

RECORDING REQUESTED BY:

City of Los Altos

WHEN RECORDED, MAIL TO:

City Clerk, City of Los Altos

1 North San Antonio Road

Los Altos, CA 94022

RECORD WITHOUT FEE UNDER
§§ 27383 & 27388.1 GOVERNMENT CODE

Improvement Agreement No.

PROJECT TITLE
APN: 189-58-070

705 VISTA GRANDE AVE

IMPROVEMENT AGREEMENT
705 Vista Grande Ave

This Improvement Agreement (this “Agreement”) is made and entered into by and between the CITY OF Los Altos, a municipal corporation (hereinafter “City”), Sandesh & Shikha Tawari (hereinafter “Homeowner”). City and Homeowner may be collectively referred to herein as the “parties.”

RECITALS

- A. In accordance with the Subdivision Map Act (California Government Code Sections 66410, *et seq.*), and the Subdivision Ordinance (Los Altos Municipal Code, Title 13), and the Street Ordinance (Los Altos Municipal Code, Title 9), the Homeowner has submitted to the City a Parcel Map (hereinafter “Parcel Map”) for the project known as 705 Vista Grande Ave (hereinafter “Project”).
- B. The Project is geographically located within the boundaries of the Tentative Subdivision Map known as 705 Vista Grande Ave Tentative Map (hereinafter “Tentative Map”). The Tentative Map is on file with the City Engineer and is incorporated herein by reference. The area within the boundaries of the Tentative Map is described in **Exhibit A** hereto (the “Property”).
- C. The City’s approval of the Tentative Map was subject to specified conditions of approval (hereinafter “Conditions”). The Conditions are attached hereto as **Exhibit B** and incorporated herein by reference.
- D. As required by the Conditions, the Tentative and Parcel Maps, and the other Project entitlements, Homeowner shall construct public improvements in connection with the Project along Vista Grande Ave, including but not limited to the following: installation of approximately 15 linear feet of concrete rolled curb and installation of all appurtenances associated with above listed improvements (collectively, the “Work”).

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS AND CONDITIONS IDENTIFIED HEREIN, THE PARTIES HEREBY AGREE AS FOLLOWS:

- 1. **SCOPE OF WORK.** The Homeowner shall perform, or cause to be performed, the Work described in the Plans and Specifications and the Conditions (hereinafter “Work”), to the satisfaction of the City Engineer. The Work shall be performed, and all materials and labor shall be provided, at the Homeowner’s sole cost and expense. No change shall be made to the Scope of Work unless authorized in writing by the City Engineer.
- 2. **PERMITS, LICENSES, AND COMPLIANCE WITH LAW.** The Homeowner shall, at the Homeowner’s expense, obtain and maintain all necessary permits and licenses for the performance of the Work. The Homeowner shall comply with all local, state, and federal laws, whether or not said laws are expressly stated in this Agreement.
- 3. **HOMEOWNER’S AUTHORIZED REPRESENTATIVE.** At all times during the progress of the Work, Homeowner shall have a competent foreperson or superintendent (hereinafter “Authorized Representative”) on site with authority to act on behalf of the Homeowner. The Homeowner shall, at all times, keep the City Engineer informed in writing of the name and telephone number of the Authorized Representative. The Homeowner shall, at all times, keep the City Engineer informed in writing of the names and telephone numbers of all contractors and subcontractors performing the Work.

