

RESOLUTION NO. 2024-142

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARINA APPROVING JOINT USE AND ACCESS AGREEMENT BETWEEN CITY AND CALIFORNIA STATE PARKS FOR USE AND ACCESS TO CITY'S CORPORATION YARD LOCATED AT 3040 LAKE COURT FOR A PERIOD OF ONE (1) YEAR AND AUTHORIZE THE CITY MANAGER TO EXECUTE THE AGREEMENT WITH STATE PARKS ON BEHALF OF CITY SUBJECT TO FINAL REVIEW BY THE CITY ATTORNEY. THE AGREEMENT IS EXEMPT FROM ENVIRONMENTAL REVIEW PER §15061(b)(3) OF THE CEQA GUIDELINES.

WHEREAS, the California State Parks will be remodeling their offices at 61 Reservation Rd. and have approached the City of Marina about accessing and using the City's corporation yard at 3040 Lake Court. The corporation yard is primarily used by the City for storage of public works equipment and materials and the fueling pump for City vehicles; and

WHEREAS, State Parks proposes to use an approximately 26,700 sq. ft. portion of the yard which includes some of the space in the existing metal building for storage of materials and equipment. State Parks would also temporarily install several storage containers and a chemical toilet for use by staff onsite. A small area to the south of the building which is currently unpaved would be used for plant and seedling storage. No new construction, paving, grading or connection to the existing water service is proposed; and

WHEREAS, the City's access to the property, through the existing locked gate, would not be impeded by State Parks access and use of the corporation yard; and

WHEREAS, the Agreement specifies a period of one (1) year, subject to termination by either party upon 30-days' notice; and

WHEREAS, the property is in the Coastal zone and is zoned for Public Facilities uses. The temporary use of the site by the State Parks is exempt from a Coastal Development Permit (CDP) per Public Resources Code (PRC) § 30610(i) which allows for temporary uses which will not result in a significant adverse impact upon coastal resources; and

WHEREAS, the use of the property by State Parks shall be in conformance with the site plan and Letter dated November 13, 2024, included in **Exhibit A** to this Resolution, respectively, and incorporated by reference herein; and

WHEREAS, all recitals and staff report findings shall be incorporated by reference into the final motion adopted by the City Council; and

WHEREAS, the approval of this Resolution authorizing a joint use and access agreement between California State Parks and the City of Marina is not subject to California Environmental Quality Act (CEQA) pursuant to the State CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, 15061(b)(3) because the proposed agreement is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment.

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Marina hereby:

1. Approves a joint use and access agreement with California State Parks, Monterey District, for a period of one (1) year to use and access the City's corporation yard located at 3040 Lake Court ("Agreement") as described herein and incorporated hereto as Exhibit A; and
2. Authorizes the City Manager to execute the Agreement on behalf of City with California State Parks subject to final review by the City Attorney.

PASSED AND ADOPTED by the City Council of the City of Marina at a regular meeting duly held on the 17th day of December 2024, by the following vote:

AYES, COUNCIL MEMBERS: McAdams, McCarthy, Biala, Visscher, Delgado

NOES, COUNCIL MEMBERS: None

ABSENT, COUNCIL MEMBERS: None

ABSTAIN, COUNCIL MEMBERS: None

Bruce C. Delgado, Mayor

ATTEST:

Anita Sharp, Deputy City Clerk

**JOINT USE AND ACCESS AGREEMENT
CALIFORNIA STATE DEPARTMENT OF PARKS & RECREATION FOR VEHICLE
PARKING AND EQUIPMENT STORAGE**

THIS JOINT USE AND ACCESS AGREEMENT (“JUA” or “Agreement”) is made and entered into by and between the **CITY OF MARINA**, a municipal corporation of the State of California (“City”), and the **STATE DEPARTMENT OF PARKS AND RECREATION** (“DPR”), on _____, 2024. The City and the DPR are sometimes referred to herein collectively referred to as the “Parties.”

Recitals

This JUA is entered into with reference to the following facts and circumstances, which are hereby found and determined by the Parties:

A. DPR has requested from City temporary, non-exclusive use and access to the real property described in **Exhibit A** hereto, hereinafter the “Property.” The Property consists of approximately 0.58 acres, located at 3040 Lake Ct. (APN 033-171-026).

B. DPR desires to occupy and utilize the Property as a site for temporary vehicle parking and equipment storage while DPR’s facility at 61 Reservation Road, Marina, CA undergoes renovations. Anticipated uses of the Property include: placement/use of three (3) storage containers to store tools and materials, with additional tools/materials stored inside existing structures on the Property; parking of up to eight (8) State vehicles per day, including overnight and on weekends; indoor charging of rechargeable batteries for power tools; and placement and weekly service of a Porta Potty for staff use. DPR would primarily use and access the Property during working hours Monday through Friday but occasional weekend or evening access to tools, vehicles, and materials may be required.

C. Approximate locations of proposed uses are depicted in **Exhibit B** hereto.

D. It is mutually agreed that this JUA is upon and subject to the following terms, covenants, conditions and provisions and DPR covenants, as a material part of the consideration of this JUA, to keep, perform and comply with each and all of said terms, covenants, conditions and provisions to be kept, performed and complied with, and this JUA is made upon the condition of such performance and compliance.

Terms and Conditions

1. **Recitals.** The recitals set forth above are incorporated by reference as if fully set forth herein.

2. **Access.**

The City hereby grants access to and non-exclusive use of by DPR of the Property and facilities, described as approximately 0.58 acres located at 3040 Lake Court in Marina, County of Monterey, California, as identified as APN 033-171-026 and as described in Exhibit A.

