

ORIGINAL

AGREEMENT TO MAKE SUBDIVISION IMPROVEMENTS FOR CLASS 1 SUBDIVISION BETWEEN COUNTY AND OWNER

THIS AGREEMENT, made and entered into by and between the **COUNTY OF EL DORADO**, a political subdivision of the State of California, (hereinafter referred to as “County”), and **RUSSELL-PROMONTORY, LLC**, an Illinois limited liability company, duly qualified to conduct business in the State of California, whose principal place of business is 7919 Folsom Boulevard, Suite 300, Sacramento, California 95826-0552 (hereinafter referred to as “Owner”); concerning **PROMONTORY VILLAGE 7- UNIT 5, TM 16-1530** (hereinafter referred to as “Subdivision”); the Final Map of which was filed with the El Dorado County Board of Supervisors on the 20 day of April, 2020. |

RECITALS

Owner is vested with fee title to Subdivision; a tract of land located in the County of El Dorado, State of California, and described as **PROMONTORY VILLAGE 7- UNIT 5, TM 16-1530**. Owner desires to construct on said property certain public improvements as hereinafter described, in connection with the Subdivision.

In consideration for the complete construction and dedication of all the public improvements specified in this Agreement, the approval and acceptance by County’s Board of Supervisors of the Conditions of Approval, and the Final Map to be filed and recorded, the parties agree as follows:

AGREEMENT

OWNER WILL:

1. Make or cause to be made all those public improvements in Subdivision required by Section 120.16.010 of the El Dorado County Ordinance Code (hereinafter referred to as “Code”) and shown or described in the improvement plans, specifications and cost estimates entitled Improvement Plans for Promontory Village 7 - Unit 5, Includes Rough Grading for 7B-DR and 7E-CT, TM 16-1530, which were approved by the County Engineer, Department of Transportation on June 11, 2020. Attached hereto is Exhibit A, marked “Improvement Plans for Promontory Village 7, Unit 5 (TM 16-1530) Engineer’s Opinion of Probable Construction Cost,” and Exhibit B, marked “Certificate of Partial Completion of Subdivision Improvements,” all of which Exhibits are incorporated herein and made by reference a part hereof. The Exhibits describe quantities, units and costs associated with the improvements to be made.

2. Prior to commencing construction, obtain all necessary environmental clearances, acquire any necessary right-of-way and obtain any necessary permits from any outside agencies.

3. Complete the Subdivision improvements contemplated under this Agreement within two (2) years from the date that the Subdivision Final Map is filed with the El Dorado County Board of Supervisors.

4. Install or cause to be installed, modify or cause to be modified, any and all erosion and sediment control features, whether temporary or permanent, deemed necessary by the County Engineer to ensure compliance with the Clean Water Act, the Statewide General Permit, and County's Grading, Erosion, and Sediment Control Ordinances. Failure to comply with this provision shall constitute a material breach of this Agreement.

5. Post security acceptable to County as provided in Section 120.16.050 of the Code. In the event that the Sureties issuing the posted securities are subsequently downgraded to a rating unacceptable to County in its sole discretion, Owner shall, upon twenty (20) days written notice by County, post replacement securities that are acceptable to County.

6. Provide for and pay the costs of related civil engineering services, including the costs of inspection and utility relocation when required, and attorneys' fees, costs, and expenses of legal services.

7. Provide deposit for and pay to County all costs of construction oversight, inspection, administration, and acceptance of the work by County in accordance with the County Engineer Fee Schedule adopted by Resolution of the Board of Supervisors of El Dorado County.

8. Have as-built plans prepared by a civil engineer acceptable to County's Department of Transportation and filed with the Department of Transportation Director as provided in Section 120.16.060 of the Code.

9. Repair at Owner's sole cost and expense, any defects, in workmanship or materials, which appear in the work within one (1) year following acceptance of the work by County.

