

IMPROVEMENT ASSURANCE AGREEMENT

THIS IMPROVEMENT ASSURANCE AGREEMENT ("Agreement"), is entered into effective this 16TH day of SEPTEMBER, 2015 (the "Effective Date"), by and among Boyer Plumb Stansbury, L.C. (hereinafter the "Developer"), Stansbury Park Improvement District (hereinafter the "District"), and Tooele County, Utah (the "County"). Developer, the District and the County are referred to herein individually as a "Party and collectively as the "Parties."

RECITALS

A. The Developer owns certain real property located within the boundaries of the District which the Developer intends to develop at some future date (the "Development Property"), as more particularly described on EXHIBIT "A" attached hereto. It is acknowledged and agreed that in the course of development of the Development Property, the Developer would be required by Tooele County to construct and install within the Development Property an extension to Village Boulevard from the current terminus of Village Boulevard up to and connecting with Highway SR 138 (the "Village Boulevard Extension Project", or "Project"); and be required by the District to construct and install the municipal water and sanitary sewer pipelines and related facilities required to serve the Development Property (the "Water and Sewer Facilities"), as an integral part of the Village Boulevard Extension Project. The property of Developer upon which the Village Boulevard Extension Project is to be constructed and installed is more particularly described in EXHIBIT "B" attached hereto.

B. Inasmuch as Village Boulevard is a main arterial and collector road within the community of Stansbury Park, and the growth of Stansbury Park necessitates another access to Highway SR 138, the Board of County Commissioners of the County approached Developer and requested that it proceed with the Village Boulevard Extension Project now, ahead of the time the roadway extension would have normally been completed in connection with the development of the Development Property; and the District has requested that Developer construct and install, in connection with the Village Boulevard Extension Project, the Water and Sewer Facilities required to be located within the public right-of-way for the Village Boulevard Extension Project which, upon approval of the District, would be dedicated to the District as a condition to receiving municipal water and sanitary sewer service from the District for the Development Property. (For purposes of this Agreement, that portion of the Village Boulevard Extension Project pertaining to the construction and installation of the Water and Sewer Facilities shall be referred to herein as the "Water Facilities Component.")

C. The District and the Developer have entered into that certain Development and Reimbursement Agreement, of even date herewith (the "District Development Agreement"), pursuant to which, among other things, the Water and Sewer Facilities are to be constructed and installed by the Developer and transferred to the District.

D. Subsection 2(k)(1) of District Development Agreement requires the Developer to warrant and guaranty that the Water and Sewer Facilities shall be free of defects in materials or workmanship for a period of one (1) year from the date of commencement of the Improvement Assurance warranty period set forth in the District Development Agreement (the "Developer's Warranty Obligation"), and Subsection 2(k)(3) of said agreement requires that the Developer's Warranty Obligation be secured by the Developer posting Improvement Assurance with the District in the form of a bond, letter of credit, establishment of a cash escrow account, or other security as approved by the District (the "Improvement Assurance"), so as to assure that funds will be available to complete the Water Facilities Component in conformance with the requirements of the District Development Agreement.

E. All aspects of the Village Boulevard Extension Project, including the Water Facilities Component, are being financed through funds deposited by the Developer and others with the County (the "Project Funds"); whereby, the County shall hold the Project Funds and distribute them to the Developer as draws against the fund during the course of construction until the Village Boulevard Extension Project is completed and approved by the District and the County.

