

Subdivider: Lyon Milpitas, LLC

File No.: 100.01.220.1

Project Name: Centria West Condominiums

Private Job Account No.: 2583

Improvement Plan No.: 2-1143

Tract/Parcel Map No.: 9773

Council Approval Date: _____

Completion Period: _____

CITY OF MILPITAS

SUBDIVISION IMPROVEMENT AGREEMENT

THIS SUBDIVISION IMPROVEMENT AGREEMENT (“Agreement”), executed this _____ day of _____, 2011, at Milpitas, California, by and between the CITY OF MILPITAS, a municipal corporation of the State of California, (hereafter referred to as “City”) and Milpitas Centria West, LLC, a Delaware limited liability company (hereafter referred to as “SUBDIVIDER”):

RECITALS

- A. On June 6, 2006, the City Council authorized the execution of a subdivision improvement agreement with Western Pacific Housing, Inc. (“Western Pacific”), for the construction of certain public improvements for the Centria (East & West) Condominiums. Due to financial difficulties, Western Pacific was only able to finish the improvements for the Centria East (Lot 2) and had to sell the Centria West (Lot 1) to SUBDIVIDER.
- B. On April 21, 2009, the City Council authorized the execution of a separate subdivision improvement agreement to memorialize the SUBDIVIDER’s obligations to complete the remaining improvements for the overall Centria projects not completed by Western Pacific Housing, Inc. Due to subsequent changes to the Centria West project and the receipt of special grant funding for a limited amount of public improvements in the Centria West project area, a new subdivision improvement agreement reflecting the revised improvement obligations is needed. This Agreement is therefore intended to supersede and restate the obligations of SUBDIVIDER to complete those improvements associated with the Centria West project and to perform those obligations and actions set forth herein.

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 is obligated to construct at its sole cost and expense, all those certain improvements listed in the Improvement Plan No. 2-1143, Centria West, including the relocation of existing blow off/air release valve vault within the existing ramp at the southeast corner of S. Abel Street and Centria West Entrance, installation of storm line and stub-out for future City installation of storm drain inlet, utility connections, hydrant, joint trench, manhole, surface improvements (sidewalk, driveway, curb and gutter, pavement, striping, etc.) fronting the condominium site, Abel St plan line improvements, signal modifications, and a public park (see below) consisting of approximately 51 sheets and specifications approved by said City Council including setting survey monuments and identified by Project/Agency Fund Account No. 2583 (hereby referred to and made a part hereof the same as if set forth at length herein). These improvements are henceforth referred to collectively herein as the “Subdivider Improvement” or “work.”
- 2. SUBDIVIDER agrees to submit plans and specifications to construct at its own cost and expense for the new public park, on the parcel as described in Grant Deed Recorder’s Serial No. 20167671, recorded March 13, 2009 (APN 086-12-010). The public park improvements shall be constructed prior to the time

of issuance of building certificate of occupancy (final inspection) of the last building phase or as directed by the City's Planning Director and City Engineer. The new public park improvements shall be dedicated to the City along with all other related public improvements for Centria West. All work to be performed within Pacific Gas & Electric (PG&E) Right-of-Way (ROW) or easement shall be in accordance with PG&E's requirements (which consists of vehicle load requirements). SUBDIVIDER shall obtain design approval letter from PG&E for the proposed public park prior to construction of the park. No permanent structure shall be constructed within the ROW or Public Service Utility Easement (PSUE). SUBDIVIDER will be given credit towards the \$1,079,597 park fee (the "Park Fee") for all park design and improvements costs incurred by SUBDIVIDER, such costs to be verified by certified audit performed by an independent professional in connection with the design and construction of the improvements of the Public Park prior to initial acceptance. The cost of such audit shall be paid by SUBDIVIDER but may be credited toward the Park Fee. In the event the costs to design and construct the park are less than the Park Fee, then SUBDIVIDER agrees to pay the City the amount of any unused credit amounts related to the park improvements prior to initial acceptance of the improvements. Prior to incurring any costs for the design and improvement of the park that in the aggregate with costs already incurred are in excess of the Park Fee, SUBDIVIDER shall inform the City of such excess costs and the City shall be responsible for and pay such costs. If SUBDIVIDER fails to inform the City of such excess costs, then such excess costs shall be born by SUBDIVIDER. SUBDIVIDER agrees to develop a concept plan to be submitted for approval by the appropriate committees and upon such approval, submitted for approval by City Council following execution of this agreement.

