

RESOLUTION NO. 5772

RESOLUTION ACCEPTING FOR PUBLIC USE,
SUBJECT TO IMPROVEMENT, a PUBLIC UTILITY EASEMENT,
AUTHORIZING CITY CLERK TO SIGN SUBDIVISION IMPROVEMENT AGREEMENT,
AUTHORIZING CITY MANAGER TO SIGN
FRONTAGE IMPROVEMENT REIMBURSEMENT AGREEMENT AND
APPROVING FINAL MAP OF
506 SOUTH MAIN STREET a Commercial/Residential Condominium
(Lands of 506 South Main LLC)

WHEREAS, the City Council of the City of Sebastopol on June 17, 2008, did approve Resolution No. 5686, A Statement of Official Action of the City Council of the City of Sebastopol, Recommending Approval of a Tentative Major Subdivision Map for the Property at 506 South Main Street, Sebastopol, California (APN 004-184-037, subject to certain conditions; and

WHEREAS, in partial fulfillment of said conditions, a Final Map of 506 SOUTH MAIN STREET, a Commercial/Residential Condominium, has been submitted to and approved by the City Engineer of the City of Sebastopol; and

WHEREAS, said Final Map contains an offer of dedication for public use, subject to improvement, a Public Utility Easement; and

WHEREAS, in partial fulfillment of said conditions, Improvement Plans have been prepared by the developer's engineer and approved by the City Engineer; and

WHEREAS, in partial fulfillment of said conditions, Developer will construct certain frontage improvements included in the City's Street Smart Sebastopol Phase 3 Project, including bulbouts (curb extensions), curb and gutter, pedestrian ramp and sidewalk improvements; and

WHEREAS, the City agrees to reimburse the Developer for the City's share of the actual cost of constructing said pedestrian safety improvements, and whereas a Reimbursement Agreement has been prepared establishing the amount and method for reimbursement of these costs; and

WHEREAS, the developer has submitted a Subdivision Improvement Agreement that warrants the construction of the public improvements in a timely manner, in accord with the approved plans and project approvals;

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby takes the following actions;

- 1) Authorizes the City Clerk to execute the Subdivision Improvement Agreement, subject to posting of all bonds and insurance documentation and payment of all fees due,
- 2) Authorizes the City Manager to execute the Frontage Improvement Reimbursement Agreement,
- 3) Accepts for public use, subject to improvement, the Public Utility Easement, and,

- 4) Approves the Final Map of 506 SOUTH MAIN STREET for filing with the County Recorder.

IN COUNCIL DULY PASSED this 15th day of September, 2009.

APPROVED


MAYOR SARAH GLADE GURNEY

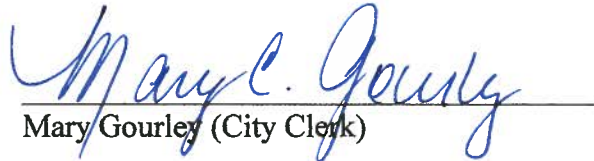
AYES: Councilmembers Robinson, Wilson, Shaffer, Vice Mayor Kelley and Mayor Gurney

NOES: None

ABSTAIN: None

ABSENT: None

ATTEST:


Mary Gourley (City Clerk)

506 SOUTH MAIN STREET
FRONTAGE IMPROVEMENTS REIMBURSEMENT AGREEMENT
BETWEEN THE CITY OF SEBASTOPOL AND 506 SOUTH MAIN LLC

THIS AGREEMENT, made this 16th day of September, 2009, is between 506 SOUTH MAIN LLC, a California Limited Liability Corporation, "Developer" and the City of Sebastopol ("City"), a municipal corporation of the State of California.

RECITALS

- A. The City Council of the City of Sebastopol approved Statement of Official Action No. 5686 (SOA 5686) on June 17, 2008, which, among other actions approves a Tentative Major Subdivision Map for the property at 506 South Main Street in the City of Sebastopol.
- B. The Conditions of Approval in SOA 5686 contains the following condition relating to the design and installation of a certain frontage improvements as part of the subdivision off-site improvements:

Engineering Condition No. 56. The two existing sidewalk access ramps located at the center of the project frontage shall be replaced with a sidewalk bulb-out in conformance with the City's Street Smart project standards. The City Engineer will work with the developer's engineer on the design of the bulb-out. The developer shall be responsible for all permitting and construction of the bulb-out. Upon submittal of a detailed invoice and review of that invoice by the City Engineer for verification that the costs are reasonable, the costs to the developer for constructing the bulb-out shall be reimbursed by the City at the completion of the project, for that portion of the work (the portion being the cost of the bulb-out and not the sidewalk and ramp that would otherwise be required to be constructed without the Street Smart Project).