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4. **IMPROVEMENT SECURITY.** The Homeowner shall furnish faithful performance and labor and material security concurrently with the execution of this Agreement by the Homeowner, and prior to the commencement of any Work. The Homeowner shall furnish warranty security prior to the City's acceptance of the Work. The form of the security shall be as authorized by the Subdivision Map Act (including Government Code Sections 66499, *et seq.*) and Section 13.20.210 the Los Altos Municipal Code, and as set forth below:
 - 4(a). **Faithful Performance** security in the amount of \$4,500.00 (which amount is equal to the estimated cost to construct the Work in accordance with the Plans and Specifications) to secure faithful performance of this Agreement (until the date on which the City Council accepts the Work as complete) pursuant to Government Code Sections 66499.1, 66499.4, and 66499.9.
 - 4(b). **Labor and Material** security in the amount of \$2,250.00 (which amount is equal to fifty (50) percent of the estimated cost to construct the Work in accordance with the Plans and Specifications) to secure payment by the Homeowner to laborers and materialmen pursuant to Government Code Sections 66499.2, 66499.3, and 66499.4.
 - 4(c). **Warranty** security in the amount of \$450.00 (which amount is equal to ten (10) percent of the estimated cost to construct the Work in accordance with the Plans and Specifications) to secure faithful performance of this Agreement (from the date on which the City accepts the Work as complete until one year thereafter) pursuant to Government Code Sections 66499.1, 66499.4, and 66499.9.
5. **BUSINESS TAX.** The Homeowner shall apply for and pay the business license tax for a business license, in accordance with Los Altos Municipal Code Chapter 4.04.
6. **INSURANCE.** Homeowner shall, throughout the duration of this Agreement, maintain insurance to cover Homeowner (including its agents, representatives, contractors, subcontractors, and employees) in connection with the performance of services under this Agreement. **Exhibit C** of this Agreement identifies the minimum insurance levels with which Homeowner shall comply; however, the minimum insurance levels shall not relieve Homeowner of any other performance responsibilities under this Agreement (including the indemnity requirements), and Homeowner may carry, at its own expense, any additional insurance it deems necessary or prudent. The general liability and automobile policies required under **Exhibit C** shall contain, or be endorsed to contain, provision for the City, its officers, officials, employees, agents and volunteers, to be covered as additional insureds as respects alleged liability arising out of activities performed by or on behalf of the Homeowner under this Agreement. Concurrently with the execution of this Agreement by the Homeowner, and prior to the commencement of any services, the Homeowner shall furnish written proof of insurance (certificates and endorsements), in a form acceptable to the City. Homeowner shall provide substitute written proof of insurance no later than 30 days prior to the expiration date of any insurance policy required by this Agreement.
7. **REPORTING DAMAGES.** If any damage (including death, personal injury or property damage) occurs in connection with the performance of this Agreement, Homeowner shall immediately notify the City Risk Manager's office by telephone at, and Homeowner shall promptly submit to the City's Risk Manager and the City Manager or designee, a written report (in a form acceptable to the City) with the following information: (a) a detailed description of the damage (including the name and address of the injured or deceased person(s), and a description of the damaged property), (b) name and address of witnesses, and (c) name and address of any potential insurance companies.

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8. **INDEMNIFICATION.** Homeowner shall indemnify, hold harmless, and defend (with counsel reasonably acceptable to the City) the City and its elected officials, officers, agents and employees from and against any and all claims (including all litigation, demands, damages, liabilities, costs, and expenses, and including court costs and attorneys’ fees) resulting or arising from performance, or failure to perform, under this Agreement (with the exception of the gross negligence or willful misconduct of the City).
9. **TIME OF PERFORMANCE.** Time is of the essence in the performance of the Work, and the timing requirements set forth herein shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. The Homeowner shall submit all requests for extensions of time to the City, in writing, no later than ten (10) days after the start of the condition which purportedly caused the delay, and not later than the date on which performance is due.
- 9(a). **Commencement of Work.** No later than fifteen (15) days prior to the commencement of Work, the Homeowner shall provide written notice to the City Engineer of the date on which the Homeowner shall commence Work. The Homeowner shall not commence Work until after the notice required by this section is properly provided, and the Homeowner shall not commence Work prior to the date specified in the written notice.
- 9(b). **Schedule of Work.** Concurrently with the written notice of commencement of Work, the Homeowner shall provide the City with a written schedule of Work, which shall be updated in writing as necessary to accurately reflect the Homeowner’s prosecution of the Work.
- 9(c). **Completion of Work.** The Homeowner shall complete all Work by no later than three hundred sixty-five (365) days after the City’s execution of this Agreement.
10. **INSPECTION BY THE CITY.** In order to permit the City to inspect the Work, the Homeowner shall, at all times, provide to the City proper and safe access to the Project site, and all portions of the Work, and to all shops wherein portions of the Work are in preparation. Homeowner shall reimburse the City for the costs of the City Engineer’s inspections of the Work, as required by Los Altos Municipal Code Section 13.20.190.
11. **DEFAULT.** If either party (“demanding party”) has a good faith belief that the other party (“defaulting party”) is not complying with the terms of this Agreement, the demanding party shall give written notice of the default (with reasonable specificity) to the defaulting party, and demand the default to be cured within ten days of the notice. If: (a) the defaulting party fails to cure the default within ten (10) days of the notice, or, (b) if more than ten (10) days are reasonably required to cure the default and the defaulting party fails to give adequate written assurance of due performance within ten (10) days of the notice, then (c) the demanding party may terminate this Agreement upon written notice to the defaulting party.
- 11(a). The Homeowner shall be in default of this Agreement if the City Engineer determines that any one of the following conditions exist:
- 11(a)(1). The Homeowner is insolvent, bankrupt, or makes a general assignment for the benefit of its creditors.
- 11(a)(2). The Homeowner abandons the Project site.
- 11(a)(3). The Homeowner fails to perform one or more requirements of this Agreement.
- 11(a)(4). The Homeowner fails to replace or repair any damage caused by Homeowner or its agents, representatives, contractors, subcontractors, or employees in connection with performance of the Work.

