



REGULAR MEETING AGENDA

Date: 6/7/2023
Time: 6:30 p.m.
Location: [Zoom.us/join](https://zoom.us/join) – ID# 895 2840 6631 and
Arrillaga Recreation Center, Oak Room
700 Alma St, Menlo Park, CA 94025

Members of the public can listen to the meeting and participate using the following methods.

How to participate in the meeting

- Access the meeting, in-person, at the Downtown Conference Room
- Access the meeting real-time online at:
[Zoom.us/join](https://zoom.us/join) –Meeting ID# 895 2840 6631
- Access the meeting real-time via telephone at:
(669) 900-6833
Meeting ID# 895 2840 6631
Press *9 to raise hand to speak

Subject to change: The format of this meeting may be altered or the meeting may be canceled. You may check on the status of the meeting by visiting the city website menlopark.gov. The instructions for logging on to the webinar and/or the access code is subject to change. If you have difficulty accessing the webinar, please check the latest online edition of the posted agenda for updated information (menlopark.gov/agendas).

Regular Session

A. Call To Order

B. Roll Call

C. Public Comment

Under “Public Comment,” the public may address the Commission on any subject not listed on the agenda. Each speaker may address the Commission once under public comment for a limit of three minutes. You are not required to provide your name or City of residence, but it is helpful. The Commission cannot act on items not listed on the agenda and, therefore, the Commission cannot respond to non-agenda issues brought up under public comment other than to provide general information.

D. Regular Business

- D1. Approve minutes for the Housing Commission meetings on April 3, 2023 and May 3, 2023
([Attachment](#))

- D2. Recommend a Below Market Rate Housing In-Lieu Fee for the proposed research and development project located at 1125 O'Brien Drive ([Staff Report #23-003-HC](#))
- D3. Recommend draft Form Below Market Rate Housing Agreements and Below Market Rate Housing Agreement Term Sheet with The Sobrato Organization for the proposed housing development project located at 123 Independence Drive Project ([Staff Report #23-004-HC](#))
- D4. Presentation by Habitat of Greater San Francisco on its notice of funding availability (NOFA) application.

E. Reports and Announcements

- E1. Commissioner updates
- E2. Future agenda items
- E3. Staff updates and announcements

F. Adjournment

At every Regular Meeting of the Commission, in addition to the Public Comment period where the public shall have the right to address the Commission on any matters of public interest not listed on the agenda, members of the public have the right to directly address the Commission on any item listed on the agenda at a time designated by the Chair, either before or during the Commission's consideration of the item.

At every Special Meeting of the Commission, members of the public have the right to directly address the Commission on any item listed on the agenda at a time designated by the Chair, either before or during consideration of the item.

For appeal hearings, appellant and applicant shall each have 10 minutes for presentations.

If you challenge any of the items listed on this agenda in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City of Menlo Park at, or prior to, the public hearing.

Any writing that is distributed to a majority of the Commission by any person in connection with an agenda item is a public record (subject to any exemption under the Public Records Act) and is available by request by emailing the city clerk at jaherren@menlopark.gov. Persons with disabilities, who require auxiliary aids or services in attending or participating in Commission meetings, may call the City Clerk's Office at 650-330-6620.

Agendas are posted in accordance with Cal. Gov. Code §54954.2(a) or §54956. Members of the public can view electronic agendas and staff reports by accessing the city website at menlopark.gov/agendas and can receive notification of agenda postings by subscribing at menlopark.gov/subscribe. Agendas and staff reports may also be obtained by contacting the City Clerk at 650-330-6620. (Posted: 6/2/2023)

Housing Commission



SPECIAL MEETING MINUTES – DRAFT

Date: 4/3/2023
Time: 6:30 p.m.
Location: Teleconference and
 City Hall Downtown Conference Room, 1st Floor
 701 Laurel St., Menlo Park, CA 94025

A. Call To Order

Chair Bigelow called the meeting to order at 6:33 p.m.

B. Roll Call

Present: Bigelow, Campos, Leitch, Merriman (remote – AB 2449 Just Cause), Walker
Absent: Nguyen, Pimentel
Staff: Management Analyst Adam Patterson, Assistant Community Development Director Deanna Chow

C. Regular Business

C1. Approve minutes for the Housing Commission regular meeting on February 1, 2023

ACTION: Motion and second (Walker/ Campos), to approve minutes of the Housing Commission regular meeting on February 1, 2023, passed 5-0 (Nguyen and Pimentel absent).

C2. Review and recommendation of two revised below market rate housing agreements for previously approved projects located at 506-558 Santa Cruz Avenue/1125 Merrill Street and 1162-1170 El Camino Real (Staff Report #23-002-HC)

Assistant Community Development Director Deanna Chow introduced the item.

Developer Chase Rapp spoke on the extension request and timing.

The Commission requested clarification on the need for the extension and discussed the request.

ACTION: Motion and second (Leitch/ Walker), to review and make a recommendation on two revised below market rate housing agreements for previously approved projects located at 506-558 Santa Cruz Ave./1125 Merrill St. and 1162-1170 El Camino Real, passed 5-0 (Nguyen and Pimentel absent).

C3. Establish ad hoc subcommittee for community outreach

The Commission discussed the creation of an ad hoc subcommittee for community outreach.

Commissioners Walker and Campos were selected to serve on the Community Outreach Ad Hoc Subcommittee.

Marleen Santoyo spoke in support of community outreach efforts and provided information on an

upcoming tenant educational workshop at the Belle Haven Library on April 18 and 19.

D. Reports and Announcements

D1. Commissioner updates

Chair Bigelow announced the end of her term.

D2. Future agenda items

The Commission discussed the following potential future agenda items:

- Subcommittee updates on community outreach
- Notice of funding availability (NOFA) updates
- Appointments of chair and vice chair

D3. Staff updates and announcements

Staff reported on the below market rate (BMR) administrative services request for proposal (RFP), BMR ownership workshop scheduled for April 27 in conjunction with HouseKeys, housing staff recruitment updates, and the upcoming Housing Commission review of the development agreement for 123 Independence Dr.

E. Adjournment

Chair Bigelow adjourned the meeting at 7:26 p.m.

Adam Patterson, Management Analyst II



REGULAR MEETING MINUTES – DRAFT

Date: 5/3/2023
Time: 6:30 p.m.
Location: Teleconference and
City Hall Downtown Conference Room, 1st Floor
701 Laurel St., Menlo Park, CA 94025

Regular Session

A. Call To Order

Vice Chair Nguyen called the meeting to order at 6:33 p.m.

B. Roll Call

Present: Leitch, Merriman, Nguyen (remote – AB 2449 Just Cause),
Pimentel (arrived at 6:48 p.m.), Portillo, Walker
Absent: Campos
Staff: Interim Housing Manager Eren Romero, Management Analyst Adam Patterson,
Assistant Community Development Director Deanna Chow

C. Public Comment

- Dawn spoke in support of interviewing commissioners for a journalism class.

D. Regular Business

D1. Selection of the chair and vice chair

The Commission discussed the roles of chair and vice chair.

ACTION: Motion and second (Leitch/ Merriman), to select Commissioner Nguyen as chair of the Housing Commission, passed 6-0 (Campos absent).

ACTION: Motion and second (Pimentel/ Leitch), to select Commissioner Walker as vice chair of the Housing Commission, passed 6-0 (Campos absent).

D2. Presentations by notice of funding availability applicants

Commissioner Merriman was recused from item D2. and exited the meeting.

Interim Housing Manager Eren Romero introduced the item.

HIP Housing made a presentation (Attachment).

The Commission received clarification on HIP Housing's project timeline and financing plans.

MidPen Housing made a presentation (Attachment).

The Commission received clarification on below market rate (BMR) in-lieu fees calculations.

Rebuilding Together Peninsula made a presentation (Attachment).

- Dawn requested clarification on the notice of funding availability process and the average unit size for HIP Housing’s proposal.

The Commission received clarification on in-lieu fees.

The Commission received clarification on the total available funds and discussed the presentations and funding process.

E. Reports and Announcements

E1. Commissioner updates

- Karen Grove spoke on an upcoming community event.

Commissioner Merriman spoke on events in May for Affordable Housing Month.

Commissioner Walker spoke on a tenant’s rights workshop that she attended.

E2. Future agenda items

None.

E3. Staff updates and announcements

Staff reported on the Housing Element Update comments from the California Department of Housing and Community Development (HCD).

F. Adjournment

Vice Chair Nguyen adjourned the meeting at 8:15 p.m.

Adam Patterson, Management Analyst II



STAFF REPORT

Housing Commission

Meeting Date:

6/7/2023

Staff Report Number:

23-003-HC

Regular Business:

Recommendation of a below market rate housing in-lieu fee for proposed research and development/life sciences development project at 1125 O'Brien Drive

Recommendation

Staff recommends that the Housing Commission recommend approval to the Planning Commission for payment of the below market rate (BMR) in-lieu fee for the proposed new five-story research and development (R&D) building, consisting of up to approximately 131,825 square feet located at 1105-1165 O'Brien Drive and 1 Casey Court. The project is commonly referred to as the 1125 O'Brien Drive project.

Policy Issues

Each BMR Housing proposal is considered individually. The Housing Commission should consider whether the proposal would comply with the BMR Housing Program Guidelines requirements and the BMR Housing Ordinance.

Background

Site location

The approximately 4-acre site is located on the north side of O'Brien Drive between Kelly Court and Casey Court and consists of four legal parcels currently developed with three light industrial buildings. The four legal parcels together make up the project site, which is located in the LS (Life Sciences) zoning district. For the purposes of this report, O'Brien Drive is considered to have an east-west orientation, and all compass directions referenced use this orientation, even though a short segment of O'Brien Drive near the intersections of Kavanaugh Drive and Casey Court runs north-south for approximately 500 feet. Immediately to the north and west of the project site are LS-B zoned properties that are currently developed with a mix of R&D, warehouse, and industrial uses. A private school at 1215 O'Brien Drive is also located east of the project site, adjacent to a portion of the Hetch Hetchy right-of-way, which is located to the north of the project site. The approved Willow Village mixed-use master plan project is located north of the Hetch Hetchy right-of-way and the Mid-Peninsula High School play field is located approximately 400 feet west of the project site. Properties to the south and east are zoned LS with a mix of R&D, manufacturing, office, and other uses. A location map is included as Attachment A.

Analysis

Project description

The applicant, Tarlton Properties, Inc., is proposing to demolish the existing buildings and surface parking and construct a new five-story research and development (R&D) building, up to approximately 131,825 square feet in size. The proposal includes an approximately 2,659 square foot café adjacent to the ground

floor lobby. The proposed life sciences and R&D use is permitted in the Life Sciences (LS) zoning district and is consistent with the project site land use designation from the general plan. The applicant is proposing to develop the project site utilizing bonus level provisions of the Zoning Ordinance.

The proposal includes a request for a use permit, architectural control, lot merger, heritage tree removals, and environmental review. The project plans are included in Attachment B. The Planning Commission will take the final action on all requested entitlements for the proposed project.

BMR housing program requirement

The applicant is required to comply with Chapter 16.96 of City of Menlo Park Municipal Code (“BMR Ordinance”), and with the BMR Housing Program Guidelines adopted by the City Council to implement the BMR Ordinance (“BMR” Guidelines”), since the project includes more than 10,000 square feet of new non-residential development. At this time, the Housing Commission should review the commercial in-lieu fee proposal and provide a recommendation to the Planning Commission. The Planning Commission would subsequently review the commercial in-lieu fee proposal.

The applicant’s BMR proposal is included as Attachment C. The BMR Guidelines strongly recommend that qualifying commercial developments provide on-site BMR units. However, residential use of the property is not permitted in the LS-B zoning district and consequently would not be consistent with the Life Sciences General Plan Land Use Designation. The subject site is located within an area where other life science uses currently exist. The property owner does not own any other sites zoned for residential uses within the City. Based on the project zoning and land use, staff has found that development of BMR units on-site in accordance with the requirements of the BMR Ordinance and Guidelines is not feasible.

The applicant would be required to pay the applicable in-lieu fee prior to issuance of the building permit for this project. The in-lieu fee would be calculated as set forth in Table 1 below. The applicable fee for the project would be based on the per square foot fee in effect at the time of payment and the proposed square footages within Group A and Group B at the time of payment. The new building is proposed to be 131,825 square feet according to the current project plans. If the final design changes the proposed gross floor area, then the in-lieu fees would be adjusted accordingly. The BMR unit equivalency calculation is approximately 4 BMR units.

Table 1: BMR requirement and applicant proposal			
	Fee per square foot	Project component	Component fees
Proposed Building – office or R&D (Group A)	\$21.12	129,166 sq.ft.	\$2,727,985.92
Proposed building – non-office (Group B)	\$11.46	2,659 sq.ft.	\$30,472.14
Existing buildings – office or R&D (Group A)	\$21.12	26,911 sq.ft.	(\$568,360.32)
Existing buildings – non-office or R&D (Group B)	\$11.46	32,955 sq.ft.	(\$377,664.30)
Estimated BMR In-Lieu Fee			\$1,812,433.44

Correspondence

At the time of preparation of this staff report, staff has not received any correspondence regarding the draft BMR Housing fee proposal.

Conclusion

Given that residential uses are not permitted under the current zoning regulations for the project site, and that the applicant does not own another property within the City where off-site BMR units could be provided, staff recommends that the Housing Commission recommend approval of the payment of the applicable in-lieu fees for the proposed project.

Impact on City Resources

The project sponsor is required to pay Planning, Building, and Public Works permit fees, based on the City's Master Fee Schedule, to fully cover the cost of staff time spent on the review of the project.

Environmental Review

The proposed project is being evaluated with respect to the compliance with the California Environmental Quality Act (CEQA) as part of the Planning Commission action on the project. An environmental impact report (EIR) was prepared and circulated for the proposed project. A final EIR will be prepared and published in advance of the Planning Commission review and action on the proposed project. A recommendation on the BMR in-lieu fee payment is not an action under CEQA, so environmental review is not required by the Housing Commission.

Public Notice

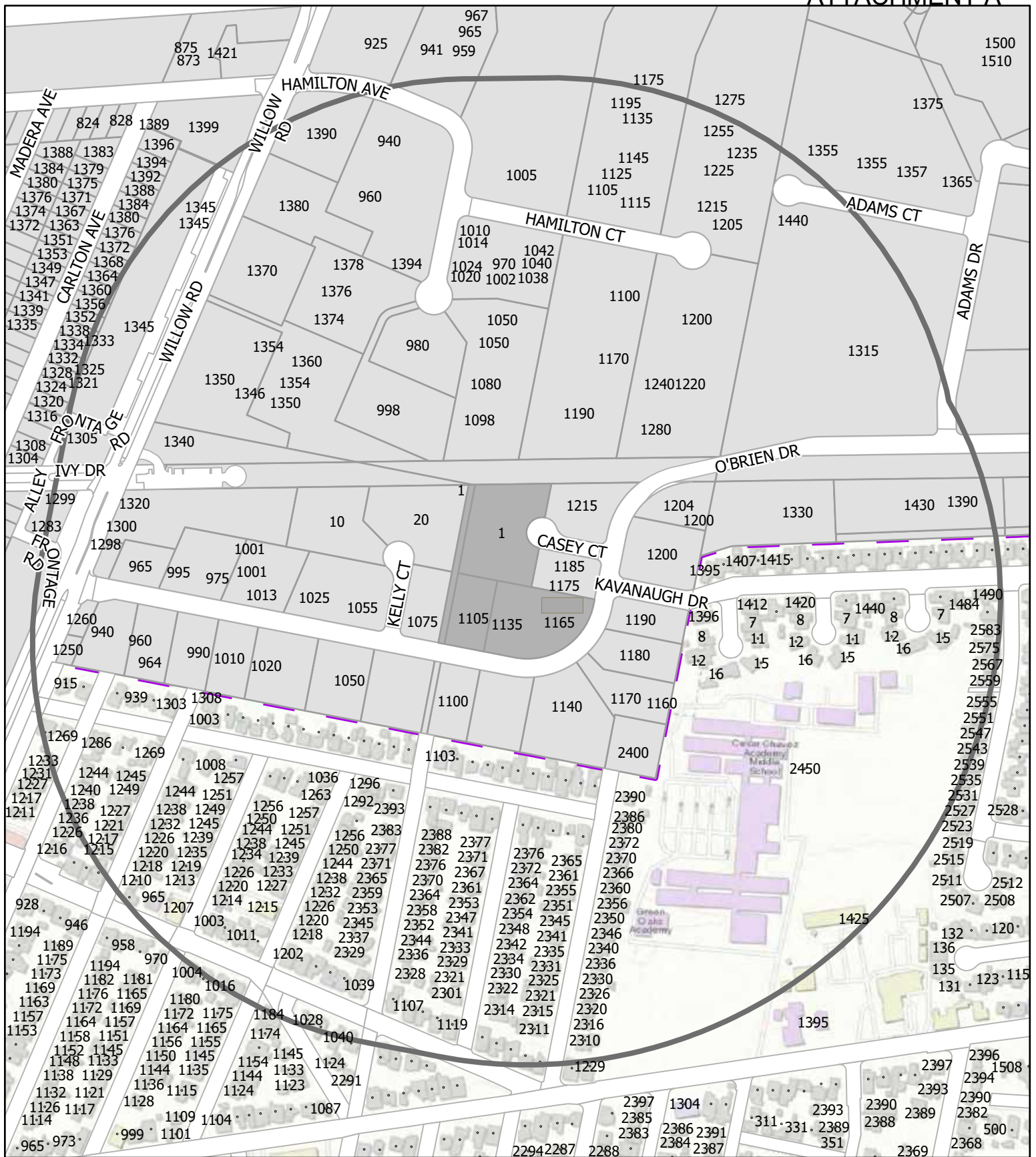
Public notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting.

Attachments

- A. Location Map
- B. Hyperlink: Project plans: <https://menlopark.gov/files/sharedassets/public/community-development/documents/projects/under-review/1105-1165-obrien-drive/1125-obrien-drive-february-2023-project-plans.pdf>
- C. Applicant's BMR proposal

Report prepared by:
Payal Bhagat, Contract Planner

Report reviewed by:
Eren Romero, Interim Housing Manager
Kyle Perata, Planning Manager

CITY OF
MENLO PARK

CITY OF MENLO PARK

LOCATION MAP

1105-1125 O'BRIEN DRIVE

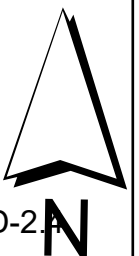
Scale: 1:5,000

Drawn By: DWH

Checked By: CDS

Date: 4/10/2023

Page D-2





May 16, 2023

Payal Bhagat
Planner
Community Development Department, Planning Division
City of Menlo Park
701 Laurel Street
Menlo Park, CA 94025

Below Market Rate Housing Proposal for 1125 O'Brien Drive

Dear Ms. Bhagat:

O'Brien Drive Portfolio, LLC ("Applicant") has proposed redevelopment of four lots, currently addressed as 1105, 1135, 1165 O'Brien Drive, and 1 Casey Court (APNs 055-433-320, 055-433-330, 055-433-350, and 055-433-180) (the "Property") as a bonus project pursuant to Municipal Code section 16.44.060. The lots are currently occupied by four buildings with approximately 59,866 gsf of mixed office, research and development, and warehouse uses. The proposed project would include a single new 131,825 gsf building with 125,021 gsf of research and development space, as well as a 2,659 gsf grab and go café (the "Project").

The project will require a use permit per Chapter 16.82 and must comply with Chapter 16.96 of the City's Municipal Code ("BMR Ordinance"). The Property is located within the LS (Life Science) zoning district and the Life Sciences land use designation in the City of Menlo Park. The Property's General Plan land use and zoning designations do not permit residential uses. The Applicant does not own any other sites within the City that are zoned for residential uses. Therefore, consistent with the BMR Ordinance and Guidelines, the Applicant proposes to satisfy the BMR housing requirement for the Project by payment of an in-lieu fee.

We sincerely hope that you share in our enthusiasm for this Project, and we look forward to discussing this further with City Staff.

Sincerely,

A blue ink signature of Ron Krietemeyer, consisting of a stylized 'R' followed by a horizontal line.

Ron Krietemeyer
Chief Operating Officer
Tarlton Properties, Inc.

Community Development



STAFF REPORT

Housing Commission**Meeting Date:****6/7/2023****Staff Report Number:****23-004-HC****Regular Business:**

Recommendation of draft form Below Market Rate Housing Agreements and Draft Below Market Rate Housing Term Sheet with The Sobrato Organization for the proposed housing development located at 123 Independence Drive

Recommendation

Staff recommends that the Housing Commission review and provide a recommendation to Planning Commission and City Council on the draft form below market rate (BMR) housing agreements (which may later be revised in form but shall substantially conform to the form attached hereto) and the draft BMR Housing Term Sheet ("Term Sheet") to the Planning Commission and City Council for 56 on-site BMR rental units (including 8 additional rental units as the applicant's community amenity for bonus level development) (Attachment A), and 18 on-site BMR ownership units (Attachment B) as part of the proposed 123 Independence Drive Project (project). An alternate draft BMR agreement for the ownership units is also included in the Attachment C. The draft Term Sheet is included in Attachment D.

Policy Issues

Each BMR Housing Agreement and Term Sheet are considered individually. The Housing Commission should consider whether the proposal would be in compliance with the intent of the BMR Housing Program (Menlo Park Municipal Code Chapter 16.96, referred to as the BMR Ordinance) and the BMR Housing Program Guidelines (BMR Guidelines) that implement the BMR Ordinance. The Housing Commission will need to consider the applicant's requested waivers, concessions, and modifications to the BMR Guidelines. The applicant requests waivers, concessions, and modifications to specific provisions of the BMR Guidelines (e.g. definition of first time home buyer, education requirements, terms for resale of the units, location requirements, proportionality requirement, timing for delivery of the for-sale BMR units, and rights of first refusal) for the 18 on-site BMR ownership units to facilitate a partnership with Habitat for Humanity Greater San Francisco (HGSF) that will enable the project to provide deeper affordability than the BMR Ordinance requires. Lastly, the Housing Commission will need to consider an alternate draft form BMR agreement to provide 15 percent for-sale affordable units that are equally distributed throughout the site in the event HGSF is unable to move forward with its project (Attachment C).

Background***Site location***

The project site consists of five parcels totaling approximately 8 acres, which are currently developed with five office/industrial buildings totaling approximately 103,000 square feet in size. The existing buildings would be demolished.

For purposes of this report, Bayfront Expressway (California State Route 84) is considered to have an east-west orientation, and all compass directions referenced will use this orientation. The proposed project site is

located south of Bayfront Expressway, east of Marsh Road, and north of the Bayshore Freeway (US-101). The parcels to the north and south are located in the commercial business park (M-3-X) zoning district and are part of the Menlo Gateway development. The parcels to the west are also in the R-MU-B (Residential Mixed Use-Bonus) zoning district and are being redeveloped with residential and office uses as part of the approved Menlo Portal project. The parcels to the east and across Chrysler Drive are in the R-MU-B zoning district and Office (O-B) zoning district and currently contain office and industrial buildings. A location map is provided as Attachment E.

Housing Crisis Act of 2019 State Bill (SB) 330 application and previous proposal

On January 29, 2020, under SB 330, the applicant submitted a mixed-use version of the proposed project which included the development of the project site with 316 rental apartment units, 67 for-sale townhomes, and approximately 88,750 square feet of office space. The Planning Commission first reviewed the application on January 25, 2021. On June 30, 2021, the applicant revised the application to remove the office building and develop a predominately residential project with 316 rental apartment units and 116 for-sale townhome units.

SB 330 was designed to remove barriers to the development of housing projects. Some key features of SB 330 include shortening the timeframe for housing development project review under the Permit Streamlining Act and limiting the review of a housing development project that complies with all applicable objective general plan and zoning standards to no more than five hearings. Bonus level projects of this nature would typically include the following public hearings to adhere to the five-meeting limit and any increase in the number of hearings would require a waiver by the applicant:

1. Planning Commission Environmental Impact Report (EIR) scoping meeting and study session
2. Planning Commission draft EIR public hearing and study session
3. Housing Commission public hearing (BMR proposal)
4. Planning Commission public hearing for certification of the EIR, approval of land use entitlements, to provide recommendations to the City Council regarding a subdivision map and BMR Guidelines modifications
5. City Council public hearing for final action regarding the subdivision map and BMR Guidelines modifications and appeals (if any)

Since the above project scope was changed after its initial submittal, the City conducted two EIR scoping meetings with the Planning Commission (one for each version of the project). The applicant provided staff with a waiver allowing staff to conduct one additional public hearing for this project.

In addition to the above-mentioned requirements, cities are prohibited from adding new fees or raising existing fees beyond automatic annual escalation. Furthermore, cities are prevented from requiring housing development projects to comply with an ordinance, policy, or standard, including subjective or objective development standards, not in effect when the complete preliminary application was submitted. While the City can apply subjective standards to a proposed housing development project, SB 330 contains provisions that limit the ability of a city to condition a project in a manner that would reduce the density of the proposed project. If a housing development project complies with all applicable objective general plan, zoning ordinance, and subdivision standards and criteria (including design review standards) in effect at the time the application is deemed complete, the City may not deny or impose a condition that the project be developed at a lower density, unless the City makes written findings supported by a preponderance of evidence that there is a specific adverse impact on public health or safety that cannot be satisfactorily mitigated.

Analysis

Project description

The applicant is proposing to comprehensively redevelop the site with a four-story 316-unit multi-family rental apartment building with approximately 2,000 square feet of ancillary commercial use on the first floor and 116 for-sale condominium units in three-story townhomes, as well as associated open space, circulation, parking, and infrastructure improvements. The total bonus level development on the site inclusive of all major project components would have a density of 53 dwelling units per acre (du/acre) where 100 du/acre is the maximum permitted residential density for bonus level development and 30 du/acre if the maximum permitted base level development in the R-MU-B zoning district. The total project would have a residential floor area ratio (FAR) of approximately 134 percent, where 225 percent is the maximum permitted for bonus level residential development and 90 percent is the maximum permitted for base level residential development in the R-MU-B zoning district.

The proposed four-story apartment building would consist of 316 multi-family residential rental units located over structured parking. Residential units are proposed to line the north, west, and south sides of the building and would have access from Constitution Drive and a publicly accessible paseo located along the western property line via residential stoops and entries. While predominately residential, the proposed project includes a small ancillary commercial space on the ground floor adjacent to the paseo and public open space (within the interior of the project site). Staff is evaluating the location and programming for the proposed commercial space. Staff continues to work with the applicant to ensure the location and design of the space will result in a successful commercial space while limiting possible impacts to the design and number of rental housing units in the multi-family building.

The publicly accessible paseo would connect Constitution Drive and Independence Drive and would run along the western property line along the length of the proposed apartment building widening into a publicly accessible private park before meeting Independence Drive. The paseo bifurcates the southern portion of the site where the proposed 116 for-sale townhome units would be located in 22 separate buildings.

Eight three-story townhome buildings would front on Independence Drive and Chrysler Drive, two buildings and a portion of the third building would have frontages on the park, and the remaining buildings would have frontages on interior meandering landscaped areas and pathways. The townhome units fronting Independence Drive and Chrysler Drive would be accessed directly from the street by pedestrians, with vehicular access provided from interior driveways. The applicant's BMR proposal letter and selected sheets from the project plans are included as Attachments F, G, and H, respectively.

The project proposal, including the community amenities proposal discussed later in this report, may be subject to additional review and refinement prior to the Planning Commission and City Council actions on the overall project. Since the BMR proposal includes modification requests, the Planning Commission would forward its recommendation on the BMR Housing Agreements to the City Council, as discussed in detail later in this report. The Housing Commission should note that the project proposal is still under compliance review by staff, and that aspects of the design are subject to change before final project actions.

BMR Housing Program and related requirements

The applicant is required to comply with the BMR Ordinance and with the BMR Guidelines adopted by the City Council to implement the BMR Ordinance since the proposed project includes more than four residential units. Projects in the R-MU-B zoning district are required to design and construct inclusionary affordable housing on-site as part of the project. The City's BMR Ordinance requires 15 percent of the total number of proposed units to be provided at below market rate to very-low, low-, and moderate-income households in compliance with the BMR Guidelines. The City's BMR Guidelines allow the City Council to

approve alternative means of compliance based on findings that the alternative is commensurate with the applicable requirements.

The proposed project reduces the commercial square footage on the site by approximately 101,000 square feet, resulting in no commercial linkage obligation for the small commercial space. The BMR Guidelines assess the project's BMR requirement on the entire project and not by housing product type (for-sale or rental). The proposed project is required to provide 15 percent of the total number of proposed units as BMR units, which for a project of 432 units equates to 64.8 or 65 units (the BMR Guidelines allow residential development projects yielding a fractional unit to either provide a whole unit or make a pro rata residential in-lieu payment). In addition, the BMR units must be evenly distributed throughout the project and the unit size/bedroom count must be based on similar percentages of the unit size/bedroom counts within the proposed project.

The project is proposing to provide 66 BMR units, which allows for a minimum 15 percent of both the rental apartment and for-sale townhomes units to be BMR units by rounding up the partial units in each housing type. This breakdown would mean that out of the 66 total inclusionary units proposed, 48 ($316 \times 15\% = 47.4$ units) units would be rental apartment units and the remaining 18 units ($116 \times 15\% = 17.4$ units) would for-sale townhomes. The applicant is proposing that all BMR units be affordable to low income households. The City's BMR Guidelines require rental units to be affordable to low-income equivalent households and for-sale units to be affordable to very low-, low-, or moderate- income households. The low income for-sale units would result in deeper affordability than required by the BMR Guidelines, as all of the for-sale units could be designated for moderate income households.

The applicant is proposing to provide eight additional inclusionary units to fulfill their community amenities obligation. These additional BMR units are proposed to be rental units; therefore, the project would provide a total of 56 BMR rental units. These additional rental BMR units would also be affordable to low-income households. Therefore, the total number of inclusionary units proposed as part of the project is 74 low-income units which equals to 17 percent of the proposed project.

Tables 1 and 2 provide the total breakdown of the unit type and size of the inclusionary units for both rental and for-sale components of the project including showing the proportional sizes of units by type.

Table 1: Inclusionary unit breakdown for rental units					
Unit type	Average size	Market-rate count by unit type	BMR count by unit type	Total unit count by type	Proposed Income Level for BMR Units
Studio	539	72	16	88	LI**
One-bedroom	725	152	33	185	LI
Two-bedroom	1,006	36	7	43	LI
Average Sq.ft./Total Apartment Count	711	260	56*	316	-

* Includes additional inclusionary units to fulfill the community amenities requirements of the project

**LI – Affordable to Low-Income households

Table 2: Inclusionary unit breakdown for for-sale units					
Unit type	Average size	Market-rate count by unit type	BMR count by unit type	Total unit count by type	Proposed Income Level for BMR Units
Three-bedroom townhome (TH 1)	1,749	34	-	34	-
Two-bedroom townhome (TH 2)	1,199	34	-	34	-
Three-bedroom townhome (TH 3)	2,052	10	-	10	-
Three-bedroom townhome (TH 3.1)	2,052	20	-	20	-
Three-bedroom townhome (TH 4)	1,480	-	6	6	LI
Four-bedroom townhome (TH 4.1)	1,514	-	3	3	LI
Four-bedroom townhome (TH 4.2)	1,416	-	3	3	LI
Two-bedroom townhome (TH 4.3)	958	-	3	3	LI
Four-bedroom townhome (TH 5)***	1,581	-	3	3	LI
Average Sq.ft./Total Townhome Count	1,613	98	18	116	

***Includes three four-bedroom units that are mobility compliant.

As demonstrated from the above tables, the inclusionary rental units would be proportionate to the market rate units; however, the for-sale two-bedroom inclusionary units are sized approximately 20 percent smaller when compared to the average two-bedroom for-sale market rate units and the three-bedroom inclusionary units are sized approximately 24 percent smaller on average than the average three-bedroom for-sale unit. The project does not offer four-bedroom for-sale market rate units, however, proposes to offer four-bedroom

inclusionary for-sale units averaging approximately 1,500 square feet.

The City's current Housing Element (2023-2031) identified the need for 3,830 units to be produced affordable to very low-, low-, moderate-, and above moderate-income households. The 3,830 units were comprised of 962 very low-, 554 low-, 645 moderate-, and 1,669 above moderate-income units.

As of January 1, 2023, the City has produced 244 very-low, 144 low-, 103 moderate-, and 1,858 above moderate-income units (that are tracked under the previous 2015-2022 Housing Element). Generally, the City needs to increase production of very low-, low-, and moderate-income units, which are currently considered a high need in the community. The City recently approved three projects in the Bayfront area in proximity to the proposed project site. Combined these approved projects are projected to provide 18 very-low, 58 low-, and 83- moderate-income units in the area. Additionally, large family units are also identified as a high need for the City. Building permits have been issued for the Menlo Uptown and Menlo Portal development projects and those housing units currently under construction would count toward the City's 5th Cycle (2015-2022) RHNA. Building permits for the 111 Independence Drive, Menlo Flats, and Willow Village development projects have not been issued and if those permits are issued during the 2023-2031 time-period those housing units would be counted toward the City's 6th Cycle RHNA.

The project proposes to evenly distribute the inclusionary rental units throughout the proposed rental multi-family building such that the design of the rental units will be indistinguishable with respect to size, location, design, and materials from the market-rate rental units. Select plan sheets that include a site plan with project data illustrating the size of the units, and floor plans and elevation drawings of the proposed multi-family apartment building are provided in Attachment H. The applicant has also indicated on the floor plans those units within the apartment building that would be initially designated as BMR units to demonstrate that the inclusionary units would be equivalent in size and location within the building with the typical market-rate units. At this time, staff believes that the proposed number of BMR units, unit design, and affordability levels proposed for the rental apartment building strictly meet the requirements of the BMR Guidelines.

However, the project would not evenly distribute the for-sale townhome BMR units throughout the project site; instead, it proposes to cluster the for-sale BMR units on one parcel within the project site, requiring a modification to the City's location requirements of the BMR Guidelines. As discussed below in this report, the applicant is requesting a concession to the City's location requirement of the BMR Guidelines through a concession under the State Density Bonus Law. The applicant's draft BMR proposal along with the requests for concessions and waivers and project specific alternatives to the City's BMR Guidelines is included in Attachment F. The applicant has indicated that the requested concessions, waivers, and project specific modifications to the City's BMR Guidelines would allow HGSF to develop the for-sale component of this project pursuant to HGSF's program.

The following requested concessions would allow deviations from the Zoning Ordinance and City's BMR Guidelines, whereas the requested waivers would allow deviations from the physical objective development standards that are part of the requirements of the R-MU-B zoning district. Additionally, pursuant to Section 13 of the City's BMR Guidelines, the applicant and HGSF are requesting project specific modifications to the City's BMR Guidelines. These proposed modifications require City Council review and action. The City Council is anticipated to comprehensively review and act on the BMR agreements following a recommendation from the Housing and Planning Commissions. Approval of the modified guidelines would require specific findings indicating that the proposed alternative is commensurate with the applicable requirements outlined in the City's BMR Guidelines.

Requested concessions and waivers

Under the State Density Bonus Law, concessions are defined as a reduction in site development standards or modification of zoning ordinance requirements that result in actual, identifiable cost reductions, and waivers are modifications to a development standard that would physically preclude the construction of the project with its permitted density and concessions. The project requests the following concessions and waivers:

Concession to modify BMR Guidelines 5.1 and Section 16.96.060 of Menlo Park Municipal Code (MPMC): Allow clustered affordable for-sale townhome units.

The City's BMR Guidelines and Section 16.96.060 of the City's Municipal Code require that the affordable units be distributed throughout the development. The applicant is requesting a concession from this requirement as applied to the townhome portion of the project, citing that enforcement of this requirement would preclude them from partnering with HGSF to provide affordable ownership units on-site. Allowing the concession would permit the affordable housing developer to construct 100 percent affordable units (18 townhomes) on a separate parcel and leverage certain financing that would otherwise be unavailable if the units were on the same parcel as the market rate units. Additionally, allowing this concession would allow the developer to employ volunteer labor to be used as sweat equity towards purchase of the unit, which would be hard to accomplish if the inclusionary for-sale units are evenly distributed throughout the project site. Therefore, the applicant requests the above concession from the BMR Guidelines to allow the development of for-sale units to be developed on one parcel (Lot C) rather than being distributed throughout the market-rate townhome development. As previously mentioned, this concession would only apply to the for-sale townhome units and not to the affordable rental units which are proposed to be evenly distributed throughout the project.

Concession to modify BMR Guidelines 5.3.1 and Section 16.96.060 of MPMC: Allow different construction schedules for for-sale units.

The City's BMR Guidelines, section 5.3.1, and Section 16.96.060 of MPMC requires that the affordable units be constructed concurrently with the market rate units. Section 5.3.1 of the BMR Guideline stipulates for developments of 20 or more units, including developments that are constructed in phases, for the first 10 housing units, a BMR unit must pass final inspection before nine market rate units may pass final inspection. In addition, two additional BMR units must pass final inspection before eight additional market rate units may pass final inspection. For each additional group of 20 housing units, three additional BMR units must pass final inspection before 17 additional market rate units may pass final inspection. No project or phase may pass final inspection unless all the BMR units, which equal 15% or more of the housing units in that phase or project, have passed final inspection for that phase or project. The applicant is requesting a concession from this requirement to allow for the affordable units to be developed on a delayed schedule. The applicant's proposed alternate schedule and milestones for the BMR townhome units is included in Attachment G. HGSF relies on (i) a volunteer labor and "sweat equity" model whereby the future owners of homes provide some labor and (ii) donated goods and materials. Both volunteer labor and donated materials would result in cost savings for the project to provide affordable housing, but they also could result in a less predictable timeline than traditional construction methods and procurement practices. Therefore, the developer has requested to decouple the delivery of the for-sale BMR units from the market-rate for-sale units.

The applicant provided the City with the following proposed schedule for the delivery of the BMR townhomes:

- HGSF would obtain building permits for the for-sale affordable townhomes within six months from issuance of first building permit for first market-rate townhome.
- HGSF would be required to complete the townhomes within 24 months from their building permit issuance.

The applicant has also identified that if HGSF fails to pull building permits within six months from issuance of the permit for the first market rate townhome, the applicant would convert a portion of the BMR townhomes to for-sale units and provide inclusionary units in proportion to the market rate townhomes across the entire townhome development. The BMR proposal also includes a performance bond for completion of the BMR townhomes if the BMR units are not delivered within 24 months of permit issuance. Given the potential timeline for delivery of the initial market rate townhome units, the BMR townhome units may not be delivered until approximately 18 months after the initial market rate units. However, there are no requirements that the market rate townhome units be delivered on a specific schedule and alternatively, the proposed BMR townhome schedule could deliver the BMR townhome units ahead of some of the market rate units. Staff is evaluating the details of the proposed schedule and will be working with the applicant to refine the details for inclusion in the project conditions and/or draft BMR agreement through the entitlement process.

Waiver from BMR Guidelines Section 5.2 and Section 16.97.100 of the MPMC: Equal design.

The applicant is requesting a waiver from City's Municipal Code Section 16.97.100 and BMR Guidelines Section 5.2 which require the affordable units be constructed so that the inclusionary units are of equal design and quality as the market rate units. This standard includes, but is not limited to, exteriors, such as architectural elevations; floor plans; interior finishes; and amenities. The applicant is requesting a waiver from this requirement citing that the affordable townhomes would be different from the market-rate units in the following aspects:

- Smaller average unit size, resulting in different interior layout, with fewer bathrooms and smaller living rooms, but an increase in bedrooms from the market-rate units of similar size;
- Less parking;
- Smaller windows;
- Different exterior finishes and massing;
- Fewer balconies; and
- Different interior finishes, lighting, and appliances.

The applicant notes in the project BMR proposal that allowing the above modifications would allow HGSF to provide units that are designed and programmed to address the needs of community identified through their experience, allow units to be designed such that they can be constructed using volunteer labor, and lastly, allow the HGSF to use donated construction materials, appliances, and finishes.

Waiver from Section 16.45.120(4)(c)(iii): Reduction in common open space provided.

The applicant requests a waiver from the City's Municipal Code Section 16.45.120(4)(c)(iii) which requires that parcels with 10 to 15 units shall provide a minimum common open space of 400 square feet with the minimum dimensions of 20 feet by 20 feet. The proposal includes a common open space of 400 square feet for the parcel (Lot C), however, the size of the common open space does not meet the required 20 feet by 20 feet dimension. The applicant notes that they are unable to fully meet the requirement because the project cannot fit the required affordable housing units as designed at the density allowed and provide the required size of open space without losing affordable units.

The applicant notes that these modifications would allow the project to be constructed at the allowable densities without loss of affordable units. The applicant also notes that the variations in design and finishes are requested for purposes of simplification of the design for ease of construction by volunteer labor and that the finishes would vary based on the types of donations received at the time of construction. As the applicant is proposing to partner with HGSF to develop and sell the below market rate townhome units,

therefore, the requested concessions and waivers are required to support this unique HGSF development model. In the applicant's BMR proposal, it is noted that the HGSF has implemented this type of development model successfully in other cities across the Bay Area region.

Requested modifications to the City's BMR Guidelines

Section 13 of the BMR Guidelines allow for the City to approve reasonably equivalent alternatives to the characteristics of the proposed BMR units. Any modifications to these Guidelines shall be approved by the City Council and shall contain findings that the alternative is commensurate with the applicable requirement(s) in the BMR Guidelines and is consistent with the goals of the BMR Guidelines. As mentioned above, the applicant is also requesting that the City Council authorize modifications to the BMR Guidelines so that HGSF can develop and sell units pursuant to their business model. Accordingly, the applicant and HGSF requests the following modifications to the City's BMR Guidelines:

- Section 5.5: requires that affordable units have a right of first refusal in favor of the City. HGSF requests first refusal, with the City in second position to allow HGSF to resell properties to second-generation homeowners who are income-qualified and maintain a 99-year deed restriction on all homes sold.

Staff is generally supportive of this proposed modification because allowing this change would allow the affordable units to continue to be part of the City's affordable housing stock as the units that would be typically available for 55 years would now be available for 99 years.

- Section 7.1: requires all members of the applicant household to be first time homebuyers. HGSF requests that the City allow only those on the title to be required to be first time homebuyers, allowing multigenerational households to become eligible.

Staff finds that this requested modification would result in the same outcome as prescribed by Section 7.1 of the City's BMR Guidelines. This modification would allow members of a multigenerational household who are first time homebuyers to be listed on the title of the property and can therefore become homeowners. Also, staff finds that this modification is really a subset of the Section 7.1 of the City's BMR Guidelines in its current form.

- Section 7.1.1: makes an exception to the first-time homebuyer preference for households that already own BMR units. HGSF requests that the City waive this exception to provide ownership opportunities to buyers who do not already own homes.

Staff finds that this requested modification would allow those eligible households that income qualify but who do not currently own property to have the opportunity to participate in the process and be able to purchase a home. Allowing this modification would focus the City's efforts in providing affordable housing to those who are in need.

The applicant is not requesting an exception to the Guideline 7.1.1 bullet point 2, which accepts applicants whose names are placed on the BMR purchased Waiting List prior to March 2, 2010 otherwise known as the "Legacy List".

HGSF has provided an outline of their proposed marketing, outreach, and lottery process which is attached to this report as Attachment I. HGSF proposes to undertake the following:

- Create a marketing plan with input from the City and other stakeholders,
- Implement the marketing plan up to 1.5 years prior to Certificate of Occupancy including, but not limited to, electronic and print material distribution to the City's Legacy List and others based on the

preferences highlighted in the BMR Guidelines and others pursuant to partnership with community-based organizations, faith-based organizations, school and parent groups, employers, civic organization, city agencies, and other resources,

- Conduct in-person and online application information sessions for potential buyers, and
 - Conduct outreach first to the households on the Legacy List (in rank list order) and invite these households to apply. After the Legacy List is exhausted a lottery is utilized, prescreened and eligible applicants based on the criteria outlined the City's BMR Guidelines which includes, live/work, unhoused, displacement, and accessible unit.
- Section 7.2: requires only households that have completed the education requirements such as workshops, classes, or counseling sessions to be invited to apply when units become available and outlines detailed requirements about the education provider and content of such programs. HGSF program requires homeownership education during the "sweat equity" phase of its homebuyer process, which follows the application period and the initial selection of homebuyer candidates. Under the HGSF model, the homebuyer education occurs as part of the 500-hour sweat equity requirement that occurs during unit construction. HGSF notes that this programmatic need requires HGSF to identify households for its units before the units are available. HGSF is proposing to work with the City to establish a requirement that interested applicants attend a 90-minute information session prior to applying, where information on homeownership and program requirements are thoroughly reviewed and then attend education training during the sweat equity phase of construction.

