

RESOLUTION NO. 2015-34

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARINA  
ACCEPTING DEDICATION OF PUBLIC IMPROVEMENTS AS SHOWN ON APPROVED  
“2<sup>nd</sup> AVENUE OFF-SITE IMPROVEMENTS UNIVERSITY VILLAGE APARTMENTS”  
PLANS, AUTHORIZING CITY CLERK TO RELEASE THE PAYMENT BOND AND  
PERFORMANCE BOND SECURITIES AND RECORD ACCEPTANCE WITH MONTEREY  
COUNTY RECORDER’S OFFICE

WHEREAS, at the regular meeting of October 23, 2012, the City Council adopted Resolution No. 2012-162, approving Public Improvement Agreement between City of Marina and South County Housing Corporation University Village LLC, for the University Village Apartments in Dunes on Monterey Bay Development Project. The Public Improvement Agreement was executed on February 5<sup>th</sup>, 2013 and is on record at the Monterey County Recorder’s Office (“**Exhibit A**”), and;

WHEREAS, the South County Housing Corporation, the Developer, has filed with the City Clerk a Faithful Performance bond and a Payment bond each in the amount of \$77,900.00, and;

WHEREAS, the Improvements required by the plans entitled “2<sup>nd</sup> Avenue Off-Site Improvements University Village Apartments (“**Improvement Plans**”), and signed by the City Engineer on December 18, 2012, were completed in 2014 by the Developer and found to be in substantial conformance per the City Engineer’s review, and;

WHEREAS, in Section 2(d) of the Public Improvement Agreement, it states that a Guarantee and Warranty period will remain for one year after acceptance of the Improvements by the City Council, and;

WHEREAS, the Developer has provided a maintenance bond (“**Exhibit B**”) in the amount of 10% of the total contract price of the Improvements (\$7,790.00) to cover the one-year warranty period. Any repairs required during the warranty period will be made by the Developer, or the costs will be recovered from said bond, and;

WHEREAS, there is no fiscal impact as City inspections have shown approximately \$77,900 in improvements has been completed per approved plans and any repairs due to defective work or materials shall be covered by the maintenance bond during the warranty period.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Marina does hereby:

1. Accept dedication of Public Improvements as shown on the approved “2<sup>nd</sup> Avenue Off-Site Improvements University Village Apartments” Plans;
2. Authorize City Clerk to release the Payment Bond and Performance Bond Securities, and;
3. Authorize City Clerk to record acceptance with Monterey County Recorder’s Office.

PASSED AND ADOPTED by the City Council of the City of Marina at a regular meeting duly held on the 7<sup>th</sup> day of April 2015, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

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Bruce Delgado, Mayor

ATTEST:

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Anita Sharp, Deputy City Clerk

Recorded at the Request of  
Old Republic Title Company  
Oakland

117012258

**WHEN RECORDED MAIL TO:**

City of Marina  
211 Hillcrest Avenue  
Marina, CA 93933

CERTIFIED A TRUE COPY OF THE ORIGINAL  
RECORDED IN THE OFFICIAL RECORDS OF  
MONTEREY COUNTY ON February 11, 2013  
Under Recorder's Serial No. 2013-008589  
Old Republic Title Company  
By: [Signature]

**THIS SPACE FOR RECORDER'S USE ONLY**

**TITLE OF DOCUMENT**

**PUBLIC IMPROVEMENT AGREEMENT**

AGREEMENT FOR IMPROVEMENT OF STREETS,  
INSTALLATION OF SIDEWALKS, LANDSCAPING,  
STREET LIGHTS AND OTHER PUBLIC WORKS FACILITIES



# PUBLIC IMPROVEMENT AGREEMENT

## **AGREEMENT FOR IMPROVEMENT OF STREETS, INSTALLATION OF SIDEWALKS, LANDSCAPING, STREET LIGHTS AND OTHER PUBLIC WORKS FACILITIES**

### **University Village Apartments within “The Dunes on Monterey Bay” Development Project – A Portion of Phase 1-B**

This Agreement is made and entered into this 5<sup>th</sup> day of February, 2013, by and between the City of Marina, herein called the “City,” a California municipal corporation, and University Village Associates, a California Limited Partnership, herein called the “Developer.”