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11(a)(5). The Homeowner violates any legal requirement related to the Work.

11(b). In the event that the Homeowner fails to cure the default, the City may, in the discretion of the City Engineer, take any or all of the following actions:

11(b)(1). Cure the default and charge the Homeowner for the costs therefore, including administrative costs and interest in an amount equal to seven percent (7%) per annum from the date of default.

11(b)(2). Demand the Homeowner to complete performance of the Work.

11(b)(3). Demand the Homeowner's surety (if any) to complete performance of the Work.

- 12. ACCEPTANCE OF WORK.** Prior to acceptance of the Work by the City Engineer, the Homeowner shall be solely responsible for maintaining the quality of the Work, and maintaining safety at the Project site. Neither the final certificate of payment, nor any provision in this Agreement, nor partial or entire use or occupancy of the improvements by the City shall constitute an acceptance of the Work not done in accordance with this Agreement or relieve Homeowner of liability pursuant to Section 13, below. The Homeowner's obligation to perform the Work shall not be satisfied until after the City Engineer has made a written determination that all obligations of the Agreement have been satisfied and all outstanding fees and charges have been paid, the City Engineer has accepted the Work as complete, and the City Council has authorized the release of the security for faithful performance as described in Government Code Section 66499.7.
- 13. WARRANTY PERIOD.** The Homeowner shall warrant the quality of the Work, in accordance with the terms of the Plans and Specifications, for a period of one year after acceptance of the Work by the City. In the event that (during the one year warranty period) any portion of the Work is determined by the City Engineer to be defective as a result of an obligation of the Homeowner under this Agreement, the Homeowner shall be in default.
- 14. RELATIONSHIP BETWEEN THE PARTIES.** Homeowner is, and at all times shall remain, an independent contractor solely responsible for all acts of its employees, agents, contractors, or subcontractors, including any negligent acts or omissions. Homeowner is not City's agent, and shall have no authority to act on behalf of the City, or to bind the City to any obligation whatsoever, unless the City provides prior written authorization to Homeowner.
- 15. CONFLICTS OF INTEREST PROHIBITED.** Homeowner (including its employees, agents, contractors, and subcontractors) shall not maintain or acquire any direct or indirect interest that conflicts with the performance of this Agreement. If Homeowner maintains or acquires a conflicting interest, any contract with the City (including this Agreement) involving Homeowner's conflicting interest may be terminated by the City.
- 16. NONDISCRIMINATION.** Homeowner shall comply with all applicable federal, state, and local laws regarding nondiscriminatory employment practices, whether or not said laws are expressly stated in this Agreement. Homeowner shall not discriminate against any employee or applicant because of race, color, ancestry, ethnicity, religious creed, national origin, physical disability, mental disability, medical condition, marital or family status, sexual orientation, gender or gender identification, age (over 40), veteran status, or sex.
- 17. NOTICES.** All notices required or contemplated by this Agreement shall be in writing and shall be delivered to the respective party as set forth in this section. Communications shall be deemed to be effective upon the first to occur of: (a) actual receipt (or refusal) by a party, or (b) actual receipt (or

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refusal) at the address designated below, or (c) three (3) working days following deposit in the United States Mail of registered or certified mail sent to the address designated below. Either party may modify their respective contact information identified in this section by providing notice to the other party.

