

DRAFT

17

Subdivider: MIL Aspen Associates

File No.: 100.03.491

Project Name: Aspen Family Apartment

Private Job Account No.: 3199

Improvement Plan No.: 2-1072

Tract/Parcel Map No.: _____

Council Approval Date: _____

Completion Period: _____

CITY OF MILPITAS

SUBDIVISION IMPROVEMENT AGREEMENT

THIS AGREEMENT, executed this _____ day of _____, 2007, at Milpitas, California, by and between the CITY OF MILPITAS, a municipal corporation of the State of California, (hereafter referred to as "City") and MIL Aspen Associates, a California Limited Partnership (hereafter referred to as "SUBDIVIDER"):

RECITALS

- A. SUBDIVIDER desires to subdivide certain land in the CITY in accordance with a map filed with the City Council of the CITY, marked and designated Aspen Family Apartment.
- B. Said map shows certain easements which are offered for dedication for public use.
- C. Pursuant to the terms of this agreement, SUBDIVIDER will complete certain improvements associated with the street dedications, including undergrounding existing utilities.
- D. CITY desires that certain utilities on roadways that are adjacent to but not within the map area be undergrounded ("the Additional Work") and believes that some efficiencies would be created if such work is completed in conjunction with the subdivision improvements.
- E. SUBDIVIDER is amenable to completing the Additional Work provided that the City reimburses the developer for such costs.

NOW, THEREFORE, in consideration of the mutual covenants terms and conditions herein contained, and for other valuable consideration, the receipt of which is hereby acknowledged, the parties do hereby agree as follows:

- 1. SUBDIVIDER agrees that it will construct at its sole cost and expense, all those certain improvements listed in the Improvement Plan No. 2-1072, consisting of XX sheets and specifications approved by said City Council on _____, including setting survey monuments and identified by Project/Agency Fund Account No. 3199 (hereby referred to and made a part hereof of the same as if set forth at length herein).
- 2. No improvement work shall be undertaken by SUBDIVIDER until all plans and specifications have been submitted to the City Engineer and have been approved by him in writing nor shall any change be made in said plans and specifications or in the work of improvement to be done under them without the prior written approval of CITY.
- 3. SUBDIVIDER agrees that said improvements will be constructed under and subject to the inspection of and to the satisfaction of the City Engineer.

4. SUBDIVIDER agrees that it will construct said improvements in accordance with the requirements set forth in said "Improvement Plans and Specifications" referred to above, all applicable ordinances, resolutions and orders of CITY enacted or adopted by said City Council as amended or revised as of the date hereof, and governing statutes of the State of California or of the United States of America.
5. All said improvements shall be completed and ready for final inspection by the City Engineer within **24** months of the date of execution of this Agreement or prior to City issuance of Occupancy Permit Final inspection of the last residential building, whichever occurs first. If SUBDIVIDER shall fail to complete the work required by this Agreement within same time, CITY may, at its option, and after giving ten (10) days written notice thereof to SUBDIVIDER, complete the same and recover the full cost and expense thereof from SUBDIVIDER.
6. Upon the execution of this Agreement, SUBDIVIDER shall file and submit security to CITY as obligee in the penal sum of **one million five-hundred thousand dollars (\$1,500,000.00)**, conditioned upon the full and faithful performance of each of the terms, covenants, and conditions of this Agreement and conditioned upon the full and faithful performance of any and all improvement work required hereunder.
7. In the event that SUBDIVIDER fails to perform any obligation on its part to be performed hereunder, SUBDIVIDER agrees to pay all costs and expenses incurred by CITY in securing performance of such obligation, and if suit be brought by CITY to enforce this Agreement, SUBDIVIDER, agrees to pay costs of suit and reasonable attorney's fees to be fixed by the Court.
8. Upon the execution of this Agreement, SUBDIVIDER shall file and submit security to CITY, as obligee, in the penal sum of **one million five-hundred thousand dollars (\$1,500,000.00)**, inuring to the benefit of any contractor, his subcontractors and to persons renting equipment or furnishing labor or materials to them for the cost of labor and materials furnished in connection with any and all improvement work required hereunder.
9. SUBDIVIDER agrees to pay all costs for labor or materials in connection with the work of improvement hereunder.
10. Any faithful performance security required hereunder shall be reduced to 10% of the security's original value for one year after the date of final completion and initial acceptance of said work to fulfill the one-year maintenance guarantee period for said improvements.
11. Prior to commencing any work, SUBDIVIDER, agrees to obtain an Encroachment Permit from the Engineering Division and at SUBDIVIDER's expense, provide CITY with a duplicate public general liability and automobile liability insurance policy with endorsements showing the CITY as additional insured which insures CITY, its officers and employees against liability for injuries to persons or property (with minimum coverage of \$1000,000 for each person and \$1,000,000 for each occurrence and \$1000,000 for property damage for each occurrence) in connection with work performed by, for or on behalf of SUBDIVIDER. Said Policy shall: (a) be issued by an insurance company authorized to transact business in the State of California; (b) be written on the Standard California Comprehensive General Liability Policy Form which includes, but not limited to property damage, and bodily injury; (c) be written on an occurrence basis; (d) require thirty (30) days prior written notice to CITY of cancellation or coverage reduction; (e) provide that it is full primary coverage so that if said CITY, its officers and employees have other insurance covered by said policy, said other insurance shall be excess insurance; (f) provide that said CITY, its officers and employees shall not be precluded from claim against other insured parties thereunder; (g) be maintained in effect until final acceptance of SUBDIVIDER's improvements. If SUBDIVIDER does not comply with the provisions of this

paragraph, City may (at its election and in addition to other legal remedies) take out the necessary insurance, and SUBDIVIDER shall forthwith repay City the premium therefor.

