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City of San José  
200 East Santa Clara Street  
San José, CA 95113  
Attn: City Clerk, 2<sup>nd</sup> Floor West Wing

**PARKLAND AGREEMENT  
FOR  
TENTATIVE MAP NO. PT22-003  
BETWEEN  
CITY OF SAN JOSE  
AND  
SUMMERHILL EPIC WAY, LLC  
SEELY DEVELOPMENT PARTNERS LLC AND  
TRIMBLE BUILDING A HOLDINGS LLC AND  
RESTRICTIONS AND COVENANTS RELATING TO  
PUBLIC AND PRIVATE RECREATIONAL IMPROVEMENTS**

This Agreement ("Agreement") is made and entered into by and between the CITY OF SAN JOSE, a municipal corporation of the State of California ("City"), SummerHill Epic Way, LLC, a California limited liability company ("Townhome Developer"), and Seely Development Partners LLC, a Delaware limited liability company and Trimble Building A Holdings LLC, a Delaware limited liability company (the "Apartment Developer") (collectively referred to herein as the "Developers") as of the date of City's execution ("Effective Date"). Each of City and Developers are sometimes hereinafter referred to as a "Party" and collectively as the "Parties."

## **RECITALS**

- A. Developers desire to develop a mixed-use project ("Development") on approximately 22.88 acres of certain real property located generally on 0 Seely Avenue and identified as Tax Assessor's parcel Numbers 097-15-033, 097-15-034 and a portion of 097-66-008, in the City of San José, County of Santa Clara, State of California (the "Site"). Under the current zoning approved for the Development (File No. PDC 21-035), the Site is zoned for residential and non-residential uses and a 2.5-acre public park. The Developers have received City Council approval of Vesting Tentative Map Number PT22-003 (the "Tentative Map") and Planned Development Permit No. PD22-002 ("PD Permit") for the Development. The Development will be completed in phases.

The residential portion of the Development consists of 154 for-sale single-family detached townhome units (the "For Sale Units" or sometimes referenced as the "Townhomes") and 1,318 multi-family apartment units in four separate buildings (collectively the "Apartment Buildings"). The For-Sale Units and each Apartment Building will be constructed in separate phases (each, a "Phase"). **Exhibit A** ("Fees and Credits, Entire Development Site") and **Exhibit A.1a** ("Table 1 - Application of Phase Credits and Table to be Completed to apply Turnkey Park Credits by Phase") **and Exhibit A.1.b** ("Entire Development Site, by Phase") shows each phase of construction, its obligation to the City, and the anticipated construction phase that will be completed under separate residential building permits. **Exhibit A.2** ("Site Map with Phased Development and associated Parkland Obligation and Applied Credits") shows the corresponding phases within the development site, with associated fees and credits. The phases of the

Development could be constructed in the anticipated order detailed in **Exhibits A.1.a** ("Table 1 - Application of Phase Credits and Table to be Completed to apply Turnkey Park Credits by Phase"), **Exhibit A.1.b** ("Entire Development Site, by Phase") and **Exhibit A.2** ("Site Map with Phased Development and associated Parkland Obligation and Applied Credits") or in a different order. One multi-family Apartment Building will be deed restricted strictly for low-income affordable housing units ("Affordable Apartment Building"). The other three multi-family residential "Apartment Buildings" are identified as Buildings "A", "B" and "C". Buildings A, B, and C will have a combination of market rate rental units and some deed restricted units for moderate-income affordable housing units. The exact number of market rate and restricted affordable residential units for each individual phase and building type is shown on **Exhibits A.3 through A.7** ("Phase Parkland Obligation, Phase Credits, and Turnkey Park Credits") .

- B. Under the provisions of Chapter 14.25 ("Park Impact Ordinance – PIO") and Chapter 19.38 ("Parkland Dedication Ordinance - PDO") of the San José Municipal Code, developers of residential projects are required to dedicate property for neighborhood and community parks, and/or construct park or recreational improvements and/or pay in-lieu fees ("Parkland Obligation"). **Exhibits A, A1.a, and A.1.b** shows the overall Parkland Obligation for the entire development. **Exhibit A.2** ("Site Map with Anticipated Schedule of Phased Development and associated Parkland Obligation, Phase Credits, and Turnkey Park Credits") shows an illustrative site map that shows each Phase's Parkland Obligation and credits (discussed further below). **Exhibits A.3-A.7** ("Phase Parkland Obligation, Phase Credits, and Turnkey Park Credits") shows the Parkland Obligation and Fees and Credits for each Phase of the Development that must be satisfied prior to the issuance of any Building Permit for the Phase in question.
- C. In order for the Developers to satisfy the Parkland Obligation for the residential units identified under the current zoning, Tentative map, and PD Permit, the Developers and the City desire to enter into this Agreement. The Parkland Obligation for the Development will be satisfied by 1) designing and constructing

parkland improvements as outlined on **Exhibit B** ("Conceptual Park Master Plan") and **Exhibit B.1** ("35% Construction Drawing Plan Sheets) on approximately 2.5 acres of land (the "Park Site") and dedicating the fully improved Park Site to the City, and 2) paying remaining parkland fees to the City, in accordance with **Exhibits A through A.7**.

- D. The gross Parkland Obligation for the overall Development is 10.762 acres of land which is equal to \$38,842,000 in Parkland Fees. The net Parkland Obligation for the overall Development, after applying qualifying Phase credits for each Phase, as explained below, is equal to \$31,055,445 in Parkland Fees as shown on all **Exhibits As**. The Parties agree that each Phase of the Development has a Parkland Obligation and that each Phase is eligible to receive the following categories of credits that either reduce each Phase's Parkland Obligation as a "Phase Credit" or is applied as a credit to meet its Parkland Obligation as a "Turnkey Park Credit". Both the Phase Credits and the Turnkey Park Credits are detailed by in **Exhibits A– A.7**:

1. **Phase Credits:** These are credits that are applied to each individual Phase of the Development based on the characteristics of that Phase that lowers that Phase's Parkland Obligation. This includes credits for i) private recreational improvements (as further defined below), ii) reduced Parkland Fees for the affordable units in each Phase, and iii) credits for existing housing units.

The Phase Credits are applied to each Phase only, and Phase Credits from one Phase cannot be used to lower the obligations of a separate Phase. Should a Phase fail to a) deliver the private recreational improvements, b) deliver the affordable housing units, for which Phase Credits were awarded, or c) remove the existing single family residential houses, the City reserves the right to pursue the remedies in this Agreement against the offending Phase and is subject to receive the equivalent amount of Parkland Fees that were applied as a credits for that phase. **Exhibits A.3 - A.6** detail how Phase Credits are applied to each individual phase of the Development. **Exhibit A.2** is an illustrative site map that shows the



anticipated order of each Phase and how Phase Credits and Turnkey Park Credits will be applied. This is for illustrative purposes only.

**2. Turnkey Park Credits:** The Parties agree that the overall Development will receive Turnkey Park Credits totaling Nineteen Million Nine Hundred Ten Thousand Three Hundred Nine Dollars (\$19,910,309) for i) the dedication of land for the Park Site (\$8,410,309), (ii) the design and construction of Park Improvements (\$11,500,000), and (iii) the dedication of the completed Park Site to the City (collectively, the "Turnkey Park Credits").

The Turnkey Park Credits shall be available for use upon full execution of this Agreement, applied towards the entire Parkland Obligation, and will be applied to demonstrate fulfilling the Parkland Obligation owed by each Phase of the Development in the chronological order that each Phase is issued their first building permit (or in the case of the For Sale Units, the earlier of first building permit or one year from approval of a final subdivision map) until the Turnkey Parkland Credits are exhausted, **Exhibit A.1.a** ("Table 1 - Application of Phase Credits and Table to be Completed to apply Turnkey Park Credits by Phase") is a worksheet that will be completed and submitted to the City by the Developer to verify how that Developer's phase obligation is met and the amount of Turnkey Park Credits that can be applied to subsequent phases. **Exhibit A.1.b** ("Entire Development Site, by Phase") shows a table that anticipates the order and application of all credits to use as an example, or verification, of how the credits are applied.

Each Phase of the Development will be subject to pay potential Parkland Fees prior to receiving its first building permit (or in the case of the For Sale Units, prior to the date that is the earlier of i) receiving its first building permit, or ii) one year after the approval of a final subdivision map for the For Sale Units). **Exhibits A.3 – A.6** shows the amount of Parkland Fees due for each Phase. Those fees are calculated as follows:

1. The gross Parkland Fee is calculated based on the number and type of household types in each Phase, the estimated number of persons per household per unit, the Parkland requirement for that population growth (three acres of land per 1,000 people), and the cost to provide that land per the City's Parkland Fee Schedule in Resolution No 78733 and as amended by Resolution No.RES2024-422
2. The Phase Credits are then applied to each Phase and the Parkland Obligation is reduced accordingly.
3. The Turnkey Park Credits, if available, are then applied to each Phase until the Parkland Obligation is satisfied or all the Turnkey Park Credits are exhausted.
4. If Turnkey Park Credits remain after Turnkey Park Credits are applied in Step 3 above, the amount of excess Turnkey Park Credits can be available for the next Phase of construction as the means (or partial means) for that Phase to meet its Parkland Obligation. Consistent with **Exhibit A.1.b**, an example of how this works is detailed in subparagraphs a. – d. below and is illustrated on **Exhibit A.2**:
  - a. Building A (For Rent Units) has a gross obligation to provide 2,767 acres of land. This equals \$ 8,972,200 in Parkland Fees. The fee is reduced with its qualifying Individual Phase Credits as listed on **Exhibits A.1.a, A.1.b, and A.3**. This leaves a remaining dollar obligation of \$6,814,905. Building A will meet this remaining obligation through dedication of the Park Site to the City, resulting in Turnkey Park Credits of \$8,410,309. The remaining dollar obligation is subtracted from the value of the Turnkey Park Credits which gives an amount that the Parkland Obligation is exceeded by: \$1,595,405 (\$8,410,309 - \$6,814,905 = \$1,595,405). That amount of money, \$1,595,405, can be applied as a credit toward the next Phase of Development to

support that Phase of Development meeting its Parkland Obligation.

b. Continuing the example, if the Townhomes (For Sale Units) are the next Phase of Development to be constructed, that phase can apply the carryover balance of \$1,595,405 as a Turnkey Park Credit to meet its Parkland obligation. The Townhomes obligation would be met as follows: gross obligation to provide 1.509 acres of land. This equals \$9,055,200 in Parkland Fees. The fee is reduced with its qualifying individual Phase Credits as listed on **Exhibits A.1 and A.4**. This leaves a remaining Parkland Fee obligation of \$8,855,639. The Townhomes will meet this remaining obligation by applying the \$1,595,405 in available Turnkey Park Credits from the Apartment Developer's dedication of the Park Site towards its Parkland Fee obligation, leaving a balance due of \$7,260,234. The Townhomes will meet its remaining Parkland Obligation by using Turnkey Park Credits for the park design and development costs in the total amount of \$11,500,000. After the Townhomes Parkland obligation is met, excess Turnkey Park Credits in the amount of \$4,299,766 can then be used by the next Phase of Development to support that Phase of Development meeting its Parkland Obligation.

5. Each Phase of Development shall provide the City's Director evidence of how each Phase of Development's obligation is met and/or exceeded prior to the issuance of a Building Permit for that Phase by submitting a form attached hereto as **Exhibit A.1.a** for approval by the City's Director prior to the issuance of a Building Permit.

6. Once the City's Director determines the Parkland Fees due for a Phase is equal to or less than \$0, then a) \$0 Parkland Fee will thereafter be owed for the Phase, b) the City of San Jose Parks Recreation and

Neighborhood Services Department shall promptly inform the City's Building Department that the specific Phase has met its Parkland Obligation for purposes of building permit issuance for that Phase, and c) any remaining Turnkey Park Credits shall be applied to the next subsequent Phase of Development until all Turnkey Park Credits are exhausted .

7. Once all Turnkey Park Credits are applied as described in Steps 1 -6 described above and the amount of owed Parkland Fees for a Phase is greater than \$0, then a) that dollar amount (the "Owed Parkland Fee") will be paid to the City prior to an issuance of a Building Permit for that Phase, b) once the payment is received the City shall release the building permit upon payment of the Owed Parkland Fee (assuming all other conditions for the building permit have been satisfied), and c) no Turnkey Park Credits shall apply to any subsequent phase.

In summary, the initial Phases of Development pay for the design, construction, and dedication of the Turnkey Park, and the remaining phases of the Development, that do not have Turnkey Park Credits to apply, shall pay the Parkland Fees due. Under the currently anticipated sequence, and as summarized in **Exhibits A – A.2.**, Phase II, Phase III, and Phase IV apply all available Turnkey Park Credits and do not owe any payment of Parkland Fees. Phase V exhausts all remaining Turnkey Park Credits and owes a balance of Park Fees. Phase VI does not have any Turnkey Park Credits to apply, and pays the Parkland Fee amount due for that phase after Individual Phase Credits are applied.

8. The Parties agree that **Exhibits A – A7** represents the value of the fees and credits available to be applied during each phase of the Development construction in accordance with the above steps as applied to the anticipated sequencing of the Development construction and building permit issuance. However, should the sequence or order of the Phases change, the steps above shall dictate how the Phase and

Master Credits and Parkland Fees are applied to demonstrate how each Phase of the Development shall meet its Parkland Obligation.

9. The overall obligation and applied credits are shown on **Exhibits A - A7**. Below is a summary of the information shown on those Exhibits. Each Phase of Development has a Parkland Obligation, available Phase Credits, and amount of Parkland Fees that can be applied as a Turnkey Park Credit and/or an amount of Park Fees due after all Turnkey Park Credits are exhausted:

**Phase III For Sale Units (Townhomes):**

- 154 single family attached market rate townhomes;
  - Gross Parkland Obligation 1.5 acres of land or \$9,055,200 in Parkland Fees Due
  - Available Individual Phase Credits \$199,561 (Private Recreation Credits)
  - Net Parkland fees due to the City or that can be credited by application of Turnkey Park Credits \$8,855,639 (\$9,055,200 - \$199,561 = \$8,855,639).

**For Rent Units (Apartment Units):**

- **Phase II Building A** – 377 market rate apartments; 20 deed restricted units for moderate income households (397 multi-family units total)
  - Gross Parkland Obligation 2.767 acres of land or \$8,972,200 in Parkland Fees Due



- Available Individual Phase Credits \$2,157,295 (Existing Housing Credits, Private Recreation Credits and Affordable Housing Credits)
  - Net Parkland fees due to the City or that can be credited by application of Turnkey Park Credits \$6,814,905 ( $\$8,972,200 - \$2,157,295 = \$6,814,905$ )
- **Phase V Building B** – 353 market rate apartments; 19 deed restricted units for moderate income households (372 multi-family units total);
  - Gross Parkland Obligation 2.611 acres of land or \$8,407,200 in Parkland Fees Due
  - Available Individual Phase Credits \$1,435,182 (Affordable Housing and Private Recreation Credits)
  - Net Parkland Fees due to the City or that can be credited by application of Turnkey Park Credits \$6,972,018 ( $\$8,407,200 - \$1,435,182 = \$6,972,018$ ).
- **Phase VI Building C** - 353 market rate apartments; 18 deed restricted units for moderate income households (371 multi-family units total);
  - Gross Parkland Obligation 2.604 acres of land or \$8,384,600 in Parkland Fees Due
  - Available Individual Phase Credits \$1,693,791 (Affordable Housing and Private Recreation Credits)
  - Net Parkland Fees due to the City or that can be credited by application of Turnkey Park Credits \$6,690,809 ( $\$8,384,600 - \$1,693,791 = \$6,690,809$ )



- **Phase IV Affordable Housing Building** – 178 deed restricted units for low-income households (178 multi-family units total);
  - Gross Parkland Obligation 1.250 acres of land or \$4,022,800 in Parkland Fees Due
  - Available Individual Phase Credits \$2,300,725 (Affordable Housing and Private Recreation Credits)
  - Net Parkland Fees due to the City or that can be credited by application of Turnkey Park Credits \$1,722,075 (\$4,022,800 - \$2,300,725 = \$1,722,075).

10. The total available amount of Turnkey Park Credits equal \$19,910,309;

- Value of Land Dedication \$8,410,309
- Design and Construction Budget \$11,500,000

E. The Apartment Developer shall design and construct parkland improvements in substantial conformance with **Exhibit B** ("Conceptual Park Master Plan") of this Agreement on the Park Site and dedicate the fully improved "Park Site" to the City as further described in this Agreement and under **Exhibit C** ("Irrevocable Offer of Land Dedication"). The Park Site must meet all of the following:

1. The Apartment Developer shall complete and dedicate to the City the fully improved Park Site within five (5) years of the date of issuance of the first residential building permit for the Development. For example, if the first building permit for the Apartment Development is issued on January 1, 2026, the Park Site must be fully improved in compliance with this Agreement and the City has accepted the Park Site by recording a grant deed before January 1, 2031.

2. Should the Apartment Developer fail to complete the Park Improvements and dedicate the fully improved Park Site to the City within that time, the City shall have the sole option

of pursuing the remedies set forth in Section 6 of this Agreement. As described above, each phase of the Development is eligible to reduce its Parkland Obligation by providing on-site deed restricted Affordable Housing units. Pursuant to the PIO and PDO and per Resolution No. 75540 and Resolution No. 79913, the per unit Parkland Fee for each qualifying affordable unit shall be 50% of the established fee.

- G. The City's Director of Parks, Recreation and Neighborhood Services ("City's Director") is charged with the administration of this Agreement in conjunction with the Director of Public Works ("Director of PW"). The Director of PW is responsible for the review, inspection, approval, and acceptance of the Park Improvements in conjunction with the City's Director.

NOW, THEREFORE, in consideration of the mutual covenants outlined in this Agreement and for valuable consideration, receipt, and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

#### **SECTION 1. REPRESENTATIONS AND WARRANTIES OF DEVELOPER.**

The Developers represent and warrant to the City that the following facts are true and correct:

- A. The statements and certificates made on the Tentative Map and documents filed in conjunction with the zoning regulations adopted with, the Tentative Map, and PD Permit remain true and correct.
- B. Any and all documents provided to City by Developer pursuant to the terms of this Agreement, or in connection with the execution of this Agreement, are now, to Developers' knowledge, in full force and effect and contain no inaccuracies or misstatements of fact. The Developers covenant that at such time the City notifies the Developers of the City's intention to accept the Park Improvements, if to Developer's knowledge, any of these documents contain material inaccuracies, misstatements or have become

obsolete, the Developers shall notify the City and provide the City with the information required to render the documents accurate, complete and current.

- C. The Developers have the legal ability to enter into this Agreement and the Developers' signatories to this Agreement is (are) duly authorized to sign this Agreement on its behalf. In the event the Developers are not the legal owner of the real property identified on the Tentative Map, the legal owner shall also be required to execute this Agreement and shall be subject to all terms, conditions, and obligations of this Agreement.

**SECTION 2. OFFER OF DEDICATION; DESIGN AND DEVELOPMENT OF PARK IMPROVEMENTS; CREDIT FOR PRIVATE RECREATIONAL IMPROVEMENTS.**

- A. The Apartment Developer affirms their Irrevocable Offer to Dedicate approximately 2.5 acres of improved parkland--(the "Park Site") shown on an Irrevocable Offer of Dedication (**Exhibit C**) to the City which includes the real property located on 0 Seely Avenue identified as Tax Assessor's parcel Numbers 097-15-033, in the City of San José, County of Santa Clara, State of California and as also identified on the PD zoning regulations, the Tentative Map, and PD Permit. The Apartment Developer shall record an Irrevocable Offer of Dedication (**Exhibit C**) immediately following the full execution of this Agreement. The Apartment Developer shall be responsible for the development of plans and specifications for, and the construction of the Park Improvements on the Park Site consistent with the Conceptual Park Master Plan (**Exhibit B**), the "City's Design and Construction Requirements" (**Exhibit B.2**), agreed upon "Cost Estimate" (**Exhibit B.3**), and 35% Construction Drawings (**Exhibit B.1**) on file with the City at the time of this Agreement and as more particularly described in this Agreement.
- B. The Apartment Developer shall develop plans and specifications for the Park Improvements ("Project Specifications/Construction Drawings") for the

review and approval by the Director of PW and satisfaction of the City's Director, that particularly implement the description of list of Park Improvements as shown in the attached Conceptual Park Master Plan (**Exhibit B**), in conformance with **Exhibit B.2**(the City's "Design and Construction Requirements"), the agreed upon Cost Estimate (**Exhibit B.3**) and City reviewed 35% construction drawings (as exemplified on **Exhibit B.1**) on file with the Director of Public Works at the time of execution of this Agreement.

B.1. Subject to **Exhibit B.1** ("35% Construction Drawing Plan Sheets) of this Agreement, the Apartment Developer shall construct the Park Improvements in conformance with the Project Specifications and all applicable standards and specifications in effect on the Effective Date of this Agreement.

B. 2. The Parties agree the Park Improvements shall be consistent with the characteristics of the Conceptual Park Master Plan (**Exhibit B**), and as itemized in the Cost Estimate (**Exhibit B.3**) which have been determined as of the Effective Date of this agreement as shown on the 35% construction drawings (**Exhibit B.1**).

B.3 The Developer shall provide the City an anticipated schedule of construction within six months after the issuance of a first residential Building Permit. Construction of the Park Site must be completed within five (5) years after the issuance of the first building permit for the Development, as described above. It is anticipated that the first building permit will be issued May 2025.

D. The Apartment Developer shall be solely responsible for all costs incurred for planning, design, construction, and supervision of the construction of all

Park Improvements, including without limitation, the City's plan review and inspection fees and processes. The Apartment Developer shall cause all labor and material incorporated in the Park Improvements to be furnished in accordance with the requirements and specifications set forth in this Agreement.

- E. The Park Improvements shall be deemed completed and accepted by the City upon recordation of the Notice of Acceptance by the Director of PW of this Agreement.
- F. The City's Director may, at the City Director's discretion, grant extensions of the completion requirement specified in this subsection for up to one (1) year and administratively allow non-substantive changes to the Park Improvements. Substantive changes to this Agreement or any extension of completion requirements for more than one (1) year will require approval by the City Council. A substantive change is defined as a significant modification or expansion of the nature and scope of the Identified Park Improvements or change in the Conceptual Park Master Plan. Any costs associated with the substantive change initiated or requested by the Developers shall be the Developers' sole responsibility.
- G. The Development is eligible to receive credit for private recreation improvements pursuant to the Park Impact and Parkland Dedication Ordinances. The description of the private recreation improvements to be included in the Development by the Developers that will receive credit pursuant to Chapter 14.25 and Chapter 19.38 of the San Jose Municipal Code is set forth in **Exhibit D** ("Private Recreation Credit Exhibits"). The Developers shall complete the installation of the private recreation improvements described in **Exhibit D** on their respective Phase(s) on/ or before the issuance of a final Certificate of Occupancy for each phase of the Apartment Buildings, and the temporary Certificate of Occupancy for the last constructed For-Sale Unit. The City will inspect all completed private

recreation improvements before the issuance of a Certificate of Occupancy for the subject residential unit in accordance with the preceding sentence.

- H. With respect to any credited Private Recreation Improvements for each Phase that have not been completed before the issuance of the last Certificate of Occupancy as stated above, the credits for the incomplete improvements shall be disallowed and the Developers shall be required to pay the pro-rata portions of the Parkland Fees for the incomplete portion(s) of such Private Recreational Improvements (at the rates in effect as of the Effective Date).
- I. The Developers acknowledge and agree that the use of the private recreation improvements shall be restricted for recreation purposes by this recorded covenant which runs with the land in favor of the future owners of the residential units located within the Development and which expressly cannot be defeated or eliminated without the consent of the City Council. The Developers or Property Owner may however, post reasonably Rules and Regulations for respectful use, resident conduct, and maintenance for the site as well as occasional closures as necessary for safety or maintenance obligations, subject to approval and satisfaction of the City's Director (Director of Parks, Recreation, and Neighborhood Services).
- J. Developers acknowledge and agree that Developers shall not receive any credit for eligible private recreation improvements pursuant to Park Impact and Parkland Dedication Ordinances except those private recreation improvements that are set forth in **Exhibit D** and constructed in full compliance with this Agreement.
- K. Subject to the Apartment Developer's performance of all required conditions for the acceptance of the Park Improvements under this agreement, and the City's approval and acceptance of the Park Improvements, as described in this Agreement, the City affirms its intent to accept dedication of the Developer's Park Land in accordance with Section 2(F) of **Exhibit B.2**



**("City's Design and Construction Requirements")**

To that effect, the City shall not unreasonably withhold acceptance of the Developer's Park Land or Park Improvements.

**SECTION 3. COMPLIANCE WITH THE PARKLAND DEDICATION ORDINANCE.**

- A. City acknowledges and agrees that the Developers' performance of this Agreement shall satisfy the Developers' obligations under the City's Park Impact and Parkland Dedication Ordinances for the residential units identified under zoning regulations listed in PDC 21-035 for the Development. Provided that the Developers *are not in material default* hereunder, and provided further that the Developers satisfy in all material respects all other terms, conditions, and requirements associated with the Development under the PDO and PIO, the PD Permit, the City shall issue all building permits necessary for the residential units identified on the Tentative Map, provided, however, building permits, inspections and certificates of occupancy for the For Sale Units will not be withheld due to an Event of Default of the Apartment Developer hereunder (with the exception of the failure of the Park Site to be completed and dedicated to the City within five (5) years after issuance of the first building permit for the Development), provided the For Sale Units have met their Parkland Fee obligation through payment of Parkland Fees or application of Phase Credits and/or Turnkey Park Credits, as further explained in Section 6. The Parties acknowledge and agree that the calculation of the Developers' Parkland Dedication Obligation is outlined in the Fees and Credits Summary, **Exhibit A through A.7** as applicable. The Developers shall pay to the City the Parkland Fees, if any, by check directly to: City of San Jose, Department of Parks, Recreation and Neighborhood Services, 200 E. Santa Clara Street, San Jose, CA, 95113.

- B. Parkland Fees for each residential building shall be applied as described in Recital D and all **Exhibits As**. Any Owed Parkland Fees for a Phase shall be paid to City prior to the issuance for any building permit for each residential building for that Phase prior to the start of construction of that building in the Phase. The applicable Developer may be required to pay additional penalties and late fees as set forth in the Schedule of Parkland Fees adopted by the City Council at the time of this Agreement if payments of Parkland Fees are not made prior to the issuance of a building permit for each phase of development. The City will owe no refund to Developers in the event Developers do not build the number or type of residential units identified under PDC 21-035, Tentative Map, or PD Permit.
- C. In the event there is an increase in the number of residential units to be built, or change in the dwelling unit type, the Developer who increased the number of residential units in their Phase agree to immediately notify the City's Director and to pay such additional Parkland Fees as are required by the Park Impact and Parkland Dedication Ordinances and the equivalent Parkland Fees for the credits received as set forth in the Parkland In-Lieu Fee Schedule that is in effect at the time of the execution of this Agreement, to the extent not otherwise satisfied by the construction of the Park Improvements.
- D. Developers acknowledge that the costs and expenses for the design, development, construction, and supervision related to the Park Improvements, and dedication of parkland, may exceed the Parkland Fees that the Developers would be obligated to pay under the Park Impact and Parkland Dedication Ordinances. Because of the benefit to the Development that will result from the Park Improvements and land dedication, the Apartment Developer agrees to design, develop, and construct the Park Improvements on the Park Site and dedicate the Park Site as shown on the Conceptual Park Master Plan and consistent with the City reviewed 35% construction drawings (**Exhibit B.1**) as specified in this

Agreement, without any obligation on the part of the City, other than the City's obligation in Section 2.K above to accept such dedication.

#### **SECTION 4. REVIEW FEES AND CHARGES RELATED TO PARK IMPROVEMENTS.**

- A. The Apartment Developer shall pay to the City a fee for review and approval of the Project Specifications for the Park Improvements and the inspection of the Park Improvements (collectively, "Review Fee"). The City's Review Fee shall be based on the Developers' cost estimate of the Park Improvements as approved by the City's Director and shall be calculated based on the fees and charges established for the City's review and inspection of like improvements then in effect at the time the City and the Developers execute this Agreement. The Review Fee is **\$1,598,554** based off of 17.5% of the Construction Total cost as shown on the Cost Estimate (**Exhibit B.3**). The total Review Fee shall be paid directly to the City prior to, or concurrently with the execution of this Agreement. The Apartment Developer shall pay to the City the Review Fee by check directly to: City of San Jose, Department of Parks, Recreation and Neighborhood Services, 200 E. Santa Clara Street, San Jose, CA, 95113.
- B. In the event that the City's Director grants an extension of the term of this Agreement pursuant to the provisions of Section 2 (above) or if the Review Fee paid pursuant to Section 3A (above) is insufficient for City's review and inspection as set forth herein, then the Director of PW, at the Director of PW's sole discretion, shall have the right to escalate the total estimated cost of the Park Improvements, and/or the corresponding Review Fee. The escalation of the total estimated cost of the Park Improvements shall be estimated by Director of PW consistent with current adopted costs and adopted protocols. This calculation shall not result in any cost to the City nor shall the cost increase eliminate elements to be included in the park per this Agreement, the Conceptual Master Plan (**Exhibit B**), and the 35%

construction drawings (**Exhibit B.1**) on file with the City at the time of this agreement.

## **SECTION 5. BONDS AND SECURITY.**

Apartment Developer shall furnish to City the following security prior to the execution of this Agreement and for the purposes, in the amounts, and under the conditions that follow:

### **A. Type and Amounts.**

1. Performance Security. To assure the Apartment Developer's faithful performance of this Agreement to complete the Park Improvements, security in an amount of One Hundred Percent (100%) of the estimated cost of the Park Improvements (hereinafter "Performance Security"); and
2. Payment Security. To secure the Apartment Developer's payment to any Contractor, subcontractor, person renting or supplying equipment, or furnishing labor and materials for completion of the Park Improvements security in the additional amount of One Hundred Percent (100%) of the estimated cost of the Park Improvements (hereinafter "Payment Security"); and
3. Warranty Security. To warranty the Developers' work for a period of one (1) year following recordation of the Notice of Acceptance against any defective work or labor done or defective materials with respect to the Park Improvements, security in the additional amount of Twenty-Five Percent (25%) of the estimated cost of the Park Improvements (hereinafter "Warranty Security"); and

### **B. CONDITIONS.**

1. The Apartment Developer shall provide the required security on forms approved by City and from sureties authorized by the California Insurance Commissioner to transact the business of

insurance. Any bonds furnished by the Apartment Developer's to satisfy the security requirements in this Section 5 shall be in the forms attached hereto as **Exhibit E** ("Bond and Securities") as may be amended by City from time to time.

2. A condition of the Developers' security is that any changes not exceeding ten percent (10%) of the original estimated cost of the Park Improvements shall not relieve the security. In the event that changes to the Project Specifications cause an increase of more than ten percent (10%) over the original estimated cost of the Park Improvements, the Apartment Developer shall provide security as required by Section 5(A) of the Agreement for One Hundred Percent (100%) of the total estimated cost of the Park Improvements as changed.
3. Notwithstanding Section 5(B)(2) above, the Apartment Developer's security shall compensate the City for the actual cost of completing the required Park Improvements in the Event of Default, as defined in Section 6 below, by the Developers in the performance of this Agreement, regardless of whether the City's cost of completion exceeds the estimated total cost of the Park Improvements.
4. A condition of the Developers' security is that any request by the Developers for a reasonable extension of time for the commencement or completion of the work under this Agreement may be granted by the City without notice to the Developers' surety and such extensions shall not affect the validity of this Agreement or release the surety or sureties on any security given for this Agreement.

5. As a condition of granting any extension for the commencement or completion of the work under this Agreement, the Director of PW may require the Apartment 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 reasonably determined by the Director of PW.

6. If the Apartment Developers seek to replace any security with another security, the replacement shall: (1) comply with all the requirements for security in this Agreement; (2) be provided by the Apartment Developer's to the Director of PW; and (3) upon its written acceptance by the Director of PW, be deemed to be a part of this Agreement. Upon the Director of PW's acceptance of a replacement security, the former security will be released by the City.

C. Release of Securities. The City shall release the securities required by this Agreement as follows:

1. Performance Security. City shall release the Performance Security upon recordation of the Notice of Acceptance or as may otherwise be authorized in accordance with California Government Code Sections 66499.7(a)-(g).

2. Payment Security. City shall release the Payment Security in accordance with California Government Code Section 66499.7(h).

3. Warranty Security. City shall release the Warranty Security upon expiration of the 1-year warranty period and settlement of any claims filed during such warranty period.



4. Prior to any release of security, City may provide Apartment Developer copies of any invoices for third party costs and reasonable expenses and fees, including reasonable attorney's fees incurred by the City along with City's written request for payment thereof, and if such invoices are not directly paid in full by Apartment Developer within thirty (30) days of such written request, City may retain from any security released, an amount sufficient to cover costs and reasonable expenses and fees, including reasonable attorney's fees, unless Apartment Developer is contesting in good faith such invoices.

D. Injury to Park Improvements, Public Property or Public Utility Facilities. Until recordation of the Notice of Acceptance of the Park Improvements, the Apartment Developer assumes responsibility for the care and maintenance of, and any damage to, the Park Improvements. The Apartment Developer shall replace or repair all Park Improvements, public utility facilities situated within the Park Site, and surveying or subdivision monuments and benchmarks situated within the Park Site which are destroyed or damaged for any reason, regardless of whether resulting from the acts of the Developers, prior to the recordation of the Notice of Acceptance. The Apartment Developer shall bear the entire cost of such replacement or repairs regardless of what entity owns the underlying property. Any repair or replacement shall be to the satisfaction, and subject to the approval, of the Director of PW.

Neither the City, nor any officer or employee thereof, shall be liable or responsible for any accident, loss, or damage, regardless of cause, occurring to the work or Park Improvements prior to recordation of the Notice of Acceptance of the work or improvements.

## **SECTION 6. DEFAULT.**

A. The Developers shall be in default hereunder upon the occurrence of any one or more of the following events ("Event of Default") subject to Force Majeure Events:

1. The Apartment Developer's failure to timely commence construction of Park Improvements under this Agreement after 36 months from the approval of 100% construction drawings;
2. The Apartment Developer's failure to timely complete construction of the Park Improvements within five (5) years of the issuance of the first building permit for the Development;
3. The Apartment Developer's failure to timely cure any defect in the Park Improvements;
4. The Developers' insolvency, appointment of receiver, or the filing of any petition in bankruptcy, either voluntary or involuntary, which the Developers fail to discharge within thirty (30) days;
5. The Developers assign this Agreement in violation of Section 9;
6. The Developers fail to perform or satisfy any other term, condition, or obligation under this Agreement.

Notwithstanding the foregoing, the City agrees it is not an Event of Default with respect to the Townhome Developer if there is any Event of Default that relates to the Park Improvements or the Park Site, provided the Park Site must be completed and dedicated to the City within five (5) years of the issuance of the first building permit for the Development and nothing herein is intended to relieve the Developers from such obligation.

B. If an Event of Default occurs and the Event of Default is not cured by the Developers in accordance with Section 6(D) below, the City in its sole

discretion shall be entitled to terminate the Developers' control over the work described herein and hold the Developers and its surety liable for all damages suffered by the City as a result of the Event of Default. The City shall have the right, at its sole discretion, to draw upon or use the appropriate security to mitigate the City's damages in the Event of Default by the Developers. The Developers acknowledge and agree that the City's right to draw upon or use the security is in addition to any other remedies available at law or in equity to the City. The Parties acknowledge and agree that the estimated costs and security amounts may not reflect the actual cost of construction of the Park Improvements, and therefore, the City's damages in the Event of Default by the Developers shall be measured by the actual cost of completing the required Park Improvements to the satisfaction of the City. The City may use the sums provided by the securities for the completion of the Park Improvements in accordance with the Project Specifications.

- C. If an Event of Default occurs and the Event of Default is not cured by Developer in accordance with Section 6(D) below, the City's sole remedy shall be to take over the work and complete the Park Improvements, by contract or by any other method the City deems appropriate, at the sole cost and expense of the Apartment Developer. In such event, the City, without any liability whatsoever, may complete the Park Improvements using any of the Apartment Developer materials, appliances, plans, or other property located at the Park Site and that are necessary to complete the Park Improvements.
- D. Unless the City's Director determines that the circumstances warrant immediate enforcement of the provisions of this Section 6 in order to preserve the public health, safety, and welfare, the City's Director shall give sixty (60) working days' prior written notice of default to Developers ("Notice Period"), which notice shall state in reasonable detail the nature of the Developers' default and the manner in which the Developers can cure the

default. During the Notice Period, the Developers shall have the right to cure any such default; provided, however, if a default is of a nature which cannot reasonably be cured within the Notice Period, the Developers shall be deemed to have timely cured such default for purposes of this section if the Developers commence to cure the default within the Notice Period and prosecutes the same to completion within a reasonable time thereafter.

