

Record for the benefit of )  
The City of Sacramento )

Fee Exempt Pursuant to)  
Government Code )  
Section 6103 )

When Recorded, Mail to: )

Office of the City Clerk )  
Historic City Hall )  
915 "I" Street, 1<sup>st</sup> Floor )  
Sacramento CA 95814 )

(Space above this line for recorder's use)

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AGREEMENT TO CONSTRUCT AND MAINTAIN  
PRIVATE RECREATIONAL FACILITIES  
(Sacramento City Code Chapter 16.64)  
Portisol/Cortile at Artisan Square P04-196

This Agreement is made as of \_\_\_\_\_, 2006, by and between Shea Homes Limited Partnership, a California limited partnership, ("Owner") and the City of Sacramento ("City").

RECITALS

1. Owner owns that real property in the City of Sacramento, County of Sacramento, shown and described in Exhibit A - Legal Description and Exhibit A-1 - Plat to Accompany Description, attached and incorporated herein by reference ("the Property").

2. Owner has obtained approval from City of a Map for the Property known as Portisol/Cortile at Artisan Square P04-196 ("Project"), subject to certain conditions relating to the dedication of parkland and/or the payment of in-lieu fees for park and recreational facilities to serve the Project pursuant to Sacramento City Code Chapter 16.64 ("Chapter 16.64").

3. Owner has proposed to construct and maintain privately owned open space and/or recreational facilities in the Project for which credits may be granted under sections

16.64.100 and 16.64.110 of Chapter 16.64, and City has agreed to grant the credit as follows:

The Owner shall construct a private recreational swim area (swimming pool), a recreational building (clubhouse), and park areas (tot lot and tree covered open space) to receive credit towards the required dedication for park purposes for the Project (collectively the "Private Recreational Facilities").

4. Granting of the credit is conditioned on Owner entering into an agreement with City providing that the private facilities shall be constructed and adequately maintained in perpetuity, and that use of the facilities shall be limited to park and local recreation purposes and shall not be changed to another use without the express written consent of the City Council.

5. Owner and City enter into this Agreement to provide for the construction, maintenance, and use of the private open space and/or recreational facilities and the granting of credits pursuant to Chapter 16.64.

#### AGREEMENT

NOW, THEREFORE, the parties agree as follows:

6. Owner or its transferees, successors and assigns shall construct the Private Recreational Facilities as described above in section 3 to the satisfaction of the City's Director of Parks and Recreation. Construction of the Private Recreational Facilities shall be completed no later than issuance of occupancy permits for 50% of the residential units (161 units out of 321 total units) constructed within the Project.

7. City shall grant to Owner a credit of 10% (.028248 acres) against the required payment of in-lieu fees described above in section 2.

8. Owner, its transferees, successors and assigns, during their respective periods of ownership of the Property, shall, in perpetuity, maintain the Private Recreational Facilities in good repair and condition and in compliance with all applicable City Code requirements.

9. Owner, its transferees, successors and assigns shall, in perpetuity, allow use of the Private Recreational Facilities for the residents of the Project and shall not put the Private Recreational Facilities to another use without the express written consent of the City Council.

10. The provisions of this Agreement are in furtherance of and satisfy the conditions of approval of the Project. A breach of this Agreement shall be an abrogation of

the contractual agreement that arises from the conditions of approval of the Subdivision and shall render Owner and its transferees, successors, heirs, and assigns, liable to City under the Subdivision Map Act (Government Code section 66410 et seq.), City Code Chapter 16.64, and any other applicable state and local ordinances and statutes. The provisions of this Agreement are covenants which will run with the land and will be binding in perpetuity on all parties having or acquiring any right, title, or interest in the Property, including a homeowners association or other legal entity that assumes any right, title, or interest in the Private Recreational Facilities constructed by Owner, or its transferees, successors and assigns, and will inure to the benefit of City in furtherance of the public welfare.

11. Should Owner, or its transferees, successors, heirs, and assigns, during their respective periods of ownership of the Property, breach this Agreement, City may seek injunctive relief to enforce this Agreement, or may, at City's option, recover from Owner, or its transferees, successors, heirs, and assigns, as applicable, the sum of \$233,046 ( $\$687,500 \text{ per acre} \times 0.28248 \text{ acres} \times 1.2$ ) with interest thereon from the date of this Agreement until the date of payment, which sum represents the amount of the City's Quimby Act park land in-lieu fee that would otherwise have been payable to City in the absence of this Agreement. Interest shall be calculated at the average rate earned during that period by City's Pool A or such other average rate earned by City on its general investments during that period.

