

AGENDA ADDENDUM

REGULAR MEETINGS OF THE ROCKLIN CITY COUNCIL



June 13, 2017

TIME: 6:00 PM

PLACE: COUNCIL CHAMBERS, 3970 ROCKLIN ROAD

www.rocklin.ca.us

MEETING ITEMS

Consent Calendar

Item 25.5.

Subdivision Landscape Agreement, Infrastructure Warranty Agreement and Notice of Completion- West Oaks Blvd.

- A. Resolution of the City Council of the City of Rocklin Approving and Authorizing Execution of a Subdivision Landscaping Agreement for "West Oaks Blvd (South)" (Whitney Ranch Large Lot Subdivision) SD-2006-07A
- B. Resolution of the City Council of the City of Rocklin Authorizing Execution of an Infrastructure Warranty Agreement for "West Oaks Blvd (South)" (Whitney Ranch Large Lot Subdivision)
- C. Resolution of the City Council of the City of Rocklin Accepting the Public Work Known as West Oaks Boulevard (South) Approving the Notice of Completion Thereof, and Authorizing and Directing the Execution and Recordation of Said Notice on Behalf of the City (Sunset Ranchos Investors, LLC)
- D. Resolution of the City Council of the City of Rocklin Accepting the Dedication in Fee for West Oaks Boulevard (South) (Sunset Ranchos Investors, LLC, SD-2006-07A)

Any writing related to an agenda item for the open session of this meeting, distributed to the City Council, less than 72 hours before this meeting, is available for inspection at City Hall, 3970 Rocklin Road, Rocklin, during normal business hours. These writings will also be available for review at the council meeting in the public access binder located on the table in the back of the Council Chambers. If you have questions related to this agenda, please call 916-625-5588.



City Council Report

Subject: Subdivision Landscape Agreement, Infrastructure Warranty Agreement and Notice of Completion- West Oaks Blvd

Submitted by: Marc Mondell, Director
Dave Palmer, City Engineer-Presenter

Date: June 13, 2017

Department: Economic & Community Development

- **Staff Recommendation:** It is recommended that the City Council of the City Of Rocklin approve the attached resolutions authorizing the City Manager to execute a Subdivision Landscape Agreement, an Infrastructure Warranty Agreement and accepting the Public Works known as West Oaks Blvd (South) Approving a Notice of Completion Thereof, accepting the Roadway Dedication and Authorizing and Directing the Execution and Recordation of Said Notice and Dedication on behalf of the City (Sunset Ranchos Investors, LLC)
-

BACKGROUND: The major roadways within Whitney Ranch, including West Oaks Boulevard, were irrevocably offered for dedication in fee to the Public with the Whitney Ranch Large Lot Subdivision map recorded in Book Z of Maps Page 94. At the time of the map recordation, these dedications were rejected until such time when the roadway improvements were completed.

A section of West Oaks Blvd from its previous terminus at the border of Stanford Ranch to Painted Pony Lane (West Oaks Blvd South) has now been completed and the City can now accept the improvements and acquire the right of way. The landscaping along this section of roadway has not yet been completed and therefore, prior to the roadway acceptance, the developer has provided the attached Subdivision Landscape Agreement to guarantee those landscape improvements. Also, in order to provide the required warranty for the City to maintain these improvements, the attached Infrastructure Warranty Agreement is required.

FINDINGS, CONCLUSIONS & RECOMMENDATIONS:

Findings:

- Sunset Ranchos Investors, LLC, the developer of Whitney Ranch, has completed construction of West Oaks Blvd (South). The City can now accept the improvements and the dedication in fee for the road right of way.

- The attached Subdivision Landscape Agreement and Infrastructure Warranty Agreement will guarantee the landscaping installation and provide the required warranty for the roadway improvements.

Conclusions:

- In order for the City to accept this section of West Oaks Blvd, a Subdivision Landscape Agreement is required to guarantee those landscape improvements not yet constructed and an Infrastructure Warranty Agreement is required to warranty those improvements that have been constructed and will be maintained by the City.

Recommendations:

- It is recommended that the City Council of the City Of Rocklin approve and authorize the City Manager to execute a Subdivision Landscape Agreement and Infrastructure Warranty Agreement with Sunset Ranchos Investors, LLC, with the approval and authorization of recording the Notice of Completion and acceptance of the Dedication of West Oaks Blvd (South).

Fiscal Impact: The City will assume maintenance of those items covered by the Infrastructure Warranty Agreement and future maintenance of the Landscape improvements included in the Subdivision Landscape Agreement.



Ricky A. Horst, City Manager
Reviewed for Content



Steven Rudolph, City Attorney
Reviewed for legal Sufficiency

Attachments:

-

RESOLUTION NO. 2017-

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ROCKLIN
APPROVING AND AUTHORIZING EXECUTION
OF A SUBDIVISION LANDSCAPING AGREEMENT
For "West Oaks Blvd (South)"
(Whitney Ranch Large Lot Subdivision)
SD-2006-07A

The City Council of the City of Rocklin does resolve as follows:

Section 1. The City Council of the City of Rocklin hereby finds as follows:

- A. Sunset Ranchos Investors, LLC has received approval from City, and has recorded, the large lot subdivision map titled "Whitney Ranch Large Lot Subdivision", recorded in Placer County Book of Maps Book Z, Page 94, upon which principal offered for dedication to the City several rights-of-way, including West Oaks Boulevard.
- B. That certain subdivision landscaping improvements which were made conditions of the tentative subdivision map have not been completed and accepted, and Sunset Ranchos Investors, LLC has executed and provided security for a subdivision landscaping agreement obligating Sunset Ranchos Investors, LLC to complete the landscaping improvements within a specified period of time. Sunset Ranchos Investors, LLC requests the City Council to accept the subdivision landscaping agreement in satisfaction of the tentative map condition.
- C. Sunset Ranchos Investors, LLC is willing to execute this Agreement as a condition of the City issuing a Notice of Completion for the Landscape improvements for the portion of West Oaks Boulevard known as "West Oaks Blvd (South)".

Section 2. The subdivision landscaping agreement attached hereto as Exhibit A and by this reference incorporated herein is hereby approved and accepted, and the City Manager is authorized and directed to execute the agreement on behalf of the City.

