

**RECORDING REQUESTED
BY CITY OF SAN JOSE:**

When Recorded, Return To:

City of San José

200 East Santa Clara Street

San José, CA 95113

Attn: City Clerk, 2nd Floor West Wing

Final Tract Nos. 10539 (Phase 1) & 10538 (Phase 2)

TURNKEY PARKLAND AGREEMENT

FOR

TENTATIVE MAP NO. PT19-023

BETWEEN

THE CITY OF SAN JOSE

AND PULTE HOME COMPANY LLC,

A MICHIGAN LIMITED LIABILITY COMPANY

AND

RESTRICTIONS AND COVENANTS RELATING TO

PRIVATE RECREATIONAL IMPROVEMENTS

This (“**Agreement**”) is made and entered into by and between the **CITY OF SAN JOSE**, a municipal corporation of the State of California (“**City**”), and **PULTE HOME COMPANY LLC, A Michigan Limited Liability Company** (“**Developer**”) as of the date of City's execution (“**Effective Date**”). Each of City and Developer are sometimes hereinafter referred to as a “**Party**” and collectively as the “**Parties**.”

R E C I T A L S

- A. Developer desires to construct a residential subdivision (“**Project**”) on certain real property located at the terminus of South Henry Avenue, Rosewood Avenue, and Maplewood Avenue, west of Winchester Boulevard (Assessor Parcel Number: 303-38-001; 555 South Winchester Boulevard) in the City of San José, County of Santa Clara, State of California, consisting of 320 for-sale residential condominium units (the “**For-Sale Project**”) and a for-rent apartment community consisting of 366 apartments (the “**Apartment Project**”). Developer has obtained an approved Tentative Map under File No. PT19-023, adopted by Council on January 14, 2020 under Resolution No. 79378 (the “**Tentative Map**”) for the subdivision of the real property and has obtained a Planned Development Permit No. PD19-019 (“**PD Permit**”) for the Project under Resolution No. 79379 adopted by Council on January 14, 2020.
- B. In accordance with the provisions of Chapter 14.25 Park Impact Ordinance of the San Jose Municipal Code (“**Code**”), the Tentative Map, and Planned Development Permit entitling new rental residential dwelling units include a condition requiring the dedication of land for park purposes (“**Developer’s Parkland Obligation**”), or the payment of park impact in-lieu fees, or the design and construction of recreational improvements or a combination of these actions. In order for the Developer to satisfy Developer's Parkland Dedication Obligation for the units included in the Final Maps for the Final Tracts approved with the Tentative Map and Development Permit referenced above, Developer and City desire to enter into this Agreement pursuant to which Developer shall satisfy Developer’s Parkland Dedication Obligation as follows:
- C. Developer will provide the City with an Irrevocable Offer of Dedication for 2.01 gross acres of land as indicated in **Exhibit A - Irrevocable Offer of Dedication and Plat Map**: 0.19 acres (8,462 square feet) of this dedication is encumbered with existing and new easement dedications (as shown on the Plat Map: Exhibit A. Irrevocable Offer of Dedication) and the Final Subdivision Map, City File No.- 20-112773 TR). These easement areas shall not be counted as credit toward the Parkland Dedication Obligation. The net creditable for 1.82 net acres (79,279 square feet) of land equals \$5,153,148.00 in land dedication credits toward the Parkland Dedication Obligation.
- D. Project is eligible to receive credit for 111 existing single-family detached housing units (mobile homes) that will be demolished pursuant to the **Parkland Dedication**

Ordinance and Park Impact Ordinance. This equals \$3,030,300.00 in park impact in-lieu fee credits.

- E. The Project is eligible to receive credit for certain private recreation improvements pursuant to the **Parkland Dedication Ordinance and Park Impact Ordinance**. The description of the private recreation improvements to be included in the Project by Developer that will receive credit pursuant to Chapter 19.38 is set forth in **Exhibit B - Private Recreation Credit Exhibit** which equals \$2,521,935.00 in park impact in-lieu fee credits toward the Parkland Dedication Obligation; and
- F. The Project is subject to the remaining payment of park impact in-lieu fees in the amount of \$2,534,417.00 as set forth in **Exhibit C - Fees and Credits**. If the Developer constructs the park improvements as shown on **Exhibit D - Park Master Plan/Park Improvement Site Plan, consistent with 35% Construction Drawings on file with the City and the associated Exhibit E - Cost Estimate for Park Improvements**, the payment of the parkland dedication fees will be applied toward the design and construction costs by the Developer to build the park improvements and dedicate the land and final improvements to the City
- G. Because the parkland dedication fees are not adequate to construct the planned park improvements and in order to provide for construction of the public park on the project site in a timely manner; in addition to the Dedication of Land, constructing park improvements, and providing Private Recreation Improvements, the Developer will construct the park improvements as shown on the **Exhibit D - Park Master Plan/Park Improvement Site Plan** consistent with City reviewed 35% Construction Drawings currently on file with the Department of Public Works City Facilities and Architectural Services. **At a minimum, this includes:**
- walking paths;
 - picnic areas;
 - two children's playgrounds;
 - a turf berm that doubles as a play feature;
 - large open turf areas;
 - bocce court;
 - a full basketball court;
 - a dog park and
 - passive recreation areas

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").

SECTION 1.

NOW, THEREFORE, in that the Developer and City desire to enter this Turnkey Agreement, to satisfy the Developer's Parkland Dedication Obligation for the residential units identified on the Tentative Map, pursuant to which the Developer shall satisfy Developer's Parkland Dedication Obligation as follows:

1. Developer will provide the City with an Irrevocable Offer of Dedication for 2.01 gross acres (87,634 square feet) of land as indicated in **Exhibit A - Irrevocable Offer of Dedication and Plat Map**: 0.19 acres (8,462 square feet) of this dedication is already encumbered and shall not be counted for credit ("**Park Site**"); and,
2. Developer will construct turnkey park improvements on the 2.01 gross acre dedicated **Park Site** as depicted in **Exhibit D - Park Master Plan/Park Improvement Site Plan** and, as set forth further in this Agreement;
3. City will not require the Developer to pay the remaining Park Impact In-lieu Fees in accordance with **Exhibit C - Fees and Credits**, the In-lieu fees will be credited to the park construction costs.
 - a. The Developer shall pay the City Design and Review Fees (Plan Check) in the amount of \$401,579.47 based off of 17.5% of the Construction Total cost as shown in **Exhibit E - Cost Estimate for Park Improvements**, upon execution of this agreement.
4. The Development is eligible to receive credit for certain private recreation improvements pursuant to the **Parkland Dedication and Park Impact ordinances (SJMC 19.38 and 14.25)**. The description of the private recreation improvements to be included in the Development by Developer that will receive credit pursuant to these ordinances are set forth in **Exhibit B - Private Recreation Credit Exhibit**.
5. Developer will construct certain private recreation improvements as depicted in **Exhibit B - Private Recreation Credit Exhibit** within the Development in conjunction with the construction of the Development in accordance with the requirements of the approved

Planned Development Zoning, Planned Development Permit, the Tentative Map and this Agreement; and,

6. Developer will reserve certain designated **Private Recreational Improvements** as shown on **Exhibit B - Private Recreation Credit Exhibit** for future construction of private recreation improvements; and,
7. Developer shall also install certain private recreation improvements as described in **Exhibit B - Private Recreation Credit Exhibit** within the Development in conjunction with the construction of the Development in accordance with the requirements of the approved Planned Development Permit (as amended) and for which Developer is also eligible to receive credit against its **Parkland Dedication Obligation** as set forth in the **Parkland Dedication and Park Impact ordinances** and this **Turnkey Agreement**.
8. Developer will ensure that the privately owned and maintained publicly accessible **Private Recreational Improvements** are built and provided as shown on **Exhibit B - Private Recreation Credit Exhibit** will be provided as shown and accessible to the public at least 360 days a year as required to receive **Parkland Dedication Obligation** credit per City Resolution No. 73587 in perpetuity of the project. If ownership changes, Developer will ensure the future owner and or property management will not reduce or restrict public access to these amenities; and,
9. Developer will apply any additional parkland dedication in-lieu fees that have not been paid to the City as depicted in **Exhibit C - Fees and Credits** that are generated as a result of amended Private Recreational Improvements shown in **Exhibit B - Private Recreation Credit Exhibit** toward funding additional improvements in the park or a dollar amount equivalent to the square footage of the approved Private Recreation Credit amenities within 30 days of the Certificate of Occupancy based on the Fee Schedule in effect at the time of the amended exhibits.
10. **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** ("Public Works"). All park improvements shall be completed to the satisfaction of the **Director of Public Works** and **City Director** prior to City acceptance of the park improvements. The **Director of Public Works** is responsible for the review, inspection, approval, and acceptance of the Park Improvements. The Director of Parks, Recreation and Neighborhood Services is responsible for the review, and inspection of all Private Recreation Credit amenities.

SECTION 2. REPRESENTATIONS AND WARRANTIES OF DEVELOPER.

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

- A. Developer represents and warrants to 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 Tentative Map remain true and correct.
 - b. Any and all documents provided to City pursuant to the terms of this Agreement, or in connection with the execution of this Agreement, are now in full force and effect and contain no known inaccuracies or misstatements of fact. Developer covenants that at such time City notifies Developer of City's intention to accept the Park Improvements, if any of these documents contain inaccuracies, misstatements or have become obsolete, Developer shall notify City and provide City with the information required to render the documents accurate, complete, and current.
 - c. Developer has the legal ability to enter this Agreement and Developer's signatory(ies) to this Agreement is (are) duly authorized to sign this Agreement on its behalf. In the event the Developer is 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 3. OFFER OF DEDICATION; DESIGN AND DEVELOPMENT OF PARK IMPROVEMENTS; CREDIT FOR PRIVATE RECREATIONAL IMPROVEMENTS.

1. Developer affirms its irrevocable offer to dedicate to City approximately 2.01 gross acres of real property located on Lot C ("Park Site") of Final Tract Map 10539 consistent with the identified park site shown on Tentative Map File No. **PT19-023** for the Development and as shown in the conceptual plan for the **Park Improvements** depicted on **Exhibit D - Park Master Plan/Park Improvement Site Plan**. Developer shall be responsible for all costs incurred in the conveyance of the Park Site to City in accordance with the requirements and specifications set forth in this Agreement.
2. 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 **Exhibit D - Park Master Plan/Park Improvement Site Plan** and as more particularly described in this Agreement. Developer shall develop plans and specifications for the Park Improvements ("**Project Specifications**") for the review and approval of the **Director of**

Public Works, as more particularly described in the attached **Exhibit D - Park Master Plan/Park Improvement Site Plan** Subject to **Exhibit F - Design and Construction Requirements**, of this Agreement, 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.

- a. The Parties acknowledge that the exact size, dimensions, and other characteristics of the **Park Improvements** have not been determined as of the Effective Date of this Agreement. The Parties, however, agree that the **Park Improvements** shall be consistent with the Master Plan/Site Improvements and the City reviewed 35% Construction drawings and shall include, at a minimum but not be limited to, providing the following: Lawn/Turf Areas with berm, Seating Areas, Youth Lot and Tot Lot play areas with shade and play structure elements, Basketball Court, Bocce Ball, Dog Park, Walking Paths, Picnic and Plaza Seating Areas, Park Signage, Shade Elements, Landscaping and Trees, Benches, Trash Containers, Decorative Features such as but not limited to art pieces, trellis, etc., a Drinking Fountain, On Site Lighting Systems, Bicycle Parking Racks and Travel Paths, walkway features like hopscotch and four square, Flexible Multi-use Surfaces, A.D.A. accessibility, and a minimum 10' wide vehicle maintenance path that meets H-20 loading standards and accessible turning radii.
 - b. The City is not responsible for the operation or maintenance of the storm drainage or stormwater capture and treatment facilities that convey Park Site stormwater through the private Development site or through any of the Private Recreation Credit amenities
3. Developer shall be responsible for all costs incurred for planning, design, construction, and supervision of the construction of all **Park Improvements**, including without limitation, City's plan review and inspection. 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 to the satisfaction of the **City's Director (Parks, Recreation and Neighborhood Services)** and the **Director of Public Works** and in accordance to all applicable federal, State, and local laws and regulations.
4. The park is anticipated to be constructed in multiple phases to correspond to the project development phasing. The Park Improvements to be installed on the Park Site shall be completed (i.e. all phases constructed and complete) on or before **December 31, 2025**.
 - a. The completion of the park design construction drawings will be finalized by December 31, 2021.

- b. Construction of the park will commence within 120 days after the approval of 100% construction drawings.
 - c. The park will be fully constructed and turned over to the City by December 31, 2025.
 - d. In the event of a severe delay in building the frontage along the park, the City and the Developer can enter into an Amended Agreement to extend the park completion date.
5. The City will not accept any recreational improvements until the park is complete and ready to be fully dedicated to the City. If a portion of the park will be open to the public prior to December 31, 2025, the park must be publicly accessible for at least 360 days a year, and maintained and operated by the Developer, until all phases of the park are constructed and accepted by the City. The City shall bear no costs to maintain the land or the improvements during this timeframe. The developer shall maintain all park features and will repair or replace all needed park features in-kind prior to final dedication to the City to provide the City with a “like-new” public park.
6. Upon Substantial Completion of the Park Improvements, the City shall send written notice of such to the Developer. “Substantial Completion”, “Substantially Complete” or “Substantially Completed” (or any derivation thereof)” shall mean that the **Park Improvements** have been installed in accordance and substantial conformance with the **Project Specifications** except for punch list items that have been issued for the **Park Improvements** or for the **Private Recreational Improvements** (as applicable). The Park Improvements shall be deemed accepted by City upon completion of all punch list items, warranty periods, and the operation and maintenance period. The operation and maintenance period shall be a minimum (90) ninety calendar days, until acceptance of all items of work upon which the City will record the Notice of Completion and Acceptance by **Director of Public Works** as outlined in **Exhibit E - Design and Construction Requirements** of this Agreement. The **City’s Director** may, at the **City Director’s** discretion, grant extensions of the completion requirement specified in this subsection.
 - a. If a portion of the park will be publicly accessible prior to Acceptance by the City, the developer shall repair or replace in-kind any landscaping or park features to ensure that the park, when fully improved and dedicated to the City, shall be in a ‘like-new’ condition without any deficits or needed repair or improvements at no cost to the City.
7. With respect to any credited **Private Recreation Improvements** which have not been completed prior to issuance of the last Certificate of Occupancy (including temporary certificate of occupancy, or equivalent, the credits for the incomplete improvements shall

be disallowed and Developer shall be required to pay any increase in Parkland Fees, together with additional charges, as set forth in the **adopted Parkland Fee Schedule Resolution effective the date of the inspection.**

8. Developer acknowledges and agrees that 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 written consent and approval and payment of in-lieu fees in effect of the time of the Director's approval as described above and in the Parkland Dedication and Park Impact ordinances (SJMC 19.38 and 14.25).
9. Developer acknowledges and agrees that Developer shall not receive any credit for eligible **Private Recreation Improvements** pursuant to the **Parkland Dedication and Park Impact ordinances** except those **Private Recreation Improvements** that are set forth in **Exhibit B – Private Recreation Credit Exhibit** and **Exhibit C - Fees and Credits** and constructed in full compliance with this Turnkey Agreement, or as otherwise creditable to the satisfaction of the **City's Director (Director of Parks, Recreation, and Neighborhood Services)**. Where moderate adjustments to **Exhibit F - Design and Construction Requirements**, remain fully creditable pursuant to City Municipal Code Chapters 14.25 and 19.38, and have been accepted by the **City's Director (Director of Parks, Recreation, and Neighborhood Services)**, the Developer shall provide an updated 'as built' exhibit within 60 days of request by the City.
10. Developer acknowledges that pursuant to the covenants set forth in this Turnkey Agreement, the Developer or Owner or Future Property Management Company shall henceforth be required to maintain all such private recreation improvements in safe working order and provide access for regular inspections at the City's request. After any such inspection and pursuant to written request by the City, the Developer, or Owner, shall promptly provide for any remedial actions, replacement, and/or repair work as may be necessary to ensure that the improvements remain in safe working order for recreational use.
11. The project contains privately owned and maintained **Private Recreational Improvement** publicly accessible areas designated for credit as designated in this agreement as shown on **Exhibit B – Private Recreation Credit Exhibit**, and/or associated exhibits, as "publicly accessible," the Developer agrees to maintain perpetual public access to these amenities for a minimum of 360 days per year and record public access easement(s) over the publicly accessible areas prior to the recordation of a Final Map. The Developer or Property Owner may however, post reasonable Rules and Regulations for respectful use and maintenance of the site as well as conduct and

occasional closures, subject to approval and satisfaction of the **City's Director (Director of Parks, Recreation, and Neighborhood Services)**. This Section shall apply in addition to any Easements or Restrictions which may be in place providing for public access and/or appurtenant uses.

SECTION 4. COMPLIANCE WITH THE PARKLAND DEDICATION ORDINANCE.

1. City acknowledges and agrees that Developer's performance of this Agreement via a recorded Notice of Completion shall satisfy 'Developer's obligations under the City's **Parkland Dedication and Park Impact Ordinances** for the residential units identified on the Tentative Map for the Development provided that Developer is not in material default hereunder, and provided further that Developer satisfies all other terms, conditions, and requirements associated with the Development, City shall issue all building permits necessary for the residential units identified on the Tentative Map.
2. The Parties acknowledge and agree that the calculation of the Developer's Parkland Dedication Obligation is set forth in **Exhibit C - Fees and Credits**, including the calculation of **Parkland Fees ("Park Impact In-lieu Fees")** and credits for **Private Recreational Improvements**, if applicable. If applicable, Developer shall pay **Parkland Fees** to the City in the specified in accordance with the payment instructions set forth in this Turnkey Agreement.
3. City will owe no refund or reimbursements to Developer in the event Developer does not build the number or type of residential units identified on the Tentative Map.
4. In the event there is an increase in the number of residential units to be built, or change in the dwelling unit type, Developer agrees to immediately notify the **City's Director** and to pay such additional **Parkland Fees** as are required by the **Parkland Dedication and Park Impact Ordinances (SJMC 19.38 and 14.25)**, to the extent not otherwise satisfied by the construction of the **Park Improvements**.
5. Developer acknowledges 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 Developer would be obligated to pay under the **Parkland Dedication Ordinance**. Because of the benefit to the Development that will result from the Park Improvements and land dedication, Developer agrees to design, develop, and construct the **Park Improvements** on the **Park Site** and dedicate the **Park Site** as shown on the Park Master Plan and consistent with the City reviewed 35% approved construction drawings as specified in this Agreement, without any additional obligation on the part of City.

SECTION 5. REVIEW FEES AND CHARGES RELATED TO PARK IMPROVEMENTS.

1. Developer shall pay to 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**”). City's **Review Fee** shall be based on the Developer's cost estimate for the **Project Specifications and Exhibit E - Cost Estimate for Park Improvements**, as approved by the **City's Director**, and shall be calculated based on the fees and charges established for City's review and inspection of like improvements in effect at the time Developer execute this Agreement including the additional amounts need to build the park per the approved Master Plan and 35% Construction drawings. The Review Fee is 17.5% of the **Total Public Park Cost Estimate** as shown on **Exhibit E - Cost Estimate for Park Improvements** of this agreement. The Review Fee shall be paid at the time of the execution of this Agreement.
2. Developer will provide a project schedule prior to start of construction work for each phase of the park. The park phases are anticipated to be discrete activities and no City inspections are anticipated between park phases. In the event that the **City's Director** grants an extension of the term of this Turnkey Agreement pursuant to the provisions of this Turnkey Agreement as necessary, or if the Developer does not complete each phase of the park per the project schedule provided to the City, or the **Review Fee** paid pursuant to Section 5.1 (above) is insufficient for City's review and inspection as set forth herein, then the City's Director and the **Director of Public Works**, at the **their** discretion, shall have the right to escalate the total estimated cost of the **Park Improvements**, and/or the corresponding Park Trust Fund and Public Works **Review Fee**. The escalation of the total estimated cost of the **Park Improvements** shall be based on the Engineering News Record Construction Cost Index, or in the event that the Engineering News Record discontinues publication during the term of this Agreement, an index of similar reputability and reliability as determined and selected by the City's Director and Director of Public Works at the rate set forth in the City's the effective Parkland Fee schedule.
3. **Injury to Park Improvements, Public Property or Public Utility Facilities.** Until recordation of the Notice of Acceptance of the **Park Improvements**, Developer assumes responsibility for the care and maintenance of, and any damage to, the **Park Improvements**. Developer shall replace or repair all **Park Improvements**, public utility facilities, and surveying or subdivision monuments and benchmarks which are destroyed or damaged for any reason, regardless of whether resulting from the acts of the Developer, prior to the recordation of the Notice of Acceptance. 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 **Public Works**.

4. 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. BONDS AND SECURITY.

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:

Type and Amounts.

1. **Performance Security.** To assure the Developer's faithful performance of this Agreement to complete the Park Improvements 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 Developer's payment to any Contractor, subcontractor, person renting or supplying equipment, or furnishing labor and materials for completion of the Park Improvements in the additional amount of One Hundred Percent (100%) of the estimated cost of the improvements (hereinafter "Payment Security"); and
3. **Warranty Security.** To warranty the Developer's 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 furnished in the additional amount of Twenty-Five Percent (25%) of the estimated cost of the improvements (hereinafter "Warranty Security"); and

Conditions.

1. 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 Developer to satisfy the security requirements in this Section 5 shall be in the forms attached hereto as **Exhibit G - Notarized Bond Forms**, as may be amended by City from time to time.
2. A condition of the Developer's 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 **Improvement Plans** cause an increase of more than ten percent (10%) over the original estimated cost of the **Park Improvements**, 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 per **Exhibit E – Cost Estimate for Park Improvements** of this agreement.

3. Notwithstanding above, Developer's security shall compensate City for the actual cost of completing the required **Park Improvements** in the Event of Default, as defined below, by Developer in the performance of this Agreement, regardless of whether City's cost of completion exceeds the estimated total cost of the Park Improvements.
4. A condition of Developer's security is that any request by Developer for an extension of time for the commencement or completion of the work under this Agreement may be granted by City without notice to Developer's 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, **Director of Public Works** may require Developer to furnish new security guaranteeing performance of this Agreement, as extended, in an increased amount to compensate for any increase in construction costs as determined by **Director of Public Works**.
6. If Developer seeks 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 Developer to **Director of Public Works**; and (3) upon its written acceptance by **Director of Public Works**, be deemed to be a part of this Agreement. Upon **Director of Public Work's** acceptance of a replacement security, the former security may be released by City.

Release of Securities. 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 warranty period and settlement of any claims filed during the warranty period.

4. City may retain from any security released, an amount sufficient to cover costs and reasonable expenses and fees, including reasonable attorney's fees.

SECTION 7. DEFAULT.

Developer shall be in default hereunder upon the occurrence of any one or more of the following events ("**Event of Default**"):

1. Developer's failure to commence construction of Park Improvements under this Agreement after 120 days from the approval of 100% construction drawings and/or to complete park construction by December 31, 2025.
2. Developer's insolvency, appointment of receiver, or the filing of any petition in bankruptcy, either voluntary or involuntary, which Developer fails to discharge within thirty (30) days;
3. Developer assigns this Agreement in violation of Section 9;
4. Developer fails to perform or satisfy any other term, condition, or obligation under this Agreement.
5. If an Event of Default occurs and the Event of Default is not cured by Developer in accordance with Section 6(C) below, City in its sole discretion shall be entitled to terminate Developer's control over the work described herein and hold Developer and its surety liable for all damages (other than consequential, special, or punitive damages) suffered by City as a result of the Event of Default. City shall have the right, at its sole discretion, to draw upon or use the appropriate security to mitigate City's damages in the Event of Default by Developer. Developer acknowledges and agrees that City's right to draw upon or use the security is in addition to any other remedies available at law or in equity to 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, City's damages in the Event of Default by Developer shall be measured by the actual cost of completing the required Park Improvements to the satisfaction of City. City may use the sums provided by the securities for the completion of the Park Improvements in accordance with the Project Specifications.
6. City may take over the work and complete the Park Improvements, by contract or by any other method City deems appropriate, at the sole cost and expense of Developer. In such event, City, without any liability whatsoever, may complete the Park Improvements using any of Developer's materials, appliances, plans, or other property located at the Park Site and that are necessary to complete the Park Improvements.