- E. If an Event of Default occurs, the Developers agrees to pay any and all reasonable costs and actual expenses incurred by the City in securing performance of such terms, conditions, or obligations giving rise to the Event of Default, including but not limited to, fees and charges of architects, engineers, contractors, attorneys, and other professionals, and court costs that are in excess of the amount of bond proceeds received by the City (but not duplicative).
- F. Notwithstanding the foregoing, if an Event of Default occurs and the Event of Default is not cured, the Townhome Developers have the ability to cure the Default for the For Sale Units by paying any and all remaining Parkland Obligation for the For Sale Units.

The City's rights and remedies specified in this Section 6 shall be deemed cumulative and in addition to any rights or remedies the City may have at law or in equity, but nothing herein is intended to give the City duplicative remedies for the same Event of Default, except as may be needed to cover the full and actual cost of completing the Park Improvements.

## **SECTION 7. INDEMNITY/HOLD HARMLESS.**

- A. The City, or any officer, employee, or agent thereof shall not be liable for any loss or injury to persons or property occasioned by reason of the acts or omissions of the Developers, its agents, employees, contractors, or subcontractors in the performance of this Agreement. The Developers further acknowledge and agree to protect, indemnify, defend and hold the

City, its officers, agents and employees harmless from and against any and all liability, loss, cost and obligations on account of or arising out of or resulting from any injury or loss caused directly or indirectly by any cause whatsoever in connection with or incidental to the activities performed by the Developers under this Agreement, except to the extent such injury or harm is caused by the sole active negligence or willful misconduct of the City, its officers, agents, or employees or contractors. This Section 7 shall survive the recordation of the Notice of Acceptance, acceptance of the Park Site, or sooner termination of this Agreement for a period of one (1) year from the date of such acceptance or termination. Recordation of the Notice of Acceptance by the City of the Park Improvements shall not constitute an assumption by the City of any responsibility or liability for any loss or damages covered by this Section 7.B. The Developers shall reimburse the 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 the City in enforcing this Section 7.

## **SECTION 8. NOTICES.**

Any notice required or permitted to be given under this Agreement shall be in writing and (i) personally served, (ii) delivered by express mail, Federal Express or other comparable overnight courier service or (iii) sent by U.S. mail, postage prepaid, addressed as follows:

To City's Director:                      City of San José  
Department of Parks, Recreation and Neighborhood  
Services  
Attn: PRNS Capital Projects Division,  
Attention: Deputy Director  
200 East Santa Clara Street, Tower-9<sup>th</sup> Floor  
San José, CA 95113

To Director of PW:                      City of San José  
Department of Public Works  
City Facilities and Architectural Services Division  
Attn: PW Division Manager



200 East Santa Clara Street, Tower-6<sup>th</sup> Floor  
San José, CA 95113

To Developers: SummerHill Epic Way LLC  
Attn: SummerHill Homes, Vice President of Development  
3000 Executive Pkwy, Suite 450, San Ramon, CA 94583

With a copy to:

SummerHill Homes LLC  
777 California Avenue  
Palo Alto, CA 94304  
Attention: General Counsel

AND

The Hanover Company  
Attn: Regional Development Partner  
Bay Area Regional Office  
156 Diablo Road, Suite 220, Danville, CA 94526

With a copy to

The Hanover Company  
Attn: Deputy General Counsel  
1780 South Post Oak Lane  
Houston, TX 77056

Notice shall be deemed given upon and received as follows: (i) if personally delivered, at the time of personal delivery, (ii) in the case of overnight delivery using a nationally recognized overnight courier, one (1) working day after deposit with such courier, or (iii) if sent by mail, two (2) working days after deposit, postage prepaid in the U.S. Mail. The Parties shall notify each other of changes in either their respective addresses or their representatives subject to notification in accordance with the provisions of this section.

#### **SECTION 9. ASSIGNMENT.**

This Agreement may not be assigned or transferred in part or in whole by the Developers without the express written consent of the City. Any attempts to assign or transfer any terms, conditions or obligations under this Agreement without the express written consent



of the City shall be voidable at City's sole discretion. Notwithstanding the foregoing, Developers may sell, transfer or assign all of their interest in the Site or portion of the Site that contains the Development without the City's consent, provided however, the Developer shall not be released from any liability under this Agreement until the City's acceptance of the Apartment Developer's Park Site and Park Improvements, and the associated warranty period has expired.

#### **SECTION 10. BINDING UPON SUCCESSORS.**

Subject to Section 9, this Agreement shall be binding upon and shall inure to the benefit of the Parties' respective successors, assignees, transferees, and legal representatives.

#### **SECTION 11. GOVERNING LAW.**

This Agreement shall be governed by and construed in accordance with California law.

#### **SECTION 12. ENTIRE AGREEMENT.**

This Agreement, including the exhibits, attachments and appendices, contains the entire agreement of the Parties with respect to the satisfaction of the requirements of the Park Impact and Parkland Dedication Ordinances for the Tentative Map for the Development and supersedes all prior understandings or representations of the Parties, whether written or oral. Any subsequent modification of this Agreement must be made in writing and signed by all Parties hereto.

#### **SECTION 13. TIME OF ESSENCE.**

Time is of the essence in the performance of this Agreement.

#### **SECTION 14. FORCE MAJEURE.**

- A. "Force Majeure Event" shall be defined as any matter or condition beyond the reasonable control of a Party, including war, public emergency or calamity, fire, earthquake, extraordinary inclement weather, Acts of God, strikes, labor disturbances or actions, civil disturbances or riots, litigation brought by third parties against either the City or the Developers or both, or

any governmental order or law which causes an interruption in the construction of the Park Improvements (the "Work" for purposes of this section) or prevents timely delivery of materials or supplies.

B. Should a Force Majeure Event prevent the performance of this Agreement, in whole or in part, the Party affected by the Force Majeure Event shall be excused or performance under this Agreement shall be suspended to the extent commensurate with the Force Majeure Event; provided that the Party availing itself of this Section shall notify the other Party within ten (10) days of the affected Party's knowledge of the commencement of the Force Majeure Event; and provided further that the time of suspension or excuse shall not extend beyond that reasonably necessitated by the Force Majeure Event.

C. Notwithstanding the foregoing, the following shall not excuse or suspend performance under this Agreement:

1. Performance under this Agreement shall not be suspended or excused for a Force Majeure Event pertaining to the Work if such event is not defined as a Force Majeure Event under the applicable contract for the Work.
2. Negligence or failure of the Developers to perform its obligations under a contract for the Work (other than for a Force Majeure Event as defined under the applicable contract) shall not constitute a Force Majeure Event.
3. The inability of the Developers for any reason to have access to funds necessary to carry out its obligations under this Agreement or the termination of any contract for the prosecution of the Work for such reason or for the Apartment Developer's default under such contract shall not constitute a Force Majeure Event.

## **SECTION 15. BOOKS AND RECORDS.**

- A. The Developers shall be solely responsible to implement internal controls and record keeping procedures in order to comply with this Agreement and all applicable laws. The Developers shall maintain any and all ledgers, books of account, invoices, vouchers, cancelled checks, receipts, and other records or documents evidencing or relating to the activities performed by the Developers under this Agreement, including without limitation those relating to the construction of the Park Improvements, for a minimum period of three (3) years, or for any longer period required by law, from the date of termination of this Agreement or the date of the City's acceptance of the Park Improvements, whichever is longer. Notwithstanding this previous sentence, the Developers shall retain such records beyond three (3) years so long as any litigation, audit, dispute, or claim is pending.
1. Any records or documents required to be maintained pursuant to this Agreement shall be made available for inspection or audit at no cost to the City, at any time during regular business hours, upon written request by the City Attorney, City Auditor, City Manager, or a designated representative of any of these officers. The Developers shall provide all records listed in the Section 14, A. above to the City at final completion of construction project as a term of release of Performance Surety Bond and Notice of Acceptance or within 15-business days of the request.
- B. Copies of such documents shall be provided to the City for inspection at City Hall when it is practical to do so. Otherwise, unless an alternative is mutually agreed upon, the records shall be available at the Developers' address indicated for receipt of notices in this Agreement.
- C. Where the City has reason to believe that such records or documents may be lost or discarded due to dissolution, disbandment or termination of the Developers' business, the City may, by written request by any of the above-

named officers, require that custody of the records be given to the City and that the records and documents be maintained in City Hall. Access to such records and documents shall be granted to any party authorized by the Developers, the Developers' representatives, or the Developers' successor-in-interest.

The Developers' obligations under this Section shall be in addition to the Developers' obligations otherwise specified in this Agreement.

#### **SECTION 16. MISCELLANEOUS PROVISIONS.**

- A. Captions. Captions and Sections of this Agreement are for convenience only and shall not be considered in resolving any questions of interpretation or construction.
- B. Incorporation of Recitals. The Recitals in this Agreement are hereby incorporated into the terms of this Agreement.
- C. Jurisdiction. In the event that suit shall be brought by any of the Parties, the Parties agree that venue shall be exclusively vested in the state courts of the County of Santa Clara, or if federal jurisdiction is appropriate, exclusively in the United States District Court, Northern District of California, San José, California.
- D. Waiver. The Developers agree that waiver by City of any breach or violation or any term, condition, or obligation of this Agreement shall not be deemed to be a waiver of any other term, condition, or obligation contained herein or a waiver of any subsequent breach or violation of the same term, condition, or obligation.
- E. Plurality. As used in this Agreement and when required by the context, each number (singular and plural) shall include all numbers.
- F. Compliance with Laws. The Developers, its employees, agents, representatives, contractors, and subcontractors shall comply in all material

respects with all applicable local, state and federal laws in the performance of this Agreement.

- G. Nondiscrimination. The Developers, its employees, agents, representatives, contractors, and subcontractors shall not discriminate, in any way, against any person on the basis of age, sex, race, color, religion, sexual orientation, actual or perceived gender identity, disability, ethnicity, national origin, or any other recognized or protected class in connection with or related to the performance of this Agreement. The Developers shall expressly require compliance with the provisions of this Section 16(G) in all agreements with contractors and subcontractors for the performance of the improvements hereunder.
- H. The Developers have read each and every part of this Agreement, including without limitation, its exhibits, and the Developers freely and voluntarily have entered into this Agreement. This Agreement is a negotiated document and shall not be interpreted for or against any party by reason of the fact that such Party may have drafted this Agreement or any of its provisions.
- I. Whenever in this Agreement words of obligation or duty are used, such words shall have the force and effect of covenants. Any obligation imposed by either Party shall include the imposition on such Party of the obligation to pay all costs and expenses necessary to perform such obligation.
- J. Severability. If any provisions or portions of this Agreement are held to be invalid by a court of competent jurisdiction, the remaining provisions or portions of this Agreement shall remain in full force and effect unless amended or modified by mutual written consent of the Parties.
- K. This Agreement is entered into pursuant to and shall be governed by the Parkland Dedication Ordinance. If not otherwise defined in this Agreement,

capitalized terms shall have the meanings set forth in Chapter 19.38 of the San José Municipal Code.

## **SECTION 17. AGREEMENT'S ATTACHMENTS.**

This Agreement includes the following attachments:

### **Exhibit A ("Fees and Credits, Entire Development Site")**

**Exhibit A.1.a** ("Table 1 - Application of Phase Credits and Table to be Completed to apply Turnkey Park Credits by Phase")

**Exhibit A.1.b** ("Entire Development Site, by Phase")

**Exhibit A.2-** ("Site Map with Anticipated Schedule of Phased Development and associated Parkland Obligation, Phase Credits, and Turnkey Park Credits")

**Exhibit A.3 ("Phase II Building A - Parkland Obligation, Phase Credits, and Turnkey Park Credits")**

**Exhibit A.4 ("Phase III Townhomes Parkland Obligation, Phase Credits, and Turnkey Park Credits")**

**Exhibit A.5 ("Phase IV Affordable Housing Building - Parkland Obligation, Phase Credits, and Turnkey Park Credits")**

**Exhibit A.6 ("Phase V Building B Parkland Obligation, Phase Credits, and Turnkey Park Credits")**

**Exhibit A.7 ("Phase IV Building C Parkland Obligation, Phase Credits, and Turnkey Park Credits")**

### **Exhibit B ("Conceptual Park Master Plan")**

**Exhibit B.1** ("35% Construction Drawing Plan Sheets")

**Exhibit B.2** ("City's Design and Construction Requirements")

**Exhibit B.3** ("Cost Estimate")

### **Exhibit C ("Irrevocable Offer of Land Dedication")**

**Exhibit C.1** ("City IOD Template completed and signed")

**Exhibit C.2** ("Park Site Legal Description")



**Exhibit C.3** ("Park Site Plat Map")

**Exhibit D** ("Private Recreation Credit Exhibits")

**Exhibit E** ("Bond and Security Forms")

**Exhibit E.1** Performance Security

**Exhibit E.2** Payment Security

**Exhibit E.3** Warranty Security

**Exhibit F** ("Environmental Reports/Permitted Exceptions")

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WITNESS THE EXECUTION HEREOF the day and year hereinafter written by City.

APPROVED AS TO FORM:



ANDREW MALEK  
Deputy City Attorney

CITY OF SAN JOSE, a municipal  
corporation

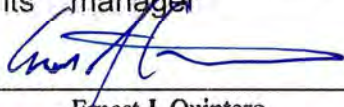
By: \_\_\_\_\_  
TONI J. TABER, CMC  
City Clerk


Date: \_\_\_\_\_

**DEVELOPER**

SummerHill Epic Way LLC,  
a California limited liability company

By: SummerHill Homes LLC,  
a California limited liability  
company, its manager

By:   
Name: Ernest J. Quintero  
Title: Chief Financial Officer

By:   
Name: Jason Briggs  
Title: Secretary

**DEVELOPER**

**SEELY DEVELOPMENT PARTNERS  
LLC,**  
a Delaware limited liability company,

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**OWNER**

TRIMBLE BUILDING A HOLDINGS LLC,  
A Delaware limited liability company

By: THC Trimble Building A LLC, a  
Delaware limited liability company, its  
managing member

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

## 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 9, 2025 before me, JUDY LEPULU, NOTARY PUBLIC  
(insert name and title of the officer)

personally appeared ERNEST J. QUINTERO and JASON BIGGS,  
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)



WITNESS THE EXECUTION HEREOF the day and year hereinafter written by City.

APPROVED AS TO FORM:

CITY OF SAN JOSE, a municipal  
corporation

\_\_\_\_\_  
ANDREW MALEK  
Deputy City Attorney

By: \_\_\_\_\_  
TONI J. TABER, CMC  
City Clerk

Date: \_\_\_\_\_

**DEVELOPER**

SummerHill Epic Way LLC,  
a California limited liability company

By: SummerHill Homes LLC,  
a California limited liability  
company, its manager

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**DEVELOPER**

**SEELY DEVELOPMENT PARTNERS  
LLC,**  
**a Delaware limited liability company,**

By: Meg Walker  
Name: Meg Walker  
Title: Vice President

**OWNER**

TRIMBLE BUILDING A HOLDINGS LLC,  
A Delaware limited liability company

By: THC Trimble Building A LLC, a  
Delaware limited liability company, its  
managing member

By: Meg Walker  
Name: Meg Walker  
Title: Vice President

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 TEXAS                    )  
  ) ss.  
COUNTY OF HARRIS)

The foregoing instrument was acknowledged before me this 8 day of April, 2025, by Meg Walker, Vice President of Seely Development Partners LLC, a Delaware limited liability company, on behalf of said entity.

Witness my hand and official seal.

Tracy Boone  
Notary Public  
My commission expires: 02-20-2029



EXHIBIT A

Exhibit A - Fees and Credits - Entire Development Site

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[see attached]



**Exhibit A - Fees and Credits, Entire Development Site**

Parkland Dedication								
Type of Unit	Proposed Units	Existing Units	Person Per Household	New Population	Existing Housing Population	Net Population	Existing Housing Credit	Gross Parkland Dedication
SFD (Single Family Detached)	0	2	3.310	0.000	6.620	-6.620	0.020	0.000
SFA (Single Family Attached)	154	0	3.310	509.740	0.000	509.740	0.000	1.529
MFA5+ (Multi-Family 5+ Units)	1318	0	2.340	3084.120	0.000	3084.120	0.000	9.252
<b>Total</b>	<b>1472</b>	<b>2</b>		<b>3593.860</b>	<b>6.620</b>	<b>3587.240</b>	<b>0.020</b>	<b>10.782</b>
Gross Parkland Dedication Required (acres)	10.782							
Existing Housing Parkland Credit (acres)	0.020							
<b>Net Parkland Dedication Required (acres)</b>	<b>10.762</b>							
Phase Credits								
Private Recreation and Land Dedication								
<b>Category B - Inactive (Upper limit)</b>								
More than 5 Stories and/or Land being Dedicated?	Yes	Yes / No						
Category B - Inactive (unadjusted)	0.000 Acres							
Category B - Inactive (Upper limit)	5.391 Acres							
<b>Total Category A - Active</b>	<b>1.494 Acres</b>							
<b>Total Category B - Inactive (adjusted)</b>	<b>0.000 Acres</b>							
<b>Subtotal Priv. Rec. Acreage</b>	<b>1.494 Acres</b>							
	5.391 Acres							
<b>Eligible Priv. Rec. Acreage</b>	<b>1.494 Acres</b>							
<b>Eligible Priv. Rec. converted to Square Feet</b>	<b>65,067 Square Feet</b>							
<b>Total Public Parkland Being Dedicated (Acres)</b>	<b>2.506</b>							
<b>Total Public Parkland Being Dedicated (converted to Square Feet)</b>	<b>109,153</b>							
<i>*Private recreation credit cannot exceed 50% of total parkland dedication required.</i> <i>**If land is being dedicated, DEB must be completed to correctly calculate private recreation credit.</i>								
Calculation of Parkland Dedication Met								
<b>Total Parkland Credits in Acres</b>	<b>4.000</b>							
<b>Total Parkland Credits converted to Square Feet</b>	<b>-</b>							
<b>% of Requirement Met (Private Recreation)</b>	<b>13.854489%</b>							
<b>% of Requirement Met (Land Dedication)</b>	<b>23.241566%</b>							
<b>Total % of Requirement Met</b>	<b>37.096055%</b>							
<b>% of Dedication Remaining</b>	<b>62.90%</b>							
Calculation of Parkland Impact In-Lieu Fees								
Type of Unit	Number of Proposed Units	Existing Units			Fee Per Unit (Pulls from FEES TABLE)	Gross Fee	Existing Units Credit	Affordable Units Fee Reduction
SFD (Single Family Detached)	0	2 7B			0 \$ 58,800	\$ -	\$ 117,600	\$ -
SFA (Single Family Attached)	154	0 7B			0 \$ 58,800	\$ 9,055,200	\$ -	\$ -
MFA5+ (Multi-Family 5+ Units)	1318	0 7B			235 \$ 22,600	\$ 29,786,800	\$ -	\$ 2,655,500
<i>**Affordable units are 50% of the per unit fee.</i>								
Fee Summary Breakdown								
<b>Gross Parkland Impact In-Lieu Fee (1,472 units)</b>	<b>\$ 38,842,000</b>							
Affordable Housing 50% Fee Reduction (235 units: 178 low income & 57 moderate)	\$ (2,655,500)							
<b>Adjusted Parkland Impact In-Lieu Fee</b>	<b>\$ 36,186,500</b>							
Private Recreation Credit (65,067 square feet of private rec)	\$ (9,013,455)							
Existing Housing Credit (2 existing units)	\$ (117,600)							
<b>Net Parkland Impact In-Lieu Fee</b>	<b>\$ 31,055,445</b>							
<b>Turnkey Park Credits</b>		<b>\$ 19,910,309.45</b>	<b>Total Available Credits</b>					
Land Dedication Credit (2.5 acres of land)	\$ (8,410,309)							
Park Design & Development Credit	\$ (11,500,000)							
<b>Amount of Park Fees Due</b>	<b>\$ 11,145,136</b>							

**Exhibit A1.a Table 1 – Application of Phase Credits and Table to be Completed to apply Turnkey Park Credits by Phase**

Table 1.		This Form shall be Submitted to City at the Building Permit stage for each Phase. The Turnkey Park Credits will be utilized by each Phase, if available, until the Turnkey Park Credits are exhausted.					
The Development consists of 154 for-sale single-family detached townhome units (the "For Sale Units") and 1,318 multi-family apartment units in four separate buildings (collectively the "Apartment Buildings"). The For-Sale Units and each Apartment Building will be constructed in separate phases (each, a "Phase")		Phase II	Phase III	Phase IV	Phase V	Phase VI	TOTALS
		Building A (Apartments)	Townhomes (For Sale Units)	Affordable Bldg. (Apartments)	Building B (Apartments)	Building C (Apartments)	
		377 Market Rate Apartments	154 Townhomes	No Market Rate Units	353 Market Rate Apartments	353 Market Rate Apartments	
		20 Moderate Income (100% AMI) Apartments 397 Units	No Affordable Units 154 Units	178 Low Income Apartments 178 Units	19 Moderate (100% AMI) Apartments 372 Units	18 Moderate (100% AMI) Apartments 371 Units	
<b>Gross Parkland Impact Fee</b>		\$ 8,972,200	\$ 9,055,200	\$ 4,022,800	\$ 8,407,200	\$ 8,384,600	\$ 38,842,000
Credits Applied to Individual	- Affordable Units 50% Reduction	\$ (226,000)	\$ -	\$ (2,011,400)	\$ (214,700)	\$ (203,400)	\$ (2,655,500)
	- Private Rec Credit	\$ (1,813,695)	\$ (199,561)	\$ (289,325)	\$ (1,220,482)	\$ (1,490,891)	\$ (5,013,455)
	- Remove Existing Housing Credit	\$ (117,600)	\$ -	\$ -	\$ -	\$ -	\$ (117,600)
<b>Net Parkland Fees after Phased Credits</b>		\$ 6,814,905	\$ 8,855,639	\$ 1,722,075	\$ 6,972,018	\$ 6,690,809	\$ 31,055,445
Available Turnkey Park Credits to be applied prior to Building Permits for each Phase		This section of the Table is to be Completed and Submitted to the City's Parks, Recreation and Neighborhood Services Department for Verification of the Application of Credits Prior to the Issuance of a Building Permit for Each Phase:					
Available Turnkey Park Credits	- Land Dedication Credit (\$8,410,309)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	- Park Construction Credit (\$11,500,000)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	Total \$19,890,816	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
<b>Net Parkland Impact In-Lieu Fees Due or to be Applied as a Turnkey Park Credit Prior to Issuance of a Building Permit</b>		\$ 6,814,905	\$ 8,855,639	\$ 1,722,075	\$ 6,972,018	\$ 6,690,809	\$ 31,055,445

\* Phased Credits are each applicable to their specific phase, regardless of sequence, and cannot be applied to other Phases

\* Turnkey Park Credits are applied to each Phase Prior to the Issuance of Building Permits

Exhibit A1.b - Completed 'Table 1' and Application of Phase Credits and Turnkey Park Credits by Phase

Table 2: This Form is a completed version of 'Table 1', and details how the Turnkey Park Credits would be distributed if the Phases are constructed in the order below (which is the anticipated order.)		Phase II Building A (Apartments)	Phase III Townhomes (For Sale Units)	Phase IV Affordable Bldg. (Apartments)	Phase V Building B (Apartments)	Phase VI Building C (Apartments)	
The phases of the Development could be constructed in the anticipated order as detailed below or in a different order. This table shows how Turnkey Credits are anticipated to be applied and can be used as an example of how Turnkey Park Credits will be applied should the order of Phase Construction change from the anticipated order		377 Market Rate Apartments	154 Townhomes	No Market Rate Units	353 Market Rate Apartments	353 Market Rate Apartments	
		20 Moderate Income (100% AMI) Apartments	No Affordable Units	178 Low Income Apartments	19 Moderate (100% AMI) Apartments	18 Moderate (100% AMI) Apartments	
		397 Units	154 Units	178 Units	372 Units	371 Units	TOTALS
		\$ 8,972,200	\$ 9,055,200	\$ 4,022,800	\$ 8,407,200	\$ 8,384,600	\$ 38,842,000
Credits Applied to Individual	- Affordable Units 50% Reduction	\$ (226,000)	\$ -	\$ (2,011,400)	\$ (214,700)	\$ (203,400)	\$ (2,655,500)
	- Private Rec Credit	\$ (1,813,695)	\$ (199,561)	\$ (289,325)	\$ (1,220,482)	\$ (1,490,391)	\$ (5,013,455)
	- Remove Existing Housing Credit	\$ (117,600)	\$ -	\$ -	\$ -	\$ -	\$ (117,600)
Net Parkland Fees after Phased Credits		\$ 6,814,905	\$ 8,855,639	\$ 1,722,075	\$ 6,972,018	\$ 6,690,809	\$ 31,055,445
Available Turnkey Park Credits to be applied prior to Building Permits for each Phase		This section of the Table is to be Completed and Submitted to the City's Parks, Recreation and Neighborhood Services Department for Verification of the Application of Credits Prior to the Issuance of a Building Permit for Each Phase					
Turnkey Park Credits	- Land Dedication Credit (\$8,410,309)	\$ (6,814,905)	\$ (1,595,405)	\$ -	\$ -	\$ -	\$ (8,410,309)
	- Park Construction Credit (\$11,500,000)	\$ -	\$ (7,260,234)	\$ (1,722,075)	\$ (2,517,691)	\$ -	\$ (11,500,000)
	Total	\$19,890,816					
Net Parkland Impact In-Lieu Fees Due or to be Applied as a Turnkey Park Credit Prior to Issuance of a Building Permit		\$ -	\$ -	\$ -	\$ 4,454,327	\$ 6,690,809	\$ 11,145,136

\* Phased Credits are each applicable to their specific phase, regardless of sequence, and cannot be applied to other Phases

\* Turnkey Park Credits are applied to each Phase Prior to the Issuance of Building Permits



# Exhibit A.2 Site Map with Anticipated Schedule of Phased Development and associated Parkland Obligation, Phase Credits, and Turnkey Park Credits

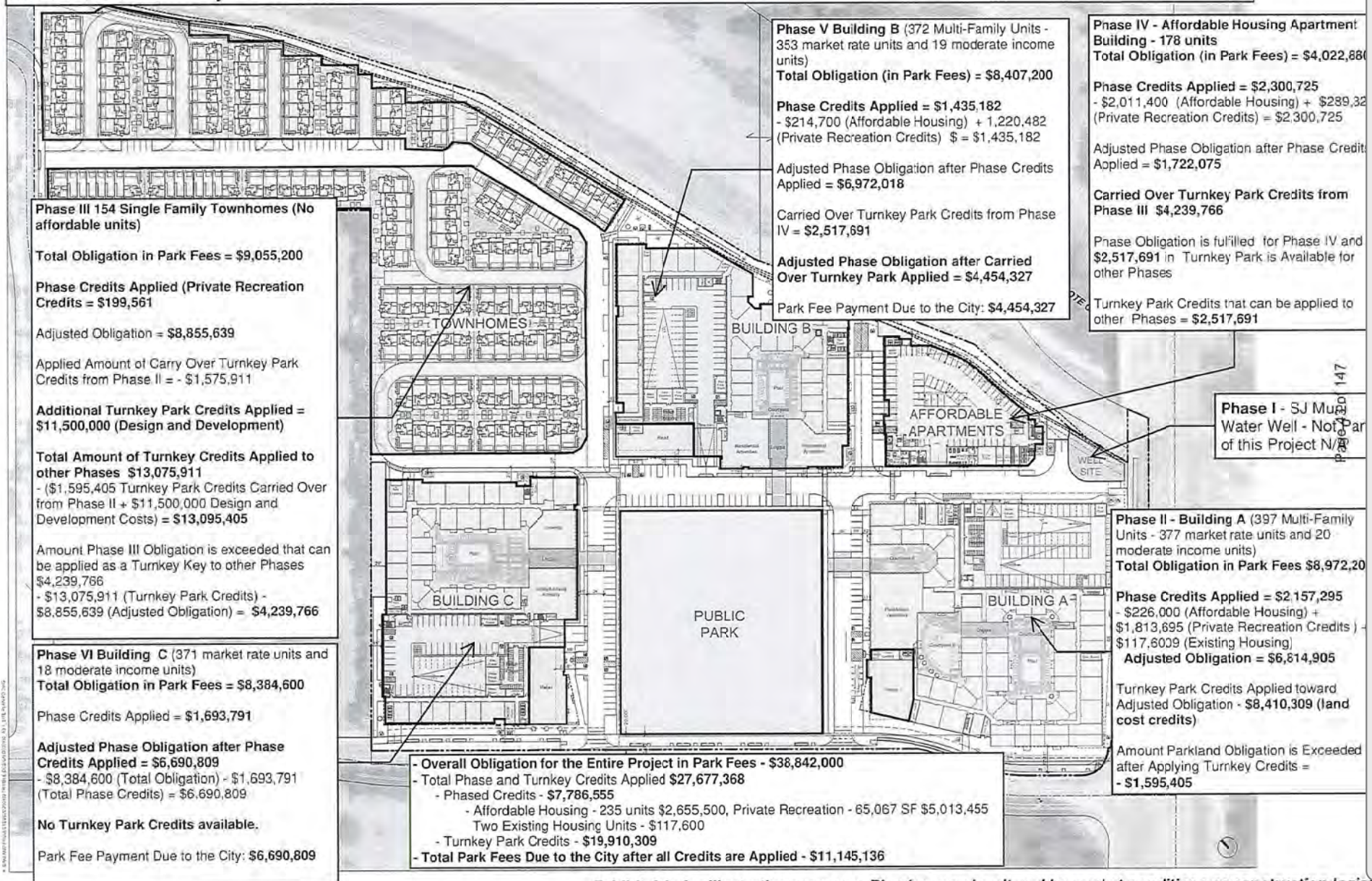


Exhibit A is for illustrative purposes. Phasing may be altered by market conditions or construction logistics.



**Exhibit A.3 Phase II Building A - Parkland Obligation, Phase Credits, and Turnkey Park Credits**

Parkland Dedication									
Type of Unit	Proposed Units	Existing Units	Person Per Household	New Population	Existing Housing Population	Net Population	Existing Housing Credit	Gross Parkland Dedication	
SFD (Single Family Detached)		2	3.310	0.000	6.620	6.620	0.020	0.000	
SFA (Single Family Attached)			3.310	0.000	0.000	0.000	0.000	0.000	
MFA5+ (Multi-Family 5+ Units)	397		2.340	928.980	0.000	928.980	0.000	2.787	
<b>Total</b>	<b>397</b>	<b>2</b>		<b>928.980</b>	<b>6.620</b>	<b>922.360</b>	<b>0.020</b>	<b>2.787</b>	
Gross Parkland Dedication Required (acres)	2.787								
Existing Housing Parkland Credit (acres)	0.020								
<b>Net Parkland Dedication Required (acres)</b>	<b>2.767</b>								
Private Recreation and Land Dedication									
<b>Category B - Inactive (Upper limit)</b>		Yes	Yes / No		<b>Category A - Active</b>	<b>Square Feet</b>	<b>Acres</b>		
More than 5 Stories and/or Land being Dedicated?					Features				
Category B - Inactive (unadjusted)	0.403	Acres			Picnic Area	4,651	0.107		
Category B - Inactive (Upper limit)	1.393	Acres			Private Garden Plots		0.000		
					Private Pet Amenity	333	0.008		
<b>Total Category A - Active</b>	<b>0.138</b>	<b>Acres</b>			Private/Public Garden Area	1,009	0.023		
<b>Total Category B - Inactive (adjusted)</b>	<b>0.403</b>	<b>Acres</b>			Private/Public Plaza Area		0.000		
<b>Subtotal Priv. Rec. Acreage</b>	<b>0.540</b>	<b>Acres</b>			Sports Courts (Hard/Soft Game)		0.000		
					Tot Lot/Play Area		0.000		
					Turf Playing Field		0.000		
<b>Eligible Priv. Rec. Acreage</b>	<b>1.393</b>	<b>Acres</b>			<b>Sub Total</b>	<b>5,993</b>	<b>0.138</b>		
<b>Eligible Priv. Rec. converted to Square Feet</b>	<b>23,539</b>	<b>Square Feet</b>							
					<b>Category B - Inactive</b>	<b>Square Feet</b>	<b>Acres</b>		
					Features				
<b>Total Public Parkland Being Dedicated (Acres)</b>	<b>2.506</b>				Community Room	10,657	0.245		
<b>Total Public Parkland Being Dedicated (converted to Square Feet)</b>	<b>109,153</b>				Recreation Building/Room	2,293	0.053		
					Swimming Pool	4,596	0.106		
					<b>Sub Total</b>	<b>17,546</b>	<b>0.403</b>		
<i>*Private recreation credit cannot exceed 50% of total parkland dedication required.  **If land is being dedicated, D19 must be completed to correctly calculate private recreation credit.</i>									
Calculation of Parkland Dedication Met									
<b>Total Parkland Credits in Acres</b>	<b>3.046</b>								
<b>Total Parkland Credits converted to Square Feet</b>	<b>-</b>								
<b>% of Requirement Met (Private Recreation)</b>	<b>5.012077%</b>								
<b>% of Requirement Met (Land Dedication)</b>	<b>23.241566%</b>								
<b>Total % of Requirement Met</b>	<b>28.254643%</b>								
<b>% of Dedication Remaining</b>	<b>0.00%</b>								
Calculation of Parkland Impact In-Lieu Fees									
Type of Unit	Number of Proposed Units	Existing Units			Fee Per Unit (Pulls from FEES_TABLE)	Gross Fee	Existing Units Credit	Affordable Units Fee Reduction	
SFD (Single Family Detached)		2			0 \$ 58,800	\$ -	\$ 117,600	\$ -	
SFA (Single Family Attached)					0 \$ -	\$ -	\$ -	\$ -	
MFA5+ (Multi-Family 5+ Units)	397		78		20 \$ 22,600	\$ 8,972,200	\$ -	\$ 226,000	
<i>**Affordable units are 50% of the per unit fee.</i>									
Fee Summary Breakdown									
<b>Gross Parkland Impact In-Lieu Fee (397 multifamily units)</b>	<b>\$ 8,972,200</b>								
<b>Affordable Housing 50% Fee Reduction</b>	<b>\$ 226,000</b>								
<b>Private Recreation Credit (23,539 square feet of private rec.)</b>	<b>\$ 1,813,695</b>								
<b>Existing Housing Credit (2 existing units)</b>	<b>\$ 117,600</b>								
<b>Net Parkland Fees after Phased Credits</b>	<b>\$ 6,814,905</b>								
<b>Land Dedication Credit (2.5 acres of land dedication credit)</b>	<b>\$ 8,410,309</b>								
<b>Park Design &amp; Development Budget</b>	<b>\$ -</b>								
<b>Turnkey Credits received from Previous Phase</b>	<b>\$ -</b>								
<b>Net Parkland Impact In-Lieu Fee (owed to City)</b>	<b>\$ -</b>								
<b>Credit Carryover to Next Phase</b>	<b>\$ (1,595,405)</b>								

**Exhibit A.4 Phase III Townhomes Parkland Obligation, Phase Credits, and Turnkey Park Credits**

Parkland Dedication									
Type of Unit	Proposed Units	Existing Units	Person Per Household	New Population	Existing Housing Population	Net Population	Existing Housing Credit	Gross Parkland Dedication	
SFD (Single Family Detached)	0	2	3.310	0.000	6.620	-6.620	0.020	0.000	
SFA (Single Family Attached)	154	0	3.310	509.740	0.000	509.740	0.000	1.529	
MFA5+ (Multi-Family 5+ Units)			2.340	0.000	0.000	0.000	0.000	0.000	
<b>Total</b>	<b>154</b>	<b>2</b>		<b>509.740</b>	<b>6.620</b>	<b>503.120</b>	<b>0.020</b>	<b>1.529</b>	
Gross Parkland Dedication Required (acres)	1.529								
Existing Housing Parkland Credit (acres)	0.020								
<b>Net Parkland Dedication Required (acres)</b>	<b>1.509</b>								
Private Recreation and Land Dedication									
<b>Category B - Inactive (Upper limit)</b>									
More than 5 Stories and/or Land being Dedicated?	Yes	Yes / No							
Category B - Inactive (unadjusted)	0.000	Acres							
Category B - Inactive (Upper limit)	0.765	Acres							
<b>Total Category A - Active</b>	<b>0.059</b>	<b>Acres</b>							
<b>Total Category B - Inactive (adjusted)</b>	<b>0.000</b>	<b>Acres</b>							
<b>Subtotal Priv. Rec. Acreage</b>	<b>0.059</b>	<b>Acres</b>							
	0.765	Acres							
Eligible Priv. Rec. Acreage	0.059	Acres							
Eligible Priv. Rec. converted to Square Feet	2,590	Square Feet							
<b>Total Public Parkland Being Dedicated (Acres)</b>	<b>0.000</b>								
<b>Total Public Parkland Being Dedicated (converted to Square Feet)</b>	<b>-</b>								
<i>*Private recreation credits cannot exceed 50% of total parkland dedication required.</i> <i>**If land is being dedicated, D15 must be completed to correctly calculate private recreation credit.</i>									
Calculation of Parkland Dedication Met									
<b>Total Parkland Credits in Acres</b>	<b>0.059</b>								
<b>Total Parkland Credits converted to Square Feet</b>	<b>-</b>								
<b>% of Requirement Met (Private Recreation)</b>	<b>0.551480%</b>								
<b>% of Requirement Met (Land Dedication)</b>	<b>0.000000%</b>								
<b>Total % of Requirement Met</b>	<b>0.551480%</b>								
<b>% of Dedication Remaining</b>	<b>99.45%</b>								
Calculation of Parkland Impact In-Lieu Fees									
Type of Unit	Number of Proposed Units	Existing Units			Fee Per Unit (Pulls from FEES_TABLE)	Gross Fee	Existing Units Credit	Affordable Units Fee Reduction	
SFD (Single Family Detached)	0	0.78			\$ 58,800	\$ -	\$ -	\$ -	
SFA (Single Family Attached)	154	0.78			\$ 58,800	\$9,055,200	\$ -	\$ -	
MFA5+ (Multi-Family 5+ Units)					\$ -	\$ -	\$ -	\$ -	
<i>**Affordable units are 50% of the per unit fee.</i>									
Fee Summary Breakdown									
<b>Gross Parkland Impact In-Lieu Fee (154 for-sale units)</b>	<b>\$</b>	<b>9,055,200</b>							
<b>Affordable Housing 50% Fee Reduction (N/A)</b>	<b>\$</b>	<b>-</b>							
<b>Private Recreation Credit (2,590 square feet of private rec)</b>	<b>\$</b>	<b>199,561</b>							
<b>Existing Housing Credit (N/A)</b>	<b>\$</b>	<b>-</b>							
<b>Net Parkland Fees after Phased Credits</b>	<b>\$</b>	<b>8,855,639</b>							
<b>Land Dedication Credit (N/A)</b>	<b>\$</b>	<b>-</b>							
<b>Park Design &amp; Development Budget (Applied Here)</b>	<b>\$</b>	<b>11,500,000</b>							
<b>Turnkey Credits received from Previous Phase</b>	<b>\$</b>	<b>1,595,405</b>							
<b>Net Parkland Impact In-Lieu Fee (owed to City)</b>	<b>\$</b>	<b>-</b>							
<b>Credit Carryover to Next Phase</b>	<b>\$</b>	<b>(4,239,766)</b>							



**Exhibit A.5 Phase IV Affordable Housing Building - Parkland Obligation, Phase Credits, and Turnkey Park Credits**
**Parkland Dedication**

Type of Unit	Proposed Units	Existing Units	Person Per Household	New Population	Existing Housing Population	Net Population	Existing Housing Credit	Gross Parkland Dedication
SFD (Single Family Detached)			3.310	0.000	0.000	0.000	0.000	0.000
SFA (Single Family Attached)			3.310	0.000	0.000	0.000	0.000	0.000
MFA5+ (Multi-Family 5+ Units)	178		2.340	416.520	0.000	416.520	0.000	1.250
<b>Total</b>	<b>178</b>	<b>0</b>		<b>416.520</b>	<b>0.000</b>	<b>416.520</b>	<b>0.000</b>	<b>1.250</b>

Gross Parkland Dedication Required (acres)	1.250
Existing Housing Parkland Credit (acres)	0.000
Net Parkland Dedication Required (acres)	1.250

**Private Recreation and Land Dedication**

<b>Category B - Inactive (Upper limit)</b>		
More than 5 Stories and/or Land being Dedicated?	Yes	Yes / No
Category B - Inactive (unadjusted)	0.055	Acres
Category B - Inactive (Upper limit)	0.625	Acres
<b>Total Category A - Active</b>	<b>0.031</b>	<b>Acres</b>
<b>Total Category B - Inactive (adjusted)</b>	<b>0.055</b>	<b>Acres</b>
<b>Subtotal Priv. Rec. Acreage</b>	<b>0.086</b>	<b>Acres</b>
	0.625	Acres
Eligible Priv. Rec. Acreage	0.086	Acres
Eligible Priv. Rec. converted to Square Feet	3,755	Square Feet

<b>Category A - Active</b>		
<b>Features</b>	<b>Square Feet</b>	<b>Acreage</b>
Picnic Area	1,372	0.031
Private Garden Plots		0.000
Private Pet Amenity		0.000
Private/Public Garden Area		0.000
Private/Public Plaza Area		0.000
Sports Courts (Hard/Soft Game)		0.000
Tot Lot/Play Area		0.000
Turf Playing Field		0.000
<b>Sub Total</b>	<b>1,372</b>	<b>0.031</b>

<b>Category B - Inactive</b>		
<b>Features</b>	<b>Square Feet</b>	<b>Acreage</b>
Community Room	1,184	0.027
Recreation Building/Room	1,199	0.028
Swimming Pool		0.000
<b>Sub Total</b>	<b>2,383</b>	<b>0.055</b>

Total Public Parkland Being Dedicated (Acres)	0.000
Total Public Parkland Being Dedicated (converted to Square Feet)	-

\*Private recreation credit cannot exceed 50% of total parkland dedication required.  
 \*\*If land is being dedicated, 019 must be completed to correctly calculate private recreation credit.