Section 3. The City Clerk is directed to record the subdivision landscaping agreement referred to in this Resolution, in the office of the Placer County Recorder when fully executed and notarized.

PASSED AND ADOPTED this 13th day of June, 2017, by the following roll call vote:

AYES: Councilmembers:
NOES: Councilmembers:

ABSENT: Councilmembers:
ABSTAIN: Councilmembers:

Scott Yuill, Mayor

ATTEST:

City Clerk

d:/legal/engineering/subdivision improvement/subdivis landscape agr 09/07/04

Recording Requested by
and Return to:

City Clerk
City of Rocklin
3970 Rocklin Road
Rocklin, CA 95677

Subdivision Name: Whitney Ranch
Landscape Improvements: West Oaks Blvd (South)
Project No.: SD-2006-07A
Principal: Sunset Ranchos Investors, LLC
Effective Date: May 23, 2017

SUBDIVISION LANDSCAPING AGREEMENT

This Subdivision Landscaping Agreement is entered into by and between the City of Rocklin, hereinafter called "City," and Sunset Ranchos Investors, LLC hereinafter called "Principal," on the 23rd day of May, 2017.

RECITALS

1. Principal has received approval from City, and has recorded, the large lot subdivision map titled "Whitney Ranch Large Lot Subdivision", recorded in Placer County Book of Maps Book Z, Page 94, upon which principal offered for dedication to the City several rights-of-way, including West Oaks Boulevard.
2. Principal has not completed construction of the Landscape improvements for the portion of West Oaks Boulevard known as "West Oaks Blvd (South)" as required by Chapter 16.28 of the City of Rocklin Municipal Code.
3. Principal is willing to execute this Agreement as a condition of the City issuing a Notice of Completion for improvements for the portion of West Oaks Boulevard known as "West Oaks Blvd (South)".
4. The authority for this Agreement is set forth in the Subdivision Map Act ("the Map Act") (Government Code section 66410 et seq.) and Title 16 of the Rocklin Municipal Code ("Title 16").

AGREEMENT

5. **Improvements.** Principal agrees to complete all the works of landscaping improvement ("the improvements") required for the subdivision as shown on the final landscaping plans for West Oaks Blvd (South) submitted to and approved by the City Engineer and on file in the office of the City Engineer, in accordance with the requirements of the Map Act, Title 16, and the Standard Specifications of City in effect at the time of the installation of the improvements. Such work will be completed within (12) twelve months of the date of this Agreement.

6. **Acceptance of Improvements upon Completion.** Upon satisfactory completion of the improvements in accordance with the approved landscaping plans, the Standard Specifications and the conditions of approval of the tentative subdivision map, City agrees to accept for maintenance the improvements and any off-site easements accepted by City, subject to the provisions of Paragraph 8 hereof.

7. **Notice Regarding Construction.** Principal shall notify the City Engineer 48 hours prior to commencement of construction of the improvements.

8. **Warranty.** Principal agrees to remedy any defects in the improvements arising from faulty or defective design or construction of said improvements occurring within twelve (12) months after acceptance thereof has been given in writing by the City Council.

9. **Indemnity and Hold Harmless.** Principal agrees to and shall defend, indemnify and hold harmless City, its officers, employees, agents and volunteers from and against all claims, damages, losses and expenses, including attorneys fees and litigation costs and expenses, arising out of the performance of the work on the improvements described herein, caused in whole or in part by any negligent act or omission of Principal, any subcontractor of Principal, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, except where caused by the active negligence, sole negligence or willful misconduct of City; provided that, any claims relating to defects in the improvements shall be limited to the time periods for the warranties in Section 8 hereof. Lack of insurance coverage does not negate Principal's obligation under this paragraph or this Agreement.

10. **Delay.** If the construction of the improvements shall be delayed without fault of Principal, the time for completion thereof shall be extended by City for such period of time as City may deem reasonable.

11. **Security.** Principal shall furnish to City security to ensure the faithful performance of all duties and obligations of Principal herein contained. Such improvement security shall be in a form acceptable to the City Attorney. Such security

shall be either a corporate surety bond, a letter of credit or other instrument of credit issued by a banking institution subject to regulation by the State or Federal government and pledging that the funds necessary to carry out this Agreement are on deposit and guaranteed for payment, or a cash deposit made either directly with the City or deposited with a recognized escrow agent for the benefit of the City. Such security shall be in the following amounts for the following purposes:

(a) **Performance:** The amount of TWO HUNDRED FIFTY SIX THOUSAND THREE HUNDRED THIRTY NINE DOLLARS (\$256,339.00), which is equal to 100% of the estimated cost of the improvements, securing performance of this Agreement.

(b) **Payment of Labor and Materials:** The amount of TWO HUNDRED FIFTY SIX THOUSAND THREE HUNDRED THIRTY NINE DOLLARS (\$256,339.00), which is equal to 100% of the estimated cost of the improvements, securing payment to the contractor of improvements, to his subcontractors, and to persons furnishing labor, materials, or equipment to them.

(c) **Warranty:** The amount of FIFTY ONE THOUSAND TWO HUNDRED SIXTY EIGHT DOLLARS (\$51,268.00), which is equal to 20% of the estimated cost of the improvements, to guarantee and warrant the improvements, for the period set forth in Section 8 following the completion and acceptance of the improvements against any defects in the improvement design, the work, or the labor done, or defects in materials furnished. And to guarantee the maintenance of the improvements for a period of twelve (12) months following the completion and acceptance of the improvements. This security need not be furnished prior to completion of the improvements, but must be provided prior to their acceptance.

12. **Irrevocability of Security.** The improvement security furnished pursuant to Paragraph 11 shall be irrevocable, shall not be limited as to time (except as to the warranty and maintenance periods specified in Paragraph 8 and 11), and shall provide that it shall be released, in whole or in part, only upon the written approval of the City Engineer or his delegate.

13. **Actions.** At City's option, any action by any party to this Agreement, or any action concerning the security furnished pursuant to Paragraph 11, shall be brought in the appropriate court of competent jurisdiction within the County of Placer, notwithstanding any other provision of law which may provide that such action may be brought in some other location.