3. **Use.**

a. DPR shall, subject to City's use and occupancy of the Property, have the right to access and use the Property as a site for temporary vehicle parking and equipment storage while DPR's facility at 61 Reservation Road, Marina, CA undergoes renovations. Anticipated use of the Property include: placement/use of three (3) storage containers to store tools and materials, with additional tools/materials stored inside the existing structure on the Property; parking of up to eight (8) State vehicles per day, including overnight and on weekends; indoor charging of rechargeable batteries for power tools; and placement and weekly service of a Porta Potty for staff use. DPR would primarily use the Property during working hours Monday through Friday but occasional weekend or evening access to tools, vehicles, and materials may be required. No use or access by DPR shall restrict or hinder in any way the City's right to use and access the Property for any purpose for which the City is entitled to use said Property.

b. Any and all materials classified as hazardous under federal regulations and used in DPR's activities on the Property shall be identified to the satisfaction of the City as to identity, type and quantity and shall be stored, used and disposed of in accordance with all local, state and federal regulations. DPR shall not use the Property for any other purpose without the prior written consent of the City, such consent not to be unreasonably withheld.

4. **Operational Noise.** DPR shall conform its conduct of all activities on and around the Property to the provisions of Chapter 9.24 of the City's Municipal Code, entitled "Noise Regulations." DPR shall further comply with the City of Marina Municipal Code (Title 15, Buildings and Construction, Chapter 15.04, Section 15.04.055), which generally limits noise-generating construction activities to between the hours of 7:00 am and 7:00 pm Monday through Saturday.

5. **Term.** The term of this Agreement shall commence on the date that this Agreement is fully executed by Parties. The JUA shall terminate 12 months after the execution date of the Agreement. This JUA may be terminated at any time by either party with thirty (30) days prior written notice. DPR shall have no option to extend the term of the JUA.

6. **Reservation & Easements.**

a. **Easements and Reservations.**

(i) The Property are subject to all valid and existing recorded outstanding liens, licenses, leases, easements, and any other encumbrances made for the purpose of roads, streets, utility systems, rights-of-way, pipelines, and/or covenants, exceptions, interests, liens, reservations, and agreements of record.

(ii) The Property is subject to public utility easements as set forth in such area master plans as may be developed or approved by the City. Such public utility easements, together with the right to enter thereon, for any purpose in connection with the construction or maintenance of improvements and facilities located thereon are hereby reserved by the City for the benefit of itself.

(iii) The City reserves the right to install, lay, construct, maintain, repair and operate or facilitate the operation of such sanitary sewers, drains, storm water sewers, pipelines, manholes, and connections; water, oil and gas pipelines, telephone, telegraph and electrical power lines; and the appliances and appurtenances necessary or convenient in connection therewith, in, over, upon, through, across and along any and all portions of the Property. City shall restore any of DPR's improvements altered or disturbed due to City's exercise of any rights under this section to substantially the same condition in which they existed prior to the City's entry on to the Property.

7. **Use Fees.** There shall be no fee for DPR's non-exclusive use and access of the Property as provided for in this Agreement.

8. **Commissions.** City shall not be liable for the payment of any brokerage commissions of fees associated with this JUA to engineers, contractors, real estate consultants or attorneys working on DPR's behalf.

9. **Property Rules & Regulations.** From and after the commencement date of this JUA, DPR agrees to comply with all of the following conditions:

a. DPR will not do or permit to be done upon the premises any act or thing which constitute waste or nuisance and agrees that within seventy-two (72) hours from receiving written notice by the City that such condition exists, to abate or otherwise cause said condition to be cured. In the event DPR has not taken corrective action within seventy-two (72) hours, the City may abate said condition at the expense of DPR without any liability whatsoever to City for monetary loss of DPR or others.

b. DPR shall have the right, at its expense, to place in or on the Property furnishings, personal property, equipment and materials necessary to any use authorized hereunder. Said , furnishings, personal property, equipment and materials will remain the property of DPR and will be removed upon termination of DPR's use of the Property.

c. DPR will comply with all federal, state and local laws, rules and regulations which may apply to the conduct of the activities provided for and authorized hereunder. DPR will maintain in effect and post in a prominent place all necessary or required licenses or permits, prior to commencing operations. DPR shall be responsible for any improvements required for permit approval. The City shall not have any obligation to make any such required improvements. In the event DPR cannot or elects not to undertake any improvements required for permit approval as required by federal, state or local laws, rules and regulations, in that event DPR shall provide thirty (30) days written notice of its intention to vacate the Property and to terminate this JUA.

d. DPR will prepare an Emergency Action/Fire Protection Plan. A current plan shall be kept on file with the City's Fire Department.

e. DPR agrees at its own expense to keep and maintain upon the Property such portable fire extinguishers of such number type and material as may be prescribed from time to time by the regulations of the City's Fire Department.

f. Any damage to the Property as a result of DPR's activities shall be repaired and Property shall be returned to its condition as of the commencement date of the JUA, with the following exceptions: a) reasonable wear and tear; b) damage by the elements not caused by DPR's negligence and c) those improvements and modification for which permits have been issued by the City and which have been approved as completed and signed off by the City's building inspector.

10. Acceptance of Property.

a. No warranties, either express or implied, are given with regard to the condition of the Property, including, without limitation, whether the Property is or is not safe for a particular purpose. The failure of the DPR to inspect, or to be fully informed as to the condition of all or any portion of the Property offered, will not constitute grounds for any claim or demand against the City, with respect to any hazards or concerns.

b. The DPR further agrees to indemnify and hold harmless the City, its council, boards, commissions, officers, agents and employees, from and against all suits, claims, demands or actions, liabilities, judgments, costs and attorneys' fees arising out of, or in any manner predicated upon, DPR's access to and use of the Property.