10. To the fullest extent allowed by law, defend, indemnify, and hold County and its officers, agents, employees, and representatives harmless against and from any and all claims, suits, losses, damages, and liability for damages of every name, kind, and description, including attorneys fees and costs incurred, brought for, or on account of, injuries to or death of any person, including but not limited to workers, County employees, and the public, or damage to property, or any other economic or consequential losses, which are claimed to or in any way arise out of or are connected with Owner's work, design, operation, construction of the improvements, or performance of this Agreement, regardless of the existence or degree of fault or negligence on the part of County, Owner, any contractor(s), subcontractor(s), and employee(s) of any of these, except for the sole, or active negligence of County, its officers, agents, employees, and representatives, or as expressly

provided by statute. This duty of Owner to indemnify and save County harmless includes the duties to defend set forth in California Civil Code section 2778.

This duty to indemnify is separate and apart from any insurance requirements and shall not be limited thereto.

11. Enter into another agreement with County for all road improvements to be performed on County property. Such agreement shall also include a requirement that Owner furnish insurance and bonds that comply with the standard County insurance and bonding requirements in the amounts stated, to be approved by the County's Risk Management Division.

12. Provide continuous, sufficient access to County, Owner's successors and assigns, including but not limited to its Surety and Surety's agents, to the Subdivision to enable the public improvements to be constructed and completed. Access shall be continuous until completion of said public improvements, and release by County of the security underlying this Agreement.

13. Agree that said agreement to provide continuous, sufficient access is irrevocable and shall run with the land and shall be binding upon and inure to the benefit of the heirs, successors, assigns, and personal representatives of Owner.

COUNTY WILL:

14. Upon execution of this Agreement and receipt of good and sufficient security as required by Section 120.16.050 of the Code, and upon compliance with all requirements of law, including all County ordinances, approve the Final Map of the Subdivision.

15. Upon receipt of a Certificate from County Engineer stating that a portion of the public improvements agreed to be performed herein has been completed, describing generally the work so completed and the estimated total cost of completing the remainder of the public improvements agreed upon to be performed herein, accept new security as provided in Section 120.16.040 of the Code.

16. Release the security posted in accordance with Sections 120.16.040 and 120.16.052 of the Code.

17. Require Owner to make such alterations, deviations, additions to, or deletions from, the improvements shown and described on the plans, specifications, and cost estimates as may be deemed by County Engineer to be necessary or advisable for the proper completion or construction of the whole work contemplated.

18. Require Owner to maintain, and to make such alterations, deviations, additions to, or deletions from, the project erosion control features shown and described on the plans, specifications, and cost estimates and the Storm Water Pollution Prevention Plan (SWPPP) as may be deemed necessary by County Engineer or advisable for compliance with the Clean Water Act, Statewide General Permit requirements, and County's Grading, Erosion, and Sediment Control Ordinances.

19. Upon completion of the public improvements agreed to be performed herein, adopt a resolution accepting or rejecting the streets of said Subdivision into County's road system for maintenance.

20. Retain a portion of the security posted in the amount of ten percent (10%) of the estimated cost of all of the improvements for one (1) year following acceptance of the work by County to secure the repair of any hidden defects in workmanship or materials which may appear.

21. Require Owner to pay County for costs, expenses, and reasonable attorneys' fees to be paid by Owner should County be required to commence an action to enforce the provisions of this Agreement, to enforce the security obligations provided herein, and all attorneys' fees, costs, and expenses of litigation incurred by County even if Owner subsequently proceeds to complete the work.

ADDITIONAL PROVISIONS:

22. The estimated cost of installing all of the improvements is **TWO MILLION THREE HUNDRED NINETY-THREE THOUSAND EIGHT HUNDRED SEVENTY-EIGHT DOLLARS (\$2,393,878)**.

23. Owner shall conform to and abide by all Federal, State, and local building, labor, and safety laws, ordinances, rules, and regulations. All Work and materials shall be in full accordance with the latest rules and regulations of the State Fire Marshal, safety orders of the Division of Industrial Safety, California Electrical Code, California Building Code, California Plumbing Code, and any and all other applicable laws and regulations. Nothing in this Agreement, including but not limited to the improvement plans and specifications and cost estimates, is to be construed to permit work not conforming to these codes.

