

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:
COUNTY OF TULARE
5961 S. Mooney Blvd
Visalia, California 93277
Attention: Resources Management Agency

Affects APNs 028-140-033 & 028-450-061

(Space Above This Line for Recorder's Use Only)
Exempt from recording fee per Gov. Code § 27383

SUBDIVISION IMPROVEMENT AGREEMENT

THIS SUBDIVISION IMPROVEMENT AGREEMENT ("Agreement") is made and entered into as of _____, 2020, by and between PRESIDIO JJR SUMMERLIN 123, LLC, a Delaware limited liability company, hereinafter referred to as the "Subdivider," and the COUNTY OF TU-LARE, a political subdivision of the State of California, hereinafter referred to as the "County." Subdivider and County are each a "Party" and together are the "Parties" to this Agreement, which is made with reference to the following:

- A. The Subdivider has filed with the Board of Supervisors the Final Map for Phase 2 of Subdivision Tract No. TSM 16-002 (the "Subdivision" or "Project") for approval.
- B. The land that is the subject of said Subdivision is identified as Tulare County Assessors' Parcel Numbers 028-140-033 & 028-450-061 and is described and depicted in the attached **Exhibit A** (the "Land").
- C. Certain public improvements are required to be made by the Subdivider in said Subdivision in accordance with the approved Tentative Map of said Subdivision and said public improvements have not been completed.
- D. If said public improvements have not been completed, Section 66462 of the Government Code provides that as a condition precedent to the approval of the final Map, the Board of Supervisors shall require the Subdivider to enter into an agreement to complete said improvements.

NOW, THEREFORE, THE PARTIES AGREE as follows:

1. The Subdivider hereby agrees to complete all required public improvements in the Subdivision in accordance with the conditions of approval of the Subdivision (the "Improvements") and the requirements and standards set forth in Section 7-01-1000 through 7-01-2855 of the Ordinance Code of Tulare County (the "Improvement Plans") as said requirements and standards read at the time of approval or conditional approval of the Tentative Map of said Subdivision.
2. All of the required Improvements shall be completed not later than twelve (12) months from and after the date first above written. If the Improvements are not completed on or before said

date, then County shall have the right, but not the obligation, to complete the Improvements at Subdivider's expense, including use of the security furnished by Subdivider hereunder.

3. The Subdivider shall make all necessary arrangements for the relocation of all overhead and underground public utility facilities that interfere with the improvement work to be performed by the Subdivider. The Subdivider shall also make necessary arrangements with the serving public utility company for the costs of relocating such facilities as no portions of the relocation costs will be paid by the County.

4. The Subdivider shall repair any damage to public streets or any other public property or improvements that results from or is incidental to the construction of the required Improvements in said Subdivision or, in lieu of making such repairs, the Subdivider shall pay to the County the full cost of making such repairs.

5. County shall not be responsible or liable for the maintenance or care of the Improvements until County formally approves and accepts them in accordance with its policies and procedures. County shall exercise no control over the Improvements until approved and accepted. Any use by any person of the Improvements, or any portion thereof, shall be at the sole and exclusive risk of the Subdivider at all times prior to County's acceptance of the Improvements. Subdivider shall maintain all the Improvements in a state of good repair until they are completed by Subdivider and approved and accepted by County. Maintenance shall include, but shall not be limited to, repair of pavement, curbs, gutters, sidewalks, signals, parkways, water mains, and sewers; maintaining all landscaping in a vigorous and thriving condition reasonably acceptable to County; removal of debris from sewers and storm drains; and sweeping, repairing, and maintaining in good and safe condition all streets and street improvements. It shall be Subdivider's responsibility to initiate all maintenance work, but if it shall fail to do so, it shall promptly perform such maintenance work when notified to do so by County. If Subdivider fails to properly prosecute its maintenance obligation under this Section 5, then County may do all work necessary for such maintenance and the cost thereof shall be the responsibility of Subdivider and its surety under this Agreement. County shall not be responsible or liable for any damages or injury of any nature in any way related to or caused by the Improvements or their condition prior to acceptance. Notwithstanding the above, Subdivider shall make available for public use any streets, curbs, gutters, sidewalks or walkways, streetlights, street furniture, storm drain improvements, fire hydrants, and any other facilities intended for general public use, which are installed, altered or affected by the Work, as soon as they can be safely placed in service.