12. In any legal action brought by either party to enforce the terms of this agreement, the prevailing party is entitled to all costs incurred in connection with such an action, including reasonable attorney fees.

13. If any term or provision of this Agreement is held invalid or unenforceable, the remainder of this Agreement shall not be affected; provided that the intent of the Agreement may then be reasonably fulfilled.

14. No waiver by the City of any breach of or default by Owner under this Agreement shall be deemed to be a waiver of any other or subsequent breach or default.

15. This Agreement shall be recorded by City in the office of the Sacramento County Recorder.

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

This Agreement has been entered as of the date first above written.

City of Sacramento

By: \_\_\_\_\_  
Ray Kerridge, City Manager

ATTEST:

\_\_\_\_\_  
City Clerk

"Owner":

Shea Homes Limited Partnership  
a California limited partnership

By: \_\_\_\_\_  
Ray Ferrarini, Authorized Agent

By: \_\_\_\_\_  
Don Murphy, Authorized Agent

APPROVED AS TO FORM

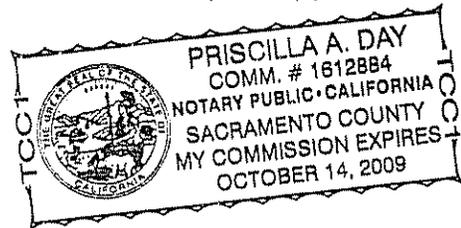
  
\_\_\_\_\_  
DEPUTY CITY ATTORNEY

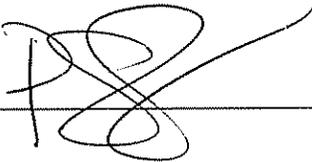
NOTARIZATION REQUIRED

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF PLACER )

On JUNE 26, 2006 before me, PRISCILLA A. DAY,  
a Notary Public (here insert name and title of the officer), personally appeared  
RAY FERRARINI, personally known to me (or 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.

WITNESS my hand and official seal.

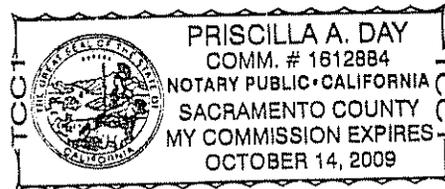


Signature  (Seal)

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF PLACER )

On JUNE 26, 2006 before me, PRISCILLA A. DAY,  
a Notary Public (here insert name and title of the officer), personally appeared  
DON MURPHY, personally known to me (or 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.

WITNESS my hand and official seal.



Signature  (Seal)



Attach Exhibit A and A-1 – Legal Description, Plat Map and Project Map

**EXHIBIT "A"**  
**LEGAL DESCRIPTION FOR**  
**PRIVATE RECREATIONAL FACILITIES AGREEMENT**

**AREA "A" (TOT-LOT & TREE COVERED OPEN SPACE)**

ALL THAT CERTAIN REAL PROPERTY SITUATED IN THE CITY OF SACRAMENTO, COUNTY OF SACRAMENTO, STATE OF CALIFORNIA, BEING A PORTION OF PARCELS 4, 5 AND 6, AS SHOWN ON THE PARCEL MAP OF "MASTER PARCEL MAP OF SCHUMACHER PROPERTY PHASE 3", FILED IN BOOK 184 OF PARCEL MAPS AT PAGE 3, SACRAMENTO COUNTY RECORDS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**COMMENCING** AT THE MOST SOUTHERLY CORNER OF PARCEL 6, THENCE NORTH 21°17'21" WEST, A DISTANCE OF 595.97 FEET TO THE **POINT OF BEGINNING**; THENCE NORTH 17°51'24" EAST, A DISTANCE OF 90.90 FEET TO THE BEGINNING OF A TANGENT CURVE TO THE LEFT, HAVING A RADIUS OF 35.00 FEET AND A CENTRAL ANGLE OF 84°21'12"; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE, A DISTANCE OF 51.53 FEET; THENCE NORTH 66°29'49" WEST, A DISTANCE OF 131.14 FEET TO THE BEGINNING OF A TANGENT CURVE TO THE LEFT, HAVING A RADIUS OF 205.00 FEET AND A CENTRAL ANGLE OF 13°57'00"; THENCE WESTERLY ALONG THE ARC OF SAID CURVE, A DISTANCE OF 49.91 FEET; THENCE NORTH 80°26'49" WEST, A DISTANCE OF 40.90 FEET; THENCE SOUTH 23°59'26" WEST, A DISTANCE OF 18.38 FEET; THENCE SOUTH 39°16'48" EAST, A DISTANCE OF 79.98 FEET; THENCE SOUTH 48°13'48" EAST, A DISTANCE OF 192.52 FEET; THENCE NORTH 71°34'27" EAST, A DISTANCE OF 13.76 FEET TO THE **POINT OF BEGINNING**.

