

**Exhibit A**

Development Agreement

[Attached behind this page]

45



CONTRA COSTA Co Recorder Office  
JOSEPH CANCIAMILLA, Clerk-Recorder  
DOC - 2015-0264415-00



Thursday, DEC 24, 2015 09:59:49  
FRE \$0.00  
Ttl Pd \$0.00 Nbr-0002473376  
lrc / R6 / 1-45

RECORDED AT REQUEST OF  
AND WHEN RECORDED RETURN TO:  
City of Lafayette  
3675 Mt. Diablo Blvd, Suite 210  
Lafayette, California 94549  
Attn: City Manager

Exempt from filing fees pursuant to Government Code §6103

**HOMES AT DEER HILL DEVELOPMENT AGREEMENT**

**between**

**THE CITY OF LAFAYETTE,  
a California municipal corporation**

**and**

**ANNA MARIA DETTMER, AS TRUSTEE OF THE AMD FAMILY TRUST,  
AS AMENDED AND RESTATED ON SEPTEMBER 23, 2005, AND  
O'BRIEN LAND COMPANY, a California limited liability company**

**ORDINANCE 641**  
**Exhibit A**

## **DEVELOPMENT AGREEMENT**

THIS DEVELOPMENT AGREEMENT ("Agreement") is entered by and between the City of Lafayette, a California municipal corporation ("City"), and Anna Maria Dettmer, as Trustee of the AMD Family Trust, as amended and restated on September 23, 2005 ("Dettmer") and O'Brien Land Company, a California limited liability company ("O'Brien"), (Dettmer and O'Brien together are hereinafter "Applicant") with reference to the following facts:

### **RECITALS**

A. To strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic risk of development, the Legislature of the State of California adopted the "Development Agreement Statute," Sections 65864 *et seq.*, of the Government Code. City, a general law city, is authorized pursuant to the Development Agreement Statute to enter into development agreements with persons having legal or equitable interests in real property for the purpose of establishing predictability for both City and Applicant in the development process. The Parties seek to enter into a development agreement for the development of the Property, as defined below. City enters into this Agreement pursuant to the provisions of the California Government Code, the City's General Plan, the City's Municipal Code, and applicable City policies.

B. Dettmer is the owner in fee of that certain real property consisting of approximately 22.26 acres of land located in the City of Lafayette, Contra Costa County, State of California, also commonly referred to as Assessor Parcel Numbers 232-150-027 (located at the southwest corner of Pleasant Hill Road and Deer Hill Road) and more particularly described in Exhibit "A" (the "Property") and a portion of 232-140-016 that shall not be less than approximately 2.9 acres (located immediately to the north of and across Deer Hill Road) and more particularly described in Exhibit "B" (the "Dog Park Property").

C. Applicant desires to develop the Property with 44-45 single family detached homes and public parkland and parking amenities as more particularly described in this Agreement and in the Development Plan (the "Project").

D. This Agreement assures development in accordance with the City's General Plan.

E. This Agreement constitutes a current exercise of City's police powers to provide predictability to Applicant in the development approval process by vesting the permitted uses, density, intensity of use, and timing and phasing of development in exchange for Applicant's commitment to provide significant public improvements to City as set forth in the Agreement.

F. This Agreement allows City to realize significant economic, recreational, park, open space, social, and public benefits, which will advance the interests and meet the needs of the City's residents to a greater extent than otherwise permitted.

G. Applicant desires to enter into this Agreement in order to eliminate uncertainty in planning for and securing orderly development of the Project, as hereinafter defined.

## AGREEMENT

NOW, THEREFORE, in consideration of the above recitals and of the mutual covenants hereinafter contained and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

### 1. DEFINITIONS AND EXHIBITS.

1.1 Definitions. The following terms when used in this Agreement shall be defined as follows:

1.1.1 "Agreement" means this Development Agreement.

1.1.2 "Applicant" means Anna Maria Dettmer, as Trustee of the AMD Family Trust, as amended and restated on September 23, 2005, and O'Brien Land Company, a California limited liability company.

1.1.3 "City" means the City of Lafayette, a California municipal corporation.

1.1.4 "City Council" means the duly elected city council of the City of Lafayette.

1.1.5 "Commencement Date" means the Effective Date.

1.1.6 "Development" means the improvement of the Property for the purposes of completing the structures, improvements and facilities comprising the Project including, but not limited to: grading; the construction of infrastructure and public facilities related to the Project whether located within or outside the Property; the construction of buildings and structures; and the installation of landscaping. "Development" does not include the maintenance, repair, reconstruction or redevelopment of any building, structure, improvement or facility after the construction and completion thereof.

1.1.7 "Development Approvals" means all permits and other entitlements for use subject to approval or issuance by City in connection with development of the Property including, but not limited to, the following actions:

- (a) general plan amendments;
- (b) tentative and final subdivision and parcel maps;
- (c) conditional use permits, land use permits and plot plans;
- (d) zoning, rezoning, hillside development permit and design review;
- (e) grading, building permits, and tree removal permits.

1.1.8 "Development Impact Fees" shall mean all fees established and imposed upon the Project by the City pursuant to the Mitigation Fee Act as set forth in California Government Code Section 66000 et seq. excluding the Parkland Dedication Fee and Parkland Facilities Fee. "Development Impact Fees" shall not include any fees that have not been established and imposed pursuant to the Mitigation Fee Act.

1.1.9 "Development Plan" means the Existing Development Approvals; the Subsequent Development Approvals; and the Existing Land Use Regulations applicable to the development of the Property.

1.1.10 "Dog Park Property" means a portion of APN 232-140-016 and shall not be less than approximately 2.9 acres as described on Exhibit "B" and shown on Exhibit "B-1" to this Agreement.

1.1.11 "Effective Date" shall mean the date this Agreement is recorded in the Official Records of Contra Costa County, California.

1.1.12 "Existing Development Approvals" means all Development Approvals approved or issued prior to the Effective Date.

1.1.13 "Existing Land Use Regulations" means all Land Use Regulations in effect on the Effective Date.

1.1.14 "Land Use Regulations" means all ordinances, resolutions, codes, rules, regulations and official policies of City governing the development and use of land, including, without limitation, the permitted use of land, the density or intensity of use, subdivision requirements, the maximum height and size of proposed buildings, the provisions for reservation or dedication of land for public purposes, and the design, improvement and construction standards and specifications applicable to the development of the Property. "Land Use Regulations" does not include any City ordinance, resolution, code, rule, regulation or official policy, governing:

- (a) the conduct of businesses, professions, and occupations;
- (b) taxes (special or general) and assessments;
- (c) the control and abatement of nuisances;
- (d) the granting of encroachment permits and the conveyance of rights and interests that provide for the use of or the entry upon public property;
- (e) the exercise of the power of eminent domain.

1.1.15 "Mortgagee" means a mortgagee of a mortgage, a beneficiary under a deed of trust or any other security-device lender, and their successors and assigns.

1.1.16 “Parkland Property” means the real property as generally identified as Parcel B in the Tentative Map Tract No. 9369 and shall be no less than 7.9 acres in size as shown on Exhibit “C” to this Agreement.

1.1.17 “Parties” means the City and Applicant. A “Party” refers to either the City or the Applicant.

1.1.18 “Project” means the development of the Property contemplated by the Development Plan as such Plan may be further defined, enhanced or modified pursuant to the provisions of this Agreement.

1.1.19 “Property” means the real property legally described on Exhibit “A” and shown on Exhibit “A-1” to this Agreement.

1.1.20 “Public Improvements” means the public improvements to be located on the Property, which include the pedestrian/bike bypass, an all-weather artificial turf soccer/lacrosse field (180’ by 300’), fencing for the soccer/lacrosse field, parking lot with lighting and landscaping and drop-off circle, tot lot, two restrooms with storage, ADA accessible walkways and the Dog Park to be located on the Dog Park Property.

1.1.21 “Reservation of Rights” means the rights and authority excepted from the assurances and rights provided to Applicant under this Agreement and reserved to City under Section 3.6 of this Agreement.

1.1.22 “Subsequent Development Approvals” means all Development Approvals required subsequent to the Effective Date in connection with development of the Property; including without limitation, all development review approvals required under the City Municipal Code and the General Plan, site development permits, excavation, grading, building, construction, encroachment or street improvement permits, occupancy certificate, utility connection authorizations, drainage, landscape, design review or other permits or approvals necessary for the grading, construction, marketing, use and occupancy of the Project.

1.1.23 “Subsequent Land Use Regulations” means any Land Use Regulations adopted and effective after the Effective Date of this Agreement.

1.2 Exhibits. The following documents are attached to, and by this reference made a part of, this Agreement:

Exhibit “A” — Legal Description of the Property.

Exhibit “A-1” — Map showing Property and its location.

Exhibit “B” — Legal Description of Dog Park Property

Exhibit “B-1” — Map showing Dog Park Property and its location.

Exhibit “C” — Map showing Parkland Property and its location.

## 2. GENERAL PROVISIONS.

2.1 Binding Effect of Agreement. This Agreement shall be recorded against the Property and the Dog Park Property and shall run with the land. The Property and Dog Park Property are hereby made subject to this Agreement. Development of the Property and Dog Park Property are hereby authorized and shall be carried out in accordance with the terms of the Development Plan and this Agreement.

2.2 Ownership of Property. Dettmer represents and covenants that it is the owner of the fee simple title to the Property and the Dog Park Property or the subject portion thereof. O'Brien represents and covenants that it has an equitable interest in, the Property and the Dog Park Property or the subject portion thereof.

2.3 Term. The term of this Agreement shall commence on the date (the "Commencement Date") that is the Effective Date, and shall continue for a period of ten (10) years thereafter, unless this term is modified or extended pursuant to the provisions of this Agreement ("Term"). Thereafter, the Applicant shall have no vested right under this Agreement, regardless of whether or not Applicant has paid any Development Impact Fee.

2.4 Termination. This Agreement shall be deemed terminated and of no further effect upon the occurrence of any of the following events:

- (a) Expiration of the stated Term of this Agreement as set forth in Section 2.3.
- (b) Entry of a final judgment setting aside, voiding or annulling the adoption of the ordinance approving this Agreement.
- (c) The adoption of a referendum measure overriding or repealing the ordinance approving this Agreement.
- (d) Completion of the Project in accordance with the terms of this Agreement including issuance of all required occupancy permits and acceptance by City or applicable public agency of all required public improvements, dedications and the satisfaction of all of Applicant's obligations under this Agreement.
- (e) As may be provided by other specific provisions of this Agreement.

Termination of this Agreement shall not constitute termination of any other land use entitlements approved for the Property. Upon the termination of this Agreement, no Party shall have any further right or obligation hereunder except with respect to any obligation to have been performed prior to such termination or with respect to any default in the performance of the provisions of this Agreement that has occurred prior to such termination or with respect to any obligations that are specifically set forth as surviving this Agreement.

2.5 Amendment or Cancellation of Agreement. This Agreement may be amended or canceled in whole or in part only by written consent of all Parties in the manner provided for in

Government Code Section 65868. Any amendment or cancellation shall be in a form suitable for recording in the Official Records of Contra Costa County, California. An amendment or other modification of this Agreement will continue to relate back to the Effective Date of this Agreement (as opposed to the effective date of the amendment or modification), unless the amendment or modification expressly states otherwise.

2.6 Assignment.

2.6.1 Right to Assign. Applicant shall have the right to sell, transfer or assign the Property and/or the Dog Park Property in whole or in part (provided that no such partial transfer shall violate the Subdivision Map Act, Government Code Section 66410, et seq.) to any person, partnership, joint venture, firm or corporation at any time during the Term of this Agreement; provided, however, that any such sale, transfer or assignment shall include the assignment and assumption of the rights, duties and obligations arising under or from this Agreement and be made in strict compliance with the following conditions precedent:

(a) No sale, transfer or assignment of any right or interest under this Agreement shall be made unless made together with the sale, transfer or assignment of all or a part of the Property and/or the Dog Park Property.

