

**AGREEMENT FOR THE SALE OF CITY-OWNED EXEMPT SURPLUS LAND
(SOUTH 4TH STREET AND EAST REED STREET)**

THIS AGREEMENT FOR SALE OF CITY-OWNED EXEMPT SURPLUS LAND (“AGREEMENT”) is made and entered into by and between the CITY OF SAN JOSE, a municipal corporation (hereinafter “CITY”) and JUNIPER FUND-III, LLC, a limited liability company (hereinafter “BUYER”) and shall be made effective on the date it has been fully executed by all the Parties (hereinafter “EFFECTIVE DATE”). BUYER and CITY are sometimes individually referred to herein as a “Party” and collectively referred to herein as the “Parties”.

RECITALS

WHEREAS, CITY is the owner of that certain ± 5,120 square feet of real property, APN: 472-27-111, located in the City of San Jose, County of Santa Clara, State of California, more particularly described in **EXHIBIT “A”** and depicted in **EXHIBIT “B”** (hereinafter “PROPERTY”) attached hereto and incorporated herein; and

WHEREAS, Section 4.20.070 of the San Jose Municipal Code authorizes the sale of surplus CITY-owned real property to the owner or owners of property adjacent to such surplus property at private sale at the fair-market value thereof subject to such terms and conditions as the City Council of CITY may, in its discretion, provide, and the City Council desires to sell the Property to BUYER pursuant to such Section 4.20.070; and

WHEREAS, California Government Code §54221(f)(1)(B), authorizes the sale of surplus land to the owner or owners of real property adjacent to such surplus land at private sale, and exempts the surplus land from requirements to be placed for developing affordable housing as long as these guidelines apply to that certain surplus land: (i) has no record access, (ii) is less than 10,000 square feet in area, and (iii) is not contiguous to land owned by a state or local agency that is used for open-space or low and moderate income housing purposes.

WHEREAS, on December 14, 2021, the San Jose City Council made a finding and a determination that, the Property: (i) is not for, nor adaptable to, municipal purposes, (ii) is not independently developable, and (iii) that the sale of the Property will serve the public interest; and is therefore surplus to the needs of the CITY and “exempt surplus land” under California Government Code §54221(f)(1)(B) and authorized this transaction under San Jose Municipal Code Section 4.20.070 in accordance with Council Policy No. 7-13(D)(1); and

NOW, THEREFORE, in consideration of their mutual promises, terms, covenants and conditions hereinafter set forth, as well as the sums to be paid by BUYER and CITY, and for good and valuable consideration, the receipt and sufficiency of all which are hereby acknowledged, the BUYER and CITY agree as follows:

AGREEMENT

1. **Property to be Conveyed.**

Subject to the provisions of this Agreement, CITY shall transfer and convey to BUYER by quitclaim deed in substantially the same form as **EXHIBIT "D"** ("Quitclaim Deed"), and BUYER shall purchase and take from CITY, all of CITY's right title, and interest in and to the Property.

2. **Easement to be Conveyed.**

Subject to the provisions of this Agreement, BUYER shall transfer and convey to Habitat for Humanity East Bay/Silicon Valley ("Habitat for Humanity") by easement agreement in substantially the same form as **EXHIBIT "E"** ("Parking Easement"), a perpetual easement providing four parking spaces in any future development including the Property to the benefit of the neighboring Pallesen Apartments, also known as Parcel A and depicted in **EXHIBIT "C"** (herein after "Pallesen Apartments") attached hereto and incorporated herein. The Parking Easement would provide one (1) dedicated off-street parking space for each of the four (4) units in the Pallesen apartments.

3. **Purchase Price.**

The CITY obtained an appraisal which contemplated the fair market value of the Property at One Hundred Fifty Thousand Dollars (\$150,000) and the Parking Easement at Thirty-Five Thousand Dollars (\$35,000). CITY and BUYER have agreed that the Purchase Price, defined below, for the Property shall reflect a discount, equal to the fair market value of the Parking Easement, for the BUYER's conveyance to Habitat for Humanity of said Parking Easement. Therefore, BUYER shall pay to CITY, in consideration of CITY's conveyance to BUYER of said Property, the sum of ONE HUNDRED FIFTEEN THOUSAND DOLLARS (\$115,000.00). Said sum shall hereinafter be referred to as the "Purchase Price".

4. **Opening Escrow; Tender and Acceptance of Payment.**

Upon full execution of this Agreement by BUYER and CITY, an escrow shall be opened with Chicago Title Company, 675 North First Street, Suite 400, San Jose, CA 95112, Attention: Melisa McRoberts, Escrow No. FWPS-2996220663 (the "Escrow Holder"). BUYER shall deposit THREE THOUSAND FOUR HUNDRED FIFTY DOLLARS (\$3,450.00) ("Deposit") in cash or other immediately available funds with the Escrow Holder upon the opening of escrow. The remaining balance of the Purchase Price in cash or other immediately available funds shall be deposited with the Escrow Holder no later than three (3) business days prior to the "Closing Date", as defined below. Except as set forth herein to the contrary, upon CITY's execution of this Agreement and the opening of escrow, the Deposit (together with any interest accrued thereon), shall become non-refundable, to be retained by CITY as liquidated damages in the event BUYER's breach of its obligation to purchase the Property pursuant to this Agreement, but to be credited toward the Purchase Price at Closing. By its execution of this Agreement, CITY accepts the Purchase Price as full compensation for the Property.

5. **Additional Fees and Charges.**

BUYER shall be responsible for the full payment of all title insurance, escrow, recording fees, documentary transfer taxes, broker commissions and other fees and charges associated with this transaction. BUYER shall indemnify, defend, and hold CITY harmless from and against, and CITY shall have no liability or responsibility for any such fees, costs, taxes, or expenses.

6. **Due Diligence Period.**

BUYER will have thirty (30) days from the date of execution of this Agreement to investigate the Property, including without limitation conducting any and all investigations necessary to inform BUYER about the condition of the Property and its sufficiency for BUYER's intended use. Should BUYER need access to the Property to conduct such inspections, BUYER must notify CITY in writing indicating the date and time of such inspections and who will be representing BUYER.

7. **Delivery and Recording of Deed; Real Property Taxes; Delivery of Property.**

The Escrow Holder will close the escrow and record the Quitclaim Deed and Parking Easement on such date (the "Closing Date") as directed by CITY in its escrow instructions, which Closing Date shall be on a date which is forty-five (45) days after the Effective Date, unless the CITY and BUYER agree in writing that the Closing Date be on a later date, which later date shall in no event be later than eighteen (18) months from the Effective Date.

