the formation of a Geologic Hazards Abatement District (GHAD), which included the proposed subdivision, by Resolution no. 80058 CMS on July 18, 2006; 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 7396, upon which the Final Map for Tract 7396 is based; and

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

- the Final Map for Tract 7396, attached hereto as *Exhibit A*, is substantially the same as the Tentative Map approved by the Planning Commission, and
- the Final Map 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 of the thirty-two (32) proposed 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 7396; 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 existing public right-of-way of Keller Avenue and the proposed on-site public easement; and

WHEREAS, the City Engineer has approved infrastructure permit (PX0500056) and the Subdivider's plans and specifications for construction of the required public infrastructure improvements, included with *Exhibit B* and attached hereto; and

WHEREAS, the Council of the City of Oakland has approved by Resolution no. 80237 CMS on October 31, 2006, an encroachment (permit ENMJ 0505132) within the public right-of-way along Keller Avenue for the locating of a retaining wall to support up-slope earthwork on which said infrastructure improvements will be constructed; 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 C*, 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 C*, 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 on March 2, 2005, the Planning Commission certified the EIR(ER020012), and adopted CEQA Findings in connection with the approval of the Siena Hill project; and

WHEREAS, the City Council hereby finds and determines on the basis of substantial evidence in the record that the EIR fully analyzes the potential environmental effects of the project, and incorporates mitigation measures to substantially lessen or avoid any potentially significant impacts in accordance with CEQA. None of the circumstances necessitating preparation of additional CEQA review as specified in CEQA and the CEQA Guidelines, including without limitation Public Resources Code Section 21166 and CEQA Guidelines Section 15162, are present in that (1) there are no substantial changes proposed in the project or the circumstances under which the project is undertaken that would require major revisions of the EIR due to the involvement of new environmental effects or a substantial increase in the severity of previously identified significant effects; and (2) there is no "new information of substantial importance" as described in CEQA Guidelines 15162(a)(3); and

WHEREAS, the requirements of the California Environmental Quality Act (CEQA), the Guidelines as prescribed by the Secretary of Resources, and the provisions of the Statement of Objectives, Criteria and Procedures for Implementation of the California Environmental Quality Act: City of Oakland, have been satisfied; now, therefore, be it

RESOLVED: That the Subdivision Improvement Agreement with Siena Homes LLC for the Final Map for Tract 7396, as conditioned herein, does comply with the California Environmental Quality Act; and be it

FURTHER RESOLVED: That the Subdivision Improvement Agreement 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 Administrator 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 7396 for simultaneous recordation by the Alameda County 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, _____, 2007

PASSED BY THE FOLLOWING VOTE:

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

NOES -

ABSENT -

ABSTENTION -

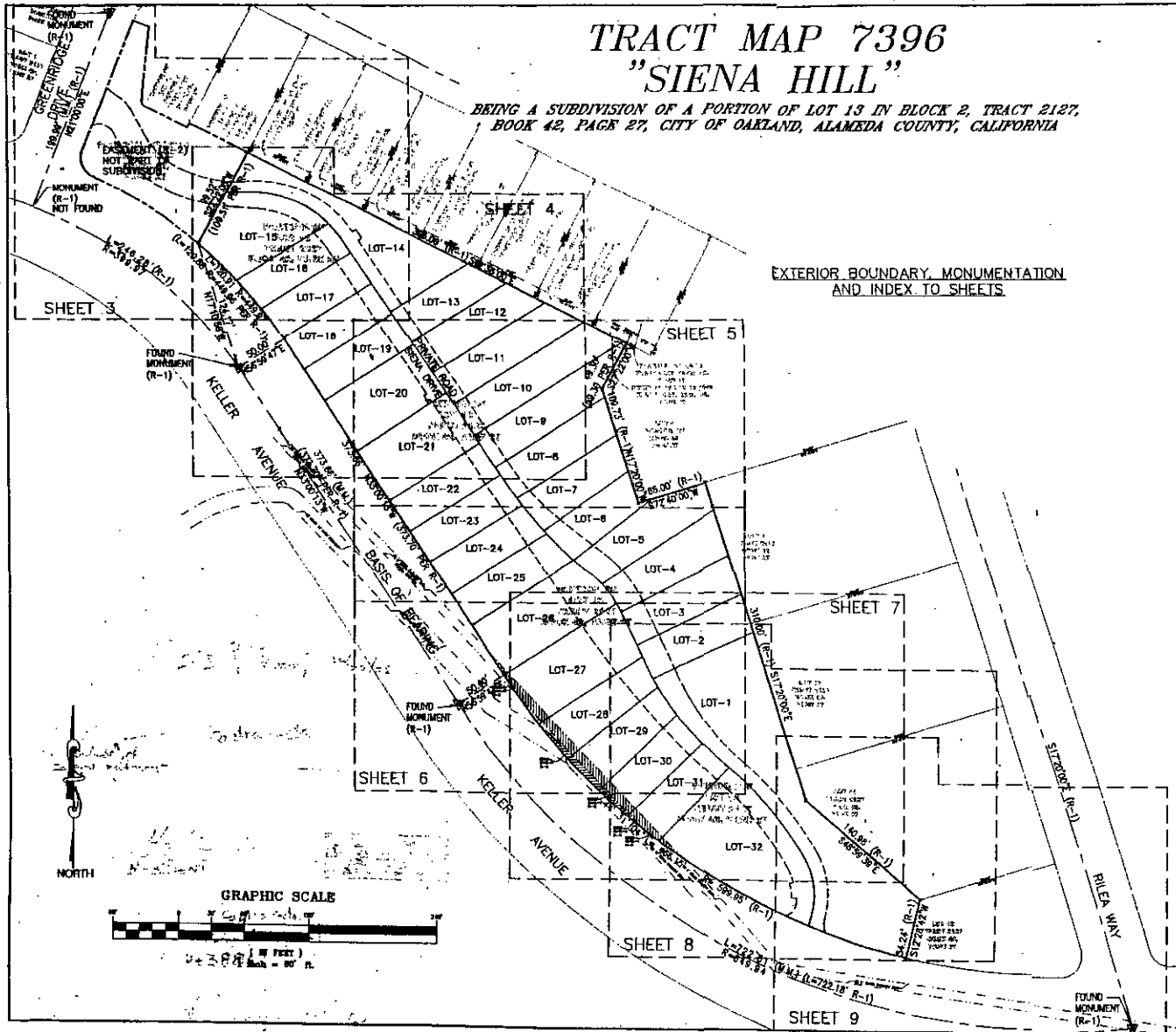
ATTEST: _____

LATONDA SIMMONS

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

TRACT MAP 7396 "SIENA HILL"

BEING A SUBDIVISION OF A PORTION OF LOT 13 IN BLOCK 2, TRACT 2127,
BOOK 42, PAGE 27, CITY OF OAKLAND, ALAMEDA COUNTY, CALIFORNIA



EXTERIOR BOUNDARY, MONUMENTATION AND INDEX TO SHEETS

LEGEND:

FOUND STREET MONUMENT	
STREET MONUMENT TO BE SET	
SET 5/8"x24" REBAR	
W/CAP CE 19893	
RIGHT OF WAY	R/W
CENTER LINE	CL
MONUMENT TO MONUMENT	M.M.
THE POINT	T.P. X
TOTAL	T
PRIVATE	(Pvt)
ARC LENGTH	L=
PUBLIC ACCESS EASEMENT	P.A.E.
PUBLIC UTILITY EASEMENT	P.U.E.
PRIVATE STORM DRAIN EASEMENT	S.D.E.(Pvt)
PRIVATE SANITARY SEWER EASEMENT	S.S.E.(Pvt)
INGRESS & EGRESS EASEMENT, (W&E)(Pvt)	
LANDSCAPE EASEMENT, LE(Pvt)	
EBMUD OUTCLAIM (R-3)	
EBMUD OUTCLAIM (R-4)	
EBMUD EASEMENT	
PUBLIC ACCESS & UTILITY EASEMENT	
PRIVATE STORM DRAIN EASEMENT	
PRIVATE SANITARY SEWER EASEMENT	
EASEMENT (R-2), NOT PART OF SUBDIVISION	
EXTERIOR BOUNDARY	
LOT PROPERTY LINE	
CENTER LINE STREET	

REFERENCE:

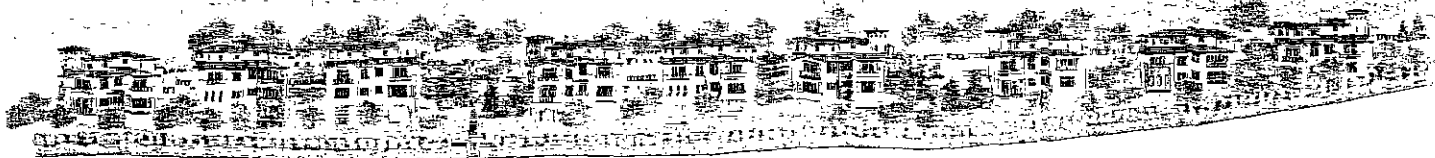
- (R-1) MAP OF TRACT 2127, BOOK 42 PAGE 27
- (R-2) EASEMENT, SERIES NO. 2004-30528 AND AMENDMENT, SERIES NO.
- (R-3) EBMUD OUTCLAIM DEED, SERIAL NO. 2005-533928
- (R-4) EBMUD OUTCLAIM DEED, SERIAL NO. 2005-533929
- (R-5) DEED TO OOSTEAD HOMES, RECORDED FEBRUARY 19, 1962, REEL 518, RANGE 318, INSTRUMENT NO. AT/22289, ALAMEDA COUNTY RECORDS