12. SUBDIVIDER agrees that any general contractor engaged by the SUBDIVIDER for any work of improvement under this Agreement will have:
- a) In full force and effect, a Worker's Compensation Insurance as shown by a Certificate of Worker's Compensation Insurance issued by an admitted insurer. Said Certificate shall state that there is in existence a valid policy of Worker's Compensation Insurance in a form approved by the California Insurance Commissioner. The certificate shall show the expiration date of the policy, that the full deposit premium on the policy has been paid and that the insurer will give CITY at least thirty (30) days prior written notice of the cancellation or coverage reduction of the policy.

or

 - b) In full force and effect, a Certificate of Consent to Self-Insure issued by the Director of Industrial Relations and certified by him to be current, together with a Declaration under penalty of perjury in a form satisfactory to the City Attorney that said Certificate is in full force and effect and that the SUBDIVIDER or its general contractor shall immediately notify the CITY in writing in the event of its cancellation or coverage reduction at any time prior to the completion of all work of improvement.
13. SUBDIVIDER agrees to indemnify and save harmless CITY, City Council, City Engineer or any other officer or employee of CITY from any and all costs, expenses, claims, liabilities or damages, known or unknown, to persons or property heretofore or hereafter arising out of or in any way connected with the act, omission or negligence of SUBDIVIDER, its officers, agents, employees, contractors or subcontractors or any officer, agent or employee thereof.
14. SUBDIVIDER agrees to comply with all special conditions and notes of approval for this development, pay all fees, and costs and expenses incurred by CITY in connection with said subdivision (including, but not limited to: office check of maps and improvement plans, field checking, staking and inspection of street monuments, construction water, wet taps, testing and inspection of improvement). SUBDIVIDER shall maintain Project/Private Job Account No. 3199 for this purpose with additional deposits as required by CITY.

A. Fees to be paid upon execution of this agreement:

a) Plan-check and Inspection (Partial Deposit) (10% of Construction Costs Estimate)	(PJ3199-13-2500)	<u>\$100,000.00</u>
b) Right-of-Way Reimbursement Fee	(310-3614-XXXX50)	<u>N/A</u>
c) Other <u>Traffic Impact Fee</u>	(100-3718)	<u>\$138,499.00</u>
	Sub-total	<u>\$238,499.00</u>

B. Fees to be paid at the time of building permit issuance:

a) Water Connection Fee (101-units @ \$1,164.00 per unit)	(402-3715)	<u>\$117,564.00</u>
b) Potable Water Meter Fee (9 meters various sizes-)	(400-3662)	<u>See Exhibit "A"</u>
c) Recycled Water Meter Fee	(406-3622)	<u>N/A</u>
d) Sanitary Sewer Connection Fee	(452-3715)	<u>\$142,006.00</u>

	(101-units @ \$1,406.00 per unit)		
e)	Sewer Treatment Plant Fee	(452-3714)	<u>\$69,690.00</u>
	(101 units @ \$690 per unit)		
f)	Sewer Bypass Benefit Fund	(HA1320-2500)	<u>N/A</u>
g)	Storm Drain Connection Fee	(340-3711)	<u>\$45,114.00</u>
h)	Parksite Fee		
	1. Park Dedication In-Lieu Fee	(320-3712)	<u>See Exhibit "A"</u>
	2. PUD Park Fee	(320-3712)	<u>N/A</u>
		Sub-total	\$374,374.00
		Total	\$612,873.00

15. Upon completion of the work and before City Initial Acceptance of the work thereof, SUBDIVIDER shall provide the City a complete original mylar of "Record Drawing" showing all the changes from the original plan.
16. Upon completion of the work, and before City Council final acceptance thereof, SUBDIVIDER shall be billed for and pay the outstanding balance of the project's private job account or shall be refunded the difference between the amount of City costs and expenses in each instance and the amount of said remittance.
17. Any easement or right-of-way necessary for the completion of any of the improvements required of SUBDIVIDER shall be acquired by SUBDIVIDER at its sole cost and expense. In the event that eminent domain proceedings are necessary for the acquisition of any easement or right-of-way, SUBDIVIDER agrees that he will pay all engineering fees and costs, legal fees and costs, and other incidental costs sustained by CITY in connection with said eminent domain proceedings and any condemnation award and damages (including all costs awarded in said eminent domain proceedings). SUBDIVIDER further agrees that prior to the institution of any eminent domain proceedings and upon ten (10) days written notice from CITY, SUBDIVIDER will deposit such sums as are determined by City Council to be necessary to defray said fees, costs, awards, and damages.
18. City will accept on behalf of the public, the dedication of the streets, and easements offered for dedication, and will supply water for sale to and within said subdivision, provided however, that as a condition precedent to said initial acceptance and to supplying water, SUBDIVIDER shall perform the covenants, terms and conditions of this Agreement.
19. SUBDIVIDER hereby irrevocably offers to convey title of the water and sanitary sewer mains and lines, and appurtenances constructed in or for said subdivision to CITY. Upon final acceptance of said improvements by CITY, said title will be deemed to be accepted by CITY in the event that title has not previously passed to CITY by operation of law.
20. SUBDIVIDER agrees to comply with all requirements set forth on **Exhibit "A"** (attached hereto, hereby referred to and made a part hereof).
21. This Agreement shall be deemed to include any final conditions imposed by CITY upon the approval of the tentative and final maps related to public improvements of said subdivision.
22. SUBDIVIDER agrees that, upon ten (10) days written notice from CITY, it will immediately remedy,

