

CITY OF REDLANDS

SUBDIVISION IMPROVEMENT AGREEMENT

THIS AGREEMENT is made this 7th day of October, 1997, by and between the City of Redlands a municipal corporation, hereinafter referred to as "City," and Osborne Development Corporation, hereinafter referred to as "Developer."

RECITALS

WHEREAS, Developer is the owner of that certain tract of land situated in the City of Redlands, San Bernardino County, California, generally known and described as Tract No. 15040 and Developer proposes to do and perform certain works of improvement (the "Improvements") thereon as hereinafter set forth; and

WHEREAS, City desires to assure that the Improvements will be done in a good and workmanlike manner and in accordance with the laws now in force and effect in the City. Developer declares that he is familiar with the regulations contained in the Redlands Municipal Code and in the Subdivision Map Act [Government Code §§66410-66499.37] and agrees to comply therewith; and

WHEREAS, a final map of said tract prepared in accordance with the provisions of the Redlands Municipal Code and the Subdivision map Act has been filed by Developer with City for approval by the City Council of City;

NOW, THEREFORE, in consideration of the approval and acceptance by the City Council of the City of said final map and the covenants herein contained, the parties hereto mutually covenant and agree as follows:

1. General Requirements. Developer shall, at its own cost and expense, construct and complete all of the Improvements to the satisfaction of City within 12 months from the date of execution of this Agreement at an estimated cost of One Million, One Hundred Forty-eight Thousand, Six Hundred Fifty-seven Dollars (\$1,148,657.00), including the cost of plan checking and inspection, which is the estimate of the engineers acting for Developer and City. The time for completion may be extended by the City in writing for good cause shown by Developer.

2. Definition and Ownership of Improvements. The term "Improvements" includes but is not limited to: grading, paving, curbs and gutters, pathways, storm drains and sanitary sewers, water lines, utilities, street lights, traffic signals and all appurtenant facilities which are shown in detail upon plans, profiles and specifications that have been prepared by engineers acting for Developer and approved by City, which are attached as Exhibit "A." No work on the

improvements shall commence until plans and profiles therefor have been submitted to and approved by the City and appropriate permits issued. The cost of this checking and inspection shall be paid by Developer. All Improvements constructed or installed pursuant to this Agreement expressly including, but not limited to, paving, curbs and gutters, pathways, storm drains and sanitary sewers, waterlines, utilities, street lights, traffic signals and all appurtenant facilities shall become the sole exclusive property of City, without payment therefor, upon acceptance of those improvements by City.

3. Time of Completion. All of the Improvements shall be completed within 12 months from the date of execution of this Agreement. In the event that Developer fails to complete the Improvements within that time period, City may complete the work and recover the full cost and expenses of the work from Developer, or Developer's surety as hereafter provided. City may require Developer, or Developer's surety, to pay City in advance, sufficient monies to cover City's cost in completing construction of the Improvements.

4. Surety Bond. Contemporaneously with the execution of this Agreement, Developer shall file with City appropriate security in a form and amount determined by City pursuant to Section 66499.3 of the California Government Code and the Redlands Municipal Code, to guarantee faithful performance of all of the provisions of this Agreement and compliance with all of the provisions of the Redlands Municipal Code, and securing payment to Developer's contractor, its subcontractor and to persons renting equipment or furnishing labor or materials to them for the Improvements required under this Agreement. The security shall reflect the requirements of Section 66499 through 66499.10 of the California Government Code.

5. Effective Date. This Agreement shall not become effective unless and until the subdivision map of the above tract is approved by the City Council of City and accepted for recordation by the County Recorder of the County of San Bernardino.

6. Liability for Nonperformance. Neither City nor any of its elected officials, officers, employees or agents shall be liable to Developer or its contractors for any error or omission arising out of or in connection with any work to be performed under this Agreement.

7. Liability for Personal Injuries. City shall not be liable to the Developer or to any other person, firm, or corporation whatsoever, for any injury or damage that may result to any person or property by or from any cause whatsoever in, on, or about the subdivision of said land covered by this Agreement, or any part thereof.

