



## Staff Report

### April 14, 2019

**TO:** Honorable Mayor and Members of the Town Council  
**FROM:** Britton Snipes, Town Engineer/Public Works Director  
**DATE:** May 14, 2019  
**RE:** Approval of the Taylor Road Mixed Use Subdivision Final Map,

#### **Recommendation**

Town Council approve the proposed Final Map for Taylor Road Mixed Use Subdivision, adopt the resolution authorizing the Mayor and Town Clerk to execute a Subdivision Improvement Agreement that is acceptable to the Town, and accept offers of dedication shown on the Final Map.

#### **Issue Statement and Discussion**

The project site is located on the east side of Taylor Road, approximately 1000 feet north of Sierra College Blvd. The project consists of two parcels, divided into 45 lots, 33 residential, 11 commercial and 1 open space.

Conditional Use Permit and Design Review (Taylor Road Mixed Use Project) was approved by the Planning Commission on December 20, 2005 with an expiration date of December 20, 2007. A series of extensions by both the Town and the State extended the map and permits, the latest being approved by the Planning Commission on September 27, 2016, extending expiration to December 20, 2018.

On June 6, 2017 the Planning Commission adopted Resolution #17-09 to modify the previously approved Tentative Map, Conditional Use Permit, and Design Review subject to the findings and the revised Conditions of Approval (COA) and adopt the previous Mitigated Negative Declaration with an Addendum.

On December 7, 2018 the developer provided the Final Map, Development Agreement, insurance and bonds. Town Staff reviewed and found the package to be complete.

On February 12, 2019 the developer petitioned for a Road Maintenance District. On March 12, 2019 the Town Council approved Resolution No. 19-20 Declaring its intention to levy maintenance assessments per the Engineer's report.

General Plan Designation: Commercial General  
 Zoning: RE General Commercial

Residential density within the General Commercial designation may range from two to 10 dwelling per acre. The overall density of this project will be 6.1 du/ac. The proposed dwellings meet or exceed the setback requirements.

#### Surrounding Uses and Zoning:

- North – General Commercial
- South – General Commercial
- East – Residential Signal Family
- West – General Commercial

#### Improvements/Utilities/Service Systems:

- Sewer – SPMUD
- Water – PCWA
- Gas/Electric – PG&E
- Trash – Recology Auburn Placer

Condition # 22 of the Conditions of Approval (COA) requires the applicant to form a maintenance district for ongoing maintenance the curb & gutter, drainage facilities (including NPDES requirements), any common residential landscaping and trees, park area & open space, park equipment, fire hydrants, street sweeping, street lights, street signs, pavement markings and emergency access driveway. The parameters of the maintenance district shall be approved by the Planning Director and Town Engineer prior to submittal to the Town Council.

Condition # 12 of the Conditions of Approval requires the applicant to construct all improvements required as a condition of approval of this project or enter into a contract agreement with the Town to construct all improvements, and shall post bond, cash deposit, or instrument of credit, guaranteeing the construction of all of the improvements listed in the COAs. To satisfy this requirement, the Applicant has requested to enter into a Subdivision Improvement Agreement (Attachment Exhibit B).

Under the provided Subdivision Improvement Agreement, the developer will have twelve months to complete the improvements. The Town can extend this time frame up to eighteen months as long as it is not detrimental to the public welfare. Should the developer fail to provide the improvements outlined under the agreement, the Town can complete the work required using the security provided.

The final map and conditions of approval that pertain to the map for the Taylor Road Mixed Use subdivision have been reviewed by staff. The map has been found to be in substantial compliance with the approved tentative map, and all conditions pertaining to the approval of the map have been satisfied.

#### **FUNDING**

The developer is creating a Maintenance District for the maintenance of the curb & gutter, drainage facilities, the residential landscaping and trees, park area & open space, park equipment, fire hydrants, street sweeping, street lights, street signs, pavement markings and emergency access driveway.