restore, repair or replace, at its sole expense and to the satisfaction of City Engineer, all defects, damages or imperfections due to or arising from faulty materials or workmanship appearing within a period of one-year after the date of initial acceptance of all said improvements. If SUBDIVIDER shall fail to remedy, restore, repair, or replace said defects, damages or imperfections as herein required, CITY may at its option, do so and recover the full cost and expense thereof from SUBDIVIDER.

23. This Agreement shall bind the heirs, administrators, executors, successors, assigns and transferees of SUBDIVIDER. It is agreed and understood that the covenants in this Agreement shall run with the land and are for the benefit of the other lands in the CITY OF MILPITAS, and are made by SUBDIVIDER expressly, its heirs, administrators, executors, successors, assigns and transferees and to the CITY, its successors and assigns.
24. Nothing contained in this Agreement shall be construed to be a waiver, release or extension of any provision heretofore required by ordinance, resolution or order of the City Council of the CITY.
25. Time shall be of the essence of this Agreement. All covenants herein contained shall be deemed to be conditions. The singular shall include the plural; the masculine gender shall include the feminine and neuter gender. All comments presented by SUBDIVIDER hereunder shall be subject to approval of the City Attorney as to form.

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

*Signed and Sealed this ____ day of _____, 2007.

CITY OF MILPITAS

By: _____
City Manager

** Attach proper acknowledgment.

MIL Aspen Associates, a California Limited Partnership
Subdivider

By: MIL Aspen Family Housing, LLC
Its: Administrative General Partner

By: Global Premier Development, Inc.
Its: Member

By: 
Andrew Hanna
Its: President

Subdivider's Capacity

APPROVED AS TO FORM THIS

____ day of _____, 2007

By: _____
Assistant City Attorney

**By: _____

Typed Name and Capacity/Title

APPROVED AS TO SUFFICIENCY THIS

____ day of _____, 2007

By: _____
City Engineer

**By: _____

Typed Name and Capacity/Title

* Date should be same as date on Page 1 of 6.

** It is essential that the signatures be acknowledged before a California Notary Public and attach proper acknowledgment.

State of California)
County of ORANGE)

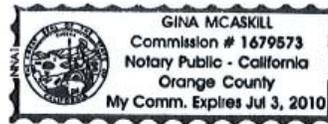
CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

On APRIL 10, 2007 before me, GINA MCASKILL, Notary Public,
(here insert name and title of the officer)

personally appeared ANDREA HANNA

personally known to me (or 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.

WITNESS my hand and official seal.



Signature [Handwritten Signature]

(Seal)

OPTIONAL INFORMATION

Although the information in this section is not required by law, it could prevent fraudulent removal and reattachment of this acknowledgment to an unauthorized document and may prove useful to persons relying on the attached document.

Description of Attached Document

The preceding Certificate of Acknowledgment is attached to a document titled/for the purpose of _____

containing _____ pages, and dated _____

The signer(s) capacity or authority is/are as:

- Individual(s)
 Attorney-in-Fact
 Corporate Officer(s) _____ Title(s)

- Guardian/Conservator
 Partner - Limited/General
 Trustee(s)
 Other: _____

representing: _____
Name(s) of Person(s) or Entity(ies) Signer is Representing

Additional Information

Method of Signer Identification

- Personally known to me
 Proved to me on the basis of satisfactory evidence:
 form(s) of identification credible witness(es)

Identification is detailed in notary journal on:

Page # _____ Entry # _____

Notary contact: _____

Other

- Additional Signer(s) Signer(s) Thumbprint(s)

EXHIBIT "A"

1. The Subdivider agrees to complete necessary Water Service Agreements, and pay the connection fees prior to Building Permit issuance, and 2.5% building permit automation fee.
2. Prior to certificate of occupancy issuance, the applicant shall pay a park-in-lieu fee based on the latest Fair Market Appraisal (March 2007) and with credit for private open space, and 2.5% building permit automation fee.
3. The Subdivider agrees to pay to the City a Traffic Impact Fee of \$138,499.00, upon execution of this Agreement, and 2.5% building permit automation fee.
4. The Subdivider agrees to complete the construction of all public improvements and settings of all Survey Monuments before the City issuance of the Occupancy Permit/Final Inspection of the last residential building.
5. The Subdivider agrees to execute a petition to annex and establish, with respect to the property, the Special taxes levied by a Community Facility District (CFD) for the purpose of maintaining the public services, upon execution of this Agreement.
6. The Subdivider agrees to comply with the special conditions and notes of approval for this Subdivision.
7. Prior to building permit issuance, the developer must pay all applicable development fees, including but not limited to, connection fees (water, sewer and storm), treatment plant fee, plan check and inspection deposit, and 2.5% building permit automation fee.

