

**SUBDIVISION IMPROVEMENT AGREEMENT**

DATE OF AGREEMENT May 8, 2018

NAME OF SUBDIVIDER: Moorehoward Investments, LLC  
(referred to as SUBDIVIDER)

NAME OF SUBDIVISION: TSM 475  
(referred to as SUBDIVISION)

TENTATIVE MAP RESOLUTION OF APPROVAL NO.: PC08-4016  
(referred to as "Resolution of Approval")

IMPROVEMENT PLANS NO.: IP17-00001  
(referred to as "Improvement Plans")

ESTIMATED TOTAL COST OF IMPROVEMENTS: \$44,960

ESTIMATED TOTAL COST OF MONUMENTATION: N/A

SURETY: Sure Tec Insurance Company

BOND NOS.: \_\_\_\_\_

This Agreement is made and entered into by and between the CITY OF SAN MARCOS, a Municipal Corporation of the State of California, hereinafter referred to as CITY, and the SUBDIVIDER.

**RECITALS**

- A. SUBDIVIDER has presented to CITY for approval and recordation, a final subdivision map of a proposed subdivision pursuant to the provisions of the Subdivision Map Act of the State of California and the CITY'S ordinances and regulations relating to the filing, approval and recordation of subdivision maps. The Subdivision Map Act and the CITY'S ordinances and regulations relating to the filing, approval and recordation of subdivision maps are collectively referred to in this Agreement as the "Subdivision Laws".
- B. A tentative map of the subdivision has been approved, subject to the Subdivision Laws and to the requirements and conditions contained in the Resolution of Approval. The Resolution of Approval is on file in the Office of the City Clerk and is incorporated into this Agreement by reference.

- C. The Subdivision Laws establish as a condition precedent to the approval of a final map that SUBDIVIDER must have complied with the Resolution of Approval and must have either (a) completed, in compliance with CITY standards, all of the improvements and land development work required by the Subdivision Laws or the Resolution of Approval or, (b) have entered into a secured agreement with CITY to complete the improvements and land development within a period of time specified by CITY.
- D. In consideration of approval of a final map of the subdivision by the CITY Council, SUBDIVIDER desires to enter into this Agreement, whereby SUBDIVIDER promises install and complete, at SUBDIVIDER'S own expense, all the public improvement work required by CITY in connection with the proposed subdivision. SUBDIVIDER has secured this Agreement by improvement security required by the Subdivision Laws and approved by the City Attorney.
- E. Complete Improvement Plans for the construction, installation and completion of the improvements have been prepared by SUBDIVIDER and approved by the City Engineer. The Improvement Plans numbered as referenced previously in this Agreement are on file in the Office of the City Engineer and are incorporated into this Agreement by this reference. All references in this Agreement to the Improvement Plans shall include reference to any specifications for the improvements as approved by the City Engineer.
- F. An estimate of the cost of construction of the public improvements and performing land development work in connection with the improvements according to the Improvement Plans has been made and has been approved by the City Engineer. The estimated amount is stated on Page 1 of this Agreement. The basis for the estimate is attached as Exhibit "A" to this Agreement.
- G. The CITY has adopted standards for the construction and installation of improvements within the CITY. The Improvement Plans have been prepared in conformance with the CITY standards in effect on the date of approval of the Resolution of Approval.

- H. Within thirty days after the completion of the required improvements and their acceptance by the CITY, it is necessary that certain monuments and stakes as specified on the final maps for the subdivision, shall be installed and, also, that street signs be placed at intersections.
- I. SUBDIVIDER recognizes that by approval of the final map for SUBDIVISION, CITY has conferred substantial rights upon SUBDIVIDER, including the right to sell, lease, or finance lots within the SUBDIVISION, and has taken the final act necessary to subdivide the property within the subdivision. As a result, CITY will be damaged to the extent of the cost of installation of the improvements by SUBDIVIDER'S failure to perform its obligation to commence construction of the improvements by the time established in this Agreement. CITY shall be entitled to all remedies available to it pursuant to this Agreement and law in the event of a default by SUBDIVIDER. It is specifically recognized that the determination of whether a reversion to acreage or rescission of the SUBDIVISION constitutes an adequate remedy for default by the SUBDIVIDER shall be within the sole discretion of CITY.

