

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

Government Code 6103: Exempt from Recording Fee

City Clerk
City of San Mateo
330 West 20th Avenue
San Mateo, CA 94403

SUBDIVISION IMPROVEMENT AGREEMENT

THIS AGREEMENT is made and entered into this _____ day of _____, 20__, by and between the City of San Mateo, a municipal corporation of California ("City"), and Pulte Home Company, LLC, a Michigan limited liability company ("Subdivider").

RECITALS

- A. Subdivider is the owner of that certain tract of land, more particularly described in **Exhibit A** attached hereto and incorporated herein by this reference, located at 1, 2, 3 Waters Park Drive in the City of San Mateo, County of San Mateo, State of California.
- B. Subdivider's application for a vesting tentative map was approved by the San Mateo City Council on February 19, 2019, subject to Conditions of Approval of the subdivision by the City or are required to be done by any provision of law as a condition of said subdivision (the "Conditions of Approval").
- C. Subdivider has presented to City for approval a final subdivision map, dated November, 2020 ("Map"), incorporated herein by reference.
- D. Subdivider has requested approval of the Map prior to the completion of the Required Improvements, (as defined herein).
- E. The Map designates pedestrian access easements for the City, and Subdivider proposes to dedicate such easements to the City.
- F. As a condition precedent to accepting this offer of dedication by Subdivider, City requires various off-site sidewalk improvements and off-site landscape improvements that are required under the Conditions of Approval, as more specifically described below.
- G. Subdivider has already posted bonds for the completion of certain improvements required under Subdivider's Conditions of Approval, and City desires that Subdivider post additional bonds to ensure the construction of additional offsite improvements that are required under Subdivider's Conditions of Approval, as more specifically described below.
- H. City desires to assure that the Required Improvements will be done in a good and workmanlike manner, in accordance with the Conditions of Approval, City, state and federal standards.

NOW, THEREFORE, in consideration of the approval of the Map, and in order to ensure satisfactory performance by Subdivider of Subdivider's obligations under the Conditions of Approval, the Subdivision Map Act, and the San Mateo Municipal Code, the parties agree as follows:

1. Performance of Work. Subdivider shall, at its own cost and expense, perform, in a good and workmanlike manner, all of the work and improvements within and without the subdivision, which are shown on the Map or on improvement plans, profiles, and specifications which have been submitted to the City Engineer or may hereafter be so submitted, as finally approved, or which improvements are required as conditions of approval of the subdivision by the City, or are required to be done by any provision of law as a condition of said subdivision ("the Required Improvements"). Said Required Improvements are listed in the attached Exhibit B and may include, but are not limited to, curbs, gutters, and sidewalks, grading, signs, pavements, driveway approaches and pedestrian crosswalks, storm and sanitary sewers, underground utilities, signal improvements, street lighting, roadway improvements, roadway markings, landscaping, monuments, and all appurtenant improvements. Said plans and specifications are filed in the Office of the City Engineer.

2. Improvement Cost. The total cost of the Required Improvements is estimated to be \$50,951.

3. Standards. All work to be performed hereunder shall be done to the satisfaction of the City Engineer. No work on the Required Improvements shall commence until the plans, profiles, and specifications have been submitted to and approved by the City Engineer. All of the Required Improvements shall be constructed in accordance with the approved plans, profiles, and specifications and Subdivider shall do, or cause to be done, all work and furnish all materials necessary in the opinion of the City Engineer to complete the Required Improvements in accordance with the approved plans, profiles, and specifications, or any changes required by the City Engineer, which in his or her opinion are necessary or required to complete the work. All costs of checking said plans, profiles, and specifications, and of all inspections of the work shall be paid by Subdivider. Any approval under this section does not relieve Subdivider, or its engineers or landscape architects, from liability.

4. Time of Commencement and Completion. Subdivider has already obtained a site development permit for grading or removal of major vegetation in accordance with the San Mateo Municipal Code. Unless otherwise approved by the City, all Required Improvements shall be constructed and approved by the City Engineer within one year and prior to occupancy of any building on the site.

