



AGENDA  
April 19, 2016  
7:00 P.M. REGULAR MEETING  
STAFF CONFERENCE ROOM

- I. Call to Order/Roll Call
- II. Approval of Minutes: March 15, 2016
- III. Correspondence/Communications
- IV. Old Business
  - A. Art & Wine Festival Plans for September 17 & 18, 2016
    1. Recommendation to approve selection of glassware design, quantities & logo
    2. Determine criteria for selection of community non-profit groups to receive festival proceeds & volunteer expectations to be included in application for participation
    3. Beer Options: New "small brewer" Beer Garden, Beer Selection
- V. New Business
  - A. San Tomas & Monroe Street New Park & Community Garden Schematic Design Input—  
Presentation by Gates & Associates
- VI. Staff Reports
  - A. Park Projects & Cemetery Updates
  - B. Recreation Program Updates
  - C. Special Event Updates
- VII. Commissioner Reports
- VIII. Conference Attendance Reports
- IX. Public Presentations
- X. Adjourn—next regular meeting May 17, 2016 at 7:00 p.m., Staff Conference Room

## Public Notice

### **Public Presentations**

- Members of the public are provided an opportunity to directly address the Board, Commissions or Committee on items of public interest that are within the jurisdiction of the Board, Commissions or Committee, and any item listed on the agenda.
- For meetings held in the Council Chambers, please note the speaker timing lights located on the podium. A green light indicates the beginning of the time period, a yellow light will appear when 30 seconds remain, and a red light will appear and a buzzer will sound at the end of the time period.
- Groups are encouraged to appoint a single spokesperson, but all speakers should avoid repetitive comments.
- You may be requested to fill out a speaker card and/or give your name when you speak, but are not required to do either to address the Board, Commissions or Committee.
- Please note that the Board, Commissions or Committee cannot take action on an item of business not appearing on the agenda. The only exceptions are if the Board, Commissions or Committee determines that one of the following emergency situations exist: 1. Work stoppage or other activity which severely impairs public health, safety or both, as determined by a majority of the members of the Board, Commissions or Committee; 2. Crippling disaster which severely impairs public health, safety, or both, as determined by the majority of the Board, Commissions or Committee; or 3. Upon a determination by a two-thirds vote of the Board, Commissions or Committee, or, if less than two thirds of the members are present, that the need to take action arose after the agenda was posted; or the item was posted for a prior meeting of the Board, Commissions or Committee occurring not more than five (5) calendar days prior to the date action is taken.
- In the event of a public presentation, the Board, Commissions or Committee or its staff may briefly respond to statements made or questions asked, or may proceed to the next item of business or adjourn. The communication not acted on shall be accepted by the Board, Commissions or Committee for placement on the agenda for the following Board, Commissions or Committee meeting, if requested by the citizen.
- Electronic presentations should be submitted to the liaison department to enable screening for compatibility and viruses. Contact the liaison department to ascertain when the material should be submitted.
- Written materials should be submitted to the liaison department to allow the City to copy such materials. Contact the liaison department to ascertain when the material should be submitted. Any written materials submitted during the meeting should include sufficient copies for the Board, Commissions or Committee and the public.

### **Americans with Disabilities Act (ADA)**

- In accordance with the Americans with Disabilities Act of 1990, the City of Santa Clara will ensure that all existing facilities will be made accessible to the disabled. Modifications in policies, procedures and/or practices will be made as necessary to ensure access for all individuals with a disability.
- Individuals with disabilities are encouraged to contact the City's ADA Office at (408) 615-3000 to discuss meeting accessibility.
- In order to allow participation by individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, please do not wear scented products to meetings at City facilities.
- For meetings held in the Council Chambers, individuals with a hearing impairment should note that the Council Chamber is equipped with a headset system which allows one to hear more clearly from any seat in the room. Please ask a City staff member present at the meeting for details.
- Upon request by a person with a disability, meeting agendas and writings distributed during the meeting that are public records will be made available in an appropriate alternative format. Please contact the City Clerk's Office at (408) 615-2220 with your request.

### **Appeal of Council/Board/Commission/Committee Action**

- Pursuant to Government Code section 65009, any challenge of Public Hearing matters in court may be limited to only those issues raised at the Public Hearing, or in writing submitted before or at the Public Hearing.
- Any challenge to a Public Hearing matter must be filed in accordance with the provisions of Civil Code section 1094.6, including applicable time limitations.



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**COMMISSIONERS PRESENT:** Chuck Blair, George Guerra, Andrew Knaack, Joe Martinez, Roseann Alderete LaCoursiere, Tino Silva, Kevan Michael Walke.

**STAFF:** James Teixeira, Director of Parks & Recreation;  
Dale Seale, Deputy Parks & Recreation Director  
Kim Castro, Recreation Manager.