7. Unless the City's Director reasonably determines that the circumstances warrant immediate enforcement of the provisions of this Section 6 in order to preserve the public health, safety, and welfare, arising from an Event of Default, the City's Director shall give sixty (60) working days' prior written notice of termination to Developer ("Notice Period"), which notice shall state in reasonable detail the nature of Developer's Event of Default and the manner in which Developer can cure the Event of Default. During the Notice Period, Developer shall have the right to cure any such Event of Default; provided, however, if an Event of Default is of a nature which cannot reasonably be cured within the Notice Period, Developer shall be deemed to have timely cured such Event of Default for purposes of this section if Developer commences to cure the Event of Default within the Notice Period, and prosecutes the same to completion within a reasonable time thereafter.
8. If an Event of Default occurs, Developer agrees to pay any and all costs and expenses incurred by 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.
9. City's rights and remedies specified in this Section 6 shall be deemed cumulative and in addition to any rights or remedies City may have at law or in equity.

SECTION 8. INDEMNITY/hold harmless.

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 Developer, its agents, employees, contractors, or subcontractors in the performance of this Agreement. Developer further acknowledges and agrees to protect, indemnify, defend and hold 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 Developer under this Agreement, except to the extent such injury or harm is caused by the sole active negligence or willful misconduct of City, its officers, agents, or employees. 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 City of the **Park Improvements** shall not constitute an assumption by City of any responsibility or liability for any loss or damages covered by this Section 8.

Developer shall reimburse City for all costs and expenses, including but not limited to fees and charges of architects, engineers, attorneys, and other professionals, and court costs, incurred by City in enforcing this Section 8.

SECTION 9. NOTICES.

Any required payment, notice required or permitted to be given under this Agreement shall be in writing and personally served or 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 Improvement Projects Strategic
Planning Team: Attention: Deputy Director**

200 East Santa Clara Street, Tower-9th Floor

San José, CA 95113

**To Director of Public
Works:**

City of San José

Department of Public Works

City Facilities and Architectural Services

Attn: Public Works Division Manager

200 East Santa Clara Street, Tower-6th Floor

San José, CA 95113

To Developer:

Pulte Home Company LLC

Attn: Vice President of Land Planning & Entitlements

4511 Willow Road, Suite 8

Pleasanton, CA 94588

Notice shall be deemed given upon receipt. 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 10. ASSIGNMENT.

1. Developer and/or Owner may sell, transfer or assign all of the Property or the portion of Property that contains the Project, together with any or all rights, title, interests and obligations of Developer and/or Owner arising hereunder (each, a “Transfer”), provided, that Developer and/or Owner shall provide written notice to City of any such Transfer and any transferee shall take such Property, and any such rights, title and interests, subject to this Agreement and shall be deemed to have assumed the obligations of Developer and/or Owner under this Agreement. Upon any such Transfer, transferring Developer and/or Owner shall have no further obligations hereunder.

SECTION 11. BINDING UPON SUCCESSORS.

1. This Agreement shall be binding upon and shall inure to the benefit of the Parties' respective successors, assignees, transferees, and legal representatives.

SECTION 12. GOVERNING LAW.

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

SECTION 13. ENTIRE AGREEMENT.

1. 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

Parkland Dedication and Park Impact 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 14. TIME OF ESSENCE.

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

SECTION 15. FORCE MAJEURE.

1. “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 Developer or both, or any governmental order or law which causes an interruption in the construction of the Park Improvements or Private Recreation Improvements (the “Work” for purposes of this section) or prevents timely delivery of materials or supplies.
2. Should a Force Majeure Event prevent 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.
3. Notwithstanding the foregoing, the following shall not excuse or suspend performance under this Agreement:
 - a. 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.

- b. Negligence or failure of Developer 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.
- c. The inability of Developer 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 Developer's default under such contract shall not constitute a Force Majeure Event.

SECTION 16. BOOKS AND RECORDS

1. Developer shall be solely responsible to implement internal controls and record keeping procedures in order to comply with this Agreement and all applicable laws. Developer shall maintain any and all ledgers, books of account, invoices, vouchers, bids, cancelled checks, and other records or documents evidencing or relating to the activities performed by Developer 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, Developer shall retain such records beyond three (3) years so long as any litigation, audit, dispute, or claim is pending.
2. Any records or documents required to be maintained pursuant to this Agreement shall be made available for inspection or audit at no cost to 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 documents shall be provided to 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 Developer's address indicated for receipt of notices in this Agreement.
3. Where City has reason to believe that such records or documents may be lost or discarded due to dissolution, disbandment or termination of Developer's business, City may, by written request by any of the above-named officers, require that custody of the records be given to 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 Developer, Developer's representatives, or Developer's successor-in-interest.
4. Developer's obligations under this Section shall be in addition to Developer's obligations specified in this agreement's exhibits.

SECTION 17. MISCELLANEOUS PROVISIONS.

1. **Captions.** Captions and Sections of this Agreement are for convenience only and shall not be considered in resolving any questions of interpretation or construction.
2. **Incorporation of Recitals.** The Recitals in this Agreement are hereby incorporated into the terms of this Agreement.
3. **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.
4. **Waiver.** Developer agrees 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.
5. **Plurality.** As used in this Agreement and when required by the context, each number (singular and plural) shall include all numbers.
6. **Compliance with Laws.** Developer, its employees, agents, representatives, contractors, and subcontractors shall comply with all local, state and federal laws in the performance of this Agreement.
7. **Nondiscrimination.** Developer, 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. Developer 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.
8. Developer has read each and every part of this Agreement, including without limitation, its exhibits, and Developer freely and voluntarily has 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.

9. 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.
10. **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.
11. 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 18. AGREEMENT'S ATTACHMENTS.

This Agreement includes the following attachments:

Exhibit A - Irrevocable Offer of Dedication and Plat Map

Exhibit B - Private Recreation Credit Exhibit

Exhibit C - Fees and Credits

Exhibit D - Park Master Plan/Park Improvement Site Plan

Exhibit E - Cost Estimate for Park Improvements

Exhibit F - Design and Construction Requirements

Exhibit G - Notarized Bond Forms

- Performance Security
- Payment Security
- Warranty Security

Exhibit H - Environmental Disclosures/Permitted Exceptions

Exhibit I - Project Schedule Tentative/Draft

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

DEVELOPER

Pulte Home Company LLC, A Michigan
Limited Liability Company

By: _____

Name: Daniel J. Carroll

Title: VP of Land

*All Developer/Owner's signatures must be accompanied by an attached notary acknowledgement. *Proof of authorization for Developer's/Owner's signatures is required to be submitted concurrently with this Agreement.

STATE OF CALIFORNIA)
) SS
COUNTY OF SANTA CLARA)

On _____ before me _____, (Name, Title of officer – e.g. Jane Doe, Notary Public) personally appeared _____ 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 of Notary)

EXHIBIT A - IRREVOCABLE OFFER OF DEDICATION AND PLAT MAP

RECORDING REQUESTED BY:

City of San Jose

When Recorded Mail Document and Tax
Statements to:

City of San Jose
Office of Economic Development
200 East Santa Clara Street, 12th Floor
San Jose, CA 95113-1905

Attn: Administrative Officer

Space above this line for Recorder's Use

IRREVOCABLE OFFER OF DEDICATION

APN: _____

Recorded for the benefit of the City of San Jose and is exempt from recording fees per
Government Code Sections 27383 and 6103.

The Undersigned Grantee(s) Declare(s):

DOCUMENTARY TRANSFER TAX \$0; CITY TRANSFER TAX \$0 Exempt per R & T
Code Section 11922

☐ 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

PULTE HOME COMPANY, LLC, a Michigan 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-1** and depicted in the
attached **Exhibit A-2** for park purposes (the “**Park Property**”). Such dedication of the Park
Property shall be accepted by CITY upon recordation of a Quitclaim Deed in the Santa Clara
County, Office of the County-Recorder. The Quitclaim 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:

GRANTOR performs and satisfies any and all terms, conditions, and
obligations required prior to conveyance, as set forth in the Parkland
Agreement by and between GRANTOR and CITY entitled “TURNKEY
PARKLAND AGREEMENT for Tentative Map No. PT19-023 Between
City of San Jose and Pulte Home Company, LLC, a Michigan Limited

Liability Company and Restrictions and Covenants Relating To Private
Recreational Improvements”.

Until such Quitclaim Deed is recorded, CITY shall not be responsible for and shall incur no liability with respect to the Park Property, except as expressly set forth in the Parkland Agreement, described above. 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 Quitclaim 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-1” and “A-2” attached hereto and made a part hereof.

Dated: _____

PULTE HOME COMPANY, LLC,
a Michigan limited liability company

By: _____

Name: _____

Title: _____

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 _____

On _____, 201__, before me, _____, a Notary Public, personally appeared _____, 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 of the Notary Public

EXHIBIT A-1

Legal Description of Park Property

REAL PROPERTY in the City of San Jose, County of Santa Clara, State of California, being all of Parcel CC as shown on that certain Subdivision Map entitled "Tract 10539" filed for record _____, 2021 in Book _____ of Maps, pages _____, records of Santa Clara County.

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

Date: 05/25/2021



A handwritten signature in blue ink, appearing to read "Andrew Turner", written over a horizontal line.

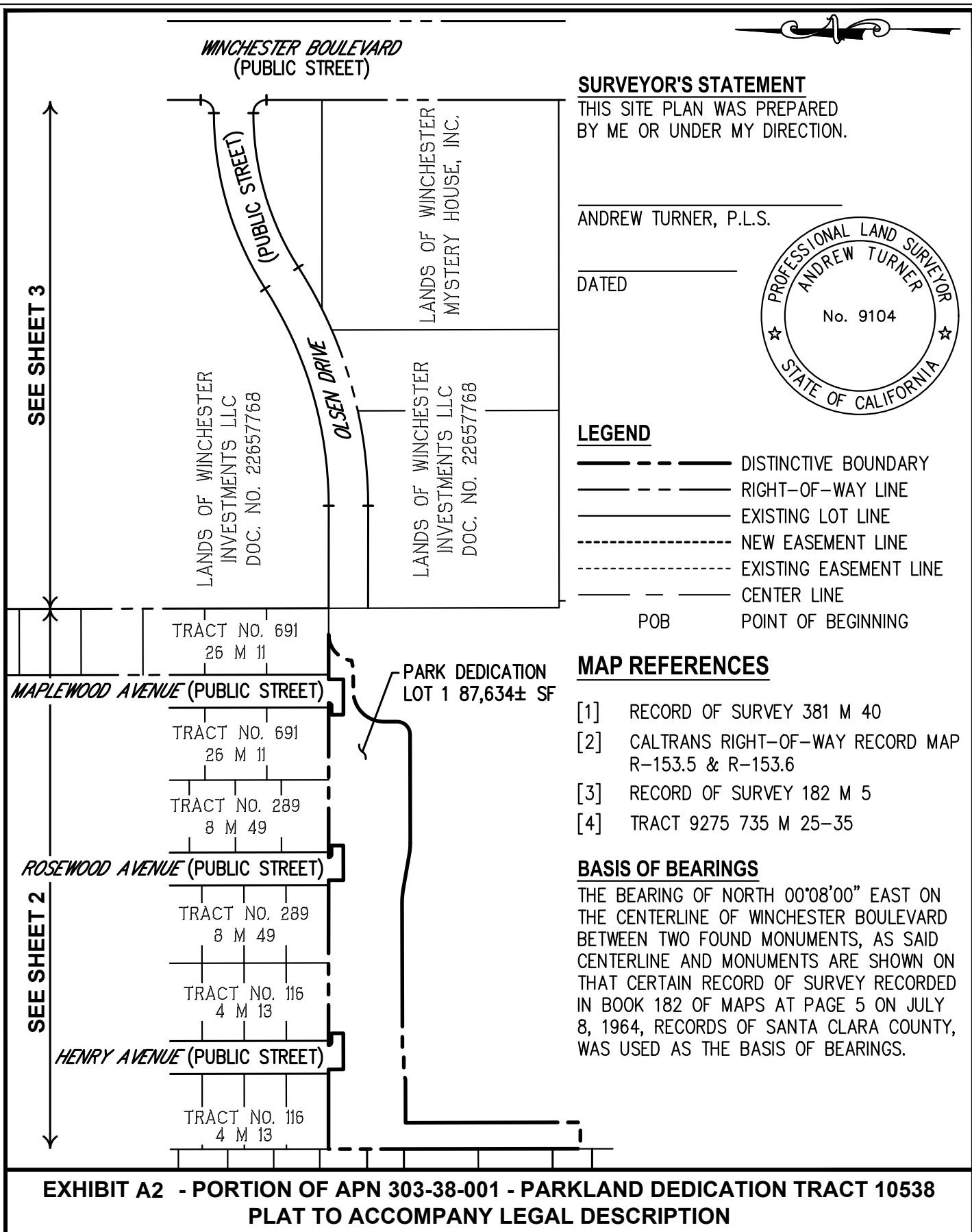
Andrew Turner, PLS 9104

EXHIBIT A-2

Plat Map Park Property

[Please See Attached]

14117 PLAT PARK.dwg May 13, 2021



SURVEYOR'S STATEMENT

THIS SITE PLAN WAS PREPARED
BY ME OR UNDER MY DIRECTION.

ANDREW TURNER, P.L.S.

DATED



LEGEND

- DISTINCTIVE BOUNDARY
- RIGHT-OF-WAY LINE
- EXISTING LOT LINE
- NEW EASEMENT LINE
- EXISTING EASEMENT LINE
- CENTER LINE
- POB POINT OF BEGINNING

MAP REFERENCES

- [1] RECORD OF SURVEY 381 M 40
- [2] CALTRANS RIGHT-OF-WAY RECORD MAP R-153.5 & R-153.6
- [3] RECORD OF SURVEY 182 M 5
- [4] TRACT 9275 735 M 25-35

BASIS OF BEARINGS

THE BEARING OF NORTH 00°08'00" EAST ON THE CENTERLINE OF WINCHESTER BOULEVARD BETWEEN TWO FOUND MONUMENTS, AS SAID CENTERLINE AND MONUMENTS ARE SHOWN ON THAT CERTAIN RECORD OF SURVEY RECORDED IN BOOK 182 OF MAPS AT PAGE 5 ON JULY 8, 1964, RECORDS OF SANTA CLARA COUNTY, WAS USED AS THE BASIS OF BEARINGS.



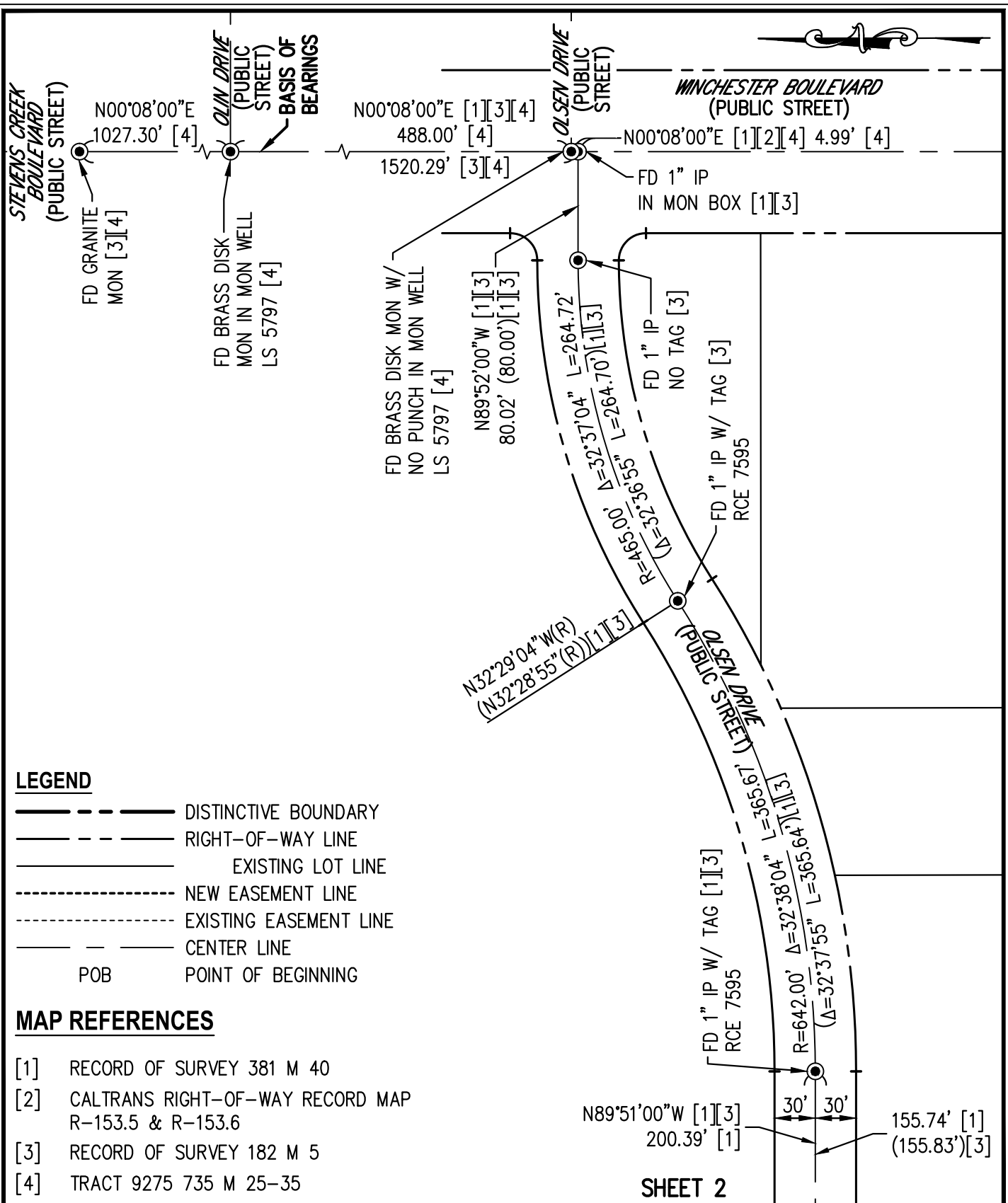
Civil Engineering Associates

Civil Engineers • Planners • Surveyors

2055 Gateway Place Suite 550
San Jose, CA 95110
T: (408) 453-1066

BY: CH
DATE: 5/13/2021
SCALE: 1"=200'
JOB NO. 14-117

1 OF 4
SHT.NO.



**EXHIBIT A2 - PORTION OF APN 303-38-001 - PARKLAND DEDICATION TRACT 10538
PLAT TO ACCOMPANY LEGAL DESCRIPTION**



**Civil
Engineering
Associates**

Civil Engineers • Planners • Surveyors

2055 Gateway Place Suite 550
San Jose, CA 95110
T: (408) 453-1066

BY: CH
DATE: 5/13/2021
SCALE: 1"=100'
JOB NO. 14-117

3 OF 4
SHT.NO.

LINE TABLE		
LINE #	BEARING	LENGTH
L1	N89°51'00"W	44.65'
L2	N00°01'00"E	30.00'
L3	S89°51'00"E	121.28'
L4	S00°01'00"W	22.59'
L5	S89°59'00"E	54.71'
L6	N00°01'00"E	18.00'
L7	N89°59'00"W	13.50'
L8	S89°51'00"E	250.89'
L9	S00°01'00"W	22.58'
L10	S89°59'00"E	52.66'
L11	N00°01'00"E	18.00'
L12	N89°59'00"W	13.50'
L13	S89°51'00"E	234.90'
L14	N89°59'00"W	13.50'
L15	S00°01'00"W	18.00'
L16	S89°59'00"E	53.72'
L17	N00°01'00"E	22.42'
L18	N89°51'00"W	68.24'
L19	N89°59'00"W	25.08'
L20	S00°00'00"E	20.18'
L21	S90°00'00"W	165.01'
L22	N80°00'00"W	53.17'
L23	N90°00'00"E	218.71'
L24	N90°00'00"E	27.28'
L25	S74°52'24"W	9.58'

LINE TABLE		
LINE #	BEARING	LENGTH
L26	N90°00'00"E	65.74'
L27	S00°00'00"W	265.83'
L28	N90°00'00"E	40.23'
L29	N00°03'40"E	383.11'

RADIAL BEARING TABLE	
NO.	BEARING
R30	S89°59'00"E
R31	N00°09'00"E
R32	S12°23'03"E

CURVE TABLE			
CURVE #	RADIUS	DELTA	LENGTH
C1	4.50'	90°00'00"	7.07'
C2	4.50'	90°00'00"	7.07'
C3	4.50'	90°00'00"	7.07'
C4	40.00'	82°50'15"	57.83'
C5	99.50'	12°24'03"	21.54'
C6	46.50'	90°01'00"	73.06'
C7	19.50'	90°00'00"	30.63'
C8	99.50'	10°00'00"	17.37'
C9	126.50'	10°00'00"	22.08'
C10	41.50'	17°51'37"	12.94'

**EXHIBIT A2 - PORTION OF APN 303-38-001 - PARKLAND DEDICATION TRACT 10538
PLAT TO ACCOMPANY LEGAL DESCRIPTION**



**Civil
Engineering
Associates**

Civil Engineers • Planners • Surveyors

2055 Gateway Place Suite 550
San Jose, CA 95110
T: (408) 453-1066

BY: CH

DATE: 5/13/2021

SCALE: -

JOB NO. 14-117

4 OF 4
SHT.NO.

EXHIBIT B – PRIVATE RECREATION CREDIT EXHIBIT

WINCHESTER RANCH

EXHIBIT B - PRIVATE RECREATION CREDIT EXHIBIT

TABLE OF CONTENTS

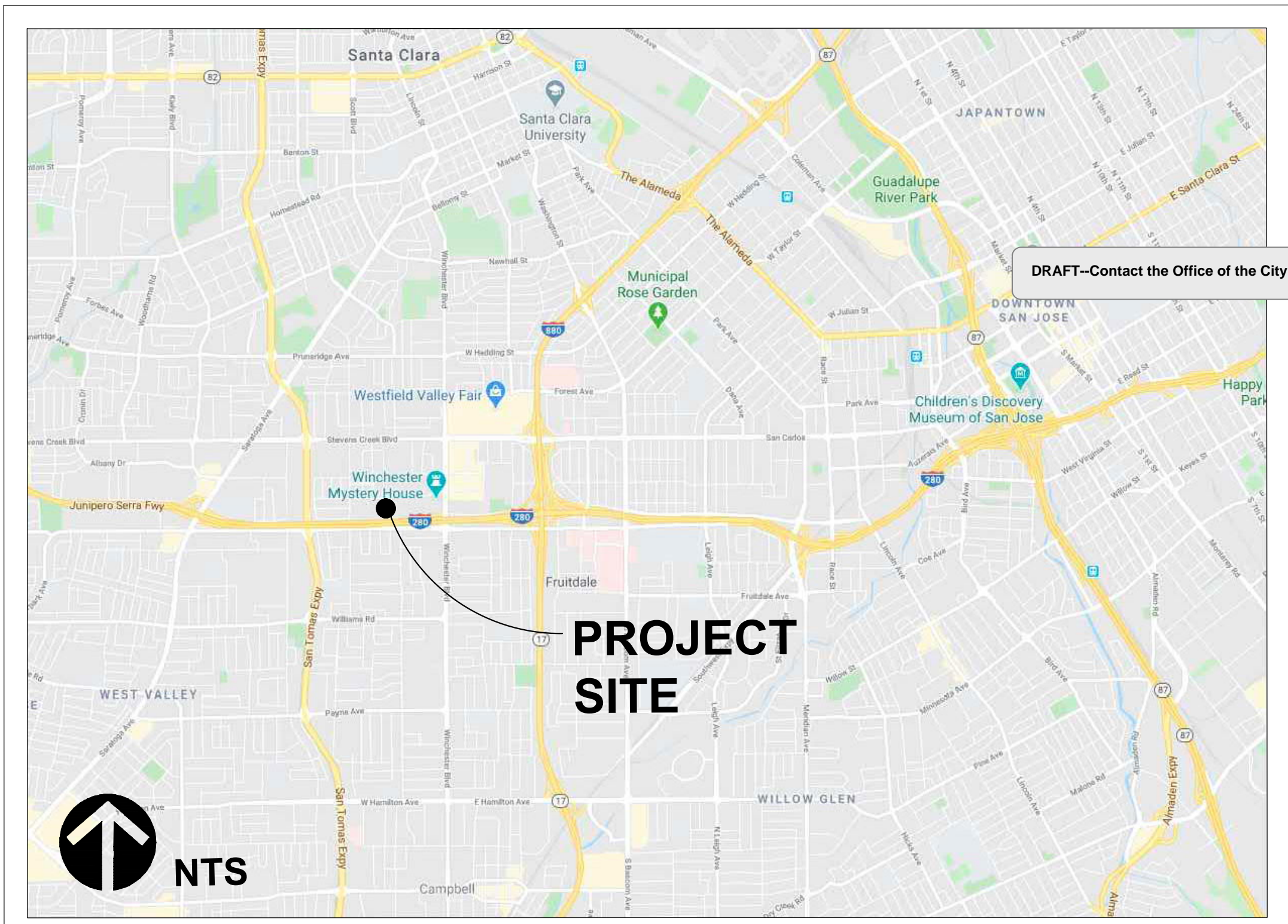
PRIVATE RECREATION AMENITIES TABLE	L-E.1
PRIVATE RECREATION SITE PLAN	L-E.2
PRIVATE GARDEN	L-E.3
FLATS ROOF DECK PICNIC AREAS	L-E.4
PODIUM APARTMENT RECREATION AREAS	L-0.0 TO L-1.12

