

MAINTENANCE AGREEMENT

This maintenance agreement ("Agreement") is dated December 1, 2016 (the "Effective Date") and is between the CONTRA COSTA CENTRE TRANSIT VILLAGE ASSOCIATION, a California nonprofit mutual benefit corporation (the "Association") and the COUNTY OF CONTRA COSTA, a political subdivision of the State of California (the "County").

RECITALS

A. The San Francisco Bay Area Rapid Transit District ("BART") owns certain real property in the County of Contra Costa that is adjacent to the Pleasant Hill/Contra Costa Centre BART station, which is shown on that certain map entitled, "Subdivision 8950" filed in the Official Records of Contra Costa County, California on July 25, 2008 in Book 508 of Maps at Pages 4 through 19, inclusive (the "BART Station Property").

B. A portion of the BART Station Property is the subject of a Disposition and Development Agreement dated December 19, 2005, as amended, between the Pleasant Hill Transit Village Associates, LLC, a Delaware limited liability company (the "Developer") and the Pleasant Hill BART Station Leasing Authority (the "Authority"), a joint powers authority comprised of BART and the County (the "DDA"). That portion of the BART Station Property that is the subject of the DDA is the "Project Site." Pursuant to the DDA, the Developer is developing a mixed-use commercial and residential development on the Project Site (the "Transit Village").

C. In support of the development of the Project Site, BART leased the Project Site to the Authority. In turn, the Authority subleased a portion of the Project Site to PHVP I, a Delaware limited partnership which is an affiliate of the Developer, under an Apartment Ground Lease dated as of July 31, 2008 (the "Apartment Ground Sublease").

D. The Association was formed for the purpose of, among other things, maintaining, managing and operating the common areas within the Transit Village pursuant to the Contra Costa Centre Transit Village Declaration of Covenants, Conditions and Restrictions and Reciprocal Easement Agreement dated as of July 31, 2008 and recorded in the Official Records of Contra Costa County, California, as Document Number 2008-169906, as the same may be amended (the "CCRs").

E. Owners of lots fronting on any portion of a public street have obligations under California Streets and Highways Code Section 5600 *et seq.* and County Code Section 1016-2 related to the maintenance of sidewalks.

F. The Association has assumed the Developer's obligations under California Streets and Highways Code Section 5600 *et seq.*, and County Code Section 1016-2, to maintain the sidewalks of the public streets adjacent to the Transit Village.

G. In addition to having the obligation to maintain the sidewalks of the public streets adjacent to the Transit Village, the Association desires to have the right to maintain the Additional Improvements. The “Additional Improvements” are the nonstandard street amenities, including the street lights, street furniture and wayfinding signs, that have been constructed on the sidewalks of public streets that are in, or in the vicinity of, the Transit Village, and the decorative crosswalks at the intersection of Jones Road and Harvey Drive and the intersection of Treat Boulevard and Sunne Lane. The locations of the Additional Improvements are shown on Exhibit A (each, a “Subject Site”).

H. In support of its desire to have the right to maintain the Additional Improvements, the Association desires that the County grant the Association a license to enter the public right-of-way of each Subject Site for the purpose of maintaining the Additional Improvements.

I. In consideration of the Association’s agreement to maintain the Additional Improvements in accordance with the terms of this Agreement, the County is willing to grant the desired license.

The parties therefore agree as follows:

AGREEMENT

1. **Grant of License.** Subject to the terms and conditions of this Agreement, the County hereby grants to the Association, its agents, employees and contractors, a revocable license to enter onto the public right-of-way of each Subject Site for the purpose of performing the maintenance obligations described in Section 2 below (together, the “Maintenance Obligations”).
2. **Maintenance Obligations.** The Association shall, throughout the term of this Agreement, without cost to the County, take good care of the Additional Improvements and keep them in good and sanitary order, condition and repair comparable to that of similar improvements on similar, first-class projects. The Association shall, at its own cost and expense, make all necessary repairs and replacements, whether structural or non-structural, ordinary or extraordinary, foreseen or unforeseen, that are required to keep the Additional Improvements in a first-class, safe, clean and sanitary condition. When used in this Section, “repairs” includes modifications, additions, deletions, alterations, and replacements, when necessary. The Association shall cause all repairs made by it to be at least equal in quality and class to the original work.
3. **Funding to Perform Maintenance Obligations.** The Association shall perform the Maintenance Obligations at its sole cost and expense. Unless the County terminates this Agreement in accordance with Section 5 below, the County has no obligation to perform the Maintenance Obligations. Notwithstanding the foregoing, if the Association fails to perform the Maintenance Obligations in accordance with this Agreement, the County may perform the Maintenance Obligations and levy and collect a Special Tax on property owned by Developer and others under CFD 2008-1 to cover reasonable

administrative costs and the reasonable cost of any Maintenance Obligation that the County performs.