Principal: _____
Project Name: Aspen Family Apartment

Project No. 3199
Bond No. _____

**CITY OF MILPITAS
FAITHFUL PERFORMANCE BOND**

WHEREAS, the Principal has entered into a contract with the City of Milpitas to perform the following work, to wit: Public Improvement for Aspen Family Apartment as on shown on Improvement Plans 2-1072.

WHEREAS, said contract (and any City approved plans and specifications in connection therewith) is hereby referred to and made a part hereof, with like force an effect as it herein at length set forth:

NOW, THEREFORE, we the Principal and _____, as surety, are held and firmly bound unto the City of Milpitas, California, in the penal sum of **one million five-hundred thousand dollars (\$1,500,000.00)**, lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, successors, executors and administrators, jointly and severally, firmly by these presents.

The condition of this obligation is such that if the above bonded principal, it heirs, executors, administrators, successors or assigns, shall well and truly keep and perform the covenants, conditions, and provisions in said agreement and any alteration thereof on his or their part, to be kept and performed, at the time and in the manner therein specified, and shall indemnify and save harmless the City of Milpitas, its officers, agents and employees as therein stipulated, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

As part of the obligation secured hereby and in addition to the face amount specified therefor, there shall be included costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by City in successfully enforcing such obligation, all to be taxed as costs and included in any judgment rendered.

The surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the agreement or to the work to be performed thereunder or the specifications accompanying the same shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition.

IN WITNESS WHEREOF, this instrument has been duly executed by the principal and surety above named on _____, 2007.

NOTE: BE SURE BOND DATE DOES NOT PRE-DATE CONTRACT.

SUBDIVIDER: _____

SURETY: _____

BY: _____
(write name)

BY: _____
(write name)

BY: _____
(type name and office)

BY: _____
(type name and office)

Address of Surety: _____

VERIFICATION

I declare under the penalty of perjury that I have authority to execute this bond on behalf of the above-named surety.

Executed at _____, California, on the _____ day of _____, 2007.

(Name)

(Type Name)

Address: _____

Subscribed and sworn to before me, a)
Notary Public, this _____ day of)
_____, 2007.)

) THIS JURAT MUST BE COMPLETED
) BY A NOTARY IF THE VERIFICATION
) IS EXECUTED OUTSIDE OF CALIFORNIA
)
)

(Sign)

(Type)

ACKNOWLEDGMENT

NOTE: A Notary acknowledgment must be completed for signatures of both principal and surety. Use correct form.
A power of attorney is not enough.

Form Approved:

Principal: _____
Project Name: Aspen Family Apartment

Project No. 3199
Bond No. _____

**CITY OF MILPITAS
LABOR AND MATERIALS BOND**

WHEREAS, the Principal has entered into a contract with the City of Milpitas to perform the following work, to wit: Public Improvement for Aspen Family Apartment as on shown on Improvement Plans 2-1072.

WHEREAS, said contract (and any City approved plans and specifications in connection therewith) is hereby referred to and made a part hereof, with like force and effect as it herein at length set forth:

NOW, THEREFORE, said Principal and the undersigned as corporate surety, their heirs, successors, executors and administrators, are held firmly bound, jointly and severally, unto the City of Milpitas California, and all contractors, subcontractors, laborers, materialmen, and other persons employed in the performance of the aforesaid agreement in the sum of one million five-hundred thousand dollars (\$1,500,000.00), for materials furnished or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to such work or labor, that said surety will pay the same in an amount not exceeding the amount hereinabove set forth, and also in case suit is brought upon this bond, will pay, in addition to the fact amount thereof, costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by City in successfully enforcing such obligation, to be awarded and fixed by the Court, and to be taxed as costs and to be included in the judgment therein rendered.

It is hereby expressly stipulated and agreed that this bond shall inure to the benefit of any and all persons, companies and corporations entitled to file claims under Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code, so as to give a right of action to them or their assigns in any suit brought upon this bond.

Should the condition of this bond be fully performed, then this obligation shall become null and void, otherwise it shall be and remain in full force and effect.

The surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of said agreement or to the work to be performed thereunder or the specifications accompanying the same shall in any manner affect its obligations on this bond, and it does hereby waive notice of any such change, extension, alteration or addition.

IN WITNESS WHEREOF, this instrument has been duly executed by the principal and surety above named on _____, 2007.

NOTE: BE SURE BOND DATE DOES NOT PRE-DATE CONTRACT.

SUBDIVIDER: _____ SURETY: _____

BY: _____
(write name)

BY: _____
(write name)

BY: _____
(type name and office)

BY: _____
(type name and office)

Address of Surety: _____

VERIFICATION

I declare under the penalty of perjury that I have authority to execute this bond on behalf of the above-named surety.

Executed at _____, California, on the _____ day of _____, 2007.

(Name)

(Type Name)

Address: _____

Subscribed and sworn to before me, a)
Notary Public, this _____ day of)
_____, 2007.)

) THIS JURAT MUST BE COMPLETED
) BY A NOTARY IF THE VERIFICATION
) IS EXECUTED OUTSIDE OF CALIFORNIA
)
)

(Sign)

(Type)

ACKNOWLEDGMENT

NOTE: A Notary acknowledgment must be completed for signatures of both principal and surety. Use correct form.
A power of attorney is not enough.

