



CITY OF WHEATLAND

CITY COUNCIL MEETING STAFF REPORT

September 24, 2024

SUBJECT: Consideration and Adoption of Resolution Accepting Caliterra Ranch Village 2 Subdivision Improvements and Authorizing the Recording of a Notice of Completion

PREPARED BY: Dane H. Schilling – City Engineer

Recommendation

Staff recommends that the City Council adopt Resolution No. 39-24 accepting the Caliterra Ranch Village 2 subdivision improvements as complete and authorizing the City Clerk to file a Notice of Completion with the Yuba County Recorder.

Background/Discussion

On December 8, 2021, the City of Wheatland and the Caliterra Ranch developer K. Hovnanian Homes Northern California, Inc., (Developer) entered Subdivision Improvement Agreement concerning the Caliterra Ranch Subdivision, Village 2 (“SIA”) which outlined the public improvements required to serve the subdivision (Attachment 3).

In July of 2022 the Developer commenced construction of the subdivision improvements and work has progressed since that time.

Final Inspections of the improvements were performed on May 29, 2024 and punch list items have been satisfactorily addressed since that time. Staff have determined that the work performed by the Developer is complete. In accordance with the SIA for the Developer has paid for all construction inspections and administration costs associated with the project and has provided a warranty bond in the amount of \$268,929.00 in accordance with the amounts specified in the SIA, guaranteeing the work for a period of one year from date of the filing of the Notice of Completion.

By this action the streets, sewer collection system, storm drainage and water infrastructure improvements within Village 2 of the subdivision will be owned and maintained by the City.

Accepting the project improvements as complete and authorizing the filing of a Notice of Completion provides the mechanism for Staff to book the improvements in the City’s inventory of assets and establishes a 30-day statute of limitations in which liens, claims and stop notices may

be filed against the project's Labor and Materials bond. This recommended action is also consistent with the Subdivision Improvement Agreement.

Alternatives

Alternatively, if it were determined that the work was not completed to the City's satisfaction, the City Council may choose to postpone acceptance and the filling of the Notice to completion until any corrective work is performed.

Fiscal Impact

The streets, sewers, storm drains and water infrastructure within this subdivision will be owned and maintained by the City. This subdivision is part of CFD 2015-1 that funds the maintenance of city infrastructure such as landscaping, parks, open space, street lighting, street maintenance, traffic signals, stormwater quality, and drainage facilities.

Attachments

Attachment 1: Resolution No. 39-24: Accepting Caliterra Ranch Village 2 Subdivision Improvements

Attachment 2: Notice of Completion for Caliterra Ranch Village 2 Subdivision Improvements

Attachment 3: Subdivision Improvement Agreement for Caliterra Ranch Village 2

Attachment 4: Warranty Bond for Caliterra Ranch Village 2 Subdivision Improvements

RESOLUTION NO. 39-24

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHEATLAND ACCEPTING THE CALITERRA RANCH VILLAGE 2 SUBDIVISION IMPROVEMENTS AS COMPLETE AND AUTHORIZING THE RECORDING OF THE NOTICE OF COMPLETION.

WHEREAS, on December 8, 2021, the City of Wheatland and K. Hovnanian Homes Northern California, Inc., (Developer) entered into that certain subdivision improvement agreement concerning the Caliterra Ranch Subdivision, Village 2 (“SIA”); and

WHEREAS, the construction of new public improvements contemplated in the SIA was deemed substantially complete by the City Engineer on May 29, 2024, in accordance with the agreement; and

WHEREAS, since substantial completion, the Developer has completed punchlist work, reimbursed the City for its costs, and provided a warranty bond for the public improvements in accordance with the SIA; and

WHEREAS, at its September 24, 2024, City Council meeting the City Engineer recommended to the City Council of the City of Wheatland that said public improvements be deemed complete, be accepted by the City and a Notice of Completion be filed by the City.

NOW, THEREFORE IT IS HEREBY RESOLVED, ORDERED AND FOUND by the City Council of City of Wheatland, State of California, that the public improvements referenced in that certain subdivision improvement agreement with K. Hovnanian Homes Northern California, Inc. for the Caliterra Ranch Subdivision Village 2 are hereby accepted as being complete in accordance with plans and specifications. The City Clerk is directed to execute and record the Notice of Completion on behalf of the City of Wheatland.

* * * * *

PASSED AND ADOPTED by the City Council of City of Wheatland, State of California this 24th day of September 2024, by the following vote:

- AYES:
- NOES:
- ABSTAIN:
- ABSENT:

Rick West, Mayor

ATTEST:

Lisa Thomason, City Clerk

RECORDING REQUESTED BY

City of Wheatland-Engineering Dept.

AND WHEN RECORDED MAIL TO

Name: City of Wheatland

Address: P.O. Box 395

City & State: Wheatland, CA 95692

G.C. 6103

SPACE ABOVE FOR RECORDER'S USE

Notice of Completion

Notice is hereby given that:

1. The name and address of the owner of the real property described in paragraph 6 herein is the City of Wheatland, 111 C Street, Wheatland, CA 95692.
2. That the interest which the City of Wheatland owns the described real property is Fee Simple.
3. The construction works hereinafter described was completed and accepted by the City of Wheatland by resolution 39-24 on the 24th day of September 2024.
4. The work completed in general, consists of public street improvements, sewer collection system, storm drainage system and water infrastructure improvements. That the name of the surety on the contractor's bond for payment on said contract is Great Midwest Insurance Company.
5. Said work being commonly known as: Caliterra Ranch Village 2 Subdivision Improvements.

