

**CITY OF OAKLAND  
AGENDA REPORT**

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

2005 APR -7 PM 12:18

TO: Office of the City Administrator  
ATTN: Deborah Edgerly  
FROM: Public Works Agency  
DATE: April 19, 2005

RE: RESOLUTION APPROVING THE FINAL MAP OF TRACT MAP NOS. 7351 AND 7493 IN A REAL ESTATE SUBDIVISION ENTITLED "TRACT 7351", LEONA QUARRY SUBDIVISION, LOCATED NORTH OF THE INTERSECTION OF MOUNTAIN BOULEVARD AND EDWARDS AVENUE, OAKLAND, ALAMEDA COUNTY, CALIFORNIA

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**SUMMARY**

A resolution has been prepared requesting the City Council to approve the final maps in the real estate subdivision entitled Leona Quarry Subdivision "Tract 7351", Oakland, Alameda County, California. Approval of a final map involves a ministerial review of whether the final map substantially conforms to the tentative map, and whether all conditions of approval have been fulfilled. The approval is not discretionary, and there is no opportunity to reconsider or revise conditions, or impose any new conditions.

On February 17, 2004, the City Council approved the "Vesting Tentative Tract Map No. 7351" for Leona Quarry Subdivision with conditions. The Subdivision Map Act requires the Subdivider to submit a final map to the City within two years from the date of the approval of the vesting tentative tract map or request for time extension. Also, the Subdivision Map Act Section 66446.1 allows the phasing of final maps provided that the Subdivider informed the local agency of their intention to file multiple maps at the time of filing of the tentative map; and the local agency and the Subdivider concur in the filing of the multiple maps. The Subdivider submitted three phases of the final map to the City for review and approval within the allowed timeframe and consistent with the provisions of the Subdivision Map Act.

The proposed phases of the final map for the Leona Quarry Subdivision consist of the following:

1. Phase One - Tract Map No. 7351
2. Phase Two - Tract Map No. 7492
3. Phase Three - Tract Map No. 7493

Attachment A shows the three tracts. Phase One and Three are located within the lower areas of the project site north of the intersection of Mountain Boulevard and Edwards Avenue and will include 404 condominiums and townhouses, a 2-acre park and other recreational areas including, trails, pathways, 70-acre open space, community center, and a 25-acre detention basin with 3-acre feet provided for water quality. Phase Two is located south of Campus Drive and will consist of 19 detached single-family dwellings.

Maps for Phases One and Three are being presented to the City Council under this resolution for action. The Phase Two map will be presented to the City Council at a later date after public improvement plans are approved. The City's peer review consultant, Harris and Associates, reviewed the final maps for conformance with standards and conditions of approval. The City Engineer has also examined the maps and certified that the final maps substantially conform to the approved vesting tentative map or alterations thereof, complies with all the provisions of the Subdivision Map Act and local ordinances applicable thereto, and is technically correct.

Item: \_\_\_\_\_  
City Council  
April 19, 2005

In addition, the developer has complied with all conditions of approval pertinent to the subject phases of the final map, with the exception of Condition of Approval No. 24, which requires that the Leona Geologic Hazard Abatement District (GHAD) to be fully operational and funded prior to the recordation of the first final map. The GHAD Board is scheduled to meet on May 3, 2005 to adopt resolutions that will make the GHAD fully funded and operational. Although the final map is recommended for approval under this resolution, it will not be recorded until after May 3, 2005 when the Condition of Approval No. 24 will be satisfied. The Conditions of Approval pertinent to the final map and the status of each condition are included as Attachment B.

On November 16, 2004, the City Council authorized the City Engineer to enter into a Subdivision Improvement Agreement (Attachment C) with the Subdivider to obligate the Subdivider to complete certain public improvements within 18 months. The Subdivider has paid the fees and posted the bonds to guarantee completion of these improvements and payment to labor and material suppliers.

A final map approval is not subject to CEQA, and no further environmental review is required. The City Council has already certified an Environmental Impact Report for the Leona Quarry Subdivision Project, which complies with the requirements of the California Environmental Quality Act.

Staff recommends approval of the resolution.

#### **FISCAL IMPACT**

Adoption of the resolution approving the subdivision maps will not have a fiscal impact on the City. The developer has posted the necessary security for the public improvements, and will bear the cost of constructing all required public improvements, estimated at \$8,167,584.

#### **BACKGROUND**

On February 17, 2004, the City Council approved with conditions the vesting tentative tract map in a real estate subdivision entitled "Tract 7351", Leona Quarry Subdivision, Oakland, Alameda County, California consisting of 128 acres. The City Council approved the project with a total of 423 residential units, with clustered residential development in the lower area north of the intersection of Mountain Boulevard and Edwards Avenue. Included with the approval of the project is a \$500,000 contribution by the Subdivider towards a 54-unit affordable housing project in District 6 in lieu of constructing a senior housing project at the Leona Quarry site. Also, a two-acre park, pedestrian pathways, roadways, a 25-acre feet detention basin with 3-acre feet water quality provision, trails and open spaces were approved. The project includes extensive reclamation, slope stabilization, and revegetation of the quarry site.

The construction of the condominium and townhouse units will provide home ownership opportunity to moderate-income households.

On November 16, 2004, under Resolution 78927 C.M.S., the City Council authorized the City Engineer to enter into a Subdivision Improvement Agreement with the Subdivider to obligate the Subdivider to construct certain public improvements by May 20, 2006, and to post specified bonds to guarantee that obligation.

The project's Conditions of Approval include formation of a Geologic Hazard Abatement District (GHAD) to maintain and monitor slope stabilization, drainage, and other improvements required to mitigate any potential geologic hazards. The City Council approved formation of the GHAD on December 3, 2002 requiring that the City Council serve as the Board of Directors of the GHAD, a separate governmental district. On March 15, 2005, the GHAD Board adopted an Amendment 1 to the Plan of Control, adopted a budget, appointed officers, annexed four lots to the GHAD, set up public hearing and gave notice of its intent to levy an assessment to

further fund the GHAD. Condition of Approval 24 requires that the GHAD be fully operational and comply with certain conditions related to the project prior to the recordation of the final map. Accordingly, the Subdivider will be required to comply with GHAD related conditions prior to recordation of the final maps.

### **KEY ISSUES AND IMPACTS**

The Subdivision Map Act and City's Subdivision Regulations allow for completion of the public improvements after recordation of the final map provided the Subdivider has entered into a subdivision improvement agreement with the City and posted the necessary security to assure completion of the work. City staff has negotiated a Subdivision Improvement Agreement (Attachment C) with the Subdivider that would obligate the Subdivider to complete the public improvements within eighteen months from execution of the Subdivision Improvement Agreement, and post security to ensure that obligation. The Subdivision Improvement Agreement will be executed prior to recordation of the final maps. The Engineer's Estimate to complete the public improvements is estimated at \$8,167,584. The Subdivider has posted the required performance bond for eight million one hundred sixty-seven thousand five hundred eighty-four dollars (\$8,167,584) and a labor and material bond for four million eighty-three thousand seven hundred ninety-two dollars (\$4,083,792) to guarantee completion of the public improvements and payment to labor and material suppliers. In addition, the Subdivider will provide the City with a warranty bond for the amount of two million forty-one thousand eight hundred ninety-six dollars (\$2,041,896) at a later date, to guarantee the work for one year after completion and acceptance of the improvements, including liability for defective work, labor or materials.