**Calculation of Parkland Dedication Met**

Total Parkland Credits in Acres	0.086
Total Parkland Credits converted to Square Feet	-
% of Requirement Met (Private Recreation)	0.799539%
% of Requirement Met (Land Dedication)	0.000000%
Total % of Requirement Met	0.799539%
% of Dedication Remaining	99.20%

**Calculation of Parkland Impact In-Lieu Fees**

Type of Unit	Number of Proposed Units	Existing Units	Fee Per Unit (Pulls from FEES_TABLE)	Gross Fee	Existing Units Credit	Affordable Units Fee Reduction
SFD (Single Family Detached)			0 \$ -	\$ -	\$ -	\$ -
SFA (Single Family Attached)			0 \$ -	\$ -	\$ -	\$ -
MFA5+ (Multi-Family 5+ Units)	178	78	178 \$ 22,600	\$ 4,022,800	\$ -	\$ 2,011,400

\*\*Affordable units are 50% of the per unit fee.

**Fee Summary Breakdown**

Gross Parkland Impact In-Lieu Fee (178 multifamily units)	\$ 4,022,800
Affordable Housing 50% Fee Reduction	\$ 2,011,400
Private Recreation Credit (3,755 square feet of private rec)	\$ 289,325
Existing Housing Credit (N/A)	\$ -
<b>Net Parkland Fees after Phased Credits</b>	<b>\$ 1,722,075</b>
Land Dedication Credit (N/A)	\$ -
Park Design & Development Budget (N/A)	\$ -
Turnkey Credits received from Previous Phase	\$ 4,239,766
<b>Net Parkland Impact In-Lieu Fee (owed to City)</b>	<b>\$ -</b>
Credit Carryover to Next Phase	\$ (2,517,691)

**Exhibit A.6 Phase V Building B Parkland Obligation, Phase Credits, and Turnkey Park Credits**

Parkland Dedication									
Type of Unit	Proposed Units	Existing Units	Person Per Household	New Population	Existing Housing Population	Net Population	Existing Housing Credit	Gross Parkland Dedication	
SFD (Single Family Detached)			3.310	0.000	0.000	0.000	0.000	0.000	
SFA (Single Family Attached)			3.310	0.000	0.000	0.000	0.000	0.000	
MFA5+ (Multi-Family 5+ Units)	372		2.340	870.480	0.000	870.480	0.000	2.611	
<b>Total</b>	<b>372</b>	<b>0</b>		<b>870.480</b>	<b>0.000</b>	<b>870.480</b>	<b>0.000</b>	<b>2.611</b>	
Gross Parkland Dedication Required (acres)									
								2.611	
Existing Housing Parkland Credit (acres)								0.000	
Net Parkland Dedication Required (acres)								2.611	
Private Recreation and Land Dedication									
Category B - Inactive (Upper limit)									
More than 5 Stories and/or Land being Dedicated?	Yes	Yes / No							
Category B - Inactive (unadjusted)	0.357	Acres							
Category B - Inactive (Upper limit)	1.306	Acres							
Category A - Active									
Features	Square Feet	Acreage							
Picnic Area		0.000							
Private Garden Plots		0.000							
Private Pet Amenity	308	0.007							
Private/Public Garden Area		0.000							
Private/Public Plaza Area		0.000							
Sports Courts (Hard/Soft Game)		0.000							
Tot Lot/Play Area		0.000							
Turf Playing Field		0.000							
Sub Total	308	0.007							
Category B - Inactive									
Features	Square Feet	Acreage							
Community Room	7,719	0.177							
Recreation Building/Room	2,517	0.058							
Swimming Pool	5,296	0.122							
Sub Total	15,532	0.357							
Total Category A - Active									
								0.007	Acres
Total Category B - Inactive (adjusted)								0.357	Acres
Subtotal Priv. Rec. Acreage								0.364	Acres
								1.306	Acres
Eligible Priv. Rec. Acreage								0.364	Acres
Eligible Priv. Rec. converted to Square Feet								15,840	Square Feet
Total Public Parkland Being Dedicated (Acres)								0.000	
Total Public Parkland Being Dedicated (converted to Square Feet)								-	
*Private recreation credit cannot exceed 50% of total parkland dedication required.									
**If land is being dedicated, D19 must be completed to correctly calculate private recreation credit.									
Calculation of Parkland Dedication Met									
Total Parkland Credits in Acres								0.364	
Total Parkland Credits converted to Square Feet								-	
% of Requirement Met (Private Recreation)								3.372756%	
% of Requirement Met (Land Dedication)								0.000000%	
Total % of Requirement Met								3.372756%	
% of Dedication Remaining								96.63%	
Calculation of Parkland Impact In-Lieu Fees									
Type of Unit	Number of Proposed Units	Existing Units			Fee Per Unit (Pulls from FEES_TABLE)	Gross Fee	Existing Units Credit	Affordable Units Fee Reduction	
SFD (Single Family Detached)					0 \$ -	\$ -	\$ -	\$ -	
SFA (Single Family Attached)					0 \$ -	\$ -	\$ -	\$ -	
MFA5+ (Multi-Family 5+ Units)	372		78		19 \$ 22,600	\$ 8,407,200	\$ -	\$ 214,700	
**Affordable units are 50% of the per unit fee.									
Fee Summary Breakdown									
Gross Parkland Impact In-Lieu Fee (372 multifamily units)					\$	8,407,200			
Affordable Housing 50% Fee Reduction					\$	214,700			
Private Recreation Credit (15,840 square feet of private rec)					\$	1,220,482			
Existing Housing Credit (N/A)					\$	-			
Net Parkland Fees after Phased Credits					\$	6,972,018			
Land Dedication Credit (N/A)					\$	-			
Park Design & Development Budget (N/A)					\$	-			
Turnkey Credits received from Previous Phase					\$	2,517,691			
Net Parkland Impact In-Lieu Fee (owed to City)					\$	4,454,327			
Credit Carryover to Next Phase					\$	-			

**Exhibit A.7 - Phase VI Building C Parkland Obligation, Phase Credits, and Turnkey Park Credits**

Parkland Dedication									
Type of Unit	Proposed Units	Existing Units	Person Per Household	New Population	Existing Housing Population	Net Population	Existing Housing Credit	Gross Parkland Dedication	
SFD (Single Family Detached)			3.310	0.000	0.000	0.000	0.000	0.000	
SFA (Single Family Attached)			3.310	0.000	0.000	0.000	0.000	0.000	
MFA5+ (Multi-Family 5+ Units)	371		2.340	868.140	0.000	868.140	0.000	2.604	
<b>Total</b>	<b>371</b>	<b>0</b>		<b>868.140</b>	<b>0.000</b>	<b>868.140</b>	<b>0.000</b>	<b>2.604</b>	
<b>Gross Parkland Dedication Required (acres)</b>	<b>2.604</b>								
<b>Existing Housing Parkland Credit (acres)</b>	<b>0.000</b>								
<b>Net Parkland Dedication Required (acres)</b>	<b>2.604</b>								
Private Recreation and Land Dedication									
<b>Category B - Inactive (Upper limit)</b>									
More than 5 Stories and/or Land being Dedicated?	Yes	Yes / No							
Category B - Inactive (unadjusted)	0.387	Acres							
Category B - Inactive (Upper limit)	1.302	Acres							
<b>Total Category A - Active</b>	<b>0.057</b>	<b>Acres</b>							
<b>Total Category B - Inactive (adjusted)</b>	<b>0.387</b>	<b>Acres</b>							
<b>Subtotal Priv. Rec. Acreage</b>	<b>0.444</b>	<b>Acres</b>							
	1.302	Acres							
<b>Eligible Priv. Rec. Acreage</b>	<b>0.444</b>	<b>Acres</b>							
<b>Eligible Priv. Rec. converted to Square Feet</b>	<b>19,343</b>	<b>Square Feet</b>							
<b>Total Public Parkland Being Dedicated (Acres)</b>	<b>0.000</b>								
<b>Total Public Parkland Being Dedicated (converted to Square Feet)</b>	<b>-</b>								
<i>*Private recreation credit cannot exceed 50% of total parkland dedication required.</i> <i>**If land is being dedicated, D19 must be completed to correctly calculate private recreation credit.</i>									
Calculation of Parkland Dedication Met									
<b>Total Parkland Credits in Acres</b>	<b>0.444</b>								
<b>Total Parkland Credits converted to Square Feet</b>	<b>-</b>								
<b>% of Requirement Met (Private Recreation)</b>	<b>4.118637%</b>								
<b>% of Requirement Met (Land Dedication)</b>	<b>0.000000%</b>								
<b>Total % of Requirement Met</b>	<b>4.118637%</b>								
<b>% of Dedication Remaining</b>	<b>95.88%</b>								
Calculation of Parkland Impact In-Lieu Fees									
Type of Unit	Number of Proposed Units	Existing Units			Fee Per Unit (Pulls from FEES_TABLE)	Gross Fee	Existing Units Credit	Affordable Units Fee Reduction	
SFD (Single Family Detached)					0 \$ -	\$ -	\$ -	\$ -	
SFA (Single Family Attached)					0 \$ -	\$ -	\$ -	\$ -	
MFA5+ (Multi-Family 5+ Units)	371	78			18 \$ 22,600	\$ 8,384,600	\$ -	\$ 203,400	
<i>**Affordable units are 50% of the per unit fee.</i>									
Fee Summary Breakdown									
<b>Gross Parkland Impact In-Lieu Fee (371 multifamily units)</b>	<b>\$ 8,384,600</b>								
<b>Affordable Housing 50% Fee Reduction</b>	<b>\$ 203,400</b>								
<b>Private Recreation Credit (19,343 square feet of private rec)</b>	<b>\$ 1,490,391</b>								
<b>Existing Housing Credit (N/A)</b>	<b>\$ -</b>								
<b>Net Parkland Fees after Phased Credits</b>	<b>\$ 6,690,809</b>								
<b>Land Dedication Credit (N/A)</b>	<b>\$ -</b>								
<b>Park Design &amp; Development Budget (N/A)</b>	<b>\$ -</b>								
<b>Turnkey Credits received from Previous Phase</b>	<b>\$ -</b>								
<b>Net Parkland Impact In-Lieu Fee (owed to City)</b>	<b>\$ 6,690,809</b>								
<b>Credit Carryover to Next Phase</b>	<b>\$ -</b>								

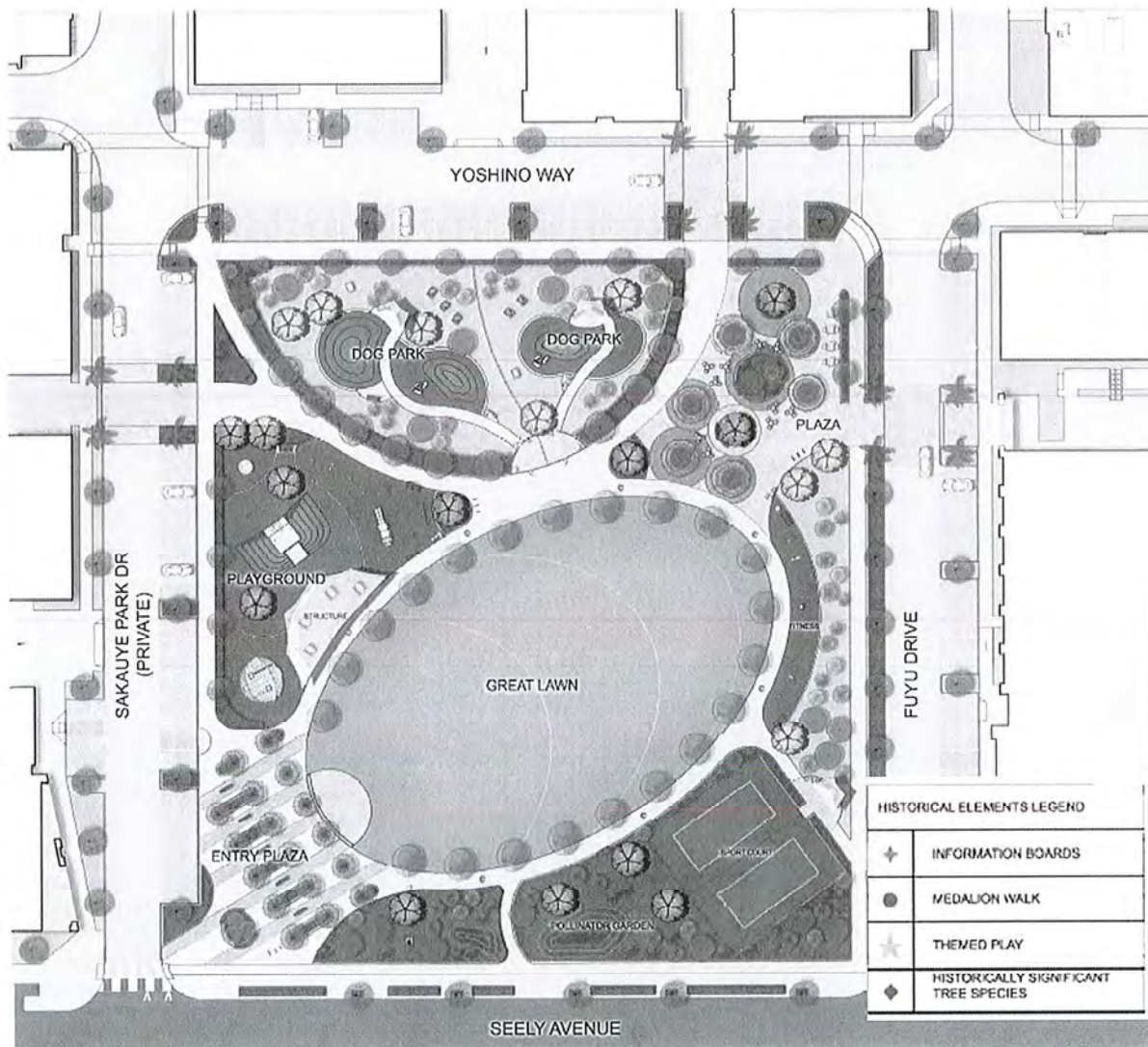


EXHIBIT B

Conceptual Park Master Plan

[see attached]

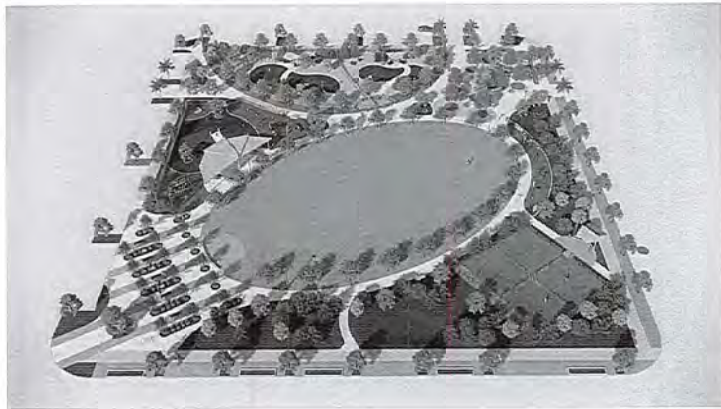
## Exhibit B -Conceptual Park Master Plan



**The fully improved park will include, at a minimum, the following as shown on the Master Plan:**

1. Large turf lawn area;
2. Children's play areas, including elements appropriate for 2-5 and 5-12 years of age;
3. Historic interpretative Plaza;
4. Thematic design elements that are reflective of the history of the site;
5. A dog park with separate areas for large dogs and small dogs;
6. A public plaza;
7. Pollinator gardens;
8. Pickleball Sports Courts;
9. Pedestrian and bike paths; and
10. Outdoor fitness area

Exhibit B.1. --City Approved 35% construction drawing plan set



ISSUES AND REMARKS

DATE	ISSUE	REMARKS
02/26/2025	Issue For 35% CD Set	Coordinates Set

LANDSCAPE ARCHITECTURAL SHEET INDEX

ABBREVIATIONS & SYMBOLS		
L0.00	SHEET INDEX	
L0.01	NOTES & LEGENDS	General Landscaping
L0.01A	NOTES & LEGENDS	Landscaping Materials
L0.02	NOTES & LEGENDS	General Landscaping
L0.03	NOTES & LEGENDS	General Landscaping
L0.04	NOTES & LEGENDS	General Landscaping
L1.00	HARDSCAPE	General Landscaping
L1.01	HARDSCAPE	General Landscaping
L1.02	HARDSCAPE	General Landscaping
L1.03	HARDSCAPE	General Landscaping
L1.04	HARDSCAPE	General Landscaping
L2.00	LANDSCAPE ELECTRICAL	General Landscaping
L3.10	DETAILS	General Landscaping
L3.20	DETAILS	General Landscaping
L3.21	DETAILS	General Landscaping
L3.30	DETAILS	General Landscaping
L3.31	DETAILS	General Landscaping
L3.32	DETAILS	General Landscaping
L3.33	DETAILS	General Landscaping
L3.34	DETAILS	General Landscaping
L3.40	DETAILS	General Landscaping
L3.41	DETAILS	General Landscaping
L3.50	DETAILS	General Landscaping
L3.60	DETAILS	General Landscaping
L4.00	IRRIGATION	General Landscaping
L4.01	IRRIGATION	General Landscaping
L4.02	IRRIGATION	General Landscaping
L4.03	IRRIGATION	General Landscaping
L4.04	IRRIGATION	General Landscaping
L4.05	IRRIGATION	General Landscaping
L4.06	IRRIGATION	General Landscaping
L4.07	IRRIGATION	General Landscaping
L5.00	PLANTING	General Landscaping
L5.01	PLANTING	General Landscaping
L5.02	PLANTING	General Landscaping
L5.03	PLANTING	General Landscaping
L5.04	PLANTING	General Landscaping

VICINITY MAP



SITE MAP





[illegible]

<sup>1</sup> <http://www.liquidat.com>, for General Customer on Telecommunication During the Work Shift (No. 1 A) and Midday and SMS Conscious to Verify Any Problems.

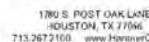
<sup>1</sup> Purchaser Waives Contractor's Responsibility for Compliance with City Codes and any Other Applicable Governmental Regulations and/or Agencies

A Partial List of Donors and the Amount of Their Contribution to the 2012 Election:  
 1. Freedom Riders (100,000)  
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# PLANT LIST / LEGEND

[illegible]

## SHRUBS / GRASSES

[illegible]

GROUNDCOVERS + VINES AND MISC. MATERIALS

STY 2.1	INTERIO	polistirenik, vanilj	kolonijast, roze	100% - 100%
234		žut	Unreal Peach Frost	25% - 75%
241		slatko vaniljno, kolonijast (kolonijast)	Flavored Creams	75% - 25% 20%
139		kolonijast, vanilj (kolonijast)	20% - 80%	75% - 25% 10%
252		kolonijast, vanilj (vanilj)	Flavor Creams	10% - 90% 0%
252		kolonijast, vanilj	Lemon	10% - 90% 30%
241		slatko vaniljno, kolonijast (slatko vaniljno)	Flavor Creams	10% - 90% 20%
252		žut	Flavor	
252		žut	Flavor Creams	
252		žut	Flavor Creams	

Planting Areas And Tree Locations Have Been Identified For The 35% Set, But Species Selection And Detailed Planting Design Will Be Done At A later Date.

SEELY AVE  
PARK

SAN JOSE, CA.

## **EXHIBIT B.2 – PARK DESIGN AND CONSTRUCTION REQUIREMENTS**

**(To be completed and complied with by Apartment Developer only as to Park Improvements)**

### **SECTION 1. DESIGN AND CONSTRUCTION REQUIREMENTS.**

#### **A. PLANS AND SPECIFICATIONS.**

The design for the Park Improvements must be consistent with the conceptual design for the Park Improvements as depicted in Exhibit B– “Conceptual Park Master Plan” and **Exhibit B.1** (“35% Construction Drawing Plan Sheets”). Developers shall design and construct the Park Improvements in accordance with City Design Guidelines, the California Building code and the following:

1. City's Standard Specifications and Standard Details, dated July 1992 (“City's Specifications”), as may be amended from time to time, and on file with City's Department of Public Works, Architectural Division. Section 1 and the Technical Provisions of City's Standard Specifications (Section 10 through and including Section 1501) shall be applicable to this Agreement. References in the Standard Specifications to “Developer” shall be deemed to mean “Developers.”
2. City's Turnkey Park Standards for Park Design & Construction, dated 2001 (“Turnkey Standards”), as may be amended from time to time, and on file with City's Department of Public Works, Architectural Division. In the event that the Developers do not submit the ninety percent (90%) Project Specifications (as specified in the Turnkey Standards) for the City's review and approval within eighteen (18) months of the Effective Date of this Agreement and the Turnkey Standards are then revised, Developers shall design and construct the Park Improvements in accordance with the revised Turnkey Standards.

#### **APPLICATION OF PLANS AND SPECIFICATIONS.**

1. City's Specifications, Turnkey Standards and the Project Specifications shall be collectively referred to as the “Plans.” The Park Improvements shall be constructed in accordance with the Plans.
2. In the event of a conflict between the Turnkey Standards and the City's Specifications, the Turnkey Standards shall prevail.
3. The provisions of this Agreement supersede anything to the contrary in either the City's Specifications or the Turnkey Standards.

## PROJECT SPECIFICATION APPROVAL PROCESS.

1. The Project Specifications shall be submitted in a timely manner in order to ensure that the Developers complete the Park Improvements on or before the completion date specified in this Agreement. The Developers shall not construct any Park Improvements unless and until the City's Director of Public Works ("Director of PW") has approved the Project Specifications in writing. The approval process for the Project Specifications is more particularly set forth in the Turnkey Standards.
2. The City's approval of the Plans shall not release the Developers of the responsibility for the correction of mistakes, errors, or omissions contained in the Plans, including any mistakes, errors or omissions which may be the result of circumstances unforeseen at the time the Plans were developed or approved. If, during the course of construction of the Park Improvements, the Director of PW determines in the Director of PW's reasonable discretion that the public safety requires modification of, or the departure from, the Plans, the Director of PW shall have the authority to require such modification or departure and to specify the manner in which the same may be made. The Parties acknowledge that the Plans, once approved by the Director of PW, shall be final and that, except as expressly provided in this subsection, no revisions to the Plans shall be permitted for any reason whatsoever.

## **SECTION 2. PARTICULAR CONSTRUCTION REQUIREMENTS.**

### **A. DEVELOPER SELECTION.**

Developers may hire and contract with one or more contractor or subcontractor, licensed to perform such work in the State of California.

### **B. PREVAILING WAGE REQUIREMENT.**

1. General Requirement: For all construction work on the Park Improvements, Developers agree to comply with the prevailing wage requirements set forth in Sections 7-1.01A(2) through 7-1.01A(3) of the City of San Jose, Department of Public Works, Standard Specifications, dated July 1992 ("Prevailing Wage Requirement"), as may be amended from time to time. The Prevailing Wage Requirement is incorporated into this Agreement by reference as though set forth herein in their entirety. The Developers acknowledge that it has reviewed the Prevailing Wage Requirement and is familiar with its requirements.



2. Contractors and Subcontractors: The Developers shall expressly require compliance with the Prevailing Wage Requirement in all agreements it enters into with contractors and subcontractors for construction work on the Park Improvements. The Developers acknowledge and agree that they are responsible for compliance by their contractors and subcontractors of the Prevailing Wage Requirement.
3. Reporting Obligations: Notwithstanding anything to the contrary contained herein, Developers are not obligated to submit to the City copies of payroll records, or any other records required to be maintained pursuant to the Prevailing Wage Requirement, until the City requests such records. The Developers shall provide to the City, at no cost to the City, a copy of any and all such records within ten (10) working days of the City's Office of Equality Assurance request for such records. In responding to a request by the Office of Equality Assurance, the Developers agree that it is responsible for submitting the records of any and all of its contractors and subcontractors.
4. Indemnity: The Developers shall indemnify the City for any claims, costs or expenses which the City incurs as a result of the Developers' failure to pay, or cause to be paid, prevailing wages.

#### **C. REMEDIES FOR DEVELOPERS' BREACH OF PREVAILING WAGE REQUIREMENTS.**

1. General: The Developers acknowledge the City has determined that the Prevailing Wage Requirement promotes each of the following (collectively "Goals"):
  - a. It protects City job opportunities and stimulates City's economy by reducing the incentive to recruit and pay a substandard wage to labor from distant, cheap-labor areas.
  - b. It benefits the public through the superior efficiency of well-paid employees, whereas the payment of inadequate compensation tends to negatively affect the quality of services to the City by fostering high turnover and instability in the workplace.
  - c. Pay workers a wage that enables them not to live in poverty is beneficial to the health and welfare of all citizens of San Jose because it increases the ability of such workers to attain sustenance, decreases the amount of poverty and reduces the amount of taxpayer funded social services in San Jose.
  - d. It increases competition by promoting a more level playing field among contractors with regard to the wages paid to workers.

2. Remedies: The City and Developers recognize that the Developers' breach of the Prevailing Wage Requirement set forth above will cause damage to the City by undermining the City's goals in assuring timely payment of prevailing wages and will cause the City additional expenses in obtaining compliance and conducting audits, and that such damage would not be remedied by the Developers' payment of restitution to the worker paid less than the prevailing wage. The Developers and the City agree that such damage would increase the greater the number of employees not paid the applicable prevailing wage and the longer the amount of time over which such wages were not paid. The City and the Developers further recognize the delays, expense and difficulty involved in proving the City's actual losses in a legal proceeding, and mutually agree that making a precise determination of the amount of City's damages as a result of the Developers' breach of the Wage Provision would be impracticable and/or extremely difficult. Accordingly, the City and the Developers agree that:
- a. For each day after ten (10) working days that the Developers fail to completely respond to a request by the City to provide records as required under Section 2(b), of Exhibit B.2 ("City's Design and Construction Requirement") of this Agreement, the Developers shall pay to City as liquidated damages the sum of TWO HUNDRED FIFTY DOLLARS (\$250.00); and
  - b. For each instance where the City has determined that the Prevailing Wage Requirements were not met, the Developers shall pay to the City as liquidated damages the sum of three (3) times the difference between the actual amount of wages paid and the prevailing wages which should have been paid.
3. Audit Rights. All records or documents required to be kept pursuant to this Agreement to verify compliance with the Prevailing Wage Requirement shall be made available for audit at no cost to the City, at any time during regular business hours, upon written request by the City Attorney, City Auditor, City Manager, or a designated representative of any of these officers. Copies of such records or documents shall be provided to the City for audit at City Hall when it is practical to do so. Otherwise, unless an alternative is mutually agreed upon, the records or documents shall be available at the Developers' address indicated for receipt of notices in this Agreement.
4. Remedies Cumulative: The remedies set forth in this provision of the Agreement are cumulative and in addition to any other remedies set forth in the Prevailing Wage Requirements or otherwise permitted by law.

Apartment Developer Initial: MEW City Initial: \_\_\_\_\_

MEW \_\_\_\_\_



2. Remedies: The City and Developers recognize that the Developers' breach of the Prevailing Wage Requirement set forth above will cause damage to the City by undermining the City's goals in assuring timely payment of prevailing wages and will cause the City additional expenses in obtaining compliance and conducting audits, and that such damage would not be remedied by the Developers' payment of restitution to the worker paid less than the prevailing wage. The Developers and the City agree that such damage would increase the greater the number of employees not paid the applicable prevailing wage and the longer the amount of time over which such wages were not paid. The City and the Developers further recognize the delays, expense and difficulty involved in proving the City's actual losses in a legal proceeding, and mutually agree that making a precise determination of the amount of City's damages as a result of the Developers' breach of the Wage Provision would be impracticable and/or extremely difficult. Accordingly, the City and the Developers agree that:
- a. For each day after ten (10) working days that the Developers fail to completely respond to a request by the City to provide records as required under Section 2(b), of Exhibit B.2 ("City's Design and Construction Requirement") of this Agreement, the Developers shall pay to City as liquidated damages the sum of TWO HUNDRED FIFTY DOLLARS (\$250.00); and
  - b. For each instance where the City has determined that the Prevailing Wage Requirements were not met, the Developers shall pay to the City as liquidated damages the sum of three (3) times the difference between the actual amount of wages paid and the prevailing wages which should have been paid.
3. Audit Rights. All records or documents required to be kept pursuant to this Agreement to verify compliance with the Prevailing Wage Requirement shall be made available for audit at no cost to the City, at any time during regular business hours, upon written request by the City Attorney, City Auditor, City Manager, or a designated representative of any of these officers. Copies of such records or documents shall be provided to the City for audit at City Hall when it is practical to do so. Otherwise, unless an alternative is mutually agreed upon, the records or documents shall be available at the Developers' address indicated for receipt of notices in this Agreement.
4. Remedies Cumulative: The remedies set forth in this provision of the Agreement are cumulative and in addition to any other remedies set forth in the Prevailing Wage Requirements or otherwise permitted by law.

Apartment Developer Initial: \_\_\_\_\_ City Initial: \_\_\_\_\_

ESG

AB

#### **D. CONDUCT OF WORK.**

1. Appearance. The Developers shall maintain a neat and clean appearance to the work at the Park Site. When practicable, broken concrete and debris developed during clearing and grubbing shall be disposed of concurrently with its removal. If stockpiling of disposable material is necessary, the material shall be retained in an area not readily visible to the public in a manner meeting the reasonable satisfaction of the Director of PW.
2. Condition. The Developers shall maintain the Park Site in a neat, clean, and good condition prior to the City's acceptance of the Park Improvements. The Developers shall not dispose or cause the disposal of any Hazardous Substances on any of the Park Site. Additionally, the Developers shall take reasonable precautions to prevent the disposal of Hazardous Substances by third parties on any of the Site. The term "Hazardous Substances" is defined in Section 3 (A)(2) of this Exhibit.
3. Emergencies. In an emergency affecting the safety of persons or property, the Developers shall act reasonably to prevent threatened damage, injury, or loss. The Developers shall immediately notify the City by telephone at the telephone number as directed by the City's Director of PW and in writing of such actions.

#### **E. ACCESS FOR INSPECTION.**

1. Access. The Director of PW and the Director of PW's designated representatives, including without limitation, staff from other City departments, shall at all times during the progress of work on the Park Improvements have free access to such improvements for inspection purposes. If the Director of PW determines that all or any portion of the work done on the Park Improvements is not in compliance with the Plans, the Director of PW shall notify the Developers of the same and the Developers shall promptly cure such defect to the Director of PW's reasonable satisfaction. Such notifications shall be made to the Developers and his on-site representatives to not unduly interfere with ongoing construction work.
2. Representatives.
  - a. Prior to commencement of work on the Park Improvements, the Developers shall designate in writing an authorized representative who shall have the authority to represent and act for the Developer. When work is not in progress and during periods when work is suspended, arrangements acceptable to the Director of PW shall be made for any emergency work which may be required. In addition,



the Developers shall provide Director of PW with the names and telephone numbers of at least two (2) individuals in charge of or responsible for the work who can be reached personally in case of emergency twenty-four (24) hours a day, seven (7) days a week.

- b. The Director of PW shall also designate one or more authorized representative who shall have the authority to represent the Director of PW. The Developers' authorized representative shall be present at the site of the work at such reasonable times as designated by the Director of PW. Prior to the commencement of the work, the Parties shall mutually agree to an inspection schedule, which schedule may be adjusted from time to time by mutual agreement.
- c. Whenever the Developers or its authorized representative are not present on any particular part of the work where it becomes necessary to give direction for safety reasons, the Director of PW shall have the right to give such orders which shall be received and obeyed by the superintendent or foreman who may have charge of the particular work in reference to which the orders are given. Any order given by the Director of PW will on request of the Developers be given or confirmed by the Director of PW in writing.
- d. The City's rights under this Agreement shall not make the Developers an agent of the City, and the liability of the Developers for all damages to persons or to public or private property arising from Developers' execution of the work, shall not be lessened because of the exercise by City of its rights.

#### **F. ACCEPTANCE OF PARK IMPROVEMENTS.**

The Park Improvements shall be completed in accordance with the provisions of this Agreement to the satisfaction of the Director of PW.

