

CITY OF GLENDORA

AGREEMENT

SUBDIVISION IMPROVEMENTS

THIS AGREEMENT is made and entered into as of this ____ day of _____, 20__, by and between the CITY OF GLENDORA, hereinafter referred to as "City", and _____, hereinafter referred to as "Subdivider", both of whom understand as follows:

RECITALS

Subdivider has presented to City for approval a final subdivision map (hereinafter called "Map") entitled:

TRACT NO. _____

The Map has been filed with the City Clerk for presentation to the City Council of the City for its approval, which map is hereby referred to and incorporated herein.

Subdivider has requested approval of the Map prior to the construction and completion of certain improvements hereinafter specified, which are a part of, appurtenant to, or outside the limits of the subdivision, all in accordance with and as required by the plans and specifications for said improvements on file in the office of the City Engineer.

The City Council on the ____ day of _____, 20__, adopted Resolution No. _____ approving the Map and accepting the dedications therein offered on condition that Subdivider first enter into and execute this Agreement with the City and meet the requirements of said resolution; and

This Agreement is executed pursuant to the provisions of the Subdivision Map Act of the State of California and Title 20 of the Glendora Municipal Code.

NOW, THEREFORE, for and in consideration of the approval of the Map and of the acceptance of the dedications therein offered, and in order to insure satisfactory performance by the Subdivider of Subdivider's obligations under said Subdivision Map Act and said Title 20 of the Glendora Municipal Code, the parties agree as follows:

1. Performance of Work

That Subdivider shall do and perform, or cause to be done and performed, in a good and workmanlike manner, at Subdivider's own expense and to the satisfaction of the City Engineer, all the following improvements within and without the subdivision, to wit:

Excavation, grading and construction of street, water, sewer, storm drains, catch basins, drainage controls, concrete block walls, chain link fence, traffic safety, underground public utilities and related appurtenances as directed by the City Engineer and Subdivider shall also do all work and furnish all materials necessary in the opinion of the City Engineer, and on his order, to complete the improvements in accordance with the plans and specifications on file as hereinbefore specified, or with any changes required or ordered by said Engineer, which in his opinion are necessary or required to complete the improvements. Subdivider also agrees to pay for the inspection of such work and improvements as may be required by the City Engineer.

The above-described work shall be constructed in accordance with the plans and specifications on file with the City's Public Works Department and any changes or alterations required or ordered by the City Engineer as provided in Section 3 below.

In addition, Subdivider shall furnish all required equipment, labor and materials as deemed necessary by the City Engineer, in accordance with commonly accepted engineering practices.

Subdivider shall acquire and dedicate, or pay all cost of acquisition by City, of all rights of way, easements and other interests in real property for construction or installation of the improvements, free and clear of all liens and encumbrances.

2. Work: Time For Commencement and Performance

Subdivider shall commence construction of the improvements set forth in this Agreement, and shall duly prosecute to completion all of the said improvements, with the completion of the improvements to be completed within 365 calendar days after the date of adoption of the resolution approving the Map. A time extension to complete the improvements may be granted per Section 5 of this Agreement.

Subdivider shall give notice to the City Engineer, at least 24 hours before beginning any work and shall furnish all reasonable facilities for obtaining full information respecting the progress and manner of work. The Subdivider shall furnish written progress reports upon request to the City Engineer.

3. Alterations to Improvement Plans

Subdivider shall perform any changes or alterations in the construction and installation of such improvements required by the City Engineer, in accordance with commonly accepted engineering practices, provided that all such changes or alterations do not exceed ten percent (10%) of the original total estimated costs of such improvements. Such costs shall be borne by the Subdivider.

The Subdivider shall construct the improvements in accordance with the City standards in effect at the time of the approval of the above-mentioned final map.

Prior to commencement of the improvements, the City reserves the right to modify the standards applicable to the subdivision improvements when necessary to protect the public health or safety or comply with applicable state or federal law or city zoning ordinances.

If Subdivider requests and is granted an extension of time for completion of the improvements, City may apply the standards in effect at the time of the extension.