Because of the HGSF's unique model where they allow the homeowners to participate in the construction of the units and in the process learn about the maintenance and other features of the units, staff is supportive of this proposed modification. Staff finds that allowing this modification would make the future property owners become more familiar with the construction and maintenance of the unit they are purchasing which could potentially allow them to maintain the unit by themselves rather than having to depend on outside assistance.

- Section 7.4: provides a list of assets and how they count towards income limits for the purchasers of affordable units. HGSF requests to qualify only those households that have non-retirement assets that do not exceed the purchase price of the BMR unit. HGSF notes that its model asset tests require liquid assets over \$60,000 to be assessed at 10% of their value and added to annual income. HGSF submits that modification of the guideline as proposed would allow access to the BMR units only to those households that truly need them, by allowing households with lower incomes to count a small percent of other assets to show that they qualify for an affordable unit.

Staff finds that allowing this modification to the City's BMR Guidelines would allow more people to income qualify and become eligible. Given the current market conditions, staff finds that expanding income eligibility in the manner proposed by HGSF would allow more households to qualify for purchasing a unit and is therefore supportive of the requested change to the BMR Guidelines.

- Section 10.2: outlines refinancing options. HGSF notes that their model does not allow homeowners to refinance homes or assume second loans. To ensure affordability, HGSF notes that the company offers mortgages to first-time homebuyers with 0% down payment and 0% interest loans and caps homeowner's total housing payment at 30% of their gross household income at the time of sale.

Staff is generally supportive of the proposed modification because staff finds that this modification is necessary to allow HGSF implement their mortgage program and provide 0% loans to the buyers

allowing them to purchase property without being impacted by changing market conditions.

- Section 11: outlines detailed process for resale of affordable units, including how the sale price will be set and that the City will retain the realtor for the sale. The City establishes the resale price, based on the original selling price of the unit, depreciated value of substantial improvements made by the seller and 1/3 of the increase in the cost of living index for the Bay Area. The price is established for the unit at the appraised market value or the calculated price whichever is lower. HGSF requests that the City allow use of its standard process for calculating the resale price which is based on the original price plus appreciation at the lower of CPI or 3%. HGSF notes that they require new buyers to perform sweat equity of 250 hours. HGSF notes that their model requires repetition of all the steps performed during the initial sale including marketing, outreach, performing a lottery, and determining eligibility. HGSF also notes that their model allows sharing of the property value between the homeowner, who receives their principle plus CPI adjustment at the time of resale, and HGSF would use any realized capital appreciation towards construction of new affordable projects.

Staff is generally supportive of the proposed modification as the proposed changes helps in implementation of HGSF's unique model where HGSF is able to provide 0% interest loans and 0% down payment opportunities to the prospective buyers of the property making purchasing a home feasible even in uncertain market conditions.

- Lastly, the City's BMR Guidelines stipulates that City staff would administer the various aspects of the BMR Guidelines. HGSF requests that the City elect HGSF to be the City's designee or program provider to undertake orientation and other educational meetings, marketing, applicant selection, and title requirements.

Staff is generally supportive of this request since HGSF is an industry expert and non-profit organization that has been providing affordable housing at 0% interest mortgage rates, 0% down payment, and cost of homeownership capped at 30% of the household income.

Through the proposed modifications of the BMR Guidelines HGSF hopes to implement a unique program that would allow households to incur sweat equity in their properties, take advantage of 0% down payment and 0% interest mortgage while having their housing expense capped at 30% of their household income. For all the reasons stated above, staff is generally supportive of the requested modifications of the City's BMR Guidelines as proposed by the applicant.

Applicant outreach efforts

The applicant conducted two community meetings on November 1, 2022 and November 3, 2022. Staff did not attend the outreach meetings, but have been informed by the applicant that a total of 24 community members attended the meetings and that comments included: interest in the affordable housing and information on qualifying for a unit, concerns regarding the overall concentration of new development in the Bayfront Area, and questions regarding overall timing of the project.

Community amenities proposal

Bonus level development is allowed in exchange for the provision of community amenities. Community amenities are intended to address identified community needs that result from the effect of the increased development intensity on the surrounding community. As part of the ConnectMenlo process, a list of community amenities was generated based on robust public input and adopted by resolution of the City Council (Attachment J). The Zoning Ordinance identifies several mechanisms for providing amenities, including selecting an amenity from the Council-approved list as part of the proposed project, providing an amenity not on the approved list through a development agreement, or through the payment of an in-lieu

fee. The value of the amenity to be provided must equal a minimum of 50 percent of the fair market value of the additional Gross Floor Area (GFA) of the bonus level development.

The method for determining the required value of the community amenities begins with an appraisal. The applicant submitted an appraisal for the City's review. The appraisal provided by the applicant has been peer reviewed by the City's appraiser and the value determined to be \$3,350,000. The applicant submitted an updated community amenities proposal on December 6, 2022 (Attachment K) which proposes eight inclusionary rental apartment units. (These eight units are included in the total 74 BMR units discussed previously in the report.) The City is in the process of engaging its consultant (BAE Urban Economics) to review the community amenities proposal to determine the value of the affordable units to ensure the eight BMR units would meet the minimum required community amenities value. Depending on that analysis the applicant may be required to revise its community amenities proposal. Any changes to the community amenities proposal will be captured in the draft agreements prepared for subsequent public hearings pertaining to the project.

Correspondence

Staff has not received any correspondence regarding the draft BMR Housing proposal.

Conclusion

Staff requests that the Housing Commission review the draft form BMR Housing Agreements and draft BMR Term Sheet and provide a recommendation to Planning Commission and City Council. The draft BMR Housing Agreements would be reviewed and acted on by the City Council, given the project BMR proposal includes modification requests under Section 13 of the BMR Guidelines. The City Council will also be the final decision making body on the major subdivision. The Planning Commission will be the final decision making body on all other land use entitlements.

Staff evaluated the applicant's proposal and believes it generally meets the purposes of the BMR Housing Guidelines and the Housing Element. Staff finds that the proposed project is consistent with Goal H4 of the Housing Element in that it provides a mix of for-sale and rental affordable housing affordable to low income households which is designed in an energy efficient manner, provides outdoor open space and sensitive to privacy and compatible with the adjoining residential community, offers a variety of unit sizes and bedroom counts in order to address the local needs of the community.

Staff believes the overall BMR proposal including the applicant's requested concessions, waivers, and modifications (outlined in this report) to the City's BMR Guidelines is generally supportable as the proposal would allow for HGSF to provide BMR units using its unique model and would achieve deeper affordability for the for-sale units. Staff recommends that the Housing Commission consider the applicant's proposal, including the requested concessions, waivers, and modifications and provide a recommendation of approval of the draft form BMR agreements and draft Term Sheet to the Planning Commission to consider in its review and recommendation to the City Council.

Impact on City Resources

The project sponsor is required to pay Planning, Building, and Public Works permit fees, based on the City's Master Fee Schedule, to fully cover the cost of staff time spent on the review of the project.

Environmental Review

A draft EIR was prepared for the proposed project and was released on November 28, 2022 with a public

review period ending on January 17, 2023. Staff is currently in the process of creating a response to comments document generally known as the Final Environmental Impact Report (Final EIR), and will circulate that for public review and comments at least 10 days before the Planning Commission decision making meeting for the project. The Draft EIR is available via link in Attachment L.

Public Notice

Public notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting.

Attachments

- A. 123 Independence Drive Draft Below Market Rate (BMR) Housing Agreement and Declaration of Restrictive Covenants with The Sobrato Organization
- B. 123 Independence Drive BMR Housing Agreement and Declaration of Restrictive Covenants with Habitat for Humanity Great San Francisco (HGSF)
- C. 123 Independence Drive Draft BMR For-Sale Housing Agreement and Declaration of Restrictive Covenants with The Sobrato Organization
- D. Draft BMR Term Sheet
- E. Location Map
- F. Draft Below Market Rate (BMR) housing proposal and alternative to BMR Guidelines
- G. Addendum to the applicant BMR housing proposal
- H. Selected sheets of 123 Independence Drive development plans showing the affordable unit locations, sizes, materials, and colors
- I. HGSF's proposed marketing, outreach, and lottery process
- J. Hyperlink: City's Community Amenities List - <https://menlopark.gov/files/sharedassets/public/community-development/documents/projects/underreview/123-independence-drive/123-independence-project-community-amenities-proposal.pdf>
- K. Hyperlink: Applicant's community amenities proposal - <https://menlopark.gov/files/sharedassets/public/community-development/documents/projects/under-review/123-independence-drive/123-independence-project-community-amenities-proposal.pdf>
- L. Hyperlink: 123 Independence Drive Draft EIR - https://menlopark.gov/files/sharedassets/public/services/community-development/documents/projects/under-review/123-independence-drive/deir/deir_full-document.pdf

Report prepared by:
Payal Bhagat, Contract Planner

Report reviewed by:
Eren Romero, Interim Housing Manager
Kyle Perata, Planning Manager

This document is recorded for the benefit of the City of Menlo Park and is entitled to be recorded free of charge in accordance with Sections 6103 and 27383 of the Government Code.

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

City of Menlo Park
Attn: City Clerk
701 Laurel Street
Menlo Park, CA 94025

**BELOW MARKET RATE HOUSING AGREEMENT
AND DECLARATION OF RESTRICTIVE COVENANTS**

(123 Independence Drive Project)

This **BELOW MARKET RATE HOUSING AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS** (“**Agreement**”) is entered into as of _____, 2023 (“**Effective Date**”), by and between the City of Menlo Park, a California municipal corporation (“**City**”), and [Sobrato SPE], a California limited liability company (“**Owner**”). City and Owner may be referred to individually as a “**Party**” or collectively as the “**Parties**” in this Agreement.

RECITALS

A. Owner is the owner of that certain real property located at 119, 123, 125, and 127 Independence Drive (APNs 055-236-180, 055-236-140, and 055-236-240), 1205 Chrysler Drive (APN 055-236-300), and 130 Constitution Drive (APN 055-236-280), in the City of Menlo Park, California (“**Project Site**”). A parcel to be created at the approximate location commonly known as 130 Constitution Drive (“**Property**”) as more particularly described in Exhibit A, attached hereto and incorporated herein by this reference, is the parcel subject to the Agreement.

B. Owner applied to demolish existing office and industrial buildings, totaling approximately 103,983 square feet, and to redevelop the site with a new multifamily residential project with 316 rental units (“**Apartment Project**”), 116 for sale townhome units, and associated open space, circulation, parking and infrastructure improvements (collectively, the “**Project**”).

C. Menlo Park Municipal Code Chapter 16.96, the Below Market Rate Housing Program (“**BMR Ordinance**”), and the Below Market Rate Housing Program Guidelines (“**Guidelines**”) require the Owner to provide fifteen percent (15%) of the total number of units in the Project as affordable to below market rate (“**BMR**”) households. To satisfy the requirements of the BMR Ordinance and Guidelines, Owner has proposed (the “**BMR Proposal**”) to provide BMR units as follows: fifty-six (56) rental units to BMR households (“**BMR Rental Units**” or “**BMR Units**”) (the BMR Rental Units are comprised of 48 units provided to satisfy the BMR Ordinance requirements and eight (8) units provided as a community amenity in exchange for increased density on the Property) and eighteen (18) for-sale units to BMR households (“**BMR**”).

For-Sale Units”) for a total of seventy-four (74) BMR Units. The Agreement addresses only the BMR Rental Units. The BMR For-Sale Units are addressed in a separate agreement.

D. On _____, 2023, after a duly noticed public hearing, the Housing Commission recommended approval the BMR Proposal with seventy-four (74) low income units (“**Low Income Units**”). The initial allocation of BMR Rental Units across the Apartment Project is more particularly described on Exhibit B, attached hereto and incorporated herein by this reference.

E. On _____, 2023, after a duly noticed public hearing, and on the recommendation of the Housing Commission, the Planning Commission certified the environmental impact report approved a conditional use permit, architectural control, form affordable housing agreements, and incentives/concessions and waivers in accordance with State Density Bonus Law (Government Code section 65915) and recommended that the City Council approve a Vesting Tentative Map and the BMR Proposal for the Project. On _____, 2023, after a duly noticed public hearing, and on the recommendation of the Housing Commission and the Planning Commission, the City Council approved a Vesting Tentative Map and the BMR Proposal for the Project. The Planning Commission and City Council actions are collectively the “**Project Approvals**.”

F. The Project Approvals require the Owner to provide BMR Rental Units in accordance the BMR Proposal. In accordance with the BMR Ordinance and Guidelines and State Density Bonus Law (Government Code section 65915), Owner is required to execute and record an approved BMR Housing Agreement for the BMR Rental Units as a condition precedent to the issuance of a building permit for the Apartment Project. This Agreement is intended to satisfy that requirement.

NOW, THEREFORE, the Parties hereto agree as follows. The recitals are incorporated into this Agreement by this reference.

1. CONSTRUCTION OF THE APARTMENT PROJECT.

1.1 Construction of the Apartment Project. Owner agrees to construct the Apartment Project in accordance with the Menlo Park Municipal Code and all other applicable state and local building codes, development standards, ordinances and zoning ordinances.

1.2 City and Other Governmental Permits. Before commencement of the Apartment Project, Owner shall secure or cause its contractor to secure any and all permits which may be required by the City or any other governmental agency affected by such construction, including without limitation building permits. Owner shall pay all necessary fees and timely submit to the City final drawings with final corrections to obtain such permits; City staff will, without incurring liability or expense therefore, process applications in the ordinary course of business for the issuance of building permits and certificates of occupancy for construction that meets the requirements of the Menlo Park Municipal Code, and all other applicable laws and regulations.

1.3 Compliance with Laws. Owner shall carry out the design, construction and operation of the Apartment Project in conformity with all applicable laws, including all applicable state labor standards, City zoning and development standards, building, plumbing, mechanical and

electrical codes, and all other provisions of the Menlo Park Municipal Code, and **all** applicable disabled and handicapped access requirements, including without limitation the Americans With Disabilities Act, 42 U.S.C. Section 12101, *et seq.*, Government Code Section 4450, *et seq.*, Government Code Section 11135, *et seq.*, and the Unruh Civil Rights Act, Civil Code Section 51, *et seq.*

2. OPERATION OF THE BMR UNITS

2.1 Affordability Period. The Property, provided that the Apartment Project remains on the Property, shall be subject to the requirements of this Agreement from the date that the City issues a final certificate occupancy for the Apartment Project until the 55th anniversary of such date. The duration of this requirement shall be known as the “**Affordability Period.**”

2.2 Maintenance. Owner shall comply with every condition of the Project Approvals applicable to the Project and shall, at all times, maintain the Apartment Project and the Property in good repair and working order, reasonable wear and tear excepted, and in a safe and sanitary condition, and from time to time shall make all necessary and proper repairs, renewals, and replacements to keep the Apartment Project and the Property in a good, clean, safe, and sanitary condition.

2.3 Monitoring and Recordkeeping. Throughout the Affordability Period, Owner shall comply with all applicable recordkeeping and monitoring requirements set forth in the Guidelines, attached as Exhibit [], or, at the Owner’s election, applicable recordkeeping and monitoring requirements in updated Guidelines. City shall have the right to inspect the books and records of Owner and its rental agent or bookkeeper upon reasonable notice during normal business hours. Representatives of the City shall be entitled to enter the Property, upon at least 48-hour prior written notice, which can be provided via email, to monitor compliance with this Agreement, to inspect the records of the Project with respect to the BMR Rental Units, and to conduct, or cause to be conducted, an independent audit or inspection of such records. Owner agrees to cooperate with the City in making the Property available for such inspection or audit. Owner agrees to maintain records in businesslike manner, and to maintain such records for Affordability Period.

2.4 Non-Discrimination Covenants. Owner covenants by and for itself, its successors and assigns, and all persons claiming under or through them that there shall be no discrimination against or segregation of any person or group of persons on account of race, color, religion, sex, marital status, familial status, disability, national origin, or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the Property, nor establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the Property. Owner shall include such provision in all deeds, leases, contracts and other instruments executed by Owner, and shall enforce the same diligently and in good faith.

a. In deeds, the following language shall appear:

(1) Grantee herein covenants by and for itself, its successors and assigns, and all persons claiming under or through it, that there shall be no

discrimination against or segregation of a person or of a group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the property herein conveyed nor shall the grantee or any person claiming under or through the grantee establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees in the property herein conveyed. The foregoing covenant shall run with the land.

(2) Notwithstanding paragraph (1), with respect to familial status, paragraph (1) shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in paragraph (1) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11 and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to paragraph (1).

b. In leases, the following language shall appear:

(1) The lessee herein covenants by and for the lessee and lessee's heirs, personal representatives and assigns, and all persons claiming under the lessee or through the lessee, that this lease is made subject to the condition that there shall be no discrimination against or segregation of any person or of a group of persons on account of race, color, creed, religion, sex, sexual orientation, marital status, national origin, ancestry or disability in the leasing, subleasing, transferring, use, occupancy, tenure or enjoyment of the property herein leased nor shall the lessee or any person claiming under or through the lessee establish or permit any such practice or practices of discrimination of segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, sublessees, subtenants, or vendees in the property herein leased.

(2) Notwithstanding paragraph (1), with respect to familial status, paragraph (1) shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in paragraph (1) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11 and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to paragraph (1).

c. In contracts pertaining to management of the Project, the following language, or substantially similar language prohibiting discrimination and segregation shall appear:

(1) There shall be no discrimination against or segregation of any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the property nor shall the transferee or any person claiming under or through the transferee establish or permit any such practice or practices of discrimination or segregation with reference to selection, location, number, use or occupancy of tenants, lessee, subtenants, sublessees or vendees of the land.

(2) Notwithstanding paragraph (1), with respect to familial status, paragraph (1) shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in paragraph (1) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11 and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to paragraph (1).

2.5 Subordination. This Agreement shall be recorded in the Official Records of the County of San Mateo and shall run with the land. The City agrees that the City will not withhold consent to reasonable requests for subordination of this Agreement for the benefit of lenders providing financing for the Apartment Project, provided that the instruments effecting such subordination include reasonable protections to the City in the event of default, including without limitation, extended notice and cure rights.

3. AFFORDABILITY REQUIREMENTS.

3.1 BMR Rental Units. Owner agrees to make available, restrict occupancy to, and lease not less than fifty-six (56) BMR Rental Units, all of which will be Low Income Units, to Qualifying Households, as hereinafter defined, at an affordable rent, pursuant to the terms set forth below. The BMR Rental Units shall be of a quality comparable to all of the other rental units in the Project. The BMR Rental Units shall be initially distributed as set forth in Exhibit C, attached hereto and incorporated herein by this reference. Thereafter, the location of the individual BMR Rental Units may float to account for the next available unit requirement set forth below and as otherwise necessary for the professional maintenance and operation of the Project provided that the distribution of BMR Rental Units are equitably disbursed throughout the Project and the City's Director of Community Development ("**Director**") or the Director's designee shall be notified of any change or relocation of BMR Rental Units by Owner.

3.2 Qualifying Households. For purposes of this Agreement, "**Qualifying Households**" shall mean those households with incomes as follows:

- a. **“Low Income Unit”**: means units restricted to households with incomes of not more than eighty percent (80%) of AMI. “AMI” means the median income for San Mateo County, California, adjusted for Actual Household Size, as published from time to time by the State of California Department of Housing and Community Development in Section 6932 of Title 25 of the California Code of Regulations or successor provision. Qualifying Households shall continue to qualify unless at the time of recertification, the household’s income exceeds the Low Income eligibility requirements, then the tenant shall no longer be qualified. Upon Owner’s determination that any such household is no longer qualified, the unit shall no longer be deemed a Low Income Unit. the Owner shall notify the Tenant that the Tenant is no longer eligible for the Low Income Unit and the Tenant’s rent will be increased to a market rate rent upon the later of sixty (90) days’ notice or the renewal of the Tenant’s lease. The City may grant an extension of the date to vacate if the City or its designee makes a finding there are unique circumstances and the ninety (90) day notice to vacate creates a substantial hardship for the household. The Owner shall either make the next available unit, which is comparable in terms of size, features and number of bedrooms, a Low Income Unit, or take other actions as may be necessary to ensure that the total required number of Low Income Units are rented to Qualifying Households. Owner shall notify the City annually if Owner substitutes a different unit for one of the designated Low Income Units pursuant to this paragraph.

3.3 Income Verification and Annual Report. On or before July 1 of each year, commencing with the calendar year that the first residential unit in the Project is rented to a tenant, and annually thereafter, Owner shall obtain from each household occupying a BMR Rental Unit and submit to the City an income computation and certification form, completed by a tenant of such unit, which shall certify that the income of each Qualifying Household is truthfully set forth in the income certification form, in the form proposed by the Owner and approved by the Director or the Director’s designee (“**Annual Report**”). Owner shall make a good faith effort to verify that each household leasing a BMR Rental Unit meets the income and eligibility restrictions for the BMR Rental Unit by taking the following steps as a part of the verification process: (a) obtain a minimum of the three (3) most current pay stubs for all adults age eighteen (18) or older; (b) obtain an income tax return for the most recent tax year; (c) conduct a credit agency or similar search; (d) obtain the three (3) most current savings and checking account bank statements; (e) obtain an income verification form from the applicant's current employer; (f) obtain an income verification form from the Social Security Administration and/or the California Department of Social Services if the applicant receives assistance from either of such agencies; or (g) if the applicant is unemployed and has no such tax return, obtain another form of independent verification. Copies of tenant income certifications shall be available to the City upon request. The Annual Report shall, at a minimum, include the following information for each BMR Rental Unit: unit number, number of bedrooms, current rent and other charges, dates of any vacancies during the reporting period, number of people residing in the unit, total household Gross Income, and lease commencement and termination dates. The Report shall also provide a statement of the owner’s management policies, communications with the tenants and maintenance of the BMR Rental Unit, including a statement of planned repairs to be made and the dates for the repairs.

3.4 Affordable Rent. The maximum Monthly Rent, defined below, chargeable for the BMR Rental Units and paid shall be as follows:

- a. **“Low Income Household”**: shall be 1/12th of 30 percent of not to exceed 80 percent of the AMI. The Monthly Rent for a Low Income Unit rented to a Low Income Household and paid by the household shall be based on an assumed average occupancy per unit of one person per studio unit, 2 persons for a one-bedroom unit, 3 persons for a two-bedroom unit and 4 persons for a three-bedroom unit, unless otherwise approved by the Director or the Director’s designee for an unusually large unit with a maximum of two persons per bedroom, plus one.

For purposes of this Agreement, **“Monthly Rent”** means the total of monthly payments actually made by the household for (a) use and occupancy of each BMR Rental Unit and land and facilities associated therewith, (b) any separately charged fees or service charges assessed by Owner which are required of all tenants, other than security deposits, (c) a reasonable allowance for an adequate level of service of utilities not included in (a) or (b) above, and which are not paid directly by Owner, including garbage collection, sewer, water, electricity, gas and other heating, cooking and refrigeration fuels, but not including telephone or internet service, which reasonable allowance for utilities is set forth in the County of San Mateo’s Utility Allowance Schedule for detached homes, apartments, condominiums and duplexes, and (d) possessory interest, taxes or other fees or charges assessed for use of the land and facilities associated therewith by a public or private entity other than Owner. Pursuant to the Guidelines, in no case shall the Monthly Rent for a BMR Rental Unit exceed 75 percent of comparable market rate rents. The City may request data regarding the three most recent market rate rentals within the Project to verify comparable market rate rents.

3.5 Agreement to Limitation on Rents. As described in Recital E above, Owner is developing at the bonus level of development and receiving assistance under State Density Bonus Law, as authorized by Chapter 4.3 (commencing with Section 65915) of Division 1 of Title 7 of the Government Code. Sections 1954.52(b) and 1954.53(a)(2) of the Costa-Hawkins Act provide that, where a developer has received such assistance, certain provisions of the Costa-Hawkins Act do not apply if a developer has so agreed by contract. Owner hereby agrees to limit Monthly Rent as provided in this Agreement in consideration of Owner’s receipt of the assistance and further agrees that any limitations on Monthly Rents imposed on the BMR Rental Units are in conformance with the Costa- Hawkins Act. Owner further warrants and covenants that the terms of this Agreement are fully enforceable.

3.6 Lease Requirements. No later than 180 days prior to the initial lease up of the BMR Rental Units, Owner shall submit a standard lease form to the City for approval by the Director or the Director’s designee. The City shall reasonably approve such lease form upon finding that such lease form is consistent with this Agreement and contains all of the provisions required pursuant to the Guidelines. The City’s failure to respond to Owner’s request for approval of the standard lease form within thirty (30) business days of City’s receipt of such lease, shall be deemed City’s approval of such lease form. Owner shall enter into a written lease, in the form approved by the City, with each new tenant of a BMR Rental Unit prior to a tenant or tenant household’s occupancy of a BMR Rental Unit. Each lease shall be for an initial term of not less than one year which may be renewed pursuant to applicable local and State laws, and shall not

contain any of the provisions which are prohibited pursuant to the Guidelines, local, state and Federal laws.

3.7 Selection of Tenants. Each BMR Rental Unit shall be leased to tenant(s) selected by Owner who meet all of the requirements provided herein, and, to the extent permitted by law, with priority given to those eligible households who either live or work in the City of Menlo Park, or meet at least one of the other preferences identified in the most recently adopted Guidelines. The City's BMR Administrator, on behalf of the City will provide to Owner the names of persons who have expressed interest in renting BMR Rental Units for the purposes of adding such interested persons to Owner's waiting list, to be processed in accordance with Owner's customary policies. Owner shall not refuse to lease to a holder of a certificate or a rental voucher under the Section 8 program or other tenant-based assistance program, who is otherwise qualified to be a tenant in accordance with the approved tenant selection criteria.

3.8 BMR Proposal and Density Bonus Law Approval. The Project Approvals include approved incentives/concessions and waivers under the State Density Bonus Law, attached hereto as Exhibit [REDACTED]. This Agreement shall be subject to and interpreted to be consistent with the approved incentives/concessions and waivers granted pursuant to the State Density Bonus Law.

4. DEFAULT AND REMEDIES

4.1 Events of Default. The following shall constitute an "Event of Default" by Owner under this Agreement: there shall be a material breach of any condition, covenant, warranty, promise or representation contained in this Agreement and such breach shall continue for a period of thirty (30) days after written notice thereof to the Owner without the Owner curing such breach, or if such breach cannot reasonably be cured within such 30 day period, commencing the cure of such breach within such 30 day period and thereafter diligently proceeding to cure such breach; provided, however, that if a different period or notice requirement is specified for any particular breach under any other paragraph of Section 4 of this Agreement, the specific provision shall control.

4.2 Remedies. The occurrence of any Event of Default under Section 4.1 shall give the City the right to proceed with an action in equity to require the Owner to specifically perform its obligations and covenants under this Agreement or to enjoin acts or things which may be unlawful or in violation of the provisions of this Agreement, and the right to terminate this Agreement.

4.3 Obligations Personal to Owner. The liability of Owner under this Agreement to any person or entity is limited to Owner's interest in the Project, and the City and any other such persons and entities shall look exclusively thereto for the satisfaction of obligations arising out of this Agreement or any other agreement securing the obligations of Owner under this Agreement. From and after the date of this Agreement, no deficiency or other personal judgment, nor any order or decree of specific performance (other than pertaining to this Agreement, any agreement pertaining to any Project or any other agreement securing Owner's obligations under this Agreement), shall be rendered against Owner, the assets of Owner (other than Owner's interest in the Project), its partners, members, successors, transferees or assigns and each of their respective officers, directors, employees, partners, agents, heirs and personal representatives, as the case may be, in any action or proceeding arising out of this Agreement or any agreement securing the

obligations of Owner under this Agreement, or any judgment, order or decree rendered pursuant to any such action or proceeding. No subsequent Owner of the Project shall be liable or obligated for the breach or default of any obligations of Owner under this Agreement on the part of any prior Owner. Such obligations are personal to the person who was the Owner at the time the default or breach was alleged to have occurred and such person shall remain liable for any and all damages occasioned thereby even after such person ceases to be the Owner. Each Owner shall comply with and be fully liable for all obligations the Owner hereunder during its period of ownership of the Project.

4.4 Force Majeure. Subject to the party's compliance with the notice requirements as set forth below, performance by either party hereunder shall not be deemed to be in default, and all performance and other dates specified in this Agreement shall be extended, where delays or defaults are due to causes beyond the control and without the fault of the party claiming an extension of time to perform, which may include, without limitation, the following: war, insurrection, strikes, lockouts, riots, floods, earthquakes, fires, assaults, acts of God, acts of the public enemy, epidemics, quarantine restrictions, freight embargoes, lack of transportation, governmental restrictions or priority, litigation, unusually severe weather, inability to secure necessary labor, materials or tools, acts or omissions of the other party, or acts or failures to act of any public or governmental entity (except that the City's acts or failure to act shall not excuse performance of the City hereunder). An extension of the time for any such cause shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause, if notice by the party claiming such extension is sent to the other party within 30 days of the commencement of the cause.

4.5 Attorneys' Fees. In addition to any other remedies provided hereunder or available pursuant to law, if either party brings an action or proceeding to enforce, protect or establish any right or remedy hereunder, the prevailing party shall be entitled to recover from the other party its costs of suit and reasonable attorneys' fees. This Section shall be interpreted in accordance with California Civil Code Section 1717 and judicial decisions interpreting that statute.

4.6 Remedies Cumulative. No right, power, or remedy given by the terms of this Agreement is intended to be exclusive of any other right, power, or remedy; and each and every such right, power, or remedy shall be cumulative and in addition to every other right, power, or remedy given by the terms of any such instrument, or by any statute or otherwise.

4.7 Waiver of Terms and Conditions. The City may, in its sole discretion, waive in writing any of the terms and conditions of this Agreement. Waivers of any covenant, term, or condition contained herein shall not be construed as a waiver of any subsequent breach of the same covenant, term, or condition.

4.8 Non-Liability of City Officials and Employees. No member, official, employee or agent of the City shall be personally liable to Owner or any occupant of any BMR Unit, or any successor in interest, in the event of any default or breach by the City or for any amount which may become due to the Owner or its successors, or on any obligations under the terms of this Agreement.

other than the City and Owner and their assigns and successors, shall have any right of action hereon.

5.6 Partial Invalidity. If any provision of this Agreement shall be declared invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions hereof shall not in any way be affected or impaired.

5.7 Governing Law. This Agreement and other instruments given pursuant hereto shall be construed in accordance with and be governed by the laws of the State of California. Any references herein to particular statutes or regulations shall be deemed to refer to successor statutes or regulations, or amendments thereto. The venue for any action shall be the County of San Mateo.

5.8 Amendment. This Agreement may not be changed orally, but only by agreement in writing signed by Owner and the City.

5.9 Approvals. Where an approval or submission is required under this Agreement, such approval or submission shall be valid for purposes of this Agreement only if made in writing. Where this Agreement requires an approval or consent of the City, such approval shall not be unreasonably withheld may be given on behalf of the City by the City Manager or his or her designee. The City Manager or his or her designee is hereby authorized to take such actions as may be necessary or appropriate to implement this Agreement, including without limitation the execution of such documents or agreements as may be contemplated by this Agreement, and amendments which do not substantially change the uses or restrictions hereunder, or substantially add to the costs of the City hereunder.

5.10 Indemnification. To the greatest extent permitted by law, Owner shall indemnify, defend (with counsel reasonably approved by City) and hold the City, its heirs, successors and assigns (the “**Indemnitees**”) harmless from and against any and all demands, losses, claims, costs and expenses, and any other liability whatsoever, including without limitation, reasonable accountants’ and attorneys’ fees, charges and expense (collectively, “**Claims**”) arising directly or indirectly, in whole or in part, as a result of or in connection with Owner’s construction, management, or operation of the Property and the Project or any failure to perform any obligation as and when required by this Agreement. Owner’s indemnification obligations under this Section 6.10 shall not extend to Claims to the extent resulting from the gross negligence or willful misconduct of Indemnitees. The provisions of this Section 6.10 shall survive the expiration or earlier termination of this Agreement, but only as to claims arising from events occurring during the Affordability Period.

5.11 Insurance Coverage. Throughout the Affordability Period, Owner shall comply with the insurance requirements set forth in Exhibit D, attached hereto and incorporated herein by this reference, and shall, at Owner’s expense, maintain in full force and effect insurance coverage as specified in Exhibit D.

5.12 Transfer and Encumbrance.

5.12.1 Restrictions on Transfer and Encumbrance. During the term of this Agreement, except as permitted pursuant to this Agreement, Owner shall not directly or indirectly, voluntarily, involuntarily or by operation of law make or attempt any total or partial

sale, transfer, conveyance, assignment or lease (other than a lease of a BMR Rental Unit on an approved form under Section 3.6 hereof to a qualified tenant as described in Section 3.7 hereof) (collectively, “**Transfer**”) of the whole or any part of any BMR Rental Unit, without the prior written consent of the City, which approval shall not be unreasonably withheld. In addition, prior to the expiration of the term of this Agreement, except as expressly permitted by this Agreement, Owner shall not undergo any significant change of ownership without the prior written approval of City, which shall not be unreasonably withheld. For purposes of this Agreement, a “significant change of ownership” shall mean a transfer of the beneficial interest of more than twenty-five percent (25%) in aggregate of the present ownership and /or control of Owner, taking all transfers into account on a cumulative basis; provided however, neither the admission of an investor limited partner, nor the transfer by the investor limited partner to subsequent limited partners shall be restricted by this provision.

5.12.2 Permitted Transfers. The prohibitions on Transfer set forth herein shall not be deemed to prevent: (i) the granting of easements or permits to facilitate development of the Property; (ii) assignments creating security interests for the purpose of financing the acquisition, construction, or permanent financing of the Project or the Property, or Transfers directly resulting from the foreclosure of, or granting of a deed in lieu of foreclosure of, such a security interest; or (iii) transfers between entities owned or controlled by the Sobrato Organization.

5.12.3 Requirements for Proposed Transfers. The City may, in the exercise of its discretion, not to be unreasonably withheld, consent to a proposed Transfer of this Agreement and/or a BMR Rental Unit if all of the following requirements are met (provided however, the requirements of this Section 5.12.3 shall not apply to Transfers described in clauses (i), (ii), or (iii) of Section 5.12.2.

(i) The proposed transferee demonstrates to the City’s satisfaction that it has the qualifications, experience and financial resources necessary and adequate as may be reasonably determined by the City to competently complete and manage the Project and to otherwise fulfill the obligations undertaken by the Owner under this Agreement.

(ii) The Owner and the proposed transferee shall submit for City review and approval all instruments and other legal documents proposed to effect any Transfer of all or any part of or interest in the BMR Rental Unit or this Agreement together with such documentation of the proposed transferee’s qualifications and development capacity as the City may reasonably request.

(iii) The proposed transferee shall expressly assume all of the rights and obligations of the Owner under this Agreement arising after the effective date of the Transfer and all obligations of Owner arising prior to the effective date of the Transfer (unless Owner expressly remains responsible for such obligations) and shall agree to be subject to and assume all of Owner’s obligations pursuant to conditions, and restrictions set forth in this Agreement.

(iv) The Transfer shall be effectuated pursuant to a written instrument satisfactory to the City in form recordable in the Official Records.

Consent to any proposed Transfer may be given by the Deputy Director unless the Deputy Director, in his or her discretion, refers the matter of approval to the City Council. If the City has not rejected a proposed Transfer or requested additional information regarding a proposed Transfer in writing within forty-five (45) days following City's receipt of written request by Owner, the proposed Transfer shall be deemed approved.

5.13 Effect of Transfer without City Consent. In the absence of specific written agreement by the City, no Transfer of any BMR Rental Unit shall be deemed to relieve the Owner or any other party from any obligation under this Agreement. This Section 5.12 shall not apply to Transfers described in clauses (i) and (ii) of Section 5.12.2.

5.14 Recovery of City Costs. Owner shall reimburse City for all reasonable City costs, including but not limited to reasonable attorneys' fees, incurred in reviewing instruments and other legal documents proposed to effect a Transfer under this Agreement and in reviewing the qualifications and financial resources of a proposed successor, assignee, or transferee within ten (10) days following City's delivery to Owner of an invoice detailing such costs.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year set forth above.

SIGNATURES ON FOLLOWING PAGE(S).

OWNER:

[Sobrato SPE], a California limited liability company

By: _____

Its:

CITY:

CITY OF MENLO PARK, a California municipal corporation

By: _____
City Manager

ATTEST:

By: _____
City Clerk

List of Exhibits:

- Exhibit A: Property Description
- Exhibit B: Allocation of the BMR Units
- Exhibit C: BMR Unit Locations
- Exhibit D: Insurance Requirements
- Exhibit E: State Density Bonus Law Request Approval

Exhibit A
Property Description

Exhibit B
Allocation of BMR Units in the Project

BMR Rental Units	Low
Studio apartment	16
1 bedroom apartment	33
2 bedroom apartment	7
Total - BMR Rental Units	56

Exhibit C
BMR Unit Locations

Exhibit D

Insurance Requirements

Prior to initiating work on the Project and continuing throughout the Affordability Period, Owner shall obtain and maintain the following policies of insurance and shall comply with all provisions set forth in this Exhibit.

1. General Requirements. Owner shall procure and maintain the following insurance providing coverage against claims for injuries to persons or damages to property that may arise from or in connection with the Project, construction, management, or operation of the Property by the Owner or the Owner's agents, representatives, employees and contractors, or subcontractors, including the following:

(a) Commercial General Liability: The Owner and all contractors working on behalf of Owner on the Property shall maintain a commercial general liability policy in an occurrence policy for protection against all claims arising from injury to person or persons not in the employ of the Owner and against all claims resulting from damage to any property due to any act or omission of the Owner, its agents, or employees in the conduct or operation of the work or the execution of this Agreement. Such insurance shall include products and completed operations liability, blanket contractual liability, personal injury liability, and broad form property damage coverage. Coverage shall be at least as broad as Insurance Services Office Commercial General Liability coverage.

(b) Commercial Automobile Liability: The Owner and all contractors working on behalf of Owner on the Property shall maintain insurance for protection against all claims arising from the use of vehicles, owned, hired, non-owned, or any other vehicle in connection with the Project, construction, operation or management of the Property. Such insurance shall cover the use of automobiles and trucks on and off the site of the Property. Coverage shall be at least as broad as Insurance Services Office covering Commercial Automobile Liability, any auto, owned, non-owned and hired auto.

(c) Workers' Compensation Insurance: The Owner (and the general partners thereof) shall furnish or cause to be furnished to City evidence satisfactory to City that Owner (and the general partners thereof), and any contractor with whom Owner has contracted for the performance of work on the Property or otherwise pursuant to this Agreement, shall maintain Workers' Compensation Insurance as required by the State of California and Employer's Liability Insurance.

(d) Builder's Risk: Upon commencement of any construction work on the Property, Owner and all contractors working on behalf of Owner shall maintain a policy of builder's all-risk insurance in an amount not less than the full insurable cost of the Project on a replacement cost basis naming City as loss payee as its interests may appear.

(e) Professional Liability/Errors and Omissions: Owner shall require any architects, engineers, and general contractors working on the Property to maintain Professional Liability/Errors and Omissions insurance with limits not less than Two Million Dollars (\$2,000,000) each claim. Certificates evidencing this coverage must reference both the Owner and the Indemnitees. If the professional liability/errors and omissions insurance is written on a

claims made form: (i) the retroactive date must be shown and must be before the Effective Date, (ii) insurance must be maintained and evidence of insurance must be provided for at least three (3) years after completion of Project construction, and (iii) if coverage is cancelled or non-renewed and not replaced with another claims made policy form with a retroactive date prior to the Effective Date, Owner must purchase, or require the provision of, extended period coverage for a minimum of three (3) years after completion of construction.

(f) Property: Owner shall maintain property insurance covering all risks of loss, including earthquake and flood (if required) for 100% of the replacement value of the Project with deductible, if any, in an amount acceptable to City, and as commercially available.

2. Minimum Limits; Adjustments. Insurance shall be maintained with limits no less than the following:

(a) Commercial General Liability and Property Damage: \$2,000,000 per occurrence and \$5,000,000 annual aggregate for bodily injury, personal injury and property damage; provided however, with City's advance written approval, subcontractors may maintain liability coverage with limits not less than \$1,000,000 per occurrence, \$2,000,000 annual aggregate.

(b) Products and Completed Operations: \$3,000,000 per occurrence/aggregate. Subcontractors may maintain Products and Completed Operations with limits not less than \$1,000,000 per occurrence and \$1,000,000 aggregate.

(c) Commercial Automobile Liability: \$2,000,000 combined single limit.

(d) Employer's Liability:

Bodily Injury by Accident - \$1,000,000 each accident.

Bodily Injury by Disease - \$1,000,000 policy limit.

Bodily Injury by Disease - \$1,000,000 each employee.

(e) Professional Liability/Errors and Omissions: \$2,000,000 per occurrence or claim. If the policy provides coverage on a claims-made basis, the retroactive date must be shown and must be before the date of the Agreement or the beginning of the contract work. Subcontractors are required to carry coverage if their scope of work includes design services to the Project.

Coverage limits, and if necessary, the terms and conditions of insurance, shall be reasonably adjusted from time to time (not less than every five (5) years after the Effective Date nor more than once in every three (3) year period) to address changes in circumstance, including, but not limited to, changes in inflation and the litigation climate in California. City shall give written notice to Owner of any such adjustments, and Owner shall provide City with amended or new insurance certificates or endorsements evidencing compliance with such adjustments within thirty (30) days following receipt of such notice.

3. Deductibles and Self-Insured Retention. Any deductibles or self-insured retention must be

declared to, and approved by, the City. Payment of all deductibles and self-insured retentions will be the responsibility of Owner. If the City determines that such deductibles or retentions are unreasonably high, either the insurer shall reduce or eliminate such deductibles or self-insurance retentions as respects the Indemnitees or Owner shall procure a bond guaranteeing payment of losses and related investigations, claims administration and defense.

4. Additional Requirements. The required general liability and automobile policies shall contain, or be endorsed to contain, the following provisions:

(a) The Indemnitees are to be covered as Additional Insureds as respects: liability arising out of activities performed by or on behalf of the Owner; products and completed operations of the Owner; premises owned, occupied or used by the Owner; or automobiles owned, leased, hired or borrowed by the Owner. The coverage shall contain no special limitations on the scope of protection afforded to the Indemnitees. Additional insured endorsements for the general liability coverage shall use Insurance Services Office (ISO) Form No. CG 20 09 11 85 or CG 20 10 11 85, or equivalent, including (if used together) CG 2010 10 01 and CG 2037 10 01; but shall not use the following forms: CG 20 10 10 93 or 03 94.

(b) All insurance shall be primary insurance as respects the Indemnitees. Any insurance or self-insurance maintained by the Indemnitees shall be excess of the Owner's/contractor's insurance and shall not contribute with it.

(c) Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the Indemnitees.

(d) The Owner's insurance shall apply separately to each insured against whom claim is made or suit is brought except, with respect to the limits of the insurer's liability.

(e) Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.

(f) If any insurance policy or coverage required hereunder is canceled or reduced, Owner shall, within five (5) days after receipt of notice of such cancellation or reduction in coverage, but in no event later than the effective date of cancellation or reduction, file with City a certificate showing that the required insurance has been reinstated or provided through another insurance company or companies. Upon failure to so file such certificate, City may, without further notice and at its option, procure such insurance coverage at Owner's expense, and Owner shall promptly reimburse City for such expense upon receipt of billing from City.

(g) Owner agrees to waive subrogation rights for commercial general liability, automobile liability and worker's compensation against Indemnitees regardless of the applicability of any insurance proceeds, and to require all contractors, subcontractors or others involved in any way with any construction on the Property to do likewise. Each insurance policy shall contain a waiver of subrogation for the benefit of City. If any required insurance is provided under a form of coverage that includes an annual aggregate limit or provides that claims investigation or legal

defense costs are included in such annual aggregate limit, such annual aggregate limit shall be three times the applicable occurrence limits specified above.