- 1. The City agrees to inspect and prepare a punchlist for the Park Improvements within ten (10) business days of notification by the Developers that the Developers consider the construction of the Park Improvements to be complete. The City further agrees to perform its final inspection within ten (10) business days of notification by the Developers that all punchlist work has been completed.
- 2. The City will process acceptance documentation (Notice of Acceptance) within ten (10) business days of the date of City's final inspection or the date upon which the Developers returns to City the appropriate signed acceptance documentation, whichever is later, provided that:

- a. The City finds that all punch list work has been satisfactorily completed; and
  - b. The Developers has performed and satisfied any and all terms, conditions, and obligations required under this Agreement prior to acceptance of the Park Improvements, including but not limited to, the requirements for dedication of the Park Sites as outlined in Section 2(G) of this Exhibit; and
  - c. The Developers have provided the Director of PW with a set of record drawings, corresponding copies of any and all warranties, and the like (such warranties shall be in the name of the City), and corresponding copies of any and all operating manuals for equipment installed as part of the Park Improvements.
3. The Parties acknowledge that City's restrictions on the installation of landscaping because of future drought conditions may delay the Developers' installation of the landscaping contemplated by this Agreement. If, due to drought restrictions, the Developers are unable to install the landscaping in time to be inspected by the Director for the purposes of accepting the completed Park Improvements, Developers shall post a bond or other form of security as set forth in in this Agreement.
4. At the discretion of the Director of PW, the City may accept a designated portion of the Park Improvements. Acceptance of a designated portion will be as provided by Section 7-1.166 of the City's Specifications.
5. The Park Site must be remediated to regulatory accepted environmental screening limits from the Santa Clara County Department of Environmental Health for park land uses. The Park Site must not have any deed restrictions, environmental covenants, on-going environmental monitoring, operation or maintenance or permit requirements, or any other environmental requirements or conditions that would interfere with or prevent the use of some or all of the Park Improvements or Park Site for park use.

#### **G. PARK SITE.**

1. The Developers shall provide each of the following to the Director of PW, subject to the approval of the Director of PW, prior to the City's acceptance of the Park Site and Park Improvements:
  - a. A preliminary report for the Park Site by a reputable title company currently doing business for City's Real Estate Division. The Developers shall coordinate with City's Real Estate Division and

provide a preliminary title report at least ninety (90) days prior to execution of this Agreement and an updated title report at least ninety (90) days prior to the anticipated completion of the Park Improvements.

- b. A Grant Deed for the Park Site containing the legal description of the Park Site, as approved by City Surveyor, properly executed and acknowledged, subject only to the exceptions to title, if any, approved by City's Manager or the Manager's designee pursuant to which a fee simple estate in Park Site shall be conveyed to the City. Title to the Park Site shall be vested in City free and clear of all title defects, liens, encumbrances, conditions, covenants, restrictions, and other adverse interests of record or known to the Developers, subject only to those exceptions affecting the Park Site approved by City's Manager or the Manager's designee, in writing or listed in **Exhibit F** ("Environmental Disclosures/Permitted Exceptions"). The Grant Deed, subject to approval of the City, for the Park Site shall be delivered to the City's Real Estate Division at least ninety (90) days prior to the anticipated completion of the Park Improvements.
- c. The Developers shall also cause to be provided to the City, concurrently with the conveyance of the Park Site to the City, a C.L.T.A. owner's form policy of title insurance issued by a reputable title company currently doing business with the City, with the City named as the insured, in the amount of \$17,851,351 insuring the title of City to the Park Site is subject to only the Permitted Exceptions.
- d. Any and all reports related to the condition of the Developer's Park Site. Developer shall also provide to City, at the Developer's sole cost, a report, prepared or updated no earlier than twelve (12) months before the proposed acceptance of the Park Improvements by a qualified consultant analyzing the condition of the Developer's Park Site with respect to the presence of hazardous materials on the Developer's Park Site ("Hazardous Materials Report"). The definition of Hazardous Materials for purposes of this Agreement is set forth in Section 3 (A)(2) of this Exhibit. The scope of the Hazardous Materials Report shall, at minimum, contain the elements set forth below in Section 4.
- e. In the event that the Hazardous Materials Report(s) disclose(s) the presence of Hazardous Materials on any of the Developer's Park Land in violation of applicable environmental laws, other than the Hazardous Materials disclosed in the Environmental Reports (defined in Section 3 below), in excess of regulatory accepted environmental screening limits for park land uses the Director shall have the right to require Developer, as a condition of acceptance, to

remediate the such Hazardous Materials to generally accepted environmental screening limits for parkland uses using the same methodology set forth in the SCCDEH approved SMP (as defined in Exhibit F), including without limitation, removal of the Hazardous Materials. The type of remediation required for the Developer's Park Land shall be at no cost to the City and be subject to the reasonable review and approval of the Director of PW.

- f. The Environmental Warranty specified in Section 3 of this Exhibit.
  - g. Documents evidencing the authority of the signatory(ies) to execute any agreement or other legal binding documents on behalf of Developer.
2. Upon the Director of PW's acceptance of the Park Site and Park Improvements, the Developers shall have no further obligations in connection with the Park Site except for the terms, conditions, or obligations of this Agreement that explicitly survives acceptance or termination.

#### **H. COMPLIANCE WITH LAWS/PERMITS.**

1. The Developers shall keep fully informed of all existing and future local, state, and federal laws and county and municipal ordinances and regulations which in any manner affect those engaged or employed in the work on the Park Improvements, or the materials used in the Park Improvements, or which in any way affect the conduct of the work on the Park Improvements, and of all such orders and decrees of bodies or tribunals having any jurisdiction or authority over the same. In the performance of any work pursuant to this Agreement, the Developers shall at all times observe and comply in all material respects with, and shall cause all Developers' employees, agents, representatives, contractors and subcontractors to observe and comply in all material respects with all such existing and future laws, ordinances, regulations, orders and decrees of bodies or tribunals having any jurisdiction or authority over the work. If Developer discovers any discrepancy or inconsistency that would violate in any material respect any applicable laws in the plans, drawings, specifications, or contract for the work in relation to any such law, ordinance, regulation, order, or decree, the Developers shall promptly report the same to the Director of PW.
2. The Developers shall, at its sole cost and expense, obtain all governmental reviews and approvals, licenses, and permits which are, or may be, required and necessary to construct and complete the Park Improvements in accordance with the provisions of this Agreement, including, but not limited to, site development reviews, development permits and environmental review. The Developers shall comply in all material respects with all



conditions, restrictions or contingencies imposed upon, or attached to, such governmental approvals, licenses, and permits. If the Developers for any reason fails to comply in any material respect with any of the City's requirements, or any other legal requirement concerning the Developers' construction of the Park Improvements, then the City shall have the right to require the Developers to alter, repair, or replace any improvements or perform any other action to the satisfaction of the Director as reasonably required to correct any non-compliance of the Park Improvements with legal requirements or this Agreement and at no cost to the City. The Developers' failure to effect the cure as required by the Director shall constitute an Event of Default in accordance with Section 6 of this Agreement.

### **SECTION 3. ENVIRONMENTAL WARRANTY.**

- A.** By executing this Agreement, the Developers warrant and agrees that, prior to the City's acceptance of the Park Improvements and dedication of the Park Site:
1. Except as disclosed in the Environmental Reports listed in **Exhibit F – Environmental Disclosures/Permitted Exceptions**, neither the Site nor the Developers are in violation of any environmental law, and neither the Site nor the Developers are subject to any existing, pending or threatened investigation by any federal, state or local governmental authority under or in connection with the environmental laws relating to the Park Site, except for such reporting or other requirements as may be specified in the SMP (as defined in **Exhibit F**) or similar document or any associated land use covenant.
  2. Neither the Developers nor any other person with the Developers' permission to be upon the Site shall use, generate, manufacture, produce, or release, on, under, or about the Park Site, any Hazardous Substance except in compliance with all applicable environmental laws. For the purposes of this Agreement, the term "Hazardous Substances" or "Hazardous Materials" shall mean any substance or material which is capable of posing a risk of injury to health, safety or property, including all those materials and substances designated as hazardous or toxic by any federal, state or local law, ordinance, rule, regulation or policy, including but not limited to, all of those materials and substances defined as "Toxic Materials" in Sections 66680 through 66685 of Title 22 of the California Code of Regulations, Division 4, Chapter 30, as the same shall be amended from time to time, or any other materials requiring remediation under federal, state or local laws, ordinances, rules, regulations or policies.
  3. Except as disclosed in the Environmental Reports listed in **Exhibit F – Environmental Disclosures/Permitted Exceptions**, the Developers have not caused or permitted the release of, and has no knowledge of the release or presence of, any Hazardous Substance on the Park Site or the property

on which the Park Improvements are to be constructed, or the migration of any Hazardous Substance from or to any other property adjacent to, or in the vicinity of, the Park Site, except as may be disclosed in the Environmental Reports or SMP.

4. Except as disclosed in the Environmental Reports listed in **Exhibit F – Environmental Disclosures/Permitted Exceptions**, the Developers' prior and present use of the Park Site has not resulted in the release of any Hazardous Substance on, under, about, or adjacent to the Park Site, except as may be authorized under the SMP.
5. To Developer's actual knowledge, neither the Park Site nor Park Improvements located on the Park Site shall be subject to any monitoring, reporting, or restrictions whatsoever by any governmental authority with jurisdiction over the Park Site, including but not limited to, the California Department of Toxic Substances Control and California Regional Water Quality Control Board, except as may be required by regulatory oversight agencies to protect human health and the environment or noted in the Environmental Reports.
6. Subject to Section 2(G)(1)(b) of this Exhibit, neither the Park Site nor Park Improvements located on the Park Site shall be subject to any burden, easements, covenants or land use restrictions recorded against any part of the Park Improvements or Park Site other than the Permitted Exceptions that would materially interfere with or prevent the use of some or all of the Park Improvements or Park Site for a park use.

**B.** The Developers shall give prompt written notice to the City of:

1. Any proceeding or investigation by any federal, state or local governmental authority with respect to the presence of any Hazardous Substance on the Park Site or the migration thereof from or to any other property adjacent to, or in the vicinity of, the Park Site; and
2. Any claims made or threatened by any third party against the Developers, the City or the Park Site relating to any loss or injury resulting from any Hazardous Substance; and
3. The Developer's discovery of any occurrence or condition on any property adjoining or in the vicinity of the Park Site that could cause the Park Site or any part thereof to be subject to any restrictions on its ownership, occupancy, use for the purpose for which it is intended, transferability or suit under any environmental law.

#### **SECTION 4.        HAZARDOUS MATERIALS REPORT.**

- A.     Elevated levels of arsenic have been found in the shallow soil on the Park Site. In addition, a 200-gallon underground heating oil tank is located on the border of and adjacent to the Park Site. The current Park Site is under the regulatory oversight of the County of Santa Clara Department of Environmental Health (SCCDEH) to oversee remediation of shallow soil beneath the future Park Site and surrounding properties. A Site Management Plan (SMP) dated August 28, 2023, revised November 13, 2023 to address the soil contamination and tanks removal was approved by the SCCDEH on April 17, 2024. The approved SMP states the owner will remove the elevated arsenic from the Park Site for encapsulation beneath future apartment buildings on adjacent properties. The Park Site owner will also remove the underground tank and perform any required remediation if the tank has been determined to have leaked, and perform any other required remediation if previously unknown contamination is discovered on the Park Site during site grading to meet generally accepted environmental screening limits for park land uses.

As discussed above, the City requires the Park Site to be remediated to generally accepted environmental screening limits for park land uses. The Park Site must not have any deed restrictions, environmental covenants, on-going environmental monitoring, operation or maintenance or permit requirements, or any other environmental requirements or conditions that would materially interfere with or prevent the use of some or all of the Park Improvements or Park Site to be for the intended park use.

**B.     Existing Conditions.**

1.     The City acknowledges receipt of the documents listed **Exhibit F – Environmental Disclosures/Permitted Exceptions** as disclosure of existing conditions and planned soil management activities.
2.     Upon written request by the City, the Apartment Developer shall provide the City any updated reports or documentation of environmental conditions related to Hazardous Substances as may be generated to satisfy permitting requirements under all applicable laws and regulations in effect for the Park Site, if applicable.

#### **SECTION 5.        INSURANCE REQUIREMENTS.**

Developers shall procure and maintain insurance for twelve (12) months following the City Director of Public Work's acceptance of the Developer's Park Land and Park Improvements or as required with specificity and noted below, whichever term may be longer. Coverage shall be insurance against claims for injuries to persons or damages to property which may arise from, or in connection with, the performance of the Development

hereunder by the Developers, its agents, representative employees, contractors, or subcontractors.

Developers shall procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from, or in connection with, the performance of the Development hereunder by the Developers, its agents, representative employees, contractors, or subcontractors.

**A. Minimum Scope of Insurance.**

Coverage shall be at least as broad as:

1. The coverage provided by Insurance Services Office Commercial General Liability coverage ("occurrence") Form Number CG 0001; and
2. The coverage provided by Insurance Services Office Form Number CA 0001 covering Automobile Liability. Coverage shall also be included for all owned (if applicable), non-owned and hired autos; and
3. Workers' Compensation insurance as, and to the extent, required by the California Labor Code and Employers Liability insurance; and
4. Professional Liability Errors and Omissions insurance for all professional services; and
5. Builder's Risk insurance providing coverage for "all risks" of loss; and
6. Pollution Liability insurance, providing third-party coverage for bodily injury, property damage, defense, cleanup, and related defense costs as a result of pollution conditions

There shall be no endorsement reducing the scope of coverage required above unless approved by the City's Risk Manager in writing.

**B. MINIMUM LIMITS OF INSURANCE.**

The Developers shall maintain limits no less than:

1. Commercial General Liability: Ten Million Dollars (\$10,000,000) per occurrence and in the aggregate for bodily injury, personal injury and property damage.

2. Automobile Liability: Two Million Dollars (\$2,000,000) combined single limit per accident for bodily injury and property damage; and
3. Workers' Compensation and Employers' Liability: Workers' Compensation limits as, and to the extent, required by the California Labor Code and Employers Liability limits of One Million Dollars (\$1,000,000) per accident; coverage shall be endorsed to state carrier waives its rights of subrogation against the City, its officers, employees, agents, and contractors; and
4. Professional Liability Errors and Omissions: One Million Dollars (\$1,000,000) per claim/One Million Dollars (\$1,000,000) aggregate limit and this requirement may be satisfied through a Contractor's Protective Professional Indemnity policy ("CPPI"); and
5. Builders' Risk: Completed value of Project any improvements in which the City has an insurable interest; and
6. Pollution Liability: Two Million Dollars (\$2,000,000) per occurrence/Two Million Dollars (\$2,000,000) aggregate limit, and Two Million Dollars (\$2,000,000) aggregate limit.
7. Umbrella Coverage: In the event that Developer uses an umbrella policy or excess policy to meet policy limits, coverage must follow form or have greater scope of coverage. City shall receive the same status on the excess/umbrella policy including additional insured endorsements with coverage being primary and not contributory to any City insurance programs or self-insured programs

**C. Deductibles and Self-Insured Retentions.**

Any deductibles or self-insured retentions must be declared to, and approved by the City's Risk Manager in writing, such approval not to be unreasonably withheld, conditioned or delayed.

**D. Provisions Of Policies.**

The insurance policies are to contain, or be endorsed to contain, the following provisions:

1. Commercial General Liability, Automobile Liability and Pollution Liability Coverages.
  - a. City, its officials, employees, and agents are to be covered as an additional insured as respects: liability arising out of activities performed by, or on behalf of, the Developer; products and completed operations of the Developer;



premises owned, leased or used by the Developer; or automobiles owned, leased, hired or borrowed by Developer. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officials, employees, and agents and

- b. The Developers' insurance coverage shall be primary insurance as respects the City, its officials, employees, and agents. Any insurance or self-insurance maintained by City, its officials, employees, and agents shall be excess of the Developers' insurance and shall not contribute with it; and
  - c. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the City and the City, its officials, employees, and agents; and
  - d. Coverage shall state that Developers' insurance shall apply separately to each insured against whom claim is made or suit is brought, unless a Contractor Controlled Insurance Program ("CCIP")-Commercial General Liability coverage only ("GL Wrap")-program is used to insure the risk in which case enrolled participants share the limits of the insurer's liability policies the limits of the insurer's liability policies; and
  - e. Coverage shall contain a waiver of subrogation in favor of City, its officials, employees, and agents.
  - f. Products completed coverage shall be maintained for three (3) years following completion of work.
- 2. Workers' Compensation and Employers Liability Coverages shall contain a waiver of subrogation in favor of City, its officials, employees, and agents.
  - 3. Builders' Risk policies shall contain the following provisions:
    - a. City shall be named as loss payee as its interest may appear.
    - b. Coverage shall contain a waiver of subrogation in favor of City, its officials, employees, and agents.
  - 4. All Coverages.

Each insurance policy required by this Agreement shall be endorsed to state that coverage shall not be suspended, voided, cancelled, or reduced in limits except after thirty (30) days' prior written notice has

been given to the City's Risk Manager, except that ten (10) days' prior written notice shall apply in the event of cancellation for non-payment of premium.

**E. Duration.**

1. Commercial General Liability (including, without limitation, products and completed operations coverage), Professional Liability satisfied by a CPPI policy and Pollution Liability coverages shall be maintained continuously for a minimum of five (5) years after completion of the work under this Agreement.
2. If any of such coverages are written on a claims-made basis, the following requirements apply:
  - a. The policy retroactive date must precede the date the work commenced under this Agreement.
  - b. If the policy is cancelled or non-renewed and coverage cannot be procured with the original retroactive date, Developers must purchase an extended reporting period equal to or greater than five (5) years after completion of the work under this Agreement.

**F. Acceptability of Insurers.**

Insurance is to be placed with insurers acceptable to the City's Risk Manager.

**G. Verification of Coverages.**

Developers shall furnish City (in the manner provided below) with certificates of insurance and with copies endorsements affecting coverage required by this Agreement. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

Proof of insurance shall be emailed in pdf format to: [Riskmgt@sanjoseca.gov](mailto:Riskmgt@sanjoseca.gov),

The City of San Jose – Finance  
Risk Management  
200 East Santa Clara Street, 13<sup>th</sup> Floor Tower  
San Jose, CA 95113-1905

Developers or its contractors shall include all subcontractors as insureds under its policies or shall obtain separate certificates and endorsements for each subcontractor.

Exhibit B.3 Cost Estimate

Trimble Park - San Jose, CA										
35% Budget										
COST CODE	DESCRIPTION City Park	QUANTITY	UNIT	LABOR		MATERIAL		SUBCONTRACT		% OF TOTAL
				\$/UNIT	TOTAL	\$/UNIT	TOTAL	\$/UNIT	TOTAL	
	TOTAL CONSTRUCTION HARD COST =				\$1,064,299		\$156,300		\$7,831,874	69.7%
99-800	PROJECT CONTINGENCY =	10.0%			0		0		905,247	7.0%
99-805	INFLATION/ESCALATION =	9.0%			0		0		896,195	6.9%
99-900	GENERAL CONTRACTOR FEE =	5.0%			0		0		542,696	4.2%
	PARK DESIGN AND REVIEW FEE								1,598,554	12.3%
	TOTAL ALL COSTS =				\$1,064,299		\$156,300		\$7,831,874	100.0%
01000	GENERAL CONDITIONS				\$691,179		\$54,375		\$644,969	10.70%
01000	GENERAL REQUIREMENTS				\$25,000		\$98,663		\$328,823	3.48%
SITE CONSTRUCTION										
EPA Requirements:										
02370	Straw wattles	1,441.21	LF		\$0		\$0	\$12.00	\$17,295	0.13%
02370	Inlet Protection	11.00	EA		\$0		\$0	\$750.00	\$8,250	0.06%
02370	Construction Entrances	1.00	EA		\$0		\$0	\$7,500.00	\$7,500	0.06%
02370	Wash Areas	1.00	EA		\$0		\$0	\$5,000.00	\$5,000	0.04%
02370	Maintenance	6.00	MO	1,500.00	\$9,000	500.00	\$3,263		\$0	0.09%
					\$0		\$0		\$0	0.00%
Site Utilities:										
02510	Domestic Water service off main w/ meter box	1.00	LS		\$0		\$0	\$35,000.00	\$35,000	0.27%
02510	Domestic Water BF Assembly	1.00	LS		\$0		\$0	\$10,000.00	\$10,000	0.08%
02510	Domestic Water piping and fittings	150.00	LF		\$0		\$0	\$125.00	\$18,750	0.14%
02530	Irrigation Service w/ meter box	1.00	LS		\$0		\$0	\$28,359.50	\$28,360	0.22%
02530	Irrigation 2" BF assembly	1.00	LS		\$0		\$0	\$7,949.50	\$7,950	0.06%
02785	Dry Utilities - Electrical Service	1.00	EA		\$0		\$0	\$150,000.00	\$150,000	1.15%
					\$0		\$0		\$0	0.00%
Hardscape:										
	PM-1 Concrete Sidewalk - Grey Concrete Broom Finish	24,061.48	SF		\$0		\$0	\$33.00	\$794,029	6.11%
	PM-2 Integral Concrete A, B, C - Cast Acid wash Finish	7,361.75	SF		\$0		\$0	\$45.00	\$331,279	2.55%
	PM-5 Integral Concrete D - Cast Acid wash Finish	2,996.35	SF		\$0		\$0	\$45.00	\$134,836	1.04%
	PM-6 Flush Concrete Band - 8" Gray Concrete	675.89	LF		\$0		\$0	\$30.00	\$20,277	0.16%
	PM-7 Flush Concrete Band - 12" Gray Concrete	257.70	LF		\$0		\$0	\$45.00	\$11,597	0.09%
	PM-8 Concrete With Acrylic Coat (Sports Court)	4,363.35	SF		\$0		\$0	\$45.00	\$196,351	1.51%
	PM-14 Truncated Dome Pavers	211.72	SF		\$0		\$0	\$95.00	\$20,113	0.15%
	PM-# Fan Ramp	61.42	SF		\$0		\$0	\$55.00	\$3,378	0.03%
	Entry Plaza Concrete Planter wall	49.00	LF		\$0		\$0	\$350.00	\$17,150	0.13%
	Footing (includes excavation)	49.00	LF		\$0		\$0	\$256.00	\$12,544	0.10%
					\$0		\$0		\$0	0.00%
	Curved Seat Wall				0		0		0	0
	CMU	62.25	SF		\$0		\$0	\$185.00	\$11,516	0.09%
	Wall Cap (WM# --)	41.50	LF		\$0		\$0	\$125.00	\$5,188	0.04%



Exhibit B.3 Cost Estimate

Trimble Park - San Jose, CA											
35% Budget											
COST CODE	DESCRIPTION City Park	QUANTITY	UNIT	LABOR		MATERIAL		SUBCONTRACT		TOTAL BUDGET	% OF TOTAL
				\$/UNIT	TOTAL	\$/UNIT	TOTAL	\$/UNIT	TOTAL		
	Footing (includes excavation)	41.50	LF		\$0		\$0	\$256.00	\$10,624	\$10,624	0.08%
					\$0		\$0		\$0	\$0	0.00%
	<b>Landscape &amp; Irrigation</b>				0		0		0	0	0
	<i>Planting Area</i>				\$0		\$0		\$0	\$0	0.00%
	Drainage	24,744.39	SF		\$0		\$0	\$3.00	\$74,233	\$74,233	0.57%
	Soil Amendment, Fertilizer & Prep	24,744.39	SF		\$0		\$0	\$1.50	\$37,117	\$37,117	0.29%
	Irrigation	24,744.39	SF		\$0		\$0	\$10.00	\$247,444	\$247,444	1.90%
	Fine Grading	24,744.39	SF		\$0		\$0	\$1.00	\$24,744	\$24,744	0.19%
	3" Mulch	27,202.39	SF		\$0		\$0	\$2.00	\$54,405	\$54,405	0.42%
	1-Gallon & 5-Gallon Shrubs	9,914.20	SF		\$0		\$0	\$12.00	\$118,970	\$118,970	0.92%
	Groundcover	14,830.20	SF		\$0		\$0	\$8.00	\$118,642	\$118,642	0.91%
					\$0		\$0		\$0	\$0	0.00%
	<i>Great Lawn Area</i>				\$0		\$0		\$0	\$0	0.00%
	Drainage	25,265.01	SF		\$0		\$0	\$3.00	\$75,795	\$75,795	0.58%
	Soil Amendment, Fertilizer & Prep	25,265.01	SF		\$0		\$0	\$1.50	\$37,898	\$37,898	0.29%
	Irrigation	25,265.01	SF		\$0		\$0	\$10.00	\$252,650	\$252,650	1.94%
	Fine Grading	25,265.01	SF		\$0		\$0	\$1.00	\$25,265	\$25,265	0.19%
	Sod Lawn	25,265.00	SF		\$0		\$0	\$2.00	\$50,530	\$50,530	0.39%
					\$0		\$0		\$0	\$0	0.00%
	<i>Trees</i>				\$0		\$0		\$0	\$0	0.00%
	Native Tree / Shrub	45.00	EA		\$0		\$0	\$150.00	\$6,750	\$6,750	0.05%
	Evergreen Tree A	20.00	EA		\$0		\$0	\$450.00	\$9,000	\$9,000	0.07%
	Evergreen Tree B	27.00	EA		\$0		\$0	\$450.00	\$12,150	\$12,150	0.09%
	Site Shade Tree	44.00	EA		\$0		\$0	\$1,500.00	\$66,000	\$66,000	0.51%
	Dog Park Tree	6.00	EA		\$0		\$0	\$4,000.00	\$24,000	\$24,000	0.18%
	Perimeter Sidewalk Tree	10.00	EA		\$0		\$0	\$4,000.00	\$40,000	\$40,000	0.31%
	Historical Area Tree	17.00	EA		\$0		\$0	\$4,500.00	\$76,500	\$76,500	0.59%
	Lawn Path Shade tree	21.00	EA		\$0		\$0	\$4,000.00	\$84,000	\$84,000	0.65%
	Plaza Mound trees	6.00	EA		\$0		\$0	\$7,500.00	\$45,000	\$45,000	0.35%
	Large Shade tree	19.00	EA		\$0		\$0	\$14,000.00	\$266,000	\$266,000	2.05%
					\$0		\$0		\$0	\$0	0.00%
	<b>Fence</b>				0		0		0	0	0
	48" Metal Fence	162.00	LF		\$0		\$0	\$300.00	\$48,600	\$48,600	0.37%
	48" Dog Park Metal Fence	546.34	LF		\$0		\$0	\$300.00	\$163,902	\$163,902	1.26%
	48" Dog Park Metal Gates	3.00	EA		\$0		\$0	\$6,500.00	\$19,500	\$19,500	0.15%
	48" Tall Chainlink Fence	195.58	LF		\$0		\$0	\$200.00	\$39,116	\$39,116	0.30%
	10' Tall Chainlink Fence	132.42	LF		\$0		\$0	\$225.00	\$29,795	\$29,795	0.23%
					\$0		\$0		\$0	\$0	0.00%
	<b>Playground Areas</b>				0		0		0	0	0
	PM-9 Poured in Place Rubber A	3,855.62	SF		\$0		\$0	\$40.00	\$154,225	\$154,225	1.19%
	Excavation, Rough Grading, & Compaction	3,855.62	SF		\$0		\$0	\$3.00	\$11,567	\$11,567	0.09%
	Fine Grading	3,855.62	SF		\$0		\$0	\$1.00	\$3,856	\$3,856	0.03%
	Base Rock / Drain Rock	3,855.62	SF		\$0		\$0	\$4.00	\$15,422	\$15,422	0.12%

# Exhibit B.3 Cost Estimate

Trimble Park - San Jose, CA											
35% Budget											
COST CODE	DESCRIPTION City Park	QUANTITY	UNIT	LABOR		MATERIAL		SUBCONTRACT		TOTAL BUDGET	% OF TOTAL
				\$/UNIT	TOTAL	\$/UNIT	TOTAL	\$/UNIT	TOTAL		
	Drainage	3,855.62	SF		\$0		\$0	\$7.00	\$26,989	\$26,989	0.21%
	PM-10 Poured in Place Rubber B	1,443.65	SF		\$0		\$0	\$40.00	\$57,746	\$57,746	0.44%
	Excavation, Rough Grading, & Compaction	1,443.65	SF		\$0		\$0	\$3.00	\$4,331	\$4,331	0.03%
	Fine Grading	1,443.65	SF		\$0		\$0	\$1.00	\$1,444	\$1,444	0.01%
	Base Rock / Drain Rock	1,443.65	SF		\$0		\$0	\$4.00	\$5,775	\$5,775	0.04%
	Drainage	1,443.65	SF		\$0		\$0	\$7.00	\$10,106	\$10,106	0.08%
	PM-11 Synthetic Lawn	5,673.11	SF		\$0		\$0	\$40.00	\$226,924	\$226,924	1.75%
	Excavation, Rough Grading, & Compaction	5,673.11	SF		\$0		\$0	\$3.00	\$17,019	\$17,019	0.13%
	Fine Grading	5,673.11	SF		\$0		\$0	\$1.00	\$5,673	\$5,673	0.04%
	Base Rock / Drain Rock	5,673.11	SF		\$0		\$0	\$4.00	\$22,692	\$22,692	0.17%
					\$0		\$0		\$0	\$0	0.00%
	Equipment - Materials				\$0		\$0		\$0	\$0	0.00%
	OminiSpin	1.00	LS		\$0		\$0	\$12,936.11	\$12,936	\$12,936	0.10%
	Rope Pull Climber	1.00	LS		\$0		\$0	\$6,683.95	\$6,684	\$6,684	0.05%
	Crab Trap	1.00	LS		\$0		\$0	\$105,754.29	\$105,754	\$105,754	0.81%
	Truck Structure	1.00	LS		\$0		\$0	\$61,249.83	\$61,250	\$61,250	0.47%
	Learning Wall	1.00	LS		\$0		\$0	\$9,724.26	\$9,724	\$9,724	0.07%
	Cornstalk Climbers	1.00	LS		\$0		\$0	\$5,607.42	\$5,607	\$5,607	0.04%
	Talk Tubes	1.00	LS		\$0		\$0	\$5,690.23	\$5,690	\$5,690	0.04%
	Digirider Tractor	1.00	LS		\$0		\$0	\$2,164.89	\$2,165	\$2,165	0.02%
	Bobble Rider	1.00	LS		\$0		\$0	\$4,507.23	\$4,507	\$4,507	0.03%
	Curva Spinner	1.00	LS		\$0		\$0	\$2,963.42	\$2,963	\$2,963	0.02%
	Climbing Handgrips	1.00	LS		\$0		\$0	\$1,644.37	\$1,644	\$1,644	0.01%
	Ab Crunch leg lift	1.00	LS		\$0		\$0	\$3,968.97	\$3,969	\$3,969	0.03%
	Assisted Row Pushup	1.00	LS		\$0		\$0	\$3,714.62	\$3,715	\$3,715	0.03%
	Cardio Stepper	1.00	LS		\$0		\$0	\$12,031.11	\$12,031	\$12,031	0.09%
	Chest/Back Press	1.00	LS		\$0		\$0	\$9,629.62	\$9,630	\$9,630	0.07%
	Elliptical	1.00	LS		\$0		\$0	\$13,563.10	\$13,563	\$13,563	0.10%
	Pull up dip	1.00	LS		\$0		\$0	\$4,087.27	\$4,087	\$4,087	0.03%
	Stretch	1.00	LS		\$0		\$0	\$5,725.72	\$5,726	\$5,726	0.04%
	Equipment - Turnkey - all concrete footings, excavation, assembly, etc.	1.00	LS		\$0		\$0	\$125,000.00	\$125,000	\$125,000	0.96%
					\$0		\$0		\$0	\$0	0.00%
	<b>Dog Park</b>				0		0		0	0	0
	PM-12 Synthetic Lawn @ Dog Park	1,158.21	SF		\$0		\$0	\$40.00	\$46,328	\$46,328	0.36%
	Excavation, Rough Grading, & Compaction	1,158.00	SF		\$0		\$0	\$3.00	\$3,474	\$3,474	0.03%
	Fine Grading	1,158.00	SF		\$0		\$0	\$1.00	\$1,158	\$1,158	0.01%
	Base Rock / Drain Rock	1,158.00	SF		\$0		\$0	\$4.00	\$4,632	\$4,632	0.04%
	PM-13 Wood Mulch changed to DG @ Dog Park	8,934.66	SF		\$0		\$0	\$15.00	\$134,020	\$134,020	1.03%
	Equipment - Materials	Included w/ Eq			\$0		\$0		\$0	\$0	0.00%
	EQ-19 Hill Climb	Included w/ Eq			\$0		\$0		\$0	\$0	0.00%
	EQ-20 Tunnel	Included w/ Eq			\$0		\$0		\$0	\$0	0.00%
	EQ-21 Boulders	Included w/ Eq			\$0		\$0		\$0	\$0	0.00%
	Equipment - Turnkey - all concrete footings, excavation, assembly, etc.	1.00	LS		\$0		\$0	\$38,000.00	\$38,000	\$38,000	0.29%



Exhibit B.3 Cost Estimate

Trimble Park - San Jose, CA											
35% Budget											
COST CODE	DESCRIPTION City Park	QUANTITY	UNIT	LABOR		MATERIAL		SUBCONTRACT		TOTAL BUDGET	% OF TOTAL
				\$/UNIT	TOTAL	\$/UNIT	TOTAL	\$/UNIT	TOTAL		
					\$0		\$0		\$0	\$0	0.00%
	Site Furnishing				0		0		0	0	0
	Equipment - Materials	1.00	LS		\$0		\$0	\$231,592.28	\$231,592	\$231,592	1.78%
	SF-1A Curved Bench 96" R	included above			\$0		\$0		\$0	\$0	0.00%
	SF-1B Curved Bench 96" R	included above			\$0		\$0		\$0	\$0	0.00%
	SF-2 Curved Bench 96" R Wall mounted	included above			\$0		\$0		\$0	\$0	0.00%
	SF-3 Curved Bench 140" R	included above			\$0		\$0		\$0	\$0	0.00%
	SF-4 Backless Plaza Bench	included above			\$0		\$0		\$0	\$0	0.00%
	SF-5 Park Bench	included above			\$0		\$0		\$0	\$0	0.00%
	SF-6 Backless Park Bench	included above			\$0		\$0		\$0	\$0	0.00%
	SF-7 Dog Park Bench	included above			\$0		\$0		\$0	\$0	0.00%
	SF-8 Plaza Table	included above			\$0		\$0		\$0	\$0	0.00%
	SF-9 Plaza Chair	included above			\$0		\$0		\$0	\$0	0.00%
	SF-10 Chess Table	included above			\$0		\$0		\$0	\$0	0.00%
	SF-11 ADA Chess Table	included above			\$0		\$0		\$0	\$0	0.00%
	SF-12 ADA Picnic Table	included above			\$0		\$0		\$0	\$0	0.00%
	SF-15 Bike Rack	included above			\$0		\$0		\$0	\$0	0.00%
	SF-16 Trash Recepticle	included above			\$0		\$0		\$0	\$0	0.00%
	SF-17 Dog Park Drinking Fountain	included above			\$0		\$0		\$0	\$0	0.00%
	SF-18 Drinking Fountain w/ Bottle Filler	included above			\$0		\$0		\$0	\$0	0.00%
	SF-19 Dog waste dispenser	included above			\$0		\$0		\$0	\$0	0.00%
	Equipment - Turnkey Installation - all concrete footings, associated excavation, a	1.00	LS		\$0		\$0	\$60,000.00	\$60,000	\$60,000	0.46%
	Miscellaneous										
	Raised mound metal Frames	6.00	EA		\$0		\$0	\$11,000.00	\$66,000	\$66,000	0.51%
	Park Maintenance - 90 Day	3.00	MO		\$0		\$0	\$12,500.00	\$37,500	\$37,500	0.29%
	Import Mounding @ Plaza / Planter Walls	160.00	CY		\$0		\$0	\$185.00	\$29,600	\$29,600	0.23%
					\$0		\$0		\$0	\$0	0.00%
02000	SITE CONSTRUCTION				\$9,000		\$3,263		\$5,517,709	\$5,529,972	42.55%
METALS											
	Structural Steel:										
05120	Miscellaneous/Structural Steel	1.00	LS		\$0		\$0	\$25,000.00	\$25,000	\$25,000	0.19%
					\$0		\$0		\$0	\$0	0.00%
	Canopies & Arbor:				0		0		0	0	0
	Cantilevered Arbor 8'x10' in Count	3.00	EA		5,642.55	\$16,928	\$0	\$18,808.50	\$56,426	\$73,353	0.56%
	Playground Arbor in Count	1.00	EA		72,191.70	\$72,192	\$0	\$120,319.50	\$120,320	\$192,511	1.48%
					\$0		\$0		\$0	\$0	0.00%
05000	METALS				\$89,119		\$0		\$201,745	\$290,864	2.24%
THERMAL/MOISTURE PROTECTION											
	Waterproofing/Damp Proofing/Sealants:										

Exhibit B.3 Cost Estimate

Trimble Park - San Jose, CA											
35% Budget											
COST CODE	DESCRIPTION City Park	QUANTITY	UNIT	LABOR		MATERIAL		SUBCONTRACT		TOTAL BUDGET	% OF TOTAL
				\$/UNIT	TOTAL	\$/UNIT	TOTAL	\$/UNIT	TOTAL		
07920	Joint Sealants - Site	4,817.05	LF		\$0		\$0	\$2.50	\$12,043	\$12,043	0.09%
					\$0		\$0		\$0	\$0	0.00%
07000	THERMAL/MOISTURE PROTECTION				\$0		\$0		\$12,043	\$12,043	0.09%
FINISHES											
					\$0		\$0		\$0	\$0	0.00%
	Paint/Wall Covering:										
09910	Painting - Misc	1.00	LS		\$0		\$0	\$25,000.00	\$25,000	\$25,000	0.19%
					\$0		\$0		\$0	\$0	0.00%
09000	FINISHES				\$0		\$0		\$25,000	\$25,000	0.19%
SPECIALTIES											
	Signage:										
10430	Exterior Signage - Park Name Sign	1.00	LS		\$0		\$0	\$10,000.00	\$10,000	\$10,000	0.08%
10430	Exterior Signage - Dog Park	1.00	LS		\$0		\$0	\$1,500.00	\$1,500	\$1,500	0.01%
10430	Exterior Signage - Play	1.00	LS		\$0		\$0	\$1,000.00	\$1,000	\$1,000	0.01%
10430	Exterior Signage - Plaza	1.00	LS		\$0		\$0	\$1,000.00	\$1,000	\$1,000	0.01%
10430	Exterior Signage - Fitness	1.00	LS		\$0		\$0	\$2,000.00	\$2,000	\$2,000	0.02%
10430	Exterior Signage - Pickleball	1.00	LS		\$0		\$0	\$1,000.00	\$1,000	\$1,000	0.01%
	Historical Signage:										
10430	Exterior Signage - Information Boards	6.00	EA		\$0		\$0	\$4,100.00	\$24,600	\$24,600	0.19%
10430	Exterior Signage - Medallions	8.00	EA		\$0		\$0	\$2,420.00	\$19,360	\$19,360	0.15%
					\$0		\$0		\$0	\$0	0.00%
10000	SPECIALTIES				\$0		\$0		\$50,460	\$50,460	0.47%
					\$0		\$0		\$0	\$0	0.00%
MECHANICAL											
15400	Plumbing - Water Fountain	1.00	LS		\$0		\$0	\$10,000.00	\$10,000	\$10,000	0.08%
					\$0		\$0		\$0	\$0	0.00%
15000	MECHANICAL				\$0		\$0		\$10,000	\$10,000	0.08%
ELECTRICAL											
16001	Electrical	1.00	LS		\$0		\$0	\$115,000.00	\$115,000	\$115,000	0.88%
16510	Pole Lights	15.00	EA		\$0		\$0	\$4,000.00	\$60,000	\$60,000	0.46%
					\$0		\$0		\$0	\$0	0.00%
16000	ELECTRICAL				\$0		\$0		\$175,000	\$175,000	1.35%
77000	DESIGN COST & RELATED SERVICES				\$250,000		\$0		\$631,125	\$881,125	6.78%
88000	BONDS				\$0		\$0		\$225,000	\$225,000	1.73%
TOTAL HARD COST =					\$1,064,299	\$156,300		\$7,831,874	\$9,052,472	63.66%	

EXHIBIT C

Irrevocable Offer of Dedication

[see attached]

---

RECORDED WITHOUT FEE UNDER  
SECTION 6103 GOVERNMENT CODE  
OF THE STATE OF CALIFORNIA

**RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:  
AND MAIL TAX STATEMENT TO:**

City of San Jose – Public Works  
200 East Santa Clara Street, 3<sup>rd</sup> Floor  
San Jose, CA 95113-1905

Deed No:  
3 Dash No:  
APN:

Space above this line for Recorder's use

The Undersigned Grantee(s) Declare(s): DOCUMENTARY TRANSFER TAX \$0; CITY TRANSFER TAX \$0; Recorded for the benefit of the City of San Jose and is exempt from fee per Government Code Sections 27383 and 6103.