Form Approved:

Principal: _____
Project Name: Aspen Family Apartment

Project No. 3199
Bond No. _____

**CITY OF MILPITAS
SURVEY MONUMENTATION BOND**

WHEREAS, the Principal has entered into a contract with the City of Milpitas to install and complete certain designated public improvements, including setting of survey monuments by an engineer or surveyor prior to a certain date.

WHEREAS, said contract (and any City approved plans and specifications in connection therewith) is hereby referred to and made a part hereof, with like force and effect as it herein at length set forth:

NOW, THEREFORE, we the Principal and _____, as surety, are held and firmly bound unto the City of Milpitas, California, and that Engineer or Surveyor, who set said survey monuments in the penal sum of ten thousand dollars (\$10,000.00), lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, successors, executors and administrators, jointly and severally, firmly by these presents.

The condition of this obligation is such that if the above bonded principal, its heirs, executors, administrators, successors or assigns, shall well and truly keep and perform the covenants, conditions, and provisions in said agreement and any alteration thereof on his or their part, to be kept and performed, at the time and in the manner therein specified, and shall indemnify and save harmless the City of Milpitas, its officers, agents and employees as therein stipulated, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

As part of the obligation secured hereby and in addition to the face amount specified therefor, there shall be included costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by City in successfully enforcing such obligation, all to be taxed as costs and included in any judgment rendered.

The surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the agreement or to the work to be performed thereunder or the specifications accompanying the same shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition.

IN WITNESS WHEREOF, this instrument has been duly executed by the principal and surety above named on _____, 2007.

NOTE: BE SURE BOND DATE DOES NOT PRE-DATE CONTRACT.

SUBDIVIDER: _____ SURETY: _____

BY: _____
(write name)

BY: _____
(write name)

BY: _____
(type name and office)

BY: _____
(type name and office)

Address of Surety: _____

VERIFICATION

I declare under the penalty of perjury that I have authority to execute this bond on behalf of the above-named surety.

Executed at _____, California, on the _____ day of _____, 2007.

(Name)

(Type Name)

Address: _____

Subscribed and sworn to before me, a)
Notary Public, this _____ day of)
_____, 2007.)

THIS JURAT MUST BE COMPLETED
) BY A NOTARY IF THE VERIFICATION
) IS EXECUTED OUTSIDE OF CALIFORNIA
)
)

(Sign)

(Type)

ACKNOWLEDGMENT

NOTE: A Notary acknowledgment must be completed for signatures of both principal and surety. Use correct form.
A power of attorney is not enough.

Form Approved:

Subdivider: MIL Aspen Associates

Project No. 3199

Project Name: Aspen Family Apartment

CITY OF MILPITAS

**CERTIFICATE RELATING TO WORKER'S COMPENSATION
INSURANCE PURSUANT TO LABOR CODE SECTION 3800**

(Subdivision)

I, THE UNDERSIGNED, HEREBY CERTIFY that at all times during the performance of any work of improvement under agreement with the City of Milpitas. (Check one of the following):

_____ Any general contractor engaged by me for said work will have in full force and effect Worker's Compensation Insurance pursuant to the attached certificate of Worker's Compensation Insurance issued by an admitted insurer. Said Certificate shall state that there is in existence a valid policy of Worker's Compensation Insurance in a form approved by the California Insurance Commissioner. The certificate shall show the expiration date of the policy, that the full deposit premium on the policy has been paid and that the insurer will give City at least ten days advance notice of the cancellation of the policy (an exact copy or duplicate of the Certificate of Worker's Compensation Insurance certified by the Director of Industrial Relations or the insurer may be attached).

_____ Or has in full force and effect and have attached hereto a Certificate of Consent to Self-insure issued by the Director of Industrial Relations or the insurer may be attached).

I declare under penalty of perjury that the foregoing is true and correct and executed on _____
at _____
(Date) (City)

By: _____

Official Title

On behalf of: _____
Contractor

NOTE: YOUR CERTIFICATE OF WORKER'S COMPENSATION INSURANCE MUST BE ATTACHED AND MUST MEET THE REQUIREMENTS SET FORTH ABOVE.

PLEASE NOTE THAT IF YOU HAVE ANYONE WORKING FOR OR WITH YOU, YOU MAY BE REQUIRED TO HAVE WORKER'S COMPENSATION INSURANCE. FOR FURTHER INFORMATION, CONTACT THE OFFICE OF THE DIRECTOR OF INDUSTRIAL RELATIONS, 888 NORTH FIRST STREET, SAN JOSE, CALIFORNIA, TELEPHONE: 277-1265.

Subdivider: MIL Aspen Associates

Project No. 3199

Project Name: Aspen Family Apartment

**CITY OF MILPITAS
CERTIFICATE OF WORKER'S COMPENSATION INSURANCE**

Pursuant to California Labor Code Section 3800, the undersigned Insurer certifies that it is an admitted Worker's Compensation Insurer, that it has issued a valid policy of Worker's Compensation Insurance in a form approved by the California Insurance Commissioner (bearing policy number _____) to _____ in connection with the above project, title and subdivider. Said policy is now in full force and effect and the full deposit premium has been paid. At least 10 days advance notice of the cancellation of said policy will be given to the City of Milpitas. The expiration date on said policy is _____.

