

**SUBDIVISION AGREEMENT**  
(Gov. Code, §§ 66462 and 66463)

**Subdivision:** MS14-0004  
**Subdivider:** CYNTHIA ERB & ASSOCIATES, LLC

**Effective Date:** \_\_\_\_\_  
**Completion Period:** Two (2) years

THESE SIGNATURES ATTEST TO THE PARTIES' AGREEMENT HERETO:

CONTRA COSTA COUNTY

Julia R. Bueren, Public Works Director

By: \_\_\_\_\_

SUBDIVIDER

CYNTHIA ERB & ASSOCIATES, LLC



Print Name Cynthia Erb

Print Title Principal

RECOMMENDED FOR APPROVAL:

By: \_\_\_\_\_  
Engineering Services Division

Print Name: \_\_\_\_\_

Print Title: \_\_\_\_\_

FORM APPROVED: Silvano B. Marchesi, County Counsel

[Note: If Subdivider is a corporation, two officers must sign. The first must be the chairman of the board, president or any vice president; the second must be the secretary, assistant secretary, chief financial officer or any assistant treasurer. (Corp. Code, § 313; Civ. Code, § 1190.) If Subdivider is a limited liability company, Subdivider shall sign in the manner required of corporations, or by two managers, or by one manager, pursuant to the articles of organization (see Corp. Code, §§ 17151, 17154, 17157.) If Subdivider is a partnership, any authorized partner may sign. Signatures by Subdivider must be notarized.]

1. PARTIES & DATE. Effective on the above date, the County of Contra Costa, California (hereinafter "County"), and the above-mentioned Subdivider mutually promise and agree as follows concerning this Subdivision:

2. IMPROVEMENTS. Subdivider agrees to install certain road improvements (both public and private), drainage improvements, signs, street lights, fire hydrants, landscaping and such other improvements (including appurtenant equipment) as required in the improvement plans for this Subdivision as reviewed and on file with the Contra Costa County Public Works Department, as required by the Conditions of Approval for this Subdivision, and in conformance with the Contra Costa County Ordinance Code, including future amendments thereto (hereinafter "Ordinance Code").

Subdivider shall complete said improvements (hereinafter "Work") within the above completion period from date hereof, as required by the California Subdivision Map Act (Gov. Code, §§ 66410 et. seq.) in a good workmanlike manner, in accordance with accepted construction practices and in a manner equal or superior to the requirements of the Ordinance Code and rulings made thereunder; and where there is a conflict among the improvement plans, the Conditions of Approval and the Ordinance Code, the stricter requirements shall govern.

3. IMPROVEMENTS SECURITY. Upon executing this Agreement, the Subdivider shall, pursuant to Gov. Code § 66499 and the County Ordinance Code, provide as security to the County:

A. For Performance and Guarantee: \$ 1,000.00 cash, plus additional security, in the amount of \$ 36,000.00, which together total one hundred percent (100%) of the estimated cost of the Work. Such additional security is presented in the form of:

☒ Cash, certified check or cashier's check.  
☐ Acceptable corporate surety bond.  
☐ Acceptable irrevocable letter of credit.

With this security, Subdivider guarantees performance under this Agreement and maintenance of the Work for one year after its completion and acceptance against any defective workmanship or materials or any unsatisfactory performance.

B. For Payment: Security in the amount: \$ 18,500.00, which is fifty percent (50%) of the estimated cost of the Work. Such security is presented in the form of:

☒ Cash, certified check, or cashier's check  
☐ Acceptable corporate surety bond.  
☐ Acceptable irrevocable letter of credit.

With this security, Subdivider guarantees payment to the contractor, to its subcontractors and to persons renting equipment or furnishing labor or materials to them or to the Subdivider.

Upon acceptance of the Work as complete by the Board of Supervisors and upon request of Subdivider, the amounts held as security may be reduced in accordance with Sections 94-4.406 and 94-4.408 of the Ordinance Code.

4. GUARANTEE AND WARRANTY OF WORK. Subdivider guarantees that the Work shall be free from defects in material or workmanship and shall perform satisfactorily for a period of one (1) year from and after the Board of Supervisors accepts the Work as complete in accordance with Article 96-4.6, "Acceptance," of the Ordinance Code. Subdivider agrees to correct, repair, or replace, at Subdivider's expense, any defects in said Work.

The guarantee period does not apply to road improvements for private roads that are not to be accepted into the County road system.