### **SUSTAINABLE OPPORTUNITIES**

Economic: The project will offer employment opportunities to Oakland residents.

Environmental: Part of the condition of approval for the subdivision includes dedication of open space, construction of 2-acre park, trails, pathways and detention facility, which will enhance the aesthetics of the area and improve water quality.

Social Equity: The open space and recreational facilities within the project site while adequately maintained with funding assured by the GHAD will create a safe environment.

### **DISABILITY AND SENIOR CITIZEN ACCESS**

The Subdivider will be required to construct new sidewalks, wheelchair ramps that comply with current Americans with Disabilities Act and City standards at street corners, and make parks within the subdivision accessible.


### **RECOMMENDATION AND RATIONALE**

Since the applicant has complied with the conditions of approval pertinent to the final map, posted sufficient security and paid all necessary fees, staff recommends that the City Council adopt the resolution approving the final map of Tract Map Nos. 7351 and 7493 and directing staff to postpone recording of such maps until the GHAD is deemed fully funded and operational.

**ACTION REQUESTED OF THE CITY COUNCIL**

Staff requests that City Council adopt the resolution approving the final map of Tract Map Nos. 7351 and 7493.

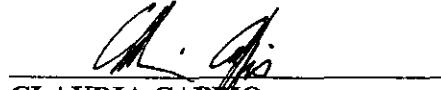
Respectfully submitted,

  
RAUL GODINEZ II, P.E.  
Director, Public Works Agency

Reviewed by:  
Michael Neary, P.E.  
Assistant Director, Public Works Agency

Prepared by:  
Marcel Uzegbu, P.E.  
CIP Coordinator, PWA

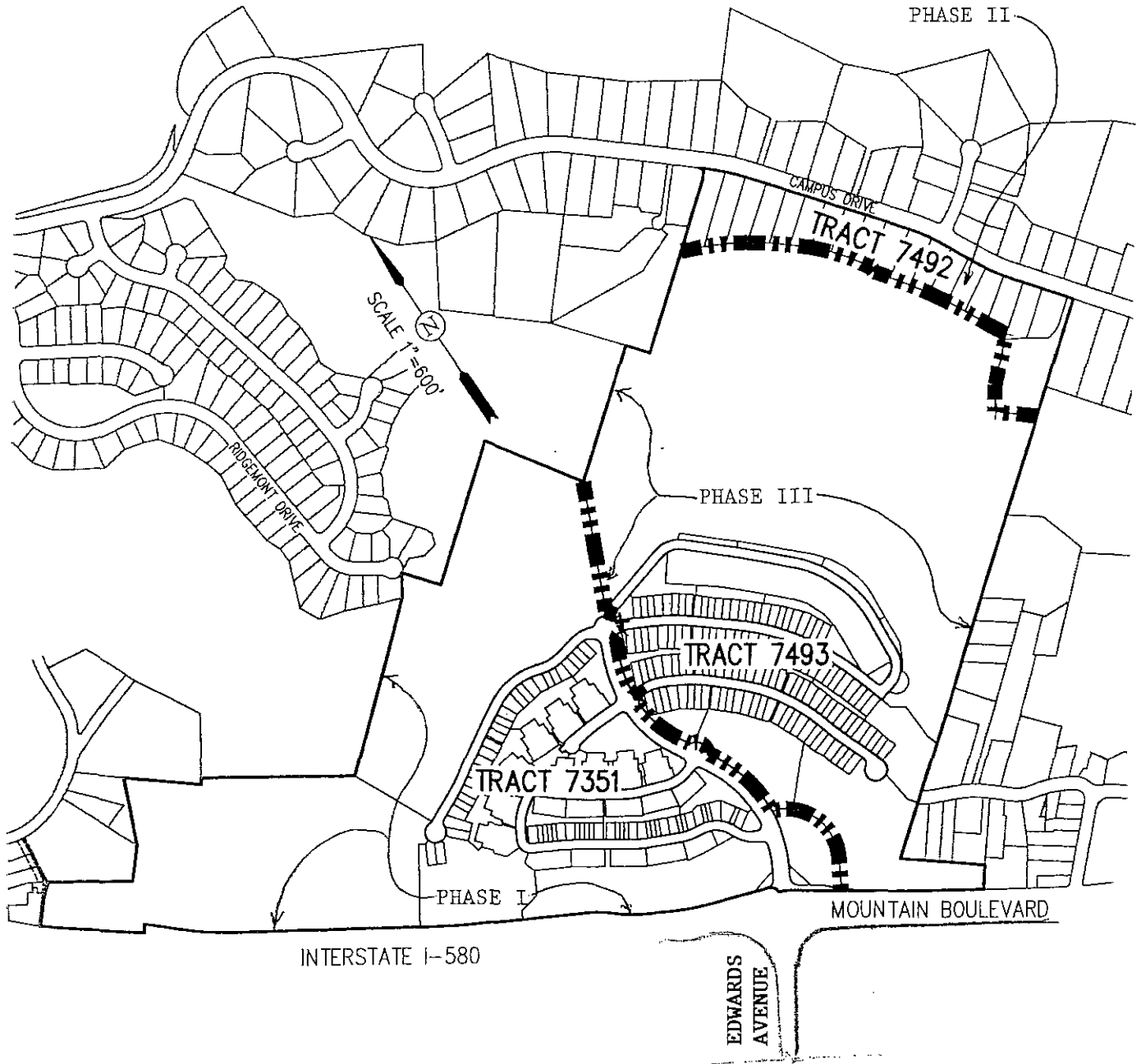
Respectfully submitted,

  
CLAUDIA CAPRIO  
Director of Development  
Community and Economic Development  
Agency

