

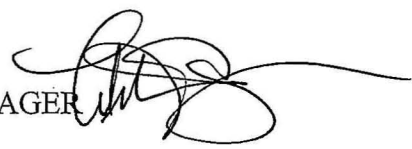


MEETING DATE: 8/2/04
ITEM NO. 14

COUNCIL AGENDA REPORT

DATE: July 22, 2004

TO: MAYOR AND TOWN COUNCIL

FROM: DEBRA J. FIGONE, TOWN MANAGER 

SUBJECT: ADOPT A RESOLUTION APPROVING THE FINAL MAP FOR TRACT NO. 9505 (SHANNON VALLEY RANCH), ACCEPTING THE DEDICATIONS AND AUTHORIZING THE TOWN MANAGER TO EXECUTE THE CONTRACT FOR PUBLIC IMPROVEMENTS.

RECOMMENDATION:


Adopt a resolution (Attachment 1) approving the Final Map for Tract No. 9505 (Shannon Valley Ranch), accepting the dedications and authorizing the Town Manager to execute the contract for public improvements.

BACKGROUND:

The developer, Greenbriar Homes, requested approval of a 14-lot planned development subdivision on the northwest corner of Hicks and Shannon Roads. On March 4, 2002, the Town Council approved the Planned Development Ordinance (Ordinance 2097). The Tentative Map (M-02-0018) was approved by the Planning Commission on January 22, 2003.

DISCUSSION:

Tract No. 9505 will create 14 lots for detached single family dwellings on approximately 80 acres of land located on the west side of Hicks Road and the north side of Shannon Road. The developer, Greenbriar Homes, have provided all necessary maps and drawings, in addition to contracts, bonds, and liability insurance (Attachment 2). The developer has paid the appropriate fees to fully comply with the previously-imposed development conditions and Town ordinances, as listed on Page 2 of this report.

PREPARED BY: JOHN E. CURTIS 
Director of Parks and Public Works

Reviewed by: PSJ Assistant Town Manager OK Attorney _____ Clerk PC Finance
_____ Community Development Revised: 7/22/04 2:36 pm

PAGE 2

MAYOR AND TOWN COUNCIL

SUBJECT: TRACT NO. 9505 (SHANNON VALLEY RANCH)

July 22, 2004

Tract No. 9505 will create two new streets to be named Shannon Oaks Lane and Mountain Laurel Lane and will be constructed as part of the improvements for this subdivision. Shannon Oaks Lane will have access off of Hicks Road, and Mountain Laurel Lane will have access off of Shannon Oaks Lane. Land on the east side of Hicks Road along Guadalupe Creek will be dedicated to the Santa Clara Valley Water District separately from the tract map.

ENVIRONMENTAL ASSESSMENTS:

This activity is a project as defined under the California Environmental Quality Act (CEQA) but is ministerial, therefore no further action is required under CEQA.

FISCAL IMPACT:

The developers, Greenbriar Homes, have paid the following fees:

1. Tract Map Checking fee\$ 4,400.00 (paid 3/1/04)
2. Engineering Plan Check fee 21,200.00 (paid 3/1/04)
3. Computer Service fee 1,024.00 (paid 3/1/04)
4. Engineering Inspection fee 27,000.00 (paid 7/21/04)
5. Computer Service fee 1,080.00 (paid 7/21/04)
6. Microfilming fee 110.00 (paid 7/21/04)
7. Storm Drainage fee (Basin 3) 3,820.00 (paid 7/21/04)

Additionally, at the time of occupancy of each home, a traffic impact mitigation fee will be due for 13 of the new houses to be constructed. Credit will be given for the one house that was destroyed by fire. The Traffic Impact Mitigation fee is currently \$5,742 per single family dwelling. These fees are due at the time of occupancy per State statutes.

Attachments:

1. Resolution Approving Final Map for Tract No. 9505 (2 pages)
2. Improvement Contract, Bonds & Insurance (15 pages)

Distribution:

Tim Quinn, Greenbriar Land Company, 43160 Osgood Road, Fremont, CA 94539

JEC:KR:TD

N:\B&E\COUNCIL REPORTS\Tr-9505 Accept Map.wpd

RESOLUTION 2004 - 100

**RESOLUTION OF THE TOWN COUNCIL
OF THE TOWN OF LOS GATOS
APPROVING FINAL MAP OF TRACT NO. 9505,
ACCEPTING THE DEDICATIONS AND
AUTHORIZING THE TOWN MANAGER TO SIGN THE CONTRACT**