RESIDENTIAL UNITS

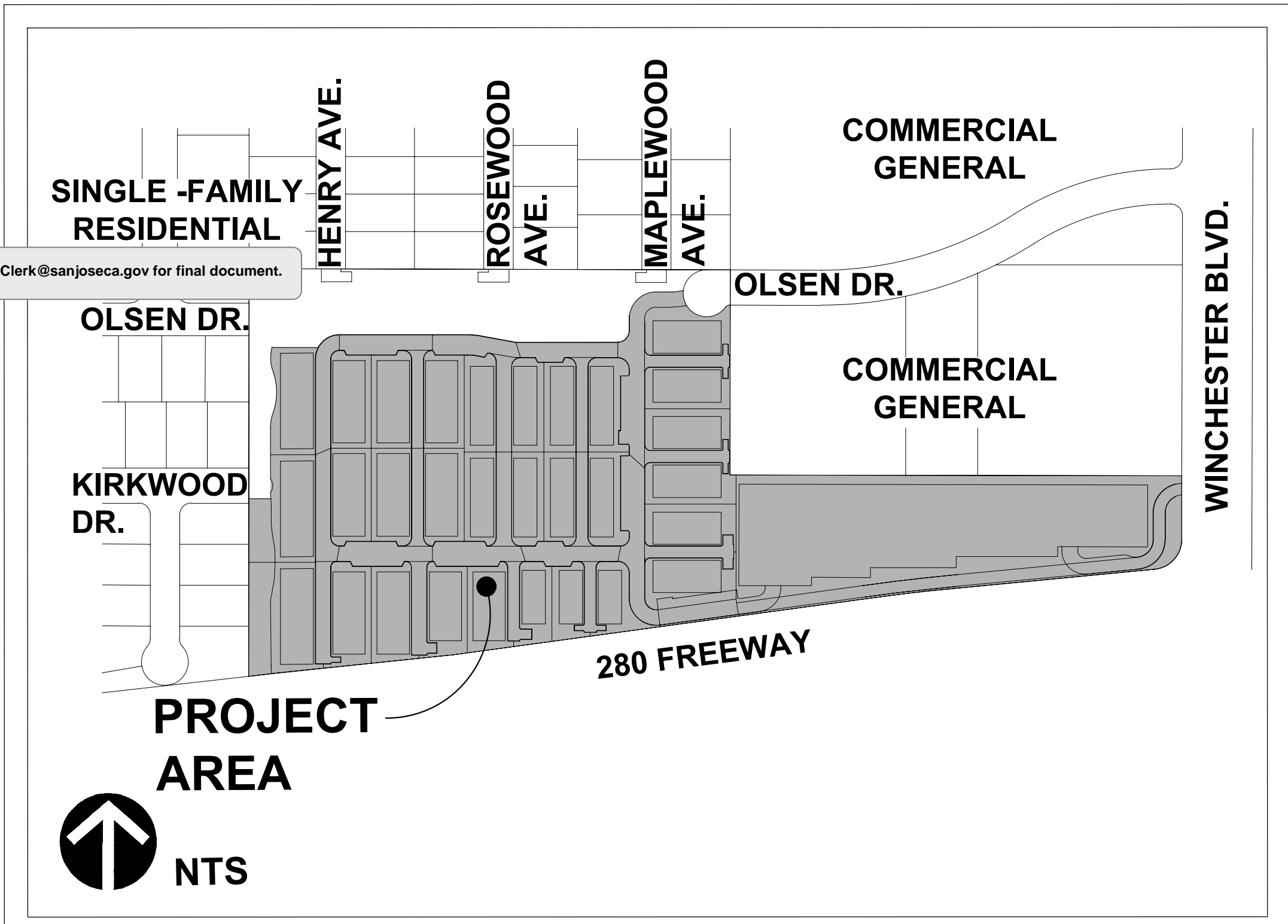
TYPE	QTY.
4 STORY TOWNHOMES	90 DU
4 STORY CONDO	158 DU
4 STORY STACKED FLATS	72 DU
7 STORY PODIUM APARTMENTS	366 DU
TOTAL NUMBER OF UNITS	686DU

NOTE:
ALL ON SITE PRIVATE RECREATIONAL AMENITIES SHALL BE OWNED AND MAINTAINED BY THE PROPERTY OWNER OR THE PROPERTY MANAGEMENT COMPANY AND/OR THE HOMEOWNERS ASSOCIATION.

VICINITY MAP



SITE MAP



WINCHESTER RANCH
San Jose, California

COVER SHEET
LANDSCAPE PLAN
MAY 2021

vanderToolen Associates
855 Bordeaux Way
Suite 240
Napa, CA 94558
tel: 707.224.2299
www.vandertoolen.com



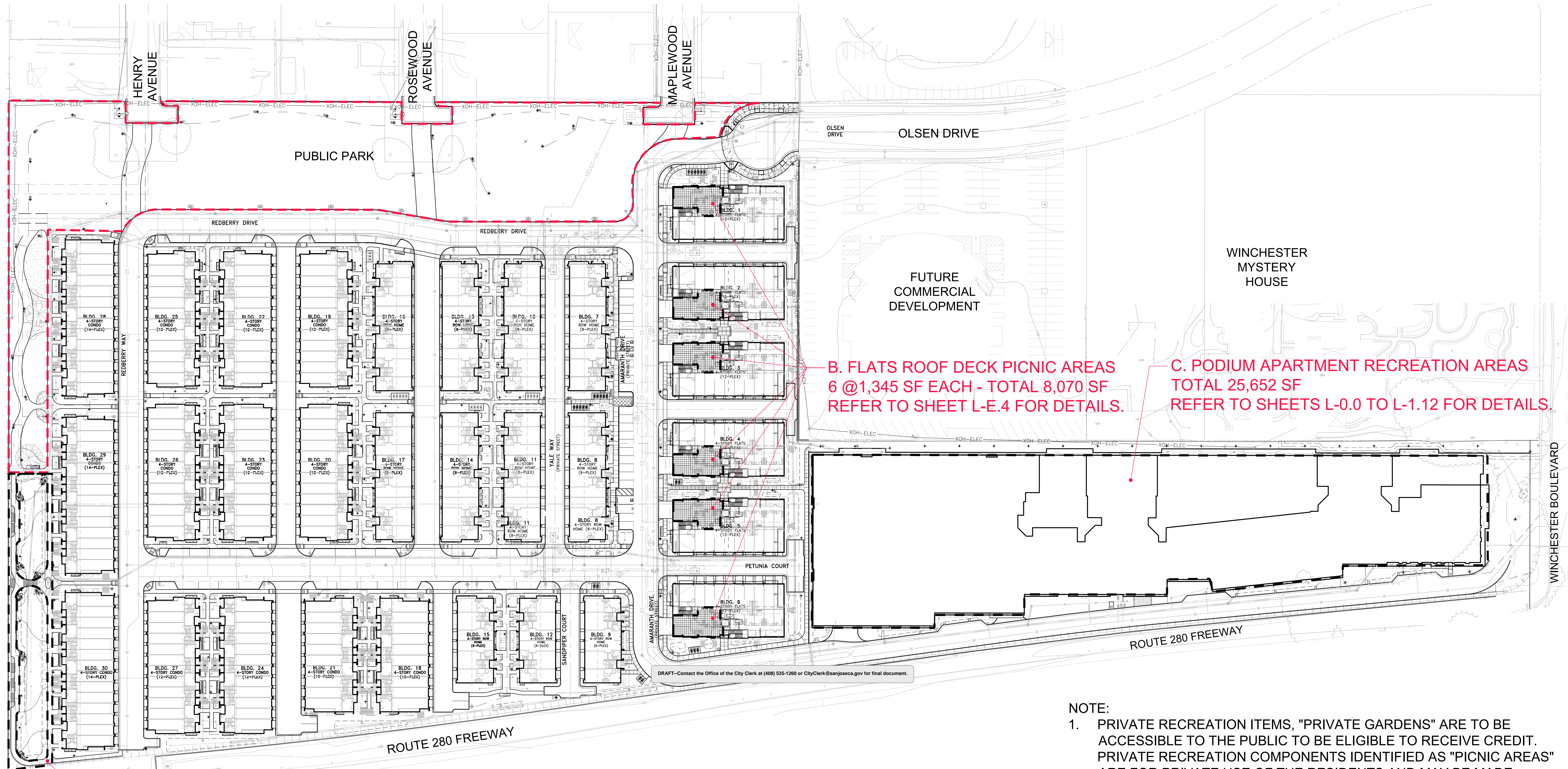
L-E.0
Project No. 01019

WINCHESTER RANCH

EXHIBIT B - PRIVATE RECREATION CREDIT EXHIBIT

PRIVATE RECREATION QUALIFYING AREAS AND SQUARE FOOTAGE			
	FEATURE	TYPE	SQ. FOOTAGE
A.	TOT LOT	ACTIVE	0
B.	SPORTS COURT	ACTIVE	0
C.	TURF PLAYING FIELD	ACTIVE	0
D.	PICNIC AREAS (APARTMENTS: AREAS A-B; 3-STORY FLATS)	ACTIVE	12,196
E.	PUBLIC PLAZA	ACTIVE	0
F.	PUBLIC GARDEN SPACES	ACTIVE	0
G.	FENCED PET AMENITY	ACTIVE	310
H.	PUBLICLY ACCESSIBLE PRIVATE GARDEN SPACES	ACTIVE	5,077
I.	SWIMMING POOL	NON-ACTIVE	6,505
J.	RECREATION BLDG. (APARTMENTS: ROOMS A-C)	NON-ACTIVE	2,397
K.	COMMUNITY ROOMS (APARTMENTS: ROOMS A-E)	NON-ACTIVE	12,314
	TOTAL SQ. FOOTAGE		38,799





A. PRIVATE GARDEN
TOTAL 5,077 SF
REFER TO SHEET L-E.3 FOR DETAILS.

B. FLATS ROOF DECK PICNIC AREAS
6 @ 1,345 SF EACH - TOTAL 8,070 SF
REFER TO SHEET L-E.4 FOR DETAILS.

C. PODIUM APARTMENT RECREATION AREAS
TOTAL 25,652 SF
REFER TO SHEETS L-0.0 TO L-1.12 FOR DETAILS.

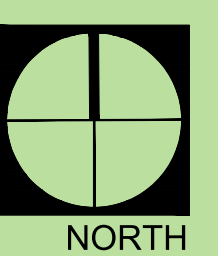
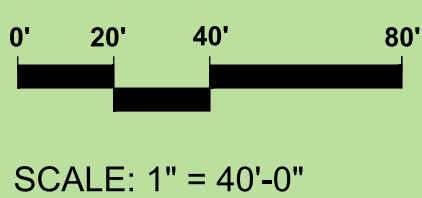
- NOTE:
1. PRIVATE RECREATION ITEMS, "PRIVATE GARDENS" ARE TO BE ACCESSIBLE TO THE PUBLIC TO BE ELIGIBLE TO RECEIVE CREDIT. PRIVATE RECREATION COMPONENTS IDENTIFIED AS "PICNIC AREAS" ARE FOR PRIVATE USE OF THE RESIDENTS AND MAY BE MADE ACCESSIBLE TO THE PUBLIC AT THE SOLE DISCRETION OF THE OWNER.
 2. THE PRIVATE GARDENS SHALL BE OPEN TO THE PUBLIC A MINIMUM OF 360 DAYS OF THE YEAR.
 3. PICNIC AREAS ARE TO BE ACCESSIBLE TO ALL RESIDENTS.
 4. TABLES AT PICNIC AREAS TO BE ADA ACCESSIBLE.
 5. ALL ON SITE PRIVATE RECREATIONAL AMENITIES SHALL BE OWNED AND MAINTAINED BY THE PROPERTY OWNER OR THE PROPERTY MANAGEMENT COMPANY AND/OR THE HOMEOWNERS ASSOCIATION.



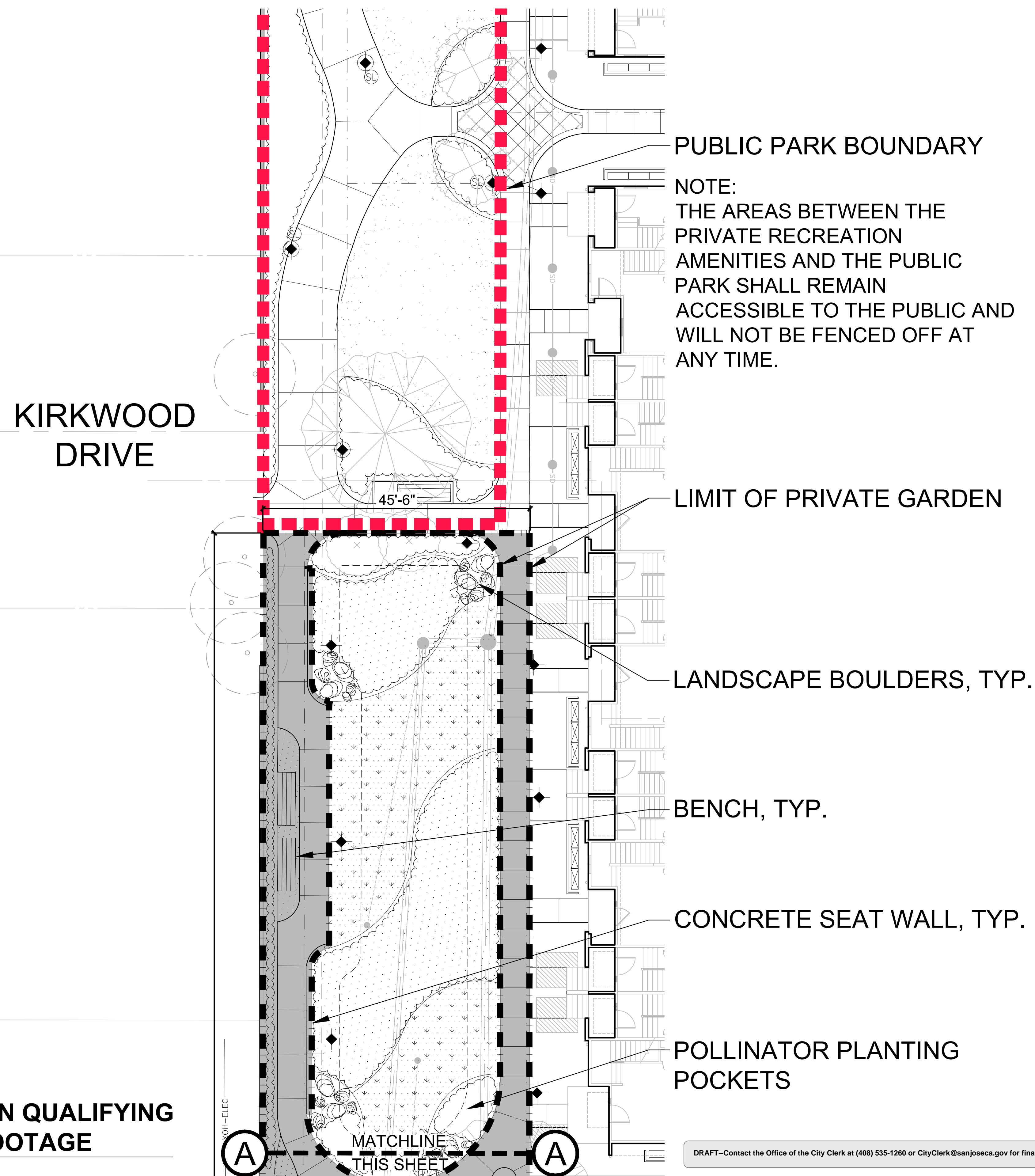
WINCHESTER RANCH
San Jose, California

PRIVATE RECREATION SITE PLAN
LANDSCAPE PLAN
MAY 2021

vanderToolen Associates
855 Bordeaux Way
Suite 240
Napa, CA 94558
tel: 707.224.2299
www.vandertoolen.com



L-E.2
Project No. 01019



PRIVATE RECREATION QUALIFYING AREAS & SQUARE FOOTAGE

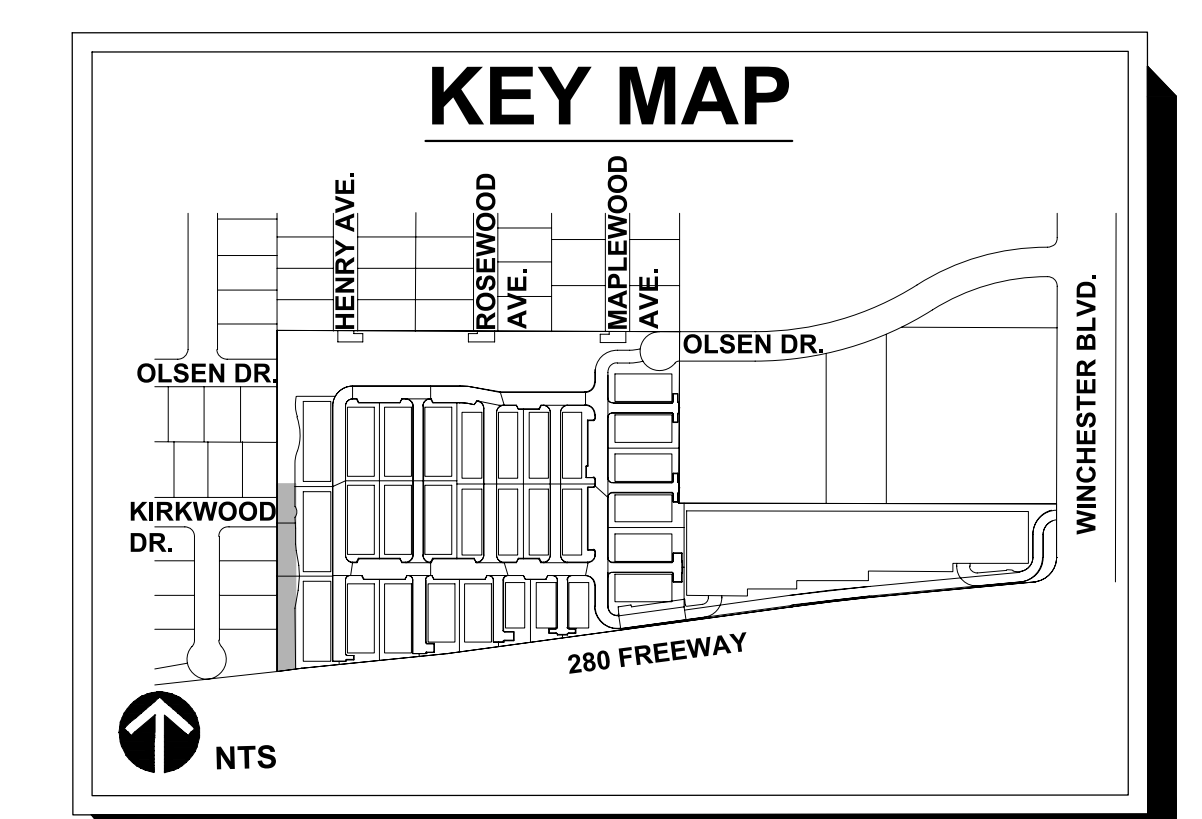
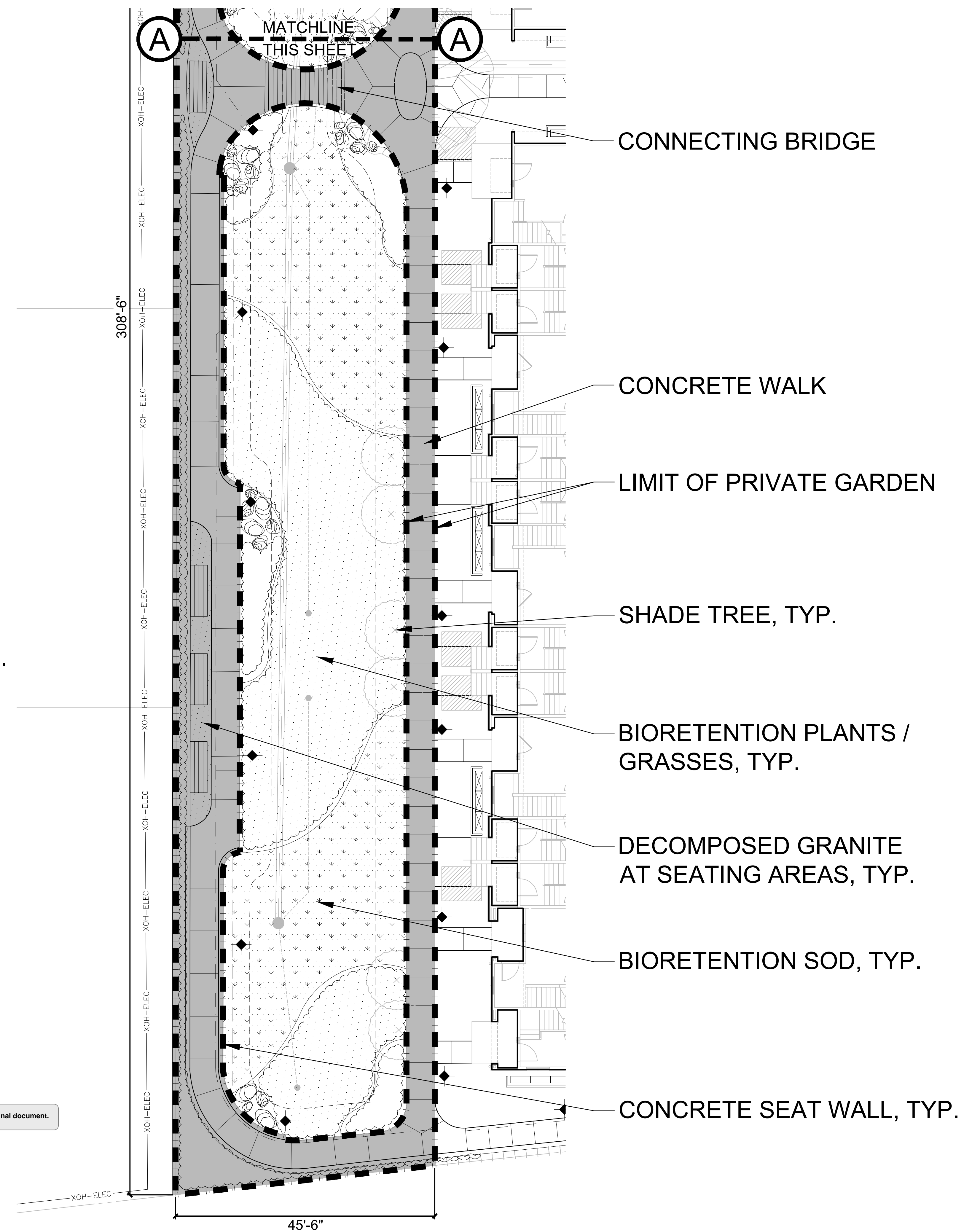
PRIVATE GARDEN - 5,077 SF

- **PRIVATE GARDEN PERIMETER 703 LF
X 30% = 210.9 LF OF SEATING**
- **221 LF OF SEATING**
- **POLLINATOR PLANTING POCKETS**
- **CONCRETE PATHS**
- **CONNECTING BRIDGE**
- **LANDSCAPE BOULDERS**

NOTE:

THE PRIVATE GARDEN AND BIORETENTION STORMWATER TREATMENT AREAS DO NOT QUALIFY FOR PRIVATE RECREATION CREDITS.