11. No Warranty. DPR further understands and agrees that no representation, statement, or warranty, express or implied, has been made by or on behalf of the City as to the condition of the Property or the suitability of the Property for the intended use, save and except for the representation and warranty that neither the City or any City officer, employee, or agent has caused any condition of pollution or contamination which may now exist. Such representation and warranty, however, shall not extend to any condition of pollution or contamination caused by the federal government, the DPR or by any other contractor or tenant of City. DPR agrees to accept use and access of the Property in its present condition and "as is" with respect to all conditions which may now exist. Moreover, DPR agrees to waive any claim or right of action against the City which DPR now has or hereafter may acquire arising out of the condition of the soils or the groundwater underlying the Property, including but not limited to any claim of indemnity which DPR may have by reason of costs incurred by DPR arising out of the abatement or cleanup of any pollution or contamination condition discovered on the Property hereinafter required under applicable state, federal or city laws or regulations.

12. Removal. Prior to the expiration of this JUA or when terminated earlier by either party in accordance with its terms, DPR shall at its sole expense, remove all items of personal property, brought onto the Property by the DPR as defined by state or federal law.

13. Improvements to Property. During the term of this JUA, DPR must not make any additions or alterations to the Property without the prior written consent of the City. Moreover, upon receiving consent to make an addition or alteration to the improvements on the Property, and except as provided herein, DPR shall not commence work on the construction or installation of such added or altered improvements until plans and specifications for same have been submitted to and approved by the City's Department of Public Works and other Departments as may be required. Performance and payment bonds may be required for any work costing in

excess of \$10,000. City shall provide a form or forms that specify the terms of any bond required.

14. **Title to Improvements.** Upon termination of this JUA all additions or alterations to the Property made by DPR will remain the DPR's property; provided, however, that upon termination of this Agreement, the City will have the option to require DPR to promptly remove any or all of its property and to restore the Property to substantially the same condition as it was on commencement of the JUA, all at DPR's sole cost and expense.

15. **DPR's Obligations Under this JUA.**

a. Maintenance, dust control, sweeping and keeping clear of refuse. DPR will promptly repair any damage to sidewalks, driveways, asphalt parking areas, or components, or to other paved surfaces when such damage is caused by DPR or its invitees.

b. DPR shall arrange for trash and waste removal services.

c. Other general maintenance and upkeep of the Property resulting from DPR's access or use thereof not specified herein.

16. **Destruction of Substantial Damage of Property.** If, during the term of this JUA, the Property or any part thereof are substantially damaged or destroyed by a fire or other casualty beyond DPR's control (but not including damage caused by the willful acts or negligence of DPR or DPR's employees which damage DPR shall promptly repair, replace or restore at DPR's sole cost and expense), this JUA shall terminate.

17. **Compliance with Regulations of Local Agencies.** It shall be the responsibility of the DPR under this JUA to contact, consult and comply with any regulation applicable to DPR's activities on the Property which are now or may be promulgated by a local public or private utility provider or regulator having jurisdiction over activities or utility services, including, but not limited to, the Marina Coast Water District, the Monterey Regional Water Pollution Control Agency, Pacific Gas & Electric Company, and Monterey Bay Unified Air Pollution Control District.

18. **Indemnity.**

a. DPR and City agree that the City, its council, boards and commissions, officers, employees, agents, and volunteers should, to the extent permitted by law, be fully protected from any loss, injury, damage, claim, lawsuits, cost, expense, attorneys fees, litigation costs, defense costs, court costs or any other cost arising out of or in any way related to the performance of this Agreement. Accordingly, the provisions of this indemnity provision are intended by the parties to be interpreted and construed to provide the fullest protection possible under the law to the City. DPR acknowledges that City would not enter into this agreement in the absence of the commitment from DPR to indemnify and protect City as set forth here.

b. To the full extent permitted by law, DPR shall defend, indemnify and hold harmless the City, its council, boards and commissions, officers, employees, agents, and volunteers, from any liability, claims, suits, actions, arbitration proceedings, administrative

proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, reasonable attorney fees incurred by City, court costs, interest, defense costs including expert witness fees and any other costs or expenses of any kind whatsoever without restriction or limitation incurred in relation to, as a consequence of or arising out of or in any way attributable actually, allegedly or impliedly, in whole or in part to the performance of this JUA. All obligations under this provision are to be paid by DPR as they are incurred by the City.

c. Without affecting the rights of the City under any provision of this JUA or this Section, DPR shall not be required to indemnify and hold harmless City, as set forth above, for liability attributable to the sole fault of City, provided such sole fault is determined by agreement between the parties or the findings of a court of competent jurisdiction. This exception will apply only in instances where the City is shown to have been solely at fault.

d. The obligations of DPR under this or any other provision of this JUA will not be limited by the provisions of any workers' compensation act or similar act. DPR expressly waives its statutory immunity under such statutes or laws as to City, its council, boards and commissions, officers, employees, agents, and volunteers.

e. DPR agrees to obtain executed indemnity agreements with provisions identical to those set forth in this section from any assignee, subcontractor or any other person or entity involved by, for, with or on behalf of DPR in the performance or subject matter of this JUA. In the event DPR fails to obtain such indemnity obligations from others as required here, DPR agrees to be fully responsible according to the terms of this Section.

f. Failure of the City to monitor compliance with these requirements imposes no additional obligations on City and will in no way act as a waiver of any rights hereunder. This obligation to indemnify and defend the City as set forth herein is binding on the successors, assigns, or heirs of DPR and shall survive the termination of this JUA or this Section.

