

DATE SUBMITTED 11/10/2020
 SUBMITTED BY COMMUNITY DEVELOPMENT DIRECTOR
 DATE ACTION REQUIRED 11/18/2020

COUNCIL ACTION (x)
 PUBLIC HEARING REQUIRED ()
 RESOLUTION ()
 ORDINANCE 1ST READING ()
 ORDINANCE 2ND READING ()
 CITY CLERK'S INITIALS [Signature]

**IMPERIAL CITY COUNCIL
 AGENDA ITEM**

SUBJECT: DISCUSSION/ACTION: MONTERREY PARK SUBDIVISION NO. 2 – UNIT 3B FINAL MAP	
<ol style="list-style-type: none"> 1. APPROVE FINAL MAP AND SUBDIVISION AGREEMENT FOR MONTERREY PARK SUBDIVISION NO. 2 UNIT 3B 2. AUTHORIZE THE CITY CLERK TO RECORD FINAL MAPS AND RELATED DOCUMENTS 	
DEPARTMENT INVOLVED: <u>COMMUNITY DEVELOPMENT</u>	
BACKGROUND/SUMMARY: Staff completed its review of the Final Map for Monterrey Park Subdivision No. 2 - Unit 3B and finds all items acceptable. The approved cost estimate for required off-site improvements for Unit 3B is \$1,145,000.02, which is included in the Subdivision Agreement. Security for the off-site improvements will be in the form of a First Lien position in specified real estate property, similar to those approved in other subdivisions. There is sufficient value in the property involved to secure the required amount. See Exhibits 1, 2, and 3 for details.	
FISCAL IMPACT: NO FISCAL IMPACT	ADMIN SERVICES SIGN INITIALS _____
STAFF RECOMMENDATION: Staff recommends to: <ol style="list-style-type: none"> 1. Approval of the Final Map for Monterrey Park Subdivision No. 2 - Unit 3B. 2. Authorize the City Clerk To Record Final Maps And Related Documents 	DEPT. INITIALS <u>OM</u>
MANAGER'S RECOMMENDATION: <u>approve</u>	CITY MANAGER'S INITIALS <u>[Signature]</u>
MOTION:	
SECONDED: _____ AYES: _____ NAYES: _____ ABSENT: _____	APPROVED () REJECTED () DISAPPROVED () DEFERRED () REFERRED TO: _____

EXHIBIT 1

MONTERREY PARK SUBDIVISION NO. 2 - UNIT 3B

A PORTION OF TRACT 46, T.15 S., R.13 E., S.B.M., IN THE CITY OF IMPERIAL, COUNTY OF IMPERIAL, STATE OF CALIFORNIA

SURVEYOR'S STATEMENT:

I, MATTHEW W. SPIRO, HEREBY CERTIFY THAT I AM A LICENSED LAND SURVEYOR OF THE STATE OF CALIFORNIA THAT THIS MAP CONSISTING OF THREE (3) SHEETS CORRECTLY REPRESENTS THE TRUE AND COMPLETE AS SHOWN, UNLESS OTHERWISE INDICATED, THE CHARACTER AND OCCUPY THE POSITIONS INDICATED (OR THAT THEY WILL BE SET IN SUCH POSITIONS WITHIN SUCH TIME, AS IS INDICATED ON THE ATTACHED SHEETS) AND THAT SAID MONUMENTS ARE OR WILL BE SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACED.



Matthew W. Spiro
MATTHEW W. SPIRO, L.S. 8461
LICENSE EXPIRES 12-31-2020

SURVEYOR'S STATEMENT:

THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECTION AND IS BASED ON A FIELD SURVEY IN CONFORMANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND THE SUBDIVISION MAP ACT OF THE STATE OF CALIFORNIA, AND THE REQUIREMENTS OF LOCAL ORDINANCES AND REQUIREMENTS OF CHAPTER 2, ARTICLE 2 OF THE SUBDIVISION MAP ACT AS AMENDED JANUARY 1, 2016, HAVE BEEN COMPLIED WITH AND THAT I AM SATISFIED THAT THIS MAPS MAP IS TECHNICALLY CORRECT.



Matthew W. Spiro
MATTHEW W. SPIRO, L.S. 8461
LICENSE EXPIRES 12-31-2020

ACTING CITY SURVEYOR'S STATEMENT:

I, DAVID BELTRAN, ACTING CITY SURVEYOR FOR THE CITY OF IMPERIAL, HEREBY STATE THAT I HAVE EXAMINED THIS MAP CONSISTING OF THREE (3) SHEETS, THAT THE SUBDIVISION SHOWN HEREWITH IS SUBSTANTIALLY AS IT APPEARED ON THE TENTATIVE MAP, AND THAT THE SAME COMPLIES WITH ALL APPLICABLE LOCAL ORDINANCES AND REQUIREMENTS OF CHAPTER 2, ARTICLE 2 OF THE SUBDIVISION MAP ACT AS AMENDED JANUARY 1, 2016, HAVE BEEN COMPLIED WITH AND THAT I AM SATISFIED THAT THIS MAPS MAP IS TECHNICALLY CORRECT.