TO: City

To: Homeowner

Attn: City Clerk's Office
City of Los Altos
1 N. San Antonio Road
Los Altos, CA 94022

Attn: Sandesh and Shikha Tawari
705 Vista Grande Ave,
Los Altos, CA 94022

18. **HEADINGS.** The heading titles for each paragraph of this Agreement are included only as a guide to the contents and are not to be considered as controlling, enlarging, or restricting the interpretation of the Agreement.
19. **SEVERABILITY.** If any term of this Agreement (including any phrase, provision, covenant, or condition) is held by a court of competent jurisdiction to be invalid or unenforceable, the Agreement shall be construed as not containing that term, and the remainder of this Agreement shall remain in full force and effect; provided, however, this paragraph shall not be applied to the extent that it would result in a frustration of the parties' intent under this Agreement.
20. **GOVERNING LAW, JURISDICTION, AND VENUE.** The interpretation, validity, and enforcement of this Agreement shall be governed by and interpreted in accordance with the laws of the State of California. Any suit, claim, or legal proceeding of any kind related to this Agreement shall be filed and heard in a court of competent jurisdiction in the County of Santa Clara.
21. **ATTORNEYS' FEES.** In the event any legal action is commenced to enforce this Agreement, the prevailing party is entitled to reasonable attorney's fees, costs, and expenses incurred.
22. **ASSIGNMENT AND DELEGATION.** This Agreement, and any portion thereof, shall not be assigned or transferred, nor shall any of the Homeowner's duties be delegated, without the written consent of the City. Any attempt to assign or delegate this Agreement without the written consent of the City shall be void and of no force or effect. A consent by the City to one assignment shall not be deemed to be a consent to any subsequent assignment.
23. **MODIFICATIONS.** This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by both parties.
24. **WAIVERS.** Waiver of a breach or default under this Agreement shall not constitute a continuing waiver or a waiver of a subsequent breach of the same or any other provision of this Agreement.

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25. **CONFLICTS.** If any conflicts arise between the terms and conditions of this Agreement and the terms and conditions of the attached exhibits or any documents expressly incorporated, the terms and conditions of this Agreement shall control.
26. **ENTIRE AGREEMENT.** This Agreement, including all documents incorporated herein by reference, comprises the entire integrated understanding between the parties concerning the Work described herein. This Agreement supersedes all prior negotiations, agreements, and understandings regarding this matter, whether written or oral. The documents incorporated by reference into this Agreement are complementary; what is called for in one is binding as if called for in all.
27. **COVENANT RUNNING WITH THE LAND.** This Agreement is entered into as a condition of the Tentative Map, is an instrument affecting the title or possession of the real property, and is intended to run with the land. All the terms, covenants and conditions herein imposed shall be binding upon and inure to the benefit of City, Homeowner, the successors in interest of Homeowner, their respective successors and permitted assigns, and all subsequent owners of a fee interest in the Property or of a beneficial interest substantially equivalent to a fee interest. The obligations of the Homeowner under this Agreement shall be the joint and several obligations of each and all of the parties comprising Homeowner, if Homeowner consists of more than one individual and/or entity. Upon the sale or division of the Property, the terms of this Agreement shall apply separately to each parcel and the fee owners of each parcel shall succeed to the obligations imposed on Homeowner by this Agreement.
28. **MISCELLANEOUS.** This Agreement may be executed in counterparts, each of which shall be deemed an original. There are no third-party intended beneficiaries of this Agreement. This Agreement represents the contributions of both parties, each of whom has had the opportunity to be represented by competent counsel, and the rule stated in Civil Code Section 1654 that ambiguities in a contract be construed against the drafter shall have no application hereto.
29. **SIGNATURES.** The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Agreement on behalf of the respective legal entities of the Homeowner and the City. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

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IN WITNESS WHEREOF, the City and Homeowner do hereby agree to the full performance of the terms set forth herein.