6. Approval of this Agreement by County does not release Subdivider of its responsibility to correct mistakes, errors, or omissions in the Improvement Plans. If, at any time, in the opinion of the County Public Works Director or his or her designee, in his or her reasonable discretion, the Improvement Plans are deemed inadequate in any respect Subdivider agrees to make such modifications, changes or revisions as necessary in order to complete the work in a good and workmanlike manner in accordance with this Agreement.

7. Subdivider shall fully comply with all federal, state, and local laws, ordinances and regulations, including the Subdivision Ordinance, in the performance of this Agreement. Subdivider shall, at its own cost and expense, obtain all necessary permits and licenses for the work, give all necessary notices, pay all fees and taxes required by law and make any and all deposits legally required by those public utilities that will serve the development on the said Land. Copies and/or proof of payment of said permits, licenses, notices, fee and tax payments and deposits shall be furnished to the County Public Works Director or his or her designee upon request.

8. The Subdivider agrees to hold harmless, defend and indemnify the County and its officers and employees from any claims, liabilities, losses, penalties, injuries, awards, damages, attorneys' fees and related costs and expenses of any kind or nature (collectively, "Claims") arising out of this Agreement or alleged to have been caused by or arisen out of the work performed by the Subdivider or any of Subdivider's contractors, subcontractors, agents, officers, or employees pursuant to this Agreement. The aforementioned indemnity shall apply regardless of whether or not County has prepared, supplied, or approved plans and/or specifications for the work or Improvements and regardless of whether any insurance required under this Agreement is applicable to any Claims. The County does not and shall not waive any of its rights under this indemnity provision because of its acceptance of the bonds or insurance required under the provisions of this Agreement. Subdivider's obligation to indemnify County shall survive the expiration or termination of this Agreement.

9. Before approval of this Agreement by County, Subdivider must file with the Tulare County Public Works Director or his or her designee evidence of the required insurance coverage as set forth in the attached **Exhibit B**.

10. The Subdivider or his Contractor(s) shall obtain an encroachment permit from the County or State for any work that is to be done within any County or State maintained road right of way or easements that are located outside of the boundary of said Subdivision.

11. The Subdivider agrees to furnish security which complies with Section 66499 et seq. of the Government Code, in such amounts as are fixed by the Board of Supervisors of the County, to guarantee the faithful performance of this Agreement and to guarantee payment to contractors, subcontractors, laborers, materialmen and other persons employed in the performance of the work under this Agreement at the time of execution of this Agreement.

12. Within thirty (30) days after the Subdivider notifies the Tulare County Public Works Director or his or her designee that the required work has been completed, the Tulare County Public Works Director or his or her designee shall inspect such work and, if such has been performed in the required manner, he or she shall advise the Board of Supervisors that the public improvements are complete and are ready for acceptance by the County. Subdivider hereby grants permission to the County or its authorized agents to enter upon the Land for the purpose of inspection of any and all improvements to be constructed or installed under this Agreement.

13. Inspecting of the work and/or materials, or approval of work and/or materials, or a statement by an officer, agent or employee of the County indicating the work complies with this Agreement, or acceptance of all or any portion of the work and/or materials, or payments thereof, or any combination of all of these acts shall not relieve Subdivider or its obligation to fulfill this Agreement; nor is the County by these acts prohibited from bringing an action for damages arising from the failure to comply with this Agreement.