DATED THIS: _____ DAY OF _____, 20____

DAVID BELTRAN, PLS 8482
ACTING CITY SURVEYOR
LICENSE EXPIRES 12-31-2020

CITY CLERK'S CERTIFICATE:

I, HEREBY CERTIFY THAT THE CITY COUNCIL OF THE CITY OF IMPERIAL, BY RESOLUTION ADOPTED _____ HAS APPROVED AND ADOPTED THE TENTATIVE MAP AND CERTIFICATE OF THE PUBLIC ALL STREETS AND PUBLIC UTILITIES EASEMENTS OFFERED FOR DEDICATION AS SHOWN HEREWITH.

DEBRA JACKSON
CLERK OF THE CITY COUNCIL

SIGNATURE OMISSIONS STATEMENT:

PURSUANT TO SECTION 66308 OF THE SUBDIVISION MAP ACT, THE SIGNATURES OF THE FOLLOWING OWNERS OF THE SUBDIVISION OR OTHER INTEREST HAVE BEEN OMITTED, AND THAT THEIR INTERESTS CANNOT RISE INTO FEE TITLE.

- (A) UNKNOWN ENTITY(IES) RIGHTS OF THE PUBLIC IN AND TO THAT PORTION OF LAND LYING WITHIN ANY ROAD, STREET, ALLEY OR HIGHWAY. (PLOTTED HEREON)
- (B) UNKNOWN ENTITY(IES) WATER RIGHTS, CLAIMS OR TITLE TO WATER, WHETHER OR NOT SHOWN BY THE PUBLIC RECORDS. (NOT PLOTTED)

OVERFLIGHT EASEMENT:

THIS PROPERTY IS IN THE AREA SUBJECT TO OVERFLIGHTS BY AIRCRAFT USING IMPERIAL COUNTY AIRPORT AND AS RESULTING FROM THE OPERATION OF AIRCRAFT, THERE MAY BE ANNOYANCE OR DISCOMFORT ARISING FROM THE NOISE OF SUCH OPERATIONS. STATE LAW (PUBLIC UTILITIES CODE SECTION 21670 ET. SEQ.) ESTABLISHES THE IMPORTANCE OF PUBLIC USE AIRPORTS TO PROTECTION OF THE PUBLIC INTEREST OF THE PEOPLE OF THE STATE OF CALIFORNIA.

RESIDENTS OF PROPERTY NEAR A PUBLIC USE AIRPORT SHOULD THEREFORE BE PREPARED TO ACCEPT SUCH INCONVENIENCE, ANNOYANCE OR DISCOMFORT FROM NORMAL AIRCRAFT OPERATIONS. ANY SUBSEQUENT DEED CONVEYING PARCELS OR LOTS SHALL CONTAIN A STATEMENT IN SUBSTANTIALLY THIS FORM.

SOILS REPORT:

A SOILS REPORT APPLICABLE TO THE LAND INCLUDED WITHIN THIS MAP WAS PREPARED BY LANDMARK CONSULTANTS INC., DATED APRIL, 2004, UNDER THE DIRECTION OF JEFFREY O. LYON, REGISTERED CIVIL ENGINEER 31921 AS REPORT LEG04086. SAID REPORT WAS REVISED ON SEPTEMBER 16, 2010 AS REPORT UPDATE NO. LE0243. A COPY OF SAID REPORT AND UPDATE IS ON FILE IN THE DEPARTMENT OF PUBLIC WORKS.

TITLE COMPANY CERTIFICATE:

I, HEREBY CERTIFY THAT THE PERSON(S) SPECIFIED IN THE CERTIFICATES HEREON ARE THE OWNERS, AND THE ONLY ONES WHOSE CONSENT IS NECESSARY TO PASS CLEAR TITLE.

FIRST AMERICAN TITLE COMPANY
Debra Jackson
TITLE OFFICER

SUPPORTING DOCUMENTS:

THE FOLLOWING DOCUMENTS WERE RECORDED AS OFFICIAL RECORDS OF THE COUNTY OF IMPERIAL IN SUPPORT OF THIS FINAL MAP.

TITLE: SUBDIVISION GUARANTEE	INSTRUMENT NO.
TITLE: TAX CERTIFICATION	INSTRUMENT NO.
TITLE: RESOLUTION	INSTRUMENT NO.
TITLE:	INSTRUMENT NO.
TITLE:	INSTRUMENT NO.
TITLE:	INSTRUMENT NO.

LEGAL DESCRIPTION

BEING A SUBDIVISION OF A PORTION OF REMAINDER PARCEL "A" OF MONTERREY PARK SUBDIVISION NO. 2, AS SHOWN ON THE TENTATIVE MAP AND CERTIFICATE OF DEDICATION, BOOK 27, PAGE 51 OF FINAL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF IMPERIAL COUNTY, CALIFORNIA.