5. Payment of Costs. Without limitation, Subdivider shall pay all costs and expenses related to or arising from the performance of any work to complete the Required Improvements, including, but not limited to, payment for any materials, provisions, and other supplies used in, upon, for, or about said work, and for any work or labor thereon of any kind, and for amounts due under the Unemployment Insurance Act of the State of California, with respect to such work or labor. Costs and expenses shall also include, but not be limited to, the costs of any engineering, plans and specifications, city personnel or consultant costs to prepare right of way maps and related documents, construction manager, escrow payments, contract administration, encroachment permits, utility relocation, and legal fees.

6. Acceptance by City. The City Engineer shall have the right to reject any and all Required Improvements under this Agreement if they do not conform, in his or her sole judgment, with the plans, profiles, and specifications mentioned herein and with the ordinances and standards of the City. Final acceptance of the Required Improvements shall be by the City Council.

7. Guarantee and Maintenance. Notwithstanding the fact that Subdivider's plans, profiles, and specifications, completion of work, and other acts to be performed hereunder are subject to approval by the City, it is understood and agreed that any approval by the City shall in no way relieve Subdivider of satisfactorily performing said work or its obligations hereunder. Subdivider warrants that the plans, profiles, and specifications submitted shall conform at a minimum to the City Standard Drawings and Specifications and to applicable provisions of the San Mateo Municipal Code in effect as of the date of this Agreement, and that they are adequate to accomplish the work in a good and workmanlike manner, and in accordance with sound construction practices.

8. Warranty of Work. Subdivider warrants and guarantees all work performed hereunder and all materials used therein for a period of one year after completion and final acceptance by the City Council.

9. Repair, Replacement or Reconstruction. If within the one year period after the City Engineer accepts the Required Improvements, all or any portion of the work required under this Agreement fails to fulfill the requirements of this Agreement, then Subdivider, without delay and without cost to the City shall repair, replace or reconstruct the defective or otherwise unsatisfactory part of the work. The repair work, if required, shall be completed to the satisfaction of the City Engineer. If Subdivider fails to act in accordance with this requirement, or should the exigencies of the situation require repairs or replacements to be made before Subdivider can be notified, City may make the necessary repairs and replacement or perform the necessary work, and Subdivider shall pay to the City the actual cost of the repairs and replacement.

10. Permits: Compliance with Law. Subdivider will, at Subdivider's expense obtain all necessary permits and licenses for the Required Improvements and give all necessary notices and pay all fees and taxes required by law. In the performance of this Agreement, Subdivider shall comply with all laws, ordinances, regulations, and rules of all governmental agencies with jurisdiction, including, but not limited to, the provisions of the Government Code, the Public Contract Code, and the Labor Code of the State of California. With regard to the Labor Code, Subdivider agrees to comply with all applicable provisions, including, but not limited to, the wage and hour, prevailing wage, workers compensation and various other labor requirements in Division 2, Part 7, Chapter 1, including Sections 1720 to 1740, 1770 to 1780, 1810 to 1815, 1860, and 1861, which provisions are specifically incorporated by reference as though set forth herein in their entirety. Subdivider shall expressly require compliance with the provisions of this Section in all agreements with contractors and subcontractors for the performance of the Required Improvements hereunder.

11. Inspection by City. Subdivider shall, at all times, maintain proper facilities and provide safe access for inspection by City to all parts of the work subject to City's acceptance. Subdivider shall pay for all engineering, inspection, and survey services in accordance with San Mateo Municipal Code Section 26.60.010.

12. Reversion to Acreage. If the Subdivider fails to perform its obligations under this Agreement after having been given an opportunity to cure any such failure in accordance with section 18(A)(5) below, Subdivider consents to the reversion to acreage of the land which is the subject to this Agreement pursuant to Government Code section 66499.16 and to bear all applicable costs.

13. Superintendence by Subdivider. Subdivider shall supervise the work or have a competent foreman or superintendent on the work site at all times during the course of construction with the authority to act for Subdivider.

14. Bonds Required. Subdivider shall present to the City surety bonds of a form satisfactory to the City Attorney, issued by a company authorized to issue surety bonds in the State of California, as follows:

A. At the time of signing this Agreement, the following bonds shall be presented:

(1) Faithful Performance (100% of the cost of the Required Improvements) to secure faithful performance of this Agreement by the Subdivider.

(2) Labor and Materials (100% of the cost of Required Improvements) to secure payment by the Subdivider of laborers and material engaged pursuant to this Agreement, and further to secure payment as required by the Unemployment Insurance Act.