F. Inasmuch as the Village Boulevard Extension Project is fully funded through the Project Funds which have been deposited with and are being held by the County, the Parties hereby intend and agree that this Agreement, which sets forth the terms and conditions pursuant to which Project Funds shall be held and distributed to the Developer during construction through the end of the Warranty Period as defined herein, shall constitute the Improvement Assurance required under Subsection 2(k) of the District Development Agreement.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. **Incorporation of Recitals.** The foregoing Recitals and all Exhibits hereto are hereby incorporated by reference into this Agreement and are made a part hereof.
2. **Limitation on Applicability.** This Agreement shall only pertain to the Water Facilities Component of the Village Boulevard Extension Project.
3. **Holding and Sufficiency of Project Funds.** The County hereby acknowledges and represents that it currently holds the Project Funds, and that the Project Funds are sufficient to fully fund the cost of the Water Facilities Component of the Project.
4. **Establishment of Village Boulevard Escrow Fund; Covenants.** The County covenants and agrees that all Project Funds shall be held by the County in a separate escrow fund dedicated solely for the Village Boulevard Extension Project (the "Village Boulevard Escrow Fund"), including, the Water Facilities Component of the Project, and that the Project Funds shall not be used for any other purpose or project except to the extent Project Funds may remain unused following full and final completion of the Project and the expiration of the Warranty Period provided for in Section 5 herein.
5. **Village Boulevard Escrow Fund Draws, Retention and Warranty Period.** In response to each draw request by the Developer in connection with the construction and installation of the Water Facilities Component of the Project, the County will retain 10% of each pay request and hold said funds in the Village Boulevard Escrow Fund until the end of the 1 year warranty period following final completion and acceptance by the District of the Water Facilities Component of the Project (the "Warranty Period"). At the end of the Warranty Period, the District shall perform a Final Warranty Inspection of the Eligible Water and Sewer Facilities. The Final Warranty Inspection shall include, but not be limited to a televised inspection of all sanitary sewer lines within the Project. The Developer shall be required to repair or replace any defective materials and/or work then existing related to the Project Systems to the satisfaction of the District. Upon completion of the Final Warranty Inspection and final approval by the District, the District shall issue a Notice of Termination of Warranty and Release of Improvement Assurance to the County; whereupon, the remaining 10% of the Improvement Assurance being held by the County shall be released by the County to the Developer.

6. **Conditions of Withdrawal by the District.** In the event the Developer fails for any reason to complete the Water Facilities Component of the Project in conformance with the terms, conditions and requirements of the District Development Agreement, and/or if at any time during the Warranty Period any materials or workmanship furnished by the Developer in connection with construction and installation of the Water and Sewer Facilities is proven to be defective or found to be in disrepair, and the Developer fails, after written notice from the District, to promptly repair or replace any materials and/or work to the satisfaction of the District, the District, upon written notice to the County, may draw upon the Village Boulevard Escrow Fund as necessary to complete the construction and installation of the Water Facilities Component, and/or to make all such repairs or replacements as it deems necessary.

7. **Improvement Assurance Compliance.** The District and the Developer hereby acknowledge and agree that this Agreement satisfies the Improvement Assurance requirements of Section 2(k) of the District Development Agreement.

8. **Assignment.** Neither this Agreement nor any of its provisions, terms or conditions may be assigned to any other party, individual or entity without assigning the rights as well as the responsibilities, and without the prior written consent of all Parties hereto.

9. **Entire Agreement.** This Agreement contains the entire agreement and understanding of the Parties with respect to the subject matter hereof, and supersedes all prior written or oral agreements, representations, promises, inducements, or understandings between the Parties with respect hereto.

10. **Binding Effect.** This Agreement shall be binding upon the Parties hereto and their respective officers, employees, representatives, agents, members, successors, and assigns.

11. **Validity and Severability.** In the event a court, governmental agency, or regulatory agency with proper jurisdiction determines that any provision of this Agreement is unlawful, that provision shall terminate. If a provision is terminated, but the Parties can legally, commercially, and practicably continue to perform this Agreement without the terminated provision, the remainder of this Agreement shall continue in effect.

12. **Amendment.** This Agreement may be amended only in a writing signed by the Parties hereto.

13. **Controlling Law, Jurisdiction and Venue.** This Agreement shall be governed by the laws of the State of Utah. Venue shall be in Tooele County, Utah.

14. **Construction.** This Agreement is the result of negotiations between the Parties, neither of whom has acted under any duress or compulsion, whether legal, economic or otherwise. Accordingly, the terms and provisions hereof shall be construed in accordance with their usual and customary meanings. Each Party hereby waives the application of any rule of law which otherwise would be applicable in connection with the construction of this Agreement that ambiguous or conflicting terms or provisions should be construed against the Party who (or who's attorney) prepared the executed Agreement or any earlier draft of the same. As used herein, all words in any gender shall be deemed to include the masculine, feminine, or neuter gender, all singular words shall include the plural, and all plural words shall include the singular, as the context may require.

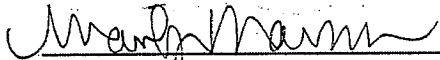
15. **Warranty of Authority.** The individuals executing this Agreement on behalf of the Parties hereby warrant that they have the requisite authority to execute this Agreement on behalf of the respective Parties and that the respective Parties have agreed to be and are bound hereby.