4. Cash Fees and Deposits

The Subdivider shall pay cash in the amount enumerated below to cover the cost of the following items of work:

- *a. Deposit for installation of street lights to be paid by the City to the Southern California Edison Company.
 - _____ Street Lights @ \$1,500 Marbelite _____
 - \$2,400 Dbl. Davit _____

- b. For administering the installation of street lights within subdivision.
 - _____ Street Lights @ \$205.00/light _____

- c. For planting of parkway trees within subdivision.
 - _____ Parkway Trees @ \$165.00/tree _____

- d. For installation of street name signs by the City
 - _____ Street Name Signs @ \$310.00/set _____

- e. For installation of traffic signs by the City
 - _____ Traffic Signs @ \$300.00/sign _____

- f. For proportional cost of existing water pipeline in and along: _____
 - _____ Lineal Feet @ \$8.00/foot _____
 - _____ Acres @ \$4,658.50/acre _____

- g. For proportional cost of existing sewer main:
 - _____ Lineal Feet @ \$6.50/foot _____
 - _____ Acres @ \$730/acre _____
 - *h. For proportional cost of existing Sewer Main Refund Agreement to:
 - _____
 - _____ L.F. @ \$5.00 _____ Acres @ \$730 _____
 - i. For Plan Checking and Inspection by the City. _____
 - *j. Deposit for installation of subdivision monuments and centerline ties by the Subdivider:
 - \$250 plus _____ @ \$40.00 _____
 - k. For installation of water meters and meter boxes by the City:
 - _____ meters/boxes @ \$_____ each _____
 - Size of meter: _____
 - l. For curb stenciling:
 - _____ curb stenciling @ \$11.00 each _____
- TOTAL: _____

*These items require a separate check (a, h, j)
 i.e., PLEASE SUBMIT TWO (2) CHECKS
 FOR PAYMENT OF FEES AND DEPOSITS

5. Time of Essence - Extension

Time is of the essence in this Agreement; provided that, in the event good cause is shown therefor, the City Council may extend time for completion of the improvements hereunder. Any such extension may be granted without notice to the Subdivider's surety, and extensions so granted shall not relieve the surety's liability on the bond to secure the faithful performance of this Agreement and on the bond to ensure payment of labor and materials furnished in the performance of this Agreement.

6. Repairs and Replacements

Subdivider shall replace or have replaced, or repair or have repaired, as the case may be, all pipes and monuments shown on the Map which have been destroyed or damaged and Subdivider shall replace or have replaced, repair or have repaired, as the case may be, or pay to the owner, the entire cost of replacement or repairs of any and all property damaged or destroyed by reason of any work done hereunder, whether such property be owned by the United States Government or any agency thereof, or the State of California or any agency or political subdivision thereof, or by the City or by any public or private corporation, or by any person whomsoever or by any combination of such owners. Any such repair or replacements shall be to the satisfaction and subject to the approval of the City Engineer.

7. Permits - Compliance With Law

Subdivider shall, at Subdivider's expense, obtain all necessary permits and licenses for the construction of such improvements, give all necessary notices, pay all fees and taxes required by law and comply with all applicable laws.

8. Supervision by Subdivider

Subdivider shall give personal supervision to the work on such improvement, or have a competent superintendent, with authority to act for Subdivider, and satisfactory to the City Engineer, on the work at all times during progress.

The name of such superintendent is: _____

Address: _____

Telephone number: _____

Emergency night phone number: _____

9. Inspection by City

Subdivider shall at all times maintain proper facilities and safe access for inspection of the improvements by City inspectors and, to the best of Subdivider's ability, to the shops where any work is in preparation.

Upon completion of the work, the Subdivider may request a final inspection by the City Engineer or the City Engineer's authorized representative. If the City Engineer or his or her authorized representative determine that the work has been completed in accordance with this Agreement, the City Engineer shall certify the completion of the improvements to the City Council.

No improvements shall be finally accepted unless all aspects of the work have been inspected and determined to have been completed in accordance with the improvement plans and City standards. Subdivider shall bear all costs of inspection and certification.

10. Contract Security

Concurrent with the execution hereof, Subdivider shall furnish: (1) a surety bond in an amount equal to at least one hundred percent (100%) of the total estimated cost of the improvements as security for the faithful performance of this Agreement; (2) a separate security bond in an amount equal to at least one hundred percent (100%) of the total estimated cost of the improvements as security for the payment of all persons performing labor and furnishing materials in connection with this Agreement; (3) security to guaranty or warranty the work done pursuant to this Agreement for a period of one (1) year following acceptance thereof by City against any defective work or labor done or defective materials furnished in the additional amount of ten percent (10%) of the estimated costs of the improvements; and (4) security that guarantees the performance of any changes or alterations and such work, provided that all such changes or alterations do not exceed ten percent (10%) of the original estimated costs of the improvements. The surety on each of said bonds shall be on the City bond forms attached hereto, which forms are in substantial compliance with Government Code Section 66499.1 and Section 66499.2, respectively.