4. **Term.** The term of this Agreement begins on the Effective Date and ends on the last day of the Apartment Ground Sublease, unless this Agreement is terminated earlier in accordance with its terms. The Apartment Ground Sublease is scheduled to terminate on May 14, 2105.

5. **Termination.** If at any time the County determines, in its sole discretion, that Association is not performing the Maintenance Obligations in accordance with the terms of this Agreement, the County may terminate this Agreement and revoke the license granted by this Agreement upon thirty (30) days' written notice to the Association. If the County terminates this Agreement and revokes the license granted by this Agreement:

a. The County may levy a Special Tax under CFD 2008-1 in accordance with applicable law in order to fund its performance of the Maintenance Obligations.

b. The County shall perform the Maintenance Obligations and assume the cost of the Maintenance Obligations, including, without limitation, any electrical and water costs associated with the Maintenance Obligations.

6. **Nonexclusive Right of Use.** The Association's right to use the Subject Sites is nonexclusive. County reserves the right to issue leases, licenses, easements or other rights of access to others for other purposes, provided such leases, licenses, easements or other rights of access do not materially interfere with Association's ability to perform the Maintenance Obligations. The Association's use of the Subject Sites to perform the Maintenance Obligations may not materially interfere with vehicular or pedestrian access to the public streets in the vicinity of the Subject Sites.

7. **Existing Facilities.** The Association acknowledges that the County may have existing leases, licenses, or easements with other individuals or entities ("Other Users") with respect to all or a portion of the Subject Sites, which may grant certain rights to such Other Users, including the right to enter on the Subject Sites to maintain their facilities. The Association further acknowledges that the Other Users may install or may have installed underground facilities at the Subject Sites. In the event and to the extent the Other Users have pre-existing rights, those pre-existing rights will prevail. Notwithstanding the foregoing, the Association is not prohibited from pursuing other available remedies outside of this Agreement, in law or equity, to ensure that any damage to a Subject Site caused by an Other User is repaired at the expense of the Other User, provided the Association does not involve the County as a party or otherwise in any such proceeding, except as required by law.

8. **Damage.**

a. If and to the extent the Association causes any damage to a Subject Site as a result of its performance of, or its failure to perform, the Maintenance Obligations, the Association shall promptly repair the damage and return the Subject Site to a neat and safe condition that is satisfactory to the County.

b. If and to the extent the County causes any damage to the Additional Improvements or to the sidewalk for which Developer has maintenance obligations, including the curb and landscaping between the property line and the street line, the County shall promptly repair the damage and return the Additional Improvements or sidewalk to a neat and safe condition.

9. **Indemnification.** The Association shall defend, protect, indemnify, save and hold harmless the County, including its governing board, board members, officers, representatives, agents and employees (collectively, the “Indemnitees”) from and against all claims, loss, damage, actions, causes of action, expenses (including attorneys’ fees), and liabilities arising from or growing out of, loss or damage to person or property, including damages for death, sickness, or injury to persons or property, and including without limitation all consequential damages, to the extent arising from, or in any way connected with, the performance of the Maintenance Obligations by the Association, its officers, agents, employees or subcontractors under this Agreement. This indemnity shall not apply to any claim arising from the grossly negligent acts or willful misconduct of the Indemnitees. This Section 9 shall survive the expiration or termination of this Agreement.

10. **Insurance.** The Association, including its agents, employees and contractors shall obtain and maintain during the term of this Agreement, at no cost to the County, comprehensive liability insurance, including contractual liability coverage, broad form property damage coverage, and coverage for owned and non-owned vehicles, with a minimum combined single-limit coverage of One Million Dollars (\$1,000,000) for all claims or losses due to bodily injury, sickness or disease or death to any person, or damage to property, including loss of use thereof arising out of each accident or occurrence (the “Insurance Coverage”). The Association shall cause the Insurance Coverage to (i) name the County, its boards, officials, agents, and employees as additional insureds, and (ii) provide for a thirty (30) day written notice to County of cancellation or lapse. The Association shall provide evidence of Insurance Coverage to the County prior to the execution of this Agreement.

If at any time the County determines that the Insurance Coverage, as defined above, has been cancelled or has lapsed, the County may, in its sole discretion, immediately suspend this Agreement and the license granted by this Agreement until such time as the Association provides evidence that the required Insurance Coverage is in effect.

