

CITY OF PALMDALE
SUBDIVISION IMPROVEMENT AGREEMENT NO. A-XXXX

*** * * * * SUBDIVISION REFERENCE DATA * * * * ***

() FINAL TRACT MAP NO. _____ ("Final Map" herein)

() PARCEL MAP NO. _____ ("Parcel Map" herein)

NAME OR TRACT NUMBER OF SUBDIVISION: _____
("Subdivision" herein)

SUBDIVIDER: _____
(Name of Person or Business Entity)

(Street Address)

(City) (State) (Zip)

PLANNING COMMISSION RESOLUTION NO. _____
("Resolution of Approval" herein)

IMPROVEMENT PLANS NO. _____ ("Improvement Plans" herein)

ESTIMATED TOTAL COSTS: IMPROVEMENTS \$ _____

GRADING \$ _____

(CASH ONLY) MONUMENTATION \$ _____

FORM OF IMPROVEMENT SECURITY: () Corporate surety bonds
() Deposit of money or negotiable bonds
() Letter of Credit

NAME AND ADDRESS OF CORPORATE SURETY _____
(Name of Corporate Entity)

(Street Address)

(City) (State) (Zip)

SURETY BOND NUMBERS (if applicable): _____

EFFECTIVE DATE OF AGREEMENT: _____
("Commencement of Improvement Work", to be inserted by City)

COMPLETION PERIOD: 24 months after Effective Date of Agreement

*** * * * ***

THIS SUBDIVISION IMPROVEMENT AGREEMENT ("Agreement" herein) is made and entered into by and between the City of Palmdale, a Charter City ("City" herein), and the "SUBDIVIDER" whose name and address is set forth above in the Subdivision Reference Data.

RECITALS

A. SUBDIVIDER has presented to the City for approval and recordation a Final Map, identified above in the Subdivision Reference Data, of a proposed Subdivision pursuant to the Subdivision Map Act of the State of California and the City's ordinances and regulations relating to the filing, approval and recordation of Subdivision maps (collectively referred to herein as the "Subdivision Laws")

B. A tentative map of the Subdivision has previously been approved, subject to the Subdivision Laws and to the City's standard requirements and conditions of approval contained in the Planning Commission's Resolution of Approval, a copy of which is on file in the Office of the City Clerk and which is incorporated herein by reference.

C. The Subdivision Laws establish, as a condition precedent to the approval of a Final Map, that the SUBDIVIDER comply with the Planning Commission's Resolution of Approval and either

(i) Complete, in compliance with City standards, all of the improvements and land Subdivision work required by the Subdivision Laws and the Planning Commission's Resolution of Approval; or

(ii) Enter into a secured agreement with the City to complete the improvements and land Subdivision work within a period of time specified by the City.

D. In consideration of approval of the Final Map for the Subdivision by the City Council, SUBDIVIDER desires to enter into this Agreement whereby SUBDIVIDER promises to install and complete, at its sole expense, all public improvement work required by the City for the proposed Subdivision. SUBDIVIDER has secured this Agreement by improvement security required by the Subdivision Laws and approved by the City.

E. Improvement plans, and related specifications, numbered as designated in the Subdivision Reference Data, for the construction, installation and completion of the Improvements identified in Schedule A hereto, have been prepared by the SUBDIVIDER, approved by the City Engineer, and are on file in the City's Department of Public Works. Said Improvement Plans, and related specifications, are incorporated herein by this reference.

NOW, THEREFORE, in consideration of the approval and recordation by the City Council of the Final Map of the Subdivision, SUBDIVIDER and City agree as follows:

SECTION 1. SUBDIVIDERS OBLIGATION TO CONSTRUCT IMPROVEMENTS

A. SUBDIVIDER shall, at its sole expense, and in compliance with the provisions of the Subdivision Laws, the Improvement Plans, and all applicable City standards, furnish, construct, install and guarantee the Improvements generally described in Schedule A attached hereto and more specifically described in the tentative map and in the Planning Commission's Resolution of Approval relating hereto.