In lieu of a faithful performance bond and labor and materials bond the Subdivider may, as provided in Government Code Section 66499, file an irrevocable letter of credit or an instrument of credit in a form acceptable to the City or may deposit cash with said City in the sum of:

(\$_____), which sum is equal to the total estimated cost of said improvement for the faithful performance of the terms and conditions of this Agreement. When any portion of the aforesaid improvements has actually been fully completed to the satisfaction of the City Engineer and upon certification to this fact by the City Engineer, said City Engineer may, at his discretion, authorize from time to time partial withdrawals of said cash deposit for portion of said improvements completed, after passage of the time for liens.

11. Indemnification

11.1 The Subdivider shall indemnify, defend and hold harmless the City, and its officers, employees, servants and agents from and against any and all claims, liability, loss, damage, cost and expense, including court costs and attorney's fees, whether or not litigation be commenced, because of injury or death to any person whomsoever or damage to any property whatsoever, arising out of or in any way connected with the performance of the work by the Subdivider or any of the Subdivider's officers, employees, servants or agents or any subcontractor.

11.2 The City does not, and shall not, waive any rights against Subdivider which it may have by reason of the indemnification provisions of Sections 11.1 and 12.4 of the Agreement, because of the acceptance by the City, or

the deposit with the City by Subdivider, of any of the insurance policies specified in this Agreement.

11.3 The indemnification provisions of Sections 11.1 and 12.4 of this Agreement shall apply regardless of whether or not the insurance policies specified in this Agreement shall have been determined to be applicable to the claim, liability, loss, damage, cost or expense.

12. Insurance

Subdivider shall procure and maintain for the duration of this Agreement 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 Subdivider, his agents, representatives, employees, contractors or subcontractors. Insurer shall be an admitted carrier in the State of California.

Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001).
2. Insurance Services Office form number CA 0001 (Ed 1/87) covering Automobile Liability, Code 1 (any auto).
3. Worker's Compensation insurance as required by the State of California and Employer's Liability Insurance.
4. Course of Construction insurance form providing coverage for "all risks" of loss.

Minimum Limits of Insurance

Subdivider shall maintain limits no less than:

1. 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.
2. Automobile Liability: \$1,000,000 per accident for bodily injury and property damage.

3. Employer's Liability: \$1,000,000 per accident for bodily injury or disease.
4. Course of Construction: Completed value of the project.

Deductible and Self-Insured Retentions

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

Other Insurance Provisions

The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1. The City of Glendora, its officers, officials, employees, agents and volunteers are to be covered as insureds as respects: liability arising out of activities performed by or on behalf of the Subdivider; products and completed operations of the Subdivider, premises owned, occupied or used by the Subdivider; or automobiles owned, leased, hired or borrowed by the Subdivider. The coverage shall contain no special limitations on the scope of protection afforded to the City of Glendora, its officers, officials, employees, agents or volunteers.
2. For any claims related to this project, the Subdivider's insurance coverage shall be primary insurance as respects the City of Glendora, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the City of Glendora, its officers, officials, employees, agents or volunteers shall be excess of the Subdivider's insurance and shall not contribute with it.
3. Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the City of Glendora, its officers, officials, employees, agents or volunteers.
4. The Subdivider's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

5. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, cancelled by either party, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City of Glendora.

Course of construction policies shall contain the following provisions:

1. The City of Glendora shall be named as loss payee.
2. The insurer shall waive all rights of subrogation against the City of Glendora.

Acceptability of Insurance

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

Verification of Coverage

Subdivider shall furnish the City of Glendora with original endorsements effecting coverage required by this clause. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. The endorsements are to be on forms provided by the City of Glendora. All endorsements are to be received and approved by the City of Glendora before work commences. As an alternative to the City of Glendora's forms, the Subdivider's insurer may provide complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications.

Contractors and Subcontractors

Subdivider shall include all contractors and subcontractors as insured under its policies or shall furnish separate certificates and endorsements for each contractor and subcontractor. All coverages for contractors and subcontractors shall be subject to all of the requirements stated herein.