CITY OF LOS ALTOS

Sandesh & Shikha Tawari

By: _____
Title: Gabe Engeland
Date: City Manager

By: _____
Title: Sandesh/Shikha Tawari
Date: Homeowner

APPROVED AS TO FORM:

By: _____
Title: Jolie Houston
City Attorney

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EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

Beginning at the point of intersection of the center line of Vista Grande Avenue, formerly Rincon Avenue, 50 feet wide, with the Easterly line of Springer Avenue, 40 feet wide, as said Avenues are shown upon that Map entitled, "Map of Subdivision of Montebello Acres, Santa Clara County, California," which map was filed for Record on May 4, 1928, in the office of the Recorder of the County of Santa Clara, State of California, in Book X of Maps, at Pages 1, 2 and 3; thence along said line of Vista Grande Avenue, South 89 degrees 30 minutes east, 158.50 feet; thence parallel with said easterly line of Springer Avenue, North 0 degrees 06 minutes East, 127.00 feet; thence North 89 degrees 30 minutes West, 7.00 feet; thence parallel, with said Easterly line of Springer Avenue North 0 degrees 06 minutes East 69.58 feet to the Northerly line of Lot 83 as shown on said Map; thence along said line of Lot 83, North 89 degrees 30 minutes West, 151.50 feet to the said Easterly line of Springer Avenue; thence along said last mentioned line and the Southerly prolongation thereof, South 0 degrees 06 minutes west, 196.58 feet to the point of beginning. Containing an area of 30,670 square feet, more or less.

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EXHIBIT B

CONDITIONS OF APPORVAL

GENERAL

1. Approved Plans

Project approval is based upon the tentative map submitted on December 22, 2022, except as may be modified by these conditions.

2. Public Utilities

The property owner shall be responsible for contacting all public utilities including but not limited to electric, gas, communication and water utilities regarding the installation of new utility services to the site and ensuring all required utility connections are provided.

3. Protected Trees

All existing trees on the site subject to Tree Protection Regulations (Chapter 11.08) of the Municipal Code shall not be removed unless approved by the City during any subsequent development review or tree removal permit application.

4. Encroachment Permit

An encroachment permit, and/or an excavation permit shall be obtained prior to any work done within the public right-of-way and it shall be in accordance with plans to be approved by the City Engineer.

5. Stormwater Management Plan

The project shall comply with the City of Los Altos Municipal Regional Stormwater (MRP) NPDES Permit No. CA S612008, Order No. R2-2015-0049 dated November 19, 2015.

6. Americans with Disabilities Act

All improvements shall comply with Americans with Disabilities Act (ADA) and all regulations and design guidelines adopted pursuant to the ADA or any other state or federal disability access law. The latest edition of Caltrans ADA requirements shall apply to all improvements in the public right-of-way.

7. Sewer Lateral

Any proposed sewer lateral connection shall be approved by the City Engineer. Only one sewer lateral per lot shall be installed. All existing unused sewer laterals shall be abandoned according to the City Standards, cut and cap 12" away from the main.

8. Transportation Permit

A Transportation Permit, per the requirements specified in California Vehicle Code Division 15, is required before any large equipment, materials or soil is transported or hauled to or from the construction site. Applicant shall pay the applicable fees before the transportation permit can be issued by the Traffic Engineer.

9. Pollution Prevention

The improvement plans shall include the "Blueprint for a Clean Bay" plan sheet in all plan submittals.

10. Civil Engineering Drawings

The property owner shall submit civil engineering drawings that show property lines with bearing and easements.

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11. Indemnity and Hold Harmless

The applicant/owner agrees to indemnify, defend, protect, and hold the City harmless from all costs and expenses, including attorney's fees, incurred by the City or held to be the liability of the City in connection with the City's defense of its actions in any judicial or administrative proceedings, challenging any of the City's action with respect to the applicant's project. The City may withhold final maps and/or permits, including temporary or final occupancy permits, for failure to pay all costs and expenses, including attorney's fees, incurred by the City in connection with the City's defense of its actions.

PRIOR TO MAP RECORDATION

12. Demolition

The property owner shall obtain and final a demolition permit from the Building Division to remove all existing structures on the property or relocate the structures to meet all required R1-10 zoning district development standards including but not limited to setbacks, lot coverage, and floor area.

13. Payment of Fees

The property owner shall pay all applicable fees, including but not limited to sanitary sewer impact fees, parkland dedication in-lieu fees, traffic impact fees and map check fee plus deposit as required by the City of Los Altos Municipal Code.

14. Easement Dedication

The property owner shall dedicate public utility easements as required by the utility companies to serve both parcels.

15. Right-of-Way Dedication

The property owner or applicant shall dedicate a 25-foot public right-of-way along Springer Road to the City of Los Altos for use as public right-of-way. In addition, a 25-foot radius of the intersection of Springer Road and Vista Grande Avenue shall be provided.