BASIS OF BEARINGS:

THE MONUMENTS LOCATED IN KELLER AVENUE AS SHOWN ON THE MAP OF "TRACT 2127, OAKLAND, ALAMEDA COUNTY, CALIFORNIA", FILED JULY 25, 1960 IN BOOK 42 OF MAP'S, PAGE 27, ALAMEDA COUNTY RECORDS.

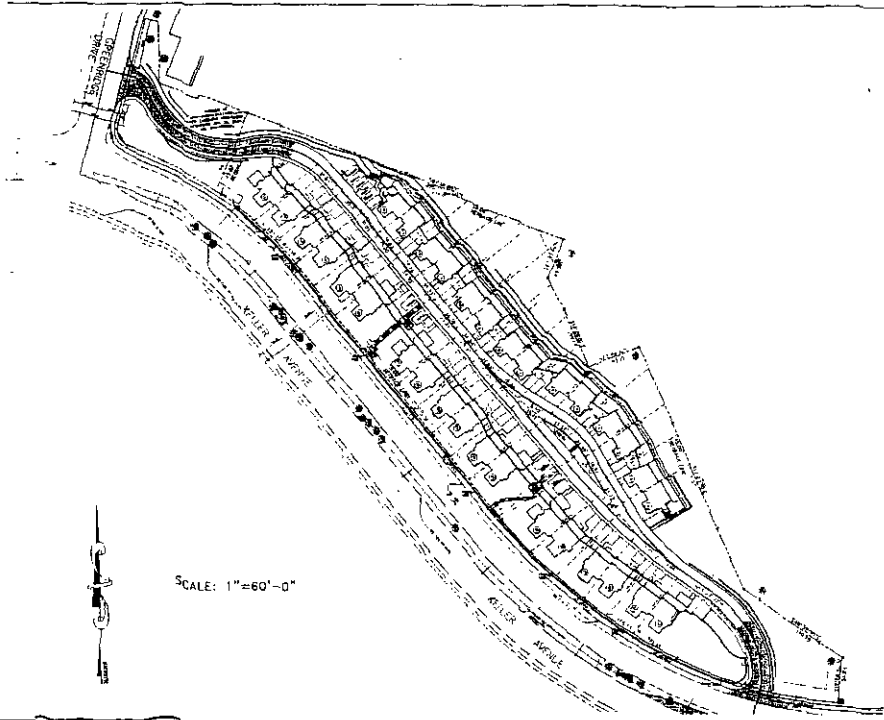


A.C.K. Engineering & Surveying
800 Marin St #5
Vallejo, Ca. 94590
ph. 707-648-8818
fax 707-644-2443



SIENA HILL SUBDIVISION
SIENA HILL, OAKLAND CALIFORNIA

SITE PLAN



SCALE: 1"=60'-0"

LEGEND:

- EASEMENT
- RETAINING WALL
- EXISTING SIDEWALK, CURB, & GUTTER
- PROPOSED SIDEWALK, CURB, & GUTTER
- CONTOUR ELEVATION
- MANHOLE
- CATCH BASIN
- WATER METER
- VALVE
- FIRE HYDRANT
- ELECTROLIER
- JOINT/VALVE
- SANITARY SEWER LINE
- STORM DRAIN LINE
- WATER LINE
- FENCE
- SPOT ELEVATION
- DIRECTION OF FLOW

ABBREVIATIONS

- B.O.V. BACK OF WALK
- B.V.C. BEGINNING OF VERTICAL CURVE
- B.W. BOTTOM OF WALL
- C CENTERLINE
- C & S CURB & GUTTER
- CONC. CONCRETE
- CMP CORRUGATED METAL PIPE
- CTV CABLE TELEVISION BOX
- DRWY DRIVEWAY
- (E) EXISTING
- EB ELECTRICAL BOX
- EP EDGE OF PAVEMENT
- E.V.C. END OF VERTICAL CURVE
- F FOUND
- FF FINISH FLOOR
- FGD FINISH GRADE AT DRIVEWAY
- FLOWLINE FLOWLINE
- JP JUNCTION BOX
- J.P. JOINT/VALVE
- MT MONUMENT
- MTN METER (TRV)
- PL PROPERTY LINE
- PLI PROPERTY LOT LINE
- PT PACIFIC BELL TELEPHONE
- PG&E PACIFIC GAS & ELECTRIC COMPANY
- POS POINT OF BEGINNING
- RCP REINFORCED CONCRETE PIPE
- R.W. RIGHT OF WAY
- SD STORM DRAIN
- S.D.E. STORM DRAIN EASEMENT
- SS SANITARY SEWER
- T.C. TOP OF CURB
- T.W. TOP OF WALL
- T.P.B. TRUE POINT OF BEGINNING
- WM WATER METER
- WV WATER VALVE

