

**SECOND AMENDMENT TO
EXCHANGE AGREEMENT AND JOINT ESCROW INSTRUCTIONS**

THIS SECOND AMENDMENT TO EXCHANGE AGREEMENT AND JOINT ESCROW INSTRUCTIONS ("**Second Amendment**") is entered into by and between the CAMBRIAN SCHOOL DISTRICT, a public school district duly organized and validly existing under the Constitution and the laws of the State of California ("**District**") and SILVERADO SAN JOSE, LLC ("**Silverado**"). District and Silverado are sometimes hereinafter referred to individually as a "Party" and collectively as the "**Parties.**" The effective date of this Second Amendment ("**Effective Date**") shall be the date on which the last Party executes the Second Amendment.

RECITALS

WHEREAS, Silverado and District entered into that Exchange Agreement and Joint Escrow Instructions effective March 17, 2023 ("**Agreement**") for a portion of the approximately 1.85 gross acres of undeveloped land identified as all or a portion of Santa Clara County Assessor Parcel No. 414-21-062, of which Silverado proposed to acquire approximately 76,764 square feet as more particularly described in the legal description attached as Exhibit B to the Agreement (referred to in the Agreement as the "**Metzler A Property or MAP**").

WHEREAS, Silverado is currently awaiting approval from the City of San Jose of the required entitlements for the development of an assisted living facility (referred to in the Agreement as the "**Assisted Living Facility**").

WHEREAS, Silverado has indicated it will be necessary to pursue funding from a lender to acquire the property interest under the Agreement.

WHEREAS, District has agreed to exchange the proceeds from the exchange of the Metzler A property for the deed of trust and promissory note held by the third-party Silverado lender, as described more fully herein.

WHEREAS, based upon the foregoing and the anticipated timing of the approval process with the City of San Jose and to secure funding, the Parties recognize that certain amendments to the Agreement are necessary and appropriate to fulfill the purpose and intent of the Parties.

AGREEMENT

NOW THEREFORE, in consideration of the covenants and agreements set forth in this Second Amendment, and the valuable consideration associated therewith, the Parties agree as follows:

1. Except as otherwise defined herein, all defined terms in the Agreement shall retain the same definition herein.

2. Financing Contingency. In order to finance the cost of the Metzler A property, as set forth in Article I of the Agreement, Silverado has agreed to secure a loan from a third-party lender on the terms and conditions set forth in the Financing Letter of Intent attached hereto as **Exhibit "A,"** which loan will be evidenced by a Deed of Trust and Promissory Note (referred to herein as the "**Exchange Property.**")

3. Simultaneous Exchange of Property Interest. If Silverado secures a loan consistent with the Financing Letter of Intent, District agrees to simultaneously exchange the proceeds from the sale of the Metzler A Property for the Exchange Property held by the third-party lender. The Parties agree that the simultaneous conveyance of the Metzler A Property and the Exchange Property shall conclude the three-party exchange component of the transaction contemplated by the Agreement.

4. Survival of Community Garden Obligation. The Recitals to the Agreement provide that "in addition to acquiring the Metzler A Property, Silverado will develop and construct a 6,000 square foot community garden on an identified portion of the Metzler A Property, as further described in Exhibit B." The Parties further agree that the scope of work Silverado will complete or cause to be completed to construct and deliver the Community Garden to the District is set forth in the Letter of Intent attached hereto as **Exhibit "B"** ("Community Garden Improvements Description"). The location of the Community Garden is generally depicted on the site map attached hereto as **Exhibit "C."** The Parties acknowledge and agree that the Community Garden Improvements will not be completed before Close of Escrow, as extended herein, and therefore expressly agree that Silverado's obligation to make the Community Garden Improvements set forth in Exhibit B shall survive the Close of Escrow and/or any other termination of this Agreement.

5. The first sentence of Section 3.2 is hereby deleted in its entirety and replaced with the following:

3.2 Close of Escrow; Closing Date. Escrow shall close on or prior to December 31, 2024 (the "Closing Date"), provided that the conditions to Closing described in Section 4 below have been satisfied.

6. Miscellaneous. Except to the extent expressly modified by this Second Amendment, the Agreement is ratified and remains in full force and effect. To the extent of any inconsistency between this Second Amendment and the Agreement, the terms and conditions of this Second Amendment shall control. This Second Amendment may be executed in multiple counterparts, which may be delivered and/or executed by electronic means, all of which, taken together, shall constitute one document.

IN WITNESS WHEREOF, the Parties hereto have caused this Second Amendment to be executed by their respective duly authorized officers, as of the Effective Date.