APPROVED AND FORWARDED  
TO THE CITY COUNCIL

  
OFFICE OF THE CITY ADMINISTRATOR

ATTACHMENT A



# PROJECT PHASING MAP

THE VILLAS AT MONTE VISTA

CITY OF OAKLAND ALAMEDA COUNTY CALIFORNIA

JOB NO. 1020-00

MARCH 21, 2005

**Carl's & G's**  
CIVIL ENGINEER  
6111 Bollinger Canyon Road, Suite 150  
925-866-0322 • fax 925-  
www.cbardg.co

## ATTACHMENT B

### STATUS OF CONDITIONS OF APPROVAL RELATED TO FINAL MAP

COA Nos.	Condition of Approval (COA)	Status
17	Implement all mitigation measures related to creation of 37 acres of suitable Alameda Whipsnake Habitat and creation of open space and conservation easement. This condition requires that conservation easement including 37 acres of AWS to be recorded concurrently w/last final map.	70 acres of open space and conservation easement are being dedicated and recorded with Phases One and Three of the Final Map
24	Prior to and at the time of recordation of the first final map for the project, a Geologic Hazard Abatement District (GHAD) shall be fully operational, and all assessments, reserve funding and/or other long-term financing and other requirements necessary to fully fund the GHAD shall be established and authorized.	On March 15, 2005, the GHAD Board adopted five resolutions related to the GHAD Plan of Control, appointment of Officers, budget, assessments, and annexation of four lots. The public hearing for adapting these resolutions by the GHAD Board is scheduled for May 3, 2005. This will complete all requirements to deem the GHAD fully funded and operational.
27	Any minor revision of the internal circulation plan or lot layout shall be subject to the review and approval of the Development Director at least 45 days prior to filing each final map.	No revisions have been requested.
30	Prior to the approval of each Final Map, a site plan shall be submitted for the review and approval of the Development Director or his/her designee demonstrating substantial compliance with the approved Vesting tentative tract map (VTM) and the approved "PUD Design and Specification Document for the Leona Quarry Project."	Site Plan has not substantially changed from preliminary VTM and it is consistent with revised VTM submitted and approved.
31	Prior the submittal of the first Final Map for the project, the covenants, conditions and restrictions ("CC&Rs") for the attached units within the VTM Phase I and II Areas shall be submitted for review by the City. The CC&Rs shall provide for the establishment of a homeowners association for the maintenance and operation of all sidewalks, common open space areas, the community center, all common area improvements and common structure improvements that are not within the purview of the GHAD. Similarly, prior to the issuance of the building permit for Parcel Z (Gateway Senior Housing), the Project Applicant shall provide assurances for maintenance and operation of the improvements within Parcel Z.	CC & Rs have been reviewed by City Attorney and staff
32	Concurrent with the submittal of the last Final Map for the approved project, an open space and conservation easement shall be submitted to the City for Parcels A-A, B-B, C-C, and D-D, providing that no grading or other development activity or removal of trees or other vegetation may occur in these areas except as necessary for maintenance and operation of the GHAD.	The open space and conservation easement are shown on Phases One and Three of the final maps.
33	At least 45 days prior to recording each Final Map, plans shall be submitted for review by the City Building Services Department to obtain addresses and for street name approval. Alternate street names should be submitted in the event of duplication and to avoid similarity with existing street names. Final Maps shall not be certified as ready for approval without the approved street names.	Street names and addresses have been approved by CEDA Building Services.
36	The final maps that are filed for the approved project shall include all easements necessary to provide access for public utility connections, the Ridgemont sub-basin connection, if required, public access easements for the park and pathways through the site and the emergency access routes (Gateway EVA, and the Altura and the Northwestern supplemental routes).	Easements are part of final map for each phase.

**ATTACHMENT C**  
**SUBDIVISION IMPROVEMENT AGREEMENT**

**Tract 7351 and 7493**

**Recording Requested by:**

**City of Oakland**

When Recorded mail to:

City of Oakland, Community & Economic

Development Agency

Building Services Division,

250 Frank H. Ogawa Plaza, 2nd Floor

Oakland, CA 94612

<b>Accessor's Map</b>	<b>Block</b>	<b>Parcels</b>
<b>037A</b>	<b>3151</b>	<b>006</b>
<b>040A</b>	<b>3847</b>	<b>011</b>
<b>037A</b>	<b>3156</b>	<b>001</b>

**Resolution No. 78927**

THIS AGREEMENT is between Desilva Group, Inc ("Subdivider"), and the City of Oakland, a municipal corporation of the State of California ("City").

**RECITALS**

The Subdivider is the subdivider of real property located within the limits of the City of Oakland, California, the owner of the property and has presented to the City Council of the City of Oakland a proposed first and third phases of the subdivision map entitled Tract Maps 7351 and 7493 which were approved by the Planning Commission of the City of Oakland on the 17<sup>th</sup> day of February 2004.

The City requires as a condition precedent to the acceptance and approval of the map the dedication of streets, highways and public ways shown on the map. In addition, the City requires improvement of the streets, highways and public ways by the construction and installation of grading, paving, curbs, gutters, sidewalks, storm drains, sanitary sewers, street name signs, survey monuments, water pipes and mains, fire hydrants, electroliers, and all appurtenances thereto.

The Subdivider has asked the City to accept the dedication of the street or streets shown on the map and approve the map. Street improvements have not yet been completed according to the requirements of the map and the City. The parties desire to establish an agreement binding the Subdivider to complete the improvements within eighteen months of the date this Agreement is executed in consideration of the acceptance of the final subdivision map and offer of dedication.

**THEREFORE**, it is agreed as follows:

**I. Approval of Map –**

The City approves the subdivision of Tracts 7351 and 7493 and agrees to accept the dedication of the related public works improvements for future maintenance, subject to Subdivider's satisfactory performance of Subdivider's obligations specified in this Agreement as determined by the City.

**2. Performance of Improvements**

**A. Tract 7351 and 7493 Improvements**

Subdivider shall perform all work as specified in Exhibit "A", attached hereto and incorporated by reference, in strict accordance with all specifications, plans and applicable City standards. The Subdivider shall provide detailed improvement plans for all on-site and off-site improvements as specified in Exhibit "A". The required improvements shall be constructed in accordance with the plans approved by the City Engineer on October 26, 2004 (Tract 7351 and 7493, Improvement Plan), specifications, and City standards on file in the office of the City Engineer, as modified, if at all, by any subsequent revision approved by the City Engineer and in accordance with requirements of City of Oakland Municipal Code, Standard Specification for Public Works Construction 2003 Edition, and "Standard Details for Public Works Construction 2002 Edition" adopted by City Council on June 2, 2003 by Ordinance No. 12498 C.M.S.

**3. Special Conditions (if applicable)**

The Subdivider shall be required to comply with the special conditions as follows: See Attachment B.

**4. Time for Completion and Manner of Work**

All required improvements shall be completed within eighteen months of the execution of this Agreement, except those improvements for which another completion date is stated in Exhibit "A". In its sole discretion, the City Council may extend the time for completion of the improvements at the recommendation of the City Engineer or his designee. Said work shall be completed in a good workmanlike manner in accordance with accepted construction practices and in a manner equal or superior to the requirements of the Oakland Municipal Code, Standard Specifications for Public Works Construction (2003 edition), Standard Details for Public Works Construction 2002 adopted June 2, 2003 by City Council Ordinance No. 12498 C.M.S.; where there is a conflict between the improvement plans and the Oakland Municipal Code, the stricter requirements shall govern.

Said work will be done to the satisfaction of the City Engineer or his designee of the City of Oakland, and shall not be deemed complete until approved and accepted as complete by said City Engineer or his designee in writing. An extension may be granted without notice to the Subdivider's surety, and extensions so granted shall not relieve the surety's liability on any of the bonds required by this Agreement. The City shall be the sole and final judge as to whether or not good cause has been shown to entitle the Subdivider to an extension.

**5. Acceptance by City**

Upon acceptance for permanent maintenance by the City, all public works improvements required by this Agreement shall become the sole property of the City of Oakland. The time for acceptance for permanent maintenance shall be that time at which all improvements have been made in accordance with Exhibit "A".

**6. Responsibility for Dedicated and Unaccepted Streets**

Subdivider agrees that the streets and other public places offered for dedication in Tracts 7351 and 7493 up to the acceptance of improvements by the Superintendent of Streets, the Subdivider shall give good and adequate warning to the traveling public of each and every defective or dangerous condition existing in said streets and public places, and shall protect the public from such defective or dangerous condition; that until the completion of all of the improvements herein



agreed to be performed, each of said streets and public places, the improvements of which are not accepted by the City Engineer or his designee, shall be under the charge of the Subdivider for the purpose of this contract, and the Subdivider shall close all of such public streets or public places whenever it is necessary for the protection of the public during the making of the improvements herein to be made.