3. Improvements on Abel Street (Subdivider Improvements and Grant Project Improvements):

The City has obtained a grant for the construction of certain pedestrian and bicycle oriented surface improvements for Abel Street ("Grant Project Improvements") of which certain improvements would otherwise be required to be completed by SUBDIVIDER as Subdivider Improvements pursuant to the conditions of approval for the Centria West project and this Agreement. The Grant Project Improvements are set forth in detail in "Attachment 1 SOUTH ABEL GRANT PROJECT CIP 4260." The Grant Project Improvements shall be constructed by the City's contractor and shall be funded through a combination of grant monies from the Santa Clara Valley Transportation Authority ("VTA") and City funds, directed through the City. The City shall have the design and construction management responsibility for the Grant Project Improvements with the combined funding responsibility as noted above.

SUBDIVIDER shall have no payment obligations with respect to the Grant Project Improvements.

- a) The SUBDIVIDER shall complete all Subdivider Improvements on Abel Street, as set forth in Improvement Plan No. 2-1143 (formerly 2-1046, phase 2).
- b) SUBDIVIDER shall coordinate the location of Subdivider Improvements such as the Abel Street driveway to its site so that reconstruction is not required after the completion of the grant project.
- c) Other than the work to be performed by SUBDIVIDER pursuant to Section 3(d) below, SUBDIVIDER agrees to complete all construction work for all Subdivider Improvements listed in Improvement Plan No. 2-1143, Centria West, which would conflict with the construction of Grant Project Improvements. To this end, all potential conflicting work shall be completed before **December 30, 2012**. Furthermore, any improvement work in or near the grant project area by SUBDIVIDER after December 30, 2012, shall be performed in a manner so as to not damage Grant Project Improvements work which may include directional drilling or alternate alignment.

- d) Project conditions of approval (Resolution No. 09-032) relating to surface improvements for Abel Street (including but not limited to the raised landscape median in Abel Street, street lights along Able Street, curb, gutter, repaving and restriping of Abel Street) will be modified. SUBDIVIDER will be relieved of all of these improvements covered by the Grant Project. In lieu of performing any of the work related to Abel Street described in the Grant Project, SUBDIVIDER agrees to pay the sum of \$180,000.00 to the City for the City to undertake street restoration of pavement repairs, repaving, and restriping of Abel Street from Great Mall to Capital Avenue to be programmed in the City's Street Resurfacing Program. The sum of \$180,000.00 will be paid by Subdivider within 30 days of execution of this Agreement by the City. These improvements shall be constructed by the City after all related grant improvements are completed in coordination with SUBDIVIDER's off-site improvements to serve Centria West as shown in Improvement Plan No. 2-1143 and terms of this agreement.
 - e) No access shall be allowed off Abel Street during and after the construction of the Grant Project Improvements except through the Centria West project site driveway and the emergency vehicle access driveway, unless otherwise consented to by the City. Driveway access restriction may be required during construction of the Grant Project Improvements.
 - f) SUBDIVIDER is required to provide an irrigation controller with adequate stations for the median on South Abel Street the streetscape on South Abel Street and Great Mall Parkway, and the public park.
4. SUBDIVIDER agrees to pay additional fees such as water, sewer and storm water connection and sewer treatment plant if the number of units exceeds **366**.
 5. 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.
 6. SUBDIVIDER agrees that said all Subdivider Improvements shall be constructed under and subject to the inspection of and to the satisfaction of the City Engineer.
 7. SUBDIVIDER agrees that it will construct Subdivider Improvements in accordance with the requirements set forth in said "Improvement Plans and Specifications" referred to above, all applicable ordinances, resolutions and other of CITY enacted or adopted by said City Council as amended or revised as of the date hereof, and governing status of the State of California or the United States of America.
 8. Other than the completion of the park improvements, all Subdivider 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. In the event the improvements are not completed within such timeframe, upon mutual agreement by SUBDIVIDER and the City Engineer, the time frame to complete the improvements may be extended for a period of up to twelve (12) months. 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.
 9. 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.

10. City acknowledges that SUBDIVIDER has filed and submitted security to CITY, as obligee, in the penal sum of **\$1,000,000** for SUBDIVIDER's subdivision improvement work to be performed under this Agreement, 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. The subdivision improvement work of SUBDIVIDER, excluding the costs of the park improvements, is \$371,400, based on that certain engineer's estimate of SUBDIVIDER dated June 13, 2011. In the event the construction costs related to the park improvements are in excess of \$668,600, then SUBDIVIDER shall promptly post additional security in an amount equal to such excess.
11. Subject to the limitations set forth in Section 2 hereof, SUBDIVIDER agrees to pay all costs for labor or materials in connection with the work of improvement hereunder.
12. 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 by the City Council of said work to fulfill the one-year maintenance guarantee period for said improvements, and all deficiencies have been corrected.
13. 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 \$1,000,000 for each person and \$1,000,000 for each occurrence and \$1,000,000 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.
14. 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.