11. **Entire Agreement.** This Agreement contains and integrates the entire agreement between the parties with respect to the subject matter hereof, and supersedes all negotiations and previous agreements, if any, between the parties with respect thereto.

12. **Governing Law.** This Agreement is governed by the laws of the State of California.

13. **Notices.** Any notice required or permitted under this Agreement must be in writing and sent by reputable overnight service or personal delivery with delivery receipt. Such notices shall be sent to the address listed below:

County:

Contra Costa County Public Works Department
Attn: Public Works Director
255 Glacier Drive
Martinez, CA 94553-1290

Contra Costa County
Department of Conservation and Development
30 Muir Road
Martinez, CA 94553
Attn: Maureen Toms

Association:

Contra Costa Centre Transit Village Association
c/o AvalonBay Communities, Inc.
455 Market Street, Suite 1650
San Francisco, CA 94105
Attention: Nathan Hong

Either party may at any time designate in writing a substitute address for an address set forth above and thereafter notices are to be directed to such substituted address. Notices shall be deemed received as follows: on the date shown on the delivery receipt as the date of delivery, the date delivery was refused, or the date the item was returned as undeliverable. In the event that the date on the delivery receipt is not a business day, notice shall be deemed received on the following business day.

Any notice, demand or other communication under this Agreement may be given on behalf of a party by the attorney for such party.

Such written notices, demands and communications may be sent in the same manner to such other addresses as the affected party may from time designate by notice as provided in this Section.

14. **No Construction Against Drafter.** Each party has participated in negotiating and drafting this Agreement, so if an ambiguity or a question of intent or interpretation arises, this Agreement is to be constructed as if the parties had drafted it jointly, as opposed to being construed against a party because it was responsible for drafting one or more provisions of this Agreement.

15. **Modification.** This Agreement may only be modified by the mutual written consent of the parties.

16. **Counterparts.** This Agreement may be executed in counterparts, each of which shall constitute an original, and all of which together shall constitute one and the same instrument.

17. **Binding Effect.** This Agreement binds and inures to the benefit of the heirs, successors and assigns of each of the parties hereto. Any reference in this Agreement to a specifically-named party shall be deemed to apply to any successor, heir or assign of such party who has acquired an interest in compliance with the terms of this Agreement, or under law.

18. **Further Assurances.** The parties shall execute and acknowledge any other and further documents that may be necessary or reasonably required to express the intent of the parties or to otherwise effectuate the terms of this Agreement.

The parties are signing this Agreement as of the Effective Date.

COUNTY:

CONTRA COSTA COUNTY,
a political subdivision of the State of California

By: _____
Julia R. Bueren
Director of Public Works

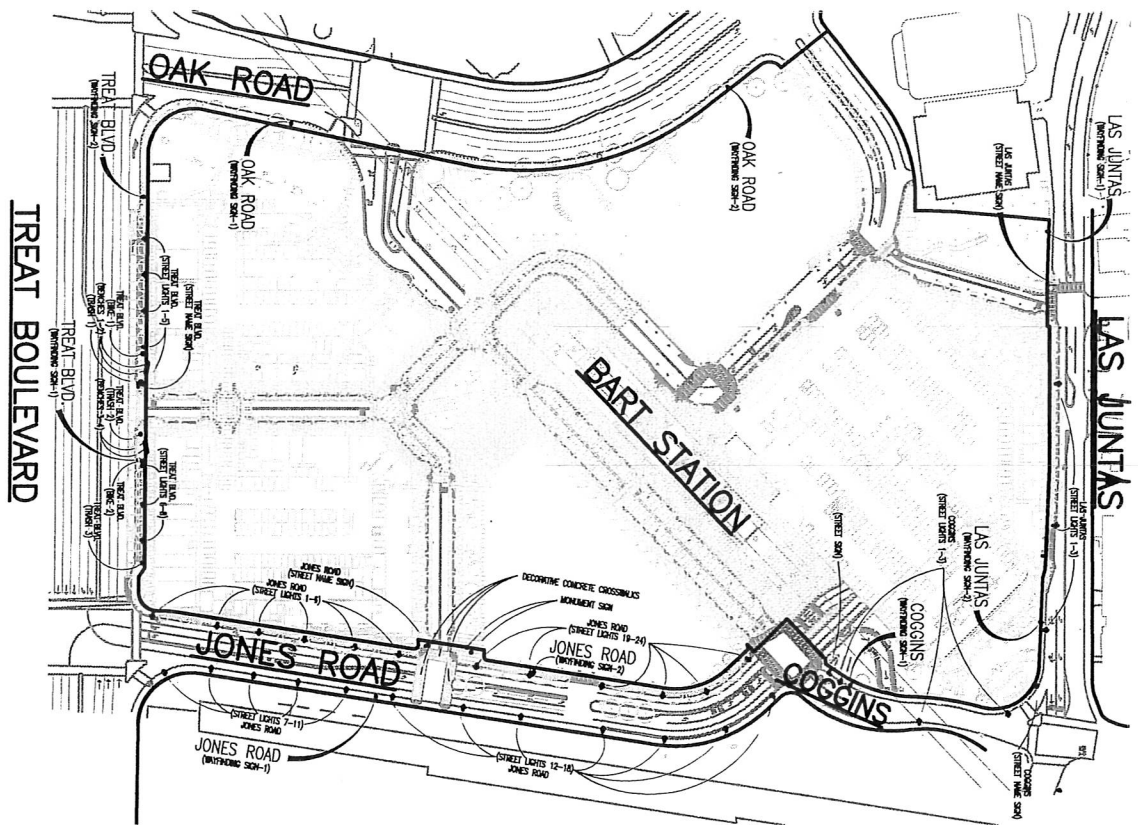
ASSOCIATION:

THE CONTRA COSTA CENTRE TRANSIT VILLAGE ASSOCIATION,
a California nonprofit mutual benefit corporation

By: _____
James Speltz
President

EXHIBIT A
Additional Improvements

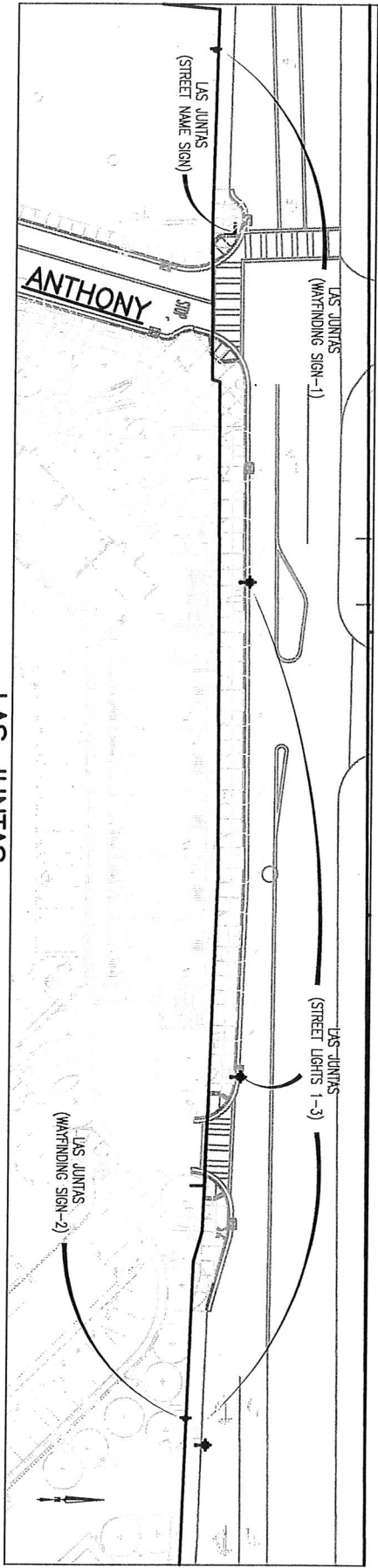
2120-20 STREETS/CHARITS/116-CONVERTING



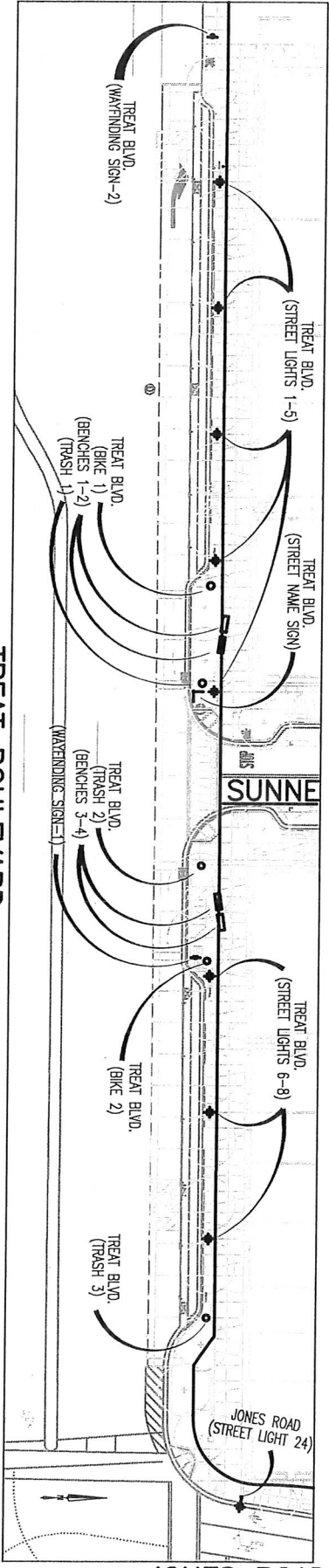
TREAT BOULEVARD

DEVELOPER OWNED AND MAINTAINED PROPERTY IN THE PUBLIC RIGHT OF WAY