CONTAINING: A TOTAL OF 22,025 SQUARE FEET, MORE OR LESS.

THE PROPERTY DESCRIBED HEREON IS SHOWN ON THE ATTACHED PLAT AND BY REFERENCE MADE A PART HEREOF.

**AREA "B" (RECREATIONAL SWIM AREA & CLUB HOUSE)**

ALL THAT CERTAIN REAL PROPERTY SITUATED IN THE CITY OF SACRAMENTO, COUNTY OF SACRAMENTO, STATE OF CALIFORNIA, BEING A PORTION OF PARCEL 1, AS SHOWN ON THE PARCEL MAP OF "MASTER PARCEL MAP OF SCHUMACHER PROPERTY PHASE 3", FILED IN BOOK 184 OF PARCEL MAPS AT PAGE 3, SACRAMENTO COUNTY RECORDS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**COMMENCING** AT THE MOST SOUTHERLY CORNER OF PARCEL 6, THENCE NORTH 02°07'04" WEST, A DISTANCE OF 807.64 FEET TO THE **POINT OF BEGINNING**; THENCE NORTH 12°47'50" EAST, A DISTANCE OF 115.44 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT, HAVING A CHORD LINE WHICH BEARS NORTH 73°17'58" WEST, A DISTANCE OF 66.58 FEET AND A RADIUS OF 135.00 FEET; THENCE WESTERLY ALONG THE ARC OF SAID CURVE AND THROUGH A CENTRAL ANGLE OF 28°33'01", A DISTANCE OF 67.27 FEET; THENCE SOUTH 12°47'50" WEST, A DISTANCE OF 33.03 FEET; THENCE SOUTH 23°27'08" WEST, A DISTANCE OF 88.46 FEET; THENCE SOUTH 77°12'10" EAST, A DISTANCE OF 82.78 FEET TO THE **POINT OF BEGINNING**.

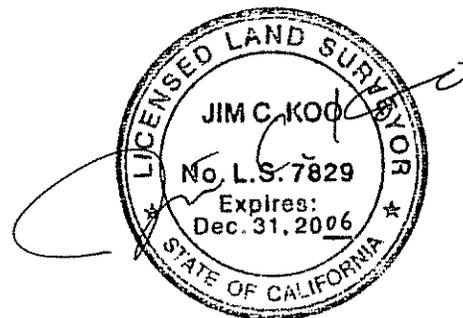
CONTAINING: A TOTAL OF 8,715 SQUARE FEET, MORE OR LESS.