24. Inspection of the work and/or materials or statements by any officer, agent, or employee of County indicating that the work or any part thereof complies with the requirements of this Agreement, or acceptance of the whole or any part of said work and/or materials, or payments therefore, or any combination or all of these acts, shall not relieve Owner of its obligation to fulfill this Agreement as prescribed; nor shall County be stopped from bringing any action for damages arising from the failure to comply with any terms and conditions hereof.

25. This Agreement may be amended by mutual consent of the parties hereto. Said amendments shall become effective only when in writing and fully executed by duly authorized officers of the parties hereto.

26. Neither this Agreement, nor any part thereof may be assigned by Owner without the express written approval of County.

27. All notices to be given by the parties hereto shall be in writing and served by depositing same in the United States Post Office, postage prepaid and return receipt requested.

Notices to County shall be in duplicate and addressed as follows:

County of El Dorado
Department of Transportation
2850 Fairlane Court
Placerville, California 95667

Attn.: Andrew S. Gaber, P.E.
Deputy Director
Development/ROW/Environmental

County of El Dorado
Department of Transportation
2850 Fairlane Court
Placerville, California 95667

Attn.: Adam Bane, P.E.
Senior Civil Engineer

or to such other location as County directs.

Notices to Owner shall be addressed as follows:

Russell-Promontory, LLC
7919 Folsom Boulevard, Suite 300
Sacramento, California 95826-0552

Attn.: Chrysanthy Demos
President

With copy to:

Ardor Consulting Group
7919 Folsom Boulevard, Suite 300
Sacramento, California 95826-0552

Attn.: Larry Ito
President

or to such other location as Owner directs.

28. The County officer or employee with responsibility for administering this Agreement is Andrew S. Gaber, P.E., Deputy Director, Development/ROW/ Environmental, Department of Transportation, or successor.

29. Any action arising out of this Agreement, including, but not limited to, litigation, mediation, or arbitration, shall be brought in El Dorado County, California, and shall be resolved in accordance with the laws of the State of California.

30. The parties to this Agreement represent that the undersigned individuals executing this Agreement on their respective behalf are fully authorized to do so by law or other appropriate instrument and to bind upon said parties to the obligations set forth herein.

Requesting Contract Administrator Concurrence:

By: 
Andrew S. Gaber, P.E.
Deputy Director
Development/ROW/Environmental
Department of Transportation

Dated: 11/16/2020

Requesting Department Concurrence:

By: 
Rafael Martinez, Director
Department of Transportation

Dated: 11/17/2020

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates indicated below, the latest of which shall be deemed to be the effective date of this Agreement.

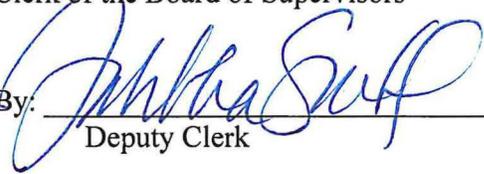
--COUNTY OF EL DORADO--

By: 

Dated: 4/20/2021

Board of Supervisors
"County"

Attest:
Kim Dawson
Clerk of the Board of Supervisors

By: 
Deputy Clerk

Dated: 4/20/2021

-- RUSSELL-PROMONTORY, LLC --
-- an Illinois Limited Liability Company --

By: AKT Development Corporation
A California Corporation
Its: Manager

By: 
Chrysanthy Demos
President and
Chief Executive Officer
"Owner"

Dated: 9-24-20

Notary Acknowledgment Attached

OWNER

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 SACRAMENTO

On 09-24-2020 before me, Alim Valiev, A Notary Public
(here insert name and title of the officer)

