

Recorded at no charge in accordance  
with Government Code Section 6103  
at the request of, and when  
recorded return to:

City of Palo Alto  
Real Estate Division  
250 Hamilton Avenue  
Palo Alto, CA 94301

SPACE ABOVE THIS LINE  
FOR RECORDER'S USE ONLY

A.P.N.: 127-01-157

Property Address: Greer Park  
1098 Amarillo Avenue  
Palo Alto, CA 94303

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## GRANT OF EASEMENT AND AGREEMENT

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THIS GRANT OF EASEMENT AND AGREEMENT, is made as of October 6, 2023, by and between the CITY OF PALO ALTO, a California municipal corporation, hereinafter referred to as "City", and SUMMERHILL WEST BAYSHORE LLC, a California limited liability company, and their successors in interest, hereinafter referred to as "SummerHill".

### RECITALS

A. City is the owner of that certain real property commonly known as Greer Park, Assessor Parcel Number 127-01-157, located at 1098 Amarillo Avenue, Palo Alto, CA 94303, as shown in Exhibit A – PROPERTY PARCEL MAP, attached hereto and incorporated herein, (the "Property").

B. SummerHill, as successor in interest to Carrier Properties of Nevada, Inc., for the benefit of land previously owned by Carrier Properties described as all of that certain real property situate in the City of Palo Alto, County of Santa Clara, State of California, being more particularly described as Parcel A as said Parcel is shown on that Parcel Map recorded in Book 371 of Maps at page 26 Official Records of Santa Clara County on May 6, 1976, is an owner of an easement and right of way for sanitary sewer purposes, in perpetuity, in, under, over, across, along and upon certain property located in Greer Park, as described in the Grant of Easement recorded May 28, 1976, at Book C050, Page 81, Official Records of Santa Clara County ("1976 Easement").

C. Through this Grant of Easement and Agreement, SummerHill desires to acquire a new easement and right of way for sanitary sewer purposes, under a portion of the Property, to replace SummerHill's interest in the 1976 Easement described above in Recital Section B.

NOW, THEREFORE, for valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

1. City hereby grants to SummerHill a nonexclusive easement ("Easement") for the installation, maintenance, repair and replacement of a sanitary sewer line, in perpetuity, in, under, over, across, along and upon the Property as described in Exhibit B – EASEMENT LEGAL DESCRIPTION and depicted on Exhibit C – EASEMENT PLAT TO ACCOMPANY LEGAL DESCRIPTION, attached hereto and incorporated herein, ("Easement Area") together with the right of ingress and egress thereon and the right to pass and repass over, along, across, under and upon said Easement Area whenever and wherever Summerhill desires for the purposes set forth above, provided further that Summerhill's activities shall be conducted in a manner so as to minimize disruption of City's use of the Property.

2. By separate interest, SummerHill shall execute a deed quitclaiming SummerHill's right, title and interest in the 1976 Easement to the City. The City shall record this Grant of Easement and Agreement prior to recording the quitclaim deed.

3. SummerHill shall maintain any improvements constructed or installed in the Easement Area by SummerHill. The operation and maintenance of such improvements by SummerHill shall be at SummerHill's sole cost and expense. Following completion of the construction of the underground sewer pipeline and appurtenances—and excluding emergency work—SummerHill will provide a minimum of thirty (30) days' prior written notice to City before commencing any maintenance, repair, or reconstruction of the underground sewer pipeline or appurtenances. Notice may be provided to the Director Community Services Department or any other person designated in writing by the Director of Community Services Department.

4. The Easement is subject to all liens, encumbrances, covenants, conditions, restrictions, reservations, contracts, leases and licenses, easements, and rights of way of record pertaining to the Property. The use of the word "grant" shall not imply any warranty on the part of the City with respect to the Easement or the Easement Area.

5. In connection with SummerHill's use of the Easement for the purposes set forth herein, SummerHill shall comply with all applicable laws, ordinances and regulations, including but not limited to all applicable regulatory, environmental and safety requirements, and the City Charter as may be amended, at SummerHill's sole cost and expense. SummerHill's exercise of rights pursuant to this Easement are not exempt from Palo Alto Municipal Code 22.08.005 (Ordinance required for substantial building, construction, etc.).