- ☐ computed on the consideration or full value of property conveyed, OR  
☐ computed on the consideration or full value less value of liens and/or encumbrances remaining at time of sale,  
☐ unincorporated area; ☒ City of San Jose, and  
☐ \_\_\_\_\_

Signature of Declarant

## **IRREVOCABLE OFFER OF DEDICATION**

SEELY DEVELOPMENT PARTNERS LLC, a Delaware limited liability company, hereinafter ("GRANTOR"), does hereby IRREVOCABLY OFFER TO DEDICATE to the CITY OF SAN JOSE, a municipal corporation of the State of California, ("CITY") or its successor agencies, assigns, and transferees, real property as described in the attached **Exhibit A** for park purposes (the "Park Property"). Such dedication of the Park Property shall be accepted by CITY upon recordation of a Grant Deed in the Santa Clara County, Office of the County-Recorder. The Grant Deed for the Park Property will be recorded by CITY in the Santa Clara County, Office of the County-Recorder, only upon the following event:

1. GRANTOR(s) performs and satisfies any and all terms, conditions, and obligations set forth in the Parkland Agreement between GRANTOR and CITY entitled "*PARKLAND AGREEMENT*"



TENTATIVE MAP NO. **T/PT22-003** (Chapter 19.38 of SPMC) ", executed simultaneously with this Irrevocable Offer of Dedication.

Until such Grant Deed is recorded, CITY shall not be responsible for and shall incur no liability with respect to the Park Property. GRANTOR, with respect to such offer of dedication, retains the right to control the Park Property until this offer of dedication is accepted and the Grant Deed is recorded as outlined herein.

The provisions hereof shall inure to the benefit and be binding upon the heirs, successors, assigns and personal representatives of the respective parties hereto.

Such real property is described as follows:

See Exhibit "A" attached hereto and made a part hereof.

Dated \_\_\_\_\_, 2025

SEELY DEVELOPMENT PARTNERS  
LLC, a Delaware limited liability company

By: Meg Walker

Name: Meg Walker

Title: Vice President

Address: 1780 South Post Oak Lane,  
Houston, TX 77056

\*Proof of authorization for Subdivider's signatures is required to be submitted concurrently with this Agreement.

\*All Subdivider's signatures must be accompanied by an attached notary acknowledgement.



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.

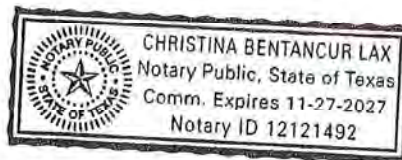
STATE OF TEXAS                    )  
  ) ss.  
COUNTY OF HARRIS )

The foregoing instrument was acknowledged before me this 3<sup>rd</sup> day of April, 2025, by Meg Walker, Vice President of Seely Development Partners LLC, a Delaware limited liability company, on behalf of said entity.

Witness my hand and official seal.

  
Notary Public

My commission expires: 11/27/2027



## LEGAL DESCRIPTION

The land referred to herein below is situated in the City of San Jose, County of Santa Clara, State of California, and is described as follows:

### **PARCEL 1**

REAL PROPERTY in the City of San Jose, County of Santa Clara, State of California, being a portion of Parcel One as described in the Grant Deed recorded March 7, 2018, in Document No. 23882502 of Official Records, Santa Clara County Records, described as follows:

COMMENCING at the southerly corner of said Parcel One, being on the northeasterly line of Seely Avenue;

Thence along the southeasterly line of said Parcel One, North 43°20'33" East, 23.00 feet, to Point A designated hereon, also being the TRUE POINT OF BEGINNING;

Thence continuing along said southeasterly line, North 43°20'33" East, 339.00 feet;

Thence North 46°41'43" West, 3.52 feet;

Thence South 43°18'17" West, 339.00 feet, to a line parallel with and 23 feet northeasterly of the northeasterly line of Seely Avenue;

Thence along said parallel line, South 46°41'43" East, 3.30 feet, to the TRUE POINT OF BEGINNING.

Containing 1,155 square feet, more or less.

### **PARCEL 2**

REAL PROPERTY in the City of San Jose, County of Santa Clara, State of California, being a portion of that parcel of land described in the Grant Deed recorded February 23, 2017, in Document No. 23587813 of Official Records, Santa Clara County Records, described as follows:

BEGINNING at Point A designated above;

Thence along the northwesterly line of said parcel of land, North 43°20'33" East, 339.00 feet; Thence South 46°41'43" East, 315.99 feet;

Thence southwesterly, along a non-tangent curve to the right, having a radius of 30.00 feet, whose center bears North 70°16'25" West, through a central angle of 23°34'41" for an arc length of 12.35 feet;

Thence South 43°18'17" West, 325.00 feet;

Thence along a tangent curve to the right, having a radius of 20.00 feet, through a central angle of 05°44'21" for an arc length of 2.00 feet, to a line parallel with and 23 feet northeasterly of the northeasterly line of Seely Avenue;

Thence along said parallel line, North 46°41'43" West, 318.61 feet, to the POINT OF BEGINNING.

Containing 107,998 square feet, more or less.

Total area of Parcel 1 and Parcel 2 containing 109,153 square feet, more or less.



EXHIBIT C.2  
Park Site Legal Description

**PARCEL 1**

REAL PROPERTY in the City of San Jose, County of Santa Clara, State of California, being a portion of Parcel One as described in the Grant Deed recorded March 7, 2018, in Document No. 23882502 of Official Records, Santa Clara County Records, described as follows:

COMMENCING at the southerly corner of said Parcel One, being on the northeasterly line of Seely Avenue;  
Thence along the southeasterly line of said Parcel One, North 43°20'33" East, 23.00 feet, to Point A designated hereon, also being the TRUE POINT OF BEGINNING;

Thence continuing along said southeasterly line, North 43°20'33" East, 339.00 feet;  
Thence North 46°41'43" West, 3.52 feet;  
Thence South 43°18'17" West, 339.00 feet, to a line parallel with and 23 feet northeasterly of the northeasterly line of Seely Avenue;  
Thence along said parallel line, South 46°41'43" East, 3.30 feet, to the TRUE POINT OF BEGINNING.

Containing 1,155 square feet, more or less.

**PARCEL 2**

REAL PROPERTY in the City of San Jose, County of Santa Clara, State of California, being a portion of that parcel of land described in the Grant Deed recorded February 23, 2017, in Document No. 23587813 of Official Records, Santa Clara County Records, described as follows:

BEGINNING at Point A designated above;  
Thence along the northwesterly line of said parcel of land, North 43°20'33" East, 339.00 feet;  
Thence South 46°41'43" East, 315.99 feet;  
Thence southwesterly, along a non-tangent curve to the right, having a radius of 30.00 feet, whose center bears North 70°16'25" West, through a central angle of 23°34'41" for an arc length of 12.35 feet;  
Thence South 43°18'17" West, 325.00 feet;  
Thence along a tangent curve to the right, having a radius of 20.00 feet, through a central angle of 05°44'21" for an arc length of 2.00 feet, to a line parallel with and 23 feet northeasterly of the northeasterly line of Seely Avenue;  
Thence along said parallel line, North 46°41'43" West, 318.61 feet, to the POINT OF BEGINNING.

Containing 107,998 square feet, more or less.

Total area of Parcel 1 and Parcel 2 containing 109,153 square feet, more or less.

As shown on Exhibit "B" attached hereto and made a part hereof.

END OF DESCRIPTION

*This legal description of land does not constitute a separately created parcel per requirements of the Subdivision Map Act and may not be used as the basis for an offer for sale of the land described.*

This legal description was prepared by me or under my direction in accordance with the Professional Land Surveyors Act.

Date: 1-22-25

  
Tracy L. Giorgetti, LS 8720





0 30 60  
1 IN. = 60 FT.

PARCEL ONE  
DOC 23882502

PARCEL 1

SEELY AVENUE

POC  
S46°41'43"E  
3.30'  
23'

TPOB, PARCEL 1  
POINT A, POB PARCEL 2  
N43°20'33"E  
23.00'

S43°18'17"W 339.00'  
N43°20'33"E 339.00'

N46°41'43"W  
3.52'

PARCEL 2

DOC 23587813

22' 23'

N46°41'43"W 318.61'

S46°41'43"E 315.99'

R=20.00' L=2.00'  
Δ=5°44'21"

S43°18'17"W 325.00'

R=30.00' L=12.35'  
Δ=23°34'41"

N70°16'25"W(R)



### LEGEND

(R) RADIAL BEARING  
POC POINT OF COMMENCEMENT  
POB POINT OF BEGINNING  
TPOB TRUE POINT OF BEGINNING

SHEET 1 OF 1

Date: 2025-01-22  
Designed: AL  
Drawn: RF  
Checked: TG  
Proj. Engr.:  
60060



Exhibit C. 3  
PLAT TO ACCOMPANY DESCRIPTION  
PARKLAND AGREEMENT

DRAFT--Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for final document.

EXHIBIT D

Private Recreation Credits

---

[see attached]

## DESCRIPTION

### PROJECT SUMMARY

THE PROJECT IS A PLANNED DEVELOPMENT REZONING TO AN INDUSTRIAL PARK (IPD). PLANNED DEVELOPMENT PERMIT TO ALLOW DEMOLITION OF EXISTING RESIDENTIAL AND AGRICULTURAL BUILDINGS AND REMOVAL OF 584 TREES FOR DEVELOPMENT OF 1,472 RESIDENTIAL UNITS CONSISTING OF A MIX OF THREE - STORY TOWN HOMES AND SIX - TO SEVEN - STORY APARTMENT BUILDINGS, 18,965 SQUARE FEET OF GENERAL NEIGHBORHOOD RETAIL SPACE, AND A 2.5 ACRE PUBLIC PARK. THE PROJECT ALSO INCLUDES THE DEDICATION OF AN APPROXIMATELY 0.11 ACRES SITE TO THE SAN JOSE MUNICIPAL WATER SYSTEM FOR THE DEVELOPMENT OF A DOMESTIC WATER WELL. 154 TOWNHOME UNITS ARE UNDER A SEPERATE PRIVATE RECREATION CREDIT APPLICATION AND THIS PRIVATE RECREATION CREDIT APPLICATION IS FOR THE REMAINING 1,318 UNITS.

### GENERAL PLAN LAND USE

INDUSTRIAL PARK

### ZONING LAND USE

IP INDUSTRIAL PARK ZONING DISTRICT

### DEVELOPMENT PERMITS

PLANNED DEVELOPMENT PERMIT PD22-002  
PLANNED DEVELOPMENT ZONING: PDC21-035  
TENTATIVE PARCEL MAP: PT22-003

### RESIDENTIAL INFORMATION

#OF RESIDENTIAL BUILDINGS	4
#OF MULTI-FAMILY 5+ UNITS	1,140
#OF AFFORDABLE MULTI-FAMILY 5+ UNITS	178
TOTAL # OF MULTI-FAMILY 5+ UNITS	1,318

*Affordable building includes 2 managers units to be deed restricted at 100% of AMI*

RESIDENTIAL MULTI-FAMILY BUILDING	NUMBER OF STORIES	HEIGHT
SITE A	6	± 68'10"
SITE B	7	± 79'0"
SITE C	7	± 79'0"
SITE D (AFFORDABLE BUILDING)	6	± 81'6"



0 SEELY AVE

0 Seely Ave

San Jose, CA

Council District: 4, MLS: 7E, Planning Area: North San Jose



**KITGY**  
Architecture + Planning  
The Leaning Tower Building  
1814 Franklin Street, Suite 400  
Oakland, CA 94612  
415.777.2510  
kitgy.com



**HANOVER COMPANY**  
156 Diablo Road, Suite 220  
Danville, CA 94526



Land Use Entitlements  
Land Planning  
Landscape Architecture  
Civil Engineering  
Utility Design  
Land Surveying  
Shorewater Compliance

1570 Oakland Road  
San Jose, CA 95131  
(408) 487-2200  
hmmca.com



Architectural  
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Relationships



**SUMMERHILL HOMES™**

COMMUNITIES OF DISTINCTION



COVER SHEET **L0.0**

# Exhibit D – Private Recreation Credits

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PRIVATE RECREATION TABLE OF CONTENTS		
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L4.3	SITE D INTERIOR AMENITY	CLUB ROOM
L4.4	SITE D EXTERIOR AMENITY	FITNESS COURTYARD
L4.5	SITE D EXTERIOR AMENITY	COURTYARD

SHEET INDEX L0.1



# Exhibit D – Private Recreation Credits

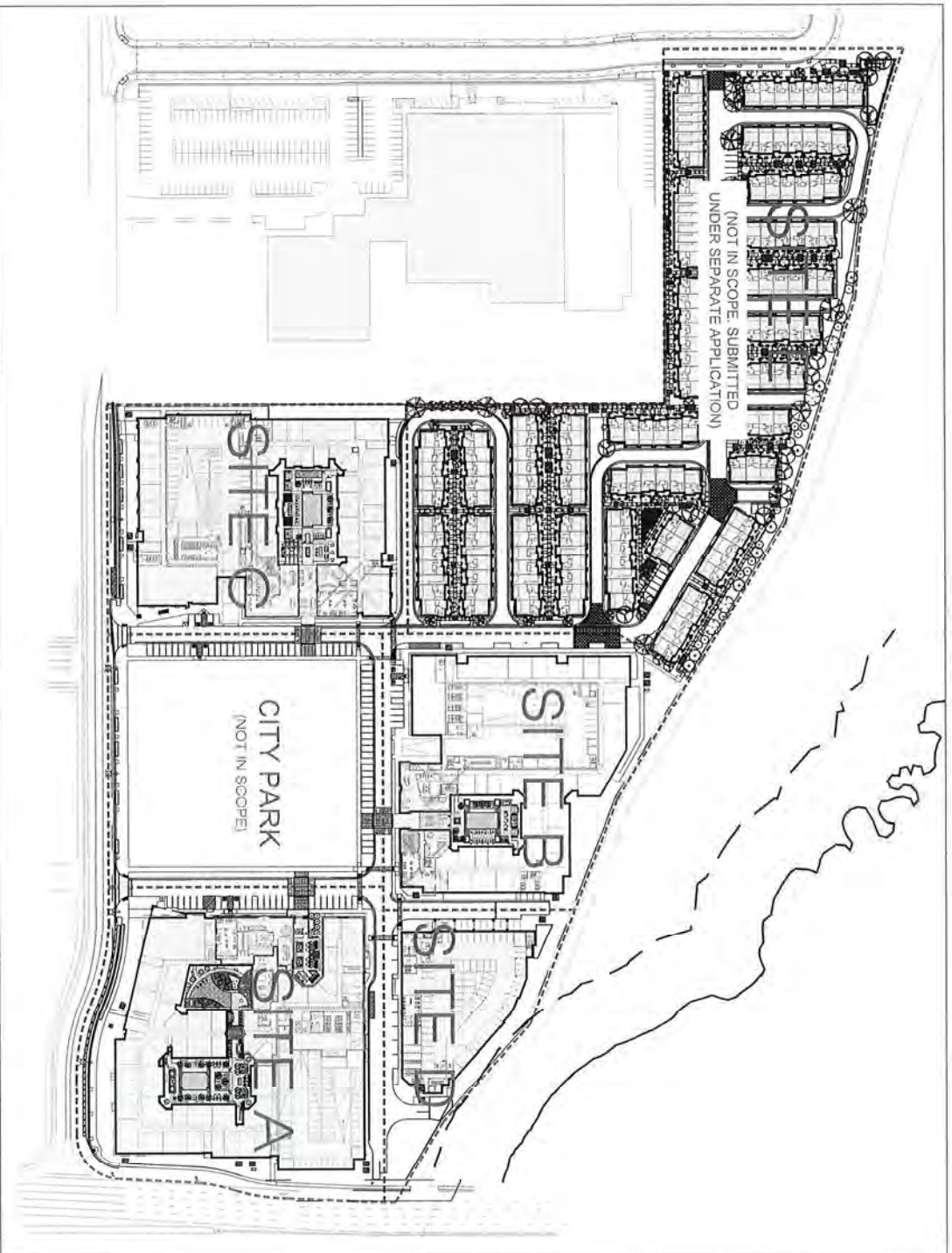
SHEET	LOCATION	ELEMENT NAME	TYPE	CLASSIFICATION	AREA - S.F.
L1.2	SITE A INTERIOR AMENITY	FITNESS ROOM	RECREATION ROOM	NON-ACTIVE	1,738
L1.3	SITE A INTERIOR AMENITY	MEDIA AND CLUB RM	COMMUNITY ROOM	NON-ACTIVE	6,030
L1.4	SITE A INTERIOR AMENITY	BIKE REPAIR	RECREATION ROOM	NON-ACTIVE	555
L1.4	SITE A INTERIOR AMENITY	PET GROOMING	PRIVATE PET AMENITY	ACTIVE	333
L1.5	SITE A EXTERIOR AMENITY	COURTYARD	COMMUNITY ROOM	NON-ACTIVE	1,325
L1.6	SITE A EXTERIOR AMENITY	POOL	SWIMMING POOL	NON-ACTIVE	4,596
L1.7	SITE A EXTERIOR AMENITY	LAWN COURTYARD	PICNIC AREA	ACTIVE	4,651
L1.8	SITE A INT/ EXT AMENITY	COVERED LOGGIA	COMMUNITY ROOM	NON-ACTIVE	1,134
L1.9	SITE A EXTERIOR AMENITY	ENTRY COURTYARD	PRIVATE GARDEN	ACTIVE	1,009
L1.10	SITE A EXTERIOR AMENITY	COURTYARD	COMMUNITY ROOM	NON-ACTIVE	2,168
L2.2	SITE B INT/ EXT AMENITY	COVERED LOGGIA	COMMUNITY ROOM	NON-ACTIVE	1,146
L2.3	SITE B INTERIOR AMENITY	LOUNGE	COMMUNITY ROOM	NON-ACTIVE	2,833
L2.4	SITE B INTERIOR AMENITY	PET GROOMING	PRIVATE PET AMENITY	ACTIVE	308
L2.4	SITE B INTERIOR AMENITY	BIKE REPAIR	RECREATION ROOM	NON-ACTIVE	495
L2.5	SITE B INTERIOR AMENITY	CLUB ROOM	COMMUNITY ROOM	NON-ACTIVE	1,330
L2.6	SITE B INTERIOR AMENITY	MEDIA LOUNGE	COMMUNITY ROOM	NON-ACTIVE	925
L2.7	SITE B INTERIOR AMENITY	FITNESS ROOM	RECREATION ROOM	NON-ACTIVE	2,022

SHEET	LOCATION	ELEMENT NAME	TYPE	CLASSIFICATION	AREA - S.F.
L2.8	SITE B EXTERIOR AMENITY	POOL COURTYARD	SWIMMING POOL	NON-ACTIVE	5,296
L2.9	SITE B EXTERIOR AMENITY	SKY DECK	COMMUNITY ROOM	NON-ACTIVE	1,485
L3.2	SITE C INTERIOR AMENITY	MEDIA AND LOUNGE	COMMUNITY ROOM	NON-ACTIVE	3,360
L3.3	SITE C INTERIOR AMENITY	BIKE REPAIR	RECREATION ROOM	NON-ACTIVE	510
L3.3	SITE C INTERIOR AMENITY	PET GROOMING	PRIVATE PET AMENITY	ACTIVE	306
L3.4	SITE C INTERIOR AMENITY	CLUB ROOM	COMMUNITY ROOM	NON-ACTIVE	1,124
L3.4	SITE C INTERIOR AMENITY	FITNESS ROOM	RECREATION ROOM	NON-ACTIVE	1,973
L3.5	SITE C INT/ EXT AMENITY	COVERED LOGGIA	COMMUNITY ROOM	NON-ACTIVE	1,929
L3.6	SITE C EXTERIOR AMENITY	POOL COURTYARD	SWIMMING POOL	NON-ACTIVE	6,810
L3.7	SITE C EXTERIOR AMENITY	COURTYARD	PICNIC AREA	ACTIVE	2,181
L3.8	SITE C EXTERIOR AMENITY	SKY DECK	COMMUNITY ROOM	NON-ACTIVE	1,150
L4.2	SITE D INTERIOR AMENITY	GAME ROOM	RECREATION ROOM	NON-ACTIVE	240
L4.2	SITE D INTERIOR AMENITY	PARTY ROOM	COMMUNITY ROOM	NON-ACTIVE	240
L4.3	SITE D INTERIOR AMENITY	CLUB ROOM	COMMUNITY ROOM	NON-ACTIVE	944
L4.4	SITE D EXTERIOR AMENITY	FITNESS COURTYARD	RECREATION ROOM	NON-ACTIVE	959
L4.5	SITE D EXTERIOR AMENITY	COURTYARD	PICNIC AREA	ACTIVE	1,372
TOTAL AREA - S.F.					62,477

Hanover Company will be responsible for the ownership, operation, and maintenance of all onsite amenities in the apartment building unless and until the project is sold.

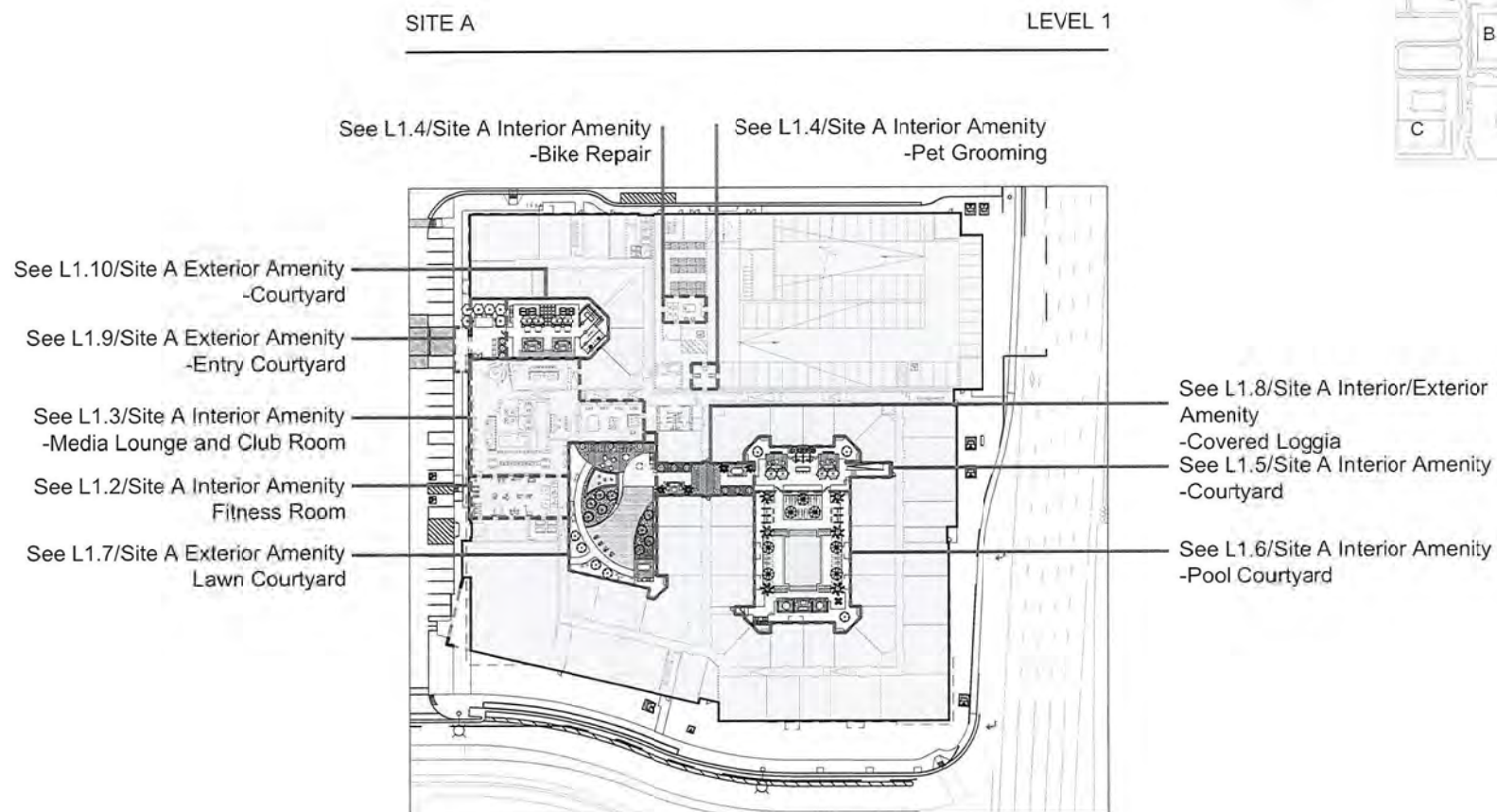
NON-ACTIVE ELEMENT AREAS	52,317 SF
ACTIVE ELEMENT AREAS	10,160 SF

ELEMENT DETAILS MATRIX L0.1A



SITE MAP / LEGEND L0.2

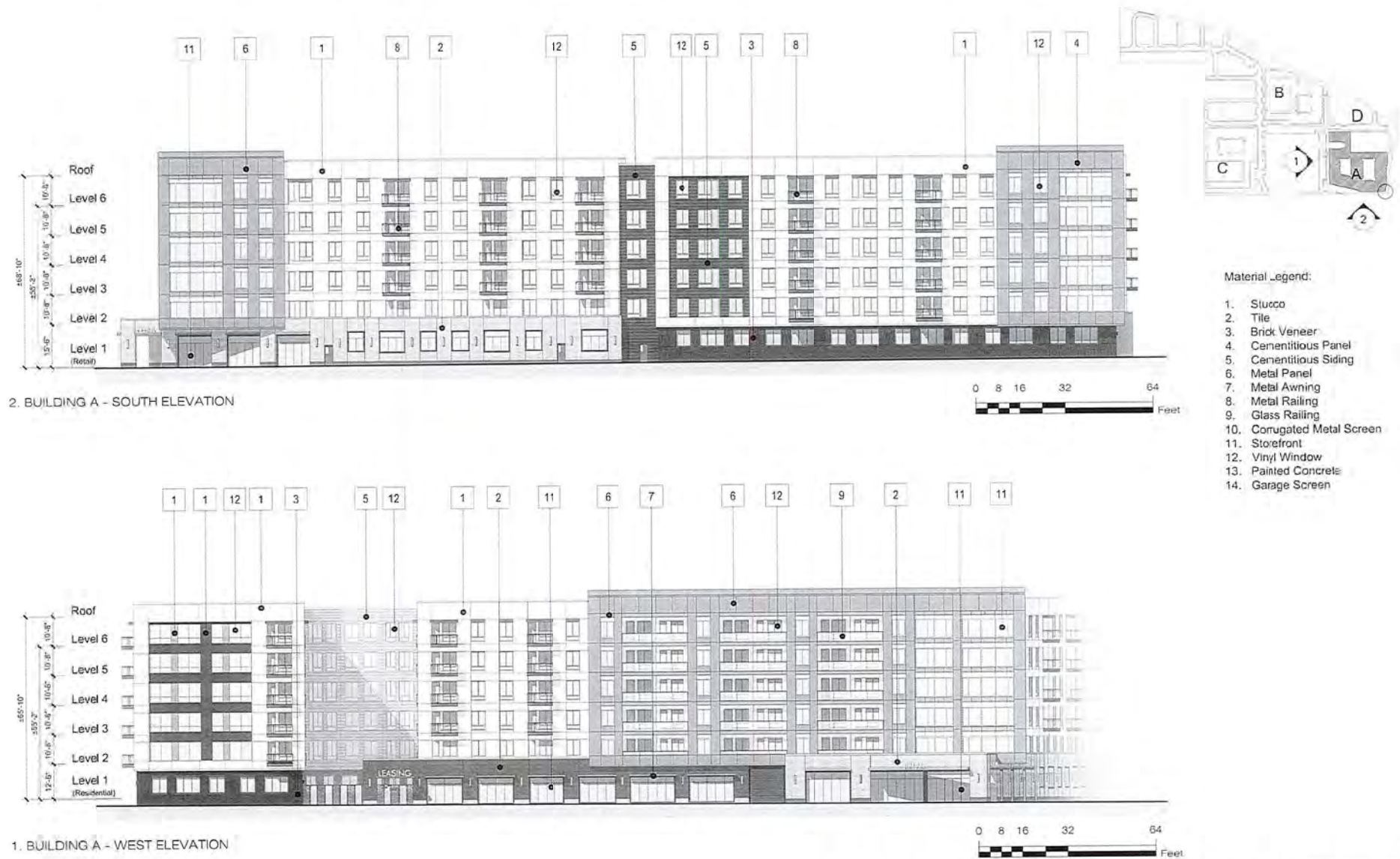




SITE A KEY PLAN L1.0



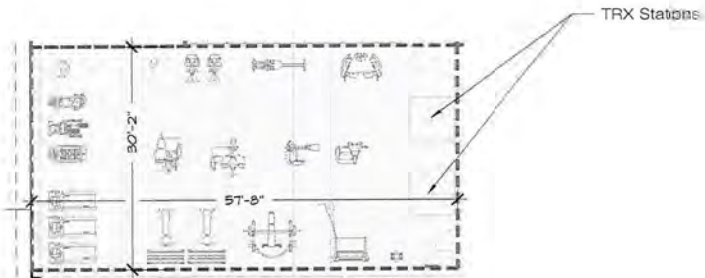
## Exhibit D – Private Recreation Credits





SITE A

LEVEL 1



Amenity: Fitness Room  
Total Area: 1,738 SF  
Classification: Non-Active | Recreation Room  
Access: Open To Residents  
Maintenance: Residential Building Owner

Recreational Benefit To Residents:

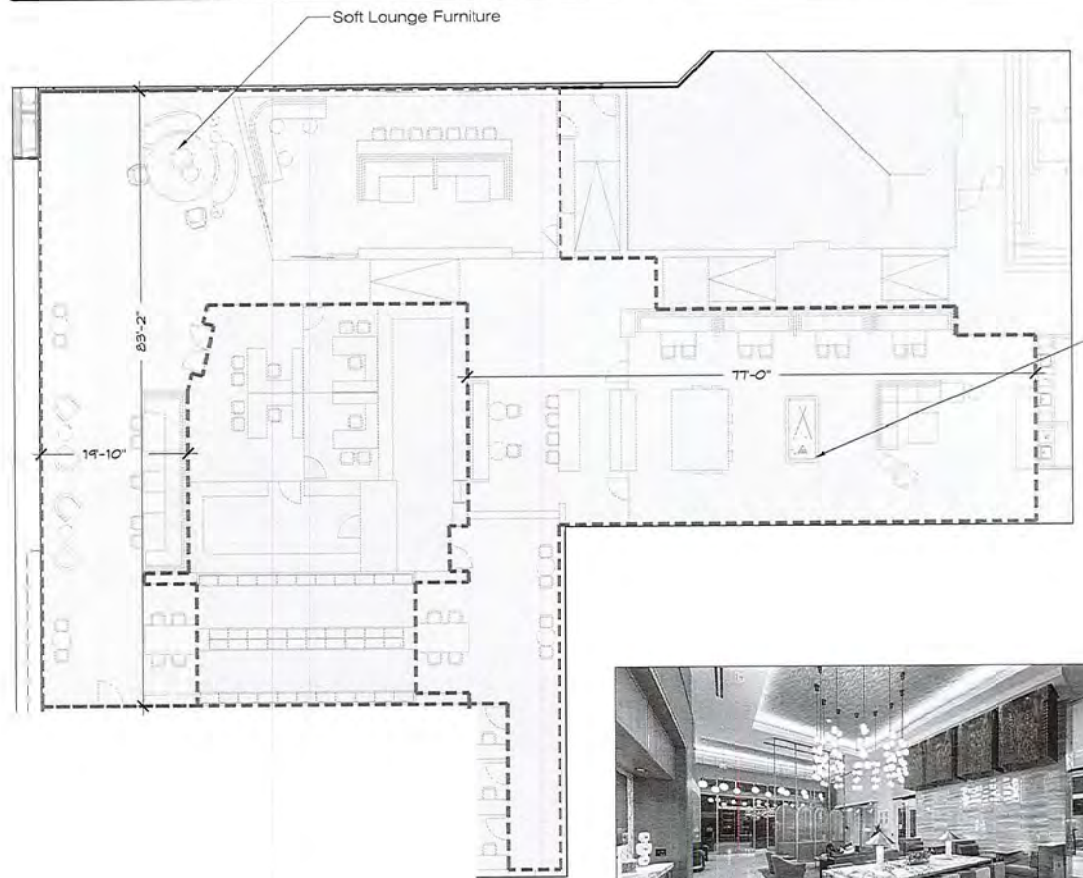
The Fitness Room is an indoor recreation space allowing residents the opportunity to exercise and enjoy other fitness activities on a wide range of stationary and moveable equipment.



INTERIOR AMENITY SITE A L1.2

SITE A

LEVEL 1



**Amenity:** Media Lounge and Club Room  
**Total Area:** 6,030 SF  
**Classification:** Non-Active | Community Room  
**Access:** Open To Residents  
**Maintenance:** Residential Building Owner

**Recreational Benefit To Residents:**

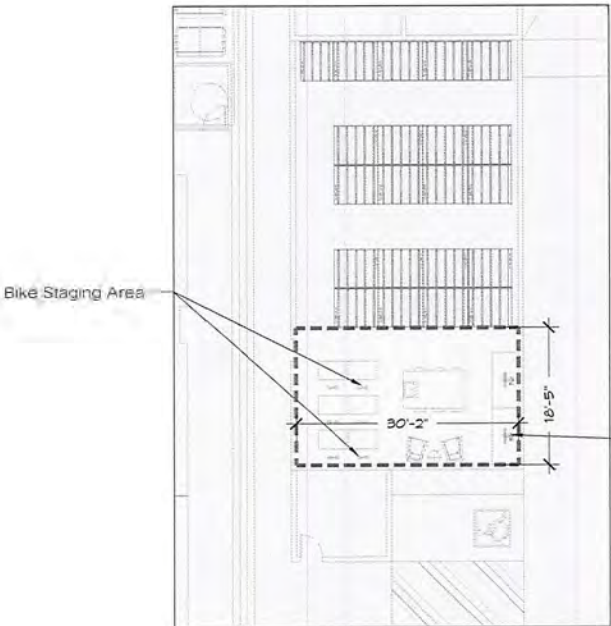
The club space features a wide variety of amenities including a media lounge, social spaces, dining spaces, and gaming spaces. This area is intended as a place for residents to sit, relax, socialize, collaborate, and watch movies or the big game. There is a diverse offering of seating options to accommodate various groups.