The Contract Documents and Specifications for said work are on file at the City of Wheatland, 111 C Street, Wheatland, California 95692, Yuba County, California.

The prime contractor for said work: K. Hovnanian Homes Northern California, Inc. a California Corporation.

6. The location of said work, south of Wheatland Road is within the legal boundary of the City of Wheatland, Yuba County, California.

Prepared By: _____
Dane H. Schilling, City Engineer

Verification

I am Bill Zenoni, the authorized agent of the City of Wheatland, the owner of the property described in the foregoing notice. I have read the foregoing notice and know the contents thereof, and the same of my own knowledge. I declare under penalty of perjury of the laws of the State of California that the foregoing is true and correct.

Dated: September 24, 2024 at Wheatland, California

Bill Zenoni, City Manager

2021-023099

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Total Fee: \$0.00

Recorded in Official Records
County of Yuba State of CA
Terry A. Hansen
County Clerk and Recorder



RECORDING REQUESTED BY:

City of Wheatland

RETURN TO:

City Clerk
City of Wheatland
111 C Street
Wheatland, CA 95692

Exempt from recording fees per Govt. Code 8103

DOCUMENT TITLE

**CITY OF WHEATLAND
SUBDIVISION IMPROVEMENT AGREEMENT
Jones Ranch Subdivision, Village 1
(now referred to as Callterra Ranch Subdivision)**

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**THIS PAGE ADDED TO PROVIDE ADEQUATE SPACE FOR RECORDING INFORMATION
(Govt. Code 27361.6)
Additional Recording Fee Applies**



**CITY OF WHEATLAND
SUBDIVISION IMPROVEMENT AGREEMENT
Jones Ranch Subdivision, Village 2
(now referred to as Caliterra Ranch Subdivision)**

This Agreement is made this 8th day of December, 2021, between the City of Wheatland, a general law city ("City"), and K. Hovnanian Homes Northern California, Inc., a California corporation ("Developer"), who agree as follows:

1. Recitals. This Agreement is made with reference to the following background recitals:

1.1. On October 13, 2017, City approved a tentative subdivision map for the Jones Ranch Subdivision (now referred to as Caliterra Ranch Subdivision) for a subdivision development project in the City of Wheatland on an approximate 190.91-acres of real property in Wheatland (Yuba County APNs 015-180-074, and 015-180-079) (the "Subdivision"). Developer has presented to City a certain final map entitled *Caliterra Ranch - Village 2* of the Subdivision consisting of 90 single-family lots, and 1 miscellaneous lot (the "Final Map" or "Subdivision Phase").

1.2. Upon review and recommendation of the City Engineer, City has determined that the Final Map substantially complies with the Subdivision Map Act, City subdivision ordinance and related ordinances, tentative map, and tentative map conditions of approval.

1.3. In developing the Subdivision Phase, the Developer prepared and the City approved improvement plans for the public streets, utilities, improvements and facilities to be constructed and installed as part of the Subdivision Phase. Developer plans to install and construct the public streets, utilities, improvements and facilities as described in the City-approved Subdivision Phase improvement plans (the "Work") in compliance with the requirements contained in the *City of Wheatland Development Agreement Concerning Jones Ranch Subdivision* dated April 18, 2006, as amended by Amendment No. 1 dated September 11, 2008, Amendment No. 2 dated November 24, 2010, the *Third Amended and Restated City of Wheatland Development Agreement Concerning Jones Ranch Subdivision* recorded February 3, 2015, and Amendment No. 1 to the Third Amended and Restated Development Agreement concerning Caliterra Ranch, recorded on December 14, 2017, respectively (collectively, the "Development Agreement").

1.4. Developer has requested approval of the Final Map prior to the construction, installation and completion of the Work.

2. Final Map Approval. Subject to Developer's compliance with the terms of this Agreement, City approves the Final Map, accepts all offers of dedication made in connection with the Final Map, and consents to the recording of the Final Map.

3. Payments for City Services.

3.1. City has already incurred staff and consultant costs for engineering, administrative and legal services in connection with the review and approval of Work plans and specifications for the Work to be undertaken pursuant to this Agreement. City will present

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Developer with the invoices for all work that has been undertaken by its staff and consultants up through the effective date of this Agreement. City shall provide an accounting for its hours charged and costs incurred by City staff but is not required to provide invoices to Developer for City staff costs and expenses. For City consultants, City shall provide Developer with an electronic copy of the Consultants' invoices. Within ten (10) calendar days of receiving those invoices, Developer shall pay the full amount of such invoice, including a ten percent (10%) City processing fee that will be added to all consultant invoices. Developer shall have ten (10) calendar days after receipt of electronic copy of such invoices to notify the City in writing of any disputed amounts in the Consultants' invoices, which will initiate the following dispute resolution process as to the disputed amount. Developer shall pay any undisputed amount of such invoices during the dispute resolution process. As to the amount in dispute, City and Developer shall meet and confer within five (5) calendar days thereafter to resolve any dispute. Such meetings may take place telephonically.