B. SUBDIVIDER shall acquire and dedicate, or pay the cost of acquisition of, all rights-of-way, easements and other in real property for the construction or installation of the Improvements, free and clear of all liens and encumbrances. The SUBDIVIDER's obligations with regard to the acquisition by City of off-site rights-of-way, easements and other interests in real property shall be subject to a separate agreement between SUBDIVIDER and City.

C. Subject to any time extensions granted in accordance with Section 4, SUBDIVIDER shall commence construction of the Improvements as set forth above in the Subdivision Reference Data following the heading "Commencement of Improvement Work," and shall complete all Improvements within the "Completion Period" specified in said Subdivision Reference Data; provided, however, that if the City Engineer reasonably determines that accelerated construction of the Improvements is essential in order to protect the public health, welfare and safety, including, without limitation, providing for the orderly Subdivision of the surrounding area, the City Engineer shall give SUBDIVIDER not less than 15 days prior written notice to commence or accelerate installation and construction of the Improvements, or any portion thereof. The notice shall describe the work to be done by SUBDIVIDER, the time within which the work will commence, and the period within which the work will be completed. All or any portions of said Improvements may be required to be constructed or completed at a specified time. If the SUBDIVIDER objects to the commencement or acceleration of the Improvements as specified by the City Engineer, the SUBDIVIDER may appeal the decision of the City Engineer to the City Council. Any such appeal shall be filed with the City Clerk within 10 days after receipt by SUBDIVIDER of the written notice from the City Engineer.

D. If the Improvements to be constructed by SUBDIVIDER include monumentation, such monumentation shall be installed not later than thirty (30) days after the City's acceptance of all other Improvements pursuant to Section 2. As used herein, "monumentation" shall mean the setting of survey monuments and tie points in accordance with the Subdivision Laws, and the delivery to the City Engineer of tie notes for said points.

E. SUBDIVIDER shall, at its sole expense, replace or repair all public improvements, public utility facilities, and surveying or Subdivision monuments which are destroyed or damaged as a result of any work under this Agreement. Any such replacement or repair shall be subject to the approval of the City Engineer.

F. Until any category of Improvements is accepted by the City, SUBDIVIDER shall be responsible for the care and maintenance of such improvements and shall bear all risks of loss or damage to said improvements. Neither City, nor its officers, agents and employees, shall have any liability for any accident, loss or damage to the Improvements prior to their completion and acceptance by the City.

G. SUBDIVIDER shall, at its sole expense, obtain all necessary permits and licenses for the construction and installation of the Improvements, give all necessary notices, and pay all fees required by City ordinance or resolution and all taxes required by law.

H. Not less than fifteen (15) days prior to commencement of work on the Improvements, SUBDIVIDER shall give written notice to the City Engineer of the date fixed for such commencement of work in order that the City Engineer shall have adequate time to schedule all necessary inspections.

SECTION 2. INSPECTION OF WORK AND FINAL ACCEPTANCE

A. SUBDIVIDER shall at all times maintain proper facilities and safe access for inspection of the Improvements by the City Engineer.

B. Upon completion of the work on all or any category of the Improvements specified in Schedule A, the SUBDIVIDER may request a final inspection by the City Engineer. If the City Engineer determines that all or any specified category of the Improvements have been completed in accordance with this Agreement and in compliance with the Improvement Plans and all applicable City standards, then the City Engineer shall certify to the City Council the completion of such Improvements. SUBDIVIDER shall bear all costs of inspection and certification for acceptance.

C. Acceptance of all or any specified category of the Improvements by the City Council shall be made upon recommendation and certification of the City Engineer following inspection of said Improvements/s pursuant to subparagraph B above. The City Council shall act upon the City Engineer's recommendation within thirty (30) days following certification by the City Engineer that such Improvements have been completed. Acceptance by the City Council shall not constitute a waiver by the City of any defects in the Improvements.