14. **Inspection; Release of Security For Faithful Performance.** Principal may, from time to time, request the City Engineer to inspect the improvements as they progress. The City Engineer may, at his option, if he finds the work to be in accordance

with the Standard Specifications, accept so much of that work as is completed, and authorize a release pro tanto of the security provided pursuant to Paragraph 11(a); provided, however, that in no event shall he authorize the release of more than eighty (80%) of the improvement security until all the work has been completed and accepted.

15. **Release of Remaining Security For Faithful Performance: Warranty.** At the conclusion of the construction of the improvements, and upon written acceptance of them by the City Council and approval of a Notice of Completion, the City Engineer shall authorize the release of the security provided pursuant to Paragraph 11(a) upon the furnishing of the warranty security as required by Paragraph 11(c).

16. **Release of Security Where Other Agency Approval Required.** Notwithstanding paragraphs 14 and 15, where any portion of the improvements is subject to approval by another agency, no release of security equal to the value of those improvements shall be made until the work is completed to the satisfaction of such other agency. Such other agency shall have two (2) months after completion of the performance of the obligation in which to register satisfaction or dissatisfaction. If at the end of that period it has not registered satisfaction or dissatisfaction, it shall be conclusively deemed that the performance of the obligation was done to its satisfaction.

17. **Release of Labor and Materials Security.** Ninety (90) days after a notice of completion is filed with respect to the improvements, the City Engineer may authorize the release of the security given to secure payment for labor and materials as provided in Paragraph 11(b) of this agreement, in the event that no claims have been filed against said security. In the event that claims or actions are filed against the security, the City Engineer may release so much of such security as is in excess of the total of the claims made against it.

18. **Insurance.**

A. Principal shall procure and maintain until the City has accepted the improvements in accordance with Section 6 insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of work under this Agreement and the results of that work by Principal, its agents, representatives, employees, or subcontractors. Coverage shall be at least as broad as, and shall maintain limits no less than, the following:

1. **General Liability.** Principal shall maintain in full force and effect a policy of commercial general liability insurance (ISO occurrence form CG0001) with limits no less than the following: one million dollars (\$1,000,000) per occurrence for bodily injury, personal injury, and property damage. If a general aggregate limit is used, either the general aggregate limit shall apply separately to this agreement, or the

general aggregate limit shall be twice the required occurrence limit. (The occurrence form of policy is required whenever it is available.)

2. Worker's Compensation and Employer's Liability Insurance. Principal shall fully comply with the law of California concerning worker's compensation. Said compliance shall include, but not be limited to, maintaining in full force and effect one or more policies of insurance insuring against any liability Principal may have for worker's compensation. Principal shall also maintain in full force and effect a policy of employer's liability insurance with limits no less than the following: one million dollars (\$1,000,000) each accident; one million dollars (\$1,000,000) policy limit bodily injury by disease; one million dollars (\$1,000,000) each employee bodily injury by disease.

3. Automobile. Principal shall maintain in full force and effect a policy of commercial automobile liability insurance (ISO Form CA0001 Code 1 (any auto) or Code 8, 9 if no automobiles owned), with limits no less than the following: one million dollars (\$1,000,000) per accident for bodily injury and property damage.

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

1. The City, its officers, employees and volunteers shall be added as insureds with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of Principal, and with respect to liability arising out of construction and installation of the improvements by or on behalf of the Principal including materials, parts or equipment furnished in connection with such work or operations. Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under subdivision (b) of section 2782 of the Civil Code.

2. For any claims related to work or operations performed by or on behalf of Principal, the Principal's insurance coverage shall be primary insurance as respects the City, its officers, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officers, employees, or volunteers shall be excess of the Principal's insurance and shall not contribute with it.

3. The insurance coverage shall not be assigned, reduced, amended, cancelled, terminated, or not renewed by either party except after thirty (30) days written notice by certified mail, return receipt requested, to City.

C. The insurance company or companies providing Principal the coverages required by this Agreement shall be admitted in the State of California and have a current A.M. Best's rating of no less than A:VIII or equivalent acceptable to City.

D. Any deductibles or self-insured retentions must be declared to and approved by the City. At the option of City, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, employees and volunteers; or the Principal shall procure a financial guarantee satisfactory to City guaranteeing payment of losses and related investigations, claim administration and defense expenses.

E. The insurance shall be maintained from the time the work first commences until completion of the work under this Agreement if an occurrence policy form is used. If a claims made policy form is used, the following requirements apply:

1. The "Retro Date" must be shown, and must be before the 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 the contract of work.

3. If coverage is cancelled or non-renewed, and not replaced with another claims made policy form with a "Retro Date" prior to the contract effective date, the Principal must purchase "extended reporting" 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 for review.

F. If Principal, for any reason, fails to maintain insurance coverage which is required under this Agreement, the failure shall be deemed a material breach of contract. City, at its sole option, may terminate this Agreement and obtain damages from Principal resulting from the breach. Alternatively, City may purchase the required insurance coverage, and without further notice to Principal, City may deduct from the sums due to Principal any premium costs advanced by City for the insurance.

G. Principal shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

H. Principal shall furnish City with original certificates and amendatory endorsements effecting coverage required by this Agreement. The

certificates and endorsements should be on forms provided by the City, or on other than the City's forms, provided those endorsements or certifications conform to the requirements. 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, including endorsements effecting the coverage required by this Agreement at any time.

Principal shall replace certificates of insurance for policies expiring prior to completion of the work under the Agreement, and shall continue to furnish certificates for five years beyond the Agreement terminate date, when the Principal has a claims made form of insurance.

I. The worker's compensation and employee's liability insurance are to contain, or be endorsed to contain, the following provisions:

1. The insurance company waives any right of subrogation against the City, its officers, employees, and volunteers, which might arise by reason of any payment by the insurance company in connection with work performed by Principal under this Agreement.

2. The insurance coverage shall not be assigned, reduced, amended, cancelled, terminated, or not renewed by either party except after thirty (30) days written notice by certified mail, return receipt requested, to City.