3.2. Within 10 calendar days after execution of this agreement the Developer will advance to City an initial deposit in the amount of \$10,000 (in addition to any deposits for other phases) to fund the City engineering, administrative and legal services to be performed by City in connection with the inspection of construction, testing of improvements, and other costs incurred by City in the performance of its duties under this Agreement. City will draw on this deposit to pay or reimburse periodic invoices from the City consultants and to reimburse City for the cost of City staff time and materials. At no time will the deposit fall below \$20,000. If, before completion of the Work, the amount remaining in the deposit becomes depleted such that, after payment of all outstanding invoices, the deposit will be reduced to 25% of the Initial Deposit, City will require additional deposits to cover additional anticipated City costs. The Developer shall pay the City the amount of the additional deposit within ten (10) calendar days. No work will occur on any task under this Agreement until the City has received the required deposit from Developer. If any requested deposit or payment is not timely made, City may so notify Developer and it will have ten (10) calendar days to cure the default. If the deposit or payment remains unpaid at the end of the ten-day "cure" period, then City may terminate this Agreement. Landowner shall not be entitled to interest on deposits made hereunder. After payment of any outstanding invoices, City will refund to Developer any deposit remaining upon termination of the Agreement without interest. Any Developer deposit remaining upon completion and acceptance of the Work will be refunded without interest to Developer. If the final total City costs exceed the amount of the deposit(s), Developer must pay the difference upon demand and before the City accepts the Work. City shall establish a separate account for the purpose of accounting separately for this deposit and any future deposits and the charges against the deposits. City shall provide, within thirty (30) days of the end of any given month, a monthly accounting report to Developer of the prior month's expenditures paid by Developer and showing the services and costs funded under this provision. Developer and its employees, accountants, attorneys and agents may review, inspect, copy and audit these records, including all source documents.

4. **Plans and Specifications.** Developer designed and prepared detailed plans, specifications and drawings for the construction and installation of the Work, including landscape plans, and submitted them to City for review and approval by the City Engineer. The plans, specifications and drawings must comply with this Agreement, the Development Agreement, Subdivision Map Act, Final Map, tentative map, tentative map conditions of approval, City subdivision ordinance, and other applicable City ordinances and federal and state laws, regulations and codes, and City staff and consultants will review the Work plans



and specifications to ensure that they meet all applicable standards and requirements. Developer shall not commence any portion of the Work until the City Engineer has approved the plans, specifications and drawings. The plans, specifications and drawings for the Work may be modified by Developer prior to or during the course of construction, provided that any material modification is first approved in writing by the City Engineer. During the course of construction, Developer or its contractor(s) shall keep accurate records on a set of improvement plans of all additions, deletions and changes to the Work not otherwise shown on the plans (known as "as-built" or "record" drawings).

5. Performance of Work by Developer. Developer, at its sole cost and expense, shall furnish, construct and install the Work, furnish all necessary materials, and, where necessary, pay the cost of acquiring land or rights-of-way necessary for the construction and installation of the Work. Construction shall be in accordance with the City-approved plans, specifications and drawings, this Agreement, the Development Agreement, Subdivision Map Act, Final Map, tentative map, tentative map conditions of approval, City subdivision ordinance, and other applicable city ordinances and federal and state laws, regulations and codes. Construction must be performed in a good and workmanlike manner and consistent with generally accepted construction practices. All work and construction are subject to the satisfaction of the City public works inspector and City Engineer. Developer shall give City at least 48 hours advance notice of the commencement of construction of the Work and schedule a pre-construction meeting with its contractor(s) and the City Engineer at least 10-business days prior to commencement of construction of the Work. Any construction performed without notice to, and inspection by, City shall be subject to rejection. Prior to commencing construction of any portion of the Work, Developer or its contractor(s) must submit to City a written list of materials and supplies, in a form acceptable to City, showing the particular manufacturer and specifications of all materials and supplies proposed to be installed by Developer. The City will either disapprove with reasons or approve the list of materials or supplies. Only materials and supplies approved in advance by City may be installed on the Work.

6. Licensed Contractor. Developer's contractor(s) on the Work must be licensed pursuant to the California Business and Professions Code to do the Work, and the contractor(s) will be subject to the City's reasonable approval. City may request evidence that the contractor(s) has satisfactorily constructed other projects of like kind and magnitude or comparable difficulty. To the extent required by law, Developer and its contractor(s), and any contract entered into by Developer and its contractor(s), must comply with California Labor Code provisions concerning payment of prevailing wage rates, penalties, employment of apprentices, hours of work and overtime, keeping and retention of payroll records, and other requirements applicable to public works projects within the meaning of the Labor Code. (See California Labor Code division 2, part 7, chapter 1 (sections 1720-1861).)

7. Improvement Security. Within 30 days after the execution of this Agreement, Developer shall furnish City with the following improvement security:

7.1. Faithful performance bond, letter of credit or money deposit in the sum of 100% of the estimated cost of construction of the Work (as determined by the City Engineer), conditioned upon the faithful completion of the Work under this Agreement.