(h) It shall be a requirement under this Agreement that any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirement and/or limits shall be available to the additional insured. Furthermore, the requirement for coverage and limits shall be (1) the minimum coverage and limits specified in this Agreement, or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named insured; whichever is greater. For all liability insurance required by this Agreement, Owner (and Owner's contractors, as applicable) shall obtain endorsements that name the Indemnitees as additional insured in the full amount of all applicable policies, notwithstanding any lesser minimum limits specified in this Agreement. This Agreement requires Owner (and Owner's contractors, as applicable) to obtain and provide for the benefit of the Indemnitees, additional insured coverage in the same amount of insurance carried by Owner (or Owner's contractors, as applicable), but in no event less than the minimum amounts specified in this Agreement. In the event that Owner (or Owner's contractors as applicable) obtains insurance policies that provide liability coverage in excess of the amounts specified in this Agreement, the actual limits provided by such policies shall be deemed to be the amounts required under this Agreement. Without limiting the foregoing, the limits of liability coverage specified in this Agreement are not intended, nor shall they operate, to limit City's ability to recover amounts in excess of the minimum amounts specified in this Agreement.

(i) The limits of insurance required in this Agreement may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of the City before the City's own insurance or self-insurance shall be called upon to protect it as a named insured.

5. Acceptability of Insurers. Companies writing the insurance required hereunder shall be licensed to do business in the State of California. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A: VII.

6. Verification of Coverage. Prior to the Effective Date of this Agreement, Owner shall furnish City with certificates of insurance in form acceptable to City evidencing the insurance coverage required under paragraphs (a), (b), (c), and (e) of Section 1 above, duly executed endorsements evidencing the Indemnitees' status as additional insured, and all other endorsements and coverage required hereunder pertaining to such coverage. Prior to commencement of any construction work on the Property, Owner shall furnish City with certificates of insurance in form acceptable to City evidencing the insurance coverage required under paragraphs (d) and (g) of Section 1 above. Prior to City's issuance of a final certificate of occupancy or equivalent for the Project, Owner shall furnish City with certificates of insurance in form acceptable to City evidencing the insurance coverage required under paragraph (f) of Section 1 above. Owner shall furnish the City with original endorsements effecting coverage required by this clause. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf.

7. Insurance Certificates and Endorsements. Owner shall submit to the City all of the

necessary insurance documents, including the applicable 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 required Owner policies listing all required policy endorsements to the City. Insurance Certificates and Endorsements are to be received and approved by the City within the time periods specified in Section 6 above. Should Owner cease to have insurance as required at any time, all work by Owner pursuant to this Agreement shall cease until insurance acceptable to the City is provided. Upon City's request, Owner shall, within thirty (30) days of the request, provide or arrange for the insurer to provide to City, complete certified copies of all insurance policies required under this Agreement. City's failure to make such request shall not constitute a waiver of the right to require delivery of the policies in the future.

087389\16454280v5

This document is recorded for the benefit of the City of Menlo Park and is entitled to be recorded free of charge in accordance with Sections 6103 and 27383 of the Government Code.

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

City of Menlo Park
Attn: City Clerk
701 Laurel Street
Menlo Park, CA 94025

**BELOW MARKET RATE HOUSING AGREEMENT
AND DECLARATION OF RESTRICTIVE COVENANTS**

(123 Independence Drive Project - Ownership)

This **BELOW MARKET RATE HOUSING AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS** (“**Agreement**”) is entered into as of _____, 2023 (“**Effective Date**”), by and between the City of Menlo Park, a California municipal corporation (“**City**”) and Habitat for Humanity Greater San Francisco Inc., a California nonprofit public benefit corporation (“**Developer**”). The City and the Developer are collectively referred to herein as the “**Parties**.”

RECITALS

A. Developer is the owner of that certain real property at the approximate location commonly known as [need to describe] in the City of Menlo Park, California and as more particularly described in Exhibit A, attached hereto and incorporated herein by this reference, is the parcel subject to the Agreement (the “**Property**”).

B. Developer intends to construct a residential condominium project on the Property that will consist of 18 for-sale dwelling units together with parking and related improvements (collectively, the “**Project**”). The Project is part of a larger, mixed-income housing development project commonly known as the 123 Independence Drive Project (“**123 Independence Project**”).

C. Menlo Park Municipal Code Chapter 16.96, the Below Market Rate Housing Program (“**BMR Ordinance**”), and the Below Market Rate Housing Program Guidelines (“**Guidelines**”) require a developer to provide fifteen percent (15%) of the total number of units in a project as affordable to below market rate (“**BMR**”) households. To satisfy the requirements of the BMR Ordinance and Guidelines, the project sponsor of the 123 Independence Project has proposed (the “**BMR Proposal**”) to provide BMR units as follows: fifty-six (56) rental units to BMR households (“**BMR Rental Units**”) and eighteen (18) for-sale units to BMR households (“**BMR For-Sale Units**”) and together with BMR Rental Units, “**BMR Units**”) for a total of seventy-four (74) BMR Units. The Agreement addresses only the BMR For-Sale Units. The BMR Rental Units are addressed in a separate agreement.

D. On _____, 2023, after a duly noticed public hearing, the Housing Commission recommended approval the BMR Proposal, including eighteen (18) low-income for-sale units, the BMR For-Sale Units.

E. On _____, 2023, after a duly noticed public hearing, and on the recommendation of the Housing Commission, the Planning Commission certified the environmental impact report approved a conditional use permit, architectural control, form affordable housing agreements, and incentives/concessions and waivers in accordance with State Density Bonus Law (Government Code section 65915) and recommended that the City Council approve a Vesting Tentative Map and the BMR Proposal for the Project. On _____, 2023, after a duly noticed public hearing, and on the recommendation of the Housing Commission and the Planning Commission, the City Council approved a Vesting Tentative Map and the BMR Proposal for the Project. The Planning Commission and City Council actions are collectively the “**Project Approvals.**”

F. The Project Approvals require the Developer to provide the BMR For-Sale Units in accordance the BMR Proposal. In accordance with the BMR Ordinance and Guidelines and State Density Bonus Law (Government Code section 65915), Developer is required to execute and record an approved BMR Housing Agreement for the BMR For-Sale Units as a condition precedent to the issuance of a building permit for the Project. This Agreement is intended to satisfy that requirement.

NOW, THEREFORE, the Parties hereto agree as follows. The recitals are incorporated into this Agreement by this reference.

1. **Definitions.** The following terms have the meanings set forth in this Section wherever used in this Agreement or the attached exhibits.

“**Actual Household Size**” means the actual number of persons in the applicable household.

“**Affordable Housing Cost**” means a monthly obligation to pay mortgage payments (principal and interest), property taxes, property insurance, mortgage insurance (if required by mortgage lender), utilities, and homeowners’ association dues (if applicable) in an aggregate amount not greater than one-twelfth of thirty percent (30%) of household Gross Income. For the purpose of calculating Affordable Housing Cost, mortgage payments that the homeowner is required to pay on a current basis are included, but “silent” mortgages that do not require payment of principal and interest are excluded.

“**Affordable Sales Price**” means the maximum sales price for a BMR For-Sale Unit as determined pursuant to Section 2.4 below that will result in an Affordable Housing Cost for the homebuyer.

“**Applicable Rules and Regulations**” means the City, State of California, and federal rules and regulations applicable to the Project, including, but not limited to local, State of California, and federal fair housing laws and regulations.

"Area Median Income" or "AMI" means the median income for San Mateo County, California, adjusted for Actual Household Size as determined by the U.S. Department of Housing and Urban Development (HUD) pursuant to Section 8 of the United States Housing Act of 1937 and as published from time to time by the State of California Department of Housing and Community Development (HCD) in Section 6932 of Title 25 of the California Code of Regulations or successor provision.

"BMR For-Sale Units" is defined in Recital C.

"City" means the City of Menlo Park, a California municipal corporation.

"Claims" means liabilities, losses, costs, expenses (including without limitation reasonable attorneys' fees and costs of litigation), claims, demands, actions, suits, judicial or administrative proceedings, penalties, deficiencies, fines, orders, and damages.

"Developer" is defined in the preamble to this Agreement.

"Eligible Household" means a Low Income Household.

"Event of Default" is defined in Section 10.1.

"Gross Income" shall have the meaning set forth in Section 6914 of Title 25 of the California Code of Regulations as such section may be revised from time to time.

"HUD" means the U.S. Department of Housing and Urban Development.

"Indemnitees" means the City and its elected and appointed officers, officials, employees, agents, and representatives.

"Low-Income Household" means a household whose Gross Income does not exceed the qualifying limit for lower income households as established and amended from time to time by the U.S. Department of Housing and Urban Development ("HUD") pursuant to Section 8 of the United States Housing Act of 1937 and published by the California Department of Housing and Community Development ("HCD") pursuant to Section 50079.5 of the California Health and Safety Code, adjusted for Actual Household Size.

"Official Records" means the Official Records of the San Mateo County Clerk-Recorder.

"Third-Party Lender" is defined in Section 9.6.

2. Use and Affordability Restrictions. Developer hereby covenants and agrees, for itself and its successors and assigns, that throughout the term of this Agreement (as defined in Section 4.1), the BMR For-Sale Units shall be used solely for sale at Affordable Sales Prices to Eligible Households as set forth in this Agreement. Developer represents and warrants that it has not entered into any agreement that would restrict or compromise its ability to comply with the occupancy and affordability restrictions set forth in this Agreement, and Developer covenants that it shall not enter into any agreement that is inconsistent with such restrictions without the express written consent of City.

2.1 BMR For-Sale Units. For the ninety-nine (99)-year period commencing upon the date of City's issuance of a final certificate of occupancy following completion of construction of each BMR For Sale Unit ("**Affordability Period**"), the BMR For-Sale Units shall be subject to the affordability and occupancy requirements of this Agreement. Notwithstanding anything to the contrary in the City's BMR Guidelines or this Agreement, the BMR For-Sale Units shall be operated in accordance with the Project's approved BMR Proposal, including the approved reasonably equivalent alternatives to the BMR Guidelines under Section 13, attached hereto as Exhibit D.

2.2 Occupancy as Principal Residence; No Short-term Rentals. The BMR For-Sale Units must be occupied as the principal residence of the homeowner. The homeowner disclosures must provide that the prospective purchaser acknowledges and agrees that the BMR-For Sale Unit must be occupied as the household's principal residence, and that the unit may not be subleased or made available as a short-term rental.

2.3 Non-Discrimination; Compliance with Fair Housing Laws.

2.3.1 Fair Housing. Developer shall comply with state and federal fair housing laws in the marketing and sale of the BMR For-Sale Units in the Project.

2.3.2 Non-Discrimination Covenants. Developer covenants by and for itself, its successors and assigns, and all persons claiming under or through them that there shall be no discrimination against or segregation of any person or group of persons on account of race, color, religion, sex, marital status, familial status, disability, national origin, or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the Property, nor establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, or vendees in the Property. Developer shall include such provision in all deeds, leases, contracts and other instruments executed by Developer, and shall enforce the same diligently and in good faith.

a. In deeds, the following language shall appear:

(1) Grantee herein covenants by and for itself, its successors and assigns, and all persons claiming under or through it, that there shall be no discrimination against or segregation of a person or of a group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the property herein conveyed nor shall the grantee or any person claiming under or through the grantee establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees in the property herein conveyed. The foregoing covenant shall run with the land.

(2) Notwithstanding paragraph (1), with respect to familial status, paragraph (1) shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in paragraph (1) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11 and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to paragraph (1).

b. In contracts pertaining to management of the Project, the following language, or substantially similar language prohibiting discrimination and segregation shall appear:

(1) There shall be no discrimination against or segregation of any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the property nor shall the transferee or any person claiming under or through the transferee establish or permit any such practice or practices of discrimination or segregation with reference to selection, location, number, use or occupancy of tenants, lessee, subtenants, sublessees or vendees of the land.

(2) Notwithstanding paragraph (1), with respect to familial status, paragraph (1) shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in paragraph (1) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11 and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to paragraph (1).

2.4 Sale of BMR For-Sale Units; Determination of Affordable Sales Price.

2.4.1 The BMR For-Sale Units may be sold only to Eligible Households and must be sold at a sales price that will result in Affordable Housing Cost to the homebuyer based on the homebuyer's household Gross Income.

2.4.2 The sale price of each BMR For-Sale Unit may not exceed the lesser of the Affordable Sales Price and the fair market value. The Affordable Sales Price calculation shall take into consideration the interest rate and down payment requirements of all financing for the applicable unit included in the Affordable Housing Cost. City and Developer agree to meet and confer in good faith if City disagrees with Developer's calculation of the Affordable Sales Price.

2.4.3 No less than 90 days prior to offering a BMR For-Sale Unit for sale, Developer shall provide the City with written notice of its calculation of the Affordable Sales Price, calculated in accordance with this Agreement, for such BMR For-Sale Unit for the City's review and approval. Within 20 days of City's receipt of Developer's calculation of Affordable Sales Price accompanied by all applicable financing information for such units, including without

limitation, all financing provided by Developer and all “silent” mortgages that require no debt service payments, City shall provide Developer with its approval or rejection of the Affordable Sales Price.

3. Reporting Requirements; Records; Inspections. Throughout the Affordability Period, Developer shall comply with all applicable recordkeeping and monitoring requirements set forth in the Guidelines, attached as Exhibit [], or, at the Developer’s election, applicable recordkeeping and monitoring requirements in updated Guidelines related to the initial sale of each BMR For-Sale Unit. City shall have the right to inspect the books and records of Developer and its sales agent(s) or bookkeeper upon reasonable notice during normal business hours. Representatives of the City shall be entitled, upon at least 48-hour prior written notice, which can be provided via email, to inspect the records of the Project with respect to the BMR For-Sale Units, and to conduct, or cause to be conducted, an independent audit or inspection of such records. Developer agrees to maintain records in businesslike manner, and to maintain such records for Affordability Period.

4. Term of Agreement.

4.1 Term of Restrictions. This Agreement shall remain in effect until the earlier of the ninety-ninth (99th) anniversary of the Effective Date or the initial sale of all BMR For-Sale Units in accordance with the provisions of this Agreement.

4.2 Effectiveness Succeeds Conveyance of Property. This Agreement shall remain effective and fully binding for the full term hereof regardless of any sale, assignment, transfer, or conveyance of the Property or the Project or any part thereof or interest therein; provided however, that upon initial sale of each BMR For-Sale Unit and recordation of a fully executed Resale Restriction Agreement (a form of which is attached as Exhibit C hereto), such BMR For-Sale Unit shall be released from this Agreement (a form of which is attached as Exhibit D hereto), and the Developer’s obligations under this Agreement with respect to each such BMR For-Sale Unit shall terminate unless otherwise provided for herein.

4.3 Reconveyance. Upon the termination of this Agreement, the Parties agree to execute and record appropriate instruments to release and discharge this Agreement; provided, however, the execution and recordation of such instruments shall not be necessary or a prerequisite to the termination of this Agreement upon the expiration of the term.

5. Binding Upon Successors; Covenants to Run with the Land.

5.1 Requirements Run with the Land. Developer hereby subjects its interest in the Property and the Project to the covenants and restrictions set forth in this Agreement. The City and Developer hereby declare their express intent that the covenants and restrictions set forth herein shall be deemed covenants running with the land and shall be binding upon and inure to the benefit of the heirs, administrators, executors, successors in interest, transferees, and assigns of Developer and City, regardless of any sale, assignment, conveyance or transfer of the Property, the Project or any part thereof or interest therein. Any successor-in-interest to Developer, including without limitation any purchaser, transferee or lessee of the Property or the Project shall be subject to all of the duties and obligations imposed hereby for the full term of this Agreement.

Each and every contract, deed, ground lease or other instrument affecting or conveying the Property or the Project or any part thereof, shall conclusively be held to have been executed, delivered and accepted subject to the covenants, restrictions, duties and obligations set forth herein, regardless of whether such covenants, restrictions, duties and obligations are set forth in such contract, deed, ground lease or other instrument. If any such contract, deed, ground lease or other instrument has been executed prior to the date hereof, Developer hereby covenants to obtain and deliver to City an instrument in recordable form signed by the parties to such contract, deed, ground lease or other instrument pursuant to which such parties acknowledge and accept this Agreement and agree to be bound hereby.

5.2 Equitable Servitudes. Developer agrees for itself and for its successors that in the event that a court of competent jurisdiction determines that the covenants herein do not run with the land, such covenants shall be enforced as equitable servitudes against the Property and the Project in favor of City.

5.3 Recordation of Resale Restriction Agreement. In connection with the sale of each BMR For-Sale Unit, the homebuyer shall be required to execute a Resale Restriction Agreement, substantially in the form attached hereto as Exhibit C. The Resale Restriction Agreement must be recorded against the BMR For-Sale Units in the Project at the closing for the sale of such unit.

6. Buyer Selection; Marketing.

6.1 Use of City List of Prospective Purchasers. The City may maintain a list of potential Eligible Households. Developer agrees to include any such list in marketing the BMR For-Sale Units, and agrees to honor any priorities established by such list or otherwise specified in this Agreement to the extent consistent with State and federal laws; provided however, Developer shall retain responsibility to verify prospective purchasers' income, qualifications, and eligibility to purchase a BMR For-Sale Unit.

6.2 Preferences. Through the review and approval of the Marketing Plan, Developer shall work with City to develop a methodology that will provide a preference in the sale of BMR For-Sale Units to Income Level Eligible Households that is consistent with the Guidelines, using the approach that is set forth in Exhibit G. Notwithstanding the foregoing, in the event of a conflict between this provision and Applicable Rules and Regulations, the provisions of such Applicable Rules and Regulations shall control.

6.3 Income Verification. Prior to entering into a contractual commitment to sell each BMR For-Sale Unit, Developer shall provide a certification to City attesting to the prospective buyer's Gross Income and status as an Eligible Household. In connection with such certification, prospective purchasers shall be required to provide written certification of household income, including without limitation such documents as income tax returns for the previous calendar year, W-2 statements, and pay stubs.

6.4 Use of Qualified Brokers and Lenders. If Developer uses a third-party broker or lender in marketing the BMR For-Sale Units, Developer agrees to use a realtor or broker that has experience in marketing below market-rate units that require homebuyers to meet income

qualifications and that require recordation of resale restriction agreements limiting appreciation on future sales, and agrees to use a realtor or broker that is on the City's approved list of realtors/brokers with such experience, if City maintains such a list. In addition, Developer agrees that the purchase of BMR For-Sale Units will be financed by lenders that are familiar with affordable housing programs that impose resale price restrictions, and agrees to work with lenders listed on the City's approved list of lenders with such experience if City maintains such a list.

6.5 Marketing Plan. Not fewer than 120 days before Developer begins offering BMR For-Sale Units for sale, Developer shall provide to the City, for its review and approval, the Developer's written marketing plan which shall address Developer's plan for marketing the BMR For-Sale Units for sale to Eligible Households, which plan shall incorporate the requirements set forth in this Section 6. Upon receipt of the marketing plan, the City shall promptly review the marketing plan and shall approve or disapprove it within thirty (30) days after submission. If the marketing plan is not approved, the Developer shall submit a revised marketing plan within thirty (30) days.

7. Maintenance and Insurance.

7.1 Maintenance. Developer shall maintain, or shall cause the homeowners' association for the Property ("**Homeowners' Association**") to maintain the Property in good physical condition, in good repair, ordinary wear and tear excepted, and in decent, safe, sanitary, habitable and tenantable living conditions. Without limiting the foregoing, Developer agrees to maintain or cause the Homeowners' Association to maintain the Property (including without limitation, landscaping, driveways, parking areas, and walkways) in a condition free of all waste, nuisance, debris, unmaintained landscaping, graffiti, disrepair, abandoned vehicles/appliances, and illegal activity, and shall take all reasonable steps to prevent the same from occurring on the Property. Developer shall prevent and/or rectify, or shall cause the Homeowners' Association to prevent and/or rectify, any physical deterioration of the Improvements and shall make all repairs, renewals and replacements necessary to keep the Property in good condition and repair, ordinary wear and tear excepted.

7.2 Insurance Coverage. Throughout the term of this Agreement, Developer shall comply, or cause the Homeowners' Association to comply, with the insurance requirements set forth in Exhibit B, and shall, at Developer's or Homeowners' Association expense, as applicable, maintain in full force and effect insurance coverage as specified in Exhibit B.

8. Recordation. This Agreement shall be recorded in the Official Records. Developer hereby represents, warrants and covenants that with the exception of easements of record, absent the written consent of City which City may grant or deny in the exercise in its reasonable discretion, this Agreement shall not be subordinated in priority to any lien pertaining to taxes or assessments, encumbrance, or other interest in the Property or the Project. If (other than those at the time this Agreement is recorded), any interest, lien, or encumbrance has been recorded against the Project in position superior to this Agreement, upon the request of City, Developer hereby covenants and agrees to promptly undertake all action necessary to clear such matter from title or to subordinate such interest to this Agreement consistent with the intent of and in accordance with this Section 8, and to provide such evidence thereof as City may reasonably request.

9. Transfer and Encumbrance.

9.1 Restrictions on Transfer and Encumbrance. During the term of this Agreement, except as permitted pursuant to this Agreement, Developer shall not directly or indirectly, voluntarily, involuntarily or by operation of law make or attempt any total or partial sale, transfer, conveyance, assignment or lease (collectively, “**Transfer**”) of the whole or any part of the Property, the Project, or the improvements located on the Property, without the prior written consent of the City, which approval shall not be unreasonably withheld. In addition, prior to the expiration of the term of this Agreement, except as expressly permitted by this Agreement, Developer shall not undergo any significant change of ownership without the prior written approval of City. For purposes of this Agreement, a “significant change of ownership” shall mean a transfer of the beneficial interest of more than twenty-five percent (25%) in aggregate of the present ownership and /or control of Developer, taking all transfers into account on a cumulative basis; provided however, neither the admission of an investor/non-managing member, nor the transfer by such party’s interest to subsequent non-managing members shall be restricted by this provision.

9.2 Permitted Transfers. Subject to Section 9.3 below, the prohibitions set forth in this Article shall not be deemed to prevent: (i) the granting of temporary easements or permits to facilitate development of the Property; (ii) dedication of any property required pursuant to this Agreement; (iii) the sale of individual residences to homebuyers for occupancy as their principal residence in accordance with this Agreement; (iv) assignments creating security interests for the purpose of financing the acquisition, construction, or permanent financing of the Project in accordance with the approved Financing Plan as it may be updated with City’s reasonable approval, or Transfers directly resulting from the foreclosure of, or granting of a deed in lieu of foreclosure of, such a security interest; (v) a Transfer to an entity under the direct control of or under common control with Developer of an affiliate of Developer, or (vi) a Transfer to an entity owned or controlled by The Sobrato Organization.

9.3 Requirements for Proposed Transfers. The City may, in the exercise of its sole discretion, consent to a proposed Transfer of this Agreement, the Property, or part thereof if all of the following requirements are met (provided however, the requirements of this Section 9.9 shall not apply to Transfers described in clauses (i), (ii), (iii), or (iv) of Section 9.2:

(i) The proposed transferee demonstrates to the City’s satisfaction that it has the qualifications, experience and financial resources necessary and adequate as may be reasonably determined by the City to competently complete and manage the Project and to otherwise fulfill the obligations undertaken by the Developer under this Agreement.

(ii) The Developer and the proposed transferee shall submit for City review and approval all instruments and other legal documents proposed to effect any Transfer of all or any part of or interest in the Property, the Project or this Agreement together with such documentation of the proposed transferee’s qualifications and development capacity as the City may reasonably request.

(iii) The proposed transferee shall expressly assume all of the rights and obligations of the Developer under this Agreement arising after the effective date of the Transfer

and all obligations of Developer arising prior to the effective date of the Transfer (unless Developer expressly remains responsible for such obligations) and shall agree to be subject to and assume all of Developer's obligations pursuant to the Project Approvals and all other conditions, and restrictions set forth in this Agreement. The assumption of such obligations shall be documented in an assignment and assumption agreement in form approved by City.

(iv) The Transfer shall be effectuated pursuant to a written instrument satisfactory to the City in form recordable in the Official Records.

(v) As applicable, the final form of the Partnership Agreement, operating agreement, and other applicable governing documents of the transferee and any subsequent amendments that affect the City's economic interests under this Agreement shall be subject to City's review and approval.

Consent to any proposed Transfer may be given by the City's Authorized Representative unless the City's Authorized Representative, in his or her discretion, refers the matter of approval to the City Council. If the City has not rejected a proposed Transfer or requested additional information regarding a proposed Transfer in writing within forty-five (45) days following City's receipt of written request by Developer, the proposed Transfer shall be deemed approved.

Nothing in this Section 9.3 is intended to limit or modify the obligation of Developer to comply with all requirements set forth in this Agreement with respect to the Transfer of individual BMR For Sale Units to homebuyers.

9.4 Effect of Transfer without City Consent. In the absence of specific written agreement by the City, no Transfer by Developer shall be deemed to relieve the Developer or any other party from any obligation under this Agreement. It shall be an Event of Developer Default hereunder entitling City to pursue all available remedies at law or in equity, including without limitation, termination of this Agreement, if without the prior written approval of the City, Developer assigns or Transfers this Agreement, the Project, or the Property, or any part thereof of interest therein, or undergoes any other Transfer (including without limitation, any assignment for security or encumbrance of the Property, or the Project, or part thereof) in violation of Section 9. This Section 9.4 shall not apply to Transfers described in clauses (i), (ii), (iii), and (vi) of Section 9.2.

9.5 Recovery of City Costs. Within ten (10) days following City's delivery to Developer of an invoice detailing such costs, Developer shall reimburse City for all reasonable City costs, including but not limited to reasonable attorneys' fees, incurred in reviewing instruments and other legal documents proposed to effect a Transfer of this Agreement, the Property, or the Project, or part thereof, and in reviewing the qualifications and financial resources of a proposed successor, assignee, or transferee.

9.6 Encumbrances. Developer agrees to use best efforts to ensure that all deeds of trust or other security instruments and any applicable subordination agreement recorded against the Property, the Project or part thereof for the benefit of a lender ("**Third-Party Lender**") shall contain each of the following provisions: (i) Third-Party Lender shall use its best efforts to provide to City a copy of any notice of default issued to Developer concurrently with provision of

such notice to Developer; and (ii) City shall have the reasonable right, but not the obligation, to cure any default by Developer within the same period of time provided to Developer for such cure extended by an additional ninety (90) days. Developer agrees to provide to City a copy of any notice of default Developer receives from any Third-Party Lender within three (3) business days following Developer's receipt thereof.

9.7 Mortgagee Protection. No violation of any provision contained herein shall defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value upon all or any portion of the Project or the Property, and the purchaser at any trustee's sale or foreclosure sale shall not be liable for any violation of any provision hereof occurring prior to the acquisition of title by such purchaser. Such purchaser shall be bound by and subject to this Agreement from and after such trustee's sale or foreclosure sale. Promptly upon determining that a violation of this Agreement has occurred, City shall give written notice to the holders of record of any mortgages or deeds of trust encumbering the Project or the Property that such violation has occurred.

10. Default and Remedies.

10.1 Events of Default. The occurrence of any one or more of the following events shall constitute an event of default hereunder ("**Event of Default**"):

- (a) The occurrence of a Transfer in violation of Section 9 hereof;
- (b) Developer's failure to maintain insurance on the Property and the Project as required hereunder, and the failure of Developer to cure such default within five (5) days;
- (c) Subject to Developer's right to contest the following charges, Developer's failure to pay taxes or assessments due on the Property or the Project or failure to pay any other charge that may result in a lien on the Property or the Project, and Developer's failure to cure such default within twenty (20) days of delinquency, but in all events prior to the date upon which the holder of any such tax or other lien has the right to foreclose thereon;
- (d) A default arises under any loan secured by a mortgage, deed of trust or other security instrument recorded against the Property and remains uncured beyond any applicable cure period such that the holder of such security instrument has the right to accelerate repayment of such loan; and
- (e) Developer's default in the performance of any term, provision or covenant under this Agreement (other than an obligation enumerated in this Section 10.1), and unless such provision specifies a shorter cure period for such default, the continuation of such default for ten (10) days in the event of a monetary default or thirty (30) days in the event of a non-monetary default following the date upon which City shall have given written notice specifying the nature of the default to Developer, or if the nature of any such non-monetary default is such that it cannot be cured within thirty (30) days, Developer's failure to commence to cure the default within thirty (30) days and thereafter prosecute the curing of such default to completion with due diligence and in good faith, but in no event later than ninety (90) days from receipt of the notice of default.

10.2 Remedies. Upon the occurrence of an Event of Default and its continuation beyond any applicable cure period, City may proceed with any of the following remedies:

- A. Bring an action for equitable relief seeking the specific performance of the terms and conditions of this Agreement, and/or enjoining, abating, or preventing any violation of such terms and conditions, and/or seeking declaratory relief;
- B. For violations of obligations with respect to Affordable Sales Prices chargeable to Eligible Households for the BMR For Sale Units, impose a charge in an amount equal to the actual amount collected in excess of the permitted Affordable Sales Price;
- C. Pursue any other remedy allowed at law or in equity.

Each of the remedies provided herein is cumulative and not exclusive. The City may exercise from time to time any rights and remedies available to it under applicable law or in equity, in addition to, and not in lieu of, any rights and remedies expressly provided in this Agreement.

11. Indemnity. To the greatest extent permitted by law, Developer shall indemnify, defend (with counsel approved by City) and hold the Indemnitees harmless from and against all Claims arising directly or indirectly, in whole or in part, as a result of or in connection with Developer's or Developer's employees', agents', contractors', or subcontractors' (all of the foregoing, collectively, "**Developer's Parties**") rehabilitation, construction, management, or operation of the Property and the Project, failure to comply with applicable law, including without limitation, state and federal fair housing laws, or any failure to perform any obligation as and when required by this Agreement. Developer's indemnification obligations under this Section 11 shall not extend to Claims to the extent resulting from the gross negligence or willful misconduct of Indemnitees. The provisions of this Section 11 shall survive the expiration or earlier termination of this Agreement. It is further agreed that City does not and shall not waive any rights against Developer that it may have by reason of this indemnity and hold harmless agreement because of the acceptance by City, or the deposit with City by Developer, of any of the insurance policies described in this Agreement.

12. Miscellaneous.

12.1 Amendments. This Agreement may be amended or modified only by a written instrument signed by both Parties and recorded in the Official Records.

12.2 No Waiver. Any waiver by City of any term or provision of this Agreement must be in writing. No waiver shall be implied from any delay or failure by City to take action on any breach or default hereunder or to pursue any remedy allowed under this Agreement or applicable law. No failure or delay by City at any time to require strict performance by Developer of any provision of this Agreement or to exercise any election contained herein or any right, power or remedy hereunder shall be construed as a waiver of any other provision or any

succeeding breach of the same or any other provision hereof or a relinquishment for the future of such election.

12.3 Notices. Except as otherwise specified herein, all notices to be sent pursuant to this Agreement shall be made in writing, and sent to the Parties at their respective addresses specified below or to such other address as a Party may designate by written notice delivered to the other parties in accordance with this Section. All such notices shall be sent by: (i) personal delivery, in which case notice is effective upon delivery; (ii) certified or registered mail, return receipt requested, in which case notice shall be deemed delivered upon receipt if delivery is confirmed by a return receipt; or (iii) nationally recognized overnight courier, with charges prepaid or charged to the sender's account, in which case notice is effective on delivery if delivery is confirmed by the delivery service.

CITY: City of Menlo Park
701 Laurel Street
Menlo Park, California 94025-3483
Attention: City Manager

DEVELOPER: Habitat for Humanity Greater San Francisco, Inc.
300 Montgomery Street, Suite 450
San Francisco, CA 94104
Attention: Maureen Sedonaen

12.4 Further Assurances. The Parties shall execute, acknowledge and deliver to the other such other documents and instruments, and take such other actions, as either shall reasonably request as may be necessary to carry out the intent of this Agreement.

12.5 Parties Not Co-Venturers; Independent Contractor; No Agency Relationship. Nothing in this Agreement is intended to or shall establish the Parties as partners, co-venturers, or principal and agent with one another. The relationship of Developer and City shall not be construed as a joint venture, equity venture, partnership or any other relationship. City neither undertakes nor assumes any responsibility or duty to Developer (except as expressly provided in this Agreement) or to any third party with respect to the Project. Developer and its employees are not employees of City but rather are, and shall always be considered independent contractors. Furthermore, Developer and its employees shall at no time pretend to be or hold themselves out as employees or agents of City. Except as City may specify in writing, Developer shall not have any authority to act as an agent of City or to bind City to any obligation.

12.6 Action by the City. Except as may be otherwise specifically provided herein, whenever any approval, notice, direction, consent or request by the City is required or permitted under this Agreement, such action shall be in writing, and such action may be given, made or taken by the City's City Manager or by any person who shall have been designated by the City Manager, without further approval by the City Council.

12.7 Non-Liability of City and City Officials, Employees and Agents. No member, official, employee or agent of the City shall be personally liable to Developer or any successor in interest, in the event of any default or breach by the City, or for any amount of money which may become due to Developer or its successor or for any obligation of City under this Agreement.

12.8 Headings; Construction; Statutory References. The headings of the sections and paragraphs of this Agreement are for convenience only and shall not be used to interpret this Agreement. The language of this Agreement shall be construed as a whole according to its fair meaning and not strictly for or against any Party. All references in this Agreement to particular statutes, regulations, ordinances or resolutions of the United States, the State of California, or the City of Menlo Park shall be deemed to include the same statute, regulation, ordinance or resolution as hereafter amended or renumbered, or if repealed, to such other provisions as may thereafter govern the same subject.

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

12.10 Governing Law; Venue. This Agreement shall be construed in accordance with the laws of the State of California without regard to principles of conflicts of law. Any action to enforce or interpret this Agreement shall be filed and heard in the Superior Court of San Mateo County, California or in the Federal District Court for the Northern District of California.

12.11 Attorneys' Fees and Costs. If any legal or administrative action is brought to interpret or enforce the terms of this Agreement, the prevailing party shall be entitled to recover all reasonable attorneys' fees and costs incurred in such action.

12.12 Severability. If any provision of this Agreement is held invalid, illegal, or unenforceable by a court of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions shall not be affected or impaired thereby.

12.13 Entire Agreement; Exhibits. This Agreement contains the entire agreement of Parties with respect to the subject matter hereof, and supersedes all prior oral or written agreements between the Parties with respect thereto. Exhibits A through E, attached hereto are incorporated herein by this reference.

12.14 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

13.15 Local Land Use Controls. The Project Approvals include approved incentives/concessions and waivers under the State Density Bonus Law, attached hereto as Exhibit [redacted]. This Agreement shall be subject to and interpreted to be consistent with the approved incentives/concessions and waivers granted pursuant to the State Density Bonus Law.

SIGNATURES ON FOLLOWING PAGES.

IN WITNESS WHEREOF, the Parties have entered into this Affordable Housing Regulatory Agreement effective as of the date first written above.

CITY:

City of Menlo Park, a municipal corporation

By: _____
Justin Murphy, City Manager

DEVELOPER:

Habitat for Humanity Greater San Francisco, Inc.,
a California nonprofit public benefit corporation

By: _____
Maureen Sedonaen, Chief Executive Officer

SIGNATURES MUST BE NOTARIZED.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA

COUNTY OF _____

On _____ before me, _____ (here insert name and title of the officer), personally appeared _____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA

COUNTY OF _____

On _____ before me, _____ (here insert name and title of the officer), personally appeared _____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

Exhibit A

PROPERTY

Exhibit B

INSURANCE REQUIREMENTS

Prior to initiating work on the Project and continuing throughout the Affordability Period, Developer (or the Homeowner's Association, as applicable and consistent with Section 7 of this Agreement) shall obtain and maintain the following policies of insurance and shall comply with all provisions set forth in this Exhibit.

1. General Requirements. Developer shall procure and maintain the following insurance providing coverage against claims for injuries to persons or damages to property that may arise from or in connection with the Project, construction, management, or operation of the Property by the Developer or the Developer's agents, representatives, employees and contractors, or subcontractors, including the following:

(a) Commercial General Liability: The Developer and all contractors working on behalf of Developer on the Property shall maintain a commercial general liability policy in an occurrence policy for protection against all claims arising from injury to person or persons not in the employ of the Developer and against all claims resulting from damage to any property due to any act or omission of the Developer, its agents, or employees in the conduct or operation of the work or the execution of this Agreement. Such insurance shall include products and completed operations liability, blanket contractual liability, personal injury liability, and broad form property damage coverage. Coverage shall be at least as broad as Insurance Services Office Commercial General Liability coverage.

(b) Commercial Automobile Liability: The Developer and all contractors working on behalf of Developer on the Property shall maintain insurance for protection against all claims arising from the use of vehicles, owned, hired, non-owned, or any other vehicle in connection with the Project, construction, operation or management of the Property. Such insurance shall cover the use of automobiles and trucks on and off the site of the Property. Coverage shall be at least as broad as Insurance Services Office covering Commercial Automobile Liability, any auto, owned, non-owned and hired auto.

(c) Workers' Compensation Insurance: The Developer (and the general partners thereof) shall furnish or cause to be furnished to City evidence satisfactory to City that Developer (and the general partners thereof), and any contractor with whom Developer has contracted for the performance of work on the Property or otherwise pursuant to this Agreement, shall maintain Workers' Compensation Insurance as required by the State of California and Employer's Liability Insurance.

(d) Builder's Risk: Upon commencement of any construction work on the Property, Developer and all contractors working on behalf of Developer shall maintain a policy of builder's all-risk insurance in an amount not less than the full insurable cost of the Project on a replacement cost basis naming City as loss payee as its interests may appear.

(e) Professional Liability/Errors and Omissions: Developer shall require any architects, engineers, and general contractors working on the Property to maintain Professional

Liability/Errors and Omissions insurance with limits not less than Two Million Dollars (\$2,000,000) each claim. Certificates evidencing this coverage must reference both the Developer and the Indemnitees. If the professional liability/errors and omissions insurance is written on a claims made form: (i) the retroactive date must be shown and must be before the Effective Date, (ii) insurance must be maintained and evidence of insurance must be provided for at least three (3) years after completion of Project construction, and (iii) if coverage is cancelled or non-renewed and not replaced with another claims made policy form with a retroactive date prior to the Effective Date, Developer must purchase, or require the provision of, extended period coverage for a minimum of three (3) years after completion of construction.

(f) Property: Developer shall maintain property insurance covering all risks of loss, including earthquake and flood (if required) for 100% of the replacement value of the Project with deductible, if any, in an amount acceptable to City, and as commercially available.

2. Minimum Limits; Adjustments. Insurance shall be maintained with limits no less than the following:

(a) Commercial General Liability and Property Damage: \$2,000,000 per occurrence and \$5,000,000 annual aggregate for bodily injury, personal injury and property damage; provided however, with City's advance written approval, subcontractors may maintain liability coverage with limits not less than \$1,000,000 per occurrence, \$2,000,000 annual aggregate.

(b) Products and Completed Operations: \$3,000,000 per occurrence/aggregate. Subcontractors may maintain Products and Completed Operations with limits not less than \$1,000,000 per occurrence and \$1,000,000 aggregate.

(c) Commercial Automobile Liability: \$2,000,000 combined single limit.

(d) Employer's Liability:

Bodily Injury by Accident - \$1,000,000 each accident.

Bodily Injury by Disease - \$1,000,000 policy limit.

Bodily Injury by Disease - \$1,000,000 each employee.

(e) Professional Liability/Errors and Omissions: \$2,000,000 per occurrence or claim. If the policy provides coverage on a claims-made basis, the retroactive date must be shown and must be before the date of the Agreement or the beginning of the contract work. Subcontractors are required to carry coverage if their scope of work includes design services to the Project.

Coverage limits, and if necessary, the terms and conditions of insurance, shall be reasonably adjusted from time to time (not less than every five (5) years after the Effective Date nor more than once in every three (3) year period) to address changes in circumstance, including, but not limited to, changes in inflation and the litigation climate in California. City shall give written notice to Developer of any such adjustments, and Developer shall provide City with amended or new insurance certificates or endorsements evidencing compliance with such adjustments within thirty (30) days following receipt of such notice.

3. Deductibles and Self-Insured Retention. Any deductibles or self-insured retention must be declared to, and approved by, the City. Payment of all deductibles and self-insured retentions will be the responsibility of Developer. If the City determines that such deductibles or retentions are unreasonably high, either the insurer shall reduce or eliminate such deductibles or self-insurance retentions as respects the Indemnitees or Developer shall procure a bond guaranteeing payment of losses and related investigations, claims administration and defense.

4. Additional Requirements. The required general liability and automobile policies shall contain, or be endorsed to contain, the following provisions:

(a) The Indemnitees are to be covered as Additional Insureds as respects: liability arising out of activities performed by or on behalf of the Developer; products and completed operations of the Developer; premises owned, occupied or used by the Developer; or automobiles owned, leased, hired or borrowed by the Developer. The coverage shall contain no special limitations on the scope of protection afforded to the Indemnitees. Additional insured endorsements for the general liability coverage shall use Insurance Services Office (ISO) Form No. CG 20 09 11 85 or CG 20 10 11 85, or equivalent, including (if used together) CG 2010 10 01 and CG 2037 10 01; but shall not use the following forms: CG 20 10 10 93 or 03 94.

(b) All insurance shall be primary insurance as respects the Indemnitees. Any insurance or self-insurance maintained by the Indemnitees shall be excess of the Developer's/contractor's insurance and shall not contribute with it.

(c) Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the Indemnitees.

(d) The Developer's insurance shall apply separately to each insured against whom claim is made or suit is brought except, with respect to the limits of the insurer's liability.

(e) Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.

(f) If any insurance policy or coverage required hereunder is canceled or reduced, Developer shall, within five (5) days after receipt of notice of such cancellation or reduction in coverage, but in no event later than the effective date of cancellation or reduction, file with City a certificate showing that the required insurance has been reinstated or provided through another insurance company or companies. Upon failure to so file such certificate, City may, without further notice and at its option, procure such insurance coverage at Developer's expense, and Developer shall promptly reimburse City for such expense upon receipt of billing from City.

(g) Developer agrees to waive subrogation rights for commercial general liability, automobile liability and worker's compensation against Indemnitees regardless of the applicability of any insurance proceeds, and to require all contractors, subcontractors or others involved in any way with any construction on the Property to do likewise. Each insurance policy shall contain a waiver of subrogation for the benefit of City. If any required insurance is provided under a form of coverage that includes an annual aggregate limit or provides that claims investigation or legal

defense costs are included in such annual aggregate limit, such annual aggregate limit shall be three times the applicable occurrence limits specified above.

(h) It shall be a requirement under this Agreement that any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirement and/or limits shall be available to the additional insured. Furthermore, the requirement for coverage and limits shall be (1) the minimum coverage and limits specified in this Agreement, or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named insured; whichever is greater. For all liability insurance required by this Agreement, Developer (and Developer's contractors, as applicable) shall obtain endorsements that name the Indemnitees as additional insured in the full amount of all applicable policies, notwithstanding any lesser minimum limits specified in this Agreement. This Agreement requires Developer (and Developer's contractors, as applicable) to obtain and provide for the benefit of the Indemnitees, additional insured coverage in the same amount of insurance carried by Developer (or Developer's contractors, as applicable), but in no event less than the minimum amounts specified in this Agreement. In the event that Developer (or Developer's contractors as applicable) obtains insurance policies that provide liability coverage in excess of the amounts specified in this Agreement, the actual limits provided by such policies shall be deemed to be the amounts required under this Agreement. Without limiting the foregoing, the limits of liability coverage specified in this Agreement are not intended, nor shall they operate, to limit City's ability to recover amounts in excess of the minimum amounts specified in this Agreement.

(i) The limits of insurance required in this Agreement may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of the City before the City's own insurance or self-insurance shall be called upon to protect it as a named insured.

5. Acceptability of Insurers. Companies writing the insurance required hereunder shall be licensed to do business in the State of California. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A: VII.