SECTION 3. GUARANTEE AND WARRANTY OF THE IMPROVEMENTS

A. If, within a period of one year following the acceptance by the City Council of the last of the Improvements specified in Schedule A, any Improvements or part of any Improvements furnished, installed or constructed by the SUBDIVIDER, or any of the work performed under this Agreement, fails to comply with any requirements of this Agreement, or the Subdivision Laws, or the Improvement Plans and related specifications, the SUBDIVIDER shall, without delay and without cost to the City, repair,

replace or reconstruct any defective or otherwise unsatisfactory part or parts of the Improvements. SUBDIVIDER's obligations hereunder shall include the repair, replacement or reconstruction of all irrigation systems and all trees, shrubs, ground cover and landscaping for such one year period.

B. Should the SUBDIVIDER fail or refuse to act promptly or in accordance with subparagraph A above, or should the exigencies of the situation require repair, replacement or reconstruction to be undertaken before the SUBDIVIDER can be notified, then the City may, in its discretion, make the necessary repairs or replacements or perform the necessary reconstruction. If the SUBDIVIDER's improvement security does not cover the total cost of such repair, replacement or reconstruction, the SUBDIVIDER shall reimburse the City for any excess costs incurred.

C. The security furnished for the Faithful Performance of the SUBDIVIDER's obligation to construct and install the Improvements described herein shall include SUBDIVIDER's liability hereunder for the one-year guarantee and warranty of the Improvements.

SECTION 4. TIME EXTENSIONS

A. Upon a showing by the SUBDIVIDER of good cause therefore, the date for commencement of work on the Improvements, or the duration of the Completion Period, may be extended by the City Engineer, with the written concurrence of the City Administrator. As used herein, "good Cause" may include, without limitation, delay resulting from an act of the City, acts of God or force majeure; and strikes, boycotts or similar job actions by employees or labor organizations which prevent the conduct of the work.

B. A time extension may be granted without notice to any surety or sureties of the SUBDIVIDER and shall not affect the validity of this Agreement nor release the surety or sureties on any bond given as an improvement security pursuant to this Agreement.

C. As a condition of any time extension provided for herein, the City Engineer, with the written concurrence of the City Administrator, may require the SUBDIVIDER to furnish new or modified improvement security guaranteeing performance of this Agreement, as extended, in an increased amount necessary to compensate for any projected increase in the Estimated Total Cost of Improvements, as determined by the City Engineer.

SECTION 5. IMPROVEMENT SECURITY

A. Prior to the City's execution of this Agreement, SUBDIVIDER shall provide as security to the City:

1. For Performance and Guarantee: Security in an amount equal to one hundred percent (100%) of the Estimated Total cost of the Improvements, Grading and

Monumentation as set forth above in the Subdivision Reference Data. With this security, the form of which shall be subject to City's prior approval, the SUBDIVIDER assures faithful performance under this agreement and guarantees the Improvements for one year after the completion and acceptance of the last of such Improvements against any defective workmanship or materials or any unsatisfactory performance pursuant to Section 3 hereof.

2. For Payment: Security in an amount equal to fifty percent (50%) of the Estimated Total Cost of the Improvements (excluding Grading and Monumentation) as set forth above in the Subdivision Reference Data. With this security, the form of which shall be subject to the City's prior approval, the SUBDIVIDER guarantees payment to the contractors, subcontractors, and persons renting equipment or furnishing labor or materials to them or to the SUBDIVIDER. If monumentation is involved, this improvement security shall also guarantee to the SUBDIVIDER's engineer or surveyor payment of the Estimated Total Cost of setting monuments, as required by Government Code Section 66497.

B. If the improvement security is a corporate surety bond and, in the opinion of the City, any surety or sureties thereon become insufficient, the SUBDIVIDER shall renew or replace any such surety with good and sufficient surety or sureties within ten (10) days after receiving from City written demand therefor.

