

2020-036922 CONF

3:11 pm 04/23/20 AG Fee: NO FEE

Count of pages 24

Recorded in Official Records

County of San Mateo

Mark Church

Assessor-County Clerk-Recorder



RECORDING REQUESTED BY)
AND WHEN RECORDED MAIL TO:)
)
City of Redwood City)
1017 Middlefield Road)
Redwood City, California 94063)
Attention: City Clerk)

(Space Above This Line for Recorder's Use Only)
Exempt from recording fee per Gov. Code §
27383.

**SUBDIVISION IMPROVEMENT AGREEMENT
1180 Main Street**

THIS SUBDIVISION IMPROVEMENT AGREEMENT ("Agreement") is made and entered into on this day of MARCH 16, 2020 ("Effective Date") by and between Premia 1180 Main Owner, LLC, a Delaware limited liability company ("Developer"), and the CITY OF REDWOOD CITY, a charter city and California municipal corporation ("City") (together, the "Parties") with reference to the following facts:

RECITALS

A. Developer is the current fee owner of that certain real property consisting of approximately 1.31 acres located within the City of Redwood City, County of San Mateo, State of California, described in Exhibit "A", attached hereto and incorporated herein by reference (the "Property").

B. On July 30, 2019, the Planning Commission of the City of Redwood City adopted, among other approvals, Resolution No. 19-10, approving the Tentative Parcel Map (TM2018-006) for the 1180 Main Street Office Project ("Project"), prepared by BKF Engineers and dated June 27, 2018 ("Tentative Map"), subject to certain conditions of approval ("Conditions"). The Conditions require either (1) that certain public improvements for the Project be constructed prior to approval of the parcel map ("Parcel Map"), or (2) that Developer enter into an agreement with City providing for the future construction of such public improvements. Condition No. 22(e) requires that at the time of the approval of the parcel map, Developer enter into an improvement agreement to, among other things, guarantee the installation of all improvements required of the Project.

C. Developer has submitted the Parcel Map and applied to City for Parcel Map approval without having completed the required public improvements and, therefore, will enter into an agreement with City providing for the future construction and installation of such public improvements, as required by Government Code section 66411.1.

D. Developer has submitted to City plans, specifications and drawings entitled 1180 Main Street Improvement Plans, prepared by BKF Engineers and dated MARCH 12, 2020 (the "Improvement Plans"), which, in addition to other improvements, provide for certain on-site public improvements consisting of street and

street light improvements, storm drain systems, domestic water systems and sanitary sewer systems for the Project (collectively, "Improvements").

E. Upon approval and recordation of the Parcel Map, the Property will be combined into one commercial parcel.

F. City and Developer desire to enter into this agreement providing for the construction and installation of the Improvements in accordance with the Improvement Plans.

A G R E E M E N T

NOW, THEREFORE, in consideration of the faithful performance of the terms and conditions set forth in this Agreement, the Parties hereto agree as follows:

1. Purpose. The purpose of this Agreement is to guarantee completion of the Improvements and ensure satisfactory performance by Developer of Developer's obligations to satisfy the Conditions pertaining to the Improvements.

2. Property Subject to Agreement. The Property will be subject to this Agreement.

3. Duty to Install Improvements. Developer will construct, install and complete, or cause to be constructed, installed and completed, at Developer's sole cost and expense, the Improvements, in accordance with the Improvement Plans and to the satisfaction of the City Engineer, in their reasonable discretion. Developer will also supply all labor and materials therefor, all in strict accordance with the terms and conditions of this Agreement. The Improvements will include, but are not necessarily limited to, all of the following:

- (a) grading, paving;
- (b) curbs, gutters, concrete walkways, driveways;
- (c) bridge
- (d) sanitary sewer system, complete;
- (e) water system, complete;
- (f) storm drainage system, complete;
- (g) on-site stormwater treatment system, complete;
- (h) off-site flow-through planter treatment systems, complete;
- (i) lighting system, complete;
- (j) street trees;

- (k) landscaping and irrigation system complete;
- (l) utility joint trenching;
- (m) all Conditions of the Tentative Map; and
- (n) all other work, improvements, or construction required by or specified in the abovementioned plans and specifications, conditions of permits and all construction, appurtenances and improvements necessary as reasonably determined by the City Engineer to complete the aforementioned improvements, both within and outside of the Property.

The construction, installation and completion of the Improvements and all labor and materials furnished in connection therewith are hereinafter referred to collectively as the "Work." The Work and Improvements will be in strict compliance with the provisions of Chapter 30 of the Redwood City Code. In the event a conflict exists between the Improvement Plans and the requirements of Chapter 30 of the Redwood City Code, the stricter requirement or standard will govern, as determined by the City Engineer.

