

RESOLUTION NO. RES-2018-066

RESOLUTION OF THE CITY COUNCIL TO APPROVE THE SUBDIVISION IMPROVEMENTS AND BOND PROCEEDS DISBURSEMENT AGREEMENT BETWEEN THE CITY OF SANTA ROSA AND SECTARIAN PROPERTIES, INC.

WHEREAS, Christopherson Homes, Inc. doing business as Village Gardens Investors, L.P. (Original Owner) and the City entered into a Subdivision Improvement Agreement (SIA), dated July 26, 2005 pursuant to which the Original Owner agreed to complete, install and guarantee for a limited time certain public improvements associated with the Village Gardens development, as shown on City File Number 2005-081; and

WHEREAS, in order to secure the obligations, set forth in the SIA, the Original Owner deposited with the City bonds issued by Insurance Company of the West (ICW); and

WHEREAS, the Original Owner subsequently became insolvent and failed to complete the required improvements and the City, as entitled in the SIA, pursued its rights and remedies against ICW as the surety; and

WHEREAS, in October of 2011, ICW and the City entered into a Takeover Agreement wherein ICW agreed to complete, install and guarantee for a limited time certain improvements which the Original Owner failed to complete; and

WHEREAS, on January 6, 2015, Blue Mountain Homes, LLC purchased the Development from the bankruptcy estate of Christopherson Homes, Inc. and thereafter conveyed its interest in the Village Gardens development to Sectarian Properties, Inc. (Sectarian); and

WHEREAS, on April 28, 2015, ICW and City entered into an amendment of the Takeover Agreement wherein ICW and City agreed to amend the scope of work to be completed by ICW, including an agreement by ICW to perform additional paving on Boyd Street; and

WHEREAS, on or about June 2, 2016, ICW determined that it would not proceed with the work under the Amended Takeover Agreement and tendered to the City the amount of \$1,186,340.98 in accordance with California Civil Code section 2839 in order to cover the cost of completing the required improvements; and

WHEREAS, the Planning and Economic Development Department has an interest in Sectarian completing the remaining improvements to ensure the expedient completion of the overall project; and

WHEREAS, Sectarian has an interest in assuming the obligation to complete the remaining improvements, as Sectarian cannot finalize the development until the improvements are completed; and

WHEREAS, the Agreement sets forth the terms and conditions by which Sectarian will complete the improvements and provide surety acceptable to the City to guarantee faithful performance of its obligations under this Agreement, including reimbursement by the City to Sectarian of \$1,136,340.98.

WHEREAS, staff is requesting that the \$50,000 remaining funds paid by ICW be directed to the Planning and Economic Development Department, fund 080401 to cover the costs associated with the extensive work involved with the Development, including the proposed Subdivision Improvements and Bond Proceeds Disbursement Agreement; and

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Santa Rosa approves the Subdivision Improvements and Bond Proceeds Disbursement Agreement between the City of Santa Rosa and Sectarian Properties, Inc. A Delaware Corporation in substantially the form attached hereto as Exhibit A and incorporated by reference, and authorizes the Chief Financial Officer to increase appropriations in 080401 by \$50,000 and to make such payments to Sectarian as may be required pursuant to the agreement from funds received from ICW in October 2016.

IN COUNCIL DULY PASSED this 1st day of May, 2018.

AYES: (7) Mayor Coursey, Vice Mayor Rogers, Council Members Combs, Olivares, Sawyer, Schwedhelm, Tibbetts

NOES: (0)

ABSENT: (0)

ABSTAIN: (0)

ATTEST: _____
City Clerk

APPROVED: _____
Mayor

APPROVED AS TO FORM:

City Attorney

Exhibit A - Subdivision Improvements and Bond Proceeds Disbursement Agreement between The City of Santa Rosa and Sectarian Properties, Inc. A Delaware Corporation Re: Village Gardens – A Planned Unit Development