C. Improvement security consisting of corporate surety bonds shall be kept on file with the City Engineer. If a corporate surety bond is replaced by another approved bond, the replacement shall be filed with the City Engineer and made a part of and incorporated into this Agreement. Upon filing and approval by the City Engineer of a replacement bond, the former improvement security shall be released.

D. Modifications of the Improvements Plans and related specifications, and modifications of the Improvements, not exceeding ten percent (10%) of the original Estimated Total Cost of the Improvements, shall not relieve or release any improvement security furnished by SUBDIVIDER pursuant to this Agreement. If any such modifications exceed ten percent (10%) of the Estimated Total Cost of the Improvements, SUBDIVIDER shall furnish additional improvement security for performance and guarantee, and for payment, as required by subparagraph A above, for one hundred percent (100%) of the revised Estimated Total Cost of the Improvements.

SECTION 6. REDUCTION OR RELEASE OF IMPROVEMENT SECURITY

A. Partial releases or reductions in the SUBDIVIDER's improvement security may be authorized prior to the City's acceptance of all Improvements required hereunder, as provided in this Section 6.

B. Upon acceptance of all or any specified category of the Improvements by the City Council and upon request of the SUBDIVIDER, the improvement security may be reduced or released as follows:

1. Security for Performance and Guarantee: Unless SUBDIVIDER submits new or additional security in an amount equal to ten percent (10%) of the Estimated Total Cost of the Improvements, the security for performance and guarantee shall not be reduced or released in an amount greater than ninety percent (90%) of the aggregate principal amount thereof prior to the expiration of the one-year guarantee and warranty period specified in Section 3.A. nor until any claims filed during the one-year warranty period have been settled.

2. Security for Payment: Security furnished to secure payment to contractors, subcontractors, and to persons providing labor, materials or equipment shall, six (6) months after acceptance of all of the Improvements, be reduced to an amount equal to the total amount claimed by all claimants for whom liens have been filed and of which notice has been given to the City, plus an amount reasonably determined by the City Engineer to be required to assure the performance of any other obligations secured by the security. The balance of the security shall be released upon settlement or release of all claims and obligations for which the security was given.

C. If SUBDIVIDER's obligations relating to any Improvements, such as the water system, are subject to the approval of another governmental agency, the City shall not release the improvement security therefor until the obligations are performed to the satisfaction of such other governmental agency. Such agency shall have two (2) months after SUBDIVIDER's performance of the obligation to register its satisfaction or dissatisfaction. If at the end of that period it has not registered its satisfaction or dissatisfaction, it shall be conclusively deemed that the SUBDIVIDER's performance of the obligation was done to its satisfaction.

SECTION 7. INDEMNIFICATION OF CITY BY SUBDIVIDER

A. Neither the City, nor its officers, agents and employees, shall be liable or responsible for any accident, injury, loss, or damage to either property or person attributable to or arising out of the construction or installation of the Improvements. SUBDIVIDER shall indemnify, hold harmless and defend the City, its officers, agents and employees, from and against any and all losses, claims, costs, expenses, liabilities, damages, actions, causes of action and judgments, including reasonable attorneys' fees, arising out of or attributable to SUBDIVIDER's performance under this Agreement.

B. SUBDIVIDER's obligations under this Section 7 are not conditioned or dependent upon the City, or its officers, agents and employees, prepared, supplied or reviewed any Improvement Plans or related specifications in connection with the Subdivision of the Improvements, or has insurance or other indemnification covering any of these matters.