**7. Continued Maintenance For One Year**

Notwithstanding acceptance by City, the Subdivider shall maintain and perform or cause to be performed repairs, additions, or corrective work necessitated by Contractor's omission or deficient performance for one-year thereafter.

Subdivider guarantees that the work will be free from defects and will perform satisfactorily in accordance with the Oakland Municipal Code; and shall maintain the work for one (1) year after its completion and acceptance against any defective workmanship or materials or any unsatisfactory performance.

**8. Warranty**

Subdivider warrants that said improvement plan is adequate to accomplish this work as promised; and if, at any time before the City's acceptance of the work for the subdivision, the improvement plan proves to be inadequate in any respect, said Subdivider shall make changes necessary to accomplish the work as promised. The Subdivider will be responsible for performing all maintenance required under the Plan of Control during the two-year period prior to transfer to GHAD. Also, in conformance with California Law, the Subdivider will be responsible for any major repairs related to latent defects for 10 years following completion of the GHAD improvements.

**9. Inspection by City**

The City shall inspect all work to be done by an inspector employed by the City at the cost and expense of the Subdivider. A City of Oakland inspector shall be present on the job site, and said inspector shall be such as the City of Oakland shall designate and appoint. Inspection of work and/or materials, or approval of work and/or materials inspected, or statement by any officer, agent, or employee of the City of Oakland indicating the work, or any part thereof, complies with the requirements of this agreement, or acceptance of the whole or any part of said work and/or materials, or payments thereof, or any combinations of these acts shall not relieve Subdivider of its obligation to fulfill this Agreement as prescribed herein; nor shall the City of Oakland be thereby stopped from bringing any action for damages arising from the failure to comply with any of the items and conditions hereof.

**10. Payment of Outstanding Fees**

Prior to acceptance of the on-tract and off-tract public works improvements for permanent maintenance by the City, the Subdivider shall pay all outstanding fees that are due in accordance with City Ordinances or this Agreement. In the event the fees are not paid within one year of the date of execution of this Agreement, the Subdivider shall pay interest at seven percent (7%) per annum from that date until the fees are paid, whether or not any conditions of this Agreement are extended or modified.

**11. Reversion to Acreage**

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

**12. Property Acquisition**

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

**13. Bonds Required**

The Subdivider shall present to the City surety bonds of a form satisfactory to the City Attorney issued by a company authorized to issue surety bonds in the State of California as follows:

Tract 7351 and 7493 Improvements

A. At the time of signing this Agreement, the following bonds shall be presented:

(1) Faithful Performance - (\$8,167,584.00) to secure faithful performance of this Agreement by the Subdivider.

(2) Labor and Materials - (\$4,083,792) to secure payment by the Subdivider of laborers and material engaged pursuant to this Agreement, and further to secure payment as required by the Unemployment Insurance Act.

B. At the time of signing this Agreement, or before the City accepts the improvements, the following bond shall be presented:

(1) Maintenance - (\$2,041,896) to secure performance of paragraph 7 above. This bond shall remain in effect for one (1) year after the date of acceptance by the City Council of the improvements required by this Agreement.

**14. Alternate Security**

In lieu of the bonds required by paragraph 13. above, alternative security in the form provided by City Ordinance and approved by the City Attorney may be substituted.

**15. Hold Harmless**

The Subdivider shall indemnify, defend and hold the City, its officers, officials, employees, agents and volunteers harmless against any and all claims, injuries, damages, losses and suits, including attorney 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.

Not in limitation of the foregoing, Subdivider further agrees to defend, hold harmless, indemnify and protect the City of Oakland and its officers and employees 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.

Subdivider waives all claims and recourse against the City of Oakland, 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 of Oakland, its officers, agents and employees.

**16. Insurance Required**

Subdivider shall procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Subdivider, 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. The policy shall contain a severability of interest clause or cross liability clause or the equivalent thereof.

- a. **\$2,000,000** 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.

2. Automobile Liability: **\$2,000,000** 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. Statutory coverage may include Employers Liability coverage with limits not less than \$1,000,000. 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 and omissions insurance in the amount of \$1,000,000.

5. Builders' Risk/Course of Construction Insurance covering all risks of loss in an amount equal to 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: the insurer shall reduce or eliminate such deductibles or self-insured retentions with respect to the City, its officers, officials, employees, agents and volunteers; or the Subdivider 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 are to contain, or be endorsed to contain, the following provisions:

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

2. The Subdivider's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, agents or volunteers shall be excess of the Subdivider'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 of Oakland, its officers, officials, employees, agents or designated volunteers.

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

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

Subdivider shall furnish the City of Oakland 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), and shall have the wording as identified as Attachment A, attached to this form. The Commercial Automobile Liability endorsement shall be a form CL/CA 99 09 08 95, and shall have the wording as identified as Attachment B, 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

Subdivider shall include all subcontractors as insureds 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.

**16. Participation in Benefit Districts**

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

**17. 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 reasonable attorneys' fees, and costs, in addition to any other relief to which they may be entitled.

**18. Geologic Hazard Abatement District (GHAD)**

The Subdivider shall comply with the provisions of project condition of approval number 24 related to the establishment of the GHAD.

**19. Agreement Binds Successors**

This Agreement pertains to and runs with the land included within Tract Map Nos. 7351 and 7493, which land is expressly agreed to benefit from the privileges granted to Subdivider under this Agreement, and binds the successors in interest of the parties to this Agreement. The Subdivider shall cause this Agreement to be recorded within 5 days of execution in the Official Records of Alameda County. This Agreement shall not become effective until recorded.

IN WITNESS WHEREOF, Subdivider has caused its name to be hereto subscribed and the City Engineer or his designee of the City of Oakland, has caused the name of the City of Oakland to be affixed hereto, all in triplicate, this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

**SUBDIVIDER**

**DESILVA GROUP, INC**

By: \_\_\_\_\_  
Jim Summers  
Title: \_\_\_\_\_

**CITY OF OAKLAND, a Municipal Corporation**

By: \_\_\_\_\_  
RAUL GODINEZ II  
Director of Public Works Agency

By: \_\_\_\_\_  
CLAUDIA CAPPIO, Development Director,  
Community and Economic Development Agency

\_\_\_\_\_  
APPROVED AS TO FORM  
AND LEGALITY

\_\_\_\_\_  
Deputy City Attorney

(Attach notary acknowledgement slip)

# EXHIBIT A

Exhibit A as defined in the Leona Quarry Subdivision Agreement for Tract Map Nos. 7351 and Tract Map Nos. 7493 shall consist of the following:

- The approved Improvement Plans Sheets I-1 to I-25B dated October 21, 2004 titled "**Improvement Plan Tract 7351 Leona Quarry** City of Oakland, Alameda County, California" prepared by Carlson Barbee Gibson Inc.; and (included by reference).
- The approved Improvement Plans Sheets I-1 to I-26B dated October 21, 2004, titled "**Improvement Plan Tract 7493 Leona Quarry**, City of Oakland, Alameda County, California" prepared by Carlson Barbee and Gibson Inc (included by reference).
- The standard specification for the project.
- The Standard Specification for Public Works Construction (2003 Edition) and the City's Standard Details for Public works Construction (2002 Edition).
- The items contained in the **Engineer's Estimate titled Bond Estimate Tract 7351** for Leona Quarry, Oakland, California (attached as Exhibit B).
- The items contained in the **Engineer's Estimate titled Bond Estimate Tract 7493** for Leona Quarry, Oakland, California (attached as Exhibit C).