THE PRIVATE GARDEN PROVIDES A CIRCULAR WALKWAY AND A VARIETY OF SEATING AROUND A GARDEN AREA PLANTED WITH POLLINATOR PLANTS AND ROCK FEATURES. THIS AREA WILL PROVIDE A QUIET, TRANQUIL AREA TO PROMOTE REFLECTION OR INTROSPECTION. THE PRIVATE GARDEN IS ADJACENT TO THE PUBLIC PARK AND KIRKWOOD DRIVE (PUBLIC ROAD) TO THE NORTH AND SHALL BE OPEN TO THE PUBLIC FROM DAWN TO DUSK A MINIMUM OF 360 DAYS A YEAR. THE PRIVATE GARDEN SHALL BE OWNED AND MAINTAINED BY THE PROJECT HOMEOWNERS ASSOCIATION.

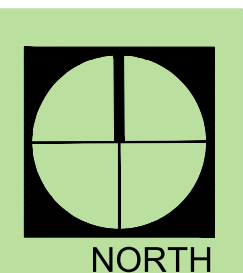
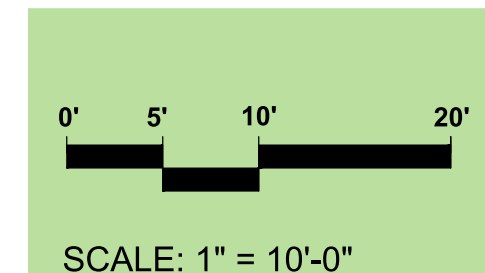


WINCHESTER RANCH

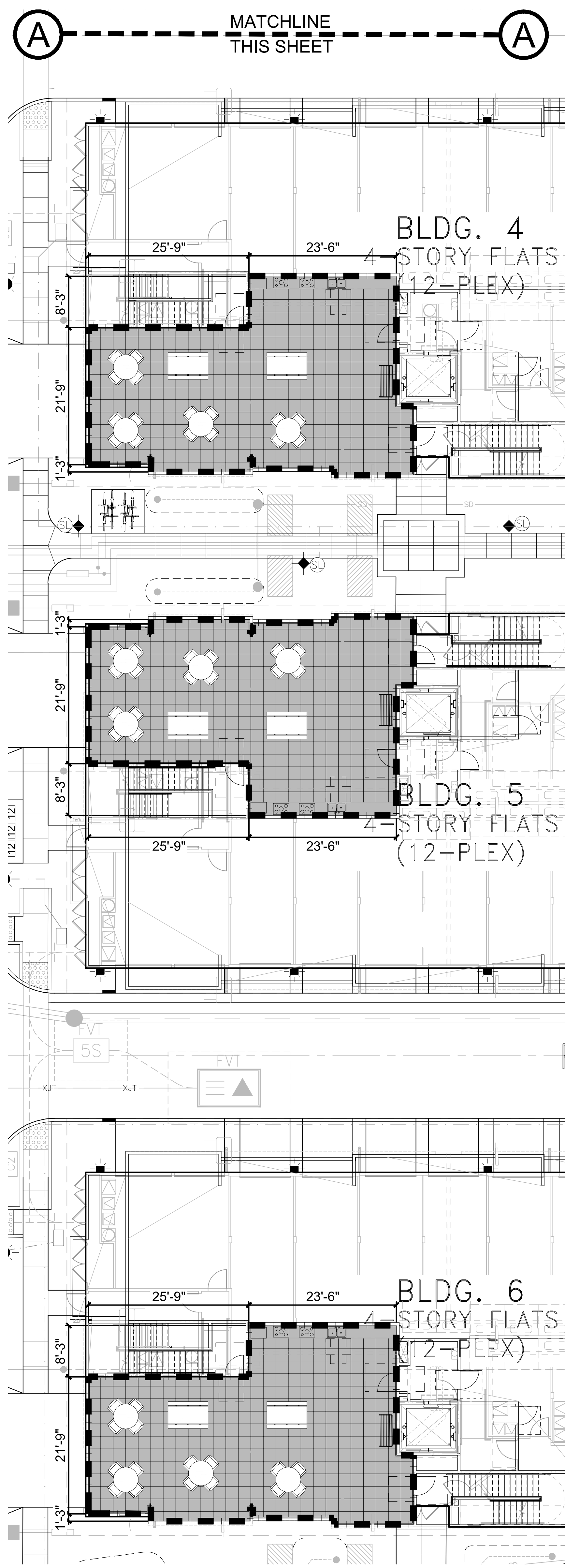
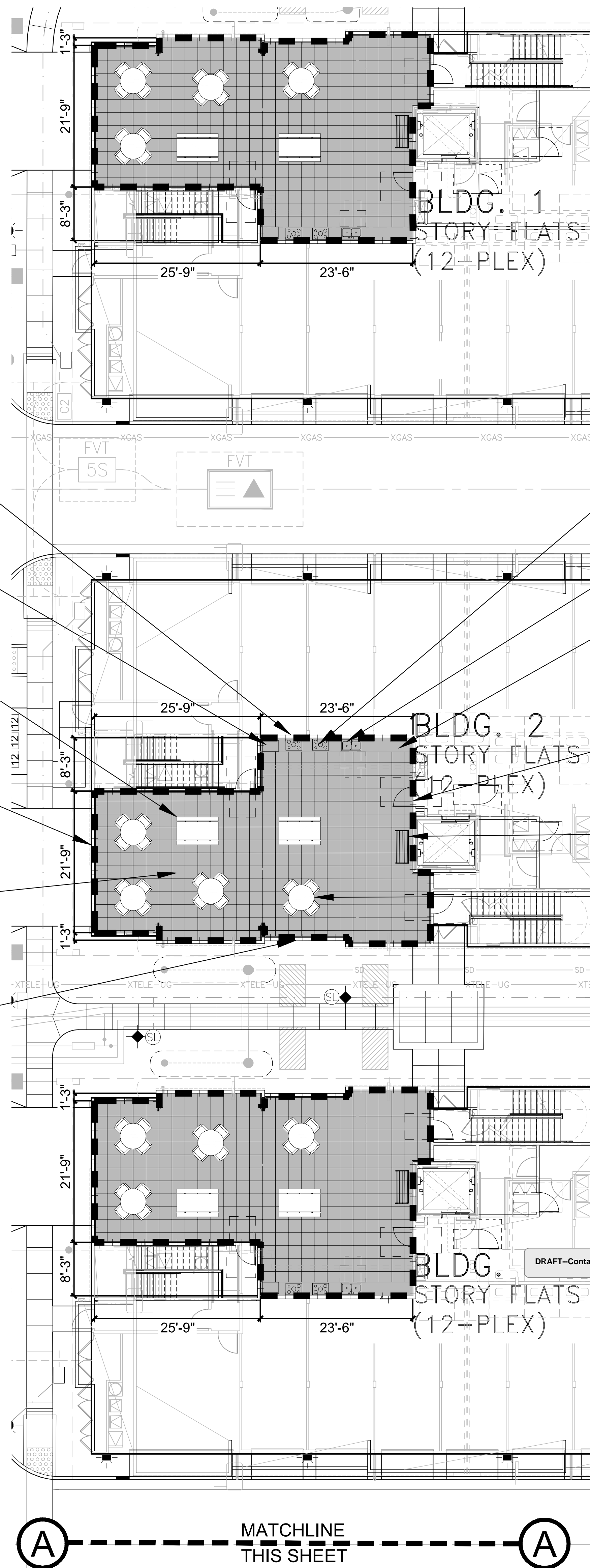
San Jose, California

PRIVATE GARDEN
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L-E.3
Project No. 01019



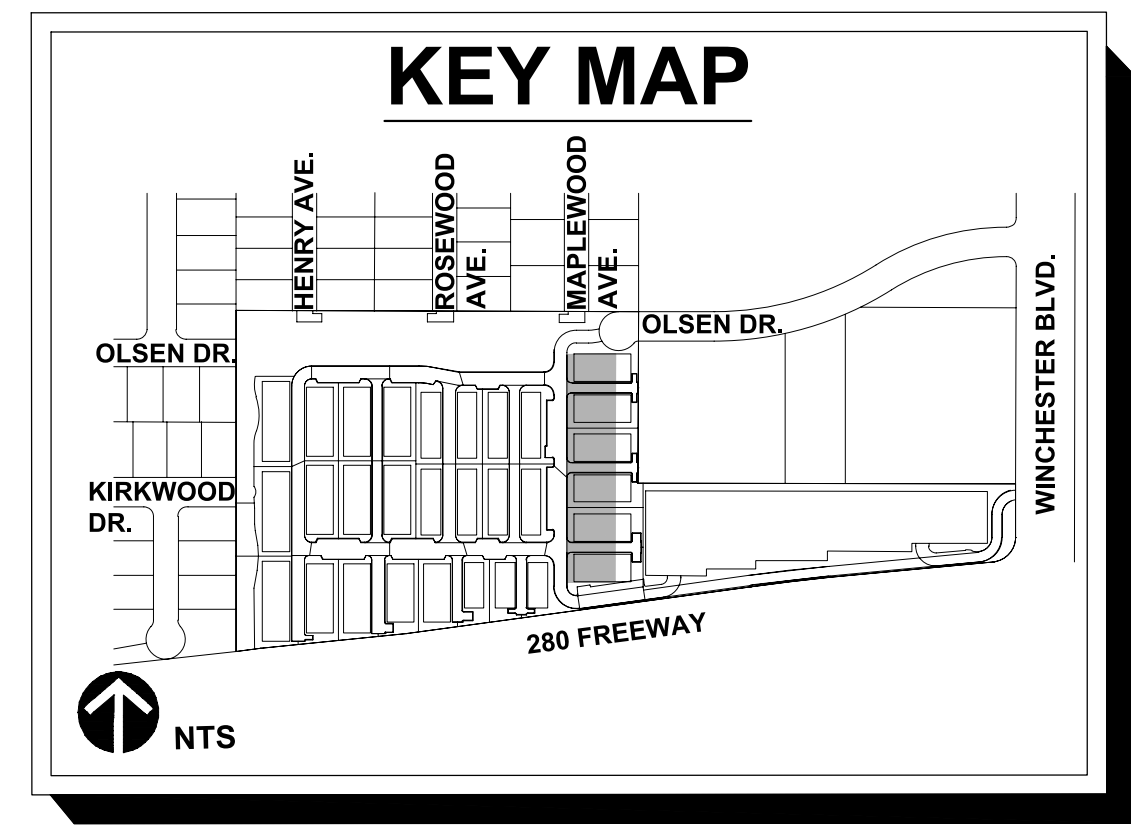
- STUCCO SCREEN WALL, TYP.
- TRASH & RECYCLING RECEPTACLE, TYP.
- PICNIC BENCH, TYP.
- LIMIT OF PICNIC AREA
- NO SLIP PAVERS ON PEDESTALS, TYP.
- STUCCO PARAPET WALL, TYP.

- (2) BUILT-IN ELECTRIC GRILLS, TYP.
- SINK/ WASH AREA, TYP.
- FOOD PREP COUNTER WITH OPEN KNEE SPACE BELOW, TYP.
- 0" THRESHOLD/ NO STEP ENTRY, TYP.
- BENCH, TYP.
- CAFE ROUND TABLES, TYP.













PRIVATE RECREATION QUALIFYING AREAS & SQUARE FOOTAGE

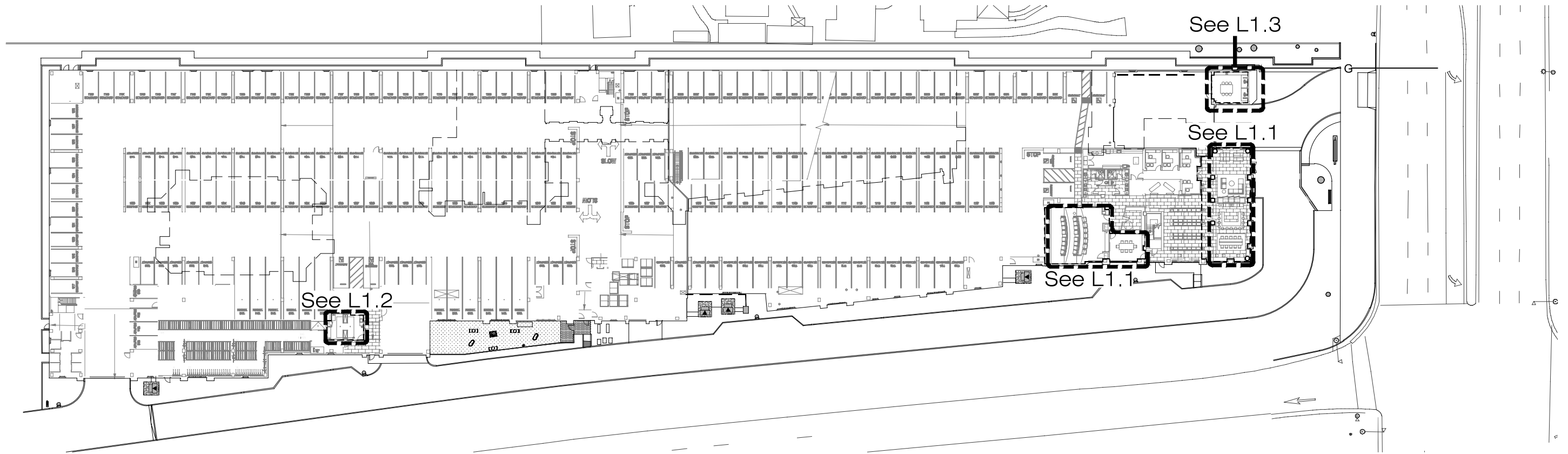
- 6 PICNIC AREAS - 8,070 SF**
 - PICNIC AREA PER ROOF DECK - 1,345 SF EACH
- SEATING AREAS
- OUTDOOR KITCHEN WITH GRILL, SINK & WASTE RECEPTACLE

THE PICNIC AREAS ARE A GATHERING AND DINING SPACE FOR PASSIVE RECREATION. IT CONSISTS OF 6 ROOF DECK AREAS AND WILL PROVIDE A TOTAL OF 24 TABLES PLUS 12 PICNIC TABLE, 6 BENCHES, 6 ELECTRIC BARBECUE GRILLS, 6 TRASH RECEPTACLES AND 6 SINKS WITH WASH AND FOOD PREPARATION AREAS. THE PICNIC AREA SHALL BE OWNED AND MAINTAINED BY THE PROJECT HOMEOWNERS ASSOCIATION.

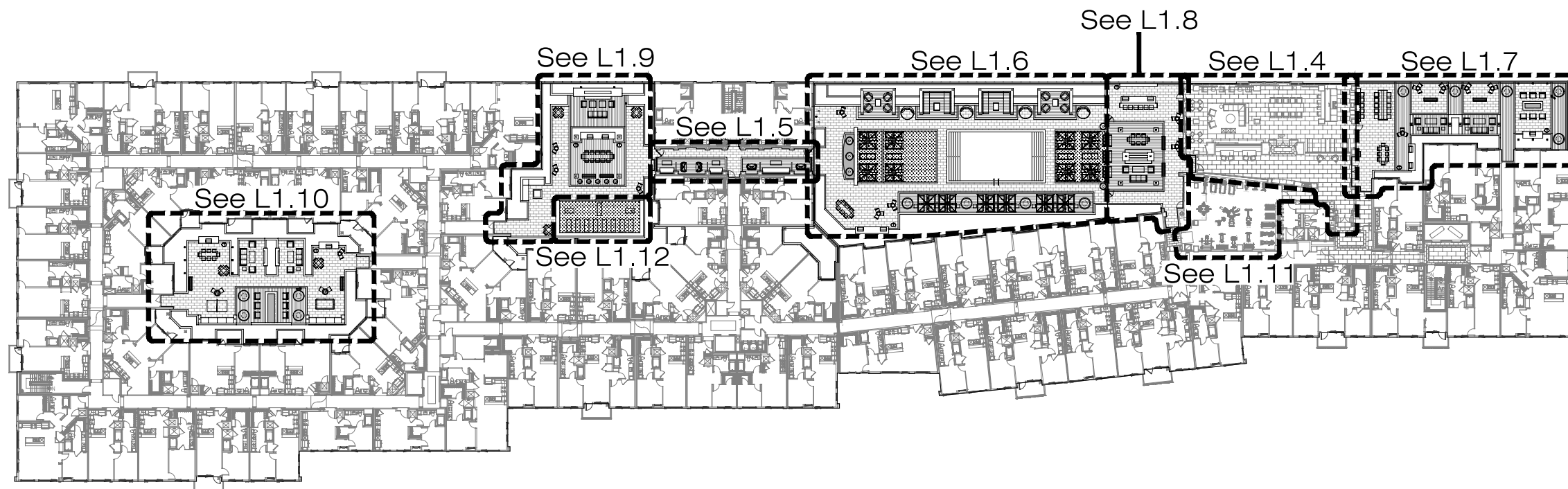


SYMBOL LEGEND

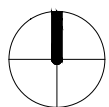
SYMBOL	DESCRIPTION
	Bike Repair Stand
	Work Bench & Seating
	Pet Wash Basin
	Loggia Seating
	BBQ Grill
	Umbrellas
	Chaise Lounge
	4-Top Table
	3-Top Table
	Outdoor Billiards Table
	Outdoor Ping-pong Table
	Yoga Mat



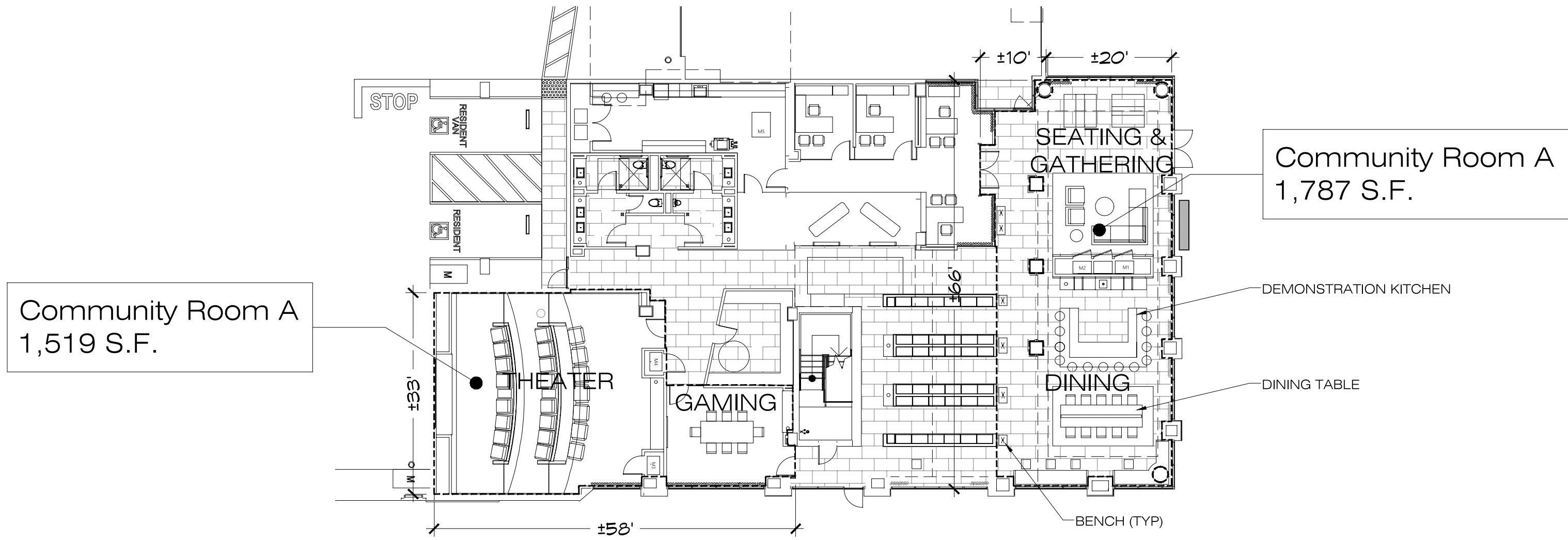
- L01 Community Room A (See L1.1)
- L01 Private Pet Amenity (See L1.2)
- L01 Recreation Room A (See L1.3)



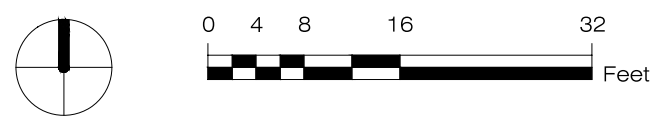
- L03 Community Room B (See L1.4)
- L03 Community Room C (See L1.5)
- L03 Swimming Pool (See L1.6)
- L03 Community Room D (See L1.7)
- L03 Picnic Area A (See L1.8)
- L03 Community Room E (See L1.9)
- L03 Picnic Area B (See L1.10)
- L03 Recreation Room B (See L1.11)
- L03 Recreation Room C (See L1.12)



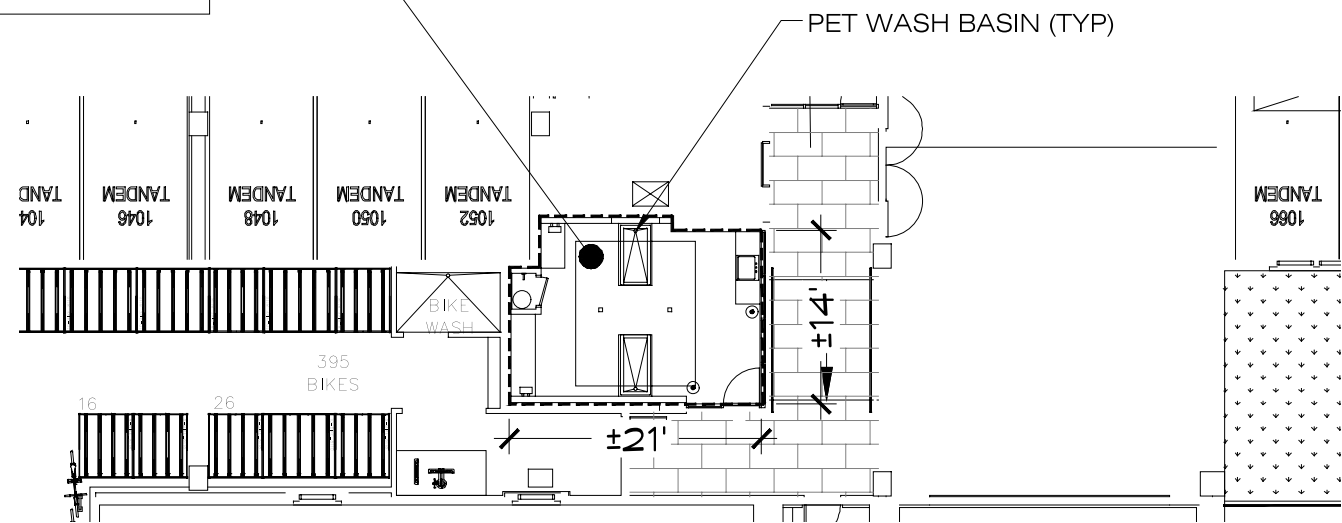
PRIVATE RECREATION CREDIT EXHIBIT L1.0



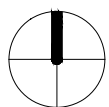
3,306 S.F. TOTAL PRIVATE RECREATION CREDIT FOR COMMUNITY ROOM A



Pet Wash Amenity
310 S.F.

