

**PARK AGREEMENT
BY AND BETWEEN
THE CITY OF SANTA CLARA, CALIFORNIA
AND
SUMMERHILL LAWRENCE STATION LLC,
SHAC LS APARTMENTS I LLC, AND
SHAC LS APARTMENTS II LLC**

This PARK AGREEMENT (this “**Agreement**”) is entered into by and between the CITY OF SANTA CLARA, a chartered California municipal corporation with its principal place of business located at 1500 Warburton Ave, Santa Clara, CA (“**City**”), and SUMMERHILL LAWRENCE STATION LLC, a California limited liability company with its principal place of business located at 3000 Executive Parkway, Suite 450, San Ramon, CA (“**Developer**”). SHAC LS APARTMENTS I LLC, a Delaware limited liability company (“**SHAC I**”) and SHAC LS APARTMENTS II LLC, a Delaware limited liability company (“**SHAC II**”) own portions of the Property described in Recital A below. City and Developer may be referred to herein individually as a “**Party**” or collectively as the “**Parties**” Or “Parties to this Agreement.” It is the intent of the Parties that this Agreement shall become operative on the Effective Date.

RECITALS

City and Developer enter into this Agreement on the basis of the following facts, understandings and intentions, and the following recitals are substantive part of this Agreement.

A. Developer, SHAC I and SHAC II LLC, are the owners of approximately 29.4 acres of real property located at the northeastern corner of Kifer Road and Lawrence Expressway in the City of Santa Clara, State of California, as more particularly described and depicted on **Exhibit A** attached hereto (the “**Property**”). The Property is located within the boundaries of the Lawrence Station Area Plan.

B. Developer intends to develop the Property with a new very high density, medium density, and low density residential development consisting of 994 dwelling units, approximately 39,225 square feet of retail and amenity space, parking and other associated improvements (the “**Project**”). City approved Architectural Review (PLN2016-12199) and a Vesting Tentative Subdivision Map (PLN2015-10947) for the Project in 2016. City approved the final subdivision map for the Project (“**Final Map**”) and it was recorded on December, 21 2017.

C. Santa Clara City Code (“**SCCC**”) Chapter 17.35 requires new residential development to dedicate adequate park and recreational land and/or pay a fee in-lieu of parkland dedication, for the purpose of developing new or rehabilitating existing parks and recreational facilities (the “**Parkland Requirements**”). The development of the Project is subject to the Parkland Requirements.

D. Developer proposed to submit the Project uniformly under the Quimby Act provisions of SCCC Chapter 17.35. The Project will generate an estimated 2,254 residents (2,135 multifamily + 119 single family). Based on the Quimby Parkland Dedication Standard of 3.0 acres of parkland per 1,000 residents, the amount of public parkland required for this Project to mitigate the impact of the new resident demand is 6.7609 acres. The equivalent fee in lieu of parkland dedication is \$28,404,942, and is subject to change if any recalculations are necessary due to changes made to the Project or to the Public Parks, as defined in Recital E and as set forth in this Agreement.

E. Developer intends to satisfy the Parkland Requirements for the Project in part by dedicating the “Mini Parks” defined and depicted on **Exhibit B** attached hereto (collectively, the “**Public Parks**”) to City for parkland and recreational purposes. Developer will dedicate fee simple estates to a portion of the Public Parks and dedicate easement estates to the other Public Parks as described on **Exhibit B**. Developer will irrevocably offer for dedication all of the Public Parks (both fee and easement) on the Final Map.

F. Developer intends to satisfy the remaining balance of the Parkland Requirements for the Project through payment of the in-lieu fee established pursuant to SCCC Chapter 17.35 in accordance with the Quimby Act (Cal. Gov. Code § 66477 et seq.)

G. Developer intends to construct and improve the Public Parks with certain park improvements and recreational facilities (the “**Park Improvements**”) as described and depicted in the plans and specifications attached as **Exhibit C** hereto (the “**Park Improvement Plans**”). The cost of designing and constructing the Park Improvements is estimated to be Nine Million Five Hundred Ten Thousand Five Hundred Dollars (\$9,510,500.00) as more fully set forth in the “Estimated Budget” attached as **Exhibit F** hereto. The amount to be reimbursed to Developer will in no case be more than the remaining balance of fees Developer paid in lieu of parkland dedication.

H. Upon completion of the Park Improvements, City intends to accept the Public Parks and the Park Improvements constructed thereon in accordance with this Agreement.

I. Calculation of the SCCC Chapter 17.35 Parkland Requirements for the Project, including the acreage of the dedicated Public Parks required for each Phase (as described in Recital J below) of the Project, the acreage of the dedicated Public Parks to be developed for each Phase, the credit for eligible on-site private parkland and recreational amenities devoted to Active Recreational Uses for each Phase, and the remaining fee due in lieu of parkland dedication for each Phase, is attached hereto as **Exhibit D**.

J. Developer intends to construct the Project in the following Phases and Subphases: “**Phase I**” consists of Subphase 1, Subphase 2, and Subphase 3. “**Subphase 1**” consists of the construction of 48 E-Town and townflat units, as shown on the phasing plan attached hereto as **Exhibit E** (the “**Phasing Plan**”). “**Subphase 2**”

consists of the construction of 41 single family detached units, as shown on the Phasing Plan. “**Subphase 3**” consists of the construction of 251 multifamily units in one building, as shown on the Phasing Plan. “**Phase II**” consists of the construction of 58 E-Town and townflat units, as shown on the Phasing Plan and “**Phase II.A**” consists of 126 condominium units. “**Phase III**” consists of the construction of 114 E-Town and townflat units, as shown on the Phasing Plan. “**Phase IV**” consists of the construction of 70 E-Town and townflat units, as shown on the Phasing Plan. “**Phase V**” consists of the construction of 286 multifamily units in two separate buildings, as shown on the Phasing Plan.