NOW, THEREFORE, in consideration of the approval and recordation by the City Council of the final map of the subdivision, SUBDIVIDER and CITY agree as follows:

1. **SUBDIVIDER'S Obligations to Construct Improvements**

SUBDIVIDER shall:

- a. Comply with all the requirements of the Resolution of Approval, and any amendments thereto, and with the provisions of the Subdivision Laws.
- b. Complete at **SUBDIVIDER'S** own expense, all the public improvement work required on the Tentative Map and Resolution of Approval in Conformance with approved Improvement Plans and the CITY standards as approved on Improvement Plans IP17-00001 by April 30, 2020.

- c. Furnish the necessary materials for the completion of the public improvements in conformity with the Improvement Plans and CITY Standards.
- d. Acquire and dedicate or pay the cost of acquisition by CITY of all rights-of-way, easements, and other interests in real property for construction and installation of the public improvements, free and clear of liens and encumbrances. The SUBDIVIDER'S obligations with regard to acquisition by CITY of off-site rights-of-way, easements and other interests in real property shall be subject to a separate agreement between SUBDIVIDER and CITY. SUBDIVIDER shall also be responsible for obtaining any public or private drainage easements or authorization to accommodate the SUBDIVISION.
- e. Commence construction of the improvements by the time established in Section 21 of this Agreement and complete the improvements by the deadline stated in Paragraph 1(b) above, unless a time extension is granted by the CITY as authorized in Section 21.
- f. Install all subdivision monuments required by law within thirty days after completion and acceptance of the public improvements by the CITY.
- g. Install street name signs conforming to CITY standards. If permanent street name signs have not been installed before acceptance of the improvements by the CITY, SUBDIVIDER shall install temporary street name signs according to such conditions as the City Engineer may require.

**2. Acquisition and Dedication of Easements or Rights-of-Way**

If any of the public improvement and land development work contemplated by this Agreement is to be constructed or installed on land not owned by SUBDIVIDER, no construction or installation shall be commenced before;

- a. The offer of dedication to CITY of appropriate rights-of-way, easements or other interests in real property, and appropriate authorization from property owner to allow construction or installation of the improvements or work, or
- b. The dedication to, and acceptance by, the CITY of appropriate rights-of-way, easements or other interests in real property, as determined by the City Engineer, or
- c. The issuance by a court of competent jurisdiction pursuant to the State Eminent Domain Law of an order of possession. SUBDIVIDER shall comply in all respects with this order of possession.

Nothing in this section 2 shall be construed as authorizing or granting an extension of time to SUBDIVIDER.

### 3. **Security**

SUBDIVIDER shall at all times guarantee SUBDIVIDER'S performance by furnishing to CITY and maintaining, good and sufficient security as required by the Subdivision Laws on forms approved by CITY for the purposes and in the amounts as follows:

- a. to assure faithful performance of this Agreement in regard to said improvements in an amount of 100% of the estimated cost of the improvements; and
- b. to secure payment to any contractor, subcontractor, persons renting equipment, or furnishing labor materials for the improvements required to be constructed and installed pursuant to this Agreement in the additional amount of 50% of the estimated cost of the improvements; and
- c. to guarantee or warranty the work done pursuant to this Agreement for a period of one year following acceptance thereof by CITY against any defective work or labor done or defective materials furnished in the additional amount of 25% of the estimated cost of improvements; and

- d. SUBDIVIDER shall also furnish to CITY good and sufficient security in the amount of 100% of the estimated cost of setting subdivision monuments as stated previously in this Agreement.

The securities required by this Agreement shall be kept on file with the City Engineer. The terms of the security documents referenced on page 1 of this Agreement are incorporated into this Agreement by this reference. If any security is replaced by another approved security, the replacement shall be filed with the City Engineer, and upon filing, shall be deemed to have made a part of and incorporated into this Agreement. Upon filing of a replacement security with the City Engineer, the former security may be released.

**4. Alterations to Improvement Plans**

- a. Any changes, alterations or additions to the improvement plans and specifications or to the improvements, not exceeding 10% of the original estimated cost of the improvement, which are mutually agreed upon by the CITY and SUBDIVIDER shall not relieve the improvement security given for faithful performance of this Agreement. In the event such changes, alterations, or additions exceed 10% of the original estimated cost of the improvement, SUBDIVIDER shall provide improvement security for faithful performance as required by Paragraph 3 of the Agreement for 100% of the total estimated cost of the improvement as changed, altered, or amended, minus any completed partial releases allowed by Paragraph 6 of this Agreement.
- b. The SUBDIVIDER shall construct the improvements in accordance with the CITY standards in effect at the time of adoption of the resolution of approval. CITY reserves the right to modify the standards applicable the subdivision and this Agreement, when necessary to protect the public safety or welfare or comply with applicable State or Federal law or CITY zoning ordinances. If SUBDIVIDER requests and is granted an extension of time for completion of the improvements, CITY may apply the standards in effect at the time of the extension.