- C. The City has set aside funding in the Measure M (Countywide Transportation Sales Tax) allocation from Sonoma County Transportation Authority for this purpose, as a part of the Street Smart Sebastopol Phase 3 project, included in the approved Capital Improvement Program Budget for fiscal year 2009-2010.

THEREFORE, it is agreed as follows:

- 1. The City Engineer has approved an estimate of costs for engineering design, permitting and construction of the referenced improvements which is attached hereto as Exhibit A, and has approved engineering plans for this work.
- 2. Developer agrees to contract for all work associated with the construction of the bulbout and other improvements, and to account for same separately from all other work required as part of the subdivision approval(s).

3. **Changes in Work:** Developer shall advise the Engineering Department of any anticipated changes or extra work to be performed in connection with these improvements prior to performing the work, and all such changes shall be subject to the approval of the City Engineer in order to be reimbursable expenses.
4. The City Engineer is authorized to approve reimbursement of reasonable and unavoidable costs incurred by the Developer for extra work that is not anticipated in the Estimate, Exhibit A, up to a "not to exceed" amount of \$20,000.
5. City agrees to reimburse Developer for the actual costs incurred for this work at such time as the work has been completed in accord with all City requirements, to the satisfaction of the City Engineer. Developer shall submit an accounting of all costs with documentation in the form of paid invoices for the review and approval of the City Engineer. Developer shall provide an electronic copy plus two paper copies of each invoice with supporting documentation to

Susan Kelly, Engineering Director
City of Sebastopol
714 Johnson Street
Sebastopol, CA 95472
suekelly@sonic.net

6. **Indemnity.** Developer shall save, hold harmless and indemnify City, its officers, agents, and employees from all claims, demands, damages, judgments, costs of expenses in law or equity that may at any time arise from or relate to any work performed by Developer, its agents, employees or subcontractors under the terms of this Agreement. City shall save, hold harmless and indemnify Developer its officers, agents, and employees from all claims, demands, damages, judgments, costs of expenses in law or equity that may at any time arise from or relate to any duties performed by City, its agents, employees or subcontractors under the terms of this Agreement.
7. **Insurance.** Prior to signature approval by CITY of this agreement Developer shall provide evidence of public liability and property damage insurance, with appropriate endorsements naming the CITY as additional insured, in accord with Exhibit A, Insurance Requirements for Improvement Agreements, which is attached hereto and thereby made a part of this agreement.

NOW THEREFORE, consideration of the mutual covenants and promises of the parties herein contained, the parties hereto have caused this Agreement to be executed by their duly authorized officers on the day and year first above written.

DEVELOPER

506 South Main, LLC

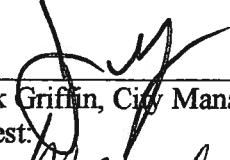
CITY OF SEBASTOPOL

By: 

Christopher Pellascini, Managing Member

Mailing Address:

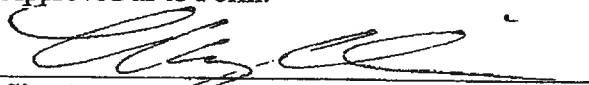
127 North Main Street
Sebastopol, CA 95472


Jack Griffin, City Manager

Attest:


CITY CLERK

Approved as to Form:


City Attorney

ALL SIGNATURES MUST BE NOTARIZED-ATTACH NOTARY CERTIFICATES AFTER THIS PAGE

**EXHIBIT A 506 South Main Frontage Improvements Reimbursement Agreement
ESTIMATE OF PROBABLE COSTS**

NONELLA CONSTRUCTION, INC.
General Contractors - Commercial - Industrial
Ca. Lic. No. B-253784

OFFICE:
887 Sebastopol Road
Santa Rosa, CA 95407
Ph(707)544-8080
Fax(707)544-8095

Estimate Summary Sheet

THIS IS NOT A BID!