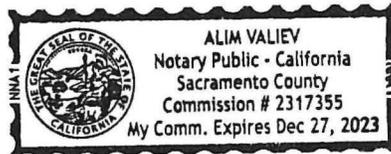
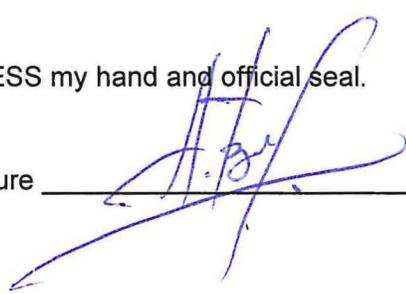
personally appeared Chrysanthy Demos

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)

**PROMONTORY VILLAGE 7 - UNIT 5
PRELIMINARY BOND ESTIMATE**

Prepared: May 2020

ITEM No.	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	TOTAL AMOUNT
DEMOLITION					
1	Sawcut and Remove AC Pavement	71	sf	\$5.50	\$391
2	Remove Street Barricade	1	ea	\$350.00	\$350
3	Remove existing PRS & Restore Grade	1	ls	\$10,000.00	\$10,000
4	2"AC Grind & Overlay	36	sf	\$3.20	\$115
				Subtotal	\$10,856
GRADING					
5	Clear and Grub Unit 5	7.00	ac	\$1,800.00	\$12,600
6	Clear and Grub (Rough Grading)	4.70	ac	\$1,800.00	\$8,460
7	Excavation Unit 5	12,885	cy	\$11.30	\$145,601
8	Rough Grading Local Borrow (haul and excavation)	28,220	cy	\$18.00	\$507,960
9	4' Tall Orange Construction Fencing	2,880	lf	\$4.10	\$11,808
10	Finish Pads	8	lot	\$350.00	\$2,800
11	Rockery Walls	159	sf	\$14.50	\$2,306
				Subtotal	\$691,534
EROSION CONTROL					
12	Erosion Control Measures & SWPPP Compliance	8.0	lot	\$2,230.00	\$17,840
13	Fugitive Dust Control	8.0	lot	\$700.00	\$5,600
				Subtotal	\$23,440
STREETS & MISCELLANEOUS					
14	3" A.C.	23,923	sf	\$2.35	\$56,219
15	5.5" AB	17,466	sf	\$1.00	\$17,466
16	6" AB Service Road	10,840	sf	\$1.25	\$13,550
17	8.5" A.B.	6,457	sf	\$2.25	\$14,528
18	Curb and Gutter Type 1 & 2	1,402	lf	\$22.50	\$31,545
19	Barrier Curb, Type 3	116	lf	\$18.00	\$2,088
20	Decorative Concrete	273	sf	\$15.00	\$4,095
21	4" PCC Sidewalk/ 4" AB	496	sf	\$5.75	\$2,852
22	Stop Sign w/ Street Sign	1	ea	\$900.00	\$900
23	Stop Bar Striping	1	ea	\$300.00	\$300
24	No Parking Signs	7	ea	\$380.00	\$2,660
25	No Parking Striping	516	lf	\$0.50	\$258
26	Post and Cable Fence	127	lf	\$20.00	\$2,540
27	Caltrans Cable Railing on Headwall	93	lf	\$60.00	\$5,595
28	4' High Steel Tube Fence	60	lf	\$17.00	\$1,020
				Subtotal	\$155,616