B. At the time of signing this Agreement, or before the City accepts the Required Improvements, the following bond shall be presented:

Maintenance (10% of cost of the Encroachment Permit estimate amount of \$5,095) to secure performance of Section 1 above. This bond shall remain in effect for one (1) year after the date of acceptance by the City Council of the Required Improvements.

15. Alternate Security. In lieu of the bonds required above, alternative security approved by the City Attorney may be substituted.

16. City May Require Additional Security. If either upon execution of this Agreement or during the course of performance the City considers that it is necessary to have the Subdivider post additional security, the City may require either an additional cash deposit, letter of credit or a surety bond guaranteeing performance. The condition of the security shall be that if the Subdivider fails to perform its obligation under this Agreement, the City may in the case of a cash bond or letter of credit act for it using the proceeds or in the case of a surety bond require the sureties to perform the obligations of the Agreement.

17. Default and Breach by Subdivider and Remedies of the City.

A. Upon the occurrence of any of the following events, the Subdivider shall be deemed to be in default under this Agreement:

(1) Failure to complete the Required Improvements within two years.

(2) Failure to correct or cure any defect in the Required Improvements during the one-year guarantee and warranty period.

(3) Insolvency, appointment of a receiver, or the filing of any petition in bankruptcy, whether voluntary or involuntary, if not cured or discharged within a period of thirty (30) days.

(4) Commencement of a foreclosure action against the subdivision or any portion thereof, or any conveyance by the Subdivider in lieu of or in avoidance of foreclosure.

(5) Failure to perform any obligations under this Agreement within thirty (30) days after receipt of written notice from the City of Subdivider's failure to perform, or if performance in 30 days is not possible, failure to commence performance and diligently pursue completion thereafter, in accordance with the terms and provisions of this Agreement.

B. City reserves to itself all remedies available to it at law or in equity for any breach of Subdivider's obligations under this Agreement.

C. City shall have the right, without limitation of other rights or remedies, to draw upon or utilize any improvement security furnished hereunder to mitigate City's damages in the event of Subdivider's default (after expiration of applicable notice and cure periods).

1. The City may serve written notice of any default upon the surety on any corporate surety bond furnished as improvement security hereunder, and request that the surety take over and complete the Required Improvements. If the surety, within seven (7) days after service of such notice of default, does not give the City written notice of its intention to perform this Agreement, or does not commence performance within five (5) days after notice to the City of its intention to perform, the City may take over the work and prosecute the same to completion, by contract or by other method the City deems advisable, for the account and at the expense of the Subdivider and its surety.

2. Subdivider acknowledges that the estimated total costs and Required Improvement security amounts set forth herein may not reflect the actual cost of construction or installation of the Required Improvements, and consequently, City's damages for Subdivider's default shall be measured by the cost of completing the Required Improvements. If the damages incurred by the City in taking over and completing any portion of the Required Improvements exceed the principal amount of the Required Improvement security, then the Subdivider shall reimburse the City in the amount of such excess damages.

D. City may, without liability for doing so, take possession of, and utilize in completing the Required Improvements, such materials, appliances, plant and other property belonging to Subdivider as may be on the site of the work and necessary for the performance of the work. Subdivider hereby consents to entry by the City and its forces, including contractors, upon any real property in the subdivision owned by the Subdivider or by any assignee of this Agreement, in the event the City elects to maintain or complete the work on any portion of the Required Improvements following Subdivider's default.

E. Subdivider acknowledges and agrees that, upon approval of the Map for the subdivision, City will confer substantial rights upon the Subdivider, including the right to sell, lease or finance lots within the subdivision, and that such approval constitutes the final act necessary to permit the division of land within the subdivision. As a result, City will be damaged to the extent of the cost of construction or installation of the Required Improvements upon Subdivider's failure to perform its obligations under this Agreement. Subdivider further acknowledges that any determination as to whether a reversion to acreage or rescission of approval of the subdivision constitutes an adequate or necessary remedy for Subdivider's default shall be within the sole discretion of the City.

F. The City's failure to take an enforcement action with respect to a default, or to declare a default or breach, shall not be construed as a waiver of that default or breach or any subsequent default or breach of the Subdivider.

G. If City sues to compel Subdivider's performance of this Agreement, or to recover damages or costs incurred in completing or maintaining the work on the Required Improvements, Subdivider agrees to pay all reasonable attorneys' fees and other costs and expenses of litigation incurred by the City in connection therewith, even if Subdivider subsequently resumes and completes the work.