## EXHIBIT B

BOND ESTIMATE  
TRACT 7351  
LEONA QUARRY  
OAKLAND, CALIFORNIA

December 3, 2003  
Job No.: 1020-00

Item	Description	Quantity	Unit	Price	Amount
<b><u>STREET WORK</u></b>					
1	Finish Grading P/L to P/L	206,000	SF	\$ 0.20	\$ 41,200.00
2	4" AC Paving ('A' Street)	56,200	SF	\$ 1.20	\$ 67,440.00
3	3.5" AC Paving	75,000	SF	\$ 1.05	\$ 78,750.00
4	16" Aggregate Base ('A' Street)	56,200	SF	\$ 2.00	\$ 112,400.00
5	10" Aggregate Base	75,000	SF	\$ 1.20	\$ 90,000.00
6	4" AB for Curb & Gutter	9,000	LF	\$ 1.00	\$ 9,000.00
7	4" AB for Sidewalk & Driveways	22,700	SF	\$ 0.50	\$ 11,350.00
8	Signs & Striping	1	LS	\$ 10,000.00	\$ 10,000.00
9	Monuments	48	EA	\$ 250.00	\$ 12,000.00
	Subtotal			\$	432,140.00
<b><u>CONCRETE WORK</u></b>					
10	Rolled Curb & Gutter	5,700	LF	\$ 10.00	\$ 57,000.00
11	Vertical Curb	3,300	LF	\$ 12.00	\$ 39,600.00
12	4" Sidewalk ('A' Street)	9,700	SF	\$ 3.25	\$ 31,525.00
13	6" Sidewalk	13,000	SF	\$ 5.00	\$ 65,000.00
	Subtotal			\$	193,125.00
<b><u>STORM DRAIN</u></b>					
14	12" RCP Storm Drain	480	LF	\$ 25.00	\$ 12,000.00
15	18" RCP Storm Drain	11,900	LF	\$ 40.00	\$ 476,000.00
16	24" RCP Storm Drain	3,300	LF	\$ 50.00	\$ 165,000.00
17	30" RCP Storm Drain	125	LF	\$ 60.00	\$ 7,500.00
18	36" RCP Storm Drain	80	LF	\$ 75.00	\$ 6,000.00
19	39" RCP Storm Drain	115	LF	\$ 80.00	\$ 9,200.00
20	48" RCP Storm Drain	270	LF	\$ 100.00	\$ 27,000.00
21	60" RCP Storm Drain	1,080	LF	\$ 130.00	\$ 140,400.00
22	70" RCP Storm Drain	112	LF	\$ 150.00	\$ 16,800.00
23	Type I Manhole	7	EA	\$ 2,300.00	\$ 16,100.00
24	Type II Manhole	4	EA	\$ 5,000.00	\$ 20,000.00
25	Type D-3 Inlets	116	EA	\$ 2,000.00	\$ 232,000.00
26	Type D Inlets	48	EA	\$ 2,000.00	\$ 96,000.00
27	Type C Inlets on Type II MH Base	11	EA	\$ 3,200.00	\$ 35,200.00
28	Type B Inlets	50	EA	\$ 2,700.00	\$ 135,000.00
29	Type B Inlets on Type II MH Base	1	EA	\$ 4,000.00	\$ 4,000.00
30	Junction Boxes	3	EA	\$ 4,000.00	\$ 12,000.00



Item	Description	Quantity	Unit	Price	Amount
<b><u>STORM DRAIN</u></b>					
31	Headwalls	1	EA	\$ 10,000.00	\$ 10,000.00
32	Outlet Structures (2 ea.)	1	LS	\$ 50,000.00	\$ 50,000.00
33	Cut Off Walls for 18" SD on slope	95	EA	\$ 700.00	\$ 66,500.00
34	Concrete lined ditches	23,000	LF	\$ 20.00	\$ 460,000.00
35	Connect to existing	1	LS	\$ 5,000.00	\$ 5,000.00
	Subtotal			\$	2,001,700.00
<b><u>SANITARY SEWER</u></b>					
36	8" HDPE Sewer	5,100	LF	\$ 60.00	\$ 306,000.00
37	4" HDPE Lateral	63	EA	\$ 1,100.00	\$ 69,300.00
38	4" HDPE Lateral (Multiple Lots)	53	EA	\$ 1,000.00	\$ 53,000.00
39	6" HDPE Lateral (Senior Housing)	1	EA	\$ 1,100.00	\$ 1,100.00
40	Sewer Manholes (Type I)	41	EA	\$ 2,300.00	\$ 94,300.00
41	Connect to Existing	1	LS	\$ 1,000.00	\$ 1,000.00
	Subtotal			\$	524,700.00
<b><u>ELECTRICAL/MISCELLANEOUS</u></b>					
42	Joint Trench Services	1	LS	\$ 500,000.00	\$ 500,000.00
43	Street Lights (Decorative)	49	EA	\$ 3,000.00	\$ 147,000.00
	Subtotal			\$	647,000.00
<b><u>REVEGETATION PLANTING</u></b>					
44	Soil Amendment Materials - Mechanically Incorporated	1	LS	\$ 60,051.00	\$ 60,051.00
45	Drip Irrigation System Installation	1	LS	\$ 64,922.00	\$ 64,922.00
46	Plant Installation, Seed Application and Maintenance	1	LS	\$ 774,542.00	\$ 774,542.00
	Subtotal			\$	899,515.00
	<b>SUBTOTAL CONSTRUCTION COST</b>			\$	<b>4,698,180.00</b>
	<b>20% CONTINGENCY AND Inflation</b>			\$	<b>939,636.00</b>
	<b>TOTAL CONSTRUCTION COST (nearest 10,000)</b>			\$	<b>5,640,000.00</b>

**QUALIFICATIONS AND ASSUMPTIONS**

1. *This Bond Estimates is based on the Tract 7351 Improvement Plans dated 12/3/03.*
2. *This Bond Estimates is based upon information available at this time and this office assumes no liability for changes in scope due to unforeseen conditions or changes required by governing agencies.*
4. *Cost for Landscaping and Irrigation not included.*
5. *Cost for Water System (EBMUD improvements) not included.*
6. *This estimate excludes, but is not limited to the exclusion of the following:*
  - a. *PG&E credits and reimbursements.*
  - b. *Retaining walls as structural elements of the buildings.*
  - c. *Solar facilities including fencing.*
  - d. *Consultant Fees.*
  - e. *Development Fees.*
  - f. *Fencing*