Dated: _____

INSURANCE COMPANY

AUTHORIZED REPRESENTATIVE (Signature)

Address: _____

AUTHORIZED REPRESENTATIVE (Type Name)

Address: _____

VERIFICATION

I declare under the penalty of perjury that I am authorized to sign this Certificate on behalf of the above-named insurer. Executed at _____, California, on the _____ day of _____, 2007. **

Authorized Signatory (Sign)

(Type Name)

SUBSCRIBED AND SWORN TO BEFORE ME, a Notary Public, this _____ day of _____, 2007.

(Sign)

(Type Name)

Subdivider: MIL Aspen Associates

Project No. 3199

Project Name: Aspen Family Apartment

CERTIFICATE OF GENERAL LIABILITY AND AUTOMOBILE LIABILITY INSURANCE

The undersigned insurance company certifies to the City of Milpitas, California, that it has issued a general public liability insurance policy, policy number _____ to _____ in connection with a work of improvement generally described as Street and underground improvement on _____. The policy names the City of Milpitas, its officers and employees (as additional insured) and insures said City, officers and employees against liability arising out of activities, including but not limited to, coverage for all work performed by or on behalf of permittee, products and completed operations of the permittee; the premises owned, occupied or used by the permittee; or automobiles owned, leased, hired or borrowed by the permittee in the following minimum amounts and for the following periods:

<u>COVERAGE</u>	<u>POLICY NUMBER</u>	<u>POLICY PERIOD</u>	<u>MINIMUM LIMITS OF LIABILITY</u>
(1) Bodily Injury			\$1,000,000 each person) \$1,000,000 each occurrence)*
(2) Property Damage			\$1,000,000 each occurrence) \$1,000,000 aggregate)

This policy provides: (1) primary coverage for additional insured parties; if said additional insured have other insurance against loss covered by this policy, the other insurance shall be excess insurance only; (2) that said additional insured parties are not precluded from claim under this policy against other insured parties; and (3) each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled 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 Clerk.

Insurance Company

Authorized Signature (Sign)

Authorized Signature (Type)

Address of Signatory:

If project involves less than \$50,000, City will accept \$300,000/\$50,000

VERIFICATION

I declare under the penalty of perjury that I am authorized to sign this Certificate on behalf of the above-named insurer.
Executed at _____, California, on the _____ day of _____, 2007. **

Authorized Signatory (Sign)

(Type Name)

SUBSCRIBED AND SWORN TO BEFORE ME, a
Notary Public, this _____ day of
_____, 2007.

(Sign)

(Type Name)

** If this certificate is executed outside of California, it must be sworn to before a Notary Public.

FORM APPROVED: _____, 2007, by _____

DRAFT

Control No. E-EN07-0068

Recording requested by:
City of Milpitas
When recorded mail to:
City of Milpitas
City Engineer's Office
455 E. Calaveras Blvd.
Milpitas, Ca 95035

Record without fee under Section
6103-Government Code, State of California

Encroachment Permit Agreement Upon Public Right of Way

This authorization ("Permit") is entered into between The City of Milpitas, a municipal corporation ("the City") and MIL Aspen Associates, a California Limited Partnership ("Permittee").

RECITALS

- A. Permittee has requested permission from the City to enter upon, utilize, construct improvements within and adjacent to certain right of way, described as follows ("Encroachment Area"): approximately 400 feet private wall with 4-foot wide landscape strip east of Costa Street (proposed street) right of way as shown on exhibit "A".
- B. Permittee's utilization of the Encroachment Area will be undertaken for the benefit of the adjacent real property owned and/or being developed by Permittee shown on Parcel Map filed on _____ in Book _____ of Maps at Pages _____ through _____.
- C. Permittee desires to enter upon the Encroachment Area in order to construct and install those improvements ("the Improvements") described as follows: approximately 400 feet long private wall with 4-foot wide landscape strip.
- D. The purpose of this Permit is to document the City's authorization of such Encroachment and describe the terms and conditions governing such Encroachment.

The parties therefore agree as follows:

1. City's Title By acceptance of the benefits hereunder, Permittee acknowledges the City's title to and interest in the real property of which the Encroachment Area is a part and waives any right to contest the validity of such title or interest.
2. Existing Utilities Installation of the improvements shall not interfere with existing utilities within the Encroachment Area. If such interference is unavoidable, Permittee will be solely responsible for obtaining permission from the providers of such utilities, coordinating its construction activities with such utility providers and satisfaction of any expenses resulting from such interference.
3. Maintenance, Removal or Relocation of Improvements Permittee acknowledges that the Encroachment Area is or may be the site of future public improvements in that all rights of use as described herein may be terminated upon 90 days prior notice of termination by the City. Upon such termination, Permittee shall, within the time prescribed by the City, remove or relocate all improvements placed, constructed or maintained within the Encroachment Area by Permittee. If Permittee fails to comply with such termination notice within the time prescribed, the City may remove and destroy the improvements without reimbursement to Permittee, its successors and assigns, and the cost of such removal shall be paid by Permittee, its successors and assigns, to the City and shall constitute a debt owing to the city. So long as the permit remains in effect, Permittee shall be solely responsible for maintenance of the improvements.

