

After Recording Return To:
City of Stockton
Community Development Department
Planning & Engineering Services Div.
425 North El Dorado Street
Stockton CA 95202

SUBDIVISION AGREEMENT
(FINAL MAP)

THIS SUBDIVISION AGREEMENT ("Agreement") is made and entered into as of _____ by and between the CITY OF STOCKTON, a municipal corporation hereafter referred to as "CITY," and KLLB AIV LLC, A DELAWARE LIMITED LIABILITY COMPANY, hereinafter referred to as "SUBDIVIDER."

WITNESSETH:

Subdivider has presented to City for approval a final subdivision map (hereinafter called "MAP") entitled WESTLAKE VILLAGES, UNIT NO. 8 (VILLAGE B) – TRACT NO. 3575 (TM 18-04 A&B) which Map has been checked and approved by the County Surveyor; and

Said Map has been filed with the City Engineer for presentation to the City Council of the City for its approval, which Map is hereby referred to and incorporated herein; and

Subdivider has requested approval of said Map prior to the construction and completion of improvements, including all streets, highways or public ways and public utility facilities which are a part of, or appurtenant to, the subdivision (hereinafter called "subdivision") designated in the Map, all in accordance with, and as required by, the plans and specifications for all or any of said improvements in, appurtenant to, or outside the limits of subdivision, which plans and specifications (5531C) dated 5/1/2023, prepared by VVH Consulting Engineers, and consisting of Sheets 1 through 49 are now on file in the Office of the City Engineer; and

This agreement is executed pursuant to the provisions of the Subdivision Map Act of the State of California and Title 16, Division 6, of the Stockton Municipal Code.

NOW, THEREFORE, for and in consideration of these premises and the approval of said Map and of the acceptance of the dedications, or some thereof, therein offered, and in order to ensure satisfactory performance by Subdivider of Subdivider's obligations under said Subdivision Map Act and said Municipal Code, the parties hereto agree as follows:

1. PERFORMANCE OF WORK

Subdivider shall construct or cause to be constructed, at Subdivider's own expense, in a good and worklike manner, under the direction and to the satisfaction of the City Engineer, all of the following work and improvements within the subdivision, to-wit:

Those certain improvements designated and shown on said Map as streets, curbs, gutters, sanitary sewers, storm sewers, water mains,

street lights, sidewalks, and other on or off-site improvements in accordance with the plans and specifications on file in the office of City Engineer together with any changes required or ordered by said Engineer, which in the Engineer's opinion, are necessary or required to complete the work.

2. WORK: PLACES AND GRADES TO BE FIXED BY ENGINEER

All of said work is to be done to the satisfaction of the City Engineer, and to the grades as shown upon the approved plans and specifications on file in the Office of the City Engineer. Subdivider warrants that construction will not adversely affect any portion of adjacent properties.

3. WORK: TIME FOR COMMENCEMENT AND PERFORMANCE

At least seventy-two (72) hours prior to the commencement of any work hereunder, Subdivider shall notify City Engineer in writing of the date fixed by Subdivider for commencement thereof, so that City Engineer shall be able to provide services of inspection.

Subdivider will complete, or cause to be completed, within two (2) years of approval of said Map and construction plans by the City Council, all improvements in accordance with the plans and specifications on file as hereinbefore specified, including any changes required or ordered by the said Engineer.

The work shall be performed in a safe and good worklike manner, and enough workers to quickly and adequately perform the work in accordance with normal construction standards for similar jobs shall be employed and used. All work must comply with State of California, Division of Industrial Safety Construction Orders.

Except during an emergency, as determined by the City Engineer, all work shall be performed between the hours of 7:00 a.m. and 9:00 p.m.

Any contractor not performing as required by this agreement may, at the discretion of the City Engineer, be barred from doing any work within the City of Stockton on any subdivision or any public works project for a maximum period of two (2) years.

City may require Subdivider to furnish a licensed Soils Engineer to test and certify that all cuts, fills and trench backfill conform to the requirements of City and State codes.

4. TIME OF ESSENCE: EXTENSION

Time is of the essence of this agreement; provided that in the event good cause is shown, the City Council may extend the time for completion of the improvements hereunder. Any such extension may be granted without notice to the Subdivider's surety, and extensions so granted shall not release or modify the surety's liability on the bond to secure the faithful performance of this agreement, or the payment for labor and materials.

5. REPAIRS AND REPLACEMENTS

Subdivider shall replace, or have replaced, or repair or have repaired, as the case may be, all pipes and monuments shown on the map which have been destroyed or damaged, and Subdivider shall replace or have replaced, repair or have repaired, as the case may be, or pay the

owner, the entire cost of replacement or repairs, of any and all property damaged or destroyed by reason of any work done hereunder, whether such property be owned by the United States or any agency thereof, or the State of California or any agency or political subdivision thereof, or by the City or by any public or private corporation, or by any person whomsoever, or by any combination of such owners. Any such repair or replacement shall be to the satisfaction, and subject to the approval of the City Engineer.

6. UTILITY DEPOSITS: STATEMENT

Subdivider shall make all deposits legally required by each public utility corporation for the connection of any and all public utilities to be supplied by such public utility corporation within the subdivision.

7. PERMITS: COMPLIANCE WITH LAW

Subdivider shall, at Subdivider's expense, obtain all necessary permits and licenses for the construction of such improvements, give all necessary notices and pay all fees and taxes required by law.

8. SUPERINTENDENCE BY SUBDIVIDER

Subdivider shall give personal superintendence to the work on said improvement, or have a competent foreman or superintendent, satisfactory to the City Engineer, on the work at all times during progress, with authority to act for Subdivider.

9. INSPECTION BY CITY

Subdivider shall at all times maintain proper facilities, and provide safe access for inspection by City, to all parts of the work, and to the shops wherein the work is in preparation.

10. CONTRACT SECURITY

Concurrently with the execution hereof, Subdivider shall furnish:

- A. A cash bond guaranteeing payment for placing monuments in the amount of (31 Monuments)..... \$62,000.00
- B. A surety bond, cash deposit or letter of credit (50% of the public improvements cost) as security for the faithful performance of this agreement in the amount of \$1,368,810.00
- C. A separate security bond, cash deposit or letter of credit (50% of the public improvements cost) as security for the payment of all persons performing labor and furnishing materials in connection with this agreement in the amount of..... \$1,368,810.00

The surety on each of said bonds shall be a corporate surety company authorized to transact business in the State of California, and the form thereof shall be satisfactory to the City Attorney and the Administrative Services Officer. Release of securities shall be as follows:

A. Security given for faithful performance shall be released after the City has finally accepted the work, and provided that security of at least ten (10) percent of the public improvements cost has been retained or security has been furnished to the City to guarantee and warrant the work for 1-year following the date of such acceptance of the work.

B. Security securing the payment to the contractor, the subcontractors of the contractor, and to persons furnishing labor, materials or equipment shall be released sixty (60) days after recording the Notice of Completion provided that the City has finally accepted the work and provided no claims or liens have been filed with the City. If claims of lien have been filed, an amount of security at least equal to the claims shall be retained pending the outcome of the claims.

C. The security guaranteeing that the completed work remains satisfactory during the required 1-year warranty period shall be released upon correction, by Subdivider, of any defects in the work existing at the end of the warranty period.

D. Monument security shall be released in accordance with the provisions of Section 66497 of the Government Code.

In the event that improvements do not conform to the plans and specifications or defects are not corrected within the time limit specified by the City, the City shall have the authority to order the necessary work done and to recover the cost of such work as well as any costs of enforcing such obligation, including attorney fees, from the Subdivider and the Subdivider's surety or the financial institution providing the Instrument of Credit.