WHEREAS, street improvement plans entitled “2<sup>nd</sup> Avenue Off-site Improvements University Village Apartments,” herein referred to as “Improvement Plans,” signed by the City Engineer on December 18, 2012, and incorporated herein by this reference, have been submitted to the City for approval and acceptance, including 2<sup>nd</sup> Avenue frontage of sidewalk and landscape parkways, herein the “Project,” known as the west side of 2<sup>nd</sup> Avenue from 9<sup>th</sup> Street to the North edge of the property owned by South County Housing, herein the “Property.” Improvements are to include new street lights, electrical facilities, sidewalk, and landscaping on the west side of 2<sup>nd</sup> Avenue, as shown on Exhibit A, herein the “Improvements.” All references in this Agreement to the Improvement Plans include by reference any standard specifications for the construction and installation of Improvements as approved by the City Engineer in effect on the date the Improvement Plans are signed by the City Engineer; and

WHEREAS, the Developer requires certain utilities and public works facilities in order to service the Project under the minimum standards established by the City; and

WHEREAS, the City, by and through its City Council, has enacted certain Codes, Ordinances and Resolutions and certain Rules and Regulations have been promulgated concerning the subject matter of this Agreement; and

WHEREAS, the City has certain responsibilities for maintenance and operation of such Improvements, utilities and public service facilities after acceptance by City, and for providing the necessary connecting systems, and the City is agreeing to discharge those responsibilities following its acceptance of the Improvements.

NOW THEREFORE, in consideration of the foregoing and in order to carry on the intent and purpose of said Codes, Ordinances, Resolutions, Rules and Regulations, it is agreed by and between the parties as follows:

## SECTION 1

The recitals to this Agreement are hereby incorporated into the terms of this Agreement. All Codes, Ordinances, Resolutions, Rules and Regulations and established policies of the City and the laws of the State of California and the United States of America concerning the subject matter of this Agreement are hereby referred to and incorporated herein to the same effect as if they were set out a length herein. Said Codes, Ordinances, Resolutions, Rules and Regulations include, but are not limited to, the following: The Municipal Code of the City of Marina, including the current Zoning Ordinance, and the currently adopted International Building Code.

## SECTION 2

The Developer agrees:

- a. To perform each and every provision required by the City to be performed by the Developer in each and every one of said Codes, Ordinances, Resolutions, Rules and other Regulations and to comply with the foregoing and all applicable laws.
- b. To grant to the City or other entities entitled thereto, from property owned by the Developer, without charge and free and clear of liens and encumbrances, any and all public, private, utility, construction or access easements and rights of way (herein "easements") in and to the Property necessary for the City, in order that the street improvements to said real property may be extended. At no cost to the Developer, City and Developer will work cooperatively with the owners of other real property to acquire all easements necessary to construct the Improvements. City agrees to support Developer in acquisition of easements necessary to construct the Improvements and to accept said easements upon execution of easement grant deeds to the City by grantors. City also agrees to issue Developer and/or Developer's contractors encroachment permits necessary to accomplish said work.
- c. Prior to acceptance of the Improvements by the City, to indemnify, defend with counsel of City's choice and hold the City and any of its officials, boards and commissions and members thereof, agents and employees, free and harmless from all suits, fees, claims, demands, causes of action, costs, losses, damages, liabilities and expenses (including without limitation attorney's fees) because of or arising or resulting directly or indirectly from (i) any damage done to any utility, public facility or other material or installation of the City on said real estate as a result of the Developer or any contractor or subcontractor of the Developer, or any employee of the foregoing, grading or working upon said real estate; or (ii) any act or omission of Developer or Developer's contractors, or subcontractors, or any employee of the foregoing in connection with the design, construction or other work performed by them in connection with this Agreement, including without limitation all claims relating to injury or death of any person or damage to any property, except for such claims, demands, causes of action liability, or loss