K. Developer and City intend for the fees in lieu of parkland dedication to be paid and the Park Improvements to be constructed and completed as set forth herein.

L. Developer intends to construct stormwater treatment measures pursuant to the requirements of the City’s National Pollutant Discharge Elimination System (NPDES) permit. Developer, as the owner of real property on which the stormwater treatment measures are to be constructed, will enter into a Stormwater Treatment Measures Inspection and Maintenance (I&M) Agreement with City and will maintain the stormwater treatment measures in perpetuity according to the maintenance plan outlined in the I&M Agreement.

AGREEMENT

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:

1. **Recitals Incorporated.** The foregoing recitals are true and correct, and are part of this Agreement for all purposes.

2. **Design and Construction of Park Improvements.**

(a) **Construction Documents.** City has previously approved the schematic design plans for the Park Improvements as shown in the Park Improvement Plans attached hereto as **Exhibit C**. Developer shall prepare and submit to City final plans, specifications and cost estimate for the Park Improvements (the “**Construction Documents**”), which shall substantially conform to the Park Improvement Plans and Estimated Budget. In addition to the Construction Documents, the Developer shall also submit at the same time soil and geotechnical reports for the areas of the Park Improvements.

(b) **Approval of Construction Documents.** City shall review and approve the Construction Documents, including plans, specifications and cost estimates, for the construction, design and improvements of the Public Parks prior to the start of construction, or review and provide comments regarding any necessary corrections thereto, in a prompt and timely manner, and in no event more than thirty

(30) days after receipt of the Construction Documents from Developer. In the event that City provides comments regarding any necessary corrections to the Construction Documents, Developer shall promptly, within thirty (30) days, revise and resubmit the Construction Documents to City. City shall then approve such revised Construction Documents, or provide any further comments regarding any necessary corrections thereto, within ten (10) days after receipt of the revised Construction Documents from Developer. In the event that City provides any further comments regarding any necessary corrections to the Construction Documents, Developer shall promptly, within 30 days, revise and resubmit the Construction Documents to City. City and Developer shall repeat this process for the approval of the Construction Documents specified in this Section until the City approves the Construction Documents. City's review of the Construction Documents pursuant to this Section shall be limited to conformance with Park Improvement Plans, Parks & Recreation Department Park Amenity & Design Standards, and City's applicable Standard Specifications for Public Works Construction.

(c) Final Budget. Following City's approval of the Construction Documents, Developer shall obtain bids for the construction of the Park Improvements and enter into a construction contract for the Park Improvements. The Estimated Budget for the Park Improvements attached hereto as **Exhibit F** shall then be updated to reflect construction costs set forth in the construction contract (the "**Final Budget**"). The costs of designing and constructing the Park Improvements set forth in the Final Budget are the "**Budgeted Costs.**" The Parkland In Lieu Fee Payment Schedule attached hereto as **Exhibit G** shall also be updated to reflect the Budgeted Costs Calculation of the SCCC Chapter 17.35 Parkland Requirements for the Project, less the acreage of the dedicated Public Parks, less the value of the Park Improvements to the dedicated land, less the credit at 50% for eligible on-site private parkland and recreational amenities devoted to Active Recreational Uses, and the balance of the equivalent fee due in lieu of parkland dedication shall not be less than zero.

(d) Construction. The Park Improvements for each Public Park shall be constructed in compliance with City approved Construction Documents, subject to change orders approved in accordance with the provisions of Section 2(f) below. Developer, through its design professionals, shall review and approve all materials of construction and provide a copy of all approved material submittals to City for use during the construction phase. Developer and Developer's construction contractor shall provide regular construction updates of construction schedule activities to allow City, at its discretion, to perform inspection of work progress and, if desired by City, testing of materials. At City's discretion, City may inspect the Park Improvements during construction to ensure conformity with plans and standards. Developer shall commence and complete the construction of the Park Improvements at such times as Developer deems desirable, subject to the phasing requirements set forth in Section 3 below. Developer to provide reasonable notice, a minimum of two weeks, prior to the start of construction on a phase of park construction.

(e) Unforeseen Cost Increases. If Developer encounters unknown and unforeseen site conditions after commencement of construction of any of the Park

Improvements that increases costs beyond the Final Budget, such cost increases shall be credited toward Developer's obligation to pay the Parkland Fee (or reimbursed to Developer, as applicable) provided the calculation of the SCCC Chapter 17.35 Parkland Requirements for the Project, less the acreage of the dedicated Public Parks, less the value of the Park Improvements to the dedicated land, less the credit at 50% for eligible on-site private parkland and recreational amenities devoted to Active Recreational Uses, and the balance of the equivalent fee due in lieu of parkland dedication shall not be less than zero.

(f) Change Orders. Any change orders to the approved Construction Documents where Developer would seek credit toward Developer's obligation to pay the fees in lieu of parkland dedication shall be subject to approval by City, which shall not be unreasonably delayed, conditioned, or withheld by either Party. In the event a change order would increase costs beyond the Final Budget, such cost increases shall be credited toward Developer's obligation to pay the fee in lieu of parkland dedication (or reimbursed to Developer, as applicable) provided the calculation of the SCCC Chapter 17.35 Parkland Requirements for the Project, less the acreage of the dedicated Public Parks, less the value of the Park Improvements to the dedicated land, less the credit at 50% for eligible on-site private parkland and recreational amenities devoted to Active Recreational Uses, and the balance of the equivalent fee due in lieu of parkland dedication shall not be less than zero.

