

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

Michael J. Johnson, AICP  
Agency Director

**ENGINEERING &  
SURVEYING**

Wes Zicker, PE  
Director

**MEMORANDUM**

**TO:** Honorable Board of Supervisors  
**FROM:** Wes Zicker, Director of Engineering & Surveying  
**DATE:** November 17, 2009  
**SUBJECT:** Martis Camp Unit No. 7A and Unit No. 9A and 9B  
SUB-424/CUP3008

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**ACTION REQUESTED:**

Approve the attached Amendment To Subdivision Improvement Agreements for Martis Camp Unit No. 7A and Unit No. 9A and 9B:

1. Authorize the Chairman to sign the Amendment to Subdivision Improvement Agreements (SIAs).
2. Instruct the Clerk of the Board to prepare the Amendment to Subdivision Improvement Agreements for recording.

**BACKGROUND:**

Martis Camp, originally called Siller Ranch, was approved to create 726 residential units. The developer has opted to limit development to 653 residential lots utilizing multiple phased final maps. The subdivider has recorded final maps for both Unit No. 7A and Unit No. 9A and 9B and provided security to the County for the respective improvements. Due to the current economic climate, the Developer desires to delay construction of the Unit 7A improvements and pursue completion of the Unit 9A and 9B improvements. The developer does not anticipate construction of Unit No. 7A before late 2011. Given that extended time frame the Developer has requested that the SIAs be modified to reflect that schedule and to allow a reduction in security until such time as construction on Unit 7A improvements commences.

Staff has prepared the attached Amendment that modifies both SIAs to fully secure the construction required for Unit No. 9A and 9B and reduce the amount of security being held for Unit No. 7A until construction commences. Staff has approved revisions to the improvement plans that "transfer" construction of Schaffer Mill Road from Unit No. 7A to Unit No. 9A and 9B. The developer has executed this amendment to reflect those changes and provide adequate assurances for the County to guarantee compliance with the conditions of approval for the project. In addition, the proposed amendment will reduce the security required by the County during the warranty period, one year after acceptance of the improvements, to cover only the publically maintained facilities constructed with each phase. Staff supports this revision to the warranty obligation because the County will have no maintenance responsibility for the completed private improvements.

**ENVIRONMENTAL CLEARANCE:**

A Final EIR for Siller Ranch has been found adequate to satisfy the requirements of CEQA for this project. The Final EIR was certified by the Planning Commission on June 24, 2004. Mitigation measures have been addressed by the Conditions of Approval for this subdivision.

**FISCAL IMPACT:**

None

Respectfully submitted,



\_\_\_\_\_  
WES ZICKER  
Director of Engineering & Surveying

Attached to this report for the Board's information/consideration are:

**ATTACHMENTS:**

- Exhibit 1: Amendment to Subdivision Agreements
- Exhibit 2: Location Map

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: Martis Camp Unit No. 7A  
and Martis Camp Unit No. 9A & 9B.  
Subdivision Nos.: SUB-260/CUP 1444; Tracts 988 and 990.  
Recorded at: Book CC of Maps, at Pages  
004, and 005 Placer County Official Records.  
Subdivider: DMB Highlands Group, LLC  
Original Subdivision Improvement Agreements  
Recorded:  
Unit No. 7A--Doc. 2008-0088111-00, ORPC,  
November 12, 2008;  
Unit No. 9A and 9B--Doc. 2008-0088115-00,  
ORPC, November 12, 2008  
Effective Date: \_\_\_\_\_

### **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 DMB/Highlands Group, LLC, hereinafter called "Subdivider," on the \_\_\_ day of \_\_\_\_\_, 2009.

### **RECITALS**

1. Subdivider has received approval from County of a tentative subdivision map commonly known as Martis Camp (aka Siller Ranch) (the "Subdivision").
2. Subdivider obtained Board approval for two final subdivision maps (the "Maps") for the Subdivisions in substantial conformity with the approved tentative map on November 4, 2008, which were all recorded on November 12, 2008, in Book CC of Maps, at Page 004 (Unit No. 7A), Book CC of Maps, at Page 005 (Unit No. 9A and 9B) 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. 2008-0088111-00 (the "Unit No. 7A SIA") and 2008-0088115-00 (the "Unit 9A and 9B SIA"), all recorded November 12, 2008 (hereafter collectively, the "SIAs").

