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SECTION 6103 GOVERNMENT CODE
OF THE STATE OF CALIFORNIA

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

City of San José
Department of Parks, Recreation and
Neighborhood Services
Community Facilities Development Division
200 East Santa Clara St., 9th Floor Tower
San José, CA 95113-1905

Final Tract Map, Tract No. 9613

**THIRD AMENDMENT TO PARKLAND AGREEMENT
FOR
TENTATIVE MAP NO. PT04-015
BETWEEN CITY OF SAN JOSE AND JACKSON SQUARE, LLC
(Chapter 19.38 of SJMC)**

THIS THIRD AMENDMENT TO PARKLAND AGREEMENT is made and entered into by and between the CITY OF SAN JOSE, a municipal corporation of the State of California ("City") and JACKSON SQUARE, LLC, a California limited liability company ("Developer") on the date of execution by City.

RECITALS

- A. On December 21, 2005, City and Developer entered into an agreement entitled "Parkland Agreement For Tentative Map No. PT04-015 Between City of San Jose and Jackson Square, LLC (Chapter 19.38 of SJMC)" ("Agreement") under which Developer agreed to satisfy its Parkland Dedication Obligation relating to Tentative Map No. PT04-015, Final Tract Map No. 9613.
- B. On February 4, 2008, City and Developer entered into a First Amendment to the Agreement to extend the completion date of the Park Improvements to June 21, 2008.
- C. On June 24, 2008, City and Developer entered into a Second Amendment to the Agreement to extend the completion date of the Park Improvements to June 30, 2009.
- D. The Park Improvements will not be completed by June 30, 2009. City and Developer desire to enter into a Third Amendment to the Agreement to further extend the completion date of the Park Improvements to December 31, 2009.

E. City's Director of Parks, Recreation and Neighborhood Services ("City's Director") is charged with the administration of this Agreement in conjunction with the Director of Public Works ("Director of PW"). The Director of PW is responsible for the review, inspection, approval, and acceptance of the Park Improvements and acceptance of the dedication of land.

In view of the above, the parties agree as follows:

SECTION 1. SECTION 2, "Offer of Dedication; Design and Development of Park Improvements" is amended to read in its entirety as follows:

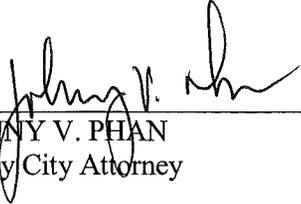
- "A. Developer affirms its irrevocable offer to dedicate to City approximately 13,460 square feet of real property located near the southeasterly corner of Madden and Jackson Avenues ("Park Site") as identified on the Tentative Map for the Development and as shown in the conceptual plan for the Park Improvements depicted on Exhibit A ("Park Site Plan"). Developer shall be responsible for all costs incurred in the conveyance of the Park Site to City in accordance with the requirements and specifications set forth in the original Agreement.
- B. Developer shall be responsible for the development of plans and specifications for, and the construction of Park Improvements on the Park Site consistent with the Park Site Plan and as more particularly described in the original Agreement. Developer shall develop plans and specifications for the Park Improvements ("Project Specifications") for the review and approval of the Director of PW, as more particularly described in Exhibit B.
- C. The parties acknowledge that the size, dimensions, and other particular characteristics of the Park Improvements have not been determined as of the date of execution of the original Agreement. The parties, however, agree that the Park Improvements shall consist of the following types of improvements: children's play area, small picnic area, trash receptacles, drinking fountain, security lighting, artificial turf and low-maintenance landscaping, and concrete walkways.
- D. Developer shall be responsible for all costs incurred for planning, design, construction, and supervision of the construction of all Park Improvements, including without limitation, City's plan review and inspection. Developer shall cause all labor and material incorporated in the Park Improvements to be furnished in accordance with the requirements and specifications set forth in the original Agreement.
- E. The Park Improvements to be installed on the Park Site shall be completed on or before December 31, 2009. The City's Director may, at the City Director's discretion, grant extensions of the completion requirement specified in this subsection.
- F. The credited Private Recreational Improvements shall be completed prior to the City's issuance of an occupancy permit for the 150th unit for the Development as further described in Section 3(B) of the original Agreement."

SECTION 2. All of the terms and conditions of the original AGREEMENT, First Amendment, and Second Amendment, not modified by this Third Amendment shall remain in full force and effect.

WITNESS THE EXECUTION HEREOF the day and year hereinafter written.

APPROVED AS TO FORM:

"City"



JOHNNY V. PHAN
Deputy City Attorney

CITY OF SAN JOSE, a municipal corporation

By: _____
LEE PRICE, MMC
City Clerk

Date: _____

"Developer"

JACKSON SQUARE, LLC, a California limited liability company

By: 

DAVID FALK
Project Manager

Jackson Square, LLC
3526 Investment Road
Hayward, CA 94545

*Proof of authorization for Developer's signatures is required to be submitted concurrently with this Agreement.

*All Developer's signatures must be accompanied by an attached notary public acknowledgment.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

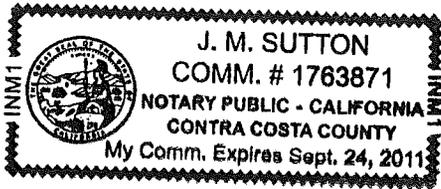
State of California

County of Alameda }

On May 28, 2009 before me, J.M. Sutton, Notary Public
Date Here Insert Name and Title of the Officer

personally appeared DAVID L. FALK
Name(s) of Signer(s)

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 J.M. Sutton
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____

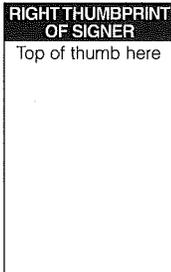
Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing: _____

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing: _____

DRAFT--Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for final document.