 CONTRA COSTA COUNTY - CALIFORNIA
 Prepared by
 Luk and Associates
 738 Alfred Nobel Drive, Hercules, Ca 94547
 AUGUST 2016
 SCALE: 1" = 160'

PL01 DATE: 08/21/2016 SHEET: 1 OF 5



LAS JUNTAS



TREAT BOULEVARD

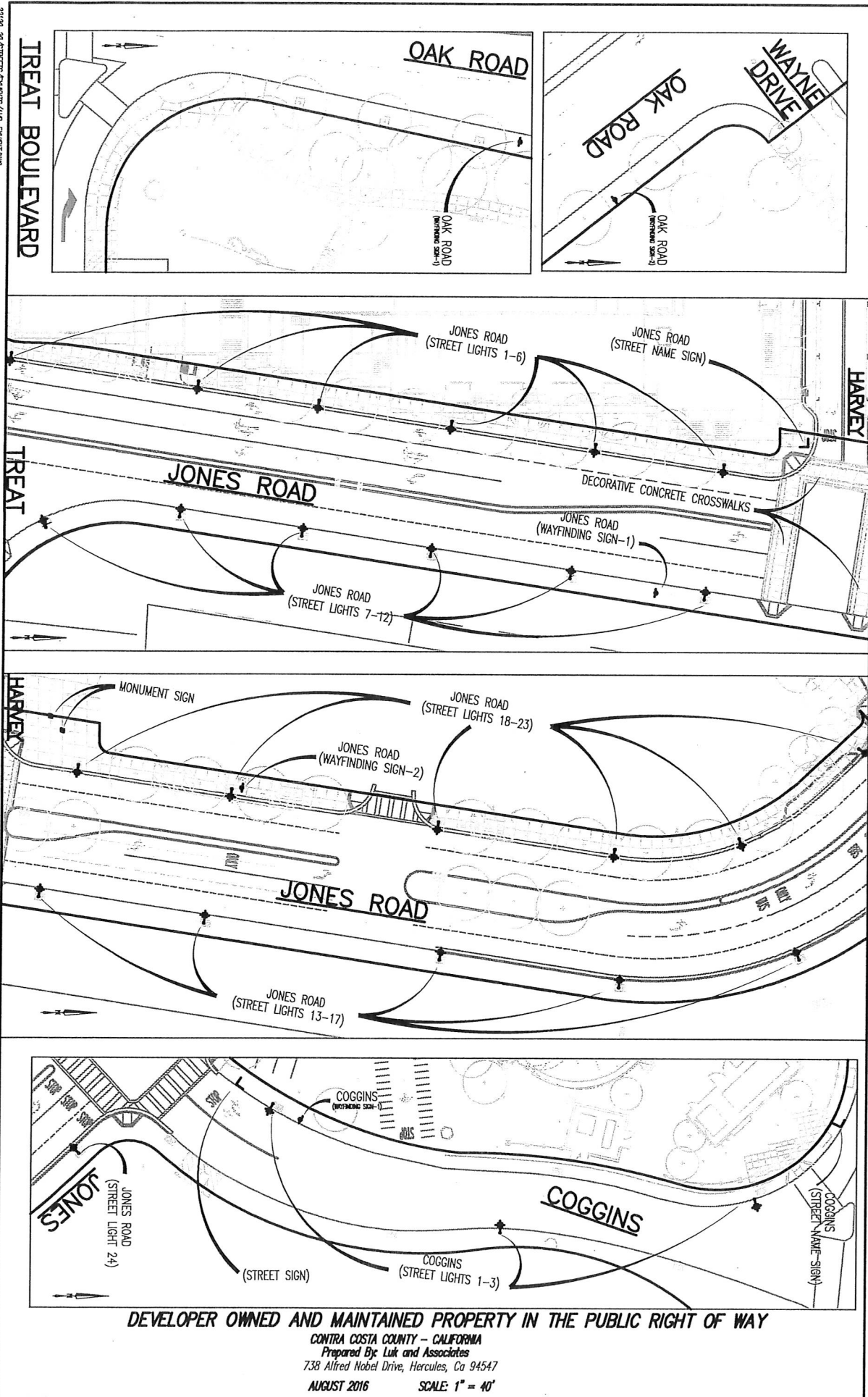
**DEVELOPER OWNED AND
MAINTAINED PROPERTY
IN THE PUBLIC RIGHT OF WAY**
CENTRA COSTA COUNTY - CALIFORNIA