arising out of the sole active negligence of the City or any of its officials, boards and commissions and members thereof, agents and employees. City shall not be responsible for the design or construction of the Property or the Improvements pursuant to the Improvement Plans, regardless of any negligent action or inaction taken by City in approving the Improvement Plans unless the particular improvement design was specifically required by City over written objection by Developer submitted to the City Engineer before construction and acceptance of the Improvements, which objection indicated that the particular improvement design was dangerous or defective and suggested an alternate safe and feasible design. After acceptance, Developer shall remain obligated to eliminate any defect in design or dangerous condition caused by the design or construction defect, however, Developer shall not be responsible for routine maintenance. Provisions of this Section shall remain in full force and effect for ten years following acceptance by City of the Improvements. Nothing contained in this Section is intended to or shall be deemed to limit or waive any protections or immunities afforded by law to the City, its officials, agents and employees, including without limitation the protections and immunities afforded by Government Code 830.6, for any design or construction defect in the work subsequently discovered by the City. City shall not be liable for any negligence, nonfeasance, misfeasance or malfeasance in approving, reviewing, checking or inspecting any work or construction. The Improvement security shall not be required to cover the provisions of this Section. Developer shall reimburse City for all costs and expenses (including but not limited to fees and charges of architects, engineers, attorneys, and other professionals, and court costs) incurred by City in enforcing the provisions of this Section.

- d. To furnish all materials and to construct and improve at Developer's own expense all public works facilities and other improvements described in this Agreement and the Improvement Plans submitted to the City in furtherance of this Agreement on file with the City. All construction and improvements shall be completed in accordance with all standards established in the Codes, Ordinances, Resolutions, Rules and Regulations, all applicable laws and this Agreement, and in accordance with the grades, plans, and specifications approved by the City Engineer or his or her designee. Developer shall furnish two good and sufficient bonds, in an amount of 100% of the cost of the Improvements, as provided by the Developer's engineer's estimate, as approved by the City Engineer or his or her designee, guaranteeing Developer's performance of this Agreement: (1) a Payment Bond on a form provided by the City; and (2) a Faithful Performance Bond, both of which must be secured from a surety company admitted to do business in California. Each bond shall set forth a time period for performance by the contractor of its obligations and the terms and conditions on which the City may obtain the proceeds of the bond. The terms of the bonds are incorporated into this Agreement by this reference.

The Faithful Performance Bond shall be in an amount not less than one hundred percent (100%) of the total estimated amount payable for the Improvements

described in this agreement, and shall secure payment to City of any loss due to the default of the Developer or its contractors or their inability or refusal to perform this contract, and to guarantee or warranty the work done pursuant to this Agreement for a period of one year following acceptance thereof by City against any defective work or labor done or defective materials furnished. The performance bond shall by its terms remain in full force and effect for a period of not less than one year after completion of the Improvements by Developer and acceptance of the Improvements by the City, provided that Developer may substitute for the performance bond securing the warranty described above with a separate warranty bond issued by an admitted surety in the amount of ten percent (10%) of the total contract price of the Improvements (provided that amount of said bond shall not be less than One Thousand Dollars (\$1,000) to cover the one-year warranty period.

The Payment Bond shall be in an amount not less than one hundred percent (100%) of the total estimated amount payable for the Improvements described in this Agreement. The Payment Bond shall secure the payment of those persons or entities to whom the Developer may become legally indebted for labor, materials, tools, equipment or services of any kind used or employed by the contractor or subcontractor in performing the work, or taxes or amounts to be withheld thereon. The Payment Bond shall provide that the surety will pay the following amounts should the Developer, or its contractor or subcontractors fail to pay the same, plus reasonable attorneys' fees to be fixed by the court if suit is brought upon the bond: (1) amounts due to any of the persons named in California Civil Code Section 3181; (2) amounts due under the Unemployment Insurance Code with respect to work or labor performed for the improvements described in this agreement; and (3) any amounts required to be deducted, withheld, and paid over to the Employment Development Department from the wages of employees of the Developer, its contractors and subcontractors pursuant to Section 13020 of the Unemployment Insurance Code with respect to the work and labor. The Payment Bond shall, by its terms, inure to the benefit of any of the persons named in Civil Code Section 3181 so as to give a right of action to those persons or their assigns in any suit brought upon the bond.

The Developer shall submit the following for both the surety that furnishes the Payment Bond and the surety that furnishes the Faithful Performance Bond: (1) a current printout from California Department of Insurances website ([www.insurance.ca.gov](http://www.insurance.ca.gov)) showing that the surety is admitted to do business in the State; or (2) a certificate from the Clerk of the County of Monterey that the surety's certificate of authority has not been surrendered, revoked, canceled, annulled, or suspended or in the event that it has, than renewed authority has been granted.