19. **Insurance.** DPR is the insuring party, and as such agrees that it will provide, and it will require its contractors to provide, insurance in accordance with the requirements set forth in **Exhibit C**.

20. **Review of Insurance Coverage.** City is entitled at any time during the term of this JUA to review the type, form and coverage limits of the insurance requirements. If in the opinion of the City, the insurance provisions of this JUA are not sufficient to provide adequate protection for the City and the members of the public, the City may require DPR to maintain insurance sufficient to provide such adequate protection. City shall notify DPR in writing of any changes in the insurance provisions necessary to provide adequate protection. If DPR does not deposit acceptable certificates evidencing valid insurance policies acceptable in form and content to the City, incorporating such changes within sixty (60) days of receipt of such notice this JUA will be in default. The procuring of such policy of insurance will not be construed to be a limitation upon DPR's liability nor as a full performance of its part of the indemnification provisions of this Agreement; DPR's obligation being, notwithstanding said policy or policies of insurance, the full and total amount of any damage, injury or loss caused by the negligence or neglect connected with its operations under this JUA.

21. **Liens and Claims.** DPR shall not suffer or permit to be enforced against the City's title to the property, or any part thereof, any lien, claim or demand arising from any work of construction, repair, restoration, maintenance or removal as herein provided, or otherwise arising (except liens, claims or demands suffered by or arising from the actions of the City).

22. **DPR to Pay Liens & Claims.** DPR shall pay all such liens, claims and demands before any action is brought to enforce same against said land. DPR agrees to hold City and said land free and harmless from all liability for any and all such liens, claims or demands, together with all costs and expenses in connection therewith.

23. **Payment of Liens & Claims by City.** Should DPR fail or refuse to pay any lien, claim, or demand arising out of the construction, repair, restoration maintenance and use of the Property or any other claim, charge or demand which DPR has agreed to pay under the covenants of this JUA, DPR shall, within thirty (30) days written notice from City to DPR of its said encumbrance, pay and discharge the same or shall furnish to City, in a form satisfactory to City, sufficient security for such lien, claim or demand and all costs and expenses in connection therewith. Should DPR or its said encumbrancer within said thirty (30) day period, not pay and discharge said lien, claim or demand, or not provide said security to City, then City, at its option, may either treat such failure or refusal as a breach of or default under this JUA, or may pay any such lien, claim, charge or demand, or settle or discharge any action therefore or judgement thereon, and all costs, expenses and other sums incurred or paid by City in connection therewith must be repaid to City by DPR upon written demand, together with interest thereon at the rate of 10%, per annum from the date of payment until repaid, and any default in such repayment will constitute a breach of the covenants and conditions of this JUA.

24. **Assignments, Transfers and Encumbrances.** DPR shall not sell, assign, transfer, or encumber this Agreement .

25. **Compliance with Laws, Permits and Licenses.** DPR's business will be conducted and maintained in strict compliance with all applicable laws, ordinances, regulations, and other requirements of federal, state, county, city or other governmental agencies having jurisdiction over the Property.

26. **Independent Status.** DPR is an independent entity. DPR is solely responsible for the acts and omissions of its officers, agents, employees, contractors and subcontractors, if any. Nothing in this JUA will be construed as creating a partnership or joint venture between City and DPR. Neither DPR nor its officers, employees, agents or subcontractors shall obtain any rights to retirement or other benefits which accrue to the City's employees.

27. **Attorney's Fees and Costs.** Should the dispute of the parties not be resolved by negotiation or mediation, and in the event it should become necessary for either party to enforce or interpret any of the terms and conditions of this JUA by means of court action or administrative enforcement, the laws of the State of California shall govern the interpretation of the terms and conditions of this JUA and such action shall be brought in a court of proper jurisdiction in Monterey County. The prevailing party, in addition to any other remedy at law or in equity available to such party, will be awarded all reasonable costs and reasonable attorney's

fees in connection therewith, including the fees and costs of experts reasonably consulted by the attorneys for the prevailing party.

28. **Default.** DPR will be deemed in default under this JUA upon the breach of any of DPR's other duties and obligations under this JUA, which breach can be cured, if such breach is not cured within seventy-two (72) hours after being given written notice thereof by City.

29. **Remedies on Default**

a. **City's Right to Terminate JUA.** Upon DPR's default of this JUA, City is entitled to terminate this JUA effective immediately.

b. **Other Remedies.** All rights, options, and remedies of City contained in this JUA will be construed and held to be cumulative and not one of them will be exclusive of the other, and City will have the right to pursue any one or all of such remedies or any other remedy or relief which may be provided for by law, whether or not stated in this JUA.

30. **Waiver of Default.** Any waiver by City of a default of this JUA arising out of the breach of any of the covenants, conditions, or restrictions of this JUA will not be construed or held to be a waiver of any succeeding or preceding default arising out of a breach of the same or any other covenant, condition, or restriction of this JUA.

31. **Notices.** All notices required or permitted to be given under this JUA shall be in writing and must be personally delivered or United States certified mail, postage prepaid, return receipt requested, addressed as follows:

To City: City of Marina
 City Hall
 Attn: City Manager
 211 Hillcrest Ave, Marina, California 93933
 Phone: (831) 384-3715

Copy to: City Attorney of City of Marina
 Shute, Mihaly & Weinberger LLP
 396 Hayes St., San Francisco, CA 94102
 Phone: (415) 552-7272

To DPR: California Department of Parks & Recreation
 Monterey District
 Attn: Mr. Dan Shaw
 2211 Garden Rd., Monterey, California 93940
 Phone: (831) 649-2836

or to such other address as either party may from time-to-time designate by notice to the other given in accordance with this Section. Notice will be deemed effective on the date personally served or, if mailed, three business days from the date such notice is deposited in the United States mail.