OWNER'S CERTIFICATE:

I, HEREBY CERTIFY THAT I AM THE ONLY PARTY HAVING ANY RECORD TITLE INTEREST IN THE LAND SUBDIVIDED AS SHOWN ON THIS MAP, AND I HEREBY CONSENT TO THE PREPARATION OF THIS MAP AND TO THE DEDICATION OF THE PUBLIC UTILITIES EASEMENTS TO PUBLIC USE, ANY STREET AND OTHER PUBLIC EASEMENTS SHOWN UPON SAID MAP AND BEING WITHIN SAID SUBDIVISION.

JUPITER VENTURES, LP, A CALIFORNIA LIMITED PARTNERSHIP
BY: *[Signature]* DATE: 06/09/19
TITLE: Asst. Mgr. 2nd

NOTARY ACKNOWLEDGEMENT

I, a notary public or other officer, completing this certificate verifies only the identity of the individual(s) whose name(s) appear on the foregoing instrument and that the individual(s) is/are the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me as the person(s) whose name(s) is/are subscribed to the within instrument and that he/she/they executed the instrument and that he/she/they are acting voluntarily and without duress, coercion, fraud, or undue influence.

STATE OF CALIFORNIA }
COUNTY OF IMPERIAL }
ON: 06/09/19 BEFORE ME, LEAH D. THOMAS
PERSONALLY APPEARED DAVID BELTRAN
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 AS THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND THAT HE/SHE/HE/THEY (THEIR SIGNATURE(S)) ON THE INSTRUMENT IS/ARE THE SIGNATURE(S) OF THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT 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 THE FOREGOING PARAGRAPH IS TRUE AND CORRECT.

WITNESS MY HAND AND OFFICIAL SEAL:

[Signature]
SIGNATURE OF NOTARY PUBLIC
MY PRINCIPLE PLACE OF BUSINESS IS IN Imperial, CA COUNTY.
MY COMMISSION NUMBER: 33887410
MY COMMISSION EXPIRES ON: 07/10/2023

COUNTY RECORDER'S CERTIFICATE:

FILED THIS _____ DAY OF _____, 20____ AT _____
O'CLOCK, M IN BOOK _____ AT PAGES _____
OF BOOKS AND ASSOCIATES.
DOC. NO. _____
FEE: _____

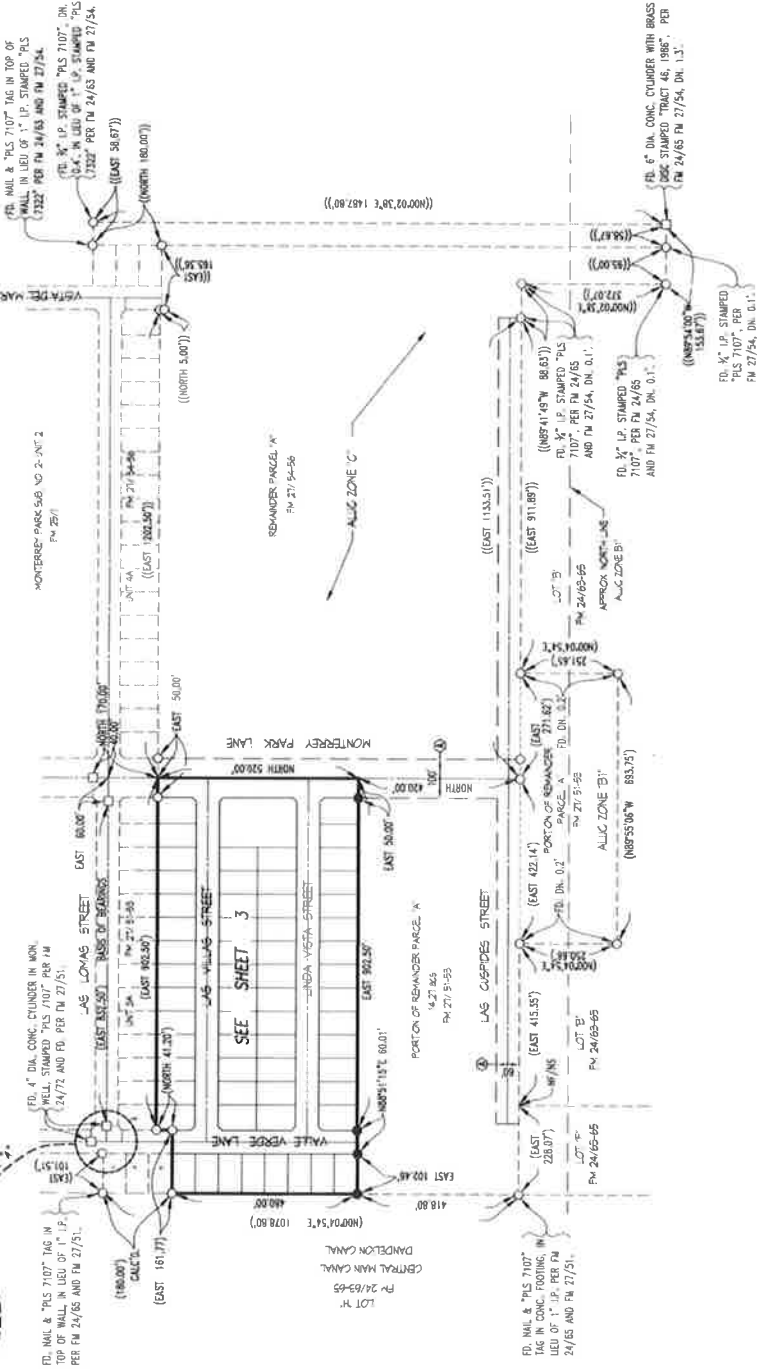
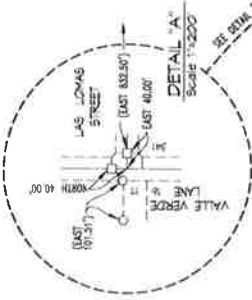
CHUCK STOREY
COUNTY RECORDER