4. Completion Date. Developer will complete the Work within twenty-four months of the Effective Date. All Work will be completed in a good and workmanlike manner in accordance with accepted design and construction practices and consistent with the Improvement Plans. This completion date may be extended by the City Engineer in their sole and absolute discretion at the request of Developer, which request will be accompanied by a written assurance acceptable to the City Engineer that the securities required by Section 13 will remain enforceable throughout the term of the extension.

5. Estimated Cost of Work. The engineer's estimated cost of the Work is Two Million, Four Hundred Seven Thousand, Eight Hundred Thirty-Six Dollars (\$2,407,836.00) ("Estimated Cost of Work").

6. Modifications to the Plans. Approval of this Agreement by City does not release Developer from its responsibility to correct mistakes, errors or omissions in the Improvement Plans. If, at any time, in the opinion of the City Engineer, in their reasonable discretion, the Improvement Plans are deemed inadequate in any respect, Developer agrees to make such modifications, changes or revisions as necessary in order to complete the Work in a good and workmanlike manner in accordance with accepted design and construction standards and consistent with the Conditions and Improvement Plans.

7. Repairs. Developer will either (a) repair or have repaired in a timely manner at its sole cost and expense all public roads, streets, or other public or private property damaged as a result of or incidental to the Work or in connection with the development of the Property, or (b) pay to the property owner of any damaged road, street or property the full cost of such repair. In addition, Developer will obtain the written acceptance of such repair or payment from any owner whose private or public property was repaired by Developer or to whom Developer has paid the full cost of such repair in accordance with this Section 7. City will be under no obligation whatsoever to accept the Work completed

under this Agreement until such time as all repairs have been completed or have been paid for and written acceptances have been provided to the City Engineer.

8. Foreman or Superintendent. Developer will give personal attention to the Work. A competent foreman or superintendent, satisfactory to the City Engineer in their reasonable discretion, with authority to act for and on behalf of Developer, will be named in writing by Developer prior to commencement of the Work, will be present on the Property during the performance of the Work, and may not be changed without advance notification to and the concurrence of the City Engineer.

9. Examination of Work. All of the Work will be consistent with the Improvement Plans and performed to the satisfaction of the City Engineer, in their reasonable discretion. City and its authorized agents will, at all times during the performance of the Work, have free access to the Property and the Work and will be allowed to examine the Work and all materials used and to be used in the Work.

10. City Costs; Deposit. Developer will pay to City the actual cost for all engineering, inspection, administration, plan check, laboratory and field-testing, construction, and other services furnished by City in connection with this Agreement, including those performed by consultants under contract with City ("City Costs"). Developer will deposit with City the sum of one hundred ten thousand, two hundred thirty-five dollars (\$110, 235.00) ("Deposit") to compensate City for all City Costs. Developer understands that the Deposit is an estimate and further agrees to pay to City the actual cost of providing such services, in accordance with City's current fees. Developer will complete payment of such additional sum or sums for the services provided by City, if any, within thirty (30) days after invoicing by City of the additional sum to be paid, and the amount payable will be increased by ten percent (10%) in the event payment is not made within such thirty (30) day period. Any part of the Deposit or such additional sum or sums not utilized by City will be returned promptly to Developer and City shall provide, at Developer's request, an accounting of the utilized portion of the Deposit.

11. Completion of Work. After Developer (a) completes the Work in accordance with the Improvement Plans and the terms and conditions of this Agreement, (b) repairs any private or public property damaged as a result of the Work or pays the full cost of such repair to the owner whose property was damaged and (c) obtains the written acceptance of such repair or payment from any owner whose private property was repaired by Developer or to whom Developer paid the full cost of such repair, Developer will provide City with a written notice of completion, together with copies of all written acceptances.

12. Final Acceptance.

12.1 Notice of Completion. Within thirty (30) days of receipt of Developer's written notification pursuant to Section 11 above, the City Engineer will inspect the Work and repairs and review the written acceptances, if any, and send Developer a written notice stating whether the Work and repairs are complete to the satisfaction of the City Engineer, in their reasonable discretion, and whether the

written acceptances have been provided. If the Work and repairs are, in the opinion of the City Engineer, not complete and satisfactory, and/or written acceptances have not been provided, the City Engineer will list the deficiencies that Developer must correct to make the Work and repairs complete and satisfactory. Upon satisfactory completion of the Work and repairs and submittal of written acceptances, the City Engineer will send Developer a written notice of satisfactory completion. The requirement for written acceptances may be waived by the City Engineer, in their reasonable discretion, if Developer has made commercially reasonable efforts to obtain such acceptances. The City Engineer's failure to respond to Developer's written notification within thirty (30) days will not be deemed a breach or default under this Agreement.

12.2 Acceptance of Improvements. After sending Developer a written notice of satisfactory completion pursuant to Section 12.1, the City Engineer will recommend acceptance of the Improvements to the City Council. The acceptance of the Improvements, offers of dedication and right-of way, and easements, if any, will be by City Council action, with the matter placed on the next available agenda. Upon City Council action, the City Engineer will promptly record a notice, in a form to be approved by the City Attorney, in the Official Records of San Mateo County.