C. SUBDIVIDER's obligation to indemnify, hold harmless and defend the City shall extend to injuries to persons and damages to or alleged taking of property resulting from the design or construction of the Subdivision, and the Improvements required herein, and shall likewise extend to adjacent property owners asserting claims based upon the diversion of waters caused by the SUBDIVIDER's design or construction of public drainage systems, streets, and other public facilities or improvements. The City's acceptance of the Improvements shall not constitute an assumption by the City of any responsibility or liability for any damage or alleged taking of property referenced herein. City shall not be responsible or liable for the design or construction of the Subdivision or the Improvements constructed or installed pursuant to the approved Improvement Plans or the Final Map, unless the particular Improvement design was required by the City over the written objection of the SUBDIVIDER, which objection stated that the Improvement design was potentially dangerous or defective and set forth an alternative design. After City's acceptance of the Improvements, the SUBDIVIDER shall remain obligated to correct or eliminate all dangerous conditions created by defects in design or construction; provided, however, that the SUBDIVIDER shall not be responsible for routine maintenance. SUBDIVIDER's obligations hereunder shall remain in effect for ten (10) years following acceptance of the Improvements by the City Council. SUBDIVIDER acknowledges and agrees that SUBDIVIDER shall be responsible and liable for the design and construction of the Improvements and other work done pursuant to this Agreement, and City shall not be liable for any acts or omissions in approving, reviewing, checking, correcting or modifying any Improvement Plans or related specifications, or in inspecting, reviewing or approving any work or construction of Improvements. The SUBDIVIDER's improvement security shall not be required to secure the SUBDIVIDER's obligations under this subparagraph C beyond the one-year guarantee and warranty period. If, in any judicial proceedings involving statutory immunity under the Tort Claims Act (Government. Code 810, et seq.) asserted by the City, or its officers, agents or employees, is determined by a court of competent jurisdiction to be inapplicable or unavailable to immunize the City, or its officers, agents or employees, from potential liability for any alleged acts or omissions under this Section 7.C, then such rights or obligations of indemnity hereunder shall be governed by principles of comparative fault.

SECTION 8. INSURANCE

SUBDIVIDER, at its own expense, shall maintain in effect at all times during the term of this Agreement, not less than the following coverage and limits of insurance, which shall be maintained with insurers listed "A" or better in the Best's Insurance Guide and authorized to do business in the State of California: Commercial General Liability :- \$1,000,000.00 limit on a per occurrence basis and \$2,000,000.00 general aggregate limit.

In addition to the insurance required above, prior to commencement of any work on the Improvements pursuant to this Agreement, SUBDIVIDER, at its own expense, shall maintain in effect at all times during any construction, not less than the following additional coverage and limits of insurance, which shall be maintained with insurers

listed "A" or better in the Best's Insurance Guide and authorized to do business in the State of California:

- A. Workers' Compensation and Employer's Liability
 - Workers' Compensation-coverage as required by the State of California
 - Employer's Liability --\$1,000,000.00 each accident
 - \$1,000,000.00 policy limit bodily injury
 - \$1,000,000.00 each employee bodily injury by disease
- B. Commercial Automobile Liability --\$1,000,000.00 combined single limit including owned, non-owned and hired automobile coverage

All of SUBDIVIDER's policies shall contain an endorsement providing that written notice shall be given to CITY at least thirty (30) calendar days prior to termination, cancellation or reduction of coverage in the policy.

C. Policies providing for bodily injury and property damage coverage shall contain the following:

i. An endorsement extending coverage to the City as an additional insured, in the same manner as the named insured, as respects liability arising out this Agreement. Such insurance shall be primary insurance as respects the interest of the City, and any other insurance maintained by the City shall be considered excess coverage and not contributing insurance with the insurance required hereunder. The Certificate and endorsements shall state that: "The City of Palmdale, Successor Agency to the Community Redevelopment Agency of the City of Palmdale, Palmdale Civic Authority, Housing Authority, Industrial Development Authority, Airport Authority, their officers, agents, employees and volunteers are named as additional insured".

ii. "Severability of Interest" clause.

D. Promptly upon execution of this Agreement by SUBDIVIDER, and again, prior to commencement of any work, SUBDIVIDER shall deliver to CITY certificates of insurance and endorsements to all required policies demonstrating that SUBDIVIDER has the required coverage and showing the required named insureds, and also full and complete copies of all insurance policies required by this Agreement.