Prepared By
Luk and Associates
739 Alfred Nobel Drive, Hercules, Ca 94547
August 2016
SCALE: 1" = 40'

PLAT DATE: 08/29/2016
SHEET: 2 OF 5

27126-20 STREETS/CEMETERY/AMB-ENHANCEMENTS

2120-20 STREETS/CHARIOTS/118-CHARLTON



PLAT DATE: 08/29/2016

SHEET: 3 OF 5



LAS JUNTAS: WAYFINDING SIGN-1

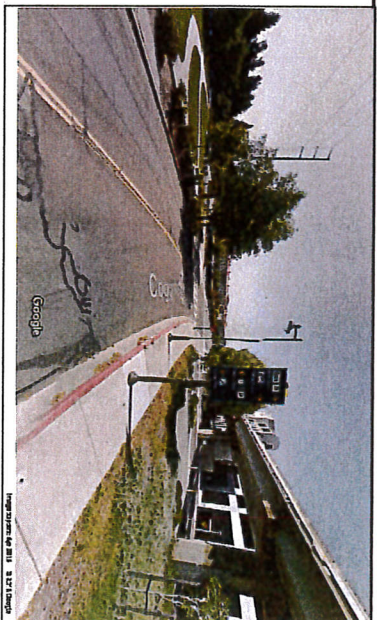
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(TO BE REPLACED)



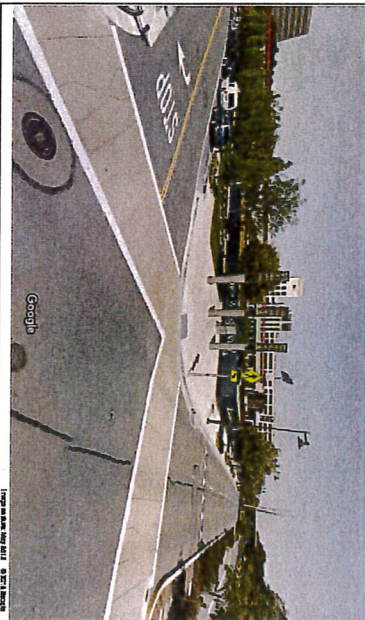
LAS JUNTAS: WAYFINDING SIGN-2



JONES ROAD: WAYFINDING SIGN-2



COGGINS: WAYFINDING SIGN-1



JONES ROAD: MONUMENT SIGNS
AND DECORATIVE CROSSWALKS

DEVELOPER OWNED AND
MAINTAINED PROPERTY
IN THE PUBLIC RIGHT OF WAY
CENTRAL COSTA COUNTY - CALIFORNIA

Prepared by:
Luk and Associates
738 Alfred Nobel Drive, Hercules, Ca 94547
AUGUST 2016 SCALE: NONE