PROJECT LOCATION:
KELLER AVENUE @ GREENRIDGE & RILEA
OAKLAND CALIFORNIA

SHEET INDEX

- CS-1 SITE PLAN, VICINITY MAP, INDEX
- C-4 GENERAL NOTES
- C-5 GENERAL NOTES
- C-6 STREET IMPROVEMENT
- C-7 STREET IMPROVEMENT
- C-8 STREET IMPROVEMENT
- C-9 GRADING & RETAINING WALLS
- C-10 GRADING & RETAINING WALLS
- C-11 EROSION CONTROL
- C-12A EROSION CONTROL
- C-12B EROSION CONTROL
- C-12C EROSION CONTROL
- C-13 CROSS SECTIONS
- C-14 CROSS SECTIONS
- C-14A ROAD SECTIONS
- C-14B ROAD SECTIONS
- C-14C ROAD SECTIONS
- C-14D ROAD SECTIONS
- C-14E ROAD SECTIONS
- C-14F ROAD SECTIONS
- C-15 CITY OF OAKLAND STANDARD DETAILS
- C-16 DETAILS
- C-17 DETAILS
- C-17A DETAILS
- C-18 WATER, PG&E, & CABLE
- C-19 WATER, PG&E, & CABLE
- C-20 DRAINAGE PLAN & PROFILE
- C-21 DRAINAGE PLAN & PROFILE
- C-22 DRAINAGE PLAN & PROFILE
- C-23 DRAINAGE PLAN & PROFILE
- C-24A ROOF STORM DRAIN DISCHARGE PLAN
- C-24B ROOF STORM DRAIN DISCHARGE PLAN
- C-25 SEWER PLAN & PROFILE
- C-26 SEWER PLAN & PROFILE

APPROVED
CITY OF OAKLAND
Building Services
Engineering
(Professional Seal)
Date: 7/21/2013

VICINITY MAP



CS-1	Site Plan, Vicinity Map, Index
C-4	General Notes
C-5	General Notes
C-6	Street Improvement
C-7	Street Improvement
C-8	Street Improvement
C-9	Grading & Retaining Walls
C-10	Grading & Retaining Walls
C-11	Erosion Control
C-12A	Erosion Control
C-12B	Erosion Control
C-12C	Erosion Control
C-13	Cross Sections
C-14	Cross Sections
C-14A	Road Sections
C-14B	Road Sections
C-14C	Road Sections
C-14D	Road Sections
C-14E	Road Sections
C-14F	Road Sections
C-15	City of Oakland Standard Details
C-16	Details
C-17	Details
C-17A	Details
C-18	Water, PG&E, & Cable
C-19	Water, PG&E, & Cable
C-20	Drainage Plan & Profile
C-21	Drainage Plan & Profile
C-22	Drainage Plan & Profile
C-23	Drainage Plan & Profile
C-24A	Roof Storm Drain Discharge Plan
C-24B	Roof Storm Drain Discharge Plan
C-25	Sewer Plan & Profile
C-26	Sewer Plan & Profile

A.C.K. Engineering & Surveying
400 Lakeside Blvd.
Oakland, CA 94612
Lic. No. 10010-018-001

COVER SHEET
SIENA HILL
KELLER AVENUE @ GREENRIDGE & RILEA
OAKLAND, CA



DRAWN BY	W. DALLAN
CHECKED BY	FILE
DATE	07/20/13
SCALE	AS SHOWN
FIG. NO.	000000
SHEET	CE-1
OF 43 SHEETS	

EXHIBIT B

recording requested by:

CITY OF OAKLAND

when recorded mail to:

City of Oakland
CEDA - Building Services
Dalziel Administration Building
250 Ogawa Plaza - 2nd Floor
Oakland, CA 94612
Attn: City Engineer

EXHIBIT C

space above for Recorder's use only

APPROVED FOR FORM AND LEGALITY

CITY ATTORNEY

SUBDIVISION IMPROVEMENT AGREEMENT

Deferred Construction of Public Infrastructure Improvements

4301 Keller Avenue - Siena Hill

Final Map - No. 7396

This Agreement is between Siena Homes LLC (DEVELOPER), a California limited liability company (no. 200519010054), and its successors or assigns, affiliated companies or corporations, parent companies or corporations, or partners, and the **City of Oakland (CITY)**, a California municipal corporation.