18. Hold Harmless. Subdivider will indemnify, defend, and hold City, its elected and appointed officers, agents, and employees harmless from any and all liabilities, obligations, damages, costs, injuries, or claims arising from, or alleged to arise from, Subdivider's performance of, or nonperformance of, this Agreement.

The liabilities protected against are any liability or claim for damage of any kind allegedly suffered, incurred or threatened because of actions defined below, including personal injury, death, property damage, inverse condemnation, or any combination of these, and regardless of whether or not such liability, claim or damage was unforeseeable at any time before the City reviewed the improvement plans and specifications or accepted the Required Improvements as completed, and including the defense of any suit, action or other proceeding concerning these.

The actions causing liability are any act or omission (negligent or non-negligent) in connection with the matters covered by this Agreement and attributable to the Subdivider, its contractor, subcontractor, or any officer, agent or employee of one or more of them. The indemnification in this section is not conditioned or dependent on whether or not the City has prepared, supplied, or reviewed any plan(s) or specification(s) in connection with this work or subdivision, or has insurance or other indemnification covering any of these matters, or that the alleged damage resulted partly from any negligent or willful misconduct of the City.

19. Insurance Required. Subdivider shall procure and maintain for the duration of the contract the insurance set forth in Exhibit C of this Agreement.

20. No Waiver by City. Inspecting of the work or materials, or approval of work or materials, or a statement by an officer, agent or employee of the City indicating the work complies with this Agreement, or acceptance of all or any portion of the work or materials, or payments thereof, or any combination of all of these acts shall not relieve Subdivider of its obligation to fulfill this Agreement; nor is the City by these acts prohibited from bringing an action for damages arising from Subdivider's failure to comply with this Agreement.

21. Liability. Neither the City nor any of its officers, agents, or employees shall be liable to Subdivider, its contractor, subcontractors, officers, agents, or employees, for any error or omission, or any obligation whatsoever, arising out of or in connection with any work to be performed under this Agreement. The City, its elected or appointed officers, agents, and employees shall not be liable to the Subdivider or to any person, firm or corporation whatsoever, for any error or omission, or any obligation or liability whatsoever, arising out of or in connection with any work to be performed under this Agreement.

22. Use and Maintenance of Improvements. Subdivider agrees that the use of any and all of the Required Improvements, for any person and by any person, shall be at the sole and exclusive risk of the Subdivider at all times prior to final acceptance by City. Subdivider agrees to assume all maintenance responsibilities for the Required Improvements until final acceptance by City and, except for Required Improvements to be maintained by Subdivider pursuant to the Conditions of Approval or Required Improvements subject to the City's sidewalk maintenance ordinance, City agrees to assume maintenance responsibility for the Required Improvements after such final acceptance.

23. Title to Improvements. Title to and ownership of all Required Improvements shall vest in City for the Required Improvements.

24. Final Inspection, Certification and Acceptance. All of the Required Improvements must be completed prior to the final inspection. Notice in writing, requesting final inspection, shall be submitted to the City Engineer at least five days prior to the anticipated date of final inspection. Upon the Subdivider's satisfactory completion of the Required Improvements, the City Engineer shall certify that the Required Improvements have been satisfactorily completed, shall recommend acceptance of the Required Improvements by the City Council, and shall place the matter on the next available City Council agenda.

25. Time of Essence. Time is of the essence in this Agreement. The Required Improvements shall be completed within two years of the date of this Agreement. The City Engineer may extend the time for completion of Required Improvements hereunder, upon good cause being shown by the Subdivider. Any extension must be documented in an amendment to this Agreement. Any such extension may be granted without notice to the Subdivider's surety and any extension so granted shall not relieve surety's liability on the bonds.

26. Assignment of Contract. Neither this Agreement, nor any part of it, is assignable by Subdivider without the written consent of the City, not to be unreasonably withheld or delayed.

27. Subdivider Not Agent of City. Neither Subdivider nor its agents or contractors are agents of City in connection with the performance of Subdivider's obligations under this Agreement.

28. Notices. All notices required shall be in writing, and delivered in person or sent by registered mail, postage prepaid. A party or the surety may change the address by notice in writing to the other party and thereafter notices shall be addressed and transmitted to the new address.