(g) Completion of Construction; Final Inspection. When Developer completes the construction of the Park Improvements for each Phase, Developer shall provide written notice of completion to City ("**Notice of Completion**") and request a walk-thorough inspection. Developer shall also provide soil and geotechnical reports for City review and acceptance. Within five (5) business days following the date of City's receipt of the Notice of Completion for each Phase, City shall conduct a final inspection of the applicable Park Improvements (the "**Final Inspection**"). If, during the Final Inspection, City determines that the Park Improvements have not been completed in accordance with the approved Construction Documents, City shall prepare a punch list of all items to be completed by Developer and shall provide such punch list to Developer five (5) business days following the Final Inspection. If City delivers such punch list to Developer, then Developer shall undertake to repair such punch list items in a diligent manner. Upon completion of the punch list work, Developer shall request another Final Inspection from City and within five (5) business days following such written notice from Developer, City shall conduct another Final Inspection. If City determines that the punch list work is complete, City shall immediately deliver a notification of final completion to Developer. If City determines that the punch list work is not complete, then City and Developer shall repeat the Final Inspection/punch list procedures specified in this Section until the successful completion of the punch list work.

(h) Acceptance. The Public Parks for each Phase shall be granted to City after Park Improvements have been inspected and accepted by City. The City shall accept the Park Improvements of each phase prior to its use by the general public. City

shall open escrow to facilitate the transfer of title for each of the Public Parks from Developer to City. The close of escrow for each individual Public Park shall occur no later than sixty (60) days after the completion and acceptance of the Public Park by City.

(i) Maintenance and Repair. Prior to the acceptance of the Park Improvements by City, Developer shall, at its sole cost and expense, maintain, repair, replace and insure the Parks until title has been transferred. Following City acceptance of the Park Improvements and transfer of title, City shall be responsible for all maintenance, repair and replacement of the Public Parks and Park Improvements, and Developer's sole remaining obligation with respect to such shall be to honor the warranty on the Park Improvements set forth in Section 2(j) below.

(j) Warranty Period on Park Improvements. Developer shall warrant and guaranty the condition of the Park Improvements for a period of one (1) year following transfer of title to City. Said warranty shall not apply to failure of Park Improvements when such failure was caused by failure of City to adequately maintain the same. Any warranty work and the timing of the warranty work, except in the case of an emergency, shall be coordinated with City and the timing of the work shall be approved by City so that it does not interfere or impede use of the park for planned activities.

(k) Stormwater Treatment Measures. Developer and City agree that any and all surfaces, materials, structures, walls, fixtures, equipment, landscaping, etc. located aboveground in the Parks located on lots H, J, N and T which are disturbed or otherwise damaged by activities related to maintenance of the underlying stormwater treatment measures will be the responsibility of Developer and/or their successor to repair or replace with equivalent surfaces and materials. This includes regularly scheduled maintenance activities, emergency repair activities, and compliance enforcement activities.

3. Phasing of Park Improvements. Developer shall have the right to construct the Project in the Phases and the Subphases set forth in the Recitals; provided, however, that in constructing the Project, Developer shall comply with the following Park Improvements phasing and completion requirements.

(a) Phase I Park Improvements.

i. Mini Park B and Mini Park D. Developer shall complete construction of the Park Improvements for "Mini Park B" and "Mini Park D" (as defined on **Exhibit B**) in accordance with City approved Construction Documents within eighteen (18) months of the City approval of the Construction Documents. Notwithstanding the foregoing, the community center to be constructed as part of the Park Improvements for Mini Park D need only be "Under Construction" in order for the Park Improvements for Mini Park D to be deemed complete for the purposes of this Section; provided, however, Developer shall thereafter continue construction of the

community center until it has been completed in accordance with City approved Construction Drawings and accepted by City. As used in this Section 3(a)(i), the term “Under Construction” means that the permit has been issued and the construction of the foundation has been started. Transfer of title for the portion of Mini Park D that is on Lot M will occur when the improvements associated with that parcel are inspected and accepted. Transfer of title and public use of Lot 15, which includes the community building, will not occur until Developer fully completes all of the improvements on Lot 15 and City has inspected and accepted said Park Improvements.

ii. Mini Park G and Mini Park H. Developer shall complete the construction of the Park Improvements for “Mini Park G” and “Mini Park H” (as defined on **Exhibit B**) in accordance with City approved Construction Documents. Developer shall begin construction on Mini Park G and Mini Park H no later than thirty (30) days following the removal of scaffolding of the last unit adjacent to Mini Park G and Mini Park H and the approval of the Construction Documents respectively.

(b) Phase II and Phase II.A Park Improvements.

i. Mini Park E and Mini Park F. Developer shall complete the construction of the Park Improvements for “Mini Park E” and “Mini Park F” (as defined on **Exhibit B**) in accordance with City approved Construction Documents within eighteen (18) months of the City’s approval of the Construction Documents. .

ii. Failure to Timely Construct Park Improvements. To ensure the timely construction of the Park Improvements for Phase II, the following provision shall apply until all of the Park Improvements for Phase II have been completed in accordance with this Section 3: City shall not issue a final certificate of occupancy for more than 50% of the units in Phase III until all of the Park Improvements for Mini Park E and Mini Park F have been completed.

(c) Phase III Park Improvements. Developer is not required to construct any Park Improvements as part of Phase III of the Project.

(d) Phase IV Park Improvements.

i. Mini Park C. Developer shall complete the construction of the Park Improvements for “Mini Park C” (as defined on **Exhibit B**) in accordance with City approved Construction Documents prior to issuance of the final certificate of occupancy for the last residential unit in Phase IV.

ii. Failure to Timely Construct Park Improvements. To ensure the timely construction of the Park Improvements for Phase IV, the following provisions shall apply until all of the Park Improvements for Phase IV have been completed in accordance with this Section 3: (A) City shall not issue a final certificate of occupancy for the last residential unit in Phase IV until Developer has completed the Park

Improvements for Mini Park C; and (B) City shall not issue a final certificate of occupancy for any unit in Phase V until all of the Park Improvements for Mini Park C have been completed.