6. SummerHill shall not use, deposit or permit the use or deposit of any hazardous material or toxic waste or other harmful substances in, on, under or above the Property or any other real property of City adjacent to the Easement Area.

7. During the construction of the underground sewer pipeline and appurtenances, SummerHill shall make commercially reasonable efforts not to materially interfere with the use by and operation and activities of City on the Property, and SummerHill shall make commercially reasonable efforts to use such routes and follow such procedures on the Property

so as to cause the least damage and inconvenience to City. If City requests or requires that SummerHill use a route that is not located within the Easement Area, SummerHill is thereby authorized to use such route.

8. SummerHill shall be responsible for any damage to City's property or that of third parties resulting from any exercise of the rights herein granted, including but not limited to soil erosion, subsidence or damage resulting therefrom, except to the extent arising from the negligence or intentional misconduct of City or its agents. SummerHill shall promptly repair and restore to its original condition any of City's property, including, but not limited to, roads, utilities, buildings and fences that may be altered, damaged or destroyed in connection with the exercise of the Easement or use of the Easement Area.

9. This Grant of Easement is made on the express condition that City is to be free from all liability by reason of injury or death to persons or injury to property from whatever cause arising out of SummerHill's, its contractors', agents', officers', members', employees', invitees', or licensees' exercise of rights granted pursuant to this Easement or use of the Easement Area or of the improvements or personal property of SummerHill thereto or thereon, including any liability for injury or death to the person or property of SummerHill, its contractors, agents, officers, members, employees, invitees, or licensees or to any property under the control or custody of SummerHill. SummerHill hereby covenants and agrees to defend and indemnify City, its officers, employees, agents, invitees and guests and save them harmless from any and all liability, loss, costs, or obligations on account of, or arising out of, any such injury or losses caused or claimed to be caused by the exercise of the Easement or use of the Easement Area by SummerHill, however occurring, except to the extent caused by the willful or negligent acts or omissions of City, its officers, employees, agents, invitees or guests.

10. City may terminate this Easement and all of the rights granted herein any time after sixty (60) months of continuous non-use of the Easement or the Easement Area by SummerHill. (For purposes of this Grant of Easement and Agreement, the "sixty (60) months of continuous non-use of the Easement or the Easement Area" shall not be deemed to have occurred unless it has occurred contemporaneously with respect to all successors and assigns of SummerHill.) In the event of such termination, the Easement shall be quitclaimed from SummerHill to City, without expense to City, and any and all interest in the Property conveyed in this Easement shall automatically revert to City or its assigns and successors, without the necessity of any further action to effect said reversion. At the option of City, all such improvements shall become the personal property of City at no cost to City and shall become City's responsibility thereafter.

11. SummerHill alone shall pay any and all taxes, charges or use fee(s) levied by any governmental agency against SummerHill's interest in the Easement Area, or against City's interest in the Property as a result of the Easement herein granted. SummerHill shall not cause liens of any kind to be placed against the Easement Area or the Property. City shall not cause liens of any kind to be placed against the Easement Area or SummerHill's interest in the Easement.

12. This instrument contains the entire agreement between the parties relating to the rights herein granted and the obligations herein assumed. Any oral representations or modifications concerning this instrument shall be of no force or effect except in a subsequent modification in writing, signed by the party to be charged.

13. This instrument shall bind and inure to the benefit of the respective successors and assigns of the parties hereto.

[SIGNATURES ON FOLLOWING PAGE(S)]

IN WITNESS WHEREOF, the parties hereto have executed this instrument the date below.

**CITY:**

**CITY OF PALO ALTO, a California municipal corporation**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

APPROVED AS TO FORM:


By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**SUMMERHILL:**

**SummerHill West Bayshore LLC, a California limited liability company**

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

By:  \_\_\_\_\_  
Name: John Hickey  
Title: V.P. of Development  
Date: Sept. 29, 2023

By:  \_\_\_\_\_  
Name: Jason Biggs  
Title: Secretary  
Date: 9/29/2023

## 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 Santa Clara

On September 29, 2023 before me, Judy Lepulu, Notary Public  
(insert name and title of the officer)

personally appeared John Hickey and Jason Biggs,  
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)



## 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, \_\_\_\_\_  
(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.