(b) Concurrent with any such sale, transfer or assignment, Applicant shall notify City, in writing, of such sale, transfer or assignment and shall provide City with an executed agreement (“Assignment and Assumption Agreement”), in a form reasonably acceptable to City, by the purchaser, transferee or assignee and providing therein that the purchaser, transferee or assignee expressly and unconditionally assumes all the duties, obligations, agreements, covenants, waivers of Applicant under this Agreement.

Any sale, transfer or assignment not made in strict compliance with the foregoing conditions shall constitute a default by Applicant under this Agreement. Notwithstanding the failure of any purchaser, transferee or assignee to execute the agreement required by Paragraph (b) of this Subsection 2.6.1, the burdens of this Agreement shall be binding upon such purchaser, transferee or assignee, but the benefits of this Agreement shall not inure to such purchaser, transferee or assignee until and unless such agreement is executed.

2.6.2 Release of Transferring Applicant. Notwithstanding any sale, transfer or assignment, a transferring Applicant shall continue to be obligated under this Agreement with respect to the transferred Property and/or Dog Park Property or any transferred portion thereof, unless such transferring is given a release in writing by City, which release shall be provided by City upon the full satisfaction by such transferring Applicant of the following conditions:

(a) Applicant no longer has a legal or equitable interest in all or any part of the Property and/or Dog Park Property subject to the transfer.

(b) Applicant is not then in default under this Agreement.

(c) Applicant has provided City with the notice and executed agreement required under Paragraph (b) of Subsection 2.6.1 above.



(d) The purchaser, transferee or assignee provides City with security equivalent to any security previously provided by Applicant to secure performance of its obligations hereunder.

2.6.3 Subsequent Assignment. Any subsequent sale, transfer or assignment after an initial sale, transfer or assignment shall be made only in accordance with and subject to the terms and conditions of this Section.

2.6.4 Sale to Public and Completion of Construction. The provisions of Subsection 2.6.1 shall not apply to the sale or lease (for a period longer than one year) of any lot that has been finally subdivided and is individually (and not in "bulk") sold or leased to a member of the public or other ultimate user. This Agreement shall terminate with respect to any lot, and such lot shall be released and no longer be subject to this Agreement without the execution or recordation of any further document upon satisfaction of both of the following conditions:

(a) The lot has been finally subdivided and individually (and not in "bulk") sold or leased (for a period longer than one year) to a member of the public or other ultimate user; and

(b) A certificate of occupancy has been issued for a building on the lot, and the fees for such lot set forth in this Agreement have been paid.

2.7 Notices. All notices, demands, and correspondence required or permitted by this Agreement shall be in writing and delivered in person or mailed by first class or certified mail, postage prepaid, addressed as follows:

If to City, to:

City of Lafayette  
3675 Mt. Diablo Blvd., Suite 210  
Lafayette, California 94549  
Attn: City Manager

With a copy to:

Best Best & Krieger LLP  
2001 N. Main Street, Suite 390  
Walnut Creek, California 94596  
Attn: Malathy Subramanian, Esq.

If to Applicant, to each of the following:

O'Brien Homes  
950 Tower Lane, Suite 375  
Foster City, California 94404

With a copy to:

David Baker  
3527 Mt. Diablo Blvd., #133  
Lafayette, California 94549

Gagen, McCoy, McMahon, Koss, Markowitz & Raines  
279 Front Street  
P.O. Box 218  
Danville, California 94526  
Attn: Allan Moore, Esq.

City or Applicant may change its address by giving notice in writing to the other at the addresses listed above. Thereafter, notices, demands, and correspondence shall be addressed and transmitted to the new address. Notice shall be deemed given upon personal delivery or, if mailed, two (2) business days following deposit in the United States mail.

3. DEVELOPMENT OF THE PROPERTY.

3.1 Applicant's Vested Right. Subject to the terms of this Agreement including the Reservation of Rights, Applicant shall have a vested right to develop the Property in accordance with the Development Plan ("Applicant's Vested Right"). To enable Applicant to complete the Project, Applicant's Vested Right shall include, but not be limited to, the right to the issuance of all permits and certificates of occupancy, the granting of all approvals, and the taking of all other actions that are (i) requested by the Applicant and (ii) consistent with the terms of this Agreement. Applicant's Vested Right shall be subject to the Reservation of Rights set forth in Section 3.6 and all provisions of this Agreement, and may not be modified or terminated except as expressly provided in this Agreement. Upon any termination of this Agreement, Applicant's rights to continue development of the Project pursuant to the General Plan and the Development Approvals shall be subject to the ordinary exercise of the City's police power. At that time, Applicant's vested rights, if any, shall be determined not by this Agreement, but by state and federal statutes and case law and the then current factual state of the Development.

3.2 Permitted Uses. Except as otherwise provided within this Agreement, the permitted uses on the Property shall be as provided in the Development Plan.

3.3 Density and Intensity. Except as otherwise provided within this Agreement, the density and intensity of use for all Development on the Property shall be as provided in the Development Plan.

3.4 Maximum Height and Size and Structures. Except as otherwise provided within this Agreement, the maximum height and size for all structures on the Property shall be as provided in the Development Plan.

3.5 No Conflicting Enactment.

3.5.1 Limitations on Enactments. Except as otherwise specifically set forth herein, during the Term, the City (whether by action of the City Council or otherwise, or by initiative, referendum, issuance of a subsequent approval, or other means, and whether through the exercise of the City's police power or taxing power) shall not apply to the Project any Subsequent Land Use Regulation(s) or any laws that are in conflict with the Development Plan, including this Agreement, and/or that reduce the development rights provided by the Development Plan and this Agreement. Without limiting the generality of the foregoing, any Subsequent Land Use Regulation(s) shall be deemed to conflict with the Development Plan, including this Agreement, or to reduce the development rights provided hereby, if they would accomplish any of the following results, either by specific reference to the Project or as part of a general enactment which applies to or affects the Project:

(a) limit or reduce the density of the Project or otherwise require any reduction in the square footage or number of proposed buildings or other improvements other than as provided in the Development Plan;

(b) change the land use designation, zoning, or permitted use of the Property;

(c) limit or control the location or design of buildings, structures, grading, or other improvements in a manner that is inconsistent with or more restrictive than the limitations included in the Development Plan;

(d) limit or control the availability of public utilities, services, or facilities or any privileges or rights to public utilities, services, or facilities (for example, water rights, water connections, or sewage capacity rights, sewer connections, etc.) for the Project;

(e) limit or control the rate, timing, phasing, or sequencing of the approval, development, or construction of all or any part of the Project other than as provided in the Development Plan and/or Agreement;

(f) apply to the Project any Subsequent Land Use Regulation(s) otherwise allowed by this Agreement that is not uniformly applied on a City-wide basis to all substantially similar types of development projects other than as provided in the Development Plan;

(g) require the issuance of additional permits or the securing of approvals by the City other than those required by the Development Plan;

(h) establish, enact, increase, or impose against the Project any fees, taxes (including without limitation general, special, and excise taxes), assessments, liens, or other monetary obligations other than those specifically permitted by the Development Plan and/or this Agreement;

(i) establish, enact, increase, or impose against the Project any rules, regulations, policies, or standards that were not in effect on the Effective Date, or otherwise impose against the Project any condition, dedication, or other exaction not specifically authorized by the Development Plan and/or this Agreement;

(j) limit the processing of applications for, or the obtaining of, the Subsequent Approvals.

3.5.2 Restrictions and Limitations on the Rate or Timing of Development. Without limiting the generality of Section 3.5.1 above, in the event any Subsequent Land Use Regulation(s) are enacted (whether by action of the Council or otherwise, or by initiative, referendum, issuance of a Subsequent Approval, or other means) during the Term which relate to the growth rate, timing, phasing, or sequencing of new development or construction in the City, or, more particularly, development and construction of all or any part of the Project, such Subsequent Land Use Regulation(s) shall not apply to the Project or any portion thereof. Subsequent Land Use Regulations made inoperative by this provision include, but are not limited to, those that tie development or construction to the availability of public services and/or facilities (for example, the presence of a specified traffic level of service or water or sewer availability).

3.5.3 Life of Subdivision Maps, Project Approvals, and Permits. The term of any Development Approvals and any Subsequent Development Approvals, including without limitation a final development plan, subdivision improvement plan and grading plan, shall automatically be extended as provided under California law, through the Term of this Agreement.

3.5.4 Timing of Project Construction and Completion. Notwithstanding any provisions in the City zoning code, there is no requirement that the Applicant initiate or complete development or any particular phase of the Project within any particular period of time. The Parties agree that, except as specifically provided in this Agreement, the Applicant shall be able to develop in accordance with the Applicant's own time schedule and/or market conditions as such schedule and/or market conditions may exist from time to time, and the Applicant shall determine which units of the Project to develop first. In particular, it is the Parties' desire to avoid the result in Pardee Construction Co. v. City of Camarillo, 37 Cal.3d 465 (1984), specifically that the failure of the parties therein to consider and expressly provide for the timing of development resulted in a later-adopted initiative restricting the timing of development that prevailed over such parties' agreement. Therefore, except as specifically provided in this Agreement, the Parties acknowledge that the Applicant shall have the right to develop the Project in such order and at such rate and at such times as the Applicant deems appropriate within the exercise of its subjective business judgment.

### 3.6 Reservation of Rights.

3.6.1 Limitations, Reservations and Exceptions. Notwithstanding any other provision of this Agreement, the following regulations shall apply to the development of the Property:

(a) Processing fees and charges imposed by City to cover the City's estimated actual costs of reviewing and processing applications for Development of the Property, providing inspections, conducting annual reviews, providing environmental analysis, or for monitoring compliance with this Agreement or any Development Approvals granted or issued. This Section shall not be construed to limit the authority of the City to charge normal and customary application, processing, and permit fees for land use approvals, building permits and other similar permits, which fees are designed to reimburse City's expenses attributable to such application, processing and permitting and are in force and effect on a City-wide basis at such time as said approvals and permits are granted by City.

(b) Procedural regulations relating to hearing bodies, petitions, applications, notices, findings, records, hearings, reports, recommendations, appeals and any other matter of procedure.

(c) Provided that they are uniformly applied to all development projects within the City, regulations governing engineering and construction standards and specifications, including, without limitation, all uniform codes adopted by the City and local amendments to those codes adopted pursuant to state law. Such codes include, without limitation, the City's adopted version of the Uniform Administrative Code, California Building Standards Code, Plumbing Code, Mechanical Code, Electrical Code, and Fire Code.

(d) Regulations which may be in conflict with this Agreement, but which are objectively required (and there are no available alternatives) to protect the public health and safety in the event of a sudden, unexpected occurrence involving a clear and imminent danger, demanding immediate action to prevent or mitigate loss of, or damage to, life, health, property, or essential public services within the immediate community. Such regulations must be a valid exercise of the City's police power and must be applied and construed so as to provide Applicant with the rights and assurances provided in this Agreement.

(e) Regulations of other public agencies, including Development Impact Fees adopted or imposed by such other public agencies, although collected by City.

3.6.2 Right to Develop Project Conditional. Applicant acknowledges that City's approval of, and Applicant's rights to develop, the Project are contingent and conditioned upon Applicant entering into this Agreement, and that Applicant has no right or entitlement to develop the Project in the absence of this Agreement and Applicant's diligent performance of its obligations under this Agreement. In the event this Agreement is terminated as to any parcel or portion of the Property as a result of a default of Applicant or voluntarily by Applicant, the rights

and authorizations conferred or granted pursuant to this Agreement shall immediately terminate and cease to apply and govern the development of such parcel or portion of the Property.

3.6.3 Modification or Suspension by State or Federal Law. In the event that State, County or Federal laws or regulations, enacted after the Effective Date of this Agreement, prevent or preclude compliance with one or more of the provisions of this Agreement, such provisions of this Agreement shall be modified or suspended as may be necessary to comply with such State or Federal laws or regulations; provided, however, that this Agreement shall remain in full force and effect to the extent it is not inconsistent with such laws or regulations and to the extent such laws or regulations do not render such remaining provisions impractical to enforce.