11. INDEMNITY AND HOLD HARMLESS AGREEMENT

With the exception that this section shall in no event be construed to require indemnification by SUBDIVIDER to a greater extent than permitted under the public policy of the State of California, SUBDIVIDER shall, indemnify, protect, defend with counsel approved by CITY and at SUBDIVIDER'S sole cost and expense, and hold harmless City of Stockton and its officers, officials, employees and volunteers from and against any and all claims, causes of action, liabilities, judgments, awards, losses, liens, claims, stop notices, damages, expenses, and costs (including without limitation attorneys' fees, expert and subdivider fees, and other expenses of litigation) of every nature, including, but not limited to, death or injury to persons, or damage to property, which arise out of or are in any way connected with the work performed, materials furnished, or services provided under this Agreement, or from any violation of any federal, state, or municipal law or ordinance, or CITY Policy, by SUBDIVIDER or SUBDIVIDER'S officers, agents, employees, volunteers or subcontractors. SUBDIVIDER shall not be obligated to indemnify or defend CITY for claims finally determined by a court of law or arbitrator to arise from the active negligence or willful misconduct of the CITY. It is the intent of the Parties that this indemnity obligation is at least as broad as is permitted under California law. To the extent California Civil Code sections 2782, et seq., limit the defense or indemnity obligations of SUBDIVIDER to CITY, the intent hereunder is to provide the maximum defense and indemnity obligations allowed by SUBDIVIDER under the law. The indemnity set forth in this section shall not be limited by insurance requirements or by any other provision of this Agreement.

With the exception that this section shall in no event be construed to require indemnification, including the duty to defend, by SUBDIVIDER to a greater extent than permitted under the public policy of the State of California, the parties agree that SUBDIVIDER'S duty to defend CITY is immediate and arises upon the filing of any claim against the CITY for damages which arise out of

or are in any way connected with the work performed, materials furnished, or services provided under this Agreement by SUBDIVIDER or SUBDIVIDER'S officers, agents, employees, volunteers or subcontractors. SUBDIVIDER'S duties and obligations to defend the CITY shall apply regardless of whether or not the issue of the CITY'S liability, breach of this Agreement, or other obligation or fault has been determined. SUBDIVIDER shall be immediately obligated to pay for CITY'S defense costs of the claim, including, but not limited to, court costs, attorney's fees and costs, expert subdivider and witness fees and costs, other witness fees, document reproduction costs, arbitration fees, and, if after final judgment an appeal is pursued, all of such costs for the appeal. At the conclusion of the claim, if there is any determination or finding of sole active negligence or willful misconduct on the part of the CITY, CITY will then reimburse SUBDIVIDER for amounts paid in excess of SUBDIVIDER'S proportionate share of responsibility for the damages within 30 days after SUBDIVIDER provides CITY with copies of all bills and expenses incurred in the defense of the claim(s). It is agreed between the parties that this reimbursement provision assures SUBDIVIDER is not obligated to defend or indemnify CITY in an amount greater than provided for under California law, including, without limitation, California Civil Code sections 2782, 2782.6, and 2782.8.

With the exception that this section shall in no event be construed to require indemnification by SUBDIVIDER to a greater extent than permitted under the public policy of the State of California, and in addition to the other indemnity obligations in this Agreement, SUBDIVIDER shall indemnify, defend, and hold harmless City of Stockton and its officers, officials, employees and volunteers from and against all claims, losses, expenses, and costs including but not limited to attorneys' fees, arising out of any claim brought against the CITY by an employee, office, agent, or volunteer of SUBDIVIDER, regardless of whether such claim may be covered by any applicable workers compensation insurance. SUBDIVIDER'S indemnification obligation is not limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the SUBDIVIDER under workers' compensation acts, disability acts, or other employee benefit acts.

INSURANCE REQUIREMENTS

Subdivider shall comply with the insurance requirements set forth in Exhibit B.

Subdivider shall contractually require the selected contractor to carry the insurance required within Exhibit C.

12. TITLE TO IMPROVEMENTS

Title to, and ownership of, all improvements constructed hereunder by Subdivider shall vest absolutely in City, upon completion and acceptance of such improvements by City, except as otherwise may be provided in this agreement. Prior to final acceptance by the City, the Subdivider shall submit to the City Engineer accurately revised "as built" plans showing all the sanitary, storm and water lateral locations, monuments with tie notes and unit prices and quantities of the underground sewer, storm drainage, water, street lighting and street facilities installed as part of this subdivision unit.

13. REPAIR OR RECONSTRUCTION OF DEFECTIVE WORK

If, within a period of one (1) year after final acceptance of the work performed under this agreement, any structure or part of any structure furnished and/or installed or constructed, or caused to be installed or constructed by Subdivider, or any of the work done under this agreement, fails to fulfill any of the requirements of this agreement or the specifications referred to herein, Subdivider shall without delay and without any cost to City, repair or replace or reconstruct any

defective or otherwise unsatisfactory part or parts of the work or structure. Should Subdivider fail to act within thirty (30) days after written notice or in case of emergency, City may, at its option, make the necessary repairs or replacements or perform the necessary work and Subdivider shall pay to City the actual cost of such repairs plus twenty-five (25) percent as administrative costs. In accordance with Section 16.72.070 of the Stockton Municipal Code, the subdivider shall deposit \$27,376.00 with the City to correct deficiencies and conditions caused by the Subdivider or contractor during or after the construction of this subdivision.

14. SUBDIVIDER NOT AGENT OF CITY

Subdivider or any of Subdivider's agents or contractors are not or shall not be considered agents of City in connection with the performance of Subdivider's obligations under this agreement.

15. COST OF ENGINEERING AND INSPECTION

Prior to commencement of construction, the Subdivider shall pay to the City of Stockton the cost for the checking of engineering plans, inspection of the work, and the checking and testing of the materials at the appropriate existing rate. The cost of such improvements is based on an approved estimate, or on the construction contract, if awarded prior to filing of the map with the City Council.

<u>Plan Checking Fee</u>	=	\$65,412.90
<u>Inspection Fee</u>	=	\$96,363.70

No work shall be performed without inspection by the City. Any work performed without an inspection will not be accepted by the City.

All work, which requires inspection, shall be performed during the City's normal working hours and work days. If any work is performed before 8:00 a.m., after 5:00 p.m., or on a City holiday, or on a weekend, there must be a request in writing twenty-four (24) hours in advance for an inspector during those hours, and there must be paid to the City double the Inspector's hourly cost to the City. This payment is not included in the 3.5 percent (3.5%) engineering and inspection fee.

If an inspector is not available to work during such hours, as requested, no work shall be performed during those hours.

16. FILING FEES

Concurrently with execution hereof, Subdivider shall pay a computer mapping fee of \$519.00 (\$155 + \$3.25/lot), a map filing fee of \$3,685.00 and, present one check for recording the Map and the agreement, payable to the San Joaquin County Recorder in the amount of \$110.00 and \$191.00, respectively. City will forward the checks with the Map for recording.

17. NOTICE OF BREACH AND DEFAULT

If Subdivider refuses or fails to obtain prosecution of the work, or any severable part thereof, with such diligence as will insure its completion within the time specified, or any extensions thereof, or fails to obtain completion of said work within such time, or if the Subdivider should be adjudged a bankrupt, or Subdivider should make a general assignment for the benefit of Subdivider's creditors, or if a receiver should be appointed in the event of Subdivider insolvency, or if Subdivider, or any of Subdivider's contractors, subcontractors, agents, or employees should violate any of the provisions

of this agreement, City Engineer or City Council may serve written notice upon Subdivider and Subdivider's surety of breach of this agreement or of any portion thereof and default of Subdivider.