WHEREAS, on January 22, 2003, the Planning Commission of the Town of Los Gatos approved the Tentative Map Application M-02-0018, with conditions; and

WHEREAS, those conditions required the Owner or Subdivider to do the following:

1. That prior to the delivery of said Map to the Owner of said subdivision, and prior to its recordation, the Owner or Subdivider of said subdivision shall enter into and execute an agreement between the Town of Los Gatos and the said Owner or Subdivider on that certain proposed Subdivision Agreement on file in the Office of the Town Clerk, entitled, "Contract for the Improvement of Tract No. 9505", wherein the Owner or Subdivider in consideration of the approval of said Map by the Town and acceptance by the Town of the dedication of lands for public use therein contained, shall agree to construct and complete, within the time specified in said agreement, all street and other improvements required of Owner or Subdivider under the provisions in Chapter 27 of the Code of the Town of Los Gatos, and such other street, sewer, or other improvements designated or mentioned in said agreement and/or and as specified in the Plans and Specifications for Tract No. 9505.
2. That said Owner or Subdivider shall, before the release of said Final Map to Owner of Record, and as a condition precedent to the recordation thereof, furnish to the Town and file with the Town Clerk cash, or a good and sufficient bond in form to be approved by the Town Attorney, securing the faithful performance by said Owner or Subdivider of all work, and the construction of all improvements herein in this agreement mentioned, and within the time herein specified, the amount of cash or said bond to be Five Hundred Thousand and No/100 Dollars.
3. That said Owner or Subdivider shall, before the release of said Final Map to Owner of Record, and as a condition precedent to the recordation thereof, furnish to the Town and file with the Town Clerk certificates or policies of public liability and property damage insurance in form satisfactory to the Town Attorney, providing public liability insurance in the amount of Five Hundred Thousand (\$500,000.00) Dollars for each person, and One Million (\$1,000,000.00) Dollars for each accident or occurrence, and property damage coverage of Two Hundred Thousand (\$200,000.00) Dollars whereby the Town of Los Gatos, and in their capacity as such, its Council members, officers, boards, commissions, and its employees will be insured, indemnified, and held harmless from any and all claims of any kind or nature arising or resulting from the construction of said

improvements or other work of subdividing within or outside the said subdivision, and/or arising or resulting from or concerning the doing or failing to do so by said Owner or Subdivider of all things required to be done in the above mentioned agreement between said Owner or Subdivider and the Town of Los Gatos.

WHEREAS, the Owner or Subdivider has complied with the conditions of Tentative Map Application M -02-0018.

NOW, THEREFORE, IT IS RESOLVED that the certain Final Map of Tract No. 9505 in the Town of Los Gatos, dated July 2004, and prepared by MacKay & Soms, Inc. for approval by the Town Engineer of the Town of Los Gatos, is hereby approved; the Town Manager is hereby authorized to execute the agreement with the Subdivider and all offers of land for public use therein made on said Map are hereby accepted.

PASSED AND ADOPTED at a regular meeting of the Town Council held on the 2nd day of August, 2004 by the following vote:

COUNCIL MEMBERS:

AYES: Sandy Decker, Diane McNutt, Joe Pirzynski, Mike Wasserman,
Mayor Steve Glickman.

NAYS: None

ABSENT: None

ABSTAIN: None

SIGNED:

/s/ Steve Glickman
MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

ATTEST:

/s/ Marian V. Cosgrove
CLERK OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA



TOWN OF LOS GATOS

PARKS & PUBLIC WORKS DEPARTMENT
ENGINEERING DIVISION
PHONE (408) 399-5771
FAX (408) 399-5763

SERVICE CENTER
41 MILES AVENUE
LOS GATOS, CA 95030-6044

CONTRACT FOR THE IMPROVEMENT OF TRACT NO. 9505 - SHANNON VALLEY RANCH LOS GATOS, CALIFORNIA

This agreement, made and entered into, effective upon the last date this document is signed by the parties hereto, by and between the TOWN OF LOS GATOS, a municipal corporation of the State of California, after this called "TOWN," and **GHC Shannon Valley Ranch, LLC**, after this called "SUBDIVIDER," whose principal place of business is 43160 Osgood Road, Fremont, CA 94539.