32. **Amendment or Modification.** This JUA may be amended, altered or modified only by a writing, specifying such amendment, alteration or modification, executed by authorized representatives of both of the parties hereto.

33. **Construction of JUA.** Whenever the singular number is used in this JUA and when required by the context, the same shall include the plural, and the masculine gender shall include the feminine and neuter genders. If there is more than one DPR designated in or signatory to this JUA, the obligations hereunder imposed upon DPR are joint and several; and the term “DPR” as used herein refers to each and every of said signatory parties, severally as well as jointly.

34. **Time.** Time is and shall be of the essence of each term and provision of this JUA.

35. **Heirs and Successors.** All of the covenants, agreements, conditions and undertakings herein contained shall apply to and bind the representatives, heirs, executor, administrators, or successors-in-interest of all the parties hereto and all the parties hereto will be jointly and severally liable hereunder.

36. **Further Actions.** Each of the parties agree to execute and deliver to the other such documents and instruments, and to take such actions, as may reasonably be required to give effect to the terms and conditions of this JUA including such information and reports as may be required by the City.

37. **Interpretation.** This JUA has been negotiated by and between the representatives of both parties. Accordingly, any rule of law (including Civil Code §1654) or legal decision that would require interpretation of any ambiguities in this JUA against the party that has drafted it is not applicable and is waived. The provisions of this JUA shall be interpreted in a reasonable manner to affect the purpose of the parties and this JUA.

38. **Captions.** Titles or captions of the sections contained in this JUA are inserted only as a matter of convenience and for reference, and in no way define, limit, extend or describe the scope of this Agreement or the intent of any provision of it.

39. **Severability.** If any of the provisions of this JUA are determined to be invalid or unenforceable, those provisions shall be deemed severable from the remainder of this JUA and will not cause the invalidity or unenforceability of the remainder of this JUA, unless this JUA without the severed provisions would frustrate a material purpose of either party in entering into this JUA.

40. **Waiver.** No waiver of any right or obligation of either party hereto will be effective unless made in a writing, specifying such waiver and executed by the party against whom such waiver is sought to be enforced. A waiver by either party of any of its rights under this JUA on any occasion will not bar the exercise of the same right on any subsequent occasion or of any other right at any time.

41. **Counterparts.** This JUA may be executed in two or more counterparts, each of which will be deemed an original, but any of which will be deemed to constitute one and the same instrument.

42. **Entire Agreement.** This JUA constitutes the entire and complete agreement between the parties regarding the subject matter hereof, and supersedes all prior or contemporaneous negotiations, understandings or agreements of the parties, whether written or oral, with respect to the subject matter.

IN WITNESS WHEREOF, this JUA has been executed by the duly authorized officers or representatives of each of the parties.

CITY OF MARINA

STATE DEPARTMENT OF PARKS
& RECREATION

By: _____
City Manager

By: _____

Its: _____

Date: _____

Date: _____

Attest: (Pursuant to Resolution No. 2024-__)

City Clerk

By: _____

Approved as to form:

City Attorney

Date: _____

EXHIBIT A – PROPERTY MAP

EXHIBIT A



PUBLIC WORKS DEPARTMENT
CITY OF MARINA
211 HILLCREST AVENUE
MARINA, CALIFORNIA 93933

PH: (831) 884-1212
FAX: (831) 384-0425



City Property
Lake Drive Corporation
Yard

EXHIBIT A

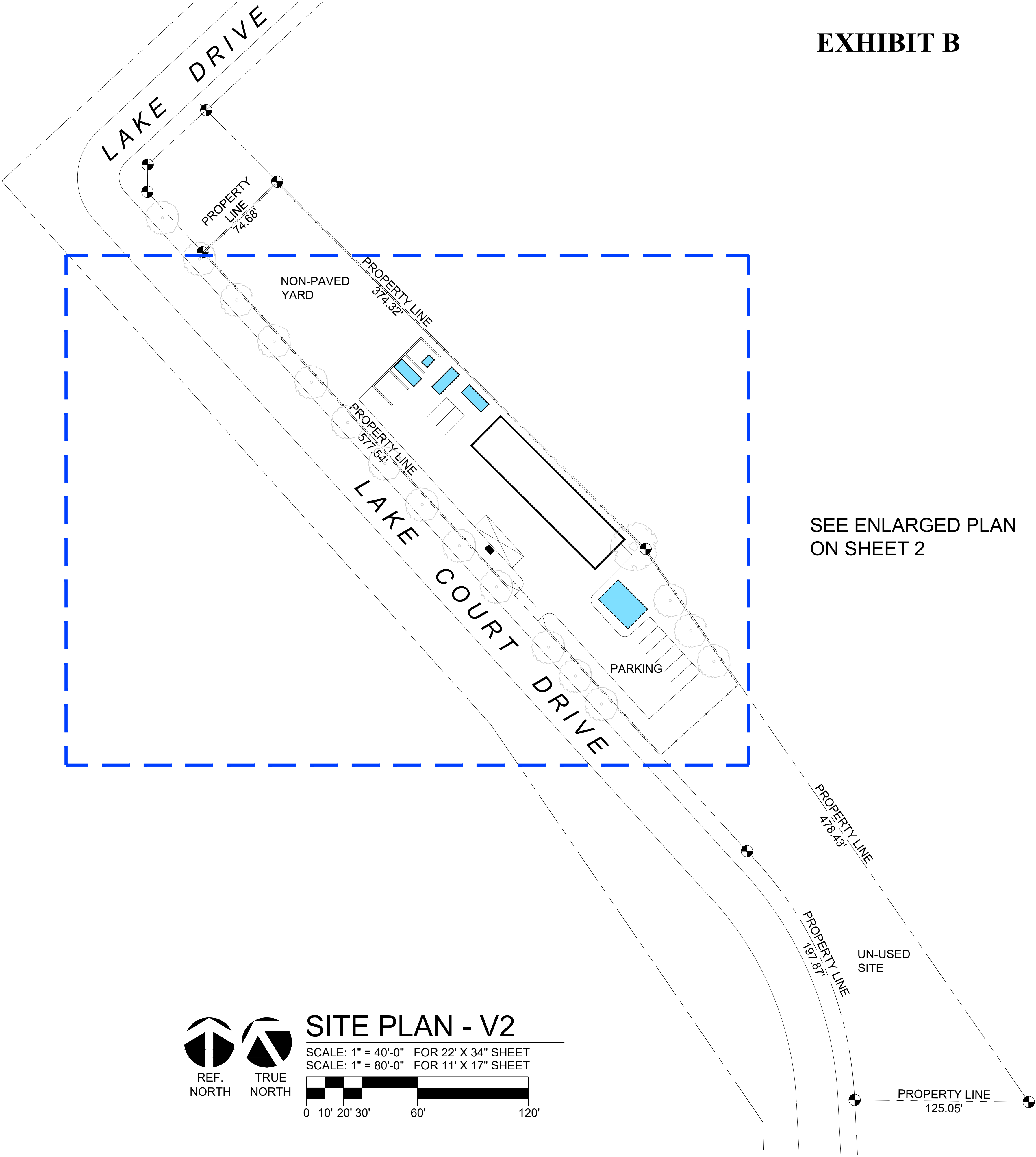
12/11/24

SCALE: NONE

EXHIBIT B – PROPOSED USES



SOUTHEAST VIEW OF METAL BUILDING



MONTEREY DISTRICT
2211 Garden Road
Monterey, CA 93940

DPR ACCESSIBILITY COMPLIANCE REVIEW	
Certification #	
Reviewed by	
CASp#	Date
ACCESSIBILITY COMPLIANCE AND SFM SIGNED ORIGINALS ARE ON FILE AT THE DEPARTMENT OF PARKS & RECREATION, NORTHERN SERVICE CENTER	
DESIGNED:	MJZ
DRAWN:	MJZ
CHECKED:	
DATE:	11-12-24

△	REVISIONS	DATE

LAKE COURT SITE AT MARINA
DUNES NATURAL RESERVE

Site Plan (Version 2)

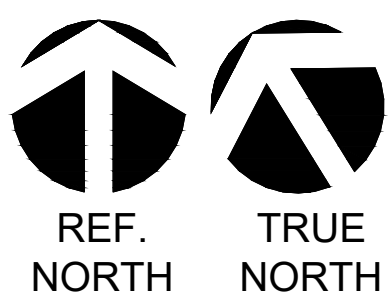
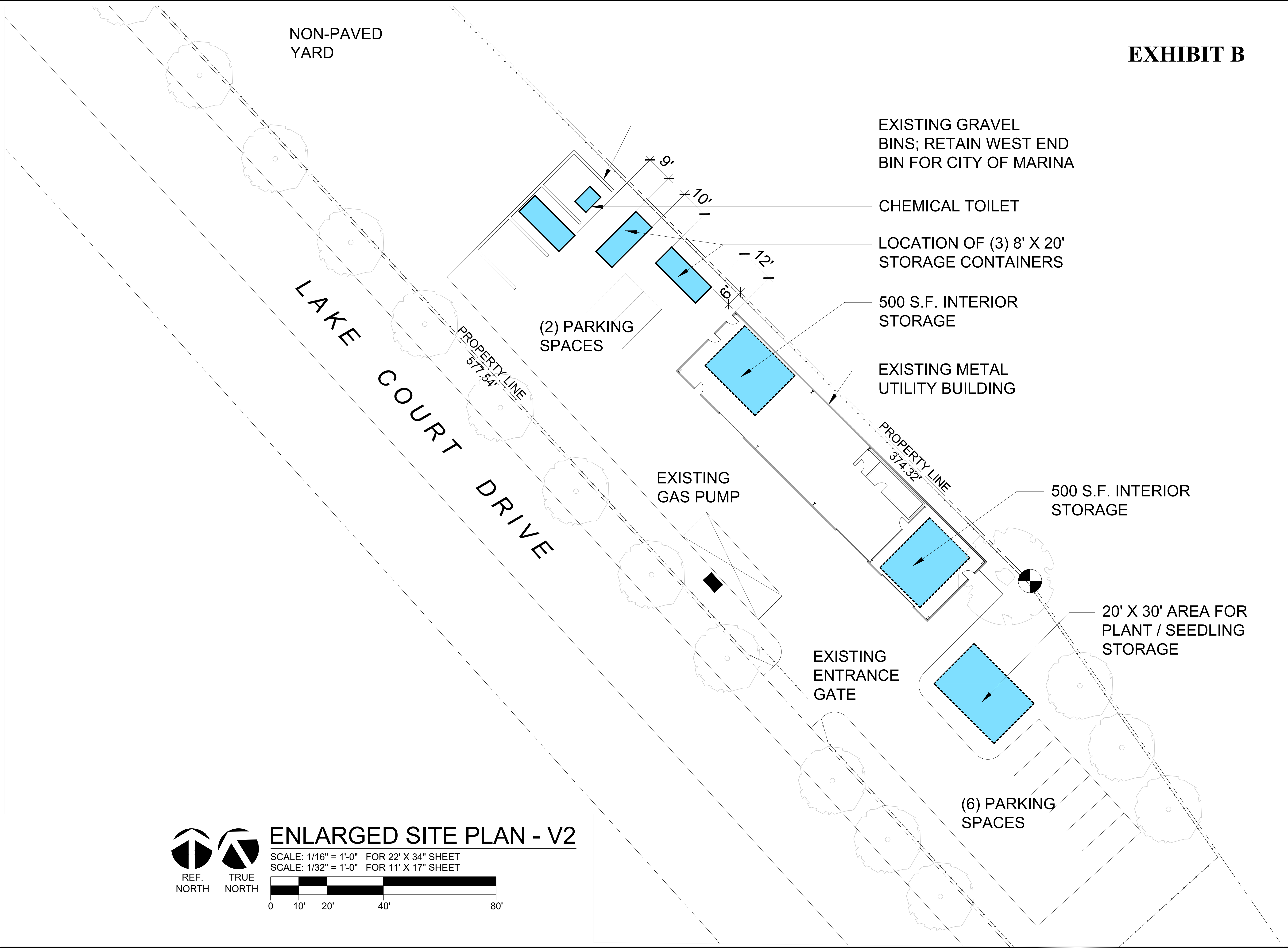
TEMPORARY USE OF CITY OF
CITY CORPORATION YARD

