

**COUNTY OF PLACER**  
**Community Development Resource Agency**

**ENGINEERING &  
SURVEYING**

Michael J. Johnson, AICP  
Agency Director

**MEMORANDUM**

**TO:** Honorable Board of Supervisors  
**FROM:** Michael Johnson, AICP *MJ*  
Agency Director, Engineering and Surveying Department  
**DATE:** July 24, 2012  
**SUBJECT:** Resort at Squaw Creek Phase 2  
SUB-260/CUP 1444

**ACTION REQUESTED:**

Approve the attached Second Amendment to Subdivision Improvement Agreement for the Resort at Squaw Creek Phase 2:

1. Authorize the Chair to sign the Second Amendment to Subdivision Improvement Agreement.
2. Instruct the Clerk of the Board to prepare the Second Amendment to Subdivision Improvement Agreement for recording.

**BACKGROUND:**

Phase 2 of the Resort at Squaw Creek consists of three sub-phases, 2A, 2B & 2C. The subdivider has recorded Final Maps for all three phases by relying upon Subdivision Improvement Agreements (SIAs) and related security. On May 26, 2009, your Board approved an Amendment to the SIAs to extend the term and adjust the security requirements. This First Amendment ensures that adequate security is in place based upon a phased construction schedule not upon construction of the entire project. It also extends the construction completion date of the SIAs based upon the subdividers then anticipated construction schedule. The subdivider has requested a second extension to the construction completion date of the SIAs as follows:

	<u>Current Completion Date</u>	<u>Requested Completion Date</u>
Phase 2A	November 6, 2013	November 6, 2016
Phase 2B	November 6, 2016	November 6, 2018
Phase 2C	November 6, 2019	November 6, 2020

Staff has prepared the attached Second Amendment that extends the construction completion date of all three SIAs. A Letter of Credit provides security for the subdivider's obligations under this Second Amendment. The phase construction sequence of this Second Amendment requires the subdivider to secure the subsequent phase improvements before the constructed phase improvements are accepted as complete. This requirement assures the subdivider must perform incrementally as the project is constructed to benefit from the ultimate 2020 completion date.

**ENVIRONMENTAL CLEARANCE:**

An Environmental Impact Report was prepared for this project pursuant to the provisions of CEQA. The final EIR was certified by the Board of Supervisors on March 25, 1985. Mitigation measures have been addressed by the Conditions of Approval for this subdivision.

**FISCAL IMPACT:**

None

**ATTACHMENTS:**

Exhibit 1: Amendment to Subdivision Agreement

EXHIBIT "1"

Recording Requested by  
and Return to:

Placer County  
Community Development Resource Agency  
Engineering and Surveying Department  
3091 County Center Dr., Suite 120  
Auburn, California 95603

Subdivision Names: The Resort at Squaw Creek,  
Phases 2A, 2B and 2C  
Subdivision Nos.: SUB-260/CUP 1444; Tracts 957, 958  
and 959  
Recorded at: Book BB of Maps, at Pages  
59, 60, and 61 Placer County Records.  
Subdivider: Squaw Creek Associates, LLC, a Delaware  
limited liability company  
Original Subdivision Improvement Agreements Recorded:  
Phase 2A -- Doc. 2007-0029623-00, ORPC, March  
23, 2007;  
Phase 2B -- Doc. 2007-0029626-00, ORPC, March  
23, 2007; and,  
Phase 2C -- Doc. 2007-0029629-00, ORPC, March  
23, 2007  
Amendment to Subdivision Improvement Agreements  
Recorded: May 29, 2009 as Doc. 2009-0045996, ORPC  
Effective Date: \_\_\_\_\_

**SECOND AMENDMENT TO SUBDIVISION IMPROVEMENT AGREEMENTS**

This Amendment to Subdivision Improvement Agreements ("Amendment") is entered into by and between the County of Placer, hereinafter called "County," and Squaw Creek Associates, LLC, a Delaware limited liability company, hereinafter called "Subdivider," on the \_\_\_ day of \_\_\_\_\_, 20\_\_.