## EXHIBIT C

PRELIMINARY BOND ESTIMATE  
TRACT 7493  
LEONA QUARRY  
OAKLAND, CALIFORNIA

December 3, 2003  
Job No.: 1020-00

Item	Description	Quantity	Unit	Unit Price	Amount
<b><u>STREET WORK</u></b>					
1	Finish Grading P/L to P/L	135,000	SF	\$ 0.20	\$ 27,000.00
2	3.5" AC Paving	88,000	SF	\$ 1.05	\$ 92,400.00
3	10" Aggregate Base	88,000	SF	\$ 1.20	\$ 105,600.00
4	4" AB for Curb & Gutter	8,590	LF	\$ 1.00	\$ 8,590.00
5	4" AB for Sidewalk & Driveways	16,000	SF	\$ 0.50	\$ 8,000.00
6	Signs & Striping	1	LS	\$ 10,000.00	\$ 10,000.00
7	Monuments	26	EA	\$ 250.00	\$ 6,500.00
	Subtotal				\$ 258,090.00
<b><u>EVA ROADS</u></b>					
8	EVA Roads - 2" AC on 6" AB	74,580	SF	\$ 2.75	\$ 205,095.00
9	Curb and Gutter at EVA Road (behind Gateway)	930	LF	\$ 12.00	\$ 11,160.00
	Subtotal				\$ 216,255.00
<b><u>CONCRETE WORK</u></b>					
10	Rolled Curb & Gutter	7,000	LF	\$ 10.00	\$ 70,000.00
11	Vertical Curb	660	LF	\$ 12.00	\$ 7,920.00
12	4" Sidewalk ('K' Street)	7,900	SF	\$ 3.25	\$ 25,675.00
13	6" Sideealk ('I and 'J' Streets)	9,000	SF	\$ 5.00	\$ 45,000.00
	Subtotal				\$ 148,595.00
<b><u>STORM DRAIN</u></b>					
14	18" RCP Storm Drain	2,450	LF	\$ 40.00	\$ 98,000.00
15	24" RCP Storm Drain	100	LF	\$ 50.00	\$ 5,000.00
16	30" RCP Storm Drain	950	LF	\$ 60.00	\$ 57,000.00
17	36" RCP Storm Drain	1,100	LF	\$ 75.00	\$ 82,500.00
18	Type I Manhole	1	EA	\$ 2,300.00	\$ 2,300.00
19	Type B Inlets	45	EA	\$ 2,700.00	\$ 121,500.00
20	Headwalls	1	EA	\$ 10,000.00	\$ 10,000.00
21	Connect to Existing	1	LS	\$ 5,000.00	\$ 5,000.00
	Subtotal				\$ 381,300.00

Item	Description	Quantity	Unit	Price	Amount
<b><u>SANITARY SEWER</u></b>					
22	8" HDPE Sewer	3,500	LF	\$ 60.00	\$ 210,000.00
23	4" HDPE Lateral	122	EA	\$ 1,100.00	\$ 134,200.00
24	4" HDPE Lateral (Multiple Lots)	72	EA	\$ 1,000.00	\$ 72,000.00
25	4" HDPE Lateral (Community Center)	1	EA	\$ 1,000.00	\$ 1,000.00
26	Sewer Manholes (Type I)	39	EA	\$ 2,300.00	\$ 89,700.00
27	Connect to Existing	1	LS	\$ 1,000.00	\$ 1,000.00
	Subtotal				\$ 507,900.00
<b><u>ELECTRICAL/MICELLANEOUS</u></b>					
28	Joint Trench Services	1	LS	\$ 500,000.00	\$ 500,000.00
29	Street Lights (Decorative)	32	EA	\$ 3,000.00	\$ 96,000.00
	Subtotal				\$ 596,000.00
<b>SUBTOTAL CONSTRUCTION COST</b>					<b>\$ 2,108,140.00</b>
<b>20% CONTINGENCY AND INFLATION</b>					<b>\$ 421,628.00</b>
<b>TOTAL CONSTRUCTION COST (nearest 10,000)</b>					<b>\$ 2,530,000.00</b>

**QUALIFICATIONS AND ASSUMPTIONS**

1. *This Bond Estimate is based on the Tract 7493 Improvement Plans dated 12/3/03.*
2. *This Bond Estimate is based upon information available at this time and this office assumes no liability for changes in scope due to unforeseen conditions or changes required by governing agencies.*
3. *The grading of this site is of such a complex nature that the final design could greatly affect the final grading costs.*
4. *Cost for Landscaping and Irrigation not included.*
5. *Cost for Water System (EBMUD improvements) not included.*
6. *This estimate excludes, but is not limited to the exclusion of the following:*
  - a. *PG&E credits and reimbursements.*
  - b. *Retaining walls as structural elements of the buildings.*
  - c. *Solar facilities including fencing.*
  - d. *Consultant Fees.*
  - e. *Development Fees.*
  - f. *Fencing*

TRAVELERS CASUALTY AND SURETY COMPANY

Hartford, Connecticut 06183

BOND NO. 104316161  
\$ 25,370.00 premium is for  
a term of TWO year(s)

KNOW ALL MEN BY THESE PRESENTS:

That we, THE DESILVA GROUP, as Principal,  
and TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA, a corporation organized and doing business  
under and by virtue of the laws of the State of CONNECTICUT and duly licensed  
to conduct a general surety business in the State of California as Surety, are held and firmly bound unto the CITY OF OAKLAND  
as Obligee, in the penal sum of  
FIVE MILLION SIX HUNDRED THIRTY SEVEN THOUSAND EIGHT HUNDRED SIXTEEN AND NO/100  
(\$ 5,637,816.00 ) Dollars, for which payment, well and truly to be made, we bind ourselves, our heirs, successors, executors  
and administrators, jointly and severally firmly by these presents.

THE CONDITION OF THE OBLIGATION IS SUCH THAT:

Whereas the Obligee and Principal have entered into an agreement whereby Principal agrees to install and complete certain  
designated public improvements, which agreement, identified as TRACT NUMBER 7351 LOCATED ONSITE AT LEONA QUARRY, is hereby referred to and made a part hereof; and

Whereas, said Principal is required under the terms of said agreement to furnish a bond for the faithful performance of said  
agreement.

Now therefore, the condition of this obligation is such that is the above bounden principal, his or its heirs, executors,  
administrators, successor or assigns, shall in all things stand to and abide by, well and truly keep and perform the covenants,  
conditions and provisions in the said agreement and any alteration thereof made as therein provided, on his or their part, to be  
kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning,  
and shall indemnify and save harmless obligee, its officers, agents and employees, as therein stipulated, then this obligation shall  
become null and void; otherwise it shall be and remain in full force and effect.

As a part of the obligation secured hereby and in addition to the penal sum specified therefor, there shall be included costs  
and reasonable expenses and fees, including reasonable attorney's fees, incurred by Obligee in successfully enforcing such  
obligation, all to be taxed as costs and included in any judgement rendered.

The surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the agreement  
or to the work to be performed thereunder or the specifications accompanying the same shall in anywise affect its obligations on  
this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the agreement  
or to the work or to the specifications.

In witness whereof, this instrument has been duly executed by the principal and surety above named, on JUNE 24, 2004

PRINCIPAL: THE DESILVA GROUP

Ernest D. Langhin, VP, CFO

SURETY: TRAVELERS CASUALTY AND SURETY COMPANY  
OF AMERICA

Richard S. Svec  
RICHARD S. SVEC Attorney-in-Fact

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

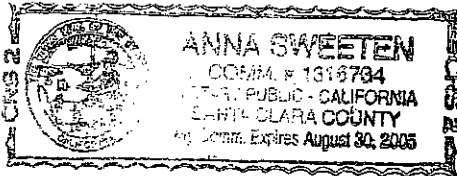
State of California

County of Santa Clara

On JUNE 24, 2004 before me, Anna Sweeten, Notary Public,

personally appeared Richard S. Svec

personally known to me- OR -  proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.