15. 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.
16. SUBDI VIDER agrees that it will carry out and shall cause its contractors to carry out construction of the said Subdivider Improvements in conformity with all applicable laws and regulations, including without limitation, all applicable federal and state labor laws and standards. To the extent applicable to the Centria West Project, SUBDIVIDER and its subcontractors and agents, shall comply with California Labor Code Section 1720 et seq. and regulations adopted pursuant thereto ("**Prevailing Wage Laws**") and shall be responsible for carrying out the requirements of such provisions.
17. SUBDIVIDER shall, and hereby agrees to indemnify, defend (with counsel approved by City/Agency), protect and hold harmless the Indemnitees from and against any and all Claims whether known or unknown, and which directly or indirectly, in whole or in part, are caused by, arise from, or relate to, or are alleged to be caused by, arise from, or relate to, the payment or requirement of payment of prevailing wages, the failure to comply with any state or federal labor laws, regulations or standards in connection with this Agreement, including but not limited to the Prevailing Wage Laws, or any act or omission of Agency, City or SUBDIVIDER related to this Agreement with respect to the payment or requirement of payment of prevailing wages, whether or not any insurance policies shall have been determined to be applicable to any such Claims. It is further agreed that Agency and City do not, and shall not, waive any rights against SUBDIVIDER which they may have by reason of this indemnity and hold harmless agreement because of the acceptance by Agency or City, or SUBDIVIDER's deposit with Agency of any of the insurance policies described in this Agreement.
18. 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. Additionally, SUBDIVIDER shall submit Record Drawings in electronic PDF, TIFF, and AutoCAD format prior to initial acceptance.
19. Upon completion of the work, and before City Council final acceptance thereof, SUBDIVIDER shall be billed for and pay for City costs and expenses related to plan review, administration, and inspection services for the project. If the amount in SUBDIVIDER'S account with the City held for such costs is less than the actual costs of the City, then SUBDIVIDER shall pay the difference. If the amount in SUBDIVIDER'S account with the City held for such costs is greater than the actual costs of the City, then SUBDIVIDER shall be refunded the difference. Upon request by SUBDIVIDER, City will provide reasonable backup documentation evidencing the costs incurred by the City associated with SUBDIVIDER's Private Job Account.
20. 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.

21. SUBDIVIDER shall record the necessary condominium plans, related documents (CC&R, bylaws) and project documents (O&M agreement of C3 storm drain treatment facilities) as stated in the approved conditions and notes of approval of the project.
22. 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.
23. SUBDIVIDER hereby irrevocably offers to convey title of the public improvements, 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 by law.
24. 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.
25. 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 Subdivider 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.
26. 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.
27. 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.
28. 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.
29. SUBDIVIDER agrees to comply with all conditions 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. 2583 for this purpose with additional deposits as required by CITY.

A. Fees to be paid within thirty (30) days of execution of this agreement by the City:

a)	Plan-check and Inspection (Private Job Account pursuant to Section 19)	(PJ2583-13-2500)	\$75,000.00
b)	Right-of-Way Reimbursement Fee	(310-3614-XXXX50)	<u>Not Applicable</u>
c)	Other <u>Traffic Impact Fee</u> (COA No. 16)	(100-3718)	<u>\$25,909</u>
d)	Improvement Reimbursement Fee	(310-3614-XXXX70)	\$180,000.00

Sub-total **\$280,000.00**

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

a)	Water Connection Fee Additional 39 units (combined East & West 503-464) @ \$1,164/unit	(402-3715)	\$45,396.00
b)	Potable Water Meter Fee 1- 4" Portable Water Meter	(400-3662)	\$3,036.62
c)	Irrigation Water Meter Fee 1-2" Water Meter	(406-3622)	\$1,116.04
d)	Sanitary Sewer Connection Fee Additional 39 units (combined East & West 503-464) @ \$1,406/unit	(452-3715)	\$54,834.00
e)	Sewer Treatment Plant Fee All 366 (West) units @ \$690 per unit	(452-3714)	\$252,540.00
f)	Sewer Bypass Benefit Fund	(HA1320-2500)	<u>Not Applicable</u>
g)	Storm Drain Connection Fee	(340-3711)	<u>Paid</u>
h)	Park Fee (1)	(320-3712)	\$1,079,598
		Subtotal(1)	\$1,436,520.66
j)	Permitting Automation Fee (2.5% of building permit fees)	(505-3601)	\$42,935.74
		Total (1)	\$1,760,365.40

(1) Park Fee will not be paid at time of building permit issuance but instead SUBDIVIDER will design and construct public park improvements pursuant to Section 2 and costs of such design and construction will be credited toward Park Fee. Unused credits of Park Fee, if any, will be paid pursuant to Section 2.

