

CITY OF SANTA ROSA  
CITY COUNCIL

TO: CITY COUNCIL  
FROM: GABE OSBURN, DEPUTY DIRECTOR OF DEVELOPMENT SERVICES  
SUBJECT: PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT  
SUBDIVISION IMPROVEMENTS AND BOND PROCEEDS  
DISBURSEMENT AGREEMENT BETWEEN THE CITY OF SANTA ROSA AND SECTARIAN PROPERTIES, INC.

AGENDA ACTION: RESOLUTION

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RECOMMENDATION

It is recommended by the Planning and Economic Development Department that the City Council, by resolution, approve the Subdivision Improvements and Bond Proceeds Disbursement Agreement between the City of Santa Rosa and Sectarian Properties, Inc.

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EXECUTIVE SUMMARY

In the normal course of a residential subdivision project, a developer must enter into a Subdivision Improvement Agreement and provide the necessary securities guaranteeing the completion of the associated public and common area improvements. During the economic downturn of the late 2000s, many residential projects were placed in a dormant state with unfinished public improvements. The Village Gardens project, a 110 lot residential subdivision located at the intersection of Sebastopol Avenue and Boyd Street, was abandoned in an incomplete state when the developer became insolvent. This led to the City exercising its options on the performance bond. The City and bonding company entered into a Takeover Agreement whereupon the surety accepted the obligation of completing the remaining improvements. This agreement was later amended. Ultimately, the surety determined that it would not complete the work and instead tendered a sum of \$1,186,340.98 to cover the cost of completing the remaining improvements. Sectarian Properties, Inc., the current developer of the Village Gardens project, is requesting a reimbursement equaling a portion of the amount tendered by ICW in exchange for completing the public improvements for the Village Gardens project, which would allow them to build out the subdivision and provide needed housing for the City.

## BACKGROUND

Village Gardens – A Planned Unit Development (the Development), consisting of 110 single family lots, was granted a Tentative Map approval by the Planning Commission on January 26, 1999.

The final map associated with the Development was signed by the City Engineer on August 23, 2005 and filed in the Official Records of Sonoma County on August 30, 2005.

Christopherson Homes, Inc., doing business as Village Gardens Investors, L.P. (Original Developer) and the City entered into a Subdivision Improvements Agreement (SIA), dated July 26, 2005. Under the executed SIA, the Original Developer agreed to install and guarantee for a limited time certain public and common area improvements. In order to secure the obligations, set forth in the SIA, the Original Developer deposited with the City bonds issued by Insurance Company of the West (ICW).

The Original Developer 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.

ICW and the City entered into a Takeover Agreement on October 11, 2011 in which ICW agreed to complete the remaining public and common area improvements and guarantee, for a limited time, all items identified in the SIA that were determined at the time to be incomplete.

On and around March 12, 2012, FEDCO Construction, Inc., an ICW contractor, in performing work pursuant to the Takeover Agreement, excavated, removed and transported onto the Development site approximately 2,000 cubic yards of soil which was found to be contaminated.

On January 6, 2015, Blue Mountain Homes, LLC purchased the Development from the bankruptcy estate of the Original Developer and thereafter conveyed its interest in the Development to Sectarian Properties, Inc. (Current Owner).

On April 28, 2015, ICW and City entered into an amended Takeover Agreement wherein ICW and City agreed to amend the scope of work to be completed. Under the amended agreement, the City permitted the deferral of all landscaping improvements in exchange for the removal of all stockpiles and the reconstruction of Boyd Street to its full width along the entire boundary from Sebastopol Avenue to approximately the Earle Street intersection. The Development's original conditions of approval required only the half-width roadway improvements along the identified corridor.

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

PRIOR CITY COUNCIL REVIEW

“Not applicable.”

ANALYSIS

The Planning and Economic Development Department (PED) has an interest in Sectarian finalizing the Development in a timely fashion. Completion of the project will result in the delivery of available housing units and reduce the typical impacts that occur on City inspection staff when construction timelines elongate and the number of routine safety inspections increase.

The City lacks the readily available resources to complete the public and common area improvements associated with the Development in a timely fashion.

Sectarian has an interest in assuming the obligations to complete the Improvements, as Sectarian cannot finalize the Development until the associated common area and public improvements are in place.

The proposed agreement includes a reimbursement to Sectarian totaling \$1,136,340.98. An amount equaling \$50,000 will be retained by the City to address costs associated with the recovery of the total amount tendered by ICW, as well as associated administrative costs and staff time involved in negotiating the proposed agreement and bringing the item before the Council.

PED has required Sectarian to submit an Engineer’s Estimate clearly detailing all remaining improvements to be constructed, as well as the associated costs. PED has reviewed all submittals and verified that the proposed reimbursement amount represents a reasonable estimate for the remaining improvements.

The proposed 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 the agreement.

FISCAL IMPACT

The amount tendered by ICW was accepted for the purpose of completing the Development’s remaining improvements and shall act as the sole funding source for the proposed reimbursement. Approval of the proposed agreement will not impact the General Fund.

ENVIRONMENTAL IMPACT

This reimbursements action is exempt from the California Environmental Quality Act (CEQA) because it is not a project which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical

change in the environment, pursuant to CEQA Guideline section 15378.

The CEQA document associated with the Village Gardens project was certified by the Planning Commission on January 26, 1999 as part of the Tentative Map approval.

BOARD/COMMISSION/COMMITTEE REVIEW AND RECOMMENDATIONS

“Not applicable.”

NOTIFICATION

“Not applicable.”

ATTACHMENTS

- Resolution/Exhibit A (Agreement)

CONTACT

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