WITNESS my hand and official seal

*Anna Sweeten*

SIGNATURE OF NOTARY

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER

DESCRIPTION OF ATTACHED DOCUMENT

- INDIVIDUAL
 CORPORATE OFFICER

- TITLE(S)
 PARTNER(S)
 LIMITED
 GENERAL
 ATTORNEY-IN-FACT
 TRUSTEE(S)
 GUARDIAN/CONSERVATOR
 OTHER:

TITLE OR TYPE OF DOCUMENT
NUMBER OF PAGES
DATE OF DOCUMENT

SIGNER(S) OTHER THAN NAMED ABOVE

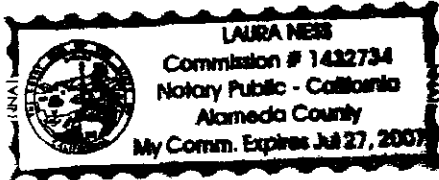
SIGNER IS REPRESENTING
NAME OF PERSON(S) OR ENTITY(IES)

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

State of California }  
County of Alameda } ss.

On July 8, 2004 before me, Laura Ness, Notary Public,  
personally appeared Ernest D. Lampkin  
Name(s) of Signer(s)

personally known to me  
 proved to me on the basis of satisfactory evidence



to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/hen/their authorized capacity(ies), and that by his/hen/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.  
Laura Ness  
Signature of Notary Public

**OPTIONAL**

*Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

**Description of Attached Document**

Title or Type of Document: \_\_\_\_\_

Document Date: \_\_\_\_\_ Number of Pages: \_\_\_\_\_

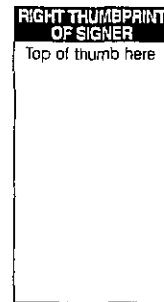
Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer**

Signer's Name: \_\_\_\_\_

- Individual
- Corporate Officer — Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_

Signer is Representing: \_\_\_\_\_





TRAVELERS CASUALTY AND SURETY COMPANY

Hartford, Connecticut 06183

BOND NO. 104316161

PREMIUM INCLUDED IN

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS:

That we, THE DESILVA GROUP, as Principal,  
and TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA, a corporation organized and doing business  
under and by virtue of the laws of the State of CONNECTICUT and duly licensed  
to conduct a general surety business in the State of California as Surety, are held and firmly bound unto the CITY OF OAKLAND  
as Obligee, in the penal sum of  
TWO MILLION EIGHT HUNDRED EIGHTEEN THOUSAND NINE HUNDRED EIGHT AND NO/100 (\$2,818,908.00) DOLLARS,  
for which payment, well and truly to be made, we bind ourselves, our heirs, executors and successors, jointly and severally firmly by these  
presents.

THE CONDITION OF THE OBLIGATION IS SUCH THAT:

Whereas, the above-named Principal, has entered into an agreement which is made a part of this bond, with the CITY OF OAKLAND  
CITY OF OAKLAND, State of California, as Obligee, for the designated public  
improvements in the subdivision identified as TRACT NUMBER 7351 LOCATED ONSITE AT LEONA QUARRY  
CITY OF OAKLAND, as required by the Government Code of California.

Whereas, under the terms of said agreement, principal is required before entering upon the performance of the work, to file a good and  
sufficient payment bond with the CITY OF OAKLAND to secure the claims  
to which reference is made in Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code of the State of California.

Now, therefore, said principal and the undersigned, as surety, are held firmly bound unto the CITY OF OAKLAND  
CITY OF OAKLAND and all contractors, subcontractors, laborers, materialmen and other persons  
employed in the performance of the aforesaid agreement and referred to in the aforesaid Code of Civil Procedure for material furnished or labor  
thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to such work or labor, that said surety will pay  
the same in an amount not exceeding the penal sum hereinabove set forth, and also in case suit is brought upon this bond, will pay, in addition  
to the penal sum thereof, costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by CITY OF OAKLAND  
CITY OF OAKLAND in successfully enforcing such obligation, to be awarded and fixed by the court,  
and to be taxed as costs and to be included in the judgement therein rendered.

It is hereby expressly stipulated and agreed that this bond shall inure to the benefit of any and all persons, companies and corporations  
entitled to file claims under Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code, so as to give right of action to  
them or their assigns in any suit brought upon this bond.

Should the condition of this bond be fully performed, then this obligation shall become null and void, otherwise it shall be and remain  
in full force and effect.

The surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of said agreement or the  
specifications accompanying the same shall in any manner affect its obligations on this bond, and it does hereby waive notice of any such  
change, extension, alteration or addition.

In witness whereof, this instrument has been duly executed by the principal and surety above named, on JUNE 24, 2004

PRINCIPAL: THE DESILVA GROUP

Ernest D. Lampkin, VP, CFO

SURETY: TRAVELERS CASUALTY AND SURETY COMPANY  
OF AMERICA

Richard S. Svec  
RICHARD S. SVEC

Attorney-in-Fact

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

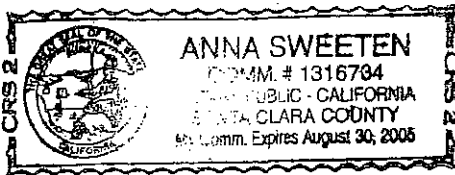
State of California

County of Santa Clara

On JUNE 24, 2004 before me, Anna Sweeten, Notary Public,

personally appeared Richard S. Svec

personally known to me- OR -  proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.



WITNESS my hand and official seal

Anna Sweeten  
SIGNATURE OF NOTARY

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER

- INDIVIDUAL
- CORPORATE OFFICER

\_\_\_\_\_  
TITLE(S)

- PARTNER(S)       LIMITED
- GENERAL

- ATTORNEY-IN-FACT
- TRUSTEE(S)
- GUARDIAN/CONSERVATOR
- OTHER: \_\_\_\_\_

DESCRIPTION OF ATTACHED DOCUMENT

\_\_\_\_\_  
TITLE OR TYPE OF DOCUMENT

\_\_\_\_\_  
NUMBER OF PAGES

\_\_\_\_\_  
DATE OF DOCUMENT

\_\_\_\_\_  
SIGNER(S) OTHER THAN NAMED ABOVE

SIGNER IS REPRESENTING

NAME OF PERSON(S) OR ENTITY(IES)

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

State of California }  
County of Alameda } ss.