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**MATTERS FOR COUNCIL ACTION:**

- 1) The Commission conditionally recommended (7-0) that Council approve the Final Schematic Design for the Central Park Annex Park by Prometheus Real Estate Group, Inc. in conformance with the Development Agreement with the addition of following: seating areas, picnic benches, widened pathways, BBQ/picnic area, pedestrian pathway lighting, and playground moved from parcel H to G, and that the proposed additional restroom building be constructed concurrently with the park installation and completion.
- 2) The Commission recommended (7-0) that Council approve the Santa Clara Square public parks, easements and trail connections final schematic design by the Irvine Company contingent upon follow up details for: lighting fixtures, BBQ grill quantities and locations, public park parking stall quantities in garage and signage for public access, public restroom elevations, list of redwood trail amenities, way-finding sign plan, fitness apparatus, inclusion of Wi-Fi, and playground equipment.

Note: The Commission Recommendations on New Business items B, C, E, and F below were sent to Council under separate Agenda Reports for consideration.

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**I. CALL TO ORDER/ ROLL CALL/ ORDER OF AGENDA**

The meeting was called to order by Chair Blair at 7:05 p.m. On a motion by Commissioner Silva and second by Commissioner Walke, the Commission approved (7-0) the meeting's order of agenda.

**II. APPROVAL OF MINUTES**

On a motion by Commissioner Silva, and a second by Commissioner Walke, the Commission approved (7-0) the minutes for the regular meeting of February 16, 2016 as amended.

**III. CORRESPONDENCE/COMMUNICATIONS**

**IV. OLD BUSINESS**

- A. Central Park Annex New Park Site Final Schematic Design—Presentation by Prometheus Real Estate Group, Inc. and Commission review of design conformance with Development Agreement and recommendation to Council to approve minor park design changes and creek trail mitigation area, if needed. Director Teixeira provided a summary of the Central Park Annex Park site project to be dedicated to the City by Prometheus Real Estate Group and the Development Agreement regarding the dedication of a public park. While the

agreement did not specify the construction of a restroom building, Prometheus included the design of the restroom at the request of the Commission on August 18, 2015. At that time the Commission recommended further development of park Option C with addition of restroom building, seating areas, picnic benches, widened pathways, BBQ areas, and pedestrian pathway lighting, and playground moved from parcel H to G. The creek trail alignment along Saratoga Creek, which was also outside the scope of the park design, has now been moved to accommodate the bridge creek crossing closer to Keily Blvd.. On a motion by Commissioner Guerra and a second by Commissioner LaCoursiere, the Commission conditionally recommended (7-0) that Council approve the Final Schematic Design for the Central Park Annex Park by Prometheus Real Estate Group, Inc. in conformance with the Development Agreement with the addition of following: seating areas, picnic benches, widened pathways, BBQ/picnic area, pedestrian pathway lighting, and playground moved from parcel H to G, and that the proposed additional restroom building be constructed concurrently with the park installation and completion.

- B. Parks & Recreation Department Capital Improvement Project Budget Update—Director Teixeira explained the history and funding mechanisms available for Park & Recreation Department Capital Improvement Projects including new housing development fees that may be due in lieu of parkland dedication and eligible uses under the Quimby Act and Fee Mitigation Act of California State law.

## V. NEW BUSINESS

- A. Santa Clara Square Project Parkland Dedication, Easements and Trail Connection Final Schematic Design—Presentation by Irvine Company and Commission review of design conformance with Development Agreement and Recommendation to Council to approve park design.—The Irvine Company presented a mixed use model for living, work and play, integrated park and open space, with interconnected trail and bicycle network. The master plan for the development was reviewed and discussed with the Commission. Irvine Company conducted focus groups and described data upon which the elements of the park system's schematic design was developed. The Commission requested the third party report from Irvine Company (proprietary information). On a motion by Commissioner LaCoursiere and second by Commissioner Guerra, the Commission recommended (7-0) that Council approve the Santa Clara Square public parks, easements and trail connections final schematic design by the Irvine Company contingent upon follow up details for: lighting fixtures, BBQ grill quantities and locations, public park parking stall quantities in garage and signage for public access, public restroom elevations, list of redwood trail amenities, way-finding sign plan, fitness apparatus, inclusion of Wi-Fi, and playground equipment.
- B. On a motion by Commissioner Silva with a second by Commissioner Guerra, the Commission recommended (7-0) that Council adopt a Resolution Declaring a Temporary Restriction & Control of Animals during Silicon Valley BBQ Championship June 24 & 25, 2016 in Central Park.
- C. On a motion by Commissioner Silva with a second by Commissioner Guerra, the Commission recommended (7-0) that Council adopt a Resolution Declaring a Temporary Restriction & Control of Animals during All-City Picnic and July 4<sup>th</sup> 2016 Fireworks Show in Central Park.
- D. On a motion by Commissioner Silva with a second by Commissioner Guerra, the Commission recommended (7-0) that Council approve the staff recommendation to

move July 4<sup>th</sup> daytime activities from the Pavilion Stage to the CRC Meadow and begin activities.