**RECITALS**

1. Subdivider has received approval from County of certain tentative subdivision maps commonly known as the Resort at Squaw Creek Phase 2 (the "Subdivision").
2. Subdivider filed for record on March 6, 2007, three final maps (the "Maps") in substantial conformity with the Subdivision, which were all approved by

2B), and Book BB of Maps, Page 61 (Phase 2C) in the Official Records of Placer County. Copies of the Maps are on file with the Placer County Community Development Resource Agency and by this reference incorporated herein.

3. County approved the Maps, subject to the execution of those certain Subdivision Improvement Agreements recorded in Placer County Official Records sequentially as Document Nos. 2007-0029623-00 (the "Phase 2A SIA"), 2007-0029626-00 (the "Phase 2B SIA"), and 2007-0029629-00 (the "Phase 2C SIA"), all recorded March 23, 2007 (hereafter collectively, the "SIAs").

4. Subdivider informed the County that the intended phasing plan for construction of the Subdivisions consisted of constructing Phase 2A first, Phase 2B second, and Phase 2C third.

5. County agreed with Subdivider's intended phasing plan and the parties executed an Amendment to the SIAs which was recorded on May 29, 2009, as Document No. 2009-0045996 ORPC (the "First Amendment") to modify the SIAs in accordance with the Subdivider's phasing plan.

6. The First Amendment stated that the completion date for the infrastructure improvements may be extended with the mutual written consent of Subdivider and County. Subdivider has requested an amendment to the timing of the phasing plan defined in the First Amendment to extend certain dates for the completion of infrastructure improvements.

7. County and Subdivider wish to memorialize their voluntary agreement to amend the phasing plan and address other matters associated with the improvements covered by the SIAs, and wish to execute this Second Amendment to the SIAs for that purpose. For ease of reference, this Second Amendment will supersede and replace the First Amendment in its entirety.

8. The authority for the SIAs and this Second Amendment is forth in the Subdivision Map Act ("the Map Act") (Cal. Government Code section 66410 et seq.)

NOW, THEREFORE, the parties hereto agree as follows:

### **AGREEMENT**

1. The last sentence of Paragraph 6 of each of the three SIAs (reading, "Such work shall be completed within thirty-six (36) months for Phase 2A, eighty-four (84) months for Phase 2B, and one hundred and twenty (120) months for Phase 2C of the date of this Agreement") is hereby deleted. The following language is hereby added to Paragraph 6 of each of the SIAs as follows:

For the Phase 2A SIA: "Such work shall be completed by November 6, 2016 (the "Completion Date"). The parties agree that the Completion Date may be extended by the mutual written consent of the parties."

For the Phase 2B SIA: "Such work shall be completed by November 6, 2018 (the "Completion Date"). The parties agree that the Completion Date may be extended by the mutual written consent of the parties."

For the Phase 2C SIA: "Such work shall be completed by November 6, 2020 (the "Completion Date"). The parties agree that the Completion Date may be extended by the mutual written consent of the parties."

2. Paragraph 10 of each of the three SIAs (reading, "**Warranty.** Subdivider agrees to remedy any defects in the improvements arising from faulty design or construction of said improvements occurring within twelve (12) months after acceptance thereof has been given in writing by the Board of Supervisors") is hereby deleted. The following language is hereby added as Paragraph 10 to each of the three SIAs as follows:

**Warranty.** Subdivider agrees to remedy any defects in the public improvements arising from faulty design or construction of said public improvements occurring within twelve (12) months after acceptance thereof has been given in writing by the Board of Supervisors."

3. Paragraph 13 of Document No. 2007-0029623-00 (the Phase 2A SIA) is hereby amended and restated in its entirety as follows:

"13. **Security.** Subdivider shall furnish to County security to ensure the faithful performance of all duties and obligations of Subdivider herein contained in accordance with Government Code Section 66499. Such improvement security shall be in a form acceptable to the County Counsel. If bonds are submitted, Subdivider must provide documentation, in a form acceptable to the County Counsel, that the surety is a duly admitted surety authorized to conduct business in the State of California. Such security shall be in the following amounts for the following purposes:

A. **Faithful Performance:** Fifty percent (50%) of the approved engineer's estimate for the Phase 2A improvements, which equals Four Hundred Forty-Five Thousand Five Hundred and Eighteen Dollars (\$445,518.00), securing performance of this Agreement. Before issuance of a building permit for Phase 2A, Subdivider shall increase the security to one hundred percent (100%) of a then current approved engineer's estimate for the Phase 2A improvements securing performance of this Agreement.