7.2. Payment bond, labor and materials bond, letter of credit or money deposit in the sum of 50% of the estimated cost of construction of the Work (as determined by the City Engineer), securing payment to the contractor(s), subcontractors, and persons furnishing labor, materials or equipment for the Work.

The type, form and issuer of the improvement security shall comply with chapter 5 of the Subdivision Map Act (Government Code sections 66499 through 66499.10) and shall be subject to City Attorney approval. No change, alteration, or addition to the terms of this Agreement or the plans and specifications accompanying the same shall in any manner affect the obligation of those providing improvement security pursuant to this Agreement. The City will not record the Final Map until after it receives improvement security in accordance with this section.

8. **Permits and Easements.** Developer, at its sole cost and expense, must obtain and comply with all federal, state and local permits, licenses, approvals, and entitlements, including but not limited to grading and encroachment permits, to do the Work. Developer must obtain all real property and permanent and temporary easements, of a width as determined by City, necessary for the Work and for ingress and egress to and from the Work for construction, installation, operation, maintenance, repair, removal, replacement and improvement prior to commencement of construction of the Work. Deeds and easements shall be in a form approved by City, which approval shall not be unreasonably conditioned, withheld or delayed. Developer shall give all notices and comply with all federal, state and local statutes, laws, ordinances, rules and regulations that apply to the construction of the Work.

9. **Inspections.** City may during the course of construction inspect and test all or part of the construction or material being used in construction of the Work. Upon completion of construction of the Work, Developer shall notify City of the completion and request a final inspection of the Work. The completed Work shall be inspected and tested to meet City requirements under this Agreement and the Development Agreement. No Work or portion of Work shall be accepted without meeting City inspection and testing requirements. The inspection and testing of the Work, or failure to inspect or test, shall not relieve Developer of its obligation to construct the Work in accordance with this Agreement. If all or any portion of the Work, or any materials or supplies used in connection with the Work, are found to be defective, substandard or nonconforming within one year after City's acceptance of the Work, then such Work shall be replaced, repaired, or otherwise remedied to the satisfaction of City. Developer shall cooperate with and assist City in performing inspection and testing of the Work. Developer must pay the costs of inspections and tests by City and the City Engineer. Developer also will be responsible for all costs incurred in the testing of the Work as needed or required by other governmental agencies having jurisdiction.

10. Time for Performance; Termination.

10.1. Developer shall commence construction of the Work within six (6) months from the date of this Agreement and shall complete construction of the Work within nine (9) months from the date of commencement. Time is of the essence of this Agreement. Upon a showing of good cause by Developer, City may extend these deadlines in writing. However, the City may require modifications to previously approved plans, specifications and drawings for the Work if more than two years pass between the date of the approval and acceptance of the Work. Any extension granted by City may be done without notice to any of Developer's

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sureties, and the extension shall not relieve any surety's liability. The granting of any extension also may be conditioned by City by requiring acceptable new or amended improvement security pursuant to section 7. If construction of the Work has not been completed and accepted by City within these deadlines, and any extensions, City may terminate this Agreement at any time thereafter by giving thirty (30) days written notice of intent to terminate to Developer.

10.2. Developer may terminate this Agreement at any time prior to commencement of construction of any of the Work by giving written notice to City. After commencement of Work, Developer may terminate this Agreement only with the written consent of City, which consent may be given subject to reasonable conditions as necessary or appropriate to protect the public health, safety, aesthetics or welfare.

11. Maintenance Guarantee.

11.1. Developer unconditionally guarantees, for one year from the date of City's notice of acceptance of the Work, all Work constructed, installed and furnished under this Agreement. During the one year guarantee period, Developer at its sole cost and expense, will (a) correct, repair, replace or reconstruct to the satisfaction of City any and all Work, the construction, installation and/or materials of which may prove defective, nonconforming or improperly installed, ordinary wear and tear excepted, (b) maintain the plants and landscaping (i.e., water, weed, pest control, sprinkler repair, and dead/dying plant replacement) installed in landscaped medians and other public areas to the satisfaction of City, and (c) reimburse City for all costs associated with City's inspection, review and approval of the Work performed under subsections 11.1(a) and 11.1(b) above.

11.2. Prior to City's final acceptance of the Work, Developer will provide a maintenance bond, extension of the improvement security furnished under section 7.1, letter of credit, cash deposit, or other financial security satisfactory to City ("Maintenance Guarantee") in a sum equal to 10% of the final cost (as determined by the City Engineer) of the Work. The Maintenance Guarantee shall secure Developer's guarantee under section 11.1.

11.3. If Developer and/or its surety fail to comply with a guarantee obligation within a reasonable time, City may have the defect corrected, repaired, replaced or reconstructed as necessary. Developer and its surety under the Maintenance Guarantee shall be jointly and severally liable to City for such costs of correction, repair, replacement or reconstruction, including, but not limited to, administrative, engineering, legal and other costs incurred relating to the correction, repair, etc., and to the costs of collection. City shall bill Developer and its surety for such costs, which bill shall be due and payable within 30 days of its date. Interest shall accrue on any late payment at the rate of 10% per annum.