18. BREACH OF AGREEMENT: PERFORMANCE BY SURETY OR CITY

In the event of any such notice, Subdivider's surety shall have the duty to take over and complete the work and the improvements herein specified; provided, however, that if the surety, within ten (10) days after the serving upon it of such notice of breach does not give City written notice of its intention to take over the performance of the contract, and does not commence performance thereof within ten (10) days after notice to City of such election, City may take over the work and prosecute the same to completion, by contract or by any other method City may deem advisable, for the account and at the expense of Subdivider, and Subdivider's surety shall be liable to City for the cost and damages occasioned City thereby; and, in such event, City without liability for so doing may take possession of, and utilize in completing the work, such materials, appliances, plant and other property belonging to Subdivider as may be on the site of the work and necessary therefor. The City reserves to itself all remedies available to it at law or in equity for breach of Subdivider's obligations under this Agreement. The right of City to draw upon or utilize the security is additional to and not in lieu of any other remedy available to City. In the event that Subdivider fails to perform any obligations hereunder, Subdivider agrees to pay all costs and expenses incurred by City in securing performance of such obligations, including costs of suit and reasonable attorney fees.

19. NOTICES

All notices herein required shall be in writing, and delivered in person or sent by registered mail, postage prepaid.

Notices required to be given to City shall be addressed as follows:

CITY ENGINEER
22 E. WEBER AVENUE
STOCKTON CA 95202

Notices required to be given to Subdivider shall be addressed as follows:

KLLB AIV LLC, A DELAWARE LIMITED LIABILITY COMPANY
6900 E. CAMELBACK ROAD, SUITE 1090
SCOTTSDALE AZ 85251

Notices required to be given to surety of Subdivider shall be addressed as follows:

FIDELITY AND DEPOSIT COMPANY OF MARYLAND
1299 ZURICH WAY, 5TH FLOOR
SCHAUMBURG IL 60196-1056

Provided that any party or the surety may change such address by notice in writing to the other party and, thereafter, notices shall be addressed and transmitted to the new address.

20. FIRE PROTECTION

No building permits will be issued in this subdivision until the water system has been completed and tested and all access streets installed and made serviceable. This provision may be modified or waived if an alternate method of providing fire protection is provided and approved by the Stockton Fire Department.

21. STREET TREE SECURITY

The Subdivider shall provide a faithful performance bond, cash deposit, or letter of credit for 125% of the street tree fee based on \$195 per tree.

Street Tree Security: 150 trees @ \$195 ea. X 125% = \$36,562.50

22. STREET NAME SIGN FEE

The Subdivider shall pay a street name sign fee based on \$286.25 per sign to be furnished and installed by the City.

Street Name Sign Fee: 11 signs @ \$286.25 ea. = \$3,148.75

23. SUMMARY OF FEES

The fees mentioned in this Agreement are summarized in Exhibit A attached hereto and incorporated herein by reference. However, some fees such as the Public Facilities Fee and Parkland Fee, which are collected at the building permit stage, are not included in this summary.

24. BINDING UPON SUCCESSORS

This agreement shall be binding upon and inure to the benefit of, and be enforceable by and against, the heirs, successors, and assigns of the parties hereto, subject to the terms hereof.

25. ASSIGNMENT

Subdivider shall have the right to assign (by sale, transfer, or otherwise) directly or indirectly, all or part of its rights, duties and obligations under this agreement as to any portion or all of the Property upon a specific written request and written consent by the City Manager which shall not be unreasonably withheld, delayed or conditioned. Except that Subdivider may, without the consent of the City, assign this Agreement to a controlled subsidiary of Subdivider or a purchaser of all or substantially all of Subdivider's interest in the real property which is the subject of the Map, provided the assigning party causes the assignee to assume in writing all obligations of the assignor under this Agreement. Notice of an assignment to a controlled subsidiary of Subdivider or a purchaser of all or substantially all of Subdivider's interest shall be given to the City in writing within 30 days of such change. Upon any such assignments, Subdivider shall be released from its obligations under this Agreement and shall receive the immediate return of all security deposits, including, but not limited to bonds, letters of credit, security instruments or any other financial commitments upon the replacement of same by the assignee. The rights and obligations of this Agreement shall bind and benefit any successors or assigns of the parties.

26. SPECIAL PROVISIONS

Except as provided in Exhibit D, the tentative map conditions in TM18-04 A&B as shown in Exhibit D (attached) shall apply to this Agreement.

ATTEST:

ELIZA R. GARZA, CMC
CITY CLERK

CITY OF STOCKTON:

HARRY BLACK
CITY MANAGER

By _____

By _____

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY

KLLB AIV LLC
Tricia Patton
(PRINT NAME)

BY _____
CITY ATTORNEY

BY Tricia Patton
(SIGNATURE)
Authorized Signatory
(TITLE)

APPROVED BY CITY COUNCIL RESOLUTION NO. _____,
ON _____, 20__.

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

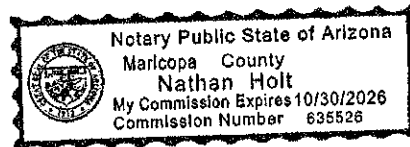
State of ~~California~~ Arizona
County of Maricopa)

On December 11, 2023 before me, Nathan Holt
(insert name and title of the officer)

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

I certify under PENALTY OF PERJURY under the laws of the State of ~~California~~ Arizona that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Nathan Holt (Seal)

(NOTARY FOR SUBDIVIDER)

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of _____)

On _____ before me, _____
(insert name and title of the officer)

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

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

(NOTARY FOR CITY MANAGER)

EXHIBIT A

SUMMARY OF FEES AND BONDS

STREET NAME SIGN FEE	\$3,148.75
PLAN CHECK FEE	\$65,412.90
INSPECTION FEE	\$96,363.70
MATERIAL TESTING FEE.....	\$11,219.05
FILING FEE.....	\$3,526.00
TECH FEE	\$12,448.55
CRS FEE.....	\$9,958.84
CASH DEPOSIT	\$27,376.00
COMPUTER MAPPING FEE	\$519.00
MUD IMAGING FEE.....	\$501.00
ASSESSMENT DISTRICT SEGREGATION.....	\$0.00
TOTAL	\$230,473.79

RECORDING FEE (payable to San Joaquin County Recorder)

MAP (6 Sheets)	\$110.00
AGREEMENT (35 Sheets)	\$191.00
TOTAL	\$301.00

BONDS

MONUMENT BOND	\$61,000.00
PERFORMANCE BOND	\$1,368,810.00
LABOR AND MATERIAL BOND	\$1,368,810.00
STREET TREE BOND.....	\$36,562.50
TOTAL	\$2,835,182.50

SUMMARY OF FEES AND BONDS (CONT.)PROPORTIONATE SHARES

PARK AND RIDE FACILITIES (686-0000-237.60-64)	\$41,250.00
STREET MICROSURFACING (686-0000-237.67-40)	\$23,787.00
TOTAL	\$65,037.00

**LEGAL DESCRIPTION FOR
WESTLAKE VILLAGES, UNIT NO. 8 – VILLAGE B**

BEING ALL OF TRACT TWO AS DESCRIBED IN THAT CERTAIN DEED FILED AS DOCUMENT NUMBER 2023-028465, SAN JOAQUIN COUNTY RECORDS, LYING IN SECTIONS 2 AND 3, TOWNSHIP 2 NORTH, RANGE 5 EAST, MOUNT DIABLO BASE AND MERIDIAN. CITY OF STOCKTON, SAN JOAQUIN COUNTY, CALIFORNIA.

CONTAINING A NET AREA OF 20.43 ACRES, MORE OR LESS

SUBJECT TO COVENANTS, CONDITIONS, RESTRICTIONS, RESERVATIONS, RIGHTS, RIGHTS-OF-WAY, AND EASEMENTS OF RECORD, IF ANY.

PREPARED BY:



Ryan Vance LS 8225

10/23/23
Date



Exhibit B:
Insurance Requirements for Subdivider

Subdivider shall procure and maintain for the duration of the contract 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 and the results of that work by the Subdivider, his agents, representatives, employees or subcontractors.

MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than **\$2,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.
2. **Automobile Liability:** ISO Form Number CA 00 01 covering any auto (Code 1), or if Subdivider has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than **\$1,000,000** per accident for bodily injury and property damage.
3. **Workers' Compensation:** as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than **\$1,000,000** per accident for bodily injury or disease.
4. **Surety Requirement** as described below.

If the Subdivider maintains broader coverage and/or higher limits than the minimums shown above, the City of Stockton requires and shall be entitled to the broader coverage and/or the higher limits maintained by the subdivider. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City of Stockton.

Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

Additional Insured Status

The City of Stockton, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Subdivider including materials, parts, or equipment furnished in connection with such work or operations. General liability

coverage can be provided in the form of an endorsement to the Subdivider's insurance (at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of **both** CG 20 10, CG 20 26, CG 20 33, or CG 20 38; **and** CG 20 37 if a later edition is used). Additional insured Name of Organization shall read "City of Stockton, its officers, officials, employees, and volunteers." Policy shall cover City of Stockton, its officers, officials, employees, and volunteers for all locations work is done under this contract.

Primary Coverage

For any claims related to this contract, the **Subdivider's insurance coverage shall be primary and non-contributory** and at least as broad as ISO CG 20 01 04 13 as respects the City of Stockton, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City of Stockton, its officers, officials, employees, or volunteers shall be excess of the Subdivider's insurance and shall not contribute with it. This requirement shall also apply to any Excess or Umbrella liability policies. The City of Stockton does not accept endorsements limiting the Subdivider's insurance coverage to the sole negligence of the Named Insured.

Umbrella or Excess Policy

The Subdivider may use Umbrella or Excess Policies to provide the liability limits as required in this agreement. This form of insurance will be acceptable provided that all of the Primary and Umbrella or Excess Policies shall provide all of the insurance coverages herein required, including, but not limited to, primary and non-contributory, additional insured, Self-Insured Retentions (SIRs), indemnity, and defense requirements. The Umbrella or Excess policies shall be provided on a true "following form" or broader coverage basis, with coverage at least as broad as provided on the underlying Commercial General Liability insurance. No insurance policies maintained by the Additional Insureds, whether primary or excess, and which also apply to a loss covered hereunder, shall be called upon to contribute to a loss until the Subdivider's primary and excess liability policies are exhausted.

Notice of Cancellation

Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the City of Stockton.

Waiver of Subrogation

Subdivider hereby grants to City of Stockton a waiver of any right to subrogation which any insurer of said Subdivider may acquire against the City of Stockton by virtue of the payment of any loss under such insurance. Subdivider agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City of Stockton has received a waiver of subrogation endorsement from the insurer.

Self-Insured Retentions

Self-insured retentions must be declared to and approved by the City of Stockton. The City of Stockton may require the Subdivider to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or City of Stockton. The CGL and any policies, including Excess liability policies, may not be subject to a self-insured retention (SIR) or deductible that exceeds \$25,000 unless approved in writing by City of Stockton. Any and all deductibles and SIRs shall be the sole responsibility of Subdivider or subcontractor who procured such insurance and shall not apply to the Indemnified Additional Insured Parties. City of Stockton may deduct from any amounts otherwise due Subdivider to fund the SIR/deductible. Policies shall NOT contain any self-insured retention (SIR) provision that limits the satisfaction of the SIR to the Named. The policy must also provide that Defense costs, including the Allocated Loss Adjustment Expenses, will satisfy the SIR or deductible. City of Stockton reserves the right to obtain a copy of any policies and endorsements for verification.

Acceptability of Insurers

Insurance is to be placed with insurers authorized to conduct business in the state with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the City of Stockton.

Verification of Coverage

Subdivider shall furnish the City of Stockton with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause **and a copy of the Declarations and Endorsements Pages of the CGL and any Excess policies listing all policy endorsements**. All certificates and endorsements and copies of the Declarations & Endorsements pages are to be received and approved by the City of Stockton before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Subdivider's obligation to provide them. The City of Stockton reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time. City of Stockton reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

Surety Requirement

Contractor shall provide the following Surety Bonds:

1. Performance Bond
2. Payment Bond
3. Cash Deposit

The Payment Bond and the Performance Bond shall be in a sum based on the engineer's cost estimate. Bonds shall be duly executed by a responsible corporate surety, authorized to issue such bonds in the State of California and secured through an authorized agent with an office in California.

Cash deposit of one (1) percent of the construction cost or a minimum of \$5,000.00, whichever is greater.

Special Risks or Circumstances

City of Stockton reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

Certificate Holder Address

The address for mailing certificates, endorsements and notices shall be:

City of Stockton
Its Officers, Officials, Employees, and Volunteers
400 E Main St, 3rd Floor – HR
Stockton, CA 95202

Exhibit C:
Insurance Requirements for Construction Contracts

Contractor shall procure and maintain for the duration of the contract, *and for 5 years thereafter*, 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 Contractor, his agents, representatives, employees, or subcontractors.

MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office (ISO) Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than **\$3,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.

2. **Automobile Liability:** Insurance Services Office Form CA 0001 covering Code 1 (any auto), with limits no less than **\$3,000,000** per accident for bodily injury and property damage.

3. **Workers' Compensation** insurance as required by the State of California, with Statutory Limits, and Employers' Liability insurance with a limit of no less than **\$1,000,000** per accident for bodily injury or disease.

4. **Surety Bonds** as described below.

5. **Professional Liability** (if Design/Build), with limits no less than **\$2,000,000** per occurrence or claim, and **\$2,000,000** policy aggregate.

6. **Contractors' Pollution Legal Liability** and/or Asbestos Legal Liability and/or Errors and Omissions (if project involves environmental hazards) with limits no less than **\$2,000,000** per occurrence or claim, and **\$2,000,000** policy aggregate.

If the contractor maintains broader coverage and/or higher limits than the minimums shown above, the City of Stockton requires and shall be entitled to the broader coverage and/or the higher limits maintained by the contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City of Stockton.

Self-Insured Retentions

Self-insured retentions must be declared to and approved by the City of Stockton. The City of Stockton may require the Contractor to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or City of Stockton. The CGL and any policies, including Excess liability policies, may not be subject to a self-insured retention (SIR) or deductible that exceeds \$25,000 unless approved in writing by City of Stockton. Any and all deductibles and SIRs shall be the sole responsibility of Contractor or subcontractor who procured such insurance and shall not apply to the Indemnified Additional Insured Parties. City of Stockton may deduct from any amounts otherwise due Contractor to fund the SIR/deductible. Policies shall NOT contain any self-insured retention (SIR) provision that limits the satisfaction of the SIR to the Named Insured. The policy must also provide that Defense costs, including the Allocated Loss Adjustment Expenses, will satisfy the SIR or deductible. City of Stockton reserves the right to obtain a copy of any policies and endorsements for verification.

Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

1. **The City of Stockton, its officers, officials, employees, and volunteers are to be covered as additional insureds** on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations and automobiles owned, leased, hired, or borrowed by or on behalf of the Contractor. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance (at least as broad as ISO Form CG 20 10 11 85 or **both** CG 20 10, CG 20 26, CG 20 33, or CG 20 38; **and** CG 20 37 forms if later revisions used). Additional insured Name of Organization shall read "City of Stockton, its officers, officials, employees, and volunteers." Policy shall cover City of Stockton, its officers, officials, employees, and volunteers for all locations work is done under this contract.
2. For any claims related to this project, the **Contractor's insurance coverage shall be primary and non-contributory** insurance coverage at least as broad as ISO CG 20 01 04 13 as respects the City of Stockton, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City of Stockton, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it. This requirement shall also apply to any Excess or Umbrella liability policies. The City of Stockton does not accept endorsements limiting the Contractor's insurance coverage to the sole negligence of the Named Insured.