14. Without limiting the foregoing, Subdivider expressly warrants and guarantees all Work and all materials used in the Work for a period of one year after the date of recordation of the notice of acceptance of the Improvements in accordance with Section 12. If, within this one-year period, any Improvement or part of any Improvement installed or constructed, or caused to be installed or constructed by Subdivider, or any of the work, fails to fulfill any of the requirements of the Improvement Plans or this Agreement, Subdivider shall, without delay and without cost to County, repair, replace or reconstruct any defective or otherwise unsatisfactory part or parts of the work or Improvement to the satisfaction of the County Public Works Director or his or her designee. Should Subdivider fail to act promptly or in accordance with this requirement, or should the exigencies of the situation require repairs, replacements or reconstruction to be made before Subdivider can be notified, County may, at its option, make the necessary repairs, replacements or perform the necessary reconstruction and Subdivider shall pay to the County upon demand the actual cost of such repairs, replacements or reconstruction plus 25 percent.

15. Subdivider shall furnish and deliver a warranty bond in the amount of ten percent of the value of the Improvements upon acceptance and final approval of the Improvements and prior to release of the entirety of the Performance Bond. The bond shall be in a form acceptable to the County Counsel and shall guarantee and warranty the Work for a period of one year following the date of recordation of the notice of acceptance of the Improvements against any defective work or labor done, or defective materials furnished.

16. Neither Subdivider nor Subdivider's contractors, subcontractors, agents, officers, or employees are agents, partners, joint venturers, or employees of County, and the Subdivider's relationship to the County, if any, arising herefrom is strictly that of an independent contractor. Subdivider's contractors and subcontractors are exclusively and solely under the control and dominion of Subdivider. Further, there are no intended third party beneficiaries of any right or obligation assumed by the Parties under this Agreement.

17. This Agreement is binding on all heirs, assigns, and successors in interest. No assignment of this Agreement may be made without the express written consent of the County.

18. (a) Except as may be otherwise required by law, any notice to be given under this Agreement must be written and must be either personally delivered, sent by facsimile transmission or sent by first class mail, postage prepaid and addressed as follows:

COUNTY:

TULARE COUNTY RESOURCE
MANAGEMENT AGENCY
5961 S. Mooney Blvd
Visalia, CA 93277
Phone No.: 559-624-7000
Fax No.: 559-730-2653

With a Copy to:

COUNTY ADMINISTRATIVE OFFICER
2800 W. Burrel Ave.
Visalia, CA 93291
Phone No.: 559-636-5005
Fax No.: 559-733-6318

SUBDIVIDER

PRESIDIO JJR SUMMERLIN 123, LLC
C/o JJR Management Services, Inc.
5607 Avenida de los Robles
Visalia, CA 93291
Phone No. (559) 732-2660
Fax No.: (559) 732-2660

(b) Notice personally delivered is effective when delivered. Notice sent by facsimile transmission is deemed to be received upon successful transmission. Notice sent by first class mail will be deemed received on the fifth calendar day after the date of mailing. Either Party may change the above address by giving written notice under this section.

19. Subdivider represents and warrants to County that the individual(s) signing this Agreement on its behalf are duly authorized and have legal capacity to sign this Agreement and bind Subdivider to its terms. Subdivider acknowledges that County has relied upon this representation and warranty in entering into this Agreement.

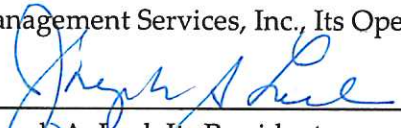
20. This Agreement pertains to and shall run with the Land. Upon execution, this Agreement shall be recorded in the Official Records of Tulare County.

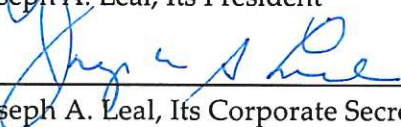
21. The Parties may sign this Agreement in counterparts, each of which is an original and all of which taken together form one single document.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the day and year first above written.