**5. Inspection**

SUBDIVIDER shall at all times maintain proper facilities and safe access for inspection of the public improvements by CITY inspectors and to the shops wherein any work is in preparation. Upon completion of the work the SUBDIVIDER may request a final inspection by the City Engineer, or the CITY Engineer's authorized representative. If the City Engineer, or the designated representative, determines that the work has been completed in accordance with this Agreement, then the City Engineer shall certify the completion of the public improvements to the City Council. No improvements shall be finally accepted unless all aspects of the work have been inspected and determined to have been completed in accordance with the Improvement Plans and CITY standards. SUBDIVIDER shall bear all costs of inspection and certification.

**6. Release of Securities**

The securities required by this Agreement shall be released as follows:

- a. Security given for faithful performance of any act, obligation, work or Agreement shall be released upon the final completion and acceptance of the act or work, subject to the provisions of Subsection (b) hereof.
- b. The City Engineer may release a portion of the security given for faithful performance of improvement work as the improvement progresses upon application therefore by the SUBDIVIDER; provided, however, that no such release shall be for an amount less than 25% of the total improvement security given for faithful performance of the improvement work and that the security shall not be reduced to an amount less than 50% of the total improvement given for faithful performance until final completion and acceptance of the improvement work. In no event shall the City Engineer authorize a release of the improvement security which would reduce such security to an amount below that required to guarantee the completion of the improvement work and any other obligation imposed by this Agreement.

- c. Security given to secure payment to the contractor, his or her subcontractors, and to persons furnishing labor, materials or equipment shall, six months after the completion and acceptance of the work, be reduced to an amount equal to the total claimed by all claimants for whom liens have been filed and of which notice has been given to the CITY, plus an amount reasonably determined by the City Engineer to be required to assure the performance of any other obligations secured by the Security. The balance of the security shall be released upon the settlement of all claims and obligations for which the security was given.
- d. No security given for the guarantee or warranty for work shall be released until the expiration of the warranty period and until any claims filed during the warranty period have been settled. As provided in Paragraph 11, the warranty period shall not commence until final acceptance of all the work and improvements by the City Council.
- e. The CITY may retain from any security released, an amount sufficient to cover costs and reasonable expenses and fees, including reasonable attorney's fees and expert and consulting fees.

**7. Injury to Public Improvements, Public Property or Public Utilities Facilities**

SUBDIVIDER shall replace or have replaced, or repair or have repaired, as the case may be, all public improvements, public utilities facilities and surveying or subdivision monuments which are destroyed or damaged as a result of any work under this Agreement. SUBDIVIDER shall bear the entire cost of replacement or repairs of any and all public or public utility property damaged or destroyed by reason of any work done under this Agreement, whether such property is owned by the United States or any agency thereof, or the State of California, or any agency or political subdivision thereof, or by the CITY or any public or private utility corporation or by any combination of such



owners. Any repair or replacement shall be to the satisfaction, and subject to the approval of the City Engineer.

**8. Permits**

SUBDIVIDER shall, at SUBDIVIDER'S expense, obtain all necessary permits and licenses for the construction and installation of the improvements, give all necessary notices and pay all fees and taxes required by law.

**9. Default of SUBDIVIDER**

a. Default of SUBDIVIDER shall include, but not be limited to:

- (1) SUBDIVIDER'S failure to timely commence construction of improvements under this Agreement;
- (2) SUBDIVIDER'S failure to timely complete construction of the improvements;
- (3) SUBDIVIDER'S failure to timely cure any defect in the improvements;
- (4) SUBDIVIDER'S failure to perform substantial construction work for a period of 20 calendar days after commencement of the work;
- (5) SUBDIVIDER'S insolvency, appointment of a receiver, or the filing of any petition in bankruptcy either voluntary or involuntary which SUBDIVIDER fails to discharge within 30 days;
- (6) the commencement of a foreclosure action against the subdivision or a portion thereof, or any conveyance in lieu or in avoidance of foreclosure; or
- (7) SUBDIVIDER'S failure to perform any other obligation under this Agreement.

