

CITY OF REDLANDS
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 Robert E. Osborne, a California 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 associated with grading, erosion control plans and landscape plans (the "Improvements") therefor, as hereinafter set forth; and

WHEREAS, City desires to ensure 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; and

WHEREAS, grading and erosion control plans and a final map of said tract prepared in accordance with the provisions of the Redlands Municipal Code and the Subdivision Map Act have 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 Community Development Department of the City of said grading plan, erosion control plan, landscape plan, subdivision tract map and associated improvements, 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 on or before the first day of July, 1998, at an estimated cost of Five Hundred Thousand Dollars (\$589,148.00), including the cost of plan checking and inspection, which is the estimate of engineers acting for Developer and City. The time for completion may be extended by, City in writing, for good cause shown by Developer and agreed to by City.

2. Definition and Ownership of Improvements. The term "Improvements" includes but is not limited to: grading, landscaping, irrigation systems and associated work, which are shown in detail upon plans, profiles and specifications that have been prepared by engineers acting for Developer subject to approval by City. No work on the Improvements shall commence until plans and profiles therefor have been submitted to and approved by City. The cost of plan checking and inspection shall be paid by Developer.

3. Time of Completion. All of the Improvements shall be completed by July 1, 1998. 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, 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. 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.

6. 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.

7. Release and Indemnification. Developer shall defend, indemnify and save City, its elected officials, officers and employees 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 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 Agreement, Developer's

contractors shall furnish to City satisfactory evidence of an insurance policy on an "occurrence" basis 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, Three Million Dollars (\$3,000,000) in the aggregate for the death of or injury to more than one person in any one accident and One Million Dollars (\$1,000,000), and Three Million Dollars (\$3,000,000) in the aggregate, for public liability and property damage in any one accident. Said policy shall be in favor of Developer and of City, its elected officials, officers, agents, and employees and shall be maintained in full force and effect during the life of this Agreement. 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 30 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.

8. Liability of Developer. Developer agrees that the use for any purpose and by any person of the Improvements hereinbefore specified, shall be at the sole and exclusive risk of Developer. 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 Improvements in said subdivision.

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

a. Developer and its 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 Chief Building Official. The cost of inspections shall be paid by Developer.

10. Approval by Community Developer Director. It is mutually agreed by the parties hereto that the Community Developer Director shall have the right to reject any or all of the work to be performed under this Agreement if such work does not conform with the plans and specifications mentioned herein or the ordinances of City.

11. 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.

12. 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.

13. Certification of Satisfactory Completion. Upon the satisfactory completion of the improvements by the Developer, the Community Developer Director shall certify that the work of said Improvements has been satisfactorily completed.

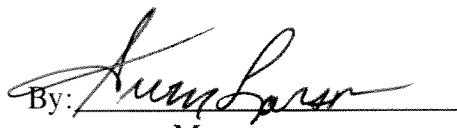
14. Assignment. This Agreement shall not be assignable by Developer without the written consent of City.

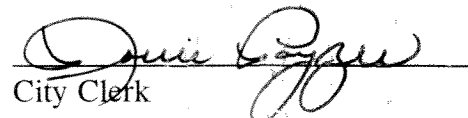
15. Attorneys' Fees. In the event any action is commenced to enforce or interpret the terms or conditions of this Agreement the prevailing party shall in addition to any costs or other relief, be entitled to the recovery of its reasonable attorneys' fees.

Executed on the 7th day of October, 1997, at Redlands, California.

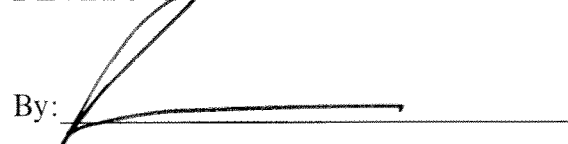
CITY OF REDLANDS

ATTEST:

By: 
Mayor


City Clerk

DEVELOPER

By: 

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: Improvement Agreement
Number of Pages : six 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 C. 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

WITNESS my hand and official seal.

Signature R. Loren Helak

(Official Notarial Seal)



changes which were recently negotiated for each of the City's bargaining units; changes in the Federal minimum wage laws; changes which were approved as part of the City's budget process including the addition of a Solid Waste Landfill Supervisor, the addition of a part-time Museum Attendant in the Library, and the changes associated with the consolidation of the Human Services Department and the Police Department; the conversion of the last Administration Clerk position to Senior Administrative Clerk position (unfunded for the current fiscal year) and an additional Police Officer position which was approved by the City Council on July 15, 1997, and funded by the Serious Habitual Offender grant.

Resolution No. 5421 - DBE Program - On motion of Councilmember Gilbreath, seconded by Councilmember Cunningham, the City Council unanimously adopted Resolution No. 5421, a resolution of the City of Redlands establishing a Disadvantage Business Enterprise (DBE) Program, appointing a DBE liaison officer, establishing DBE goals, and rescinding Resolution No. 5319. This program is required by State and Federal agencies prior to performing street construction projects using Federal and/or State highway monies.

✓ Agreement - Osborne Development Corporation - On motion of Councilmember Gilbreath, seconded by Councilmember Cunningham, the City Council unanimously approved a subdivision agreement between the City of Redlands and Osborne Development Corporation for construction of off-site improvements in conjunction with the development of Tract No. 15040 located at Golden West Drive and Ford Street, and authorized the Mayor to sign the agreement on behalf of the City.

✓ Agreement - Osborne Development Corporation - On motion of Councilmember Gilbreath, seconded by Councilmember Cunningham, the City Council unanimously approved an improvement agreement between the City of Redlands and Robert E. Osborne for the preparation of grading plans, erosion control plans, and final landscape plans prior to the final map and/or grading permits for Tract No. 15040 located at Golden West Drive and Ford Street, and authorized the Mayor to sign the agreement on behalf of the City.

✓ Tract No. 15040 - Final Approval - Osborne Development Corporation - On motion of Councilmember Gilbreath, seconded by Councilmember Cunningham, the City Council unanimously granted final approval for Tract No. 15040, a Planned Residential Development subdivision of approximately 52.1 acres into 58 single family lots and related open space for property generally located easterly of Ford Street and southerly of the I-10 Freeway in Specific Plan No. 23. The tract received tentative approval from the Planning Commission on