- E. On a motion by Commissioner Silva with a second by Commissioner Guerra, the Commission recommended (7-0) that Council adopt a Resolution Declaring a Temporary Restriction & Control of Animals during Art & Wine Festival on September 17 & 18, 2016 in Central Park.
- F. On a motion by Commissioner Silva with a second by Commissioner Guerra, the Commission recommended (7-0) that Council adopt a Resolution Declaring a Temporary Restriction & Control of Animals during Tree Lighting Event on Friday December 2, 2016 in Central Park.
- G. Art & Wine Festival Plans: Discuss artwork for 2015 Art & Wine Festival logo and collateral materials—The Commission discussed the need have a professionally designed poster that is bold, contemporary, and universally appealing. Poster options provided to the Commission should be distinct from each other and provide clear options.

## VI. STAFF REPORTS

- A. Park Projects & Cemetery Updates: The Director presented a summary of the March 9, 2016 community input meeting regarding the proposed new neighborhood park and community garden at San Tomas Expressway & Monroe Street. Alternatives “A” and “B” show the major program elements including: additional parking, community garden, restroom, children’s playground, bocce court, picnic/BBQ area, dog area, open space, and San Tomas Aquino Creek Trail access. Public input will continue with an online “Survey Monkey” tool and meetings with stakeholders and come back to the Commission for their input at the next meeting.
- B. Recreation Division Update: Director Teixeira introduced new Recreation Manager Kimberley Castro to the Commission.
- C. Special Event Updates: Recreation Manager Castro provided updates on the upcoming city-wide special events including: the Easter Egg Hunt and the Easter-Pool-Ooza in Central Park on March 26, 2016, and the Silicon Valley BBQ Championships to be held on June 24-25, 2016.

## VII. COMMISSIONER REPORTS

- A. **Commissioner Blair**—Visited Washington Park. He expressed concerns about the Senior Center ID card camera and computer program..
- B. **Commissioner Guerra**—Visited Steve Carli Park and Earl R. Carmichael Park.
- C. **Commissioner Knaack**—Visited Bracher Park, Reed Street Dog Park and the Reed & Grant Street site proposed site for additional soccer fields. In addition, he visited the Monroe & San Tomas future park site.
- D. **Commissioner LaCoursiere**—Attended Little League games and Show Time.
- E. **Commissioner Martinez**— Visited Bowers Park, Reed Street Dog Park, and the Reed & Grant Street site proposed for additional soccer fields.
- F. **Commissioner Silva**—Visited Washington Park and Youth Soccer Park to see the progress being made by the 49ers to renovate fields. He also reported that home plate needs to be changed at Washington Ball Park.
- G. **Commissioner Walke**—Visited Washington Park.

VIII. CONFERENCE AND ATTENDANCE REPORTS—None.

IX. PUBLIC PRESENTATIONS

- A. Jan Hintermeister invited the Commissioners to attend the Santa Clara County Open Space Authority SCCOSA "*Investing in Nature in Your Neighborhood*" Community Input Meeting on April 26 from 6 to 8pm at Santa Clara University, Benson Center—William Room, 500 El Camino Real.

X. ADJOURNMENT

Commissioner Silva made a motion that was seconded by Commissioner Blair to adjourn the Meeting 10:22 p.m.

Prepared by: \_\_\_\_\_ Reviewed by: \_\_\_\_\_  
Dale Seale Roseann Alderete  
Deputy Director of Parks & LaCoursiere  
Recreation Commission Secretary