- e. At all times during the term of this Agreement and until the Improvements constructed by Developer are accepted by City, Developer shall, at no cost to City obtain and maintain (a) a policy of general liability and property damage

insurance in the minimum amount of Two Million Dollars (\$2,000,000), combined single limit for both bodily injury and property damage; (b) workers' compensation insurance as required by law and Employer's Liability insurance in the amount of One Million Dollars (\$1,000,000), per accident or disease; and (c) broad form "Builder's Risk" property damage insurance limits of not less than 100% of the estimated value of the Improvements to be constructed by Developer pursuant to this Agreement

All such policies shall provide that thirty (30) days written notice must be given in advance to City prior to termination, cancellation or material reduction in coverage. The insurance specified in (a) above shall be endorsed to name the City of Marina, its officers, employees and agents as additional insured. All policies shall include a waiver of subrogation against City in connection therewith. All policies shall be written on an occurrence basis and not on a claims made basis and shall be issued by insurance companies acceptable to City. Prior to commencing any work pursuant this Agreement, Developer shall deliver to City the insurance company's certificate evidencing the required coverage, or if required by City a copy of the policies obtained.

### SECTION 3

An estimate of the cost for construction of the Improvements and performing land development work in connection with the Improvements according to the Improvement Plans has been made and has been approved by the City Engineer or his or her designee. That estimated amount is Seventy-Seven Thousand Nine Hundred Dollars (\$77,900). The basis for the estimate is on file in the Office of the City Engineer and is incorporated into this Agreement by reference.

### SECTION 4

Developer will commence substantial construction of the Improvements required by this Agreement within one (1) year of approval of this Agreement by City Council. All the provisions of this Agreement and all work to be done pursuant to the terms of this Agreement are to be commenced and completed to City's satisfaction within the time periods set forth in a Schedule of Performance to be submitted to and approved in writing by the City prior to commencement of construction. The Improvements will be deemed complete when the City Engineer records a Notice of Acceptance on behalf of the City. Developer shall maintain such public works facilities and other improvements described in this Agreement at Developer's sole cost and expense at all times prior to acceptance by City in a manner which will preclude any hazard to life or health or damage to property. In the event good cause exists, as determined by the City Manager or his or her designee, the time for commencement of construction or completion of the Improvements hereunder may be extended. Any such extension may be granted without notice to Developer's surety and shall not affect the validity of this Agreement or release the surety on any security given for this Agreement. The City Manager shall be the sole and final judge as to whether or not good cause has been shown to entitle Developer to an

extension. As a condition of granting any extension for the commencement or completion of the work under this Agreement, the City Manager may require developer to furnish new security guaranteeing performance of this Agreement, as extended, in an increased amount to compensate for any increase in construction costs as determined by the City Engineer.

## SECTION 5

a) Default of Developer shall include, but not be limited to: (1) failure to timely commence construction of the Improvements; (2) failure to timely complete construction of the Improvements; (3) failure to timely cure any defect of the Improvements; (4) failure to perform substantial construction work for a period of sixty calendar days after commencement of the work; (5) Developer's insolvency, appointment of a receiver, or the filing of any petition in bankruptcy either voluntary or involuntary which Developer fails to discharge within thirty days; (6) commencement of a foreclosure action against the project or a portion thereof, or any conveyance in lieu or in avoidance of foreclosure; or (7) failure to perform any other obligation under this Agreement. Notwithstanding the foregoing, Developer shall not be in default under this Agreement if it cures any default within thirty days notice of such default, or if the default may not reasonably be curing within such time period, if it commences to cure within thirty days and thereafter diligently proceeds to complete the cure.