ITEM No.	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	TOTAL AMOUNT
DRAINAGE IMPROVEMENTS					
29	12" Storm Drain HDPE	63	lf	\$47.00	\$2,961
30	18" Storm Drain HDPE	131	lf	\$60.00	\$7,860
31	18" Storm Drain CL III RCP	163	lf	\$85.00	\$13,855
32	24" Storm Drain CL III RCP	97	lf	\$115.00	\$11,155
33	18" FES	4	ea	\$1,200.00	\$4,800
34	24" FES	1	ea	\$1,360.00	\$1,360
35	24" FES Access Control Rack	1	ea	\$750.00	\$750
36	24" Access Control Rack	2	ea	\$750.00	\$1,500
37	Modified Type GO D.I. w/ Temporary Grate Top	1	ea	\$4,320.00	\$4,320
38	EDC Type 'B' DI	2	ea	\$3,350.00	\$6,700
39	EDC Grated Inlet	3	ea	\$4,800.00	\$14,400
40	48" Storm Drain Manhole	2	ea	\$6,300.00	\$12,600
41	Ditch - Detail I	908	lf	\$30.00	\$27,240
42	Ditch - Detail II	194	lf	\$30.00	\$5,818
43	Ditch - Detail III	452	lf	\$30.00	\$13,560
44	Ditch - Detail IV	1,476	lf	\$30.00	\$44,280
45	Ditch - Detail V	154	lf	\$110.00	\$16,940
46	Ditch - Detail VI	276	lf	\$90.00	\$24,840
47	Ditch - Detail VII	140	lf	\$110.00	\$15,400
48	Ditch - Detail VIII	490	lf	\$110.00	\$53,900
49	Ditch - Detail VIII (Grouted)	13	lf	\$180.00	\$2,340
50	Repair Existing Ditch & Slope (Adj to Sophia)	1	ls	\$750.00	\$750
51	Grout Existing Ditch (Adj to Sophia)	62	lf	\$30.00	\$1,860
52	EDC T-504	11	ea	\$725.00	\$7,975
53	Grouted RSP (Detail DO)	3	cy	\$100.00	\$300
54	Outlet Dissipator	1	ea	\$1,500.00	\$1,500
55	T.V. Storm Drain	454	lf	\$2.05	\$931
56	Pipe Culvert Headwall - Structural Concrete Incl. Bars	55	cy	\$1,500.00	\$82,500
57	PCC Weir	746	sf	\$30.00	\$22,380
				Subtotal	\$404,775
SANITARY SEWER					
58	4" Force Main	979	lf	\$61.00	\$59,719
59	Pumped Sewer Services	8	ea	\$2,519.00	\$20,152
60	4" Blow Off Valve	1	ea	\$2,860.00	\$2,860
61	Connect to (E) Sewer & Line (E) Manhole	1	ea	\$5,000.00	\$5,000
62	Line (E) Manhole	1	ea	\$3,500.00	\$3,500
63	Carsonite Utility Marker	4	ea	\$200.00	\$800
64	Slope Protection & Trench Stabilizer	172	lf	\$40.00	\$6,880
				Subtotal	\$98,911
DOMESTIC WATER					
65	8" Pipe Including Fittings	2,143	lf	\$54.00	\$115,722
66	18" Steel Casing	96	lf	\$125.00	\$12,000
67	8" Gate Valve	7	ea	\$1,922.00	\$13,454
68	Water Service	8	ea	\$1,521.00	\$12,168
69	2" Air Release Valve	1	ea	\$2,977.00	\$2,977
70	3" Air Release Valve	1	ea	\$6,000.00	\$6,000
71	2" Blow Off Valve	3	ea	\$2,087.00	\$6,261

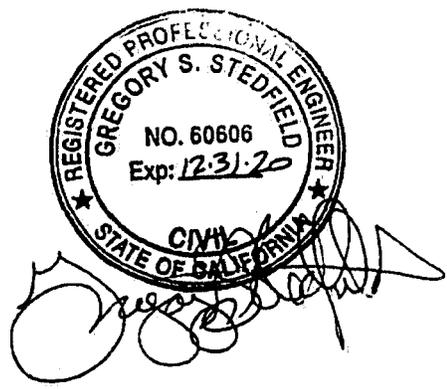
ITEM No.	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	TOTAL AMOUNT
72	2" Irrigation Service w/ 1" meter	1	ea	\$1,521.00	\$1,521
73	1" RP Assembly	1	ea	\$2,270.00	\$2,270
74	Fire Hydrant & Appurtenances	3	ea	\$6,149.00	\$18,447
75	Connect to (E) Water	2	ea	\$2,500.00	\$5,000
76	Pressure Reducing Station (Including Grading & AB)	1	ls	\$150,000.00	\$150,000
77	Slope Protection & Trench Stabilizer	382	lf	\$40.00	\$15,280
78	Carsonite Utility Marker	4	ea	\$200.00	\$800
Subtotal					\$361,900
DRY UTILITIES					
79	Includes - Joint Utility Trench, Utility Services, Conduit & Service Boxes and Wiring & Transformer	8	lot	\$7,800.00	\$62,400
Subtotal					\$62,400
Subtotal Direct Construction Cost					\$1,809,432
Mobilization (5%)					\$90,472
Total Direct Construction Cost					\$1,899,903
SOFT COSTS					
A	Bond Enforcement Costs	2%			\$37,998.07
B	Construction Staking	4%			\$75,996
C	Construction Management and Inspection	10%			\$189,990
D	Contingency	10%			\$189,990
Total Soft Cost					\$493,975
Total Estimated Cost					\$2,393,878