#### **Attachments**

- A. Resolution
- B. Subdivision Agreement

## **TOWN OF LOOMIS**

### **RESOLUTION NO. 19 -**

#### **A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOOMIS APPROVING THE FINAL SUBDIVISION MAP FOR THE TAYLOR ROAD MIXED USE SUBDIVISION**

WHEREAS, Taylor Road Mixed Use, LLC (the Subdivider), has requested the Town Council of the Town of Loomis to approve a final subdivision map for the Taylor Road Mixed Use Subdivision, and

WHEREAS, the Town Council desires to approve the final subdivision map for the Taylor Road Mixed Use Subdivision and enter into a subdivision improvement agreement with the Subdivider,

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF LOOMIS AS FOLLOWS:

1. That the final subdivision map for Taylor Road Mixed Use Subdivision as presented to the Council for approval is found and determined by the Town Council to be in conformity with the approved tentative map for said proposed subdivision and the otherwise conforms with all ordinances, resolutions and conditions of approval of the Town applicable thereto.
2. That the Mayor and Town Clerk are hereby authorized to execute said final map on behalf of the Town of Loomis and accepts any and all offers of dedication for the Taylor Road Mixed Use Subdivision.
3. That the Mayor and Town Clerk are further authorized to execute on behalf of the Town that certain Subdivision Improvement Agreement for the Taylor Road Mixed Use Subdivision between the Town and Subdivider.

On this 14th day of May 2019, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

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Mayor

Attest:

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Town Clerk

## SUBDIVISION IMPROVEMENT AGREEMENT

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This Agreement is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 201\_, by and between the Town of Loomis, hereinafter referred to as "Town," and Taylor Village 2018, LP, a California Limited Partnership, hereinafter referred to as "Subdivider."

### RECITALS

A. Subdivider has presented to the Town a Final map of a proposed subdivision of land located within the corporate limits of the Town that has been prepared in accordance with the Subdivision Map Act of the State of California, the subdivision ordinances of the Town, and the tentative map of the subdivision previously approved by the Planning Commission of the Town of Loomis.

B. The proposed subdivision of land is commonly known and described as Taylor Road Mixed Use, Loomis, CA, Parcels #044-123-073 and 044-123-072, and is hereinafter referred to as "the Subdivision."

C. Subdivider has requested approval of the Final map prior to the completion of improvements that are required by the Subdivision Map Act, the subdivision ordinances of the Town, and the tentative map (and approvals given in connection therewith), approved by the Town. The foregoing improvements are hereinafter referred to as "the Required Improvements."

NOW, THEREFORE, the parties agree as follows:

1. Performance of Work. Subdivider agrees to furnish, construct and install at Subdivider's own expense the Required Improvements. The plans and specifications of the Required Improvements may be modified by the Subdivider as the development progresses, subject to the prior written approval of the Town Engineer. Required Improvements include the following:

a) Grading and improvements as shown on Exhibit "A" (The Plan) and listed on Exhibit "B" (The Engineer's Estimate) for the proposed Improvements and Utilities are attached and incorporated herein by reference, along with any changes or modifications as may be required by the Town Engineer or designee ("the Engineer"), due to errors, omissions, or changes in conditions or as provided in the Loomis Municipal Code. The total estimated cost of these Required Improvements, as determined by the Engineer, is One Million Five Hundred Sixty Nine Thousand Four Hundred Forty Nine dollars (\$1,569,449.00).

2. Work; Satisfaction of Director. All of the work on the Required Improvements is to be done at the places, of the materials, and in the manner and at the grades, all as shown upon the approved plans and specifications and the Town's Improvement Standards and Specifications, to the satisfaction of the Engineer.

3. Injury to Public Improvements, Public Property or Public Utilities Facilities. Subdivider shall replace or repair, or have replaced or repaired, all public improvements, public utility facilities, and surveying or subdivision monuments which are destroyed or damaged in the performance of any work under this Agreement. Subdivider shall bear the entire cost of replacement or repairs of any and all public or private utility property damaged or destroyed in the performance of any work done under this Agreement, whether such property is owned by the United States or any agency thereof, or the State of California, or any agency or political

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subdivision thereof, or by the Town or any public or private utility corporation or by any combination of such owners. Any repair or replacement shall be to the satisfaction of the Director.