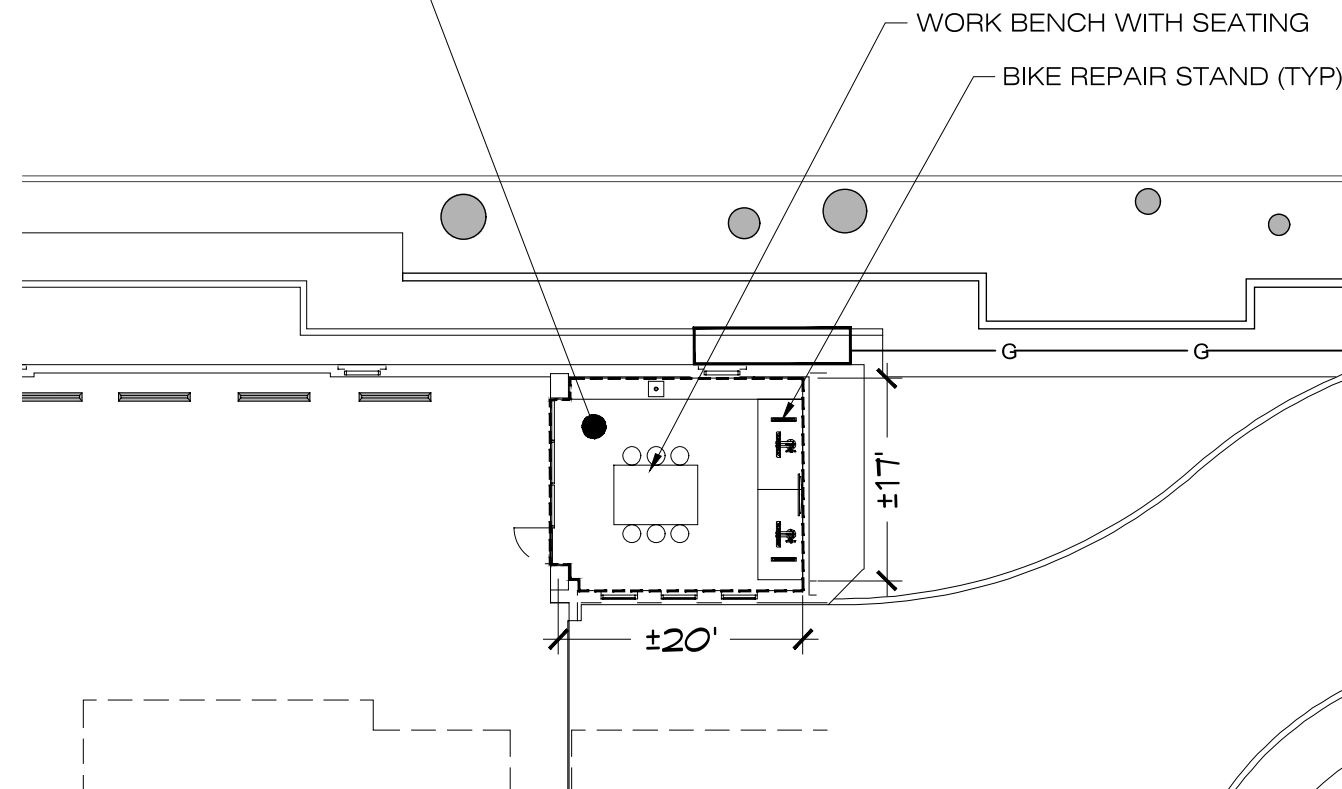


310 S.F. TOTAL PRIVATE RECREATION CREDIT FOR PET WASH AMENITY

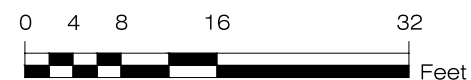
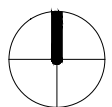


PRIVATE RECREATION CREDIT EXHIBIT L1.2

Recreation Room A
365 S.F.

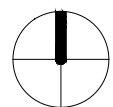
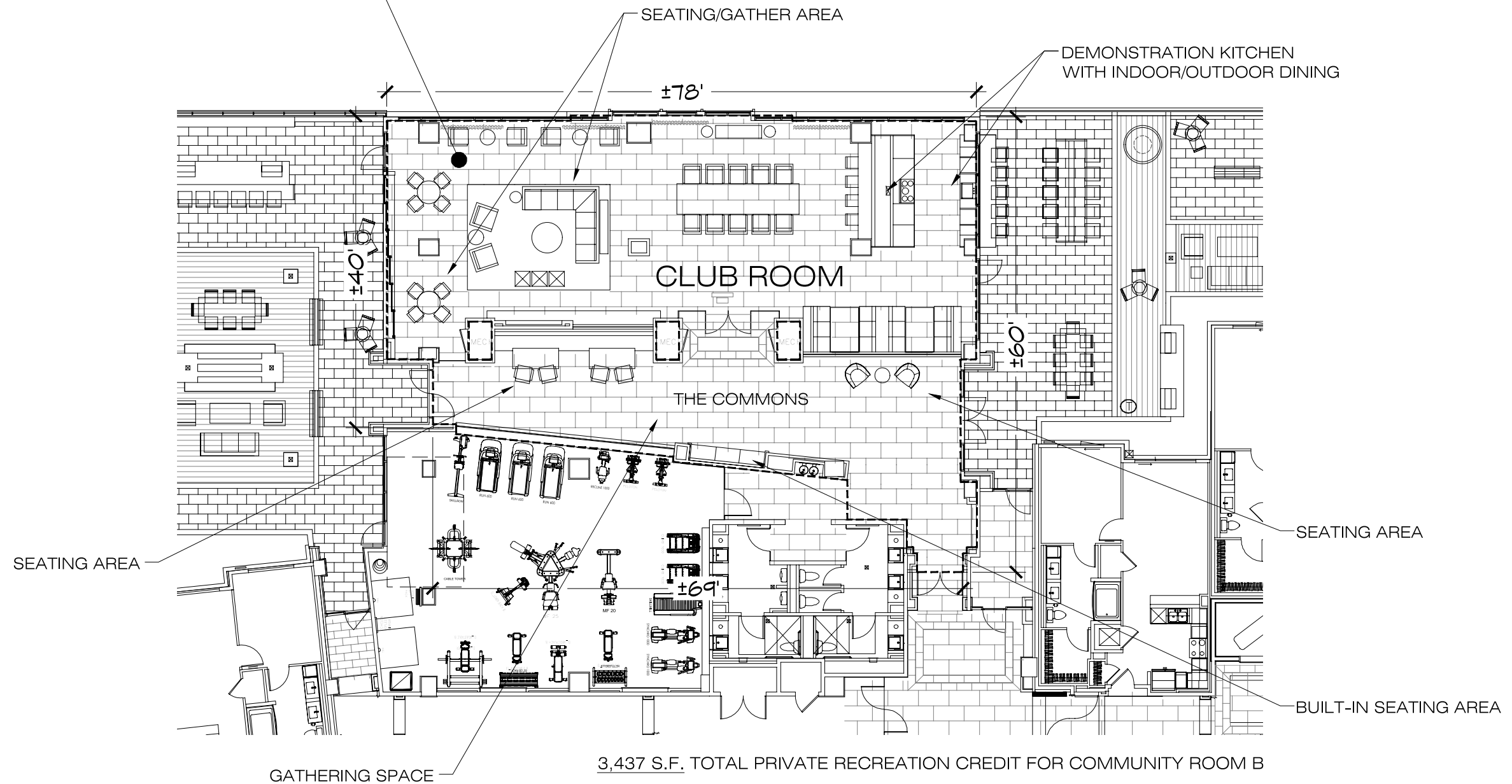


365 S.F. TOTAL PRIVATE RECREATION CREDIT FOR RECREATION ROOM A
(BIKE REPAIR/CLEANING)



PRIVATE RECREATION CREDIT EXHIBIT L1.3

Community Room B
3,437 S.F.



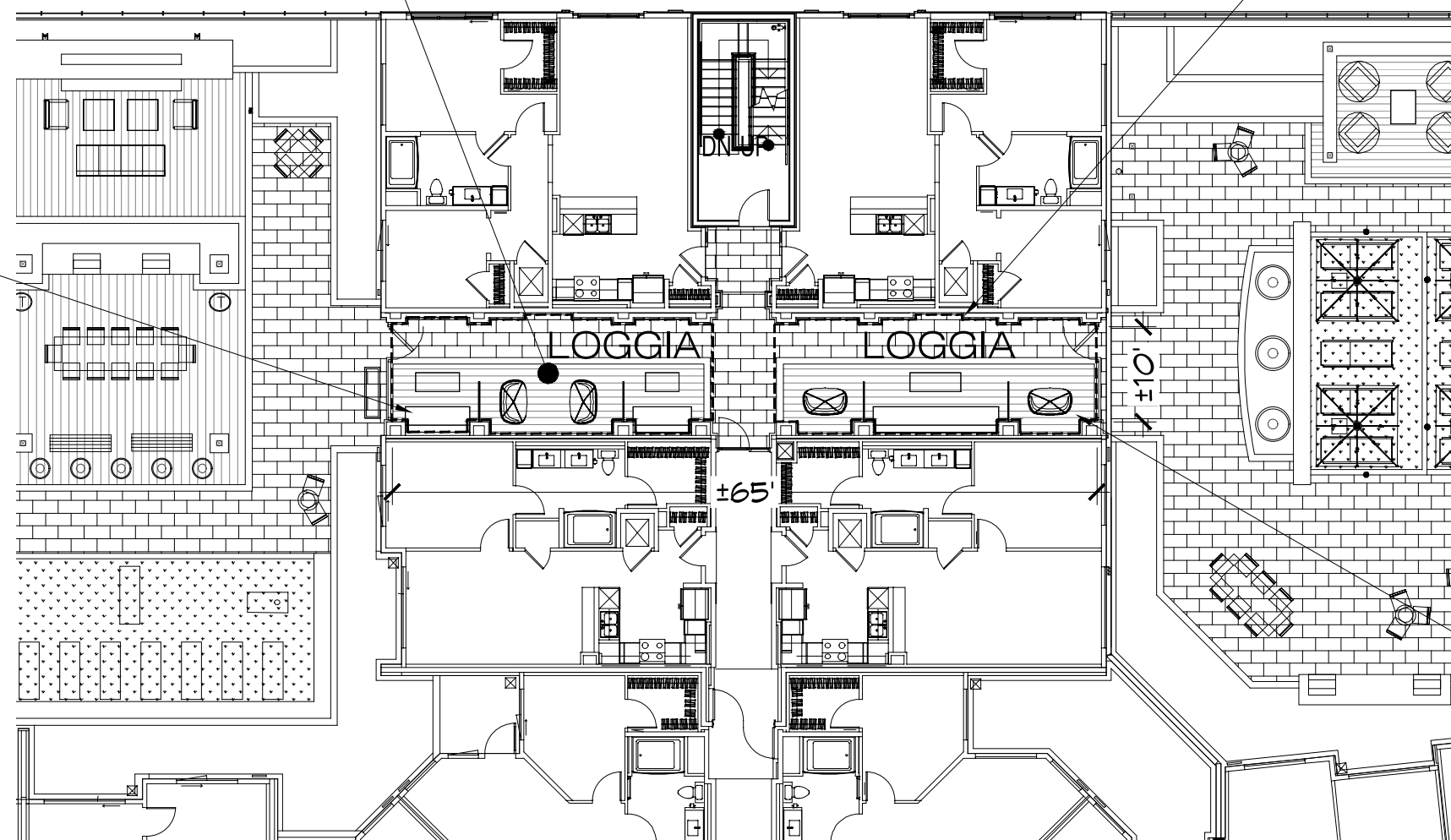
PRIVATE RECREATION CREDIT EXHIBIT L1.4

Community Room C
688 S.F.

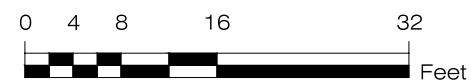
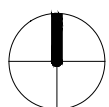
BANQUETTE SEATING (TYP)

TV NICHE W/ GAMING
HOOK-UP (TYP)

SEATING (TYP)



688 S.F. TOTAL PRIVATE RECREATION CREDIT FOR COMMUNITY ROOM C



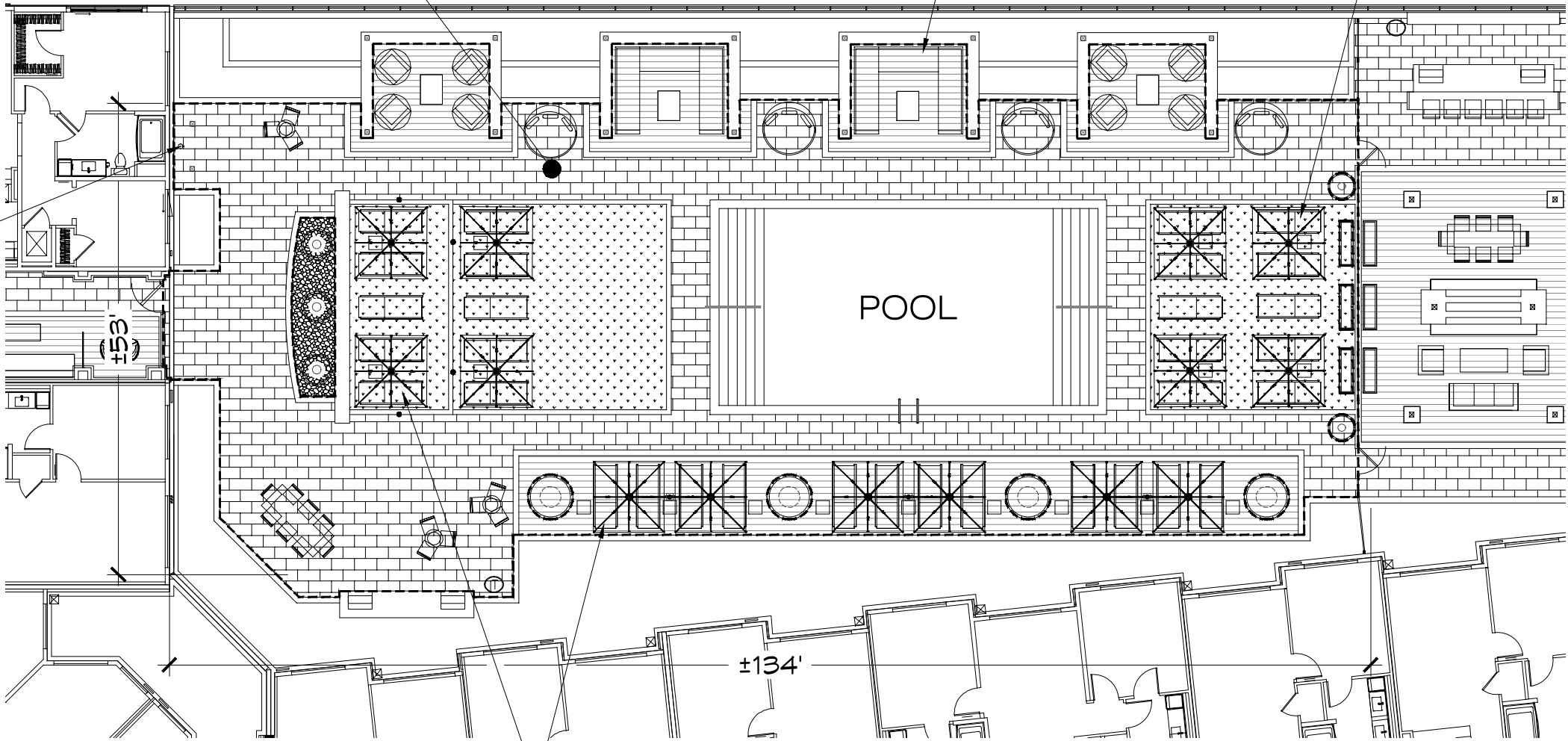
PRIVATE RECREATION CREDIT EXHIBIT L1.5

Swimming Pool
6,505 S.F.

POOL SHOWER

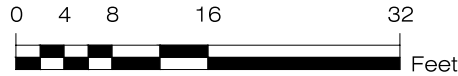
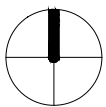
POOL CABANA W/
SEATING (TYP)

LOUNGE SEATING W/
UMBRELLAS



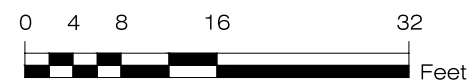
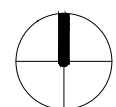
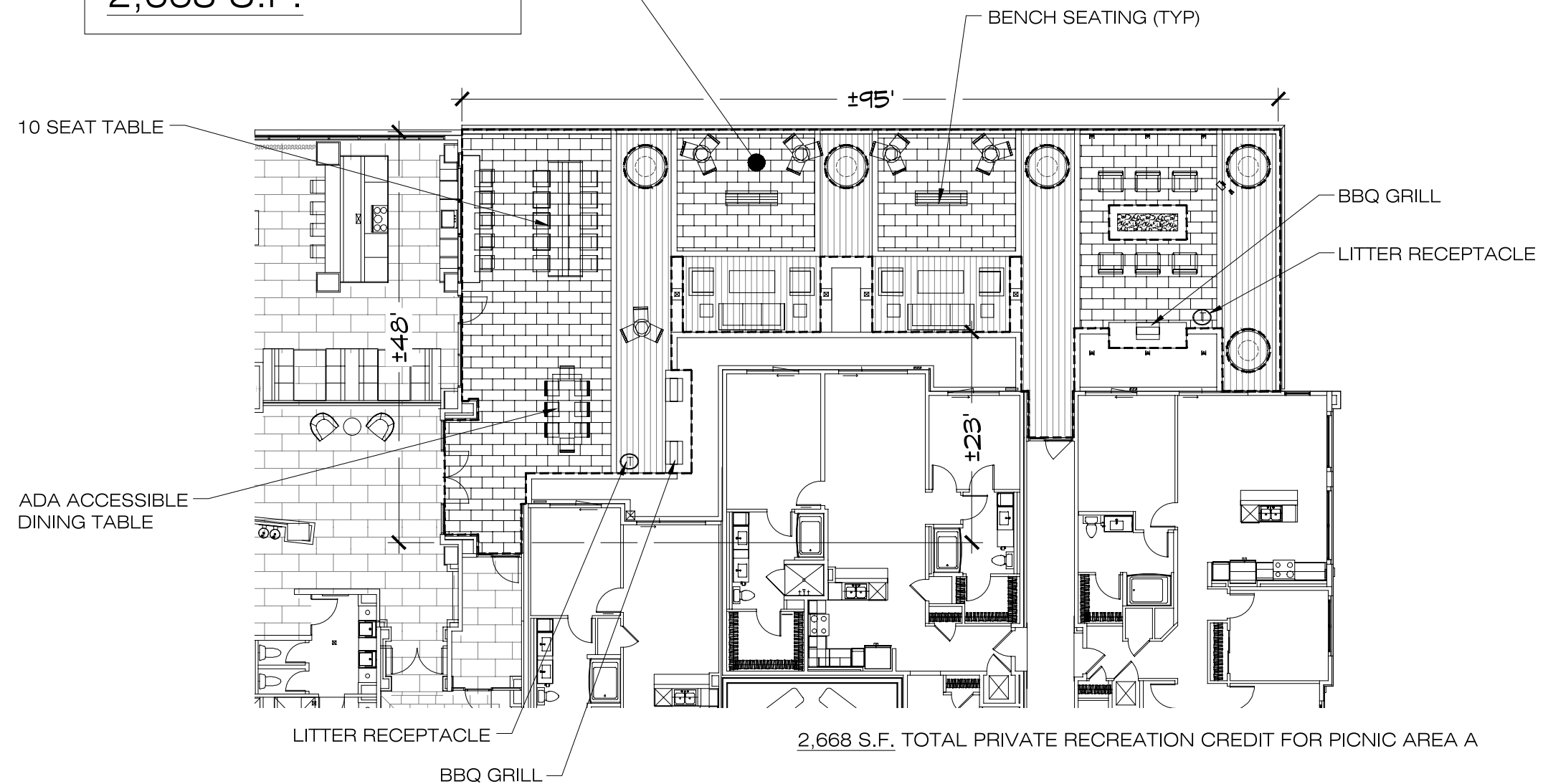
LOUNGE SEATING W/
UMBRELLAS

6,505 S.F. TOTAL PRIVATE RECREATION CREDIT FOR SWIMMING POOL



PRIVATE RECREATION CREDIT EXHIBIT L1.6

Community Room D
2,668 S.F.



PRIVATE RECREATION CREDIT EXHIBIT L1.7

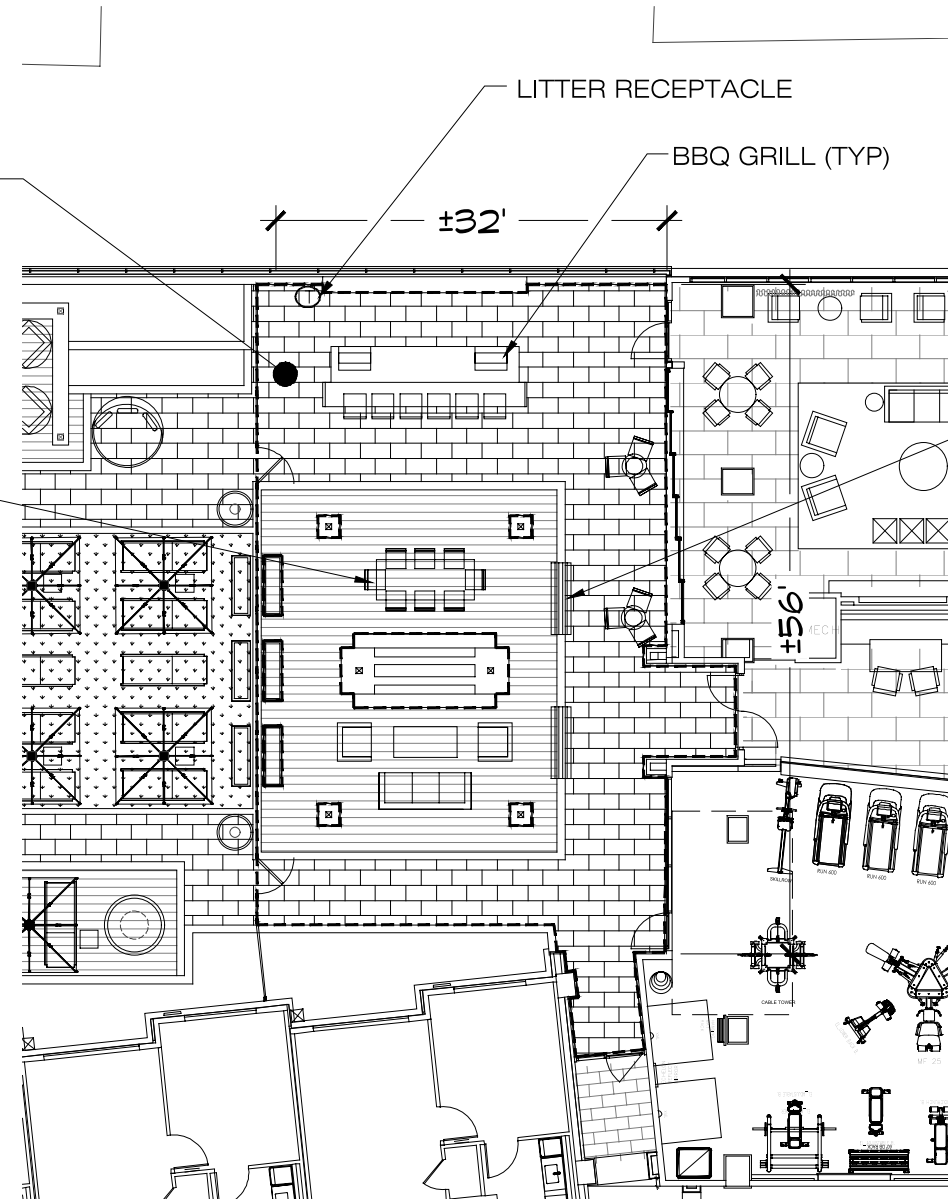
Picnic Area A
1,796 S.F.