A. Notices to the City shall be addressed as follows:

Azalea Mitch, Interim Director of Public Works
City of San Mateo
330 West 20th Avenue
San Mateo, CA 94403

B. Notices to the Subdivider shall be addressed as follows:

Pulte Home Company, LLC
4511 Willow Rd., Ste 8
Pleasanton, CA 94588
Attn: Aaron Head
Phone: 925-249-4320

C. Notices for the Subdivider's surety shall be sent to:

The Hartford
Bond, T-12
One Hartford Plaza

Hartford, CT 06155
Attn: Bond Administrator
Phone: 888-266-3488

29. Heirs, Successors and Assigns. This Agreement shall be binding upon and inure, to the benefit of the heirs, successors and assigns of the parties.

30. Entire Agreement. This Agreement constitutes the entire Agreement of the parties with respect to its subject matter. All modifications, amendments, or waivers of any terms of this Agreement shall be in writing and signed by the duly authorized representatives of the parties.

31. Agreement Attaches to the Land and Recordation. This Agreement pertains to and runs with the real property described in **Exhibit A**. This Agreement binds the successors in interest of each of the parties to it until all the Required Improvements have been completed and certified complete by the City of San Mateo. The City shall cause this Agreement to be recorded with the County Recorder and a copy will be provided to Subdivider.

32. Severability Clause. If any portion of this Agreement is adjudged invalid, its remaining provisions are not affected.

[SIGNATURES ON FOLLOWING PAGE]

NON-CITY SIGNATURES TO BE NOTARIZED

IN WITNESS WHEREOF, CITY and SUBDIVIDER have executed this Agreement the day and year first above written.

CITY OF SAN MATEO

SUBDIVIDER

Azalea Mitch

Aaron Head
Its Authorized Agent

Interim Director of Public Works

Division Vice President of Land Planning and
Development

Date

Date

ATTEST:

Patrice M. Olds, City Clerk

APPROVED AS TO FORM

Gabrielle Whelan, Assistant City Attorney

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 SAN MATEO

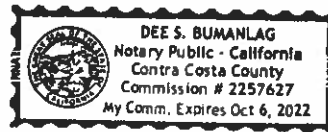
ALAMEDA (circled)

On DEC 11, 2020, before me, DEE S. BUMANLAG, the undersigned Notary Public, personally appeared AARON HEAD, 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.

Signed by: Dee S. Bumanlag
Notary Public, State of California



ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages _____
Document Date _____

(Additional information)

INSTRUCTIONS FOR COMPLETING THIS FORM

Any acknowledgment completed in California must contain verbiage exactly as appears above in the notary section or a separate acknowledgment form must be properly completed and attached to that document. The only exception is if a document is to be recorded outside of California. In such instances, any alternative acknowledgment verbiage as may be printed on such a document so long as the verbiage does not require the notary to do something that is illegal for a notary in California (i.e., certifying the authorized capacity of the signer). Please check the document carefully for proper notarial wording and attach this form if required.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e., he/she/they, is/are) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
- Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
- Indicate title or type of attached document, number of pages and date.
- Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e., CEO, CFO, Secretary).
- Securely attach this document to the signed document

CAPACITY CLAIMED BY THE SIGNER

Individual (a)

Corporate Officer

(Title)

Partner(a)