4. Subdivider has informed the County that Subdivider's intended phasing plan for construction of the Subdivision consists of completing Unit No. 9A and 9B first and Unit No. 7A second.

5. County and Subdivider wish to memorialize their voluntary agreement to amend security amounts and address other matters associated with the improvements covered by the SIAs, and wish to execute an amendment both SIAs for that purpose.

6. The authority for the SIAs and this 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. Paragraph 6 of Document No. 2008-0088111-00 (the Unit No. 7A SIA) is hereby amended and restated in its entirety as follows:

"6. Subdivider agrees to complete all the works of improvement ("the improvements") required for the subdivision as shown on the final improvement plans for the subdivision, DPN 8551 – Martis Camp Unit No. 7A", plan revision delta 4 ( $\Delta 4$ ), approved on Oct. 20, 2009, submitted to, approved by, and filed with the Engineering and Surveying Department, in accordance with the requirements of the Map Act, Title 16, the Standard Specifications of County improvement plans, and such other requirements as are included herein. Such work shall be completed by October 15, 2012 (the "Completion Date"). The parties agree that the Completion Date may be extended by the mutual written consent of the parties."

2. Paragraph 6 of Document No. 2008-0088115-00 (the Unit No. 9A and 9B SIA) is hereby amended and restated in its entirety as follows:

"6. Subdivider agrees to complete all the works of improvement ("the improvements") required for the subdivision as shown on the final improvement plans for the subdivision, DPN 8594 – "Martis Camp Units No. 9A & 9B" and DPN 8568 – "Martis Camp Schaffer Mill Road Unit/Unit 7A", plan revision delta 6 ( $\Delta 6$ ), approved on Oct. 20, 2009, submitted to, approved by, and filed with the Engineering and Surveying Department, in accordance with the requirements of the Map Act, Title 16, the Standard Specifications of County improvement plans, and such other requirements as are included herein. Such work shall be completed by November 4, 2011 (the "Completion Date")."

The parties agree that the Completion Date may be extended by the mutual written consent of the parties.”

3. Paragraph 13 of Document No. 20087-0088111-00 (the Unit No. 7A 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 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 Unit No. 7A improvements described in paragraph 6, which equals Eight Hundred Thirty Three Thousand One Hundred Eighty Five Dollars (\$833,185). As a condition precedent to County’s acceptance of the Unit No. 9A and 9B improvements and prior to the County’s release and or reduction of the Unit 9A and 9B security under Paragraph 16, or prior to commencement of any construction activity for Unit 7A, Subdivider shall increase the security to one hundred percent (100%) of a then current approved engineer’s estimate for Unit No. 7A.

B. **Labor and Materials:** Fifty percent (50%) of the approved engineer’s estimate for the Unit no. 7A improvements described in paragraph 6, which equals Eight Hundred Thirty Three Thousand One Hundred Eighty Five Dollars (\$833,185), securing payment to the contractor of improvements, to his subcontractors, and to persons furnishing labor, materials, or equipment to them. As a condition precedent to County’s acceptance of the Unit No. 9A and 9B improvements and prior to the County’s release and or reduction of the Unit No. 9A and 9B security under Paragraph 16, or prior to commencement of any construction activity for Unit 7A, Subdivider shall increase the security to one hundred percent (100%) of a then current approved engineer’s estimate for Unit No. 7A.

4. Paragraph 13 of Document No. 2008-0088115 (the Unit No. 9A and 9B 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 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:** One hundred percent (100%) of the approved engineer's estimate for the Unit no. 9A and 9B improvements described in paragraph 6, which equals Seven Million Forty Seven Thousand Seven Hundred Seventy Five Dollars (\$7,047,775), securing performance of this Agreement.