#### 4. PUBLIC BENEFITS.

4.1 Intent. The Parties acknowledge and agree that development of the Property will result in substantial public needs that will not be fully met by the Development Plan and further acknowledge and agree that this Agreement confers substantial private benefits on Applicant that should be balanced by commensurate public benefits. Accordingly, the Parties intend to provide consideration to the public to balance the private benefits conferred on Applicant by providing more fully for the satisfaction of the public needs resulting from the Project.

4.2 Public Improvements. Notwithstanding any provision of this Agreement, the Existing Land Use Regulations, or the Existing Development Approvals to the contrary, but subject to compliance with all applicable legal requirements, including, but not limited to CEQA and any mitigation required to reduce environmental impacts, the following requirements for Public Improvements shall apply to the Project, and shall be completed by Applicant and accepted by the City, prior to the City's issuance of the certificate of occupancy for the last three (3) homes in the Project:

4.2.1 Pedestrian/Bikepath. Applicant shall install a pedestrian/bike bypass around the southern perimeter of the Property as shown on the Property Map on Exhibit A-1 and in a manner reasonably satisfactory to the City Manager.

4.2.2 Dog Park. Applicant shall install and develop a dog park the Dog Park Property as described below ("Dog Park"). Applicant shall convey the Dog Park Property through a grant deed to City at no cost at the time of recordation of the final map. Prior to conveyance, and as an express condition to the conveyance, Applicant and City agree to create the Dog Park Property as a separate lot consistent with the provisions of the Subdivision Map Act. Applicant shall be responsible for the costs of developing the dog park consistent with the Plans and Specifications, that shall include all of the following:

- (a) Demolition of all structures on the Dog Park Property;
- (b) Removal and disposal of all debris, objects, and any other land condition in conflict with the planned development of the Dog Park Property;

(c) Construction of development improvements to create the Dog Park, at a minimum to include the following elements, all in accordance to plans and specifications satisfactory to the City Engineer. Location, layout, and design of site features shall be as approved by the Lafayette Planning Commission and Parks, Trails and Recreation Commission.

i. grading of the Dog Park Property necessary to create a dog park and consistent with the Plans and Specifications;

ii. the installation of a concrete driveway from Deer Hill Road to a gravel parking lot;

iii. the installation of a gravel parking lot with capacity for at least 20 standard vehicle spaces including handicap parking as required to conform to the Americans with Disabilities Act (“ADA”);

iv. the installation of an ADA compliant pedestrian access way connecting the gravel parking lot to the two dog park areas;

v. the complete installation of a fenced dog park area for large dogs of not less than 42,000 square feet and separate one for small dogs of not less than 21,000 square feet;

vi. the installation of operable drinking water fountains appropriate for dogs and people in each dog park area, with Applicant responsible for procurement and installation of new water meter(s) if deemed necessary by City and any other applicable public agency;

vii. the installation of underground electric conduits from Deer Hill Road to terminate at a location in the gravel parking lot as reviewed and approved by the City Engineer and as provided for in the Plans and Specifications;

viii. the installation of an underground sewer lateral connecting the Dog Park Property to the main sewer line in Deer Hill Road. The lateral shall be minimum 4 inches in diameter conforming to the most current standards and specifications of the Central Contra Costa Sanitary District. Applicant shall be responsible for all permits to install the lateral and connection to the main. The lateral shall be capped at a riser location to be determined by the City Engineer and consistent with the Plans and Specifications.

Applicant shall not be responsible for other park enhancements to the Dog Park Property including: paving of the parking lot; landscaping and trees; additional walkways or patios; all impervious surfaces; furniture and dog playground equipment; signage; lighting; electrical; and dog park ground surfacing beyond that necessary to mitigate erosion and comply with local stormwater regulations.

4.2.3 Parkland Improvements. In lieu of payment of parkland fees and parkland facilities fees Applicant shall be responsible for the following parkland improvements on the Property, excluding the Dog Park Property (“Parkland Improvements”):

4.2.3.1 All engineering, architectural and landscape architectural fees; all grading, including retaining walls; installation of all utilities below-ground (such as drainage, sewer, water); and installing all landscaping on the Property;

4.2.3.2 Building and installing the following public improvements on the Property:

<b>Item</b>	<b>Estimated Max. Cost</b>
All-Weather Artificial Turf Soccer/Lacrosse Field (180' by 300')	\$970,000
Fencing for Soccer/ Lacrosse Field	\$35,000
Parking Lot with lighting and landscaping and drop-off circle	\$1,230,000
Tot Lot	\$223,500
Two Restrooms with storage	\$275,500
ADA Accessible Walkway	\$80,000
Group Picnic and Overlook at Big Oak	\$369,000
<b>Total:</b>	<b>\$3,183,000</b>

4.2.3.3 The estimated maximum costs listed above in Section 4.2.3.2 are only estimates. Applicant is responsible for the first \$3,000,000 of the actual costs for the facilities listed in Section 4.2.3.2. Costs above \$3,000,000 are equally shared by the City and Applicant. If the actual costs for the facilities listed in Section 4.2.3.2 are less than \$3,000,000, the savings shall be equally shared by the City and Applicant. Anything not listed in Section 4.2.3.2 shall be the sole responsibility of the Applicant, including but not limited to, all items listed in Section 4.2.3.1, retaining walls, landscaping and the grand staircase located on the Property and/or the Parkland Property. The City Manager or his or her designee shall approve the contractor for the Parkland Improvements described in this Section 4.2.3, such approval shall not be untimely or unreasonably withheld. The City Manager or his or her designee shall also review and approve the final drawings, and the cost amounts for the Parkland Improvements prior to execution by Applicant of a contract to construct the Parkland Improvements. City shall also approve any change orders regarding the Parkland Improvements that deviate from the City-approved drawings and/or that affect the cost of the work associated with the Parkland Improvements. Applicant shall additionally ensure that its contract to construct the Parkland Improvements incorporates and requires its contractor to comply with all applicable requirements of California Labor Code sections 1720 et seq. and 1770 et seq. (“Prevailing Wage Laws”), which require the payment of prevailing wage rates and the performance of other requirements on certain “public works” and “maintenance” projects. Applicant shall require its contractor to defend, indemnify and hold the City, its officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws for the Parkland Improvements work.



4.2.3.4 Applicant shall sell the Parkland Property to City and City shall purchase the Parkland Property from Applicant for \$3,000,000 through a purchase and sale agreement. Applicant shall also construct all the Parkland Improvements. The City shall pay \$1,800,000 to Applicant for the Parkland Property and construction of the Parkland Improvements at the time of recordation of the final map and after transfer of the Parkland Property to City. The City shall pay the remaining balance as provided for in Section 4.2.3.3 upon completion and acceptance of the Public Improvements and community park.

4.2.4 Plans and Specifications. Applicant shall prepare and submit to the City, for review and approval by the City Manager and City Engineer, preliminary plans and specifications for the Public Improvements detailed in this Section 4.2, prior to the issuance of: a grading or building permit, whichever occurs first. The plans and specifications shall be prepared in sufficient detail so City can reasonably evaluate the basic design and layout of the Project Improvements. The Project Improvements shall be completed in accordance with these plans and specifications.

4.2.5 Mitigation of Project Impacts on Public Improvements. Prior to the recordation of the final map for any property that is part of the Project, the Applicant shall provide proof that Applicant has mitigated the impacts of the Project on the Public Improvements on the Parkland Property and the Dog Park on the Dog Park Property. To mitigate such impacts, Applicant shall either: (a) agree to approve an annual Mello-Roos Community Facilities District special tax for the City to fund a portion of the maintenance, operation, repairs and replacement of the Public Improvements and Dog Park serving the Project in the amount of \$495 per unit, with an annual inflation of 2%, with any costs for the approval and creation of such annual special tax to be paid by Applicant; or (b) provide other funds sufficient to mitigate the impacts of the Project on the Public Improvements in the same amount with inflation as the annual special tax. If the Applicant fails to approve the special tax or provide other sufficient funds sufficient to mitigate the impacts of the Project on the Public Improvements and Dog Park in the same amount with inflation as the annual special tax, no building permits for the Property shall be issued.

4.2.6 Survival. The provisions of Section 4.2 shall survive the expiration and/or termination of this Agreement.

4.3 Development Impact Fees. Except as otherwise expressly provided within this Agreement, Applicant shall pay only those Development Impact Fees uniformly applied to all development projects within the City as of the Effective Date. Notwithstanding the above, Owner shall not pay the Parkland Dedication Fee and Parkland Facilities Fee.

4.3.1 Time of Payment. The fees required pursuant to Subsection 4.3 shall be paid to City at the time set forth in then-existing City ordinance, resolution or policy and shall be subject to any increase that becomes effective after the Effective Date, but before payment is due.

4.3.2 Prepayment. In no event shall the prepayment of any Development Impact Fees required hereunder establish a vested right on the part of Applicant or any other

owner of the Property or any person or entity with an interest therein to develop the Project or the Property following the expiration, cancellation or termination of the Term of this Agreement. Following the expiration, cancellation or termination of this Agreement, all Development Impact Fees then in effect shall be applicable to the Project and Property notwithstanding any provision of this Agreement and notwithstanding the prepayment of the Development Impact Fees, any increase or amendment of any Development Impact Fee, or any combination thereof. Nothing contained in this Subsection 4.3.2 shall be construed as limiting the right of Applicant to a credit against any Development Impact Fees as set forth in Section 4.3 hereof.

4.4 Security. In constructing the Public Improvements, Applicant shall agree to all security, guarantee, warranty, and indemnification provisions as set forth in City's subdivision improvement agreement.

4.5 Additional Indemnification. Upon review of the Supplemental EIR for the Project, the Parties will determine whether to include additional indemnification language regarding the Property and the Parkland Property.

## 5. REVIEW FOR COMPLIANCE.

5.1 Periodic Review. The City shall review this Agreement annually, on or before the anniversary of the Effective Date, in order to ascertain the compliance by Applicant with the terms of the Agreement. Applicant shall submit an Annual Monitoring Report, in a form acceptable to the City Manager, within thirty (30) days after written notice from the City Manager. The Annual Monitoring Report shall be accompanied by an annual review and administration fee sufficient to defray the estimated costs of review and administration of the Agreement during the succeeding year.

5.2 Special Review. The City Council may order a special review of compliance with this Agreement at any time. The Planning and Building Director, or his or her designee, shall conduct such special reviews.

### 5.3 Procedure.

(a) During either a periodic review or a special review, Applicant shall be required to demonstrate good faith compliance with the terms of the Agreement. The burden of proof on this issue shall be on Applicant.

(b) Upon completion of a periodic review or a special review, the Planning and Building Director, or his or her designee, shall submit a report to the Planning Commission setting forth the evidence concerning good faith compliance by Applicant with the terms of this Agreement and his or her recommended finding on that issue.

(c) If the Planning Commission finds and determines on the basis of substantial evidence that Applicant has complied in good faith with the terms and conditions of this Agreement, the review shall be concluded.

(d) If the Planning Commission finds and determines on the basis of substantial evidence that Applicant has not complied in good faith with the terms and conditions of this Agreement, the Commission may recommend to the City Council termination of this Agreement and/or recommend imposition of such conditions as are reasonably necessary to protect the interests of the City. Applicant may appeal a Planning Commission determination pursuant to this Section 5.3(d) pursuant to City's rules for consideration of appeals in zoning matters then in effect. Notice of default as provided under Section 6.3 of this Agreement shall be given to Applicant prior to or concurrent with proceedings under Section 5.4 and Section 5.5.

5.4 Proceedings Upon Termination. If, upon a finding under Section 5.3, City determines to proceed with termination of this Agreement, City shall give written notice to Applicant of its intention so to do. The notice shall be given at least ten (10) calendar days prior to the scheduled hearing and shall contain:

- (a) The time and place of the hearing;
- (b) A statement as to whether or not City proposes to terminate the Agreement; and,
- (c) Such other information that the City considers necessary to inform Applicant of the nature of the proceeding.