Subdivider, and every contractor and subcontractor, shall provide complete workers' compensation insurance consistent with the provisions of Section 12, or a certificate of consent to self-insurance by the Director of Industrial Relations in accordance with the requirements of Section 3800 of the California Labor Code. Subdivider shall indemnify, defend and hold harmless the City and its officers, employees, servants and agents from any claim resulting from failure of Subdivider or any contractor and subcontractor to take out or maintain such insurance. [Labor Code Section 3800.]

13. Permission to Enter

The Subdivider hereby grants to the City, the Surety upon any Bond, the financial institution of any improvement security, and to the agents, employees, and contractor of them the irrevocable permission to enter upon the lands of the subject land division for the purpose of completing the improvement. This permission shall terminate in the event that the Subdivider, financial institution, or the Surety has completed the work within the time specified or any extension thereof granted by the City.

14. Warning of Dangerous Conditions

The Subdivider will at all times from the approval of said land division to the completion and acceptance of said work or improvements by the City, give good and adequate warning of each and every dangerous condition caused by the construction of said improvements and will protect the traveling public therefrom.

15. Title to Improvements

Title to, and ownership of, all improvements constructed hereunder by Subdivider shall vest absolutely in City upon completion and acceptance of such improvements by City.

16. Repair or Reconstruction of Defective Work

If, within a period of one year after final acceptance of the work done under this Agreement, any part of the improvements fails to fulfill any of the requirements of this Agreement or the plan, or specifications, Subdivider shall, without delay and without any cost to the City, repair or replace or reconstruct any defective or otherwise unsatisfactory part or parts of the improvements. Should Subdivider fail to act promptly or in accordance with this requirement, or should the exigencies of the case require repairs or replacements to be made before Subdivider can be notified, City may, at its option, make necessary repairs or replacements or perform the necessary work. Subdivider shall pay to the City the actual cost of such repairs plus twenty-five percent (25%) for administrative overhead expenses within thirty (30) days after receipt of written notice from the City of said actual cost.

17. Subdivider Not Agent of City

Neither Subdivider nor any of Subdivider's agents or subcontractors are or shall be considered to be agents of the City in connection with the performance of Subdivider's obligations under this Agreement.

18. Notice of Breach and Defaults

If Subdivider refuses or fails to obtain prosecution of the improvements, or any severable part thereof, with such diligence as will insure its completion within the time

specified, or any extension hereof, or fails to obtain completion of said work within such time, or if the Subdivider should be adjudged a bankrupt, or Subdivider should make a general assignment for the benefit of Subdivider's creditors, or if a receiver should be appointed in the event of Subdivider's insolvency, or if Subdivider or any of Subdivider's officers, employees, servants, agents or subcontractors, should violate any of the provisions of this Agreement, City Engineer or City Council may serve written notice upon Subdivider and Subdivider's surety, of breach of this Agreement, or of any portion thereof and default of Subdivider.

19. Breach of Agreement: Performance by Surety or City

In the event of any notice of default, Subdivider's surety shall have the duty to take over and complete the work and the improvement herein specified; provided, however, that if the surety within ten (10) days after the serving upon it of such notice does not give City written notice of its intention to take over the performance of the contract, and does not in fact commence performance thereof within fifteen (15) days after notice to the City of such election, 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 Subdivider and Subdivider's surety and, in such event City, without any liability for so doing, may take possession of and utilize in completing the work, such materials, appliances, plant and other property belonging to Subdivider as may be on the site of the work and necessary therefor.

20. Attorney's Fee

In case suit is brought upon this contract, the Subdivider hereby agrees to pay to the City a reasonable attorney's fee to be fixed by the Court.

21. Obligation of Successors and Assignees

It is agreed by and between the parties hereto that this contract firmly binds the parties, their heirs, executors, administrators, successors or assignees, jointly and severally.

22. Notice

22.1 Whenever it shall be necessary for either party to serve notice on the other respecting the contract, such notice shall be served by registered mail, postage prepaid, return receipt requested, addressed to the City Engineer at 116 East Foothill Boulevard, Glendora, California 91741 and to the contractor at:

unless and until different addresses may be furnished in writing by either party to the other.

22.2 Notice shall be deemed to have been served as of the third (3rd) day after the same has been deposited in the United States postal service. This shall be a valid and sufficient service of notice for all purposes.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first above written.

CITY:

SUBDIVIDER:

CITY OF GLENDORA

By _____
Mayor

ATTEST:

City Clerk

Approved as to form:

City Attorney