4. Inspection by Town. Subdivider shall at all times provide safe access for inspection by the Town to all parts of the Required Improvements and to all places where the Required Improvements are in preparation.

5. Subdivider's Obligation to Warn Public During Construction. Until final acceptance of the Required Improvements, Subdivider shall give good and adequate warning to the public of each and every dangerous condition existing in said improvements, and will take reasonable actions to protect the public from such dangerous condition.

6. Superintendence by Subdivider. Subdivider shall require each contractor and subcontractor to have a competent foreman on the job at all times when that contractor or subcontractor, or any employee or agent thereof, is performing work on the Required Improvements. In addition, Subdivider shall maintain an office with a telephone and Subdivider or a person authorized to make decisions and to act for Subdivider in Subdivider's absence shall be available on the job site within three (3) hours of being called at such office by the Town during the hours of 9:00 A.M. through 5:00 P.M., Monday through Friday, or any other day or time when work is being performed on the Required Improvements.

7. Work; Time for Commencement and Performance. Work on Required Improvement item 1(a) will be commenced by the Subdivider within one year after the recording of the Final Map, Estimated to be recorded on or before the 20<sup>th</sup> day of December 2018, and will be completed on or before the 20th day of December, 2020 provided, however, that the Required Improvements shall not be deemed to be complete until accepted in writing by Town Council.

8. Time of Essence; Extension.

a. Time is of the essence of this Agreement. The dates for commencement and completion of the Required Improvements may not be extended, except as provided in this paragraph. The Director may extend the dates for a maximum of one hundred and eighty (180) days due to delays in the work actually caused by inclement weather, riots, strikes, lockouts, fires, earthquakes, floods and conditions resulting therefrom, or for other reason beyond the control of the Subdivider. Extension of the dates for any other cause or beyond one hundred and eighty (180) days shall be made only by the Town Council. Extensions shall be granted only upon a showing of good cause by the Subdivider. The Town Council or Director, as appropriate, shall be the sole and final judge as to whether good cause has been shown to entitle the Subdivider to an extension.

b. Requests for extension of the commencement and/or completion date shall be in writing and delivered to the Town in the manner hereinafter specified for service of notices. An extension of time, if any, shall be granted only in writing, and an oral extension shall not be valid or binding on the Town.

c. In the event the Town extends the time of commencement and/or completion of the Required Improvements, such extension may be granted without notice by the Town to the Subdivider's surety and shall in no way release any guarantee or security given by the Subdivider pursuant to this Agreement, or relieve or release those providing an improvement security pursuant to this Agreement. The surety or sureties, if any, in executing the securities shall be deemed to have expressly agreed to any such extension of time.

d. In granting any extension of time, the Town may require new or amended improvement security in amounts increased to reflect increases in the costs of constructing the Required Improvements or impose other conditions to protect its interests and ensure the timely completion of the Required Improvements.

9. Utility Undergrounding and Relocation Costs. Subdivider shall assume all costs for utility and cable television undergrounding and/or relocation which is not the responsibility of the cable television, gas, electric, telephone, or other utility company under the terms of the franchises with the Town or otherwise imposed upon the utility companies by law.