3. Each insurance policy required by this clause shall provide that coverage shall not be canceled, except with notice to the City of Stockton.

Claims Made Policies

If any coverage required is written on a claims-made coverage form:

1. The retroactive date must be shown, and this date must be before the execution date of the contract or the beginning of contract work.
2. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of contract work.
3. If coverage is cancelled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the contract effective, or start of work date, the Contractor must purchase extended reporting period coverage for a minimum of five (5) years after completion of contract work.
4. A copy of the claims reporting requirements must be submitted to the City of Stockton for review.
5. If the services involve lead-based paint or asbestos identification/remediation, the Contractors Pollution Liability policy shall not contain lead-based paint or asbestos exclusions. If the services involve mold identification/remediation, the Contractors Pollution Liability policy shall not contain a mold exclusion, and the definition of Pollution shall include microbial matter, including mold.

Umbrella or Excess Policies

The Contractor may use Umbrella or Excess Policies to provide the liability limits as required in this agreement. This form of insurance will be acceptable provided that all of the Primary and Umbrella or Excess Policies shall provide all of the insurance coverages herein required, including, but not limited to, primary and non-contributory, additional insured, Self-Insured Retentions (SIRs), indemnity, and defense requirements. The Umbrella or Excess policies shall be provided on a true "following form" or broader coverage basis, with coverage at least as broad as provided on the underlying Commercial General Liability insurance. No insurance policies maintained by the Additional Insureds, whether primary or excess, and which also apply to a loss covered hereunder, shall be called upon to contribute to a loss until the Contractor's primary and excess liability policies are exhausted.

Acceptability of Insurers

Insurance is to be placed with insurers authorized to conduct business in the state with a current A.M. Best rating of no less than A: VII, unless otherwise acceptable to the City of Stockton.

Waiver of Subrogation

Contractor hereby agrees to waive rights of subrogation which any insurer of Contractor may acquire from Contractor by virtue of the payment of any loss. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation. **The Workers' Compensation policy shall be endorsed with a waiver of subrogation** in favor of the City of Stockton for all work performed by the Contractor, its employees, agents and subcontractors.

Verification of Coverage

Contractor shall furnish the City of Stockton with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause and **a copy of the Declarations and Endorsements Pages of the CGL and any Excess policies listing all policy endorsements**. All certificates and endorsements and copies of the Declarations & Endorsements pages are to be received and approved by the City of Stockton before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. The City of Stockton reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time. City of Stockton reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

Subcontractors

Contractor shall require and verify that all subcontractors maintain insurance meeting all requirements stated herein, and Contractor shall ensure that City of Stockton is an additional insured on insurance required from subcontractors. For CGL coverage, subcontractors shall provide coverage with a form at least as broad as CG 20 38 04 13.

Duration of Coverage

CGL & Excess liability policies **for any construction related work, including, but not limited to, maintenance, service, or repair work**, shall continue coverage for a minimum of 5 years for Completed Operations liability coverage. Such Insurance must be maintained and evidence of insurance must be provided **for at least five (5) years after completion of the contract of work**.

Surety Bonds

Contractor shall provide the following Surety Bonds:

1. Bid Bond
2. Performance Bond
3. Payment Bond
4. Maintenance Bond

The Payment Bond and the Performance Bond shall be in a sum equal to the contract price. If the Performance Bond provides for a one-year warranty a separate Maintenance Bond is not necessary. If the warranty period specified in the contract is for longer than one year a Maintenance Bond equal to 10% of the contract price is required. Bonds shall be duly executed by a responsible corporate surety, authorized to issue such bonds in the State of California and secured through an authorized agent with an office in California.

Special Risks or Circumstances

City of Stockton reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other circumstances.

Certificate Holder Address

The address for mailing certificates, endorsements and notices shall be:

City of Stockton
Its Officers, Officials, Employees and Volunteers
400 E Main Street, 3rd Floor – HR
Stockton, CA 95202

EXHIBIT D

Westlake Villages Tentative Map (TM18-04B) Conditions (2-23-2021)

1. Comply with all applicable Federal, State, County and City codes, regulations, adopted standards, pay all applicable fees and Standard Specifications and Plans in effect at the time of submittal of the particular application under consideration.
2. Pursuant to Sections 15091 and 15093 of the State CEQA Guidelines, the project shall be subject to all applicable mitigation measures identified in the City-adopted "Findings of Fact and Mitigation Monitoring Program for the Westlake Village Project."
3. **(This condition is not applicable to Subdivider. See Note below.)** The owners, developers and/or successors-in-interest (ODS) shall design, construct, own and operate a permanent dewatering and groundwater discharge system to mitigate the high groundwater levels on the project site. The ODS shall prepare Master Plans for the construction of a permanent dewatering system to mitigate the high groundwater levels on the project site. Said Master Plans shall be subject to the approval of the Municipal Utilities Director and the City Engineer. The ODS or an entity approved by the City, shall be responsible for establishing a funding mechanism for the design, permitting, construction, operation, maintenance and repair of the approved system, prior to the filing of the first small lot (TM18-04A) Final Map.
4. **(This condition is not applicable to Subdivider. See Note below.)** The ODS shall prepare and submit a master water, storm, and sanitary sewer plan for this project subject to approval by the Municipal Utilities Director and City Engineer prior to the approval of any improvement plans of small lot (TM18-04A) final map. These master utility plans must identify future extensions to adjacent property. No building permit for construction of homes shall be issued until the required infrastructure and utility systems have been constructed and approved by the Municipal Utilities Director and the City Engineer.
5. **(This condition is not applicable to Subdivider except to the extent this condition directly involves the real property contained within the Map. See Note below.)** Comply with all the requirements of the agency having jurisdiction over Pixley Slough and Bishop Cut, regarding dedication of right-of-way, easement, fencing, etc.
6. Dedicate lots used for private streets as a public utility easement for the proposed public sanitary sewer and waterlines. All gated access shall be identified. Also, all private streets shall be identified and delineated as separate lots.
7. **(This condition is not applicable to Subdivider. See Note below.)** The ODS shall demonstrate to the satisfaction of the Public Works Director and Municipal Utilities Director, in conjunction with the storm drain master plan and prior to filing of the first small lot (TM18-04A) Final Map that receiving waters have capacity to handle storm water discharge from the project.

8. All landscaping within medians and designated planting easements shall be approved by the City's Landscape Architect and shall be maintained by a mandatory homeowners' association. All landscaping within private areas or areas not accessible by the general public (e.g. PURDS) shall be approved by the Community Development Director and City's Landscape Architect and shall be maintained by a mandatory homeowners' association.
9. **(This condition is not applicable to Subdivider. See Note below.)** The ODS shall dedicate a 12-foot wide easement for a bicycle/pedestrian path along the north side of the Pixley Slough/Disappointment Slough within the project site. The ODS shall prepare and submit plans and construct a Class I bike path and ADA compliant access as required and approved by the City Engineer. Said plans shall be subject to the approval of Reclamation District 2042, City Engineer and the Public Works Director. The ODS shall complete said Class I bike path construction prior to or upon final inspection of the 1000th building permit. The ODS, or an entity approved by the City, shall be responsible for the operation, maintenance and repair of the approved Class I bike path and ADA compliant access.
10. **(This condition is not applicable to Subdivider except to the extent this condition directly involves the real property contained within the Map. See Note below.)** Deed notifications shall be recorded against all properties adjoining the Pixley Slough/Disappointment Slough disclosing the potential for levee seepage and potential "standing groundwater" issues. Also, the ODS shall disclose to all future home buyers in this development that there will be a paved Class I bicycle/pedestrian path on the crown of the Pixley Slough/Disappointment Slough levee.
11. **(This condition is not applicable to Subdivider. See Note below.)** The ODS shall, consistent with the Eight Mile Road Specific Plan, dedicate the necessary right-of-way to provide a minimum half street section upon the recordation of the first final map and shall install all necessary frontage improvements, including but not limited to curb, gutter, sidewalk, pavement widening and street lighting. Said improvements shall be completed prior to taking any access to Eight Mile Road west of Regatta Drive or the issuance of the 1322nd production building permit, excluding model homes, for the project whichever occurs first.
12. **(This condition is not applicable to Subdivider. See Note below.)** The ODS shall conduct a queuing and traffic access analysis study to determine specific locations and distances for all proposed intersections and project accesses to public roadways.
13. **(This condition is not applicable to Subdivider. See Note below.)** The ODS shall, in conjunction with Lodi Unified School District, cause to be prepared a technical memorandum, to be approved by the City, analyzing the parking, the drop-off/pick-up and the on-site circulation for the proposed school site to ensure that the school site, once developed, can adequately accommodate school traffic.