b. The CITY reserves to itself all remedies available to it at law or in equity for breach of SUBDIVIDER'S obligations under this Agreement. The CITY shall have the right, subject to this Section, to draw upon or utilize the appropriate security to mitigate CITY'S damages in event of default of SUBDIVIDER. the right of CITY to draw upon or utilize the security is additional to and not in lieu of any other remedy available to CITY. It is specifically recognized that the estimated costs and security amounts may

not reflect the actual cost of construction or installation of the improvements and, therefore, CITY'S damages for SUBDIVIDER'S default shall be measured by the cost of completing the required improvements. The sums provided by the improvement security may be used by CITY for the completion of the public improvements in accordance with the improvement plans and specifications contained herein.

In the event of SUBDIVIDER'S default under this Agreement, SUBDIVIDER authorizes CITY to perform such obligation twenty days after mailing written notice of default to SUBDIVIDER and SUBDIVIDER'S surety, and agrees to pay the entire cost of such performance by CITY.

CITY may take over the work and prosecute the same to completion, by contract or by any other method CITY may deem advisable, for the account and at the expense of SUBDIVIDER, and SUBDIVIDER'S surety shall be liable to CITY for any excess cost or damages occasioned CITY thereby; and in such event, CITY, without liability for so doing, may take possession of, and utilize in completing the work, such materials, appliances, plants and other property belonging to SUBDIVIDER as may be on the site of the work and necessary for performance of the work.

- c. Failure of SUBDIVIDER to comply with the terms of this Agreement shall constitute consent to the filing by CITY of a notice of violation against all the lots in the SUBDIVISION, or to rescind the approval or otherwise revert the SUBDIVISION to acreage. The remedy provided by this Subsection c is in addition and not in lieu of other remedies available to CITY. SUBDIVIDER agrees that the choice of remedy or remedies for SUBDIVIDER'S breach shall be in the discretion of CITY.
- d. In the event that SUBDIVIDER fails to perform any obligation hereunder, SUBDIVIDER agrees to pay all costs and expenses incurred by CITY in securing performance of such obligations, including costs of suit and reasonable attorney's fees.

- e. The failure of CITY to take an enforcement action with respect to a default, or to declare a breach, shall not be construed as a waiver of that default or breach or any subsequent default or breach of SUBDIVIDER.

10. **Warranty**

SUBDIVIDER shall guarantee or warranty the work done pursuant to this Agreement for a period of one year after final acceptance of the City Council of the work and improvements against any defective work or labor done or defective materials furnished. If within the warranty period any work or improvement or part of any work or improvement done, furnished, installed, constructed or caused to be done, furnished, installed or constructed by SUBDIVIDER fails to fulfill any of the requirements of this Agreement or the improvement plans or specifications referred to herein, SUBDIVIDER shall without delay and without cost to the CITY repair or replace or reconstruct any defective or otherwise unsatisfactory part or parts of the work or structure. Should SUBDIVIDER fail to act promptly or in accordance with this requirement, SUBDIVIDER hereby authorizes CITY, at CITY'S option to perform the work twenty days after mailing written notice of default to SUBDIVIDER and to SUBDIVIDER'S surety, and agrees to pay the cost of such work by CITY. Should the CITY determine that an urgency requires repairs or replacements to be made before SUBDIVIDER can be notified, CITY may, in its sole discretion, make the necessary repairs or replacement or perform the necessary work and SUBDIVIDER shall pay to CITY the cost of such repairs.

**11. SUBDIVIDER Not Agent of CITY**

Neither SUBDIVIDER nor any of SUBDIVIDER'S agents or contractors are or shall be considered to be agents of CITY in connection with the performance of SUBDIVIDER'S obligations under this Agreement.

**12. Injury to Work**

Until such time as the improvements are accepted by CITY, SUBDIVIDER shall be responsible for and bear the risk of loss to any of the improvements constructed or installed. Until such time as all improvements required by this Agreement are fully completed and accepted by CITY, SUBDIVIDER will be responsible for the care, maintenance of, and any damage to such improvements. CITY shall not, nor shall any officer or employee thereof, be liable or responsible for any accident, loss or damage, regardless of cause, happening or occurring to the work or improvements specified in this Agreement prior to the completion and acceptance of the work or improvements. All such risks shall be the responsibility of and are hereby assumed by SUBDIVIDER.

