

BOS Agreement No. 18-143

DOT Agreement No. 180071

**COUNTY OF MENDOCINO
DEPARTMENT OF TRANSPORTATION**

**SUBDIVISION ROAD MAINTENANCE & REPAIR AGREEMENT
FOR
TRACT NO. 245
VICHY SPRINGS COMMUNITY HOMES SUBDIVISION
UNIT 2 PHASE 2**

THIS AGREEMENT is made this 2nd day of October 2018, between the COUNTY OF MENDOCINO, a political subdivision of the State of California, hereafter referred to as "COUNTY", and KIMB, L.L.C., successor to CREEKBRIDGE HOMEBUILDERS, L.L.C., hereafter referred to as "SUBDIVIDER".

WITNESSETH

WHEREAS, SUBDIVIDER has constructed certain street and appurtenant drainage improvements pursuant to the Subdivision Improvement Agreement for Tract 245, dated December 14, 2004 (BOS Agreement No. 04-257; the "Improvement Agreement"); and

WHEREAS, SUBDIVIDER has made application to the Board of Supervisors for acceptance of said certain street and appurtenant drainage improvements, generally known as Ardesch Court and Perrier Court, in the Ukiah area, as more particularly defined herein, into the County Maintained Road System; and

WHEREAS, pursuant to the Improvement Agreement and Section 17-74(F) of the Mendocino County Code, if street improvements are to be accepted into the County Maintained Road System, the SUBDIVIDER shall enter into an unconditional maintenance and repair agreement for said street improvements; and

WHEREAS, such unconditional maintenance and repair agreement shall be secured by a surety bond, cash deposit, certified or cashier's check, or instrument of credit in an amount approved by the Board of Supervisors which shall be not less than five (5) percent of the estimated cost of street improvements; and

WHEREAS, such unconditional maintenance and repair agreement shall be for a period not to exceed twenty four (24) months.

AGREEMENT

NOW, THEREFORE in consideration of the above recitals, and the promises and agreements described below, it is agreed as follows:

1. SUBDIVIDER shall guarantee and warranty all street improvements, including roads, sidewalks, curb and gutter, appurtenant drainage facilities, monuments, street signs and other improvements of any nature (the "street improvements") installed by SUBDIVIDER within the right of way of Ardesch Court and Perrier Court as those streets are shown on the Final Map for Vichy Springs Community Homes – Unit Two (Tract 245), Mendocino County Records Map Drawer 72, pages 8 through 24, against any defective work or labor done or

defective materials furnished for a period of twenty four (24) months following County's acceptance of such street improvements into the County Maintained Road System.

2. SUBDIVIDER shall remedy and repair any defects in such street improvements following acceptance into County Maintained Road System within thirty (30) days of receiving written notice from COUNTY, which notice shall specify the repair work to be completed. If the work described in the notice is not completed by SUBDIVIDER within the period of time prescribed herein, COUNTY may at its option complete said work and recover the full cost of and expense thereof from SUBDIVIDER or from the surety described below.

3. SUBDIVIDER shall provide a bond in the amount of FORTY ONE THOUSAND SEVEN HUNDRED SEVENTY EIGHT DOLLARS (\$41,778) to secure faithful performance by SUBDIVIDER for the maintenance and repair herein required. Such sum, or any portion thereof that may be required to remedy defects may be drawn upon by COUNTY, at any time COUNTY determines that SUBDIVIDER is not in compliance with this Agreement.

4. As a condition of COUNTY acceptance of street improvements prior to development of subdivision lots, SUBDIVIDER shall provide a written disclosure at the time of sale of any lot within the subdivision located on Ardesch Court and Perrier Court which notifies the buyer of the requirement to obtain an encroachment permit for construction-related activities within the County Right of Way. Such encroachment permit will contain provisions for the repair of any damage caused to sidewalk, street, or other County facilities during the performance of said activities. The obtaining of an encroachment permit by any successive owner shall not relieve SUBDIVIDER from its obligations under this agreement.

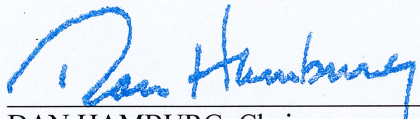
5. To the furthest extent permitted by law, SUBDIVIDER shall assume the defense of, indemnify and hold harmless the COUNTY, its officers, agents and employees from and against any and all claims, demands, damages, costs, liabilities and losses whatsoever alleged to be occurring or resulting in connection with any defect in the street improvements due to construction-related activities and traffic, poor workmanship or materials arising out of SUBDIVIDER'S obligations, performance or nonperformance under this Agreement, unless arising out of sole negligence or willful misconduct of COUNTY. SUBDIVIDER'S performance includes SUBDIVIDER'S action or inaction and the action or inaction of SUBDIVIDER'S officers, employees, agents and subcontractors.

6. This Agreement, and any dispute arising from the relationship between the parties to this Agreement, shall be governed by the laws of the State of California, excluding any laws that direct the application of another jurisdiction's laws. All lawsuits relating to this contract must be filed in Mendocino County Superior Court, Mendocino County, California.

[Signature on next page.]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

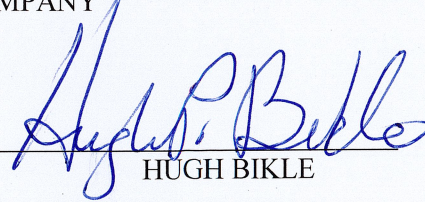
COUNTY OF MENDOCINO



DAN HAMBURG, Chair
BOARD OF SUPERVISORS OCT 03 2018

KIMB L.L.C.

A CALIFORNIA LIMITED LIABILITY
COMPANY

By: 
HUGH BIKLE

Title: Manager

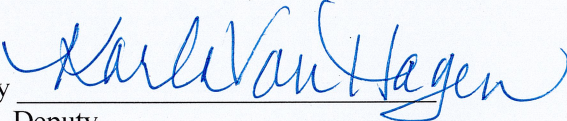
Date: 9/5/18

NAME AND ADDRESS OF SUBDIVIDER:

KIMB L.L.C.
1540 CONSTITUTION BLVD.
SALINAS, CA 93905

ATTEST:

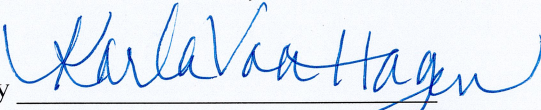
CARMEL J. ANGELO, Clerk of said Board

By: 
Deputy

OCT 03 2018

I hereby certify that according to the provisions
of Government Code 25103, delivery of this
document has been made.

CARMEL J. ANGELO, Clerk of said Board

By: 
Deputy

OCT 03 2018

By signing above, signatory warrants and
represents that he/she executed this Agreement
in his/her authorized capacity and that by
his/her signature on this Agreement, he/she or
the entity upon behalf of which he/she acted,
executed this Agreement

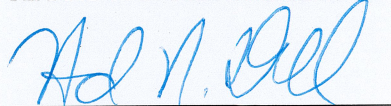
APPROVED AS TO FORM:

KATHARINE L. ELLIOTT, County Counsel

By: 
County Counsel

Date: 8/11/18

APPROVAL RECOMMENDED:




HOWARD N. DASHIELL
Director of Transportation

INSURANCE REVIEW:

BY: 
RISK MANAGEMENT

EXECUTIVE OFFICE/FISCAL REVIEW:
APPROVAL RECOMMENDED

By: 
Deputy CEO