ADA ACCESSIBLE
DINING TABLE

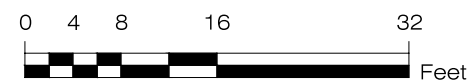
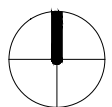
LITTER RECEPTACLE

BBQ GRILL (TYP)

BENCH SEATING (TYP)

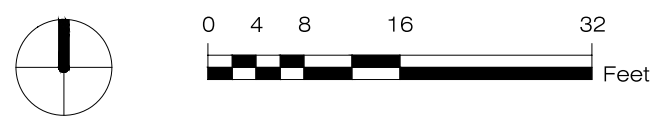
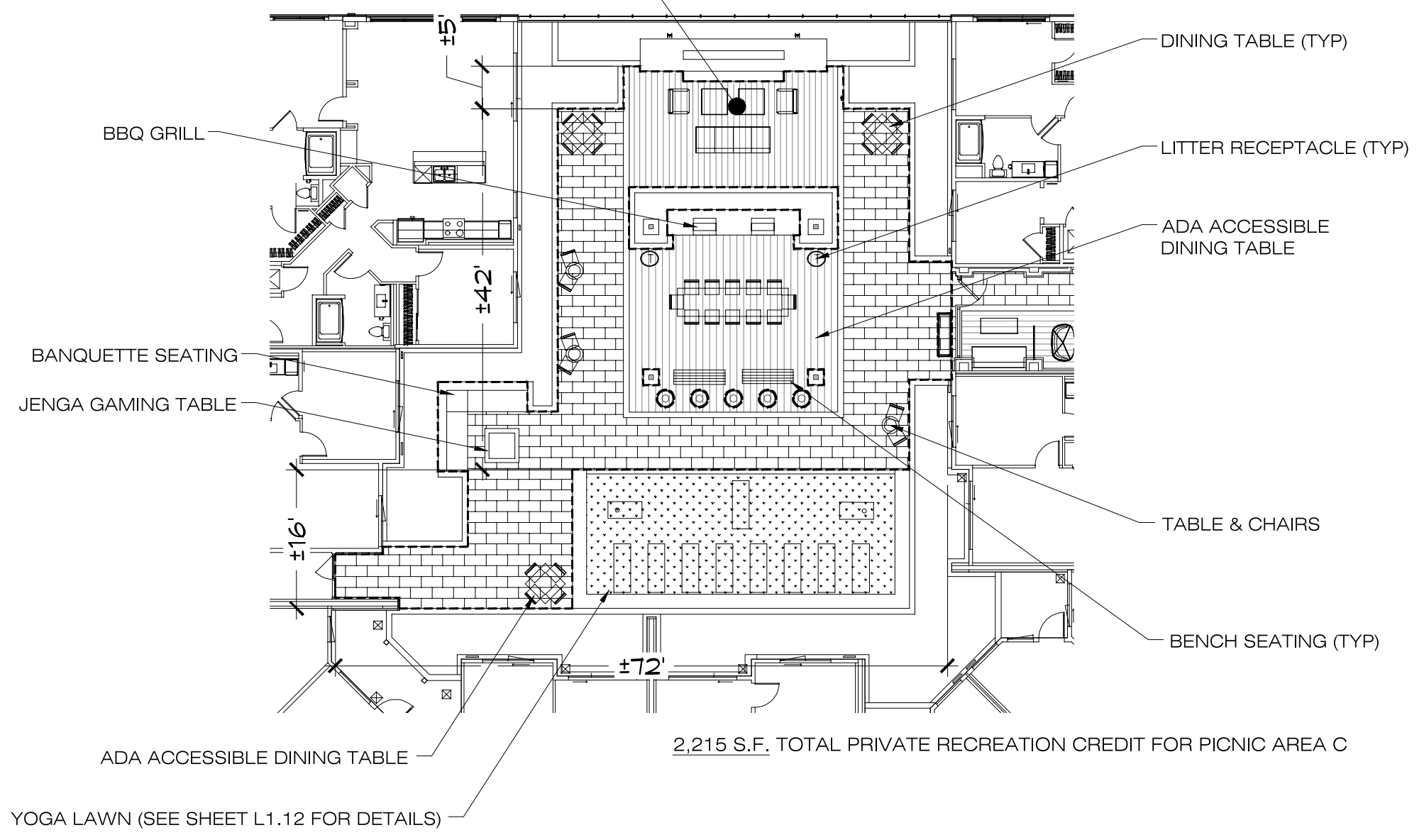


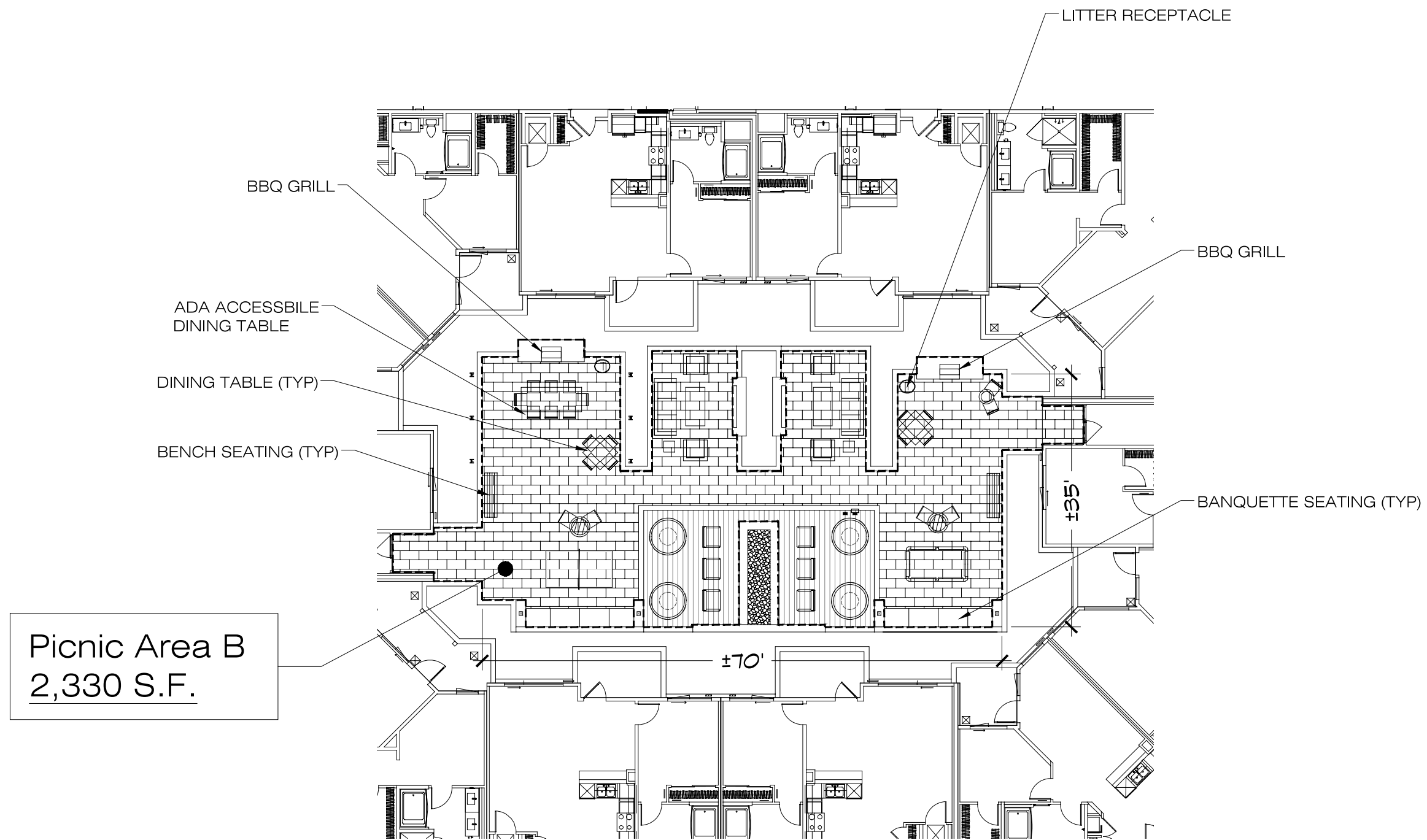
1,796 S.F. TOTAL PRIVATE RECREATION CREDIT FOR PICNIC AREA B



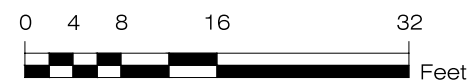
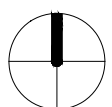
PRIVATE RECREATION CREDIT EXHIBIT L1.8

Community Room E
2,215 S.F.



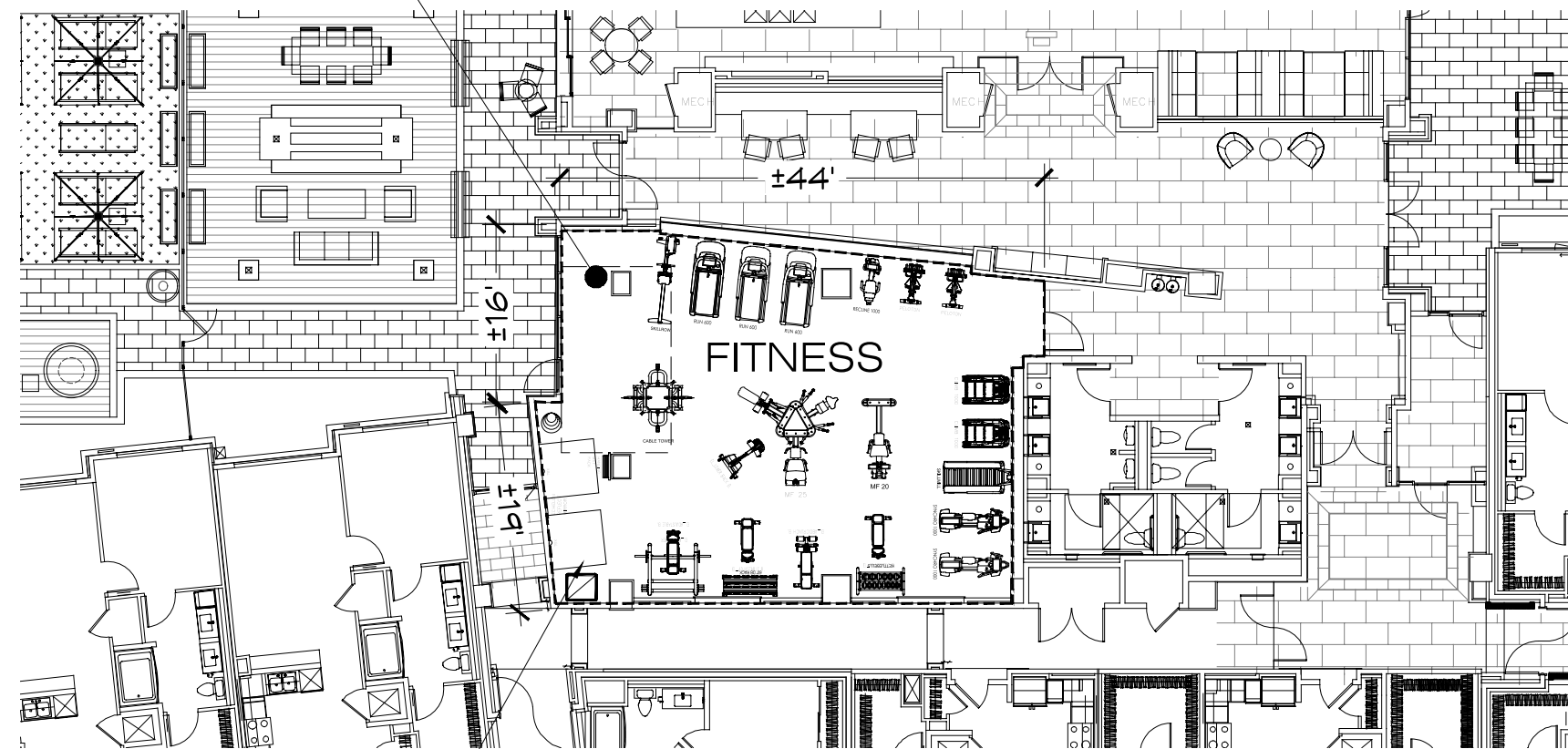


2,330 S.F. TOTAL PRIVATE RECREATION CREDIT FOR PICNIC AREA D



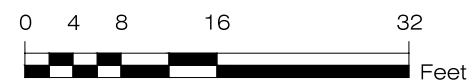
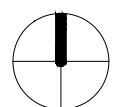
PRIVATE RECREATION CREDIT EXHIBIT L1.10

Recreation Room B
1,387 S.F.



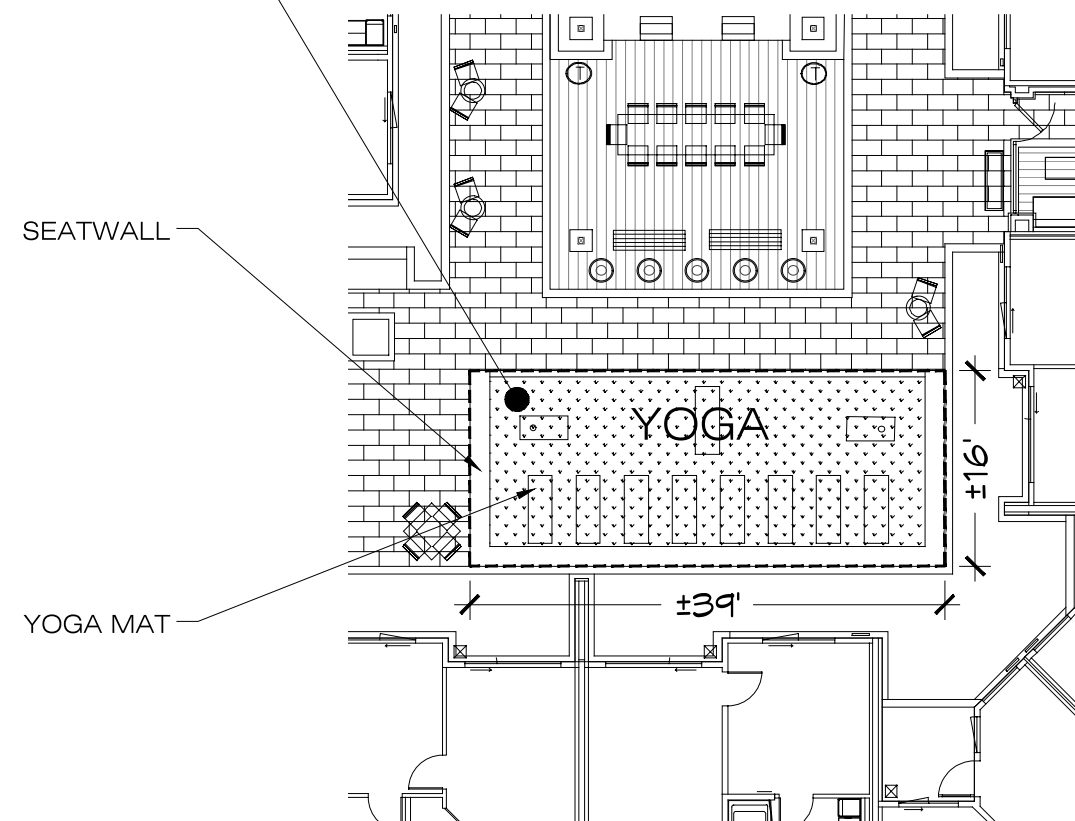
1,387 S.F. TOTAL PRIVATE RECREATION CREDIT FOR RECREATION ROOM B
(FITNESS)

VIRTUAL PERSONAL TRAINING

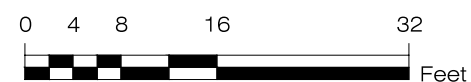
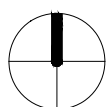


PRIVATE RECREATION CREDIT EXHIBIT L1.11

Recreation Room C
645 S.F.



645 S.F. TOTAL PRIVATE RECREATION CREDIT FOR RECREATION ROOM C
(YOGA)



PRIVATE RECREATION CREDIT EXHIBIT L1.12

EXHIBIT C – FEES AND CREDITS

Exhibit C -Fees and Credits

Parkland Dedication						
Type of Unit	Number of Proposed Units	Existing Units	Person Per Household	Total Population	Parkland Dedication	
SFD (SINGLE FAMILY DETACHED)		111	3,310	367,410	-1.102	
SFA (SINGLE FAMILY ATTACHED)			3,310	0.000	0.000	
MFA24 (MULTI-FAMILY 2-4 UNITS)			2,960	0.000	0.000	
MFA5 (MULTI-FAMILY 5+ UNITS)	686		2,340	1605,240	4.816	
HR			1,510	0.000	0.000	
SRO			1,000	0.000	0.000	
			Dedication Required (in acres)		3.713	

366 apt
320 mlt fmly (5+)

Private Recreation and Land Dedication		
Category B (Upper limit)		
More than 5 Stories or Land being Dedicated?	yes	Yes / No
Category B (unadjusted)	0.487	Acres
Category B (Upper limit)	0.487	Acres
Total Category A	0.404	Acres
Total Category B (adjusted)	0.487	Acres
Subtotal Priv. Rec. Acreage	0.891	Acres
Max Private Rec. Acreage*	1.857	Acres
Eligible Priv. Rec. Acreage	0.891	Acres

Category A - Active Features		
	Sq. Ft	Acreage
Tot Lot	0	0.000
Sports Courts	0	0.000
Turf Playing Field	0	0.000
Picnic Area	12196	0.280
Public Plazas	0	0.000
Public Garden Spaces	0	0.000
Fenced Pet Amenity	310	0.007
Private Garden Plots	5077	0.117
Sub Total	17583	0.404

Category B - Inactive Features		
	Sq. Ft	Acreage
Swimming Pool	6505	0.149
Recreation Bldg.	2397	0.055
Community Room	12314	0.283
Sub Total	21216	0.487

MLS Zone**	15
Price Per Square Foot	\$ 65.00
Estimated Private Rec Credit	\$ 2,521,935.00

*Private recreation credit cannot exceed 50% of total parkland dedication required.
 **Use MLS 14 for both 14 and 16.

Land Dedication	
Total Public Parkland Being Dedicated (Acres)	1.820
Land Dedication Credit in Dollars***	\$5,153,148.000

***MLS Zone must be entered to calculate.

Calculation of Dedication Met	
Total Parkland Credits in Acres	2.711
Percentage of Dedication Requirement Met	72.996089%
Percentage of Dedication Remaining	27.00%

Calculation of Parkland Impact In-Lieu Fees								
Type of Unit	Number of Proposed Units	Existing Units	MLS Zone*	Low Income Units**	Fee Per Unit (Pulls from Fee Table)	Gross Fee	Existing Units Credit	Affordable Units Credit
SFD (SINGLE FAMILY DETACHED)		111	15		\$ 27,300.00	\$ -	\$ 3,030,300.00	\$ -
SFA (SINGLE FAMILY ATTACHED)					\$ -	\$ -	\$ -	\$ -
MFA24 (MULTI-FAMILY 2-4 UNITS)					\$ -	\$ -	\$ -	\$ -
MFA5 (MULTI-FAMILY 5+ UNITS)	686		15		\$ 19,300.00	\$ 13,239,800.00	\$ -	\$ -
HR					\$ -	\$ -	\$ -	\$ -
SRO***					\$ -	\$ -	\$ -	\$ -

*Use MLS 14 for both 14 and 16.
 **Low income units are 50% of the standard Fee Per Unit.
 ***ADU Units are 50% of SRO. Use SRO category for calculation, enter units as low income to divide fee in half for ADU Rate.

Gross In-lieu Fee Obligation	\$ 13,239,800.00
Total Existing Units Credit	\$ 3,030,300.00
Total Affordable Units Credit	\$ -
Net In-lieu Fee After Affordable Credits	\$ 10,209,500.00

Summary of Credits	
Gross Parkland Impact In-lieu Fee	\$ 13,239,800.00
Existing Housing Credit	\$ 3,030,300.00
Affordable Housing Credit (15% Average)	\$ -
Land Dedication Credit (Minimum 1/2 Acre)	\$ 5,153,148.00
Private Recreation Credit (30% Average)	\$ 2,521,935.00
Net Parkland Impact In-lieu Fee	\$ 2,534,417.00

EXHIBIT D – PARK MASTER PLAN/PARK IMPROVEMENT SITE PLAN

Exhibit D - Park Master Plan/Park Improvement Site Plan

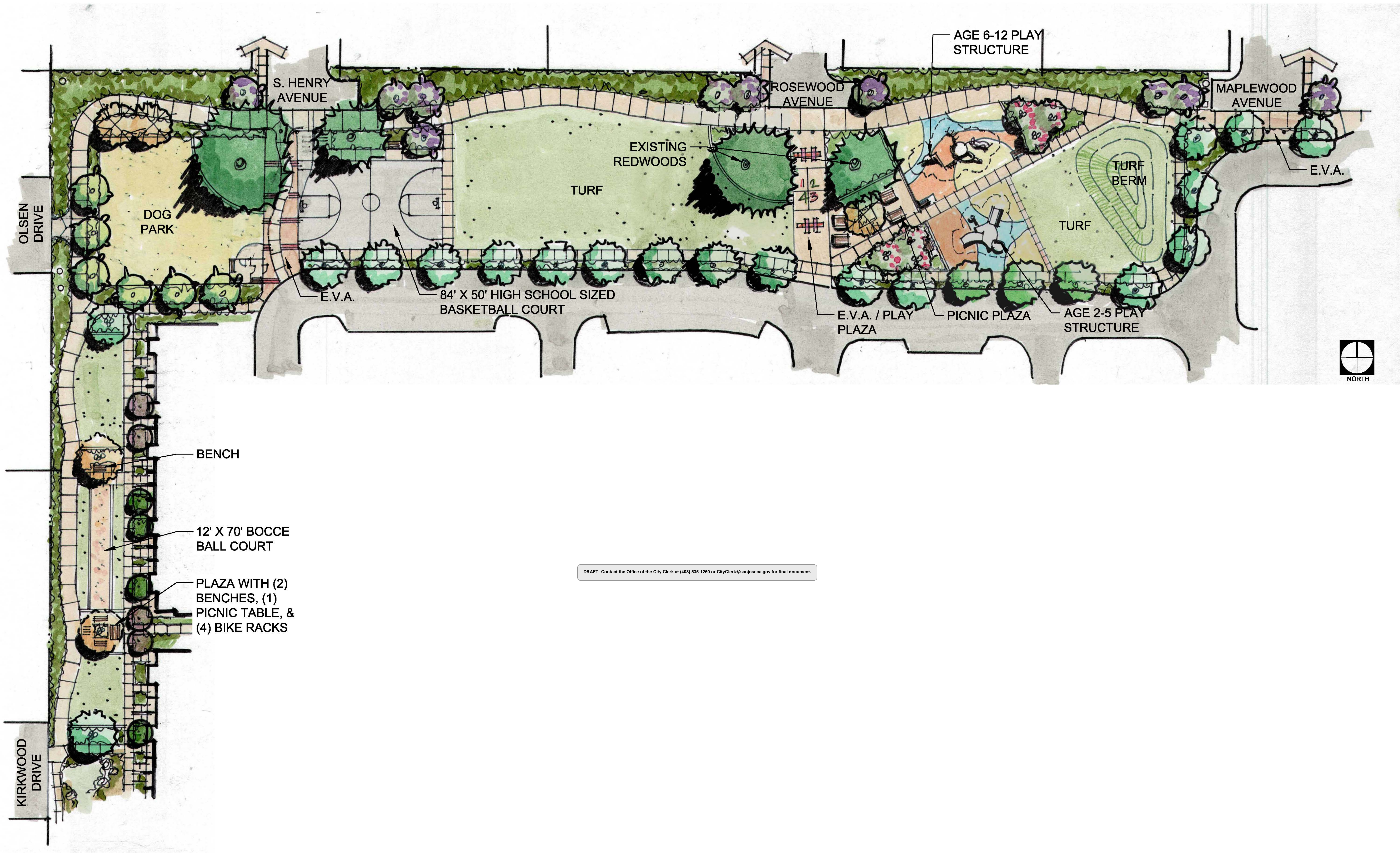


EXHIBIT E – COST ESTIMATE FOR PARK IMPROVEMENTS

Exhibit E - Cost Estimate for Park Improvements

Winchester Park - Landscape Cost Opinion

SAN JOSE, CA
January 2021

Notes:

- 1 Cost Opinion is based on the final conceptual landscape plans dated October 2020.