No later than fifteen (15) days prior to the Closing Date, CITY shall deliver, to the office of the Escrow Holder, a Quitclaim Deed in the form set forth in Exhibit "D" ("Quitclaim Deed") executed and fully notarized by CITY and BUYER shall deliver, to the office of the Escrow Holder, the Parking Easement in the form set forth in Exhibit "E", executed and fully notarized by BUYER. CITY and BUYER shall deliver any such additional documents and instruments as Escrow Holder may reasonably require in order to close escrow. The CITY and BUYER shall provide Escrow Holder with their separate instructions for closing escrow consistent with the terms of this Agreement.

Real property taxes and assessments, if any, shall be payable by BUYER for the period from and after the date of recordation of the Quitclaim Deed executed by CITY. CITY and BUYER shall deliver any such additional documents and instruments as Escrow Holder may reasonably require in order to close escrow. The CITY and BUYER shall provide Escrow Holder with their separate instructions for closing escrow consistent with the terms of this Agreement.

8. **BUYER'S Sole Remedies for Failure to Convey.**

In the event, the close of escrow and the consummation of the transaction contemplated by this Agreement do not occur by reason of default of the CITY, including without limitation if the CITY's Quitclaim Deed shall, for any reason, be insufficient to convey fee title to the Property on or before the Closing Date (as shall be evidenced by Escrow Holder's willingness to issue an ALTA Standard Coverage Owner's policy of title insurance insuring such title in the name of BUYER in the amount of the Purchase Price), BUYER as its sole remedies will be entitled to (i) terminate this Agreement and receive a refund of

the Deposit, or (ii) proceed to close of escrow, in which case the BUYER will have waived any CITY default. If the BUYER elects to proceed to close and the CITY does not take the actions required under this Agreement in order for closing to occur, the BUYER reserves the right to seek specific performance. BUYER shall have no other right of action against CITY and shall not be entitled to recover any damages from CITY. BUYER's agreement to proceed to closing of escrow shall constitute BUYER's waiver of its right to terminate this Agreement pursuant to this Section 7 or other right of action against CITY in regards to failure to convey fee title or other condition of title. AS A MATERIAL INDUCEMENT TO, AND AS MATERIAL CONSIDERATION FOR CITY'S ENTERING INTO THIS AGREEMENT WITH BUYER, BUYER WAIVES ANY RIGHT TO (A) SEEK OR OBTAIN RESCISSION OF THE SALE; AND (B) TO RECOVER ANY PUNITIVE OR CONSEQUENTIAL DAMAGES AND ANY OTHER DAMAGES OR MONETARY COMPENSATION.

9. **Condition of Title.**

CITY's right, title, and interest in and to the Property shall be delivered by CITY hereunder subject to all exceptions, encumbrances, liens, and restrictions of record and not of record, as of the Closing Date. For the avoidance of doubt, it is agreed that BUYER shall rely solely upon Escrow Holder's ALTA Standard Coverage Owner's policy of title insurance, if any, for protection with respect to matters affecting title to the Property, and that CITY shall have no obligations with respect to matters affecting title to the Property (including, without limitation, providing owner affidavits or other assurances to Escrow Holder).

10. **As-Is Property Condition; BUYER's Due Diligence.**

a) BUYER ACKNOWLEDGES AND AGREES THAT UPON CLOSE OF ESCROW, CITY SHALL SELL AND CONVEY TO BUYER AND BUYER SHALL ACCEPT THE PROPERTY "AS IS, WHERE IS, WITH ALL FAULTS," EXCEPT TO THE EXTENT EXPRESSLY PROVIDED OTHERWISE IN THIS AGREEMENT. BUYER ACCEPTS AND AGREES TO BEAR ALL RISKS REGARDING ALL ATTRIBUTES AND CONDITIONS, LATENT OR OTHERWISE, OF THE PROPERTY, EXCEPT AS PROVIDED IN THIS AGREEMENT. FURTHER, AND WITHOUT LIMITING THE FOREGOING, BUYER ACKNOWLEDGES AND AGREES THAT BUYER WILL HAVE REVIEWED ALL APPLICABLE LAWS, ORDINANCES, RULES, AND GOVERNMENTAL REGULATIONS (INCLUDING, BUT NOT LIMITED TO, THOSE RELATED TO BUILDING, ZONING AND LAND USE) PERTAINING TO THE PROPERTY AND BUYER WILL HAVE HAD AN OPPORTUNITY TO INSPECT THE PROPERTY. BY INITIALING BELOW, BUYER ACKNOWLEDGES THAT IT HAS READ AND FULLY UNDERSTANDS THIS SECTION AND THAT IT HAS HAD THE OPPORTUNITY TO OBTAIN COUNSEL AND ASK QUESTIONS AS TO ITS N

Tim Henderson

BUYER's Initials: _____

Email: tim@cypress-re.com
Date: 09/27/2022 GMT

b) BUYER acknowledges, confirms, and agrees: (i) BUYER has relied on BUYER's own investigation of the condition of the PROPERTY, which it has had the opportunity to conduct to its satisfaction prior to the Effective Date and (ii) it shall take the Property in the condition that it is in at the Close of Escrow Date.

c) To the extent that CITY has provided to BUYER information or reports regarding the Property, CITY makes no representation or warranty, express or implied, as to the truth, accuracy or completeness of any materials, data, financial information, or other information in CITY's files

or delivered or disclosed by CITY (or CITY's representatives or agents) to BUYER. BUYER acknowledges and agrees all such items are provided to BUYER as a convenience only and, except for the representations and warranties set forth in this Agreement, that any reliance on or use of such materials, data or information by BUYER shall be at the sole risk of BUYER. Neither CITY, nor the person or entity which prepared any report or reports delivered by CITY to BUYER shall have any liability to BUYER for any inaccuracy or omission from any such report. BUYER acknowledges and agrees that the obligations of CITY in connection with the purchase of the Property shall be governed by this Agreement irrespective of the contents of any such disclosures or the timing or delivery thereof.

d) Except as expressly set forth in this Agreement, it is understood and agreed that CITY and CITY's agents, employees or attorneys have not at any time made and are not now making, and they specifically disclaim, any warranties, representations or guaranties of any kind or character, express or implied, with respect to the Property or the legal or physical condition thereof, including, but not limited to, warranties, representations or guaranties as to (1) matters of title (other than any CITY's warranty of title contained in the Quitclaim Deed), (2) zoning or building entitlements to which the Property or any portion thereof may be subject, now or in the future, (3) usages of adjoining property, (4) the value, compliance with the plans and specifications, size, location, age, use, design, quality, description, suitability, structural integrity, operation, title to, or physical condition of the Property or any portion thereof, or any income, expenses, charges, liens, encumbrances, rights or claims on or affecting or pertaining to the Property or any part thereof, (5) environmental matters relating to the Property or any portion thereof, including, without limitation, the presence of Hazardous Substances (as defined in **EXHIBIT "F"** below) in, on, under or in the vicinity of the Property, (6) the condition or use of the Property or compliance of the Property with any or all past, present or future federal, state or local ordinances, rules, regulations or laws, building, fire or zoning ordinances, codes or other similar laws, (7) the size of, or square feet contained in, the Property or its dimensions, or (8) any other matter or thing with respect to the Property.