6. Verification of Coverage. Prior to the Effective Date of this Agreement, Developer shall furnish City with certificates of insurance in form acceptable to City evidencing the insurance coverage required under paragraphs (a), (b), (c), and (e) of Section 1 above, duly executed endorsements evidencing the Indemnitees' status as additional insured, and all other endorsements and coverage required hereunder pertaining to such coverage. Prior to commencement of any construction work on the Property, Developer shall furnish City with certificates of insurance in form acceptable to City evidencing the insurance coverage required under paragraphs (d) and (g) of Section 1 above. Prior to City's issuance of a final certificate of occupancy or equivalent for the Project, Developer shall furnish City with certificates of insurance in form acceptable to City evidencing the insurance coverage required under paragraph (f) of Section 1 above. Developer shall furnish the City with original endorsements effecting coverage required by this clause. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf.

7. Insurance Certificates and Endorsements. Developer shall submit to the City all of the necessary insurance documents, including the applicable 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 required Developer policies listing all required policy endorsements to the City. Insurance Certificates and Endorsements are to be received and approved by the City within the time periods specified in Section 6 above. Should Developer cease to have insurance as required at any time, all work by Developer pursuant to this Agreement shall cease until insurance acceptable to the City is provided. Upon City's request, Developer shall, within thirty (30) days of the request, provide or arrange for the insurer to provide to City, complete certified copies of all insurance policies required under this Agreement. City's failure to make such request shall not constitute a waiver of the right to require delivery of the policies in the future.

Exhibit C

FORM OF RESALE RESTRICTION AGREEMENT

Exhibit D

**APPROVED BMR PROPOSAL AND REASONABLY ALTERNATIVE EQUIVALENTS
TO THE BMR GUIDELINES**

EXHIBIT E

**FORM OF RELEASE OF BMR FOR SALE UNITS FROM REGULATORY
AGREEMENT**

EXHIBIT F

HGSF'S MARKETING, OUTREACH, AND LOTTERY PROCESS

This document is recorded for the benefit of the City of Menlo Park and is entitled to be recorded free of charge in accordance with Sections 6103 and 27383 of the Government Code.

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

City of Menlo Park
Attn: City Clerk
701 Laurel Street
Menlo Park, CA 94025

**BELOW MARKET RATE HOUSING AGREEMENT
AND DECLARATION OF RESTRICTIVE COVENANTS**

(123 Independence Drive Project)

THIS BELOW MARKET RATE HOUSING AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS (“Agreement”) is entered into as of _____, 202[] (“**Effective Date**”), by and between the City of Menlo Park, a California municipal corporation (“**City**”), and [Sobrato SPE], a California [entity type] (“**Owner**”). City and Owner may be referred to individually as a “**Party**” or collectively as the “**Parties**” in this Agreement.

RECITALS

A. Owner is the owner of that certain real property located at the approximate location commonly known as [need to describe] in the City of Menlo Park, California and as more particularly described in Exhibit A, attached hereto and incorporated herein by this reference, is the parcel subject to the Agreement (the “**Property**”).

B. Owner applied to [describe Townhome project and 18 BMR units]. (“**Project**”).

C. Menlo Park Municipal Code Chapter 16.96, the Below Market Rate Housing Program (“**BMR Ordinance**”), and the Below Market Rate Housing Program Guidelines (“**Guidelines**”) require a developer to provide fifteen percent (15%) of the total number of units in a project as affordable to below market rate (“**BMR**”) households. To satisfy the requirements of the BMR Ordinance and Guidelines, the project sponsor of the 123 Independence Project has proposed (the “**BMR Proposal**”) to provide BMR units as follows: fifty-six (56) rental units to BMR households (“**BMR Rental Units**”) and eighteen (18) for-sale units to BMR households (“**BMR For-Sale Units**” and together with BMR Rental Units, “**BMR Units**”) for a total of seventy-four (74) BMR Units. The Agreement addresses only the BMR For-Sale Units. The BMR Rental Units are addressed in a separate agreement.

D. On _____, 2023, after a duly noticed public hearing, the Housing Commission recommended approval the BMR Proposal, including eighteen (18) low-income for-sale units, the BMR For-Sale Units.

E. On _____, 2023, after a duly noticed public hearing, and on the

recommendation of the Housing Commission, the Planning Commission certified the environmental impact report approved a conditional use permit, architectural control, and form affordable housing agreements and recommended that the City Council approve a Vesting Tentative Map and the BMR Proposal for the Project.

F. On _____, 2023, after a duly noticed public hearing, and on the recommendation of the Housing Commission and the Planning Commission, the City Council approved a Vesting Tentative Map and the BMR Proposal for the Project. The Planning Commission and City Council actions are collectively the “**Project Approvals.**”

A. The Project Approvals require the Owner to provide the BMR For-Sale Units in accordance the BMR Proposal. In accordance with the BMR Ordinance and Guidelines, Owner is required to execute and record an approved BMR Housing Agreement for the BMR For-Sale Units as a condition precedent to the issuance of a building permit for the Project. This Agreement is intended to satisfy that requirement.

NOW, THEREFORE, the Parties hereto agree as follows. The recitals are incorporated into this Agreement by this reference.

1. CONSTRUCTION OF THE IMPROVEMENTS.

1.1 Construction of the Project. Owner agrees to construct the Project in accordance with the Menlo Park Municipal Code and all other applicable state and local building codes, development standards, ordinances and zoning ordinances.

1.2 City and Other Governmental Permits. Before commencement of the Project, Owner shall secure or cause its contractor to secure any and all permits which may be required by the City or any other governmental agency affected by such construction, including without limitation building permits. Owner shall pay all necessary fees and timely submit to the City final drawings with final corrections to obtain such permits; City staff will, without incurring liability or expense therefore, process applications in the ordinary course of business for the issuance of building permits and certificates of occupancy for construction that meets the requirements of the Menlo Park Municipal Code, and all other applicable laws and regulations.

1.3 Compliance with Laws. Owner shall carry out the design, construction and operation of the Project in conformity with all applicable laws, including all applicable state labor standards, City zoning and development standards, building, plumbing, mechanical and electrical codes, and all other provisions of the Menlo Park Municipal Code, and **all** applicable disabled and handicapped access requirements, including without limitation the Americans With Disabilities Act, 42 U.S.C. Section 12101, *et seq.*, Government Code Section 4450, *et seq.*, Government Code Section 11135, *et seq.*, and the Unruh Civil Rights Act, Civil Code Section 51, *et seq.*

2. OPERATION OF THE BMR UNITS

2.1 Affordability Period. The Property, provided that the Project remains on the Property, shall be subject to the requirements of this Agreement from the Effective Date until the 55th anniversary of such date. The duration of this requirement shall be known as the “**Affordability Period.**”

2.2 Maintenance. Owner shall comply with every condition of the Project Approvals applicable to the Project and shall, at all times, maintain the Project and the Property in good repair and working order, reasonable wear and tear excepted, and in a safe and sanitary condition, and from time to time shall make all necessary and proper repairs, renewals, and replacements to keep the Project and the Property in a good, clean, safe, and sanitary condition.

2.3 Monitoring and Recordkeeping. Throughout the Affordability Period, Owner shall comply with all applicable recordkeeping and monitoring requirements set forth in the Guidelines, attached as Exhibit [], or, at the Owner's election, applicable recordkeeping and monitoring requirements in updated Guidelines. City shall have the right to inspect the books and records of Owner and its rental agent or bookkeeper upon reasonable notice during normal business hours. Representatives of the City shall be entitled to enter the Property, upon at least 48-hour prior written notice, which can be provided via email, to monitor compliance with this Agreement, to inspect the records of the Project with respect to the BMR Units, and to conduct, or cause to be conducted, an independent audit or inspection of such records. Owner agrees to cooperate with the City in making the Property available for such inspection or audit. Owner agrees to maintain records in businesslike manner, and to maintain such records for Affordability Period.

2.4 Non-Discrimination Covenants. Owner covenants by and for itself, its successors and assigns, and all persons claiming under or through them that there shall be no discrimination against or segregation of any person or group of persons on account of race, color, religion, sex, marital status, familial status, disability, national origin, or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the Property, nor shall any occupant of any BMR Unit or any person claiming under or through such occupant, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the Property. Owner shall include such provision in all deeds, leases, contracts and other instruments executed by Owner, and shall enforce the same diligently and in good faith.

a. In deeds, the following language shall appear:

(1) Grantee herein covenants by and for itself, its successors and assigns, and all persons claiming under or through it, that there shall be no discrimination against or segregation of a person or of a group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the property herein conveyed nor shall the grantee or any person claiming under or through the grantee establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees in the property herein conveyed. The foregoing covenant shall run with the land.

(2) Notwithstanding paragraph (1), with respect to familial status,

paragraph (1) shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in paragraph (1) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11 and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to paragraph (1).

b. In leases, the following language shall appear:

(1) The lessee herein covenants by and for the lessee and lessee's heirs, personal representatives and assigns, and all persons claiming under the lessee or through the lessee, that this lease is made subject to the condition that there shall be no discrimination against or segregation of any person or of a group of persons on account of race, color, creed, religion, sex, sexual orientation, marital status, national origin, ancestry or disability in the leasing, subleasing, transferring, use, occupancy, tenure or enjoyment of the property herein leased nor shall the lessee or any person claiming under or through the lessee establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, sublessees, subtenants, or vendees in the property herein leased.

(2) Notwithstanding paragraph (1), with respect to familial status, paragraph (1) shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in paragraph (1) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11 and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to paragraph (1).

c. In contracts pertaining to management of the Project, the following language, or substantially similar language prohibiting discrimination and segregation shall appear:

(1) There shall be no discrimination against or segregation of any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the property nor shall the transferee or any person claiming under or through the transferee establish or permit any such practice or practices of discrimination or segregation with reference to selection, location, number, use or occupancy of tenants, lessee, subtenants, sublessees or vendees of the land.

(2) Notwithstanding paragraph (1), with respect to familial status, paragraph (1) shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in paragraph (1) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11 and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to paragraph (1).

2.5 Subordination. This Agreement shall be recorded in the Official Records of the County of San Mateo and shall run with the land. The City agrees that the City will not withhold consent to reasonable requests for subordination of this Agreement for the benefit of lenders providing financing for the Project, provided that the instruments effecting such subordination include reasonable protections to the City in the event of default, including without limitation, extended notice and cure rights.

3. OPERATION OF THE BMR FOR-SALE UNITS

4.1 Sale to Moderate Income Households. The eighteen (18) BMR For-Sale Units are to be sold in accordance with the BMR Ordinance and the Guidelines. Each BMR For-Sale Unit shall be affordable to eligible households which are moderate income as defined in Section 50093 of the California Health and Safety Code, as described in the Guidelines, which households meet all of the requirements set forth in the Guidelines, and are of the smallest household size eligible for the BMR For-Sale Units on the BMR waiting list maintained by the City on the date that the Sales Prices are set, as more particularly described below and in the Guidelines. The eligibility requirements for buyers of the BMR For-Sale Units, the selection process for buyers for the BMR For-Sale Units, the purchase process and sale procedures, the occupancy requirements for the BMR For-Sale Units and the process for resale of the BMR For-Sale Units are all set forth in the Guidelines.

All BMR For-Sale Units shall be subject to deed restrictions and conditions which include a right of first refusal in favor of the City for the duration of the Affordability Period, pursuant to the terms and conditions set forth in the Guidelines.

The BMR For-Sale Units shall be located in the Project as set forth in Exhibit C.

The Sales Price shall be calculated according to the following formula by reference to the definitions and standards set forth below: the “Sales Price” shall be calculated by adding the cash down payment, to the Maximum Mortgage Amount, less lender and escrow fees and costs incurred by the buyer. The Sales Price shall be set before the commencement of the sale process for the BMR For-Sale Units.

(a) The “Smallest Household Size” means the household with the smallest number of persons eligible for the BMR For-Sale Units, as shown in Section 14, Table C (Occupancy Standards) of the Guidelines.

(b) The current “Maximum Eligible Income” shall be the most current State Income Limit for San Mateo County, Moderate Income category, as published by the State of California

Department of Housing and Community Development, for the Smallest Household Size.

(c) The “Maximum Allowable Monthly Housing Expenses” is calculated by multiplying the Maximum Eligible Income by 33 percent and dividing by 12.

(d) The “Actual Monthly Housing Expenses” are calculated by adding the following costs associated with a particular BMR For-Sale Unit and dividing by 12: (i) any loan fees, escrow fees and other closing costs (amortized over 360 months) and/or private mortgage insurance associated therewith; (ii) property taxes and assessments; (iii) fire, casualty insurance and flood insurance, if required; (iv) property maintenance and repairs, deemed to be Two Hundred Dollars (\$200) per month; (v) a reasonable allowance for utilities as set forth in the Guidelines, not including telephones, and (vi) homeowners association fees, if applicable, but less the amount of such homeowners association fees allocated for any costs attributable to (iii), (iv) or (v) above.

(e) The “Maximum Monthly Mortgage Payment Amount” is calculated by subtracting the Actual Monthly Housing Expenses from the Maximum Allowable Monthly Housing Expenses.

(f) The “Maximum Mortgage Amount” is established by determining the amount of mortgage that a lender would loan, based upon the Maximum Monthly Mortgage Payment Amount and based upon the down payment found to be the lowest that lenders are willing to accept in a survey of lenders as described below. The City shall survey and take the average of at least three local lenders who regularly make home loans at a typical housing expense ratio to first-time buyers in the price range of the BMR home on the day that the price is set. The mortgage amount shall be for a 30-year fixed rate mortgage with standard fees, closing costs and no points, and shall be less than or equal to the Maximum Monthly Mortgage Amount.

4.2 Additional Sales Price Factors. The calculation of the Sales Price shall be based upon the factors defined below. These definitions conform to the eligibility and underwriting standards established by the major secondary mortgage market investors, such as the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

(a) **Mortgage Interest Rate.** The mean average of contract interest rates on the date that the Sales Price is set, for fixed rate, 30-year “Conforming” mortgages (presently \$822,375 or less, as such amount may be adjusted from time to time as the maximum amount of FHA Conforming mortgages), or for jumbo mortgages if applicable; as quoted by three local retail lenders. The three local retail lenders shall be selected at random by the City from the list of lenders certified by San Mateo County to make first mortgage loans with Mortgage Credit Certificates.

(b) **Points.** The mean average of points quoted by three local lenders that make mortgage loans to first time home buyers in the City of Menlo Park on the date that the Sales Price is set for fixed rate, 30 year mortgages of \$822,375 or less, or for jumbo mortgages if applicable, which lenders are selected on a random basis by the City. Points are a one-time fee paid to a lender for making a loan. One point is equal to one percent of the loan amount.

(c) **Lender/Escrow Fees.** The mean average of fees charged by three local lenders that make mortgage loans to homebuyers, which lenders are selected on a random basis by the City,

plus escrow company fees, for such items as title insurance, appraisal, escrow fees, document preparation and recording fees.

(d) **Loan to Value Ratio.** The maximum ratio of the dollar amount of a conforming mortgage to the sales price of a home which a lender is willing to approve at a given point in time. For purposes of this Agreement, the loan to value ratio shall be calculated as the mean average of the maximum loan to value ratios as quoted by three local lenders selected on a random basis by the City from a list of lenders who actively make loans to homebuyers and who participate in the Mortgage Credit Certificate program.

(e) **Housing Expense Ratio.** The mean average of the housing expense ratio as reported on the date that the sales price is set, for fixed rate, 30-year mortgages of \$822,375 or less, or for jumbo mortgages if applicable, by three local lenders that make mortgage loans to homebuyers in the City of Menlo Park, which lenders are selected on a random basis by the City. Housing expense is defined as the sum of the annual mortgage payment (including principal and interest), and annual payments for taxes, homeowners association dues, insurance, property maintenance and repairs, a reasonable allowance for utilities according to the San Mateo County Housing Authority Utility Financial Allowance Chart which is periodically updated and amended, and any secondary financing (but excluding any portion of the aforementioned expenses covered by homeowners association dues). To determine the ratio, this sum is divided by gross annual income.

(f) **Homeowners Insurance.** Calculated as the mean average of the annual cost of insurance quoted by two or three local brokers, based on their experience, for a housing unit of the price, room configuration, location, construction material and structure type of the subject BMR For-Sale Unit. Flood insurance costs, if required, shall be calculated by this same method.

(g) **Private Mortgage Insurance.** The mean average of the annual cost of private mortgage insurance quoted by two or three local lenders, based on their experience, for a housing unit of the price, location, and structure type of the subject BMR For-Sale Unit.

(h) **Taxes.** The tax rate as reported by the San Mateo County Assessor's Office.

(i) **Homeowner's Dues.** Reported by the Owner and as set forth in the Public Report issued by the California Department of Real Estate for the Project.

(j) **Down Payment.** Cash portion paid by a buyer from his own funds, as opposed to that portion of the purchase price which is financed. For the purpose of calculating the Sales Price, the down payment will be defined as the mean average of the smallest down payment required by the two or three local lenders surveyed.

4.3 Presale. If there is a standard pre-sale requirement by the BMR applicant's lender for a certain percentage of units in the Project to be sold before the BMR applicant's lender will close escrow on the loan, then the time for the City's purchase or the buyer's purchase will be extended until that requisite number of units has closed.

4.4 Term. Any and all obligations or responsibilities of Owner under this Agreement with regard to a BMR For-Sale Unit shall terminate upon the recording of the grant deed

conveying the BMR For-Sale Unit to a qualified third party purchaser in accordance with the terms and provisions of this Agreement and the recording of the deed restrictions in compliance with the Guidelines against such BMR For-Sale Unit.

4.5 Third Party Purchasers. The execution and delivery of this Agreement shall not be deemed to be for the benefit of the third party purchasers of any BMR For-Sale Unit or any other third party and any and all obligations and responsibilities of Owner under this Agreement are to the City for whose benefit this Agreement has been entered into. No third party purchaser of a BMR For-Sale Unit or market rate unit, homeowners' association or any other third party shall obtain any rights or standing to complain that the BMR For-Sale Unit was not constructed, designed, sold or conveyed in accordance with this Agreement, or the BMR Ordinance and the Guidelines as a result of this Agreement. Furthermore, the acceptance of this Agreement by the City, the acceptance of the interior specifications for the BMR For-Sale Units and the conveyance of the BMR For-Sale Units to qualified third parties shall conclusively indicate that Owner has complied with this Agreement and the BMR Ordinance and the Guidelines.

4. DEFAULT AND REMEDIES

4.1 Events of Default. The following shall constitute an "Event of Default" by Owner under this Agreement: there shall be a material breach of any condition, covenant, warranty, promise or representation contained in this Agreement and such breach shall continue for a period of thirty (30) days after written notice thereof to the Owner without the Owner curing such breach, or if such breach cannot reasonably be cured within such 30 day period, commencing the cure of such breach within such 30 day period and thereafter diligently proceeding to cure such breach; provided, however, that if a different period or notice requirement is specified for any particular breach under any other paragraph of Section 5 of this Agreement, the specific provision shall control.

4.2 Remedies. The occurrence of any Event of Default under Section 5.1 shall give the City the right to proceed with an action in equity to require the Owner to specifically perform its obligations and covenants under this Agreement or to enjoin acts or things which may be unlawful or in violation of the provisions of this Agreement, and the right to terminate this Agreement.

4.3 Obligations Personal to Owner. The liability of Owner under this Agreement to any person or entity is limited to Owner's interest in the Project, and the City and any other such persons and entities shall look exclusively thereto for the satisfaction of obligations arising out of this Agreement or any other agreement securing the obligations of Owner under this Agreement. From and after the date of this Agreement, no deficiency or other personal judgment, nor any order or decree of specific performance (other than pertaining to this Agreement, any agreement pertaining to any Project or any other agreement securing Owner's obligations under this Agreement), shall be rendered against Owner, the assets of Owner (other than Owner's interest in the Project), its partners, members, successors, transferees or assigns and each of their respective officers, directors, employees, partners, agents, heirs and personal representatives, as the case may be, in any action or proceeding arising out of this Agreement or any agreement securing the obligations of Owner under this Agreement, or any judgment, order or decree rendered pursuant to any such action or proceeding. No subsequent Owner of the Project shall be liable or obligated for the breach or default of any obligations of Owner under this Agreement on the part of any prior

Owner. Such obligations are personal to the person who was the Owner at the time the default or breach was alleged to have occurred and such person shall remain liable for any and all damages occasioned thereby even after such person ceases to be the Owner. Each Owner shall comply with and be fully liable for all obligations the Owner hereunder during its period of ownership of the Project.

4.4 Force Majeure. Subject to the party's compliance with the notice requirements as set forth below, performance by either party hereunder shall not be deemed to be in default, and all performance and other dates specified in this Agreement shall be extended, where delays or defaults are due to causes beyond the control and without the fault of the party claiming an extension of time to perform, which may include, without limitation, the following: war, insurrection, strikes, lockouts, riots, floods, earthquakes, fires, assaults, acts of God, acts of the public enemy, epidemics, quarantine restrictions, freight embargoes, lack of transportation, governmental restrictions or priority, litigation, unusually severe weather, inability to secure necessary labor, materials or tools, acts or omissions of the other party, or acts or failures to act of any public or governmental entity (except that the City's acts or failure to act shall not excuse performance of the City hereunder). An extension of the time for any such cause shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause, if notice by the party claiming such extension is sent to the other party within 30 days of the commencement of the cause.

4.5 Attorneys' Fees. In addition to any other remedies provided hereunder or available pursuant to law, if either party brings an action or proceeding to enforce, protect or establish any right or remedy hereunder, the prevailing party shall be entitled to recover from the other party its costs of suit and reasonable attorneys' fees. This Section shall be interpreted in accordance with California Civil Code Section 1717 and judicial decisions interpreting that statute.

4.6 Remedies Cumulative. No right, power, or remedy given by the terms of this Agreement is intended to be exclusive of any other right, power, or remedy; and each and every such right, power, or remedy shall be cumulative and in addition to every other right, power, or remedy given by the terms of any such instrument, or by any statute or otherwise.

4.7 Waiver of Terms and Conditions. The City may, in its sole discretion, waive in writing any of the terms and conditions of this Agreement. Waivers of any covenant, term, or condition contained herein shall not be construed as a waiver of any subsequent breach of the same covenant, term, or condition.

4.8 Non-Liability of City Officials and Employees. No member, official, employee or agent of the City shall be personally liable to Owner or any occupant of any BMR Unit, or any successor in interest, in the event of any default or breach by the City or for any amount which may become due to the Owner or its successors, or on any obligations under the terms of this Agreement.

4.9 Cure Rights. Notwithstanding anything to the contrary contained herein, City hereby agrees that any cure of any default made or tendered by Owner's mortgage lender, shall be deemed to be a cure by Owner and shall be accepted or rejected on the same basis as if made or tendered by Owner.

5.1 Below Market Rate Guidelines (“Guidelines”). This Agreement incorporates by reference the Guidelines as of the date the Owner submitted a complete Preliminary Application pursuant to Government Code section 65941.1 and, at the election of the Owner, any successor sections as the Guidelines may be amended from time to time. In the event of any conflict or ambiguity between this Agreement, the requirements of state and federal fair housing laws and the Guidelines, the terms and conditions of this Agreement and the requirements of state and federal fair housing laws shall control.

5.3 Notices. Unless otherwise indicated in this Agreement, any notice requirement set forth herein shall be deemed to be satisfied three days after mailing of the notice first-class United States certified mail, postage prepaid, or by personal delivery, addressed to the appropriate party as follows:

City : City of Menlo Park
701 Laurel Street
Menlo Park, California 94025-3483
Attention: City Manager

5.4 Successors and Assigns. This Agreement constitutes a covenant and legal restriction on the Property and shall run with the land, provided the Project remains on the Property, and all of the terms, covenants and conditions of this Agreement shall be binding upon Owner and the permitted successors and assigns of Owner.

5.6 Partial Invalidity. If any provision of this Agreement shall be declared invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions hereof shall not in any way be affected or impaired.

5.7 Governing Law. This Agreement and other instruments given pursuant hereto shall be construed in accordance with and be governed by the laws of the State of California. Any references herein to particular statutes or regulations shall be deemed to refer to successor statutes or regulations, or amendments thereto. The venue for any action shall be the County of San Mateo.

5.8 Amendment. This Agreement may not be changed orally, but only by agreement in writing signed by Owner and the City.

5.9 Approvals. Where an approval or submission is required under this Agreement, such approval or submission shall be valid for purposes of this Agreement only if made in writing. Where this Agreement requires an approval or consent of the City, such approval shall not be unreasonably withheld may be given on behalf of the City by the City Manager or his or her designee. The City Manager or his or her designee is hereby authorized to take such actions as may be necessary or appropriate to implement this Agreement, including without limitation the execution of such documents or agreements as may be contemplated by this Agreement, and amendments which do not substantially change the uses or restrictions hereunder, or substantially add to the costs of the City hereunder.

5.10 Indemnification. To the greatest extent permitted by law, Owner shall indemnify, defend (with counsel reasonably approved by City) and hold the City, its heirs, successors and assigns (the “**Indemnitees**”) harmless from and against any and all demands, losses, claims, costs and expenses, and any other liability whatsoever, including without limitation, reasonable accountants’ and attorneys’ fees, charges and expense (collectively, “**Claims**”) arising directly or indirectly, in whole or in part, as a result of or in connection with Owner’s construction, management, or operation of the Property and the Project or any failure to perform any obligation as and when required by this Agreement. Owner’s indemnification obligations under this Section 6.10 shall not extend to Claims to the extent resulting from the gross negligence or willful misconduct of Indemnitees. The provisions of this Section 6.10 shall survive the expiration or earlier termination of this Agreement, but only as to claims arising from events occurring during the Affordability Period.

5.11 Insurance Coverage. Throughout the Affordability Period, Owner shall comply with the insurance requirements set forth in Exhibit D, attached hereto and incorporated herein by this reference, and shall, at Owner’s expense, maintain in full force and effect insurance coverage as specified in Exhibit D.

5.12 Transfer and Encumbrance.

6.12.1 Restrictions on Transfer and Encumbrance. During the term of this Agreement, except as permitted pursuant to this Agreement, Owner shall not directly or indirectly, voluntarily, involuntarily or by operation of law make or attempt any total or partial sale, transfer, conveyance, assignment or lease (collectively, “**Transfer**”) of the whole or any part of any BMR Rental Unit, without the prior written consent of the City, which approval shall not be unreasonably withheld. In addition, prior to the expiration of the term of this Agreement, except as expressly permitted by this Agreement, Owner shall not undergo any significant change of ownership without the prior written approval of City. For purposes of this Agreement, a “significant change of ownership” shall mean a transfer of the beneficial interest of more than

twenty-five percent (25%) in aggregate of the present ownership and /or control of Owner, taking all transfers into account on a cumulative basis; provided however, neither the admission of an investor limited partner, nor the transfer by the investor limited partner to subsequent limited partners shall be restricted by this provision.

6.12.2 Permitted Transfers. The prohibitions on Transfer set forth herein shall not be deemed to prevent: (i) the granting of easements or permits to facilitate development of the Property; or (ii) assignments creating security interests for the purpose of financing the acquisition, construction, or permanent financing of the Project or the Property, or Transfers directly resulting from the foreclosure of, or granting of a deed in lieu of foreclosure of, such a security interest; or (iii) transfers between entities owned or controlled by the Sobrato Organization.

6.12.3 Requirements for Proposed Transfers. The City may, in the exercise of its sole discretion, consent to a proposed Transfer of this Agreement and/or a BMR Rental Unit if all of the following requirements are met (provided however, the requirements of this Section 6.12.3 shall not apply to Transfers described in clauses (i) or (ii) of Section 6.12.2.

(i) The proposed transferee demonstrates to the City's satisfaction that it has the qualifications, experience and financial resources necessary and adequate as may be reasonably determined by the City to competently complete and manage the Project and to otherwise fulfill the obligations undertaken by the Owner under this Agreement.

(ii) The Owner and the proposed transferee shall submit for City review and approval all instruments and other legal documents proposed to effect any Transfer of all or any part of or interest in the BMR Rental Unit or this Agreement together with such documentation of the proposed transferee's qualifications and development capacity as the City may reasonably request.

(iii) The proposed transferee shall expressly assume all of the rights and obligations of the Owner under this Agreement arising after the effective date of the Transfer and all obligations of Owner arising prior to the effective date of the Transfer (unless Owner expressly remains responsible for such obligations) and shall agree to be subject to and assume all of Owner's obligations pursuant to conditions, and restrictions set forth in this Agreement.

(iv) The Transfer shall be effectuated pursuant to a written instrument satisfactory to the City in form recordable in the Official Records.

Consent to any proposed Transfer may be given by the deputy Director unless the Deputy Director, in his or her discretion, refers the matter of approval to the City Council. If the City has not rejected a proposed Transfer or requested additional information regarding a proposed Transfer in writing within forty-five (45) days following City's receipt of written request by Owner, the proposed Transfer shall be deemed approved.

6.13 Effect of Transfer without City Consent. In the absence of specific written agreement by the City, no Transfer of any BMR Rental Unit shall be deemed to relieve the Owner or any other party from any obligation under this Agreement. This Section 6.12 shall not apply to Transfers described in clauses (i) and (ii) of Section 6.12.2.

6.14 Recovery of City Costs. Owner shall reimburse City for all reasonable City costs, including but not limited to reasonable attorneys' fees, incurred in reviewing instruments and other legal documents proposed to effect a Transfer under this Agreement and in reviewing the qualifications and financial resources of a proposed successor, assignee, or transferee within ten (10) days following City's delivery to Owner of an invoice detailing such costs.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year set forth above.

SIGNATURES ON FOLLOWING PAGE(S).

OWNER:

[INSERT]

By:_____

Its:

CITY:

CITY OF MENLO PARK, a California municipal corporation

By:_____
City Manager

ATTEST:

By:_____
City Clerk

List of Exhibits:

- Exhibit A: Property Description
- Exhibit B: Allocation of the BMR Units
- Exhibit C: BMR Unit Locations
- Exhibit D: Insurance Requirements

Exhibit A
Property Description

SR #4841-9856-9706 v3

4857-5861-3352 v1

Exhibit B
Allocation of BMR Units in the Project

SR #4841-9856-9706 v3

4857-5861-3352 v1

Exhibit C
BMR Unit Locations

SR #4841-9856-9706 v3

4857-5861-3352 v1

Exhibit D

Insurance Requirements

Prior to initiating work on the Project and continuing throughout the Affordability Period, Owner shall obtain and maintain the following policies of insurance and shall comply with all provisions set forth in this Exhibit.

1. General Requirements. Owner shall procure and maintain the following insurance providing coverage against claims for injuries to persons or damages to property that may arise from or in connection with the Project, construction, management, or operation of the Property by the Owner or the Owner's agents, representatives, employees and contractors, or subcontractors, including the following:

(a) Commercial General Liability: The Owner and all contractors working on behalf of Owner on the Property shall maintain a commercial general liability policy in an occurrence policy for protection against all claims arising from injury to person or persons not in the employ of the Owner and against all claims resulting from damage to any property due to any act or omission of the Owner, its agents, or employees in the conduct or operation of the work or the execution of this Agreement. Such insurance shall include products and completed operations liability, blanket contractual liability, personal injury liability, and broad form property damage coverage. Coverage shall be at least as broad as Insurance Services Office Commercial General Liability coverage.

(b) Commercial Automobile Liability: The Owner and all contractors working on behalf of Owner on the Property shall maintain insurance for protection against all claims arising from the use of vehicles, owned, hired, non-owned, or any other vehicle in connection with the Project, construction, operation or management of the Property. Such insurance shall cover the use of automobiles and trucks on and off the site of the Property. Coverage shall be at least as broad as Insurance Services Office covering Commercial Automobile Liability, any auto, owned, non-owned and hired auto.

(c) Workers' Compensation Insurance: The Owner (and the general partners thereof) shall furnish or cause to be furnished to City evidence satisfactory to City that Owner (and the general partners thereof), and any contractor with whom Owner has contracted for the performance of work on the Property or otherwise pursuant to this Agreement, shall maintain Workers' Compensation Insurance as required by the State of California and Employer's Liability Insurance.

(d) Builder's Risk: Upon commencement of any construction work on the Property, Owner and all contractors working on behalf of Owner shall maintain a policy of builder's all-risk insurance in an amount not less than the full insurable cost of the Project on a replacement cost basis naming City as loss payee as its interests may appear.

(e) Professional Liability/Errors and Omissions: Owner shall require any architects, engineers, and general contractors working on the Property to maintain Professional Liability/Errors and Omissions insurance with limits not less than Two Million Dollars (\$2,000,000) each claim. Certificates evidencing this coverage must reference both the Owner and the Indemnitees. If the professional liability/errors and omissions insurance is written on a

SR #4841-9856-9706 v3

4857-5861-3352 v1

claims made form: (i) the retroactive date must be shown and must be before the Effective Date, (ii) insurance must be maintained and evidence of insurance must be provided for at least three (3) years after completion of Project construction, and (iii) if coverage is cancelled or non-renewed and not replaced with another claims made policy form with a retroactive date prior to the Effective Date, Owner must purchase, or require the provision of, extended period coverage for a minimum of three (3) years after completion of construction.

(f) Property: Owner shall maintain property insurance covering all risks of loss, including earthquake and flood (if required) for 100% of the replacement value of the Project with deductible, if any, in an amount acceptable to City, and as commercially available.

2. Minimum Limits; Adjustments. Insurance shall be maintained with limits no less than the following:

(a) Commercial General Liability and Property Damage: \$2,000,000 per occurrence and \$5,000,000 annual aggregate for bodily injury, personal injury and property damage; provided however, with City's advance written approval, subcontractors may maintain liability coverage with limits not less than \$1,000,000 per occurrence, \$2,000,000 annual aggregate.

(b) Products and Completed Operations: \$3,000,000 per occurrence/aggregate. Subcontractors may maintain Products and Completed Operations with limits not less than \$1,000,000 per occurrence and \$1,000,000 aggregate.

(c) Commercial Automobile Liability: \$2,000,000 combined single limit.

(d) Employer's Liability:

Bodily Injury by Accident - \$1,000,000 each accident.

Bodily Injury by Disease - \$1,000,000 policy limit.

Bodily Injury by Disease - \$1,000,000 each employee.

(e) Professional Liability/Errors and Omissions: \$2,000,000 per occurrence or claim. If the policy provides coverage on a claims-made basis, the retroactive date must be shown and must be before the date of the Agreement or the beginning of the contract work. Subcontractors are required to carry coverage if their scope of work includes design services to the Project.

Coverage limits, and if necessary, the terms and conditions of insurance, shall be reasonably adjusted from time to time (not less than every five (5) years after the Effective Date nor more than once in every three (3) year period) to address changes in circumstance, including, but not limited to, changes in inflation and the litigation climate in California. City shall give written notice to Owner of any such adjustments, and Owner shall provide City with amended or new insurance certificates or endorsements evidencing compliance with such adjustments within thirty (30) days following receipt of such notice.

3. Deductibles and Self-Insured Retention. Any deductibles or self-insured retention must be

declared to, and approved by, the City. Payment of all deductibles and self-insured retentions will be the responsibility of Owner. If the City determines that such deductibles or retentions are unreasonably high, either the insurer shall reduce or eliminate such deductibles or self-insurance retentions as respects the Indemnitees or Owner shall procure a bond guaranteeing payment of losses and related investigations, claims administration and defense.

4. Additional Requirements. The required general liability and automobile policies shall contain, or be endorsed to contain, the following provisions:

(a) The Indemnitees are to be covered as Additional Insureds as respects: liability arising out of activities performed by or on behalf of the Owner; products and completed operations of the Owner; premises owned, occupied or used by the Owner; or automobiles owned, leased, hired or borrowed by the Owner. The coverage shall contain no special limitations on the scope of protection afforded to the Indemnitees. Additional insured endorsements for the general liability coverage shall use Insurance Services Office (ISO) Form No. CG 20 09 11 85 or CG 20 10 11 85, or equivalent, including (if used together) CG 2010 10 01 and CG 2037 10 01; but shall not use the following forms: CG 20 10 10 93 or 03 94.

(b) All insurance shall be primary insurance as respects the Indemnitees. Any insurance or self-insurance maintained by the Indemnitees shall be excess of the Owner's/contractor's insurance and shall not contribute with it.

(c) Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the Indemnitees.

(d) The Owner's insurance shall apply separately to each insured against whom claim is made or suit is brought except, with respect to the limits of the insurer's liability.

(e) Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.

(f) If any insurance policy or coverage required hereunder is canceled or reduced, Owner shall, within five (5) days after receipt of notice of such cancellation or reduction in coverage, but in no event later than the effective date of cancellation or reduction, file with City a certificate showing that the required insurance has been reinstated or provided through another insurance company or companies. Upon failure to so file such certificate, City may, without further notice and at its option, procure such insurance coverage at Owner's expense, and Owner shall promptly reimburse City for such expense upon receipt of billing from City.

(g) Owner agrees to waive subrogation rights for commercial general liability, automobile liability and worker's compensation against Indemnitees regardless of the applicability of any insurance proceeds, and to require all contractors, subcontractors or others involved in any way with any construction on the Property to do likewise. Each insurance policy shall contain a waiver of subrogation for the benefit of City. If any required insurance is provided under a form of coverage that includes an annual aggregate limit or provides that claims investigation or legal

defense costs are included in such annual aggregate limit, such annual aggregate limit shall be three times the applicable occurrence limits specified above.

(h) It shall be a requirement under this Agreement that any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirement and/or limits shall be available to the additional insured. Furthermore, the requirement for coverage and limits shall be (1) the minimum coverage and limits specified in this Agreement, or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named insured; whichever is greater. For all liability insurance required by this Agreement, Owner (and Owner's contractors, as applicable) shall obtain endorsements that name the Indemnitees as additional insured in the full amount of all applicable policies, notwithstanding any lesser minimum limits specified in this Agreement. This Agreement requires Owner (and Owner's contractors, as applicable) to obtain and provide for the benefit of the Indemnitees, additional insured coverage in the same amount of insurance carried by Owner (or Owner's contractors, as applicable), but in no event less than the minimum amounts specified in this Agreement. In the event that Owner (or Owner's contractors as applicable) obtains insurance policies that provide liability coverage in excess of the amounts specified in this Agreement, the actual limits provided by such policies shall be deemed to be the amounts required under this Agreement. Without limiting the foregoing, the limits of liability coverage specified in this Agreement are not intended, nor shall they operate, to limit City's ability to recover amounts in excess of the minimum amounts specified in this Agreement.

(i) The limits of insurance required in this Agreement may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of the City before the City's own insurance or self-insurance shall be called upon to protect it as a named insured.

5. Acceptability of Insurers. Companies writing the insurance required hereunder shall be licensed to do business in the State of California. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A: VII.

6. Verification of Coverage. Prior to the Effective Date of this Agreement, Owner shall furnish City with certificates of insurance in form acceptable to City evidencing the insurance coverage required under paragraphs (a), (b), (c), and (e) of Section 1 above, duly executed endorsements evidencing the Indemnitees' status as additional insured, and all other endorsements and coverage required hereunder pertaining to such coverage. Prior to commencement of any construction work on the Property, Owner shall furnish City with certificates of insurance in form acceptable to City evidencing the insurance coverage required under paragraphs (d) and (g) of Section 1 above. Prior to City's issuance of a final certificate of occupancy or equivalent for the Project, Owner shall furnish City with certificates of insurance in form acceptable to City evidencing the insurance coverage required under paragraph (f) of Section 1 above. Owner shall furnish the City with original endorsements effecting coverage required by this clause. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf.

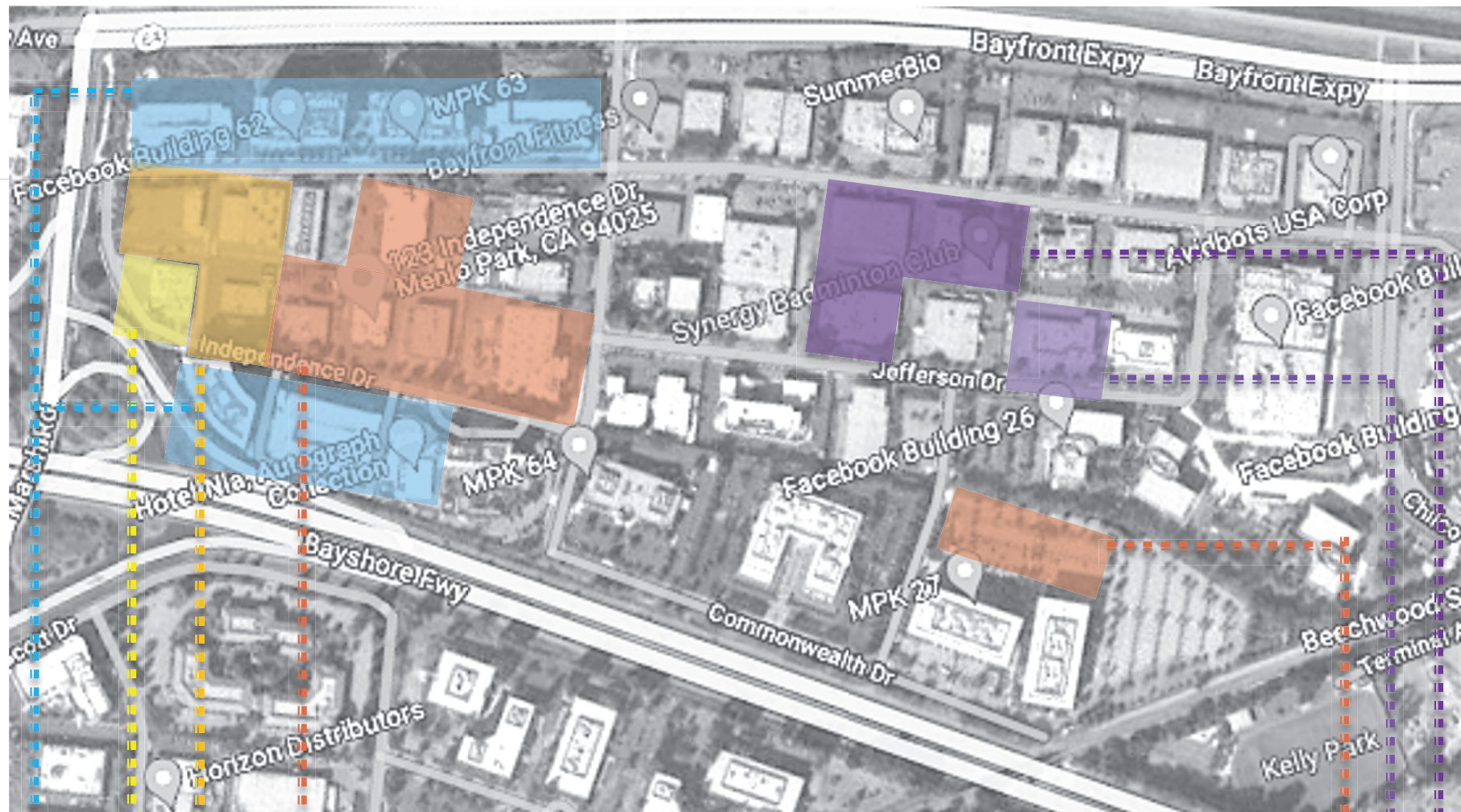
7. Insurance Certificates and Endorsements. Owner shall submit to the City all of the

necessary insurance documents, including the applicable 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 required Owner policies listing all required policy endorsements to the City. Insurance Certificates and Endorsements are to be received and approved by the City within the time periods specified in Section 6 above. Should Owner cease to have insurance as required at any time, all work by Owner pursuant to this Agreement shall cease until insurance acceptable to the City is provided. Upon City's request, Owner shall, within thirty (30) days of the request, provide or arrange for the insurer to provide to City, complete certified copies of all insurance policies required under this Agreement. City's failure to make such request shall not constitute a waiver of the right to require delivery of the policies in the future.