14. **(This condition is not applicable to Subdivider except to the extent this condition directly involves the real property contained within the Map. See Note below.)** The ODS shall be responsible for 100% of the design and construction costs of on-site roadway and intersection improvements, roadway extensions and public utilities identified on the tentative map and/or included in the project EIR project description or as mitigation measures. Improvements include but are not limited to all sewer, water and storm drain lines, traffic signals, street lighting, street paving, curb, gutter, sidewalk and landscaping.

15. **(This condition is not applicable to Subdivider except to the extent this condition directly involves the real property contained within the Map. See Note below.)** The ODS shall dedicate access rights to the City of Stockton along the following streets, except at public street intersections:

Eight Mile Road, entire length
 Street "1", entire length
 Street "2", entire length
 Street "3", entire length
 Scott Creek Drive, entire length

16. **(This condition is not applicable to Subdivider. See Note below.)** The ODS shall be responsible for design and construction costs and installation of off- site roadway and intersection improvements, including traffic signals, at the following locations as identified in the Existing Plus Approved Project (EPAP) plus Project section in the Environmental Impact Report (EIR1-04):

Eight Mile Road/Trinity Parkway
 Eight Mile Road/Thornton Road
 Eight Mile Road/Interstate 5 Southbound Ramps
 Eight Mile Road/Davis Road
 Eight Mile Road/Lower Sacramento Road
 Primary entrance/Eight Mile Road
 Secondary entrance/Eight Mile Road
 Mokelumne Circle/Scott Creek Drive (west intersection)

Improvements identified above that are included in the calculations for the current Public Facilities Fee (PFF) program may be eligible for reimbursement. The traffic signals shall be installed when warranted or at the discretion of the Public Works Director. The timing of the installation of all other improvements shall be at the discretion of the Public Works Director.

17. **(This condition is not applicable to Subdivider. See Note below.)**The ODS shall prepare a Project Study Report and Project Report, as required by Cal Trans, for the design and construction of the Eight Mile Road/Interstate 5 interchange to reduce the significance of the cumulative traffic with project impacts as identified in the Environmental Impact Report (EIR1-04) for this project. The ODS shall prepare an

improvement/development phasing plan to determine the level of project development that can occur within established level of service. Said phasing plan shall be approved by the City Engineer and the identified improvements shall be constructed by the ODS consistent with the approved phasing. City shall reimburse the ODS for all costs of the design and construction of the improvements in excess of the ODS' fair share, based on traffic loadings, through an area of benefit or modification of the City's public facility fee program or other funding mechanism to include reimbursement for additional surplus capacity constructed in the project that is/will be available for use by development outside the current (July, 2004) General Plan boundaries based on the request of the ODS.

18. The ODS shall pay their proportionate share or participate in any Public Facilities Fee Program or any funding mechanism enacted by the City to cover the costs for new Project Study Reports (PSRs) and new Project Reports (PRs) and necessary improvements described in the PSRs/PRs for the Interstate 5 mainline system, Eight Mile Road/Interstate 5 overcrossing-interchange, Otto Drive/Interstate 5 interchange, and Hammer Lane/Interstate 5 interchange to provide a level-of-service that conforms with State Urban Highway Standards.

19. **(This condition is not applicable to Subdivider. See Note below.)** *The ODS shall prepare a design for the construction of the six-lane Pixley Slough bridge crossing connection of Street "2" between the southern boundary of the subdivision and Shima Tract (the Sanctuary Project development) to the south. The ODS shall also design and construct within the Project Area the extension of utilities to Shima Tract as approved by the Municipal Utilities Director. The ODS shall, consistent with the design, dedicate to the City all real property within the Project Area required for the right-of-way to and construction of the bridge and attendant Improvements. All associated bridge crossing Improvements, including but not limited to: curb, gutter, sidewalk, street lighting, pavement (six lanes), and underground utilities within the boundary of this tentative map shall be constructed. The ODS shall disclose to all future home buyers in this development that Street "2" will be extended with a bridge crossing over Pixley Slough to the Shima Tract to the south. The ODS shall install and maintain a future facilities sign at the Street "2"/Cosumnes Drive Intersection. The size, text and location of the sign shall be approved by the City Engineer and Community Development Director. The determination of the ODS proportionate share of the cost of design and construction of the bridge crossing shall be based on an ODS conducted traffic study following the City's adoption of a General Plan Amendment for urban uses incorporating Shima Tract. The ODS proportionate share shall be based on this development's share of the traffic using the bridge as it relates to the cumulative traffic using the bridge as determined by the traffic analysis associated with any adopted General Plan Amendment incorporating Shima Tract. All of the above said requirements shall be performed to the satisfaction of the Public Works Director.*

This condition shall only be in effect and enforceable by the City if on or before December 2, 2033 Shima Tract obtains final approval from the City for in tract improvement plans and has posted all performance bonds required to secure the

construction of such in tract improvement plans through a subdivision agreement for a recorded large lot final map with a minimum of 1,000 residential lots creating at least 500 finished residential lots with unconditionally issued certificates of occupancy for the homes on those lots and the infrastructure (including, but not limited to the trunk sanitary sewer, storm drain, water, curb, gutter and sidewalk and landscaping) for the spine streets from Hammer Lane to foot of the levee where the bridge will be built are completely installed and accepted by City of Stockton. Shima Tract and Westlake shall both obligated to build half of the bridge West Lake shall not be obligated to commence construction of the bridge before Shima Tract commences bridge construction. Except that the automatic expiration of this condition shall not apply to the ODS obligation to dedicate to the city all real property within the Project Area required for the right of way to and construction of the bridge and attendant improvements. Until Shima Tract has obtained all approvals identified in this condition 19 the city shall not require a performance bond or other form of security from the ODS. (For purposes of this condition the term, "commence construction" shall mean installing and the city accepting for dedication all improvements secured by bonds required by the subdivision agreement together with all other customary public infrastructure improvements necessary on the Shima Tract side of the water necessary to allow unimpeded use of the future bridge.)"

20. **(This condition is not applicable to Subdivider except to the extent this condition directly involves the real property contained within the Map. See Note below.)** The ODS shall design and construct bus turnouts and shelters shall be installed along Eight Mile Road, Scott Creek Drive, Street "1" and Street "2" and any other location as required by the Public Works Director in consultation with the San Joaquin Regional Transit District.
21. **(This condition is not applicable to Subdivider except to the extent this condition directly involves the real property contained within the Map. See Note below.)** A twenty-foot easement shall be dedicated to Reclamation District No. 2042 at the existing toe of all levees to provide for maintenance of the levee slopes.
22. **(This condition is not applicable to Subdivider except to the extent this condition directly involves the real property contained within the Map. See Note below.)** Scott Creek Drive at the west end of the project shall be terminated to the satisfaction of the City Engineer.
23. The ODS shall participate in any applicable Transportation Systems Management (TSM) programs established by the City of Stockton and contribute its proportionate share of the cost to provide an appropriate park and ride facility in the vicinity of Interstate 5 and Eight Mile Road.
24. **(This condition is not applicable to Subdivider. See Note below.)** The ODS shall prepare and submit a technical memorandum to be approved by the City, identifying traffic calming measures required on-site and on Melones Way. Right-of-ways and lot layouts within the tentative map area may need to be revised to accommodate traffic calming measures which may include roundabouts, traffic circles, etc.