10. Improvement Security. For all Required Improvements listed in Section 1 of this Agreement, the Subdivider shall furnish the Town the following Securities. Such Securities shall be provided concurrently with the execution of this Agreement for Required Improvement item 1(a).

a. Faithful Performance and Payment Security. Two (2) improvement securities for Required Improvement item 1(a), as set forth in Town of Loomis Municipal Code section 14.44.170. Each security shall be in the amount of one hundred percent (100%) of the total estimated cost of the Required Improvements, as determined by the Engineer. One improvement security shall secure faithful performance of this Agreement (the "faithful performance" security). The second improvement security shall secure the obligations set forth in Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code of the State of California for payment to the contractor, subcontractors and to persons renting equipment or furnishing labor or materials to them for the work (the "payment security").

b. Guarantee and Warranty Security. Prior to the acceptance of the Required Improvement 1(a), the Subdivider shall provide to the Town a "guarantee and warranty security" in the amount of ten percent (10%) of the total estimated cost of the Required Improvements, as determined by the Engineer, to guarantee and warrant the Required Improvements for a period of one year following their completion and acceptance against any defective work or labor done, or defective materials furnished, as required by the Town of Loomis Municipal Code section 14.44.170.

c. Monument Security. Subdivider shall also file with this Agreement a "monument security" in the amount of one hundred percent (100%) of the total estimated cost of the installation of survey monuments in the Subdivision, as 9,500), to guarantee and secure the placement of such monuments as required by Town of Loomis Standard Specifications and Details.

d. Any bonds submitted as security pursuant to this section shall be executed by a surety company authorized to transact a surety business in the State of California. All required securities shall be in a form approved by the Town Attorney.

e. No change, alteration, or addition to the terms of this Agreement or the plans and specifications incorporated herein shall in any manner affect the obligation of the sureties, except as otherwise provided by the Subdivision Map Act.

f. The securities shall be irrevocable, shall not be limited as to time (except as to the one-year guarantee and warranty period) and shall provide that they may be released, in whole or part, only upon the written approval of the Engineer and as provided in paragraph 11. All securities provided pursuant to this Agreement shall expressly obligate the surety for

any extension of time authorized by the Town for Subdivider's completion of the Required Improvements, whether or not the surety is given notice of such an extension by the Town.

11. Release of Security.

a. Guarantee and Warranty Security. Any unused portion of the guarantee and warranty security may be released one year after acceptance of the Required Improvements by the Town Council. The amount to be released shall first be reduced by the amount deemed necessary by the Town to correct any defects in the Required Improvements that are known or believed by the Town to exist at the end of the guarantee and warranty period.

b. Payment Security. The payment security may be released thirty-five (35) days after passage of the time within which claims of lien are required to be recorded pursuant to Article 3 of Chapter 2 of Title 15 of Part 4 of Division 3 of the Civil Code (commencing with Section 3114), but in no event shall such security be released prior to one hundred and twenty (120) days after acceptance of the Required Improvements by the Town Council. The amount to be released shall first be reduced by the total of all claims on which an action has been filed and notice thereof given in writing to the Town. Town expressly may require the surety not to release the amount of security deemed necessary by Town to assure payment of reasonable expenses and fees, including reasonable attorney's fees.

c. Faithful Performance Security. The faithful performance security may be released upon acceptance of the Required Improvements by the Town Council.

d. Monument Security. The monument security may be released upon acceptance of the required monument installation by the Engineer.

12. Inspection and Other Fees. The Subdivider shall pay to the Town all fees imposed in connection with the construction and inspection of the Required Improvements. These fees must be paid in full prior to the City's acceptance of the Required Improvements. The fees referred to above are not necessarily the only Town fees, charges or other costs that have been, or will be, imposed on the Subdivision and its development, and this Agreement shall in no way exonerate or relieve the Subdivider from paying such other applicable fees, charges, and/or costs.

13. Defense, Indemnification and Hold Harmless. The Subdivider shall defend, indemnify, and hold harmless the Town, its officers, employees, agents, and elective and appointive boards from any and all claims, losses, damages, including property damage, personal injury, including death, costs, including attorney fees, and liability of any kind or nature directly or indirectly arising out of or in any way connected with performance under this Agreement and/or the construction of the Required Improvements by the Subdivider, contractor or any subcontractor, or of any person directly or indirectly employed by, or acting as agent for the Subdivider, contractor or any subcontractor, save and except those matters arising from the active negligence of the Town.