RECITALS

The DEVELOPER is the owner in fee title and subdivider of an originally subdivided and undeveloped lot located within the corporate limits of the CITY, which is identified by the Alameda County Assessor as parcel number 040A-3457-033-01 and by the CITY as 4301 Keller Avenue, who has presented a proposed Final Map, which is identified by the Alameda County Recorder as No. 7396, to the Council of the CITY that proposes a subdivision of this platted land into thirty-two (32) developable lots.

As a condition precedent to the approval of the proposed Final Map, the CITY requires the irrevocable dedication of public right-of-way and public easements shown on the map. In addition, the CITY requires the construction of public infrastructure improvements off-site in the CITY right-of-way and on-site in dedicated right-of-way and easements that customarily includes grading, paving, striping and lettering, curbs, gutters and sidewalks, trees, landscaping and irrigation, retaining walls, storm drains and sanitary sewers, street name and public transportation signs, survey monuments, electricity, communication, water, and natural gas utility mains and branch piping and wiring, fire hydrants, street light electroliers, traffic control and curb parking signs, signals and meters, and all appurtenances thereto.

The DEVELOPER has asked the CITY and local public utility companies to accept the permanent maintenance of the required public infrastructure improvements shown on the construction plans accompanying permit number PX 0500056 and included in *Exhibit A*, attached hereto.

Construction of the required public infrastructure improvements, however, has not commenced nor been accepted by the CITY. Consequently and in consideration of the approval of the proposed Final Map and acceptance of the irrevocable offers of dedication of public right-of-way and easements and acceptance of the permanent maintenance of the required public infrastructure improvements, the parties desire to establish an Agreement binding the DEVELOPER to complete the required improvements within the time duration set forth in paragraph 4 below.

THEREFORE, it is agreed as follows:

1. Approval of Parcel Map

Approval of the proposed Final Map No. 7396 by the CITY shall be conditioned upon recordation of this Agreement with the Alameda County Recorder, as well as DEVELOPER's satisfactory performance of its obligations specified in this Agreement, as determined by the CITY.

2. Construction of Improvements

The DEVELOPER shall construct all required off-site and on-site public infrastructure improvements in strict accordance with all permits, specifications, plans and applicable CITY standards and performance criteria as specified in *Exhibit A* and set forth below in paragraph 3, Special Conditions.

3. Special Conditions

The DEVELOPER shall comply with the special conditions as follows:

A. Public infrastructure improvements shall conform with the performance criteria specified in Oakland Municipal Code Chapter 16.16 - Design Standards and in Standard Details for Public Works Construction 2002 Edition and Standard Specifications for Public Works Construction 2002 Edition.

B. The time duration for the completion of required public infrastructure improvements, as set forth in paragraph 4 below, shall include allowance for construction workday delays attributable to consecutive and intermittent inclement weather, as has been recorded by the United States Weather Bureau for the CITY and surrounding area and seasonally averaged for the previous ten years.

C. Hours, days, and months of operation and control of public nuisance conditions for the construction of required public infrastructure improvements shall conform with the requirements of all CITY Conditions of Approval for the project and the Oakland Municipal Code, including section 15.04.780 and subsections 3304.6 and 3304.11. No work shall be performed on Saturdays or Sundays or holidays nor commence before 8:00 am local time nor be performed after 5:00 pm local time without the written authorization of the City Engineer.

D. Performance standards for the construction of required public infrastructure improvements shall comply with the requirements of Oakland Municipal Code chapter 17.120 and with regional, state, and federal regulations for "Best Management Practices" for erosion and sedimentation control.

E. In order to safeguard life, public and private property, and to ensure that the work will be carried out in an orderly manner in conformance with all regulations and without creating a public nuisance, the City Engineer may add to, remove, or change these Special Conditions from time to time during the duration of the permit as he or she deems reasonably necessary.

4. Completion of Improvements

A. All construction of required public infrastructure improvements shall be completed by the DEVELOPER within one (1) year of the date of recordation of this Agreement, except those required

improvements for which another completion date is stated in *Exhibit A* or set forth above in paragraph 3, Special Conditions. Construction shall not be deemed complete until the public infrastructure permit has been finalized and an unconditional Certificate of Completion has been issued by the City Engineer.

B. The City Administrator may extend the time for completion of the required public infrastructure improvements. Upon consultation with the City Engineer, the City Administrator shall be the sole and final judge as to whether or not good cause has been shown to entitle the DEVELOPER to an extension under this paragraph 4B.