b) City reserves to itself all remedies available to it at law or in equity for breach of Developer's obligations under this Agreement. City shall have the right, subject to this Section, to draw upon or utilize the appropriate security to mitigate City's damages in the event of default by the Developer. The right of City to draw upon or utilize the security is additional to and not in lieu of any other remedy available to City. It is specifically recognized that the estimated costs and security amounts may not reflect the actual cost of construction or installation of the Improvements and, therefore, City's damages for Developer's default shall not exceed the cost of completing the Improvements notwithstanding whether the City's cost of completion exceeds the estimated cost approved by the City Engineer for construction of the Improvements and performing land development work in connection with the Improvements. City may use the sums provided by the security for the Improvements for the completion of the Improvements in accordance with the Improvement Plans referenced herein.

c) In the event of Developer's default under this Agreement, Developer authorizes City to perform such obligation sixty days after mailing written notice of default to Developer and to Developer's surety, and agrees to pay the entire cost of such performance by City. City may take over the work and prosecute the same to completion by contract or by any other method City may deem advisable, for the account and at the expense of Developer, and Developer's surety shall be liable to the City for any excess cost or damages occasioned City thereby, including but not limited to fees and charges or architects, engineers, attorneys, other professionals and court costs. In such event, City without liability for doing so, may take possession of, and utilize in completing the work,

such materials, appliances, plants and other property belonging to Developer as may be on the site of the work and necessary for performance of the work.

d) Failure of City to take an enforcement action with respect to a default, or to declare a breach, shall not be construed as a waiver of that default or breach or any subsequent default or breach of Developer.

## SECTION 6

The following General Stipulations and the attached stipulations shall be completed, subject to the approval of the City Manager:

1. Schedule the construction of improvements along existing public roads so that the work affecting vehicular traffic is complete with a minimum interruption of traffic.
2. All work within the public right-of-way shall be subject to the approval of the City Engineer or his or her designee.
3. All construction work shall be coordinated so that the existing residents and/or businesses have access to their properties.
4. All improvements shall be installed per the approved Improvement Plans.
5. The Developer shall provide to the City of Marina electronic copy of the Improvement Plans as an AutoCAD drawing file (DWG format, AutoCAD 2002 maximum).
6. Any reimbursements due the Developer, unless specified otherwise in writing in this Agreement, will expire ten (10) years after the date of execution of this Agreement.
7. Until the roads on the Property are open to the public, Developer shall give good and adequate warning to the public of each and every dangerous condition on the existing public roads, and will take all reasonable actions to protect the public from such dangerous condition.

## SECTION 7

Developer shall, at Developer's expense, obtain all necessary permits and licenses for the construction and installation of the Improvements, give all necessary notices and pay all fees and taxes required by law.

## SECTION 8

Neither Developer nor any of Developer's agents, contractors or subcontractors are or shall be considered to be agents of City in connection with the performance of Developer's obligations under this Agreement.

## SECTION 9

Nothing contained in this Agreement shall preclude City from expending monies pursuant to agreements concurrently or previously executed between the parties, or from entering into agreements with other developers for the apportionment of costs of water and sewer mains, or other improvements, pursuant to the provisions of the City ordinance providing therefore, nor shall anything in this Agreement commit the City to any such apportionment.

## SECTION 10

Developer shall not be entitled to assign its obligations under this Agreement to any transferee of all or any part of the property within the Project or to any other third party without the express written consent of City.

## SECTION 11

Acceptance of the work, or any portion of the work, on behalf of the City shall be made by the City Council upon recommendation of the City Engineer after final completion and inspection of all Improvements. Such acceptance shall not constitute a waiver of defects by City.

## SECTION 12

The provisions of this Agreement are severable. If a court of competent jurisdiction holds any portion of this Agreement invalid, the remainder of the Agreement shall remain in full force and effect unless amended or modified by the mutual consent of the parties.

## SECTION 13

In the event that suit or arbitration is brought to enforce the terms of this Agreement, the prevailing party shall be entitled to litigation costs and reasonable attorney's fees.

## SECTION 14

This Agreement shall be interpreted in accordance with the laws of the State of California. Jurisdiction of all disputes of this Agreement shall be in the County of Monterey, State of California.

SECTION 15

This Agreement is subject to, and the Developer agrees to comply with, all of the applicable provisions of the California Labor Code including Sections 1720 to 1740, 1770 to 1780, 1810 to 1815, 1860 and 1861, which provisions are specifically incorporated herein by reference as though set forth herein in their entirety. Developer shall expressly require compliance with the provisions of this Section in all agreements with contractors and subcontractors for the performance of the Improvements hereunder.