UNIT LEGEND			
SF - Square Foot	LF - Linear Foot	CY - Cubic Yard	LS - Lump Sum
EA - Each	FLAT - Flats	P/TON - Per Ton	ALLOW - Estimate

DEMOLITION / SITE PREPARATION

ITEM	UNIT	QTY	COST/UNIT	EXTENSION
1 Mobilization	LS	1	\$ 35,000.00	\$ 35,000.00
2 Demolition of structures, pavement, utilities & remove vegetation			\$ -	\$ -
3 Rough Grading	SF	92,776	\$ -	\$ -
4 Excess Soils Off-Hauls	CY	2,000	\$ -	\$ -
5 Erosion Control	MO	6	\$ -	\$ -
6 Temporary Fencing	MO	6	\$ -	\$ -
7 Tree Protection	LS	1	\$ -	\$ -
8 Redwood Tree Pruning	LS	1	\$ -	\$ -
9 Stub 12" storm drain stub 5' into park	EA	1	\$ -	\$ -
10 Mainline Stormdrain Drainage Structures	EA	3	\$ 4,500.00	\$ 13,500.00
11 MainLine Landscape Drainage Pipe	LF	2,000	\$ 30.00	\$ 60,000.00
12 Connect Storm Drain to Existing	EA	1	\$ 2,500.00	\$ 2,500.00
13 Performance Bonds	EA	1	\$ 3,000.00	\$ 3,000.00
14 Water Meter & Water Connection Fees	EA	1	\$ 3,500.00	\$ 3,500.00
15 Construction Staking	LS	1	\$ 31,000.00	\$ 31,000.00
16 90 Day Maintenance	LS	3	\$ 4,000.00	\$ 12,000.00
17 Subtotal				\$ 160,500.00

18

LANDSCAPE

ITEM	UNIT	QTY	COST/UNIT	EXTENSION
21 Fine Grading	SF	92,776	\$ 0.65	\$ 60,304.40
22 Soil Preparation	SF	57,469	\$ 0.41	\$ 23,562.29
23 Area drain Landscape Drainage	EA	24	\$ 60.00	\$ 1,440.00
24 Turf Area - Sod	SF	23,907	\$ 1.00	\$ 23,907.00
25 Shrub / Groundcover Planting Area	SF	28,954	\$ 8.16	\$ 236,264.64
26 Turf @ Dog Park - Artificial Turf	SF	4,609	\$ 15.00	\$ 69,135.00
27 Tree - 15 Gallon	EA	42	\$ 330.00	\$ 13,860.00
28 Tree - 24" Box	EA	3	\$ 460.00	\$ 1,380.00
29 Tree - 36" Box	EA	4	\$ 805.00	\$ 3,220.00
30 Root Barrier (8 Linear Feet Per Tree)	LF	384	\$ 9.00	\$ 3,456.00
31 Bark Mulch (3" Depth)	CY	296	\$ 110.00	\$ 32,560.00
32 Subtotal				\$ 469,089.33

33

IRRIGATION

ITEM	UNIT	QTY	COST/UNIT	EXTENSION
36 Turf Spray	SF	28,516	\$ 5.50	\$ 156,838.00
37 Inline Drip	SF	28,954	\$ 2.00	\$ 57,908.00
38 Tree Bubblers	EA	98	\$ 40.00	\$ 3,920.00
39 Valves, Pipes & Fittings	SF	57,469	\$ 2.50	\$ 143,672.50
40 Smart Controller	EA	1	\$ 20,000.00	\$ 20,000.00
41 2" Reduced Pressure Back Flow Preventer (with Enclosure & Frost Blanket)	EA	1	\$ 5,500.00	\$ 5,500.00
42 Sleeves	LS	1	\$ 5,000.00	\$ 5,000.00
43 Subtotal				\$ 392,838.50

HARDSCAPE

46	ITEM	UNIT	QTY	COST/UNIT	EXTENSION
47	Concrete Paving (4" over 4")	SF	18,738	\$ 19.00	\$ 356,022.00
##	Concrete Paving @ EVA (6" over 8")	SF	8,836	\$ -	\$ -
##	8" Wide Concrete Mow Band	LF	407	\$ 20.00	\$ 8,140.00
##	8" Wide Concrete Curb @ Play Area(with Deepened Footing)	LF	406	\$ 50.00	\$ 20,300.00
##	4" Rubberized Soft Surface @ Play Area	SF	4,606	\$ 25.00	\$ 115,150.00
##	4" Compacted Base Rock for Rubberized Soft Surface @ Play Area	SF	4,606	\$ 5.50	\$ 25,333.00
##	Play Structure @ Tot Lot (3-5)	LS	1	\$ 120,000.00	\$ 120,000.00
##	Play Structure @ Youth Play Area (5-12)	LS	1	\$ 180,000.00	\$ 180,000.00
##	City Standard Park Sign	LS	1	\$ 5,000.00	\$ 5,000.00
##	Replace 6ft Wood Fence along boundary	LF	855		\$ -
##	4' High Tube Steel Fence @ Dog Park	LF	402	\$ 83.00	\$ 33,366.00
##	4' High Tube Steel Gate @ Dog Park	EA	2	\$ 4,500.00	\$ 9,000.00
##	Dumor Trash Receptacle #287	EA	3	\$ 2,800.00	\$ 8,400.00
##	Pet Waste Station	EA	1	\$ 1,200.00	\$ 1,200.00
##	Dumor Bench 119 - 6'	EA	10	\$ 2,400.00	\$ 24,000.00
##	Carousel Table - 4 seats, NO umbrella	EA	2	\$ 4,280.00	\$ 8,560.00
##	Carousel Table - 3 seats, NO umbrella	EA	3	\$ 4,280.00	\$ 12,840.00
##	Removable Bollard @ EVAs	EA	6		\$ -
##	ADA Drinking Fountain/Water Fill Station (Include Dry Well)	EA	2	\$ 16,000.00	\$ 32,000.00
##	Bike Rack	EA	12	\$ 835.00	\$ 10,020.00
##	Thickened Concrete at Basketball Court @ EVA	SF	0	\$ 32.00	\$ -
##	Basketball Full Court	SF	4,162	\$ 19.00	\$ 79,078.00
##	Basketball Hoop & Backboard /Striping	EA	2	\$ 4,800.00	\$ 9,600.00
##	Playground signs 2-5 and 5-12	EA	2	\$ 1,000.00	\$ 2,000.00
##	Signage - Park Rules-3 side kiosk	EA	1	\$ 2,303.00	\$ 2,303.00
##	Bocce Ball (12'x70')	LS	1	\$ 15,000.00	\$ 15,000.00
##	Subtotal				\$ 1,077,312.00

UTILITIES

##	ITEM	UNIT	QTY	COST/UNIT	EXTENSION
##	2" Irrigation Service Line (3" rolled copper?)	LS	1	\$ -	\$ -
##	Sewer lateral stub to PL for drinking fountain drain	LS	2	\$ -	\$ -
##	On-site sewer for drinking fountain drain	LS	2	\$ 5,000.00	\$ 10,000.00
##	Pressure Back Flow Preventer (1" B/F) @ Drinking Fountains(to be completed by a plumber)	LS	2	\$ 2,500.00	\$ 5,000.00
##	Site Lighting (1600LF) (Lights, Electrical Trenching, Conduit,pull box, Backfill, Wire Pull & Splice)	LS	1	\$ 150,000.00	\$ 150,000.00
##	Electrical Service Stub for site lighting & irrigation controller				\$ -
##	PG&E Meter Pedestal	LS	1	\$ 30,000.00	\$ 30,000.00
	Subtotal				\$ 195,000.00

SUB TOTAL :	\$ 2,294,739.83
3% ANNUAL ESCALATOR: (ESTIMATE 2 YRS=6%)	\$ 137,684.39
CONSTRUCTION TOTAL:	\$ 2,432,424.22
CITY 17.5% PROJECT MANAGEMENT FEE	\$ 401,579.47
DESIGN FEES:	\$ 150,000.00
GRAND TOTAL :	\$ 2,984,003.69

EXHIBIT F
DESIGN AND CONSTRUCTION REQUIREMENTS

Ex F – Design and Construction Requirements

EXHIBIT F

DESIGN AND CONSTRUCTION REQUIREMENTS

1. DESIGN AND CONSTRUCTION REQUIREMENTS.

A. Plans and Specifications.

The design for the Park Improvements must be reasonably consistent with the conceptual design for the Park Improvements as depicted in Exhibit D – Park Master Plan/Park Improvement Site Plan. Acknowledging the uniqueness of the proposed Park Site within San Jose's public park system, City Standards will apply with alternate materials, elements and associated procedures and specifications allowed per the approval of Parks/PW Director during the construction permitting phase. Subject to the foregoing, Developer shall design and construct the Park Improvements in accordance with 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 "Developer."
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 Developer does not submit the ninety percent (90%) Project Specifications (as specified in the Turnkey Standards) for City's review and approval within eighteen (18) months of the Effective Date of this Agreement and the Turnkey Standards are then revised, Developer shall

design and construct the Park Improvements in accordance with the revised Turnkey Standards.

3. Public Works Standard Specifications- Section 329100 Planting Preparation. Soil specifications, survey requirements, and resulting soil amendment procedures prescribed in the above guidelines, shall be applicable to this agreement. Prior to construction of the park, this document will be made available to the Developer through Public Works.
4. City shall review the Project Specifications, including materials, infrastructure, and design elements, for consistency with the conceptual design of Turnkey Park Improvements as contained in Exhibit D – Park Master Plan/Park Improvement Site Plan and the specifications and guidelines outlined above and throughout this Agreement. Pursuant to this design review process and with reasonable consideration of the cost estimates contained or referenced herein, the Plans shall be refined to the satisfaction of the Director of Parks, Recreation, and Neighborhood Services and the Director of Public Works pursuant to all terms in this Agreement. Prior to finalizing the Project Specifications, with the Director's approval, which shall not be unreasonably withheld, Developer may modify the final design to reflect the fees and credits identified in Exhibit C – Fees and Credits prior to approval of the final Project Specifications in accordance with Section 1.C of this Exhibit.

B. 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.

C. Project Specification Approval Process.

1. The Project Specifications shall be submitted in a timely manner in order to insure that the Developer completes the Park Improvements on or before the completion date specified in this Agreement. Developer 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. Prior to acceptance of the Project Specifications and/or construction of the Park, the Developer shall provide the City with original copies of all soil surveys along with recommended soil amendments. The City, may at its sole discretion, require inspection of the Park Site for construction debris before construction may commence.
3. City's approval of the Project Specifications shall not release Developer 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, unless approved in writing by the Director of PW.

4. For reference and public information purposes, Developer will provide the City with a tentative schedule of construction prior to the commencement of development for any of the Turnkey Park Improvements. Such schedule may be amended at the Developer's discretion provided that all Improvements are completed by the completion dates specified in this Agreement. At the City's request the Developer shall provide the City with an updated schedule that reflects amended milestones and anticipated completion dates.

2. PARTICULAR CONSTRUCTION REQUIREMENTS.

A. Developer Selection.

Developer 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, Developer agrees 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 its entirety. Developer acknowledges that it has reviewed the Prevailing Wage Requirement and is familiar with its requirements.
2. Contractors and Subcontractors: Developer 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. Developer acknowledges and agrees that it is

responsible for compliance by its contractors and subcontractors of the Prevailing Wage Requirement.

3. Reporting Obligations: Notwithstanding anything to the contrary contained herein, Developer is not obligated to submit to City copies of payroll records, or any other records required to be maintained pursuant to the Prevailing Wage Requirement, until City requests such records. Developer shall provide to City, at no cost to City, a copy of any and all such records within ten (10) working days of City's Office of Equality Assurance request for such records. In responding to a request by the Office of Equality Assurance, Developer agrees that it is responsible for submitting the records of any and all of its contractors and subcontractors.
4. Indemnity: Developer shall indemnify the City for any claims, reasonable costs or reasonable expenses which City incurs as a result of Developer's failure to pay, or cause to be paid, prevailing wages.

C. Remedies For Developer's Breach Of Prevailing Wage Requirements.

1. General: Developer acknowledges 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 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: City and Developer recognize that Developer's breach of the Prevailing Wage Requirement set forth above will cause damage to the City by undermining City's goals in assuring timely payment of prevailing wages, and will cause City additional expenses in obtaining compliance and conducting audits, and that such damage would not be remedied by Developer's payment of restitution to the worker paid less than the prevailing wage. Developer and 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. City and Developer further recognize the delays, expense and difficulty involved in proving 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 Developer's breach of the Wage Provision would be impracticable and/or extremely difficult. Accordingly, City and Developer agree that:

- a. For each day after ten (10) working days that Developer fails to completely respond to a request by City to provide records as required under Section 2(b), of Exhibit G – Notarized Bond Forms of this Agreement, Developer shall pay to City as liquidated damages the sum of TWO HUNDRED FIFTY DOLLARS (\$250.00); and
- b. For each instance where City has determined that the Prevailing Wage Requirements were not met, Developer shall pay to 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 City, at any time during regular business hours, upon written request by 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 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 Developer's 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.

Developer Initial: _____

City Initial: _____

D. Conduct Of Work.

1. Appearance. Developer 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, if practical given site topography, in an area not readily visible to the public in a manner meeting SWPPP requirements or the reasonable satisfaction of the Director of PW, whichever is greater
2. Condition. Developer shall maintain the Park Site in a neat, clean, and good condition prior to City's acceptance of the Park Improvements. Developer shall not dispose or cause the disposal of any Hazardous

Substances on any of the Park Site (other than as incident to moving pre-existing soils within the Development site) except in compliance with applicable law. Prior to the beginning of construction of the Improvements, the Developer shall leave the Park Site free of staging debris, remove footing foundations if necessary, and provide a level site to minimize additional off haul not accounted for in Exhibit A. Additionally, Developer shall take reasonable precautions to prevent the disposal of Hazardous Substances by third parties on any of the Site except in compliance with applicable law. 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, Developer shall act reasonably to prevent threatened damage, injury, or loss. Developer shall immediately notify the City by telephone at the telephone number as directed by 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 (subject to (a) reasonable advance notice to Developer, except in cases of emergency, and (b) customary site rules) to such improvements for inspection purposes. If during such inspection 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 Developer of the same and Developer shall promptly cure such defect to the Director of PW's reasonable satisfaction. Such notifications shall be made to the Developer 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, Developer shall designate in writing an authorized representative who shall have the authority to represent and act for 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, Developer 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. Developer's authorized representative shall be present at the site of the work at such reasonable times as designated by the Director of PW. Prior to 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 Developer or its authorized representative is 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 Developer be given or confirmed by the Director of PW in writing.

- d. City's rights under this Agreement shall not make the Developer an agent of the City, and the liability of the Developer for all damages to persons or to public or private property arising from Developer's 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. City agrees to inspect and prepare a punchlist for the Park Improvements within ten (10) business days of notification by Developer that the Developer considers the construction of the Park Improvements to be complete. City further agrees to perform its final inspection within ten (10) business days of notification by Developer that all punchlist work has been completed.
2. 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 Developer returns to City the appropriate signed acceptance documentation, whichever is later, provided that:
 - a. City finds that all punchlist work has been satisfactorily completed; and
 - b. Developer 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 below; and
 - c. Developer has provided the Director of PW with three (3) sets of the Plans ("record plans"), 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 within ten (10) business days of the signed Notice of Acceptance. The aforementioned documents shall also be provided by Developer in an appropriate electronic format (.dwg, .pdf, etc.) as requested by the Director of Public Works or Parks, Recreation, and Neighborhood Services.

3. The Parties acknowledge that City's restrictions on the installation of landscaping because of future drought conditions may delay Developer's installation of the landscaping contemplated by this Agreement. If, due to drought restrictions, Developer is unable to install some or all of the landscaping in time to be inspected by the Director for the purposes of accepting the completed Park Improvements, Developer shall post a bond or other form of security as set forth in Section 5 (A)(4) of this Agreement.
4. At the discretion of the Director of PW, 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.

G. Park Site.

1. Developer shall provide each of the following to the Director of PW, subject to the approval of the Director of PW, prior to 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. Developer 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 quitclaim 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 Permitted Exceptions (as defined below), pursuant to which a fee simple estate in Park Site shall be conveyed to 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 Developer, subject only to (i) those environmental covenants or restrictions relating to environmental conditions present on the Park Site prior to date of conveyance to Developer or as listed in Exhibit A – Plat and Irrevocable offer of Dedication, (ii) items shown in the preliminary title report provided to City prior to execution of this Agreement and (iii) exceptions affecting the Park Site approved by City's Manager or the Manager's designee. The quitclaim deed, subject to approval of 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. Developer shall also cause to be provided to City, concurrently with the conveyance of the Park Site to City, a C.L.T.A. owner's form policy of title insurance issued by a reputable title company currently doing business with City, with City named as the insured, in the amount of \$5,153,148.00 insuring the title of City to the Park Site is subject to only the Permitted Exceptions.

- d. Documents evidencing the authority of the signatory(ies) to execute any agreement or other legal binding documents on behalf of Developer.
2. All soils on the Park Site to a depth of not less than two feet shall be provided to the City free and clear of all construction debris. Planting media shall be amended in accordance with recommendations from the soil reports and agricultural soil surveys, or as otherwise directed by the City's Director or Designees, not to extend to a depth greater than two feet. Additional amendments including, but not limited to, mycchorhizal inoculum or organic fertilizers may be required by the City or provided at the Developers discretion in consultation with the City.
3. Upon the Director of PW's acceptance of the Park Site and Park Improvements, Developer 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. Developer, until the date of transfer, shall keep fully informed of all applicable local, state, and federal laws and county and municipal ordinances and regulations which in any manner affect the work performed on the Park Improvements by 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, Developer shall at all times, until the date of transfer, observe and comply with, and shall cause all Developer's employees, agents, representatives, contractors and subcontractors to observe and comply with all such applicable laws,

ordinances, regulations, orders and decrees of bodies or tribunals having any jurisdiction or authority over the work. If any discrepancy or inconsistency is discovered in the plans, drawings, specifications, or contract for the work in relation to any such law, ordinance, regulation, order, or decree, Developer shall promptly report the same to the Director.

2. Developer 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. Until the date of transfer, Developer shall comply with all conditions, restrictions or contingencies imposed upon, or attached to, such governmental approvals, licenses, and permits. If Developer for any reason fails to comply with any of City's requirements, or any other legal requirement concerning Developer's construction of the Park Improvements, then City shall have the right to require Developer 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 City. Developer's failure to effect the cure as required by the Director shall constitute an Event of Default in accordance with Section 6 of this Agreement; provided that Developer shall have no obligation or responsibility to City following the date of transfer, except as otherwise provided herein this Agreement.

SECTION 3. ENVIRONMENTAL WARRANTY.

- I. By executing this Agreement, Developer warrants and agrees that with respect to the Park Improvements and Park Site, 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 H - Environmental Disclosures/Permitted Exceptions, neither the Site nor Developer are in violation of any environmental law, and neither the Site nor Developer 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 and monitoring requirements as may be specified in the SMP, No Further Action Letter (or similar document) or any associated land use covenant.
2. Neither Developer nor any other person with Developer's 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 due to chemical composition, 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. Developer has 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 Hazardous Material Report, SMP, No Further Action Letter or similar document.

4. Developer's 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. 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 from residual Hazardous Materials existing on the Park Site prior to the City's conveyance of the Park Site to Developer or as may be required by law.
 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.
- J. Developer shall, upon receipt by Developer of notice thereof and until conveyance to the City, give prompt written notice to 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 in writing by any third party against Developer, City or the Park Site relating to any loss or injury resulting from any Hazardous Substance; and

3. 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. Existing Conditions and Environmental Remediation.

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

SECTION 5. INSURANCE REQUIREMENTS.

Developer and/or its contractors and consultants 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 Developer, its agents, representative employees, contractors, or subcontractors.

K. 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, non-owned and hired autos; and
3. Workers' Compensation insurance as required by the California Labor Code and Employers Liability insurance; and
4. Professional Liability Errors and Omissions insurance for all professional services, to the extent performed by Developer. If performed by Developer's consultants, coverage may be provided by consultants; and
5. Builder's Risk insurance providing coverage for "all risks" of loss; and
6. Pollution Liability insurance, including to the extent commercially available coverage for all operations, completed operations and professional services (without exclusion for asbestos or lead).

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

L. Minimum Limits of Insurance.

Developer shall maintain limits no less than:

1. Commercial General Liability: Five Million Dollars (\$5,000,000) per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit. Coverage may be provided through a combination of a primary CGL policy and umbrella liability policies; and

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 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 to the extent that Developer provides Professional Services. If Developer retains consultants to perform such services, coverage may be provided by consultants; and
5. Builders' Risk: Completed value of the Project's public improvements, identified in Recital C of this Agreement; and
6. Pollution Liability: Two Million Dollars (\$2,000,000) per occurrence/Two Million Dollars (\$2,000,000) aggregate limit.

M. Deductibles and Self-Insured Retentions.

Any deductibles or self-insured retentions must be declared to, and approved by City's Risk Manager in writing. At the option of City, either, the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City, its officials, employees, agents, and contractors, or Developer shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses in an amount specified by City.

N. Provisions of Policies.

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

1. Regarding Commercial General Liability, Automobile Liability and Pollution Liability Coverages.

- a. City, its officials, employees, agents and contractors 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, agents and contractors; and
 - b. The Developer's insurance coverage shall be primary insurance as respects the City, its officials, employees, agents and contractors. Any insurance or self-insurance maintained by City, its officials, employees, agents and contractors shall be excess of the Developer's 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, agents and contractors; and
 - d. Coverage shall state that Developer's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability; and
 - e. Coverage shall contain a waiver of subrogation in favor of City, its officials, employees, agents and contractors.
2. Workers' Compensation and Employers Liability Coverages shall contain a waiver of subrogation in favor of City, its officials, employees, agents, and contractors.
3. Builders' Risk policies shall be endorsed to the following provisions:
 - a. City shall be named as loss payee.

- b. Coverage shall contain a waiver of subrogation in favor of City, its officials, employees, agents and contractors.

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.

O. Duration.

- 1. Commercial General Liability (including, without limitation, products and completed operations coverage), Professional Liability and Pollution Liability coverages shall be maintained continuously for a minimum of five (5) years after recordation of Notice of Acceptance 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, Developer must purchase an extended reporting period equal to or greater than five (5) years after recordation of Notice of Acceptance under this Agreement.

P. Acceptability of Insurers.

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

Q. Verification of Coverages.

Developer shall furnish City (in the manner provided below) with certificates of insurance and with original 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 either emailed in pdf format to: Riskmgt@sanjoseca.gov, or mailed to the following postal address or any subsequent email or postal address as may be directed in writing by the City's Risk Manager:

The City of San Jose – Finance Department
Risk Management
200 East Santa Clara Street, 14th Floor Tower
San Jose, CA 95113-1905

R. Subcontractors and Subconsultants

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

EXHIBIT G – NOTARIZED BOND FORMS

Bond No. SU1172301

Premium \$9,122.00

FAITHFUL PERFORMANCE BOND

WHEREAS, the CITY OF SAN JOSE, a municipal corporation of the State of California ("City"), and PULTE HOME COMPANY, LLC, A MICHIGAN LIMITED LIABILITY COMPANY, as principal ("Principal") have entered into an agreement entitled **"TURNKEY PARKLAND AGREEMENT TENTATIVE MAP NO PT19-023"**, between the CITY OF SAN JOSE, a municipal corporation of the State of California ("City"), and ICS Corporate Yard Multifamily, LLC, a Delaware limited liability company ("Developer") 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 Arch 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 **TWO MILLION FOUR HUNDRED THIRTY-TWO THOUSAND FOUR HUNDRED TWENTY-FOUR DOLLARS AND 22/100 (\$2,432,424.22)**, 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 reasonable 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 May 25th, 20 21.

PRINCIPAL:

SURETY:

Pulte Home Company, LLC
a Michigan limited liability company

Arch Insurance Company

(Principal name)

(Seal)

(Surety name)(Seal)

BY: WC Sadler III

BY: Peter S. Forker

(Signature)

(Signature)

William C Sadler III
DEVELOPMENT DIRECTOR
(Print name and title)

Peter S. Forker, Attorney - In - Fact
(Print name and title)

Principal address and telephone:

Surety address and telephone:

Harborside 3, 210 Hudson Street, Suite 300
JERSEY CITY, NJ 07311 - 1107
(201) 743-4000

Affix Corporate Seals

Attach Notary Acknowledgments for All Signatures

Attach Power-of-Attorney if executed by Attorney-In-Fact

Bond No. SU1172301

Premium \$9,122.00

PAYMENT (LABOR AND MATERIALS) BOND

WHEREAS, the CITY OF SAN JOSE, a municipal corporation of the State of California ("City"), and **PULTE HOME COMPANY, LLC, A MICHIGAN LIMITED LIABILITY COMPANY**, as principal ("Principal") have entered into an agreement entitled **"TURNKEY PARKLAND AGREEMENT TENTATIVE MAP NO PT19-023"**, 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 Arch 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 **TWO MILLION FOUR HUNDRED THRITY-TWO THOUSAND FOUR HUNDRED TWENTY-FOUR DOLLARS AND 22/100 (\$2,432,424.22)**, 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 May 25th, 20 21.