WITNESSETH

WHEREAS, SUBDIVIDER is engaged in subdividing that certain tract of land known and designated as **Tract No. 9505 - Shannon Valley Ranch**, in the Town of Los Gatos, County of Santa Clara, State of California; and

WHEREAS, a Final Map of **Tract No. 9505 - Shannon Valley Ranch**, after this called "MAP," has been filed with the Town Clerk of Los Gatos, for presentation to the Council for its approval, which map is incorporated herein by reference; and

WHEREAS, SUBDIVIDER has requested approval of the MAP before the completion of improvements of all streets, highways, or public ways and sewer facilities that are a part of or appurtenant to **Tract No. 9505 - Shannon Valley Ranch**, including the necessary curbs, gutters, paving, catch basins, pipes, culverts, storm drains, sanitary sewers, street lighting and street trees, street signs, including water system and fire hydrants acceptable to San Jose Water Company and Santa Clara County Central Fire Protection District, all according to the plans and specifications for all or any of said improvements in or appurtenant to **Tract No. 9505 - Shannon Valley Ranch**, which plans and specifications are now on file in the Office of the Town Engineer of said TOWN; the plans and specifications are composed of:

Sheets numbered:	1 - 8
Prepared by:	MacKay & Somps, Civil Engineers, Inc.
Entitled:	Plans for the Improvement of Tract No. 9505
Dated:	July 2004

After this called "PLANS"; and

WHEREAS, the Town Council of said TOWN did, on the _____ day of _____, 2004, adopt a Resolution approving the MAP and accepting the dedications therein offered, subject to and on condition that the SUBDIVIDER first enter into and execute this Agreement with the Town of Los Gatos, and provide the TOWN with such security for performance and insurance and all other things as required by this Agreement and by the Resolution;

NOW, THEREFORE, to insure satisfactory performance by SUBDIVIDER of these obligations, and in consideration of the approval of the MAP, the parties hereto do now agree as follows:

1. COMPLETION TIME

SUBDIVIDER shall construct all of the improvements and do all the work herein above or hereinafter mentioned, all according to and to the extent and as provided in the Plans and to meet all Town Ordinances and the laws of the State of California. Work shall be completed within one (1) year from the date of this Agreement.

2. DEDICATIONS TO THE TOWN

As part of the performance of its obligations under the approval, the SUBDIVIDER shall grant to the TOWN for public use, the real property consisting of all new streets within the SUBDIVIDER'S property, using such instruments of conveyance as the TOWN may require. The SUBDIVIDER warrants that the TOWN will receive title to such real property, free of encumbrance. This warranty shall survive delivery of the instrument.

3. FAITHFUL PERFORMANCE SECURITY

SUBDIVIDER shall, before the release of the MAP by the TOWN, for filing for record and as a condition precedent to the recordation of it, furnish to the TOWN and file with the Town Clerk cash, an instrument of credit, or a bond as provided by the Subdivision Map Act, in a form approved by the Town Attorney, securing performance by SUBDIVIDER of all work shown on the Plans, and completion within the agreed time. The amount of cash, instrument of credit or bond shall be **Five Hundred Thousand and 00/100 Dollars (\$500,000.00)**. It is further agreed that after final acceptance of the work, ten (10%) percent of the bond or cash shall remain in effect to guarantee the repair and replacement of defective materials and construction, furnished or done by the SUBDIVIDER discovered within one (1) year after final acceptance of the subdivision improvements by the TOWN. This limitation on the security does not shorten any time during which the TOWN may act to enforce the SUBDIVIDER's obligations under the terms of this agreement, nor shorten any time during which TOWN or any other person may bring an action in an appropriate court regarding the subject or performance of this agreement.

4. LABOR AND MATERIALS SUPPLIERS SECURITY

SUBDIVIDER shall, before release of the MAP by the TOWN, and as a condition precedent to its recordation, also furnish the TOWN and file with the Town Clerk cash, an instrument of credit, or a good and sufficient bond in form approved by the Town Attorney, securing payment to the Contractor, Subcontractors, and to persons

renting equipment or furnishing labor or materials to them for the improvements, the amount of additional cash, instrument of credit, or bond to be **Five Hundred Thousand and 00/100 Dollars (\$500,000.00)**.

5. HOLD HARMLESS

SUBDIVIDER does expressly agree to indemnify and hold harmless the Town of Los Gatos, its Town Council Members, Boards, Commissions, employees and agents, from any and all loss or damage, and from any and all liability, including cost of defense, for any and all loss or damage, and from any and all suits, actions or claims filed or brought by any or all persons or person because of or resulting from the doing by SUBDIVIDER of any and all things required of SUBDIVIDER by this Agreement, or because of or arising or resulting from the failure or omission by SUBDIVIDER to do any and all things necessary to and required by this Agreement or by law, or arising or resulting from the negligent doing by SUBDIVIDER, SUBDIVIDER'S agents, employees or subcontractors of any and all things required to be done by this Agreement, or arising or resulting from any dangerous or defective condition arising or resulting from any of the above said acts or omissions of SUBDIVIDER, SUBDIVIDER'S agents or employees.