E. The requirements as to the types and limits of insurance to be maintained by SUBDIVIDER are not intended to and shall not in any manner limit or qualify SUBDIVIDER's liabilities and obligations under this Agreement.

F. Any policy or policies of insurance that SUBDIVIDER elects to carry as insurance against loss or damage to its equipment and tools or other personal property used in the performance of this work pursuant to this Agreement shall include a provision waiving the insurer's right of subrogation against CITY.

G. Acceptable Proof of Insurance:

i. ACORD Certificate of Insurance listing all coverages, limits, deductibles and insureds; and endorsements for all applicable coverages if agent has authority to issue it; or additional insured Form CG20100704 and CG20370704 or equivalent must be provided for general liability coverage. Additional insured form CA0001 must be provided for automobile liability coverage.

ii. Binders of insurance for all coverages. Agents must confirm that policy endorsements have been ordered from the respective insurance companies. Upon issuance, policy endorsements and a corresponding Certificate of Insurance listing all insurers and coverages must be submitted to the City Attorney.

H. Notwithstanding any other provision of this Contract, CITY may immediately terminate this Contract if, at any time CONTRACTOR fails to maintain the required insurance for any period of time or fails to comply with any of the insurance listed above.

I. CONTRACTOR shall require any and all subcontractors working on its behalf to provide insurance coverages and limits that are based on the scope of work and nature of risk being performed by the subcontractor. Any and all subcontractors working on behalf of CONTRACTOR shall be subject to all other insurance requirements that are stated herein.

SECTION 9. OWNERSHIP OF THE IMPROVEMENTS

Ownership of all or any category of the Improvements constructed and installed by the SUBDIVIDER pursuant to this Agreement shall vest in the City (or other specified governmental agency) upon acceptance of said Improvements by the City Council and recordation of a Notice of Completion.

SECTION 10. DEFAULT AND BREACH BY THE SUBDIVIDER AND REMEDIES OF THE CITY

A. Upon the occurrence of any of the following events, the SUBDIVIDER shall be deemed to be in default under this Agreement:

1. Subject to any time extensions granted in accordance with Section 4, failure to commence construction and installation of the Improvements by the commencement date set forth above in the Subdivision Reference Data;

2. Failure to correct or cure any defect in the Improvements during the one-year guarantee and warranty period as required in Section 3.A;

3. Subject to any time extensions granted in accordance with Section 4, failure to perform substantial construction work, after commencement of work on the Improvements, for a period of thirty (30) days after written notice thereof from the City;

4. Insolvency, appointment of a receiver, or the filing of any petition in bankruptcy, whether voluntary or involuntary, and such is not cured or discharged within a period of thirty (30) days;

5. Commencement of a foreclosure action against the Subdivision or any portion thereof, or any conveyance by the SUBDIVIDER in lieu or in avoidance of foreclosure; or

6. Failure to perform any other obligations in accordance with the terms and provisions of this Agreement within thirty (30) days after written notice thereof from the City.

B. City reserves to itself all remedies available to it at law or in equity for any breach of SUBDIVIDER's obligations under this Agreement. City shall have the right, without limitation of other rights or remedies, to draw upon or utilize any improvement security furnished hereunder to mitigate City's damages in the event of SUBDIVIDER's default.

C. The City may serve written notice of any default upon the surety on any corporate surety bond furnished as improvement security hereunder, and request that said surety take over and complete the Improvements herein specified. If such surety, within seven (7) days after service of such notice of default, does not give the City written notice of its intention to perform this Agreement, or does not commence such within five (5) days after notice to the City of such intention to perform, the City may take over the work and prosecute the same to completion, by contract or by other method the City deems advisable, for the account and at the expense of the SUBDIVIDER and its surety.