11. **Indemnification and Hold Harmless.**

BUYER agrees to protect, defend, indemnify and hold harmless, CITY, its officers, employees, or agents, from and against all claims, response costs, losses, demands, debts, liens, liabilities, causes of action, suits, legal or administrative proceedings, interest, fines, charges, penalties and expenses (collectively, "Claims") of any kind whatsoever paid, incurred, suffered or asserted on or after the close of escrow directly or indirectly arising from or attributable to the Property Condition or any use of the Property (including BUYER's use of the Property before the Effective Date), including without limitation any repair, cleanup or detoxification, or preparation and implementation of any removal, remedial, response, closure or other plan concerning any Hazardous Substance on, under or about the Property, regardless of whether undertaken due to governmental action. The foregoing hold harmless and indemnification provision and following release provision shall apply to the fullest extent permitted by law, including where such Claim is the result of the act or omission of CITY, its officers, agents or employees. 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, its officers, agents or employees

for any liability pursuant to such sections. CITY and BUYER agree that for purposes of this Agreement, the term "Hazardous Substance" shall have the definition set forth in EXHIBIT "F", which is attached to this Agreement and incorporated by reference. BUYER, for itself, its legal representatives and assigns, releases CITY, its officers, agents or employees from any and all Claims that it had, now has, or claims to have, or that any person claiming through them may have, or claim to have, arising out of any use of the Property, or Property Condition (including, without limitation, uses of or conditions on the Property undertaken or caused by BUYER's prior to the Effective Date).

12. General Release.

BUYER, for itself and its agents, affiliates, successors and assigns, hereby agrees that BUYER releases and forever discharges CITY, its agents, affiliates, successors and assigns from any and all Claims, including, without limitation, rights, claims and demands at law or in equity, whether known or unknown at the time of this Agreement, which BUYER had, has or may have in the future, arising out of the physical, environmental, economic or legal condition of the Property, including, without limitation, any claim for indemnification or contribution arising under the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Section 9601, et. seq.) or any similar federal, state or local statute, rule or ordinance relating to liability of property owners for environmental matters. Further, BUYER, for itself, its legal representatives and assigns, releases CITY, its officers, agents or employees from any and all Claims that it had, now has, or claims to have, or that any person claiming through them may have, or claim to have, arising out of the City's conditional vacation of the public street commonly known as Old West Julian Street. For the foregoing purposes, BUYER hereby specifically waives the provisions of Section 1542 of the California Civil Code and any similar law of any other state, territory or jurisdiction. Section 1542 provides:

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

Tim Henderson

BUYER's Initials: _____
Email: tim@cypress-re.com
Date: 09/27/2022 GMT

Having been so apprised, to the fullest extent permitted by law, BUYER, elects to assume all risk for claims heretofore or hereafter, known or unknown, arising from the subject of this release, and BUYER knowingly and voluntarily expressly releases the CITY, its officers, agents or employees from all Claims, unknown or unsuspected, arising out of any use of the Property, or the Property Condition. The provisions of Sections 5, 8, 9, 10, 11, 12, and 13 shall survive the close of escrow or earlier termination of this Agreement.

13. Binding on Successors.

This Agreement inures to the benefit of and is binding on the Parties hereto, their respective heirs, personal representatives, successors and assigns.

14. **Merger; Entire Agreement.**

This Agreement supersedes any prior agreements, negotiations, and communications, oral or written, and contains the entire agreement between CITY and BUYER relating to the subject matter hereof. No subsequent agreement, representation, or promise made by either Party, or by or to any employee, officer, agent, or representative of either Party shall be of any effect unless it is in writing and executed by the Party to be bound thereby. The terms of this Agreement shall not be modified or amended except by an instrument in writing executed by each of the Parties.

15. **Acknowledgement.**

BUYER acknowledges that it has received the separate notice required by California Civil Code Section 1057.6 (regarding title insurance).

16. **Notices.**

Any notice which is required to be given hereunder, or which either Party may desire to give to the other, shall be in writing and may be personally delivered or given by mailing the same by registered or certified mail, postage prepaid, addressed as follows:

To the BUYER: Juniper Fund-III, LLC
19880 Lark Way
Saratoga, CA 95070
Attention: Tim Henderson

With a copy to: Law Offices of Eric Mogensen
12300 Via Roncole
Saratoga, CA 95070
Attention: Eric Mogensen

or to such other place as BUYER may designate by written notice.

To the CITY: City of San José
Office of Economic Development
Real Estate Services
200 East Santa Clara Street, 12th Floor
San Jose, CA 95113
Attn: Real Estate Manager

With a copy to: City of San José
Office of the City Attorney
200 East Santa Clara Street, 16th Floor
San Jose, CA 95113

or to such other place as CITY may designate by written notice.

17. **Parties Costs.**

Each party hereto shall bear the costs of its own attorneys and consultants in connection with the negotiation and preparation of this Agreement and any and all costs associated with or stemming from the consummation of the transaction contemplated in this Agreement including any and all costs incurred in enforcing this Agreement.