6. INSURANCE

SUBDIVIDER shall, before the release of the MAP by the TOWN and as a condition precedent to the recordation thereof, furnish to the TOWN and file with the Town Clerk, and at all times during the performance of its obligations under this Agreement maintain the insurance described in Exhibit A.

7. TIME EXTENSIONS

If performance of this Agreement should be delayed without fault of the SUBDIVIDER, the time for the construction of same may be extended by the Town Council for such period of time as is reasonable delay.

8. STORM DRAINAGE

SUBDIVIDER expressly agrees, at the SUBDIVIDER's cost and expense, to provide adequate drainage within the aforementioned **Tract No. 9505 - Shannon Valley Ranch** and construct storm drainage discharge facilities into Guadalupe Creek .

9. STORM DRAINAGE FEE

SUBDIVIDER has heretofore paid to the TOWN storm drainage fees pursuant to the provisions of Chapter 24 of the Los Gatos Town Code, in the total amount of Three Thousand Eight Hundred Twenty and 00/100 Dollars (\$3,820.00), calculated at the rate of \$2,000 per acre or lot, less credits, for the area within the boundaries of **Tract No. 9505 - Shannon Valley Ranch**. SUBDIVIDER has reviewed the calculations for the storm drainage fees and agrees that they are correct.

10. MAP CHECK, PLAN CHECK AND INSPECTION FEES

SUBDIVIDER has previously paid the TOWN the sum of Four Thousand Four Hundred and 00/100 Dollars (\$4,400.00) to defray the costs incurred by the TOWN in reviewing and checking the MAP for **Tract No. 9505 - Shannon Valley Ranch**, the sum of Twenty-one Thousand Two Hundred and 00/100 Dollars (\$21,200.00) to defray the costs incurred by the TOWN in reviewing and checking the Plans and Specifications, and the sum of Twenty-Seven Thousand and 00/100 Dollars (\$27,000.00) to defray the costs incurred by the TOWN in inspecting the construction of the improvements within said Tract.

11. MAINTENANCE OF PUBLIC INFRASTRUCTURE

The SUBDIVIDER shall maintain all public infrastructure (streets, sidewalks, right-of-way, street light, storm drainage facility, sanitary sewer, etc.) in a safe and usable condition at all times during construction. Should any public infrastructure become unsafe, unusable or inoperable because of the SUBDIVIDER'S activities, the SUBDIVIDER shall immediately cease all work on the project until the public infrastructure is made safe and usable, for which the SUBDIVIDER shall be solely responsible.

12. CERTIFICATES OF OCCUPANCY

The TOWN will not issue any R-3 Certificates of Occupancy for single family homes to be built within **Tract No. 9505 - Shannon Valley Ranch** until all improvements shown on the PLANS have been completed by the SUBDIVIDER, as required by the DIRECTOR OF PARKS AND PUBLIC WORKS.

13. AS-BUILT PLANS

After completion of the construction of all work in the public right-of-way or public easements, the original plans shall have all changes (change orders and field changes) clearly marked. The "As-built" plans shall again be signed and "wet-stamped" by the engineer who prepared the plans, attesting to the changes. The original "As-built" plans shall be reviewed and approved the Engineering Inspector. A photo Mylar and AutoCAD disk (as required by the conditions of approval) of the approved "As-built" plans shall be provided to the TOWN before the release of the Faithful Performance Security.

14. NOTICES

Notices regarding this Agreement shall be given as follows and shall be considered effective upon either personal delivery or five (5) days following deposit in the U.S. Mail:

To SUBDIVIDER: Patrick Costanzo, Jr.,

GHC Shannon Valley Ranch, LLC

43160 Osgood Road

Fremont, CA 94539

TOWN OF LOS GATOS

Contract for the Improvement of Tract No. 9505 - Shannon Valley Ranch

To TOWN: Kevin Rohani, Town Engineer
Parks and Public Works Department
41 Miles Avenue
Los Gatos, CA 95030

15. WAIVER

Waiver of a breach of default under this Agreement shall not form a continuing waiver or a waiver of a subsequent breach of the same or any other provision of the Agreement.