4. Construction Standards Construction of the improvements will conform in all respects to the standards and requirements of the City and will be subject to the City's normal inspection and approval procedures.
5. Indemnity/Hold Harmless Permittee hereby agrees to defend, indemnify and hold harmless the City, its elected and appointed boards, officers, agents and employees, from any liability, claims or damages for personal injury or death as well as for property damage which may arise as a result of this Permit, whether due to acts or omissions of Permittee or any subcontractor, agent, employee or other persons or entities directly or indirectly employed by or acting as agent or under the direction of Permittee. In the event of any such liability, claims or damages, Permittee will defend the City, its agents and employees, with counsel reasonably acceptable to the City. The parties acknowledge that this indemnity provision is a material inducement for the City to grant this authorization and that the City would not grant this authorization without these indemnity provisions.
6. Termination/Revocation As set in paragraph 3 above, the City may terminate this Permit. Determination by the City Council of the City that Permittee, its successors or assigns, is in default hereunder may be cause for revocation of this permit. So long as the permit remains in effect, Permittee shall be solely responsible for maintenance of the improvements and shall maintain the improvements in accordance with the standards and requirements of the City. If Permittee fails to maintain the improvements consistent with the standards and requirements of the City, the City may, but shall not be required to, maintain the improvements at the cost of the Permittee. If the City does maintain the improvements, the City may bill Permittee for its costs, and the Permittee agrees to pay such costs.
7. Attorney's Fees In the event of legal action between the parties with respect to this authorization, the party prevailing in such action will be entitled, in addition to such other relief as may be granted, to a reasonable sum as its attorney's fees and costs.
8. Compliance with other Conditions Permittee acknowledges that the authorization contained herein is in addition to and not in lieu of any other permits, inspections or approvals which Permittee may need to obtain from the City, from other utility providers or property owners with respect to its construction of the improvements and that Permittee must comply with all additional conditions imposed by the City with respect to construction of the improvements.
9. Encroachment Authorization Based upon the foregoing terms and provisions, the City hereby authorizes encroachment by Permittee upon the Encroachment Area.
10. Successors and Assigns This authorization will bind and inure to the benefit of the parties, the respective heirs, successors and assigns. This authorization is intended to run with the benefited property as a covenant running with the land and the obligations of Permittee described herein will constitute continuing obligations of all persons or entities succeeding to Permittee's ownership interest in such benefited property.
11. Acknowledgement: Permittee desires the close proximity of the building to the existing utilities and recognizes the inherent risk to the building for any necessary utility repair work. Permittee waives any claim against City for damages to the Building or disruption to business resulting either directly or indirectly from any work performed by the City or its contractors with respect to the installation, maintenance, inspection, repair, or removal of existing utilities. No structure or wall shall be constructed within the City's easement, except for planter boxes or conventional fencing (chain link, steel or wood). City access to the easement areas shall be maintained at all times.

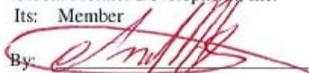
Executed on this _____ day of _____, 2007, at Milpitas, California.

PERMITEE:

MIL Aspen Associates, a California Limited Partnership

By: MIL Aspen Family Housing, LLC
Its: Administrative General Partner

By: Global Premier Development, Inc.
Its: Member

By: 
Andrew Hanna
Its: President

CITY OF MILPITAS, A MUNICIPAL CORPORATION:

By: _____
Thomas C. Williams
City Manager

By: _____
Steven T. Mattas
City Attorney as to form

ALL PURPOSE ACKNOWLEDGMENT

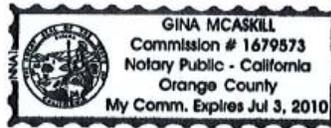
State of California)
) s.s.
County of ORANGE)

On APRIL 10, 2007, before me,
GINA MCASKILL, NOTARY PUBLIC, personally appeared
ANDREW HADNA
x personally known to me;
_____ or 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.

WITNESS my hand and official seal.

(SEAL)

Gina Mcaskill
Signature of Notary Public



CAPACITY CLAIMED BY SIGNER:

Though statute does not require the notary to fill in the data below, doing so may prove invaluable to persons relying on the document.