12. **Transfer of Property and Easements.** This section applies to any necessary transfers of real property interests not otherwise provided for by Final Map dedication. After City has finally inspected and approved the Work, and before City accepts the Work, Developer shall deliver conveyance documents satisfactory in form and content to City, transferring ownership of the completed Work to City, together with all real property, interests in real property, easements and rights-of-way that are necessary or appropriate in the opinion of City for the ownership and operation of the Work. Title to the Work and the interests in real property transferred shall be good, clear, and marketable title, free and clear of all



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encumbrances, liens or charges, except as may be approved by City. Developer shall obtain and pay any land transaction costs and costs of title insurance deemed necessary by City. City shall not accept the Work until the conveyance documents transferring the Work and real property interests have been accepted by the City Council.

13. Notice of Acceptance. City's final acceptance of the Work shall be evidenced by a written notice of acceptance from City to Developer. City shall provide the written notice of acceptance of the Work when City determines that all of the following conditions have been met to City's satisfaction:

13.1. The Work has been completed, and finally inspected, tested and approved by City;

13.2. All costs, charges and fees required by this Agreement, other City-Developer agreement, or City ordinance or resolution to be paid to City by Developer have been so paid in full;

13.3. Developer has submitted an acceptable Maintenance Guarantee;

13.4. The Work and all real property interests have been conveyed to, and accepted by City, in accordance with section 12; and

13.5. Developer has provided to City in satisfactory form and content the following items:

13.5.1 As-built (also known as record) drawings of the completed Work, together with a copy of the contract documents used in the construction of the Work;

13.5.2 Accounting records of the amounts expended for the construction and installation of the Work, with values applicable to the various components of the Work;

13.5.3 Operating manuals, operating instructions, warranties and guarantees received by Developer or its contractor(s) in connection with the Work and any unit of Work or Work materials; and,

13.5.4 Computer disk with electronic file in AutoCAD and PDF formats (acceptable to the City Engineer) containing the Final Map and those portions of the approved improvement plans stored in electronic format.

14. Ownership. After final acceptance of the Work by City, the Work shall become the property of City on the date that the notice of acceptance of the Work is mailed or delivered to Developer (except that the following portions of the Work will not be transferred to City and will remain the operation, maintenance, repair and replacement obligation of Developer and future property owners: the water delivery pipeline and improvements beyond (upstream from) the water meter; and, the sewer lateral from its connection at the sewer main to the building or structure being served. Upon such date, Developer shall be deemed to have conveyed and transferred all of its right, title and interest in and to the completed Work to City. Thereafter, City shall own and be free in every respect to operate, maintain, expand, and improve the Work, as it deems appropriate. City assumes no obligation as to operation and maintenance of the Work until such time as it gives notice of acceptance of the Work.



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15. Risk of Loss. Until the date of the notice of acceptance of the Work, all risk of loss or injury, damage or destruction to the Work shall be upon Developer.

16. Indemnification and Hold Harmless. To the extent allowed by law, Developer shall indemnify, protect, defend, and hold harmless City and its officers, employees, engineers, volunteers and agents, from any and all claims, demands or charges and from any loss or liability, including all costs, expenses, reasonable attorney's fees, litigation costs, penalties, and other fees arising out of or in any way connected with performance or failure to perform under this Agreement by Developer or its officers, employees, contractors, subcontractors or agents, except such loss or damage that was caused by the sole negligence or willful misconduct of City. This indemnification shall survive and continue in full force and effect after termination of this Agreement for any reason with respect to any actions or omissions that occurred before the date of termination. The parties agree and acknowledge that Developer's obligation under this section extends to claims, lawsuits and liability of or against City resulting from the alleged failure to comply with any provision of California Labor Code division 2, part 7, chapter 1 (sections 1720-1861) in connection with the construction of the Work by Developer's contractor(s).

17. Insurance.

17.1. Developer or its contractor(s), at their sole cost and expense, shall procure and maintain for the duration of this Agreement the following types and limits of insurance:

Type	Limits	Scope
Commercial general liability	\$3,000,000/occurrence	at least as broad as ISO occurrence form CG 0001
Automobile liability	\$1,000,000/accident	at least as broad as ISO CA 0001 (code 1, any auto)
Pollution Liability	\$3,000,000/occurrence	At least as broad as ISO occurrence form CG 0089
Workers' compensation	statutory limits	
Employers' liability	\$2,000,000 per accident	

17.2. The general and automobile liability policy(ies) shall be endorsed (consistent with Insurance Code section 11580.04) to name City, its officers, employees, engineers, and agents as additional insureds regarding liability arising out of the Work. Developer/ contractor's coverage shall be primary and shall apply separately to each insurer subject to a claim or lawsuit, except with respect to the limits of the insurer's liability. City's insurance or self-insurance will be excess and shall not contribute with Developer/ contractor's insurance. Insurance shall be placed with insurers with a current A.M. Best's rating of A-VII or better unless otherwise acceptable to City. The workers' compensation policy shall be endorsed to include a waiver of subrogation against City and its officers, employees, engineers, volunteers and agents.