MONTERREY PARK SUBDIVISION NO. 2 - UNIT 3B

A PORTION OF TRACT 46, T.15 S., R.13 E., S.B.M., IN THE CITY OF IMPERIAL, COUNTY OF IMPERIAL, STATE OF CALIFORNIA

SHEET 2 OF 3 SHEETS

INDEX SHEET



SURVEYOR'S NOTES:

- UNLESS SHOWN OTHERWISE ON THIS MAP, ALL LOT CORNERS WILL BE ASSUMED TO BE CORNERS OF THE ORIGINAL SUBDIVISION. THE COMPLETION OF PUBLIC IMPROVEMENTS TO SAID CORNERS SHALL BE IN AREAS OF CONCRETE, A LEAD AND BRASS TAG STAMPED "LS 8487" SHALL BE PLACED INSTEAD OF THE MENTIONED PIPE.
- SOME INSTRUMENTAL DISTANCES INDICATED ON THIS MAP MAY NOT SUM TO THE TOTAL DISTANCES INDICATED DUE TO ROUND-OFF ERROR IN THE INSTRUMENTAL DISTANCES.

LEGEND:

- INDICATES SET 1" IRON PIPE TAGGED "LS 8487", FLUSH, UNLESS NOTED.
- INDICATES 1/4" IRON PIPE WITH PLASTER BLUE STAMPED "PLS 7107", FLUSH PER FM 24/65-66, ALSO FD, PER FM 27/54-55 AND FM 27/54-56, UNLESS NOTED.
- INDICATES 1/4" DIA. CONC. COUNDER STAMPED "PLS 7107", IN MON. WELL BOX, PER FM 27/51-53, UNLESS NOTED.
- INDICATES EASEMENT AS NOTED UNDER SIGNATURE QUISSION STATEMENT ON SHEET 1.
- INDICATES MEASURED AND RECORDED DATA PER FINAL MAP OF MONTERREY PARK SUBDIVISION NO. 2, UNIT 3A, AS RECORDED IN BOOK 27 OF FINAL MAPS, PAGES 51-53, IN THE OFFICE OF THE IMPERIAL COUNTY RECORDER.
- INDICATES MEASURED AND RECORDED DATA PER FINAL MAP OF MONTERREY PARK SUBDIVISION NO. 2, UNIT 4A, AS RECORDED IN BOOK 27 OF FINAL MAPS, PAGES 54-56, IN THE OFFICE OF THE IMPERIAL COUNTY RECORDER.
- INDICATES AIRPORT LAND USE COMPATIBILITY PLAN WITH 1986 REVISIONS (ALUC).
- INDICATES SUBDIVISION BOUNDARY LINE.

THE TOTAL AREA WITHIN THE DISTINCTIVE BOUNDARY LINE IS 12.56 ACRES.

BASIS OF BEARINGS

- THE BASIS OF BEARINGS FOR THIS SURVEY IS BASED ON THE CENTERLINE OF LAS LOMAS STREET ACCORDING TO FINAL MAP FOR MONTERREY PARK SUBDIVISION NO. 2, UNIT 3A, AS RECORDED IN BOOK 27 OF FINAL MAPS, PAGES 51-53, IN THE OFFICE OF THE IMPERIAL COUNTY RECORDER, BEING "EAST".

Scale 1"=200'

GRAPHIC SCALE



1 inch = 200 ft.

RDS AND ASSOCIATES

MONTERREY PARK SUBDIVISION NO. 2 - UNIT 3B

A PORTION OF TRACT 46, T.15 S., R.13 E., S.B.M., IN THE CITY OF IMPERIAL, COUNTY OF IMPERIAL, STATE OF CALIFORNIA

SHEET 3 OF 3 SHEETS

SURVEYOR'S NOTES:

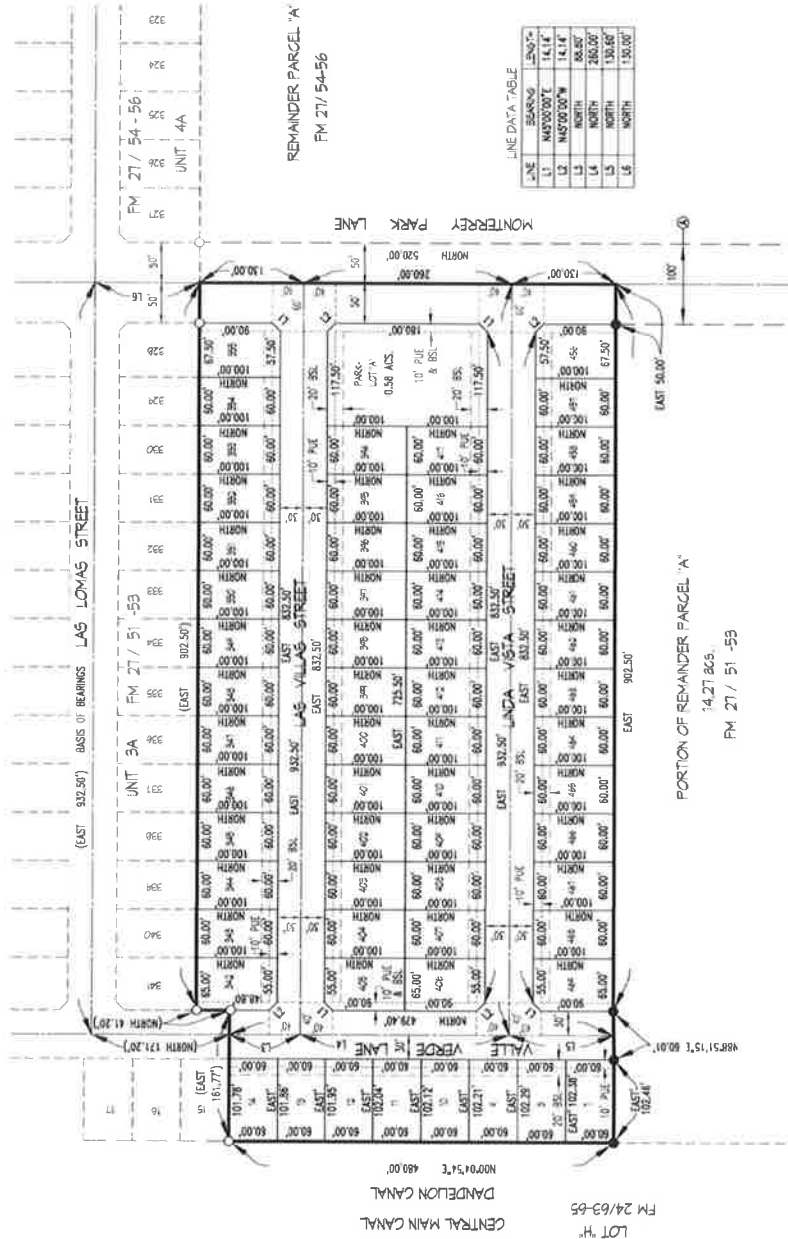
- UNLESS SHOWN OTHERWISE ON THIS MAP, ALL LOT CORNERS WILL BE MONUMENTED WITH A 1" IRON PIPE TAGGED "LS 8461" WITHIN 90 DAYS OF THE COMPLETION OF PUBLIC IMPROVEMENTS. IF SAID CORNERS FALL IN AREAS OF CONCRETE, A LEAD AND BRASS TAG STAMPED "LS 8461" SHALL BE PLACED INSTEAD OF THE MONUMENTED PIPE.
- SOME INCREMENTAL DISTANCES INDICATED ON THIS MAP MAY NOT SUM TO THE OVERALL DISTANCES INDICATED DUE TO ROUND-OFF ERROR IN THE INCREMENTAL DISTANCES.

LEGEND:

- INDICATES SET 1" IRON PIPE TAGGED "LS 8461", FLUSH, UNLESS NOTED.
 - INDICATES FD, 4" IRON PIPE WITH PLASTIC PAIR STAMPED "PLS 7107", FLUSH, PER FM 24/63-65, ALSO FD, PER FM 27/51-53 AND FM 27/54-56, UNLESS NOTED.
 - INDICATES FD, 4" DIA. CONC. CYLINDER STAMPED "PLS 7107", IN MON. WELL BOA, PER FM 27/51-53, UNLESS NOTED.
 - ④ INDICATES EASEMENT AS NOTED UNDER SIGNATURE OMISSION STATEMENT ON SHEET 1.
 - () INDICATES MEASURED AND RECORDED DATA PER FINAL MAP OF MONTERREY PARK SUBDIVISION NO. 2, UNIT 3A, AS RECORDED IN BOOK 27 OF FINAL MAPS, PAGES 51-53, IN THE OFFICE OF THE IMPERIAL COUNTY RECORDER.
 - (()) INDICATES MEASURED AND RECORDED DATA PER FINAL MAP OF MONTERREY PARK SUBDIVISION NO. 2, UNIT 4A, AS RECORDED IN BOOK 27 OF FINAL MAPS, PAGES 54-56, IN THE OFFICE OF THE IMPERIAL COUNTY RECORDER.
 - (ALIC) INDICATES AIRPORT LAND USE COMPATIBILITY PLAN WITH 1986 REVISIONS
 - PUK INDICATES PUBLIC UTILITY EASEMENT DEDICATED HEREON
 - BSL INDICATES BUILDING SETBACK LINE SHOWN HEREON
 - INDICATES SUBDIVISION BOUNDARY LINE
- THE TOTAL AREA WITHIN THE DISTINCTIVE BOUNDARY LINE IS 12.58 ACRES.