Attorney-in-Fact

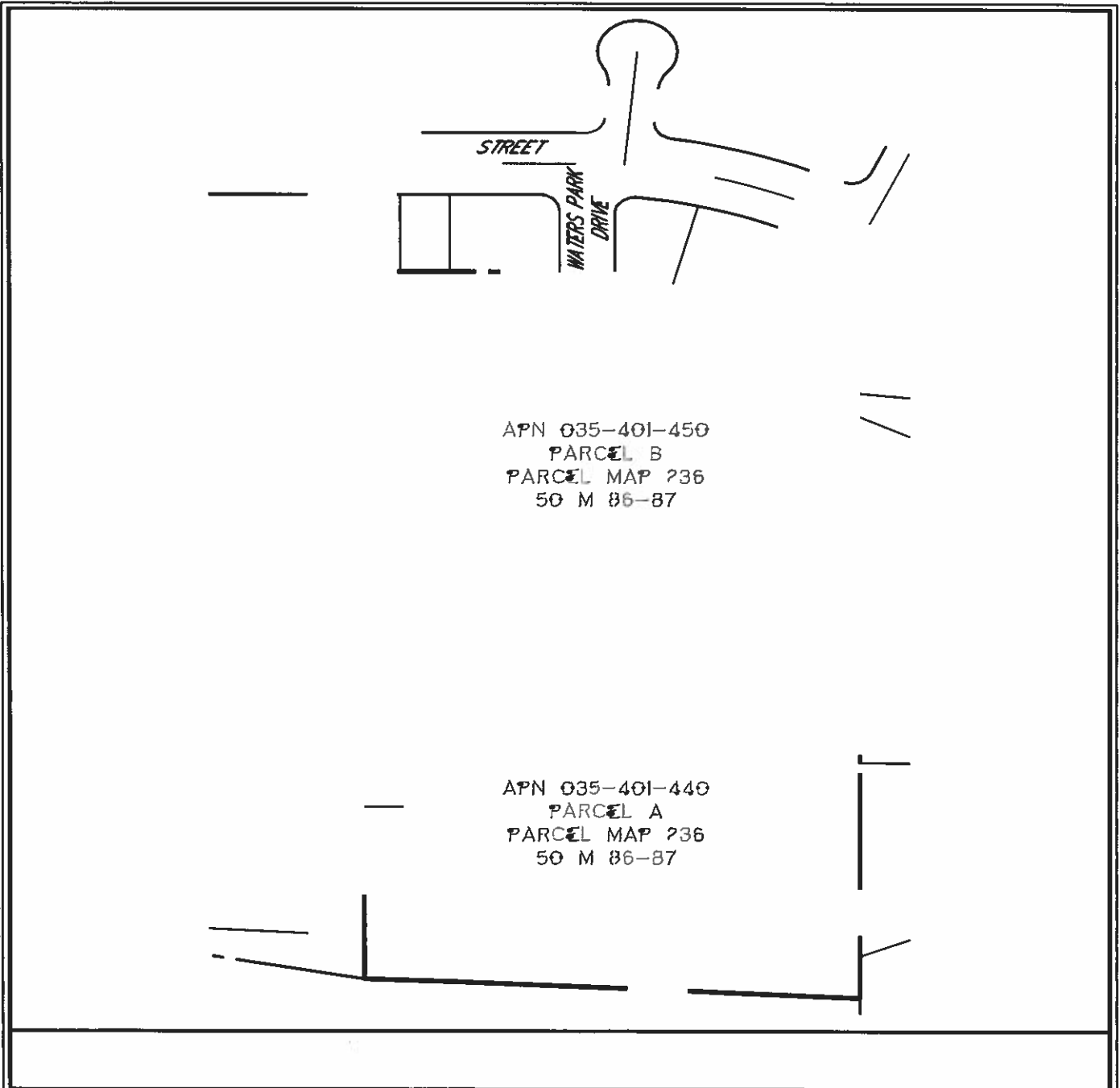
Trustee(s)

Other

Exhibit A

DESCRIPTION OF PROPERTY

Real property in the City of San Mateo, County of San Mateo, State of California, described as follows:



19-07 SIA EXHIBIT A - WATERS PARK DRIVE.dwg Aug 04, 2020



Civil Engineering Associates

Civil Engineers Planners Surveyors

2055 Place Suite 550
San Jose, CA 951
(408) 453-1066

BY: CH

DATE:

SCALE: 150'

JOB NO.

19-107

1 OF 1
SHT.NO.

Exhibit B
List of Required Improvements

The Improvement includes:

1. Street Marking - Install necessary street markings of a material and design approved by the City Engineer, and replace any that are damaged during construction. These include but are not limited to all pavement markings, painted curbs and handicap markings.
2. Paving the Waters Park development frontage entry way.
3. Sidewalk replacement along their frontage.
4. Improve the median island at the frontage of the project. The applicant shall submit a beautification plans with prepared and obtain Public Works Department approval.
 - a. Two streetlights in the median island.
 - b. Landscape improvement.

Exhibit C

Insurance Requirements

City of San Mateo Insurance Requirements

CITY OF SAN MATEO
DEPARTMENT OF PUBLIC WORKS
330 West 20th Avenue
San Mateo, CA 94403
(650) 522-7300
(650) 522-7301 fax

Subdivider shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the Subdivider, his agents, representatives, employees, or subcontractors. With respect to General Liability, Errors & Omissions, Contractors Pollution Liability, and/or Asbestos Pollution Liability, coverage should be maintained for a minimum of five (5) years after contract completion.

MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than **\$2,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.
2. **Automobile Liability:** Insurance Services Office Form Number CA 0001 covering any auto (Code 1), or if Contractor has no owned autos, hired (Code 8) and non-owned (Code 9) autos, with limit no less than **\$1,000,000** per accident for bodily injury and property damage.
3. **Workers' Compensation** insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.
4. **Contractors Pollution Liability and/or Asbestos Pollution Liability and/or Errors & Omissions** applicable to the work being performed, with a limit no less than \$2,000,000 per claim or occurrence and \$2,000,000 aggregate per policy period of one year.
5. If the Subdivider maintains broader coverage and/or higher limits than the minimums shown above, the City requires and shall be entitled to the broader coverage and/or higher limits maintained by the Subdivider. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

Self Insured Retentions

Self-insured retentions must be declared to and approved by the City. At the option of the City, the Subdivider shall provide coverage to reduce or eliminate such self-insured retentions as respects the City, its

officers, officials, employees, and volunteers; or the Subdivider shall provide evidence satisfactory to the City guaranteeing payment of losses and related investigations, claim administration, and defense expenses. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or Entity.

Other Insurance Provisions

- A. The General Liability, Automobile Liability, Contractors Pollution Liability, and/or Asbestos Pollution policies are to contain, or be endorsed to contain, the following provisions:
1. **The City, its officers, officials, employees, and volunteers are to be covered as additional insureds** with respect to liability arising out of work or operations performed by or on behalf of the Subdivider including materials, parts or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Subdivider's insurance (at least as broad as ISO Form CG 20 10, CG 11 85 or **both** CG 20 10, CG 20 26, CG 20 33, or CG 20 38; and CG 20 37 forms if later revisions used).
 2. For any claims related to this project, **the Subdivider's insurance coverage shall be primary insurance** coverage at least as broad as ISO CG 20 01 04 13 as respects the City, its officers, officials, employees, agents, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, agents, or volunteers shall be excess of the Subdivider's insurance and shall not contribute with it.
 3. Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the Entity.
- B. The Automobile Liability policy shall be endorsed to include Transportation Pollution Liability insurance, covering materials to be transported by Subdivider pursuant to the contract. This coverage may also be provided on the Contractors Pollution Liability policy.
- C. If General Liability, Contractors Pollution Liability and/or Asbestos Pollution Liability and/or Errors & Omissions coverages are written on a claims-made form:
1. The retroactive date must be shown, and must be before the date of the contract or the beginning of contract work.
 2. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.
 3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the contract effective date, the Subdivider must purchase an extended period coverage for a minimum of five (5) years after completion of contract work.
 4. A copy of the claims reporting requirements must be submitted to the City for review.
 5. If the services involve lead-based paint or asbestos identification / remediation, the Contractors Pollution Liability shall not contain lead-based paint or asbestos exclusions. If the services involve mold identification / remediation, the Contractors Pollution Liability shall not contain a mold exclusion and the definition of "Pollution" shall include microbial matter including mold.

Acceptability of Insurers

Insurance is to be placed with insurers authorized to conduct business in the state with a current A.M. Best rating of no less than A:VII if admitted in the State of California.

Verification of Coverage

Subdivider shall furnish the Entity with original Certificates of Insurance including all required amendatory endorsements (or copies of the applicable policy language effecting coverage required by this clause) and a copy of the Declarations and Endorsement Page of the CGL policy listing all policy endorsements to

City before work begins. However, failure to obtain the required documents prior to the work beginning shall not waive the Subdivider's obligation to provide them. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

Waiver of Subrogation

Subdivider hereby grants to City a waiver of subrogation which any insurer may acquire against City, its officers, officials, employees, and volunteers, from Subdivider by virtue of the payment of any loss. Subdivider agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer.

The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the Subdivider, its employees, agents, and subcontractors.

Subcontractors

Subdivider shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Subdivider shall ensure that City is an additional insured on insurance required from subcontractors. For CGL coverage subcontractors shall provide coverage with a format least as broad as CG 20 38 04 13.

Special Risks or Circumstances

Entity reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.