**123 Independence Drive Project
Draft Below Market Rate Housing (BMR) Agreement Term Sheet**

1. Applicant owns property known as Assessor's Parcel Numbers: 055-236-140, 055-236-180, 055-236-240, 055-236-300, and 055-236-280 ("Property"), more commonly known as 123 Independence Drive Project;
2. Applicant is proposing to demolish three existing office and industrial buildings on the Property and construct 316 rental units within one four-story apartment buildings with 2,000 square feet (s.f.) of commercial uses located on the ground floor, and 116 for-sale townhome units split across 22 three-story buildings. The Applicant is requesting environmental review, use permit, architectural control, major subdivision, and BMR housing agreement approval for the project;
3. The proposed project consists of more than four (4) residential units; therefore, Applicant is required to comply with Chapter 16.96 of City's Municipal Code ("BMR Ordinance") and with the Below Market Rate Housing Program Guidelines ("Guidelines") adopted by the City Council to implement the BMR Ordinance. The amount of commercial space in this project (approximately 2,000 s.f.) does not trigger any BMR requirement;
4. The development of 316 new rental units would result in a requirement of 47 BMR rental housing units and an in-lieu fee payment for a fractional 0.4 unit, and the development of 116 for-sale townhome units would result in a requirement of 17 BMR ownership housing units and an in-lieu fee payment for a fractional 0.4 unit. The total BMR requirement would be 64 BMR housing units and an in-lieu fee payment for a fractional 0.8 unit;
5. Applicant has elected to satisfy the BMR requirement for the proposed project by constructing on-site BMR units, and rather than provide an in-lieu fee for the combined remaining fractional 0.8 unit, would provide an additional on-site BMR rental unit for a total of 66 on-site BMR units consisting of 48 rental housing units and 18 ownership units. All proposed inclusionary units would be affordable to low-income households;
6. Applicant has further elected to provide eight additional inclusionary rental units affordable to low-income households as part of the project's community amenities contribution, resulting in a total of 56 rental housing units;
7. The characteristics of the BMR rental units shall be in conformance with Section 5 of the BMR Guidelines, with the exception of any waivers, concessions, or modifications outlined in this term sheet;
8. The requirements for BMR rental units shall be in conformance with the BMR Guidelines, with the exception of any waivers, concessions, or modifications outlined in this term sheet;

9. The applicant is requesting concessions from BMR Guidelines Sections 5.1 and 5.3.1 allowing the for-sale inclusionary units to be located on one parcel and to allow the BMR townhome units to be delivered independently of the market rate units;
10. The applicant is requesting waivers from BMR Guideline Section 5.2 allowing the inclusionary townhomes to be different from the market rate units in aspect of smaller average units size resulting in smaller living rooms, increase bedroom count, and fewer bathrooms; less parking; smaller windows; different exterior finishes and massing; fewer balconies; and different exterior finishes, lighting, and appliances;
11. The applicant is also requesting waiver from Section 16.45.120(4)(c)(iii) of the Menlo Park Municipal Code allowing the project to reduce the common open space from the required 20 feet by 20 feet minimum dimension;
12. The applicant is requesting modifications to City's BMR Guidelines pursuant to allowance by Section 13 by providing equivalent alternatives such as allow first right of refusal with the City in second position to allow HGSF resell properties to second-generation homeowners who are income-qualified and maintain a 99-year deed restriction on all homes sold; allow those on the title to be required to be first time homebuyers; waiver from the exception to provide ownership opportunities to buyers who do not already own homes; allow ownership education during the "sweat equity" phase of its homebuyer process, which follows the application period and the initial selection of homebuyer candidates; allow HGSF to qualify only those households that have non-retirement assets that do not exceed the purchase price; do not allow the homeowners to refinance homes or assume a second loan; allow HGSF to use its standard process for calculating the resale price which is based on the original price plus equity of 250 hours; and allow HGSF to act as the City's designee or program provider undertaking orientation and other educational meetings, marketing, application selection, and title requirements.
13. Applicant shall enter into a BMR Agreement memorializing these terms in a form acceptable to the City Attorney, pursuant to the BMR Ordinance and BMR Guidelines.



123 Independence (432 residential units) - The Sobrato Organization

Menlo Portal (320 multi-family + 34k SF office + 1,600 SF comm) - Greystar

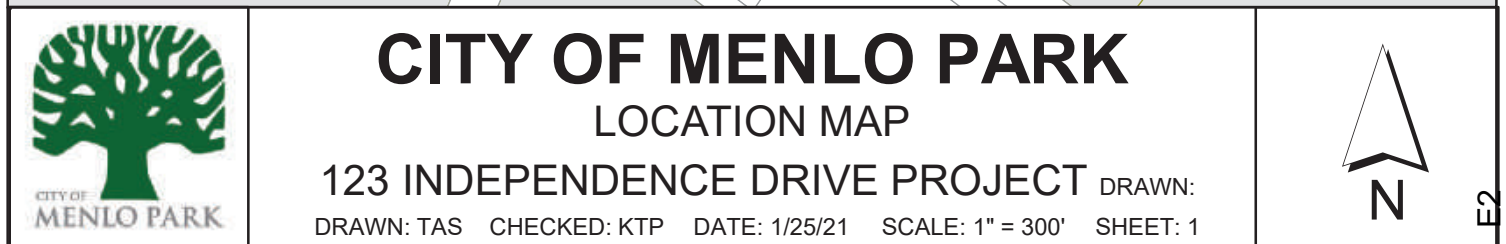
111 Independence (105 multi-family) - SP Menlo, LLC

Menlo Gateway (230 hotel rooms + 695K SF comm + 10K retail) - Bohannon

Commonwealth 3 (249,500 SF office) - The Sobrato Organization

Menlo Flats (158 multi-family - 113 studios + 45 4BDs) - Greystar

Menlo Uptown (483 multi-family + 2K SF comm) - Greystar



Ms. Payal Bhagat
 City of Menlo Park
 Planning Division
 701 Laurel Street
 Menlo Park, CA 94025

February 10, 2022 (REVISED January 13, 2023)

Subject: Below Market Rate Proposal

Project Name: 123 Independence (“The Project”)

Project Address: 119, 123–125, 127 Independence Drive, 1205 Chrysler Drive, and 130 Constitution Drive

Dear Payal:

The Sobrato Organization (TSO), in partnership with Habitat for Humanity Greater San Francisco (HGSF), is pleased to propose the following Below Market Rate Proposal for 123 Independence located at 119 Independence Drive, 123–125 Independence Drive, 127 Independence Drive, 1205 Chrysler Drive, and 130 Constitution Drive in Menlo Park. TSO and HGSF have used both Chapter 16.96, *Below Market Rate Housing Program*, as well as the *Below Market Rate Housing Program Guidelines* (BMR Guidelines) to develop this proposal. In addition, State Density Bonus Law concessions and waivers are used to allow HGSF to be the affordable housing developer to develop the affordable townhomes

General Overview

The General Plan requires developers to participate in the City’s Below Market Rate (BMR) Program. The latest City of Menlo Park Housing Element (2015-2023) identifies the benefits of market rate developers partnering with affordable housing developers to provide BMR units, noting that units developed in this manner are more likely to serve lower income households.

The purpose of the City’s BMR Program is to increase the housing supply for households that have very low, low, and moderate incomes, with a primary objective of creating actual housing units rather than collecting fees. According to the City’s BMR Guidelines and City Municipal Code Chapter 19.96, residential development projects that include 20 or more units must provide not less than 15 percent of these units at below market rates to very low, low, and moderate-income households. The BMR Program permits BMR units to be provided across the full range of affordability levels, provided that the provision of units at extremely low, very low, low and/or moderate income is “roughly equivalent” to the provision of all of the units at the low-income level.

The 123 Independence Project (Project), which consists of 316 apartments and 116 townhomes, would provide BMR units meeting the City’s requirements on site. The for-rent apartments will comply with Chapter 16.96 and the BMR Guidelines. TSO and HGSF have requested State Density Bonus Law concessions and waivers, to allow variances from certain requirements in the BMR Guidelines for the BMR townhomes.



As outlined in more detail in the State Density Bonus Law letter attached as Attachment A, the Project seeks two concessions that would result in actual cost savings: (i) to allow the affordable townhomes to be developed on one parcel, and (ii) to allow the affordable townhome units to be completed on an independent timeline from the market rate units in the project. TSO and HGSF also request waivers that support these concessions and allow the Project to fit on the site as designed and at the density allowed.

In addition, the Project proposes reasonably equivalent alternatives (“Equivalent Alternatives Proposal”) pursuant to Section 13 of the Menlo Park BMR Guidelines to allow HGSF to develop the affordable townhomes in a manner consistent with HGSF’s development model. The Equivalent Alternatives Proposal is included as Attachment B.

Program Design

As proposed, the Project has 316 for-rent apartments and 116 for-sale townhomes. The breakdown of unit mix and types for both the apartments and townhomes is shown below in Table 1.

Table 1: Program Breakdown with Unit Type, Size, & Mix

Unit Type	Ownership Type	Average SF	Market-Rate Count by Unit Type	BMR Count by Unit Type	Total Count by Unit Type
Studio	Rental	539	72	16	88
One-Bedroom	Rental	725	152	33	185
Two-Bedroom	Rental	1,006	36	7	43
<i>Avg./Total Count Apartments</i>		<i>711</i>	<i>260</i>	<i>56</i>	<i>316</i>
TH 1 (Three-Bedroom)	Ownership	1,749	34	-	34
TH 2 (Two-Bedroom)	Ownership	1,199	34	-	34
TH 3 (Three-Bedroom)	Ownership	2,052	10	-	10
TH 3.1 (Three-Bedroom)	Ownership	2,052	20	-	20
TH 4 (Three-Bedroom)	Ownership	1,480	-	6	6
TH 4.1 (Four-Bedroom)	Ownership	1,514	-	3	3
TH 4.2 (Four-Bedroom)	Ownership	1,416	-	3	3
TH 4.3 (Two-Bedroom)	Ownership	958	-	3	3
TH 5 (Four-Bedroom)	Ownership	1,581	-	3	3
<i>Avg./Total Count Townhomes</i>		<i>1,613</i>	<i>98</i>	<i>18</i>	<i>116</i>

Apartment BMR Proposal

Based on the City’s 15 percent BMR requirement, the Project will provide 48 BMR apartments with low-AMI levels. In addition, TSO proposes an additional 8 low-income apartments as a community amenity, making the Project 17 percent affordable. There is no difference between the market-rate and BMR apartment units. The apartment BMR units will be mixed in throughout the community, indistinguishable from the exterior, and contain standard appliances common to new units.

As noted within the *Below Market Rate Housing Program Guidelines* subsection 4.1.2 and 11.1.2, *Initial Price for Rental Unit* and *BMR Rent*, the initial monthly rental amounts for the BMR rental units will be equal to or less than 30 percent of the applicable income limits for very low, low, and moderate income households adjusted for occupancy, but in no case will the monthly rental amounts exceed 75 percent of comparable market rents.

Townhome BMR Proposal

Based on the City's 15 percent BMR requirement, the Project will provide 18 BMR townhomes with low-AMI levels. As mentioned above, TSO and HGSF plan to work together on the Project. TSO plans to donate the land for the BMR townhomes to HGSF. As further noted above, State Density Bonus Law concession and waivers together with an Equivalent Alternatives Proposal are being requested to enable HGSF to maximize its unique program. HGSF offers affordable homeownership opportunities to low-income families through a unique program that requires no down payment and provides zero-interest rate mortgages to homeowners. HGSF's ability to provide this unique program and deep levels of affordability is predicated on keeping construction costs low, optimizing the use of staff and volunteer labor, donated construction materials and finishes, and receiving funding from various private and public sources.

State funding for affordable housing is extremely competitive. TSO is committed to working with HGSF but if HGSF cannot obtain financing or otherwise chooses not to develop the affordable townhomes, TSO would partner with a different affordable housing developer to ensure compliance with the Project's BMR requirements under this proposal. If no affordable housing developer is interested in such a partnership, TSO would construct the BMR townhomes in a manner consistent with the City's Municipal Code and BMR Guidelines, and the BMR townhomes may be offered at different affordability levels than the current HGSF proposal.

Concessions for BMR Townhomes

The BMR Guidelines generally requires that units be distributed throughout the development. Because of TSO's partnership with HGSF and HGSF's need to have its own parcel, the BMR townhomes cannot be mixed throughout the community. Instead, the BMR townhomes will be located on Lot C. The placement and configuration for Lot C was selected for the BMR townhomes with equality in mind. The location is prominent on the site and feels integrated into the overall community. The location is also centrally located and adjacent to the park and paseo amenities.

HGSF's model is designed to have all the homes clustered on the same piece of land. Providing HGSF's units together on a dedicated parcel allows HGSF to apply for grants and other funding sources that support affordable housing and construct homes more efficiently than if units are spread throughout the Project site. In addition, having all the affordable townhomes on one parcel builds community, equity, and continuity for HGSF's homeowners. Below are specific reasons why:

- HGSF builds and sells homes on a single lot because it is more efficient and cost-effective than building across multiple lots. For example, working with one lot simplifies the land transaction, which keeps legal costs low. In addition, having the future homeowners, who must put in sweat equity to help build their homes, working on a single lot builds community and allows HGSF to increase its positive outcomes and impacts on the community.
- Construction mobilization and the coordination of its volunteer labor and homeowner sweat equity becomes significantly more expensive, complicated, and time consuming when homes are located on separate lots rather than a single lot.
 - Expensive: It is easier and more effective to oversee and coordinate volunteer labor and future homeowners within one lot rather than being spread over multiple lots, creating additional costs and operational complications – multiple superintendents, procurement dates for

materials, staging areas, etc. Economies of scale are lost when affordable townhomes are embedded within the market-rate townhomes.

- *Complicated:* When affordable townhomes are interspersed within the market-rate townhomes, there will be two developers and two sets of construction teams working within the same building, which would be a logistical nightmare and essentially impossible due to coordination and insurance issues. For example, coordinating the shared responsibilities of a plumbing pipe between one contractor and another, to determine where one plumber's work stops and another plumber's starts within the same building envelope is extremely difficult. From a safety and insurance standpoint, it is also challenging to have two separate groups working that closely together as contractors will have different protocols and rules.
 - *Time Consuming:* Due to volunteer labor and HGSF's homeowner sweat equity program, the market-rate and affordable townhomes will have different schedules and timing. Having different contractors, with different construction schedules, reporting to different owners, is destined to lead to on-site construction coordination conflicts and eventual finger pointing.
- In addition to HGSF being the lender that requires no down payment and provide a zero-interest rate mortgages to homeowners, they also cap the homeowners' expenses to thirty percent of their incomes. This includes capping the Homeowner Association (HOA) fees, which required these units to be on one parcel under their own HOA.
 - Lastly, HGSF's public funding sources only provide subsidy to very low and low-income townhomes. These funding sources account for approximately 30 percent of HGSF's capital stack and are crucial to HGSF's ability to provide affordable homeownership opportunities. The funding process typically includes a detailed application to be awarded funds and predetermined milestones (e.g., completion of foundation pour, framing, utility installation, sheetrock inspections, etc.) are required to receive funds. Due to the requirements of these funding sources, HGSF would be unable to obtain them without its own parcel.

As explained in the attached State Density Bonus Law letter, the Project seeks concessions and waivers to support HGSF affordable housing project, including concessions for allowing HGSF to cluster its units and to construct its units on its own timeline.

Waivers for BMR Townhomes

Although HGSF is constructing its own project, the architecture and exterior finishes of the BMR townhomes will be of the same quality as the market-rate townhomes and the level of detail and time spent designing these townhomes will be on par with the market-rate townhomes. The overall architectural design approach and vision of the project is to propose distinctively different architectural styles for the townhomes, while having pieces of resemblance in each townhome style to the apartment building. This approach ties the project together visually as a community while creating architectural variety. In addition, the architecture of the BMR townhomes is designed to meet HGSF's specifications and as such, will differ from the market rate townhomes. Similar to the market-rate townhome designs, the architecture of the proposed BMR townhomes provides a variety of façade breaks, materials changes and roof level changes, as shown in Attachment C.

The BMR Guidelines note that the design and materials used in construction of BMR units must be of a quality comparable to other new units constructed in the development but need not be of luxury quality. As noted above, the BMR townhome units will have architecture and exterior materials of comparable quality to the market rate units. But the BMR units have different layouts and ratios of bedrooms to unit size, bathrooms



to unit size, and living room size to unit size, as well as fewer parking spaces and balconies in different locations. On the interior, the BMR townhomes will have standard appliances common to new units such as a washer/dryer, dishwasher, oven/range, and refrigerator. Due to HGSF's donated construction materials and finishes, the finishes will be durable and high quality, however, they may differ from the market-rate units. To facilitate the concession allowing the affordable townhomes to be developed on an independent timeline and to allow the units to fit on Lot C, State Density Bonus Law waivers have been requested to allow the affordable townhomes to differ from the market-rate townhomes. The attached State Density Bonus Law Letter provides additional information regarding the requested waivers.

In sum, having all 18 BMR ownership townhomes developed by an affordable developer using their program enables them to be offered at deeper levels of affordability and ensure the permanent affordability of these homes.

* * *

Thank you for the opportunity to present this preliminary BMR proposal. We look forward to continuing our work with you as well as other City Staff to develop the BMR program for 123 Independence.

Warmest regards,



Peter Tsai

Resources

<https://www.codepublishing.com/CA/MenloPark/#!/MenloPark16/MenloPark1696.html#16.96>
<https://www.menlopark.org/369/Below-Market-Rate-BMR-housing-program>
<https://beta.menlopark.org/files/sharedassets/public/community-development/documents/20220303-below-market-rate-guidelines.pdf>

Attachment A – State Density Bonus Law Letter

Attachment B - Proposal for Reasonably Equivalent Alternatives Pursuant to BMR Guidelines Section 13

Attachment C – Exterior Rendering Comparison



Attachment A – State Density Bonus Law Letter

October 28, 2022

VIA E-MAIL

Ms. Payal Bhagat
City of Menlo Park
Planning Division
701 Laurel Street
Menlo Park, CA 94025

Re: Density Bonus Law Request for 123 Independence Drive Project

Dear Eric:

This letter amplifies and modifies the State Density Bonus Law (“SDBL”) request previously submitted with the application for the 123 Independence Drive housing development application (“Project”). The requests in this letter respond to the City’s recent comments on the Project as well as an increase in the proposed number of affordable units and additional design information that has been developed by the Project applicant and its affordable housing partner, Habitat for Humanity Greater San Francisco (“HGSF”), since our last request.

This letter is organized in three sections. Section 1 summarizes the Project’s affordable housing proposal, Section 2 explains what qualifies as a concession/incentive and waiver under SDBL, and Section 3 has the Project-specific requests for SDBL benefits.

1. The Project’s Affordable Housing Proposal

The Sobrato Organization (“TSO”) proposed the Project, which contains 316 apartment units and 116 townhomes on approximately 8.15 acres located at 119 Independence Drive, 123–125 Independence Drive, 127 Independence Drive, 1205 Chrysler Drive, and 130 Constitution Drive (“Property”) in the City of Menlo Park (“City”). Of the 316 apartment units, 56 would be deed-restricted low-income affordable units. Of the 116 townhomes, 18 would be deed restricted to low-income households. The 18 affordable townhomes would be financed and constructed by TSO’s development partner, HGSF.

In total, the Project would provide 74 low-income units, which equals 17 percent of the total Project units. The Project’s apartments would comply with all City standards and guidelines, but the affordable townhomes would not. Because HGSF would be developing the affordable townhomes, they are located on a single parcel and have a different design than the TSO townhomes. As discussed in Section 3, below, TSO and HGSF request to use SDBL

concessions and waivers to allow the development of HGSF's portion of the Project as proposed. TSO reserves the right to request additional waivers if needed to address additional, applicable development standards.

2. Density Bonus Law Concessions and Waivers

a. Concessions

Incentives or concessions¹ are any “regulatory incentives or concessions proposed by the developer or the city . . . that result in identifiable and actual cost reductions to provide for affordable housing costs.” (Gov. Code, § 65915, subd. (k)(3); see generally *id.*, subd. (k).) The City bears the burden of proof for the denial of a requested concession. (See *id.*, subd. (d)(4).)

The definition of “concessions” is broad and includes:

(1) A reduction in site development standards or a modification of zoning code requirements or architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission as provided in Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code, including, but not limited to, a reduction in setback and square footage requirements and in the ratio of vehicular parking spaces that would otherwise be required that results in identifiable and actual cost reductions, to provide for affordable housing costs

(2) Approval of mixed-use zoning in conjunction with the housing project if commercial, office, industrial, or other land uses will reduce the cost of the housing development and if the commercial, office, industrial, or other land uses are compatible with the housing project and the existing or planned development in the area where the proposed housing project will be located.

(3) Other regulatory incentives or concessions proposed by the developer or the city, county, or city and county that result in identifiable and actual cost reductions to provide for affordable housing costs. . . .

(*Id.*, subd. (k).) According to California Department of Housing and Community Development (“HCD”), the SDBL definition of concessions “clearly indicates that requirements beyond development standards are eligible,” including “regulatory requirements,” as long as the concession results in identifiable and actual cost reductions. (HCD Letter of Inquiry and Technical Assistance to City of San Jose (Dec. 14, 2021), available at

¹ SDBL uses the terms “incentive” and “concession” interchangeably. For readability, this letter uses “concessions” to refer to both incentives and concessions.

<https://www.hcd.ca.gov/community-development/housing-element/docs/sclSanJose-LOI-TA-121421.pdf>.)

Cities must approve concessions unless specified written findings based on substantial evidence are made. (Gov. Code, § 65915, subd. (d)(1).) The only reasons to deny a concession are: (i) the concession does not result in identifiable and actual cost reductions; (ii) the concession would have a specific, adverse impact (as defined) upon public health and safety or the physical environment or on real property listed in the California Register of Historical Resources, and there is no feasible method to mitigate or avoid the impact; or (iii) the concession would be contrary to state or federal law. (*Id.*) A “specific, adverse impact” means “a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.” (§ 65589.5, subd. (d)(2).) Conditions that would have a specific, adverse impact upon the public health and safety “arise infrequently.” (*Id.*, subd. (a)(3).) Notably, Government Code section 65915, subdivision (r) declares: “[t]his chapter shall be interpreted liberally in favor of producing the maximum number of total housing units.” Therefore, if in doubt regarding a concession (or waiver), the City should make the decision that facilitates housing development.

b. Waivers

The SDBL provides that “an applicant may submit to a city . . . a proposal for a waiver or reduction of development standards that will have the effect of physically precluding the construction of a development” that is entitled to the benefits of the SDBL. (Gov. Code, § 65915, subd. (e)(1).) A “development standard” is defined broadly as “a site or construction condition, including, but not limited to, a height limitation, a setback requirement, a floor area ratio, an onsite open-space requirement, or a parking ratio that applies to a residential development pursuant to any ordinance, general plan element, specific plan, charter, or other local condition, law, policy, resolution, or regulation.” (*Id.*, subd. (o)(1).) An applicant is not limited in the number of waivers that may be requested and granted. (*Id.*, subd. (e)(1).) Waivers can be requested for “any development standard that will have the effect of physically precluding the construction of a development” that meets the State Density Bonus Law’s minimum affordable requirements “at the densities *or with the concessions or incentives permitted by* [SDBL].” (*Id.* [emphasis added].)

A local government may deny a requested waiver only in limited circumstances. Specifically, a local government may deny a requested waiver only if granting the waiver “would have a specific, adverse impact . . . upon health or safety, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact” or “would have an adverse impact on any real property that is listed in the California Register of Historical Resources, or to grant any waiver or reduction that would be contrary to state or federal law.” (*Id.*) As noted above, conditions that would have a specific, adverse impact on public health and safety “arise infrequently.” (§ 65589.5, subd. (a)(3).)

A local government can require “an applicant to provide reasonable documentation to establish eligibility” for a requested waiver or reduction of a development standard. (§ 65915(a)(2).) According to HCD, the “showing or ‘reasonable documentation’ required by the applicant is that the project qualifies for a density bonus.” (HCD’s Notice of Violation Letter to the City of Encinitas (Jan. 20, 2022), available at <https://www.hcd.ca.gov/community-development/housing-element/docs/sdiencinitas-nov-012022.pdf>.) HCD also has concluded that “[a] project that meets the requirements of the [SDBL] is entitled to waivers if they are needed, ‘period.’” (*Id.*, quoting *Wollmer v. City of Berkeley* (2011) 193 Cal.App.4th 1329, 1346–1347.)

A recent California Court of Appeals case has further confirmed that a local government cannot deny a requested waiver based on whether a developer could have designed its project in a way that minimizes the need for requested waivers. (*Bankers Hill 150 v. City of San Diego* (2022) 74 Cal.App.5th 755.) In *Bankers Hill 150*, project opponents claimed that the project could be redesigned to be more consistent with the city’s development standards and therefore the city should have denied the requested waivers. The Court of Appeals rejected that argument, holding that the city could not demand the developer to redesign its building to better meet the city’s development standards *even if* a design existed that would allow fewer deviations than the proposed project. (*Id.* at p. 775.)

In addition, HCD has clarified that a waiver must be granted if it is necessary to facilitate a requested concession. (HCD Letter of Technical Assistance to the City of San Jose (May 20, 2022), available at <http://www.hcd.ca.gov/community-development/housing-element/docs/sclSanJose-TA-052022.pdf>.) To illustrate the point, HCD provides an example in which an applicant seeks a concession to remove the requirement for ground floor commercial space in a mixed-use zoning district and instead provide residential uses on the ground floor. Under such a scenario, an applicant can seek a waiver of ground floor transparency requirements because such requirements “would be incompatible” with the concession allowing ground floor residential uses. (*Id.*) According to HCD, “these derivative waivers should be considered and approved in a perfunctory manner by the local agency.”

3. The Project’s SDBL Benefits and Requests

Based on the number of affordable units provided and their level of affordability, the Project is entitled to a 30.5 density bonus (Gov. Code, § 65915, subd. (f)(1)), two concessions (*id.*, subd. (d)(2)(B)), unlimited waivers (*id.*, subd. (e)(1)), and use of SDBL’s parking ratios (*id.*, subd. (p)). The Project requests two concessions and two waivers, as explained below.

a. Concessions

i. Concession 1: Clustered Affordable Townhomes

Municipal Code section 16.97.100 requires that affordable units be “integrated into the project.” The City’s Below Market-Rate Guidelines (“BMR Guidelines”) further state that “[t]he BMR units should be distributed throughout the development.” (BMR Guidelines, § 5.1.) These

requirements would preclude a market-rate developer from partnering with an affordable housing developer to provide the affordable component of a project. Affordable housing developers require their own parcel on which they can construct a one hundred percent affordable housing development to be able to leverage certain lower cost financing that result in actual and identifiable cost savings. For the affordable townhomes, TSO wishes to work with an affordable housing developer, namely HGSF, due to HGSF's greater expertise in providing for-sale affordable housing. Accordingly, TSO and HGSF request a concession from BMR Guidelines section 5.1 to allow the affordable townhomes to be developed on one parcel and not distributed throughout the townhome portion of the Project.

ii. Concession 2: Different Construction Schedule

Municipal Code section 16.97.100 requires that affordable units be "constructed concurrently with market rate units." TSO and HGSF request a concession to this requirement because the affordable townhome units may not be constructed concurrently with the market rate townhomes due to TSO's partnership with HGSF. TSO and HGSF have different construction practices that lead to potentially different delivery timelines. Specifically, HGSF relies on (i) a volunteer labor and "sweat equity" model whereby the future owners of homes provide some labor and (ii) donated goods and materials. Both volunteer labor and donated materials result in cost savings for affordable housing but lead to a less predictable timeline than traditional construction methods and procurement practices.

b. Waivers

The waivers requested below are needed to either allow the Project to physically fit on the Property as designed and with the density allowed or to facilitate the "different timing" concession that allows the affordable townhomes to be constructed by HGSF with volunteer labor and donated goods.

i. Waiver 1: Equal Design

Municipal Code section 16.97.100 requires that the affordable units to "be of equal design and quality as the market rate units." Section 5.2 of the BMR Guidelines clarifies that the "design and materials used in construction of BMR units shall be of a quality comparable to other new units constructed in the development but need not be of luxury quality."

TSO and HGSF request a waiver to Municipal Code 16.97.100 and BMR Guidelines section 5.2 to allow the affordable townhomes to differ from the market-rate townhomes. The differences are that compared with the market-rate units, the affordable townhomes will have: (i) smaller average unit size, resulting in different interior layouts with fewer bathrooms, smaller living rooms, and more bedrooms than a similar sized market-rate townhome; (ii) less parking; (iii) smaller windows; (iv) different exterior finishes and massing, including different roof lines, (v) fewer balconies and balconies located in different locations; and (vi) different interior finishes, lighting, and appliances.

Regarding the differences in overall size, layout, bathrooms, living rooms, bedrooms, and parking spaces, these differences allow the Project to fit on the Property as designed and at the density allowed. Making the townhomes larger would allow more bathrooms, larger living rooms, fewer bedrooms per square foot, and more parking, but doing so would decrease open space or necessitate another change, such as a loss of a unit.

Regarding the differences in window size, massing inclusive of rooflines, and balconies, these differences result in a product that is easier to construct than the market-rate townhomes. Providing an easy to construct product supports the concession above for separate timing, which is predicated in part by HGSF's use of volunteer labor.

Regarding the differences in exterior and interior finishes, including appliances, these differences allow HGSF to use donated materials, thereby supporting the concession above for separate timing, which is predicated in part by HGSF's use of donated materials.

ii. Waiver 2: Common Open Space

Municipal Code section 16.45.120(4)(C)(iii) requires a parcel with 10 to 50 units to provide a minimum of 400 square feet of common open space, with minimum dimension of 20 feet. The parcel with the affordable townhomes (Lot C) includes 400 square feet of common open space, but its dimensions are 10 feet by 40 feet rather than 20 feet by 20 feet. Accordingly, TSO and HGSF request a waiver to reduce the 20-foot minimum dimension to 10 feet on this lot. The Project cannot fit the affordable townhome units as designed at the density allowed and provide a common open space on Lot C that is 20 feet wide. To provide another 10 feet of open space, the Project would need to have fewer units and different parcel lines.

* * *

Please do not hesitate to contact me if you have questions about TSO's SDBL requests. We look forward to continuing to work with the City to bring much needed housing, including affordable housing, to the area.

Sincerely,

Cox, Castle & Nicholson LLP



Linda C. Klein

CC: Peter Tsai, The Sobrato Organization
Christina Burke, The Sobrato Organization

087389\16186119v12

Attachment B – Proposal for Reasonably Equivalent Alternatives
Pursuant to BMR Guidelines Section 13

October 28, 2022

Ms. Payal Bhagat
City of Menlo Park
Planning Division
701 Laurel Street
Menlo Park, CA 94025

RE: Proposal for reasonably equivalent alternatives to the BMR Guidelines under Section 13

Dear Payal Bhagat,

Habitat for Humanity Greater San Francisco (“HGSF”) would like to propose reasonably equivalent alternatives to a few BMR guidelines included in Resolution 6708 - BMR Guidelines, approved March 2022. Our proposed alternatives have been developed by HGSF for the project applicant, The Sobrato Organization (“TSO”), and in coordination with the last submitted request under the State Density Bonus Law.

HGSF’s proven model includes an ongoing partnership with future homeowners and our high touch approach prepares families for the responsibility and opportunity of being a first-time homeowner. Our sweat equity program, which includes 500 hours of sweat equity for all households, is designed to provide meaningful interaction among families, affiliate representatives, and Habitat volunteers.

HGSF strives to make affordable homeownership and our sweat equity program available to all income qualified applicants regardless of age and physical ability. In order to ensure the equality of our sweat equity program, we make accommodations for the elderly and people with limited physical mobility. To accomplish this, we allow friends and family to contribute sweat equity hours to families, and we also provide customized opportunities for people based on their individual needs. For example, we offer accommodations such as counting administrative tasks such as Spanish translations, phone calls, and attending educational classes in home repair, public speaking, and leadership development towards the sweat equity requirement. HGSF makes reasonable accommodations and will ensure the success of all homeowners through customization and accommodations for their needs.

HGSF accepts the BMR Guidelines and requests only minor amendments to help facilitate HGSF’s proven affordable homeownership program and enable an effective partnership between the City of Menlo Park, TSO, and HGSF. This letter identifies those minor modification requests, and as always, HGSF is open to meeting with City staff to walk through this request and continue collaborating on this request and other beneficial approaches.

The project:

Proposal for construction of 316 apartment units (56 deed-restricted low-income affordable units) including 116 townhomes (18 deed-restricted low-income townhomes financed and constructed by HGSF), as the project commonly referred to as 123 Independence (“Project”) located at 119 Independence Drive, 123-125 Independence

Drive, 127 Independence Drive, 1205 Chrysler Drive, and 130 Constitution Drive in the City of Menlo Park.

The Project's deed-restricted apartments would comply with all City standards, and this proposal relates specifically to the 18 deed-restricted townhomes.

1. City of Menlo Park Below Market Rate Guidelines - Section 13

The BMR Guidelines set the framework for how affordable housing will be created within the City of Menlo Park. Within Section 13 of these guidelines, the City allows reasonably equivalent alternatives to be proposed to and approved by City Council. Section 13 states:

Nothing set forth herein shall preclude the City from approving reasonably equivalent alternatives to these BMR Guidelines, including, but not limited to, in lieu fees, land dedication, off-site construction or acquisition and rehabilitation of units. Additionally, the City reserves the right to approve reasonably equivalent alternatives to the characteristics of the proposed BMR units and the affordability mix. Any modifications to these Guidelines shall be approved by the City Council and shall contain findings that the alternative is commensurate with the applicable requirement(s) in the BMR Guidelines and is consistent with the goals of the BMR Guidelines.

Modification of the BMR Guidelines will result in identifiable efficiencies in the ability of HGSF to apply its model to the benefit of affordable housing delivery.

The reasonably equivalent alternatives are proposed in such a way that, should the City Council accept them, they are commensurate with the intent and purpose of the BMR Guidelines. The narrative evaluation provides evidence for the findings to be made.

2. The Project's Reasonably Equivalent Alternative Requests

HGSF has a unique and tested method of financing and constructing 100% affordable homeownership projects and the reasonable equivalent alternatives are needed to facilitate the established and successful process that allows HGSF, as the affordable housing developer, to develop the townhomes in the most efficient and cost-effective manner.

BMR Guidelines section 5.5: *requires that affordable units have a right of first refusal in favor of the City.*

HGSF requests the right of first refusal, with the City in second position. HGSF uses the right of first refusal to resell properties to second generation affordable homeowners

and maintains a 99-year deed restriction on all homes sold. Also, by granting HGSF the right of first refusal, the City would be allowing HGSF to maintain its unique and time-tested approach to marketing, homebuyer engagement, and home sales for any future resale. This guideline is in place to ensure that affordable homes continue to be part of the Menlo Park affordable housing stock. Since HGSF guarantees the resell of the properties to a second generation of affordable homeowners and a 99-year deed restriction on the properties resold, granting HGSF this request meets the intent and purpose of this guideline to ensure affordable housing remains affordable.

BMR Guidelines section 7.1: requires “[a]ll members of the applicant household to be first time homebuyers.”

Given our current guidelines, HGSF requests the city allow only those on title be required to be first-time homebuyers.

HGSF’s households are made up of multigenerational individuals, often, seniors who may need to live with their adult children or adult children in need of temporary and/or part-time residence. These seniors and adult children may have been prior homebuyers. By requiring first-time homeownership only for the title holders, the ability to have more inclusive, diverse, and multigenerational households can be achieved. The intent of this guideline is to prevent current homeowners from acquiring secondary properties. Through HGSF’s thorough application and vetting process, such a scenario will not occur.

BMR Guidelines section 7.1.1: makes an exception to the first-time homebuyer preference for households that already own BMR units.

HGSF requests that the City waive this exception. Given the extreme scarcity of affordable homeownership opportunities in Menlo Park and surrounding region, HGSF seeks to provide homeownership opportunities to buyers who do not already own homes.

BMR Guidelines section 7.2: states, “Only households that have completed the education requirement will be invited to apply when units become available” and provides detailed requirements about the education provider and content of such programs.

HGSF requires homeownership education during the “sweat equity” phase of its homebuyer process, which follows the application period and the initial selection of homebuyer candidates and takes place as part of the 500-hour sweat equity requirement that occurs during unit construction. For this reason, HGSF must identify households for its units before the units are available.

HGSF is comfortable establishing a requirement that interested applicants attend a 90-minute information session prior to applying, where information on homeownership and program requirements are thoroughly reviewed. In sum, although HGSF invites applicants to apply prior to the full completion of their education and before units become available, HGSF’s education model accomplishes the same purpose as BMR

Guideline section 7.2, which is to ensure potential new homeowners are prepared for ownership, and the alteration in timing is necessary for HGSF's sweat equity model.

BMR Guidelines section 7.4: provides a list of assets and how they count towards income limits for the purchasers of affordable units.

HGSF requests an alternative to section 7.4 which only qualifies households having non-retirement assets that do not exceed the purchase price of the BMR units. Instead, HGSF asset test requires liquid assets over \$60k to be assessed at 10% of their value and added to annual income. This approach factors in larger substantial savings as part of the household annual income, which helps to ensure lower income households are served and sets reasonable conditions that allow as many potential homebuyers as possible to qualify. This alternative accomplishes the purpose of BMR Guideline section 7.4, which is to provide BMR units only to those households that truly need them, equally as well by allowing households with lower incomes to count a small percent of other assets to show that they qualify for an affordable home.

BMR Guidelines section 10.2 discusses refinancing options.

HGSF does not allow homeowners to refinance homes or assume second loans. To ensure affordability, HGSF offers mortgages to first-time homebuyers with 0% down payment and 0% interest loans and caps homeowners' total housing payment at 30% of their gross household income at the time of sale. Refinancing is not part of the HGSF process because the property value is shared between the homeowner, who receives their principle plus CPI adjustment at the time of a resale, and HGSF who uses any realized capital appreciation to build more affordable homes. Allowing second mortgages also jeopardizes affordability and increases foreclosure risk. Accordingly, not allowing refinancing provides an equivalent means of accomplishing the BMR Guidelines purpose of protecting low-income homeowners from predatory lending practices and foreclosure.

BMR Guidelines section 11 sets forth a detailed process for the resale of affordable units, including how the sales price will be set and that the City will retain the realtor for the sale.

We request the city allow HGSF to use its standard process for calculating the resale price of the home during the second-generation sale and our process for the actual sale of the home. HGSF sets the resale price at the time of the first-generation sale and the price is based on the original price plus appreciation (HGSF caps the resale price appreciation at the lower of CPI or 3%). HGSF construction staff rehabilitates the repurchased home at the same time as a second affordable homebuyer is identified. HGSF repeats the steps normally performed during an application cycle to find a qualified buyer, including marketing and outreach, performing a lottery, determining eligibility and ultimately selection a qualified household. Please note that in the case of a previously owned home, buyers are only required to perform 250 hours of sweat equity (versus the 500 required for new constructions). HGSF's model accomplishes the

goal of BMR Guidelines section 11, which is to ensure that homes remain affordable upon resale and are sold to qualified low-income households with an affordable mortgage.

3. HGSF as the City's Designee and Program Provider for Education, Marketing, Applicant Selection, and Title

Several of the City's BMR Guidelines allow the City to choose a designee or program provider to undertake certain actions. For example, BMR Guidelines section 9.1.8 states, "[c]ontact is established between the City or its designee and the developer's representative to work out a schedule and convenient strategy for advertisements, if needed, when the units will be open for viewing, and for when the interested applicants may obtain detailed information about the units." Similarly, BMR Guidelines section 9.1.11 states, "[t]he City or the City's BMR Housing Program provider holds an application orientation meeting(s)." In addition, BMR Guidelines section 9.1.13 states, "[w]hen the application period closes, the City or its designee reviews the completed applications. The complete, eligible, qualifying applications are ranked according to legacy list order and/or lottery ranking." And BMR Guidelines section 9.1.15 states, "[t]he City of Menlo Park or its designee submits to the title insurance company the Grant Deed, BMR Agreement and Deed Restrictions, and Request for Notice to be recorded with the deed to the property."

HGSF understands that the City is amenable to selecting HGSF as its designee and program provider to assist with the orientation and other educational meetings, marketing, applicant selection, and title requirements. In a meeting with City staff on October 17, 2022, the City stated that no modifications are needed to these guidelines, but recommended we provide the City with an explanation of HGSF's education, marketing, and selection strategies. Below, we provide a summary of how HGSF would handle these important tasks as the City's designee and program provider and affirm our commitment to working with the City on these items to accomplish the purposes of the BMR Guidelines.

Regarding orientation and other educational meetings, HGSF has a clear and effective curriculum for these sessions. HGSF's staff are trained and prepared to both provide content and manage the extensive Q&A process. HGSF uses a culturally relevant approach in the design and delivery of these sessions and ensures that translation is available and/or separate sessions are provided to non-English speaking attendees.

Regarding marketing, HGSF will develop marketing strategies in collaboration with City staff. A fundamental component of HGSF's self-help housing model is sweat equity. All homeowner candidate households complete 500 hours of sweat equity, primarily through the labor they contribute to the construction of their own homes.¹ We intentionally initiate marketing several months before homes are fully constructed so that the candidates who are selected are directly involved in building their homes. The sweat equity provides homeowners an opportunity to invest in their community and directly contribute to the building and development of their homes. At the same time, HGSF will provide interested applicants with information on the units

¹ HGSF values diversity and inclusion. To accommodate the varying needs and abilities of potential homeowners, HGSF allows applicants' family members and community to help fulfill sweat equity requirements.

during information sessions. HGSF develops a marketing plan that takes into consideration affirmative fair housing marketing practices, funder requirements, and the target audience(s) for our affordable homeownership program. HGSF would ask that the City approve any marketing plan before launching outreach and marketing. Our marketing plan includes identifying target market(s), building information, buyer qualifications, marketing strategy, marketing activities, assessment, advertising deliverables, and timeline. Marketing traditionally starts 1.5 years prior to home sales.

Regarding applicant selection, HGSF, as the City's designee, would manage the process of reviewing applications for initial eligibility and the use a lottery to select candidates for underwriting and selection by rank order. This process would include accommodating the City's preference for identifying applicants from its legacy list. HGSF welcomes the opportunity to develop preference qualifying strategies in collaboration with City staff, as it has done before with many other Bay Area cities. Regarding loan documents and title, HGSF would review all loan documents with the buyers prior to closing, answering any questions that borrowers may have. HGSF has a longstanding relationship with a title company who understands its model and is able to work with buyers in an efficient and thoughtful manner.

* * *

Please do not hesitate to contact me if you have questions about HGSF's reasonably equivalent alternatives requests or HGSF's qualifications to be the City's designee and program provider. We look forward to continuing to work with the City to bring much needed affordable housing to the area.

If additional information is needed or you have questions, please contact me directly at:

t: 415-625-1001; or
e: msedonaen@habitatgsf.org.

Sincerely



Maureen Sedonaen
Chief Executive Officer
Habitat for Humanity Greater San Francisco

CC:
Christina Burke, The Sobrato Organization
Peter Tsai, The Sobrato Organization
Linda Klein, Esq.

Attachment C – Exterior Rendering Comparison



AFFORDABLE 6-PLEX FRONT ELEVATION



MARKET RATE TYPE A 6-PLEX FRONT ELEVATION



MARKET RATE TYPE B 6-PLEX FRONT ELEVATION

Ms. Payal Bhagat
 City of Menlo Park
 Planning Division
 701 Laurel Street
 Menlo Park, CA 94025

June 2, 2023

Subject: Below Market Rate Proposal

Project Name: 123 Independence (“The Project”)

Project Address: 119, 123–125, 127 Independence Drive, 1205 Chrysler Drive, and 130 Constitution Drive

Dear Payal:

The Sobrato Organization (TSO), in partnership with Habitat for Humanity Greater San Francisco (HGSF), is pleased to propose the following outlined revisions to our Below Market Rate Proposal for 123 Independence located at 119 Independence Drive, 123–125 Independence Drive, 127 Independence Drive, 1205 Chrysler Drive, and 130 Constitution Drive in Menlo Park.

The 123 Independence Project (Project), which consists of 316 apartments and 116 townhomes, would provide below-market-rate (BMR) units meeting the City’s requirements on site. The for-rent apartments will comply with Chapter 16.96 and the BMR Guidelines and provide 56 affordable rental units at low-AMI levels. TSO and HGSF have requested State Density Bonus Law concessions and waivers, to allow variances from certain requirements in the BMR Guidelines to provide 18 affordable for-sale townhomes at low-AMI levels.

To allow HGSF to be the developer for the 18 affordable townhomes, the Project seeks two concessions that would result in actual cost savings: (i) to allow the affordable townhomes to be developed on one parcel, and (ii) to allow the affordable townhome units to be completed on an independent timeline from the market rate units. TSO and HGSF also request waivers that support these concessions and allow the Project to fit on the site as designed and at the density allowed.