This defense, indemnification and hold harmless provision shall extend to claims, losses, damage, injury, costs, including attorney fees, and liability for injuries occurring after completion of the construction of the Required Improvements as well as during construction, and shall apply regardless of whether or not the Town has prepared, supplied or approved the plans and/or specifications for the Required Improvements or has inspected or accepted the

same. Acceptance of insurance required under this Agreement shall not relieve Subdivider from liability under this defense, indemnification and hold harmless provision.

The parties intend that this provision shall be broadly construed to effectuate its purpose.

#### 14. Environmental Warranty.

a. Prior to the acceptance of any dedications or improvements by Town, Subdivider shall certify and warrant that: neither the property to be dedicated nor Subdivider are in violation of any environmental law and neither the property to be dedicated nor the Subdivider are subject to any existing, pending, or threatened investigation by any federal, state or local governmental authority under or in connection with any environmental law. Neither Subdivider nor any third party will use, generate, manufacture, produce, or release, on, under, or about the property to be dedicated, any hazardous substance, except in compliance with all applicable environmental laws. Subdivider has not caused or permitted the release of, and has no knowledge of the release or presence of, any hazardous substance on the property to be dedicated or the migration of any hazardous substance from or to any other property adjacent to, or in the vicinity of, the property to be dedicated. Subdivider's prior and present use of the property to be dedicated has not resulted in the release of any hazardous substance on the property to be dedicated. Subdivider shall give prompt written notice to Town at the address set forth herein of:

(i) Any proceeding or investigation by any federal, state or local governmental authority with respect to the presence of any hazardous substance on the property to be dedicated or the migration thereof from or to any other property adjacent to, or in the vicinity of, the property to be dedicated;

(ii) Any claims made or threatened by any third party against Town or the property to be dedicated relating to any loss or injury resulting from any hazardous substance; and

(iii) Subdivider's discovery of any occurrence or condition on any property adjoining or in the vicinity of the property to be dedicated that could cause the property to be dedicated or any part thereof to be subject to any restrictions on its ownership, occupancy, use for the purpose for which it is intended, transferability, or suit under any environmental law.

b. As used in this Agreement, the term "hazardous substance" includes any hazardous or toxic substance or material or waste, including but not limited to all types of gasoline, oil, and other petroleum hydrocarbons, asbestos, radon, polychlorinated biphenols (PCBs), or any other chemical, material, controlled substance, object, condition, waste, living organism or any combination thereof which is or may be hazardous to human health or safety or to the environment due to its radioactivity, ignitability, corrosivity, reactivity, explosivity, toxicity, carcinogenicity, mutagenicity, phytotoxicity, infectiousness or other harmful properties of effects, which is now, or in the future becomes, listed, defined or regulated in any manner by any federal, state, or local Town based directly or indirectly upon such properties.

15. Subdivider's Insurance. Before signing this Agreement, Subdivider shall have obtained all insurance required under this paragraph and such insurance shall have been approved by the Town Attorney as to form and sufficiency. Subdivider shall not allow any contractor or subcontractor to commence work until similar insurance first shall have been so obtained by such contractor or subcontractor and approved by the Town Attorney. All



requirements herein provided shall appear either in the body of the insurance policies or as endorsements and shall specifically bind the insurance carrier. Any deductibles or self-insured retentions must be declared to and approved by the Town. Upon request by the Town, Subdivider shall demonstrate financial capability for payment of such deductibles or self-insured retentions.

a. Worker's Compensation Insurance. Subdivider shall maintain, during the term of this Agreement, workers' compensation insurance for all of Subdivider's employees employed at the site of improvement, and in case any work is sublet, Subdivider shall require any contractor or subcontractor similarly to provide workers' compensation insurance for all contractor's employees or subcontractor's employees, unless such employees are covered by the protection afforded by Subdivider. Subdivider shall indemnify and hold harmless the Town for any damage resulting to it, including attorney fees, from failure of either Subdivider or any contractor or subcontractor to take out or maintain such insurance.