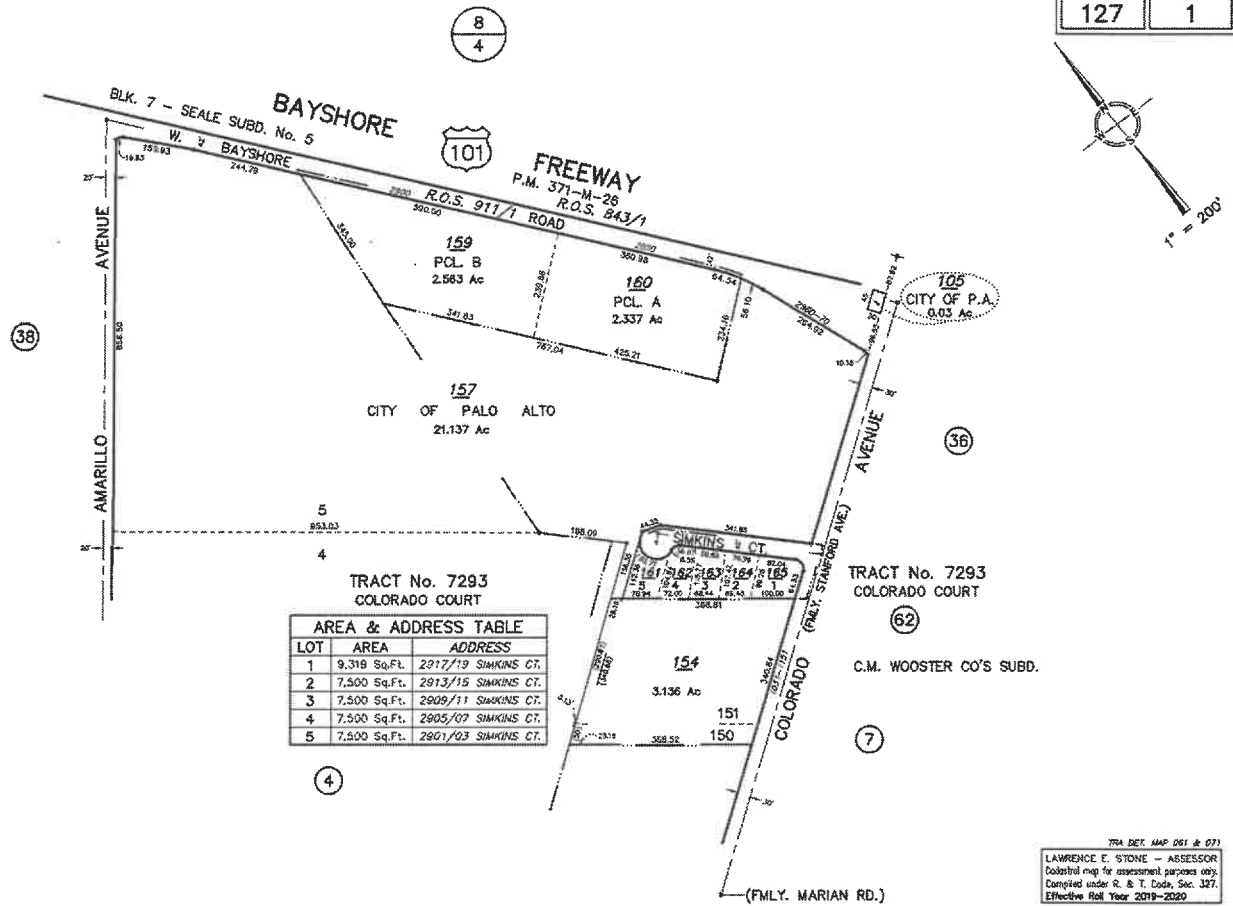
Signature \_\_\_\_\_ (Seal)