2110-20 STREETS/CHARLES AVE-CORRIDORS

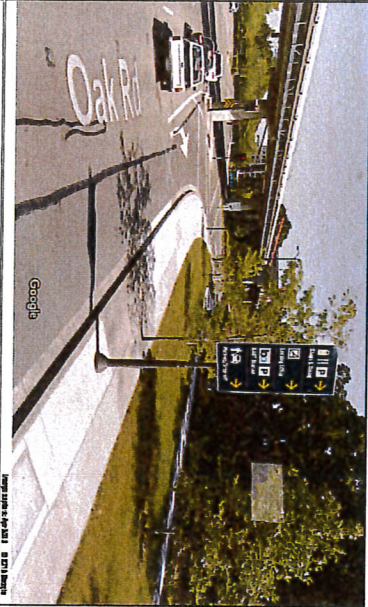
PLOT DATE: 08/29/2016 SHEET: 4 OF 5



TREAT BLVD.: WAYFINDING SIGN-1



TREAT BLVD.: WAYFINDING SIGN-2



OAK ROAD: WAYFINDING SIGN-1



OAK ROAD: WAYFINDING SIGN-2

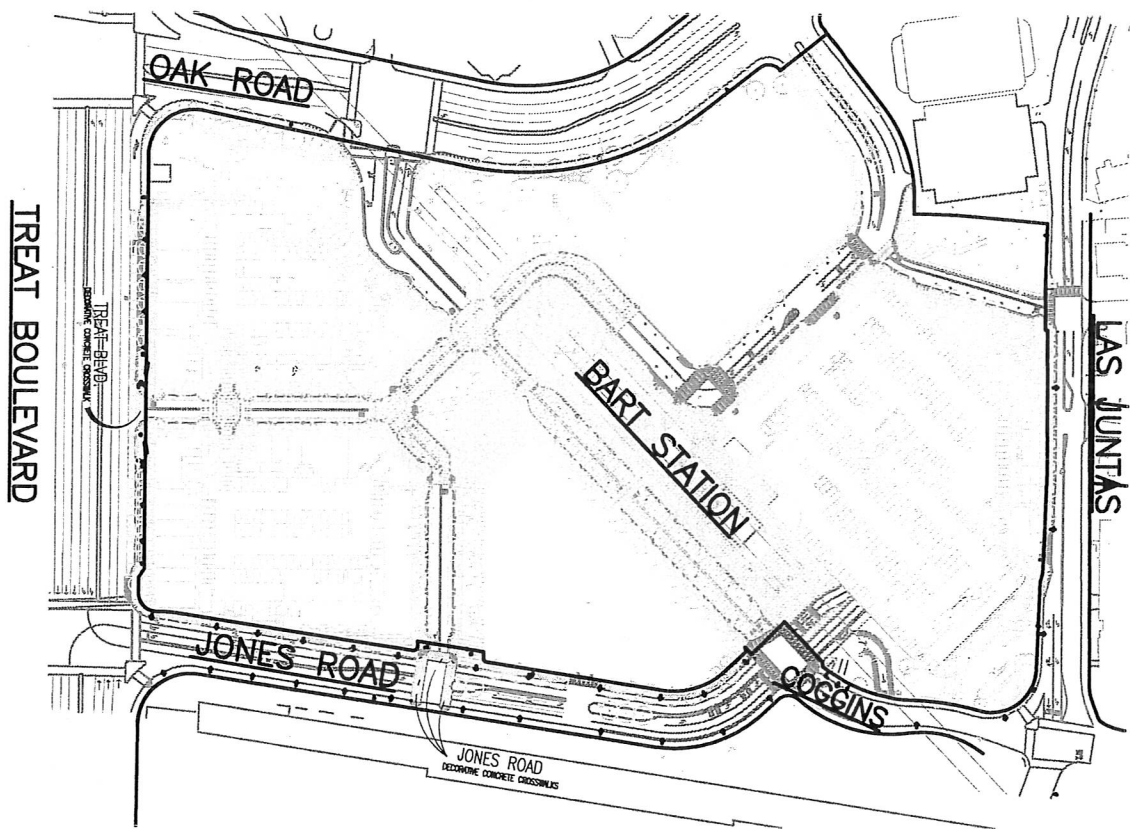
**DEVELOPER OWNED AND
MAINTAINED PROPERTY
IN THE PUBLIC RIGHT OF WAY**
CENTRAL COSTA COUNTY - CALIFORNIA
Prepared By
Luk and Associates
738 Alfred Nobel Drive, Hercules, Ca 94547
AUGUST 2016
SCALE: NONE

22120-00 STREETS/CORRIDORS/AN-PLAN/STATIONING

PLAT DATE: 08/29/2016

SHEET: 5 OF 5

21208-20/STREETS/EXHIBITS/AB-E-CONTRAILING

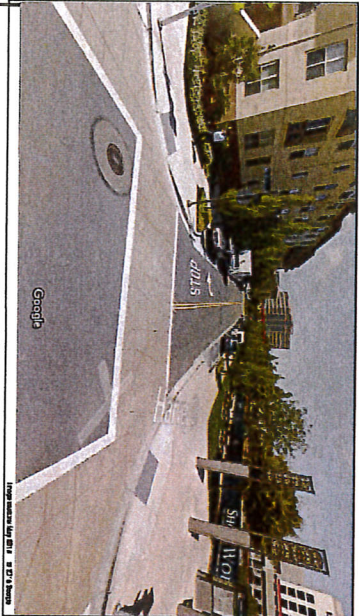


TREAT BOULEVARD

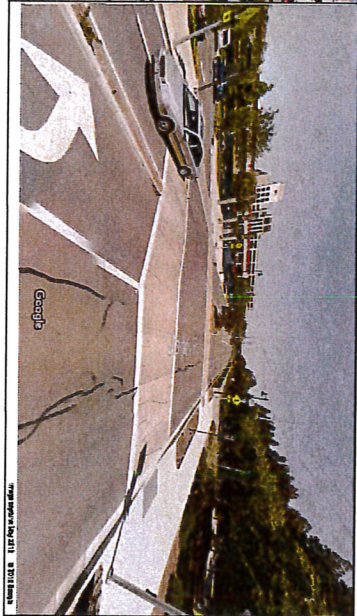
**DEVELOPER OWNED AND
MAINTAINED CROSSWALKS
IN THE PUBLIC RIGHT OF WAY
CENTRAL COSTA COUNTY - CALIFORNIA**