BASE OF BEARINGS

THE BASIS OF BEARINGS FOR THIS SURVEY IS BASED ON THE CENTERLINE OF LAS LOMAS STREET ACCORDING TO FINAL MAP FOR MONTERREY PARK SUBDIVISION NO. 2, UNIT 3A, AS RECORDED IN BOOK 27 OF FINAL MAPS, PAGES 51-53, IN THE OFFICE OF THE IMPERIAL COUNTY RECORDER, BEING "EAST".



RDS AND ASSOCIATES



Civil Engineering
Project Management
Construction Management

MONTERREY PARK SUB. No. 2 UNIT No. 3B
ENGINEER'S COST ESTIMATE
FOR ON-SITE IMPROVEMENTS
5/31/19



ITEM	UNIT	QUANTITY	UNIT PRICE	TOTAL
<u>Water</u>				
8" DIA. PVC PIPE	L.F.	1967.00	\$30.00	\$59,010.00
12" DIA. PVC PIPE	L.F.	475.00	\$50.00	\$23,750.00
8" VALVE	EA.	6.00	\$1,500.00	\$9,000.00
12" VALVE	EA.	3.00	\$2,700.00	\$8,100.00
12" X 8" CROSS	EA.	2.00	\$1,500.00	\$3,000.00
12" X 12" ELBOW	EA.	0.00	\$1,500.00	\$0.00
12" X 12" TEE	EA.	0.00	\$1,500.00	\$0.00
12" X 8" TEE	EA.	2.00	\$1,500.00	\$3,000.00
FIRE HYDRANT ASSEMBLY	EA.	8.00	\$5,200.00	\$41,600.00
WATER SERVICE	EA.	60.00	\$800.00	\$48,000.00
				<u>\$195,460.00</u>
<u>Sewer</u>				
8" DIA. PVC SDR 35 PIPE	L.F.	2464.00	\$35.00	\$86,240.00
SEWER MANHOLE	EA.	6.00	\$4,200.00	\$25,200.00
SEWER SERVICE	EA.	60.00	\$800.00	\$48,000.00
				<u>\$159,440.00</u>
<u>Storm Drain</u>				
30" DIA. PVC STORM DRAIN	L.F.	425.00	\$90.00	\$38,250.00
24" DIA. PVC STORM DRAIN	L.F.	40.00	\$85.00	\$3,400.00
18" DIA. PVC STORM DRAIN	L.F.	65.00	\$65.00	\$4,225.00
SD MANHOLE	EA.	3.00	\$4,200.00	\$12,600.00
SD INLET-OUTLET	EA.	0.00	\$4,800.00	\$0.00
SD CATCH BASIN	EA.	3.00	\$4,000.00	\$12,000.00
				<u>\$70,475.00</u>
<u>Curb & Sidewalk</u>				
8" CURB & GUTTER	L.F.	5000.00	\$16.00	\$80,000.00
24' DRIVEWAY	SQ.FT.	6480.00	\$6.00	\$38,880.00
HANDICAP CURB RETURNS	SQ.FT.	2280.00	\$5.50	\$12,540.00
SIDEWALK	SQ.FT.	20110.00	\$4.50	\$90,495.00
				<u>\$221,915.00</u>



Civil Engineering
 Project Management
 Construction Management

Electrical

STREET LIGHTS	EA.	8.00	\$3,500.00	\$28,000.00
UNDERGROUND ELECTRIC	EA.	60.00	\$550.00	\$33,000.00
				<u>\$61,000.00</u>

Earthwork (Include overexcavation)

CUT	CYD	0.00	\$2.00	\$0.00
FILL	CYD	0.00	\$2.00	\$0.00
EXPORT	CYD	0.00	\$2.00	\$0.00
				<u>\$0.00</u>

A.C. Pavement

12" SUBGRADE PREP.	CYD	3925.93	\$1.30	\$5,103.71
9" CLASS II AG. BASE	TON	5564.30	\$22.50	\$125,196.75
3" ASPHALT CONCRETE	TON	1987.62	\$79.02	\$157,061.73
				<u>\$287,362.19</u>

SUB-TOTAL	\$995,652.19
15% CONTINGENCY	\$149,347.83
TOTAL	<u>\$1,145,000.02</u>

NOTES:

Since the engineer has no control over the cost of labor, materials, or equipment, or over the contractor's methods of determining prices, or over competitive bidding or market conditions, our opinions of probable project cost or construction cost provided for herein are to be made on the basis of our experience and qualifications and represent our best judgment as design professionals familiar with the construction industry, but the engineer cannot, and does not, guarantee that proposals, bids, or the construction cost will not vary from opinions of probable cost prepared by the firm.