5.5 Hearing on Termination. At the time and place set for the hearing on termination, Applicant shall be given an opportunity to be heard. Applicant shall be required to demonstrate good faith compliance with the terms and conditions of this Agreement. The burden of proof on this issue shall be on Applicant. If the City Council finds, based upon substantial evidence, that Applicant has not complied in good faith with the terms or conditions of the Agreement, the City Council may terminate this Agreement and/or impose such conditions as are reasonably necessary to protect the interests of the City. The decision of the City Council shall be final.

5.6 Certificate of Agreement Compliance. If, at the conclusion of a periodic or special review, Applicant is found to be in compliance with this Agreement, City shall, upon request by Applicant, issue a Certificate of Agreement Compliance ("Certificate") to Applicant stating that after the most recent periodic or special review and based upon the information known or made known to the Planning and Building Director and City Council that: (1) this Agreement remains in effect; and (2) Applicant is not in default. The Certificate shall be in recordable form, shall contain information necessary to communicate constructive record notice of the finding of compliance, shall state whether the Certificate is issued after a periodic or special review and shall state the anticipated date of commencement of the next periodic review. Applicant may record the Certificate with the County Recorder.

Whether or not the Certificate is relied upon by assignees or other transferees or Applicant, City shall not be bound by a Certificate if a default existed at the time of the periodic or special review, but was concealed from or otherwise not known to the Planning and Building Director or City Council.

6. DEFAULT AND REMEDIES.

6.1 Remedies in General. It is acknowledged by the Parties that City would not have entered into this Agreement if it were to be liable for damages under this Agreement, or with respect to this Agreement or the application thereof. In general, each of the Parties hereto may pursue any remedy at law or equity available for the breach of any provision of this Agreement, except that City shall not be liable for damages to Applicant, or to any successor in interest of Applicant, or to any other person, and Applicant covenants not to sue for damages or claim any damages:

(a) For any breach of this Agreement or for any cause of action that arises out of this Agreement; or

(b) For the taking, impairment or restriction of any right or interest conveyed or provided under or pursuant to this Agreement; or

(c) Arising out of or connected with any dispute, controversy or issue regarding the application or interpretation or effect of the provisions of this Agreement.

6.2 Release. Except for non-monetary remedies, Applicant, for itself, its successors and assignees, hereby releases City, its officers, agents and employees from any and all claims, demands, actions, or suits of any kind or nature arising out of any liability, known or unknown, present or future, including, but not limited to, any claim or liability, based or asserted, pursuant to Article I, Section 19 of the California Constitution, the Fifth and Fourteenth Amendments to the United States Constitution, or any other law or ordinance which seeks to impose any other liability or damage, whatsoever, upon City because it entered into this Agreement or because of the terms of this Agreement. Applicant hereby acknowledges that it has read and is familiar with the provisions of California Civil Code Section 1542, which is set forth below:

“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.”

By initialing below, Applicant hereby waives the provisions of Section 1542 in connection with the matters that are the subject of the foregoing waivers and releases.

\_\_\_\_\_  
Applicant's Initials

6.3 Termination of Agreement for Default of Applicant. City may terminate this Agreement for any failure of Applicant to perform any material duty or obligation of Applicant under this Agreement, or to comply in good faith with the terms of this Agreement (hereinafter referred to as “default”); provided, however, City may terminate this Agreement pursuant to this

Section only after providing written notice to Applicant of default setting forth the nature of the default and the actions, if any, required by Applicant to cure such default and, where the default can be cured, Applicant has failed to take such actions and cure such default within sixty (60) days after the effective date of such notice or, in the event that such default cannot be cured within such sixty (60) day period but can be cured within a longer time, has failed to commence the actions necessary to cure such default within such sixty (60) day period and to diligently proceed to complete such actions and cure such default.

6.4 Termination of Agreement for Default of City. Applicant may terminate this Agreement only in the event of a default by City in the performance of a material term of this Agreement and only after providing written notice to City of default setting forth the nature of the default and the actions, if any, required by City to cure such default and, where the default can be cured, City has failed to take such actions and cure such default within sixty (60) days after the effective date of such notice or, in the event that such default cannot be cured within such sixty (60) day period but can be cured within a longer time, has failed to commence the actions necessary to cure such default within such sixty (60) day period and to diligently proceed to complete such actions and cure such default.

## 7. LITIGATION.

7.1 Third Party Litigation Concerning Agreement. Applicant shall defend, at its expense, including attorneys' fees, indemnify, and hold harmless City, its agents, officers and employees from any claim, action or proceeding against City, its agents, officers, or employees to attack, set aside, void, or annul the approval of this Agreement, or the approval of any permit granted pursuant to this Agreement. City shall promptly notify Applicant of any claim, action, proceeding or determination included within this Section 7.1, and City shall cooperate in the defense. If City fails to promptly notify Applicant of any such claim, action, proceeding or determination, or if City fails to cooperate in the defense, Applicant shall not thereafter be responsible to defend, indemnify, or hold harmless City. City may in its discretion participate in the defense of any such claim, action, proceeding or determination.

7.2 Environmental Assurances. Applicant shall indemnify and hold City, its officers, agents, and employees free and harmless from any liability, based or asserted, upon any act or omission of Applicant, its officers, agents, employees, subcontractors, predecessors in interest, successors, assigns and independent contractors for any violation of any federal, state or local law, ordinance or regulation relating to environmental conditions on, under or about the Property, including, but not limited to, soil and groundwater conditions, and Applicant shall defend, at its expense, including attorneys' fees, City, its officers, agents and employees in any action based or asserted upon any such alleged act or omission. City may in its discretion participate in the defense of any such action.

7.3 Reservation of Rights. With respect to Section 7.1 and Section 7.2 herein, City reserves, the right to either (1) approve the attorney(s) that the indemnifying Party selects, hires or otherwise engages to defend the indemnified Party hereunder, which approval shall not be unreasonably withheld, or (2) conduct its own defense; provided, however, that the indemnifying

Party shall reimburse the indemnified Party forthwith for any and all reasonable expenses incurred for such defense, including attorneys' fees, upon billing and accounting therefor.

7.4 Survival. The provisions of Sections 7.1 through 7.3, inclusive, shall survive the expiration and/or termination of this Agreement.

8. MORTGAGEE PROTECTION.

The Parties hereto agree that this Agreement shall not prevent or limit Applicant, in any manner, at Applicant's sole discretion, from encumbering the Property or any portion thereof or any improvement thereon by any mortgage, deed of trust or other security device securing financing with respect to the Property. City acknowledges that the lenders providing such financing may require certain Agreement interpretations and modifications and agrees upon request, from time to time, to meet with Applicant and representatives of such lenders to negotiate in good faith any such request for interpretation or modification. City will not unreasonably withhold its consent to any such requested interpretation or modification provided such interpretation or modification is consistent with the intent and purposes of this Agreement. Any Mortgagee of the Property shall be entitled to the following rights and privileges:

(a) Neither entering into this Agreement nor a breach of this Agreement shall defeat, render invalid, diminish or impair the lien of any mortgage on the Property made in good faith and for value, unless otherwise required by law.

(b) The Mortgagee of any mortgage or deed of trust encumbering the Property, or any part thereof, which Mortgagee, has submitted a request in writing to the City in the manner specified herein for giving notices, shall be entitled to receive written notification from City of any default by Applicant in the performance of Applicant's obligations under this Agreement.

(c) If City timely receives a request from a mortgagee requesting a copy of any notice of default given to Applicant under the terms of this Agreement, City shall provide a copy of that notice to the Mortgagee within ten (10) days of sending the notice of default to Applicant. The Mortgagee shall have the right, but not the obligation, to cure the default during the remaining cure period allowed such Party under this Agreement.

(d) Any Mortgagee who comes into possession of the Property, or any part thereof, pursuant to foreclosure of the mortgage or deed of trust, or deed in lieu of such foreclosure, shall take the Property, or part thereof, subject to the terms of this Agreement. Notwithstanding any other provision of this Agreement to the contrary, no Mortgagee shall have an obligation or duty under this Agreement to perform any of Applicant's obligations or other affirmative covenants of Applicant hereunder, or to guarantee such performance; provided, however, that to the extent that any covenant to be performed by Applicant is a condition precedent to the performance of a covenant by City, the performance thereof shall continue to be a condition precedent to City's performance hereunder, and further provided that any sale, transfer or assignment by any Mortgagee in possession shall be subject to the provisions of Section 2.6 of this Agreement.

9. MISCELLANEOUS PROVISIONS.

9.1 Recordation of Agreement. This Agreement and any amendment or cancellation thereof shall be recorded with the Contra Costa County Recorder by the City Clerk within ten (10) days after the City enters into the Agreement, in accordance with Section 65868.5 of the Government Code. If the Parties to this Agreement or their successors in interest amend or cancel this Agreement, or if the City terminates or modifies this Agreement as provided herein for failure of the Applicant to comply in good faith with the terms and conditions of this Agreement, the City Clerk shall have notice of such action recorded with the Contra Costa County Recorder.

9.2 Entire Agreement. This Agreement sets forth and contains the entire understanding and agreement of the Parties, and there are no oral or written representations, understandings or ancillary covenants, undertakings or agreements that are not contained or expressly referred to herein. No testimony or evidence of any such representations, understandings or covenants shall be admissible in any proceeding of any kind or nature to interpret or determine the terms or conditions of this Agreement.

9.3 Severability. If any term, provision, covenant or condition of this Agreement shall be determined invalid, void or unenforceable, the remainder of this Agreement shall not be affected thereby to the extent such remaining provisions are not rendered impractical to perform taking into consideration the purposes of this Agreement. Notwithstanding the foregoing, the provision of the Public Benefits set forth in Section 4 of this Agreement, including the payment of the Development Impact Fees set forth therein, are essential elements of this Agreement and City would not have entered into this Agreement but for such provisions, and therefore in the event such provisions are determined to be invalid, void or unenforceable, this entire Agreement shall be null and void and of no force and effect whatsoever.

9.4 Interpretation and Governing Law. This Agreement and any dispute arising hereunder shall be governed and interpreted in accordance with the laws of the State of California. This Agreement shall be construed as a whole according to its fair language and common meaning to achieve the objectives and purposes of the Parties hereto, and the rule of construction to the effect that ambiguities are to be resolved against the drafting Party shall not be employed in interpreting this Agreement, all Parties having been represented by counsel in the negotiation and preparation hereof.

9.5 Section Headings. All section headings and subheadings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

9.6 Singular and Plural. As used herein, the singular of any word includes the plural.

9.7 Joint and Several Obligations. If at any time during the Term of this Agreement the Property and/or Dog Park Property is owned, in whole or in part, by more than one Applicant, all obligations of such Applicants under this Agreement shall be joint and several, and the default of any such Applicant shall be the default of all such Applicants. Notwithstanding

the foregoing, no Applicant of a single lot that has been finally subdivided and sold to such Applicant as a member of the general public or otherwise as an ultimate user shall have any obligation under this Agreement except as expressly provided for herein.

9.8 Time of Essence. Time is of the essence in the performance of the provisions of this Agreement as to which time is an element.

9.9 Waiver. Failure by a Party to insist upon the strict performance of any of the provisions of this Agreement by the other Party, or the failure by a Party to exercise its rights upon the default of the other Party, shall not constitute a waiver of such Party's right to insist and demand strict compliance by the other Party with the terms of this Agreement thereafter.

9.10 No Third Party Beneficiaries. This Agreement is made and entered into for the sole protection and benefit of the Parties and their successors and assigns. No other person shall have any right of action based upon any provision of this Agreement.

9.11 Force Majeure. Neither Party shall be deemed to be in default where failure or delay in performance of any of its obligations under this Agreement is caused by floods, earthquakes, other Acts of God, fires, wars, riots or similar hostilities, government regulations, court actions (such as restraining orders or injunctions), or other causes beyond the Party's control. If any such events shall occur, the Term of this Agreement and the time for performance by either Party of any of its obligations hereunder may be extended by the written agreement of the Parties for the period of time that such events prevented such performance, provided that the Term of this Agreement shall not be extended under any circumstances for more than five (5) years.

9.12 Mutual Covenants. The covenants contained herein are mutual covenants and also constitute conditions to the concurrent or subsequent performance by the Party benefited thereby of the covenants to be performed hereunder by such benefited Party.