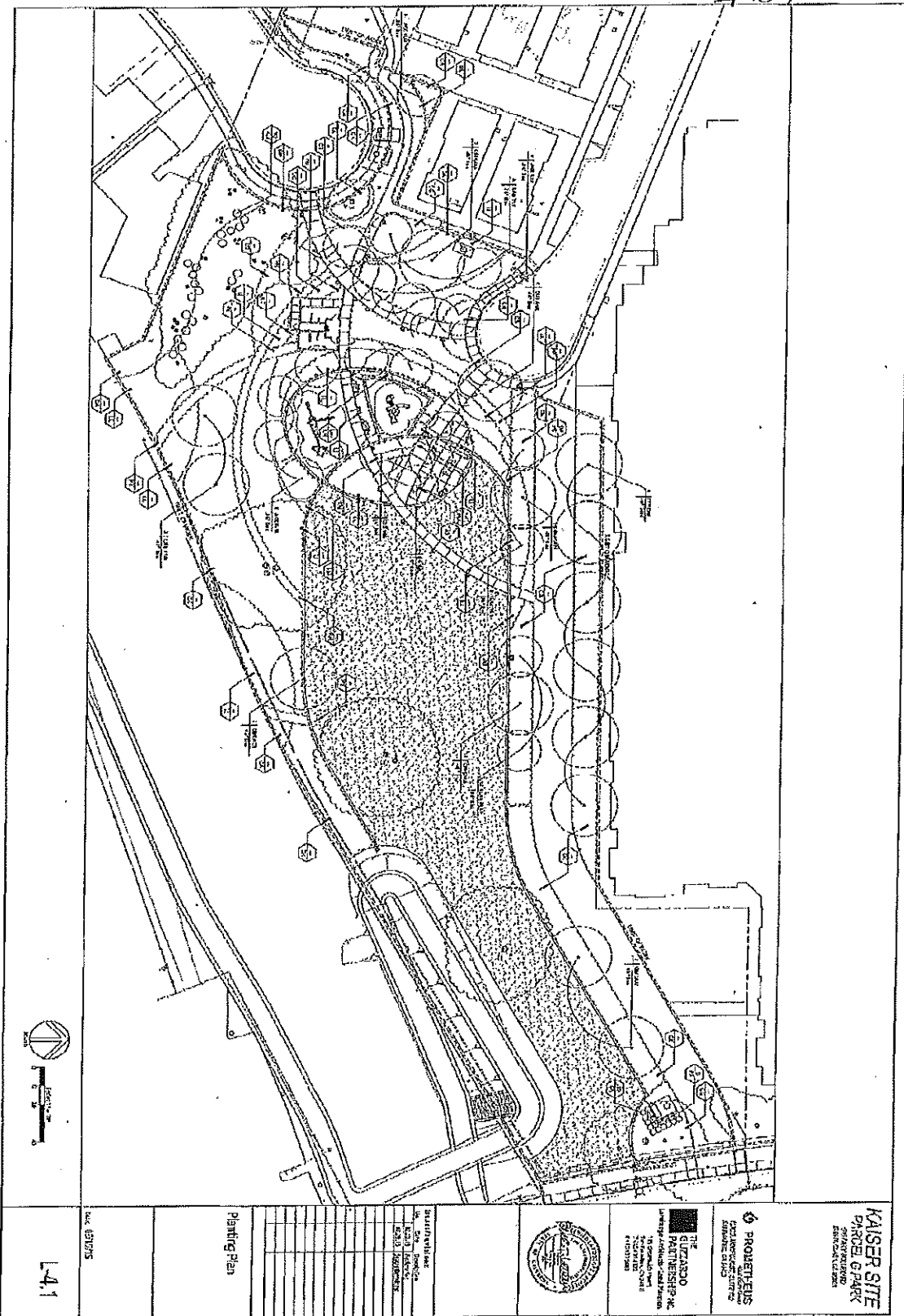
Submitted by: \_\_\_\_\_  
James Teixeira  
Director of Parks & Recreation  
Commission Liaison

Attachment(s):

- 1) Exhibit 1—Central Park Annex New Park Site Final Schematic Design by Prometheus Real Estate Group, Inc. and excerpt from 2009 Development Agreement.
- 2) Exhibit 2—Santa Clara Square Project Parkland Dedication, Easements and Trail Connection Final Schematic Design by Irvine Company and excerpt from 2016 Development Agreement.

**Exhibit 1**  
Central Park Annex New Park Site Final Schematic Design  
by Prometheus Real Estate Group, Inc.

Item IV, A.



**Exhibit 1—continued**

excerpt from 2009 Development Agreement  
City of Santa Clara & PRII Kiely, LLC. Parkland dedication requirement paragraph 4.2

Doc # 20177059  
Development Agreement  
City of Santa Clara + PRII KIELY  
Revised 5/20/2014 10/22/2014