b. Commercial General Liability Insurance. Subdivider shall take out and maintain during the term of this Agreement such commercial general liability insurance as shall insure the Town, its elective and appointive boards and commissions, officers, agents and employees, Subdivider and any contractor or subcontractor performing work covered by this Agreement against claims for damages for personal injury, including death, as well as against claims for property or other damage which may arise from Subdivider's or any contractor's or subcontractor's operations hereunder, whether such operations are by Subdivider or any contractor or subcontractor or by anyone directly or indirectly employed by either Subdivider or any contractor or subcontractor. The insurance shall be in an amount not less than one million dollars (\$1,000,000) per occurrence.

16. Endorsements. Promptly upon execution of this Agreement and prior to commencement of any work, the Subdivider shall provide the Town with certificates of insurance and original endorsements effecting coverage for all insurance policies required by this Agreement. The endorsements and policies shall provide that thirty (30) days' written notice of any change or cancellation of the insurance policies will be provided to the Town. Such insurance and endorsements shall name the Town, its officers, employees, agents, boards, commissions, and volunteers as additional insureds with respect to liability arising out of the performance of any work under this Agreement, and shall provide that such insurance is primary insurance with respect to the interest of the Town and that of any other insurance maintained by the Town. The endorsements and policies shall include a severability of interests (cross-liability) clause, and shall provide that no failure by the Subdivider to comply with any reporting requirements in the policy will injure the rights of the Town. The endorsements shall be signed by a person authorized by the insurer to bind coverage on its behalf, and shall be in a form approved by the Town Attorney. If requested by the Town, Subdivider agrees to furnish one copy of each required policy or endorsement to the Town, and additional copies as requested in writing, certified by an authorized representative of the insurer. Approval of the insurance by the Town shall not relieve or decrease any liability of Subdivider.

17. Title to Required Improvements. The Town shall not accept any real property to be dedicated or the Required Improvements unless they are constructed in conformity with the approved plans and specifications, approved modifications, if any, the approved final map, and Town Improvement Standards and Specifications, to the satisfaction of the Engineer. Until such time as the Required Improvements are accepted by the Town, Subdivider shall retain title and shall be responsible for, and bear the risk of loss to, any of the improvements constructed or installed.

Title to and ownership of any real property to be dedicated and the Required Improvements constructed under this Agreement by Subdivider shall vest absolutely in the Town upon completion and acceptance in writing of such Required Improvements by Town. The Town shall not accept the Required Improvements unless title to the Required Improvements is entirely free from lien. Prior to acceptance, Subdivider shall supply the Town with appropriate lien releases, at no cost to and in a form acceptable to the Town.

18. Repair or Reconstruction of Defective Work. If, within a period of one year after final acceptance by the Town Council of the Required Improvements, any improvement or part of any improvement furnished and/or installed or constructed, or caused to be installed or constructed by Subdivider, or any of the work done under this Agreement materially 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 Town, repair, replace or reconstruct any defective or otherwise unsatisfactory part or parts of the improvements. If the Subdivider fails to act promptly or in accordance with this requirement, or if the exigencies of the situation require repairs or replacements to be made before the Subdivider can be notified, then the Town may, at its option, make the necessary repairs or replacements or perform the necessary work, and Subdivider shall pay to Town the actual cost of such repairs plus fifteen percent (15%) within thirty (30) days of the date of billing for such work by Town.

19. Subdivider Not Agent of Town. Neither Subdivider nor any of Subdivider's agents, contractors, or subcontractors are or shall be considered to be agents of the Town in connection with the performance of Subdivider's obligations under this Agreement.

20. Notice of Breach and Default. The following shall constitute a default under this Agreement: If Subdivider refuses or fails to prosecute the work on the Required Improvements, or any part thereof, with such diligence as will ensure its completion within the time specified, or any extension thereof, or fails to complete the Required Improvements within such time; if 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's insolvency; or if Subdivider or any of Subdivider's contractors, subcontractors, agents or employees should violate any of the provisions of this Agreement. In the event of Subdivider's default, Subdivider shall be deemed to be in breach of this Agreement and the Town may serve written notice upon Subdivider and Subdivider's surety, if any, of the breach of this Agreement. Subdivider shall have fifteen (15) days from receipt of written notice by Town to cure any default.