EXHIBIT 3

SUBDIVISION AGREEMENT AND IMPROVEMENT SECURITY
(CITY OF IMPERIAL)

(Government Code Section 66462 and Section 66463)

(S1) Subdivision: Monterrey Park Subdivision No. 2 - Unit 3B
(S2) Effective Date: November 18, 2020
(S3) Completion Period: November 18– November 18, 2021

THESE PARTIES ATTEST TO THE PARTIES' AGREEMENT HERETO:

CITY COUNCIL

SUBDIVIDER

By: _____
Darrell Pechtl, Mayor

By: _____
Jupiter Ventures I, LP

APPROVAL RECOMMENDED:

FORM APPROVED - CITY ATTORNEY:

By: _____
Othon Mora, Community Development Director

By: _____
Dennis Morita, City Manager

(NOTE: All signatures to be acknowledged.
If Subdivider is incorporated, signatures
must conform with the designated
representative groups pursuant to
Corporations Code §313).



1. PARTIES, DATE AND LEGAL DESCRIPTION

Effective on the above date, the City of Imperial, California, hereinafter called ("City"), and the above named Subdivider, mutually promise and agree as follows concerning this Subdivision. The legal description for this Subdivision is attached hereto as *Exhibit A*.

2. IMPROVEMENTS

Subdivider agrees to install certain improvements (both public and private), including the following: road, drainage, signs, (including appurtenant equipment), water, sewer and such other improvements as required by City ordinance or regulation, conditions of approval for the Subdivision, mitigation measures set forth in environmental documentation, engineer's estimates and as shown on improvement plans for this Subdivision as reviewed and on file with the City of Imperial, Public Services Department (including future amendments thereto).

Subdivider shall complete all of said Work and improvements (hereinafter called "Work")

within the above completion period as required by the California Subdivision Map Act (Government Code Section 66410 and following), in a good workmanlike manner, in accordance with accepted construction practices and in a manner equal or superior to the requirements of the City Code and rulings made thereunder; and where there is a conflict between the improvement plans, City Code or conditions of approval, the stricter requirements shall govern.

3. IMPROVEMENT SECURITY:

Upon executing this Agreement, the Subdivider shall, pursuant to Government Code Section 66499, and the City Code, provide as security to the City:

- A. For Performance and Guarantee of the Work: First Lien position on real property described in *Exhibit A* ("Property") in the sum of one million, one hundred forty-five thousand dollars and two cents (\$1,145,000.02), which represents the estimated cost of the Work.

With this security, the Subdivider guarantees performance of all of the Work under this Agreement and maintenance of the Work for one (1) year after its completion and acceptance against any defective workmanship or materials or any unsatisfactory performance. Engineer's estimates are for the purpose of estimating the cost of the Work for establishing the dollar value of the security and shall not define or limit the scope of the Subdivider's obligation to perform all of the Work under this Agreement. The warranty period begins to run only upon completion of all of the Work called for by this agreement and acceptance of such Work as complete by the City.

City agrees to subordinate its first position in the Property to a second position on portions of the Property in favor of a construction lender as Subdivider develops and constructs improvements required by the Agreement as depicted on the attached Exhibit B; provided that a fund control is in place to assure payment directly to contractors for installation of such improvements for performance, labor and materials and monumentation related to the subordinated amounts, and provided further that the City determines, in its sole discretion, that the City's remaining first lien position on the Property is sufficient to secure Subdivider's performance called for by this Agreement.

- B. For Payment: First Lien position on real property described in *Exhibit A* in the sum of one million, one hundred forty-five thousand dollars and two cents (\$1,145,000.02), which represents one hundred percent (100%) of the estimated cost of the Work.

With this security, the Subdivider guarantees payment to the contractor, to his

subcontractors, and to persons renting equipment or furnishing labor or materials to them or to the Subdivider.

City agrees to subordinate its first position in the Property to a second position on portions of the Property in favor of a construction lender as Subdivider develops and constructs improvements required by the Agreements as depicted on the attached Exhibit B; provided that a fund control is in place to assure payment directly to contractors for installation of such improvements for performance, labor and materials and monumentation related to the subordinated amounts and provided further that the City determines, in its sole discretion, that the City's remaining first lien position on the Property is sufficient to secure Subdivider's performance called for by this Agreement.

- C. Reduction of Security: Upon acceptance of the Work as complete by the City Council and upon request of the Subdivider, the amount of the securities may be reduced in accordance with Government Code Sections 66497, et. seq. "Acceptance," as used in this subparagraph is solely for the purpose of considering whether security can be reduced. The improvement security required herein for faithful performance of this Agreement may be reduced in amount, but not more often than once per month, as the Work of improvement is completed. Further, the market value of the First Lien position must not be less than 100% of the estimated cost (including payment of prevailing wage) associated with completion of the Work remaining to be completed. In no event shall this security be reduced until progress reports are submitted to the City, and the City determines the Work in fact has been completed and the amount by which the security shall be reduced. The determination by the City as to the completion of Work or improvement and the amount by which the security shall be reduced shall be conclusive. The performance security shall not be reduced to an amount less than ten percent (10%) until the liability established by all parts and subsections of this Agreement is satisfied. Payment security may be reduced only in accordance with Government Code §66499.7.