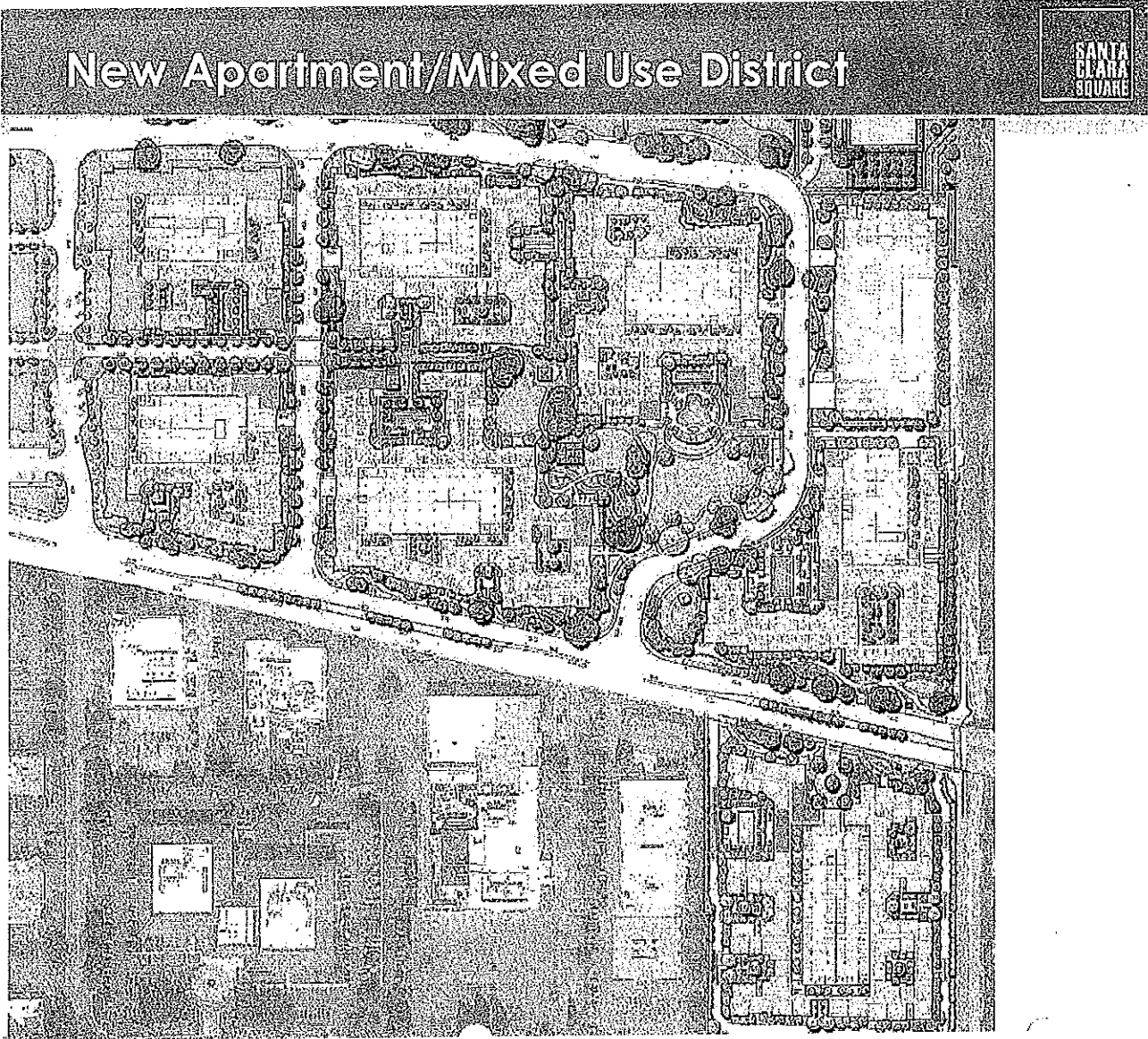
costs shall be limited to (i) reasonable costs directly associated with the preparation of the Project EIR; (ii) fees ordinarily charged by City for processing land use applications and permits in effect as of the Effective Date, provided that such fees and costs are applied to Developer in the same manner as other similarly situated applicants seeking similar land use approvals and are not limited in applicability to the Project or to related uses; and (iii) fees associated with third-party permit plan checking, if applicable, above those normally charged by the City. Developer shall reimburse City for reasonable staff overtime expenses incurred by City in processing review, approval, inspection and completion of the Project provided that such overtime expenses are (a) reasonably necessary for the completion of the Project in accordance with Developer's schedule, if and to the extent Developer's schedule requires action sooner than the mandated deadlines for such actions by the City; and (b) applied to Developer in the same manner as similarly situated project applicants.

4.2 Dedications. Developer shall offer to dedicate in fee title to City the portion of the Property designated in the Conditions of Approval – revised August 18, 2009, for the 2± acre parkland and shall dedicate public easements for streets, tot lots, pathways and other public areas, as shown in Exhibit G, in conjunction with the City Council consideration of the applicable Final Map. Should the City accept dedication of the 2± acre parkland, the developer shall pay a one time fee of \$150,000 to the City for the maintenance of the open space. The fee shall be due and payable upon acceptance of the dedication by the City.