B. **Labor and Materials:** Fifty percent (50%) of the approved engineer's estimate for the Phase 2A improvements, which equals Four Hundred Forty-Five Thousand Five Hundred and Eighteen Dollars (\$445,518.00), securing payment to the contractor of improvements, to his subcontractors, and to persons furnishing labor, materials, or equipment to them. Before issuance of a building permit for Phase 2A, Subdivider shall increase the security to one hundred percent (100%) of a then current approved engineer's estimate for the Phase 2A improvements, securing payment to the contractor of improvements, to his subcontractors, and to persons furnishing labor, materials, or equipment to them.

4. Paragraph 13 of Document No. 2007-0029626-00 (the Phase 2B SIA) is hereby amended and restated in its entirety as follows:

“13. **Security.** Subdivider shall not be required to submit security for the Phase 2B improvements until County’s acceptance of the Phase 2A improvements. As a condition precedent to County’s acceptance of the Phase 2A improvements and prior to the County’s release of the Phase 2A security under Paragraph 16, Subdivider shall furnish to County security to ensure the faithful performance of all duties and obligations of Subdivider herein contained in accordance with Government Code Section 66499. Such improvement security shall be in a form acceptable to the County Counsel. If bonds are submitted, Subdivider must provide documentation, in a form acceptable to the County Counsel, that the surety is a duly admitted surety authorized to conduct business in the State of California. Such security shall be in the following amounts for the following purposes:

A. **Faithful Performance:** Fifty percent (50%) of the approved engineer’s estimate for the Phase 2B improvements, which equals Three Hundred Forty-Four Thousand Five Hundred Ninety-Six Dollars (\$344,596.00), securing performance of this Agreement. Before issuance of a building permit for Phase 2B, Subdivider shall increase the security to one hundred percent (100%) of a then current approved engineer’s estimate for the Phase 2B improvements.

B. **Labor and Materials:** Fifty percent (50%) of the approved engineer’s estimate for the Phase 2B improvements, which equals Three Hundred Forty-Four Thousand Five Hundred Ninety-Six Dollars (\$344,596.00), securing payment to the contractor of improvements, to his subcontractors, and to persons furnishing labor, materials, or equipment to them. Before issuance of a building permit for Phase 2B, Subdivider shall increase the security to one hundred percent (100%) of a then current approved engineer’s estimate for the Phase 2B improvements, securing payment to the contractor of improvements, to his subcontractors, and to persons furnishing labor, materials, or equipment to them.

5. Paragraph 13 of Document No. 2007-0029629-00 (the Phase 2C SIA) is hereby amended and restated in its entirety as follows:

“13. **Security.** Subdivider shall not be required to submit security for the Phase 2C improvements until County’s acceptance of the Phase 2B improvements. As a condition precedent to County’s acceptance of the Phase 2B improvements and prior to the County’s release of the Phase 2B security under Paragraph 16, Subdivider shall furnish to County security to ensure the faithful performance of all duties and obligations of Subdivider herein contained in accordance with Government Code Section 66499. Such improvement security shall be in a form acceptable to the County Counsel. If bonds are submitted, Subdivider must provide documentation, in a form acceptable to the County Counsel, that the surety is a duly admitted surety authorized to conduct business in the State of California. Such security shall be in the following amounts for the following purposes:

A. **Faithful Performance:** Fifty percent (50%) of the approved engineer’s estimate for the Phase 2C improvements, which equals Forty Two Thousand Six Hundred

Ninety-Nine Dollars (\$42,699.00), securing performance of this Agreement. Before issuance of a building permit for Phase 2C, Subdivider shall increase the security to one hundred percent (100%) of a then current approved engineer's estimate for the Phase 2C improvements, securing performance of this Agreement.

B. **Labor and Materials:** Fifty percent (50%) of the approved engineer's estimate for the Phase 2C improvements, which equals Forty Two Thousand Six Hundred Ninety-Nine Dollars (\$42,699.00), securing payment to the contractor of improvements, to his subcontractors, and to persons furnishing labor, materials, or equipment to them. Before issuance of a building permit for Phase 2C, Subdivider shall increase the security to one hundred percent (100%) of a then current approved engineer's estimate for the Phase 2C improvements, securing payment to the contractor of improvements, to his subcontractors, and to persons furnishing labor, materials, or equipment to them.

