

RECORDING REQUESTED BY AND
WHEN RECORDED, MAIL TO:

City of Pleasant Hill
Attn: Engineering Division
100 Gregory Lane
Pleasant Hill, CA 94523

(Space above this line for Recorder's Use Only)

SUBDIVISION AGREEMENT

FOR TRACT _____

This Agreement is made and entered into on the ____ day of _____, 20__, by and between the City of Pleasant Hill ("City") and _____ ("Subdivider").

Recitals

A. Subdivider has presented a final subdivision map for Tract _____ located at _____ within the City of Pleasant Hill ("Final Map") and Subdivider has requested City to approve the map so that it may be filed and recorded as required by law.

B. As a condition precedent to the acceptance and approval of the Final Map, the City requires the dedication of the public streets, highways, ways, and easements and the construction of certain public improvements as delineated and shown on the Final Map.

NOW, THEREFORE, the parties agree as follows:

1. Required Improvements. Subdivider shall, at its sole cost and expense, install and complete the work and improvements required in the approved improvement plans for Tract _____ ("Improvements") dated _____, a copy of which is on file in the Engineering Division and incorporated herein by reference. All Improvements shall be done in a professional and worker-like manner in accordance with the latest City of Pleasant Hill Public Works Standards, the Standard Specifications of Contra Costa County for Public Works Construction and the latest Standard Specifications of the State of California, Department of Transportation. If there is any conflict between the specifications, the most stringent requirement shall prevail.
2. Time for Completion. All Improvements shall be installed and completed within one year from the date of this Agreement.
3. Costs of Inspection. The City, or its contractor, shall inspect the Improvements and

Subdivider shall pay the cost of any required inspection of the Improvements.

4. One Year Repair and Maintenance Period. For a period of one year from the date the City adopts a resolution formally accepting the Improvements, Subdivider agrees to maintain the Improvements and repair any defects in the Improvements. The City shall provide written notice of any repair or correction work which, in the opinion of the Director of Public Works and Community Development, must be completed. If within the one year period Subdivider fails, refuses or neglects to complete any repairs or corrections within 30 days of mailing of written notice from the City, the City may complete the work and recover the full cost and expense of doing so from Subdivider, including proceeding against the security posted by Subdivider as required in paragraph 6.

5. Warranty of Improvement Plans. Subdivider warrants that the improvement plans identified in paragraph 1 above are accurate and complete. If at any time prior to expiration of the one year repair and maintenance period described in paragraph 4, the improvement plans prove to be inadequate in any material respect, Subdivider shall make whatever changes are necessary to insure the plans are accurate and complete. Moreover, in the event that work on the Improvements has been performed pursuant to inaccurate or incomplete improvement plans, Subdivider shall correct such work as well at its own expense.

6. Security. Upon execution of this Agreement, Subdivider shall file the following bonds with the City:

a. Faithful Performance Bond. Subdivider shall submit a \$1,000 cash deposit and a corporate surety bond in the amount of _____, which is the total estimated cost of construction of the Improvements, guaranteeing the faithful performance of this Agreement. The bond shall be executed as surety by a corporation authorized to issue surety bonds in the State of California and shall be in a form and with a surety approved by the City Attorney.

b. Labor and Materials Bond. Subdivider shall submit a corporate surety bond in the amount of _____, which is the total estimated cost of construction of the Improvements, guaranteeing the payment of all persons for labor or materials furnished in the construction of the Improvements. The bond shall be executed as surety by a corporation authorized to issue surety bonds in the State of California and shall be in a form and with a surety approved by the City Attorney.

c. Maintenance. Prior to the City's acceptance of the Improvements, Subdivider shall deposit with the City either cash or an acceptable corporate surety bond in the amount of 15 percent of the estimated cost of construction of the Improvements as security for maintenance of the Improvements. City agrees to release such security promptly upon the expiration of the one year repair and maintenance period described in paragraph 4, provided the City has no claim or demand against the security.

7. No Waiver by City. City inspection, approval or acceptance of the Improvements hereunder shall not relieve Subdivider of its obligations to fulfill this Agreement as prescribed, nor

shall the City be estopped from bringing any action for damages arising from Subdivider's failure to comply with the terms and conditions of this Agreement.

8. Indemnity. Subdivider agrees to defend, indemnify and hold harmless the City, its officers, agents, employees and volunteers from and against any and all claims, demands, actions, losses, damages, injuries, and liability, direct or indirect (including any and all costs and expenses in connection therein), arising out of the performance of this Agreement, except for any such claim arising solely out of the active negligence, sole negligence or willful misconduct of the City, its officers, agents, employees or volunteers.