5. PLANT ESTABLISHMENT WORK. Subdivider agrees to perform plant establishment work for landscaping installed under this Agreement. Said plant establishment work shall consist of adequately watering plants, replacing unsuitable plants, doing weed, rodent and other pest control and other work determined by the Public Works Department to be necessary to ensure establishment of plants. Said plant establishment work shall be performed for a period of one (1) year from and after the Board of Supervisors accepts the Work as complete.

6. IMPROVEMENT PLAN WARRANTY. Subdivider warrants the improvement plans for the Work are adequate to accomplish the Work as promised in Section 2 and as required by the Conditions of Approval for the Subdivision. If, at any time before the Board of Supervisors accepts the Work as complete or during the one year guarantee period, said improvement plans prove to be inadequate in any respect, Subdivider shall make whatever changes are necessary to accomplish the Work as promised.

7. NO WAIVER BY COUNTY. Inspection of the Work and/or materials, or approval of the Work and/or materials or statement by any officer, agent or employee of the County indicating the Work or any part thereof complies with the requirements of this Agreement, or acceptance of the whole or any part of said Work and/or materials, or payments therefor, or any combination or all of these acts, shall not relieve the Subdivider of its obligation to fulfill this Agreement as prescribed; nor shall the County be thereby stopped from bringing any action for damages arising from the failure to comply with any of the terms and conditions hereof.

8. INDEMNITY. Subdivider shall defend, hold harmless and indemnify the indemnitees from the liabilities as defined in this section:

A. The indemnitees benefitted and protected by this promise are the County and its special districts, elective and appointive boards, commissions, officers, agents and employees.

B. The liabilities protected against are any liability or claim for damage of any kind allegedly suffered, incurred or threatened because of actions defined below, and including personal injury, death, property damage, inverse condemnation, or any combination of these, and regardless of whether or not such liability, claim or damage was unforeseeable at any time before County reviewed said improvement plans or accepted the Work as complete, and including the defense of any suit(s), action(s), or other proceeding(s) concerning said liabilities and claims.

C. The actions causing liability are any act or omission (negligent or non-negligent) in connection with the matters covered by this Agreement and attributable to Subdivider, contractor, subcontractor, or any officer, agent, or employee of one or more of them.

D. Non-Conditions. The promise and agreement in this section are not conditioned or dependent on whether or not any indemnitee has prepared, supplied, or approved any plan(s) or specification(s) in connection with this Work or Subdivision, or has insurance or other indemnification covering any of these matters, or that the alleged damage resulted partly from any negligent or willful misconduct of any indemnitee.

9. COSTS. Subdivider shall pay, when due, all the costs of the Work, including but not limited to the costs of relocations of existing utilities required thereby; inspections; material checks and tests; and other costs incurred by County staff arising from or related to the Work, and prior to acceptance of the Work as complete or expiration of any applicable warranty periods, whichever is later.

10. SURVEYS. Subdivider shall set and establish survey monuments in accordance with the filed map and to the satisfaction of the County Road Commissioner-Surveyor before acceptance of the Work as complete by the Board of Supervisors.

11. NON-PERFORMANCE AND COSTS. If Subdivider fails to complete the Work within the time specified in this Agreement, and subsequent extensions, or fails to maintain the Work, County may proceed to complete and/or maintain the Work by contract or otherwise and Subdivider agrees to pay all costs and charges incurred by County (including, but not limited to, engineering, inspection, surveys, contract, overhead, etc.) immediately upon demand.

Once action is taken by County to complete or maintain the Work, Subdivider agrees to pay all costs incurred by County, even if Subdivider subsequently completes the Work.

Should County sue to compel performance under this Agreement or to recover costs incurred in completing or maintaining the Work, Subdivider agrees to pay all attorney's fees, staff costs and all other expenses of litigation incurred by County in connection therewith, even if Subdivider subsequently proceeds to complete the Work.

12. INCORPORATION/ANNEXATION. If, before the Board of Supervisors accepts the Work as complete, the Subdivision is included in territory incorporated as a city or is annexed to an existing city, except as provided in this paragraph, County's rights under this Agreement and/or any deposit, bond, or letter of credit securing said rights shall be transferred to the new or annexing city. Such city shall have all the rights of a third party beneficiary against Subdivider, who shall fulfill all the terms of this Agreement as though Subdivider had contracted with the city originally. The provisions of paragraph 8 (Indemnity) shall continue to apply in favor of the indemnitees listed in paragraph 8.A. upon any such incorporation or annexation.