SECTION 16

Time is of the essence of this Agreement.

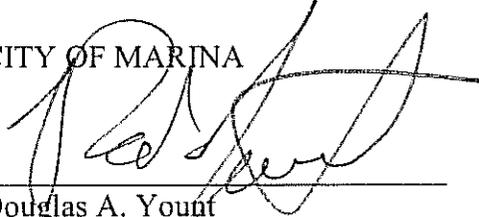
SECTION 17

This Agreement constitutes the entire agreement of the parties with respect to the subject matter. All modifications, amendments or waivers of the terms of this Agreement must be in writing and signed by an authorized representative of the parties.

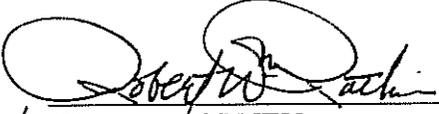
**IN WITNESS WHEREOF**, City and Developer have executed this Agreement as of the date first written above.

ATTEST:

  
Anita Shepherd Sharp Anita De Amara  
Acting Deputy City Clerk

CITY OF MARINA  
  
Douglas A. Yount  
Interim City Manager

APPROVED AS TO FORM:

  
for the CITY ATTORNEY  
Robert Rethme

IN WITNESS WHEREOF Developer has executed this agreement as of

\_\_\_\_\_.

By: SCHC University Village LLC,  
a California limited liability company,  
its managing general partner

By: South County Housing Corporation,



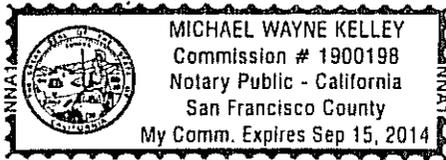
# CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of San Francisco

On 2/5/2013 before me, Michael Wayne Kelley, Notary Public

personally appeared Dennis Lalor and Monique Hastings



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 [Handwritten Signature]  
Signature of Notary Public  
Michael Wayne Kelley, Notary Public

Place Notary Seal Above

### OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

### Description of Attached Document

Title or Type of Document: \_\_\_\_\_

Document Date: \_\_\_\_\_ Number of Pages: \_\_\_\_\_

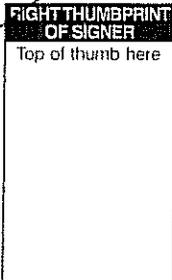
Signer(s) Other Than Named Above: \_\_\_\_\_

### Capacity(ies) Claimed by Signer(s)

Signer's Name: \_\_\_\_\_

- Individual
- Corporate Officer — Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_



Signer's Name: \_\_\_\_\_

- Individual
- Corporate Officer — Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_

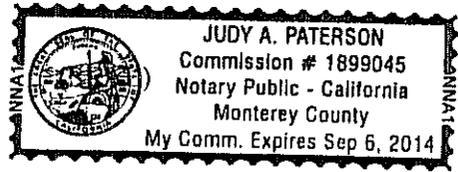
Signer Is Representing: \_\_\_\_\_

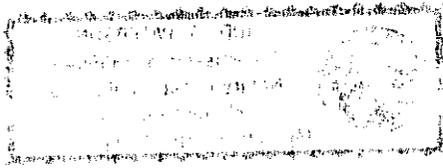




WITNESS my hand and official seal.

*Judy A. Paterson*  
Notary Public  
*Judy A. Paterson*





MAINTENANCE BOND

Bond Number : 57BCSGJ6745(M)

KNOW ALL MEN BY THESE PRESENTS, That we \_\_\_\_\_  
University Village Associates, a California Limited Partnership \_\_\_\_\_ as Principal,  
and \_\_\_\_\_ Hartford Fire Insurance Company \_\_\_\_\_ as Surety,  
are held and firmly bound unto \_\_\_\_\_ City of Marina \_\_\_\_\_ as Obligee,  
in the penal sum of \_\_\_\_\_ Seven Thousand Seven Hundred Ninety & 00/100s- (\$ 7,790.00 \_\_\_\_\_ )  
to which payment well and truly to be made we do bind ourselves, our and each of our heirs,  
executors, administrators, successors and assign jointly and severally, firmly by these presents.