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

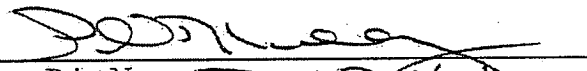
STANSBURY PARK IMPROVEMENT DISTRICT
a political subdivision of the State of Utah

By: 
Brett Palmer, Manager


ATTEST:


District Clerk

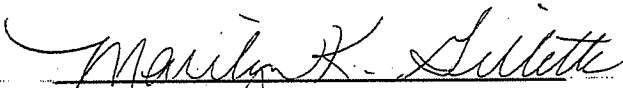
BOYER PLUMB STANSBURY, L.C.
a Utah limited liability company by
its Manager, The Boyer Company, L.C.

By: 
Print Name: PAID Kelly
Its Manager

TOOELE COUNTY, UTAH
a political subdivision of the State of Utah

By: 
Its: WADE B BIRNER CHAIRMAN Co COMMISSION

ATTEST:


County Clerk

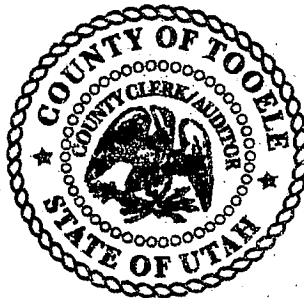
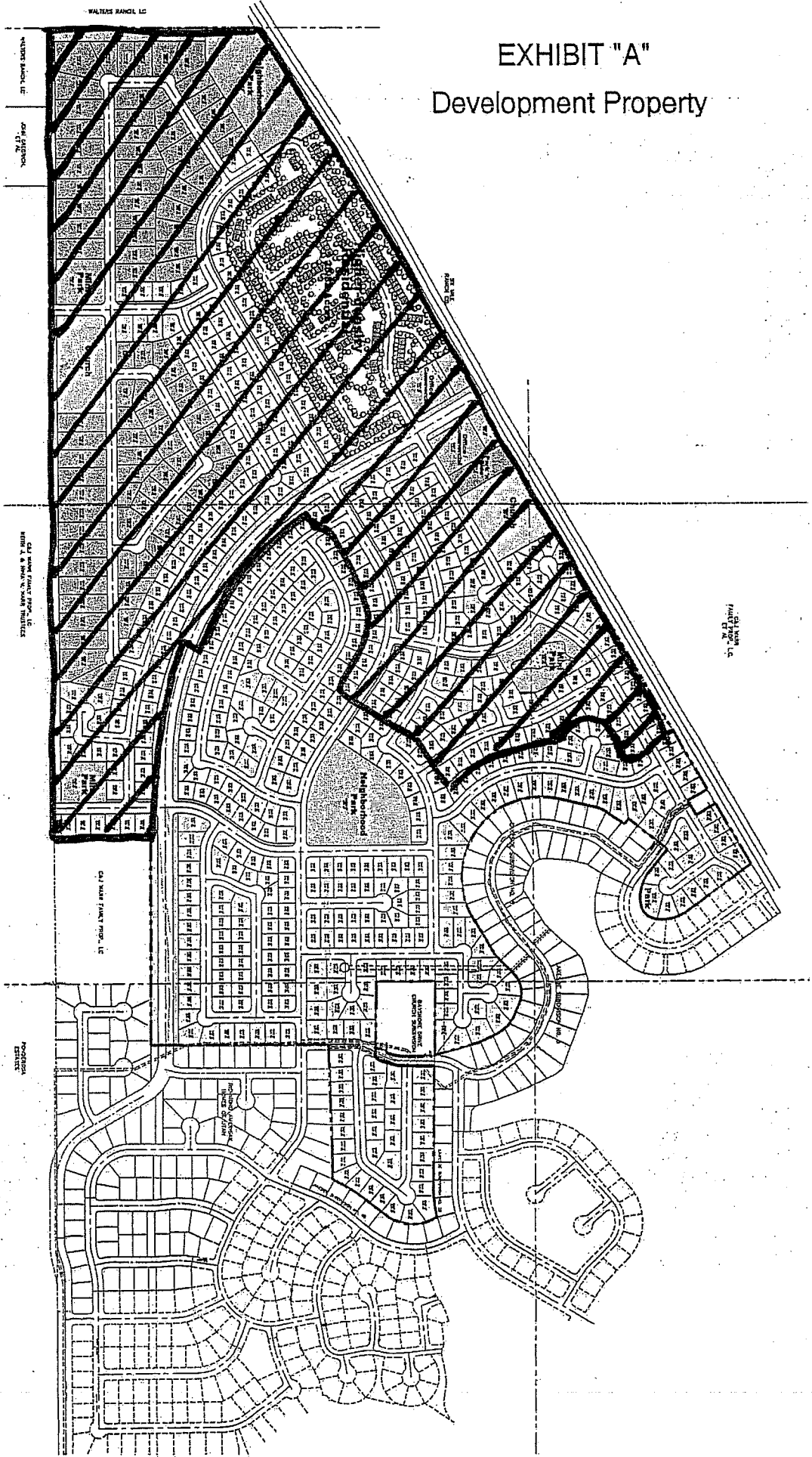