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

CITY OF MILPITAS

SUBDIVIDER

By: _____
Thomas C. Williams, City Manager

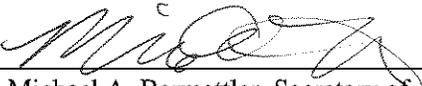
** Attach proper acknowledgment.

ATTESTED:

MILPITAS CENTRIA WEST, LLC, a Delaware
Limited liability company

By Colony – LCV Venture, LLC, a Delaware
Limited liability company, its Sole Member

By: _____
Mary Lavelle, City Clerk

** By:  _____
Michael A. Barnettler, Secretary of
Managing Member

APPROVED AS TO FORM

By: _____
Michael J. Ogaz, City Attorney

APPROVED AS TO SUFFICIENCY

By: _____
Greg Armendariz, Public Works Director/City Engineer

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

CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

State of California

County of Orange

On July 26, 2011 before me, Amina Yazdanie, Notary Public
(Here insert name and title of the officer)

personally appeared Michael Anthony Barmettler

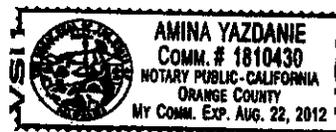
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity(ies), and that by his/~~her/their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Amina Yazdanie
 Signature of Notary Public

(Notary Seal)



ADDITIONAL OPTIONAL INFORMATION

INSTRUCTIONS FOR COMPLETING THIS FORM

Any acknowledgment completed in California must contain verbiage exactly as appears above in the notary section or a separate acknowledgment form must be properly completed and attached to that document. The only exception is if a document is to be recorded outside of California. In such instances, any alternative acknowledgment verbiage as may be printed on such a document so long as the verbiage does not require the notary to do something that is illegal for a notary in California (i.e. certifying the authorized capacity of the signer). Please check the document carefully for proper notarial wording and attach this form if required.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. ~~he/she/they~~ is /are) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
 - ❖ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
 - ❖ Indicate title or type of attached document, number of pages and date.
 - ❖ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document

DESCRIPTION OF THE ATTACHED DOCUMENT

 (Title or description of attached document)

 (Title or description of attached document continued)

Number of Pages _____ Document Date _____

 (Additional information)

CAPACITY CLAIMED BY THE SIGNER

- Individual (s)
 Corporate Officer

 (Title)

- Partner(s)
 Attorney-in-Fact
 Trustee(s)
 Other _____

Principal: _____
Project Name: _____

Project No. _____
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: _____

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, in the penal sum of _____ Dollars (\$ _____), 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 _____, 20__.

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 _____, 20__.

(Name)

(Type Name)

Address: _____

Subscribed and sworn to before me, a)
Notary Public, this _____ day of)
_____, 20__.

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: _____

Project No. _____
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:

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 _____ Dollars (\$ _____), 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 _____, 20__.

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 _____, 20__.

(Name)

(Type Name)

Address: _____

Subscribed and sworn to before me, a)
Notary Public, this _____ day of)
_____, 20__.

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: _____

Project No. _____
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 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, and that Engineer or Surveyor, who set said survey monuments in the penal sum of _____ Dollars (\$ _____), 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 _____, 20____.

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 _____, 20__.

(Name)

(Type Name)

Address: _____

Subscribed and sworn to before me, a)
Notary Public, this _____ day of)
_____, 20__.)

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: _____

Project No. _____

Project Name: _____

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

Subdivider: _____

Project No. _____

Project Name: _____

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 _____, 20__.

Authorized Signatory (Sign)

(Type Name)

SUBSCRIBED AND SWORN TO BEFORE ME, a Notary Public, this _____ day of _____, 20__.

(Sign)

(Type Name)

Subdivider: _____

Project No. _____

Project Name: _____

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 _____, 20__.

Authorized Signatory (Sign)

(Type Name)

SUBSCRIBED AND SWORN TO BEFORE ME, a Notary Public, this _____ day of _____, 20__.