8. Release and Indemnification. Developer shall defend, indemnify and save City, its elected officials, officers, employees and agents harmless from and against any and all injuries

to and deaths of persons and injuries to property, and all claims, demands, costs, loss, damage and liability, howsoever the same may be caused and whensoever the same may appear, resulting directly or indirectly from the performance or nonperformance of any or all work to be done in and upon the street rights of way in said subdivision and upon the premises adjacent thereto pursuant to this Agreement, and also from any and all injuries to and deaths of persons and injuries to property or other interests, and all claims, demands, costs loss, damage, and liability, howsoever same may be caused and whensoever the same may appear, either directly or indirectly made or suffered by Developer, Developer's agents, employees, and subcontractors, while engaged in the performance of said work.

Prior to the commencement of any work pursuant to this contract, Developer's contractors shall furnish to City satisfactory evidence of an insurance policy written upon a form and by a company which meets with the approval of City insuring City, its elected officials, officers, agents, and employees against loss or liability which may arise during the work or which may result from any of the work herein required to be done, including all costs of defending any claim arising as a result thereof. The minimum limits of such policy shall be in the amount of One Million Dollars (\$1,000,000) for the death of or injury to any person in any one incident, One Million Dollars (\$1,000,000) for the death of or injury to any person in any one incident, One Million Dollars Dollars (\$1,000,000) for the death of or injury to more than one person in any one accident and Two Hundred Thousand Dollars (\$200,000) for property damage in any one accident. Said policy shall be in favor of Developer and of City, its officers, agents, and employees and shall be maintained in full force and effect during the life of this contract. Said policy shall state by its terms and by an endorsement that said policy shall not be cancelled until City shall have had at least 45 days' notice in writing of such cancellation. Further, such insurance shall be primary with respect to City and non-contributing to any insurance or self insurance maintained by City.

9. Liability of Developer. Developer agrees that the use for any purpose and by any person of any and all of the streets and Improvements hereinbefore specified, shall be at the sole and exclusive risk of Developer at all times prior to final acceptance by City of the completed street and other improvements thereon and therein; provided, that acceptance by City shall in no way eliminate or lessen any of Developer's obligations or undertakings contained in this Agreement. The issuance of any occupancy permits by City for dwellings located within said subdivision shall not be construed in any manner to constitute an acceptance and approval of any or all of the streets and improvements in said subdivision.

10. Developer's Expenses. Developer shall pay for the following expenses:

a. Developer and his subcontractors shall pay for any materials, provisions, and other supplies or equipment used in, upon, for, or about the performance of the work contracted to be done, and for any work or labor thereon of any kind, and for a payment bond with respect to such work or labor, as required by Civil Code Section 3247.

b. All required improvements shall be constructed under the inspection of and subject to the approval of the City Engineer. The cost of inspections shall be paid by Developer.

11. Approval by City Engineer. It is mutually agreed by the parties hereto that the City Engineer shall have the right to reject any or all of the work to be performed under this contract if such work does not conform with the plans and specifications mentioned herein or the ordinances of City. Any damage to the sewer system, utilities, concrete work, street paving or other improvements that occurs after installation shall be made good to the satisfaction of the City Engineer by Developer before release of bond or final acceptance of completed work.

12. Obligations of Developer. Notwithstanding the fact that Developer's plans and specifications, completion of the work, and other acts are subject to approval of City, it is understood and agreed that any approval by City thereof shall in no way relieve Developer of satisfactorily performing said work or his obligations hereunder. The construction shall be done strictly in accordance with the plans and specifications prepared by Developer or its engineer, with said City standard specifications and with the provisions of the Redlands Municipal Code. Developer warrants that its plans and specifications conform as a minimum to said City standard specifications and with the provision of the Redlands Municipal Code and that they are adequate to accomplish the work in a good workmanlike manner and in accordance with sound construction practices.

13. Warranty. Without limiting the foregoing, Developer warrants and guarantees materials used and workmanship performed on said work for a period of three (3) years after completion and acceptance thereof by the City Engineer.

14. Notice of Completion. Developer shall file a Notice of Completion of the improvements herein specified and shall concurrently mail a copy to the City Engineer.