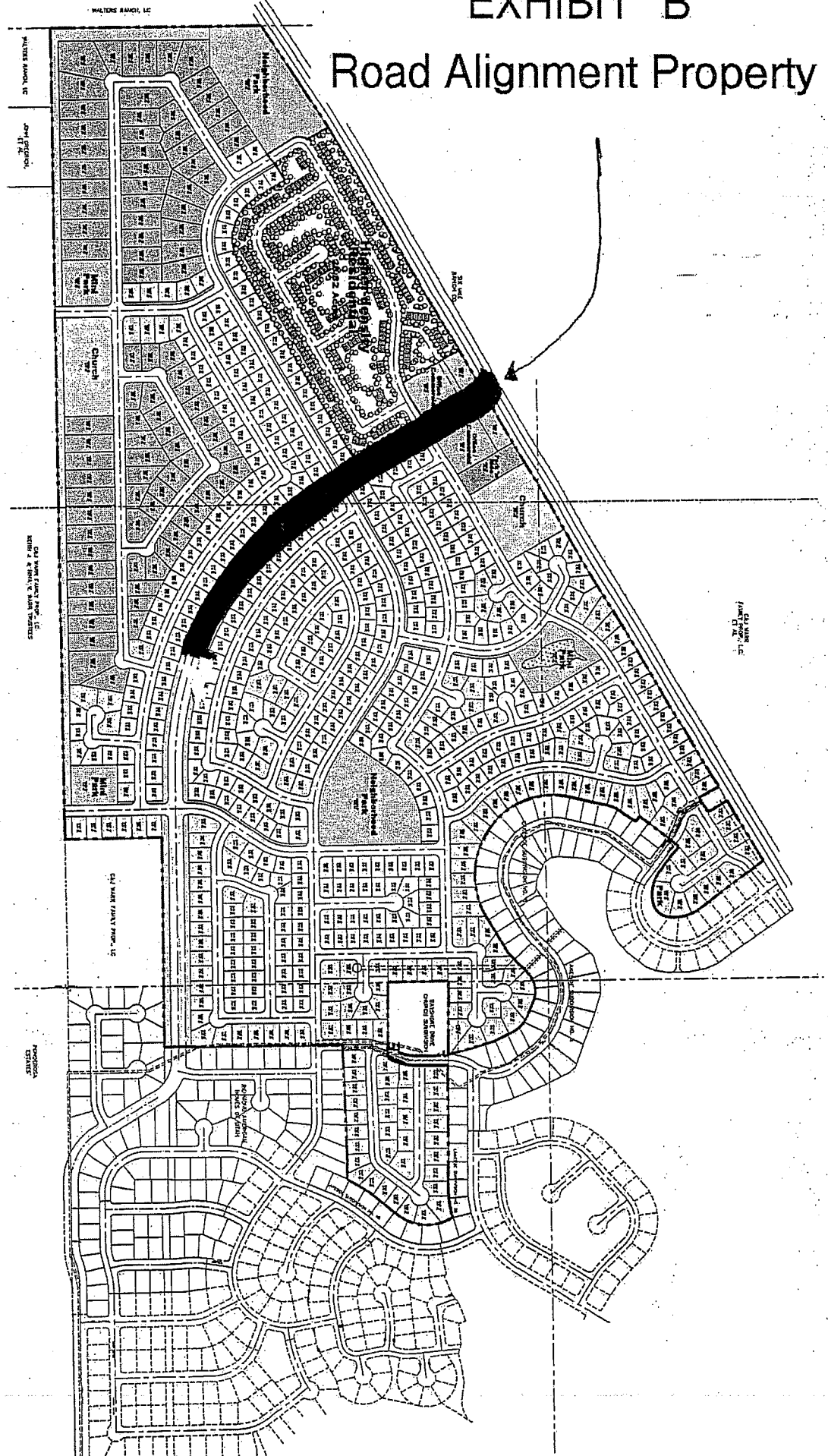
EXHIBIT "A"
Development Property



Stansbury Place
Stansbury Park, Utah

EXHIBIT "B"

Road Alignment Property



Stansbury Place
Stansbury Park, Utah