**13. Environmental Warranty**

Prior to acceptance of any dedications or improvements by CITY, SUBDIVIDER shall certify and warrant that neither the property to be dedicated nor SUBDIVIDER are in violation of any environmental law and neither the property to be dedicated nor the SUBDIVIDER are subject to any existing, pending, or threatened investigation by any federal, state or local governmental authority under or in connection with environmental law. Neither SUBDIVIDER nor any third party will use, generate, manufacture, produce, or release, on, under or about the property to be dedicated, or transfer to or from the property to be dedicated, any hazardous substance except in compliance with all applicable environmental laws. SUBDIVIDER has not caused or permitted the release of and has no knowledge of the release or presence of, any hazardous substance on the property to be dedicated or the migration of any hazardous substance from or to any other property

adjacent to, or in the vicinity of, the property to be dedicated. SUBDIVIDER'S prior and present use of the property to be dedicated has not resulted in the release of any hazardous substance on the property to be dedicated. SUBDIVIDER shall give prompt written notice to CITY at the address set forth herein of:

- a. any proceeding or investigation by any federal, state or local governmental authority with respect to the presence of any hazardous substance on the property to be dedicated or the migration thereof from or to any other property adjacent to, or in the vicinity of, the property to be dedicated;
- b. all claims made or threatened by any third party against CITY or the property to be dedicated relating to any loss or injury resulting from any hazardous substance; and
- c. SUBDIVIDER'S discovery of any occurrence or condition on any property adjoining in the vicinity of the property to be dedicated that could cause the property to be dedicated or any part thereof to be subject to any restrictions on its ownership, occupancy, transferability or suit under any environmental law.

**14. Other Agreements**

Nothing contained in this Agreement shall preclude CITY from expending monies pursuant to agreements concurrently or previously executed between the parties, or from entering into agreements with other subdividers for the apportionment of costs of water and sewer mains, or other improvements pursuant to the provisions of the CITY ordinances providing therefore, nor shall anything in this Agreement commit CITY to any such apportionment.

**15. SUBDIVIDER'S Obligation to Warn Public During Construction**

Until final acceptance of the improvements, SUBDIVIDER shall give good and adequate warning to the public of each and every dangerous condition existent in said improvements, and will take reasonable actions to protect the public from such dangerous condition.

**16. Vesting of Ownership**

Upon final acceptance of the work on behalf of CITY and recordation of the Notice of Completion, ownership of the improvements constructed pursuant to this Agreement shall vest in CITY.

**17. Final Acceptance of Work**

Acceptance of work on behalf of CITY shall be made by the City Council upon recommendation of the City Engineer after final completion and inspection of all improvements. The City Council shall act upon the Engineer's recommendation within 30 days from the date the City Engineer certifies that the work has been finally completed, as provided in Paragraph 5. Such acceptance shall not constitute a waiver of defects by CITY.

**18. Indemnity/Hold Harmless**

CITY or any officer or employee thereof shall not be liable for any injury to persons or property occasioned by reason of the acts or omissions of SUBDIVIDER, its agents or employees in the performance of this Agreement. SUBDIVIDER further agrees to protect, defend, indemnify and hold harmless CITY, its officials, agents, and employees from any and all claims, demands, causes of action, liability or loss of any sort, because of, or arising out of, acts or omissions of SUBDIVIDER, its agents or employees in the performance of this Agreement, including all claims, demands, causes of action, liability, or loss because of or arising out of, in whole or in part, the design or construction of the improvements. This indemnification and agreement to hold harmless shall extend to injuries to persons and damages or taking of property resulting from the design or construction of said subdivision, and the public improvements as provided herein, and in addition, to adjacent property owners as a consequence of the diversion of waters from the design or construction of public drainage systems, streets and other public improvements. Acceptance by the CITY of the improvements shall not constitute an

assumption by the CITY of any responsibility for any damage or taking covered by this Paragraph. CITY shall not be responsible for the design or construction of the property to be dedicated or the improvements pursuant to the approved improvement plans or map, regardless of any negligent action or inaction taken by the CITY in approving the plans or map, unless the particular improvement design was specifically required by CITY over written objection by SUBDIVIDER submitted to the City Engineer before approval of the particular improvement design, which objection indicated that the particular improvement design was dangerous or defective and suggested an alternative safe and feasible design. After acceptance of the improvements, the SUBDIVIDER shall remain obligated to eliminate any defect in design or dangerous condition caused by the design or construction defect, however, SUBDIVIDER shall not be responsible for routine maintenance. Provision of this paragraph shall remain in full force and effect for ten years following the acceptance by CITY of the improvements. It is the intent of this section that SUBDIVIDER shall be responsible for all liability for design and construction of the improvements installed or work done pursuant to this Agreement and that CITY shall not be liable for any negligence, nonfeasance, misfeasance or malfeasance in approving, reviewing, checking, or correcting any plans or specifications or in approving, reviewing or inspecting any work or construction. The improvement security shall not be required to cover the provisions of this Paragraph.