INTERIOR AMENITY SITE A L1.3

SITE A

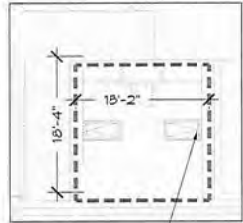
LEVEL 1



**Amenity:** Bike Repair  
**Total Area:** 555 SF  
**Classification:** Non-Active | Recreation Room  
**Access:** Open To Residents  
**Maintenance:** Residential Building Owner

**Recreational Benefit To Residents:**  
The Bike Repair Room provides a space where residents can work on their bikes doing regular maintenance or repairs. It also provides a social space for residents with shared interests.

Bicycle Repair and Cleaning Rack



**Amenity:** Pet Grooming  
**Total Area:** 333 SF  
**Classification:** Active | Private Pet Amenity  
**Access:** Open To Residents  
**Maintenance:** Residential Building Owner

**Recreational Benefit To Residents:**  
The Pet Grooming Spa provides a social space for residents to clean and care for their pets. This space includes 2 sets of washing and grooming stations.

Pot Wash Basins

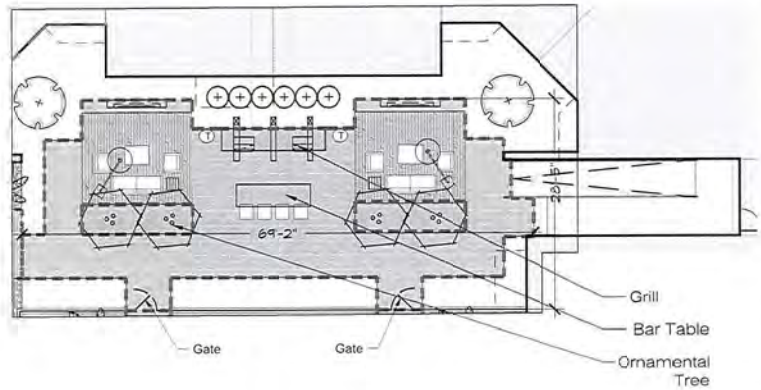


INTERIOR AMENITY SITE A L1.4



SITE A

LEVEL 1



Amenity: Courtyard

Total Area: 1,325 SF

Classification: Non-Active | Community Room

Access: Open To Residents

Maintenance: Residential Building Owner

**Recreational Benefit To Residents**

The outdoor courtyard provides a social space for residents apart from the pool experience. There are outdoor TV's, soft furniture groups, grills, and counter seating. A variety of activities can take place in this space and multiple user groups can utilize it simultaneously.

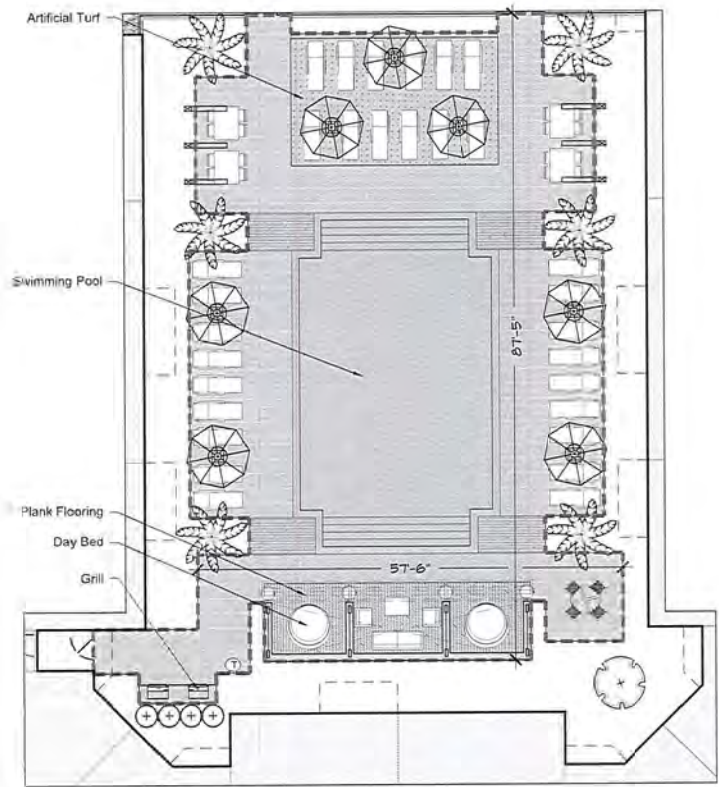


EXTERIOR AMENITY SITE A L1.5



SITE A

LEVEL 1



Amenity: Pool Courtyard  
Total Area: 4,596 SF  
Classification: Non-Active | Swimming Pool  
Access: Open To Residents  
Maintenance: Residential Building Owner

Recreational Benefit To Residents:

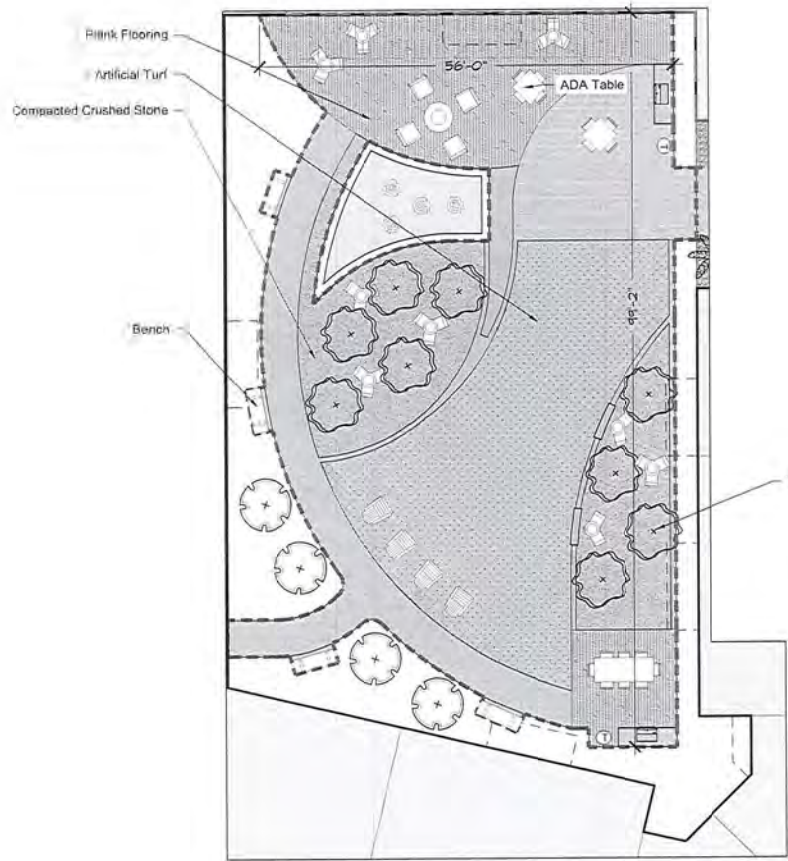
This outdoor courtyard provides a pool for residents to utilize and enjoy. It contains a variety of seating, both covered and uncovered, including chaise lounge chairs, day beds, soft furniture, and tables and chairs. Grills are also included in this space as a complimentary amenity to the pool.



EXTERIOR AMENITY SITE A L1.6

SITE A

LEVEL 1



Amenity: Lawn Courtyard  
Total Area: 4,651 SF  
Classification: Active | Picnic Area  
Access: Open To Residents  
Maintenance: Residential Building Owner

Recreational Benefit To Residents:

This outdoor courtyard creates a flexible space that can be utilized by residents in various ways. There are two grills, various table sizes, soft furniture, and benches. There is a multi-purpose lawn, and a central water feature.

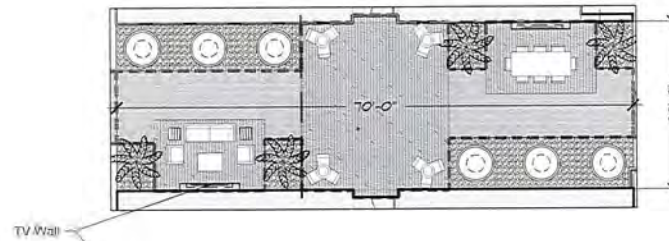


EXTERIOR AMENITY SITE A L1.7



SITE A

LEVEL 1



Amenity: Covered Loggia

Total Area: 1,134 SF

Classification: Non-Active | Community Room

Access: Open To Residents

Maintenance: Residential Building Owner

**Recreational Benefit To Residents:**

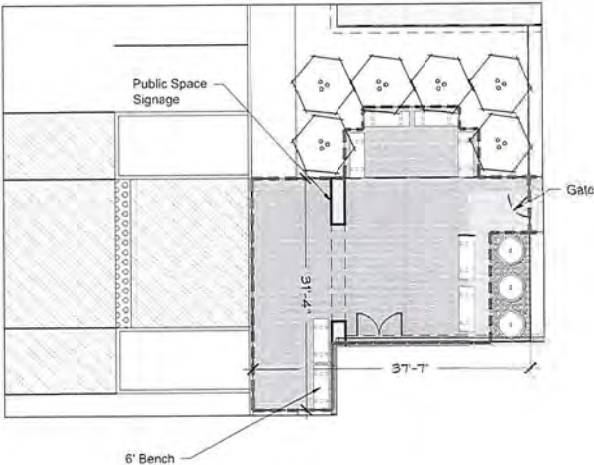
The two story volume covered loggia space provides a visual and physical connection between the lawn courtyard and the pool courtyard. This space includes outdoor dining, outdoor living, and televisions for entertainment. Residents can casually hang out in the space or host more formal events.



INTERIOR/EXTERIOR AMENITY SITE A L1.8

SITE A

LEVEL 1



Amenity: Entry Courtyard  
Total Area: 1009 SF  
Classification: Active | Private Garden  
Access: Open To The Public  
Maintenance: Residential Building Owner

Private Garden Seating Requirement:  
Amenity Perimeter = 160'  
Seating Perimeter Equal to 30% of Perimeter = 48'  
Seating Provided:  
(8) 6' Benches=48'

Recreational Benefit To Residents:

The entry courtyard provides a peaceful place for residents to sit and be introspective. There are a number of benches, decorative pots, and generous landscaping adjacent. It also provides direct access to the 2.5 acre park across the street.

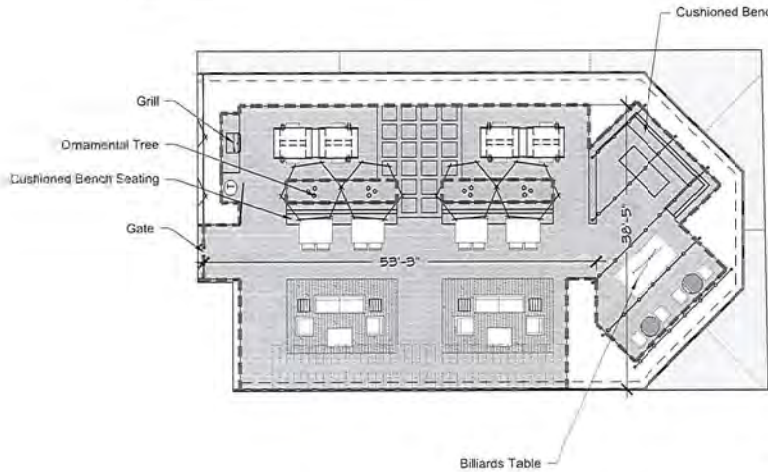


EXTERIOR AMENITY SITE A L1.9



SITE A

LEVEL 1

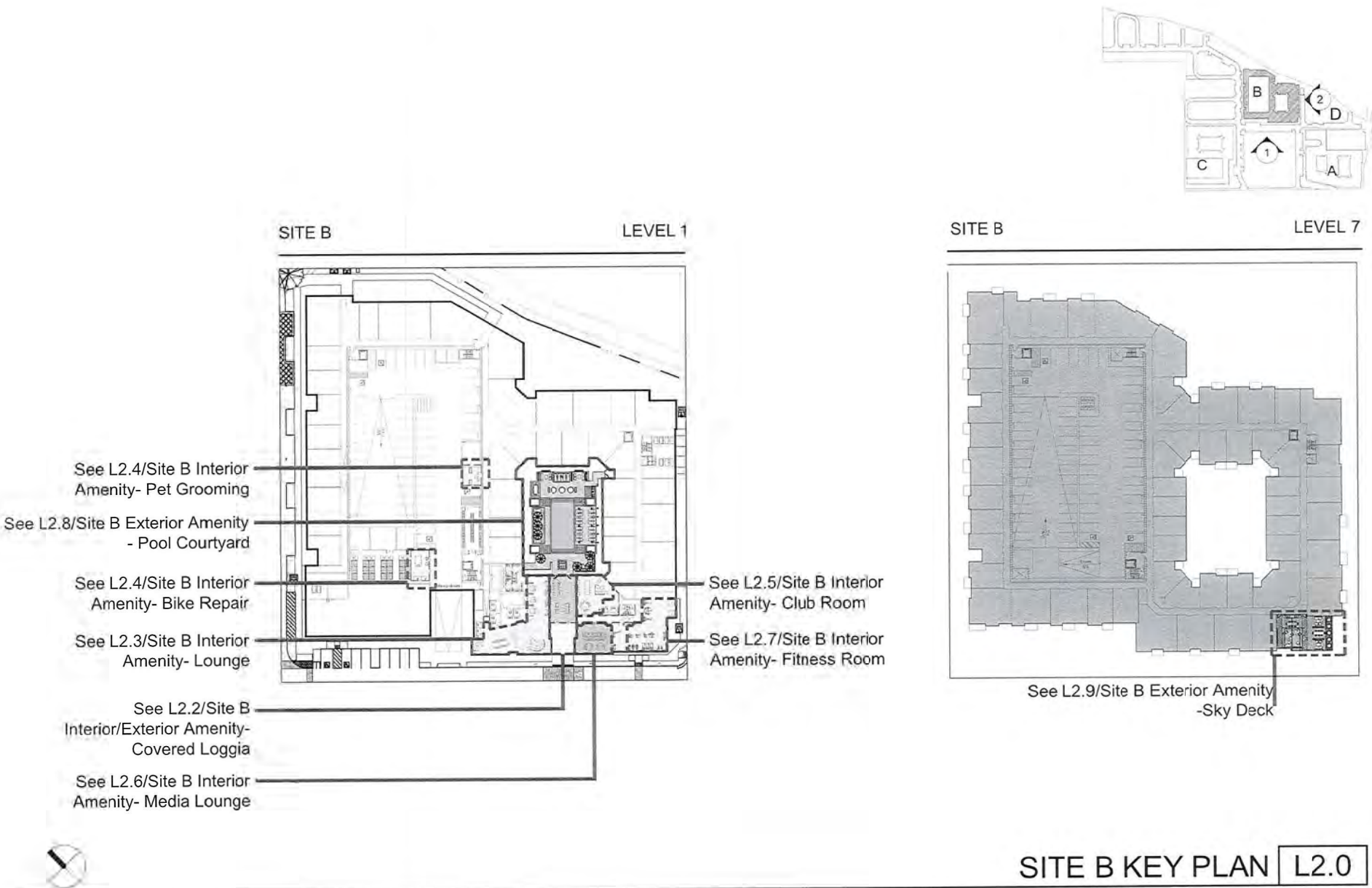


Amenity: Courtyard  
Total Area: 2168 SF  
Classification: Non-Active | Community Room  
Access: Open To Residents  
Maintenance: Residential Building Owner  
Recreational Benefit To Residents:

This outdoor courtyard offers a variety of uses and experiences. There are soft furniture groups that operate as an extension of the media room if the large sliding glass doors are opened. There are various table seating configurations for socializing and dining, and there is an area for outdoor gaming and entertainment. A grill has also been provided in this space so that residents can prepare food.

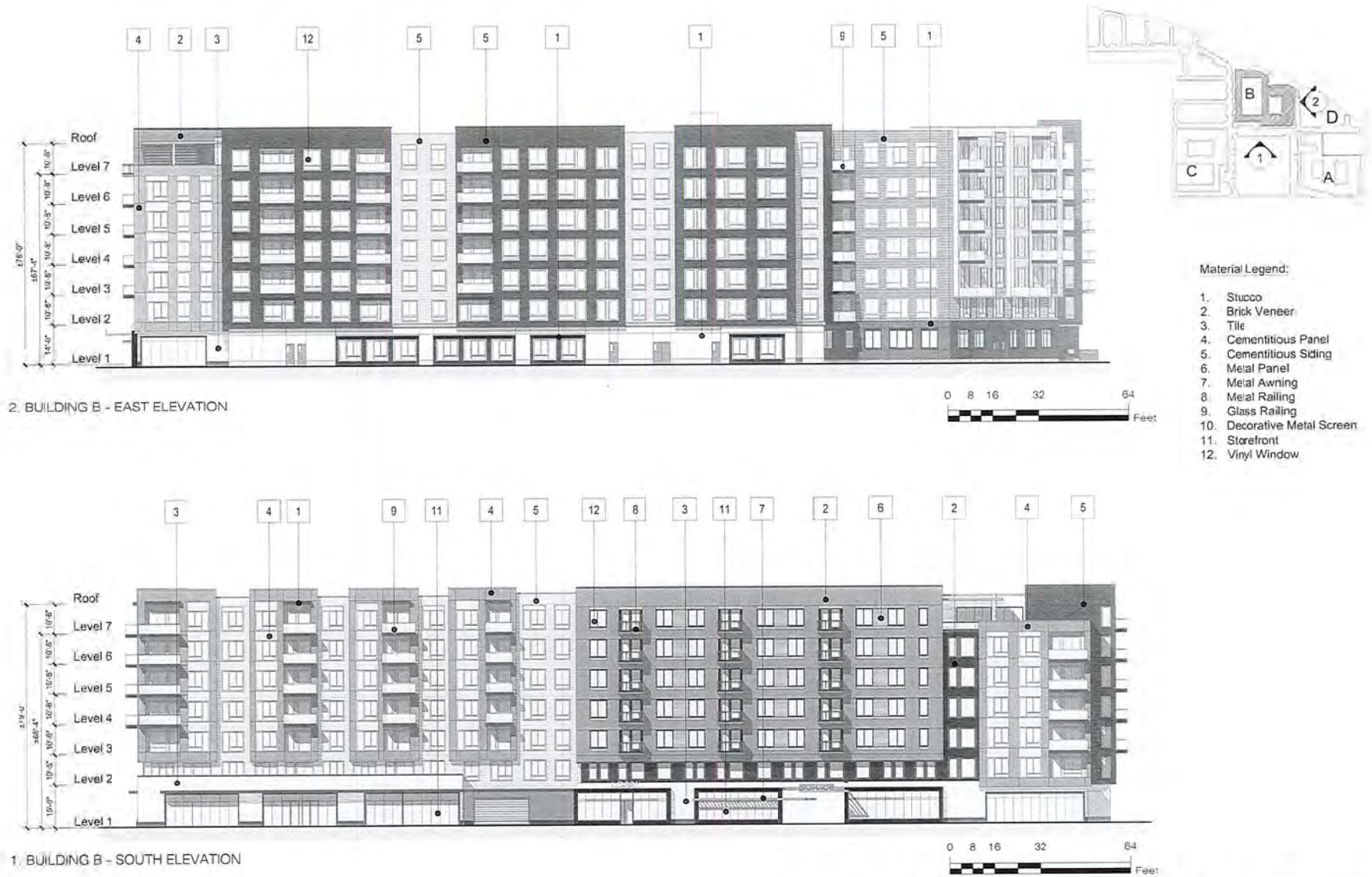


EXTERIOR AMENITY SITE A L1.10





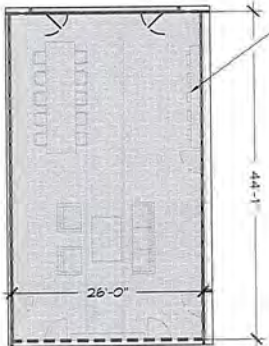
# Exhibit D – Private Recreation Credits



BUILDING ELEVATIONS SITE B L2.1

SITE B

LEVEL 1



Indoor/Outdoor  
Bar With Pass  
Through

**Amenity:** Covered loggia  
**Total Area:** 1,146 SF  
**Classification:** Non-Active | Community Room  
**Access:** Open To Residents  
**Maintenance:** Residential Building Owner

**Recreational Benefit To Residents:**

The single story volume covered loggia space connects the interior amenity spaces to the pool courtyard. This space includes outdoor dining, outdoor living, and a pass through to the adjacent interior amenity space. Residents can casually hang out in the space or host more formal events.

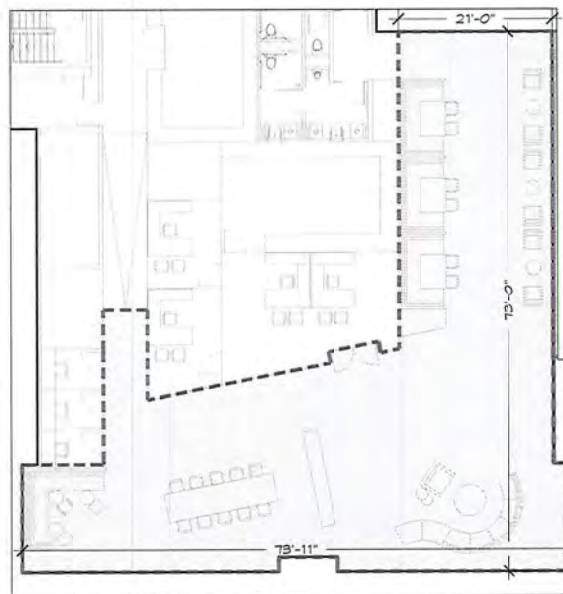


INTERIOR/EXTERIOR AMENITY SITE B L2.2



SITE B

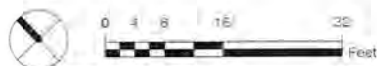
LEVEL 1



Amenity: Lounge  
 Total Area: 2,833 SF  
 Classification: Non-Active | Community Room  
 Access: Open To Residents  
 Maintenance: Residential Building Owner

**Recreational Benefit To Residents:**

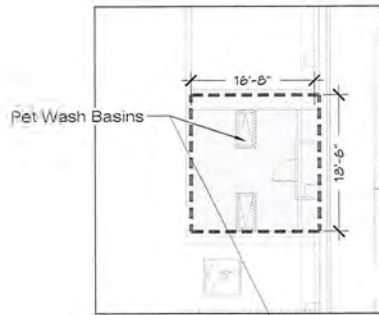
This interior amenity provides a variety seating options at varying scales to accommodate different groups simultaneously. It is intended to be a place for gathering and socializing.



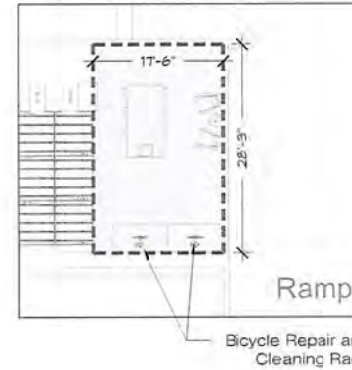
INTERIOR AMENITY SITE B L2.3

SITE B

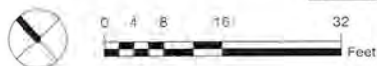
LEVEL 1



**Amenity:** Pet Grooming  
**Total Area:** 308 SF  
**Classification:** Active | Private Pet Amenity  
**Access:** Open To Residents  
**Maintenance:** Residential Building Owner  
**Recreational Benefit To Residents:**  
 The Pet Grooming Spa provides a social space for residents to clean and care for their pets. This space includes 2 sets of washing and grooming stations.



**Amenity:** Bike Repair  
**Total Area:** 495 SF  
**Classification:** Non-Active | Recreation Room  
**Access:** Open To Residents  
**Maintenance:** Residential Building Owner  
**Recreational Benefit To Residents:**  
 The Bike Repair Room provides a space where residents can work on their bikes doing regular maintenance or repairs. It also provides a social space for residents with shared interests.

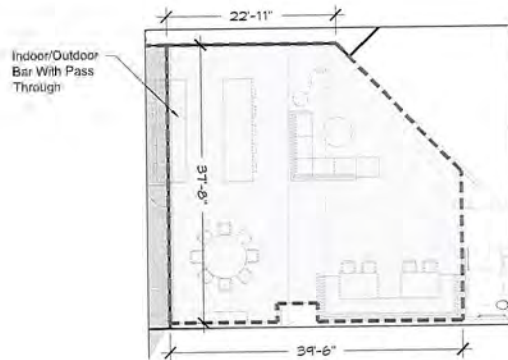


INTERIOR AMENITY SITE B L2.4

## Exhibit D – Private Recreation Credits

SITE B

LEVEL 1



Amenity: Club Room

Total Area: 1,330 SF

Classification: Non-Active | Community Room

Access: Open To Residents

Maintenance: Residential Building Owner

### Recreational Benefit To Residents:

The club space features a wide variety of amenities including a group dining and soft furniture groups. This area is intended as a place for residents to sit, relax, socialize, collaborate, or host events. There is a diverse offering of seating options to accommodate various groups simultaneously.



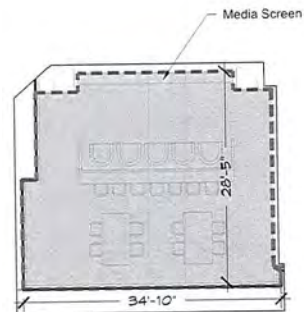
0 4 8 16 32 Feet

INTERIOR AMENITY SITE B L2.5



SITE B

LEVEL 1



**Amenity:** Media Lounge

**Total Area:** 925 SF

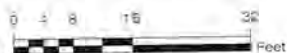
**Classification:** Non-Active | Community Room

**Access:** Open To Residents

**Maintenance:** Residential Building Owner

**Recreational Benefit To Residents:**

The media lounge is meant to be a multi-purpose viewing space. Beyond just movies this room has been designed to accommodate groups watching sporting events or hosting other gatherings. The terraced furniture ensure that everyone has an ideal viewing angle.

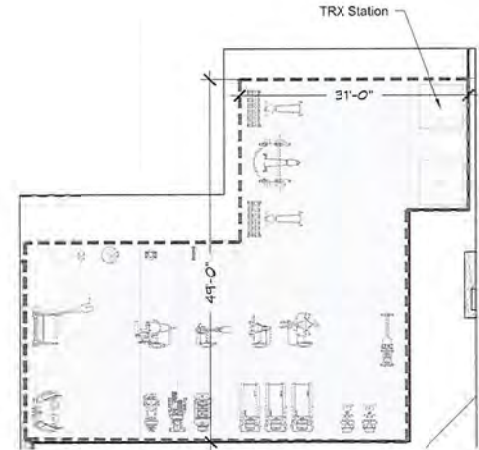


INTERIOR AMENITY SITE B L2.6



SITE B

LEVEL 1



Amenity: Fitness Room  
Total Area: 2,022 SF  
Classification: Non-Active | Recreation Room  
Access: Open To Residents  
Maintenance: Residential Building Owner

Recreational Benefit To Residents:

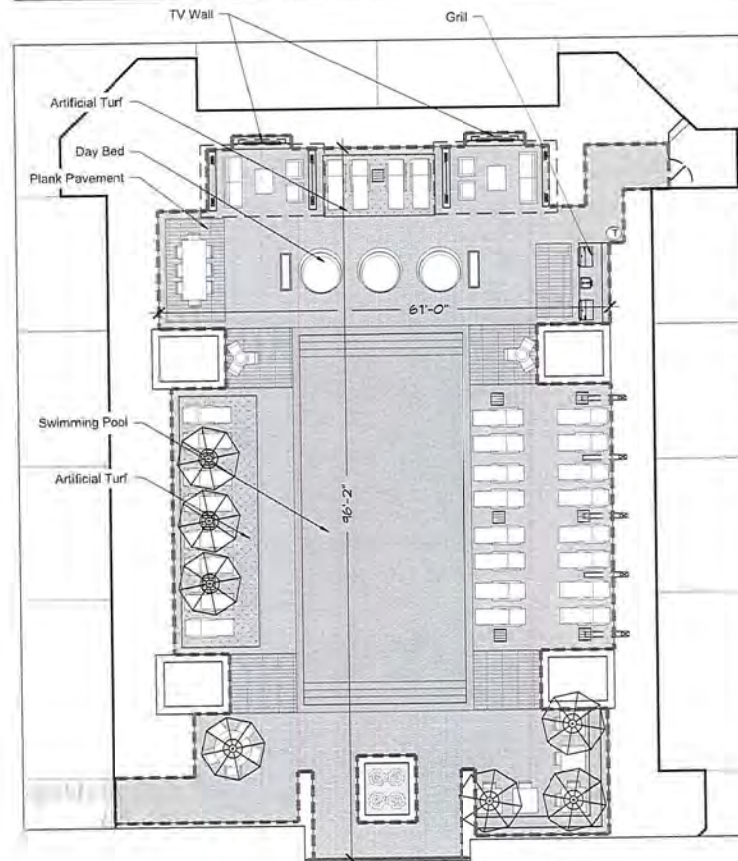
The Fitness Room is an indoor recreation space allowing residents the opportunity to exercise and enjoy other fitness activities on a wide range of stationery and moveable equipment.



INTERIOR AMENITY SITE B L2.7

SITE B

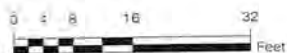
LEVEL 1



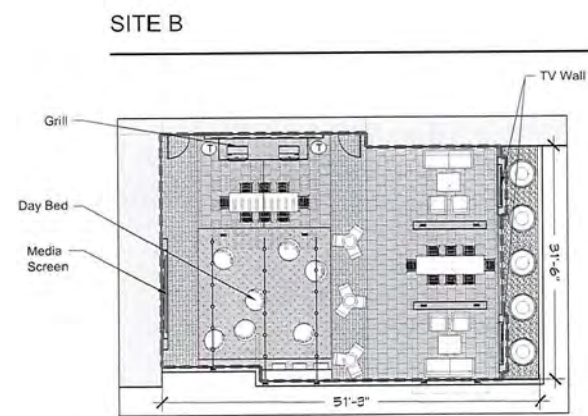
Amenity: Pool Courtyard  
 Total Area: 5,296 SF  
 Classification: Non-Active | Swimming Pool  
 Access: Open To Residents  
 Maintenance: Residential Building Owner

**Recreational Benefit To Residents:**

This outdoor courtyard provides a pool for residents to utilize and enjoy. It contains a variety of seating, both covered and uncovered, including chaise lounge chairs, day beds, soft furniture, and tables and chairs. Grills are also included in this space as a complimentary amenity to the pool.



EXTERIOR AMENITY SITE B L2.8



Amenity: Sky Deck

Total Area: 1,485 SF

Classification: Non-Active | Community Room

Access: Open To Residents

Maintenance: Residential Building Owner

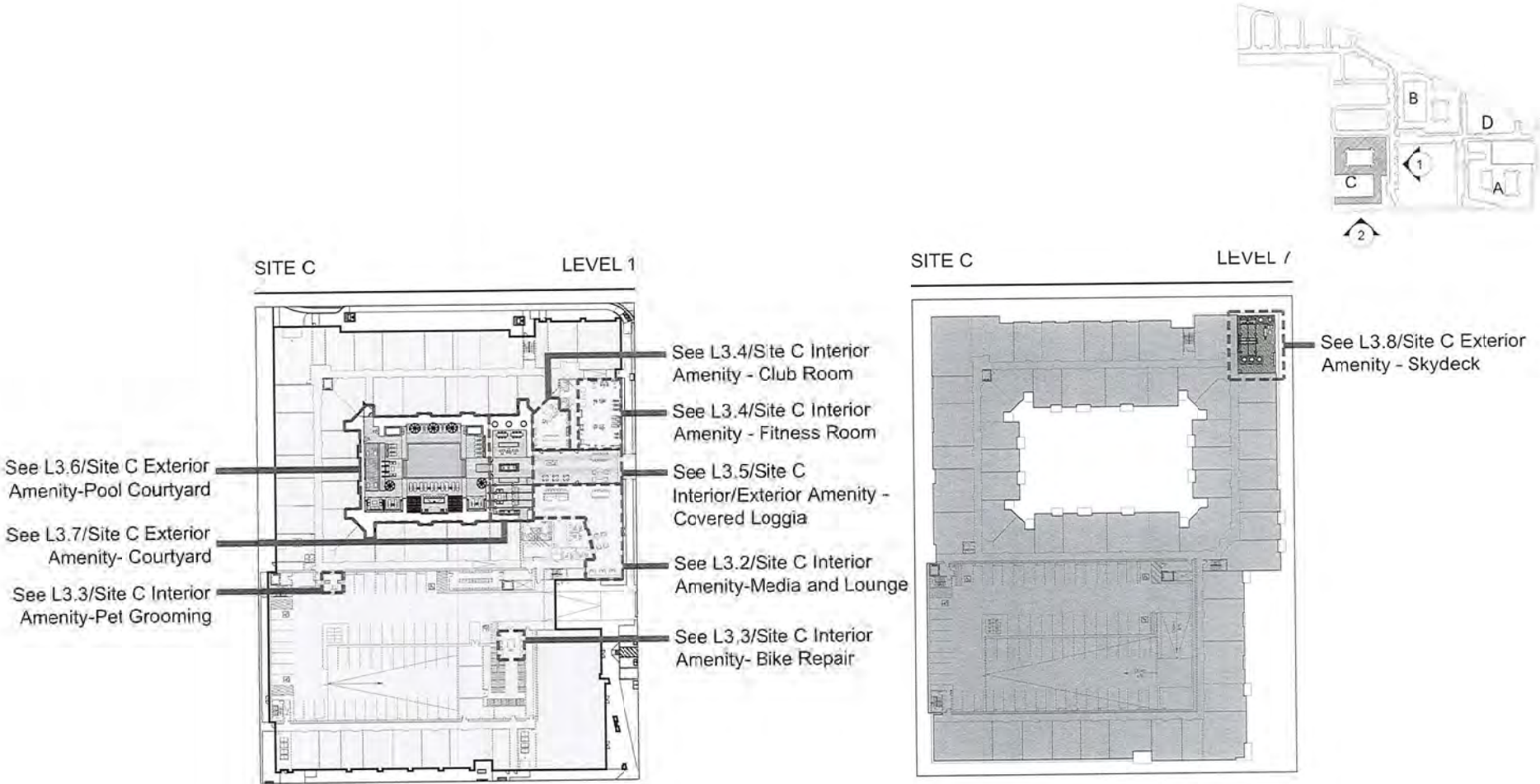
Recreational Benefit To Residents:

This outdoor terrace space provides residents an opportunity to entertain with a view. There are multiple shade structures, outdoor grills, outdoor dining, soft furniture and screening lawn adjacent to a large outdoor TV. This space is designed to hold several smaller groups or could accommodate a large event.