9.13 Successors in Interest. The burdens of this Agreement shall be binding upon, and the benefits of this Agreement shall inure to, all successors in interest to the Parties to this Agreement. All provisions of this Agreement shall be enforceable as equitable servitudes and constitute covenants running with the land. Each covenant to do or refrain from doing some act hereunder with regard to development of the Property and the Dog Park Property: (a) is for the benefit of and is a burden upon every portion of the Property and the Dog Park Property; (b) runs with the Property and the Dog Park Property and each portion thereof; and (c) is binding upon each Party and each successor in interest during ownership of the Property and the Dog Park Property or any portion thereof.

9.14 Counterparts. This Agreement may be executed by the Parties in counterparts, which counterparts shall be construed together and have the same effect as if all of the Parties had executed the same instrument.

9.15 Jurisdiction and Venue. Any action at law or in equity arising under this Agreement or brought by a Party hereto for the purpose of enforcing, construing or determining



the validity of any provision of this Agreement shall be filed and tried in the Superior Court of the County of Contra Costa, State of California, and the Parties hereto waive all provisions of law providing for the filing, removal or change of venue to any other court.

9.16 Project as a Private Undertaking. It is specifically understood and agreed by and between the Parties hereto that the development of the Project is a private development, that neither Party is acting as the agent of the other in any respect hereunder, and that each Party is an independent contracting entity with respect to the terms, covenants and conditions contained in this Agreement. No partnership, joint venture or other association of any kind is formed by this Agreement. The only relationship between City and Applicant is that of a government entity regulating the development of private property and the owner of such property.

9.17 Further Actions and Instruments. Each of the Parties shall cooperate with and provide reasonable assistance to the other to the extent contemplated hereunder in the performance of all obligations under this Agreement and the satisfaction of the conditions of this Agreement. Upon the request of either Party at any time, the other Party shall promptly execute, with acknowledgment or affidavit if reasonably required, and file or record such required instruments and writings and take any actions as may be reasonably necessary under the terms of this Agreement to carry out the intent and to fulfill the provisions of this Agreement or to evidence or consummate the transactions contemplated by this Agreement.

9.18 Eminent Domain. No provision of this Agreement shall be construed to limit or restrict the exercise by City of its power of eminent domain.

9.19 Agent for Service of Process. In the event Applicant is not a resident of the State of California or it is an association, partnership or joint venture without a member, partner or joint venture resident of the State of California, or it is a foreign corporation, then in any such event, Applicant shall file with the Planning and Building Director, upon its execution of this Agreement, a designation of a natural person residing in the State of California, giving his or her name, residence and business addresses, as its agent for the purpose of service of process in any court action arising out of or based upon this Agreement, and the delivery to such agent of a copy of any process in any such action shall constitute valid service upon Applicant. If for any reason service of such process upon such agent is not feasible, then in such event Applicant may be personally served with such process out of this County and such service shall constitute valid service upon Applicant. Applicant is amenable to the process so served, submits to the jurisdiction of the Court so obtained and waives any and all objections and protests thereto.

9.20 Authority to Execute. The person or persons executing this Agreement on behalf of Applicant warrants and represents that he or she/they have the authority to execute this Agreement on behalf of his or her/their corporation, partnership or business entity and warrants and represents that he or she/they has/have the authority to bind Applicant to the performance of its obligations hereunder.

IN WITNESS WHEREOF, the Parties hereto have executed this Development Agreement on the last day and year set forth below.

**APPLICANT:**

**O'BRIEN LAND COMPANY, A  
CALIFORNIA LIMITED LIABILITY  
COMPANY**

By: \_\_\_\_\_


Its: \_\_\_\_\_

**ANNA MARIA DETTMER, AS  
TRUSTEE OF THE AMD FAMILY  
TRUST, AS AMENDED AND  
RESTATED ON SEPTEMBER 23, 2005**

By: \_\_\_\_\_


**CITY:**

City of Lafayette, a California municipal corporation

By:   
Brandt Andersson, Mayor

Dated: 9-15-15

**ATTEST:**

By:   
City Clerk

IN WITNESS WHEREOF, the Parties hereto have executed this Development Agreement on the last day and year set forth below.

**APPLICANT:**

**O'BRIEN LAND COMPANY, A  
CALIFORNIA LIMITED LIABILITY  
COMPANY**

By: 

Its: Vice President  
David R. Baker

**ANNA MARIA DETTMER, AS  
TRUSTEE OF THE AMD FAMILY  
TRUST, AS AMENDED AND  
RESTATED ON SEPTEMBER 23, 2005**

By: \_\_\_\_\_

**CITY:**

City of Lafayette, a California municipal corporation

By: \_\_\_\_\_  
Brandt Andersson, Mayor

Dated: \_\_\_\_\_

**ATTEST:**

By: \_\_\_\_\_  
City Clerk

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 Contra Costa

On December 17, 2015, before me, Suzanne Oertel Farlin, Notary Public,  
(insert name and title of officer)

personally appeared David R. Baker, 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 Suzanne Oertel Farlin (Seal)



IN WITNESS WHEREOF, the Parties hereto have executed this Development Agreement on the last day and year set forth below.

**APPLICANT:**

**O'BRIEN LAND COMPANY, A  
CALIFORNIA LIMITED LIABILITY  
COMPANY**

By: \_\_\_\_\_

Its: \_\_\_\_\_

**ANNA MARIA DETTMER, AS  
TRUSTEE OF THE AMD FAMILY  
TRUST, AS AMENDED AND  
RESTATED ON SEPTEMBER 23, 2005**

By: *Anna Maria Dettmer, Trustee*

**CITY:**

City of Lafayette, a California municipal  
corporation

By: \_\_\_\_\_

Brandt Andersson, Mayor

Dated: \_\_\_\_\_

**ATTEST:**

By: \_\_\_\_\_

City Clerk

**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.

OREGON  
STATE OF ~~CALIFORNIA~~  
COUNTY OF MULTNOMAH

On 12-17-2015, before me, MIKE HOFFNER, Notary Public,  
(insert name and title of officer)

personally appeared ANNA MARIA DETTMER, 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 *Mike Hoffner* (Seal)



**EXHIBIT "A"**

(Legal Description of the Property)

[Attached behind this page]

**LEGAL DESCRIPTION**

Real property in the City of Lafayette, County of Contra Costa, State of California, described as follows:

**PARCEL ONE:**

PORTION OF THE RANCHO BOCCA DE LA CANADA DEL PINOLE, DESCRIBED AS FOLLOWS:

BEGINNING ON THE NORTH LINE OF THE PARCEL OF LAND CONVEYED IN THE DEED TO ANTHONY LAGISS, RECORDED APRIL 10, 1946 IN BOOK 900, OFFICIAL RECORDS, PAGE 3, AT THE SOUTHEAST LINE OF THE PARCEL OF LAND DESCRIBED AS PARCEL 28 IN THE FINAL ORDER OF CONDEMNATION IN FAVOR OF THE STATE OF CALIFORNIA, RECORDED SEPTEMBER 01, 1970 IN BOOK 6205, OFFICIAL RECORDS, PAGE 201;  
THENCE NORTH 73° 45' EAST, ALONG SAID NORTH LINE, 840 FEET, MORE OR LESS, TO THE NORTHWEST CORNER OF THE PARCEL OF LAND DESCRIBED IN THE DEED TO THE EAST BAY MUNICIPAL UTILITY DISTRICT, RECORDED NOVEMBER 27, 1925 IN BOOK 17, OFFICIAL RECORDS, PAGE 183;  
THENCE SOUTH 0° 27' 54" EAST, ALONG THE WEST LINE OF SAID LAST MENTIONED PARCEL, 244.99 FEET TO THE MOST NORTHERN CORNER OF THE PARCEL OF LAND DESCRIBED AS PARCEL 27 IN SAID FINAL ORDER OF CONDEMNATION (6205 OR 201);  
THENCE ALONG THE NORTHERN LINE OF SAID LAST MENTIONED PARCEL, AS FOLLOWS:  
SOUTHWESTERLY ALONG THE ARC OF A CURVE TO THE RIGHT WITH A RADIUS OF 400.00 FEET, AN ARC DISTANCE OF 78.20 FEET, SOUTH 34° 36' 30" WEST, 294.39 FEET,  
SOUTHWESTERLY ALONG THE ARC OF A CURVE TO THE RIGHT WITH A RADIUS OF 300.00 FEET, AN ARC DISTANCE OF 229.64 FEET AND SOUTH 78° 28' 01" WEST, 650.50 FEET TO THE WEST LINE OF SAID LAGISS PARCEL (900 OR 3);  
THENCE NORTH 29° 45' WEST, ALONG SAID WEST LINE, 201.90 FEET TO THE SOUTHEAST LINE OF SAID PARCEL 28 (6205 OR 201);  
THENCE NORTHEASTERLY, ALONG SAID SOUTHEAST LINE, ALONG THE ARC OF A CURVE TO THE LEFT WITH A RADIUS OF 1530.00 FEET, AN ARC DISTANCE OF 525.23 FEET TO THE POINT OF BEGINNING.

**PARCEL TWO:**

PORTION OF THE RANCHO BOCCA DE LA CANADA DEL PINOLE, DESCRIBED AS FOLLOWS:

A PORTION OF THOSE PARCELS OF LAND DESCRIBED AS PARCEL 1A IN THE FINAL ORDER OF CONDEMNATION RECORDED NOVEMBER 27, 1967, IN VOLUME 5503, AND PAGE 411, AND PARCEL 2 IN THE DEED TO THE STATE OF CALIFORNIA, RECORDED JANUARY 08, 1968, IN VOLUME 5531, PAGE 259, BOTH OF OFFICIAL RECORDS OF CONTRA COSTA COUNTY, DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT ON THE EASTERLY LINE OF SAID PARCEL 2, SAID POINT BEING THE WESTERLY TERMINUS OF THE COURSE DESCRIBED AS " NORTH 78° 28' 01" EAST 650.50 FEET" IN PARCEL 9A IN THE FINAL ORDER OF CONDEMNATION RECORDED SEPTEMBER 01, 1970, IN VOLUME 6205, PAGE 201, OF OFFICIAL RECORDS OF CONTRA COSTA COUNTY;  
THENCE ALONG THE WESTERLY PROLONGATION OF SAID DESCRIBED COURSE SOUTH 78° 28' 01" WEST, 349.62 FEET;  
THENCE NORTH 30° 33' 05" WEST, 50.00 FEET TO THE SOUTHWESTERLY CONTINUATION OF THE CURVE DESCRIBED WITH A RADIUS OF 1530.00 FEET IN PARCEL 9B OF SAID FINAL



ORDER OF CONDEMNATION (6205 OR 201);  
THENCE ALONG SAID CONTINUATED CURVE FROM A TANGENT THAT BEARS NORTH 59° 26' 55" EAST, ALONG A CURVE TO THE LEFT WITH A RADIUS OF 1530.00 FEET, THROUGH AN ANGLE OF 12° 46' 00", AN ARC LENGTH OF 340.91 FEET TO SAID EASTERLY LINE;  
THENCE ALONG LAST SAID LINE, SOUTH 28° 24' 21" EAST, 201.90 FEET TO THE POINT OF COMMENCEMENT.