16. SEVERABILITY

If any term of this Agreement is held invalid by a court of competent jurisdiction, the remainder of this Agreement shall remain in effect.

17. ENTIRE AGREEMENT AND AMENDMENT

This Agreement constitutes the complete and exclusive statement of this agreement between TOWN and SUBDIVIDER. No verbal agreement or conversation with any officer, agent, or employee of TOWN, either before, during or after the execution of this Agreement, shall affect or modify any of the terms or obligations contained in the Agreement.

TOWN OF LOS GATOS

TOWN MANAGER

DATE: _____

ATTEST:

TOWN CLERK

DATE: _____

APPROVED AS TO FORM:

TOWN ATTORNEY

DATE: _____

RECOMMENDED BY:

DIRECTOR OF PARKS AND PUBLIC WORKS

DATE: _____

SUBDIVIDER

GHC Shannon Valley Ranch, LLC

a Delaware Limited Liability Corporation

By: Greenbriar Homes Communities, Inc.
a California Corporation, its Manager

DATE: _____

Patrick Costanzo, Jr.
Executive Vice President

FAITHFUL PERFORMANCE BOND

WHEREAS, the Town Council of the Town of Los Gatos, State of California and **GHC Shannon Valley Ranch, LLC** (herein designated as "PRINCIPAL") have entered an agreement by which PRINCIPAL agrees to install and complete certain designated public improvements, which said agreement, dated _____, 2004, and identified as **Tract No. 9505 - Shannon Valley Ranch**, is hereby referred to and made a part hereof; and

WHEREAS, said PRINCIPAL is required under the terms of said agreement to furnish a bond for the faithful performance of said agreement.

NOW, THEREFORE, we, the PRINCIPAL and _____, as Surety, are held and firmly bound unto the Town of Los Gatos (hereinafter called "TOWN"), in the penal sum of **Five Hundred Thousand and 00/100 dollars (\$500,000.00)** lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, successors, executors and administrators, jointly and severally, formally by these presents.

The condition of this obligation is such that if the above bounded PRINCIPAL, his or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and provisions in the said agreement and any alteration thereof made as therein provided, on his or their part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless TOWN, its officers, agents and employees, as therein stipulated, and this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

PRINCIPAL and Surety further agree that upon TOWN's final acceptance of the work, ten percent (10%) of this bond shall remain in effect to guarantee the repair and/or replacement of defective materials and/or construction, one (1) year after TOWN's final acceptance of the work.

As a part of the obligation secured hereby and in addition to the face amount specified therefor, there shall be included costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by TOWN in successfully enforcing such obligation, all to be taxed as costs and included in any judgement rendered.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the agreement or to the work to be performed thereunder or the specifications accompanying the same shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the agreement or to the work or to the specifications.

In witness whereof, this instrument has been duly executed by the PRINCIPAL and Surety above named, on _____, 2004.

PRINCIPAL:
GHC Shannon Valley Ranch, LLC

SURETY:

Patrick Costanzo, Jr.
Executive Vice President

Address

Notary Acknowledgment Required

LABOR AND MATERIALS BOND

WHEREAS, the Town Council of the Town of Los Gatos, State of California, and **GHC Shannon Valley Ranch, LLC** (hereinafter designated as "PRINCIPAL") have entered an agreement whereby PRINCIPAL agrees to install and complete certain designated public improvements, which said agreement, dated _____, 2004, and identified as **Tract No. 9505 - Shannon Valley Ranch**, is hereby referred to and made a part hereof; and

WHEREAS, under the terms of said agreement, PRINCIPAL is required before entering upon the performance of the work, to file a good and sufficient payment bond with the Town of Los Gatos to secure the claims to which reference is made in Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code of the State of California.

NOW, THEREFORE, said PRINCIPAL and the undersigned as Corporate Surety, are held firmly bound unto the Town of Los Gatos and all contractors, subcontractors, laborers, material suppliers and other persons employed in the performance of the aforesaid agreement and referred to in the aforesaid Code of Civil Procedure in the sum of **Five Hundred Thousand and 00/100 dollars (\$500,000.00)**, for materials furnished or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to such work or labor, that said surety will pay the same in an amount not exceeding the amount herein above set forth, and also in case suit is brought upon this bond, will pay, in addition to the face amount thereof, costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by the TOWN in successfully enforcing such obligation, to be awarded and fixed by the court, and to be taxed as costs and to be included in the judgment therein rendered.