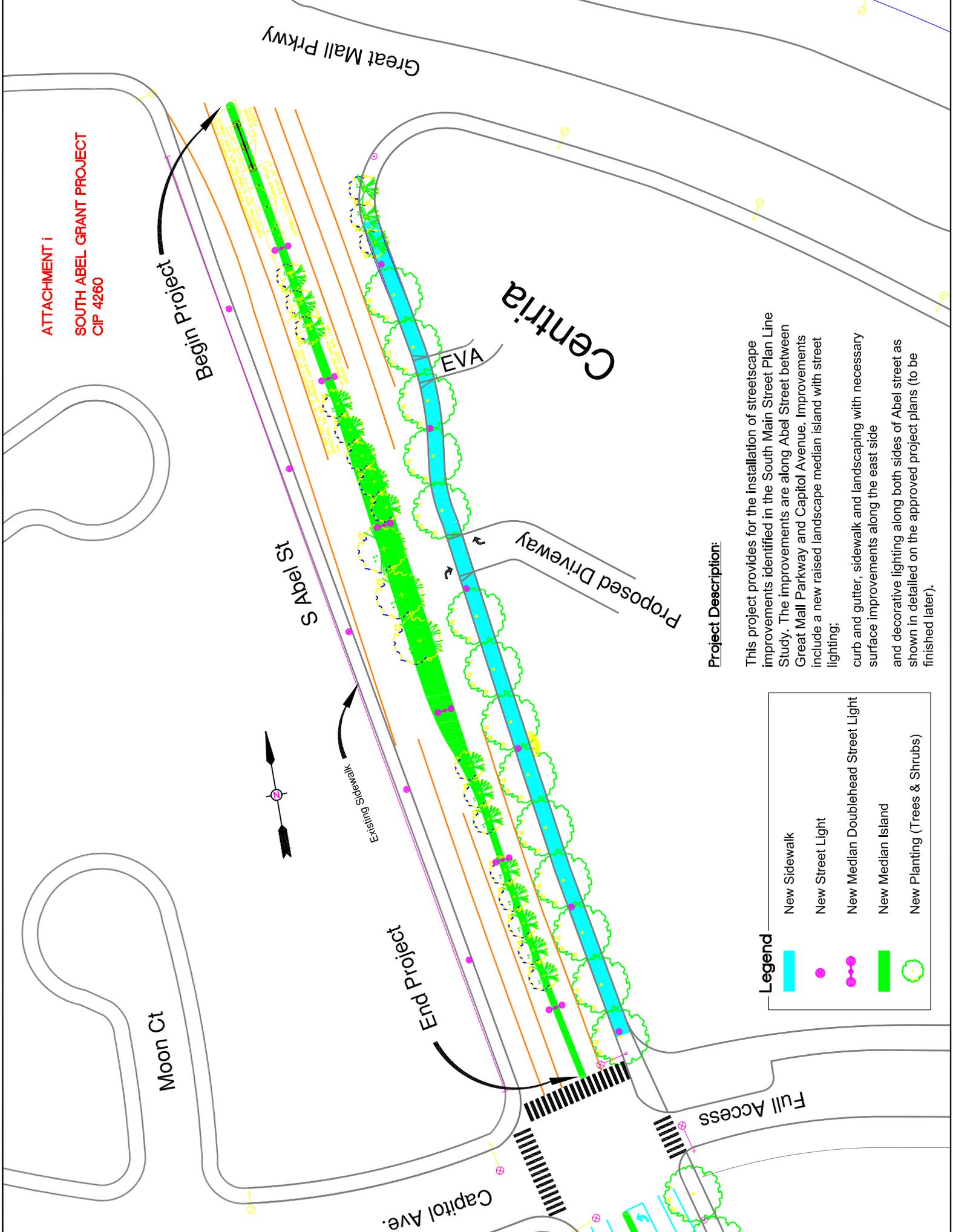
(Sign)

(Type Name)

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

FORM APPROVED: _____, 20__, by _____

ATTACHMENT I
SOUTH ABEL GRANT PROJECT
CIP 4260



Project Description:

This project provides for the installation of streetscape improvements identified in the South Main Street Plan Line Study. The improvements are along Abel Street between Great Mall Parkway and Capitol Avenue. Improvements include a new raised landscape median island with street lighting; curb and gutter, sidewalk and landscaping with necessary surface improvements along the east side and decorative lighting along both sides of Abel street as shown in detailed on the approved project plans (to be finished later).

Legend

	New Sidewalk
	New Street Light
	New Median Doublehead Street Light
	New Median Island
	New Planting (Trees & Shrubs)