19. **Failure of Performance.** In the event Principal fails to perform one or more of the conditions herein, City shall have recourse to the security given to guarantee the performance of such acts. City shall have recourse against so much of the security as is necessary to discharge the responsibility of Principal hereunder. City shall have recourse against Principal for any and all amounts necessary to complete the obligations of Principal in the event the security therefore is insufficient to pay such amounts. All administrative costs incurred by the City, in addition to the costs of the improvements, shall be a proper charge against the security and/or Principal.

20. **Attorney's Fees.** If the services of any attorney are required by any party to secure the performance of this Agreement or otherwise upon the breach or default of another party, or if any judicial remedy or arbitration is necessary to enforce or interpret any provisions of this Agreement or the rights and duties of any person in relation to this Agreement, the prevailing party shall be entitled to reasonable attorney's fees, costs and other expenses, in addition to any other relief to which such party may be entitled. Prevailing party includes (a) a party who dismisses an action in exchange for sums allegedly due; (b) the party that receives performance from the other party of an alleged breach of covenant or a desired remedy, if it is substantially equal to

the relief sought in an action; or (c) the party determined to be prevailing by a court of law.

Whenever provision is made in this Agreement for the payment of attorney's fees, such fees shall be payable whether the legal services are rendered by a salaried employee for the party or by independent counsel and shall include such fees as are incurred in connection with any pretrial proceeding, trial or appeal of the action.

Any award of damages following judicial remedy or arbitration as a result of the breach of this Agreement or any of its provisions shall include an award of prejudgment interest from the date of the breach at the maximum amount of interest allowed by law.

21. **Agreement Binding on Successors, Etc.** This Agreement shall be binding upon all the heirs, successors, and assigns of either party, and the same shall be recorded in the office of the Recorder of Placer County upon its execution, and shall be a covenant running with the land and equitable servitude upon the parcel or parcels of real property subdivided by the map.

22. **Subdivision Map Act Controlling.** To the extent any provision of this Agreement conflicts with any provision of the Map Act, the applicable provision of such Act shall control, and no action taken pursuant to this Agreement which conflicts with any provision of the Map Act shall relieve the person taking such action from compliance with the provisions of the Map Act.

23. **Waiver.** Failure by a party to insist upon the strict performance of any of the provisions of this Agreement by the other party, or the failure by a party to exercise its rights upon the default of the other party shall not constitute a waiver of such party's right to insist and demand strict compliance by the other party with the terms of this Agreement thereafter.

WHEREFORE, the parties hereto have executed this Agreement on the day and in the year first above written.

CITY OF ROCKLIN

By: _____
Ricky A. Horst, City Manager

PRINCIPAL

(See next page for signatures)

By: _____

APPROVED AS TO FORM:

Steven P. Rudolph
City Attorney

ATTEST:

City Clerk

PRINCIPAL

SUNSET RANCHOS INVESTORS, LLC,
a Delaware limited liability company

By: Whitney Ranch Venture, LLC,
a Delaware limited liability company
Its sole Member

By: Institutional Housing Partners III L.P.,
a California limited partnership
Its Manager

By: IHP Capital Partners,
a California corporation
Its General Partner

By: _____
Its: _____

By: _____
Its: _____

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 this _____ day of _____, 20____, before me
_____, notary public,

(Notary Name and Title)

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.

My Commission Expires: _____

Notary Public in and for said county and state

(SEAL)

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 this _____ day of _____, 20____, before me
_____, notary public,
(Notary Name and Title)

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.

My Commission Expires: _____

Notary Public in and for said county and state

(SEAL)

EXHIBIT A

FINAL MAP

EXHIBIT B
WHITNEY RANCH LARGE LOT SUBDIVISION
WEST OAKS BOULEVARD (SOUTH)