Through discussions with Staff, we understand Staff seeks clarification of the requested concession to allow the affordable townhomes to be completed on an independent timeline from the market rate units. Specifically, Staff asked TSO to provide construction milestones or other measures that provide assurance that the BMR townhomes are constructed. In response, we provide the following timeline and assurances for the 18 affordable townhomes:

- HGSF is required to submit building permit application(s) for the 18 townhomes within 6 months of the building permit submittal for the first market rate townhome
 - If HGSF fails to pull building permits within 6 month then some of the proposed 18 affordable townhomes would become market rate townhomes and some of the market rate townhome units would convert to inclusionary units, such that a total of 15% of the townhomes would be affordable (i.e., a door-by-door approach).
- HGSF will have 24 months after the issuance of their building permit complete the 18 inclusionary townhomes
 - HGSF will provide a milestone schedule at the start of construction that is consistent with completion within 24 months of pulling their building permit. HGSF will have regular check-ins with housing staff throughout the project, including a larger bi-annual meeting (including all stakeholders as determined by the City staff) to discuss their progress. HGSF will provide schedule updates in those meetings with City stakeholders.
- If HGSF starts construction and does not complete within the required time period, then city staff will consider a bond to complete improvements, subject to inclusion of additional project management and administrative costs in the bond amount.

* * *

Thank you for the opportunity to provide this additional information. This letter will serve as the basis for updating the BMR proposal and State Density Bonus Law request. We look forward to continuing our work with you as well as other City Staff to develop the BMR program for 123 Independence Drive.

Warmest regards,



Peter Tsai

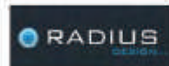


Plan set has been customized and paired down for use by the Housing Commission

123 INDEPENDENCE
MENLO PARK, CA
PLANNING RESUBMITTAL
09/07/2022

TABLE OF CONTENTS

ARCHITECTURE	
A001	PROJECT NARRATIVE AND SITE CONTEXT
A002	PROJECT DATA SUMMARY
A011	SITE PHOTOS
A021	EXISTING BUILDING PHOTOS 118 INDEPENDENCE
A022	EXISTING BUILDING PHOTOS 123-125 INDEPENDENCE
A023	EXISTING BUILDING PHOTOS 127 INDEPENDENCE
A024	EXISTING BUILDING PHOTOS 130 CONSTITUTION
A025	EXISTING BUILDING PHOTOS 1205 CHRYSLER
A031	STREET VISCINE
A100	SITE CONTEXT MAP
A101	PROPOSED ILLUSTRATIVE SITE PLAN
A102	SITE SECTIONS
A103	OPEN SPACE DIAGRAM
A103B	ENLARGED LOT C OPEN SPACE DIAGRAM
A104	CIRCULATION DIAGRAM
A110	FAR TABULATIONS LEVEL B1
A111	FAR TABULATIONS LEVEL 1
A112	FAR TABULATIONS LEVEL 2
A113	FAR TABULATIONS LEVEL 3
A114	FAR TABULATIONS LEVEL 4
A115	FAR TABULATIONS LEVEL 5
A116	FAR TABULATIONS ROOF PLAN
A200	APARTMENT BUILDING PLAN LEVEL B1
A201	APARTMENT BUILDING PLAN LEVEL 1
A202	APARTMENT BUILDING PLAN LEVEL 2
A203	APARTMENT BUILDING PLAN LEVEL 3
A204	APARTMENT BUILDING PLAN LEVEL 4
A205	APARTMENT BUILDING PLAN LEVEL 5
A206	APARTMENT BUILDING ROOF PLAN
A210	APARTMENT TYPICAL UNIT FLOOR PLANS
A301	APARTMENT BUILDING ELEVATIONS
A302	APARTMENT BUILDING ELEVATIONS (COURTYARDS)
A303	APARTMENT BUILDING ELEVATIONS (COURTYARDS)
A304	APARTMENT BUILDING ELEVATIONS (COURTYARDS)
A305	APARTMENT BUILDING ELEVATIONS (COURTYARDS)
A310	APARTMENT BUILDING SECTIONS
A321	APARTMENT SCHEMATIC WALL SECTIONS
A401	APT ZONING DIAGRAM BASE HEIGHT, 75% STEPBACK
A402	APT ZONING DIAGRAM MAJOR BUILDING MODULATIONS
A403	APT ZONING DIAGRAM MINOR BUILDING MODULATIONS
A404	APT ZONING DIAGRAM BUILDING ENTRANCE MODULATIONS
A405	APT ZONING DIAGRAM GLAZING
A406	APT ZONING DIAGRAM PERCENTAGE STUCCO
A407	APT ZONING DIAGRAM ROOF LINE
A501	TOWNHOMES BUILDING PLANS 3-PLEX AND 4-PLEX
A502	TOWNHOMES BUILDING PLANS 5-6-PLEX AND 6-6-PLEX
A503	TOWNHOMES BUILDING PLANS APT 6-6-PLEX
A504	TOWNHOMES BUILDING PLANS APT 12-6-PLEX
A601	TOWNHOMES ELEVATIONS A 3-PLEX
A602	TOWNHOMES ELEVATIONS A AND B 4-PLEX
A603	TOWNHOMES ELEVATIONS A AND B 5-6-PLEX
A604	TOWNHOMES ELEVATIONS A AND B 6-6-PLEX
A605	TOWNHOMES ELEVATIONS C 6-6-PLEX AND 12-6-PLEX
A621	TOWNHOMES BUILDING A SECTIONS
A622	TOWNHOMES BUILDING B SECTIONS
A623	TOWNHOMES BUILDING C SECTIONS
A701	TH ZONING DIAGRAM MAJOR BUILDING MODULATIONS
A702	TH ZONING DIAGRAM MINOR BUILDING MODULATIONS
A703	TH ZONING DIAGRAM BUILDING ENTRANCE MODULATIONS
A704	TH ZONING DIAGRAM GLAZING
A705	TH ZONING DIAGRAM PERCENTAGE STUCCO
A706	TH ZONING DIAGRAM ROOF LINE
A801	COLOR AND MATERIAL BOARD APARTMENT
A802	COLOR AND MATERIAL BOARD TOWNHOMES
A801	PERSPECTIVE TOWNHOMES ON INDEPENDENCE DRIVE
A802	PERSPECTIVE APARTMENT ON CONSTITUTION DRIVE
A803	PERSPECTIVE PASEO / CENTRAL OPEN SPACE
LANDSCAPE	
L2.01	SCHEMATIC LANDSCAPE PLAN
L2.11	ENLARGED SCHEMATIC PASEO PLANS
L2.21	ENLARGED SCHEMATIC PARK PLAN
L2.31	ENLARGED SCHEMATIC COURTYARD PLAN
L2.41	ENLARGED SCHEMATIC ROOF PLANS
L2.51	UTILITY SCREENING PLANS
L3.01	SITE ELEMENTS
L4.00	PLANTING PLAN
L4.01	TREE PLANTING PLAN
L4.02	IRRIGATION HYDROZONE DIAGRAM
L6.01	STREET FRONTAGE LANDSCAPE CALCULATIONS
L7.01	PASEO GUIDELINES CONFORMANCE
L8.01	TREE DISPOSITION LANDSCAPE PLAN
L8.10	TREE PROTECTION NOTES
L9.01	LANDSCAPE LIGHTING PLAN
CIVIL	
TM1	EXISTING CONDITIONS
TM2	PROPOSED CONDITIONS
TM3	PROPOSED UTILITIES
C1.0	TOPOGRAPHIC SURVEY & FULL BOUNDARY
C1.1	EXISTING SITE PLAN
C2.0	GRADING PLAN
C2.1	GRADING SECTIONS
C3.0	OFFSITE PLANS & SECTIONS
C4.0	UTILITY PLAN
C5.0	STORMWATER CONTROL PLAN
C5.1	STORMWATER CONTROL DETAILS
C6.0	FIRE ACCESS PLAN
C6.1	FIRE HYDRANT PLAN
C7.0	EROSION CONTROL PLAN
C7.1	BEST MANAGEMENT PRACTICES
JOINT TRENCH	
JT-1	JOINT TRENCH TITLE SHEET
JT-2	OVERALL
JT-3	JOINT TRENCH INTENT
JT-4	JOINT TRENCH INTENT
JT-5	JOINT TRENCH INTENT
JTR-1	JOINT TRENCH TITLE SHEET (R20)
JTR-2	OVERALL (R20)
JTR-3	JOINT TRENCH INTENT (R20)
JTR-4	JOINT TRENCH INTENT (R20)
JTR-5	JOINT TRENCH INTENT (R20)
JTR-6	JOINT TRENCH SECTIONS (R20)
SL-1	ELECTROLIER TITLE SHEET
SL-2	ELECTROLIER OVERALL
SL-3	ELECTROLIER PLAN
SL-4	ELECTROLIER PLAN
SL-5	ELECTROLIER PLAN
SL-6	ELECTROLIER SPECIFICATIONS
PM-1	PHOTOMETRICS DETAILS
PM-2	PHOTOMETRICS OVERALL
PM-3	PHOTOMETRICS PLAN
PM-4	PHOTOMETRICS PLAN
PM-5	PHOTOMETRICS PLAN
WASTE MANAGEMENT	
TR0.1	TRASH ROUTE STAGING PLAN
TR1.0	WEST APARTMENT TRASH ROOM PLAN
TR1.1	EAST APARTMENT TRASH ROOM PLAN
TR1.2	TOWNHOMES TRASH ENCLOSURES
TR2.0	CHUTE DETAILS 30" DIAM
TR4.0	TOWNHOMES TRASH ENCLOSURES ELEVATIONS



PROJECT NARRATIVE

The Sobrato Organization (TSO) is pleased to propose a revised version of 123 Independence. Originally, the project included 67 townhomes, 316 residential apartments, and 88,750 SF of office space. After feedback from Planning Commissioners and community members, TSO decided to remove the office and add 49 additional townhomes. 123 Independence will now deliver 116 townhomes and 316 residential apartment units to the R-MU (Residential Mixed-use) Zoning District within the ConnectMenlo General Plan.

123 Independence spans over five existing connected parcels at Highway 101 and Highway 84, bounded by Chrysler, Independence, and Constitution Drives. The project proposes to demolish five existing office/industrial buildings (approximately 103,000 SF) to create five new Lots: 1 & A, B, C, and D. Lot 1 is a publicly accessible paseo running north to south, as well as east to west, across the project. Lot A is a 5-story apartment building with stoops along public streets and pedestrian walkways. Per Menlo Park Municipal Code Section 16.45.080, parking spaces for the apartment units will be unbundled. Lots B, C, and D are 3-story townhome communities that will be subdivided via condominium mapping and will be oriented to public streets, the neighborhood park, the paseo, and other common green spaces. The proposed site design accommodates sea-level rise, and all proposed ground-level residential units are raised 2 feet above the 5-foot FEMA floodplain.

123 Independence includes an on-site public connection, Parcel 1, that establishes a pedestrian walkway to the greater neighborhood network. This paseo leads to a centrally located neighborhood park, which provides a central recreation and gathering space. Public frontages on Independence Drive, Constitution Drive, and Chrysler Drive are activated with residential stoops, lobbies, leasing office, and residential amenities.

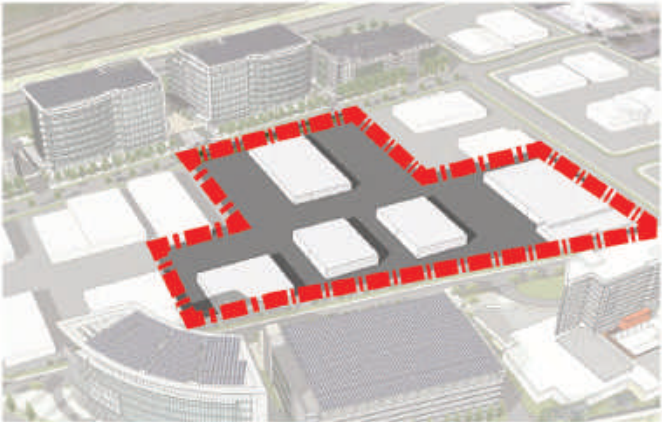
The architectural language of the apartments and townhomes is warm and modern to meet both residential use and fit within the context of the surrounding commercial buildings. The building composition creates a very urban relationship to the street, as envisioned in the General Plan, with over 60% of built-to area for all street frontages. Lot A is Type V-A/I-A construction over podium parking, and Lots B, C, and D are designed as Type V-A construction with private tuck-under 1- and 2-car garages.

In compliance with Municipal Code Ordinance No 1026, Bonus-level development is being proposed. Maximum height of the apartments is no more than 85-ft above existing grade, and the average height of all buildings is well below 62.5-ft. Seventeen percent (17%) of the total units onsite will be affordable housing units for Low income households.

ZONING COMPLIANCE

MINIMUM LOT AREA	MINIMUM LOT DIMENSION	MINIMUM SETBACK AT STREET	MAXIMUM SETBACK AT STREET	MIN INTERIOR SIDE & REAR SETBACKS	MAX RESIDENTIAL FLOOR AREA RATIO	DENSITY	MAXIMUM NON-RESIDENTIAL FAR	HEIGHT	MIN OPEN SPACE REQUIREMENT
25,000 SF	100 FEET	0 FEET	25 FEET	10 FEET	> 90% TO 225%	> 30 DU/ACRE TO 100 DU/ACRE	25% OF LOT AREA	AVERAGE HEIGHT 62.5 FT MAXIMUM HEIGHT 85 FT	25% OF LOT AREA
COMPLIANT	COMPLIANT	COMPLIANT. SEE SHEET A101	COMPLIANT. SEE SHEET A101	COMPLIANT. SEE SHEET A101	COMPLIANT. SEE TABLE R-MU FAR GRADIENT ON SHEET A002	NO NON-RESIDENTIAL PROPOSED	COMPLIANT. SEE SHEET A206.	COMPLIANT. SEE SHEET A206.	COMPLIANT. SEE SHEET A103

SITE CONTEXT



ZONING

- O Office/ O-B (B= Bonus Available)
- H Optional Hotel
- M-2 Light Industrial/M-3-X Business Park
- PF Public Facilities
- R-4-S(AHO) High Density Residential, Special/ R-MU Residential Mixed Use

PROJECT TEAM

APPLICANT
The Sobrato Organization
Peter Tsai
599 Castro Street, Suite 400
Mountain View, CA 94041
(650) 695-1067
www.sobrato.com

ARCHITECT
StudioT-SQ, Inc.
Chek F. Tang
1970 Broadway, Suite 615
Oakland, CA 94612
(510) 451-2850
www.studiot-sq.com

LANDSCAPE ARCHITECT
The Guzzardo Partnership, Inc.
Nicholas Samuelson
181 Greenwich Street
San Francisco, CA 94111
(415) 433-4672
www.tgpp-inc.com

CIVIL ENGINEER
Kier & Wright
Nektarios Matheou
3350 Scott Blvd, #22
Santa Clara, CA 95054
(408) 727-6665
www.kierwright.com

JOINT TRENCH
Radius Design
Scott Hardester
1460 Maria Ln, #420
Walnut Creek
(925) 269-4575
www.radiusjt.com

M.E.P. ENGINEER
PAE Engineers
Grant Craig
48 Golden Gate Ave
San Francisco, CA 94102
(415) 767-2736
www.pae-engineers.com

WASTE MANAGEMENT
American Trash Management
Steve Seltzer
1900 Powell St, Suite 890
Emeryville, CA 94608
(415) 292-5402
www.trashmanage.com

PARKING CONSULTANT
Watry Design
David LoCoco
2099 Gateway Pl, Suite 550
San Jose, CA 95110
(408) 392-7900
www.watrydesign.com



- : Architecture
- : Planning
- : Urban Design
- : 1970 Broadway, Suite 615
- : Oakland, California 94612
- : (510) 451-2850

THIS DOCUMENT CONTAINS INFORMATION PREPARED FOR THE SOBRATO ORGANIZATION IN CONFIDENCE FOR THE LIMITED PURPOSE OF EVALUATING THE PROJECT. THIS DOCUMENT AND ITS CONTENTS MAY NOT BE REPRODUCED OR USED FOR ANY OTHER PURPOSE AND MAY NOT BE REPRODUCED OR DISCLOSED TO OTHERS WITHOUT THE WRITTEN CONSENT OF STUDIO T-SQ, INC. ALL RIGHTS RESERVED. COPYRIGHT 2024.

123 Independence
Menlo Park, CA
The Sobrato Organization
599 Castro Street, Suite 400
Mountain View, CA

Sheet Title:
PROJECT
NARRATIVE AND
SITE CONTEXT

Job No. 20004
Date: 09/07/22
Scale: 1" = 1'-0"
Drawn By: Author

Sheet No:
A001

BELOW MARKET RATE HOUSING SUMMARY - APARTMENT
APARTMENT UNITS PROVIDED = 316 UNITS
BMR UNITS REQUIRED (15%) = 48 UNITS**
ADDITIONAL BMR UNITS PROVIDED = 8 UNITS***
UNIT MIX PROVIDED: 16 STUDIOS (20%)* 33 ONE-BEDROOMS (58%)* 7 TWO-BEDROOMS (13%)*
*UNIT MIX IS PROPORTIONAL TO PROVIDED MARKET RATE UNIT MIX ** BMR UNITS TO BE DISTRIBUTED EQUALLY ACROSS THE APARTMENT BUILDING ON ALL FLOORS *** WITH THE ADDITIONAL BMR UNITS, 56 UNITS WILL BE PROVIDED

BELOW MARKET RATE HOUSING SUMMARY - TOWNHOMES
TOWNHOME UNITS PROVIDED = 116 UNITS
BMR UNITS REQUIRED (15%) = 18 UNITS*
UNIT MIX PROVIDED: 3 TWO-BEDROOMS (17%) 6 THREE-BEDROOMS (33%) 6 FOUR-BEDROOMS (33%) 3 FOUR-BEDROOMS MOBILITY COMPLIANT (17%)
* PROPOSED BMR UNITS ARE IN LOT C, CENTER OF THE SITE WITH STREET FRONTAGE AND PARK ADJACENT.

LOT A - APARTMENTS			FOR PURPOSE OF FAR CALCULATIONS BASED ON MP 16.04.325				
UNIT TYPE	BDRM	BATH	AVG SF / UNIT	UNIT GSF	BUILDING GSF	UNIT COUNT	% TOTAL
STUDIO	1	1	539 SF	47,411 SF		88	27.9 %
1 BDRM	1	1	725 SF	134,206 SF		185	58.5 %
2 BDRM	2	2	1,006 SF	43,246 SF		43	13.6 %
TOTAL/AVG	359	359	712 SF	224,863 SF	289,223 SF	316	100.0 %
PARKING PROVIDED				BUILDING INFORMATION			
RESIDENT PARKING			330	CONSTRUCTION TYPE		V-A	
GUEST PARKING			6	SITE AREA (ACRES)		2.55	
TOTAL PARKING			336	FAR		261%	
PARKING / DU			1.06	DU / ACRE		123.8	
PARKING / BDRM			.94				

LOT B - TOWNHOMES (MARKET RATE CONDOMINIUMS)							
UNIT TYPE	BDRM	BATH	AVG SF / UNIT	UNIT TOTAL GSF	BUILDING GSF	UNIT COUNT	% TOTAL
TH 1	3	3.5	1,749 SF	13,990 SF		8	30.8 %
TH 2	2	2.5	1,199 SF	9,991 SF		8	30.8 %
TH 3	3	3.5	2,052 SF	10,262 SF		5	19.2 %
TH 3.1	3	3.5	2,052 SF	10,262 SF		5	19.2 %
TOTAL/AVG	70	83	1,696 SF	44,102 SF	44,249 SF	26	100.0 %
PARKING PROVIDED				BUILDING INFORMATION			
RESIDENT PARKING *1				44	CONSTRUCTION TYPE		V-A
GUEST PARKING				21	SITE AREA (ACRES)		1.27
TOTAL PARKING				65	FAR		80%
PARKING / DU				2.50	DU / ACRE		20.4
PARKING / BDRM				.93			

LOT C - TOWNHOMES (AFFORDABLE CONDOMINIUMS)							
UNIT TYPE	BDRM	BATH	AVG SF / UNIT	UNIT TOTAL GSF	BUILDING GSF	UNIT COUNT	% TOTAL
TH 4	3	2.5	1,480 SF	8,878 SF		6	33.3 %
TH 4.1	4	2.5	1,514 SF	4,542 SF		3	16.7 %
TH 4.2	4	2.5	1,416 SF	4,247 SF		3	16.7 %
TH 4.3	2	1.5	958 SF	2,873 SF		3	16.7 %
TH 5	4	2	1,581 SF	4,742 SF		3	16.7 %
TOTAL/AVG	60	40.5	1,405 SF	25,281 SF	25,369 SF	18	100.0 %
PARKING PROVIDED				BUILDING INFORMATION			
RESIDENT PARKING			18	CONSTRUCTION TYPE		V-A	
GUEST PARKING			6	SITE AREA (ACRES)		.62	
TOTAL PARKING			24	FAR		93.5%	
PARKING / DU			1.33	DU / ACRE		28.9	
PARKING / BDRM			.40				

LOT D - TOWNHOMES (MARKET RATE CONDOMINIUMS)							
UNIT TYPE	BDRM	BATH	AVG SF / UNIT	UNIT TOTAL GSF	BUILDING GSF	UNIT COUNT	% TOTAL
TH 1	3	3.5	1,749 SF	45,466 SF		26	36.1 %
TH 2	2	2.5	1,199 SF	31,171 SF		26	36.1 %
TH 3	3	3.5	2,052 SF	10,262 SF		5	6.9 %
TH 3.1	3	3.5	2,052 SF	30,785 SF		15	20.9 %
TOTAL/AVG	190	226	1,635 SF	117,685 SF	118,121 SF	72	100.0 %
PARKING PROVIDED				BUILDING INFORMATION			
RESIDENT PARKING *2			118	CONSTRUCTION TYPE		V-A	
GUEST PARKING			9	SITE AREA (ACRES)		3.12	
TOTAL PARKING			127	FAR		87%	
PARKING / DU			1.76	DU / ACRE		23.1	
PARKING / BDRM			.67				

* NOTE: TANDEM PARKING SPACES ARE COUNTED AS ONLY ONE (1) SPACE PER MP ZONING CODE.
¹ LOT B: OUT OF THE 44 RESIDENT PARKING SPACES: 8 OF THOSE SPACES ARE TANDEM. ACTUAL SPACES TOTAL 52.
² LOT D: OUT OF THE 118 RESIDENT PARKING SPACES: 26 OF THOSE SPACES ARE TANDEM. ACTUAL SPACES TOTAL 144.

TOTAL SUMMARY	FOR PURPOSE OF FAR CALCULATIONS BASED ON MP 16.04.325						
UNIT TYPE	BDRM	BATH	AVG SF / UNIT	UNIT GSF	BUILDING GSF	UNIT COUNT	% TOTAL
LOT A	359	359	712 SF	224,863 SF	289,223 SF	316	36.1 %
LOT B	70	83	1,696 SF	44,102 SF	44,249 SF	26	36.1 %
LOT C	60	40.5	1,405 SF	25,281 SF	25,369 SF	18	6.9 %
LOT D	190	226	1,635 SF	117,685 SF	118,121 SF	72	20.9 %
TOTAL/AVG	679	708.5	954 SF	411,931 SF	476,962 SF	432	100.0 %
PARKING PROVIDED			PROJECT INFORMATION				
RESIDENT PARKING *3			510	TOTAL SITE AREA (ACRES)		8.15 AC	
GUEST PARKING			42	DENSITY (DU / AC)		53	
TOTAL PARKING			552	TOTAL UNITS		432	
PARKING / DU			1.28	FAR		134%	
PARKING / BDRM			.81	TOTAL BUILDING GSF		476,962 SF	
				BUILDING GSF / UNIT		1,104 SF	

³ OUT OF THE 510 RESIDENT PARKING SPACES, 34 OF THOSE SPACES ARE TANDEM. ACTUAL SPACES TOTAL 544.

BICYCLE PARKING (APARTMENT)	BICYCLE PARKING (TOWNHOME)	
LONG-TERM PROVIDED	474	174
SHORT-TERM PROVIDED	48	18
TOTAL PROVIDED	522	192
PARKING / DU	1.65	1.66

R-MU ZONING FAR GRADIENT LINKED TO DENSITY				
DENSITY (DU / AC)	30	40	50	53
TOTAL UNITS ALLOWED (DU * SITE AREA (ACRES))	245	326	408	432
FAR ALLOWED AT GIVEN DENSITY	90%	109%	129%	134%
TOTAL BUILDING GSF ALLOWED (AC * FAR)	319,513 SF	387,980 SF	456,447 SF	476,987 SF
BUILDING GSF / UNIT	1,307 SF	1,190 SF	1,120 SF	1,104 SF

APARTMENT AREA SUMMARY (FOR FLOOR AREA CALCULATION PER MENLO PARK'S ZONING ORDINANCE 16.04.325)									
INCLUDED IN FAR	BUILDING TYPE	LEVEL B1	LEVEL 1	LEVEL 2	LEVEL 3	LEVEL 4	LEVEL 5	ROOF	TOTAL
	RESIDENTIAL UNITS		14,608 SF	49,004 SF	53,500 SF	55,517 SF	52,234 SF		224,863 SF
	COMMON AREA	378 SF	3,142 SF						3,520 SF
	AMENITIES		3,139 SF	4,197 SF	648 SF		588 SF		8,572 SF
	CIRCULATION		5,912 SF	8,828 SF	8,969 SF	8,998 SF	9,121 SF	459 SF	42,285 SF
	SUPPORT	4,043 SF	3,211 SF	1,093 SF	545 SF	545 SF	546 SF		9,983 SF
	TOTAL	4,421 SF	30,012 SF	63,121 SF	63,663 SF	65,059 SF	62,489 SF	459 SF	289,223 SF
	NOT INCLUDED IN FAR	PARKING (VEHICULAR)	75,362 SF	53,517 SF					
PARKING (BICYCLES)		4,276 SF	681 SF						4,958 SF
TRASH/FAN/SHAFTS		4,483 SF	2,425 SF	1,522 SF	1,650 SF	1,649 SF	1,637 SF		13,367 SF

TOWNHOMES AREA SUMMARY (FOR FLOOR AREA CALCULATION PER MENLO PARK'S ZONING ORDINANCE 16.04.325)											
TOWNHOME TYPE	COUNT	LEVEL 1	LEVEL 2	LEVEL 3	UTILITY	PER BLDG	TOTAL (FAR)	DECK PER TYPE	DECK TOTAL	GARAGE (NON FAR)	GARAGE TOTAL
3-PLEX	1	755 SF	2,118 SF	2,125 SF	29 SF	5,027 SF	5,027 SF	267 SF	267 SF	1,408 SF	1,408 SF
4-PLEX	5	1,140 SF	2,947 SF	2,955 SF	29 SF	7,072 SF	35,358 SF	371 SF	1,854 SF	1,850 SF	9,252 SF
5-PLEX	9	1,131 SF	3,403 SF	3,419 SF	29 SF	7,982 SF	71,842 SF	431 SF	3,876 SF	2,359 SF	21,227 SF
6-PLEX	5	1,520 SF	4,231 SF	4,248 SF	29 SF	10,029 SF	50,143 SF	534 SF	2,670 SF	2,799 SF	13,993 SF
6-PLEX AFF	1	2,338 SF	3,904 SF	2,188 SF	29 SF	8,460 SF	8,460 SF	159 SF	159 SF	1,667 SF	1,667 SF
12-PLEX AFF	1	4,664 SF	7,809 SF	4,376 SF	59 SF	16,909 SF	16,909 SF	317 SF	317 SF	3,346 SF	3,346 SF
TOTAL	22	31,240 SF	80,347 SF	75,482 SF	671 SF		187,739 SF		9,143 SF		50,893 SF

GENERAL NOTE FOR ALL CHARTS: NUMBERS PRESENTED ARE USED SOLELY FOR THE PURPOSE OF F.A.R. CALCULATIONS BASED ON MENLO PARK'S ZONING ORDINANCE 16.04.325



: Architecture
: Planning
: Urban Design
: 1970 Broadway, Suite 615
: Oakland, California 94612
: (510) 451-2850

THIS DOCUMENT CONTAINS INFORMATION PREPARED FOR THE SOBRATO ORGANIZATION IN CONFIDENCE FOR THE LIMITED PURPOSE OF EVALUATING THE PROPOSED DEVELOPMENT. THE CONTENTS MAY NOT BE USED FOR ANY OTHER PURPOSE AND MAY NOT BE REPRODUCED OR DISCLOSED TO OTHERS WITHOUT THE WRITTEN CONSENT OF STUDIO T SQUARE, INC. ALL RIGHTS RESERVED. COPYRIGHT 2016

123 Independence
Menlo Park, CA
The Sobrato Organization
599 Castro Street, Suite 400
Mountain View, CA

Sheet Title:
PROJECT DATA
SUMMARY

Job No. 20004
Date: 09/07/22
Scale: 1" = 1'-0"
Drawn By: Author

Sheet No:
A002



: Architecture
: Planning
: Urban Design
: 1970 Broadway, Suite 615
: Oakland, California 94612
: (510) 451-2850

THIS DOCUMENT CONTAINS INFORMATION PROPRIETARY TO STUDIO T SQUARE, INC. AND IS FURNISHED IN CONFIDENCE FOR THE LIMITED PURPOSES OF EVALUATION OF SERVICE. THIS DOCUMENT OR ITS CONTENTS MAY NOT BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN CONSENT OF STUDIO T SQUARE, INC. ALL RIGHTS RESERVED. COPYRIGHT 2012.

123 Independence
Menlo Park, CA
The Sobrato Organization
599 Castro Street, Suite 400
Mountain View, CA

Sheet Title:
SITE PHOTOS

Job No. 20004
Date: 09/07/22
Scale:
Drawn By: Author

Sheet No:
A011



CONSTITUTION DRIVE COMPOSITE ELEVATION



CHRYSLER DRIVE COMPOSITE ELEVATION



INDEPENDENCE DRIVE COMPOSITE ELEVATION
(EAST OF PASEO)



INDEPENDENCE DRIVE COMPOSITE ELEVATION
(WEST OF PASEO)



: Architecture
: Planning
: Urban Design
: 1970 Broadway, Suite 615
: Oakland, California 94612
: (510) 451-2850

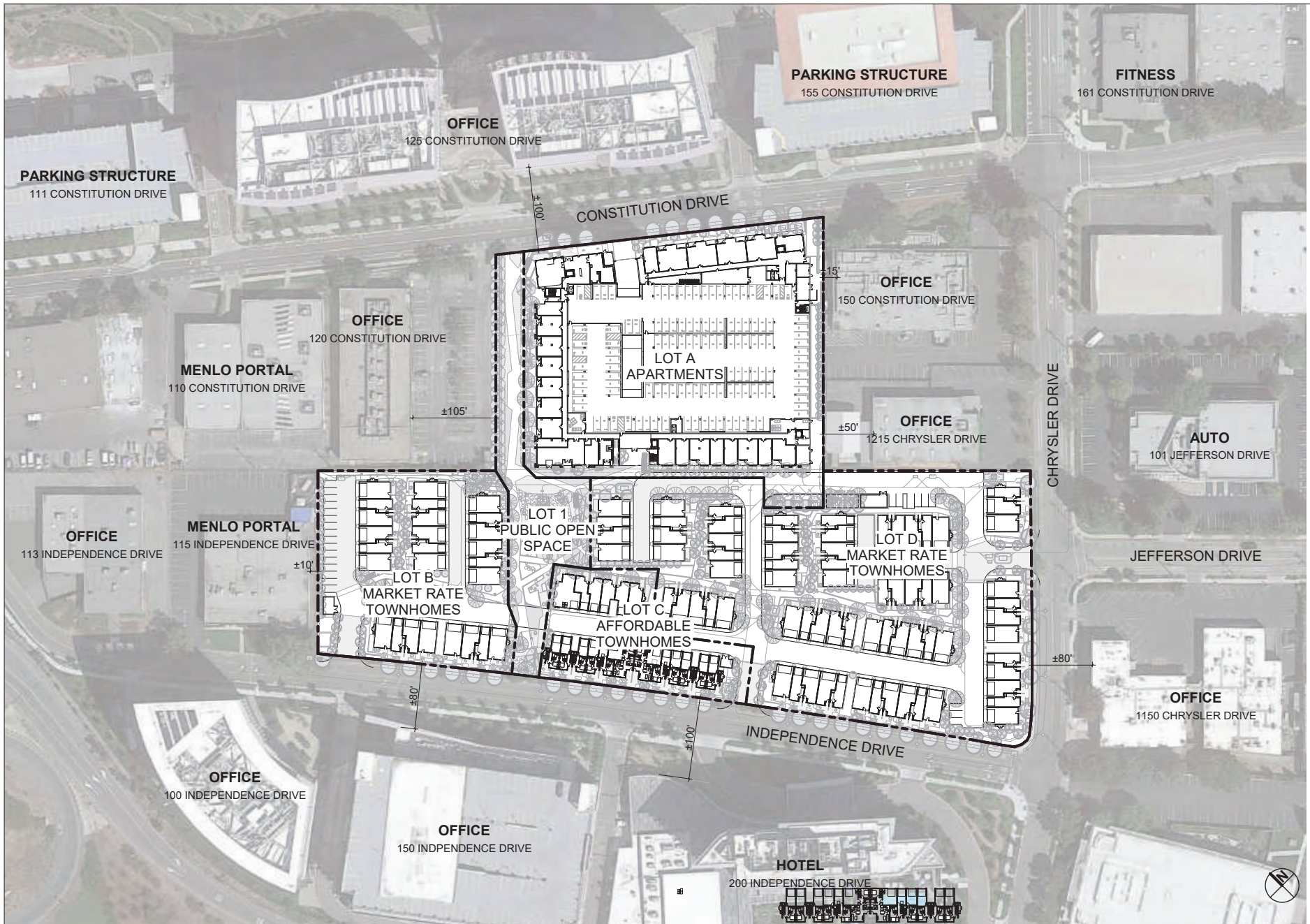
THIS DOCUMENT CONTAINS INFORMATION PROPRIETARY TO STUDIO T SQUARE, INC. AND IS FURNISHED IN CONFIDENCE FOR THE LIMITED PURPOSE OF EVALUATION OF DESIGN. THIS DOCUMENT OR ITS CONTENTS MAY NOT BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN CONSENT OF STUDIO T SQUARE, INC. ALL RIGHTS RESERVED. COPYRIGHT 2015.

123 Independence
Menlo Park, CA
The Sobrato Organization
599 Castro Street, Suite 400
Mountain View, CA

Sheet Title:
STREETSCAPE

Job No. 20004
Date: 09/07/22
Scale:
Drawn By: Author

Sheet No:
A031



: Architecture
: Planning
: Urban Design
: 1970 Broadway, Suite 615
: Oakland, California 94612
: (510) 451-2850

THIS DOCUMENT CONTAINS INFORMATION
PREPARED FOR THE CLIENT'S USE AND IS NOT TO BE
REPRODUCED OR TRANSMITTED IN ANY FORM OR BY
ANY MEANS, ELECTRONIC OR MECHANICAL, WITHOUT
THE WRITTEN PERMISSION OF STUDIO T SQUARE, INC.
ALL RIGHTS RESERVED. COPYRIGHT 2012

123 Independence
Menlo Park, CA

The Sobrato Organization
599 Castro Street, Suite 400
Mountain View, CA

Sheet Title:
SITE CONTEXT MAP

Job No. 20004
Date: 09/07/22
Scale: 1" = 50'-0"
Drawn By: Author

Sheet No:

A100

SITE PLAN - CONTEXT MAP

1" = 50'-0"

1



ILLUSTRATIVE SITE PLAN 1" = 30'-0" 1



: Architecture
: Planning
: Urban Design
: 1970 Broadway, Suite 615
: Oakland, California 94612
: (510) 451-2850

THIS DOCUMENT CONTAINS INFORMATION PROPRIETARY TO STUDIO T SQUARE, INC. AND IS FURNISHED IN CONFIDENCE FOR THE LIMITED PURPOSE OF EVALUATING OR REVIEWING THIS DOCUMENT OR ITS CONTENTS MAY NOT BE REPRODUCED OR USED FOR ANY OTHER PURPOSES AND MAY NOT BE REPRODUCED OR INCORPORATED INTO ANY OTHER DOCUMENT WITHOUT THE WRITTEN CONSENT OF STUDIO T SQUARE, INC. ALL RIGHTS RESERVED. COPYRIGHT 2022

123 Independence
Menlo Park, CA
The Sobrato Organization
599 Castro Street, Suite 400
Mountain View, CA

Sheet Title:
PROPOSED
ILLUSTRATIVE SITE
PLAN

Job No. 20004
Date: 09/07/22
Scale: 1" = 30'-0"
Drawn By: Author

Sheet No:
A101





THIS DOCUMENT CONTAINS INFORMATION PROPRIETARY TO STUDIO T-SQ, INC. AND IS FURNISHED IN CONFIDENCE FOR THE LIMITED PURPOSE OF EVALUATION OR REVIEW. THIS DOCUMENT OR ITS CONTENTS MAY NOT BE USED FOR ANY OTHER PURPOSE AND MAY NOT BE REPRODUCED OR DISCLOSED TO OTHERS WITHOUT THE PRIOR WRITTEN CONSENT OF STUDIO T-SQ, INC. ALL RIGHTS RESERVED. COPYRIGHT 2016.

123 Independence
Menlo Park, CA

The Sobrato Organization
559 Castro Street, Suite 400
Mountain View, CA

Sheet Title:
**APARTMENT
BUILDING PLAN
LEVEL 1**

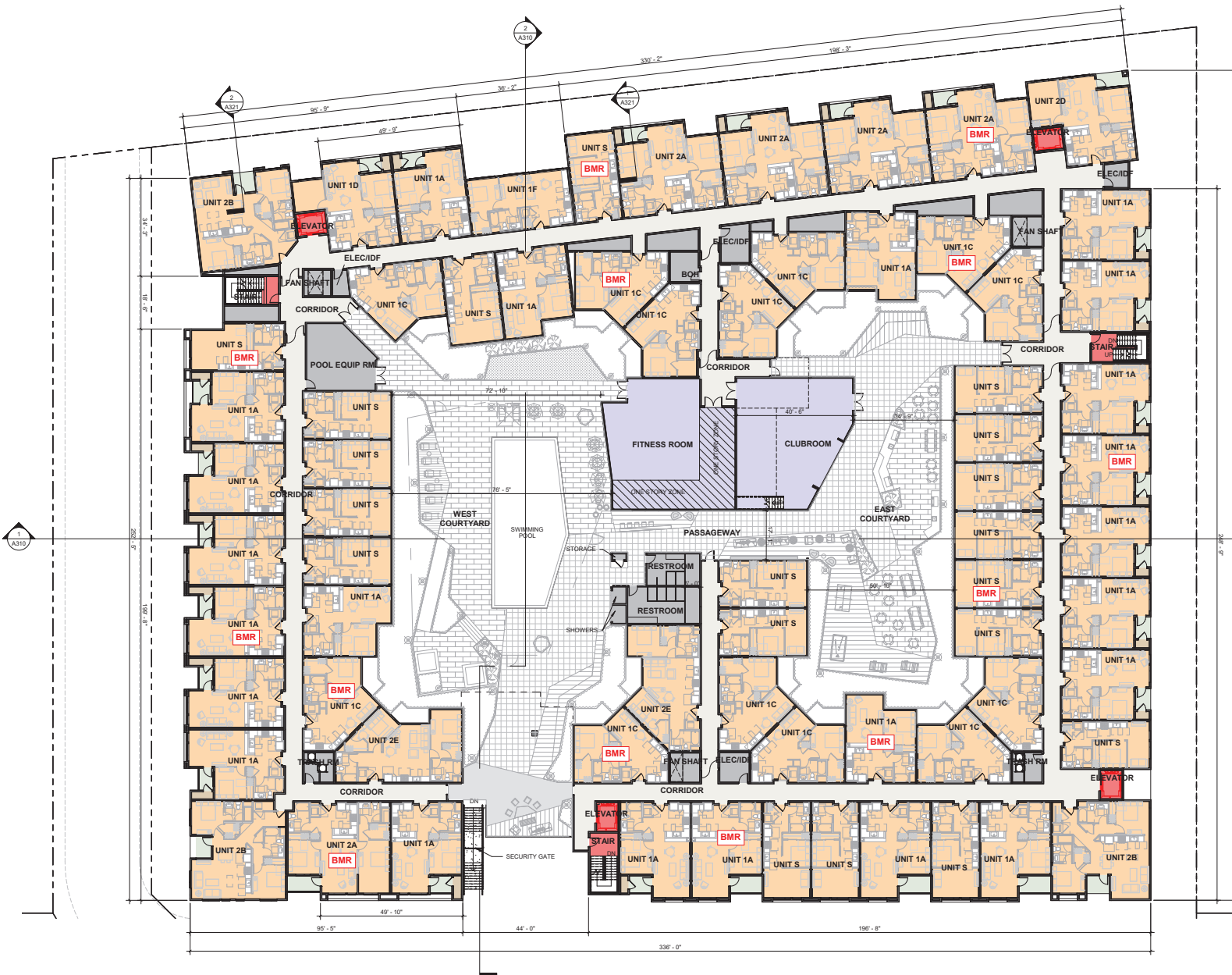
Job No. 20004
Date: 09/07/22
Scale: 1/16" = 1'-0"
Drawn By: STS

Sheet No:

A201

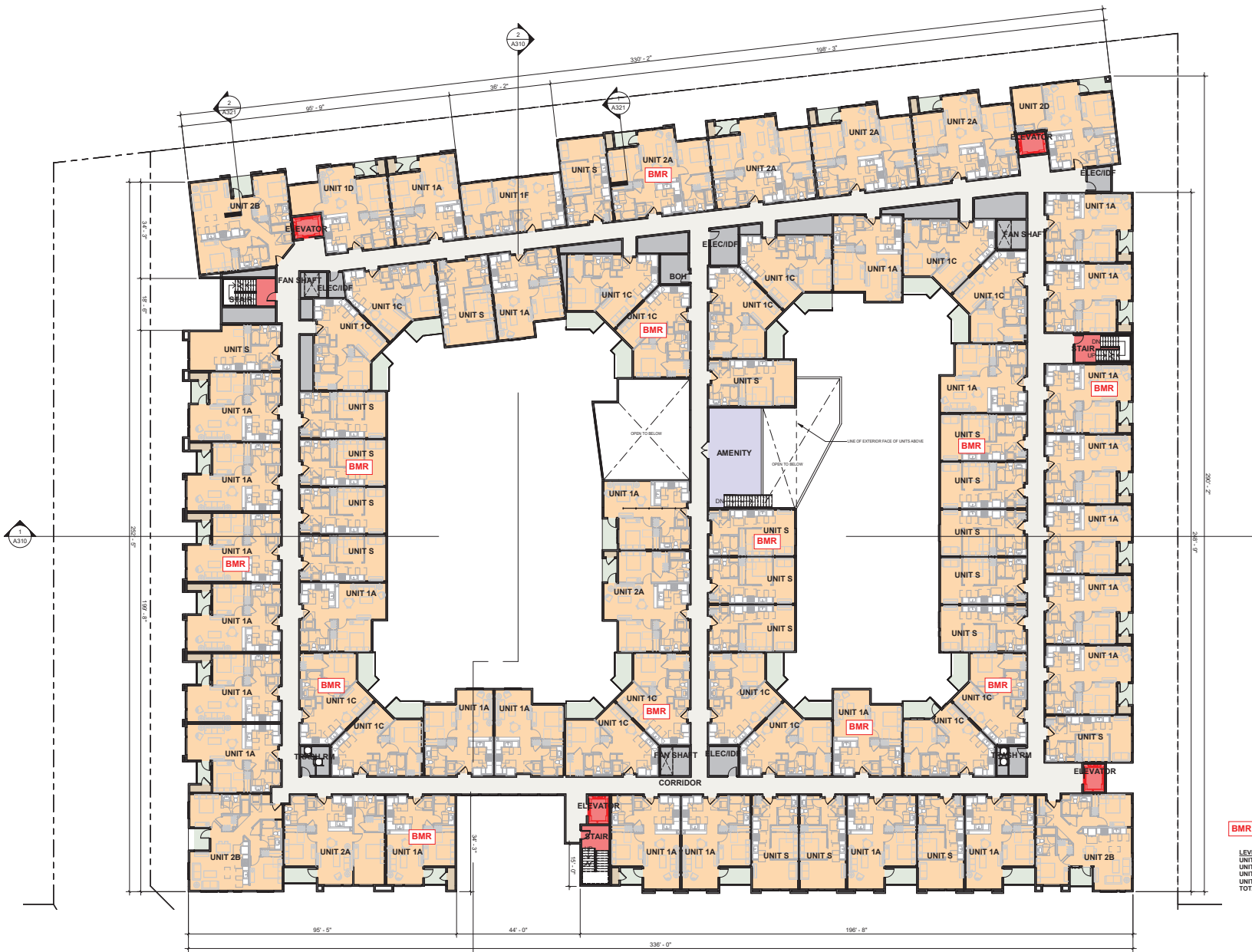


LEVEL 1	1/16" = 1'-0"	1
---------	---------------	---



BMR PROPOSED BELOW
MARKET RATE UNIT

LEVEL 2 BMR UNITS
UNIT S - 3
UNIT 1A - 4
UNIT 1C - 4
UNIT 2A - 2
TOTAL - 13







: Architecture
: Planning
: Urban Design
: 1970 Broadway, Suite 615
: Oakland, California 94612
: (510) 451-2850

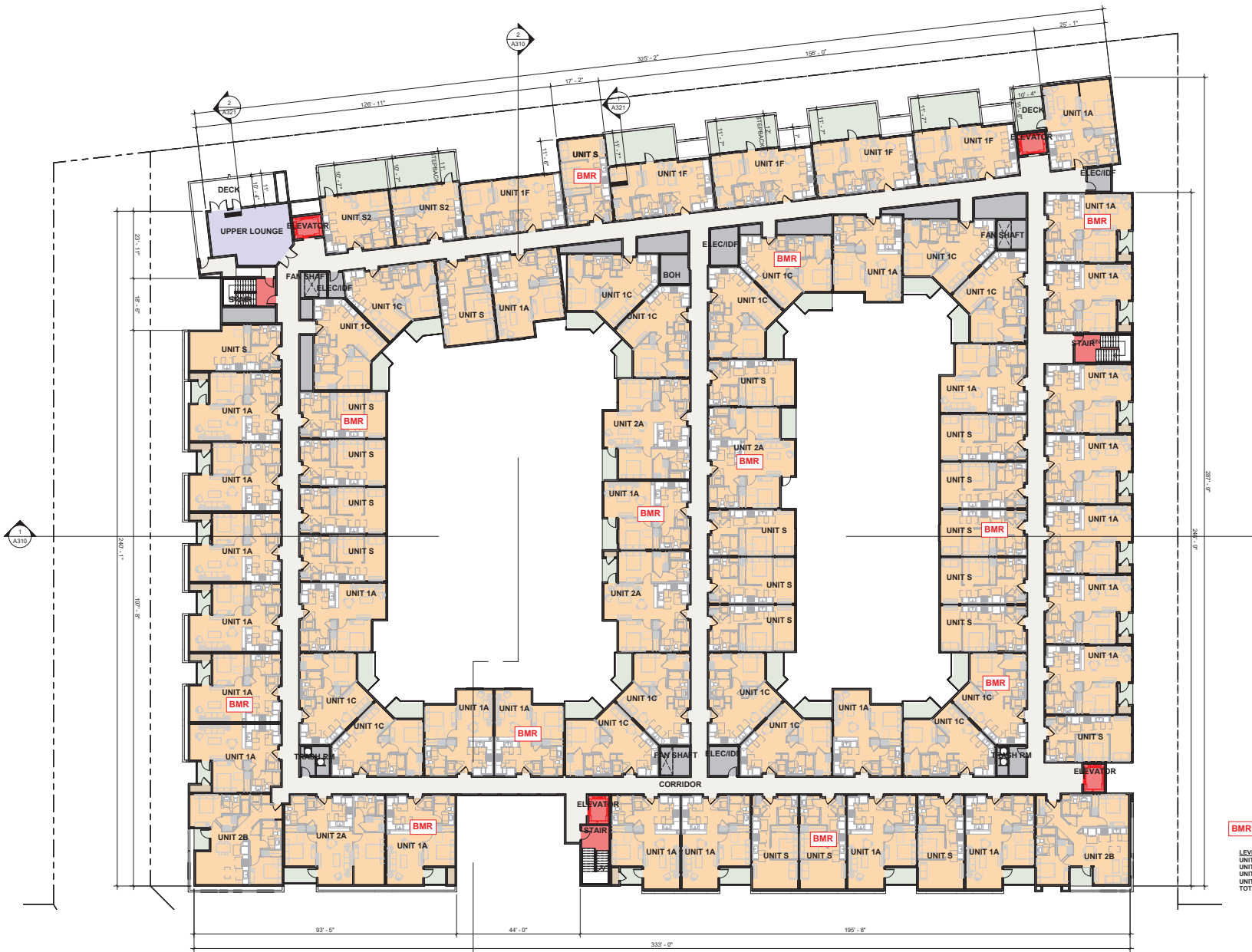
THIS DOCUMENT CONTAINS INFORMATION
PREPARED FOR THE CLIENT AND IS NOT TO BE
REPRODUCED OR TRANSMITTED IN ANY FORM
OR BY ANY MEANS, ELECTRONIC OR MECHANICAL,
INCLUDING PHOTOCOPYING, RECORDING, OR BY
ANY INFORMATION STORAGE AND RETRIEVAL
SYSTEM, WITHOUT THE WRITTEN CONSENT OF
STUDIO T SQUARE, INC. ALL RIGHTS
RESERVED. COPYRIGHT 2004.