TODAY'S DATE 26-Aug-09 S. DATE: 25-Aug-09 TIME NOW: 12:37 PM BID DATE: 26-Aug-09	PROJECT 506 So Main St Sebastopol Cal-Trans ROW - Bulb-Out Only - Attributable Costs
-----------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------

ARCHITECT: ENGINEER: Paul Schoch OTHER: ADDENDA:	\$ 18,754.25 Total Price Square Feet #DIV/0! Price/SF
---------------------------------------------------------------------------------------	-------------------------------------------------------------

DIV	WORK ITEM	QUAN.	UNIT	\$/UNIT	EXTENSION	COMMENTS
					\$ -	
	Engineering, Plans	1	ls	4150.3	4,150.32	
	Permitting		nic		-	
	Traffic Control	1	ls	975	975.00	
	Removals AC & conc incl sawcut	1	ls	500	500.00	
	AC Plug	20	sf	8	160.00	
	Curb & Gutter	10	lf	25	250.00	
	Vertical Curb	10	lf	23	230.00	
	Sidewalk	50	sf	7	350.00	
	Truncated Domes	1	ea	600	600.00	
	Striping	1	ls	250	250.00	
	Landscaping & Irrigation additional	272	sf	10	2,720.00	
	DI "G.O."	1	ea	1900	1,900.00	
	16" RCP Storm Drain	24	lf	98.5	2,364.00	
	S.D. M.H.	1	ea	2100	2,100.00	
	Stub out for future pedestrian signal w/ box	1	ls	500	500.00	
					-	
					-	
					-	
					-	

SUBTOTAL (Cost of Work)	\$ 17,049.32	
Overhead @	5 %	852.47
Profit @	5 %	852.47
SUBTOTAL	\$ 18,754.25	
Liability and WC Insurance		INCLUDED
Bullder's Risk Insurance		not included
Bonds / Cost of Bonds		not included
TOTAL PROJECT PROPOSAL PRICE	\$ 18,754.25	

Excludes any items not specifically mentioned above.

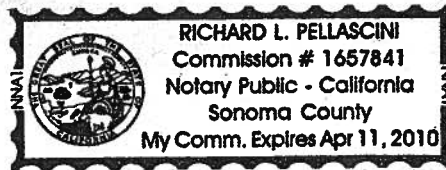
STATE OF California)SS
COUNTY OF Sonoma)

On September 8 2009, before me, Richard L. Pellascini, Notary Public, personally appeared Christopher Pellascini

_____, 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
Richard Pellascini

My Commission Expires: April 11, 2010

This area for official notarial seal

Notary Name: Richard L. Pellascini

Notary Phone: (707) 823-6475

Notary Registration Number: 1657841

County of Principal Place of Business: Sebastopol
California, 95472

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Sonoma

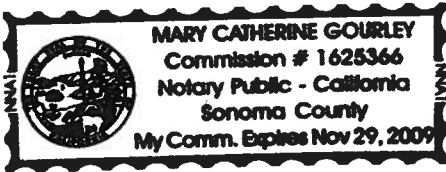
On Sept 16, 2009 before me, Mary Catherine Gourley, Notary Public,
Date Here Insert Name and Title of the Officer

personally appeared Jack Griffin
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 Mary Catherine Gourley
Signature of Notary Public



Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: 506 S. Main St - Frontage Improvement Agmt

Document Date: 9-16-2009 Number of Pages: 4

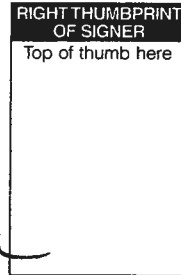
Signer(s) Other Than Named Above: Chris Bellascini - Larry McLaughlin

Capacity(ies) Claimed by Signer(s)

Signer's Name: Jack Griffin

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

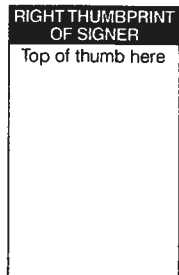
Signer Is Representing: City Manager
City of Sonoma



Signer's Name: _____

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

Signer Is Representing: _____



When Recorded Return to:
CITY OF SEBASTOPOL
P. O. BOX 1776
SEBASTOPOL, CA 95473

SUBDIVISION IMPROVEMENT AGREEMENT
506 SOUTH MAIN STREET
A Commercial/Residential Condominium
Assessor's Parcel No. 004-184-037