PRINCIPAL:

Pulte Home Company, LLC
a Michigan limited liability company

Principal name)

(Seal)

BY: WCSadler

(Signature)

William C Sadler III
DEVELOPMENT DIRECTOR
Print name and title)

Principal address and telephone:

SURETY:

Arch Insurance Company

(Surety name)(Seal)

BY: Peter S. Forker

(Signature)

Peter S. Forker, Attorney - In - Fact

Print name and title)

Surety address and telephone:
Harborside 3, 210 Hudson Street, Suite 300
JERSEY CITY, NJ 07311 - 1107
(201) 743-4000

Affix Corporate Seals

Attach Notary Acknowledgments for All Signatures

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

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. Not valid for Note, Loan, Letter of Credit, Currency Rate, Interest Rate or Residential Value Guarantees.

POWER OF ATTORNEY

Know All Persons By These Presents:

That the Arch Insurance Company, a corporation organized and existing under the laws of the State of Missouri, having its principal administrative office in Jersey City, New Jersey (hereinafter referred to as the "Company") does hereby appoint:

Cole P. Hillestad, Peter S. Forker, Stephanie C. Anderson, Rebecca Johlle and William C. Behnke of Chicago, IL (EACH)
Tammy L. Whicker, Mary E. Corley, Darla R. Ganley of Decatur, IL (EACH)

its true and lawful Attorney(s)-in-Fact, to make, execute, seal, and deliver from the date of issuance of this power for and on its behalf as surety, and as its act and deed: Any and all bonds, undertakings, recognizances and other surety obligations, in the penal sum not exceeding Ninety Million Dollars (\$90,000,000.00).

This authority does not permit the same obligation to be split into two or more bonds in order to bring each such bond within the dollar limit of authority as set forth herein.

The execution of such bonds, undertakings, recognizances and other surety obligations in pursuance of these presents shall be as binding upon the said Company as fully and amply to all intents and purposes, as if the same had been duly executed and acknowledged by its regularly elected officers at its principal administrative office in Jersey City, New Jersey.

This Power of Attorney is executed by authority of resolutions adopted by unanimous consent of the Board of Directors of the Company on December 10, 2020, true and accurate copies of which are hereinafter set forth and are hereby certified to by the undersigned Secretary as being in full force and effect:

"VOTED, That the Chairman of the Board, the President, or the Executive Vice President, or any Senior Vice President, of the Surety Business Division, or their appointees designated in writing and filed with the Secretary, or the Secretary shall have the power and authority to appoint agents and attorneys-in-fact, and to authorize them subject to the limitations set forth in their respective powers of attorney, to execute on behalf of the Company, and attach the seal of the Company thereto, bonds, undertakings, recognizances and other surety obligations obligatory in the nature thereof, and any such officers of the Company may appoint agents for acceptance of process."

This Power of Attorney is signed, sealed and certified by facsimile under and by authority of the following resolution adopted by the unanimous consent of the Board of Directors of the Company on December 10, 2020:

VOTED, That the signature of the Chairman of the Board, the President, or the Executive Vice President, or any Senior Vice President, of the Surety Business Division, or their appointees designated in writing and filed with the Secretary, and the signature of the Secretary, the seal of the Company, and certifications by the Secretary, may be affixed by facsimile on any power of attorney or bond executed pursuant to the resolution adopted by the Board of Directors on December 10, 2020, and any such power so executed, sealed and certified with respect to any bond or undertaking to which it is attached, shall continue to be valid and binding upon the Company. In Testimony Whereof, the Company has caused this instrument to be signed and its corporate seal to be affixed by their authorized officers, this 3rd day of May, 2021.

Attested and Certified

Regan A. Shulman

Regan A. Shulman, Secretary

STATE OF PENNSYLVANIA SS
 COUNTY OF PHILADELPHIA SS

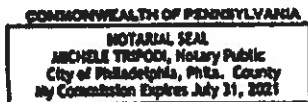


Arch Insurance Company

Stephen C. Ruschak

Stephen C. Ruschak, Executive Vice President

I, Michele Tripodi, a Notary Public, do hereby certify that Regan A. Shulman and Stephen C. Ruschak personally known to me to be the same persons whose names are respectively as Secretary and Executive Vice President of the Arch Insurance Company, a Corporation organized and existing under the laws of the State of Missouri, subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that they being thereunto duly authorized signed, sealed with the corporate seal and delivered the said instrument as the free and voluntary act of said corporation and as their own free and voluntary acts for the uses and purposes therein set forth.



Michele Tripodi

Michele Tripodi, Notary Public
 My commission expires 07/31/2021

CERTIFICATION

I, Regan A. Shulman, Secretary of the Arch Insurance Company, do hereby certify that the attached Power of Attorney dated May 3, 2021 on behalf of the person(s) as listed above is a true and correct copy and that the same has been in full force and effect since the date thereof and is in full force and effect on the date of this certificate; and I do further certify that the said Stephen C. Ruschak, who executed the Power of Attorney as Executive Vice President, was on the date of execution of the attached Power of Attorney the duly elected Executive Vice President of the Arch Insurance Company.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed the corporate seal of the Arch Insurance Company on this 25th day of May, 2021.

Regan A. Shulman

Regan A. Shulman, Secretary

This Power of Attorney limits the acts of those named therein to the bonds and undertakings specifically named therein and they have no authority to bind the Company except in the manner and to the extent herein stated.

PLEASE SEND ALL CLAIM INQUIRIES RELATING TO THIS BOND TO THE FOLLOWING ADDRESS:

Arch Insurance - Surety Division
 3 Parkway, Suite 1500
 Philadelphia, PA 19102



**To verify the authenticity of this Power of Attorney, please contact Arch Insurance Company at SuretyAuthentic@archinsurance.com
 Please refer to the above named Attorney-in-Fact and the details of the bond to which the power is attached.**

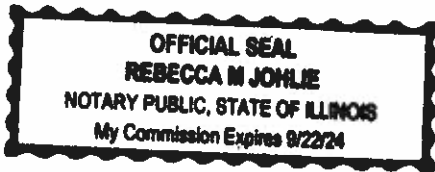
ACKNOWLEDGMENT BY SURETY

STATE OF Illinois }
County of Lake } ss.

On this 25th day of May, 2021, before me personally
appeared Peter S. Forker, known to, me to be the Attorney-in-Fact of
Arch Insurance Company

_____, the corporation
that executed the within instrument, and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, at my office in the aforesaid County, the day and
year in this certificate first above written.





Notary Public in the State of Illinois
County of Lake

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 Alameda

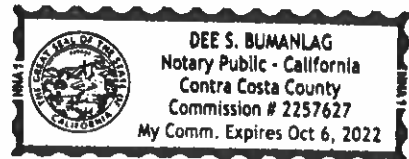
On MAY 28, 2021 before me, Dee S. Bumanlag, Notary Public
(insert name and title of the officer)

personally appeared WILLIAM C. SAMER III
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 Dee S. Bumanlag (Seal)



Bond No. SU1172302

Premium \$2,280.00

WARRANTY BOND

WHEREAS, the City of San Jose, a municipal corporation of the State of California ("City") and **PULTE HOME COMPANY, LLC, A MICHIGAN LIMITED LIABILITY COMPANY**, as principal ("Principal") have entered into an agreement **"TURNKEY PARKLAND AGREEMENT TENTATIVE MAP NO PT19-023"**, 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 Arch 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 **SIX HUNDRED EIGHT THOUSAND ONE HUNDRED SIX AND 06/100 DOLLARS (\$608,106.06)**, 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 May 25th, 2021.

PRINCIPAL:

Pulte Home Company, LLC
a Michigan limited liability company

(Principal name)

(Seal)

SURETY:

Arch Insurance Company

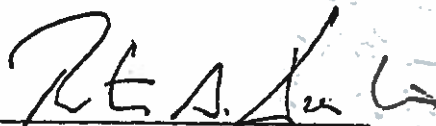
(Surety name)(Seal)

BY:



(Signature)

BY:



(Signature)

William C Sadler III
DEVELOPMENT DIRECTOR
(Print name and title)

Peter S. Forker, Attorney - In - Fact

(Print name and title)

Principal address and telephone:

Surety address and telephone:

Harborside 3, 210 Hudson Street, Suite 300
JERSEY CITY, NJ 07311 - 1107
(201) 743-4000

Affix Corporate Seals

Attach Notary Acknowledgments for All Signatures

Attach Power-of-Attorney if executed by Attorney-In-Fact

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. Not valid for Note, Loan, Letter of Credit, Currency Rate, Interest Rate or Residential Value Guarantees.

POWER OF ATTORNEY

Know All Persons By These Presents:

That the Arch Insurance Company, a corporation organized and existing under the laws of the State of Missouri, having its principal administrative office in Jersey City, New Jersey (hereinafter referred to as the "Company") does hereby appoint:

**Cole P. Hillestad, Peter S. Forker, Stephanie C. Anderson, Rebecca Johle and William C. Behnke of Chicago, IL (EACH)
Tammy L. Whicker, Mary E. Corley, Darla R. Ganley of Decatur, IL (EACH)**

its true and lawful Attorney(s) in-Fact, to make, execute, seal, and deliver from the date of issuance of this power for and on its behalf as surety, and as its act and deed. Any and all bonds, undertakings, recognizances and other surety obligations, in the penal sum not exceeding Ninety Million Dollars (\$90,000,000.00). This authority does not permit the same obligation to be split into two or more bonds in order to bring each such bond within the dollar limit of authority as set forth herein.

The execution of such bonds, undertakings, recognizances and other surety obligations in pursuance of these presents shall be as binding upon the said Company as fully and amply to all intents and purposes, as if the same had been duly executed and acknowledged by its regularly elected officers at its principal administrative office in Jersey City, New Jersey.

This Power of Attorney is executed by authority of resolutions adopted by unanimous consent of the Board of Directors of the Company on December 10, 2020, true and accurate copies of which are hereinafter set forth and are hereby certified to by the undersigned Secretary as being in full force and effect: "VOTED, That the Chairman of the Board, the President, or the Executive Vice President, or any Senior Vice President, of the Surety Business Division, or their appointees designated in writing and filed with the Secretary, or the Secretary shall have the power and authority to appoint agents and attorneys-in-fact, and to authorize them subject to the limitations set forth in their respective powers of attorney, to execute on behalf of the Company, and attach the seal of the Company thereto, bonds, undertakings, recognizances and other surety obligations obligatory in the nature thereof, and any such officers of the Company may appoint agents for acceptance of process."

This Power of Attorney is signed, sealed and certified by facsimile under and by authority of the following resolution adopted by the unanimous consent of the Board of Directors of the Company on December 10, 2020:

VOTED, That the signature of the Chairman of the Board, the President, or the Executive Vice President, or any Senior Vice President, of the Surety Business Division, or their appointees designated in writing and filed with the Secretary, and the signature of the Secretary, the seal of the Company, and certifications by the Secretary, may be affixed by facsimile on any power of attorney or bond executed pursuant to the resolution adopted by the Board of Directors on December 10, 2020, and any such power so executed, sealed and certified with respect to any bond or undertaking to which it is attached, shall continue to be valid and binding upon the Company. In Testimony Whereof, the Company has caused this instrument to be signed and its corporate seal to be affixed by their authorized officers, this 3rd day of May, 2021.

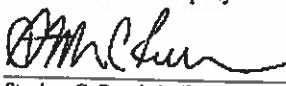
Attested and Certified


Regan A. Shulman, Secretary

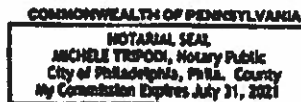
STATE OF PENNSYLVANIA SS
COUNTY OF PHILADELPHIA SS



Arch Insurance Company


Stephen C. Ruschak, Executive Vice President

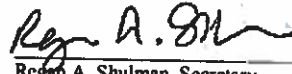
I, Michele Tripodi, a Notary Public, do hereby certify that Regan A. Shulman and Stephen C. Ruschak personally known to me to be the same persons whose names are respectively as Secretary and Executive Vice President of the Arch Insurance Company, a Corporation organized and existing under the laws of the State of Missouri, subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that they being thereunto duly authorized signed, sealed with the corporate seal and delivered the said instrument as the free and voluntary act of said corporation and as their own free and voluntary acts for the uses and purposes therein set forth.




Michele Tripodi, Notary Public
My commission expires 07/31/2021

CERTIFICATION

I, Regan A. Shulman, Secretary of the Arch Insurance Company, do hereby certify that the attached Power of Attorney dated May 3, 2021 on behalf of the person(s) as listed above is a true and correct copy and that the same has been in full force and effect since the date thereof and is in full force and effect on the date of this certificate; and I do further certify that the said Stephen C. Ruschak, who executed the Power of Attorney as Executive Vice President, was on the date of execution of the attached Power of Attorney the duly elected Executive Vice President of the Arch Insurance Company. IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed the corporate seal of the Arch Insurance Company on this 2nd day of May, 2021.


Regan A. Shulman, Secretary

This Power of Attorney limits the acts of those named therein to the bonds and undertakings specifically named therein and they have no authority to bind the Company except in the manner and to the extent herein stated.

PLEASE SEND ALL CLAIM INQUIRIES RELATING TO THIS BOND TO THE FOLLOWING ADDRESS:

Arch Insurance - Surety Division
3 Parkway, Suite 1500
Philadelphia, PA 19102



To verify the authenticity of this Power of Attorney, please contact Arch Insurance Company at SuretyAuthentic@archinsurance.com
Please refer to the above named Attorney-in-Fact and the details of the bond to which the power is attached.

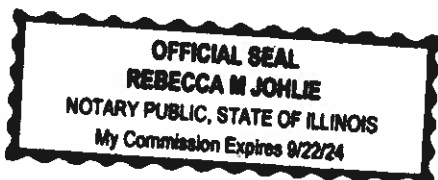
ACKNOWLEDGMENT BY SURETY

STATE OF Illinois }
County of Lake } ss.

On this 25th day of May, 2021, before me personally
appeared Peter S. Forker
Arch Insurance Company, known to, me to be the Attorney-in-Fact of

_____, the corporation
that executed the within instrument, and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, at my office in the aforesaid County, the day and
year in this certificate first above written.





Notary Public in the State of Illinois
County of Lake

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 Alameda

On MAY 28, 2021 before me, Dee S. Bumanlag, Notary Public
(insert name and title of the officer)

personally appeared WILLIAM C. SADLER III,
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 Dee S. Bumanlag (Seal)

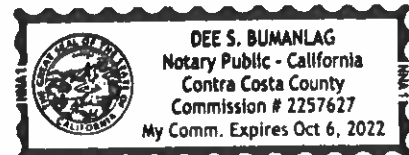





















Exhibit H - Environmental Disclosures/Permitted Exceptions

Environmental Disclosures/Permitted Exceptions shall be per the approved Winchester Ranch Residential Project Environmental Impact Report as approved January 14, 2020 - Resolution No. 79375.

EXHIBIT I – PROJECT SCHEDULE – TENTATIVE/DRAFT

Exhibit I - Project Schedule - Tentative Draft

[illegible]

Project: Winchester Orchard Pa Date: Fri 6/4/21	Task		Project Summary		Manual Task		Start-only		Deadline	
	Split		Inactive Task		Duration-only		Finish-only		Progress	
	Milestone		Inactive Milestone		Manual Summary Rollup		External Tasks		Manual Progress	
	Summary		Inactive Summary		Manual Summary		External Milestone			

ID		Task Mode	Task Name	Duration	Start	Finish	1st Quarter MayJunJul	3rd Quarter JulAugSepOct	4th Quarter NovDec	1st Quarter JanFebMar	2nd Quarter AprMayJun	3rd Quarter JulAugSepOct	4th Quarter NovDec	1st Quarter JanFebMar	2nd Quarter AprMayJun	3rd Quarter JulAugSepOct	4th Quarter NovDec	1st Quarter JanFebMar	2nd Quarter AprMayJun	3rd Quarter JulAugSepOct	4th Quarter NovDec	1st Quarter JanFebMar	2nd Quarter AprMayJun	3rd Quarter JulAugSepOct	4th Quarter NovDec
30			Install Planting & Inspect	10 days	Tue 6/14/22	Mon 6/27/22																			
31			Park Complete-Phase 1	0 days	Mon 6/27/22	Mon 6/27/22							6/27												
32																									
33			PHASE 2	106 days	Mon 4/3/23	Mon 8/28/23																			
34			Grading	10 days	Mon 4/3/23	Fri 4/14/23																			
35			Clear Site	4 days	Mon 4/3/23	Thu 4/6/23																			
36			Staking	1 day	Fri 4/7/23	Fri 4/7/23																			
37			Rough Grade	5 days	Mon 4/10/23	Fri 4/14/23																			
38			Storm Drain/Sanitary	8 days	Mon 4/17/23	Wed 4/26/23																			
39			Staking	1 day	Mon 4/17/23	Mon 4/17/23																			
40			Trench, Install & Backfill	7 days	Tue 4/18/23	Wed 4/26/23																			
41			Water	7 days	Thu 4/27/23	Fri 5/5/23																			
42			Staking	1 day	Thu 4/27/23	Thu 4/27/23																			
43			Trench & Install & Backfill	6 days	Fri 4/28/23	Fri 5/5/23																			
44			Site Lighting	25 days	Mon 5/8/23	Fri 6/9/23																			
45			Staking	2 days	Mon 5/8/23	Tue 5/9/23																			
46			Trench & Install Conduits/Vaults	8 days	Wed 5/10/23	Fri 5/19/23																			
47			Inspect & Backfill	5 days	Mon 5/22/23	Fri 5/26/23																			
48			Form & Pour Foundations	5 days	Mon 5/29/23	Fri 6/2/23																			
49			Set Lights & Bollards	5 days	Mon 6/5/23	Fri 6/9/23																			
50			Site Lighting Complete	0 days	Fri 6/9/23	Fri 6/9/23																			
51			Landscape Install	56 days	Mon 6/12/23	Mon 8/28/23																			
52			Staking	1 day	Mon 6/12/23	Mon 6/12/23																			
53			Finish Grade	3 days	Tue 6/13/23	Thu 6/15/23																			
54			Install Drainage, Inspect & Backfill	6 days	Fri 6/16/23	Fri 6/23/23																			
55			Install Irrigation, Inspect & Backfill	6 days	Mon 6/26/23	Mon 7/3/23																			
56			Install Landscape Features (Basketball Court, etc.)	20 days	Tue 7/4/23	Mon 7/31/23																			
57			Form & Pour Walkways	10 days	Tue 8/1/23	Mon 8/14/23																			
58			Install Planting & Inspect	10 days	Tue 8/15/23	Mon 8/28/23																			

Project: Winchester Orchard Pa
Date: Fri 6/4/21

Task

Split

Milestone

Summary

Project Summary

Inactive Task

Inactive Milestone

Inactive Summary

Manual Task

Duration-only

Manual Summary Rollup

Manual Summary

Start-only

Finish-only

External Tasks

External Milestone

Deadline

Progress

Manual Progress

ID	<div><div></div><div>i</div></div>	Task Mode	Task Name	Duration	Start	Finish	1st Quarter May Jun Jul Aug Sep Oct Nov Dec	3rd Quarter Jul Aug Sep Oct Nov Dec	4th Quarter Oct Nov Dec	1st Quarter Jan Feb Mar Apr May Jun Jul Aug Sep Oct Nov Dec	2nd Quarter Jan Feb Mar Apr May Jun Jul Aug Sep Oct Nov Dec	3rd Quarter Jan Feb Mar Apr May Jun Jul Aug Sep Oct Nov Dec	4th Quarter Jan Feb Mar Apr May Jun Jul Aug Sep Oct Nov Dec	1st Quarter Jan Feb Mar Apr May Jun Jul Aug Sep Oct Nov Dec	2nd Quarter Jan Feb Mar Apr May Jun Jul Aug Sep Oct Nov Dec	3rd Quarter Jan Feb Mar Apr May Jun Jul Aug Sep Oct Nov Dec	4th Quarter Jan Feb Mar Apr May Jun Jul Aug Sep Oct Nov Dec	1st Quarter Jan Feb Mar Apr May Jun Jul Aug Sep Oct Nov Dec	2nd Quarter Jan Feb Mar Apr May Jun Jul Aug Sep Oct Nov Dec	3rd Quarter Jan Feb Mar Apr May Jun Jul Aug Sep Oct Nov Dec	4th Quarter Jan Feb Mar Apr May Jun Jul Aug Sep Oct Nov Dec	1st Quarter Jan Feb Mar Apr May Jun Jul Aug Sep Oct Nov Dec
59		<div><div></div><div></div><div></div></div>	Park Complete-Phase 2	0 days	Mon 8/28/23	Mon 8/28/23																
60		<div><div></div><div></div><div></div></div>																				
61		<div><div></div><div></div><div></div></div>	PHASE 3	106 days	Mon 7/1/24	Mon 11/25/24																
62		<div><div></div><div></div><div></div></div>	Grading	10 days	Mon 7/1/24	Fri 7/12/24																
63		<div><div></div><div></div><div></div></div>	Clear Site	4 days	Mon 7/1/24	Thu 7/4/24																
64		<div><div></div><div></div><div></div></div>	Staking	1 day	Fri 7/5/24	Fri 7/5/24																
65		<div><div></div><div></div><div></div></div>	Rough Grade	5 days	Mon 7/8/24	Fri 7/12/24																
66		<div><div></div><div></div><div></div></div>	Storm Drain/Sanitary	8 days	Mon 7/15/24	Wed 7/24/24																
67		<div><div></div><div></div><div></div></div>	Staking	1 day	Mon 7/15/24	Mon 7/15/24																
68		<div><div></div><div></div><div></div></div>	Trench, Install & Backfill	7 days	Tue 7/16/24	Wed 7/24/24																
69		<div><div></div><div></div><div></div></div>	Water	7 days	Thu 7/25/24	Fri 8/2/24																
70		<div><div></div><div></div><div></div></div>	Staking	1 day	Thu 7/25/24	Thu 7/25/24																
71		<div><div></div><div></div><div></div></div>	Trench & Install & Backfill	6 days	Fri 7/26/24	Fri 8/2/24																
72		<div><div></div><div></div><div></div></div>	Site Lighting	25 days	Mon 8/5/24	Fri 9/6/24																
73		<div><div></div><div></div><div></div></div>	Staking	2 days	Mon 8/5/24	Tue 8/6/24																
74		<div><div></div><div></div><div></div></div>	Trench & Install Conduits/Vaults	8 days	Wed 8/7/24	Fri 8/16/24																
75		<div><div></div><div></div><div></div></div>	Inspect & Backfill	5 days	Mon 8/19/24	Fri 8/23/24																
76		<div><div></div><div></div><div></div></div>	Form & Pour Foundations	5 days	Mon 8/26/24	Fri 8/30/24																
77		<div><div></div><div></div><div></div></div>	Set Lights & Bollards	5 days	Mon 9/2/24	Fri 9/6/24																
78		<div><div></div><div></div><div></div></div>	Site Lighting Complete	0 days	Fri 9/6/24	Fri 9/6/24																
79		<div><div></div><div></div><div></div></div>	Landscape Install	56 days	Mon 9/9/24	Mon 11/25/24																
80		<div><div></div><div></div><div></div></div>	Staking	1 day	Mon 9/9/24	Mon 9/9/24																
81		<div><div></div><div></div><div></div></div>	Finish Grade	3 days	Tue 9/10/24	Thu 9/12/24																
82		<div><div></div><div></div><div></div></div>	Install Drainage, Inspect & Backfill	6 days	Fri 9/13/24	Fri 9/20/24																
83		<div><div></div><div></div><div></div></div>	Install Irrigation, Inspect & Backfill	6 days	Mon 9/23/24	Mon 9/30/24																
84		<div><div></div><div></div><div></div></div>	Install Landscape Features (Dog Park, etc)	20 days	Tue 10/1/24	Mon 10/28/24																
85		<div><div></div><div></div><div></div></div>	Form& Pour Walkways	10 days	Tue 10/29/24	Mon 11/11/24																
86		<div><div></div><div></div><div></div></div>	Install Planting & Inspect	10 days	Tue 11/12/24	Mon 11/25/24																
87		<div><div></div><div></div><div></div></div>	Park Complete-Phase 3	0 days	Mon 11/25/24	Mon 11/25/24																

Project: Winchester Orchard Pa

Date: Fri 6/4/21

Task

Split

Milestone

Summary

Project Summary

Inactive Task

Inactive Milestone

Inactive Summary

Manual Task

Duration-only

Manual Summary Rollup

Manual Summary

Start-only

Finish-only

External Tasks

External Milestone

Deadline

Progress

Manual Progress

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