4. GUARANTEE AND WARRANTY OF WORK

Subdivider guarantees that said Work shall be free from defects in material or workmanship and shall perform satisfactorily for a period of one (1) year from and after the City Council accepts the Work as complete in accordance with Government Code Section 66499.7. Subdivider agrees to correct, repair, or replace, at his expense, any defects in said Work.

5. PLANT ESTABLISHMENT WORK

Subdivider agrees to perform plant establishment work for landscaping installed under this Agreement. Said plant establishment work shall consist of adequately watering plants, replacing unsuitable plants, doing weed, rodent and other pest control, and other work determined by the Public Services Department to be necessary to ensure establishment of

plants. Said plant establishment work shall be performed for a period of one (1) year from and after the City Council accepts the work as completed.

6. IMPROVEMENT PLAN WARRANTY

Subdivider warrants the improvement plans for the Work are adequate to accomplish the Work as promised in Section 2. If, at any time before the City Council accepts the Work as complete or during the one year guarantee period, said improvement plans prove to be inadequate in any respect, Subdivider shall make whatever changes are necessary to accomplish the Work as promised.

7. NO WAIVER BY CITY

Inspection of the Work and/or materials, or approval of Work and/or materials or statement by any officer, agent or employee of the City indicating 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 therefor, or any combination or all of these acts, shall not relieve the Subdivider of his obligation to fulfill this Agreement as prescribed; nor shall the City thereby be estopped from bringing any action for damages arising from the failure to comply with any of the terms and conditions hereof.

8. INDEMNITY

Subdivider shall defend, hold harmless and indemnify the indemnitees from the liabilities as defined in this section:

- A. The indemnitees benefited and protected by this promise are the City and its elective and appointive boards, commissions, officers, agents and employees.
- B. The liabilities protected against are any liability or claim for damage of any kind allegedly suffered, incurred or threatened because of actions defined below, and including personal injury, death, property damage, inverse condemnation, or any combination of these, and regardless of whether or not such liability, claim or damage was unforeseeable at any time before the City reviewed said improvement plans or accepted the Work as complete, and including the defense of any suit(s), action(s) or other proceeding(s) concerning said liabilities and claims, excepting only those claims arising from the sole negligence of City.
- C. The actions causing liability are any act or omission (negligent or non-negligent) in connection with the matters covered by this Agreement and attributable to the Subdivider, contractor, subcontractor or any officer, agent or employee of one or more of these.
- D. Non-Conditions. The promise and Agreement in this section are not conditioned or dependent on whether or not any indemnitee has prepared, supplied or reviewed any

plans or specifications in connection with this Work or Subdivision, or has insurance or other indemnification covering any of these matters, or that the alleged damage resulted partly from any negligent or willful misconduct of any indemnitee.

9. COSTS

Subdivider shall pay when due all the costs of the Work including inspections thereof and relocating existing utilities required thereby.

10. SURVEYS

Subdivider shall set and establish survey monuments in accordance with the filed map and to the satisfaction of the City Engineer before acceptance of any Work as complete by the City Council.

11. NON-PERFORMANCE AND COSTS

If Subdivider fails to complete the Work within the time specified in this Agreement and subsequent extensions, or fails to maintain the Work, the City may proceed to complete and/or maintain the Work by contract or otherwise, and Subdivider agrees to pay all costs and charges incurred by the City (including, but not limited to: engineering, inspection, surveys, contract, overhead, etc.) immediately upon demand.

Subdivider hereby consents to entry on the Subdivision property by the City and its forces, including contractors, in the event the City proceeds to complete and/or maintain the Work.

Once action is taken by City to complete or maintain the Work, Subdivider agrees to pay all costs incurred by the City, even if Subdivider subsequently completes the Work. Should City sue to compel performance under this Agreement or to recover costs incurred in completing or maintaining the Work, Subdivider agrees to pay all attorney's fees, and all other expenses of litigation incurred by City in connection therewith, even if Subdivider subsequently proceeds to complete the Work.

12. RECORD MAP

In consideration hereof, City shall allow Subdivider to file and record the Final Map for said Subdivision.

13. MONUMENTATION SECURITY

Subdivider shall file or deposit with the City a monument bond or security as applicable in an amount specified by the City Engineer pursuant to Sections 66496 and 66499 of the Government Code of the State of California.

City agrees to subordinate its first position in the Property to a second position on portions of the Property in favor of a construction lender as Subdivider develops and constructs improvements required by the Agreements as depicted on the attached Exhibit B; provided that a fund control is in place to assure payment directly to

contractors for installation of such improvements for performance, labor and materials and monumentation related to the subordinated amounts and provided further that the City determines, in its sole discretion, that the City's remaining first lien position on the Property is sufficient to secure Subdivider's performance called for by this Agreement.

14. ENGINEERING FEES

Subdivider shall pay such fees as have been duly established by City.

15. DATE OF COMPLETION

The completion of improvements required hereunder and the date of completion shall be determined and certified by the City Engineer.

16. FEES

Subdivider shall pay such fees as have been duly established by City.