THIS AGREEMENT, made and entered into this 16th day of September, 2009, at Sebastopol, California, by and between the CITY OF SEBASTOPOL, a Municipal Corporation, herein called "CITY" and 506 SOUTH MAIN STREET, LLC, a California Limited Liability Company, hereinafter called "DEVELOPER". CITY and DEVELOPER hereby acknowledge the following:

WHEREAS, The City Council, by Resolution No. 5686, on June 17, 2008, granted approval to a certain subdivision delineated on Final Map of 506 SOUTH MAIN STREET, A COMMERCIAL/RESIDENTIAL CONDOMINIUM, ("Map"), and DEVELOPER seeks approval of MAP; and

WHEREAS, DEVELOPER, pursuant to the Conditions of Approval of said Map, must complete various improvements as described in Section 2 below ("Improvements") and post certain security for the completion thereof; and

WHEREAS, this Agreement is executed pursuant to California Government Code 66410, et seq., and applicable ordinances of the City of Sebastopol in order to provide further for the manner in which Improvements shall be constructed and completed;

NOW THEREFORE, and in consideration of the approval of the Map, and in order to ensure satisfactory performance by DEVELOPER of DEVELOPER's obligations under the Conditions of Approval, the Subdivision Map Act and applicable City ordinances, the parties hereto, for themselves, their successors, and assigns hereby agree as follows:

1. Incorporation by Reference

The Development Agreement between DEVELOPER and CITY, if applicable, the Conditions of Approval contained in the above mentioned City Council Resolution, and all plans as listed in Section 2 below, are incorporated herein by reference.

2. Construction of Improvements

DEVELOPER shall construct and install within a period of eighteen (18) months from the date of filing of the Final Map of 506 SOUTH MAIN STREET, at their own cost and expense within

and adjoining said tract, and to the lines and grades approved by the City Engineer of the City of Sebastopol, and in accordance with Sebastopol Municipal Code Title 16, Subdivision Regulations, and all other ordinances, resolutions, specifications and standard plans in force and effect in the CITY and applicable thereto, all improvements, as shown on the Improvement Plans for said tract entitled "Improvement Plans for 496-520 South Main Street", as approved by the City Engineer on July 31, 2009, which are included as part of this Agreement and made a part of this Agreement by reference.

3. Adjacent Properties Affected by Construction

DEVELOPER warrants that construction of improvements performed under this agreement shall not adversely affect any portion of adjacent properties. Any damage to adjacent public or private properties or facilities shall be repaired or replaced at DEVELOPER's expense prior to acceptance of the improvements by CITY.

4. Additional Work and Modification of Plans

It is understood that in any construction project, additional work is required which is not shown on the approved plans. The cost estimate includes a contingency amount to cover any additional work not shown on the plans. The CITY shall have the right to designate additional work as called for by actual field conditions to provide a complete project. DEVELOPER agrees that if during the construction of the Improvements it is determined by the City that revisions to the Plans are necessary in the interest of the public, DEVELOPER will undertake such design and construction changes required by the City. DEVELOPER shall provide a complete set of Mylar "As Built" plans to the CITY prior to final acceptance of public improvements.

5. Improvement Security

- a. **Performance Bond and Labor and Materials Bond:** DEVELOPER shall deliver to the CITY proper bonds (100% Performance Bond and 100% Labor and Material Bond) by one or more duly authorized corporate sureties or an instrument of credit as provided by law to secure the faithful performance of this Agreement which shall be substantially in the form of Government Code 66499.1 and 66499.2, each in the amount of **\$233,000.00**. In the event of the failure or in the event of the default of OWNER or contractor to complete any portion of the construction, the CITY shall look to the bonding company to complete the entire project.
- b. The amount includes total estimated cost of improvements plus estimated engineering and contingency fund. All costs for gas, electric, telephone, street lights, and TV constructed by other utilities shall be paid by DEVELOPER direct to the respective utility. The DEVELOPER shall be responsible to coordinate improvement drawings with utility company regarding undergrounding of utilities.
- c. **Reduction in Bonding Amounts:** DEVELOPER may request reductions in the amount of the Performance and Labor and Materials Bonds, subject to the approval of the City Engineer, after 6 months have elapsed from the date of recording of this agreement. No reduction will be allowed until such time as a minimum of 50% of work has been completed, to the satisfaction of the City Engineer. Reductions in the bond amount shall not be less than 50% or more than 80% of the amount of security for Faithful

Performance, and shall be in proportion to the improvements completed, as determined by the City Engineer. Developer's request for reduction in bonding amounts and City Engineer's approval thereof shall be in writing, and directed to the Engineering Department.