(e) Phase V Park Improvements.

i. Mini Park A. Developer shall complete the construction of the Park Improvements for “Mini Park A” (as defined on **Exhibit B**) in accordance with City approved Construction Documents prior to issuance of a final certificate of occupancy for the last residential unit in Phase V.

ii. Failure to Timely Construct Park Improvements. To ensure the timely construction of the Park Improvements for Phase V, City shall not issue a final certificate of occupancy for the last residential unit in Phase V until Developer has completed the Park Improvements for Mini Park A.

(f) Completion of Park Improvements. For the purposes of this Section 3, the Park Improvements shall be deemed to be “completed” when Developer has completed construction of the applicable Park Improvements in accordance with City approved Construction Documents and delivered the Notice of Completion (as defined in Section 2(h)) to City. The Parties agree that the Park Improvements shall be deemed complete for the purpose of this Section 3 prior to such Park Improvements undergoing Final Inspection by City and prior to their acceptance by City.

4. **Payment of Parkland In Lieu Fee.** Developer and City agree that the estimated Parkland In Lieu Fee to be paid for each Phase of the Project is set forth on the schedule attached hereto as **Exhibit G (“Parkland In Lieu Fee Payment Schedule”)**. The estimated Parkland In Lieu Fee payments take into account the calculation of SCCC Chapter 17.35 Parkland Requirements for the Project, the acreage of the dedicated Public Parks, the value of the Park Improvements to the dedicated parkland, and the credit at 50% for eligible on-site private parkland and recreational amenities devoted to Active Recreational Uses.

(a) Timing of Payments. Developer shall pay the estimated Parkland In Lieu Fee applicable to each Phase of the Project as set forth on the Parkland In-Lieu Fee Payment Schedule prior to issuance of the first residential building permit for each such Phase, subject to the true-up provisions set forth in Section 4(b) and Section 4(c) below. City acknowledges Developer has already paid \$1,760,920 in Parkland In Lieu Fees for all of Phase I.

(b) First True-Up. Prior to paying the portion of the Parkland In Lieu Fee to be paid in connection with Phase V, Developer shall submit to City evidence of all costs and expenses that Developer has incurred to date in connection with the design and construction of the Park Improvements for Phase I through Phase IV (the **“First True Up Actual Costs”**). In the event that the First True Up Actual Costs are less than the Budgeted Costs for the Park Improvements for Phase I through Phase IV

as shown in the Final Budget, then the amount of the Parkland Fee payable for Phase V shall be increased in the amount of the difference between the First True Up Actual Costs and the Budgeted Costs. In the event that First True Up Actual Costs are more than the Budgeted Costs as shown in the Final Budget, then the amount of the Parkland Fee payable for Phase V shall be reduced in the amount of the difference between the First True Up Actual Costs and the Budgeted Costs. In no event shall the City be obligated to reimburse the Developer more than the amount of the remaining balance of fees due in lieu of parkland dedication approved by the City and paid by the Developer.

(c) Final True-Up. Following the completion of construction of the Park Improvements for Phase V, Developer shall submit to City evidence of all costs and expenses that Developer incurred in connection with the design and construction of the Park Improvements (the “**Final Actual Costs**”). In the event that the Final Actual Costs are less than the Budgeted Costs as adjusted by the First True Up Actual Costs (the “**Adjusted Budgeted Costs**”), then Developer shall pay to City the difference between such Final Actual Costs and such Adjusted Budgeted Costs. In the event that the Final Actual Costs are more than the Adjusted Budgeted Costs, then City shall reimburse Developer in cash for the amount of the difference between the Final Actual Costs and the Adjusted Budgeted Costs within sixty (60) days after Developer’s delivery of Final Actual Costs to City along with a request for payment of such difference provided the calculation of the SCCC Chapter 17.35 Parkland Requirements for the Project, less the acreage of the dedicated Public Parks, less the value of the Park Improvements to the dedicated land, less the credit at 50% for eligible on-site private parkland and recreational amenities devoted to Active Recreational Uses, and the balance of the equivalent fee due in lieu of parkland dedication shall not be less than zero. In no event shall the City be obligated to reimburse the Developer more than the amount of the remaining balance of fees due in lieu of parkland dedication approved by the City and paid by the Developer.

5. Notices. All notices, demands, consents, requests, approvals, disapprovals, designations or other communications (all of the foregoing hereinafter referred to as “notice”) pursuant to this Agreement shall be in writing and delivered in person, by commercial courier or by first-class certified mail, postage prepaid. Notices shall be deemed to have been properly given if (a) served personally, or (b) mailed, when deposited with the United States Postal Service within the boundaries of the continental United States for registered or certified delivery, return receipt requested, with postage prepaid, or (c) sent by receipted overnight courier, postage prepaid, in each case addressed to the applicable recipient as follows:

If to City:

City of Santa Clara
Attn: Director of Parks & Recreation
1500 Warburton Avenue
Santa Clara, California 95050
Or by facsimile at (408) 260-9719

If to Developer:

SummerHill Lawrence Station LLC
c/o SummerHill Homes / SummerHill Apartment Communities
777 California Avenue, Palo Alto, California 94304
Attn: Michael Keaney, Director of Land Development
Telephone: (650) 842-2421
Email: mkeaney@shhomes.com

Either Party may change its address for purposes of this Section by giving written notice to the other Party. All notices shall be deemed given and received, if served personally, when actually received and receipt is acknowledged in writing, upon delivery if delivered by commercial courier, or two (2) days after mailing if sent by United States Postal Service. If delivery of a notice is refused between the hours of 9:00 A.M. and 5:00 P.M. on a business day, or fails because of a changed address of which no notice was given, then such notice shall be deemed given and received, if mailed or sent by courier, at the time delivery was first attempted, as shown by postal or courier receipt.

6. **Amendment.** The provisions of this Agreement may be waived, altered, amended, or repealed, in whole or in part, only by the mutual agreement of the Parties in writing.

7. **Severability.** If any term, provision, covenant, or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable ("**Court Invalidation**"), it shall in no way affect, impair or invalidate any other provisions hereof, and the other provisions shall remain in full force and effect.