9. Insurance. Subdivider, at Subdivider's own cost and expense, shall procure and maintain, for the duration of the contract, the following insurance policies with insurers possessing a Best's rating of no less than A:VII:

a. Workers' Compensation Coverage. Subdivider shall maintain Workers' Compensation Insurance and Employer's Liability Insurance for his/her employees in accordance with the laws of the State of California. In addition, Subdivider shall require each subcontractor to similarly maintain Workers' Compensation Insurance and Employer's Liability Insurance in accordance with the laws of the State of California for all of the subcontractor's employees. Any notice of cancellation or non-renewal of all Workers' Compensation policies must be received by the City at least thirty (30) days prior to such change.

b. General Liability Coverage. Subdivider shall maintain commercial general liability insurance in an amount not less than two million dollars (\$2,000,000) per occurrence for bodily injury, personal injury and property damage. If a commercial general liability insurance form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit.

c. Automobile Liability Coverage. Subdivider shall maintain automobile liability insurance covering bodily injury and property damage for all activities of the Subdivider arising out of or in connection with the work to be performed under this Agreement, including coverage for owned, hired and non-owned vehicles, in an amount of not less than two million dollars (\$2,000,000) combined single limit for each occurrence.

d. Course of Construction Insurance. Subdivider shall maintain course of construction insurance covering for all risks of loss in an amount equal to the value of the project. The policy shall name the City as a loss payee and shall be endorsed with a provision indicating the insurer shall waive all rights of subrogation against the City.

e. Policy Endorsements. Each general liability and automobile liability insurance policy shall be with insurers possessing a Best's rating of no less than A:VII and shall be endorsed with the following specific language:

- 1) The City of Pleasant Hill, its elected or appointed officers, officials,

employees, agents and volunteers are to be covered as additional insureds with respect to liability arising out of work performed by or on behalf of the Subdivider, including materials, parts or equipment furnished in connection with such work or operations.

2) This policy shall be considered primary insurance as respects the City, its elected or appointed officers, officials, employees, agents and volunteers. Any insurance maintained by the City, including any self-insured retention the City may have, shall be considered excess insurance only and shall not contribute with it.

3) This insurance shall act for each insured and additional insured as though a separate policy had been written for each, except with respect to the limits of liability of the insuring company.

4) The insurer waives all rights of subrogation against the City, its elected or appointed officers, officials, employees or agents.

5) Any explosion, collapse, and underground property damage exclusion must be deleted.

6) Any failure to comply with reporting provisions of the policies shall not effect coverage provided to the City, its elected or appointed officers, officials, employees, agents or volunteers.

7) The insurance provided by this policy shall not be suspended, voided, canceled, or reduced in coverage or in limits except after thirty (30) days written notice has been received by the City.

f. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by the City. At the City's option, Subdivider shall demonstrate financial capability for payment of such deductibles or self-insured retentions.

g. Certificates of Insurance and Endorsements. Subdivider shall provide certificates of insurance with original endorsements to City as evidence of the insurance coverage required herein. Certificates of such insurance shall be filed with the City on or before commencement of performance of this Agreement. Current certification of insurance shall be kept on file with the City at all times during the term of this Agreement.

10. Map Recordation. City agrees to allow Subdivider to record the Final Map.

11. Notices. Any notice or other communication required to be given under this Agreement shall be in writing, addressed as set forth below and either served personally or sent prepaid, first class mail:

If to City: City of Pleasant Hill
100 Gregory Lane
Pleasant Hill, CA 94523-3323

If to Subdivider: **[add name and address]**

Either party may change its address by notifying the other party of the change of address. Notice shall be deemed communicated within 48 hours from the time of mailing if mailed as provided in this section.

12. Heirs, Successors and Assigns. This Agreement shall be recorded with the County Recorder's Office and the provisions of this Agreement shall bind and inure to the benefit of the heirs, successors, and assigns of the parties hereto.

13. Amendments. This Agreement and the approved improvement plans referred to in this Agreement contain the entire agreement between Subdivider and the City with respect to the Public Improvements. No modification to this Agreement shall be effective unless it is in writing, signed by the Subdivider and the City and approved as to form by the City Attorney.

14. Litigation Expenses and Attorneys' Fees. If either party to this Agreement commences any legal action against the other party arising out of this Agreement, the prevailing party shall be entitled to recover its reasonable litigation expenses, including court costs, expert witness fees, discovery expenses, and attorneys' fees.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the date first written above.

CITY OF PLEASANT HILL:

SUBDIVIDER:

June W. Catalano
City Manager

By:_____

Title:_____

Business License No._____

APPROVED AS TO FORM:

ATTEST:

City Attorney

City Clerk

Revised 7/1/09