18. **Miscellaneous.**

a. Whenever the singular number is used in this Agreement and when required by the context, the same shall include the plural and the masculine gender shall include the feminine and neuter genders.

b. If there be more than one entity designated in or signatory to this Agreement on behalf of BUYER, the obligations hereunder imposed upon BUYER shall be joint and several; and the term BUYER as used herein shall refer to each and every of said signatory parties, severally as well as jointly.

c. Time is and shall be of the essence of each term and provision of this Agreement.

d. Each and every term, condition, covenant and provision of this Agreement is and shall be deemed to be a material part of the consideration for CITY's entry into this Agreement, and any breach hereof by BUYER shall be deemed to be a material breach. Each term and provision of this Agreement performable by BUYER shall be construed to be both a covenant and a condition.

e. This Agreement shall be deemed to have been made in, and be construed in accordance with the laws of the State of California. Venue for any proceeding to enforce the provisions of this Agreement shall be in the County of Santa Clara.

f. The headings of the several paragraphs and sections of this Agreement are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope or intent of any provisions of this Agreement and shall not be construed to affect in any manner the terms and provisions hereof or the interpretation or construction thereof.

g. In the event any covenant, condition or provision herein contained is held to be invalid by a court of competent jurisdiction, the invalidity of any such covenant, condition or provision shall in no way affect any other covenant, condition or provision herein contained, provided the invalidity of any such covenant, condition or provision does not materially prejudice either BUYER or CITY in its respective rights and obligations contained in the valid covenants, conditions and provisions of this Agreement.

h. All exhibits and addenda referred to herein, and any exhibits or schedules which may from time to time be referred to in any duly executed amendment hereto, are by such reference incorporated herein and shall be deemed a part of this Agreement as if set forth fully herein. The exhibits to this Agreement are as follows:

Exhibit A – Property Legal Description

Exhibit B – Plat Map of Property

Exhibit C – Plat Map of Pallesen Apartments

Exhibit D – Form of Quitclaim Deed

Exhibit E – Form of Parking Easement Agreement

Exhibit F – Definition of Hazardous Substances

i. This Agreement shall be interpreted and construed only by the contents hereof, and there shall be no presumption or standard of construction in favor of or against either Party.

j. As used in this Agreement, the term "Business Day" means any day that is not a Saturday, Sunday or legal holiday for national banks and government offices in San Jose, California; as used herein, the term "Calendar Day" or simply "day" or "days" means any day of the year without regard to weekends or legal holidays.

k. In computing the time period (whether measured in Business Days or Calendar Days) within which a right may be exercised or an act is to be performed after some preceding event or delivery (such as a notice), such period shall begin on the first day following the last day of such preceding event or delivery, except if the first day is not a Business Day, in which case the first day of such period shall be deemed to be the next Business Day. If the last day of such period is not a Business Day, the period shall be extended to the next Business Day. The last day of any period shall be deemed to end at 5:00 p.m. California time.

l. BUYER may not assign its rights or interest in this Agreement to any party without the express written consent of CITY, which consent may be given or withheld in CITY's sole and absolute discretion; provided however, this Agreement may be assigned, without the consent of the CITY, to any party that obtains fee title to all the parcels directly adjacent to the PROPERTY such that such assignee meets the requirements of Section 4.20.070 of the San Jose Municipal Code. Prior to any assignment of this Agreement, the form of assignment and assumption agreement shall be approved by the City Attorney's office.

m. This Agreement may be executed in any number of duplicate originals and each duplicate original shall be deemed to be an original. This Agreement may be executed in several counterparts, each of which counterparts shall be deemed an original instrument and all of which together shall constitute a single Agreement. The failure of any party hereto to execute this Agreement, or any counterpart hereof, shall not relieve the other signatories from their obligations hereunder.

n. Unless otherwise prohibited by law or CITY policy, the parties agree that an Electronic Copy of a Signed Contract, or an Electronically Signed Contract, has the same force and legal effect as a contract executed with an original ink signature. The term "Electronic Copy of a Signed Contract" refers to a writing as set forth in Evidence Code Section 1550. The term "Electronically Signed Contract" means a contract that is executed by applying an electronic signature using technology approved by the CITY.

o. In addition to the acts and deeds recited herein and contemplated to be performed, executed and/or delivered by either party prior to the Closing Date, each party agrees to perform, execute and deliver, but without any obligation to incur any additional liability or expense, on or after the Closing Date any further deliveries and assurances as may be reasonably necessary to consummate the transactions contemplated hereby.

p. The provisions of this Agreement and of the documents to be executed and delivered to close escrow are and will be for the benefit of CITY and BUYER only and are not for the benefit of any third party, and accordingly, no third party shall have the right to enforce the provisions of this Agreement or of the documents to be executed and delivered to close escrow.

q. Each person signing below warrants and guarantees that s/he is legally authorized to execute this Agreement on behalf of the respective party and that such execution shall bind said party to the terms of this Agreement. The City Manager, or his designee, is authorized to execute, on behalf of the City of San Jose, deeds and all other documents as may be necessary to effectuate this Agreement and the transfer of property rights herein.

[Remainder of Page Left Intentionally Blank. Signatures on Following Page.]

IN WITNESS WHEREOF, this Agreement has been duly executed by the Parties as of the dates written herein below.

Cameron Day

Email: cameron.day@sanjoseca.gov
Date: 10/07/2022 GMT

CAMERON DAY
Deputy City Attorney

"CITY"

City of San Jose, a municipal corporation

Sarah Zarate

Email: sarah.zarate@sanjoseca.gov
Date: 10/10/2022 GMT

SARAH ZARATE
Director of Administration, Policy, and
Intergovernmental Relations

"BUYER"

JUNIPER FUND-III, LLC, a limited liability

Tim Henderson

Email: tim@cypress-re.com
Date: 09/27/2022 GMT

By: TIM HENDERSON, Manager

EXHIBIT A

DESCRIPTION OF REAL PROPERTY

All that certain real property situate in the City of San José, County of Santa Clara, State of California, being a portion of the lands described in that certain DIRECTOR'S DEED, recorded June 19, 1972 in Book 9886 of Official Records, at Page 11, as Document No. 4282416 in the Office of the Recorder, County of Santa Clara, State of California, and being more particularly described as follows:

COMMENCING at a point on the most southeasterly line of Reed Street, also being the most northerly corner of said parcel (9886 OR 11);

Thence along the northeasterly line of said parcel, South 29°53'01" East, 32.64';

Thence along a tangent curve to the right, having a radius of 130.00', a central angle of 43°56'07", an arc length of 99.69', to a point of intersection of the northeasterly prolongation of the northwesterly line, with the southeasterly line of said parcel, also being the **TRUE POINT OF BEGINNING** of this description;

Thence continuing along said southeasterly line and curve to the right, having a radius of 130.00', a central angle of 46°03'53", an arc length of 104.52', having a radial bearing of North 75°56'54" West, to a point on the southeasterly line of said parcel;

Thence along said southeasterly line, South 60°06'59" West, 63.81' to the most southerly corner of said parcel;

Thence along the southwesterly line of said parcel, North 29°53'01" West, 40.00' to a point on the northwesterly line of said parcel;

Thence along said northwesterly line the following three (3) courses:

- 1) North 60°06'59" East, a distance of 43.82';
- 2) South 29°53'01" East, a distance of 0.20';
- 3) North 60°06'59" East, a distance of 113.61' to the POINT OF BEGINNING.