PRESIDIO JJR SUMMERLIN 123, LLC

By JJR Management Services, Inc., Its Operating Manager

By 
Joseph A. Leal, Its President

By 
Joseph A. Leal, Its Corporate Secretary

[Pursuant to Corporations Code section 313, County policy requires that contracts with a **Corporation** be signed by both (1) the chairman of the Board of Directors, the president or any vice-president (or another officer having general, operational responsibilities), and (2) the secretary, any assistant secretary, the chief financial officer, or any assistant treasurer (or another officer having recordkeeping or financial responsibilities), unless the contract is accompanied by a certified copy of a resolution of the corporation's Board of Directors authorizing the execution of the contract. Similarly, pursuant to California Corporations Code section 17703.01, County policy requires that contracts with a **Limited Liability Company** be signed by at least two managers, unless the contract is accompanied by a certified copy of the articles of organization stating that the LLC is managed by only one manager.]

COUNTY OF TULARE

By _____
Chair, Board of Supervisors

ATTEST: JASON T. BRITT,
County Administrative Officer/Clerk
of the Board of Supervisors

By _____
Deputy

APPROVED AS TO FORM
COUNTY COUNSEL

By 
Deputy

Matter No. 2020436

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 Tulare

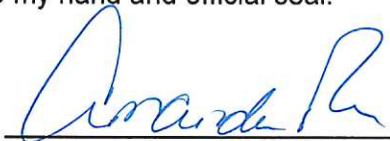
On April 20, 2020 before me, Amanda Ramos, Notary Public
(insert name and title of the officer)

personally appeared Joseph A. Leal
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.

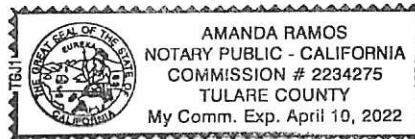
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature



(Seal)



**EXHIBIT A
ANDERSEN VILLAGE
PHASE 2 FINAL MAP**

ANDERSEN VILLAGE PHASE 2

TULARE COUNTY TRACT NO. 16-002

FRESNO COUNTY TRACT NO. 6306

LEGEND

- ▲ FOUND AND ACCEPTED MONUMENT AS DESCRIBED
- SET BRASS DISC STAMPED P.S. #18 IN WELL
- SET 3/4" IRON PIPE TAPPED P.S. #18
- ◊ SET 3/4" IRON PIPE TAPPED P.S. #18 AS WITNESS CORNER
- FOUND 3/4" IRON PIPE TAPPED P.S. #18
- FOUND BRASS DISC STAMPED P.S. #18 IN WELL
- 11 RECORD DATA PER MAP OF TRACT NO. 16-002, ANDERSEN VILLAGE, AS RECORDED IN VOL. 44 OF MAPS, AT P.S. 28, TCR.
- (1) RECORD DATA PER P.A. 19-023, DOC. #204081028, TCR.
- (2) RECORD DATA PER TRACT 140, ANDERSON ESTATES REC. IN BOOK 51 OF PLATS, PAGES 81 & 82, FOR MATCHES MEASURED DIMENSION
- (R) RADIAL BEARING
- LINE INDICATES SUBDIVISION BOUNDARY
- ▲ NOW OFFERED IN FEE FOR STREET DEDICATION IN FAVOR OF TULARE COUNTY, LIMIT AT COUNTY LINE
- ▲ NOW OFFERED IN FEE FOR STREET DEDICATION IN FAVOR OF CITY OF KINGSBURG, LIMIT AT COUNTY LINE
- KINGSBURG CITY LIMIT LINE
- FOR FRESNO COUNTY RECORD
- TCR TULARE COUNTY RECORD