8. **Assignment.** Neither Party shall convey, assign or transfer ("Transfer") any of its interests, rights or obligations under this Agreement without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed. In no event shall the obligations conferred upon Developer under this Agreement be transferred except through a transfer of all or a portion of the Property. Should Developer transfer any of its interests, rights or obligations under this Agreement, it shall nonetheless remain liable for performance of the obligations for installation of public improvements and payment of fees, unless the transferee executes an Assumption Agreement in a form reasonably acceptable to City whereby the transferee agrees to be bound by the relevant terms of the Agreement, including the obligations for installation of public improvements and payment of fees. During the Term, Developer shall provide City with written notice of a request to Transfer any interest in this Agreement ninety (90) days prior to any such contemplated Transfer. Any such request for a Transfer shall be accompanied by quantitative and qualitative information that substantiates, to City's satisfaction, that the proposed transferee has the capability to fulfill the rights and obligations of this Agreement. Within forty-five (45) days of such a request and delivery of information, City Manager shall make a determination, in his or her sole discretion, as to whether the Transfer shall be permitted or whether such Transfer necessitates an Amendment to this Agreement, subject to approval by City Council. Each successor in interest to Developer shall be bound by all

of the terms and provisions applicable to the portion of the Property acquired. This Agreement shall be binding upon and inure to the benefit of the Parties' successors, assigns and legal representatives. Developer's individual homebuyers and any homeowners association formed by Developer will not be obligated under this Agreement.

9. **Construction of Agreement.** This Agreement and each of the provisions herein, has been reached as a result of negotiations between the Parties and their respective attorneys. This Agreement shall not be deemed to have been prepared by, or drafted by, any particular Party or Parties hereto, and the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting Party or Parties shall not be employed in the interpretation of this Agreement. The language in this Agreement in all cases shall be construed as a whole and in accordance with its fair meaning.

10. **Attorney's Fees.** In the event of litigation between the Parties, or if a Party becomes involved in litigation because of the wrongful acts of the other Party, the Parties shall each pay their respective attorney's fees, expert witness costs and cost of suit.

11. **Governing Law.** This Agreement shall be construed in accordance with and governed by the laws of the State of California. The venue of any suit filed by either Party shall be vested in the state courts of the County of Santa Clara, or if appropriate, in the United States District Court, Northern District of California, San Jose, California.

12. **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but both of which shall constitute one and the same instrument; and, the Parties agree that the signatures on this Agreement, including those transmitted by facsimile, shall be sufficient to bind the Parties.

[Remainder of Page Intentionally Blank; Signatures Follow]

The Parties acknowledge and accept the terms and conditions of this Agreement as evidenced by the following signatures of their duly authorized representatives. The Effective Date is the date that the final signatory executes the Agreement. It is the intent of the Parties that this Agreement shall become operative on the Effective Date.

CITY OF SANTA CLARA, CALIFORNIA
a chartered California municipal corporation

APPROVED AS TO FORM:

Approved as to Form:

Dated: _____

BRIAN DOYLE
City Attorney

DEANNA J. SANTANA
City Manager
1500 Warburton Avenue
Santa Clara, CA 95050
Telephone: (408) 615-2210
Fax: (408) 241-6771

“CITY”

SUMMERHILL LAWRENCE STATION LLC
a California limited liability company

By: SummerHill Lawrence Station Manager LLC,
a Delaware limited liability company, its manager

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

Dated: _____

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

“DEVELOPER”

SHAC I:

Dated: _____

SHAC LS APARTMENTS I LLC,
a Delaware limited liability company

By: SHAC LS Apartments I Venture LLC, a Delaware limited liability company, its
manager

By: SHAC LS Apartments I Manager LLC, a Delaware limited liability
company, its manager

By: SummerHill Apartment Communities LLC,
a California corporation, its managing member

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

SHAC II:

Dated: _____

SHAC LS APARTMENTS II LLC,
a Delaware limited liability company

By: SHAC LS Apartments II Venture LLC, a Delaware limited liability company, its
manager

By: SHAC LS Apartments II Manager LLC, a Delaware limited liability
company, its manager

By: SummerHill Apartment Communities LLC,
a California corporation, its managing member

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

EXHIBIT A

DESCRIPTION AND DEPICTION OF THE PROPERTY

(NOTE: See Exhibit B page 2 of 2 for depiction.)



November 2, 2018
HMH 4376.00.270
Page 1 of 1

EXHIBIT "A"

REAL PROPERTY in the City of Santa Clara, County of Santa Clara, State of California, being all of that land within the distinctive border shown on that Map of Tract 10400 filed for record on December 21, 2017, in Book 910 of Maps, page 27, Santa Clara County Records, and corrected by that Certificate of Correction recorded March 16, 2018 in Document No. 23889259 of Official Records, Santa Clara County Records.

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

Date: 11-2-18

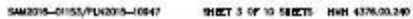
Tracy L. Giorgetti
Tracy L. Giorgetti, LS 8720