Containing approximately 5,120 square feet, or 0.12 acres, more or less.

Attached hereto and by reference a part hereof is a plat labeled "EXHIBIT 'B-1': PLAT TO ACCOMPANY LEGAL DESCRIPTION OF REAL PROPERTY" depicting the subject property.

This description was prepared from record information.

The above description of real property was prepared by me, or under my supervision, in conformance with the requirements of Section 8726 (g, k, l, m) of the Business and Professions Code of the State of California.



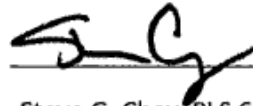
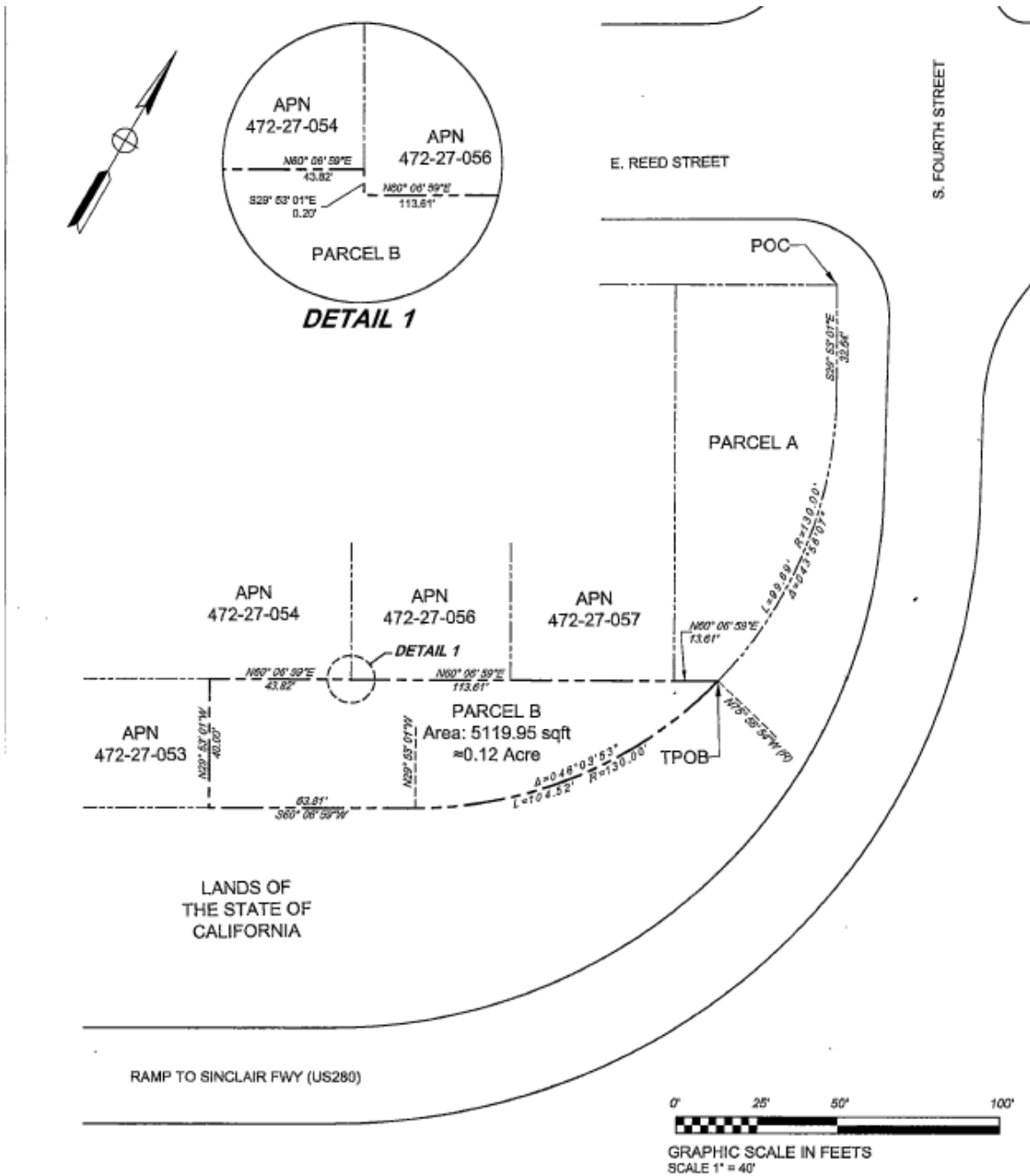