- d. **Maintenance Security:** Prior to acceptance of improvements and release of Performance Bond DEVELOPER shall furnish City bond, letter of credit, or cash as evidence that the said improvements are guaranteed against failure of materials or installations for a one-year period from date of acceptance by CITY. Bond, letter of credit, or cash shall be in the amount of 20% of total construction costs in the amount of **\$46,600.00**.
- e. **Monumentation Security:** DEVELOPER has set monuments in the subdivision. Any existing monuments damaged during construction shall be replaced prior to acceptance of the improvements by CITY.

6. Inspections

At least fifteen (15) calendar days prior to the commencement of any work hereunder, Subdivider shall notify the City in writing of the planned start of construction. No construction shall commence until DEVELOPER's contractor(s) has(have) obtained all required permits and a pre-construction meeting has been held. During the course of construction, DEVELOPER and/or Contractor(s) shall provide CITY with a minimum of 24 hours' notice in advance of needed inspections.

7. Time of Performance

- a. DEVELOPER agrees to perform and complete all improvements within twelve (12) months from the date of filing of the Final MAP.
- b. It is further agreed by and between DEVELOPER and CITY that in the event it is deemed necessary by the CITY to extend the time of completion of the Improvements, said extension may be granted by the city, and shall in no way affect the validity of this Agreement or release the surety(ies) on any bond or other security attached hereto or the financial institution guaranteeing the same.
- c. DEVELOPER may request extension of the time of performance. Such request shall be made in writing, not fewer than thirty days prior to the expiration of this agreement. Such extension, if approved, shall be for a period of time as recommended by the City Engineer, subject to City Council approval, but in no case shall exceed twelve (12) months from the expiration date of this agreement.
- d. If an extension is approved, DEVELOPER shall enter into an extension agreement with the City.
- e. In consideration of such extension the City may require the following:
 - i. Revision of improvement plans to provide for current design and construction standards.
 - ii. Revised construction estimates to reflect current improvement costs.
 - iii. Increase in amount of improvement securities in accordance with revised construction estimates.
 - iv. Increase in inspection deposit.

- v. Other additional requirements as recommended by the City Engineer or as the City Council may deem necessary as a condition to approving the time extension.
- f. DEVELOPER shall be responsible to pay any costs incurred by the City in processing the extension request and extension agreement.
- g. DEVELOPER further agrees to maintain the security(ies) described in Section 5(a) above in full force and effect during the term of this Agreement, including any extensions of time as may be granted, and until such time as the Improvements have been accepted by the City.
- h. DEVELOPER shall complete all improvements before final building inspection or the issuance of an occupancy permit for any unit in the subdivision.
- i. If DEVELOPER fails to complete the improvements within the specified time, the City may by resolution of the City Council and at its option cause the uncompleted improvements to be completed and the parties executing the performance security shall be bound for the payment of all necessary costs.

8. Work Performance

- a. DEVELOPER shall construct all of the Improvements in a good and workmanlike manner, and furnish all required materials incident thereto, in accordance with the Plans and to the satisfaction of the City, including any changes required by the City which in the City's opinion are necessary to complete the improvements.
- b. DEVELOPER shall designate an on-site supervisor, satisfactory to CITY, who shall be on the work site at all times during construction of the Improvements, and who has the authority to act on behalf of DEVELOPER when communicating with City personnel.
- c. DEVELOPER is responsible for all dust, mud, dirt and debris created by construction. DEVELOPER is required to control dust at all times. This control means that watering to lay dust must be accomplished not only during times of construction, but on weekends and holidays, should weather and site conditions dictate. Should the DEVELOPER fail to control dust as required by the CITY, the CITY shall contract dust control and bill the DEVELOPER. Control of dust is particularly sensitive in this area due to the fact that existing single-family residences adjoin the work area. DEVELOPER is also responsible for any mud or debris deposited on adjacent public or private property.
- d. No Building Permit shall be issued for any lot within said tract until construction of the following improvements have been completed to the satisfaction of the City Engineer: rough grading, retaining walls, drainage improvements, street paving base, sewer mains and laterals, water mains and services, and all other underground facilities, as shown on the approved plans, or as may be required per Paragraph 1 above.