17.3. Prior to commencing the Work, Developer shall provide to City the following proof of insurance: (a) certificate(s) of insurance on ACORD Form 25-S (or insurer's equivalent) evidencing the required insurance coverages; and (b) endorsement(a) on ISO Form CG 2010

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(or insurer's equivalent), signed by a person authorized to bind coverage on behalf the insurer(s), certifying the additional insured coverages. The Developer shall also provide evidence of insurance for all contractors employed on the Work.

17.4. Prior to acceptance of the Work and throughout the duration of the maintenance guarantee as defined in Section 11, Developer shall provide to City the following proof of insurance: (a) certificate(s) of insurance on ACORD Form 25-S (or insurer's equivalent) evidencing the required insurance coverages; and (b) endorsement(s) on ISO Form CG 2037 (or insurer's equivalent), signed by a person authorized to bind coverage on behalf the insurer(s), certifying the additional insured coverages. The Developer shall also provide evidence of insurance for all contractors employed on the Work.

18. Notice of Breach and Default.

18.1. The following constitute a default under this Agreement: (a) Developer refuses or fails to prosecute the Work with such diligence as will ensure its completion within the time specified, or any extension, and such refusal or failure is not cured within 30 days following written notice of such refusal or failure to Developer; (b) Developer fails to complete the Work within the time provided by this Agreement and any extension approved by the City; (c) Developer should be adjudged as bankrupt, Developer files for bankruptcy protection, or Developer makes a general assignment for the benefit of Developer's creditors; (d) a receiver is appointed in the event of Developer's insolvency; or (e) Developer or any of its contractors, subcontractors, agents or employees violate any of the provisions of this Agreement if such violation is not cured within 30 days following written notice of such violation to Developer and Developer's surety (provided, however, that it will not be deemed a default if Developer commences to cure the violation within the 30-day period and thereafter diligently prosecutes the cure to completion).

18.2. In the event Developer is in default of this Agreement beyond any applicable notice or cure period, Developer's surety, if any, shall have the duty to take over and complete the Work in accordance with the terms of this Agreement. If the surety within 30 days after notice of default from City does not give City written notice of its intention to take over the performance of the Agreement or does not commence performance within 30 days after notice to City of such election, then City may take over the Work and prosecute the same to completion by contract, or by any other method City may deem advisable, for the account and at the expense of Developer, and Developer and its surety shall be liable to City for any costs, expenses and damages incurred by City. In such event, City, without liability for so doing, may take possession of and utilize in completing the Work, such materials, appliances, plant or other property belonging to Developer as may be on the site of the Work.

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

19. General Provisions.

19.1. Entire Agreement. The parties intend this writing to be the sole, final, complete, exclusive and integrated expression and statement of the terms of their contract concerning the subject matter addressed in this Agreement. This Agreement supersedes all prior oral or



written negotiations, representations, contracts or other documents that may be related to the subject matter of this Agreement, except those other documents that may be expressly referenced in this Agreement.

19.2. Construction and Interpretation. The parties agree and acknowledge that this Agreement has been arrived at through negotiation, and that each party has had a full and fair opportunity to revise the terms of this Agreement. Consequently, the normal rule of construction that any ambiguities are to be resolved against the drafting party will not apply in construing or interpreting this Agreement.

19.3. Waiver. The waiver at any time by any party of its rights with respect to a default or other matter arising in connection with this Agreement will not be deemed a waiver with respect to any subsequent default or matter.

19.4. Remedies Not Exclusive. The remedies provided in this Agreement are cumulative and not exclusive, and are in addition to any other remedies that may be provided by law or equity. A party's exercise of any remedy under this Agreement will not prejudice or affect the enforcement of any other remedy.

19.5. Severability. If any part of this Agreement is held to be void, invalid, illegal or unenforceable, then the remaining parts will continue in full force and effect and be fully binding, so long as the rights and obligations of the parties are not materially and adversely affected.

19.6. Personal Obligation; Successors and Assigns. Developer's obligations under this Agreement are personal obligations of Developer and they do not automatically "run with" the Subdivision property. Developer cannot assign its obligations under this Agreement to any transferee of all or any part of the property or any other third party without the express written consent of City, which consent will not be withheld unreasonably.

19.7. Amendment. This Agreement may be modified or amended only by a subsequent written agreement approved and executed by both parties.

19.8. Governing Law and Venue. Except as otherwise required by law, this Agreement will be interpreted, governed by, and construed under the laws of the State of California. The County of Yuba will be venue for any state court litigation and the Eastern District of California will be venue for any federal court litigation concerning the enforcement or construction of this Agreement.

19.9. Notices. Any notice, demand, invoice or other communication required or permitted to be given under this Agreement must be in writing and delivered either (a) in person, (b) by prepaid, first class U.S. mail, (c) by facsimile or electronic mail transmission with delivery to the other party confirmed by a successful-delivery confirmation receipt if the document also is sent within two days by prepaid, first class U.S. mail, or (d) by a nationally-recognized commercial overnight courier service that guarantees next day delivery and provides a receipt. Such notices, etc. shall be addressed as follows:

City:	Developer:
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City Clerk City of Wheatland 111 C Street Wheatland, CA 95692	K. Hovnanian Homes 3721 Douglas Blvd., Suite 150 Roseville, CA 95661 Attn: Region President
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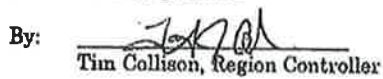
Notice given as above will be deemed given (a) when delivered in person, (b) three days after deposited in prepaid, first class U.S. mail, (c) upon receipt of the facsimile machine or electronic mail successful-delivery confirmation, or (d) on the date of delivery as shown on the overnight courier service receipt. Any party may change its contact information by notifying the other party of the change in the manner provided above.