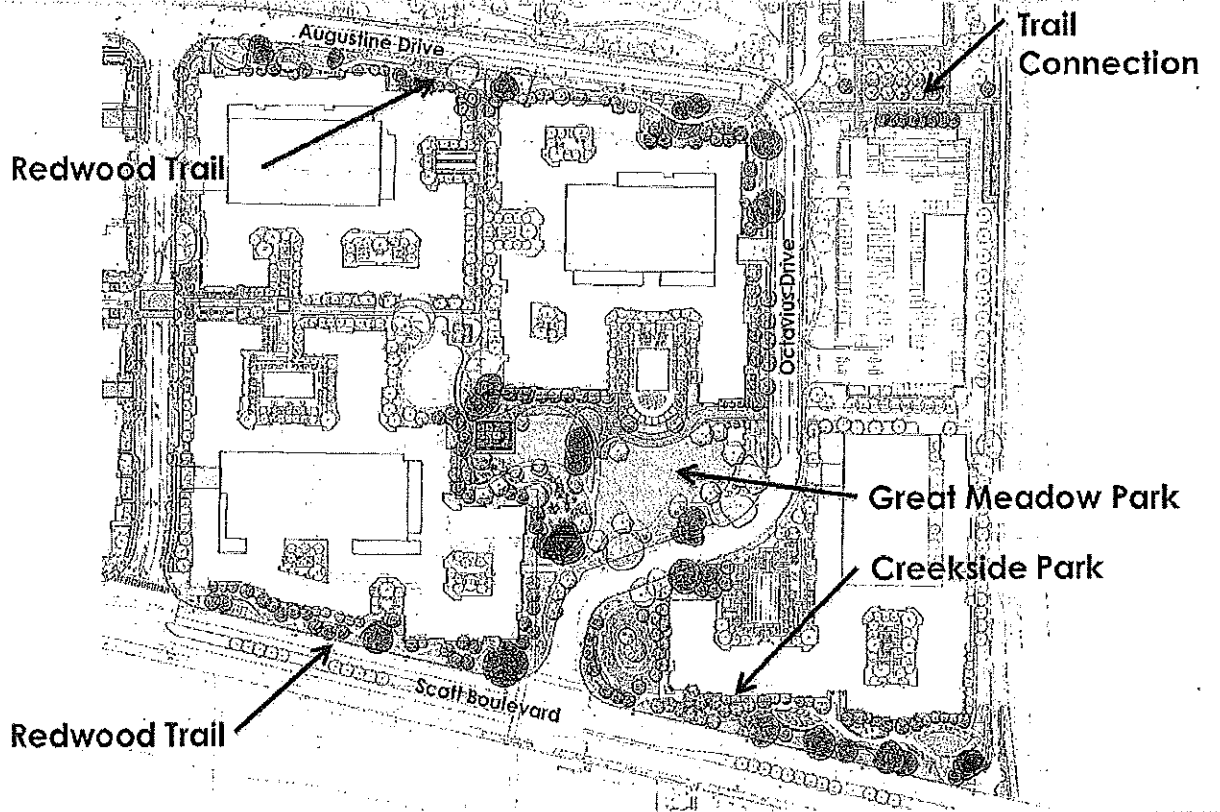
4.3 Mitigations. Developer agrees to contribute to the costs of public facilities



**Exhibit 2**  
Santa Clara Square Project Parkland Dedication, Easements and Trail Connection  
Final Schematic Design by Irvine Company.



# Public Park



**Exhibit 2 continued—**

excerpt from Development Agreement 2016 between City of Santa Clara and Irvine Company  
Parkland Dedication requirement paragraph 4.7ff.

development of the Property is in reliance upon, and in consideration of, Developer's agreement to make contributions toward the cost of public improvements and public services as provided to mitigate the impacts of development of the Property.

**4.6 Voluntary Affordability Provisions.** The Parties acknowledge that the SCCC does not, as of the Effective Date, include any requirements for the provision of affordable rental dwelling units within or in connection with the Project. Nevertheless, Developer voluntarily agrees to comply with the provisions set forth on attached **Exhibit F** regarding the provision of affordable rental dwelling units (collectively, the "Affordability Provisions").

**4.7 Dedications and Contribution to Trails, Open Space and Parks; Maintenance.** Notwithstanding the preceding provisions of Section 4 or any other provisions in this Agreement to the contrary, the provisions of this Section 4.7 shall exclusively govern the dedication and maintenance of parkland and the payment of fees due in-lieu of parkland dedication, and the credits against the amount of such parkland dedication and/or such in-lieu fees, with respect to the Project. The parkland to be dedicated hereunder will be subject to Mitigation Measure HAZ-2, which requires that "[a]gricultural chemicals or other contaminated media that may be identified by [the California Department of Toxic Substances Control ("DTSC")] shall be addressed prior to or as part of project construction under a site remediation plan approved by the DTSC. The remediation plan will be developed for the project site to prevent unacceptable human health risks to site users from chemicals of concern (COCs)." In accordance with Mitigation Measure HAZ-2, portions of such parkland may be subject to the provisions of a recorded land use covenant acceptable to DTSC. Developer reserves the right during the Term of this Agreement to allow access to any dedicated parklands for the purposes of monitoring any groundwater monitoring wells that may be situated at any time thereon.