25. **(This condition is not applicable to Subdivider except to the extent this condition directly involves the real property contained within the Map. See Note below.)** The ODS shall submit detailed subdivision improvement plans. These plans shall show all on-site and off-site utilities necessary to provide water, storm, and sanitary sewer utility service. These plans shall be designed in accordance with the City's most recently adopted water, storm, and sanitary collection system master plans and the City's Public Works design standards. These plans shall be approved by the City Engineer prior to the approval of any small lot (TM18-04A) final map.
26. **(This condition is not applicable to Subdivider except to the extent this condition directly involves the real property contained within the Map. See Note below.)** The property ODS shall provide permanent rights-of-way for and construct all on-site and off-site water, storm, and sanitary sewer facilities as designed and shown on the accepted improvement plans for the development. Any reimbursement for oversizing shall be determined in accordance with the Stockton Municipal Code and applicable law.
27. **(This condition is not applicable to Subdivider. See Note below.)** The ODS shall prepare a master plan for the non-potable irrigation system for the withdrawal and use of non-potable water from the project lake, Pixley Slough/Disappointment Slough, Bishop Cut, shallow wells, and/or other water sources. The system will consist of an intake structure, pump and mains, etc. that would distribute non-potable water to parks, open space, streetscape, landscaping within the project area. System operation will be coordinated by the City with financing provided by a maintenance district or other entity approved by the City. The master plan shall be subject to the approval of the Municipal Utilities Director. The ODS shall design and construct the approved system to the satisfaction of the Director of Public Works and the Director of Municipal Utilities. The non-potable irrigation system shall be constructed with each individual unit and the initial system shall be operational no more than one year after the recordation of the first small lot final map. Potable water shall only be used in the purple pipe system if it is demonstrated to the Director of Municipal Utilities that a non-potable water supply from the slough or other source cannot be reasonably brought into the purple pipe system.
28. **(This condition is not applicable to Subdivider except to the extent this condition directly involves the real property contained within the Map. See Note below.)** Provide appropriately sized utilities, including natural gas and three-phase electrical power (where necessary), to all City owned and maintained facilities.
29. **(This condition is not applicable to Subdivider except to the extent this condition directly involves the real property contained within the Map. See Note below.)** Construct masonry walls to enclose the perimeter of the Municipal Utilities Department's pump station facilities.

30. **(This condition is not applicable to Subdivider except to the extent this condition directly involves the real property contained within the Map. See Note below.)** Water valves, sanitary maintenance holes and storm drainage maintenance holes shall not be installed in traffic circles.
31. **(This condition is not applicable to Subdivider. See Note below.)** The ODS shall prepare an Update to the City of Stockton Water Master Plan, which shall include this project, and shall be subject to the review and approval by the Municipal Utilities Department Director. The ODS shall design and construct all on-site and off-site water facilities required by the water system analyses and by the Updated Water Master Plan, including but not limited to a 3.4-million gallon storage tank at the northwest reservoir site, in a manner as approved by the Director of Municipal Utilities.
32. **(This condition is not applicable to Subdivider. See Note below.)** The ODS shall conduct an engineering analysis, acceptable to the Director of Municipal Utilities, that demonstrates that the water system improvements to be constructed within the City of Stockton water service area are sufficient to meet the following conditions:

For ultimate buildout of the subdivision:

Using existing system pressures, but no more than 45 psi at all points of connection to the City water system, the internal water system improvements shall be sized to provide at least 40 psi pressure at any location during the period of peak hour demand (peak hour demands shall be calculated at 175% of maximum daily demands).

Using existing system pressures, but no more than 45 psi at all points of connection to the City water system, the internal water system improvements shall be sized to provide at least 20 psi pressure at any location during the period of maximum day demand (maximum day demands shall be calculated at 210% of the average day demands) combined with a fire flow of 2,000 gpm out of any fire hydrant in the residential subdivision.

Using existing system pressures, but no more than 45 psi at all points of connection to the City water system, the internal water system improvements shall be sized to provide at least 20 psi pressure at any location during the period of maximum day demand combined with a fire flow of 3,000 gpm out of any fire hydrant in the commercial area of the subdivision.

Using existing system pressures, but no more than 45 psi at all points of connection to the City water system, the internal water system improvements shall be sized to provide at least 20 psi pressure at any location during the period of maximum day demand combined with a fire flow of 4,000 gpm out of any fire hydrant at any school site.

During interim development:

Using existing system pressures, but no more than 45 psi at all points of connection to the City water system, the internal water system improvements shall be sized to provide at least 20 psi pressure at any location during the period of maximum day demand combined with a fire flow of 1,500 gpm out of any fire hydrant in the subdivision.

33. **(This condition is not applicable to Subdivider. See Note below.)** The lakes and storm water quality treatment systems shall be privately owned and maintained. Potable water shall not be used to fill the lakes.
34. **(This condition is not applicable to Subdivider. See Note below.)** The ODS shall dedicate 11.2 net acres of land for the future construction of a community park. The ODS shall stub all utilities into the site as well as provide 3-phase electrical service to the site. ODS shall install all street frontage improvements around the site, including, but not limited to vertical curb, gutter, sidewalk and ADA access ramps, all subject to approval by the Public Works Director. The ODS shall be responsible for the design and construction of the community park within 180 days of acceptance of the improvements for the first phase of development. Such construction shall begin prior to the issuance of the 1,322 building permit. Such community park improvements shall be completed and presented to the City for review and approval of the "beginning of turf establishment" period within 9-months of the start of construction. It is then expected the ODS will offer the park improvements for final review and acceptance by the City at the end of the turf-establishment period. A park reimbursement agreement shall be entered into between the City and the ODS to reimburse the ODS for the park master plan, construction documents, parkland, 50% of the street frontage improvements, park construction and all overhead and administration costs. Such reimbursement shall not exceed the total revenue collected by the City through Parkland Public Facility Fees paid for this overall Westlake Villages development. The ODS shall pay a parkland public facility fee according to the fee schedule adopted by City Council. All plans and improvements shall be subject to prior review and approval by the City Engineer, Community Development Director and Public Works Director. Park construction will be subject to regular inspection and approval by the Public Works Department. Final acceptance of the park improvements will be subject to approval by the Public Work Director.
35. Prior to issuance of building permits, the applicant shall pay modified parkland fees as adopted by City Council. Such fees are used for acquisition and development of parkland within the particular fee zone.
36. **(This condition is not applicable to Subdivider except to the extent this condition directly involves the real property contained within the Map. See Note below.)** The applicant shall be responsible for the development of all the parks, identified in the project master plan, to the satisfaction of the City Parks and Recreation Director or designated representative. Such parks shall be maintained

by a mandatory home owners' association (HOA), with the exception of the large Community Park.