13. Performance, Labor and Materials and Warranty Security.

13.1 In accordance with Chapter 30 of the Redwood City Code, Developer will furnish and deliver to City, within the times set forth below, the following security, each of which must be issued by a surety company duly and regularly authorized to do general surety business in the State of California, or such other surety as may be acceptable to the City Engineer.

(a) Performance Security. Developer will furnish and deliver performance security in the amount of Two Million, Four Hundred Seven Thousand, Eight Hundred Thirty-Six Dollars (\$2,407,836.00), concurrently with the execution of this Agreement, which security must meet the requirements of Government Code section 66499.1 and Redwood City Code Section 30.80 and be acceptable to the City Engineer. The security will be conditioned upon the faithful performance of this Agreement with respect to the Work and will be released by City in accordance with Section 14 below upon final acceptance of the Improvements as described in Subsection 12.2 and Developer's delivery of the Warranty Security described in Subsection 13.1(c).

(b) Payment Security. Developer will furnish and deliver labor and materials security in the amount of Two Million, Four Hundred Seven Thousand, Eight Hundred Thirty-Six Dollars (\$2,407,836.00), concurrently with the execution of this Agreement, which security must meet the requirements of Government Code section 66499.2 and Redwood City Code Section 30.80 and be acceptable to the City Engineer. The security will secure payment to the contractor(s) and subcontractor(s) performing

the Work and to all persons furnishing labor, materials or equipment to them. City will retain the security until both (i) City accepts the Work in accordance with Subsection 12.2 above and (ii) the statute of limitations to file an action under Civil Code section 8410 *et seq.* has expired. The security amount may thereafter be reduced or released by the City Engineer in accordance with Section 14.

(c) Warranty Security. Developer will furnish and deliver warranty security in the amount of Two Hundred Forty Thousand, Seven Hundred Eighty Four Dollars (\$240,784.00), upon acceptance of the Improvements and prior to release of the Performance Security. The security will be in a form acceptable to the City Engineer and will guarantee and warrant the Work for a period of one (1) year following the completion and acceptance thereof against any defective work or labor done, or defective materials furnished.

13.2 If the improvement security is a corporate surety bond and, in the opinion of City, any surety or sureties thereon become insufficient, Developer will renew or replace any such surety with good and sufficient surety or sureties within ten (10) days after receiving written demand thereof from City.

13.3 Improvement security consisting of corporate surety bonds will be kept on file with the City Engineer. If a corporate surety bond is replaced by another approved bond, the replacement will be filed with the City Engineer and made a part of and incorporated into this Agreement. Upon filing and approval by the City Engineer of a replacement bond, the former improvement security will be released.

13.4 Modifications of the Improvement Plans and related specifications, and modifications of the Improvements, not exceeding ten percent (10%) of the original Estimated Cost of Work, will not relieve or release any improvement security furnished by Developer pursuant to this Agreement. If any such modifications exceed ten percent (10%) of the Estimated Cost of Work, Developer will furnish additional improvement security for, performance, warranty, and payment, as required by Subsection 13.1 above, for one hundred percent (100%) of the revised Estimated Cost of Work.

13.5 The City's approved bond forms are attached hereto as Exhibits B, C and D, attached hereto and incorporated by reference.

14. Partial Reduction or Release of Improvement Security.

14.1 Partial releases or reductions in Developer's improvement security may be authorized prior to City's acceptance of all Improvements required hereunder, as provided in this Section 14.

14.2 Upon acceptance of all or any specified category of the Improvements by the City Council and upon request of Developer, the improvement security may be reduced or released as follows:

(a) Security for Performance: The security for performance will be released upon the final completion of the Work, City's acceptance of the Improvements and Developer's delivery of the warranty security described in Subsection 13.1(c). At the request of Developer, the City Engineer may release a portion of the security for performance in conjunction with the acceptance of part of the Improvements; provided, however, that no such release will be for an amount less than ten percent (10%) of the total security for performance and such security will not be reduced to an amount less than seventy-five percent (75%) of the total security for performance until final completion and City acceptance of the Improvements. In no event will the City Engineer authorize a release of the security for performance which would reduce such security to an amount below that required to guarantee the completion of the remaining Work and any other obligation imposed under this Agreement.

(b) Security for Payment: Security furnished to secure payment to contractors, subcontractors, and to persons providing labor, materials or equipment will, six (6) months after acceptance of all of the Improvements, be reduced to an amount equal to the total amount claimed by all claimants for whom liens have been filed and of which notice has been given to City, plus an amount reasonably determined by the City Engineer to be required to assure the performance of any other obligations secured by the security. The balance of the payment security will be released upon settlement or release of all claims and obligations for which the security was given.

