

Recorded at the request of:  
Contra Costa County  
Public Works Department  
255 Glacier Drive  
Martinez, CA 94553

After recording return to:  
Seclusion Development Group, LLC  
2335 Broadway Suite, 200  
Oakland, CA 94612  
Attention: Michael Ghielmetti

A.P.N.: 166-420-XXX

## **GRANT OF EASEMENT**

### **(Storm Drain Easement)**

For good and valuable consideration, including but not limited to the agreements contained herein, the receipt and sufficiency of which are hereby acknowledged, CONTRA COSTA COUNTY, a political subdivision of the State of California, (hereinafter "COUNTY"), hereby grants to SECLUSION DEVELOPMENT GROUP, LLC, a California Limited Liability Company (hereinafter "GRANTEE"), a perpetual, nonexclusive, easement and right of way for removing, replacing, repairing, upgrading, maintaining and operating a portion of an underground detention system that consists of two (2) ten (10) foot diameter corrugated metal pipes and a trash separating system and appurtenances thereto (collectively, "GRANTEE's Facilities"), and for no other purposes whatsoever, along and in all of the hereinafter described parcel of land situated in the County of Contra Costa, State of California, described as follows:

**FOR DESCRIPTION AND PLAT MAP, SEE ATTACHED EXHIBITS "A" AND "B"**

The foregoing grant is made subject to the following terms and conditions:

1. PRIMARY USE OF THE PROPERTY:

The primary use of the property subject to this easement (hereinafter the "Property") is for public road purposes. GRANTEE acknowledges and agrees that the use just described constitutes the primary use of the Property and that any and all rights granted or implied by this Grant of Easement are secondary and subordinate to the primary use of the Property by the COUNTY, its successors and assigns. GRANTEE shall not, at any time, use the easement area in any manner that will interfere with or impair the COUNTY's primary use of the Property. GRANTEE shall not fence said easement without the prior written

approval of the COUNTY, and shall remove any fencing when requested by COUNTY to do so. GRANTEE shall not otherwise obstruct the easement area.

2. COUNTY TITLE: GRANTEE hereby acknowledges COUNTY's title to the Property and agrees never to assail or resist said title.
3. CONSTRUCTION AND MAINTENANCE ACTIVITIES: (a) GRANTEE shall, prior to any construction, reconstruction, remodeling, excavation, installation within the easement area, submit specific plans and specifications to the COUNTY for review and approval. Such approval, together with any additional requirements to be in the form of a written permit issued by COUNTY to GRANTEE.  
  
(b) Normal maintenance by GRANTEE of GRANTEE's Facilities within the easement area, including inspection and cleaning of pipelines, trash separating system and appurtenances, shall neither require prior notice to the COUNTY, nor a permit therefor. GRANTEE shall perform maintenance of GRANTEE's Facilities so as to prevent damage to the Property.
4. MODIFICATION AND REMOVAL OF GRANTEE'S FACILITIES: COUNTY reserves the right to require GRANTEE to modify its facilities or, at COUNTY's sole discretion, to remove GRANTEE's Facilities from the easement area at GRANTEE's sole expense. In the event that GRANTEE fails to commence the required work within thirty days after being directed to do so by COUNTY, or such reasonable extension as COUNTY may agree to in writing, or fails to complete the required work within a reasonable time specified by COUNTY, COUNTY may perform or complete the work at the expense of GRANTEE, which expense GRANTEE agrees to pay to COUNTY promptly upon demand, including but not limited to engineering costs and any legal expenses incurred to collect such costs. If GRANTEE's Facilities are removed from the current easement area GRANTEE shall promptly quitclaim to COUNTY its interest in the vacated easement area.
5. DAMAGE TO COUNTY PROPERTY: Any and all COUNTY property, facilities, landscaping or other improvements, removed or damaged as a result of the use of the easement area by GRANTEE, or any other person or entity acting under GRANTEE's direction or control, shall be repaired or replaced by GRANTEE, at the sole cost and expense of GRANTEE, to a condition equivalent to or better than the condition existing immediately prior to such removal or damage. In the event that GRANTEE fails to commence the required work within thirty days after being directed to do so by COUNTY, or such reasonable extension as COUNTY may agree to in writing, or fails to complete the required work within a reasonable time thereafter, COUNTY may perform or complete the work at the expense of GRANTEE, which expense GRANTEE agrees to pay to COUNTY promptly upon demand, including but not limited to engineering costs and any legal expenses incurred to collect such costs.