It is hereby expressly stipulated and agreed that this bond shall inure to the benefit of any and all persons, companies and corporations entitled to file claims under Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code, so as to give a right of action to them or their assigns in any suit brought upon this bond.

Should the condition of this bond be fully performed, then this obligation shall become null and void, otherwise it shall be and remain in full force and effect.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of said agreement or the specifications accompanying the same shall in any manner affect its obligations on this bond, and it does hereby waive notice of any such change, extension, alteration or addition.

In witness whereof, this instrument has been duly executed by the PRINCIPAL and Surety above named, on _____, 2004.

PRINCIPAL:

GHC Shannon Valley Ranch, LLC

SURETY:

Patrick Costanzo, Jr.
Executive Vice President

Address

Notary Acknowledgment Required

EXHIBIT A
INSURANCE REQUIREMENTS

A. MINIMUM SCOPE OF INSURANCE

Coverage shall be at least as broad as:

1. Insurance Services Office form number GL 0002 (Ed. 1/73) covering Comprehensive General Liability and Insurance Services Offices form number GL 0404 covering Broad Form Comprehensive General Liability; or Insurance Services Office Commercial General Liability coverage ("occurrence" form GC 0001).
2. Insurance Services Office form number CA 0001 (Ed. 1/78) covering Automobile Liability, code 1 "any auto" and endorsement CA 0025.
3. Worker's Compensation insurance as required by the Labor Code of the State of California and Employers Liability Insurance.

B. BEGINNING OF WORK

SUBDIVIDER shall maintain limits no less than:

1. General Liability: \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this Project/location or the general aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage.
3. Workers' Compensation and Employers Liability: Workers' compensation limits as required by the Labor Code of the State of California and Employers Liability limits of \$1,000,000 per accident.

C. DEDUCTIBLES AND SELF-INSURED RETENTIONS

Any deductibles or self-insured retentions must be declared to and approved by the Town of Los Gatos. At the option of the Town of Los Gatos, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the Town of Los Gatos, its officers, official, employees and volunteers; or the SUBDIVIDER shall procure a bond guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

D. OTHER INSURANCE PROVISION

The policies are to contain, or be endorsed to contain the following provision:

1. General Liability and Automobile Liability Coverages
 - a. The Town of Los Gatos, its officers, official, employees and volunteers are to be covered as insured as respects: liability arising out of activities performed by or on behalf of the SUBDIVIDER, products and completed operation of the Contracts, premises owned, occupied or used by the SUBDIVIDER, or automobiles owned, leased, hired or borrowed by the SUBDIVIDER. The coverage shall contain no special limitation on the scope of protection afforded to the Town of Los Gatos, its officers, officials, employees, or volunteers.

- b. The SUBDIVIDER'S insurance coverage shall be primary insurance as respects the Town of Los Gatos, its officer, officials, employees, and volunteers. Any insurance or self-insurance maintained by the Town of Los Gatos, its officers, officials, employees, or volunteers shall be excess of the SUBDIVIDER'S insurance and shall not contribute with it.
 - c. Any failure to comply with reporting provision of the policies shall not affect coverage provided to the Town of Los Gatos, its officers, officials, employees, or volunteers.
 - d. The SUBDIVIDER'S insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- 2. **Workers' Compensation and Employers Liability Coverage**

The insurer shall agree to waive all rights of subrogation against the Town of Los Gatos, its officers, officials, employees, or volunteers for losses arising from work performed by the SUBDIVIDER for the Town of Los Gatos.
- 3. **All Coverages**

Each insurance policy required by this clause shall be endorsed to state that the coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail return receipt required, has been given to the Town of Los Gatos.

E. ACCEPTABILITY OF INSURERS

Insurance is to be placed with insurers with a Best's rating of no less than **B+**.

F. VERIFICATION OF COVERAGE

SUBDIVIDER shall furnish the Town of Los Gatos with certificates of insurance and with certificates of insurance and with original endorsements effecting coverage required by this clause. The certificates and endorsements for each insurance policy are to be signed by a persona authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be on forms approved by the Town of Los Gatos. Where by statute, the Town of Los Gatos's workers' compensation-related forms cannot be used, equivalent forms approved by the State Insurance Commissioner are to be substituted. All certificates and endorsements are to be received and approved by the Town of Los Gatos before work commences. The Town of Los Gatos reserves the right to require complete, certified copies of all required insurance policies, at any time.

G. SUBCONTRACTORS

SUBDIVIDER shall include all subcontractors as insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.