On July 8, 2007 before me, Laura Ness, Notary Public  
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")  
personally appeared Ernest D. Lampkin  
Name(s) of Signer(s)

- personally known to me
- proved to me on the basis of satisfactory evidence



to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Laura Ness  
Signature of Notary Public

**OPTIONAL**

*Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

**Description of Attached Document**

Title or Type of Document: \_\_\_\_\_

Document Date: \_\_\_\_\_ Number of Pages: \_\_\_\_\_

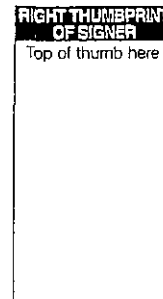
Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer**

Signer's Name: \_\_\_\_\_

- Individual
- Corporate Officer — Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_



TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA  
TRAVELERS CASUALTY AND SURETY COMPANY  
FARMINGTON CASUALTY COMPANY  
Hartford, Connecticut 06183-9062

**POWER OF ATTORNEY AND CERTIFICATE OF AUTHORITY OF ATTORNEY(S)-IN-FACT**

KNOW ALL PERSONS BY THESE PRESENTS, THAT TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA, TRAVELERS CASUALTY AND SURETY COMPANY and FARMINGTON CASUALTY COMPANY, corporations duly organized under the laws of the State of Connecticut, and having their principal offices in the City of Hartford, County of Hartford, State of Connecticut, (hereinafter the "Companies") hath made, constituted and appointed, and do by these presents make, constitute and appoint: **Richard S. Svec, Rick F. Prentice, William J. Prentice, Anna Sweeten, Suman K. Toor, of San Jose, California**, their true and lawful Attorney(s)-in-Fact, with full power and authority hereby conferred to sign, execute and acknowledge, at any place within the United States, the following instrument(s): by his/her sole signature and act, any and all bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking and any and all consents incident thereto and to bind the Companies, thereby as fully and to the same extent as if the same were signed by the duly authorized officers of the Companies, and all the acts of said Attorney(s)-in-Fact, pursuant to the authority herein given, are hereby ratified and confirmed.

This appointment is made under and by authority of the following Standing Resolutions of said Companies, which Resolutions are now in full force and effect:

VOTED: That the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President, any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary may appoint Attorneys-in-Fact and Agents to act for and on behalf of the company and may give such appointee such authority as his or her certificate of authority may prescribe to sign with the Company's name and seal with the Company's seal bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any of said officers or the Board of Directors at any time may remove any such appointee and revoke the power given him or her.

VOTED: That the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President may delegate all or any part of the foregoing authority to one or more officers or employees of this Company, provided that each such delegation is in writing and a copy thereof is filed in the office of the Secretary.

VOTED: That any bond, recognizance, contract of indemnity, or writing obligatory in the nature of a bond, recognizance, or conditional undertaking shall be valid and binding upon the Company when (a) signed by the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary and duly attested and sealed with the Company's seal by a Secretary or Assistant Secretary, or (b) duly executed (under seal, if required) by one or more Attorneys-in-Fact and Agents pursuant to the power prescribed in his or her certificate or their certificates of authority or by one or more Company officers pursuant to a written delegation of authority.

**This Power of Attorney and Certificate of Authority is signed and sealed by facsimile (mechanical or printed) under and by authority of the following Standing Resolution voted by the Boards of Directors of TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA, TRAVELERS CASUALTY AND SURETY COMPANY and FARMINGTON CASUALTY COMPANY, which Resolution is now in full force and effect:**

VOTED: That the signature of each of the following officers: President, any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary, and the seal of the Company may be affixed by facsimile to any power of attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such power of attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding upon the Company in the future with respect to any bond or undertaking to which it is attached.



## IMPORTANT DISCLOSURE NOTICE OF TERRORISM INSURANCE COVERAGE

On November 26, 2002, President Bush signed into law the Terrorism Risk Insurance Act of 2002 (the "Act"). The Act establishes a short-term program under which the Federal Government will share in the payment of covered losses caused by certain acts of international terrorism. We are providing you with this notice to inform you of the key features of the Act, and to let you know what effect, if any, the Act will have on your premium.

Under the Act, insurers are required to provide coverage for certain losses caused by international acts of terrorism as defined in the Act. The Act further provides that the Federal Government will pay a share of such losses. Specifically, the Federal Government will pay 90% of the amount of covered losses caused by certain acts of terrorism which is in excess of Travelers' statutorily established deductible for that year. The Act also caps the amount of terrorism-related losses for which the Federal Government or an insurer can be responsible at \$100,000,000,000.00, provided that the insurer has met its deductible.

Please note that passage of the Act does not result in any change in coverage under the attached policy or bond (or the policy or bond being quoted). Please also note that no separate additional premium charge has been made for the terrorism coverage required by the Act. The premium charge that is allocable to such coverage is inseparable from and imbedded in your overall premium, and is no more than one percent of your premium.

Farimah Feiz

OAKLAND CITY COUNCIL  
RESOLUTION No. \_\_\_\_\_ C.M.S.  
2005 APR -7 PM 12:18

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

INTRODUCED BY COUNCILMEMBER \_\_\_\_\_

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**RESOLUTION APPROVING THE FINAL MAP OF TRACT MAP NOS. 7351, AND 7493 IN A REAL ESTATE SUBDIVISION ENTITLED "TRACT 7351", LEONA QUARRY SUBDIVISION, LOCATED NORTH OF THE INTERSECTION OF MOUNTAIN BOULEVARD AND EDWARDS AVENUE, OAKLAND, ALAMEDA COUNTY, CALIFORNIA**

**WHEREAS**, on the 17<sup>th</sup> day of February 2004, the City Council of the City of Oakland approved Vesting Tentative Tract Map 7351 of a proposed real estate subdivision entitled "Tract 7351", (Leona Quarry Subdivision), Oakland, Alameda County, California; and

**WHEREAS**, those certain maps entitled Tract Maps 7351 and 7493 (phases one and three of "Tract 7351"), Oakland, California have been presented to the City Council for their approval; 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 Subdivider is required to comply with condition of approval 24 requiring the Geologic Hazard Abatement District (GHAD) to be fully operational prior to recordation of the first final map; and

**WHEREAS**, on November 16, 2004 the City Council authorized the City Engineer to enter into a Subdivision Improvement Agreement with the Subdivider to obligate the Subdivider to complete certain public improvements by May 20, 2006, and post security to guarantee that obligation, all related to Tract Maps 7351 and 7493; and

**WHEREAS**, the City Engineer has recommended approval of a Subdivision Improvement Agreement obligating the developer to complete improvements within 18 months and to secure that obligation with specified bonds or their equivalent, and Subdivider has agreed to the terms of the Subdivision Improvement Agreement; and

**WHEREAS**, the Subdivider has paid the fees and posted sufficient security to guarantee completion of the public improvements and payment for labor and material suppliers; and

**WHEREAS**, said proposed final maps were referred to the City Engineer and he has certified to this Council that said proposed final maps are substantially the same as the vesting tentative maps approved by the City Planning Commission, that said proposed final maps comply with all of the provisions of the Subdivision Map Act and the local ordinances of the City of Oakland applicable thereto, and that said proposed final maps are technically correct; now, therefore, be it

**RESOLVED:** That final maps for tracts 7351 and 7493 are hereby approved subject to the Subdivider complying with Condition of Approval No. 24, which requires GHAD to be fully operational before recordation of the final map; and be it

**FURTHER RESOLVED:** That the City accepts all offers of public dedication shown on the final maps subject to completion of the public improvements; and be it

**FURTHER RESOLVED:** That the City Clerk is hereby authorized, empowered and directed to endorse the approval and acceptance thereof of this Council upon said final maps.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 2005

PASSED BY THE FOLLOWING VOTE:

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

NOES-  
ABSENT-  
ABSTENTION-

ATTEST: \_\_\_\_\_

LATONDA SIMMONS  
Interim City Clerk and Interim Clerk of  
the Council of the City of Oakland,  
California