13. RECORD MAP. In consideration hereof, County shall allow Subdivider to file and record the final map or parcel map for said Subdivision.

14. RIGHT OF ENTRY. Subdivider hereby consents to entry onto the Subdivision property, and onto any other property over which Subdivider has land rights and upon which any portion of the Work is to be installed pursuant to the improvement plans, by County and its forces, including contractors, for the purpose of inspection, and, in the event of non-performance of this Agreement by Subdivider, completion and/or maintenance of the Work.

# CALIFORNIA ALL-PURPOSE 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 CONTRA COSTA

On July 24<sup>th</sup> 2015, before me, M.M. OSORIO, a Notary Public,  
Date Name of Notary

personally appeared Cynthia Erb, who  
Name of signor(s)

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: [Signature] (Seal)



# CALIFORNIA JURAT

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: Contra Costa

Subscribed and sworn to (or affirmed) before me on the 24<sup>th</sup> day of July, 2015  
by Cynthia Erb, proved to me on the basis of satisfactory  
evidence to be the person(s) who appeared before me.



Signature:



*Seal*

Title of Document: Subdivision Agreement

Total Number of Pages including Attachment: 3

Notary Commission Expiration Date: **JAN 7, 2019**

Notary Commission Number: **COMM. #2093018**





State of California  
Secretary of State

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STATEMENT OF INFORMATION  
(Limited Liability Company)

Filing Fee \$20.00. If this is an amendment, see instructions.

**IMPORTANT — READ INSTRUCTIONS BEFORE COMPLETING THIS FORM**

**FILED**  
Secretary of State  
State of California  
**FEB 12 2015**

2/12/2015 PC

This Space For Filing Use Only

**File Number and State or Place of Organization**

2. SECRETARY OF STATE FILE NUMBER **200708210186**

3. STATE OR PLACE OF ORGANIZATION (If formed outside of California)

**No Change Statement**

4. If there have been any changes to the information contained in the last Statement of Information filed with the California Secretary of State, or no Statement of Information has been previously filed, this form must be completed in its entirety.

☐ If there has been no change in any of the information contained in the last Statement of Information filed with the California Secretary of State, check the box and proceed to Item 15.

**Complete Addresses for the Following** (Do not abbreviate the name of the city. Items 5 and 7 cannot be P.O. Boxes.)

5. STREET ADDRESS OF PRINCIPAL OFFICE  
3201 Danville Blvd., Suite 210  
CITY: Alamo, CA STATE: ZIP CODE: 94507

6. MAILING ADDRESS OF LLC, IF DIFFERENT THAN ITEM 5  
CITY: STATE: ZIP CODE:

7. STREET ADDRESS OF CALIFORNIA OFFICE  
3201 Danville Blvd., Suite 210  
CITY: Alamo STATE: CA ZIP CODE: 94507

**Name and Complete Address of the Chief Executive Officer, If Any**

8. NAME ADDRESS CITY STATE ZIP CODE

**Name and Complete Address of Any Manager or Managers, or If None Have Been Appointed or Elected, Provide the Name and Address of Each Member** (Attach additional pages, if necessary.)

9. NAME ADDRESS CITY STATE ZIP CODE  
Cynthia Erb 17 St. Andrews Place Alamo, CA 94507

10. NAME ADDRESS CITY STATE ZIP CODE

11. NAME ADDRESS CITY STATE ZIP CODE

**Agent for Service of Process** If the agent is an individual, the agent must reside in California and Item 13 must be completed with a California address, a P.O. Box is not acceptable. If the agent is a corporation, the agent must have on file with the California Secretary of State a certificate pursuant to California Corporations Code section 1505 and Item 13 must be left blank.

12. NAME OF AGENT FOR SERVICE OF PROCESS  
Gregory L. McCoy

13. STREET ADDRESS OF AGENT FOR SERVICE OF PROCESS IN CALIFORNIA, IF AN INDIVIDUAL CITY STATE ZIP CODE  
279 Front Street Danville CA 94526

**Type of Business**

14. DESCRIBE THE TYPE OF BUSINESS OF THE LIMITED LIABILITY COMPANY  
Architectural, interior, and landscape design and planning

15. THE INFORMATION CONTAINED HEREIN, INCLUDING ANY ATTACHMENTS, IS TRUE AND CORRECT.

2-4-2015

DATE

A. Amanda Beck

TYPE OR PRINT NAME OF PERSON COMPLETING THE FORM

Attorney

TITLE

SIGNATURE