123 Independence
Menlo Park, CA
The Sobrato Organization
599 Castro Street, Suite 400
Mountain View, CA

Sheet Title:
APARTMENT
BUILDING PLAN
LEVEL 5

Job No. 20004
Date: 09/07/22
Scale: 1/16" = 1'-0"
Drawn By: STS

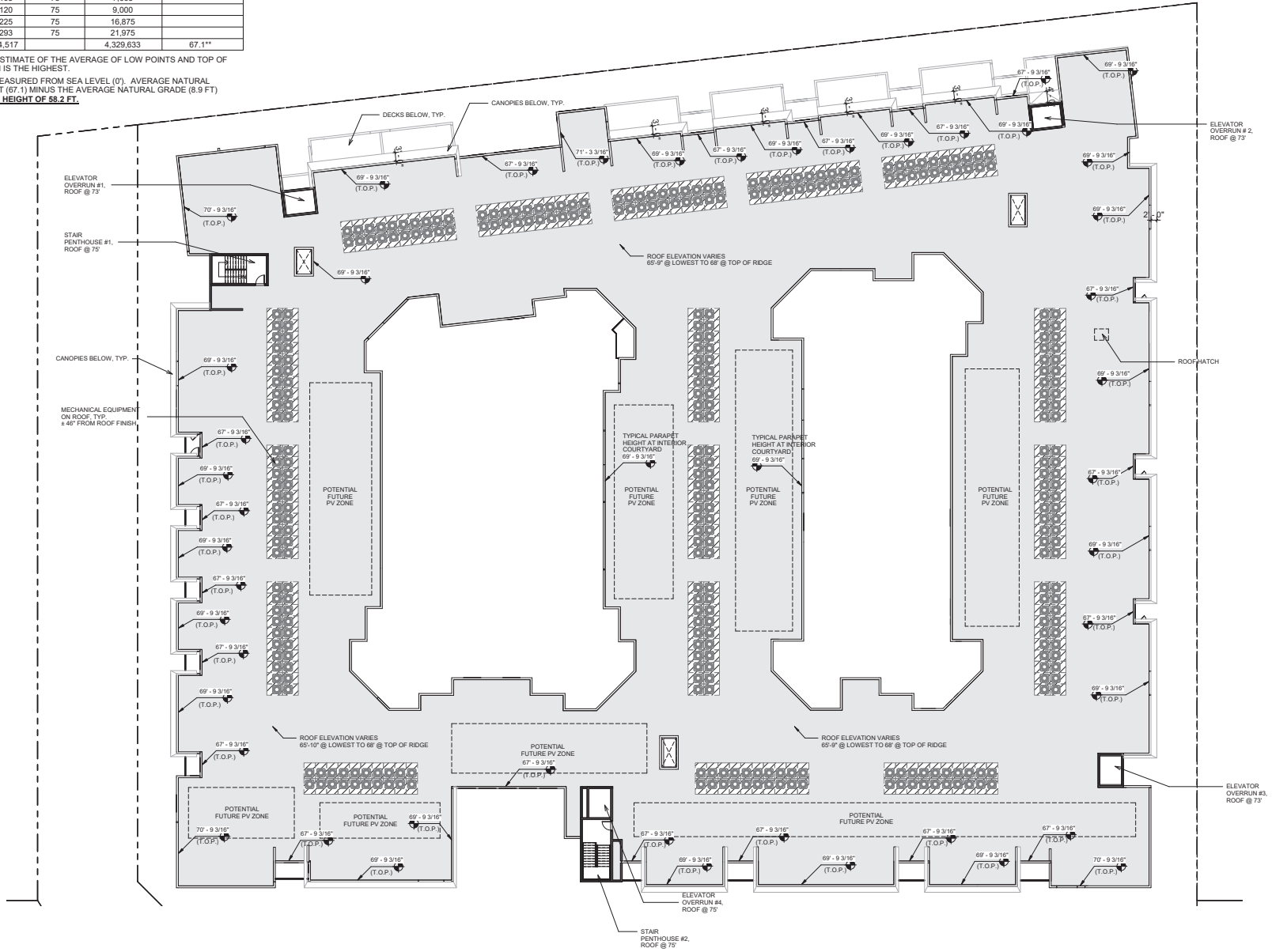
Sheet No:
A205



ROOF HEIGHT CALCULATION				
	AREA	HEIGHT (FT)	AREA x HEIGHT	AVG. HEIGHT (FT)
TYPICAL ROOF	63,564	67"	4,258,788	
ELEVATOR OVERRUN #1	105	73	7,665	
ELEVATOR OVERRUN #2	105	73	7,665	
ELEVATOR OVERRUN #3	105	73	7,665	
ELEVATOR OVERRUN #4	120	75	9,000	
STAIR PENTHOUSE #1	225	75	16,875	
STAIR PENTHOUSE #2	293	75	21,975	
TOTAL	64,517		4,329,633	67.1**

* TYPICAL ROOF HEIGHT IS AN ESTIMATE OF THE AVERAGE OF LOW POINTS AND TOP OF RIDGES WHERE THE ELEVATION IS THE HIGHEST.

** HEIGHTS CALCULATED ARE MEASURED FROM SEA LEVEL (0'). AVERAGE NATURAL GRADE IS 8.9'. AVERAGE HEIGHT (67.1) MINUS THE AVERAGE NATURAL GRADE (8.9 FT) EQUALS AN AVERAGE BUILDING HEIGHT OF 58.2 FT.



: Architecture
: Planning
: Urban Design
: 1970 Broadway, Suite 615
: Oakland, California 94612
: (510) 451-2850

THIS DOCUMENT CONTAINS INFORMATION PREPARED BY STUDIO T SQUARE, INC. AND IS FURNISHED IN CONFIDENCE FOR THE LIMITED PURPOSE OF EVALUATION OF DESIGN. THIS DOCUMENT AND ITS CONTENTS MAY NOT BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN CONSENT OF STUDIO T SQUARE, INC. ALL RIGHTS RESERVED. COPYRIGHT 2015.

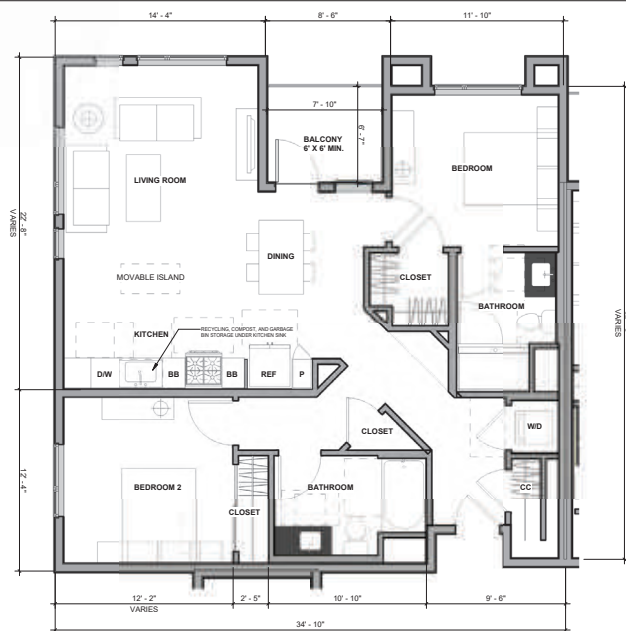
123 Independence
Minto Park, CA
The Sobrato Organization
599 Castro Street, Suite 400
Mountain View, CA

Sheet Title:
APARTMENT
BUILDING ROOF
PLAN

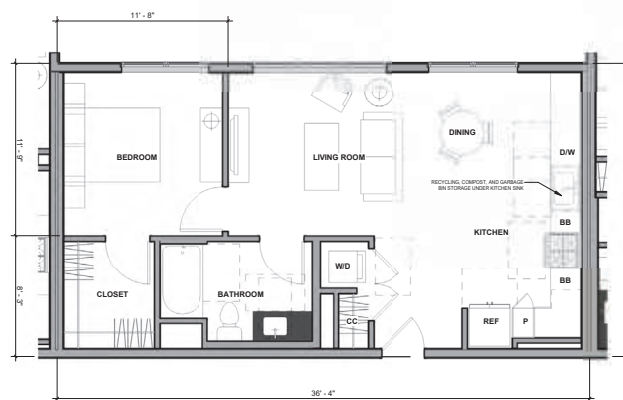
Job No. 20004
Date: 09/07/22
Scale: As indicated
Drawn By: Author

Sheet No:
A206

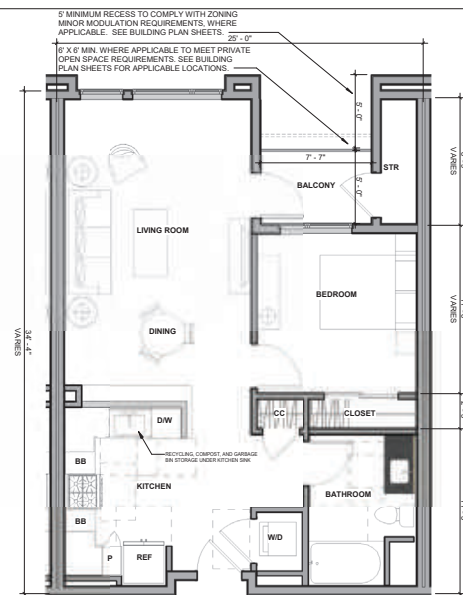
ROOF 1/16" = 1'-0" 1



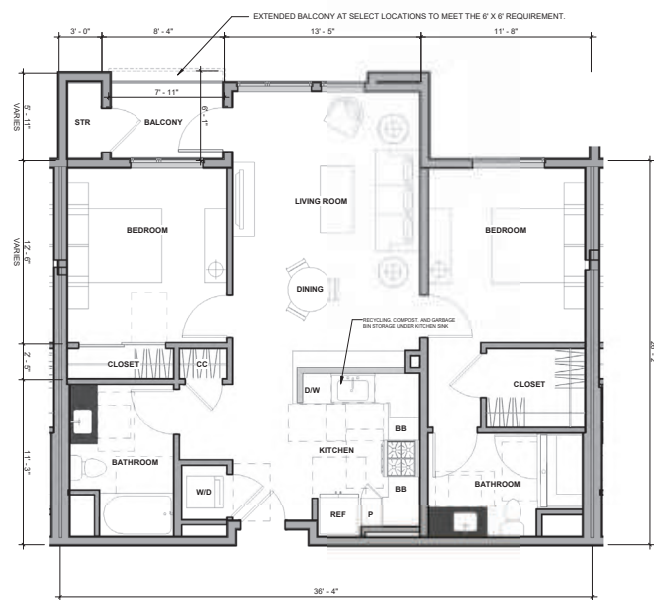
UNIT 2B	1/4" = 1'-0"	6
---------	--------------	---



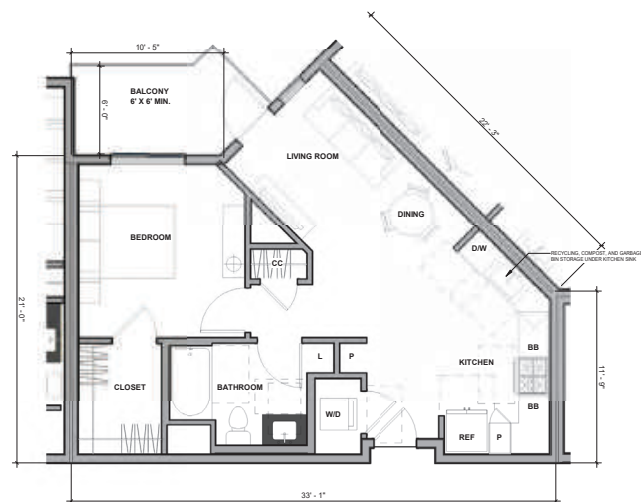
UNIT 1F	1/4" = 1'-0"	4
---------	--------------	---



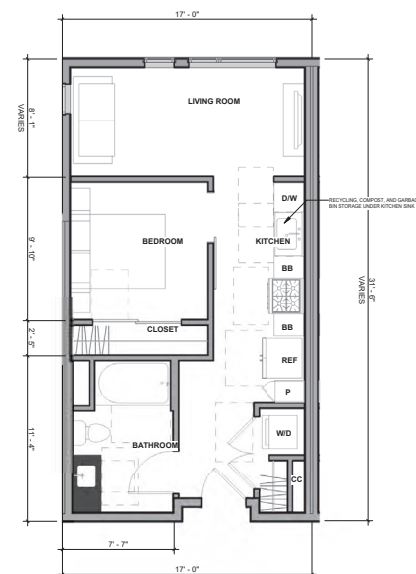
UNIT 1A	1/4" = 1'-0"	
---------	--------------	--



UNIT 2A	1/4" = 1'-0"	5
---------	--------------	---



UNIT 1C	$1/4" = 1'-0"$	3
---------	----------------	---



UNIT S	1/4" = 1'-0"	
--------	--------------	--



- : Architecture
- : Planning
- : Urban Design

: 1970 Broadway, Suite 615
: Oakland, California 94612
: (510) 451 - 2850

THIS DOCUMENT CONTAINS INFORMATION PROPRIETARY TO STUDIO T-50, INC. AND IS FURNISHED IN CONFIDENCE FOR THE LIMITED PURPOSE OF EVALUATION OR REVIEW. THIS DOCUMENT OR ITS CONTENTS MAY NOT BE USED FOR ANY OTHER PURPOSE AND MAY NOT BE REPRODUCED OR DISCLOSED TO OTHERS WITHOUT THE PRIOR WRITTEN CONSENT OF STUDIO T-50, INC. ALL RIGHTS RESERVED. COPYRIGHT 2016.

1-800-451-2888

THIS DOCUMENT CONTAINS INFORMATION

PROPRIETARY TO STUDIO T-SQ, INC. AND IS FURNISHED
IN CONFIDENCE FOR THE LIMITED PURPOSE OF
EVALUATION OR REVIEW. THIS DOCUMENT OR ITS

CONTENTS MAY NOT BE USED FOR ANY OTHER PURPOSE AND MAY NOT BE REPRODUCED OR DISCLOSED TO OTHERS WITHOUT THE PRIOR WRITTEN CONSENT OF STUDIO T-SQ, INC. ALL RIGHTS RESERVED. COPYRIGHT 2016.

123 Independence

Menlo Park, CA

The Sobrato Organization

599 Castro Street, Suite 400
Mountain View, CA

599 Castro Street, S
Mountain View, CA

Sheet Title:
**APARTMENT
TYPICAL UNIT FLOOR
PLANS**

Job No. 20004

Date: 09/07/22

Scale: $1/4" = 1'-0"$

Drawn By: Author

Sheet No:

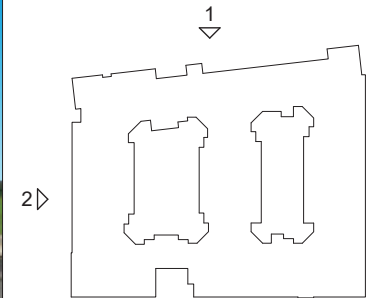
A220



CONSTITUTION PERSPECTIVE



PASEO PERSPECTIVE



KEY MAP



PASEO 1/16" = 1'-0" 2



CONSTITUTION DRIVE 1/16" = 1'-0" 1

LEGEND	
A1	CEMENT PLASTER - SMOKE
A2	CEMENT PLASTER - LIGHT GRAY
A3	CEMENT PLASTER - GRAY
A4	CEMENT PLASTER - DARK GRAY
A5	CEMENT PLASTER - YELLOW
B1	FIBER CEMENT PANEL - WHITE
B2	FIBER CEMENT PANEL - YELLOW
B3	FIBER CEMENT PANEL - GRAY
D1	PORCELAIN TILE
E1	FIBER CEMENT SIDING
W1	VINYL WINDOW, TYP.
W2	STOREFRONT, TYP.
R1	GLASS RAILING
R2	VERTICAL METAL RAILING
F1	GREENSCREEN

COLOR AND MATERIAL



Architecture
Planning
Urban Design
1970 Broadway, Suite 615
Oakland, California 94612
(510) 451-2850

THIS DOCUMENT CONTAINS INFORMATION PROPRIETARY TO STUDIO T SQUARE, INC. AND IS FURNISHED IN CONFIDENCE FOR THE LIMITED PURPOSE OF EVALUATION OF DESIGN. THIS DOCUMENT OR ITS CONTENTS MAY NOT BE REPRODUCED OR ANY OTHER PURPOSES AND MAY NOT BE REPRODUCED OR INCORPORATED TO CREDIT WITHOUT THE PRIOR WRITTEN CONSENT OF STUDIO T SQUARE, INC. ALL RIGHTS RESERVED. COPYRIGHT 2016.

123 Independence
Menlo Park, CA
The Sobrato Organization
599 Castro Street, Suite 400
Mountain View, CA

Sheet Title:
APARTMENT
BUILDING
ELEVATIONS

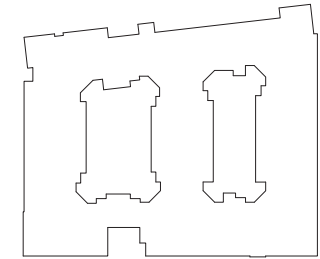
Job No. 20004
Date: 09/07/22
Scale: As indicated
Drawn By: Author

Sheet No:

A301



PUBLIC OPEN SPACE PERSPECTIVE



KEY MAP



: Architecture
: Planning
: Urban Design
: 1970 Broadway, Suite 615
: Oakland, California 94612
: (510) 451-2850

THIS DOCUMENT CONTAINS INFORMATION PREPARED BY STUDIO T SQUARE, INC. AND IS FURNISHED IN CONFIDENCE FOR THE LIMITED PURPOSE OF EVALUATING OR REVIEWING THIS DOCUMENT OR ITS CONTENTS MAY NOT BE REPRODUCED OR USED FOR ANY OTHER PURPOSE AND MAY NOT BE REPRODUCED OR INCORPORATED INTO ANY OTHER DOCUMENT WITHOUT THE WRITTEN CONSENT OF STUDIO T SQUARE, INC. ALL RIGHTS RESERVED. COPYRIGHT 2018.



EAST

1/16" = 1'-0"

2



PUBLIC OPEN SPACE / SOUTH

1/16" = 1'-0"

1

LEGEND

- A1 CEMENT PLASTER - SMOKE
- A2 CEMENT PLASTER - LIGHT GRAY
- A3 CEMENT PLASTER - GRAY
- A4 CEMENT PLASTER - DARK GRAY
- A5 CEMENT PLASTER - YELLOW
- B1 FIBER CEMENT PANEL - WHITE
- B2 FIBER CEMENT PANEL - YELLOW
- B3 FIBER CEMENT PANEL - GRAY
- D1 PORCELAIN TILE
- E1 FIBER CEMENT SIDING
- W1 VINYL WINDOW, TYP.
- W2 STOREFRONT, TYP.
- R1 GLASS RAILING
- R2 VERTICAL METAL RAILING
- F1 GREENSCREEN

COLOR AND MATERIAL

123 Independence
Menlo Park, CA

The Sobrato Organization
599 Castro Street, Suite 400
Mountain View, CA

Sheet Title:
APARTMENT
BUILDING
ELEVATIONS

Job No. 20004
Date: 09/07/22
Scale: As indicated
Drawn By: Author

Sheet No:

A302



: Architecture
: Planning
: Urban Design

: 1970 Broadway, Suite 615
: Oakland, California 94612
: (510) 451 - 2850

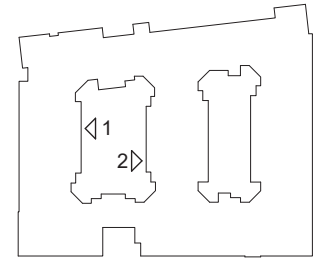
THIS DOCUMENT CONTAINS INFORMATION PROPRIETARY TO STUDIO T SQUARE, INC. AND IS FURNISHED IN CONFIDENCE FOR THE LIMITED PURPOSE OF EVALUATION OF DESIGN. THIS DOCUMENT OR ITS CONTENTS MAY NOT BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN CONSENT OF STUDIO T SQUARE, INC. ALL RIGHTS RESERVED. COPYRIGHT 2015.

123 Independence
Menlo Park, CA

The Sobrato Organization
599 Castro Street, Suite 400
Mountain View, CA

Sheet Title:
**APARTMENT
BUILDING
ELEVATIONS
(COURTYARDS)**
Job No. 20004
Date: 09/07/22
Scale: As indicated
Drawn By: Author

Sheet No:
A303



KEY MAP



WEST COURTYARD - EAST

1/16" = 1'-0"

2



WEST COURTYARD - WEST

1/16" = 1'-0"

1

LEGEND

- | | |
|----|-----------------------------|
| A1 | CEMENT PLASTER - SMOKE |
| A2 | CEMENT PLASTER - LIGHT GRAY |
| A3 | CEMENT PLASTER - GRAY |
| A4 | CEMENT PLASTER - DARK GRAY |
| A5 | CEMENT PLASTER - YELLOW |
| B1 | FIBER CEMENT PANEL - WHITE |
| B2 | FIBER CEMENT PANEL - YELLOW |
| B3 | FIBER CEMENT PANEL - GRAY |
| D1 | PORCELAIN TILE |
| E1 | FIBER CEMENT SIDING |
| W1 | VINYL WINDOW, TYP. |
| W2 | STOREFRONT, TYP. |
| R1 | GLASS RAILING |
| R2 | VERTICAL METAL RAILING |
| F1 | GREENSCREEN |

COLOR AND MATERIAL



: Architecture
: Planning
: Urban Design

: 1970 Broadway, Suite 615
: Oakland, California 94612
: (510) 451 - 2850

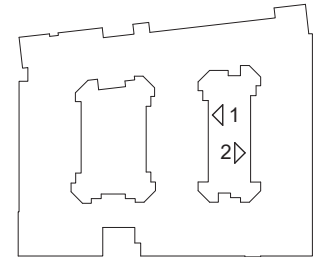
THIS DOCUMENT CONTAINS INFORMATION PROPRIETARY TO STUDIO T SQUARE, INC. AND IS FURNISHED IN CONFIDENCE FOR THE LIMITED PURPOSE OF EVALUATION OF DESIGN. THIS DOCUMENT OR ITS CONTENTS MAY NOT BE REPRODUCED OR ANY OTHER PURPOSES AND MAY NOT BE REPRODUCED OR INCORPORATED TO CREDIT WITHOUT THE PRIOR WRITTEN CONSENT OF STUDIO T SQUARE, INC. ALL RIGHTS RESERVED. COPYRIGHT 2015

123 Independence
Menlo Park, CA

The Sobrato Organization
599 Castro Street, Suite 400
Mountain View, CA

Sheet Title:
**APARTMENT
BUILDING
ELEVATIONS
(COURTYARDS)**
Job No. 20004
Date: 09/07/22
Scale: As indicated
Drawn By: Author

Sheet No:
A304



KEY MAP



EAST COURTYARD - EAST

1/16" = 1'-0"

2



EAST COURTYARD - WEST

1/16" = 1'-0"

1

LEGEND	
A1	CEMENT PLASTER - SMOKE
A2	CEMENT PLASTER - LIGHT GRAY
A3	CEMENT PLASTER - GRAY
A4	CEMENT PLASTER - DARK GRAY
A5	CEMENT PLASTER - YELLOW
B1	FIBER CEMENT PANEL - WHITE
B2	FIBER CEMENT PANEL - YELLOW
B3	FIBER CEMENT PANEL - GRAY
D1	PORCELAIN TILE
E1	FIBER CEMENT SIDING
W1	VINYL WINDOW, TYP.
W2	STOREFRONT, TYP.
R1	GLASS RAILING
R2	VERTICAL METAL RAILING
F1	GREENSCREEN

COLOR AND MATERIAL



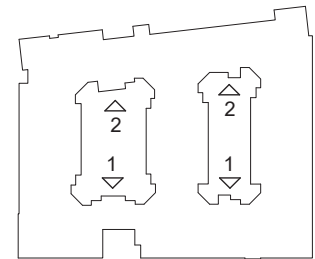
: Architecture
: Planning
: Urban Design
: 1970 Broadway, Suite 615
: Oakland, California 94612
: (510) 451 - 2850

THIS DOCUMENT CONTAINS INFORMATION PROPRIETARY TO STUDIO T SQUARE, INC. AND IS FURNISHED IN CONFIDENCE FOR THE LIMITED PURPOSES OF EVALUATION OF DESIGN. THIS DOCUMENT OR ITS CONTENTS MAY NOT BE REPRODUCED OR USED FOR ANY OTHER PURPOSES AND MAY NOT BE REPRODUCED OR INCORPORATED TO ANYTHING WITHOUT THE PRIOR WRITTEN CONSENT OF STUDIO T SQUARE, INC. ALL RIGHTS RESERVED. COPYRIGHT 2015

123 Independence
Menlo Park, CA
The Sobrato Organization
599 Castro Street, Suite 400
Mountain View, CA

Sheet Title:
APT
BUILDING
ELEVATIONS
(COURTYARDS)
Job No. 20004
Date: 09/07/22
Scale: As indicated
Drawn By: Author

Sheet No:
A305



KEY MAP



COURTYARD - NORTH

1/16" = 1'-0"

2



COURTYARD - SOUTH

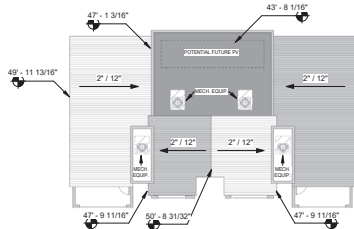
1/16" = 1'-0"

1

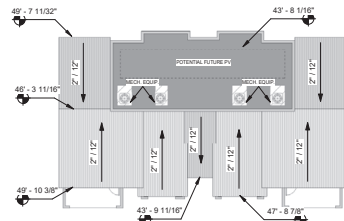
LEGEND

- | | |
|----|-----------------------------|
| A1 | CEMENT PLASTER - SMOKE |
| A2 | CEMENT PLASTER - LIGHT GRAY |
| A3 | CEMENT PLASTER - GRAY |
| A4 | CEMENT PLASTER - DARK GRAY |
| A5 | CEMENT PLASTER - YELLOW |
| B1 | FIBER CEMENT PANEL - WHITE |
| B2 | FIBER CEMENT PANEL - YELLOW |
| B3 | FIBER CEMENT PANEL - GRAY |
| D1 | PORCELAIN TILE |
| E1 | FIBER CEMENT SIDING |
| W1 | VINYL WINDOW, TYP. |
| W2 | STOREFRONT, TYP. |
| R1 | GLASS RAILING |
| R2 | VERTICAL METAL RAILING |
| F1 | GREENSCREEN |

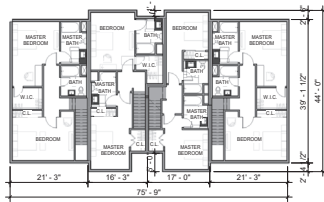
COLOR AND MATERIAL



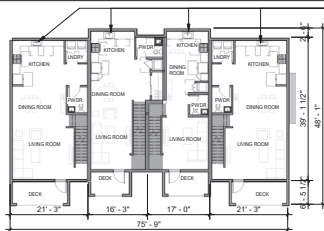
4-PLEX MARKET-RATE TOWNHOME ROOF B 1/16" = 1'-0" 10



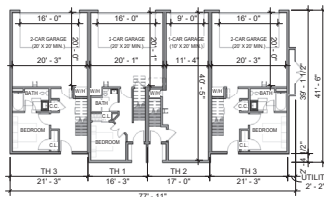
4-PLEX MARKET-RATE TOWNHOME ROOF A 1/16" = 1'-0" 9



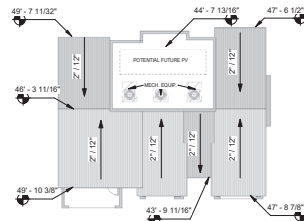
4-PLEX MARKET-RATE TOWNHOME L3 1/16" = 1'-0" 8



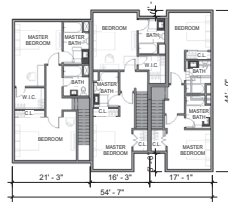
4-PLEX MARKET-RATE TOWNHOME L2 1/16" = 1'-0" 7



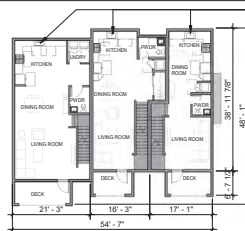
4-PLEX MARKET-RATE TOWNHOME L1 1/16" = 1'-0" 6



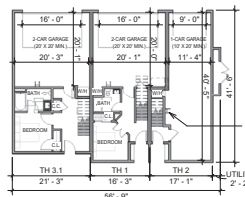
3-PLEX MARKET-RATE TOWNHOME ROOF A 1/16" = 1'-0" 4



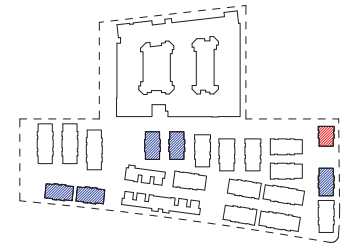
3-PLEX MARKET-RATE TOWNHOME L3 1/16" = 1'-0" 3



3-PLEX MARKET-RATE TOWNHOME L2 1/16" = 1'-0" 2



3-PLEX MARKET-RATE TOWNHOME L1 1/16" = 1'-0" 1



3-PLEX TOWNHOME
4-PLEX TOWNHOME

KEY MAP

*SPOT ELEVATIONS ARE MEASURED TO 0' SEA LEVEL. AVERAGE NATURAL GRADE PLANE IS 8.9'. ACTUAL BUILDING HEIGHT IS 8.9' LESS THAN THE SPOT ELEVATIONS.



TOWNHOMES BIKE STORAGE.
DERO WALL RACK OR SIMILAR STORES UP TO (2) TWO BIKES AND IS FULLY U-LOCK COMPATIBLE.

TOWNHOME AREA SUMMARY (GROSS FLOOR AREA CALCULATIONS)			
TOWNHOME TYPE	3-PLEX	4-PLEX	
COUNT	1	5	
LEVEL 1	755 SF	1,140 SF	
LEVEL 2	2,118 SF	2,947 SF	
LEVEL 3	2,125 SF	2,955 SF	
UTILITY BOX	29 SF	29 SF	
PER BUILDING	5,027 SF	7,072 SF	
TOTAL (INCLUDED IN FAR)	5,027 SF	35,358 SF	
DECK PER TYPE	267 SF	371 SF	
DECK TOTAL	267 SF	1,854 SF	
GARAGE (NOT IN FAR)	1,408 SF	1,850 SF	
GARAGE TOTAL	1,408 SF	9,252 SF	

AREA SUMMARY



Architecture
Planning
Urban Design
1970 Broadway, Suite 615
Oakland, California 94612
(510) 451-2850

THIS DOCUMENT CONTAINS INFORMATION PROPRIETARY TO STUDIO T SQUARE, INC. AND IS NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM. WITHOUT THE WRITTEN CONSENT OF STUDIO T SQUARE, INC. ALL RIGHTS ARE RESERVED. COPYRIGHT 2004.

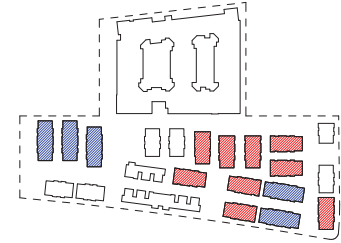
123 Independence
Menlo Park, CA
The Sobrato Organization
599 Castro Street, Suite 400
Mountain View, CA

Sheet Title:
TOWNHOMES
BUILDING PLANS
3-PLEX AND 4-PLEX

Job No. 20004
Date: 09/07/22
Scale: As indicated
Drawn By: Author

Sheet No:

A501



5-PLEX TOWNHOME
6-PLEX TOWNHOME

KEY MAP

*SPOT ELEVATIONS ARE MEASURED TO 0' SEA LEVEL. AVERAGE
NATURAL GRADE PLANE IS 8.9'. ACTUAL BUILDING HEIGHT IS 8.9'
LESS THAN THE SPOT ELEVATIONS.

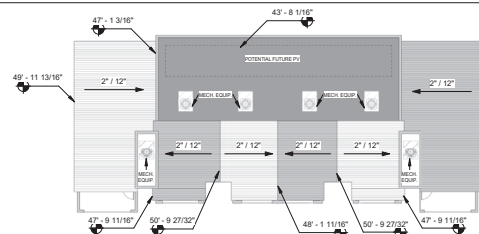


TOWNHOMES BIKE STORAGE

DERO WALL RACK OR SIMILAR
STORES UP TO (2) TWO BIKES AND IS FULLY U-LOCK COMPATIBLE.

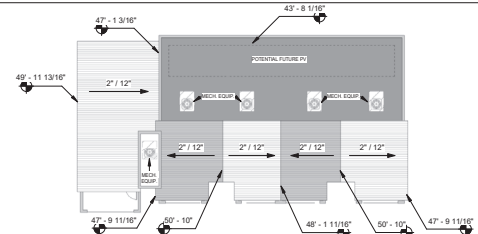
TOWNHOME AREA SUMMARY (GROSS FLOOR AREA CALCULATIONS)			
TOWNHOME TYPE	5-PLEX	6-PLEX	
COUNT	9	5	
LEVEL 1	1,131 SF	1,520 SF	
LEVEL 2	3,403 SF	4,231 SF	
LEVEL 3	3,419 SF	4,248 SF	
UTILITY BOX	29 SF	29 SF	
PER BUILDING	7,982 SF	10,029 SF	
TOTAL (INCLUDED IN FAR)	71,842 SF	50,143 SF	
DECK PER TYPE	431 SF	534 SF	
DECK TOTAL	3,876 SF	2,670 SF	
GARAGE (NOT IN FAR)	2,359 SF	2,799 SF	
GARAGE TOTAL	21,227 SF	13,993 SF	

AREA SUMMARY



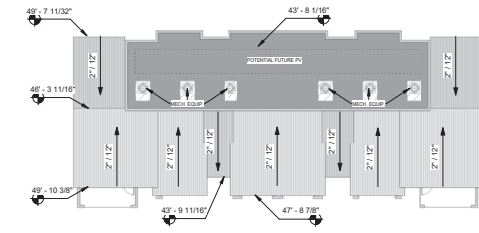
6-PLEX MARKET-RATE TOWNHOME ROOF B

1/16" = 1'-0" 10



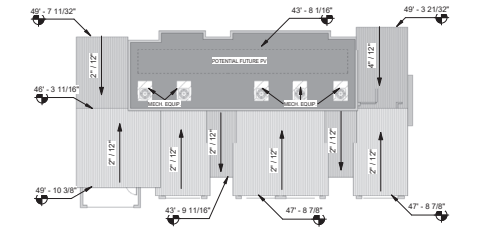
5-PLEX MARKET-RATE TOWNHOME ROOF B

1/16" = 1'-0" 5



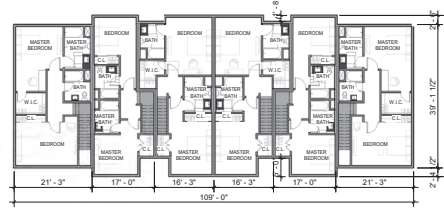
6-PLEX MARKET-RATE TOWNHOME ROOF A

1/16" = 1'-0" 9



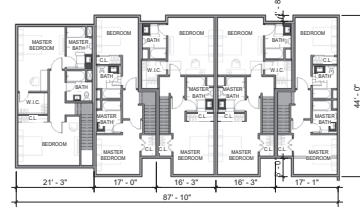
5-PLEX MARKET-RATE TOWNHOME ROOF A

1/16" = 1'-0" 4



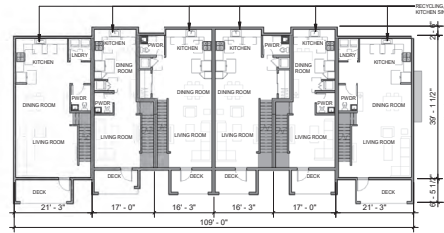
6-PLEX MARKET-RATE TOWNHOME L3

1/16" = 1'-0" 8



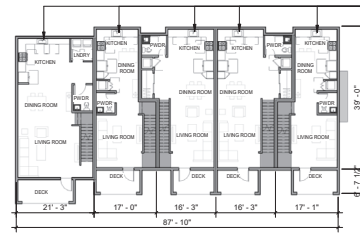
5-PLEX MARKET-RATE TOWNHOME L3

1/16" = 1'-0" 3



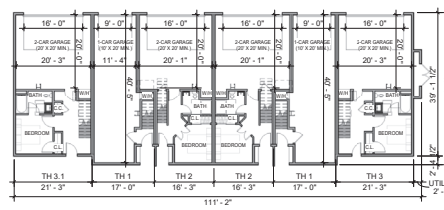
6-PLEX MARKET-RATE TOWNHOME L2

1/16" = 1'-0" 7



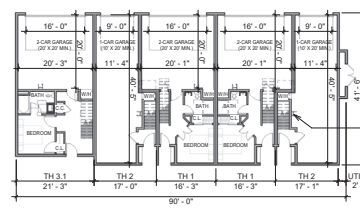
5-PLEX MARKET-RATE TOWNHOME L2

1/16" = 1'-0" 2



6-PLEX MARKET-RATE TOWNHOME L1

1/16" = 1'-0" 6



5-PLEX MARKET-RATE TOWNHOME L1

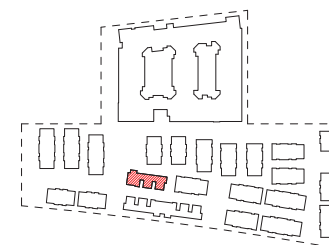
1/16" = 1'-0" 1



THIS DOCUMENT CONTAINS INFORMATION PROPRIETARY TO STUDIO T-SQ, INC. AND IS FURNISHED IN CONFIDENCE FOR THE LIMITED PURPOSE OF EVALUATION OR REVIEW. THIS DOCUMENT OR ITS CONTENTS MAY NOT BE USED FOR ANY OTHER PURPOSE AND MAY NOT BE REPRODUCED OR DISCLOSED TO OTHERS WITHOUT THE PRIOR WRITTEN CONSENT OF STUDIO T-SQ, INC. ALL RIGHTS RESERVED. COPYRIGHT 2014.

123 Independence
Menlo Park, CA

The Sobrato Organization
999 Castro Street, Suite 400



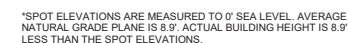
6-PLEX TOWNHOME

6-PLEX AFFORDABLE TOWNHOME ROOF A

1/16" = 1'-0"

--	--

KEY MAP



6-PLEX AFFORDABLE TOWNHOME L3

1/16" = 1'-0"

[illegible]

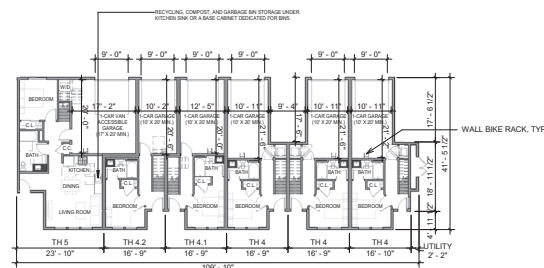
TOWNHOMES BIKE STORAGE:

DERO WALL RACK OR SIMILAR
STORES UP TO (2) TWO BIKES AND IS FULLY U-LOCK COMPATIBLE.