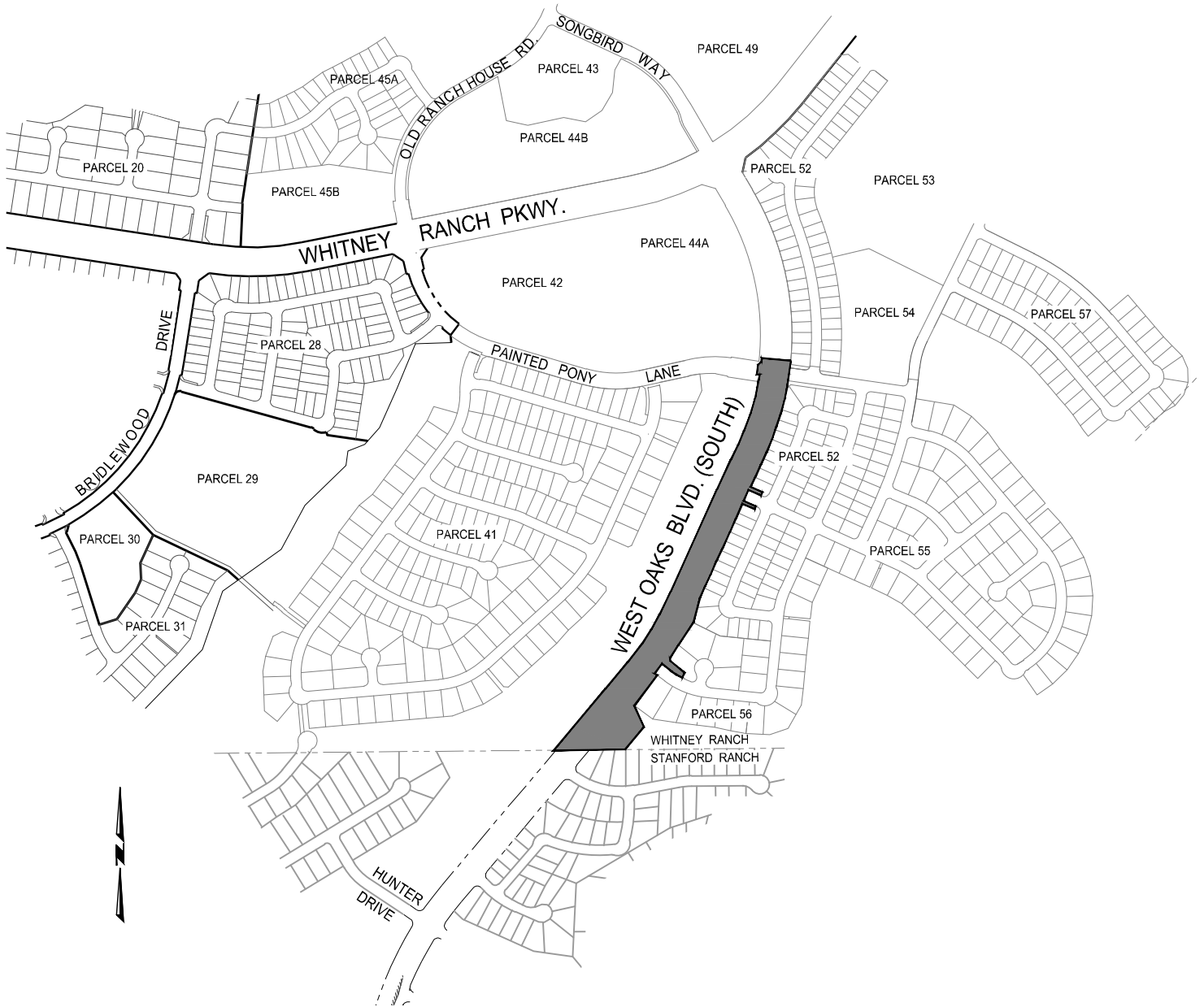


EXHIBIT B TO
SUBDIVISION LANDSCAPE AGREEMENT
RESOLUTION No. 2017-_____.

RESOLUTION NO. 2017 -

RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF ROCKLIN AUTHORIZING EXECUTION
OF AN INFRASTRUCTURE WARRANTY AGREEMENT
For "West Oaks Blvd (South)"
(Whitney Ranch Large Lot Subdivision)

The City Council of the City of Rocklin does resolve as follows:

Section 1. The City Council of the City of Rocklin hereby finds as follows:

- A. Sunset Ranchos Investors, LLC has received approval from City, and has recorded, the large lot subdivision map titled "Whitney Ranch Large Lot Subdivision", recorded in Placer County Book of Maps Book Z, Page 94, upon which Sunset Ranchos Investors, LLC offered for dedication to the City several rights-of-way, including West Oaks Boulevard.
- B. Sunset Ranchos Investors, LLC completed construction of infrastructure improvements for the portion of West Oaks Boulevard known as "West Oaks Blvd (South)" as required by Chapter 16.28 of the City of Rocklin Municipal Code.
- C. Sunset Ranchos Investors, LLC is willing to execute this Agreement as a condition of the City issuing a Notice of Completion for improvements for the portion of West Oaks Boulevard known as "West Oaks Blvd (South)".

Section 2. The infrastructure warranty agreement attached hereto as Exhibit A and by this reference incorporated herein is approved and the City Manager is authorized and directed to execute the agreement on behalf of the City.

Section 3. The City Clerk is hereby authorized and directed to record the infrastructure warranty agreement referred to in this Resolution, in the Office of the Placer County Recorder when fully executed and notarized.

PASSED AND ADOPTED this 13th day of June, 2017, by the following roll call vote:

AYES: Councilmembers:
NOES: Councilmembers:
ABSENT: Councilmembers:
ABSTAIN: Councilmembers:

Scott Yuill, Mayor

ATTEST:

City Clerk

Recording Requested by
and Return to:

City Clerk
City of Rocklin
3970 Rocklin Road
Rocklin, CA 95677

Subdivision Name: Whitney Ranch
Infrastructure Improvements: West Oaks Blvd (South)
Project No.: SD-2006-07A
Principal: Sunset Ranchos Investors, LLC
Effective Date: May 23, 2017

INFRASTRUCTURE WARRANTY AGREEMENT

This Infrastructure Warranty Agreement is entered into by and between the City of Rocklin, hereinafter called "City," and Sunset Ranchos Investors, LLC, hereinafter called "Principal," on the 23rd day of May, 2017.

RECITALS

1. Principal has received approval from City, and has recorded, the large lot subdivision map titled "Whitney Ranch Large Lot Subdivision", recorded in Placer County Book of Maps Book Z, Page 94, upon which Principal offered for dedication to the City several rights-of-way, including West Oaks Boulevard.
2. Principal completed construction of infrastructure improvements for the portion of West Oaks Boulevard known as "West Oaks Blvd (South)" as required by Chapter 16.28 of the City of Rocklin Municipal Code.
3. Principal is willing to execute this Agreement as a condition of the City issuing a Notice of Completion for improvements for the portion of West Oaks Boulevard known as "West Oaks Blvd (South)".

4. The authority for this Agreement is set forth in the Subdivision Map Act ("the Map Act") (Government Code section 66410 et seq.) and Title 16 of the Rocklin Municipal Code ("Title 16")

AGREEMENT

5. **Improvements.** Principal has completed construction of the infrastructure improvements for West Oaks Blvd (South) in compliance with the final improvement plans submitted to and approved by the City Engineer and on file in the office of the City Engineer, in accordance with the requirements of the Map Act, Title 16, and the Standard Specifications of City in effect at the time of the installation of the improvements. The limits of such infrastructure improvements are depicted on Exhibit B attached hereto.

6. **Acceptance of Improvements upon Completion.** The City has accepted or will accept the improvements and found them to be constructed in accordance with the approved improvement plans and the Standard Specifications and agrees to accept for maintenance the improvements and any off-site easements accepted by City, subject to the provisions of Paragraph 7 hereof.

7. **Warranty.** Principal agrees to remedy any defects in the improvements arising from faulty or defective design or construction of said improvements occurring within twelve (12) months after acceptance thereof has been given in writing by the City Council.

8. **Indemnity and Hold Harmless.** Principal agrees to and shall defend, indemnify and hold harmless City, its officers, employees, agents and volunteers from and against all claims, damages, losses and expenses, including attorney's fees and litigation costs and expenses, arising out of the performance of Principal's work on the improvements described herein, caused in whole or in part by any negligent act or omission of Principal, any subcontractor of Principal, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, except where caused by the active negligence, sole negligence or willful misconduct of City; provided that, any claims relating to defects in the improvements shall be limited to the time periods for the warranties in Section 7 hereof. Lack of insurance coverage does not negate Principal's obligation under this paragraph or this Agreement.