37. Prior to recordation of any Final Map, the ODS shall form a new zone of the Stockton Consolidated Landscape and Lighting Maintenance District 96-2, and approve an assessment providing for the subdivision's proportionate share of the costs to maintain any public parks within the service area for this subdivision or serving this subdivision (except the Village Parks). ODS may request to annex to an existing zone of the Stockton Consolidated Landscape and Lighting Maintenance District 96-2 provided the subdivision is within the service area of a park for which a zone of the Stockton Consolidated Landscape and Lighting Maintenance District 96-2 has already been formed.
38. Prior to the sale of any small lot from TM18-04 A and the recordation of the final map containing the 323rd residential lot, the ODS shall establish an entity approved by the City to provide funding for the maintenance of, and, if necessary, replacement at the end of the useful life of, improvements including but not limited to common area landscaping, publicly accessible Village Parks, bicycle/pedestrian trail along Pixley Slough/Disappointment Slough and access lots, landscaping in the right-of-way, soundwalls and/or back-up walls, and all "Improvements" serving or for the special benefit of this subdivision. If the ODS elects to provide maintenance for some portion of the improvements through a maintenance assessment district, the ODS shall, prior to the sale of any small lot from TM18-04 A and the recordation of the final map containing the 323rd residential lot, form a new zone of the Stockton Consolidated Landscape and Lighting Maintenance District 96-2 that includes the entire subdivision.

The entire subdivision may be considered for annexation to an existing zone of the Stockton Consolidated Landscape and Lighting Maintenance District 96-2, provided the type, intensity and amount of the Improvements to be maintained are similar to improvements in the zone to which annexation is proposed. Formation/annexation shall result in an assessment being approved that shall be levied on all properties in the subdivision to ensure that all property owners pay their proportionate share of the costs of maintaining, in perpetuity, the improvements serving or for the special benefit of this subdivision. Village Parks shall not be maintained by the City Consolidated Landscape and Lighting Maintenance District unless accessible to the general public.

Any improvements that will be maintained through the City's Consolidated Maintenance District shall be subject to prior review and approval by the Public Works Director. This includes, but not limited to masters plans and construction plans. During construction, all improvements shall be subject to regular inspection and final acceptance by the Public Works Director.

39. **(This condition is not applicable to Subdivider except to the extent this condition directly involves the real property contained within the Map. See Note below.)** All walls shall be located on private property and a separate

maintenance easement shall be recorded for such walls. Such easement shall be sufficient to allow for regular maintenance (i.e., graffiti removal) and shall include the width of the support footing as it extends from both sides of the wall.

40. **(This condition is not applicable to Subdivider. See Note below.)** ODS shall prepare an Update to the City of Stockton Sanitary Sewer Master Plan, which shall include this project, and shall be subject to review and approval by the Municipal Utilities Department Director. Prior to approval of improvement plans for any subdivision unit and/or approval of any final map, ODS shall contribute a fairshare contribution to upgrade 14-Mile Slough sanitary sewer pump station and associated improvements and pay all applicable connection fees as determined by a financial analysis.
41. Prior to the sale of any small lot from TM18-04 A and the recordation of the final map containing the 323rd residential lot, the ODS shall establish a "Maintenance Entity" approved by the City to provide funding for the operation, maintenance, repair, and replacement of project's private drainage improvements, including but not limited to lakes, bulkheads, storm water quality control systems, dewatering systems, terminal discharge facilities, and any and all permits that are or might be required. Prior to the sale of any small lot from TM18-04 A and the recordation of the final map containing the 323rd residential lot, the ODS shall form a Maintenance District, acceptable to the City of Stockton, including all necessary assessments to fund the operation, maintenance, repair, and replacement of the project's private drainage improvements, including but not limited to lakes, bulkheads, storm water quality control systems, dewatering systems, terminal discharge facilities, and any and all permits that are or might be required. District will not collect assessments unless "Maintenance Entity" dissolves and/or neglects to operate in a manner acceptable to the City of Stockton.
42. **(This condition is not applicable to Subdivider except to the extent this condition directly involves the real property contained within the Map. See Note below.)** The property ODS shall comply with City's Storm Water Quality Control Criteria Plan approved and adopted by City Council on November 25, 2003. The proposed project comes under requirements of this Plan.
43. The use of cast-in-place pipe is prohibited.
44. **(This condition is not applicable to Subdivider except to the extent this condition directly involves the real property contained within the Map. See Note below.)** The ODS shall maintain drainage patterns and facilities that serve adjoining properties. New and relocated facilities shall be appropriately sized and approved by the Municipal Utilities Department.
45. The following fire safety requirements shall be fulfilled:

- a. The ODS shall dedicate a net 2.0 acre or larger fire station site as delineated on the tentative maps to the City of Stockton or in an acceptable location satisfactory to the Fire Chief.
 - b. Reimbursement for the fire station site shall be at the rate established for land cost by the Public Facilities Fee Program, based on net acreage.
 - c. The ODS shall be responsible for the construction of all frontage improvements for the fire station site and shall be reimbursed for said frontage improvements pursuant to the Public Facilities Fee Administrative Guidelines. The ODS shall provide water and sewer utility stubs for the fire station in Village D.
46. **(This condition is not applicable to Subdivider. See Note below.)** These tentative maps (TM18-04 A and B) shall not be effective until the execution of the Annexation Memorandum of Understanding (MOU) by the applicant and the City, the effective date of the General Plan amendment (GPA3-04), rezoning (Z-4-04) Specific Plan amendment (SPA3-04) and Development Agreement (DA1-04) for this site, and the recordation of the annexation (A-04-03) of this site to the City of Stockton. If annexation is not completed within two (2) years of the approval of the tentative map by the Planning Commission, this map shall be null and void.
47. The ODS shall be responsible for the establishment of Covenants, Conditions and Restrictions (CC&Rs) for the maintenance of landscaping, structures and fences on the private properties and review of architectural design for residential structures within the subdivision area. The CC&Rs shall be subject to review and approval by the City Attorney and the Community Development Director prior to the issuance of the first residential building permit. The ODS shall be responsible for recordation of the CC&Rs and payment of recording expenses. The City shall be declared to be a third-party beneficiary of the CC&Rs and shall be entitled, without obligation, to take appropriate legal action to enforce the CC&Rs.
48. Prior to the sale of any small lot from TM18-04A and the recordation of the final map containing the 323rd residential lot, the ODS shall establish a maintenance entity to provide funding for the maintenance of the private street system, the emergency vehicle access (EVA), bicycle/pedestrian paths, the permanent dewatering system, any on-site storm drainage system, the lake system, levee access areas, other common areas, and related outfall to receiving waters, private (pocket) parks/open space. If the ODS elects to provide maintenance for some portion of the improvements through a maintenance assessment district, the ODS shall, prior to the sale of any small lot from TM18-04 A and the recordation of the final map containing the 323rd residential lot, from said district.
49. **(This condition is not applicable to Subdivider except to the extent this condition directly involves the real property contained within the Map. See Note below.)** All development plans for the property adjoining the Manlio Silva Elementary School shall include all requirements related to the completion of the

site work relative to the school, as agreed upon by Lodi Unified School District (per September 16, 2004 memorandum from Lodi Unified School District).

50. The ODS shall participate in an equitable program for the payment of agricultural land conversion mitigation fees if such a fee is adopted by the City of Stockton.
51. The ODS shall participate in an equitable program for the payment of a County Public Facilities Fee when such fee is adopted by the City of Stockton.
52. The ODS shall verify through the Municipal Utilities Department that a sufficient water supply shall be available for this project as required by Government Code Section 66473.7(b)(1).

NOTE: The Subdivision Agreement to which this Exhibit D is attached is for the small lot Final Map. For consistency, the conditions in this Exhibit D are identical to those conditions pertaining to Large Lot Map No. 3357 (TM18-04B conditions), even though not all TM18-04B conditions apply to the Subdivision Agreement for the small lot Final Map to which this Exhibit D is attached. Accordingly, when a condition listed above includes, "This condition is not applicable to Subdivider," when the Subdivider (under the Subdivision Agreement for the small lot Final Map to which this Exhibit D is attached) shall not be obligated to satisfy such condition. The Large Lot Map No. 3357 and conditions thereunder remain unchanged by this Exhibit D.