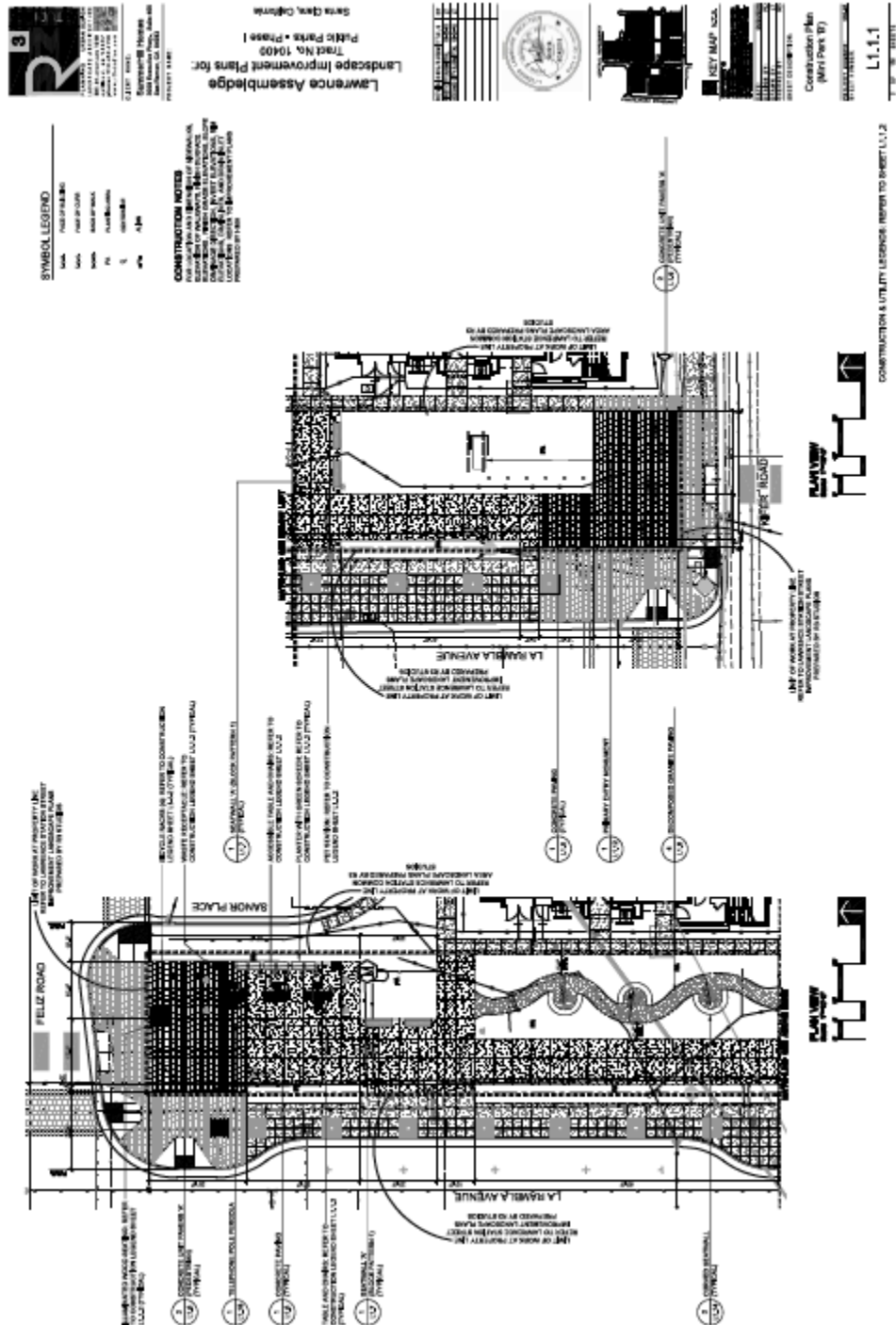
Exhibit B

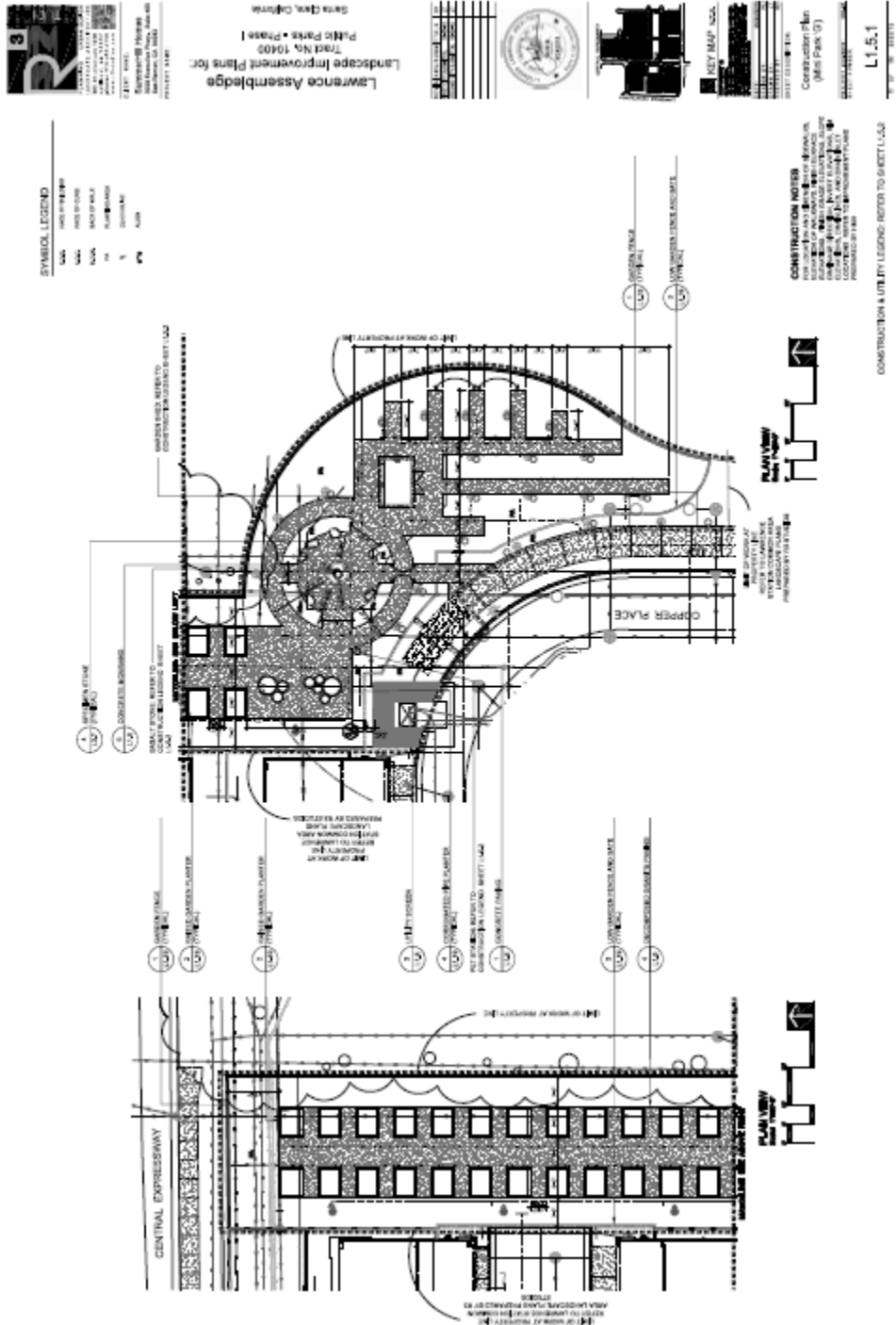
Description and Depiction of the Public Parks