9. **Security.**

- A. Principal shall furnish to City warranty security to ensure the faithful performance of all duties and obligations of Principal herein contained. Such security shall be in a form acceptable to the City Attorney. Such security shall be either a corporate surety bond, a letter of credit or other instrument of credit

issued by a banking institution subject to regulation by the State or Federal government and pledging that the funds necessary to carry out this Agreement are on deposit and guaranteed for payment, or a cash deposit made either directly with the City or deposited with a recognized escrow agent for the benefit of the City. This security must be provided upon execution of this Agreement.

- B. The infrastructure warranty security shall be in the following amount: THREE HUNDRED THIRTY SEVEN THOUSAND, SIX HUNDRED THIRTY SEVEN DOLLARS (\$337,637.00)

The above amount represents 20% of the cost of infrastructure improvements constructed for West Oaks Blvd (South) (other than landscaping) to guarantee and warrant the improvements for a period of one (1) year following the completion and acceptance of the improvements against any defects in the improvement design, the work, or the labor done, or defects in materials furnished.

10. **Irrevocability of Security.** The improvement security furnished pursuant to Paragraph 9 shall be irrevocable, shall not be limited as to time, and shall provide that it shall be released, in whole or in part, only upon the written approval of the City Engineer or his delegate.

11. **Actions.** At City's option, any action by any party to this Agreement, or any action concerning the security furnished pursuant to Paragraph 9, shall be brought in the appropriate court of competent jurisdiction within the County of Placer, notwithstanding any other provision of law which may provide that such action may be brought in some other location.

12. **Failure of Performance.** In the event Principal fails to perform one or more of the conditions herein within 30 days of written notice from the City of such failure, City shall have recourse to the security given to guarantee the performance of such acts. City shall have recourse against so much of the security as is necessary to discharge the responsibility of Principal hereunder. City shall have recourse against Principal for any and all amounts necessary to complete the obligations of Principal in the event the security therefore is insufficient to pay such amounts. All administrative costs incurred by the City, in addition to the costs of the improvements, shall be a proper charge against the security and/or Principal.

13. **Attorney's Fees.** If the services of any attorney are required by any party to secure the performance of this Agreement or otherwise upon the breach or default of another party, or if any judicial remedy or arbitration is necessary to enforce or interpret any provisions of this Agreement or the rights and duties of any person in

relation to this Agreement, the prevailing party shall be entitled to reasonable attorney's fees, costs and other expenses, in addition to any other relief to which such party may be entitled. Prevailing party includes (a) a party who dismisses an action in exchange for sums allegedly due; (b) the party that receives performance from the other party of an alleged breach of covenant or a desired remedy, if it is substantially equal to the relief sought in an action; or (c) the party determined to be prevailing by a court of law.

Whenever provision is made in this Agreement for the payment of attorney's fees, such fees shall be payable whether the legal services are rendered by a salaried employee for the party or by independent counsel and shall include such fees as are incurred in connection with any pretrial proceeding, trial or appeal of the action.

Any award of damages following judicial remedy or arbitration as a result of the breach of this Agreement or any of its provisions shall include an award of prejudgment interest from the date of the breach at the maximum amount of interest allowed by law.

14. **Agreement Binding on Successors, Etc.** This Agreement shall be binding upon all the heirs, successors, and assigns of either party, and the same shall be recorded in the office of the Recorder of Placer County upon its execution, and shall be a covenant running with the land and equitable servitude upon the parcel or parcels of real property subdivided by the map.

15. **Waiver.** Failure by a party to insist upon the strict performance of any of the provisions of this Agreement by the other party, or the failure by a party to exercise its rights upon the default of the other party shall not constitute a waiver of such party's right to insist and demand strict compliance by the other party with the terms of this Agreement thereafter.

WHEREFORE, the parties hereto have executed this Agreement on the day and in the year first above written.

CITY OF ROCKLIN

By: _____
Ricky A. Horst, City Manager

PRINCIPAL
SUNSET RANCHOS INVESTORS, LLC,
a Delaware limited liability company

By: Whitney Ranch Venture, LLC,
a Delaware limited liability company
Its sole Member

By: Institutional Housing Partners III L.P.,
a California limited partnership
Its Manager

By: IHP Capital Partners,
a California corporation
Its General Partner

By: _____
Its: _____

By: _____
Its: _____

APPROVED AS TO FORM:

Steven P. Rudolph, City Attorney

ATTEST:

City Clerk

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 Placer)

On this _____ day of _____, 20____, before me

(Notary Name and Title)

personally appeared _____

_____ personally known to me (or 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.

My Commission Expires: _____

Signature of Notary Public

(SEAL)

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 Placer)

On this _____ day of _____, 20____, before me

(Notary Name and Title)

personally appeared _____

personally known to me (or 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.