CONTRACT NO.
DRAWING NO.
SHEET NO. 1 SHEET 1 OF 2



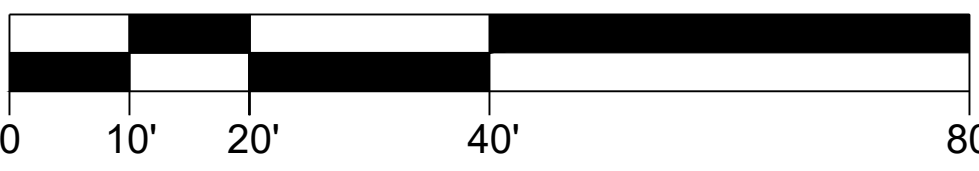
MONTEREY DISTRICT
2211 Garden Road
Monterey, CA 93940

EXHIBIT B



ENLARGED SITE PLAN - V2

SCALE: 1/16" = 1'-0" FOR 22' X 34" SHEET
SCALE: 1/32" = 1'-0" FOR 11' X 17" SHEET



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DPR ACCESSIBILITY COMPLIANCE REVIEW	
Certification #	
Reviewed by	
CASp#	Date
ACCESSIBILITY COMPLIANCE AND SFM SIGNED ORIGINALS ARE ON FILE AT THE DEPARTMENT OF PARKS & RECREATION, NORTHERN SERVICE CENTER	
DESIGNED:	MJZ
DRAWN:	MJZ
CHECKED:	
DATE:	11-12-24

△	REVISIONS	DATE

LAKE COURT SITE AT MARINA
DUNES NATURAL RESERVE

Enlarged Site Plan (Version 2)

TEMPORARY USE OF CITY OF
CITY CORPORATION YARD

CONTRACT NO.

DRAWING NO.

SHEET NO. 2 SHEET 2 OF 2

PROJECT MILESTONE:

EXHIBIT C - INSURANCE

DPR shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by DPR, its agents, representatives, or employees.

MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an “occurrence” basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than **\$1,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.
2. **Automobile Liability:** Insurance Services Office Form Number CA 0001 covering, Code 1 (any auto), or if DPR has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than **\$1,000,000** per accident for bodily injury and property damage.
3. **Workers’ Compensation** insurance as required by the State of California, with Statutory Limits, and Employer’s Liability Insurance with limit of no less than **\$1,000,000** per accident for bodily injury or disease. (Not required if DPR provides written verification it has no employees)
4. **Professional Liability (Errors and Omissions):** Insurance appropriate to DPR’s profession, with limit no less than **\$2,000,000** per occurrence or claim, \$2,000,000 aggregate.

If DPR maintains broader coverage and/or higher limits than the minimums shown above, the City requires and shall be entitled to the broader coverage and/or the higher limits maintained by DPR. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

Additional Insured Status

City, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of DPR including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to DPR’s insurance (at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10, CG 20 26, CG 20 33, or CG 20 38; and CG 20 37 if a later edition is used).

Primary Coverage

For any claims related to this contract, DPR's insurance coverage shall be primary and non-contributory and at least as broad as ISO CG 20 01 04 13 as respects the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers shall be excess of DPR's insurance and shall not contribute with it. This requirement shall also apply to any Excess or Umbrella liability policies.

Umbrella or Excess Policy

DPR may use Umbrella or Excess Policies to provide the liability limits as required in this agreement. This form of insurance will be acceptable provided that all of the Primary and Umbrella or Excess Policies shall provide all of the insurance coverages herein required, including, but not limited to, primary and non-contributory, additional insured, Self-Insured Retentions (SIRs), indemnity, and defense requirements. The Umbrella or Excess policies shall be provided on a true "following form" or broader coverage basis, with coverage at least as broad as provided on the underlying Commercial General Liability insurance. No insurance policies maintained by the Additional Insureds, whether primary or excess, and which also apply to a loss covered hereunder, shall be called upon to contribute to a loss until DPR's primary and excess liability policies are exhausted.