WHEREAS, the said Principal entered into a contract with the Obligee dated February 5,  
2012 for University Village Apartments - 2nd Avenue Off-Site Improvements  
3

WHEREAS, said contract provides that the Principal will furnish a bond conditioned to  
guarantee for the period of One year(s) after approval of the final estimate on said job, by the  
owner, against all defects in workmanship and materials which may become apparent during said  
period, and

WHEREAS, the said contract has been completed, and was approved on April 6, 2015

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH that, if the  
Principal shall indemnify the Obligee for all loss that the Obligee may sustain by reason of any  
defective materials or workmanship which become apparent during the period of One year(s)  
from and after completion of contract then this obligation shall be void, otherwise to remain in  
full force and effect.

SIGNED, SEALED AND DATED THIS 1st DAY OF April , 20 15 .

(seal) Principal: University Village Associates, a California Limited Partnership  
By: SCHC University Village, LLC, a California limited liability company  
its managing general partner  
By: South County Housing Corporation, a California nonprofit public benefit  
corporation, its managing member  
By: John Cesare CFO  
Title

(seal) Surety: Hartford Fire Insurance Company  
By: Erin Bautista  
Erin Bautista Attorney-in-Fact

## 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 Santa Clara )

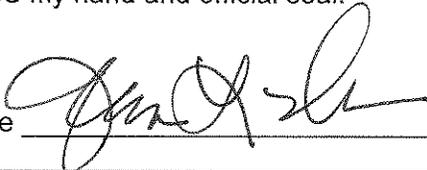
On April 1, 2015 before me, Jean L. Neu, Notary Public  
(insert name and title of the officer)

personally appeared Erin Bautista,  
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.

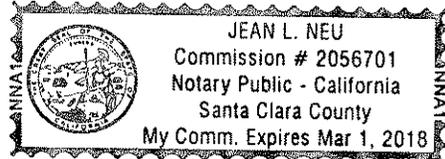
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature



(Seal)



# POWER OF ATTORNEY

Direct Inquiries/Claims to:

THE HARTFORD  
 BOND, T-4  
 P.O. BOX 2103, 690 ASYLUM AVENUE  
 HARTFORD, CONNECTICUT 06115  
 call: 888-266-3488 or fax: 860-757-5835

KNOW ALL PERSONS BY THESE PRESENTS THAT:

Agency Code: 57-150812

- Hartford Fire Insurance Company, a corporation duly organized under the laws of the State of Connecticut
- Hartford Casualty Insurance Company, a corporation duly organized under the laws of the State of Indiana
- Hartford Accident and Indemnity Company, a corporation duly organized under the laws of the State of Connecticut
- Hartford Underwriters Insurance Company, a corporation duly organized under the laws of the State of Connecticut
- Twin City Fire Insurance Company, a corporation duly organized under the laws of the State of Indiana
- Hartford Insurance Company of Illinois, a corporation duly organized under the laws of the State of Illinois
- Hartford Insurance Company of the Midwest, a corporation duly organized under the laws of the State of Indiana
- Hartford Insurance Company of the Southeast, a corporation duly organized under the laws of the State of Florida

having their home office in Hartford, Connecticut, (hereinafter collectively referred to as the "Companies") do hereby make, constitute and appoint, up to the amount of unlimited:

Bryan D. Martin, B.A. Poitevin, Jean L. Neu, Erin Bautista  
 of  
 San Jose, CA

their true and lawful Attorney(s)-in-Fact, each in their separate capacity if more than one is named above, to sign its name as surety(ies) only as delineated above by , and to execute, seal and acknowledge any and all bonds, undertakings, contracts and other written instruments in the nature thereof, on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

In Witness Whereof, and as authorized by a Resolution of the Board of Directors of the Companies on January 22, 2004 the Companies have caused these presents to be signed by its Assistant Vice President and its corporate seals to be hereto affixed, duly attested by its Assistant Secretary. Further, pursuant to Resolution of the Board of Directors of the Companies, the Companies hereby unambiguously affirm that they are and will be bound by any mechanically applied signatures applied to this Power of Attorney.