CITY OF WHEATLAND

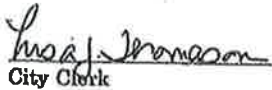
DEVELOPER

K. Hovnanian Homes Northern California, Inc.
A California corporation

By: 
Jim Goodwin, City Manager

By: 
Tim Collison, Region Controller

Attest:


Lisa J. Johnson
City Clerk



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 Placer

On 11/22/2021 before me, Stephanie Gonzalez, Notary Public
(Insert name and title of the officer)

personally appeared Tim Collison
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 Stephanie Gonzalez (Seal)



13
13

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 Yuba

On December 08, 2021 before me, Lisa J. Thomason, City Clerk personally appeared James Goodwin, Wheatland City Manager, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person 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.



Lisa J. Thomason

STATE OF CALIFORNIA
COUNTY OF YUBA
COUNTY RECORDER

JAN 26 2022

This is to certify that this is a true copy of the document on file in this office. TERRY A. HANSEN, COUNTY RECORDER COUNTY OF YUBA, MARYSVILLE, CALIFORNIA

By *Sandra Mull* Deputy



Bond Number: GM233731
Premium: \$2,017.00

**PUBLIC/FRONTAGE IMPROVEMENT AGREEMENT
GUARANTEE AND WARRANTY SECURITY**

WHEREAS, the City Council of the City of Wheatland, State of California, and **K. Hovnanian Homes Northern California, Inc., a California corporation**, ("Principal") have entered into an agreement by which Principal agrees to install and complete certain designated public improvements and to guarantee and warrant the work for a period of one year following its completion and acceptance, which said agreement identified as Subdivision Improvement Agreement for Calterra Village 2, is hereby referred to and made a part hereof; and

WHEREAS, said Principal is required under the terms of said agreement to furnish a bond to guarantee and warrant the work for a period of one year following its completion and acceptance against any defective work or labor done, or defective materials furnished, and further to pay all City engineering fees and other City fees incurred during the warranty period, to comply with the terms of said agreement.

NOW, THEREFORE, we, the Principal and Great Midwest Insurance Company, admitted and duly authorized to transact business under the laws of the State of California as surety, are held and firmly bound unto the City of Wheatland as obligee ("City"), in the penal sum of **Two Hundred Sixty-Eight Thousand, Nine Hundred Twenty-Nine and No/100 Dollars (\$268,929.00)** lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, successors, executors and administrators, jointly and severally, firmly by these presents.

The condition of this obligation is such that if the Principal, his or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, provisions in the said agreement and any alteration thereof made as therein provided, on his or its part to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless City, its officers, agents and employees, as therein stipulated, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

As a part of the obligation secured hereby and in addition to the face amount specified therefor, there shall be included costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by City in successfully enforcing such obligation, all to be taxed as costs and included in any judgment rendered.

The surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the agreement or to the work to be performed thereunder or the specifications accompanying the same shall in anywise affect its obligations of this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the agreement or to the work or to the specifications. The surety waives all rights of subrogation against the City or any person employed by the City.

Bond Number: GM233731
Premium: \$2,017.00

IN WITNESS WHEREOF, this Public/Frontage Maintenance Bond Guarantee and Warranty Security has been duly executed by the Principal and surety above named, on this 23rd day of August ~~2022~~ 2024

Great Midwest Insurance Company

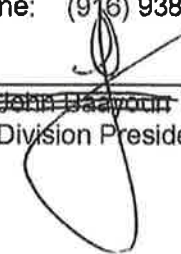
Subdivider:
K. Hovnanian Homes Northern California, Inc., a California corporation

Name of Surety

Contact: Kevin Vas Dias
Phone: (916) 938-3522

800 Gessner Road, Suite 600

Houston, TX 77024
Address of Surety

By: 
John Hachour Yaha Zakour Bayoun
Division President

(713) 935-4800
Telephone No. of Surety


D. Garcia
Attorney-in-Fact

NOTE: If Principal is a partnership, all partners should execute the bond.

IMPORTANT: Surety companies executing bonds must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in California.

NOTICE: The signature of the Surety on this bond must be acknowledged before a notary public, and this bond must be accompanied by evidence that the appointment as attorney in fact has been recorded in Yuba County.

MANDATORY: The Surety shall be authorized and licensed by the California Insurance Commissioner as an "admitted surety insurer."

APPROVAL: Bonds must be approved by City.

REQUEST TO INSURER TO SUBMIT DOCUMENTS: Execution of this document shall constitute the City's formal request to the insurer to provide the City with evidence of authorization as an admitted surety in the State of California from the California Department of Insurance and that the certificate of authority of the insurer has not been surrendered, revoked, canceled, annulled, or suspended.