**a. Parkland Dedication.**

(i) **Core Park and Creekside Park.** Developer shall dedicate in fee to the City the area within the Project, consisting of: (A) approximately 1.96 acres and delineated on the Development Plan as "Core Park" (the "Core Park"); and (B) approximately 0.92 acres and delineated on the Development Plan as "Creekside Park" (the "Creekside Park"), by means of an offer of dedication shown on the final map for the Project or in a separate instrument, and the City shall accept such offer of dedication upon the completion by Developer of all initial landscaping and other improvements to the Core Park and Creekside Park, respectively, as specified on the Development Plan. Developer shall provide in the Core Park the amenities listed in **Exhibit G** attached hereto and incorporated herein by this reference

(ii) **Redwood Trail and Trail Connection.** Developer shall dedicate, or cause to be dedicated (with respect to the Trail Connection as defined below), public easements to the City over the following areas by means of an offer of dedication shown on the final map for the Project or in a separate instrument, and the City shall accept such offer of dedications upon the completion by Developer of all initial landscaping and other improvements to such areas as specified on the Development Plan: (A) approximately 1.31 acres and delineated on the Development Plan as "Redwood Trail" (the "Redwood Trail"); and (C)

approximately 0.20 acres and delineated on the Development Plan as "Trail Connection" ("Trail Connection").

(iii) **Modification of Dedication Acreages.** Pursuant to Section 11.2.b, the Director of Planning & Inspection may authorize minor modifications to the acreages listed above if the Developer applies to modify the number of dwelling units (as of the Effective Date, such acreages are based upon 1,763 dwelling units), but any such modification shall require a corresponding recalculation of the fees due in lieu of parkland dedication.

(iv) **Indemnification.** Developer agrees to protect, defend, indemnify and hold harmless, City, its officers, employees, representatives, and agents, from and against any and all claims, costs, losses, demands, debts, liens, liabilities, causes of action, suits, legal or administrative proceedings, interest, fines, charges, penalties and expenses, including without limitation, attorneys' fees and court costs, of whatever kind or nature (collectively, "Claims"), whether paid, incurred, suffered, alleged, asserted, or related thereto arising directly or indirectly from or attributable to Developer's use at any time of, or conditions existing or alleged to exist as of the date the land is dedicated to the City in, on, under, above, or about the Core Park, Creekside Park, Redwood Trail or Trail Connection (collectively, the "Dedicated Lands"), including but not limited to: any repair, cleanup or detoxification, or preparation and implementation of any removal, remedial, response, closure or other plan concerning any Hazardous Materials on, under or about the Dedicated Lands, regardless of whether undertaken due to governmental action, or otherwise, or any latent or patent defect in the Dedicated Lands, including any improvements located thereon. To the fullest extent permitted by law, the foregoing hold harmless and indemnification provision shall apply except where such claim is the result of sole active negligence or willful misconduct of City, its officers, employees, representatives, or agents. Without limiting the generality of this indemnity and hold harmless provision in any way, this provision is intended to operate as an agreement pursuant to 42 U.S.C. Section 9607(e) and California Health and Safety Code Section 25364 in order to indemnify, defend, protect and hold harmless City for any liability hereunder pursuant to such sections. Developer and City agree that for purposes of this Agreement, the term "Hazardous Materials" shall have the definition set forth in Exhibit H attached hereto and incorporated by this reference.

b. **Fees Due In-Lieu of Parkland Dedication.** Developer shall pay to the City fees due in-lieu of parkland dedication in the total amount of Eleven Million Two Hundred One Thousand Five Hundred Ninety-Five Dollars (\$11,201,595) for the improvement and acquisition of trails, open space and parks in the City and otherwise in accordance with SCCC Chapter 17.35, which shall be paid at the time of issuance of the first Building Permit for vertical

construction of a Residential Building within the Project, excluding demolition and grading permits and excluding any Building Permit for a Parking Garage (“Vertical Construction”). The amount of the fee due in-lieu of parkland dedication has been calculated pursuant to applicable provisions of SCCC Chapter 17.35 based upon:

(i) a total parkland dedication requirement for the Project (prior to the application of applicable credit for Private Open Space at the Project) of approximately 9.99 acres; LESS