21. Breach of Agreement; Performance By Surety or Town. In the event Subdivider is in default under this Agreement, and the applicable cure period set forth in paragraph 21 has expired without such default having been cured by Subdivider, the Town may thereafter deliver a notice of breach to Subdivider's surety, if any, and such surety shall have the duty to take over and complete the work on the Required Improvements; provided, however, that if the surety within fifteen (15) days after the serving of such notice of breach upon it does not give the Town written notice of the surety's intent to take over the performance of the Agreement, or does not commence performance thereof within fifteen (15) days after notice to the Town of such election, then the Town may take over the work and prosecute the same to completion by contract, or by any other method the Town may deem advisable, for the account and at the expense of the Subdivider, and the Subdivider's surety shall be liable to the Town for any excess cost or damages incurred by the Town. In such event, the Town, without liability for so doing, may take possession of and utilize in completing the work such materials, appliances, plants or other property belonging to Subdivider as may be on the site of the work and necessary therefor. The remedy provided by this paragraph is in addition to, and not in lieu of,

other remedies available to the Town. The Town reserves to itself all remedies available to it at law or in equity for a breach of Subdivider's obligations under this Agreement. In addition to any other remedy the Town may have, a breach of this Agreement by the Subdivider shall constitute consent to the filing by the Town of a notice of violation against all the lots in the Subdivision. Subdivider agrees that the choice of remedy or remedies for Subdivider's breach shall be in the discretion of the Town.

If the form of improvement security is other than a bond, the Town, after giving notice of breach of the Agreement, may proceed to collect against the improvement security in the manner provided by law and by the terms of the security instrument.

**22. Notices.** All notices required under this Agreement shall be in writing, and delivered in person or sent by registered or certified mail, postage prepaid.

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

Town Engineer  
Town of Loomis

Loomis, California 95691

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

Taylor Village 2018, LP  
4020 Sierra College Blvd, #200  
Rocklin, CA, CA 95677

Attn: Shyrel H. Gaskey

Any party may change such address by notice in writing to the other party and thereafter notices shall be addressed and transmitted to the new address.

**23. Waiver.** The waiver by either party of a breach by the other of any provision of this Agreement shall not constitute a continuing waiver or a waiver of any subsequent breach of either the same or a different provision of this Agreement.

**24. Attorney Fees.** In the event any legal action is brought to enforce or interpret this Agreement, the prevailing party shall be entitled to an award of reasonable attorney fees, in addition to any other relief to which it may be entitled.

**25. Personal Nature of Subdivider's Obligations/Assignment.** All of Subdivider's obligations under this Agreement are and shall remain the personal obligations of Subdivider notwithstanding a transfer of all or any part of the property within the Subdivision subject to this Agreement, and Subdivider shall not assign any of its obligations under this Agreement without the prior written consent of the Town.

**26. Acquisition and Dedication of Easements or Rights-of-Way.** If any of the Required Improvements are to be constructed or installed on land not within the Subdivision or an already existing public right-of-way, no construction or installation shall be commenced before:

a. The irrevocable offer of dedication or conveyance to Town of appropriate rights-of-way, easements or other interests in real property, and appropriate authorization from the property owner to allow construction or installation of the Required Improvements, or

b. The issuance of an order of possession by a court of competent jurisdiction pursuant to the State Eminent Domain Law. Subdivider shall comply in all respects with any such order of possession.

Nothing in this paragraph shall be construed as authorizing or granting an extension of time to Subdivider for completion of the Required Improvements.

27. Compliance with Laws. Subdivider, its agents, employees, contractors, and subcontractors shall comply with all federal, state and local laws in the performance of the work required by this Agreement, including but not limited to obtaining all applicable permits and licenses.