C. An extension may be granted without notice to the DEVELOPER's surety, and extensions so granted shall not relieve the surety's liability on any of the bonds required by this Agreement.

D. In the event that an extension is granted, DEVELOPER agrees to promptly extend the term of all surety bonds securing its performance under this Agreement, and/or provide additional bonds or other surety acceptable to the CITY. All such bonds and/or other surety are subject to review and approval by the City Attorney for legal sufficiency, and if no bonds or other surety acceptable to the City Attorney are provided to secure DEVELOPER's performance, the extension shall be void.

5. Acceptance of Dedications and Ownership of Improvements

Upon final approval of the public infrastructure improvement permit and unconditional issuance of a Certificate of Completion, all irrevocable offers of dedication of public rights-of-way and public easements will be accepted by the CITY, and all improvements required by this Agreement shall become the sole property of the CITY. The CITY will subsequently accept the permanent maintenance of these improvements as set forth below in paragraphs 7, Maintenance, and 8, Guarantee and Warranty.

6. Responsibility for Dedications and Improvements

Until the Certificate of Completion is unconditionally issued, the DEVELOPER shall give good and adequate warning to the public of each and every defective or dangerous condition existing or arising within all public right-of-way and public easements offered for dedication and shall adequately protect the public from said unsafe conditions. Warning to and protection of the public shall remain the sole responsibility and expense of the DEVELOPER until such time as the Certificate of Completion is unconditionally issued.

7. Maintenance of Improvements

Until one (1) year has elapsed following unconditional issuance of the Certificate of Completion, the DEVELOPER shall maintain the construction of the required public infrastructure improvements and shall immediately perform or cause to be performed at its sole expense all necessary repairs, replacements, additions, or other corrective actions.

8. Guarantee of Workmanship and Warranty of Equipment, Materials, and Expertise

Until one (1) year has elapsed following the unconditional issuance of the Certificate of Completion, the DEVELOPER warrants that the required public infrastructure improvements, including the equipment and materials provided for the required improvements, are and will be free from defects and guarantees that the construction of the required improvements is and will be free from deficiencies and that the required improvements will perform satisfactorily in accordance with the specifications, plans and applicable CITY standards and performance criteria as specified in *Exhibit A* and set forth above in paragraph 3, Special Conditions. DEVELOPER further warrants that its design professionals are competent, that their analyses are adequate, and that their designs will meet or exceed the applicable CITY standards and performance criteria as specified in *Exhibit A* and set forth above in paragraph 3, Special Conditions.

If at any time before the expiration of the guarantee and warrantee period specified herein said designs prove to be inadequate in any respect, as determined by the City Engineer, the DEVELOPER shall make changes at its sole expense necessary to assure conformance with said standards and criteria.

9. Inspection of Construction

Inspection of the construction and equipment and materials, or approval of the construction and equipment and materials inspected, or statement by any officer, agent, or employee of the CITY indicating the construction and equipment and materials, or any part thereof, comply with the requirements and conditions of this Agreement, or acceptance of the whole or any part of the construction and materials, or payments thereof, or any combinations, or any combination, or all of these acts shall not relieve the DEVELOPER of its obligation to fulfill this Agreement as prescribed herein; nor shall the CITY be thereby estopped from bringing any action for damages arising from the failure of the DEVELOPER to comply with any of the requirements and conditions of this Agreement.

10. Payment of Fees and Penalties and Accrued Interest

Prior to issuance of the Certificate of Completion and prior to acceptance by the CITY of the on-site and off-site required public infrastructure improvements for permanent maintenance, the DEVELOPER shall pay all fees and penalties and accrued interest to the CITY and other Public Agencies that remain unpaid. Interest on amounts owed to the CITY shall accrue at the rates set forth in its Master Fee Schedule and from date that the fees and penalties are assessed and shall continue until full payment is received, whether or not any conditions of this Agreement are extended or modified.

11. Reversion to Acreage

If the DEVELOPER fails to perform its obligations under this Agreement, DEVELOPER, as the subdivider, consents to the reversion to acreage of the land which is the subject to this Agreement pursuant to Government Code section 66499.16 and to bear all applicable costs.

12. Property Acquisition

If the DEVELOPER is unable to acquire property required for the construction of required improvements, the DEVELOPER agrees to execute the standard CITY Contract for Real Property Acquisition to provide for acquisition through eminent domain.