**19. Sale or Disposition of SUBDIVISION**

Seller or other Subdivider may request a novation of this Agreement and a substitution of security. Upon approval of the novation and substitution of securities, the SUBDIVIDER may request a release or reduction of the securities required by this Agreement. Nothing in the novation shall relieve the SUBDIVIDER of the obligations under paragraph 18 for the work or improvement done by SUBDIVIDER.

**20. Time of the Essence**

Time is of the essence of this Agreement.

**21. Time for Commencement of Work/Time Extensions**

SUBDIVIDER shall commence substantial construction of the improvements required by this Agreement not later than nine months prior to the time for completion. In the event good cause exists as determined by the City Engineer, the time for commencement of construction or completion of the improvements hereunder may be extended. The extension shall be made by writing executed by the City Engineer. Any such extension may be granted without notice to SUBDIVIDER'S Surety and shall not affect the validity of this Agreement or release the Surety or Sureties on any security given for this Agreement.

The City Engineer shall be the sole and final judge as to whether or not good cause has been shown to entitle SUBDIVIDER to an extension. Delay, other than delay in the commencement of work, resulting from an act of CITY, or by an act of God, which SUBDIVIDER could not have reasonably foreseen, or by storm or inclement weather which prevent the conducting of work, or by strikes, boycotts, similar actions by employees or labor organizations, which prevent the conducting of work, and which were not caused by or contributed by SUBDIVIDER, shall constitute good cause for an extension of the time for completion. As a condition of such extension, the City Engineer may require SUBDIVIDER to furnish new security guaranteeing performance of this Agreement as extended in an increased amount as necessary to compensate for any increase in construction costs as determined by the City Engineer.

**22. No Vesting of Rights**

Performance by SUBDIVIDER of this Agreement shall not be construed to vest SUBDIVIDER'S rights with respect to any change in any zoning or building law or ordinance.



**23. Notices**

All notices required or provided for under this Agreement shall be in writing and delivered in person or sent by mail, postage prepaid and addressed as provided in this Section. Notice shall be effective on the date it is delivered in person, or, if mailed, on the date of deposit in the United States Mail. Notices shall be addressed as follows unless a written change of address is filed with the CITY:

Notice to CITY:

City Manager  
City of San Marcos  
1 Civic Center Drive  
San Marcos, CA 92069

Notice to SUBDIVIDER:

Notice to SURETY:

**24. Severability**

The provisions of this Agreement are severable. If any portion of this Agreement is held invalid by a court of competent jurisdiction, the remainder of the agreement shall remain in full force and effect unless amended or modified by mutual consent of the parties.

**25. Captions**

The captions of this Agreement are for convenience and reference only and shall not define, explain, modify, limit, exemplify, or aid in the interpretation, construction or meaning of any provisions of this Agreement.

**26. Litigation or Arbitration**

In the event that suit or arbitration is brought to enforce the terms of this contract, the prevailing party shall be entitled to litigation costs and reasonable attorney's fees.

**27. Incorporation of Recitals**

The Recitals to this Agreement are hereby incorporated into the terms of this Agreement.

**28. Entire Agreement**

This Agreement constitutes the entire agreement of the parties with respect to the subject matter. All modifications, amendments, or waivers of the terms of this Agreement must be in writing and signed by the appropriate representatives of the parties. In the case of the CITY, the appropriate party shall be the City Manager.

IN WITNESS WHEREOF, this Agreement is executed by CITY, by and through its City Manager.

SUBDIVIDER

CITY OF SAN MARCOS

By: \_\_\_\_\_

\_\_\_\_\_  
Jack Griffin, City Manager

By: \_\_\_\_\_

\_\_\_\_\_

ATTEST:

By: \_\_\_\_\_  
Phillip Scollick, City Clerk

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Helen Holmes Peak, City Attorney

**(Notary Acknowledgments and proof of authorization for SUBDIVIDER'S signatures are required and must be attached)**