PARCEL THREE:

PORTION OF THE RANCHO DEL PINOLE, DESCRIBED AS FOLLOWS:

COMMENCING ON THE CENTER LINE OF THE OLD COUNTY ROAD LEADING FROM LAFAYETTE TO MARTINEZ AT THE MOST NORTHERLY CORNER OF THE 25.5 ACRE PARCEL OF LAND DESCRIBED IN THE DEED TO E. J. BUNTING, RECORDED MARCH 22, 1935, BOOK 378, OFFICIAL RECORDS, PAGE 270;  
THENCE FROM SAID POINT OF COMMENCEMENT ALONG SAID CENTER LINE, SOUTH 23° 15' EAST, 522.06 FEET AND SOUTH 24° 15' EAST, 316.17 FEET TO THE ACTUAL POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL OF LAND;  
THENCE FROM SAID POINT OF BEGINNING NORTH 87° 27' 40" WEST, AT 21.53 FEET, AN IRON PIPE ON THE WEST LINE OF SAID COUNTY ROAD, A TOTAL DISTANCE OF 237.12 FEET;  
THENCE NORTH 14° 55' 30" WEST, 62.26 FEET TO AN IRON PIPE;  
THENCE SOUTH 87° 30' WEST, TO THE EAST LINE OF DEER HILL ROAD, 60 FEET IN WIDTH;  
THENCE SOUTHERLY AND SOUTHWESTERLY ALONG SAID EAST LINE TO THE SOUTH LINE OF SAID BUNTING 25.5 ACRE PARCEL, 378 OR 270, SAID SOUTH LINE BEING ALSO THE NORTH LINE OF THE 24.5 ACRE PARCEL OF LAND DESCRIBED IN THE DEED TO ANTHONY LAGISS, RECORDED APRIL 10, 1946, BOOK 900, OFFICIAL RECORDS, PAGE 3;  
THENCE NORTH 74° 01' 58" EAST ALONG SAID NORTH LINE, TO THE CENTER LINE OF SAID COUNTY ROAD;  
THENCE ALONG SAID CENTER LINE NORTH 19° 15' WEST, 223.08 FEET AND NORTH 24° 15' WEST, 112.83 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM:

1. THAT PARCEL OF LAND DESCRIBED IN THE DEED TO EAST BAY MUNICIPAL UTILITY DISTRICT, RECORDED DECEMBER 08, 1925, BOOK 23, OFFICIAL RECORDS, PAGE 64 AS FOLLOWS:

"BEGINNING AT THE POINT OF INTERSECTION OF THE BOUNDARY LINE BETWEEN THE LANDS OF E. J. GARVAN AND W. A. RODGERS, WITH THE CENTER LINE OF THE COUNTY HIGHWAY LEADING FROM LAFAYETTE TO MARTINEZ  
AND RUNNING THENCE ALONG SAID BOUNDARY LINE SOUTH 74° 15' WEST, 67.12 FEET;  
THENCE NORTH 26° 06' EAST, 95.04 FEET TO A POINT ON THE CENTER LINE OF SAID HIGHWAY;  
THENCE ALONG SAID CENTER LINE, SOUTH 18° 45' EAST, 70.89 FEET TO THE POINT OF BEGINNING AND CONTAINING AN AREA OF 0.055 ACRES."

2. THE INTEREST CONVEYED TO CONTRA COSTA COUNTY BY DEED RECORDED SEPTEMBER 12, 1962, BOOK 4200, OFFICIAL RECORDS, PAGE 393.

PARCEL FOUR:

A PORTION OF THAT PARCEL OF LAND DESCRIBED AS PARCEL 1 IN THE DEED TO THE STATE OF CALIFORNIA, RECORDED AUGUST 24, 1967, IN VOLUME 5439, PAGE 198 OF OFFICIAL RECORDS OF CONTRA COSTA COUNTY, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEASTERLY CORNER OF LAST SAID PARCEL;  
THENCE ALONG THE SOUTHERLY LINE OF LAST SAID PARCEL SOUTH 75° 22' 00" WEST, 49.84 FEET;  
THENCE FROM A TANGENT THAT BEARS NORTH 27° 00' 06" EAST, ALONG A CURVE TO THE LEFT WITH A RADIUS OF 1530.00 FEET, THROUGH AN ANGLE OF 13° 47' 03", AN ARC LENGTH OF 368.09 FEET TO A POINT OF CUSP ON THE EASTERLY LINE OF LAST SAID PARCEL;  
THENCE ALONG THE LAST SAID LINE SOUTH 13° 13' 03" WEST, 341.26 FEET TO THE POINT OF COMMENCEMENT.

PARCEL FIVE:

THAT PARCEL OF LAND DESCRIBED IN THE DEED TO ANTHONY LAGISS, RECORDED JANUARY 11, 1949, BOOK 1338, PAGE 495, CONTRA COSTA COUNTY RECORDS, DESCRIBED AS FOLLOWS:

PORTION OF THE RANCHO BOCA DE LA CANADA DEL PINOLE, DESCRIBED AS FOLLOWS:

COMMENCING ON THE CENTER LINE OF THE COUNTY ROAD LEADING FROM LAFAYETTE TO MARTINEZ AT THE MOST NORTHERLY CORNER OF THE 25.5 ACRE PARCEL OF LAND DESCRIBED IN THE DEED FROM JAMES DONALD GUTHRIE, ADMINISTRATOR, TO E.J. BUNTING, DATED, MARCH 12, 1935 AND RECORDED MARCH 22, 1935 IN VOLUME 378 OF OFFICIAL RECORDS, AT PAGE 270;  
THENCE FROM SAID POINT OF COMMENCEMENT ALONG SAID CENTER LINE, SOUTH 23° 15' EAST, 522.06 FEET AND SOUTH 24° 15' EAST, 166.17 FEET TO THE ACTUAL POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL OF LAND;  
THENCE FROM SAID POINT OF BEGINNING SOUTH 24° 15' EAST, CONTINUING ALONG SAID CENTER LINE, 150 FEET;  
THENCE NORTH 87° 27' 40" WEST, AT 21.53 FEET AN IRON PIPE ON THE WEST LINE OF SAID COUNTY ROAD, A TOTAL DISTANCE OF 237.12 FEET;  
THENCE NORTH 14° 55' 30" WEST, AT 62.26 FEET AN IRON PIPE, A TOTAL DISTANCE OF 80 FEET TO A POINT WHICH BEARS SOUTH 75° 58' WEST FROM THE POINT OF BEGINNING;  
THENCE 75° 58' EAST AT 181.59 FEET AN IRON PIPE ON THE WEST LINE OF SAID COUNTY ROAD, A TOTAL DISTANCE OF 201.91 FEET TO THE POINT OF BEGINNING.

PARCEL SIX:

THAT PARCEL OF LAND DESCRIBED IN THE DEED TO ANTHONY LAGISS, RECORDED JANUARY 11, 1949, BOOK 1338, PAGE 498 CONTRA COSTA COUNTY RECORDS, DESCRIBED AS FOLLOWS:

PORTION OF THE RANCHO BOCA DE LA CANADA DEL PINOLE, BEING A PORTION OF THAT CERTAIN 25.5 ACRE TRACT DESCRIBED IN ADMINISTRATOR'S DEED TO E.J. BUNTING, RECORDED MARCH 22, 1935, BOOK 378, PAGE 270, CONTRA COSTA COUNTY RECORDS, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE EASTERLY BOUNDARY OF SAID 25.5 ACRE PARCEL, BEING IN THE CENTER LINE OF THE COUNTY ROAD LEADING FROM LAFAYETTE TO MARTINEZ, FROM WHICH THE MOST NORTHERLY CORNER OF SAID 25.5 ACRE PARCEL BEARS NORTH 24° 15' WEST 54.41 FEET AND NORTH 23° 15' WEST 522.06 FEET;  
THENCE FROM SAID POINT OF BEGINNING SOUTH 75° 58' WEST 183.80 FEET;  
THENCE SOUTH 14° 53' 30" EAST 110 FEET;  
THENCE NORTH 75° 58' EAST 201.91 FEET TO THE CENTER LINE OF THE AFORESAID COUNTY ROAD;  
THENCE NORTH 24° 15' WEST 111.76 FEET ALONG SAID CENTER LINE TO THE POINT OF

BEGINNING.

PARCEL SEVEN:

THAT PARCEL OF LAND DESCRIBED IN THE DEED TO ANTHONY LAGISS, RECORDED JANUARY 11, 1949, BOOK 1338, PAGE 497, CONTRA COSTA COUNTY RECORDS, DESCRIBED AS FOLLOWS:

PORTION OF THE RANCHO BOCA DE LA CANADA DEL PINOLE, BEING A PORTION OF THAT CERTAIN 25.5 ACRE TRACT DESCRIBED IN ADMINISTRATOR'S DEED TO E.J. BUNTING, RECORDED MARCH 22, 1935, BOOK 378, PAGE 270, CONTRA COSTA COUNTY RECORDS, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE EASTERLY BOUNDARY OF SAID 25.5 ACRE PARCEL, BEING IN THE CENTER LINE OF THE COUNTY ROAD LEADING FROM LAFAYETTE TO MARTINEZ, FROM WHICH THE MOST NORTHERLY CORNER OF SAID 25.5 ACRE PARCEL BEARS NORTH 23° 15' WEST 464.88 FEET;  
THENCE FROM SAID POINT OF BEGINNING SOUTH 75° 58' WEST 166.70 FEET;  
THENCE SOUTH 14° 53' 30" EAST 110 FEET;  
THENCE NORTH 75° 58' EAST 183.80 FEET TO THE CENTER LINE OF THE AFORESAID COUNTY ROAD;  
THENCE ALONG SAID CENTER LINE NORTH 24° 15' WEST 54.41 FEET AND NORTH 23° 15' WEST 57.18 FEET TO THE POINT OF BEGINNING.

PARCEL EIGHT:

THAT PARCEL OF LAND DESCRIBED IN THE DEED TO ANTHONY LAGISS, RECORDED FEBRUARY 14, 1949, BOOK 1351, PAGE 136, CONTRA COSTA COUNTY RECORDS, DESCRIBED AS FOLLOWS:

PORTION OF THE RANCHO BOCA DE LA CANADA DEL PINOLE, DESCRIBED AS FOLLOWS:

BEGINNING ON THE CENTER LINE OF THE COUNTY ROAD LEADING FROM LAFAYETTE TO MARTINEZ AT THE MOST NORTHERLY CORNER OF THE 25.5 ACRE PARCEL OF LAND DESCRIBED IN THE DEED FROM JAMES DONALD GUTHRIE, ADMINISTRATOR TO E.J. BUNTING, DATED MARCH 12, 1935 AND RECORDED MARCH 22, 1935 IN VOLUME 378 OF OFFICIAL RECORDS, AT PAGE 270;  
THENCE FROM SAID POINT OF BEGINNING SOUTH 23° 15' EAST ALONG SAID CENTER LINE, 464.88 FEET TO THE NORTH LINE OF THE 0.442 OF AN ACRE PARCEL OF LAND DESCRIBED IN THE DEED FROM EDWARD PACE, ET UX, TO ANTHONY LAGISS, DATED JANUARY 03, 1949 AND RECORDED JANUARY 11, 1949 BOOK 1338 PAGE 497 (FILE NO. 967);  
THENCE SOUTH 75° 58' WEST ALONG SAID NORTH LINE, 166.70 FEET TO THE NORTHWEST CORNER THEREOF;  
THENCE SOUTH 84° 23' WEST, 101.33 FEET TO A HUB;  
THENCE NORTH 14° 55' 30" WEST TO THE NORTH LINE OF SAID BUNTING 25.5 ACRE PARCEL (378 OR 270);  
THENCE NORTH 73° 31' 55" EAST ALONG SAID NORTH LINE TO THE POINT OF BEGINNING.

EXCEPTING FROM PARCELS FIVE, SIX, SEVEN AND EIGHT:

THOSE PORTIONS THEREOF LYING WITHIN THAT PARCEL OF LAND DESCRIBED IN THE DEED TO CONTRA COSTA COUNTY, RECORDED SEPTEMBER 12, 1962, BOOK 4200, PAGE 393 CONTRA COSTA COUNTY RECORDS.

FURTHER EXCEPTING FROM PARCEL EIGHT:

ALL THAT PORTION THEREOF LYING NORTHERLY OF THE SOUTHEASTERN LINE OF THE PARCEL OF LAND DESCRIBED UNDER PARCEL 9C IN THE FINAL ORDER OF CONDEMNATION, RECORDED SEPTEMBER 01, 1970, BOOK 6205, PAGE 201, CONTRA COSTA COUNTY RECORDS.