16. Subdivision Agreement

The property owner shall sign and return Subdivision Improvement Agreement to the city for recordation. The Subdivision Improvement Agreement sets forth the property owner's obligation to construct public improvements required as part of the project.

17. Storm Water Filtration Systems

The Applicant shall insure the design of all storm water treatment systems and devices are without standing water to avoid mosquito/insect infestation.

18. Utility Plan

The applicant shall submit a utility plan which includes the location of the sanitary sewer laterals for each lot.

19. Rolled Curb

The applicant shall extend City Standard rolled curb at Vista Grande frontage to the intersection of Springer Road and Vista Grande Ave.

20. Public Infrastructure Repairs

The Applicant shall repair any damaged rolled curb and replaced as directed by the City Engineer or his designee.

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21. Maintenance Bond

A one-year, ten-percent maintenance bond shall be submitted upon acceptance of improvements in the public right-of-way.

22. Cost Estimate and Performance Bonds

The applicant shall submit a cost estimate for the improvements in the public right-of-way and shall submit a 100 percent performance bond or cash deposit (to be held until acceptance of improvements) and a 50 percent labor and material bond (to be held 6 months after acceptance of improvements) for the work in the public right-of-way.

PRIOR TO ISSUANCE OF A BUILDING PERMIT

23. Map Recordation

The applicant shall record the final map. Plats and legal descriptions of the final map shall be submitted for review by the City Land Surveyor. Applicant shall provide a sufficient fee retainer to cover the cost of the map review by the City.

24. Construction Management Plan

The Applicant shall submit a construction management plan for review and approval by the Community Development Director and the City Engineer. The construction management plan shall address any construction activities affecting the public right-of-way, including but not limited to excavation, traffic control, truck routing, pedestrian protection, material storage, earth retention and construction vehicle parking. The plan shall provide specific details with regards to how construction vehicle parking will be managed to minimize impacts on nearby single-family neighborhoods.

25. Storm Water Filtration Systems

The Applicant shall insure the design of all storm water treatment systems and devices are without standing water to avoid mosquito/insect infestation.

26. Grading and Drainage Plan

The Applicant shall submit on-site grading and drainage plans that include (i.e. drain swale, drain inlets, rough pad elevations, building envelopes, drip lines of major trees, elevations at property lines, all trees and screening to be saved) for approval by City Engineer. No grading or building pads are allowed within two-thirds of the drip line of trees unless authorized by a certified arborist and the Planning Department.

27. Stormwater Pollution Prevention

The project shall comply with the Stormwater Pollution Prevention Measures per Chapter 10.16 of the Los Altos Municipal Code.

EXHIBIT C

INSURANCE REQUIREMENTS

Homeowner's performance of Work under this agreement shall not commence until Homeowner shall have obtained all insurance required under this Exhibit and such insurance shall have been reviewed and approved by the Risk Manager. All requirements herein provided shall appear either in the body of the insurance policies or as endorsements and shall specifically bind the insurance carrier.

Homeowner shall procure and maintain for the duration of the contract all necessary insurance against claims now and in the future for alleged injuries to persons or damages to property which may arise from or in connection with the performance of the Work by the Homeowner, the Contractor it's agents, representatives, employees and contractors.

INSURANCE COVERAGE AND LIMITS RESTRICTIONS

1. It shall be a requirement under this agreement that any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements and/or limits shall be available to the additional insured. Furthermore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this agreement; or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named insured; whichever is greater.
2. The limits of insurance required in this agreement may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of the City before the City's own insurance or self-insurance shall be called upon to protect it as a named insured.

A. MINIMUM SCOPE OF INSURANCE

Coverage shall be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage:
 - a. Blanket contractual liability
 - b. Broad form property coverage
 - c. Personal injury
2. Insurance Services Office form covering Automobile Liability, code 1 (any auto).
3. Workers' Compensation insurance as required by the State of California and Employer's Liability insurance.
4. Such other insurance coverages and limits as may be required by the City.

B. MINIMUM LIMITS OF INSURANCE

Homeowner shall maintain limits no less than:

1. General Liability: \$1,000,000 per occurrence for bodily injury, personal injury and property damage and a \$2,000,000 aggregate. If Commercial General Liability insurance or other form with a general aggregate liability is used, either the general aggregate limit shall apply separately to this agreement or the general aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability: \$1,000,000 per accident for bodily injury and property damage.
3. Employer's Liability:
 - Bodily Injury by Accident - \$1,000,000 each accident.
 - Bodily Injury by Disease - \$1,000,000 policy limit.
 - Bodily Injury by Disease - \$1,000,000 each employee.