6. DAMAGE TO GRANTEE'S FACILITIES: COUNTY shall have no responsibility for the protection, maintenance, damage to, or removal of GRANTEE's Facilities caused by or resulting from COUNTY's use of the Property for the primary use or work or operation thereon for the primary use. It shall be the sole responsibility of the GRANTEE to provide and maintain adequate protection and surface markings for its own facilities.
  
7. NON-EXCLUSIVE EASEMENT: The easement granted hereunder is non-exclusive. This easement is subject and subordinate to all existing rights, rights of way, licenses, reservations, franchises and easements of record, or that would be evident from a physical inspection or accurate survey of the Property, in and to the Property. COUNTY shall have the right to require GRANTEE to modify, or remove GRANTEE's Facility within the easement area or to a similar easement to be granted to GRANTEE by COUNTY at no cost, in a timely manner at GRANTEE's sole cost as reasonably necessary to accommodate the COUNTY's, or any other existing user's right to construct, replace, enlarge, repair, maintain and operate its facilities, in the same manner as required by Section 4 of this easement, including the rights and remedies contained therein. GRANTEE agrees to take all precautions required to avoid damage to the facilities of the existing users. If GRANTEE damages the facilities or improvements of any existing user, GRANTEE shall repair or replace such facilities at GRANTEE's sole cost and expense. Nothing contained herein shall be construed to prevent COUNTY from granting other easements, franchises, licenses or rights of way over said lands, provided however, that said subsequent uses do not unreasonably interfere with, prevent or obstruct GRANTEE's easement rights hereunder.
  
8. INDEMNIFICATION, AS-IS CONDITION OF PROPERTY: (a) In the exercise of all rights under this easement, GRANTEE shall be responsible for any and all injury to the public, to persons and to property arising out of or connected with GRANTEE's use of the Property. GRANTEE shall indemnify, defend, save, protect and hold harmless, COUNTY, its officers, agents, employees and contractors from and against any and all threatened or actual loss, damage (including foreseeable and unforeseeable consequential damages), liability, claims, suits, demands, judgments, orders, costs, fines, penalties or expense of whatever character, including but not limited to those relating to inverse condemnation, and including attorneys' fees, (hereinafter collectively referred to as "Liabilities") to persons or property, direct or consequential, directly or indirectly contributed to or caused by the granting of this easement, GRANTEE's entry onto the Property, acts or omissions, and use of the easement area pursuant to the terms hereof, save and except Liabilities arising through the sole negligence or sole willful misconduct of the COUNTY, its officers, employees or contractors. GRANTEE acknowledges that Property subject to this easement is in a flood control area. GRANTEE agrees that GRANTEE shall never have, claim or assert any right or action against COUNTY in the event of damage to or disruption of GRANTEE's Facilities caused or contributed to by flooding or water, and shall

indemnify, defend, save, protect and hold COUNTY harmless from all Liabilities resulting from such damage or disruption except Liabilities arising through the sole negligence or sole willful misconduct of the County, its officers, employees or contractors.

b) GRANTEE further agrees to defend, indemnify, save, protect and hold harmless, COUNTY from any and all actual or threatened claims, costs, actions or proceedings to attack, set aside, void, abrogate or annul this grant of easement or any act or approval of COUNTY related thereto.