B. **Labor and Materials:** One hundred percent (100%) of the approved engineer's estimate for the Unit 9A and 9B improvements described in paragraph 6, which equals Seven Million Forty Seven Thousand Seven Hundred Seventy Five Dollars (\$7,047,775), securing payment to the contractor of improvements, to his subcontractors, and to persons furnishing labor, materials, or equipment to them.

5. 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 publically maintained improvements for twelve (12) months from County's acceptance 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 of the publically and privately maintained improvements for six (6) months from County's acceptance as security to protect against liens that may be asserted against the improvements. 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 for purposes 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 10% contingency approved within six (6) months of the time security is provided. If the improvement plans expire by their own terms, then Subdivider shall be required to renew County's approval for the improvement plans, obtain a current approved engineer's estimate for the estimated costs of the improvements in the renewed improvement plans and provide security as described in Paragraph 13.

C. Subdivider agrees and acknowledges that County is entering into this Agreement in material reliance on Subdivider's phasing plan as described in this Agreement and that any change in the phasing order described in Recital 4 of the Amendment will require the written approval of the County and an amendment to this Agreement.

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

7. To the extent this Amendment is in conflict with the provisions of the SIAs, this Amendment shall control. In all other respects, the SIAs 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 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 Amendment on the day and in the year first above written.

Dated: \_\_\_\_\_

COUNTY OF PLACER

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

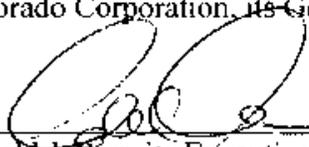
Dated: \_\_\_\_\_

SUBDIVIDER

By: DMB/Highlands Group, LLC, an  
Arizona Limited Liability Company,

By: Highlands Investment Group,  
XV, LTD, a Colorado Limited Partnership  
it's Managing Member,

By: Martis Creek Corporation, a  
Colorado Corporation, its General Partner,

By:  \_\_\_\_\_  
Ronald J. Parr, its Executive Vice-President

APPROVED AS TO FORM

PLACER COUNTY COUNSEL'S OFFICE

Dated: \_\_\_\_\_

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

State of California )  
County of Placer )

On this 29<sup>th</sup> day of October, 2009 before me  
Shellie R. Fitzhugh NOTARY PUBLIC,

(Notary Name and Title)

personally appeared Ronald J. Parr  
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: 1-10-13

WITNESS my hand and official seal

(SEAL)



Shellie R. Fitzhugh  
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: \_\_\_\_\_

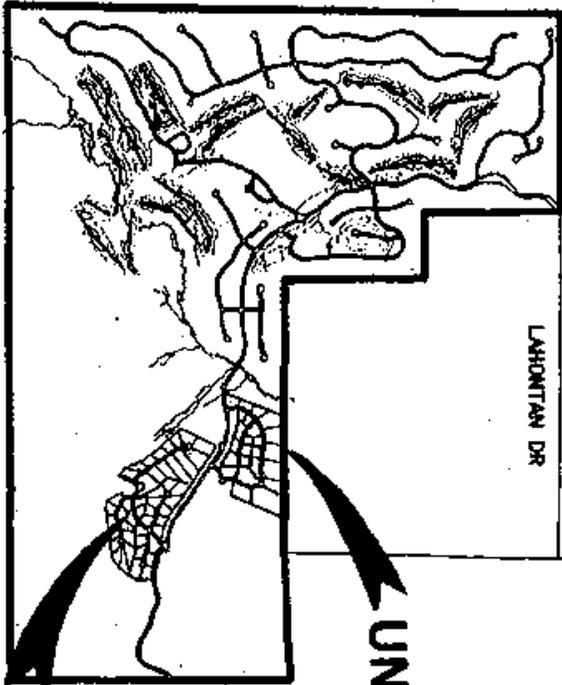
WITNESS my hand and official seal

(SEAL)

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

# MARTIS CAMP VICINITY MAP

NTS



UNIT 9A &  
9B SITE

UNIT 7A SITE