6. Paragraph 23 of each SIA is hereby amended and restated in its entirety as follows:

**"23. Other Provisions.**

A. After acceptance of the improvements for each phase, the security for that phase shall be released and/or reduced under Paragraph 16 of each SIA. The Subdivider shall maintain security in the following amounts (i) **Faithful Performance:** twenty-five percent (25%) of the approved engineer's estimate covering the accepted public improvements for twelve (12) months from County's acceptance of the improvements to secure the faithful performance of the warranty obligations set forth in Paragraph 10 of each SIA, and (ii) **Labor and Materials:** fifty percent (50%) of the approved engineer's estimate for all accepted improvements in accordance with Government Code Section 66499.7. After expiration of each timeframe set forth above, the security covered by that timeframe shall be fully released or reduced to an amount equivalent to any claims.

B. Subdivider agrees and acknowledges that no building permits will be issued for any Phase until after security equivalent to one hundred percent (100%) of an approved and then current engineer's estimate has been delivered to and accepted by County as security for both (i) Faithful Performance and (ii) Labor and Material. For purpose of this Amendment, a "then current" approved engineer's estimate shall mean an engineer's estimate for an approved and valid set of improvement plans containing a ten percent (10%) contingency. If the improvement plans expire by their own terms, then Subdivider shall be required to renew County's approval for the improvement plans and obtain a then current approved engineer's estimate for the estimated costs of the improvements in the renewed improvement plans.

C. Subdivider agrees and acknowledges that County is entering into this Second Amendment in material reliance on Subdivider's phasing plan as described in this Second Amendment and that any change in the phasing order described in Recital 4 of this Second Amendment will require the written approval of the County and an amendment to this Agreement. Provided, however, that Phase 2B and Phase 2C may, in Subdivider's discretion, be developed concurrently so long as Subdivider submits the security required for both phases under this Second Amendment. No building permits will issued for any Phase in which improvement plans have expired unless and

until Subdivider has resubmitted the improvement plans and obtained approval of the same from the County.

7. Subdivider consents to the recordation of this Second Amendment in the Official Records of Placer County. Any amendment hereto shall be in writing and recorded in the Official Records of Placer County.

8. This Second Amendment shall supersede and replace the First Amendment in its entirety. To the extent this Second Amendment is in conflict with the provisions of the SIAs, this Second Amendment shall control. In all other respects, the SIAs shall remain in full force and effect and are incorporated herein by reference as if fully set forth herein. Subdivider further agrees and acknowledges that nothing in this Second Amendment affects the Subdivisions' entitlements and that any changes to the Subdivisions may require additional review and approval pursuant to the County's land use process.

WHEREFORE, the parties hereto have executed this Second Amendment on the day and in the year first above written.

Dated:

COUNTY OF PLACER

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Dated: 6-28-12

SUBDIVIDER

Squaw Creek Associates, LLC,  
a Delaware limited liability company,

By: Destination Tahoe Investors, LLC,  
a Delaware limited liability company,  
its Administrative Member

By: Eric L. Sather  
Print Name: ERIC L. SATHER  
Title: GENERAL MANAGER  
Date: 6-28-12

By: Glen Robins  
Print Name: Glen Robins  
Title: Controller  
Date: 6-28-2012

APPROVED AS TO FORM

PLACER COUNTY COUNSEL'S OFFICE

By

  
\_\_\_\_\_  
COUNTY COUNSEL

State of California )  
County of Placer )

On this 28<sup>th</sup> day of June, 2012, before me  
Claudia A. Martinello NOTARY PUBLIC,

(Notary Name and Title)

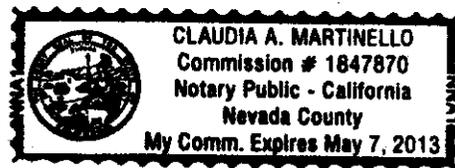
personally appeared Eric Sather and Glen Robins  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are  
subscribed to the within instrument and acknowledged to me that he/she/they executed the same  
in his/her/their authorized capacity(ies), and that by his/her/their 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.

My Commission Expires: May 7, 2013

WITNESS my hand and official seal

(SEAL)

Claudia Martinello  
Notary Public in and for said county and state



State of California )  
County of Placer )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me  
\_\_\_\_\_  
NOTARY PUBLIC,

(Notary Name and Title)

personally appeared \_\_\_\_\_,  
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.