(c) If Developer's obligations relating to any Improvements are subject to the approval of another governmental agency, City will not release the improvement security thereof until the obligations are performed to the satisfaction of such other governmental agency. Such agency will have two (2) months after Developer's performance of the obligation to register its satisfaction or dissatisfaction. If at the end of that period such agency has not registered its satisfaction or dissatisfaction, it will be conclusively deemed that Developer's performance of the obligation was done to its satisfaction.

15. Warranty Period; Repair and Reconstruction. Without limiting the foregoing, Developer expressly warrants and guarantees all Work performed under this Agreement and all materials used in the Work for a period of one (1) year after City's final acceptance in accordance with Section 12. If, within this one (1) year warranty period, any Improvement or part of any Improvement installed or constructed, or caused to be installed or constructed by Developer, or any of the Work done under this Agreement, fails to fulfill any of the requirements of the Improvement Plans or this Agreement, Developer will, without delay and without cost to City, repair, replace or reconstruct any defective or otherwise unsatisfactory part or parts of the Work or Improvement to the satisfaction of the City Engineer. Should Developer fail to act promptly or in accordance with this requirement, and such failure is not cured within the time period set forth in Section 23, or should the exigencies of the situation require repairs, replacements or

reconstruction to be made before Developer can be notified, City may, at its option, make the necessary repairs, replacements or perform the necessary reconstruction and Developer will pay to City upon demand the actual cost of such repairs, replacements or reconstruction.

16. Developer Not Agent of City. Neither Developer nor Developer's contractors, subcontractors, agents, officers, or employees are agents or employees of City and Developer's relationship to City, if any, arising herefrom is strictly that of an independent contractor.

17. Indemnification.

17.1 Neither City, nor its officers, agents nor employees, will be liable or responsible for any accident, injury, loss, or damage to either property or person attributable to or arising out of the construction or installation of the Improvements. Developer will indemnify, hold harmless and defend City, its officers, agents and employees, from and against any and all losses, claims, costs, expenses, liabilities, damages, actions, causes of action and judgments, including reasonable attorneys' fees, arising out of or attributable to Developer's performance under this Agreement. Notwithstanding the forgoing, Developer will not be obligated under this Agreement to defend and/or indemnify City to the extent that any of the damage or injury is caused by the gross negligence or willful misconduct of City or its agents or employees.

17.2 Developer's obligations under this Section 17 are not conditioned or dependent upon City, or its officers, agents and employees, whether City prepared, supplied or reviewed any Improvement Plans or related specifications in connection with the Project or the Improvements, or whether City has insurance or other indemnification covering any of these matters.

17.3 Developer's obligation to indemnify, hold harmless and defend City will extend to injuries to persons and damages to or alleged taking of property resulting from the design or construction of the Project, and the Improvements required herein, and will likewise extend to adjacent property owners asserting claims based upon the diversion of waters caused by Developer's design or construction of public drainage systems, streets, and other public facilities or Improvements. The City's acceptance of the Improvements will not constitute an assumption by City of any responsibility or liability for any damage or alleged taking of property referenced herein. City will not be responsible or liable for the design or construction of the Project or the Improvements constructed or installed pursuant to the approved Improvements Plans or the Parcel Map. After City's acceptance of the Improvements, Developer will remain obligated to correct or eliminate all dangerous conditions created by defects in design or construction; provided, however, that Developer will not be responsible for routine maintenance. Developer's obligations under this Section 17 will remain in effect for ten (10) years following acceptance of the Improvements by the City Council. Developer acknowledges and agrees that Developer will be responsible and liable for the

design and construction of the Improvements and other work done pursuant to this Agreement, and City will not be liable for any acts or omissions in approving, reviewing, checking, correcting or modifying any Improvement Plans or related specifications, or in inspecting, reviewing or approving any work or construction of Improvements. The Developer's improvement security will not be required to secure Developer's obligations under this Section 17 beyond the one-year guarantee and warranty period. If, in any judicial proceedings involving statutory immunity under the Government Claims Act (Government Code Sections 810, et seq.) asserted by City, or its officers, agents or employees, is determined by a court of competent jurisdiction to be inapplicable or unavailable to immunize City, or its officers, agents or employees, from potential liability for any alleged acts or omissions under this Section 17, then such rights or obligations of indemnity hereunder will be governed by principles of comparative fault. This Section 17 will survive the early termination of this Agreement.

18. Insurance. Developer will, before the release of said Parcel Map by City for recordation, obtain and maintain in full force and effect during the term of this Agreement the following insurance policies:

18.1 General Liability. Developer shall maintain commercial general liability and excess liability insurance with coverage at least as broad as Insurance Services Office form CG 00 01, in a combined amount not less than Two Million Dollars (\$2,000,000) per occurrence, Four Million Dollars (\$4,000,000) general aggregate, for bodily injury, personal injury, and property damage, including without limitation, blanket contractual liability and coverage for explosion, collapse and underground property damage hazards. Developer's general liability policies shall be primary and non-contributory, and be endorsed using Insurance Services Office form CG 20 10 to provide that City and its officers, officials, employees, and agents shall be additional insureds under such policies. For construction contracts, an endorsement providing completed operations to the additional insured, ISO form CG 20 37, is also required.