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4. Such other insurance coverages and limits as may be required by the City of.

C. DEDUCTIBLES AND SELF-INSURED RETENTIONS

1. Any deductibles or self-insured retentions must be declared to and approved by the City of. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City of ****CITY****, its officers, officials, employees, and volunteers; or the Homeowner shall procure a bond guaranteeing payment of losses and related investigations, claims administration and defense expenses.
2. Policies containing any self-insured retention (SIR) provision shall provide or be endorsed to provide that the SIR may be satisfied by either the named insured or the City.
3. The City reserves the right to obtain a full certified copy of any insurance policy and endorsement. Failure to exercise this right shall not constitute a waiver of the right to exercise later.

D. ADDITIONAL INSURED REQUIREMENTS:

The required general liability and automobile policies are to contain, or be endorsed to contain the following provisions:

- a. The City, its officers, officials, employees, agents, and volunteers are to be covered as additional insureds as respects alleged: liability arising out of activities performed by or on behalf of the Homeowner; products and completed operations of the Homeowner; premises owned, occupied or used by the Homeowner; or automobiles owned, leased, hired or borrowed by the Homeowner. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officers, officials, employees, agents or volunteers.
- b. Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the City, its officers, officials, employees, agents or volunteers.
- c. The Homeowner's insurance shall apply separately to each insured against whom a claim is made or suit is brought except, with respect to the limits of the insurer's liability.
- d. Homeowner shall furnish properly executed Certificates of Insurance from insurance companies acceptable to the City and signed copies of the specified endorsements for each policy prior to commencement of work under this agreement. Such documentation shall clearly evidence all coverages required above including specific evidence of separate endorsements naming the City and shall provide that such insurance shall not be materially changed, terminated or allowed to expire except after 30 days prior written notice by certified mail, return receipt requested, has been filed with the City Clerk.
Such insurance shall be maintained from the time work first commences until completion of the work under this agreement. Homeowner shall replace such certificates for policies expiring prior to completion of work under this agreement.

E. ACCEPTABILITY OF INSURERS

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A: VII.

F. COMPLETED OPERATIONS

Homeowner shall maintain insurance as required by this contract to the fullest amount allowed by law and shall maintain insurance for a minimum of five years following the completion of this project. In the event the Homeowner fails to obtain or maintain completed operations coverage as required by

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this agreement, the City at its sole discretion may purchase the coverage required and the cost will be paid by the Homeowner.

G. CROSS-LIABILITY

The Liability policy shall include a cross-liability or severability of interest endorsement.

H. FAILURE TO MAINTAIN INSURANCE COVERAGE

If Homeowner, for any reason, fails to maintain insurance coverage, which is required pursuant to this Agreement, the same shall be deemed a material breach of contract. The City, at its sole option, may terminate this agreement and obtain damages from the Homeowner resulting from said breach. Alternatively, the City may purchase such required insurance coverage, and Homeowner shall reimburse the City for any premium costs advanced by the City for such insurance.

I. PRIMARY AND NON-CONTRIBUTORY

For any claims related to this project, the Homeowner's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, agents or volunteers shall be in excess of the Homeowner's insurance and shall not contribute with it.

The additional insured coverage under the Homeowner's policy shall be primary and non-contributory" and will not seek contribution from the City's insurance or self-insurance and shall be at least as broad as CG 20 01 04 13.

J. SUBCONTRACTORS

Homeowner shall require its contractors to maintain the same levels of insurance and provide the same indemnity that the Homeowner is required to provide under this Agreement. A contractor is anyone who is under contract with the Homeowner or any of its contractors to perform work contemplated by this Agreement. The Homeowner shall require all contractors to provide evidence of valid insurance and the required endorsements prior to the commencement of any work.

K. SUBROGATION WAIVER

Homeowner agrees to waive subrogation rights against City regardless of the applicability of any insurance proceeds, and to require all Contractors, subcontractors or others involved in any way with the services to do likewise.

L. VERIFICATION OF COVERAGE

Homeowner shall furnish the City with original endorsements effecting coverage required by this clause. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. All endorsements are to be received and approved by the City before the services commence.