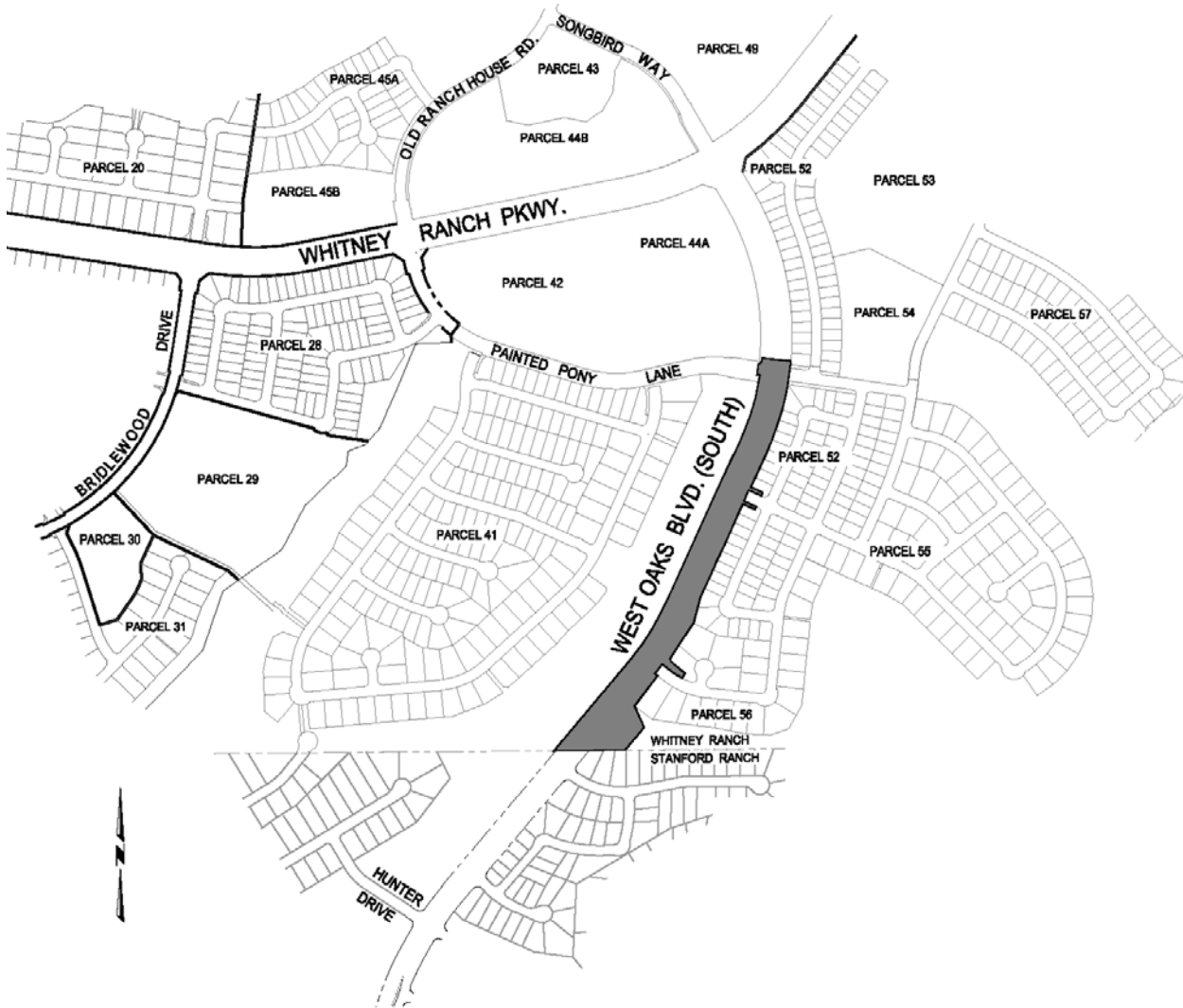
My Commission Expires: _____

Signature of Notary Public

(SEAL)

EXHIBIT B

WHITNEY RANCH LARGE LOT SUBDIVISION WEST OAKS BOULEVARD (SOUTH)



PAGE 10 OF EXHIBIT B TO
INFRASTRUCTURE WARRANTY AGREEMENT
RESOLUTION No. 2017-___

RESOLUTION NO. 2017-

RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF ROCKLIN ACCEPTING THE PUBLIC WORK KNOWN
AS WEST OAKS BOULEVARD (SOUTH)
APPROVING THE NOTICE OF COMPLETION THEREOF, AND AUTHORIZING AND
DIRECTING THE EXECUTION AND RECORDATION OF
SAID NOTICE ON BEHALF OF THE CITY
(SUNSET RANCHOS INVESTORS, LLC)

The City Council of the City of Rocklin does resolve as follows:

Section 1. The attached Notice of Completion relative to that public work known as West Oaks Blvd (South) is hereby approved and the public work accepted.

Section 2. The City Engineer is authorized and directed to execute said Notice on behalf of the City of Rocklin.

Section 3. The City Clerk is authorized and directed to record said Notice in the Office of the Placer County Recorder when fully executed and notarized and within ten (10) days of Council approval.

PASSED AND ADOPTED this 13th day of June, 2017, by the following roll call vote:

AYES: Councilmembers:

NOES: Councilmembers:

ABSENT: Councilmembers:

ABSTAIN: Councilmembers:

Mayor

ATTEST:

City Clerk

Recording Requested by and Return to:

No Fee Per Gov't Code §27383

City Clerk
City of Rocklin
3970 Rocklin Road
Rocklin, CA 95677

NOTICE OF COMPLETION

NOTICE IS HEREBY GIVEN that the public work known as West Oaks Blvd (South) is complete. The location of said project is indicated on the attached map, marked as Exhibit A. The Owner and Developer on said project was Sunset Ranchos Investors, LLC, a Delaware Limited Liability Company. The date of completion was May 1, 2017.

I, Dave Palmer, being first duly sworn, depose and say: I am the City Engineer of the City of Rocklin, a general law city in the State of California, owner of the property described in the above Notice. I am duly authorized to make this verification for and on behalf of the City of Rocklin. I have read the Notice of Completion, and know its contents and the facts stated therein are true.

City of Rocklin

ATTEST:

City Engineer - City of Rocklin – Owner of the Public
Work Improvements Within the Street Right-of-Way

Barbara Ivanusich, City Clerk

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: _____

Signature: _____

Rocklin, California

EXHIBIT A
WHITNEY RANCH LARGE LOT SUBDIVISION
WEST OAKS BOULEVARD (SOUTH)