15. Relationship of Contractors. It is hereby mutually covenanted and agreed by the parties hereto that Developer's contractors are not agents of City, and that the contractor's relations to City, if any, are those of independent contractors.

16. Certification of Satisfactory Completion. Upon the satisfactory completion of the improvements by the Developer, the City Engineer shall certify that the work of said

improvements has been satisfactorily completed.

17. Assignment. This Agreement shall not be assignable by Subdivider without the written consent of City.

18. Filing of Record Drawings. Upon completion of the job and subsequent to the acceptance of the job by City, the Developer shall supply City with one mylar (4 mils) set of record drawings. These drawings shall be certified as being record drawings and shall reflect the job as actually constructed, with all changes incorporated therein.

19. Attorneys' Fees. In the event any legal action is commenced to enforce or interpret the terms or conditions of this Agreement the prevailing party shall, in addition to any costs and other relief, be entitled to the recovery of its reasonable attorneys' fees.

Executed on 10-2, 1977, at LAGUNA HILLS, California.

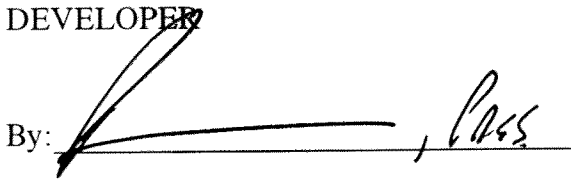
CITY OF REDLANDS

ATTEST:

By: 
Mayor


City Clerk

DEVELOPER

By: , Pass

By: _____

ALL-PURPOSE ACKNOWLEDGMENT

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO) SS
CITY OF REDLANDS)

By the authority granted under Chapter 4, Article 3, Section 1181, of the California Civil Code, and Chapter 2, Division 3, Section 40814, of the California Government Code, on October 7, 1997, before me, Beatrice Sanchez, Deputy City Clerk, on behalf of Lorrie Poyzer, City Clerk of the City of Redlands, California, personally appeared Swen Larson and Lorrie Poyzer { X } personally known to me - or - { } proved to me on the basis of satisfactory evidence to be the persons whose names) are subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacities and that by their signatures on the instrument the persons, or the entity upon behalf of which the persons acted, executed the instrument.



WITNESS my hand and official seal.

LORRIE POYZER, CITY CLERK

By: Beatrice Sanchez
Beatrice Sanchez, Deputy City Clerk
(909)798-7531

CAPACITY CLAIMED BY SIGNER(S)

- { } Individual(s) signing for oneself/themselves
{ } Corporate Officer(s)
Title(s) _____
Company _____
{ } Partner(s)
Partnership _____
{ } Attorney-In-Fact
Principal(s) _____
{ } Trustee(s)
Trust _____
{ x } Other
Title(s): Mayor and City Clerk
Entity Represented: City of Redlands

THIS CERTIFICATE MUST BE ATTACHED TO THE DOCUMENT DESCRIBED BELOW:

Title or Type of Document: Subdivision Improvement Agreement
Number of Pages : eight Date of Document: October 7, 1997
Signer(s) Other Than Named Above: Robert E. Osborne

STATE OF CALIFORNIA)

) SS.

COUNTY OF ORANGE)

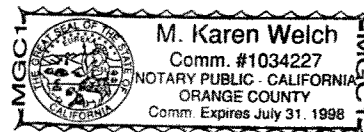
On October 3, 1997, before me, M. Karen Welch, personally appeared Robert D. Osborne, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity and that his signature on the instrument the person or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Signature

M. Karen Welch

(Official Notarial Seal)



CITY OF REDLANDS
SUBDIVISION IMPROVEMENT AGREEMENT

EXHIBIT "A"

TRACT NO. 15040

<u>Description</u>	<u>Drawing No.</u>	<u>Approval Date</u>	<u>No. Of Sheets</u>
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The following plans are on file in the office of the Municipal Utilities Director:

Water Improvement Plans Tract No. 15040	D-60490	07/09/91	3
Sanitary Sewer Tract No. 15040	F-1409	07/09/91	7

The following plans are on file in the office of the Public Works Director:

Street Improvement Plans Tract No. 15040	F-1543	09/10/97	7
Storm Drain Plan	F-1357-3	12/22/89	1