# EXHIBIT A - PROPERTY PARCEL MAP

OFFICE OF COUNTY ASSESSOR — SANTA CLARA COUNTY, CALIFORNIA

BOOK  
127

PAGE  
1





## **EXHIBIT B – EASEMENT LEGAL DESCRIPTION**

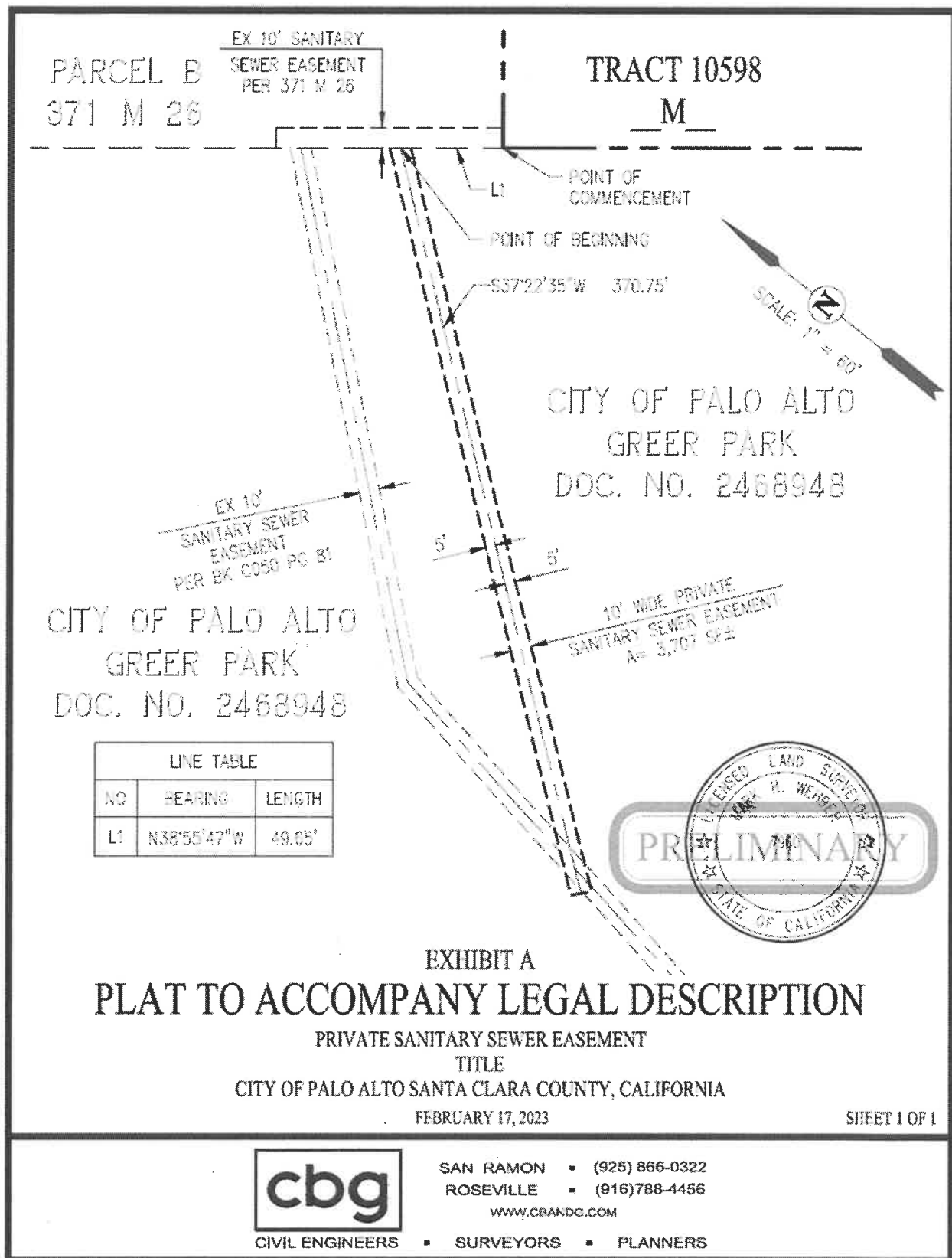
A strip of land, 10 feet in width, the centerline of which is described as follows:

BEGINNING at the westerly corner of Parcel A as shown on the parcel map filed for record in the Office of the County Recorder of the County of Santa Clara, State of California on May 6, 1976 in Book 371 of Maps, at page 26.

THENCE N.  $38^{\circ}55'47''$  W. along the prolongation of the Southwesterly line of said Parcel 2 a distance of 49.65 feet to the true point of beginning.

THENCE S.  $37^{\circ}22'35''$  W. a distance of 370.75 feet.

# EXHIBIT C – EASEMENT PLAT TO ACCOMPANY LEGAL DESCRIPTION



JOB NO. 3341-000

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