Prepared by
Luk and Associates
738 Alfred Nobel Drive, Hercules, Ca 94547
NOVEMBER 2016
SCALE: 1" = 100'

FOR DATE: 11/29/2016
SHEET: 1 OF 3



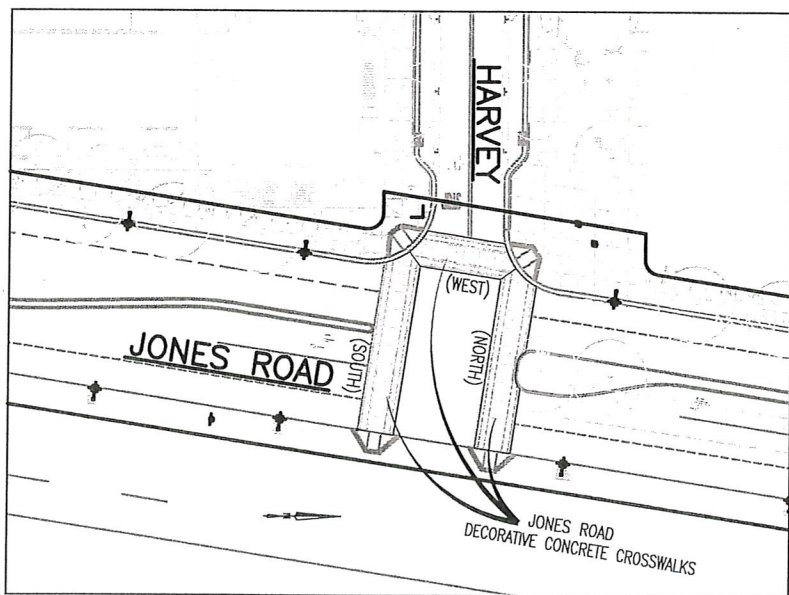
JONES ROAD: DECORATIVE CROSSWALK (WEST)



JONES ROAD: DECORATIVE CROSSWALK (SOUTH)



JONES ROAD: DECORATIVE CROSSWALK (NORTH)

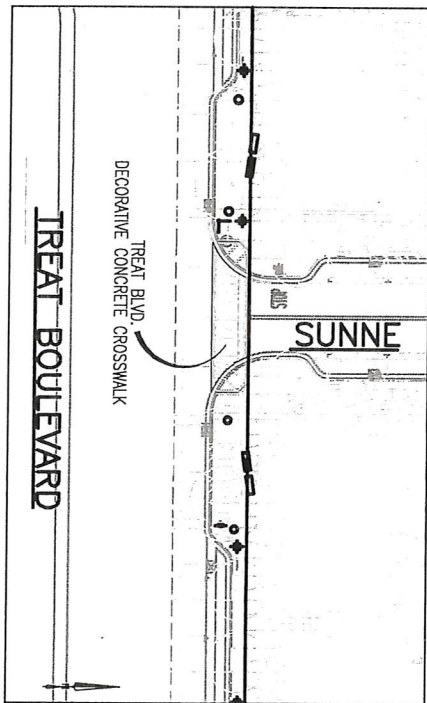


**DEVELOPER OWNED AND
MAINTAINED CROSSWALKS
IN THE PUBLIC RIGHT OF WAY**
CONTRA COSTA COUNTY - CALIFORNIA

Prepared By
Luk and Associates
738 Alfred Nobel Drive, Hercules, Ca 94547
NOVEMBER 2016



TREAT BLVD.: DECORATIVE CROSSWALK



**DEVELOPER OWNED AND
MAINTAINED CROSSWALKS
IN THE PUBLIC RIGHT OF WAY
CENTRAL COSTA COUNTY - CALIFORNIA**

Prepared by
Luk and Associates
738 Alfred Nobel Drive, Hercules, Ca 94547
NOVEMBER 2016

SCALE: 1" = 40'
PLOT DATE: 11/29/2016

SHEET: 3 OF 3

2110-20-STREETS/DRIVEWAYS/116-CORRECTING