EXTERIOR AMENITY SITE B L2.9

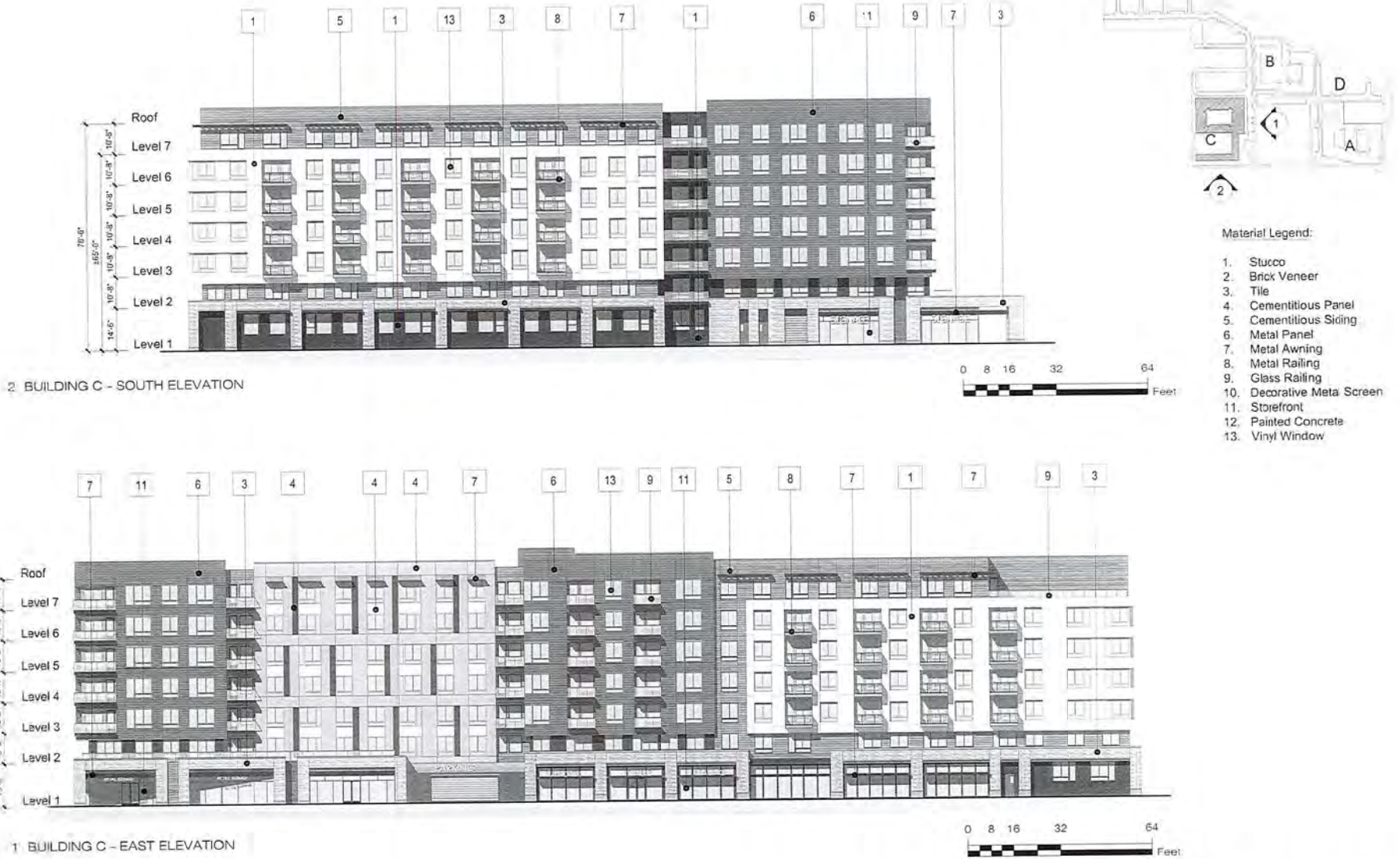




SITE C KEY PLAN L3.0



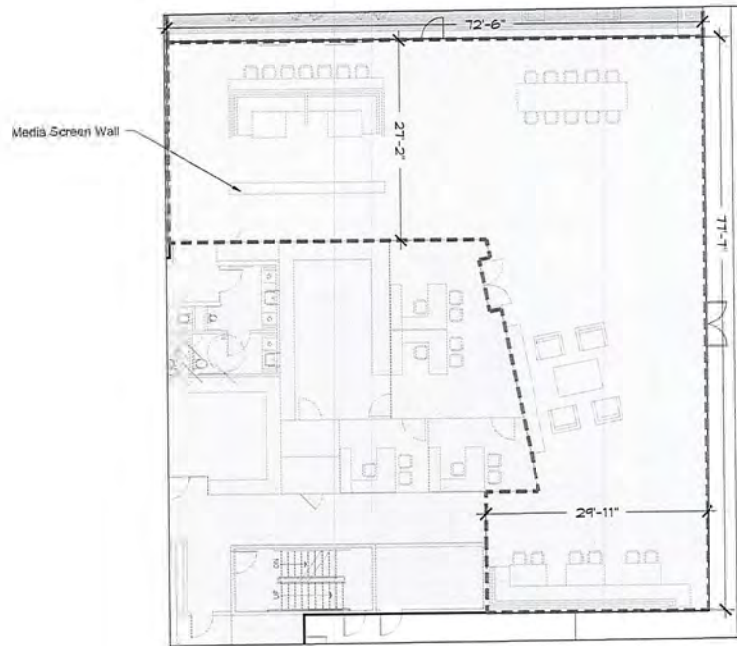
# Exhibit D – Private Recreation Credits



BUILDING ELEVATIONS SITE C L3.1

SITE C

LEVEL 1



Amenity: Media and Lounge  
Total Area: 3,360 SF

Classification: Non-Active | Community Room

Access: Open To Residents

Maintenance: Residential Building Owner

**Recreational Benefit To Residents:**

The club space includes a wide variety of amenities including a media room and a social lounge. This area is intended as a place for residents to sit, relax, socialize, collaborate, and watch movies or the big game. There is a wide variety of seating options to accommodate various groups.



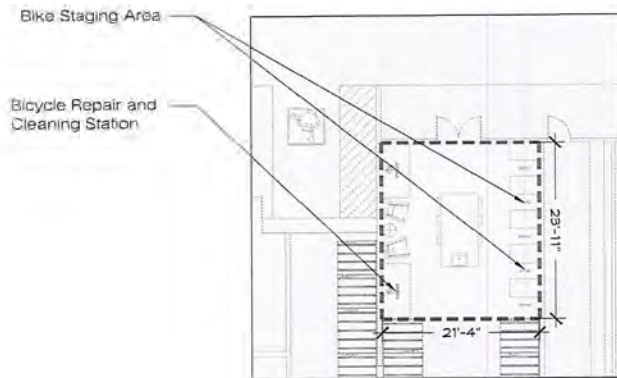
INTERIOR AMENITY SITE C L3.2



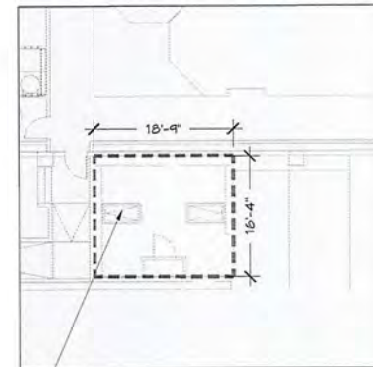


SITE C

LEVEL 1



**Amenity:** Bike Repair  
**Total Area:** 510 SF  
**Classification:** Non-Active | Recreation Room  
**Access:** Open To Residents  
**Maintenance:** Residential Building Owner  
**Recreational Benefit To Residents:**  
 The Bike Repair Room provides a space where residents can work on their bikes doing regular maintenance or repairs. It also provides a social space for residents with shared interests.



**Amenity:** Pet Grooming  
**Total Area:** 306 SF  
**Classification:** Active | Private Pet Amenity  
**Access:** Open To Residents  
**Maintenance:** Residential Building Owner  
**Recreational Benefit To Residents:**  
 The Pet Grooming Spa provides a social space for residents to clean and care for their pets. This space includes 2 sets of washing and grooming stations.

Pet Wash Basin



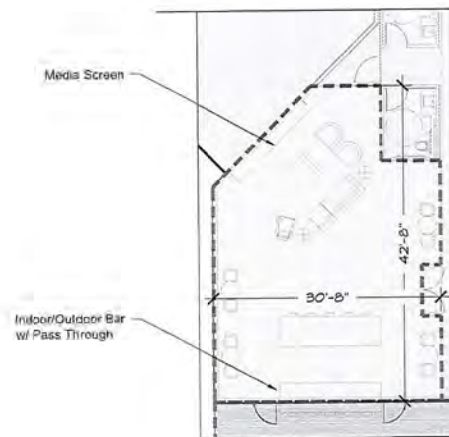
INTERIOR AMENITY SITE C L3.3



## Exhibit D – Private Recreation Credits

### SITE C

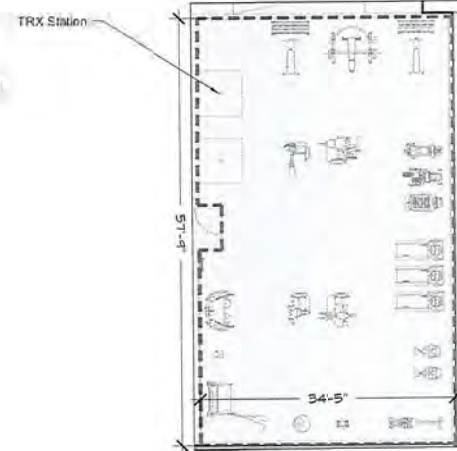
LEVEL 1



**Amenity:** Club Room  
**Total Area:** 1,124 SF  
**Classification:** Non-Active | Community Room  
**Access:** Open To Residents  
**Maintenance:** Residential Building Owner

#### Recreational Benefit To Residents:

The club space features a wide variety of amenities including a group dining and Lounge space. This area is intended as a place for residents to sit, relax, socialize, collaborate, or host events. There is a diverse offering of seating options to accommodate various groups as well as a pass-through dining space into the covered loggia.



**Amenity:** Fitness Room  
**Total Area:** 1,973 SF  
**Classification:** Non-Active | Recreation Room  
**Access:** Open To Residents  
**Maintenance:** Residential Building Owner

#### Recreational Benefit To Residents:

The Fitness Room is an indoor recreation space allowing residents the opportunity to exercise and enjoy other fitness activities on a wide range of stationery and moveable equipment.



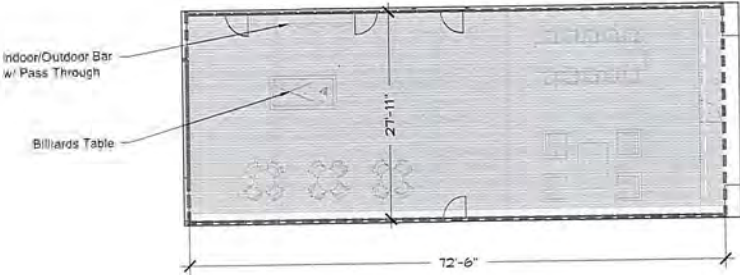
0 8 16 32 Feet

INTERIOR AMENITY SITE C L3.4



SITE C

LEVEL 1



Amenity: Covered Loggia  
Total Area: 1,929 SF  
Classification: Non-Active | Community Room  
Access: Open To Residents  
Maintenance: Residential Building Owner  
Recreational Benefit To Residents:

The single story volume covered loggia space connects the interior amenity spaces to the pool courtyard. This space includes outdoor dining, outdoor living, and a pass through to the adjacent interior amenity space. Residents can casually hang out in the space or host more formal events.

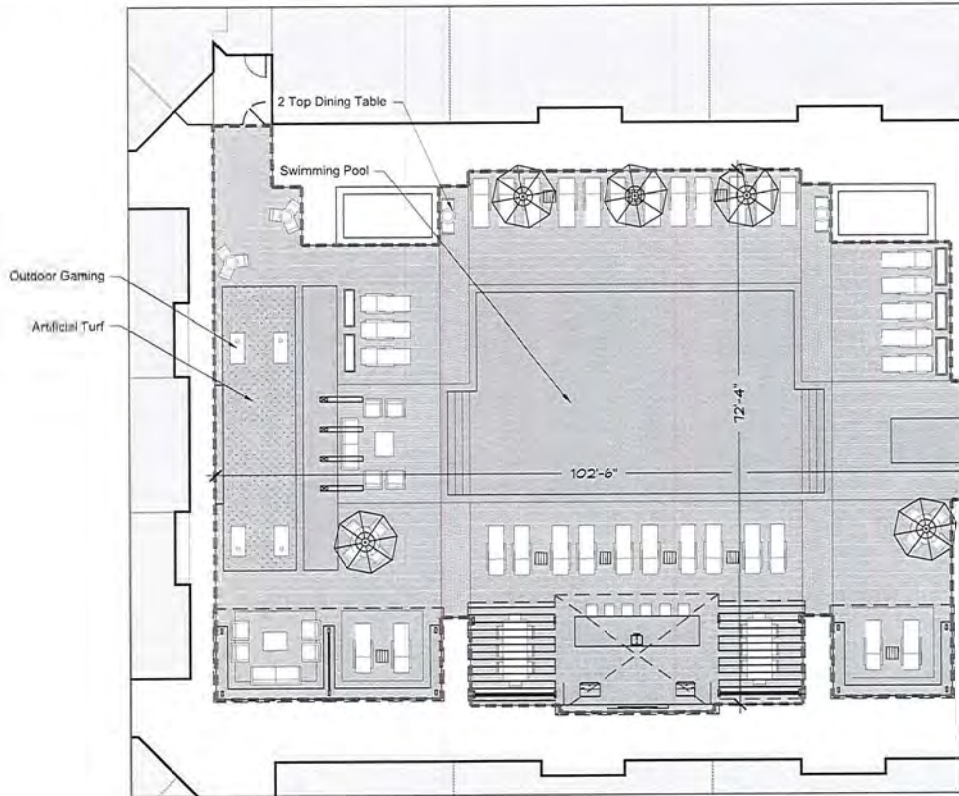


INTERIOR/EXTERIOR AMENITY SITE C L3.5

SITE C

LEVEL 1

SWIMMING POOL  
6,810 S.F.



Amenity: Pool Courtyard  
Total Area: 6,310 SF  
Classification: Non-Active | Swimming Pool  
Access: Open To Residents  
Maintenance: Residential Building Owner

**Recreational Benefit To Residents:**

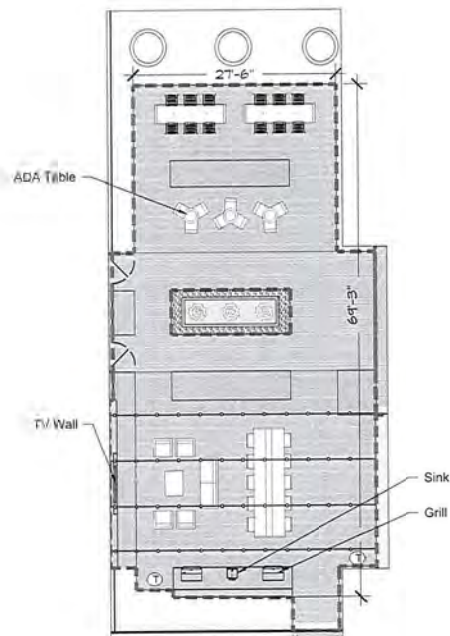
This outdoor courtyard provides a pool for residents to utilize and enjoy. It contains a variety of seating, both covered and uncovered, including chaise lounge chairs, soft furniture, and tables and chairs. There is a gaming lawn and grills are also included in this space as a complimentary amenity to the pool.



EXTERIOR AMENITY SITE C L3.6

SITE C

LEVEL 1



Amenity: Courtyard  
 Total Area: 2,181 SF  
 Classification: Active | Picnic Area  
 Access: Open To Residents  
 Maintenance: Residential Building Owner

Recreational Benefit To Residents:

This outdoor courtyard space provides an area for residents to cook, gather, relax, and eat. There are a number of different table configurations intended to accommodate outdoor dining and gaming. There are grills and soft furniture with a television focal wall. The central fountain helps to create separate zones for multiple groups and provides some background noise to enhance the user experience.



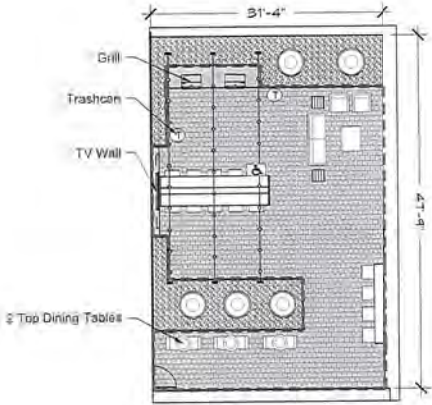
EXTERIOR AMENITY SITE C L3.7





SITE C

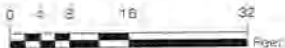
LEVEL 7



Amenity: Sky Deck  
Total Area: 1,150 SF  
Classification: Non-Active | Community Room  
Access: Open To Residents  
Maintenance: Residential Building Owner

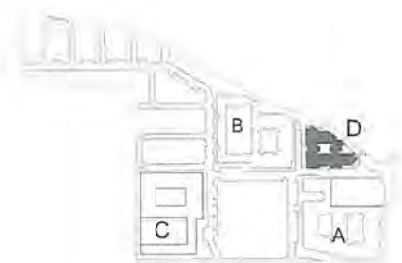
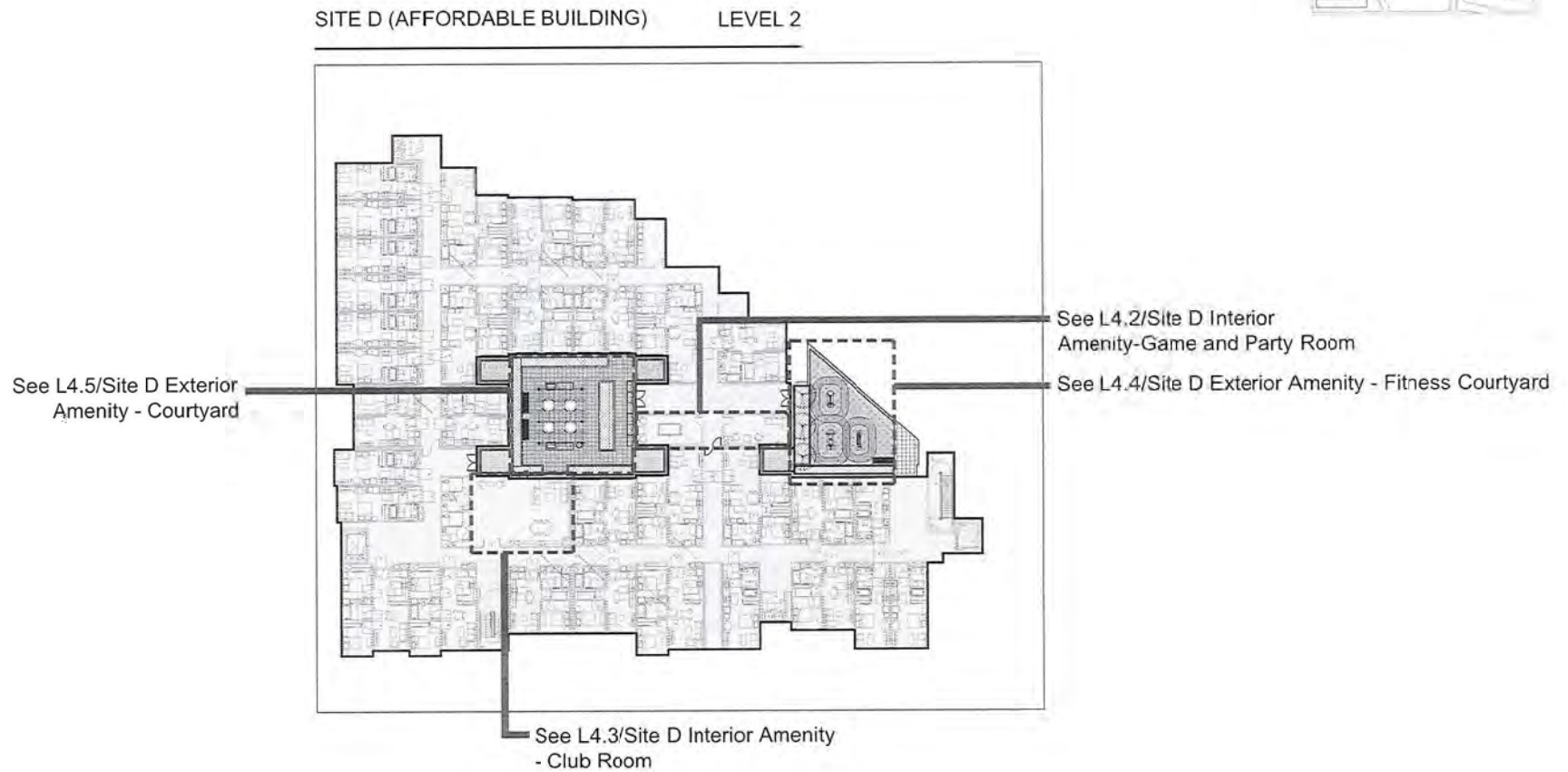
Recreational Benefit To Residents:

This rooftop terrace space offers residents the opportunity to entertain with a view. Outdoor grills are provided adjacent to a large outdoor dining table and additional seating taking advantage of the view.



EXTERIOR AMENITY SITE C L3.8





SITE D (AFFORDABLE BUILDING) KEY PLAN L4.0

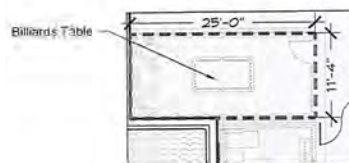
# Exhibit D – Private Recreation Credits



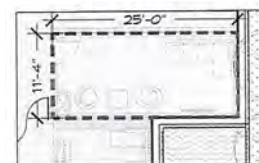
BUILDING ELEVATIONS SITE D L4.1

SITE D

LEVEL 2



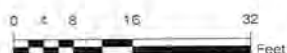
**Amenity:** Game Room  
**Total Area:** 240 SF  
**Classification:** Non-Active | Recreation Room  
**Access:** Open To Residents  
**Maintenance:** Residential Building Owner  
**Recreational Benefit To Residents:**  
 The game room is an intimate gathering space for residents to meet up or host smaller groups and play a variety of games.



**Amenity:** Party Room  
**Total Area:** 240 SF  
**Type:** Non-Active | Community Room  
**Access:** Open To Residents  
**Maintenance:** Residential Building Owner  
**Recreational Benefit To Residents:**  
 The party room is an additional social space for residents to gather, meet up, or host smaller events.



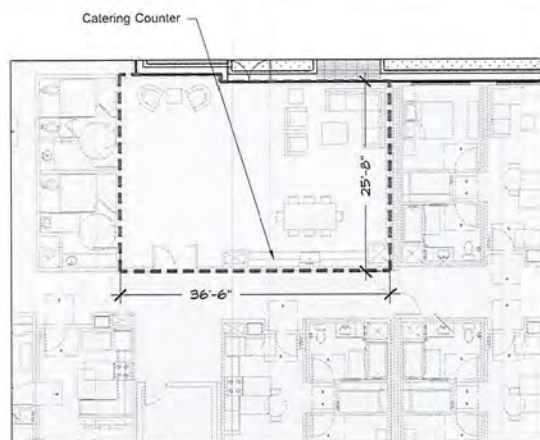
INTERIOR AMENITY SITE D L4.2





SITE D

LEVEL 2



**Amenity:** Club Room  
**Total Area:** 944 SF  
**Type:** Non-Active | Community Room  
**Access:** Open To Residents  
**Maintenance:** Residential Building Owner

**Recreational Benefit To Residents:**

The community space features a variety of seating areas for flexible uses as well as restrooms for residents. This area is meant to be a gathering space for residents to relax, sit, dine, and entertain.



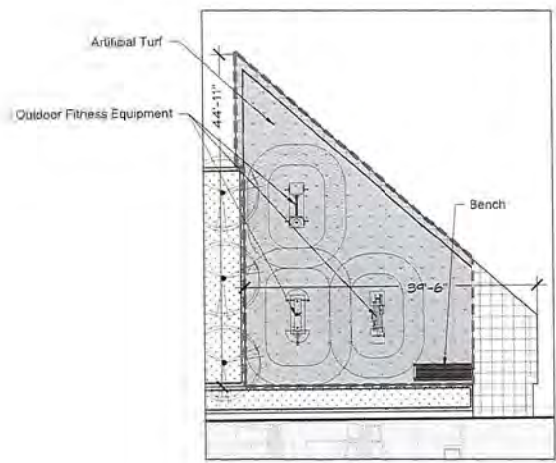
INTERIOR AMENITY SITE D L4.3





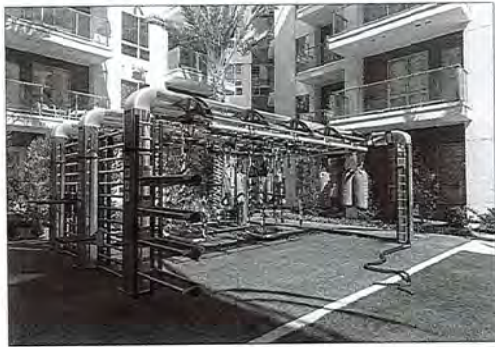
SITE D

LEVEL 2



Amenity: Fitness Courtyard  
Total Area: 959 SF  
Type: Non-Active | Recreation Room  
Access: Open To Residents  
Maintenance: Residential Building Owner

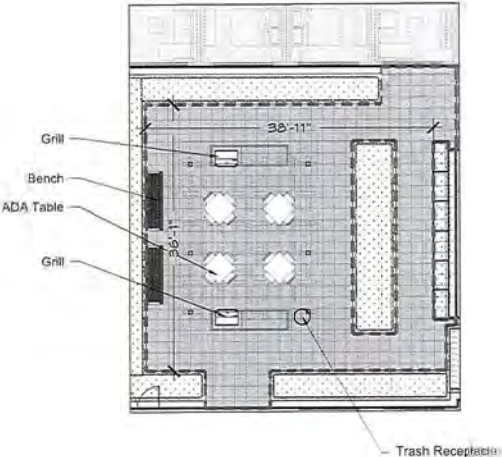
Recreational Benefit To Residents:  
The outdoor fitness courtyard gives residents the opportunity to work out on a number of outdoor fitness equipment machines or utilize the artificial turf for body weight exercises.



EXTERIOR AMENITY SITE D L4.4

SITE D

LEVEL 2



Amenity: Courtyard  
Total Area: 1,372 SF  
Type: Active | Picnic Area  
Access: Open To Residents  
Maintenance: Residential Building Owner

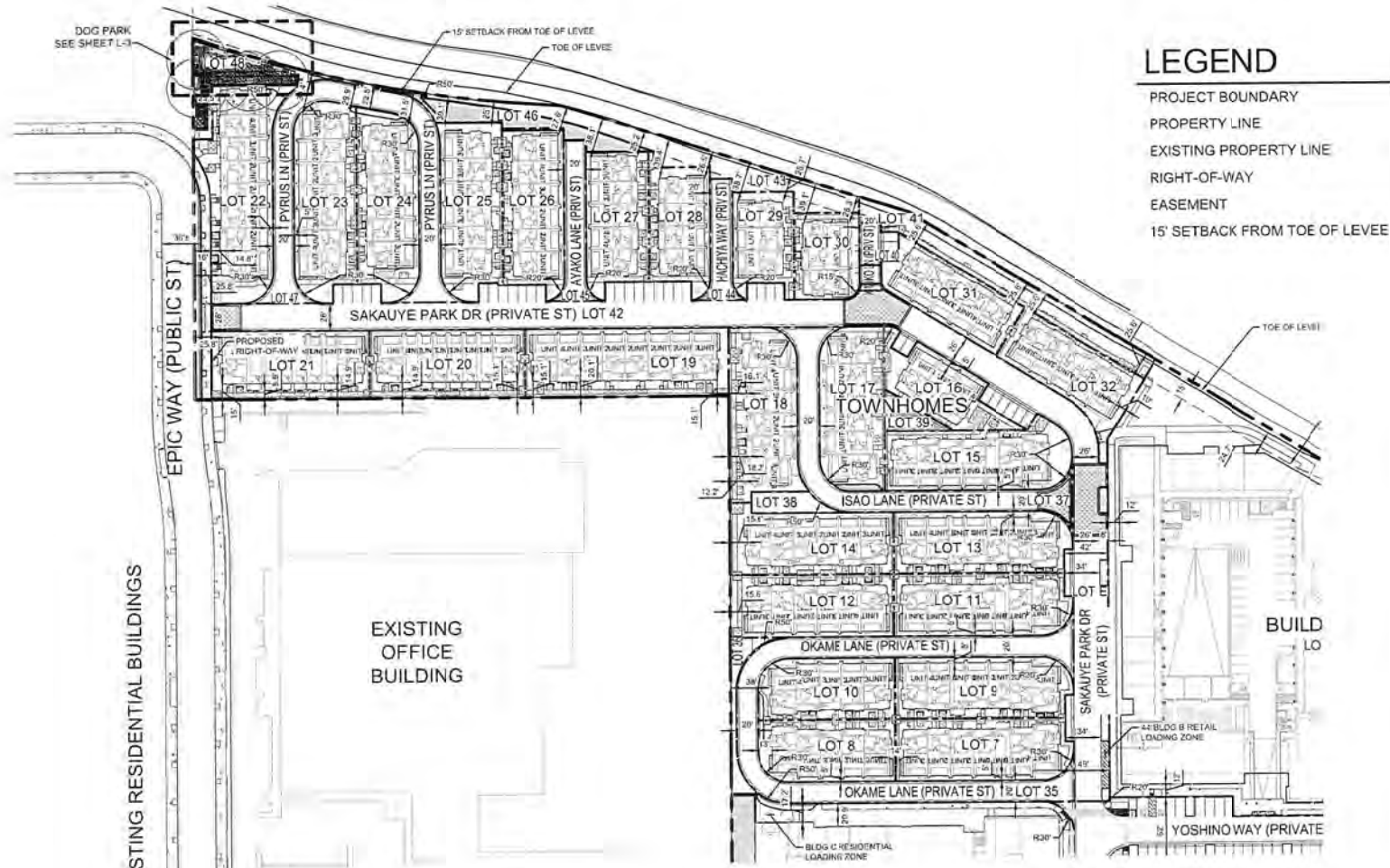
Recreational Benefit To Residents:  
This outdoor courtyard serves as a picnic area for residents. It has two grills, tables, and benches under a shade pergola. Landscaping softens the perimeter of the space.



EXTERIOR AMENITY SITE D L4.5

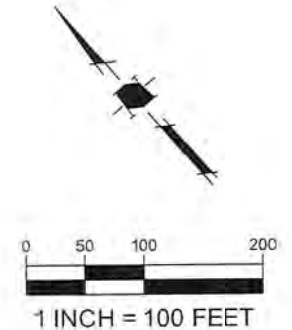
0 SEELY AVENUE  
SAN JOSE, CA

SUMMERHILL HOMES



## LEGEND

- PROJECT BOUNDARY
- PROPERTY LINE
- EXISTING PROPERTY LINE
- RIGHT-OF-WAY
- EASEMENT
- 15' SETBACK FROM TOE OF LEVEE



P3: SITE PLAN

EXHIBIT A- PRIVATE RECREATION CREDITS APPLICATION  
DECEMBER 15, 2023

PLOTTED: 1/17/2024 11:40 AM S:\PROJECTS\600600\PLPARK REC CREDIT APP\600600SP.DWG





0 SEELY AVENUE  
SAN JOSE, CA

SUMMERHILL HOMES

- EXTERIOR MATERIALS
- 1. COMPOSITION SHINGLE ROOFING
  - 2. STUCCO (LACE FINISH)
  - 3. FIBER CEMENT SIDING
  - 4. STEEL & WOOD RAILING & SCREEN WALLS
  - 5. INSULATED VINYL WINDOWS
  - 6. FIBERGLASS FRONT DOOR
  - 7. SECTIONAL ROLL-UP GARAGE DOOR
  - 8. EXTERIOR LIGHT FIXTURE

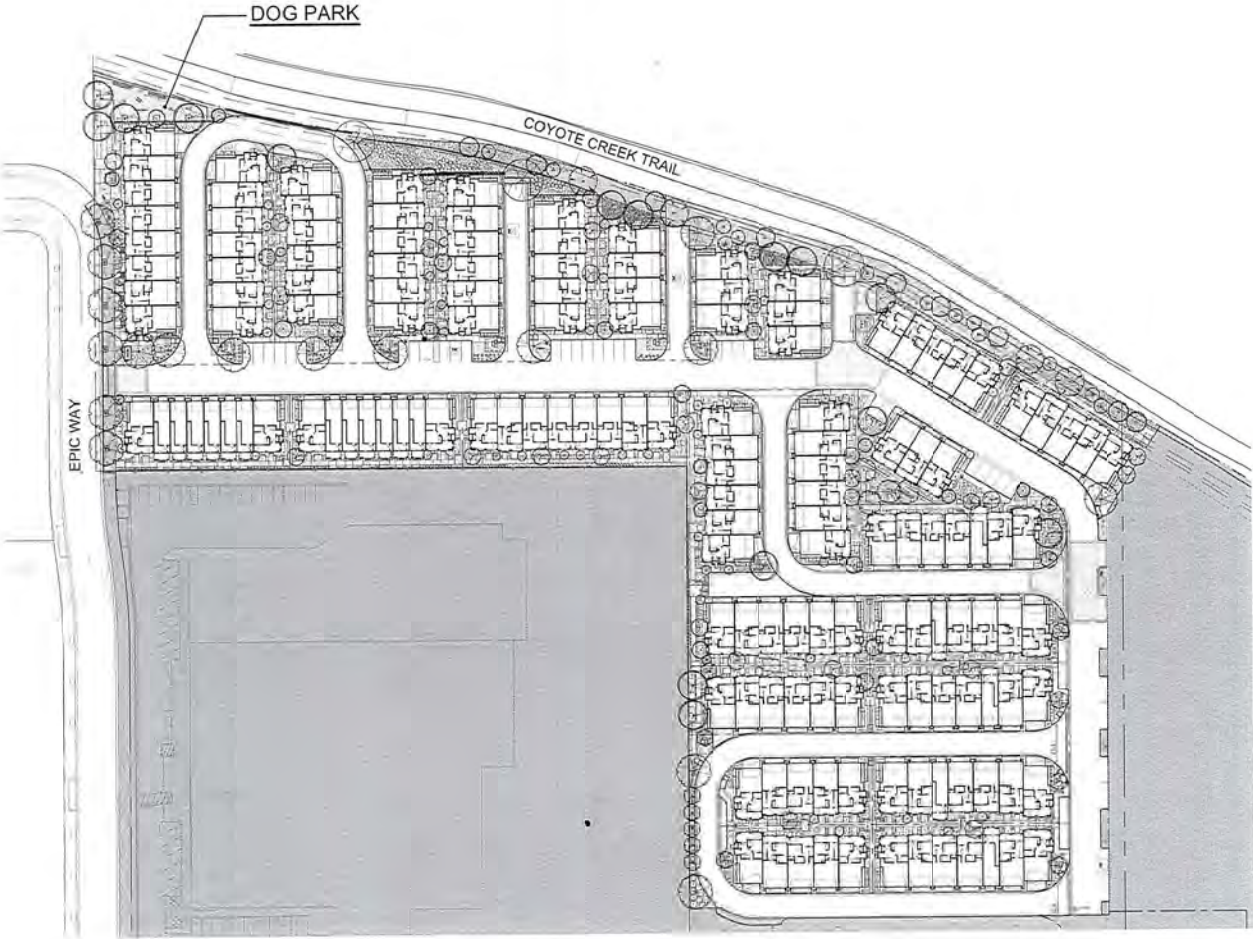


A-1 CONCEPTUAL BUILDING ELEVATION-TOWNHOMES



0 SEELY AVENUE  
SAN JOSE, CA

SUMMERHILL HOMES



PLANT SCHEDULE  
PROPOSED TREES

NO.	SYMBOL	COMMON NAME	HEIGHT	SPACING
101	(Symbol)	Redwood	120'	10' x 10'
102	(Symbol)	Sequoia	120'	10' x 10'
103	(Symbol)	Douglas Fir	120'	10' x 10'
104	(Symbol)	Western Red Cedar	120'	10' x 10'
105	(Symbol)	Portlandia	120'	10' x 10'
106	(Symbol)	Western White Pine	120'	10' x 10'
107	(Symbol)	Incense Cedar	120'	10' x 10'
108	(Symbol)	Shasta Red Fir	120'	10' x 10'
109	(Symbol)	Blue Fir	120'	10' x 10'
110	(Symbol)	White Fir	120'	10' x 10'
111	(Symbol)	Mountain Pine	120'	10' x 10'
112	(Symbol)	Colorado Blue Spruce	120'	10' x 10'
113	(Symbol)	Engelmann Spruce	120'	10' x 10'
114	(Symbol)	Limber Pine	120'	10' x 10'
115	(Symbol)	Jefferson Pine	120'	10' x 10'
116	(Symbol)	Pinus Resinosa	120'	10' x 10'
117	(Symbol)	Pinus contorta	120'	10' x 10'
118	(Symbol)	Pinus ponderosa	120'	10' x 10'
119	(Symbol)	Pinus jeffersonii	120'	10' x 10'
120	(Symbol)	Pinus strobus	120'	10' x 10'