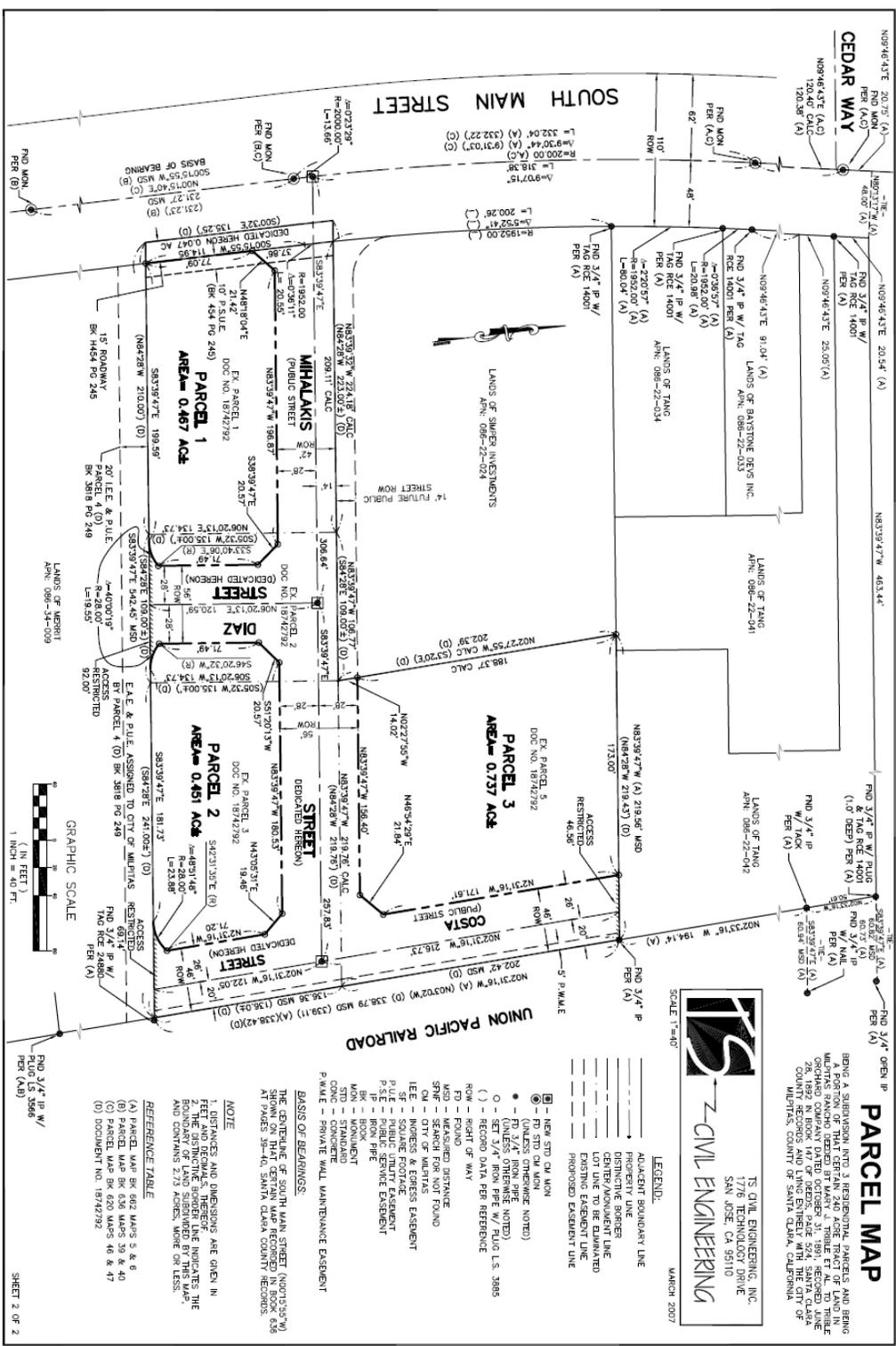
- _____ Individual(s)
- _____ Corporate Officer(s) Titles _____ and _____
- _____ Partner(s) _____ Limited _____ General
- _____ Attorney-in-Fact
- _____ Trustee(s)
- _____ Guardian/Conservator
- _____ Other : _____

Signer is representing: _____

ATTENTION NOTARY: Although the information requested below is optional, it could prevent fraudulent attachment of this certificate to unauthorized document.

Title or type of document _____
Number of pages: _____ Date of document: _____
Signer(s) other than named above: _____

THIS CERTIFICATE MUST BE ATTACHED TO THE DOCUMENT DESCRIBED ABOVE



CEDAR WAY
 120.44' CALC
 120.38' (A)

SOUTH MAIN STREET

PARCEL 1
 AREA = 0.467 AC

PARCEL 2
 AREA = 0.451 AC

PARCEL 3
 AREA = 0.777 AC

PARCEL MAP

TS CIVIL ENGINEERING, INC.
 1776 TECHNOLOGY DRIVE
 SAN JOSE, CA 95110



SCALE 1"=40'
 MARCH 2007

- LEGEND:**
- ADJACENT BOUNDARY LINE
 - PRESIDENT LINE
 - CENTER/MIDPOINT LINE
 - LOT LINE TO BE EMBAYMENT
 - EXISTING EMBAYMENT LINE
 - PROPOSED EMBAYMENT LINE
 - NEW STD. CH. MON.
 - RD. STD. CH. MON.
 - RD. 3/4" IRON PIPE (UNLESS OTHERWISE NOTED)
 - RD. 3/4" IRON PIPE (NOTED)
 - SET 3/4" IRON PIPE W/ FLAG U.S. 3885
 - RECORD DATA PER REFERENCE
 - RIGHT OF WAY
 - FOUND DISTANCE
 - MEASURED DISTANCE
 - STATION
 - CITY OF MANTAS
 - INGRESS & EGRESS EMBAYMENT
 - SQUARE FRONTAGE
 - PROPOSED EMBAYMENT
 - PUBLIC SERVICE EMBAYMENT
 - IRON PIPE
 - MONUMENT
 - STANDARD
 - CONCRETE
 - PRIVATE WALL MAINTENANCE EMBAYMENT

NOTE:
 1. DISTANCES AND DIMENSIONS ARE GIVEN IN FEET AND DECIMAL THEREOF. UNLESS OTHERWISE NOTED, DIMENSIONS ARE IN FEET AND DECIMAL THEREOF. DIMENSIONS INDICATES THE BOUNDARY OF LAND SUBMITTED BY THIS MAP. AND CONTAINS 2.73 ACRES, MORE OR LESS.

REFERENCE TABLE:

- (A) PARCEL MAP BR. 602 WMS 5 & 6
- (B) PARCEL MAP BR. 620 WMS 39 & 40
- (C) PARCEL MAP BR. 620 WMS 39 & 40
- (D) DOCUMENT NO. 18742792