9. Insurance Requirements

Prior to signature approval by CITY of this agreement, DEVELOPER shall provide evidence of public liability and property damage insurance, with appropriate endorsements naming the CITY as additional insured, in accord with Exhibit A, Insurance Requirements for Improvement Agreements, which is attached hereto and thereby made a part of this agreement.

10. Indemnification

DEVELOPER agrees to protect and indemnify the CITY, its officers, agents and employees and save them harmless in every way from all suits, actions of law, claims for damages or injuries to persons and property which may arise out of or be occasioned in, for, or on account of any injuries or damages whatsoever sustained or arising from any way by the performance of the work hereinabove specified to be performed by the DEVELOPER, his agents, subcontractors or employees or in consequence thereof.

11. Provision of City Services Prior to Acceptance by City

DEVELOPER agrees to be financially responsible for all required City services provided to the subdivision or any residents thereof prior to acceptance of the improvements by the City.

12. Fees and other payments

- a. **Impact Fees** - All applicable impact fees including, but not limited to school, traffic, park, affordable housing linkage fee, wastewater mitigation, water and sewer connection fees shall, and any other applicable fees shall be paid prior to issuance of Building Permits for any lot in this subdivision. Fees paid shall be those in effect at the time the Building Permit is issued.
- b. **Soil Testing** - DEVELOPER shall pay the cost of construction soils testing as may be required to complete the subdivision improvements.
- c. **Video Inspection of Sanitary Sewer Mains** - DEVELOPER shall arrange and pay for the cost for performing video inspection of public sanitary sewer mains constructed for this development, and shall provide the City with a copy of all reports.
- d. **Payments Due for Development Processing (Acct. 070-1632) as of 8-18-09***

Planning	(6880) CR<\$3,402.07>
Engineering Plan Check	(6870) CR<\$2,096.57>
Deposit for Construction Engineering and Inspection	(6875) <u>\$5,000.00</u>
TOTAL DUE WITH THIS AGREEMENT	**\$5,000.00

* Unused amounts are refundable to developer at the time of acceptance of improvements. Should engineering and inspection costs exceed these amounts then DEVELOPER shall pay for actual expenses based on hourly charge for engineering and inspection, with payment due prior to acceptance of the public improvements by the City.

- e. DEVELOPER shall pay CITY Total Amounts Due from Section 12(d) prior to City approval of 506 SOUTH MAIN STREET Final Map for filing.
- f. DEVELOPER is notified that prior to issuance of any building permit a School Impact Fee must be paid to the Local School District.

13. Waiver

Waiver by CITY or DEVELOPER of any breach of any of the provisions of the Agreement shall not constitute a waiver of any other provision, nor a waiver of any subsequent breach or violation of the same or any other provision of this agreement. Acceptance by CITY of any work by DEVELOPER shall not be a waiver of any of the provisions of this Agreement.

14. Notices

All notices herein required shall be in writing and shall be personally delivered or mailed to the

Engineering Director, City of Sebastopol Public Works Department, 714 Johnson Street, Sebastopol, CA, 95472.

15. Noncompliance

If City determines that DEVELOPER is in violation of any applicable laws or regulations, or of the terms and provisions of this Agreement, it may issue a cease and desist order, stop work order, or other action the City deems necessary.

16. Notice of Breach and/or Default

The City may serve written notice upon DEVELOPER and surety of breach of this agreement or of any portion thereof, and default of DEVELOPER for any of the following circumstances:

- a. DEVELOPER refuses or fails to complete the improvements as required in this agreement.
- b. DEVELOPER or any of DEVELOPER's contractors, subcontractors, agents or employees should materially violate any of the provisions of this Agreement and not cure the violation within a reasonable time.

17. Successors in Interest

This agreement shall run with the land, and may be assigned, pursuant to a written request from DEVELOPER, with the consent of the CITY, which consent shall not be unreasonably withheld.

18. Effective Date

This agreement shall be effective as of the date and year first above written.

19. Amendment of Agreement

This Agreement may be amended by mutual consent of the original parties or their successors in interest. Any such amendment shall be executed in writing by the parties to be bound thereby, and copies of any such amendments shall be sent to surety(ies).