 EDC - DOT: No Exceptions Taken

6-11-20
 Date


 EID: No Exceptions Taken

6/15/20
 Date



Certificate of Partial Completion of Subdivision Improvements

I hereby certify that the following improvements for **Promontory Village 7 - Unit 5, TM 16-1530** have been completed, to wit:

	Total Amount	Percent Completed	Remaining Amount
Demolition	\$ 10,856.00	0%	\$ 10,856.00
Grading	\$ 691,534.00	0%	\$ 691,534.00
Erosion Control	\$ 23,440.00	0%	\$ 23,440.00
Streets & Misc. Improvements	\$ 155,616.00	0%	\$ 155,616.00
Drainage Improvements	\$ 404,775.00	0%	\$ 404,775.00
Sanitary Sewer Improvements	\$ 98,911.00	0%	\$ 98,911.00
Domestic Water Improvements	\$ 361,900.00	0%	\$ 361,900.00
Dry Utility Costs	\$ 62,400.00	0%	\$ 62,400.00
Mobilization	\$ 90,472.00	0%	\$ 90,472.00
Bond Enforcement Costs (2%)	\$ 37,998.00		\$ 37,998.00
Construction Staking (4%)	\$ 75,996.00		\$ 75,996.00
Construction Management & Inspection (10%)	\$ 189,990.00		\$ 189,990.00
Contingency (10%)	\$ 189,990.00		\$ 189,990.00
Total	\$ 2,393,878.00		\$ 2,393,878.00

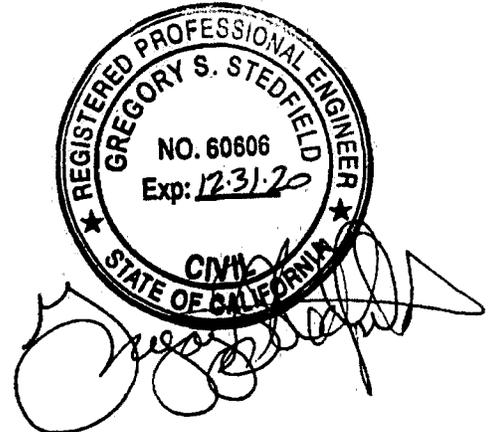
I estimate the total cost of completing the improvements agreed to be performed by the Subdivider to be **Two Million Three Hundred Ninety-Three Thousand Eight Hundred Seventy-Eight Dollars and Zero Cents (\$2,393,878.00)**.

The amount of the Performance Bond is **Two Million Three Hundred Ninety-Three Thousand Eight Hundred Seventy-Eight Dollars and Zero Cents (\$2,393,878.00)**, representing 100% of the Total Remaining Amount.

The amount of the Laborers and Materialmens Bond is **One Million One Hundred Ninety-Six Thousand Nine Hundred Thirty-Nine Dollars and Zero Cents (\$1,196,939.00)**, which is 50% of the Total Cost of the Improvements.

DATED: 08/21/2020

 Gregory S. Stedfield, PE 60606
 CTA Engineering & Surveying
 3233 Monier Circle
 Rancho Cordova, CA 95742



ACCEPTED BY THE COUNTY OF EL DORADO

DATED: _____

 Andrew S. Gaber, P.E.
 Deputy Director
 Development/ROW/Environmental