18.2 Workers' Compensation. At any time Developer has direct employees, Developer shall maintain Workers' Compensation Insurance (Statutory Limits) and Employer's Liability Insurance with limits of at least One Million Dollars (\$1,000,000). Developer shall submit to City, along with the certificate of insurance, a Waiver of Subrogation endorsement in favor of City, its officers, agents, employees, and volunteers.

18.3 Auto Liability. At any time Developer has direct employees or owns any motor vehicles, Developer shall provide auto liability coverage for owned, non-owned, and hired autos using ISO Business Auto Coverage form CA 00 01, or the exact equivalent, with a limit of no less than One Million Dollars (\$1,000,000) per accident.

18.4 Builder's Risk Insurance. Upon commencement of construction and with approval of City, Developer shall obtain and maintain Builder's Risk/Course

of Construction insurance. Policy shall be provided for replacement value on an "all-risk" basis. There shall be no coinsurance penalty provision in any such policy. Policy must include: (1) coverage for removal of debris, and insuring the buildings, structures, machinery, equipment, materials, facilities, fixtures, and all other properties constituting a part of the project; (2) coverage with limits sufficient to insure the full replacement value of any property or equipment stored either on or off the project site. Such insurance shall be on a form acceptable to City to ensure adequacy of terms and limits. Developer shall not be required to maintain property insurance for any portion of the Project following transfer of control thereof to City.

18.5 Contractors Pollution Liability. Pollution Coverage shall be provided on a Contractors Pollution Liability form or other form acceptable to City providing coverage for liability arising out of sudden, accidental and gradual pollution and remediation. The policy limit shall be no less than One Million Dollars (\$1,000,000) per claim and in the aggregate. All activities contemplated in this agreement shall be specifically scheduled on the policy as "covered operations." The policy shall provide coverage for the hauling of waste from the project site to the final disposal location, including non-owned disposal sites.

18.6 Any deductibles or self-insured retentions must be declared to, and approved by City. At the option of City either Developer's insurer will reduce or eliminate the deductibles or self-insured retentions with respect to City, it's Council, commissions, boards, committees, officers, employees and agents or Developer will procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

18.7 Concurrently with the execution of this Agreement, Developer will furnish City with certificates and copies of information or declaration pages of the insurance required hereunder and, with respect to evidence of commercial general liability and automobile liability insurance coverage, original endorsements:

(a) Precluding cancellation or reduction in coverage before the expiration of thirty (30) days after City will have received written notification of cancellation or reduction in coverage by first class mail, postage prepaid;

(b) Providing that Developer's insurance will 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 (cross liability endorsements);

(c) Naming City, its Council, commissions, boards, committees, officers, employees and agents as additional insureds; and

(d) Providing that Developer's insurance will be primary insurance relating to Contractor's work hereunder with respect to

City, its Council, commissions, boards, committees, officers, employees and Agents, and further providing that any insurance or self-insurance maintained by City for itself, its Council, commissions, boards, committees, officers, employees and agents will not be excess of Contractor's insurance and will not be contributory with it. Such insurance will also specifically insure any contractual liability assumed by Developer under the terms of this Agreement, including, but not limited to, the provisions of subsection (a) above.

18.8 In the event that Developer's insurance is cancelled, Developer will provide replacement coverage or all work must cease as of the cancellation date until replacement insurance coverage is provided.

19. Compliance with Laws. Developer will comply with all federal, state and local laws, ordinances and regulations in the performance of this Agreement. Developer will, at its own cost and expense, obtain all necessary permits and licenses for the Work, give all necessary notices, pay all fees and taxes required by law and make any and all deposits legally required by those public utilities that will serve the residential development on the Property. Copies and/or proof of payment of said permits, licenses, notices, fee and tax payments and deposits will be furnished to the City Engineer upon request.

20. Encroachment Permits. Developer will obtain, at its sole cost and expense, any encroachment permits required by City in order to perform the Work.

21. Payments. Developer agrees that it will pay, when due, all those furnishing labor or materials in connection with the Work. Developer further agrees that pursuant to Government Code section 66499.7, the payment security provided by Developer in accordance with Subsection 13.1 of this Agreement will not be released if any mechanics liens or stop notices are outstanding, unless said liens are released by bond in compliance with Civil Code section 8424.

22. Notice of Breach and Default. The occurrence of any of the following constitutes a breach and default of this Agreement:

22.1 Developer refuses or fails to complete the Work within the time set forth herein or abandons the Work.

22.2 Developer assigns the Agreement without the prior written consent of City.

22.3 Developer is adjudged bankrupt or makes a general assignment for the benefit of creditors, or a receiver is appointed in the event of Developer's insolvency.