c) GRANTEE accepts the easement area in an "as is" physical condition, with no warranty, guarantee, representation or liability, express or implied on the part of the COUNTY as to any matter, including but not limited to the physical condition of the Property and/or the condition and/or possible uses of the land or any improvements thereon (except as expressly set forth herein), the condition of the soil or the geology of the soil, the condition of the air, surface water or groundwater, the presence of known and unknown faults, the presence of any hazardous substance, materials, or other kinds of contamination or pollutants of any kind in the air, soil, groundwater or surface water, or the suitability of the Property for the construction and use of the improvements thereon. It shall be the sole responsibility of GRANTEE, at its sole cost and expense, to investigate and determine the suitability of the soil, water, geologic, environmental and seismic conditions of the Property for the intended use contemplated herein, and to determine and comply with all building, planning and zoning regulations relative to the Property and the uses to which it can be put. GRANTEE relies solely on GRANTEE's own judgment, experience and investigations as to the present and future condition of the Property or its suitability for GRANTEE's intended use and is not relying in any manner on any representation or warranty by COUNTY. GRANTEE agrees that neither GRANTEE, its heirs, successors or assign shall ever claim have or assert any right or action against COUNTY for any loss, damage or other matter arising out of or resulting from the presence of any hazardous substance or any other condition of the Property at the commencement of the easement or from the release of any hazardous substance in, on or around any part of the Property or in the soil, water, subsurface strata or ambient air by any person or entity other than the COUNTY following the commencement of this easement. As used herein, "hazardous substance" means any substance, material or waste which is or may become designated, classified or regulated as being "toxic," "hazardous" or a "pollutant" under any federal, state or local law, regulation or ordinance. Nothing in this section is intended in any way to restrict the right of GRANTEE to seek contribution or indemnity from any person or entity other than COUNTY whose activities are a cause of any discharge, leakage, spillage or emission of hazardous substances on or to the Property.

d) To the extent permitted by law, GRANTEE shall indemnify, defend, save, protect and hold the COUNTY harmless from and against any and all claims, demands, Liabilities, expenses (including without limitation attorneys fees and consultants fees), penalties, damages, consequential damages and losses, and costs (including but not limited to the costs of any required or necessary testing, remediation, repair, removal, cleanup or detoxification of the Property and surrounding properties and from and against the preparation of any cleanup, remediation, closure or other required plans whether such action is required or necessary prior to or following the termination of the easement), of any kind or nature, to the extent caused or contributed to by GRANTEE's (i) exercise of its rights under this easement, (ii) use, release or disposal of any hazardous substance on the Property, or (iii) negligent exacerbation of existing hazardous substances on the Property, to the extent that such activities increase the costs attributable to the cleanup or remediation of such existing hazardous substances.

e) The obligations contained in this section shall survive the expiration or other termination of this easement.

9. NO WARRANTIES: GRANTEE understands and acknowledges that COUNTY makes no representations, warranties or guarantees of any kind or character, express or implied, with respect to the Property other than those representations contained herein, and GRANTEE is entering into this transaction without relying in any manner on any such representation or warranty by COUNTY.

10. NO ASSIGNMENT OF EASEMENT: No rights granted hereunder shall be transferred, apportioned or assigned without the prior written consent of COUNTY. Notwithstanding the foregoing, COUNTY acknowledges that GRANTEE intends to transfer the obligation to maintain GRANTEE's Facilities within the easement area to the Hyland Collection Owners' Association, a California non-profit mutual benefit corporation (the "HOA"), and hereby consents to GRANTEE's assignment of its rights and obligations, including its indemnification obligations, in and to this easement to the HOA. Any such assignment shall be accomplished by executing the Assignment of Easement, in the form attached hereto and made a part hereof, which shall be recorded by GRANTEE in the office of the County Clerk-Recorder, and a copy delivered to COUNTY within ten (10) days of its execution. As of the effective date of such assignment, (i) the HOA shall be deemed to have replaced Seclusion Development Group, LLC as GRANTEE hereunder, (ii) COUNTY shall look to the HOA for performance of all of GRANTEE's obligations under this easement from and after the effective date, and (iii) Seclusion Development Group, LLC shall have no further rights or obligations arising under this easement.

11. NO SECONDARY RIGHTS: Nothing herein contained shall be deemed to construe that access or other secondary rights are conveyed by this document over any of

COUNTY's adjacent lands lying outside of the aforesaid strip of land above described.