POWER OF ATTORNEY REQUIRED. The Attorney-in-Fact (resident agent) who executes this bond on behalf of the surety company must attach a copy of his Power of Attorney as evidence of his authority. A notary shall acknowledge the power as of the date of the execution of the surety bond that it covers.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

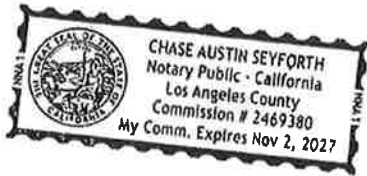
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Los Angeles)

On AUG 28 2024 before me, Chase Austin Seyforth, Notary Public
Date Here Insert Name and Title of the Officer

Personally appeared D. Garcia
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]
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document _____ Document Date _____

Number of Pages _____ Signer(s) Other Than Named Above _____

Capacity(ies) Claimed by Signer(s)

Signer's Name _____

- Corporate Officer—Title(s)
- Partner Limited General
- Individual Attorney in Fact
- Trustee Guardian or Conservator
- Other _____

Signer's Name _____

- Corporate Officer—Title(s)
- Partner Limited General
- Individual Attorney in Fact
- Trustee Guardian or Conservator
- Other _____

Signer Is Representing _____

Signer Is Representing _____

POWER OF ATTORNEY
Great Midwest Insurance Company

KNOW ALL MEN BY THESE PRESENTS, that **GREAT MIDWEST INSURANCE COMPANY**, a Texas Corporation, with its principal office in Houston, TX, does hereby constitute and appoint:

Janina Monroe, Adriana Valenzuela, Jennifer G. Ochs, Martha Barreras, Timothy Noonan, KD Wapato, Marina Tapla, Edward C. Spector, Ethan Spector, B. Aleman, Aldan Smock, Lisa Crall, Simone Gerhard, Erin Brown, Paul Rodriguez, Emily Newell, D. Garcia, Rachel A. Mullen

its true and lawful Attorney(s)-In-Fact to make, execute, seal and deliver for, and on its behalf as surety, any and all bonds, undertakings or other writings obligatory in nature of a bond.

This authority is made under and by the authority of a resolution which was passed by the Board of Directors of **GREAT MIDWEST INSURANCE COMPANY**, on the 1st day of October, 2018 as follows:

Resolved, that the President, or any officer, be and hereby is, authorized to appoint and empower any representative of the Company or other person or persons as Attorney-In-Fact to execute on behalf of the Company any bonds, undertakings, policies, contracts of indemnity or other writings obligatory in nature of a bond not to exceed Ten Million dollars (\$10,000,000.00), which the Company might execute through its duly elected officers, and affix the seal of the Company thereto. Any said execution of such documents by an Attorney-In-Fact shall be as binding upon the Company as if they had been duly executed and acknowledged by the regularly elected officers of the Company. Any Attorney-In-Fact, so appointed, may be removed in the Company's sole discretion and the authority so granted may be revoked as specified in the Power of Attorney.

Resolved, that the signature of the President and the seal of the Company may be affixed by facsimile on any power of attorney granted, and the signature of the Secretary, and the seal of the Company may be affixed by facsimile to any certificate of any such power and any such power or certificate bearing such facsimile signature and seal shall be valid and binding on the Company. Any such power so executed and sealed and certificate so executed and sealed shall, with respect to any bond of undertaking to which it is attached, continue to be valid and binding on the Company.

IN WITNESS THEREOF, **GREAT MIDWEST INSURANCE COMPANY**, has caused this instrument to be signed by its President, and its Corporate Seal to be affixed this 11th day of February, 2021.

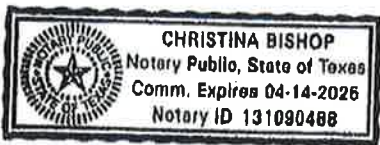



GREAT MIDWEST INSURANCE COMPANY

BY 
Mark W. Haushill
President

ACKNOWLEDGEMENT

On this 11th day of February, 2021, before me, personally came Mark W. Haushill to me known, who being duly sworn, did depose and say that he is the President of **GREAT MIDWEST INSURANCE COMPANY**, the corporation described in and which executed the above instrument; that he executed said instrument on behalf of the corporation by authority of his office under the By-laws of said corporation.



BY 
Christina Bishop
Notary Public

CERTIFICATE

I, the undersigned, Secretary of **GREAT MIDWEST INSURANCE COMPANY**, A Texas Insurance Company, DO HEREBY CERTIFY that the original Power of Attorney of which the foregoing is a true and correct copy, is in full force and effect and has not been revoked and the resolutions as set forth are now in force.

Signed and Sealed at Houston, TX this 23rd Day of August, 2024.



BY 
Leslie K. Shaunty
Secretary

"WARNING: Any person who knowingly and with intent to defraud any insurance company or other person, files an application for insurance of claim containing any materially false information, or conceals for the purpose of misleading, information concerning any fact material thereto, commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties.

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 Placer

On August 26th, 2024 before me, Robin Thomas Duka, Notary Public
(insert name and title of the officer)

personally appeared Yahya Zakour Baayou
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 Robin Duka (Seal)