BASIS OF BEARINGS

THE NORTH LINE OF THE NORTHEAST QUARTER OF SECTION 25-1602 AS SHOWN AS RECORDED IN THE MAP OF TRACT NO. 16-002 IN VOLUME 44 OF MAPS, AT PAGE 29 OF TULARE COUNTY RECORDS
TAKEN AS S87°29'57"E

NOTE

- ① EXISTING 8-FOOT-WIDE DITCH EASEMENT IN FAVOR OF CONSOLIDATED REGIONAL DISTRICT, CONVERTED FROM OPEN DITCH TO LANDSCAPED FLOOD PROTECTION
- ② 750,000 GALLON FLOOD WALL & LANDSCAPE EASEMENTS IN FAVOR OF TULARE COUNTY PER THIS MAP

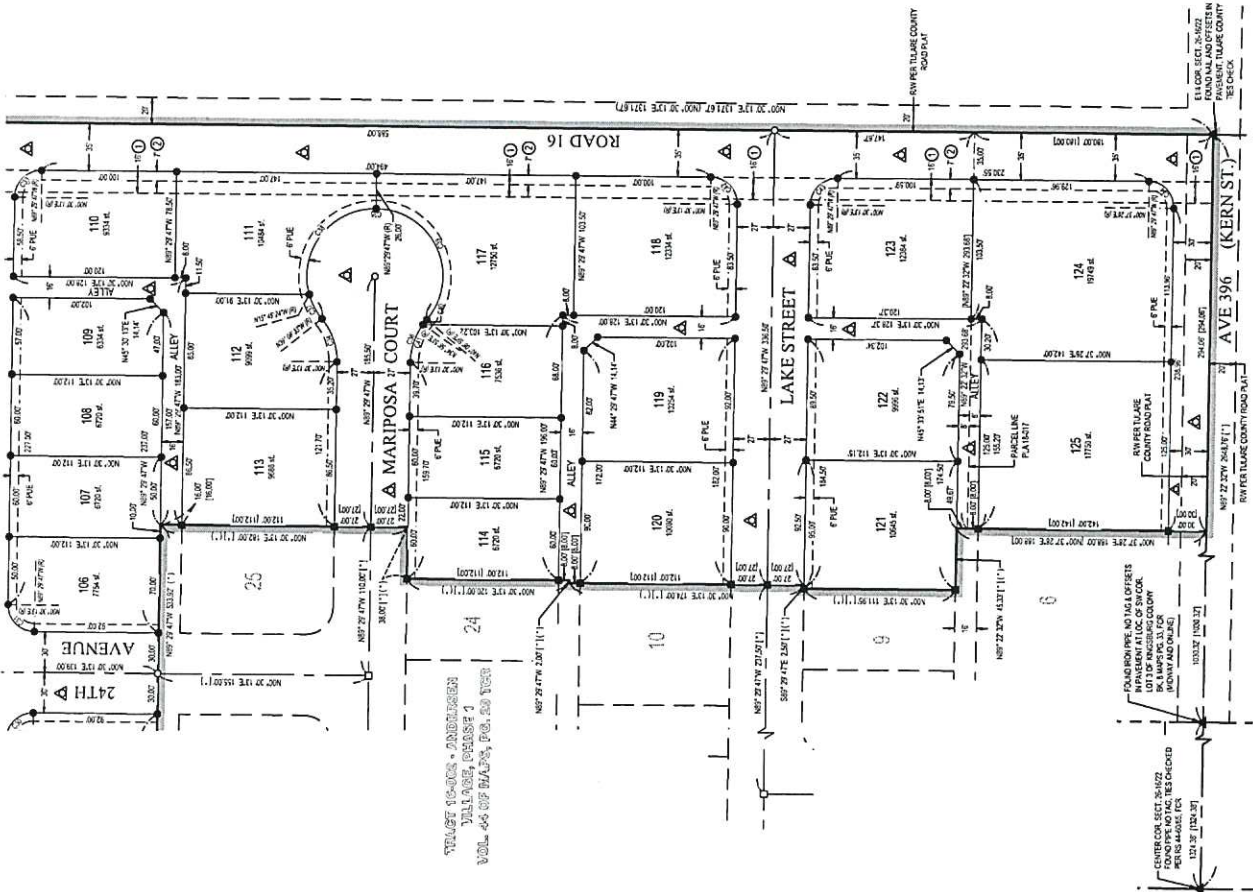


EXHIBIT B INSURANCE REQUIREMENTS

During the term of the Agreement to which this Exhibit is attached, SUBDIVIDER shall maintain at its cost and expense the following insurance coverage against Claims (as that term is defined in section 8 of the Agreement), including Claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work and the results of that work by the SUBDIVIDER, its contractors, agents, representatives, employees or subcontractors.

A. Minimum Scope & Limits of Insurance

1. Coverage at least as broad as Commercial General Liability, insurance Services Office Commercial General Liability coverage occurrence form GC 00 01, with limits no less than \$1,000,000 per occurrence including products and completed operations, property damage, bodily injury and personal & advertising injury. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.
2. Insurance Services Office Form Number CA 00 01 covering Automobile Liability of \$1,000,000 per occurrence including any auto or, if the SUBDIVIDER has no owned autos, hired and non-owned auto coverage. If an annual aggregate applies, it must be no less than \$2,000,000.
3. Workers' Compensation insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.

B. Specific Provisions of the Certificate

1. If the required insurance is written on a claims-made form, the retroactive date must be before the date of the contract or the beginning of the contract work and must be maintained and evidence of insurance must be provided for at least three (3) years after completion of the contract work.
2. SUBDIVIDER must submit endorsements to the General Liability reflecting the following provisions:
 - a. *The COUNTY, its officers, agents, officials, employees and volunteers are to be covered as additional insureds as respects; liability arising out of work or operations performed by or on behalf of the SUBDIVIDER including material, parts, or equipment furnished in connection with such work or operations.*