Notice of Cancellation

Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the City.

Waiver of Subrogation

DPR hereby grants to City a waiver of any right to subrogation which any insurer of said DPR may acquire against the City by virtue of the payment of any loss under such insurance. DPR agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer.

Self-Insured Retentions

Self-insured retentions must be declared to and approved by the City. The City may require DPR to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or City. The CGL and any policies, including Excess liability policies, may not be subject to a self-insured retention (SIR) or deductible that exceeds \$25,000 unless approved in writing by City. Any and all deductibles and SIRs shall be the sole responsibility of DPR who procured such insurance and shall not apply to the Indemnified Additional Insured Parties. City may deduct from any amounts otherwise due DPR to fund the SIR/deductible. Policies shall NOT contain any self-insured retention (SIR) provision that limits the satisfaction of the SIR to the City. The policy must also provide that Defense costs, including the Allocated Loss Adjustment Expenses, will satisfy the SIR or deductible. City reserves the right to obtain a copy of any policies and endorsements for verification.

Acceptability of Insurers

Insurance is to be placed with insurers authorized to conduct business in the state with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the City.

Claims Made Policies

If any of the required policies provide claims-made coverage:

1. The Retroactive Date must be shown, and must be before the date of the contract or the beginning of contract work.
2. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.
3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, DPR must purchase "extended reporting" coverage for a minimum of five (5) years after completion of work.

Verification of Coverage

DPR shall furnish the City with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause and a copy of the Declarations and Endorsements Pages of the CGL and any Excess policies listing all policy endorsements. All certificates and endorsements and copies of the Declarations & Endorsements pages are to be received and approved by the City before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive DPR's obligation to provide them. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time. City reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

Duration of Coverage

CGL & Excess liability policies for any construction related work, including, but not limited to, maintenance, service, or repair work, shall continue coverage for a minimum of five (5) years for Completed Operations liability coverage. Such Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.

Special Risks or Circumstances

City reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

December 5, 2024

Item No. **10g(2)**

Members of the Marina
City Council

City Council Meeting
of December 17, 2024

**CITY COUNCIL CONSIDER ADOPTING RESOLUTION NO. 2024-
AUTHORIZING A JOINT USE AND ACCESS AGREEMENT BETWEEN CITY
AND CALIFORNIA STATE PARKS FOR USE OF AND ACCESS TO THE
CITY'S CORPORATION YARD LOCATED AT 3040 LAKE COURT FOR A
PERIOD OF ONE (1) YEAR AND AUTHORIZE THE CITY MANAGER TO
EXECUTE AN AGREEMENT WITH STATE PARKS ON BEHALF OF CITY
SUBJECT TO FINAL REVIEW BY THE CITY ATTORNEY. THE JOINT USE
AND ACCESS AGREEMENT IS EXEMPT FROM ENVIRONMENTAL REVIEW
PER §15061(b)(3) OF THE CEQA GUIDELINES.**

REQUEST: It is requested that the Marina City Council:

1. Adopt Resolution No. 2024- authorizing a joint use and access agreement between City and California State Parks for use of and access to the City's corporation yard located at 3014 Lake Court in accordance to the terms and conditions in the Agreement referenced herein **(EXHIBIT A)**; and
2. Authorize the City Manager to execute the Agreement on behalf of City with State Parks subject to final review by the City Attorney.

SUMMARY:

The City owns an approximately 61,000 sq. ft. property at 3014 Lake Ct. (APN 033-171-026) that has been used as a corporation yard in the past. The property is partially paved and is developed with a metal building, a fuel pump, and several materials storage bins. The property is primarily used by the City for storage of public works equipment and materials and the fueling pump for City vehicles.

State Parks is in the process of remodeling their existing headquarters located at 61 Reservation Rd. and needs a nearby location to temporarily house staff, vehicles, and equipment associated with the day-to-day maintenance of their properties in and around Marina. As indicated in the Joint Use and Access Agreement, the area that State Parks is interested in is approximately 26,700 sq. ft. in size and includes using some of the space in the metal building, the paved parking areas to the south and north of the building. Parks proposes to place several shipping containers and a chemical toilet (no connection to water is proposed) on the site and to use a portion of the south part of the City's property for plant/seedling storage. The property is enclosed by security fencing and a locked gate to which Parks personnel would have access. City staff would continue to access the property and to the fuel pump as needed, but Parks staff would not have the code to access the fuel pump. Marina Police, Fire, and the Public Works Departments have all indicated that the use of the property by State Parks would not interfere with their operations.

State Parks has indicated that they would need to utilize the Lake Ct. property for approximately one (1) year. The Agreement provided as **Exhibit A** specifies a one (1) year term.

The property is in the Coastal zone and is zoned for Public Facilities uses. The temporary use of the site by the State Parks is exempt from a Coastal Development Permit (CDP) per Public Resources Code (PRC) § 30610(i) which allows for temporary uses which will not result in a significant adverse impact upon coastal resources.

FISCAL IMPACT:

There is no fiscal impact.

ENVIRONMENTAL REVIEW:

The approval of this Agreement is not subject to California Environmental Quality Act (CEQA) pursuant to the State CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, 15061(b)(3) because the proposed Agreement is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment.

CONCLUSION:

This request is submitted for City Council consideration.

Respectfully submitted,

Alyson Hunter, AICP
Planning Services Manager
City of Marina

REVIEWED/CONCUR:

Layne Long
City Manager
City of Marina