28. No Vesting of Rights. Entering into this Agreement shall not be construed to vest Subdivider's rights with respect to any change in any zoning or building law or ordinance.

29. Approvals by Town. Any approval or consent that is to be given by the Town under this Agreement shall be in writing, and any approval or consent that is not in writing shall not be binding on the Town.

30. Construction and Interpretation. It is agreed and acknowledged by Subdivider that the provisions of this Agreement have been arrived at through negotiation, and that Subdivider has had a full and fair opportunity to revise the provisions of this Agreement and to have such provisions reviewed by legal counsel. Therefore, the normal rule of construction that any ambiguities are to be resolved against the drafting party shall not apply in construing or interpreting this Agreement.

31. Successors and Assigns -- Covenant Running With the Land. This Agreement shall inure to the benefit of, and be binding upon, the successors and assigns of the respective parties. A memorandum of this Agreement shall be recorded in the Office of the Recorder of Placer County concurrently with the final map or parcel map of the Subdivision. This Agreement shall constitute a covenant running with the land and an equitable servitude upon the real property within the Subdivision.

32. Severability. The provisions of this Agreement are severable. If any portion of this Agreement is held invalid by a court of competent jurisdiction, the remainder of the Agreement shall remain in full force and effect unless amended or modified by mutual written consent of the parties.

33. Actions. Any action by any party to this Agreement, or any action concerning a security furnished pursuant thereto, shall be brought in the appropriate court of competent jurisdiction within the County of Placer, State of California, notwithstanding any other provision of law which may provide that such action may be brought in some other location. The law governing this Agreement is the law of the State of California.

34. Integration. This Agreement is an integrated agreement. It supersedes all prior negotiations, representations, or agreements, either written or oral.

35. Modification. This Agreement may be amended only by a written instrument signed by the parties. Subdivider shall bear all costs of amendments to this Agreement that are requested by the Subdivider.

IN WITNESS WHEREOF, the parties have executed this Agreement as follows:

TOWN OF LOOMIS

By: \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Town Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Town Attorney

SUBDIVIDER

Taylor Village 2018, LP, a California Limited Partnership

By: \_\_\_\_\_  
Shyrel H. Gaskey, General Partner

NO FEE DOCUMENT per Government Code 6103  
RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:

Town of Loomis

Loomis, CA 95691  
Attention: Town Clerk

MEMORANDUM OF AGREEMENT  
Final Map No. \_\_\_\_\_, \_\_\_\_\_

This Memorandum of Agreement is made and entered into by and between Taylor Village 2018, LP, a California limited partnership ("Subdivider"), and the TOWN OF LOOMIS ("City"), a municipal corporation organized and existing under the laws of the State of California, with respect to the following facts:

Town and Subdivider hereby agree to be bound by all of the terms and conditions contained in the "Subdivision Improvement Agreement" dated \_\_\_\_\_, the terms and conditions of which are made a part hereof as though fully set forth herein, and which Agreement controls the use and development of that certain real property, including any improvements and personal property, situated in the County of Placer, State of California, described as follows:

Final Map No. \_\_\_\_-\_\_\_\_

Executed on this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_\_\_, at \_\_\_\_\_  
\_\_\_\_\_, \_\_\_\_\_ County, California.

Taylor Village 2018, LP

TOWN OF LOOMIS

BY: \_\_\_\_\_  
Shyrel H. Gaskey  
President of Diamond Ridge Construction,  
Inc. General Partner of Taylor Village 2018, LP

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
TOWN CLERK,  
Town of Loomis

APPROVED AS TO FORM:

\_\_\_\_\_  
Town Attorney

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, \_\_\_\_\_,  
*Date Here Insert Name and Title of the Officer*

personally appeared \_\_\_\_\_  
*Name(s) of Signer(s)*

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 \_\_\_\_\_

*Signature of Notary Public*

*Place Notary Seal Above*