- b. For any claims related to this Project, the SUBDIVIDER's insurance coverage shall be primary insurance as respects the COUNTY, its officers, agents, officials, employees, and volunteers. Any insurance or self-insurance maintained by the COUNTY, its officers, agents, officials, employees, or volunteers shall be excess of the SUBDIVIDER's insurance and shall not contribute with it.*
 - c. SUBDIVIDER hereby grants to COUNTY a waiver of any right to subrogation that any insurer of SUBDIVIDER may acquire against the COUNTY by virtue of the payment of any loss under such insurance. SUBDIVIDER agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this less of whether or not the COUNTY has received a waiver of subrogation endorsement from the insurer.*
 - d. Each insurance policy required by the Agreement shall be endorsed to state that coverage shall not be canceled by either party, except after written notice has been provided to the County.*
3. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the COUNTY for all work performed by the SUBDIVIDER, its employees, agents and subcontractors. SUBDIVIDER waives all rights against the COUNTY and its officers, agents, officials, employees and volunteers for recovery of damages to the extent these damages are covered by the workers compensation and employers liability.

C. Deductibles and Self-Insured Retentions

Self-insured retentions must be declared and the COUNTY Risk Manager must approve any deductible or self-insured retention that exceeds \$100,000.

D. Acceptability of Insurance

Insurance must be placed with insurers with a current rating given by A.M. Best and Company of no less than A-:VII and a Standard & Poor's Rating (if rated) of at least BBB and from a company approved by the Department of Insurance to conduct business in California. Any waiver of these standards is subject to approval by the COUNTY Risk Manager.

E. Verification of Coverage

Prior to approval of this Agreement by the COUNTY, the SUBDIVIDER shall file with the submitting department, certificates of insurance with original endorsements effecting coverage in a form acceptable to the COUNTY. Endorsements must be signed by persons authorized to bind coverage on behalf of the insurer. The COUNTY reserves the right to require certified copies of all required insurance policies at any time.

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