13. Security

The DEVELOPER shall present to the CITY surety bonds, in a form satisfactory to the City Attorney, issued by a corporate surety authorized to issue said security in the State of California as follows:

A. Before execution of this Agreement, the following securities shall be presented:

1. Faithful Performance Bond in a face amount not less than \$ 324,608.00, which is the full amount (one-hundred percent) of the City Engineer's total estimated cost for constructing the on-site and off-site public infrastructure improvements, to secure faithful performance of this Agreement by the DEVELOPER; and

2. Labor and Materials Bond in a face amount not less \$ 162,304.00, which is one-half (fifty percent) of the full amount of the City Engineer's total estimated cost for constructing the required on-site and off-site public infrastructure improvements, to secure payment by the DEVELOPER to its contractor, subcontractors, laborers and materialmen furnishing supervision, labor, materials and equipment engaged in the construction pursuant to this Agreement, and further to secure payment as required by the Unemployment Insurance Act.

B. Before final approval of the public infrastructure permit, the following security shall be presented:

Maintenance Bond in a face amount not less than \$ 81,152.00, which is one-quarter (twenty-five percent) of the full amount of the City Engineer's total estimated cost for constructing the required on-site and off-site public infrastructure improvements, to secure faithful performance of paragraphs 7, Maintenance, and 8, Guarantee and Warrantee, above. This Maintenance Bond shall remain in effect for not less than one year after the date of the unconditional issuance of the Certificate of Completion of the required public infrastructure improvements.

C. Pursuant to Government Code section 66499.4, the obligation guaranteed by each bond shall include costs and reasonable expenses and fees, including reasonable attorney fees and expert witness fees, incurred by the CITY in successfully enforcing said obligations and shall be in addition to the face amount of each bond.

14. Alternative Security

In lieu of the bonds required above in paragraph 13, Security, alternative securities may be substituted by the DEVELOPER in a form provided by Government Code Section 66499.3 and subject to review and approval by the City Attorney.

15. Hold Harmless

The DEVELOPER shall indemnify, defend and hold the CITY and its officers, officials, employees, representatives, agents and volunteers harmless against any and all claims, injuries, damages, losses and suits, including attorney fees and expert witness fees, arising out of or in connection with the performance of this Agreement, except for injuries and damages directly caused by the sole gross negligence of the CITY and its officers, official, employees, representative, agents, or volunteers.

Not in limitation of the foregoing, DEVELOPER further agrees to defend and protect the CITY and its officers, officials, employees, representatives, agents and volunteers from all liability or claim because of, or arising out of the use of any patent or patented articles in the construction of said improvements.

DEVELOPER waives all claims and recourse against the CITY, including, without limitation, the right of contribution for loss or damage to persons or property, arising from, growing out of, or in any way connected with or incident to the work performed or failed to be performed under this Agreement, except claims and recourse arising directly from the sole gross negligence of the CITY and its officers, officials, employees, representatives, agents or volunteers.

This indemnification clause shall survive the termination of this Agreement.

16. Insurance Required

DEVELOPER shall procure and maintain for the duration of the Agreement sufficient insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work hereunder by the DEVELOPER and his agents, representatives, employees or subcontractors.

A. Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage ("occurrence" form CG 0001).

2. Insurance Services Office form number CA 0001 covering Automobile Liability, code 1 "any auto."

3. Workers' Compensation insurance as required by the Labor Code of the State of California and Employers Liability insurance.

B. Minimum Limits of Insurance

1. **Commercial General Liability** insurance, including but not limited to, Bodily Injury, Broad Form Property Damage, Contractual Liability, Operations, Products and Completed Operations, Owners and Contractors Protective Liability, and/or XCU coverage, when applicable, with limits not less than **\$2,000,000.00** combined single limit per occurrence for bodily damage, personal injury and property damage. The limits of insurance shall apply separately to this project or location. The policy shall contain a severability of interest clause or cross liability clause or the equivalent thereof.

2. **Automobile Liability** with limits not less than **\$2,000,000.00** combined single limit per accident for bodily injury and property damage.

3. **Worker's Compensation** insurance as required by the laws of the State of California with limits not less than **\$1,000,000.00**. Statutory coverage may include Employers Liability coverage. The Contractor certifies that he/she is aware of the provisions of section 3700 of the California Labor Code, which requires every employer to provide Workers' Compensation coverage, or to undertake self-insurance in accordance with the provisions of that Code. The Contractor shall comply with the provisions of section 3700 of the California Labor Code before commencing performance of the work under this Agreement and thereafter as required by that code.

4. **Professional Liability/ Errors/ Omissions** insurance with limits not less than **\$1,000,000.00**.

5. **Builders' Risk/ Course of Construction** insurance covering all risks of loss with limits not less than the completed value of the project with no coinsurance penalty provisions. The CITY shall be named as loss payee under this policy. The insurer shall waive all rights of subrogation against the CITY.

C. Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the CITY. At the option of the CITY, either

1. the insurer shall reduce or eliminate such deductibles or self-insured retentions with respect to the CITY and its officers, officials, employees, agents and volunteers, or

2. the DEVELOPER shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

D. Other Insurance Provisions

The general and automobile liability policies shall contain, or be endorsed to contain, the following provisions:

1. The CITY and its officers, officials, employees, representatives, agents and volunteers are to be covered as additional insured as respects: liability arising out of activities performed by or on behalf of the DEVELOPER, products and completed operations of the DEVELOPER; premises owned, occupied or used by the DEVELOPER, or automobiles owned, leased, hired or borrowed by the DEVELOPER. The coverage shall contain no special limitations on the scope of protection afforded to the CITY and its officers, officials, employees, representatives, agents, and volunteers.

2. The DEVELOPER's insurance coverage shall be primary insurance as respects the CITY and its officers, officials, representatives, employees, agents and volunteers. Any insurance or self-insurance maintained by the CITY and its officers, officials, employees, representatives, agents, or volunteers shall be excess of the DEVELOPER's insurance and shall not contribute with it.

3. Any failure to comply with reporting provisions of the policies required by this clause, including breaches of warranties, shall not affect coverage provided to the CITY and its officers, officials, employees, representatives, agents, and volunteers.

4. The DEVELOPER'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.

5. The insurer shall agree to waive all rights of subrogation against the CITY and its officers, officials, employees, representatives, agents, and volunteers for losses arising from work performed by the DEVELOPER for the CITY.

6. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled, except for non-payment of premium, by either party, except after thirty (30) days prior written notice by certified mail, return receipt required, has been given to the CITY. In the event the policy is canceled for non-payment of premium, ten (10) days prior written notice, as stated above, will be given.

E. Acceptability of Insurers

If the insurance company providing coverage is licensed to do business in the State of California, the company shall have an A.M. Best rating of not less than A:VII. However, if the insurance company is not licensed to do business in California, the A.M. Best rating shall not be less than A+:X. The maximum A.M. Best rating is A++:XV.

F. Verification of Coverage

DEVELOPER shall furnish the CITY with certificates of insurance and with original endorsements effecting coverage required by this clause. 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. The Commercial General Liability endorsement shall be a form CG 20 10 (or proprietary equivalent), attached to this form. The Commercial Automobile Liability endorsement shall be a form CA 20 48, attached to this document. All certificates and endorsements are to be received and approved by the CITY before work commences. The CITY reserves the right to require complete, certified copies of all required insurance policies, at any time. A STATEMENT OF ADDITIONAL INSURED ENDORSEMENT ON THE ACORD INSURANCE CERTIFICATE FORM IS INSUFFICIENT AND WILL BE REJECTED AS PROOF OF THE ADDITIONAL INSURED REQUIREMENT.

G. Subcontractors

The DEVELOPER shall include all subcontractors as insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverage for subcontractors shall be subject to all of the requirements stated herein.

17. Participation in Benefit Districts

The DEVELOPER shall participate in all Benefit Districts formed by the CITY prior to the execution of this Agreement and shall pay the prorated fee due the CITY under the terms of Benefit District or Districts as applied to the real property covered by this Agreement.

18. Actions to Enforce

If any action at law or in equity, including an action for declaratory relief, is brought to enforce or interpret the provisions of this Agreement, the prevailing party shall be entitled to costs and reasonable expenses and fees, including reasonable attorneys' fees and expert witness fees, in addition to any other relief to which they may be entitled.

19. Beneficiaries, Heirs, Assigns, and Successors In Interest

This Agreement pertains to and runs with the real property included within Final Map No. 7396, which land is expressly agreed to benefit from the privileges granted to DEVELOPER under this Agreement, and binds the beneficiaries, heirs, assigns, and successors in interest of the DEVELOPER.

20. Attachments

The following documents are incorporated into this Agreement by reference:

CITY permits: Public Infrastructure PX 0500056 Planning PUDF050081, PUD02217
G.H.A.D. Building
Grading GR 0500061 Encroachment ENMJ 05132

Resolutions: _____ CMS _____ CMS

Subdivision: Final Map No. 7396 City Engineer's Estimate of the Cost of Improvements

Insurer: _____ Surety: _____

21. Constructive Notice

DEVELOPER shall cause this Agreement to be filed for recordation in the Official Records of Alameda County within five (5) calendar days following execution by the CITY.

22. Effective Date

This Agreement shall not become effective until recorded as provided in paragraph 21 above.

IN WITNESS WHEREOF, the DEVELOPER has caused its name to be subscribed hereto, and the CITY has caused its name to be affixed hereto on the dates indicated below.

SIENA HILL LLC *

CITY OF OAKLAND

signature

signature

name

DEBORAH EDGERLY
City Administrator

title

date

date

* notarized acknowledgment required