6-PLEX AFFORDABLE TOWNHOME L2

1/16" = 1'-0"

--	--



6-PLEX AFFORDABLE TOWNHOME L1

1/16" = 1'-0"

--	--

AREA SUMMARY

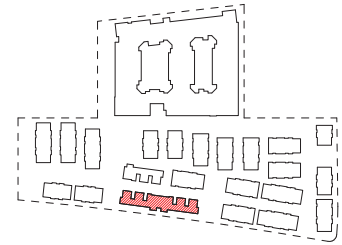
TOWNHOME AREA SUMMARY (GROSS FLOOR AREA CALCULATIONS)	
TOWNHOME TYPE	6-PLEX AFFORDABLE
COUNT	1
LEVEL 1	2,338 SF
LEVEL 2	3,904 SF
LEVEL 3	2,188 SF
UTILITY BOX	289 SF
PER BUILDING	8,460 SF
TOTAL (INCLUDED IN FAR)	8,460 SF
DECK PER TYPE	159 SF
DECK TOTAL	159 SF
GARAGE (NOT IN FAR)	1,667 SF
GARAGE TOTAL	1,667 SF

Sheet Title:
TOWNHOMES
BUILDING PLANS AFF
6-PLEX

Job No. 20004
Date: 09/07/22
Scale: As indicated
Drawn By: Author

Sheet No:

A503



12-PLEX TOWNHOME

KEY MAP

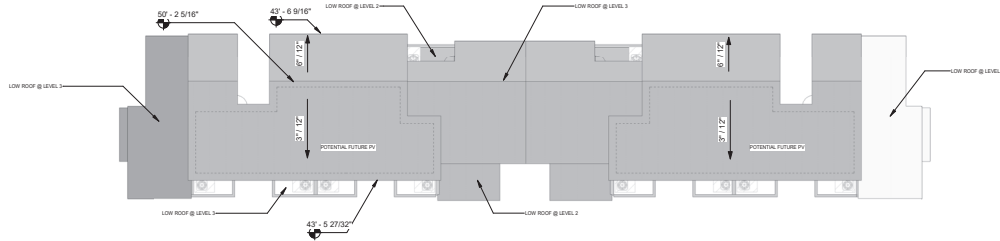
*SPOT ELEVATIONS ARE MEASURED TO 0' SEA LEVEL. AVERAGE
NATURAL GRADE PLANE IS 8.9'. ACTUAL BUILDING HEIGHT IS 8.9'
LESS THAN THE SPOT ELEVATIONS.



TOWNHOMES BIKE STORAGE

DERO WALL RACK OR SIMILAR
STORES UP TO (2) TWO BIKES AND IS FULLY U-LOCK COMPATIBLE.

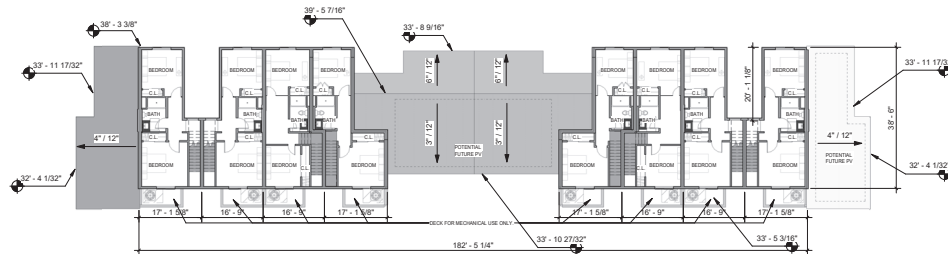
TOWNHOME AREA SUMMARY (GROSS FLOOR AREA CALCULATIONS)	
TOWNHOME TYPE	12-PLEX AFFORDABLE
COUNT	1
LEVEL 1	4,664 SF
LEVEL 2	7,809 SF
LEVEL 3	4,376 SF
UTILITY BOX	59 SF
PER BUILDING	16,909 SF
TOTAL INCLUDED IN FAR	16,909 SF
DECK PER TYPE	317 SF
DECK TOTAL	317 SF
GARAGE (NOT IN FAR)	3,346 SF
GARAGE TOTAL	3,346 SF



12-PLEX AFFORDABLE TOWNHOME ROOF

1/16" = 1'-0"

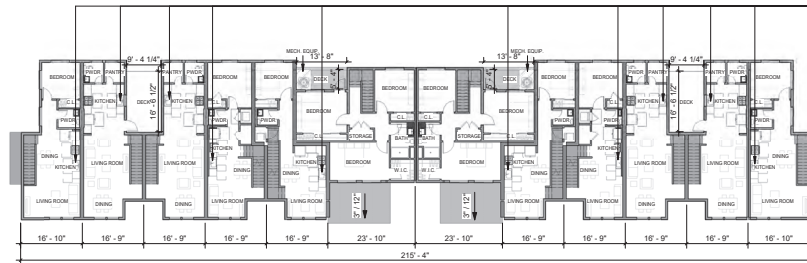
4



12-PLEX AFFORDABLE TOWNHOME L3

1/16" = 1'-0"

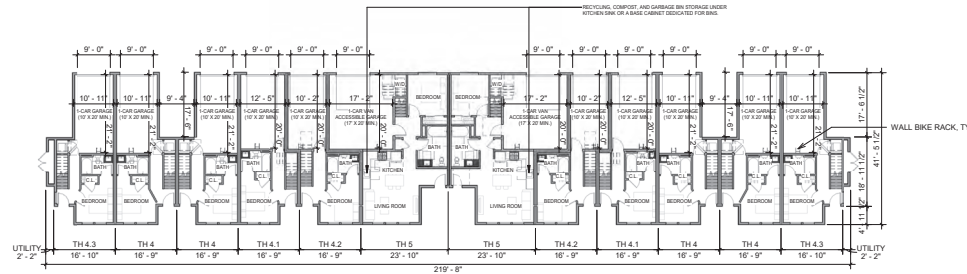
3



12-PLEX AFFORDABLE TOWNHOME L2

1/16" = 1'-0"

2

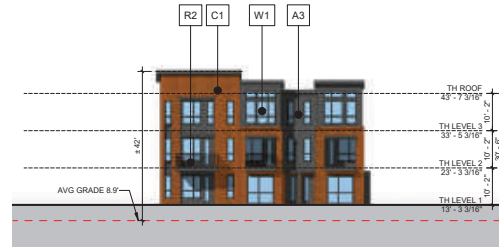


12-PLEX AFFORDABLE TOWNHOME L1

1/16" = 1'-0"

1

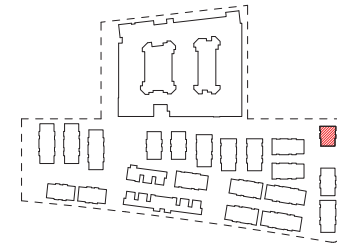
AREA SUMMARY



TOWNHOME A 3-PLEX - FRONT

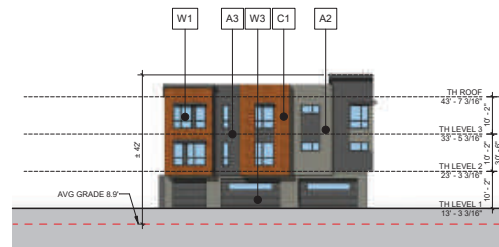
1/16" = 1'-0"

4



TOWNHOME A

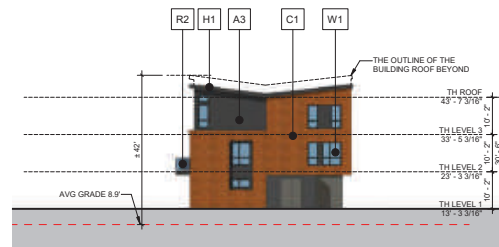
KEY MAP



TOWNHOME A 3-PLEX - REAR

1/16" = 1'-0"

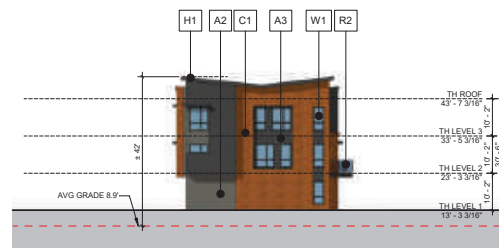
3



TOWNHOME A 3-PLEX - SIDE 1

1/16" = 1'-0"

2



TOWNHOME A 3-PLEX - SIDE 2

1/16" = 1'-0"

1

LEGEND

A2	CEMENT PLASTER - LIGHT GRAY
A3	CEMENT PLASTER - GRAY
B1	FIBER CEMENT PANEL - WHITE
B2	FIBER CEMENT PANEL - GRAY
E1	FIBER CEMENT SIDING - BROWN
E2	FIBER CEMENT SIDING - YELLOW
E3	FIBER CEMENT SIDING - LIGHT GRAY
E4	FIBER CEMENT SIDING - DARK GRAY
C1	BRICK VENEER
H1	METAL SEAMED ROOF
H2	ASPHALT SHINGLES ROOF
W1	VINYL WINDOW, TYP.
W3	PANELIZED GARAGE DOOR
R2	VERTICAL METAL RAILING

COLOR AND MATERIAL



: Architecture
: Planning
: Urban Design
: 1970 Broadway, Suite 615
: Oakland, California 94612
: (510) 451-2850

THIS DOCUMENT CONTAINS INFORMATION PROPRIETARY TO STUDIO T SQUARE, INC. AND IS FURNISHED IN CONFIDENCE FOR THE LIMITED PURPOSES OF EVALUATING OR REVIEWING THIS DOCUMENT OR ITS CONTENTS MAY NOT BE REPRODUCED OR ANY OTHER PURPOSES AND MAY NOT BE REPRODUCED OR INCORPORATED INTO ANY OTHER DOCUMENT WITHOUT THE WRITTEN CONSENT OF STUDIO T SQUARE, INC. ALL RIGHTS RESERVED. COPYRIGHT 2015

123 Independence
Menlo Park, CA

The Sobrato Organization
599 Castro Street, Suite 400
Mountain View, CA

Sheet Title:
TOWNHOMES
ELEVATIONS A
3-PLEX

Job No. 20004
Date: 09/07/22
Scale: As indicated
Drawn By: Author

Sheet No:

A601



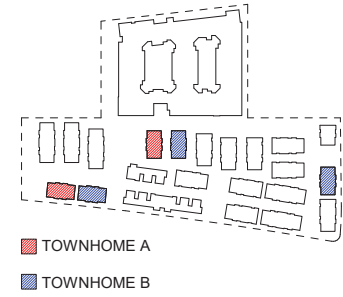
TOWNHOME B 4-PLEX - FRONT

1/16" = 1'-0" 8

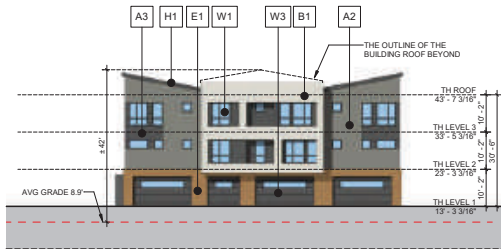


TOWNHOME A 4-PLEX - FRONT

1/16" = 1'-0" 4



KEY MAP



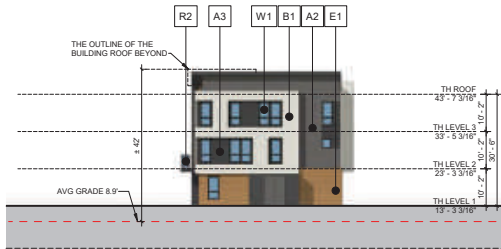
TOWNHOME B 4-PLEX - REAR

1/16" = 1'-0" 7



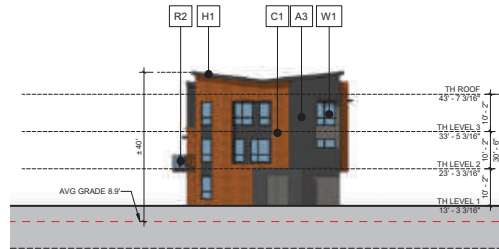
TOWNHOME A 4-PLEX - REAR

1/16" = 1'-0" 3



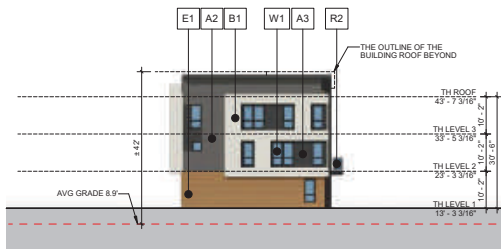
TOWNHOME B 4-PLEX - SIDE 1

1/16" = 1'-0" 6



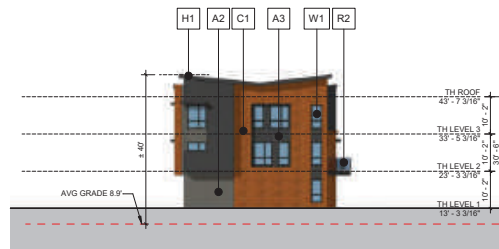
TOWNHOME A 4-PLEX - SIDE 1

1/16" = 1'-0" 2



TOWNHOME B 4-PLEX - SIDE 2

1/16" = 1'-0" 5



TOWNHOME A 4-PLEX - SIDE 2

1/16" = 1'-0" 1

LEGEND	
A2	CEMENT PLASTER - LIGHT GRAY
A3	CEMENT PLASTER - GRAY
B1	FIBER CEMENT PANEL - WHITE
B2	FIBER CEMENT PANEL - GRAY
E1	FIBER CEMENT SIDING - BROWN
E2	FIBER CEMENT SIDING - YELLOW
E3	FIBER CEMENT SIDING - LIGHT GRAY
E4	FIBER CEMENT SIDING - DARK GRAY
H1	METAL SEALED ROOF
H2	ASPHALT SHINGLES ROOF
W1	VINYL WINDOW, TYP.
W3	PANELIZED GARAGE DOOR
R2	VERTICAL METAL RAILING

COLOR AND MATERIAL



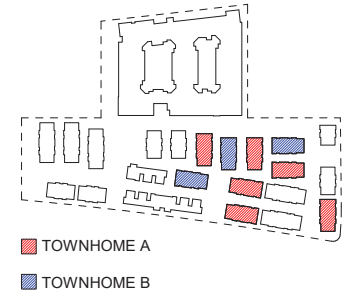
TOWNHOME B 5-PLEX - FRONT

1/16" = 1'-0" 8

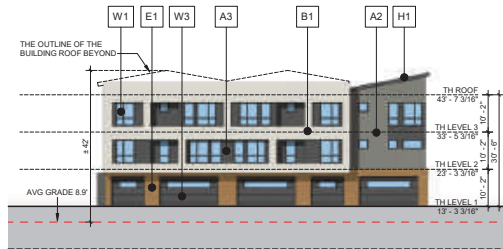


TOWNHOME A 5-PLEX - FRONT

1/16" = 1'-0" 4



KEY MAP



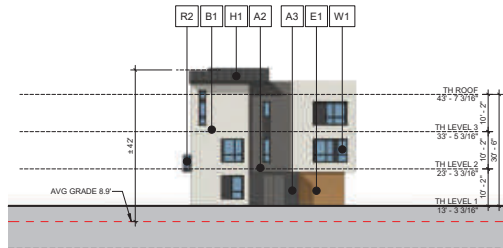
TOWNHOME B 5-PLEX - REAR

1/16" = 1'-0" 7



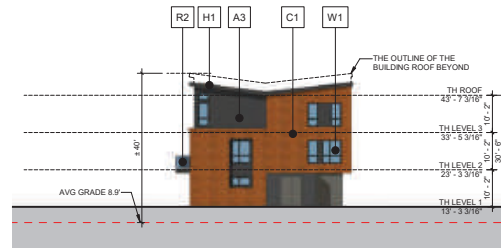
TOWNHOME A 5-PLEX - REAR

1/16" = 1'-0" 3



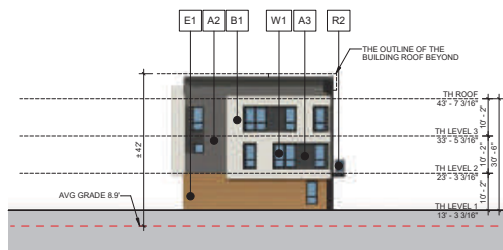
TOWNHOME B 5-PLEX - SIDE 1

1/16" = 1'-0" 6



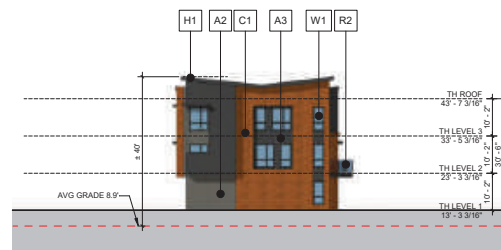
TOWNHOME A 5-PLEX - SIDE 1

1/16" = 1'-0" 2



TOWNHOME B 5-PLEX - SIDE 2

1/16" = 1'-0" 5



TOWNHOME A 5-PLEX - SIDE 2

1/16" = 1'-0" 1

LEGEND	
A2	CEMENT PLASTER - LIGHT GRAY
A3	CEMENT PLASTER - GRAY
B1	FIBER CEMENT PANEL - WHITE
B2	FIBER CEMENT PANEL - GRAY
E1	FIBER CEMENT SIDING - BROWN
E2	FIBER CEMENT SIDING - YELLOW
E3	FIBER CEMENT SIDING - LIGHT GRAY
E4	FIBER CEMENT SIDING - DARK GRAY
C1	BRICK VENEER
H1	METAL SEAMED ROOF
H2	ASPHALT SHINGLES ROOF
W1	VINYL WINDOW, TYP.
W3	PANELIZED GARAGE DOOR
R2	VERTICAL METAL RAILING

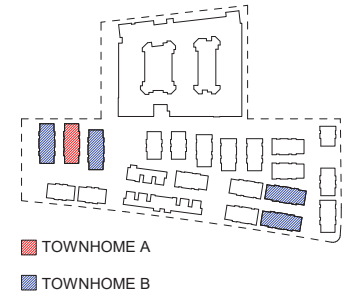
COLOR AND MATERIAL



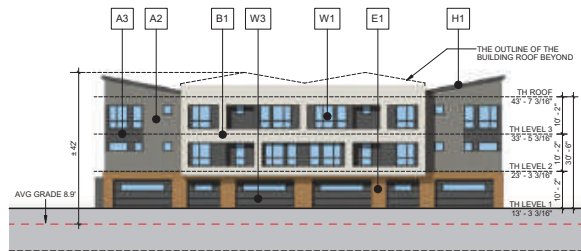
TOWNHOME B 6-PLEX - FRONT 1/16" = 1'-0" 8



TOWNHOME A 6-PLEX - FRONT 1/16" = 1'-0" 4



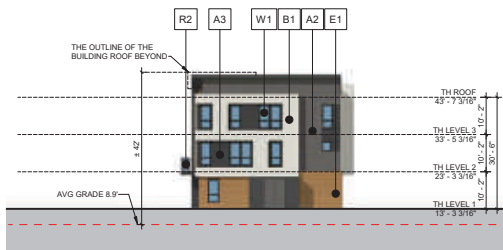
KEY MAP



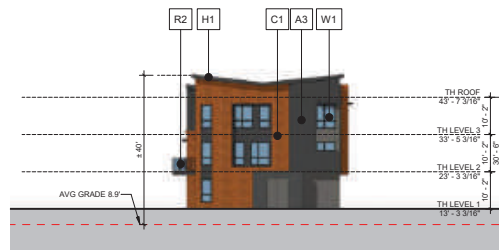
TOWNHOME B 6-PLEX - REAR 1/16" = 1'-0" 7



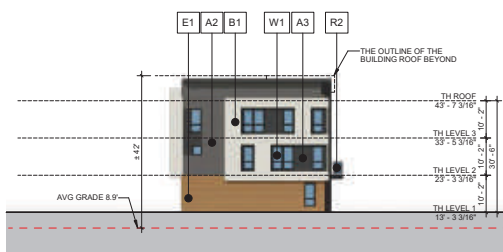
TOWNHOME A 6-PLEX - REAR 1/16" = 1'-0" 3



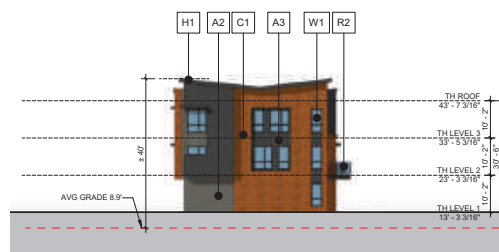
TOWNHOME B 6-PLEX - SIDE 1 1/16" = 1'-0" 6



TOWNHOME A 6-PLEX - SIDE 1 1/16" = 1'-0" 2



TOWNHOME B 6-PLEX - SIDE 2 1/16" = 1'-0" 5



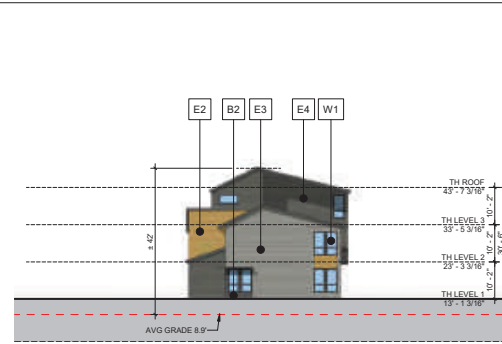
TOWNHOME A 6-PLEX - SIDE 2 1/16" = 1'-0" 1

LEGEND	
A2	CEMENT PLASTER - LIGHT GRAY
A3	CEMENT PLASTER - GRAY
B1	FIBER CEMENT PANEL - WHITE
B2	FIBER CEMENT PANEL - GRAY
E1	FIBER CEMENT SIDING - BROWN
E2	FIBER CEMENT SIDING - YELLOW
E3	FIBER CEMENT SIDING - LIGHT GRAY
E4	FIBER CEMENT SIDING - DARK GRAY
C1	BRICK VENEER
H1	METAL SEAMED ROOF
H2	ASPHALT SHINGLES ROOF
W1	VINYL WINDOW, TYP.
W3	PANELIZED GARAGE DOOR
R2	VERTICAL METAL RAILING

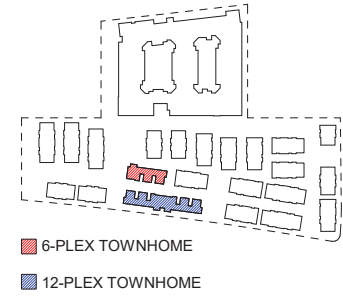
COLOR AND MATERIAL



AFFORDABLE TOWNHOME C 6-PLEX - FRONT 1/16" = 1'-0" 8



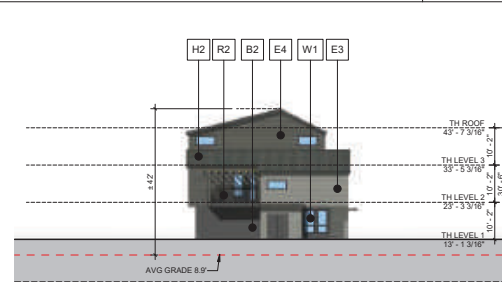
AFFORDABLE TOWNHOME C 6-PLEX - SIDE 1 1/16" = 1'-0" 4



KEY MAP



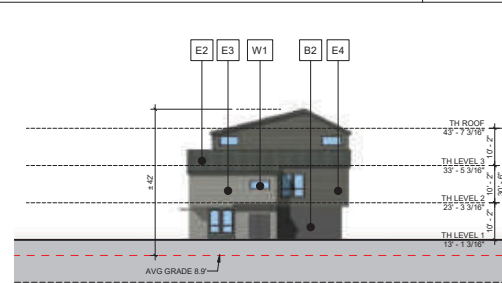
AFFORDABLE TOWNHOME C 6-PLEX - REAR 1/16" = 1'-0" 7



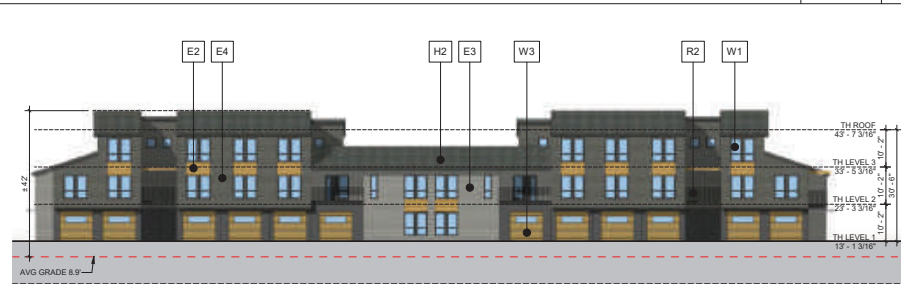
AFFORDABLE TOWNHOME C 6-PLEX - SIDE 2 1/16" = 1'-0" 3



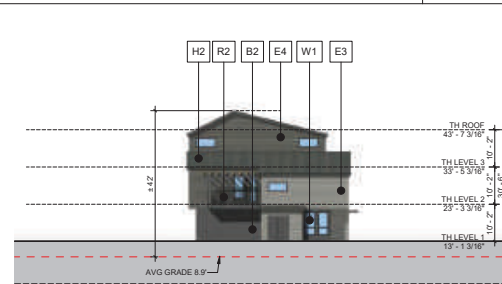
AFFORDABLE TOWNHOME C 12-PLEX - FRONT 1/16" = 1'-0" 6



AFFORDABLE TOWNHOME C 12-PLEX - SIDE 1 1/16" = 1'-0" 2



AFFORDABLE TOWNHOME C 12-PLEX - REAR 1/16" = 1'-0" 5



AFFORDABLE TOWNHOME C 12-PLEX - SIDE 2 1/16" = 1'-0" 1

LEGEND	
A2	CEMENT PLASTER - LIGHT GRAY
A3	CEMENT PLASTER - GRAY
B1	FIBER CEMENT PANEL - WHITE
B2	FIBER CEMENT PANEL - GRAY
E1	FIBER CEMENT SIDING - BROWN
E2	FIBER CEMENT SIDING - YELLOW
E3	FIBER CEMENT SIDING - LIGHT GRAY
E4	FIBER CEMENT SIDING - DARK GRAY
C1	BRICK VENEER
H1	METAL SEAMED ROOF
H2	ASPHALT SHINGLES ROOF
W1	VINYL WINDOW, TYP.
W3	PANELIZED GARAGE DOOR
R2	VERTICAL METAL RAILING

COLOR AND MATERIAL



A1 CEMENT PLASTER
KELLY MOORE
KM4724 WEDDED BLISS
OR SIMILAR BY ALTERNATIVE
MANUFACTURER
SMOOTH TROWELED FINISH



B1 FIBER CEMENT PANEL
JAMES HARDIE
REVEAL PANEL SYSTEM
KMW57-1 CLOUD WHITE
OR SIMILAR BY ALTERNATIVE
MANUFACTURER



D1 PORCELAIN TILE
COLOR 1



W1 VINYL WINDOW
VPI QUALITY WINDOWS
BLACK FRAME FINISH
OR SIMILAR BY ALTERNATIVE
MANUFACTURER



A2 CEMENT PLASTER
KELLY MOORE
KM5789-3 SHADOW CLIFF
OR SIMILAR BY ALTERNATIVE
MANUFACTURER
SMOOTH TROWELED FINISH



B2 FIBER CEMENT PANEL
JAMES HARDIE
REVEAL PANEL SYSTEM
HLS4205 CALIFORNIA CHAMOIS
OR SIMILAR BY ALTERNATIVE
MANUFACTURER



E1 FIBER CEMENT SIDING
JAMES HARDIE
ARTISAN V-GROOVE
HLS4232 CROWN GOLD
OR SIMILAR BY ALTERNATIVE
MANUFACTURER



W2 STOREFRONT
ALUMINIUM STOREFRONT
BLACK FRAME FINISH



A3 CEMENT PLASTER
KELLY MOORE
KMA89-5 BLACK OAK
OR SIMILAR BY ALTERNATIVE
MANUFACTURER
SMOOTH TROWELED FINISH



B3 FIBER CEMENT PANEL
NICHIIA INDUSTRIALBLOCK
OR SIMILAR BY ALTERNATIVE
MANUFACTURER



F1 GREEN SCREEN
STEEL FRAMED PANEL WITH
STEEL WIRE GRIDS
24X 4' WIDE PANELS SPACED
WITH 4" GAPS HORIZONTALLY



A4 CEMENT PLASTER
KELLY MOORE
KM4883 BLACK CAT
OR SIMILAR BY ALTERNATIVE
MANUFACTURER
SMOOTH TROWELED FINISH



G1 GLASS PANEL FOR GLASS RAILINGS
BIRD SAFE FRIT WITH HORIZONTAL
LINES - 1/8" SILK-SCREENED
CERAMIC FRIT LINES SPACED 2"
APART HORIZONTALLY



R1 GLASS RAILING
FRITTED COLORED GLASS
SEE G1 FOR GLASS PANEL



A5 CEMENT PLASTER
KELLY MOORE
KM5224 BANANA PEEL
OR SIMILAR BY ALTERNATIVE
MANUFACTURER
SMOOTH TROWELED FINISH



R2 VERTICAL METAL RAILING
GALVANIZED PAINTED BLACK FINISH



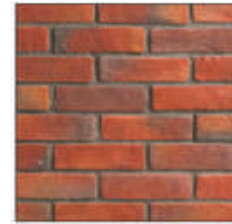
A2 CEMENT PLASTER
KELLY MOORE
KM5789-3 SHADOW CLIFF
OR SIMILAR BY ALTERNATIVE
MANUFACTURER
SMOOTH TROWELED FINISH



A3 CEMENT PLASTER
KELLY MOORE
KMA89-5 BLACK OAK
OR SIMILAR BY ALTERNATIVE
MANUFACTURER
SMOOTH TROWELED FINISH



B1 FIBER CEMENT PANEL
JAMES HARDIE
REVEAL PANEL SYSTEM
KMW57-1 CLOUD WHITE
OR SIMILAR BY ALTERNATIVE
MANUFACTURER



C1 BRICK VENEER
BELDEN BRICK
HARVEST BLEND
OR SIMILAR BY ALTERNATIVE
MANUFACTURER



E1 FIBER CEMENT SIDING
JAMES HARDIE
ARTISAN V-GROOVE
HLS4232 CROWN GOLD
OR SIMILAR BY ALTERNATIVE
MANUFACTURER



E2 FIBER CEMENT SIDING
JAMES HARDIE
ARTISAN V-GROOVE
HLS4205 CALIFORNIA CHAMOIS
OR SIMILAR BY ALTERNATIVE
MANUFACTURER



E3 FIBER CEMENT SIDING
JAMES HARDIE
ARTISAN V-GROOVE
KM5823 CITY TOWER
OR SIMILAR BY ALTERNATIVE
MANUFACTURER



E4 FIBER CEMENT SIDING
JAMES HARDIE
ARTISAN V-GROOVE
KM5826 VOLANIC ROCK
OR SIMILAR BY ALTERNATIVE
MANUFACTURER



H1 METAL SEAMED ROOF



H2 ASPHALT SHINGLES ROOF



W1 VINYL WINDOW
VPI QUALITY WINDOWS
BLACK FRAME FINISH
OR SIMILAR BY ALTERNATIVE
MANUFACTURER



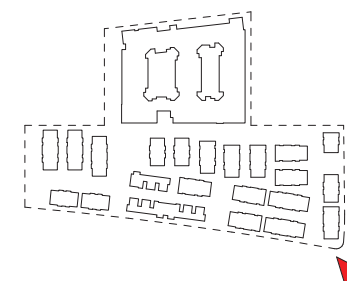
W3 PANELIZED GARAGE DOOR



R2 VERTICAL METAL RAILING
GALVANIZED PAINTED BLACK FINISH



PERSPECTIVE RENDERING



KEY PLAN



: Architecture
: Planning
: Urban Design
: 1970 Broadway, Suite 615
: Oakland, California 94612
: (510) 451-2850

THIS DOCUMENT CONTAINS INFORMATION PROPRIETARY TO STUDIO T SQR, INC. AND IS FURNISHED IN CONFIDENCE FOR THE LIMITED PURPOSES OF EVALUATION OF DESIGN. THIS DOCUMENT OR ITS CONTENTS MAY NOT BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN CONSENT OF STUDIO T SQR, INC. ALL RIGHTS RESERVED. COPYRIGHT 2012.

123 Independence
Menlo Park, CA

The Sobrato Organization
599 Castro Street, Suite 400
Mountain View, CA

Sheet Title:
**PERSPECTIVE
TOWNHOMES ON
INDEPENDENCE
DRIVE**

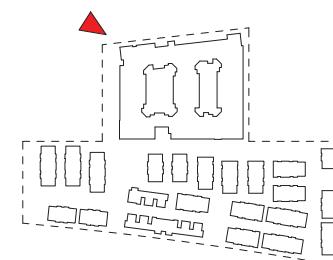
Job No. 20004
Date: 09/07/22
Scale: 1" = 160'-0"
Drawn By: Author

Sheet No:

A901



PERSPECTIVE RENDERING



KEY PLAN



: Architecture
: Planning
: Urban Design
: 1970 Broadway, Suite 615
: Oakland, California 94612
: (510) 451-2850

THIS DOCUMENT CONTAINS INFORMATION PROPRIETARY TO STUDIO T SQUARE, INC. AND IS FURNISHED IN CONFIDENCE FOR THE LIMITED PURPOSES OF EVALUATION OF DESIGN. THIS DOCUMENT OR ITS CONTENTS MAY NOT BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN CONSENT OF STUDIO T SQUARE, INC. ALL RIGHTS RESERVED. COPYRIGHT 2012.

123 Independence
Menlo Park, CA

The Sobrato Organization
599 Castro Street, Suite 400
Mountain View, CA

Sheet Title:
**PERSPECTIVE
APARTMENT ON
CONSTITUTION
DRIVE**

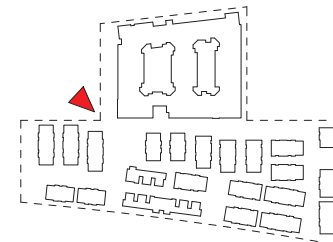
Job No. 20004
Date: 09/07/22
Scale: 1" = 160'-0"
Drawn By: Author

Sheet No:

A902



PERSPECTIVE RENDERING



KEY PLAN



: Architecture
: Planning
: Urban Design
: 1970 Broadway, Suite 615
: Oakland, California 94612
: (510) 451-2850

THIS DOCUMENT CONTAINS INFORMATION PROPRIETARY TO STUDIO T SQR, INC. AND IS FURNISHED IN CONFIDENCE FOR THE LIMITED PURPOSE OF EVALUATION OF DESIGN. THIS DOCUMENT OR ITS CONTENTS MAY NOT BE REPRODUCED OR USED FOR ANY OTHER PURPOSES AND MAY NOT BE REPRODUCED OR INCORPORATED INTO OTHER DOCUMENTS WITHOUT THE WRITTEN CONSENT OF STUDIO T SQR, INC. ALL RIGHTS RESERVED. COPYRIGHT 2012.

123 Independence
Menlo Park, CA
The Sobrato Organization
599 Castro Street, Suite 400
Mountain View, CA

Sheet Title:
PERSPECTIVE
PASEO / CENTRAL
OPEN SPACE

Job No. 20004
Date: 09/07/22
Scale: 1" = 160'-0"
Drawn By: Author

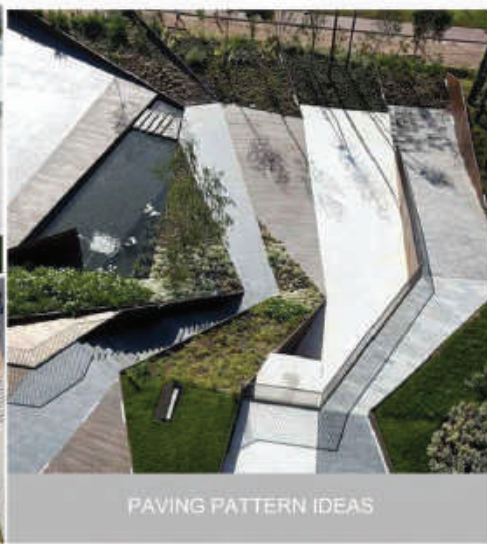
Sheet No:

A903



The Sobrato Organization
200 Camino Real, Suite 400
Menlo Park, CA

L2.01



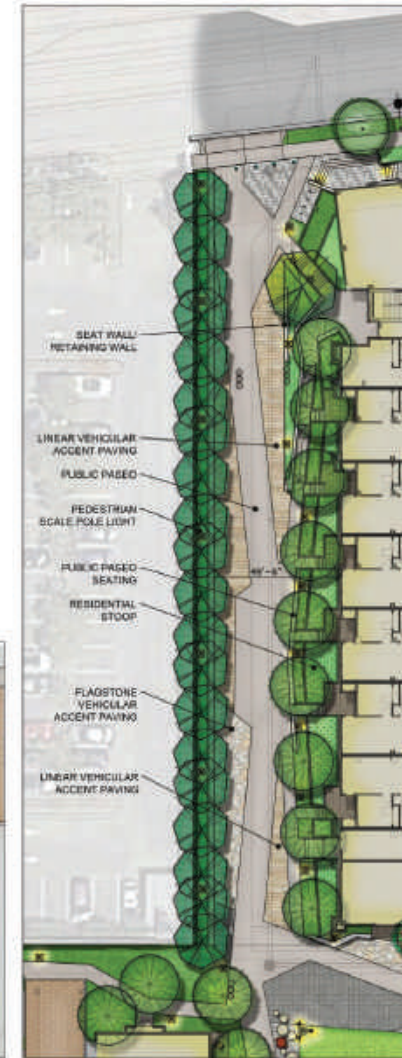
PAVING PATTERN IDEAS



PAVING MATERIALS



TOWNHOME PASEO



NORTH PASEO PLAN





NATIVE PLANTING



LAWN AREA



RAIN GARDEN/ STORM WATER TREATMENT



PICNIC AREA



PLAY AREA



BIKE RACKS

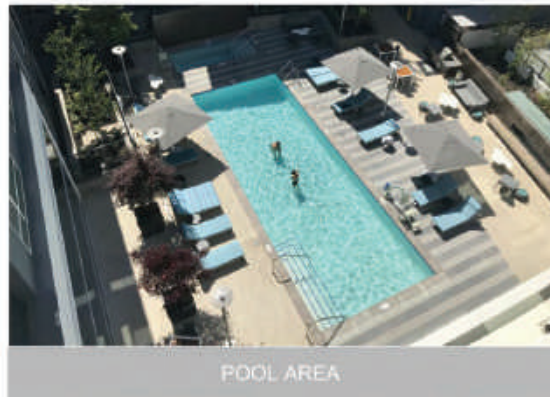


BIKE REPAIR STATION

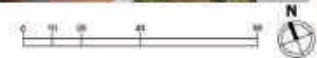


SCHEMATIC PARK PLAN





PLANTER



To: City of Menlo Park and The Sobrato Organization
Re: HGSF's Marketing, Outreach, and Lottery process
Date: February 7, 2023

RECOMMENDATION

Based on an internal review and various conversations, Habitat Greater San Francisco ("HGSF") would like to express our desire and intent to work with the City of Menlo Park to use the city's BMR guidelines, and specifically the city's legacy list, and other preferences in selecting homeowners for the 123 Independence project.

Per the city's request, the marketing and outreach, lottery process, and homeowners' selection and qualifications narrative below, summarizes HGSF's typical outreach and selection process and outlines how we propose working with the city's BMR Guidelines and Legacy List. As stated above, our intent and desire are to work with the city and use their existing Legacy List, preferences, rankings, and guidelines to the extent allowable by all State and Federal fair housing and all other applicable rules and regulations.

MARKETING & OUTREACH

HGSF employs a marketing strategy that is reflective of our mission, commitment to diversity, equity, and inclusion, and complies with local, state, and federal rules and regulations. Prior to launching a marketing cycle for our affordable ownership program, HGSF typically develops a Marketing Plan in partnership with the host city. The Marketing Plan typically includes information about the homes, buyer qualifications, marketing strategy, marketing activities, outreach materials, and timeframes.

HGSF's general marketing and outreach process includes the following steps:

1. Create Marketing Plan with input and approval from appropriate stakeholders.
2. Implement Marketing Plan up to 1.5 years prior to Certificate of Occupancy (end of construction). Elements of marketing and outreach may include:
 - a. Electronic and print material distribution to the City of Menlo Park BMR Purchase Legacy list and other preference lists as determined by agreements with funding partners. Partnerships with community-based organizations, faith-based organizations, school and parent groups, employers and employer networks, civic associations, city agencies and other resources serving first-time homebuyers in the host city.
 - b. In-person and online application Information Sessions targeted at first-time homebuyers who meet the eligibility requirements established by HGSF and the host city. These information sessions will serve a multi-lingual audience to maximize their access to the homeownership opportunities being marketed.
3. The marketing and outreach cycle typically lasts between three and four months.
4. In this case, HGSF proposes to first reach out to those on the legacy list (in rank list order) and invite these households to apply. These applicants will be given preference for application and eligibility.
5. If the Legacy List is exhausted and a lottery is utilized, HGSF recommends deferring to a general lottery pool to determine processing order. Interested clients would submit a lottery

application that screens for lottery eligibility. Please note that because this is self-reported data, actual eligibility for the program is determined post-lottery.

6. Pre-screened, eligible applicants are entered into the lottery.

MENLO PARK RANKED LEGACY LIST

In the example for the City of Menlo Park, the following preferences would apply:

1. BMR Purchase Legacy List
2. Live/work
3. Unhoused
4. Displacement
5. Accessible unit

All applicants would be processed by preference priority, in lottery rank order.

LOTTERY PROCESS

In the event of a lottery, eligible applicants would be invited to attend a virtual lottery hosted by HGSF. All the lottery numbers are randomly sorted using Microsoft Excel. Each applicant is assigned an "unfiltered" ranking between 1 and the total number of applicants. For example, in a lottery with 800 applicants, each applicant will be assigned a number between 1 and 800.

The lottery determines the order in which applications are processed. Those whose lottery numbers are called will be asked to submit a complete application with supporting documentation for the program.

Example: Jenny has an "unfiltered" ranking of 2, and Shonda has an "unfiltered" ranking of 6. They are both in the Other Preference category (not Legacy List). Jenny and Shonda have the highest "unfiltered" rankings of all other applicants in the other preferences. Therefore, Jenny would have a ranking of 1 and Shonda would have a ranking of 2 in the Preference List B.

Post Lottery	Post Filtering		
Unfiltered Lottery List	Preference List A: Legacy List	Preference List B: All Other Preference	Remaining Lottery List
1 Sam	1 Andrea	Jenny	Sam
2 Jenny	2 Dan	Shonda	Maggie
3 Maggie	3 Juan	Darwin	Juan
4 Isaac	4 Ted	Tyler	Jorge
5 Jorge	5 Lucy	Michelle	Lee
6 Shonda			
7 Lee			
8 Andrea			
9 Darwin			
10 Dan			
11 Juan			
12 Tyler			
13 Ted			
14 Michelle			
15 Lucy			

Under the city's BMR guidelines, those in the BMR purchase legacy list waitlist would get priority over other preferences. Moreover, the legacy list has a rank list order. In this case, HGSF would first reach out to those on the list (in rank list order) and invite these households to apply. If the legacy list is

exhausted and there are still units needing to be filled, HGSF would refer to the general lottery pool to determine processing order.

HOMEOWNER SELECTION & QUALIFICATION

To move forward with HGSF's affordable ownership program, applicants must demonstrate the ability to pay (income, debt, credit), need for housing (low income), and willingness to partner with HGSF (sweat equity). All eligible households are approved by HGSF's Board of Directors.

Please feel free to reach out to me with any questions and comments. We appreciate your continued collaboration and support of our project.

Sincerely,



Maureen Sedonaen

Maureen Sedonaen | Chief Executive Officer

She, Her, Hers

Habitat for Humanity Greater San Francisco

300 Montgomery St Ste 450

San Francisco CA 94104

(415) 625-1001