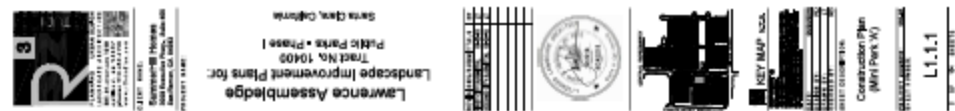
Public Parks	Description	Depiction
"Mini Park A"	"Lot B" as shown on the Final Map	See attached diagram
"Mini Park B"	"Lot C" as shown on the Final Map	See attached diagram
"Mini Park C"	"Lot H" as shown on the Final Map	See attached diagram
"Mini Park D"	"Lot 15" & "Lot M" as shown on the Final Map	See attached diagram
"Mini Park E"	"Lot N" as shown on the Final Map	See attached diagram
"Mini Park F"	"Lot E" as shown on the Final Map	See attached diagram
"Mini Park G"	"Lot L and "Lot T" as shown on the Final Map	See attached diagram
"Mini Park H"	"Lot J" as shown on the Final Map	See attached diagram



Park Improvement Plans







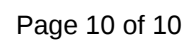


Exhibit D

Parkland Requirements

SummerHill's Project will develop 994 dwelling units generating an estimated 2,254 new residents (953 multi-family units at 2.24 persons/unit density is 2,135 persons + 41 single family units at 2.9 persons/unit density is 119 persons). Based on the City's Quimby standard of 3.0 acres of public neighborhood and community parkland per 1,000 residents, the Project is required to dedicate 6.7609 acres of public parkland and/or pay an equivalent fee due in lieu of the total parkland dedication in the amount of \$28,404,942. In lieu fees are published in the Municipal Fee Schedule.

Developer has proposed to meet the required parkland dedication of 6.7609 acres through several "mini parks" totaling approximately 3.1893 acres rather than a single neighborhood or community park, and pay the remainder owed as a fee in lieu of dedication in the amount of \$12,119,340.

According to City Code 17.35, projects may submit a written request for up to 50% credit against the amount of parkland dedication or the amount of the in-lieu fee thereof for eligible onsite private parkland and recreational amenities devoted to Active Recreational Uses provided the development meets the requirements contained in Santa Clara City Code 17.35.070. This Project includes 2.3035 acres of private amenities. The credit is therefore approximately 1.1518 acres, or \$4,376,717 in value. Developer will construct public park improvements valued at \$9,510,500 (\$9,177,500 for Construction Costs plus \$333,000 for the Landscape Architect & Community Building). The balance of fees due in lieu of parkland dedication is \$2,398,385.

In summary, the calculations above are:

\$28,404,942	Fee due In Lieu of Parkland Dedication
-\$12,119,340	Value of Dedicated Parkland
<u>-\$ 4,376,717</u>	Credit for Onsite Private Parkland and Recreational Amenities
\$11,908,885	Subtotal
-\$ 9,177,500	Actual Park Improvement Construction Costs
<u>-\$ 333,000</u>	Design Fee for Landscape Architect & Community Building
\$ 2,398,385	Balance of Fee Due In Lieu of Parkland Dedication

Table 1. Computation of Parkland Dedication

Project Unit Type: Multi Fam Dwelling	Quimby
Persons/Dwelling Type	2.24
Multi Family Project Units	953
Residents	2135
Parkland Dedication Required(acres): R/1000x3	6.4042
Fee In Lieu of Parkland Dedication	\$26,906,310
Project Unit Type: Single Fam Dwelling	Quimby
Persons/Dwelling Type	2.9
Multi Family Project Units	41
Residents	119
Parkland Dedication Required(acres): R/1000x3	0.3567
Fee In Lieu of Parkland Dedication	\$1,498,632
Total New Residents:	2254
Total Parkland / Total Equivalent In Lieu Fee:	6.7609 acres / \$28,404,942

Table 2. Public Parkland Dedications Proposed, Service Level

Parkland Proposed	Square Feet	Acres	Type of Dedication
Mini Park A	16,393	0.3763	Fee Title
Mini Park B	9,609	0.2206	Fee Title
Mini Park C	9,642	0.2213	Easement
Mini Park D	30,378	0.6974	Fee Title
Mini Park E	37,154	0.8529	Easement
Mini Park F	8,406	0.1930	Fee Title
Mini Park G	14,131	0.3244	Fee Title
Mini Park H	13,213	0.3033	Easement
Total to be dedicated:	138,926	3.1893	
Total Proposed Dedicated Public Parkland Value:		\$12,119,340	

Table 3. Credit for Proposed Private Onsite Park & Recreation "Active Rec Uses"

	Square Feet	Acres
Building A	29490	0.6770
Building B	31177	0.7157
Building C	18384	0.4220
Podium Courtyards & Rec Amenities	79051	1.8148
Subtotal Street Level Parkland	21291	0.4888
Total:	100342	2.3035
Credit at 50% for Private Active Recreation & Equivalent Value:		1.1518 / \$4,376,717