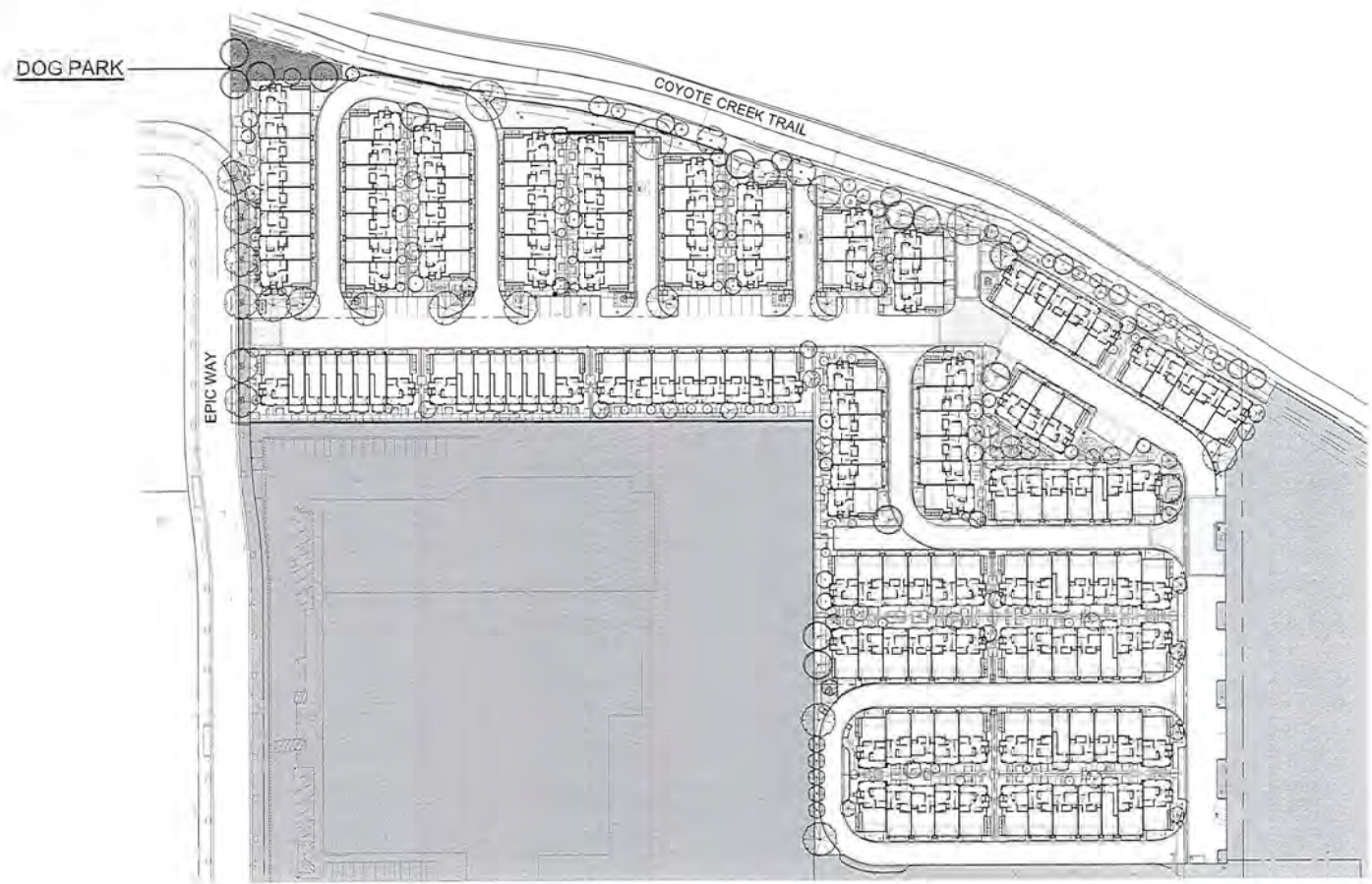
PROPOSED SHRUBS

NO.	SYMBOL	COMMON NAME	HEIGHT	SPACING
201	(Symbol)	Boxwood	6'	10' x 10'
202	(Symbol)	Yew	6'	10' x 10'
203	(Symbol)	Juniper	6'	10' x 10'
204	(Symbol)	Thuja	6'	10' x 10'
205	(Symbol)	Arbutus	6'	10' x 10'
206	(Symbol)	Hamamelis	6'	10' x 10'
207	(Symbol)	Quercus	6'	10' x 10'
208	(Symbol)	Prunella	6'	10' x 10'
209	(Symbol)	Spirea	6'	10' x 10'
210	(Symbol)	Hydrangea	6'	10' x 10'
211	(Symbol)	Philadelphus	6'	10' x 10'
212	(Symbol)	Deutzia	6'	10' x 10'
213	(Symbol)	Abelia	6'	10' x 10'
214	(Symbol)	Laurel	6'	10' x 10'
215	(Symbol)	Myrica	6'	10' x 10'
216	(Symbol)	Salix	6'	10' x 10'
217	(Symbol)	Alnus	6'	10' x 10'
218	(Symbol)	Betula	6'	10' x 10'
219	(Symbol)	Populus	6'	10' x 10'
220	(Symbol)	Salix	6'	10' x 10'

L-1: PLANTING PLAN

0 SEELY AVENUE  
SAN JOSE, CA

SUMMERHILL HOMES

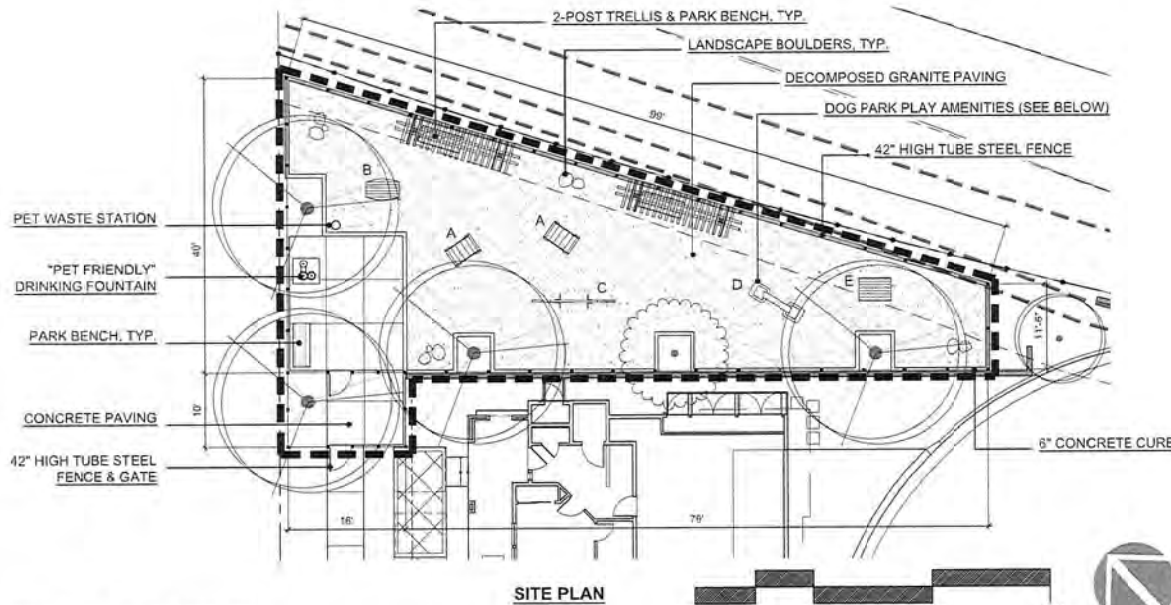


L-2: LANDSCAPE PLAN



0 SEELY AVENUE  
SAN JOSE, CA

## SUMMERHILL HOMES



### DOG PARK PLAY AMENITIES:



A. HILL CLIMB  
QTY: 2



B. HAMMIE'S TUNNEL HOUSE  
QTY: 1



C. BALANCE BEAM  
QTY: 1



D. ELLIE'S JUMP BALANCE BEAM  
QTY: 1



E. TRAINING PLATFORM  
QTY: 1

ELEMENT NAME:	DOG PARK
TOTAL AREA:	2,590 S.F.
CLASSIFICATION:	PRIVATE PET AMENITY AREA
ACCESS:	EXCLUSIVE USE OF THE RESIDENTS
MAINTENANCE:	RESIDENTIAL BUILDING OWNER

### DOG PARK:

- 6 TOTAL - DOG PARK PLAY AMENITIES
- 10 TOTAL - LANDSCAPE BOULDERS
- 1 TOTAL - "PET FRIENDLY" DRINKING FOUNTAIN
- 1 TOTAL - PET WASTE STATION
- 2 TOTAL - 2-POST TRELLIS
- 3 TOTAL - PARK BENCHES
- 5 TOTAL - SHADE TREES
- 285 LINEAR FEET - 42" HIGH TUBE STEEL FENCE & GATE

### DOG PARK RECREATIONAL AMENITY:

The Accessible Dog Park meets the Parkland Dedication/ Ordinance/ Park Impact Ordinance (PDO/PIO), Line Item B, Active Private Recreation Credit #7: Private Pet Amenity by providing a very functional, aesthetically pleasing, private, usable dog park recreational area for both animals and their owners overlooking the adjacent Coyote Creek trail and open space. The Dog Park will be for the exclusive use of residents and their pets. An ADA Accessible path with 10' x 15' concrete entry staging area with two gates for safely unleashing pets provides secure access to a 2,590 S.F., 42" high tube steel fenced, pet-friendly decomposed granite surface, a variety of agility and climbing structures, large natural boulder clusters, multiple park-type benches under shade trellises and 5 Canopy shade trees for passive solar mitigation along with a pet-friendly drinking fountain, Doggie Pot type dog bag dispenser, and trash receptacle.

## L-3: ACTIVE OUTDOOR RECREATION - PRIVATE PET AMENITY - DOG PARK

EXHIBIT A- PRIVATE RECREATION CREDITS APPLICATION  
JANUARY 19, 2024

SUMMERHILL HOMES™  
COMMUNITIES OF DISTINCTION

VAN DORN ABED  
LANDSCAPE ARCHITECTS, INC.  
81 14TH STREET, SAN FRANCISCO, CA  
ZIP 94103 PH (415) 864-1921 FAX (415) 864-4796

EXHIBIT E

Bonds and Securities

[see attached]



## BOND FORMS

Bond No. 1106602

Premium \$69,000.00

### FAITHFUL PERFORMANCE BOND

WHEREAS, the CITY OF SAN JOSE, a municipal corporation of the State of California ("City"), and *Seely Development Partners LLC, a Delaware limited liability company* as principal ("Principal") have entered into an agreement entitled *Parkland Agreement, Tentative Map No. PT 22-003*, incorporated herein by reference and referred to as the "Contract," which requires Principal to dedicate real property for neighborhood and community parks, construct park or recreational improvements and/or pay parkland in-lieu fees; and,

WHEREAS, under the terms of the Contract and prior to commencing any work under the Contract, Principal is required to furnish a bond to City for faithful performance of the Contract;

NOW, THEREFORE, we the Principal and The Hanover Insurance Company a corporation duly authorized and admitted to transact business and issue surety bonds in the State of California ("Surety"), are held firmly bound unto the City in the sum of \$11,500,000.00 for the payment of which sum well and truly to be made, we the Principal and Surety bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally.

The condition of this obligation is such that, if the Principal, Principal's heirs, executors, administrators, successors, or assigns shall in all things stand to and abide by, and well and truly keep and perform all covenants, conditions, and agreements required to be kept and performed by Principal in the Contract and any changes, additions, or alterations made thereto, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meanings, and shall indemnify and save harmless City, its officers, employees, and agents, as therein provided, then this obligation shall be null and void; otherwise, it shall be and remain in full force and effect.

As a part of the obligation secured hereby and in addition to the sum specified above, there shall be included all costs, expenses, and fees, including attorney's fees, reasonably incurred by City in successfully enforcing such obligation, all to be taxed as costs and included in any judgment rendered.

The Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the Contract or to the work to be performed thereunder or to the specifications accompanying the same shall in any way

affect its obligations on this bond, and it does hereby waive notice of any such change, extension, alteration, or addition.

IN WITNESS WHEREOF, this instrument has been duly executed by authorized representatives of the Principal and Surety. SIGNED AND SEALED on April 3, 2025

PRINCIPAL:

Seely Development Partners LLC  
A Delaware limited liability company  
(Principal name) (Seal)

BY: Meg Walker

(Signature)

Meg Walker  
Vice President

(Print name and title)

1780 S. Post Oak Lane, Suite 400  
Houston, Texas 77056  
713-580-1290

SURETY:

The Hanover Insurance Company  
(Surety name) (Seal)

BY: Gina A. Rodriguez

(Signature)

Gina A. Rodriguez, Attorney-in-Fact

(Print name and title)

440 Lincoln Street  
Worcester, MA 01652-0002  
508-853-7200

a. Affix Corporate Seals

**Attach Notary Acknowledgments for All Signatures**

b. Attach Power-of-Attorney if executed by Attorney-in-Fact

THE HANOVER INSURANCE COMPANY  
MASSACHUSETTS BAY INSURANCE COMPANY  
CITIZENS INSURANCE COMPANY OF AMERICA

POWER OF ATTORNEY

THIS Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated.

KNOW ALL PERSONS BY THESE PRESENTS:

That THE HANOVER INSURANCE COMPANY and MASSACHUSETTS BAY INSURANCE COMPANY, both being corporations organized and existing under the laws of the State of New Hampshire, and CITIZENS INSURANCE COMPANY OF AMERICA, a corporation organized and existing under the laws of the State of Michigan, (hereinafter individually and collectively the "Company") does hereby constitute and appoint:

Donna L. Williams, Michael J. Herrod, Lupe Tyler, Lisa A. Ward, Vanessa Dominguez, Misty Wright, Terri L. Morrison, Amanda George, Eric M. Dennison, Gina A. Rodriguez and/or Andrea M. Penaloza

Or AON Risk Solutions of Houston, TX each individually, if there be more than one named, as its true and lawful attorney(s)-in-fact to sign, execute, seal, acknowledge and deliver for, and on its behalf, and as its act and deed any place within the United States, any and all surety bonds, recognizances, undertakings, or other surety obligations. The execution of such surety bonds, recognizances, undertakings or surety obligations, in pursuance of these presents, shall be as binding upon the Company as if they had been duly signed by the president and attested by the secretary of the Company, in their own proper persons. Provided however, that this power of attorney limits the acts of those named herein; and they have no authority to bind the Company except in the manner stated and to the extent of any limitation stated below:

Any such obligations in the United States, not to exceed Twenty Five Million and No/100 (\$25,000,000) in any single instance

That this power is made and executed pursuant to the authority of the following Resolutions passed by the Board of Directors of said Company, and said Resolutions remain in full force and effect:

RESOLVED: That the President or any Vice President, in conjunction with any Vice President, be and they hereby are authorized and empowered to appoint Attorneys-in-fact of the Company, in its name and as it acts, to execute and acknowledge for and on its behalf as surety, any and all bonds, recognizances, contracts of indemnity, waivers of citation and all other writings obligatory in the nature thereof, with power to attach thereto the seal of the Company. Any such writings so executed by such Attorneys-in-fact shall be binding upon the Company as if they had been duly executed and acknowledged by the regularly elected officers of the Company in their own proper persons.

RESOLVED: That any and all Powers of Attorney and Certified Copies of such Powers of Attorney and certification in respect thereto, granted and executed by the President or Vice President in conjunction with any Vice President of the Company, shall be binding on the Company to the same extent as if all signatures therein were manually affixed, even though one or more of any such signatures thereon may be facsimile. (Adopted October 7, 1981 - The Hanover Insurance Company; Adopted April 14, 1982 - Massachusetts Bay Insurance Company; Adopted September 7, 2001 - Citizens Insurance Company of America and affirmed by each Company on March 24, 2014)

IN WITNESS WHEREOF, THE HANOVER INSURANCE COMPANY, MASSACHUSETTS BAY INSURANCE COMPANY and CITIZENS INSURANCE COMPANY OF AMERICA have caused these presents to be sealed with their respective corporate seals, duly attested by two Vice Presidents, this 31<sup>st</sup> day of May, 2023



The Hanover Insurance Company  
Massachusetts Bay Insurance Company  
Citizens Insurance Company of America

*James H. Kawluch*  
James H. Kawluch, Vice President

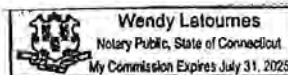
The Hanover Insurance Company  
Massachusetts Bay Insurance Company  
Citizens Insurance Company of America

*Joselyn M. Mendoza*  
Joselyn M. Mendoza, Vice President

STATE OF CONNECTICUT  
COUNTY OF HARTFORD

) ss:

On this 31<sup>st</sup> day of May, 2023 before me came the above named Executive Vice President and Vice President of The Hanover Insurance Company, Massachusetts Bay Insurance Company and Citizens Insurance Company of America, to me personally known to be the individuals and officers described herein, and acknowledged that the seals affixed to the preceding instrument are the corporate seals of The Hanover Insurance Company, Massachusetts Bay Insurance Company and Citizens Insurance Company of America, respectively, and that the said corporate seals and their signatures as officers were duly affixed and subscribed to said instrument by the authority and direction of said Corporations.



*Wendy Laloumes*  
Wendy Laloumes, Notary Public  
My commission expires July 31, 2025

I, the undersigned Vice President of The Hanover Insurance Company, Massachusetts Bay Insurance Company and Citizens Insurance Company of America, hereby certify that the above and foregoing is a full, true and correct copy of the Original Power of Attorney issued by said Companies, and do hereby further certify that the said Powers of Attorney are still in force and effect.

GIVEN under my hand and the seals of said Companies, at Worcester, Massachusetts, this 3rd day of April, 2025.

CERTIFIED COPY

The Hanover Insurance Company  
Massachusetts Bay Insurance Company  
Citizens Insurance Company of America  
*John Rewedder*  
John Rewedder, Vice President

### 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 \_\_\_\_\_

County of \_\_\_\_\_

On April 3, 2025 before me, Christine N. Preston personally appeared Meg Walker 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 Texas that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Christine N. Preston





## 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.

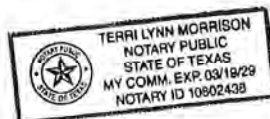
State of TEXAS

County of HARRIS

On April 3, 2025 before me, Terri Lynn Morrison, Notary Public personally appeared Gina A. Rodriguez, Attorney-in-Fact 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 Texas that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature \_\_\_\_\_

A handwritten signature in black ink, appearing to read "T. Morrison", written over a horizontal line.

Signature of Notary Public

Terri Lynn Morrison

My Commission Expires: 3/19/2029

Notary ID: 10802438

Bond No. 1106602

Premium \$69,000.00

ii. PAYMENT (LABOR AND MATERIALS) BOND

**WHEREAS**, the CITY OF SAN JOSE, a municipal corporation of the State of California ("City"), and *Seely Development Partners LLC*, a Delaware limited liability company, as principal ("Principal") have entered into an agreement entitled *Parkland Agreement, Tentative Map No. PT 22-003*, incorporated herein by reference and referred to as the "Contract," which requires Principal to dedicate real property for neighborhood and community parks, construct park or recreational improvements and/or pay parkland in-lieu fees; and,

**WHEREAS**, under the terms of the Contract and prior to commencing any work under the Contract, Principal is required to furnish a good and sufficient payment bond to the City to secure the claims to which reference is made in Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the California Civil Code.

**NOW, THEREFORE**, we the Principal and The Hanover Insurance Company a corporation duly authorized and admitted to transact business and issue surety bonds in the State of California ("Surety"), are held firmly bound unto the City, and unto all contractors, subcontractors, suppliers, laborers, materialmen and other persons employed in the performance of the Contract and referred to in the aforesaid Civil Code, as obligees, in the sum of \$11,500,000.00 on the condition that if Principal shall fail to pay for any materials or equipment furnished or used or for any work or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to such work or labor, or for any amounts required to be deducted, withheld, and paid over to the Employment Development Department from the wages of employees of the Principal and all subcontractors with respect to such work or labor, then the Surety shall pay the same in an amount not exceeding the sum specified above. If suit is brought upon this bond, Surety shall pay, in addition to the above sum, all costs, expenses, and fees, including attorney's fees, reasonably incurred by any obligee in successfully enforcing the obligation secured hereby, all to be taxed as costs and included in the judgment rendered. Should the condition of this bond be fully performed, then this obligation shall become null and void; otherwise, it shall be and remain in full force and effect, and shall bind Principal, Surety, their heirs, executors, administrators, successors, and assigns, jointly and severally.

**IT IS HEREBY EXPRESSLY STIPULATED AND AGREED** that this bond shall inure to the benefit of all persons, companies, corporations, political subdivisions, and State agencies entitled to file claims under Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code, so as to give a right of action to them or their assigns in any suit brought upon this bond. The Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the

Contract or to the work to be performed thereunder or the specifications accompanying the same shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension, alteration or addition.

**IN WITNESS WHEREOF**, this instrument has been duly executed by authorized representatives of the Principal and Surety. SIGNED AND SEALED on April 3, 2025.

PRINCIPAL:

Seely Development Partners LLC  
A Delaware limited liability company

Principal name) (Seal)

BY: Meg Walker  
(Signature) Meg Walker  
Vice President

(Print name and title)

1780 S. Post Oak Lane, Suite 400  
Houston, TX 77056  
713-580-1290

SURETY:

The Hanover Insurance Company

(Surety name) (Seal)

BY: Gina A. Rodriguez  
(Signature)

Gina A. Rodriguez, Attorney-in-Fact  
(Print name and title)

440 Lincoln Street  
Worcester, MA 01652-002  
508-853-7200

- a. Affix Corporate Seals
- Attach Notary Acknowledgments for All Signatures**
- b. Attach Power-of-Attorney if executed by Attorney-in-Fact

THE HANOVER INSURANCE COMPANY  
MASSACHUSETTS BAY INSURANCE COMPANY  
CITIZENS INSURANCE COMPANY OF AMERICA

POWER OF ATTORNEY

S Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated.

KNOW ALL PERSONS BY THESE PRESENTS:

That THE HANOVER INSURANCE COMPANY and MASSACHUSETTS BAY INSURANCE COMPANY, both being corporations organized and existing under the laws of the State of New Hampshire, and CITIZENS INSURANCE COMPANY OF AMERICA, a corporation organized and existing under the laws of the State of Michigan, (hereinafter individually and collectively the "Company") does hereby constitute and appoint:

Donna L. Williams, Michael J. Herrod, Lupe Tyler, Lisa A. Ward, Vanessa Dominguez, Misty Wright, Terri L. Morrison, Amanda George, Eric M. Dennison, Gina A. Rodriguez and/or Andrea M. Penafloza

Of AON Risk Solutions of Houston, TX each individually, if there be more than one named, as its true and lawful attorney(s)-in-fact to sign, execute, seal, acknowledge and deliver for, and on its behalf, and as its act and deed any place within the United States, any and all surety bonds, recognizances, undertakings, or other surety obligations. The execution of such surety bonds, recognizances, undertakings or surety obligations, in pursuance of these presents, shall be as binding upon the Company as if they had been duly signed by the president and attested by the secretary of the Company, in their own proper persons. Provided however, that this power of attorney limits the acts of those named herein; and they have no authority to bind the Company except in the manner stated and to the extent of any limitation stated below:

Any such obligations in the United States, not to exceed Twenty Five Million and No/100 (\$25,000,000) in any single instance

That this power is made and executed pursuant to the authority of the following Resolutions passed by the Board of Directors of said Company, and said Resolutions remain in full force and effect:

RESOLVED: That the President or any Vice President, in conjunction with any Vice President, be and they hereby are authorized and empowered to appoint Attorneys-in-fact of the Company, in its name and as its act, to execute and acknowledge for and on its behalf as surety, any and all bonds, recognizances, contracts of indemnity, waivers of claim and all other writings obligatory in the nature thereof, with power to attach thereto the seal of the Company. Any such writings so executed by such Attorneys-in-fact shall be binding upon the Company as if they had been duly executed and acknowledged by the regularly elected officers of the Company in their own proper persons.

RESOLVED: That any and all Powers of Attorney and Certified Copies of such Powers of Attorney and certification in respect thereto, granted and executed by the President or Vice President in conjunction with any Vice President of the Company, shall be binding on the Company to the same extent as if all signatures therein were manually affixed, even though one or more of any such signatures thereon may be facsimile. (Adopted October 7, 1961 - The Hanover Insurance Company; Adopted April 14, 1982 - Massachusetts Bay Insurance Company; Adopted September 7, 2001 - Citizens Insurance Company of America; and affirmed by each Company on March 24, 2014)

IN WITNESS WHEREOF, THE HANOVER INSURANCE COMPANY, MASSACHUSETTS BAY INSURANCE COMPANY and CITIZENS INSURANCE COMPANY OF AMERICA have caused these presents to be sealed with their respective corporate seals, duly attested by two Vice Presidents, this 31<sup>st</sup> day of May, 2023



The Hanover Insurance Company  
Massachusetts Bay Insurance Company  
Citizens Insurance Company of America

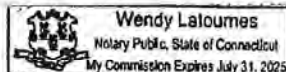
*James H. Kawicki*  
James H. Kawicki, Vice President

The Hanover Insurance Company  
Massachusetts Bay Insurance Company  
Citizens Insurance Company of America

*Julian M. Mendoza*  
Julian M. Mendoza, Vice President

STATE OF CONNECTICUT )  
COUNTY OF HARTFORD ) ss.

On this 31<sup>st</sup> day of May, 2023 before me came the above named Executive Vice President and Vice President of The Hanover Insurance Company, Massachusetts Bay Insurance Company and Citizens Insurance Company of America, to me personally known to be the individuals and officers described herein, and acknowledged that the seals affixed to the foregoing instrument are the corporate seals of The Hanover Insurance Company, Massachusetts Bay Insurance Company and Citizens Insurance Company of America, respectively, and that the said corporate seals and their signatures as officers were duly affixed and subscribed to said instrument by the authority and direction of said Corporations.



*Wendy Latoumes*  
Wendy Latoumes, Notary Public  
My commission expires July 31, 2025

I, the undersigned Vice President of The Hanover Insurance Company, Massachusetts Bay Insurance Company and Citizens Insurance Company of America, hereby certify that the above and foregoing is a full, true and correct copy of the Original Power of Attorney issued by said Companies, and do hereby further certify that the said Powers of Attorney are still in force and effect.

GIVEN under my hand and the seals of said Companies, at Worcester, Massachusetts, this 3rd day of April 2025.

CERTIFIED COPY

The Hanover Insurance Company  
Massachusetts Bay Insurance Company  
Citizens Insurance Company of America

*John Rawedder*  
John Rawedder, Vice President



## 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 \_\_\_\_\_

County of \_\_\_\_\_

On April 3, 2025 before me, Christine N. Preston personally appeared Meg Walker 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 Texas that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Christine N. Preston



## 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.

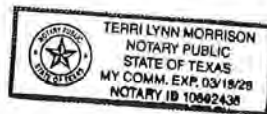
State of TEXAS

County of HARRIS

On April 3, 2025 before me, Terri Lynn Morrison, Notary Public personally appeared Gina A Rodriguez, Attorney-in-Fact 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 Texas that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature

A handwritten signature in black ink, appearing to be "T. Morrison".

Signature of Notary Public  
Terri Lynn Morrison  
My Commission Expires: 3/19/2029  
Notary ID: 10802438

Bond No. 1106602  
Premium \$69,000.00

#### WARRANTY BOND

**WHEREAS**, the City of San Jose, a municipal corporation of the State of California ("City") and *Seely Development Partners LLC, a Delaware limited liability company* as principal ("Principal") have entered into an agreement entitled *Parkland Agreement, Tentative Map No. PT 22-003*, incorporated herein by reference and referred to as the "Contract," which requires Principal to dedicate real property for neighborhood and community parks, construct park or recreational improvements and/or pay parkland in-lieu fees; and,

**WHEREAS**, under the terms of the Contract, Principal is required to furnish a bond to City to make good and protect the City against the results of any work or labor done or materials or equipment furnished which are defective or not in accordance with the terms of the Contract having been used or incorporated in any part of the work so contracted for, which shall have appeared or been discovered, within the period of one (1) year from and after the completion and final acceptance of the work done under the Contract.

**NOW, THEREFORE**, we the Principal and The Hanover Insurance Company, a corporation duly authorized and admitted to transact business and issue surety bonds in the State of California ("Surety"), are held firmly bound unto the City in the sum of \$2,875,000.00 for the payment of which sum well and truly to be made, we the Principal and Surety bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally.

The condition of this obligation is such that, if the Principal shall well and truly make good and protect the City against the results of any work or labor done or materials or equipment furnished which are defective or not in accordance with the terms of the Contract having been used or incorporated in any part of the work performed under the Contract, which shall have appeared or been discovered within said one-year period from and after completion of all work under the Contract and final acceptance by City of said work, then this obligation shall be null and void; otherwise, it shall be and remain in full force and effect.

The Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or to the work to be performed thereunder or the specifications accompanying the same shall in any way affect its obligations on this bond, and it does hereby waive notice of any change, extension of time, alteration or addition.

IN WITNESS WHEREOF, this instrument has been duly executed by authorized representatives of the Principal and Surety. SIGNED AND SEALED on April 3, 2025.

PRINCIPAL:

Seely Development Partner LLC  
A Delaware limited liability company  
(Principal name) (Seal)

BY: Meg Walker  
(Signature) Meg Walker  
Vice President  
(Print name and title)

Principal address and telephone:  
1780 S. Post Oak Lane  
Suite 400  
Houston, TX 77056  
713-580-1209

SURETY:

The Hanover Insurance Company  
(Surety name) (Seal)

BY: Gina A. Rodriguez  
(Signature)

Gina A. Rodriguez, Attorney-in-Fact  
(Print name and title)

Surety address and telephone:  
440 Lincoln Street  
Worcester, MA 01652-0002  
508-853-7200

c.  
d. Affix Corporate Seals  
**Attach Notary Acknowledgments for All Signatures**  
**Attach Power-of-Attorney if executed by Attorney-in-Fact**



THE HANOVER INSURANCE COMPANY  
MASSACHUSETTS BAY INSURANCE COMPANY  
CITIZENS INSURANCE COMPANY OF AMERICA

POWER OF ATTORNEY

THIS Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated.

KNOW ALL PERSONS BY THESE PRESENTS:

That THE HANOVER INSURANCE COMPANY and MASSACHUSETTS BAY INSURANCE COMPANY, both being corporations organized and existing under the laws of the State of New Hampshire, and CITIZENS INSURANCE COMPANY OF AMERICA, a corporation organized and existing under the laws of the State of Michigan, (hereinafter individually and collectively the "Company") does hereby constitute and appoint,

Donna L. Williams, Michael J. Herrod, Lupe Tyler, Lisa A. Ward, Vanessa Dominguez, Misty Wright, Terri L. Morrison, Amanda George, Eric M. Qennison, Gina A. Rodriguez and/or Andra M. Penaloza

Of AON Risk Solutions of Houston, TX each individually, if there be more than one named, as its true and lawful attorney(s)-in-fact to sign, execute, seal, acknowledge and deliver for, and on its behalf, and as its act and deed any place within the United States, any and all surety bonds, recognizances, undertakings, or other surety obligations. The execution of such surety bonds, recognizances, undertakings or surety obligations, in pursuance of these presents, shall be as binding upon the Company as if they had been duly signed by the president and attested by the secretary of the Company, in their own proper persons. Provided however, that this power of attorney limits the acts of those named herein; and they have no authority to bind the Company except in the manner stated and to the extent of any limitation stated below.

Any such obligations in the United States, not to exceed Twenty Five Million and No/100 (\$25,000,000) in any single instance

That this power is made and executed pursuant to the authority of the following Resolutions passed by the Board of Directors of said Company, and said Resolutions remain in full force and effect:

RESOLVED: That the President or any Vice President, in conjunction with any Vice President, be and they hereby are authorized and empowered to appoint Attorneys-in-fact of the Company, in its name and as it acts, to execute and acknowledge for and on its behalf as surety, any and all bonds, recognizances, contracts of indemnity, waivers of citation and all other writings obligatory in the nature thereof, with power to attach thereto the seal of the Company. Any such writings so executed by such Attorneys-in-fact shall be binding upon the Company as if they had been duly executed and acknowledged by the regularly elected officers of the Company in their own proper persons.

RESOLVED: That any and all Powers of Attorney and Certified Copies of such Powers of Attorney and certification in respect thereto, granted and executed by the President or Vice President in conjunction with any Vice President of the Company, shall be binding on the Company to the same extent as if all signatures therein were manually affixed, even though one or more of any such signatures thereon may be facsimile. (Adopted October 7, 1981 - The Hanover Insurance Company; Adopted April 14, 1982 - Massachusetts Bay Insurance Company; Adopted September 7, 2001 - Citizens Insurance Company of America and affirmed by each Company on March 24, 2014)

IN WITNESS WHEREOF, THE HANOVER INSURANCE COMPANY, MASSACHUSETTS BAY INSURANCE COMPANY and CITIZENS INSURANCE COMPANY OF AMERICA have caused these presents to be sealed with their respective corporate seals, duly attested by two Vice Presidents, this 31<sup>st</sup> day of May, 2023



The Hanover Insurance Company  
Massachusetts Bay Insurance Company  
Citizens Insurance Company of America

*James H. Kowalski*  
James H. Kowalski, Vice President

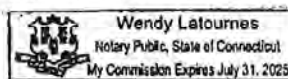
The Hanover Insurance Company  
Massachusetts Bay Insurance Company  
Citizens Insurance Company of America

*Joellen M. Mendoza*  
Joellen M. Mendoza, Vice President

STATE OF CONNECTICUT  
COUNTY OF HARTFORD

) ss.

On this 31<sup>st</sup> day of May, 2023 before me came the above named Executive Vice President and Vice President of The Hanover Insurance Company, Massachusetts Bay Insurance Company and Citizens Insurance Company of America, to me personally known to be the individuals and officers described herein, and acknowledged that the seals affixed to the preceding instrument are the corporate seals of The Hanover Insurance Company, Massachusetts Bay Insurance Company and Citizens Insurance Company of America, respectively, and that the said corporate seals and their signatures as officers were duly affixed and subscribed to said instrument by the authority and direction of said Corporations.



*Wendy Latourmes*  
Wendy Latourmes, Notary Public  
My commission expires July 31, 2025

I, the undersigned Vice President of The Hanover Insurance Company, Massachusetts Bay Insurance Company and Citizens Insurance Company of America, hereby certify that the above and foregoing is a full, true and correct copy of the Original Power of Attorney issued by said Companies, and do hereby further certify that the said Powers of Attorney are still in force and effect.

GIVEN under my hand and the seals of said Companies, at Worcester, Massachusetts, this 3rd day of April, 2025.

CERTIFIED COPY

The Hanover Insurance Company  
Massachusetts Bay Insurance Company  
Citizens Insurance Company of America  
*John Rowodder*  
John Rowodder, Vice President

## 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 \_\_\_\_\_

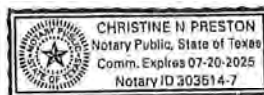
County of \_\_\_\_\_

On April 3, 2025 before me, Christine N. Preston personally appeared Meg Walker 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 Texas that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Christine N. Preston



## CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

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State of TEXAS

County of HARRIS

On April 3, 2025 before me, Terri Lynn Morrison, Notary Public personally appeared Gina A. Rodriguez, Attorney-in-Fact 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 Texas that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature

A handwritten signature in black ink, appearing to read "Terri Lynn Morrison".

Signature of Notary Public  
Terri Lynn Morrison  
My Commission Expires: 3/19/2029  
Notary ID: 10802438

EXHIBIT F

Environmental Reports/Permitted Exceptions

[see attached]

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## **EXHIBIT F**

### **Environmental Disclosures/Permitted Exceptions**

#### **Environmental Reports**

1) Phase II Environmental Site Assessment, dated December 15, 2021, prepared by ENGEO Incorporated under Project Number 18233.000.001.

[https://documents.geotracker.waterboards.ca.gov/es/uploads/geo\\_report/5486362040/T10000017625.PDF](https://documents.geotracker.waterboards.ca.gov/es/uploads/geo_report/5486362040/T10000017625.PDF)

2) Phase I Environmental Site Assessment, dated December 21, 2021, prepared by ENGEO Incorporated under Project Number 18233.000.001.

[https://documents.geotracker.waterboards.ca.gov/es/uploads/geo\\_report/8864840865/T10000017625.PDF](https://documents.geotracker.waterboards.ca.gov/es/uploads/geo_report/8864840865/T10000017625.PDF)

3) Soil Management Plan dated August 29, 2023, revised November 13, 2023 prepared by ENGEO Incorporated for Trimble Road Parcels, San Jose, California and that certain Approval Letter from Department of Environmental Health, County of Santa Clara dated April 17, 2024 Subject: Hanover Trimble – Case #2022-04ss; 681 East Trimble Road (at Seely Avenue) San Jose, CA 95131 supplemented by that certain Addendum to Site Management Plan, dated December 19, 2024 (collectively, the “SMP”)

[https://documents.geotracker.waterboards.ca.gov/es/uploads/geo\\_report/5085371792/T10000017625.PDF](https://documents.geotracker.waterboards.ca.gov/es/uploads/geo_report/5085371792/T10000017625.PDF)

[https://documents.geotracker.waterboards.ca.gov/es/uploads/geo\\_report/1036085903/T10000017625.PDF](https://documents.geotracker.waterboards.ca.gov/es/uploads/geo_report/1036085903/T10000017625.PDF)

[https://documents.geotracker.waterboards.ca.gov/regulators/deliverable\\_documents/9160749137/20240417\\_Hanover\\_Trimble\\_Addendum%20to%20revised%20SMP%20Review\\_2022-04s.pdf](https://documents.geotracker.waterboards.ca.gov/regulators/deliverable_documents/9160749137/20240417_Hanover_Trimble_Addendum%20to%20revised%20SMP%20Review_2022-04s.pdf)

#### **Permitted Exceptions**

- 1) General and special taxes and assessments for the fiscal year 2026-2027, a lien not yet due or payable.
- 2) The lien of supplemental taxes, if any, assessed pursuant to Chapter 3.5 commencing with Section 75 of the California Revenue and Taxation Code.

- 3) Water rights, claims or title to water, whether or not shown by the public records.
- 4) Any facts, rights, interests or claims which would be disclosed by a correct ALTA/NSPS survey. An ALTA/NSPS survey of recent date which complies with the current minimum standard detail requirements for ALTA/NSPS land title surveys.
- 5) Rights of parties in possession..