Steve G. Choy, PLS 6672

EXHIBIT B

PLAT MAP OF PROPERTY



DRAWN BY: JR
CHECK BY: SC

CSJ PROJECT FILE: 20-102
SHEET 1 OF 1

EXHIBIT B-1
PLAT TO ACCOMPANY LEGAL DESCRIPTION FOR REAL PROPERTY

PREPARED BY CITY
OF SAN JOSE
SURVEY SECTION
MARCH 1, 2021

EXHIBIT C

PLAT MAP OF PALLESEN APARTMENTS

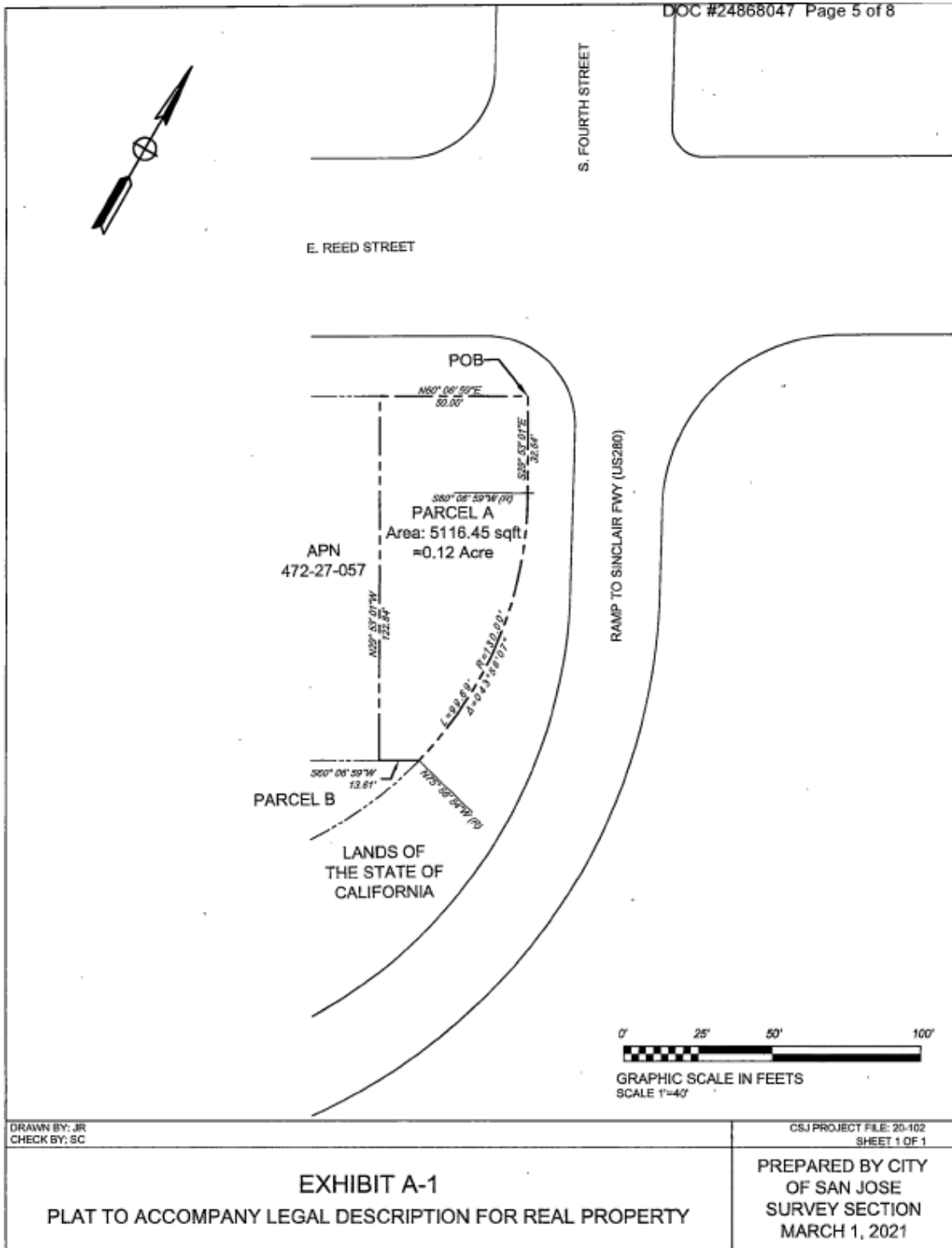


EXHIBIT D

FORM OF QUITCLAIM DEED

RECORDING REQUESTED BY

City of San Jose

WHEN RECORDED MAIL TO:

(space above for recorder's use only)

MAIL TAX STATEMENTS TO:

Document transfer tax is _____
Computed on full value of property conveyed
City Transfer tax is _____

Signature of declarant

QUITCLAIM DEED

The **CITY OF SAN JOSE**, a municipal corporation of the State of California, hereby REMISES, RELEASES AND FOREVER QUITCLAIMS to **JUNIPER FUND-III, LLC**, a limited liability company, any and all right, title or interest in the real property located in the City of San Jose, County of Santa Clara, State of California, described and depicted in the attached Exhibit A (“Property”), incorporated by reference to this document.

IN WITNESS WHEREOF, the CITY OF SAN JOSE has caused this instrument to be executed as of this _____ day of _____, 2021.

APPROVED AS TO FORM:

CITY OF SAN JOSE,
a municipal corporation of the State of
California

CAMERON DAY
Deputy City Attorney

By: _____

Name: SARAH ZARATE
Title: Director of Office of Administration,
Policy, and Intergovernmental Relations

EXHIBIT A to QUITCLAIM DEED

DESCRIPTION OF REAL PROPERTY

All that certain real property situate in the City of San José, County of Santa Clara, State of California, being a portion of the lands described in that certain DIRECTOR'S DEED, recorded June 19, 1972 in Book 9886 of Official Records, at Page 11, as Document No. 4282416 in the Office of the Recorder, County of Santa Clara, State of California, and being more particularly described as follows:

COMMENCING at a point on the most southeasterly line of Reed Street, also being the most northerly corner of said parcel (9886 OR 11);

Thence along the northeasterly line of said parcel, South 29°53'01" East, 32.64';

Thence along a tangent curve to the right, having a radius of 130.00', a central angle of 43°56'07", an arc length of 99.69', to a point of intersection of the northeasterly prolongation of the northwesterly line, with the southeasterly line of said parcel, also being the **TRUE POINT OF BEGINNING** of this description;

Thence continuing along said southeasterly line and curve to the right, having a radius of 130.00', a central angle of 46°03'53", an arc length of 104.52', having a radial bearing of North 75°56'54" West, to a point on the southeasterly line of said parcel;

Thence along said southeasterly line, South 60°06'59" West, 63.81' to the most southerly corner of said parcel;

Thence along the southwesterly line of said parcel, North 29°53'01" West, 40.00' to a point on the northwesterly line of said parcel;

Thence along said northwesterly line the following three (3) courses:

- 1) North 60°06'59" East, a distance of 43.82';
- 2) South 29°53'01" East, a distance of 0.20';
- 3) North 60°06'59" East, a distance of 113.61' to the POINT OF BEGINNING.

Containing approximately 5,120 square feet, or 0.12 acres, more or less.

Attached hereto and by reference a part hereof is a plat labeled "EXHIBIT 'B-1': PLAT TO ACCOMPANY LEGAL DESCRIPTION OF REAL PROPERTY" depicting the subject property.