Exhibit E

Phasing Plan

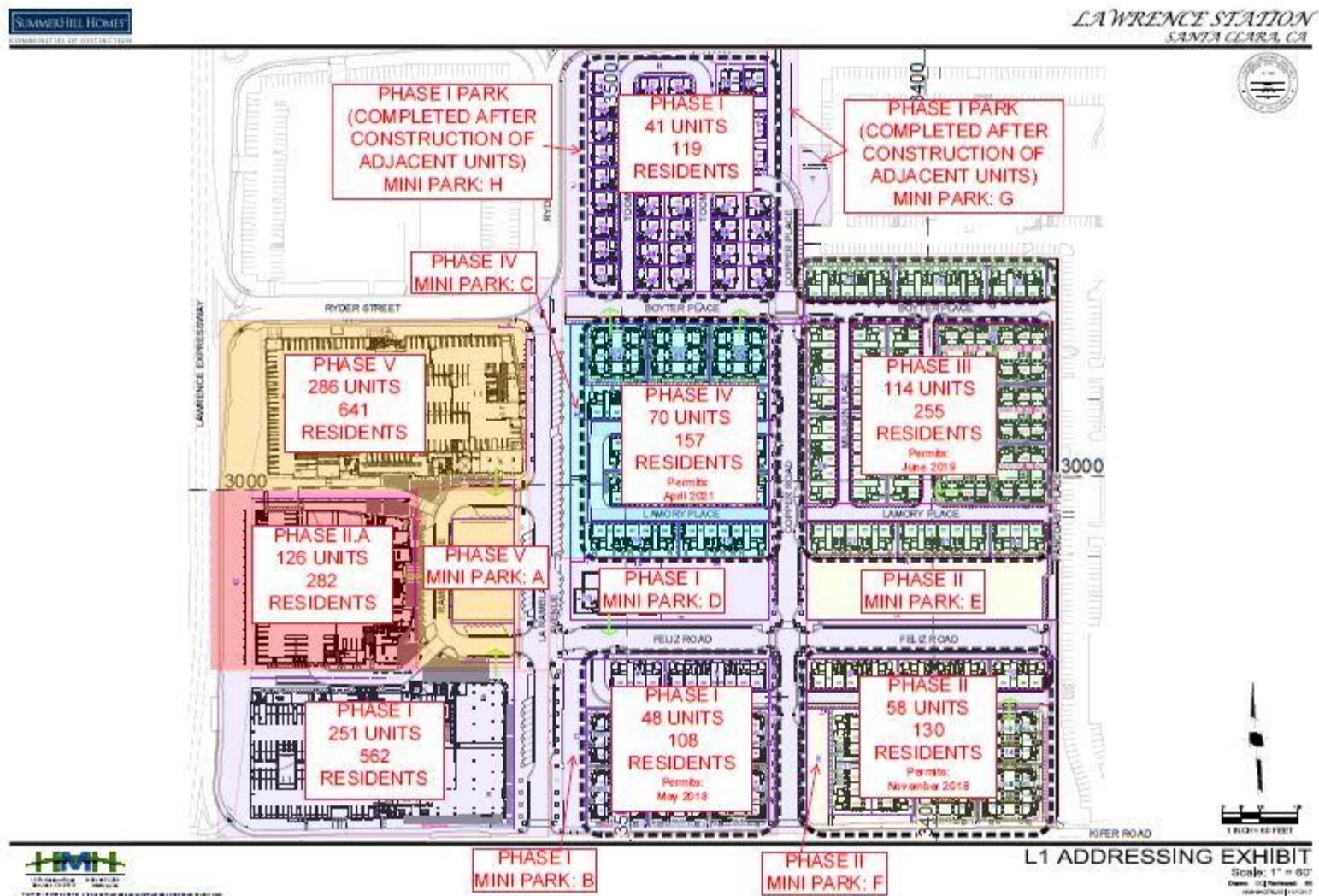


Exhibit F

Estimated Budget

Parks Budget			
	Description	Preliminary Budget	Estimated Completion
Residential Phase I (251 Apartments, 89 Townhomes/SFD)			
Mini Park B	South La Rambla Mini Park	\$ 650,000	11/1/2019
Mini Park D	Central Spine Park (Basket Ball Court)	\$ 1,300,000	11/1/2019
Mini Park H - Dog Park	Dog Park	\$ 550,000	7/31/2020
Mini Park G	Community Garden	\$ 225,000	11/1/2019
Residential Phase II (58 Townhomes)			
Mini Park F	Copper Mini Park	\$ 475,000	11/1/2019
Mini Park E	Central Spine Park (Play structures/Turf)	\$ 1,375,000	11/1/2019
Residential Phase II.A (126 Condomiums)			
No Parks		\$ -	
Residential Phase III (114 Townhomes)			
No Parks			
Residential Phase IV (70 Townhomes)			
	North La Rambla Mini Park		
Mini Park C		\$ 1,100,000	With Phase IV
Residential Phase V (286 Apartments)			
Park A	Theatre Quad Park	\$ 850,000	With Phase V
Subtotal		\$ 6,525,000	
Contingency (10% of Estimated Budget)		\$ 652,500	
Total Estimated Budget		\$ 7,177,500	
Park D			
Community Building	Community Building	\$ 2,000,000	7/31/2020

Exhibit G

Parkland In Lieu Fee Payment Schedule

PHASE	PAYMENT	
Phase I	\$1,760,920	Paid March 2018
Phase II	-	No payment due.
Phase IIA	-	No payment due.
Phase III	-	No payment due.
Phase IV	-	No payment due.
Phase V	\$ 637,465	Balance due subject to first true-up per Section 4(b).

Note: Final true-up will follow the completion of construction of the Park Improvements for Phase V per Section 4(c).