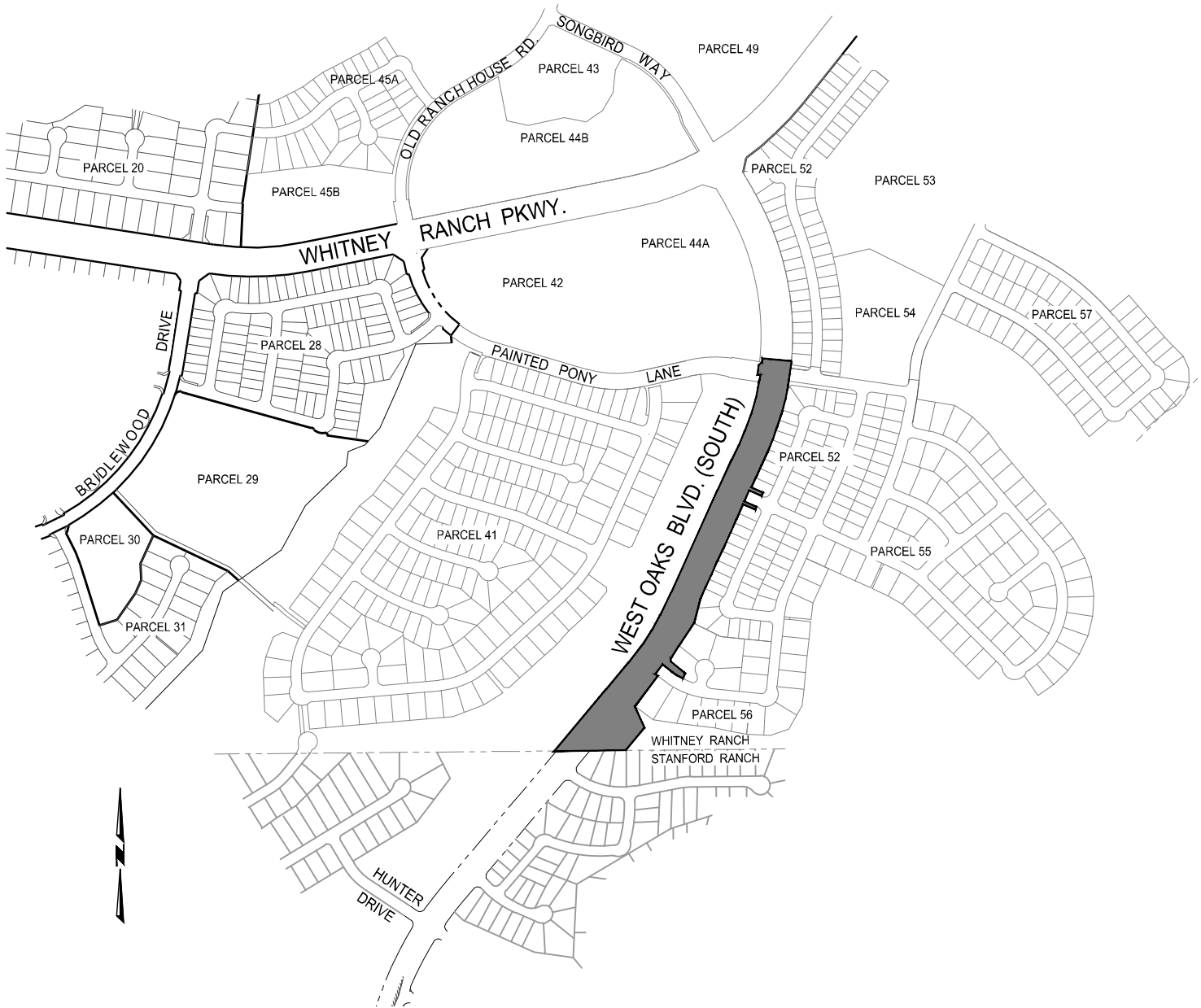


EXHIBIT A TO
NOTICE OF COMPLETION
RESOLUTION No. 2017-_____.

RESOLUTION NO. 2017

RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF ROCKLIN ACCEPTING
THE DEDICATION IN FEE FOR
WEST OAKS BOULEVARD (SOUTH)
(Sunset Ranchos Investors, LLC, SD-2006-07A)

The City Council of the City of Rocklin does resolve as follows:

WHEREAS, an irrevocable offer of dedication, in fee, for West Oaks Boulevard, was made by Sunset Ranchos Investors, LLC, A Delaware Limited Liability Company , for roadway purposes.

WHEREAS, the irrevocable offer of dedication was recorded in the office of the Placer County Recorder; and

WHEREAS, the subdivider has completed all necessary improvements related to West Oaks Boulevard (South), in full compliance with the approved improvement plans, a Notice of Completion was approved by the City Council for those improvements, and subdivider now desires City to acquire the completed improvements and the related dedication.

NOW, THEREFORE, be it resolved by the City Council of the City of Rocklin as follows:

Section 1. The City Council of the City of Rocklin accepts the dedication in fee, made with the irrevocable offer of dedication recorded in the Office of the Placer County Recorder for Roadway Purposes, West Oaks Boulevard (South), dedicated by Sunset Ranchos Investors, LLC, A Delaware Limited Liability Company, all set forth in Exhibit A, attached hereto and by this reference incorporated herein.

Section 2. The Mayor shall execute the Acceptance of Dedication in the form attached hereto as Exhibit A, and upon execution, the City Clerk is hereby directed to record or have recorded the Acceptance in the Office of the Placer County Recorder.

PASSED AND ADOPTED this 13th day of June, 2017, by the following vote:

AYES: Councilmembers:

NOES: Councilmembers:

ABSENT: Councilmembers:

ABSTAIN: Councilmembers:

Mayor

ATTEST:

Barbara Ivanusich, City Clerk

RECORDING requested by and)
when recorded, please return to:)
)
No Fee Per Gov't Code § 27383)
)
City Clerk)
City of Rocklin)
3970 Rocklin Road)
Rocklin, CA 95677)
)

No Documentary Transfer Tax
Per REV & Tax CODE 11922

Space above this line for Recorder's use

**ACCEPTANCE OF DEDICATION
IN FEE WEST OAKS BOULEVARD (SOUTH),
FOR ROADWAY PURPOSES
(WHITNEY RANCH LARGE LOT SUBDIVISION SD-2006-07A)**

WHEREAS, an irrevocable offer of dedication, in fee, for West Oaks Boulevard, was made by Sunset Ranchos Investors, LLC, A Delaware Limited Liability Company , for roadway purposes.

WHEREAS, the irrevocable offer of dedication was recorded in the office of the Placer County Recorder; and

WHEREAS, the subdivider has completed all necessary improvements related to West Oaks Boulevard (South), in full compliance with the approved improvement plans, a Notice of Completion was approved by the City Council for those improvements, and subdivider now desires City to acquire the completed improvements and the related dedication.

NOW THEREFORE, the City Council of the City of Rocklin, State of California, hereby accepts the dedication in fee, made with the irrevocable offer of dedication recorded in the in the Office of the Placer County Recorder for Roadway Purposes, West Oaks Boulevard (South), dedicated by Sunset Ranchos Investors, LLC, A Delaware Limited Liability Company, all set forth in Exhibit A, attached hereto and by this reference incorporated herein.

Dated:
Page 1 of Exhibit A
Reso. No. 2012

Mayor