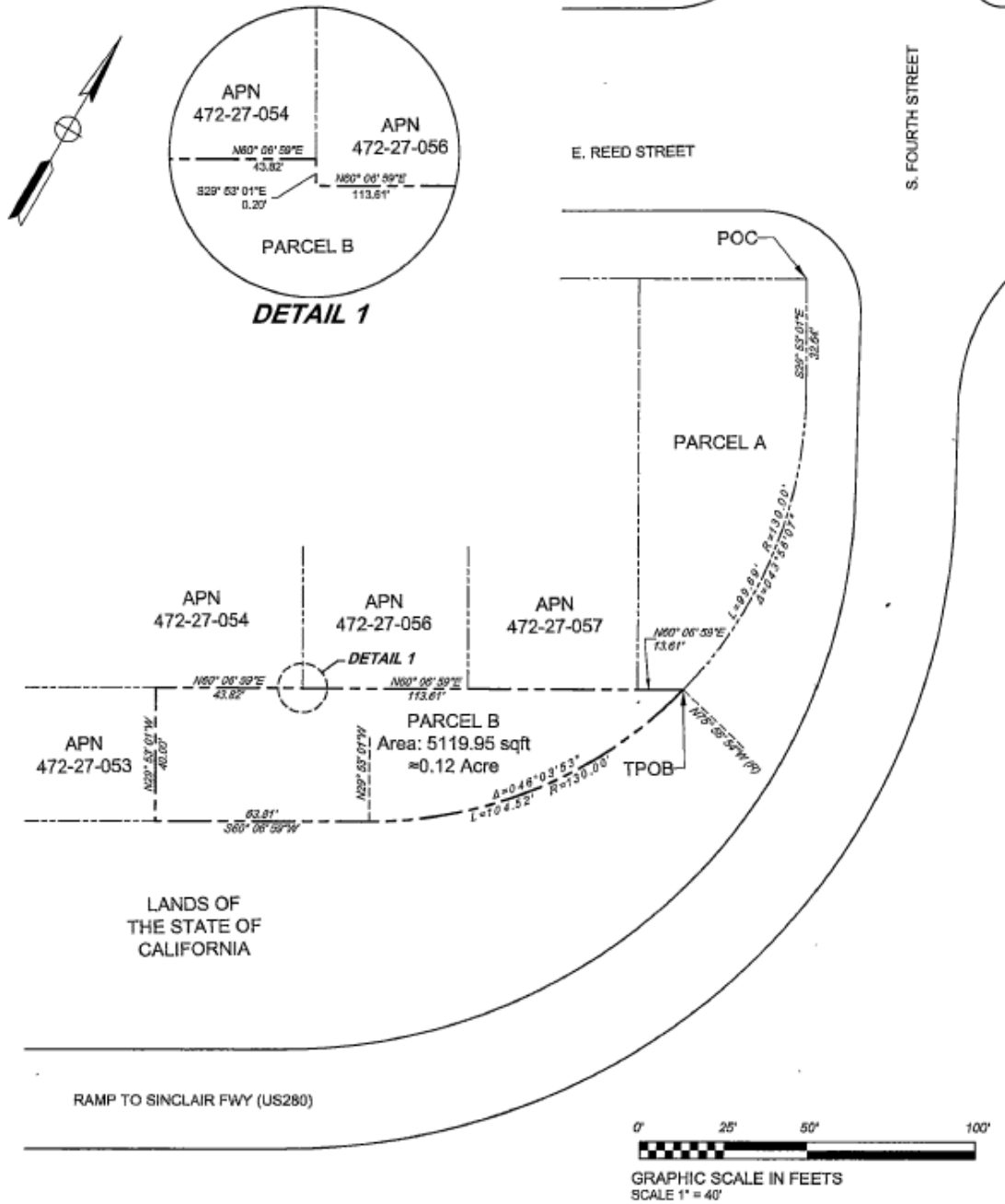
This description was prepared from record information.

The above description of real property was prepared by me, or under my supervision, in conformance with the requirements of Section 8726 (g, k, l, m) of the Business and Professions Code of the State of California.



A handwritten signature in black ink, appearing to read "SG", written over a horizontal line.

Steve G. Choy, PLS 6672



DRAWN BY: JR
CHECK BY: SC

CSJ PROJECT FILE: 20-102
SHEET 1 OF 1

EXHIBIT B-1
PLAT TO ACCOMPANY LEGAL DESCRIPTION FOR REAL PROPERTY

PREPARED BY CITY
OF SAN JOSE
SURVEY SECTION
MARCH 1, 2021

EXHIBIT E

FORM OF PARKING EASEMENT AGREEMENT

Recorded at the request of:

Title Co.

Escrow No.

When recorded return to:

SPACE ABOVE THIS LINE FOR RECORDER'S USE

A.P.N.: portion of 472-27-106

Santa Clara County, California

EASEMENT AGREEMENT

This Easement Agreement (this "**Agreement**") is made as of _____, 2022, by and between the Juniper Fund III, a limited liability company ("**ASSIGNOR**") and Habitat for Humanity East Bay / Silicon Valley, Inc., a California non-profit benefit corporation ("**ASSIGNEE**").

In consideration of the mutual covenants set forth herein and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree as follows:

1. **Grant of Easement.** ASSIGNOR hereby grants to ASSIGNEE, its successors and assigns, a non-exclusive, parking easement ("**Easement**") on the property described and depicted in **Exhibit A**, attached hereto ("**Property**"). Said Easement shall consist of no fewer than four (4)

compact parking spaces totaling approximately 512 square feet for the ASSIGNEE's use at a location on the ASSIGNOR Property as designated by ASSIGNOR.

2. **Commencement of Rights.** The right to park on the Property pursuant to this Easement will commence no later than six (6) months after completion of construction/development of the Property. No fewer than thirty (30) days prior to commencement of ASSIGNEE's parking rights, ASSIGNOR will designate the location of the parking rights in writing. For purposes of this Paragraph 2, "construction/development of the property" means the construction of any project which required San Jose planning approval which includes this property.

3. **Relocation of Easement.** ASSIGNEE acknowledges that, in the future, ASSIGNOR may wish to replace this Easement with an easement specifically showing the final designated location of the Easement within the Property. As a result, the parties agree that this Easement shall terminate at any time upon ASSIGNOR's recording of a perpetual, non-exclusive, replacement parking easement benefitting the ASSIGNEE ("**Replacement Parking Easement**"). Said Replacement Parking Easement will meet the following "**Replacement Criteria:**"

1. It will permit ASSIGNEE use of no fewer than for four (4) parking spaces;
2. It will be on a lot consisting of no less than 512 square feet; and
3. It will be at a location on the Property, or if not on the Property, then as close to the Property as possible on a property agreed to by the parties.
4. It will require ASSIGNOR to construct the initial parking facility for ASSIGNEE.
5. It will require that future maintenance and/or replacement of the parking facilities will be responsibility of ASSIGNEE, unless otherwise agreed by the parties.

No fewer than 90 days prior to recording such Replacement Parking Easement, ASSIGNOR will provide ASSIGNEE notice of the Replacement Parking Easement together with a copy of the proposed Replacement Parking Easement (the "**Replacement Notice**"). If the Replacement Parking Easement does not meet the Replacement Criteria, then within 45 days of receiving the Replacement Notice, ASSIGNEE will provide ASSIGNOR with a formal written response evidencing its acceptance or rejection of the Replacement Parking Easement. ASSIGNEE will not be entitled to accept or reject the Replacement Parking Easement unless the proposed Replacement Parking Easement does not meet the Replacement Criteria. If ASSIGNEE rejects the proposed Replacement Parking Easement, the parties agree to negotiate in good faith to determine a mutually acceptable parking location. If ASSIGNEE fails to respond to the Replacement Notice within said 45-day period, the Replacement Parking Easement shall be deemed accepted by ASSIGNEE.