D. If SUBDIVIDER has posted cash as improvement security hereunder, the City may serve written notice of any default upon SUBDIVIDER and demand that SUBDIVIDER cure such default and complete the Improvements herein specified. If SUBDIVIDER, within seven (7) days after service of such notice of default, does not give the City written notice of its intention to perform this Agreement, or does not commence such within five (5) days after notice to the City of such intention to perform, the City may take over the work and prosecute the same to completion, by contract or by other method the City deems advisable, for the account and at the expense of the SUBDIVIDER and may pay the full cost of such work from the cash improvement security posted by SUBDIVIDER.

E. SUBDIVIDER acknowledges that the Estimated Total Costs and improvement security amounts set forth herein may not reflect the actual cost of construction or installation of the Improvements, and consequently, City's damages for SUBDIVIDER's default shall be measured by the cost of completing the required Improvements. If the damages incurred by the City in taking over and completing the Improvements exceeds the principal amount of the improvement security, then the SUBDIVIDER shall reimburse the City in the amount of such excess damages.

F. City may, without liability for doing so, take possession of, and utilize in completing the Improvements, such materials, appliances, plant and other property belonging to SUBDIVIDER as may be on the site of the work and necessary for the performance of the work. SUBDIVIDER hereby consents to entry by the City and its forces, including contractors, upon any real property in the Subdivision owned by the SUBDIVIDER or by any assignee of this Agreement, in the event the City elects to maintain or complete the work on the Improvements following SUBDIVIDER's default.

G. SUBDIVIDER acknowledges and agrees that, upon approval of the Final Map for the Subdivision, City will confer substantial rights upon the SUBDIVIDER, including the right to sell, lease or finance lots within the Subdivision, and that such approval constitutes the final act necessary to permit the division of land within the Subdivision. As a result, City will be damaged to the extent of the cost of construction or installation of the Improvements upon SUBDIVIDER's failure to perform its obligations under this Agreement. SUBDIVIDER further acknowledges that any determination as to whether a reversion to acreage or rescission of approval of the Subdivision constitutes an adequate or necessary remedy for SUBDIVIDER's default shall be within the sole discretion of the City.

H. The City's failure to take an enforcement action with respect to a default, or to declare a default or breach, shall not be construed as a waiver of that default or breach or any subsequent default or breach of the SUBDIVIDER.

I. If City sues to compel SUBDIVIDER's performance of this Agreement, or to recover damages or costs incurred in completing or maintaining the work on the Improvements, SUBDIVIDER agrees to pay all attorneys' fees and other costs and expenses of litigation incurred by the City in connection therewith, even if SUBDIVIDER subsequently resumes and completes the work.

SECTION 11. RELATIONSHIP OF THE PARTIES

Neither SUBDIVIDER, nor any of SUBDIVIDER's contractors, employees or agents, are or shall be deemed to be, agents of the City in connection with the performance of SUBDIVIDER's obligations under this Agreement.

SECTION 12. ASSIGNMENT

A. SUBDIVIDER shall not assign this Agreement without the prior written consent of the City. Any attempted or purported assignment in violation of this subparagraph A shall be null and void and shall have no force or effect.

B. The sale or other disposition of the Subdivision shall not relieve SUBDIVIDER of its obligations hereunder. If SUBDIVIDER intends to sell the Subdivision, or any portion thereof, to any other person or entity, the SUBDIVIDER may request a novation of this Agreement and substitution of improvement security. Upon the City's approval of the

novation and substitution of improvement security, the SUBDIVIDER may request a release or reduction of the improvement security furnished pursuant to this Agreement.

SECTION 13. NOTICES

All notices required or provided for in this Agreement shall be in writing and delivered in person or by mail, postage prepaid, and addressed as follows:

If to the City:	Public Works – Engineer Division City of Palmdale 38250 Sierra Hwy Palmdale, CA 93550
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If to the SUBDIVIDER:	To the address set forth above in the Subdivision Reference Data, or to such other address as may subsequently be designated in written notice to the City.
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Notice shall be effective on the date that it is delivered in person, or, if mailed, on the date of deposit in the United States Mail.