22.4 Developer or Developer's contractors, subcontractors, agents or employees, fail to comply with any terms or conditions of this Agreement.

22.5 Any delay in the construction of any portion of the Work or repairs, which in the reasonable opinion of the City Engineer, endangers public or private property.

City may serve written notice of breach and default upon Developer and the financial institution holding the securities.

23. Opportunity to Cure. If City gives Developer notice under Section 22 of breach and default of this Agreement, Developer will have thirty (30) days within which to correct, remedy or cure the default. If the written notification states that the problem is urgent and relates to the public health and safety, then Developer will have twenty four (24) hours to correct, remedy or cure the default. If Developer does not cure the default within the applicable timeframe, City may pursue the remedies set forth in Section 24 below.

24. Remedies.

24.1 City may proceed to complete the Work by contract or other method City considers advisable, at the sole expense of Developer. Developer, immediately upon demand, will pay the costs and charges related to the Work and any subsequent repairs. City, without liability for doing so, may take possession of and utilize in completing the Work and repairs, if any, such materials and other property belonging to Developer as may be on or about the Property and necessary for completion of the work. In the event of default, the financial institution holding the securities will be liable to City to pay the face amount of the security, as specified under Section 13.

24.2 City may bring legal action to compel performance of this Agreement and recover the costs of completing the Work and/or repairs, if any, including City's administrative and legal costs or pursue any other action at law or equity.

24.3 Developer agrees that if legal action is brought by City under this section of the Agreement, Developer will pay all of the costs of suit, reasonable attorney fees, and such other costs as may be determined by the court.

24.4 No failure on the part of City to exercise any right or remedy hereunder will operate as a waiver of any other right or remedy that City may have hereunder.

24.5 The rights and remedies of City are cumulative, and the exercise by City of one or more of such rights or remedies will not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default.

25. Final Drawings. Upon completion of the Work and prior to final acceptance, Developer will deliver to City a set of "as-built" drawings consistent with the Conditions. These drawings will be in a form acceptable to the City Engineer, will be certified as being "as-built" and will reflect the Work as actually constructed, with any and all changes

incorporated therein. Said drawings will be signed and sealed as accurate by the engineer of record.

26. Monuments. All pipes and monuments shown on the Parcel Map which are destroyed or displaced during construction operations will be replaced by Developer at the time of the final inspection of the Improvements, if any.

27. Attorneys' Fees. Should any legal action be brought by either party because of breach of this Agreement or to enforce any provision of this Agreement, the prevailing party will be entitled to all costs of suit, reasonable attorneys' fees and such other costs as may be determined by the court.

28. Notices. Any notices relating to this Agreement will be given in writing and will be deemed sufficiently given and served for all purposes when delivered personally or by generally recognized overnight courier service, or five (5) days after deposit in the United States mail, certified or registered, return receipt requested, with postage prepaid, addressed as follows:

To Developer: Premia 1180 Main Owner, LLC
801 Hamilton Ave.
Redwood City, California 94063
Attn: Michael Halow

With a copy to: Aaronson Dickerson Cohn & Lanzone
1001 Laurel St., Ste A
San Carlos, CA 94070
Attn: Camas J. Steinmetz

To City: City of Redwood City
1017 Middlefield Road
Redwood City, California 94063
Attn: City Manager

With a copy to: City of Redwood City
1017 Middlefield Road
Redwood City, California 94063
Attn: City Attorney

29. Assignment by Developer. Developer covenants, for itself and its successors and assigns, not to sell, transfer or otherwise dispose of ownership of the Property, unless the prospective purchaser, transferee or assignee expressly promises in writing to be bound by all of the provisions hereof, including the covenant in this Section 15 to require successors to expressly assume the obligations herein in a form reasonably acceptable to the City Attorney. Upon such successor assuming all obligations and agreeing to be bound by this Agreement, such party shall constitute the "Developer" hereunder and all predecessors-in-interest to such party shall be fully relieved of the

obligations hereunder and shall have no liability for any default or failure to perform occurring from and after the date of such assignment and assumption.

30. Binding Upon Heirs, Successors and Assigns. The terms, covenants and conditions of this Agreement will be binding upon all heirs, successors and assigns of the Parties hereto.

31. Interpretation. The word "including" will be construed as if followed by the words "without limitation." All recitals to this Agreement are incorporated by reference as though fully restated herein. All exhibits and attachments to this Agreement are incorporated by reference as though fully restated herein. This Agreement will be interpreted as though prepared jointly by both Parties. Section headings in this Agreement are for convenience only and are not intended to be used in interpreting or construing the terms, covenants or conditions contained in this Agreement.