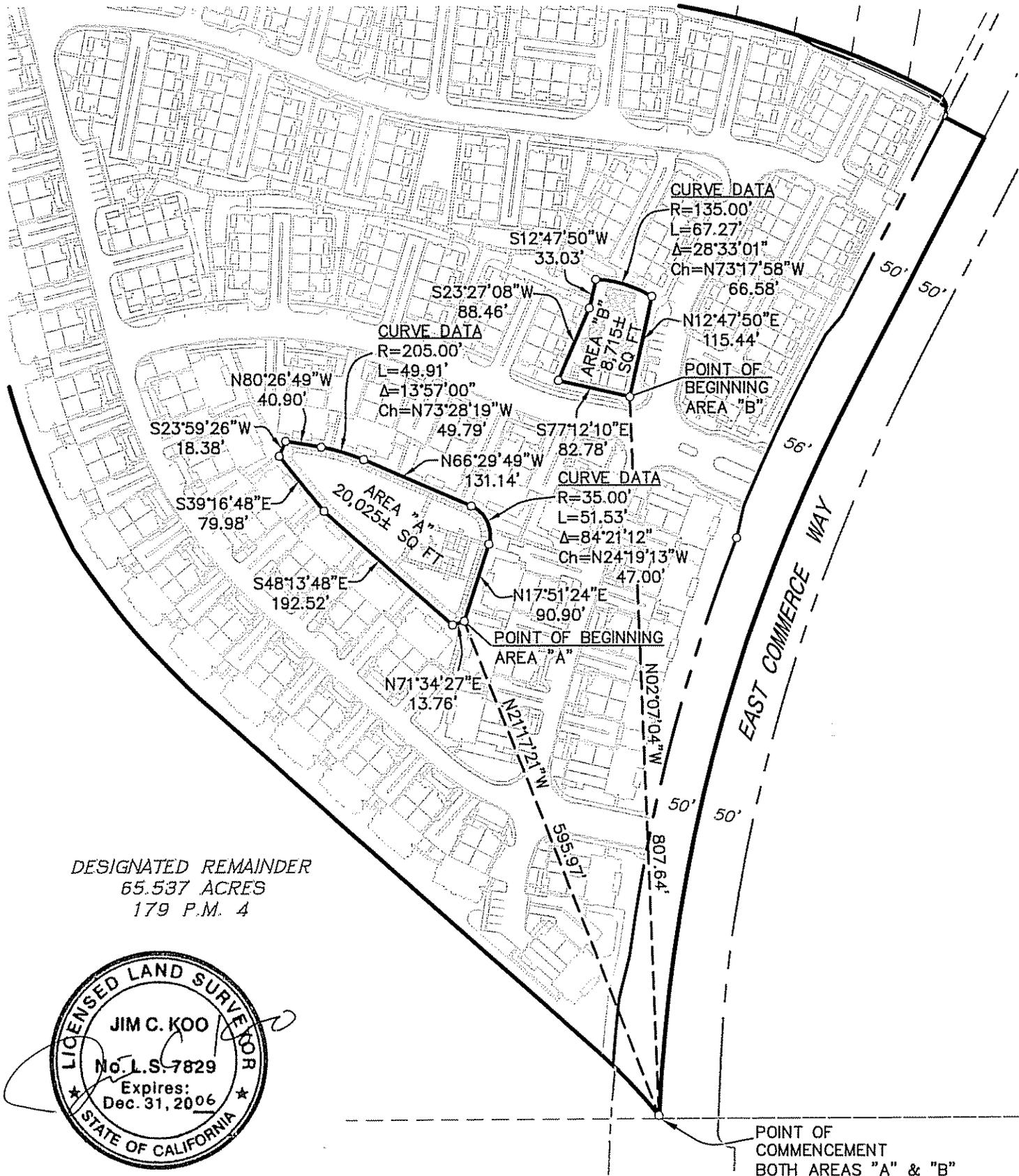
THE PROPERTY DESCRIBED HEREON IS SHOWN ON THE ATTACHED PLAT AND BY REFERENCE MADE A PART HEREOF.

**BASIS OF BEARINGS:**

THE BASIS OF BEARINGS FOR THIS DESCRIPTION IS IDENTICAL TO THE PARCEL MAP OF "MASTER PARCEL MAP OF SCHUMACHER PROPERTY PHASE 3", FILED IN BOOK 184 OF PARCEL MAPS AT PAGE 3, SACRAMENTO COUNTY RECORDS.

**END OF DESCRIPTION**





DESIGNATED REMAINDER  
 65.537 ACRES  
 179 P.M. 4

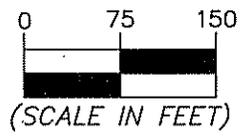


POINT OF COMMENCEMENT  
 BOTH AREAS "A" & "B"



**G.C. WALLACE OF CALIFORNIA, INC.**  
 Engineers/Planners/Surveyors  
 2150 River Plaza Dr., Ste. 100, Sacramento, CA 95833  
 Telephone: (916) 286-7600 Fax: (916) 286-7601

EXHIBIT A-1  
 Private Recreational Facilities  
 Portial/Cortile at Artisan Square  
 City of Sacramento, California  
**SHEA HOMES**



DATE: 06/14/06  
 SHEET: 1 of 1