PARCEL NINE:

BEGINNING ON THE SOUTH LINE OF THE PARCEL OF LAND DESCRIBED IN THE DEED FROM EARL V. BOWBEER, ET UX, TO ANTHONY G. LAGISS DATED FEBRUARY 01, 1949 AND RECORDED FEBRUARY 14, 1949 IN BOOK 1351 OF OFFICIAL RECORDS, PAGE 136, AT THE NORTHWEST CORNER OF THE 0.442 OF AN ACRE PARCEL OF LAND DESCRIBED IN THE DEED FROM E. J. BUNTING, ET UX, TO EDWARD PACE, DATED JULY 18, 1946 AND RECORDED JULY 29, 1946 IN BOOK 924 OF OFFICIAL RECORDS, PAGE 221; THENCE FROM SAID POINT OF BEGINNING SOUTH 84° 23' WEST ALONG SAID SOUTH LINE, 101.33 FEET TO THE SOUTHWEST CORNER OF SAID LAGISS PARCEL (1351 OR 136); THENCE SOUTH 14° 53' 30" EAST 232.1 FEET TO THE NORTH LINE OF THE 7.41 ACRE PARCEL OF LAND DESCRIBED IN THE DEED FROM E. J. BUNTING, ET UX, TO ALEXANDER T. ANDREASEN, DATED JANUARY 25, 1946 AND RECORDED MARCH 21, 1946 IN BOOK 889 OF OFFICIAL RECORDS, PAGE 167; THENCE NORTH 89° 30' EAST ALONG THE NORTH LINE, 102.4 FEET TO THE WEST LINE OF THE 0.55 OF AN ACRE PARCEL OF LAND DESCRIBED IN THE DEED FROM E. J. BUNTING, ET UX, TO ANTHONY LAGISS, DATED JANUARY 06, 1949 AND RECORDED JANUARY 11, 1949 IN BOOK 1338 OF OFFICIAL RECORDS, PAGE 495; THENCE NORTH 14° 53' 30" WEST ALONG SAID WEST LINE, ALONG THE WEST LINE OF THE 0.487 OF AN ACRE PARCEL OF LAND DESCRIBED IN THE DEED FROM E. J. BUNTING, ET UX, TO WILLIAM J. JOHNSTON, ET UX, DATED MARCH 31, 1946 AND RECORDED APRIL 11, 1946 IN BOOK 905 OF OFFICIAL RECORDS, PAGE 267, AND ALONG THE WEST LINE OF SAID PACE PARCEL (924 OR 221) 237.74 FEET TO THE POINT OF BEGINNING.

EXCEPTING FROM PARCEL NINE:

THAT PORTION THEREOF LYING WITHIN THAT PARCEL OF LAND DESCRIBED UNDER PARCEL 9C IN THE FINAL ORDER OF CONDEMNATION RECORDED SEPTEMBER 01, 1970 IN BOOK 6205 OF OFFICIAL RECORDS, PAGE 201.

PARCEL TEN:

PORTION OF RANCHO BOCA DE LA CANADA DEL PINOLE, DESCRIBED AS FOLLOWS:

BEGINNING ON THE WEST LINE OF THE PARCEL OF LAND DESCRIBED IN THE DEED TO ANTHONY GUS LAGISS, RECORDED AUGUST 18, 1954, BOOK 2366, OFFICIAL RECORDS, PAGE 232 AT THE SOUTHEAST LINE OF THE PARCEL OF LAND DESCRIBED AS PARCEL ONE IN THE DEED TO THE STATE OF CALIFORNIA, RECORDED AUGUST 24, 1967, BOOK 5439, OFFICIAL RECORDS, PAGE 198; THENCE FROM SAID POINT OF BEGINNING ALONG SAID SOUTHEAST LINE SOUTHWESTERLY ALONG THE ARC OF A CURVE TO THE LEFT WITH A RADIUS OF 470 FEET THROUGH AN ANGLE OF 33° 06' 44" AN ARC DISTANCE OF 271.62 FEET TO THE NORTH LINE OF THE PARCEL OF LAND DESCRIBED IN THE DEED TO ANTHONY G. LAGISS, RECORDED AUGUST 01, 1955, BOOK 2582, OFFICIAL RECORDS, PAGE 378; THENCE NORTH 88° 53' 40" EAST, ALONG SAID NORTH LINE, 225.07 FEET TO THE WEST LINE OF SAID LAGISS PARCEL 2366 OR 232; THENCE NORTH 13° 21' 27" WEST ALONG SAID WEST LINE, 200.64 FEET TO THE POINT OF BEGINNING.

APN: 232-150-027

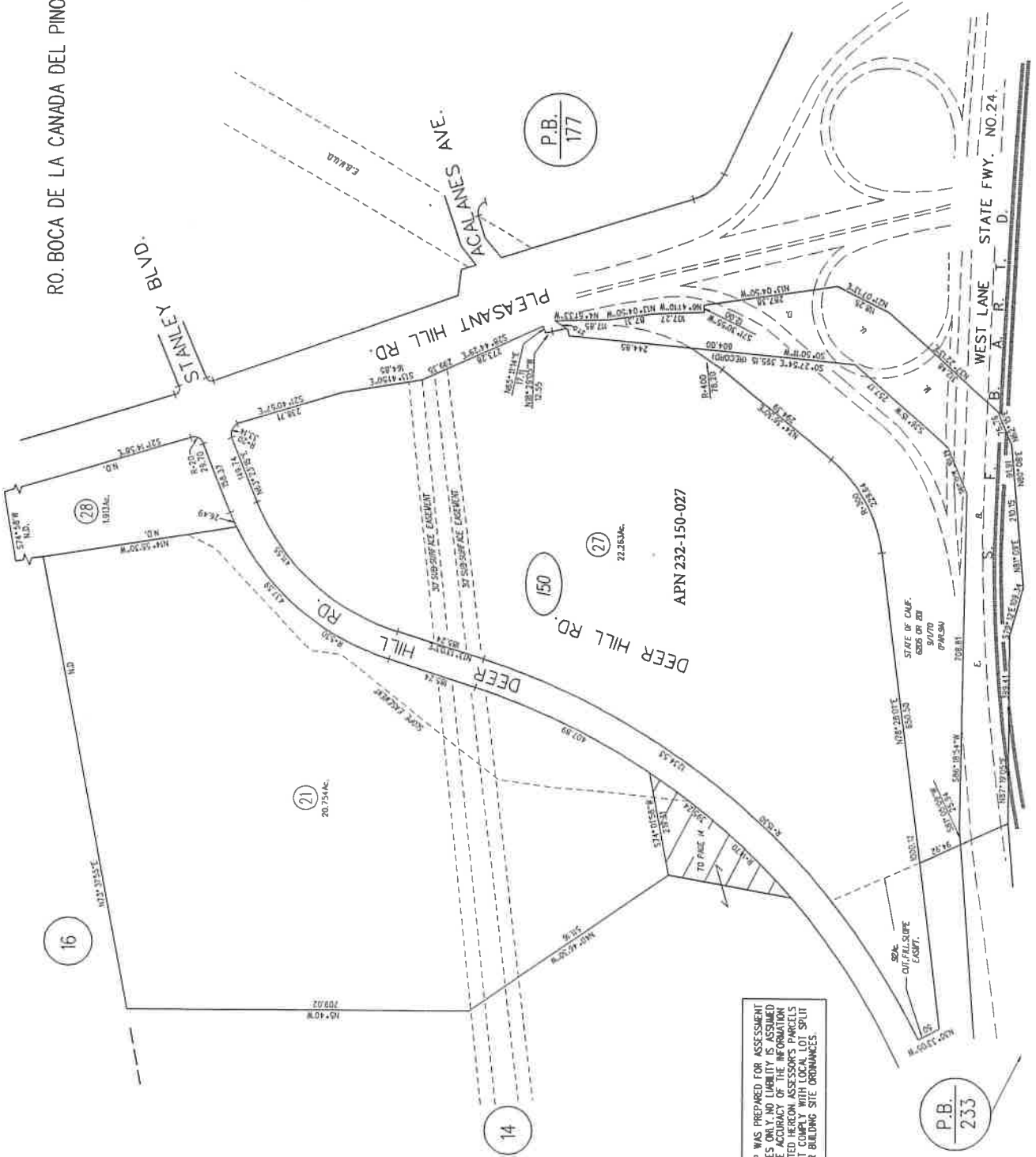
**EXHIBIT "A-1"**

(Map of the Property)

[Attached behind this page]

Exhibit A-1

RO. BOCA DE LA CANADA DEL PINOLE



NOTE: THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSES ONLY. NO LIABILITY IS ASSUMED FOR THE ACCURACY OF INFORMATION OR FIELDWORK. ASSESSORS' MAPS MAY NOT COMPLY WITH LOCAL LOT SPLIT OR BUILDING SITE ORDINANCES.

150

P.B. 233

FM 78/75 6/1/69  
ASSESSOR'S MAP  
BOOK 232 PAGE 15  
CONTRA COSTA COUNTY, CALIF.

**EXHIBIT "B"**

(Legal Description of the Dog Park Property)

[Attached behind this page]



November 11, 2015  
BKF Job No.: 20115003-10

**EXHIBIT "B"**  
**DESCRIPTION FOR:**  
**DOG PARK PARCEL**

All that certain real property situate in the City of Lafayette, County of Contra Costa, State of California, and described as follows:

**BEING** a portion of Parcels One and Two as described in the Quitclaim Deed to Anna Maria Dettmer, Trustee of the AMD Family Trust, recorded April 12, 2006, as Document 2006-0114044-00, Contra Costa County Records, said portion being more particularly described as follows:

**BEGINNING** on the southerly line of Parcel One as described in the Grant Deed to Sienna Ranch LLC, a California limited liability company, recorded September 24, 2010, as Document 2010-0204099-00, Contra Costa County Records, on the northwesterly right of way line of Deer Hill Road, as described in the Relinquishment of Right of Way to the City of Lafayette, recorded October 24, 1975, in Book 7666, Page 761, Contra Costa County Records, being a point of a curve concave to the northwest, the radius of which bears North  $60^{\circ}53'03''$  West 1470.00 feet; **THENCE** southwesterly along said right of way and curve, through a central angle of  $10^{\circ}34'18''$ , an arc distance of 271.23 feet to a non-tangent curve concave to the northwest, the radius of which bears North  $48^{\circ}16'20''$  West 973.00 feet; **THENCE** leaving said right of way along said curve through a central angle of  $6^{\circ}42'35''$ , an arc distance of 113.94 feet to a reverse curve to the left having a radius of 577.00 feet; **THENCE** along said curve through central angle of  $10^{\circ}20'41''$ , an arc distance of 104.18 feet, to a reverse curve to the right, having a radius of 62.00 feet; **THENCE** along said curve through a central angle of  $53^{\circ}48'12''$ , an arc distance of 58.22 feet; **THENCE** North  $88^{\circ}06'14''$  West 25.40 feet to a non-radial curve concave to the northeast, the radius of which bears North  $24^{\circ}10'17''$  East, 67.00 feet; **THENCE** northwesterly along said curve through a central angle of  $60^{\circ}57'48''$ , an arc distance of 71.29 feet; **THENCE** South  $85^{\circ}08'05''$  West 46.82 feet; **THENCE** North  $22^{\circ}43'51''$  West 176.97 feet; **THENCE** North  $34^{\circ}27'38''$  East 224.71 feet; **THENCE** North  $79^{\circ}36'36''$  East 135.19 feet to the southwesterly line of Parcel Two of said Sienna Ranch Grant Deed (2010-0204099.00); **THENCE** along said line thereof South  $39^{\circ}18'12''$  99.83 feet to said southerly line of Parcel One (2010-0204099-00); **THENCE** along said line North  $75^{\circ} 22'00''$  East 219.32 feet to **POINT OF BEGINNING**.

Containing an area of 2.90 acres, more or less.

Subject to any easements of record.

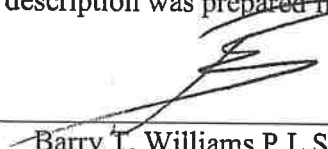
Bearings are based on the California Coordinate System of 1927, Zone III; all distances shown herein are grid distances, multiply grid distances by 1.0000880 to obtain ground distances.



This property description has been prepared by me, or under my direction, in conformance with the requirements of the Land Surveyors' Act based on record information only and shall not be utilized in any conveyance which violates the Subdivision Map Act of the State of California or local ordinances.