12. ENTIRE AGREEMENT: This grant of easement contains the entire agreement between the parties hereto and shall not be modified in any manner except by an instrument in writing executed by the parties or their respective successors in interest.
13. CONSTRUCTION: This grant of easement shall not be construed as if it had been prepared by one of the parties, but rather as if both parties have prepared it. The parties to this grant of easement and their counsel have read and reviewed this grant of easement and agree that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply to the interpretation of this grant of easement.
14. SUCCESSORS AND ASSIGNS: This indenture and all of the covenants herein contained shall inure to the benefit of and be binding upon the heirs, successors and assigns of the respective parties hereto.

IN WITNESS WHEREOF, this Grant of Easement is signed and executed this \_\_\_\_\_ day of \_\_\_\_\_ 2018.

CONTRA COSTA COUNTY

GRANTEE(S)

By \_\_\_\_\_  
Brian M. Balbas  
Public Works Director

SECLUSION DEVELOPMENT GROUP, LLC, A  
CALIFORNIA LIMITED LIABILITY COMPANY

By: Reliez Valley Investors, LLC, a  
California limited liability company,  
Member

By: \_\_\_\_\_  
Michael Ghielmetti, Trustee of the  
Amended and Restated Michael  
Ghielmetti Revocable Trust dated  
September 19, 2014, its Manager

By: \_\_\_\_\_  
Len Epstein, Member

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 CONTRA COSTA

On \_\_\_\_\_, before me, \_\_\_\_\_  
\_\_\_\_\_, Clerk of the Board of Supervisors, Contra Costa County, 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 \_\_\_\_\_  
Deputy Clerk

APPROVED AS TO FORM  
by County Counsel  
July, 1999

DRAFT

## EXHIBIT "A"

### Seclusion Valley Storm Drain Easement in Lomas Verdes Place

The real property located in the unincorporated area of Contra Costa County, California being a portion of Lomas Verdes Place as described in the offer of dedication recorded April 19, 2017 in Official Recorders' Series Number 2017-0068213, Contra Costa County Records, being described as follows:

Commencing at the Standard Street Monument located at the easterly end of the line having a bearing and distance of North  $72^{\circ}58'16''$  East 89.14 feet as shown on the map of Subdivision 6844, filed August 28, 2002 in Book 446 of Maps at page 33, records of said County; Thence leaving said Standard Street Monument, South  $24^{\circ}37'33''$  West 55.65 feet to the southerly right of way line of Lomas Verdes Place, being on a 166.00 foot radius curve concave to the north, the center of which bears South  $19^{\circ}38'53''$  East, to the True Point of Beginning; Thence leaving said True Point of Beginning, along the southerly line of Lomas Verdes Place, 64.76 feet along said curve, through a central curve of  $22^{\circ}21'14''$ ; Thence North  $87^{\circ}17'38''$  West 113.29 feet to the beginning of a tangent curve with a radius of 174.00 feet concave to the south; Thence 55.77 feet along said curve through a central angle of  $18^{\circ}21'49''$ ; Thence leaving said southerly right of way line, North  $1^{\circ}29'12''$  East 16.16 feet; Thence South  $88^{\circ}30'48''$  East 109.38 feet; Thence North  $2^{\circ}42'22''$  East 28.21 feet; Thence South  $87^{\circ}17'38''$  East 10.00 feet; Thence South  $2^{\circ}42'22''$  West 28.00 feet; Thence South  $88^{\circ}30'48''$  East 83.57 feet; Thence North  $73^{\circ}04'52''$  East 26.88 feet; Thence South  $19^{\circ}38'53''$  East 8.83 feet to the southerly right of way line of Lomas Verdes Place and the True Point of Beginning.

Contains 2,565 square feet more or less.

As shown on Exhibit "B" attached hereto and made a part hereof.

Prepared by:   
Daniel Drummond, LS 6333




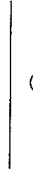






# SECLUSION VALLEY STORM DRAIN EASEMENT EXHIBIT "B"

JUNE 28, 2018



**LEGEND:**

-  EASEMENT AREA
-  MONUMENT LINE
-  STREET MONUMENT
-  POINT OF COMMENCEMENT
-  TRUE POINT OF BEGINNING
-  MONUMENT TO MONUMENTS