SECTION 14. ENTIRE AGREEMENT

This Agreement constitutes the entire Agreement of the parties with respect to its subject matter. All modifications, amendments, or waivers of any terms of this Agreement shall be in writing and signed by the duly authorized representatives of the parties. In the case of the City, the duly authorized representative, unless otherwise specified herein, shall be the City Engineer

SECTION 15. SEVERABILITY

The provisions of this Agreement are severable. If any portion of this Agreement is held invalid by a court of competent jurisdiction, the remainder of the Agreement shall remain in full force and effect.

SECTION 16. INCORPORATION OF SUBDIVISION REFERENCE DATA AND RECITALS

The Subdivision Reference Data, the Recitals and Schedule A are incorporated into this Agreement.

SECTION 17. GOVERNING LAW

This Agreement shall be governed by the laws of the State of California.

SECTION 18. EFFECTIVE DATE OF THE AGREEMENT

This Agreement shall be and become effective as of the date that it is executed by a duly authorized officer or employee of the City, it being the intention of the parties that the SUBDIVIDER shall first execute this Agreement and thereafter submit it to the City. The City shall insert the effective date in the Subdivision Reference Data in all counterparts of this Agreement and shall transmit a fully executed counterpart to the SUBDIVIDER.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective officers, thereto duly authorized, as of the dates set forth below their respective signatures.

(NOTE: All signatures must be acknowledged by a notary public and the acknowledgment must be attached)

"CITY"

CITY OF PALMDALE

By: _____
(Signature of authorized officer or employee)

City Engineer

Date: _____

"SUBDIVIDER"

(Type or print exact name of person or business entity)

By: _____
(Signature of authorized officer)

(Type or print name of authorized officer)

(Title of authorized officer)

Date: _____

APPROVE AS TO FORM:

Alexandra Severino,
City Attorney

ATTEST:

Rochelle Scott,
City Clerk

ATTEST: If Corporation

Secretary

() FINAL TRACT MAP NO. _____

() PARCEL MAP NO. _____

SCHEDULE A
(PROVIDED WITH APPROVED COST ESTIMATE)

<u>CATEGORIES OF IMPROVEMENTS</u>	<u>ESTIMATED TOTAL COST</u>	<u>IMPROVEMENT SECURITY</u>	
		<u>AMOUNT OF PERFORMANCE SECURITY</u>	<u>AMOUNT OF PAYMENT SECURITY</u>
() STREET IMPROVEMENTS	\$ _____	\$ _____	\$ _____
() SEWER IMPROVEMENTS	\$ _____	\$ _____	\$ _____
() DRAINAGE IMPROVEMENTS INCLUDING DRY WELLS	\$ _____	\$ _____	\$ _____
() WATER SYSTEM	\$ _____	\$ _____	\$ _____
() BLOCK WALLS	\$ _____	\$ _____	\$ _____
() LANDSCAPING	\$ _____	\$ _____	\$ _____
() GRADING	\$ _____	\$ _____	NOT REQUIRED
() MONUMENTATION (CASH)	\$ _____	\$ _____	NOT REQUIRED

TOTAL PERFORMANCE SECURITY \$ _____

TOTAL PAYMENT SECURITY \$0 _____

NOTE: IF CORPORATE SURETY BONDS ARE TO BE UTILIZED, A **SINGLE** FAITHFUL PERFORMANCE BOND AND A **SINGLE** PAYMENT BOND MUST BE SUBMITTED FOR ALL OF THE REQUIRED CATEGORIES OF IMPROVEMENTS. GRADING MAY BE A SEPARATE BOND OR MAY BE INCLUDED WITH THE IMPROVEMENTS. MONUMENTATION MUST BE A CASH BOND.