A plat showing the above described property is attached hereto and made a part hereof as Exhibit "B-1".

This description was prepared from record information for BKF Engineers.

By:   
Barry T. Williams P.L.S. No. 6711  
License Expires: 06/30/2016

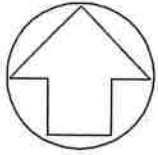
Dated: 11-11-15



**EXHIBIT "B-1"**

(Map of the Dog Park Property)

[Attached behind this page]



GRAPHIC SCALE



SIENNA RANCH  
PARCEL TWO  
2010-204099 O.R.

SIENNA RANCH  
PARCEL ONE  
2010-204099 O.R.

DETTMER  
2006-114044 O.R.

POINT OF  
BEGINNING

N 75°22'00" E  
219.32'

S 60°53'03" E (R)

S 39°18'12" E  
99.83'

N 79°36'36" E  
135.19'

Δ = 10°34'18"  
R = 1470.00'  
L = 271.23'

DOG PARK  
2.900 ACRES±

S 48°16'20" E (R)

DEER HILL ROAD  
60' RIGHT OF WAY

Δ = 06°42'35"  
R = 973.00'  
L = 113.94'

QUIGLEY/PAGE  
2011-115355 O.R.

CITY OF LAFAYETTE  
7666 O.R. 761

60' RIGHT OF  
WAY EASEMENT  
2011-115355 O.R.

S 85°08'05" W  
46.82'  
S 24°10'17" W  
(R)

Δ = 53°48'12"  
R = 62.00'  
L = 58.22'

Δ = 10°20'41"  
R = 577.00'  
L = 104.18'

DETTMER (LAGISS)  
PARCEL ONE  
87-273199 O.R.  
2006-114045 O.R.

Δ = 60°57'48"  
R = 67.00'  
L = 71.29'

DETTMER (LAGISS)  
PARCEL TWO  
87-273199 O.R.  
2006-114045 O.R.

N 88°06'14" W  
25.40'

HIGHWAY 24

EXHIBIT "B-1"



1646 NORTH CALIFORNIA BLVD.  
SUITE 400  
WALNUT CREEK, CA 94596  
925-940-2200  
925-940-2299 (FAX)

Subject PLAT TO ACCOMPANY  
DESCRIPTION  
Job No. 20115003  
By MLH Date 08/04/15 Chkd. BTW  
SHEET 1 OF 1

**EXHIBIT "C"**

(Map of the Parkland Property)

[Attached behind this page]

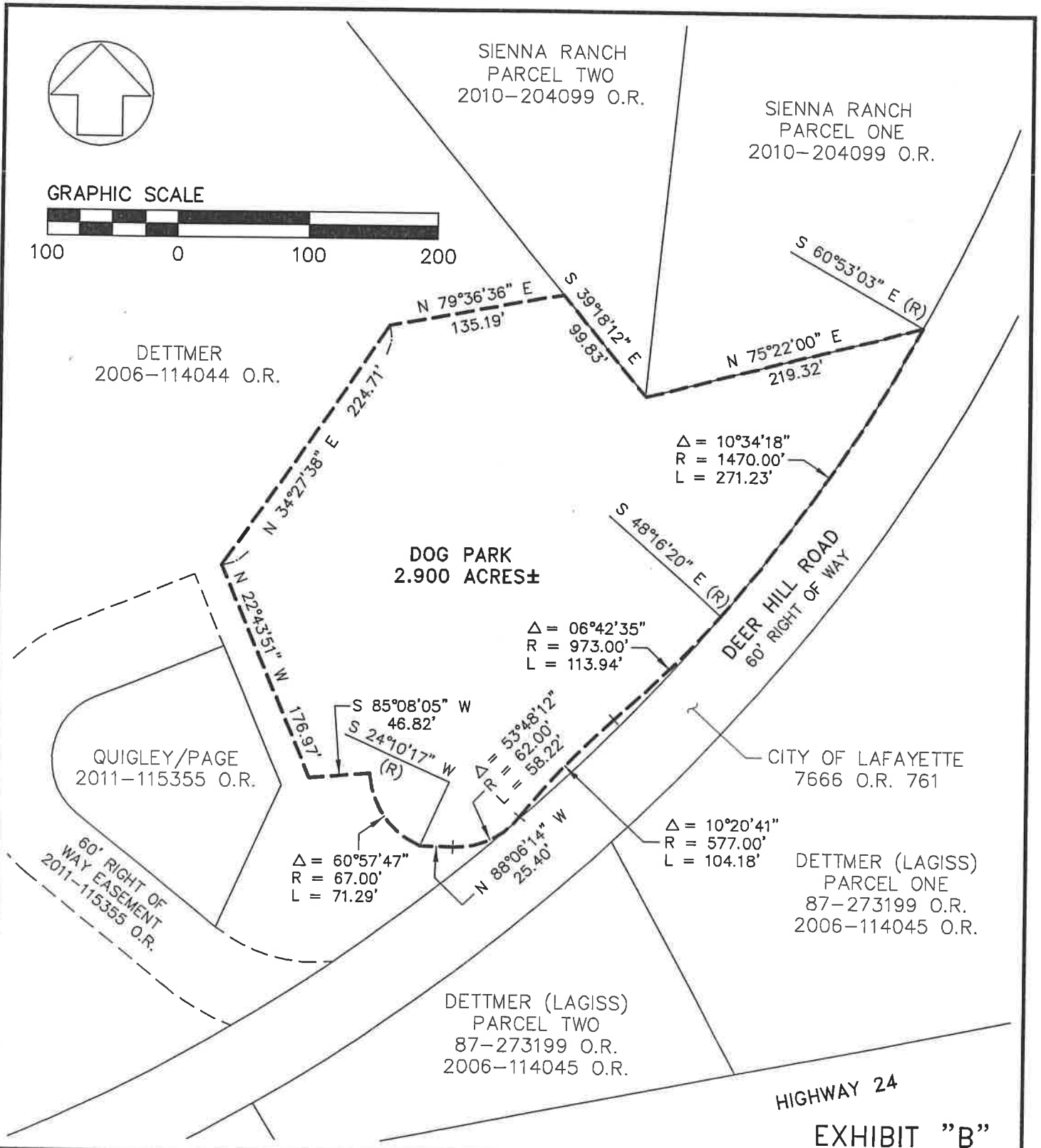
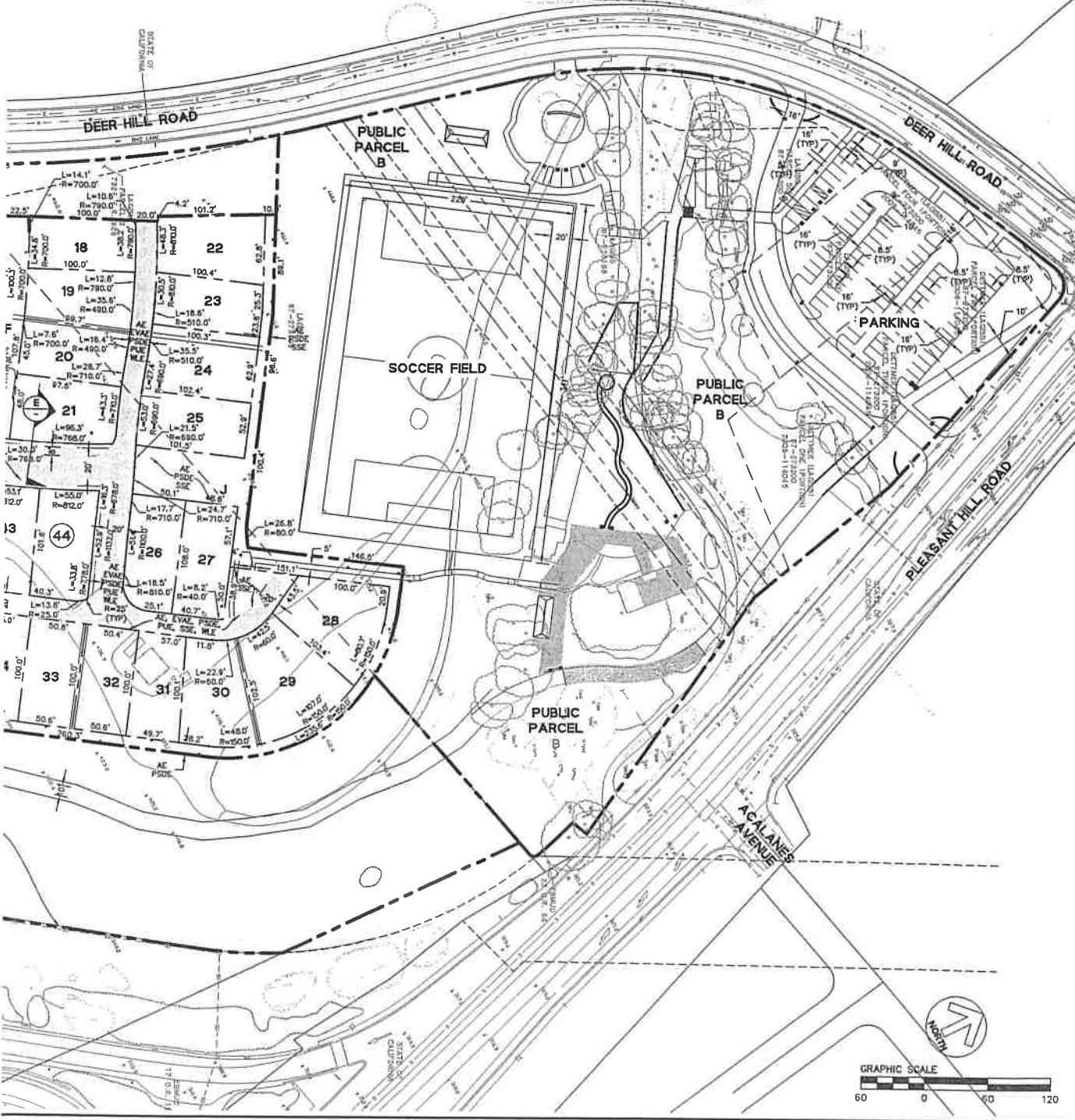
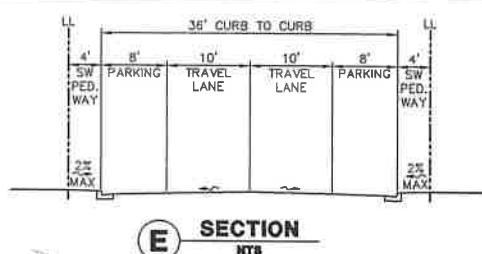
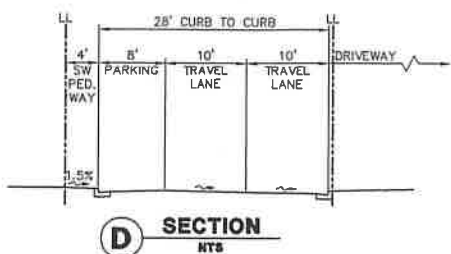


EXHIBIT "B"



1646 NORTH CALIFORNIA BLVD.  
 SUITE 400  
 WALNUT CREEK, CA 94596  
 925-940-2200  
 925-940-2299 (FAX)

Subject PLAT TO ACCOMPANY  
 DESCRIPTION \_\_\_\_\_  
 Job No. 20115003  
 By MLH Date 08/04/15 Chkd. BTW  
 SHEET 1 OF 1



1646 NORTH CALIFORNIA BLVD  
SUITE 400  
WALNUT CREEK, CA 94596  
925-940-2200  
925-940-2299 (FAX)



**THE HOMES AT DEER HILL**  
**TRACT #9369 VESTING TENTATIVE MAP**  
**PROPOSED LOTTING PLAN**  
CITY OF LAFAYETTE  
CONTRA COSTA COUNTY  
CALIFORNIA

Revisions	No.	Date: 7/16/15
		Scale: AS SHOWN
		Design: KW
		Drawing: MC
		Approved: CM
		Job No: 20115003
Drawing Number:		
<b>C3.0</b>		
<b>6 OF 14</b>		