20. Execution

By signing this Agreement, the person signing states that he or she is authorized to enter into contracts on behalf of DEVELOPER, and binds DEVELOPER, its partners, successors, executors, administrators and assigns with respect to the terms and conditions contained herein.

IN WITNESS WHEREOF, said CITY has caused its name to be hereunto affixed by its CITY CLERK, thereunto duly authorized by Resolution of the CITY COUNCIL, and said DEVELOPER has hereunto set his hand, the day and year first above written.

DEVELOPER

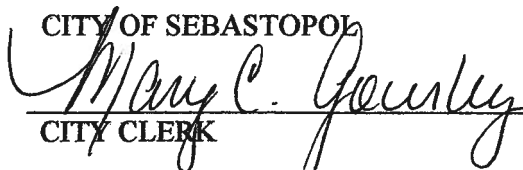
506 SOUTH MAIN STREET, LLC,
A California Limited Liability Company

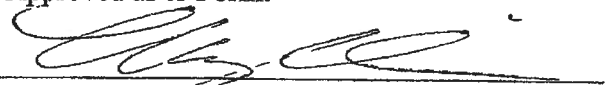
By: 
Print or Type Name: Christopher Pellascini, Managing Member

By: Christopher Pellascini
Print or Type Name:

Mailing Address:
127 North Main Street
Sebastopol, CA 95472

CITY OF SEBASTOPOL


CITY CLERK

Approved as to Form:

City Attorney

ALL SIGNATURES MUST BE NOTARIZED-ATTACH NOTARY CERTIFICATES AFTER THIS PAGE

Exhibit A
CITY OF SEBASTOPOL
INSURANCE REQUIREMENTS FOR IMPROVEMENT AGREEMENTS

DEVELOPER shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the DEVELOPER, his agents, representatives, employees or subcontractors.

Minimum Scope of Insurance

Coverage shall be at least as broad as:

Insurance Services Office Commercial General Liability coverage (occurrence form CG0001).

Minimum Limits of Insurance

DEVELOPER shall maintain limits no less than:

General Liability: \$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the City. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, officials, employees and volunteers; or the DEVELOPER shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration and defense expenses.

Other Insurance Provisions

All required general liability policies are to contain, or be endorsed to contain, the following provisions:

1. The *named additional insured* with respect to this contract shall include the following:

The CITY OF SEBASTOPOL, its Officers, Officials, Employees and Volunteers

2. The *named additional insured* are to be covered as insureds with respect to liability arising out of work or operations performed by or on behalf of the DEVELOPER including materials, parts or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the DEVELOPER'S insurance, or as a separate owner's policy.
3. For any claims related to this agreement, the DEVELOPER's insurance coverage shall be primary insurance as respects the *named additional insured*. Any insurance or self-

insurance maintained by the *named additional insured* shall be excess of the DEVELOPER's insurance and shall not contribute with it.

4. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled by either party, except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII.

Verification of Coverages

DEVELOPER shall furnish the City with original certificates and amendatory endorsements effecting the coverage required by this clause. The endorsements should be on forms provided by the City or on other than the City's forms or a separate owners policy, provided those forms or policies are approved by the City and amended to conform to the City's requirements. All certificates and endorsements are to be received and approved by the City before the Agreement is executed by the City. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements effecting the coverage required by these specifications at any time.

All certificates and endorsements shall reference the appropriate policy number, names of insured, and shall be signed by an authorized representative of the insurer.

STATE OF California)SS
COUNTY OF Sonoma)

On September 8 2009, before me, Richard L. Pellascini, Notary Public, personally appeared Christopher Pellascini

, 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.

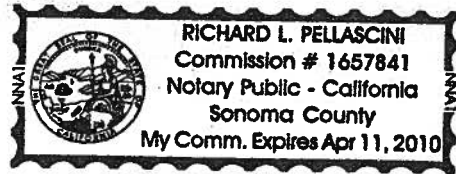
Signature

Richard Pellascini

My Commission Expires: April 11, 2010

Notary Name: Richard L. Pellascini

Notary Registration Number: 1657841



This area for official notarial seal

Notary Phone: (707) 823-6475

County of Principal Place of Business: Sebastopol
California, 95472