32. Severability. If any provision of this Agreement is held, to any extent, invalid, the remainder of this Agreement will not be affected, except as necessarily required by the invalid provision, and will remain in full force and effect.

33. Entire Agreement. The terms and conditions of this Agreement constitute the entire agreement between City and Developer with respect to the matters addressed in this Agreement. This Agreement may not be altered, amended or modified without the written consent of all Parties hereto.

34. Governing Law; Venue. This Agreement will be construed and enforced in accordance with the laws of the State of California, without reference to choice of law provisions. Any legal actions under this Agreement will be brought only in the Superior Court of the County of San Mateo, State of California.

35. Authority. Each party executing this Agreement on behalf of a party represents and warrants that such person is duly and validly authorized to do so on behalf of the entity it purports to bind and if such party is a partnership, corporation or trustee, that such partnership, corporation or trustee has full right and authority to enter into this Agreement and perform all of its obligations hereunder.

36. Time is of the Essence. Time is of the essence of this Agreement and of each and every term and condition hereof.

37. Runs with the Land; Recordation. This Agreement pertains to and will run with the Property. Upon execution, this Agreement will be recorded in the Official Records of San Mateo County. Upon completion of performance and satisfaction by Developer of its obligations under this Agreement, including warranty obligations, a written statement will be recorded by City in the Official Records of San Mateo County terminating this Agreement and releasing all of the Property. The recorded written statement does not release the Parties from obligations that survive termination of the Agreement, including indemnification.

IN WITNESS WHEREOF, City and Developer have executed this Agreement as of the Effective Date.

DEVELOPER

Premia 1180 Main Owner, LLC,
a Delaware limited liability company

By:  _____

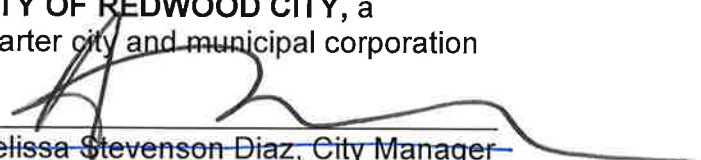
Name: Michael Halow

Title: Managing Member

[Signature must be notarized]

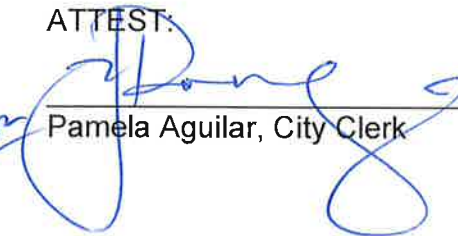
CITY

CITY OF REDWOOD CITY, a
charter city and municipal corporation



~~Melissa Stevenson Diaz, City Manager~~
Alex Khojikian, Assistant City Manager
[Signature must be notarized]

ATTEST:


For _____
Pamela Aguilar, City Clerk

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of SAN MATEO

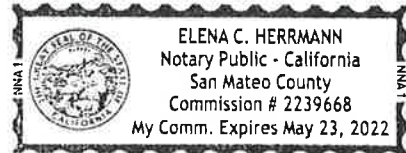
On February 26, 2020 before me, Elena C Herrmann, Notary Public
(insert name and title of the officer)

personally appeared Michael Halow
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Elena C Herrmann (Seal)



CALIFORNIA ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California }
County of San Mateo

On March 16, 2020 before me, Julie M S Rosas, Notary Public
Date Here Insert Name and Title of the Officer
personally appeared Alex Khojikian
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Julie M S Rosas
Signature of Notary Public

Place Notary Seal and/or Stamp Above

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: Subdivision Improvement Agr - 1180 Main

Document Date: 3-16-2020 Number of Pages: 22

Signer(s) Other Than Named Above: N/A

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____
 Corporate Officer – Title(s): _____
 Partner – Limited General
 Individual Attorney in Fact
 Trustee Guardian or Conservator
 Other: _____
Signer is Representing: _____

Signer's Name: _____
 Corporate Officer – Title(s): _____
 Partner – Limited General
 Individual Attorney in Fact
 Trustee Guardian or Conservator
 Other: _____
Signer is Representing: _____

Exhibit "A"



November 12, 2019
BKF No. 20170253
Page 1 of 1

Legal Description

1180 and 1190 Main Street, Redwood City, CA

Real property in the City of Redwood City, County of San Mateo, State of California, described as follows:

Being Lots 1 and 2, as shown on that certain Parcel Map No. 2010-01, filed for record on March 22, 2011, in Book 79 of Maps at Pages 74 through 76 inclusive, Records of San Mateo County, California.

Containing an area of 1.312 acres, more or less.

Being also San Mateo County Assessor's Parcel Numbers 053-147-060 and 053-147-070 per Roll Year 2019-2020.

This legal description was prepared by me, or under my direction, in conformance with the requirements of the Professional Land Surveyors' Act.