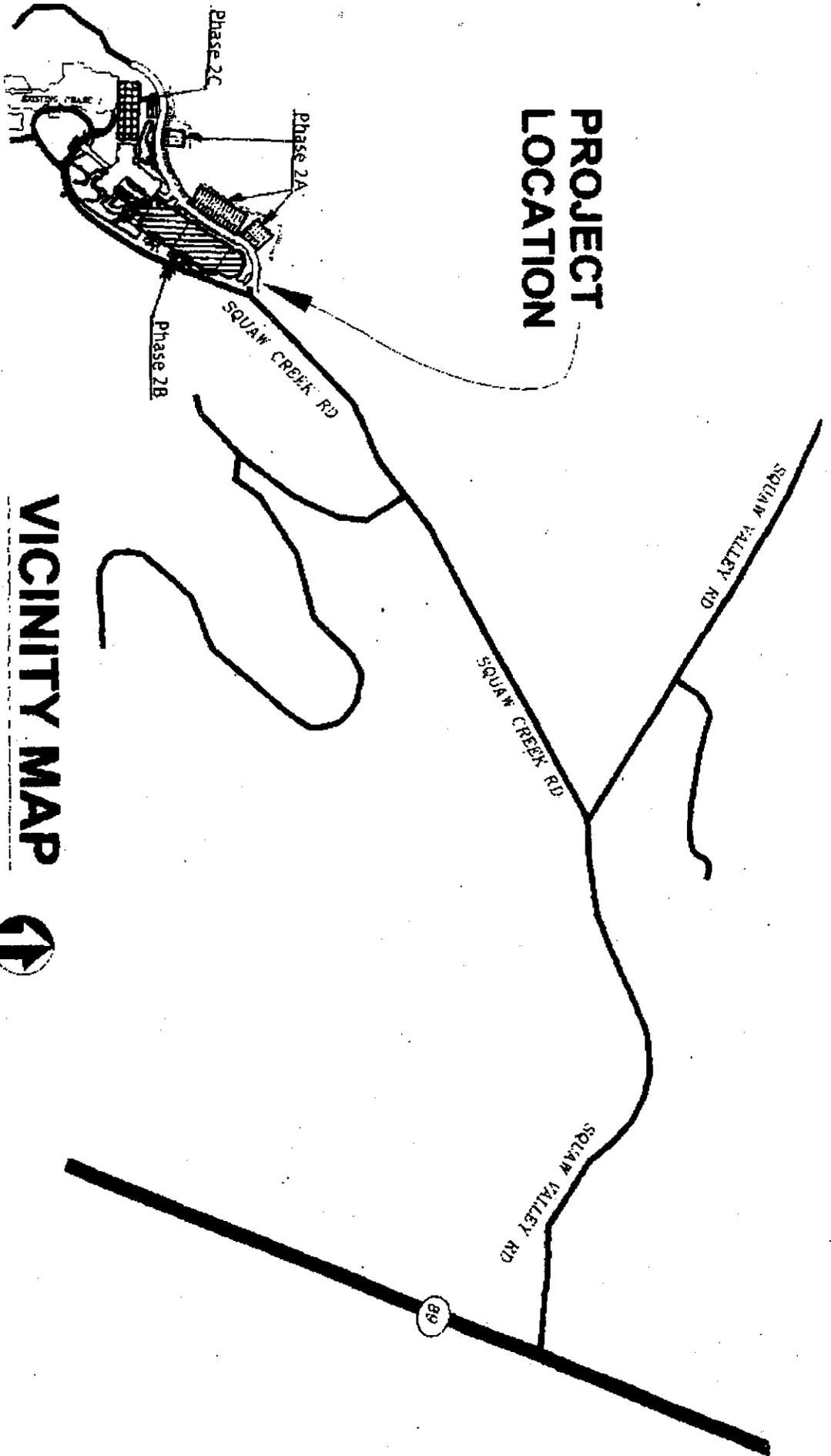
My Commission Expires: \_\_\_\_\_

WITNESS my hand and official seal

(SEAL)

\_\_\_\_\_  
Notary Public in and for said county and state

# PROJECT LOCATION



# VICINITY MAP

NTS