ASSIGNEE will execute a recordable quitclaim deed in favor of ASSIGNOR evidencing the termination of its rights under this Easement within ten (10) days after the recordation of the Replacement Parking Easement.

4. Construction & Maintenance. ASSIGNOR will be responsible for initial construction of parking facilities on this Easement. ASSIGNEE will be responsible for maintenance, including repaving or reconstruction of such facilities unless otherwise agreed between the parties.

5. Further Actions. Each of the parties to this Agreement will execute and deliver all further documents and to take all further actions reasonably necessary or appropriate to effectuate the purposes of this Agreement of an amendment thereto.

6. Notices. All notices under this Agreement shall be in writing, shall be directed as follows, and shall be considered delivered if delivered in person or when deposited in the U.S. Mail, First Class postage prepaid. Notices delivered by electronic mail and subsequently acknowledged in writing by the recipient shall constitute written notice under this Section.

To ASSIGNOR:

Juniper Fund-III, LLC
19880 Lark Way
Saratoga, CA 95070
Attention: Tim Henderson

To ASSIGNEE:

Habitat for Humanity East Bay/Silicon
Valley, Inc.
2619 Broadway
Oakland, CA 94612
Attn: Janice Jensen
Telephone: (510) 251-6304
Facsimile: (510) 251-6309

Either party may change the address for notices under this Easement Agreement by providing written notice of such new address to the other party.

7. Binding Obligation. The terms and conditions of this Easement Agreement shall extend to and be binding upon the respective heirs, devisees, legal representatives, successors, and assigns of ASSIGNEE and ASSIGNOR. Notwithstanding the above, Assignee may assign this Agreement to a limited liability company of which Assignee is the managing member or to a partnership of which Assignee, or a limited liability company of which Assignee is the managing member, or is the managing general partner, upon written notice to Assignor of its intent.

8. Exhibits. Each exhibit to this Easement Agreement shall be considered a part of this Agreement and incorporated herein by this reference.

9. **Governing Law and Compliance with Laws.** ASSIGNOR and ASSIGNEE agree that California law will govern this Easement Agreement. In the performance of this Easement Agreement, ASSIGNOR and ASSIGNEE will comply with all applicable laws, ordinances, codes and regulations of the federal, state, and local governments.

10. **Venue.** In the event that suit is brought by either ASSIGNOR or ASSIGNEE, each agrees that venue will be exclusively vested in the state courts of either the County of Santa Clara, or in the United States Court, Northern District of California, in San Jose, California.

11. **Waiver.** ASSIGNOR and ASSIGNEE agree that waiver by either Party of any breach or violation of any term or condition of this Easement Agreement will not be deemed to be a waiver of any other term or condition contained herein or a waiver of any subsequent breach or violation of the same or any other term or condition. The acceptance by a Party of the performance of any work or services by the other Party will not be deemed to be a waiver of any term or condition of this Easement Agreement.

12. **Amendments.** This Agreement may be amended in writing (in recordable format), upon mutual agreement of ASSIGNOR and ASSIGNEE.

13. **Entire Agreement.** This Easement Agreement sets forth the entire agreement of the parties and supersedes all prior discussions, negotiations, understandings, or agreements relating the easement right granted by this Easement Agreement.

[Signatures of parties on following page.]

IN WITNESS WHEREOF, the parties have executed this Easement Agreement as follows:

ASSIGNOR

ASSIGNEE

Juniper Fund-III, a limited liability
company

Habitat for Humanity East Bay/Silicon Valley, a
California non-profit benefit corporation

By: Tim Henderson, Manager

Janice Jensen
President & CEO

Date: _____

Date: _____

EXHIBIT A to EASEMENT AGREEMENT

DESCRIPTION OF REAL PROPERTY

All that certain real property situate in the City of San José, County of Santa Clara, State of California, being a portion of the lands described in that certain DIRECTOR'S DEED, recorded June 19, 1972 in Book 9886 of Official Records, at Page 11, as Document No. 4282416 in the Office of the Recorder, County of Santa Clara, State of California, and being more particularly described as follows:

COMMENCING at a point on the most southeasterly line of Reed Street, also being the most northerly corner of said parcel (9886 OR 11);

Thence along the northeasterly line of said parcel, South 29°53'01" East, 32.64';

Thence along a tangent curve to the right, having a radius of 130.00', a central angle of 43°56'07", an arc length of 99.69', to a point of intersection of the northeasterly prolongation of the northwesterly line, with the southeasterly line of said parcel, also being the **TRUE POINT OF BEGINNING** of this description;

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Attached hereto and by reference a part hereof is a plat labeled "EXHIBIT 'B-1': PLAT TO ACCOMPANY LEGAL DESCRIPTION OF REAL PROPERTY" depicting the subject property.

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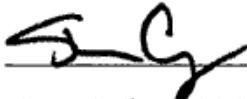

Steve G. Choy, PLS 6672

EXHIBIT F

HAZARDOUS SUBSTANCES

“Hazardous Materials” shall mean any and all (a) substances, products, by-products, waste, or other materials of any nature or kind whatsoever which is or becomes listed, regulated or addressed under any Environmental Laws, and (b) any materials, substances, products, by-products, waste, or other materials of any nature or kind whatsoever whose presence in and of itself or in combination with other materials, substances, products, by-products, or waste may give rise to liability under any Environmental Law or any statutory or common law theory based on negligence, trespass, intentional tort, nuisance, strict or absolute liability or under any reported decisions of any state or federal court; and (c) any substance, product, by-product, waste or any other material which may be hazardous or harmful to the air, water, soil, environment or affect industrial hygiene, occupational, health, safety and/or general welfare conditions, including without limitation, petroleum and/or asbestos materials, products, by-products, or waste.

“Environmental Laws” shall mean and include all federal, state, and local laws, statutes, ordinances, regulations, resolutions, decrees, and/or rules now or hereinafter in effect, as may be amended from time to time, and all implementing regulations, directives, orders, guidelines, and federal or state court decisions, interpreting, relating to, regulating or imposing liability (including, but not limited to, response, removal, remediation and damage costs) or standards of conduct or performance relating to industrial hygiene, occupational, health, and/or safety conditions, environmental conditions, or exposure to, contamination by, or clean-up of, any and all Hazardous Materials, including without limitation, all federal or state superlien or environmental clean-up statutes.