John Koroyan
John Koroyan
P.L.S. No. 8883

Nov. 12, 2019
Date



Exhibit "B"

**FORM OF FAITHFUL PERFORMANCE BOND
(SUBDIVISION)**

WHEREAS: the City of Redwood City ("City"), County of San Mateo, State of California, and _____, (hereinafter designated as "Principal") have entered into a Subdivision Improvement Agreement dated _____, 20__ ("Agreement"), the terms and conditions of which are incorporated herein by reference, whereby Principal agrees to install and complete certain designated public improvements for the following project:

1180 Main Street

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 _____, organized and existing under the laws of the State of _____ and authorized to execute bonds and undertaking as sole surety in the State of California ("Surety") are held and firmly bound unto the City of Redwood City, County of San Mateo, State of California, in the penal sum of _____ Dollars (\$_____) 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, firmly by these presents.

This bond is executed and filed to comply with the provisions of Government Code Sections 66499 and 66499.1 and all amendments thereto.

THE CONDITION OF THIS OBLIGATION IS SUCH that if the above bounden Principal, his or its heirs, executors, administrators, successors or assigns, will in all things stand to and abide by, and well and truly keep and faithfully 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 will indemnify and hold harmless City, its Council, Commissioners, boards, committees, officers, agents and employees, as therein stipulated, then this obligation will become null and void; otherwise it will be and remain in full force and effect.

As a part of the obligation secured hereby and in addition to the face amount specified therefor, there will be included costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by City in successfully enforcing such obligation, all to be taxed as costs and included in any judgment 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 will in anywise 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 THEREOF, the above bounden parties have executed this instrument under their seals this _____ day of _____ 20__ the name and corporate seal of each corporate party being hereto affixed, and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

ATTEST:

Principal

(SEAL)

By _____ **(s)**

(Witness as to Principal)

(Address)

(Address)

Surety

ATTEST:

Witness to Surety

Attorney-in-Fact

(Address)

If **PRINCIPAL** is partnership, all partners must execute **BOND**.

Exhibit "C"
FORM OF PAYMENT BOND
(SUBDIVISION)

WHEREAS: the City of Redwood City ("City"), County of San Mateo, State of California, and _____, (hereinafter designated as "Principal") have entered into a Subdivision Improvement Agreement dated _____, 20__ ("Agreement"), the terms and conditions of which are incorporated herein by reference, whereby Principal agrees to install and complete certain designated public improvements for the following project:

1180 Main Street

WHEREAS, under the terms of the Agreement, the Principal is required before entering upon the performance of the work, to file a good and sufficient payment bond with the the City to secure the claims to which reference is made in Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code of the State of California.

NOW, THEREFORE, we, the Principal and _____, organized and existing under the laws of the State of _____, and duly licensed to engage in surety business in the State of California, and authorized to execute bonds and undertaking as sole surety ("Surety") are held firmly bound unto the City and all contractors, subcontractors, laborers, materialmen, and other persons employed in the performance of the agreement and referred to in Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code of the State of California in the sum of _____ Dollars (\$_____), for materials furnished or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to this work or labor, that the surety will pay the same in an amount not exceeding the amount hereinabove 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 City in successfully enforcing this 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 will inure to the benefit of any and all persons, companies, and corporations entitled to file claims under Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code of the State of California, so as to give a right of action to them or their assignees in suit brought upon this bond.

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

Exhibit "D"

**FORM OF WARRANTY BOND
(SUBDIVISION)**

WHEREAS, the City of Redwood City ("City"), County of San Mateo, State of California, and _____, (hereinafter designated as "Principal") have entered into a Subdivision Improvement Agreement dated _____, 20__ ("Agreement"), the terms and conditions of which are incorporated herein by reference, whereby Principal agrees to install and complete certain designated public improvements for the following project:

1180 Main Street

WHEREAS, said Principal is required under the terms of said Agreement to provide a warranty security.

NOW, THEREFORE, we, the Principal and _____ of _____ organized and existing under the laws of the State of _____, duly licensed to transact surety business in the State of California and authorized to execute bonds and undertakings as sole surety ("Surety") are hereby held and firmly bound unto the City in the amount of _____ Dollars (\$_____), for the payment of which sum well and truly to be made, we bind ourselves, our heirs, successors, executors and administrators, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT, if Principal (or its heirs, executors, administrators, successors, or assigns approved by the City) performs the covenants, conditions, and obligations of the warranty requirements of Subsection 13.1(c) of the Agreement, including the obligation to indemnify, defend, and hold harmless the City, set forth in Section 17 of the Agreement, then this obligation will become null and void; otherwise it will be and remain in full force and effect.

The Surety's obligation under this bond will remain in effect for a period of one (1) year from the date of the City's acceptance of said work.

The Surety's obligation under this bond will arise after the City has provided written notice to the Surety, at the address set forth below, of the Principal's default under the Agreement, and the Principal's failure to cure the default in accordance with the terms of the Agreement.