(ii) total public parkland dedication of approximately 4.39 acres (comprised of the Core Park [1.96 acres], Creekside Park [0.92 acres], Redwood Trail [1.31 acres] and Trail Connection [0.19 acres]); LESS

(iii) a credit (against the required parkland dedication for the Project) equal to approximately 2.84 acres, for fifty percent (50%) of the total private open space and recreational facilities to be included within the Project (“Private Open Space”) (50% of the total of approximately 5.68 acres of private open space courtyards, pool areas and other recreational facilities and amenities to be included within the Project). Prior to the Effective Date, City has made, and there is hereby incorporated herein in full, all findings pursuant to SCCC Section 17.35.070 necessary to support application to the Project of the credit for Private Open Space described herein.

c. **Voluntary Parkland Improvements.** Developer, on a voluntary basis and not as a Mitigation measure, and at no cost to City, shall construct or install the initial landscaping and other improvements to the Core Park, Creekside Park, Redwood Trail and Trail Connection as specified on the Development Plan, which the Parties acknowledge and agree shall be of a total value not less than One Million Four Hundred Thousand Four Hundred Ten Dollars (\$1,400,410).

d. **San Tomas Creek Trail.** Developer, on a voluntary basis and not as a Mitigation measure, agrees to contribute Three Hundred Fifty Thousand Dollars (\$350,000) for expansion of the San Tomas Creek Trail, payable at the time of issuance of the first Building Permit for Vertical Construction of a Residential Building.

e. **Parkland Maintenance.** Developer or its successors and permitted assigns hereunder shall be responsible, at no cost to City, for the maintenance and repairs of the Core Park, Creekside Park, Redwood Trail, Trail Connection and Private Open Space. Developer agrees to execute a separate park maintenance agreement with the City, for a term of not less than forty (40) years, which commits Developer to maintaining the parkland, indemnifies the City with respect to such maintenance, and is subject to standard City insurance requirements. Maintenance and repairs shall be to a level comparable to the level of maintenance and repairs performed by City within public parks located elsewhere within the City.

f. **Timing of Dedication and Construction.** Developer shall offer the parkland, trails and easements for public dedication upon the approved final map for the Project, or dedicate the same by separate instrument thereafter upon request by City; provided, however, that City shall not accept the same for dedication until completion of construction thereon by

Developer of all improvements required hereunder. Developer shall complete construction of improvements to each park, trail and easement required hereunder such that they shall be open to the general public no later than one hundred twenty (120) days after the issuance of the Certificate of Occupancy for the last Residential Building to be constructed within the particular phase of the Project containing such park, trail and/or easement as set forth in the Approved Phasing Plan.

g. **Park Plans.** The development of park plans must follow the City Parks & Recreation Department Park Amenity & Design Standards in effect as of the Effective Date and a copy of which is attached hereto and incorporated herein as Exhibit I (the "City Park Amenity & Design Standards"). Developer must request approval of any deviations from the City Park Amenity & Design Standards, if such deviations would result in any lesser requirements for the Project, during design development as part of the schematic design review process, including Parks & Recreation Commission recommendation and City Council approval.

h. **Parking Spaces for Park Users.** Developer agrees to provide a reasonable number of parking spaces for park visitors in the off-site "Office Phase III" parking garage, located adjacent to the Trail Connection, during weekends and holidays and on weekdays after 5:00 P.M.

**4.8 Regional Traffic Fees.** Developer agrees to the fixed sum of Two Dollars and Fifty Cents (\$2.50) per square foot of Retail Space ("Regional Traffic Fees") payable to the City at the time of issuance of each Building Permit for Vertical Construction of each Residential Building within the Project containing Retail Space, based upon the square footage of such Retail Space. Regional Traffic Fees are non-refundable.

**4.9 Local Traffic Improvements.** Notwithstanding the preceding provisions of Section 4 or any other provisions in this Agreement to the contrary, the provisions of this Section 4.9 shall exclusively govern the installation and/or maintenance of the following local traffic and transit and related improvements with respect to the Project.

a. **Installation of Local Traffic and Transit Improvements.** Developer, at its sole cost, shall construct or install the following local traffic and transit and related improvements, all as set forth in the Development Plan and Conditions of Approval and otherwise meeting all applicable City standards and specifications:

(i) **Traffic Improvements:**

- Install a signal at the Montgomery Drive/Scott Boulevard intersection.
- Signage, striping, and pavement upgrades to Octavius Drive. Upgrades include new pavement overlay, new striping that maintains the center two-way-left-turn-lane, bicycle lanes, vehicle parking, and pullouts for loading and unloading.
- Signal upgrade modification at the Octavius Drive/Scott Boulevard intersection to include a protected left turn into the Project Site.