*Paul A. Bergenholtz*

Paul A. Bergenholtz, Assistant Secretary

*M. Ross Fisher*

M. Ross Fisher, Assistant Vice President

STATE OF CONNECTICUT }  
 COUNTY OF HARTFORD } ss. Hartford

On this 3rd day of March, 2008, before me personally came M. Ross Fisher, to me known, who being by me duly sworn, did depose and say: that he resides in the County of Hartford, State of Connecticut; that he is the Assistant Vice President of the Companies, the corporations described in and which executed the above instrument; that he knows the seals of the said corporations; that the seals affixed to the said instrument are such corporate seals; that they were so affixed by authority of the Boards of Directors of said corporations and that he signed his name thereto by like authority.



CERTIFICATE

*Scott E. Paseka*

Scott E. Paseka  
 Notary Public  
 My Commission Expires October 31, 2012

I, the undersigned, Assistant Vice President of the Companies, DO HEREBY CERTIFY that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which is still in full force effective as of April 1, 2015.

Signed and sealed at the City of Hartford.



*Gary W. Stumper*

Gary W. Stumper, Assistant Vice President

April 1, 2015

Item No. **8h(1)**

Honorable Mayor and Members  
of the Marina City Council

City Council Meeting  
of April 7, 2015

**RECOMMENDATION TO CONSIDER ADOPTING RESOLUTION NO. 2015-, ACCEPTING DEDICATION OF PUBLIC IMPROVEMENTS AS SHOWN ON APPROVED “2<sup>nd</sup> AVENUE OFF-SITE IMPROVEMENTS UNIVERSITY VILLAGE APARTMENTS” PLANS, AUTHORIZING CITY CLERK TO RELEASE THE PAYMENT BOND AND PERFORMANCE BOND SECURITIES AND RECORD ACCEPTANCE WITH MONTEREY COUNTY RECORDER’S OFFICE**

**RECOMMENDATION:**

It is recommended that the City Council:

1. Consider adopting Resolution No. 2015-, accepting dedication of Public Improvements as shown on the approved “2<sup>nd</sup> Avenue Off-Site Improvements University Village Apartments” Plans;
2. Authorize City Clerk to release the Payment Bond and Performance Bond Securities, and;
3. Authorize City Clerk to record acceptance with Monterey County Recorder’s Office.

**BACKGROUND:**

At the regular meeting of October 23, 2012, the City Council adopted Resolution No. 2012-162, approving a Public Improvement Agreement between the City of Marina and South County Housing Corporation University Village LLC, for the University Village Apartments in the Dunes on Monterey Bay Development Project. The Public Improvement Agreement was executed on February 5<sup>th</sup>, 2013 and is on record at the Monterey County Recorder’s Office (“**Exhibit A**”),

The South County Housing Corporation, the Developer, has filed with the City Clerk a Faithful Performance bond and a Payment bond each in the amount of \$77,900.00.

**ANALYSIS:**

The Improvements required by the plans entitled “2<sup>nd</sup> Avenue Off-Site Improvements University Village Apartments (“**Improvement Plans**”), and signed by the City Engineer on December 18, 2012, were completed in 2014 by the Developer and found to be in substantial conformance per the City Engineer’s review.

In Section 2(d) of the Public Improvement Agreement, it states that a Guarantee and Warranty period will remain for one year after acceptance of the Improvements by the City Council.

The Developer has provided a maintenance bond (“**Exhibit B**”) in the amount of 10% of the total contract price of the Improvements (\$7,790.00) to cover the one-year warranty period. Any repairs required during the warranty period will be made by the Developer, or the costs will be recovered from said bond.

**FISCAL IMPACT:**

There is no fiscal impact as City inspections have shown approximately \$77,900 in improvements has been completed per approved plans and any repairs due to defective work or materials shall be covered by the maintenance bond during the warranty period.

**CONCLUSION:**

This request is submitted for City Council consideration and possible action.

Respectfully submitted,

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Edrie Delos Santos, P.E.  
Associate Engineer, Engineering Division  
Community Development Department  
City of Marina

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Nourdin Khayata, P.E.  
Acting City Engineer  
City of Marina

**REVIEWED/CONCUR:**

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Theresa Szymanis, AICP CTP  
Acting Director  
Community Development Department  
City of Marina



Electronic Signature

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Layne Long  
City Manager  
City of Marina