DISTRICT:

CAMBRIAN SCHOOL DISTRICT

SILVERADO:

SILVERADO SAN JOSE, LLC,
a Delaware limited liability company

Signed: _____

Print Name: Kristi Schwiebert

Print Title: Superintendent

Dated: September ____, 2024

Signed: 

Print Name: Loren B. Shook

Print Title: President, CEO, COB

Dated: September 12, 2024

Exhibit A

Silverado San Jose Exchange and Financing Term Sheet

- Sponsor:** Silverado Senior Living Holdings, Inc
- Project Company:** Silverado San Jose, LLC (Silverado)
- Project:** A senior living facility in San Jose, CA (the Metzler site).
- Seller:** Cambrian School District (the District)
- Lender:** TBD (Lender)
- Transaction:** Sale/Exchange of Project from Seller to Sponsor and debt financing with Lender
- Closing Date:** Closing to occur within 30 days of the City of San Jose entitlement approvals including the lapse of the appeal periods including resolution of any appeal that maybe filed.
- Loan Amount:** \$4,703,173
- Debt Proceeds:** Lender will advance \$4,703,173 at Closing.
- Interest Rate:** The debt will bear a 6.5% interest rate.
- Interest Payments:** Two years of interest, \$611,412 to be deposited (net of previously made Sponsor deposits of \$150,000) to be made at closing. There will be no pre-payment allowed during the first 12 months of the loan. If the loan is not paid off on the one year anniversary of the loan inception, then on a monthly basis the interest payment shall be credited from the interest pre-payment made until that pre-payment is exhausted at the end of year 2. If at any time during year 2 of the loan Silverado pays off the loan, any remaining proceeds in the prepaid interest reserve shall be credited back to Silverado in escrow at the loan payoff closing. Thereafter, during year 3 the required monthly interest payments at the rate of 6.5%, beginning 25 months following closing date shall be payable monthly.
- Prepayment:** Redeemable (in whole or in part) at any time, without penalty any time after one year from the closing.
- Maturity Date:** The accrued debt balance and any outstanding interest will be due and payable three years after the Closing Date of the Loan.

Exhibit A

- Collateral:** Silverado's obligation to repay the debt will be secured by a first deed of trust against the land at the Meztler site.
- Origination Fee:** Silverado will pay a 1.5% origination fee to Lender at closing.
- Expense Deposit / Legal Fees:** Each Party, Silverado, Lender and Project Company will be responsible for their own legal fees.
- Confidentiality:** Sponsor will not provide a copy of, or disclose the existence or contents of, this Term Sheet to any other person or entity, other than (a) its financial or legal advisors (who are required to maintain the confidentiality of the information contained herein), and (b) as may be compelled in a judicial or administrative proceeding or as otherwise required by law or regulation (in which case recipient agrees to inform the other party promptly thereof). The contents of this Term Sheet and the discussions and negotiations between the parties shall be kept in strict confidence by the Sponsor and its advisers.
- Binding and Non-Binding Provisions:** Sponsor and Lender agree that this Term Sheet (i) does not contain all of the essential terms of the definitive documentation that may be entered into regarding the transactions contemplated by this Term Sheet (collectively, the "Definitive Documentation"), (ii) does not create any other obligation of either party, including, without limitation, any obligation to negotiate toward the Definitive Documentation, and (iii) is non-binding (other than the terms of the paragraphs entitled "Expense Deposit / Legal Fees", "Confidentiality" and "Exclusivity" and this paragraph entitled "Binding and Non-Binding Provisions", which are binding agreements of the parties). Except as otherwise expressly provided herein, no binding agreement or other obligation will exist, and neither Sponsor nor Lender will rely upon the expectation of entering into the Definitive Documentation, unless and until Sponsor and Lender have executed such Definitive Documentation. The terms of the fully-executed and delivered Definitive Documentation shall fully supersede the terms of this Term Sheet. Notwithstanding that either or both parties may expend substantial efforts and sums in anticipation of entering into the Definitive Documentation, the parties acknowledge that in no event will this Term Sheet be construed as an enforceable contract (except as otherwise set forth in this paragraph) and that each party accepts the risk that no such contract will be executed.

Lender's willingness to enter into this Term Sheet will automatically expire without further action by any party in the event Sponsor has not executed this Term Sheet on or before August X, 2024.

Exhibit A

[Remainder of page intentionally blank. Signature page follows.]

Exhibit A

EXECUTED as of the date set forth above.

LENDOR:

(TBD)

By: _____
Name: _____
Title: _____

SPONSOR:

SILVERADO SENIOR LIVING
HOLDINGS, INC

[_____] ,
a [_____]

By: _____
Name: Loren Shook
Title: President, CEO, and Chairman of the
Board

EXHIBIT "B"

Community Garden Improvements Description



TERRA

realty advisors inc

11 January 2021

Mr. Loren Shook
Attention: Mark Kuiper
Colliers International
450 West Santa Clara Street
San Jose, CA 95113

Re: **Letter of Intent (LOI)**
Cambrian School District Land – Portion of Metzler A
1975 Cambrianna Drive San Jose, CA 95124

Dear Loren,

The following are the business issues and terms, which have been discussed and negotiated between the parties:

1. Lessor: Cambrian School District (CSD)
Lessee: Silverado CSD, Inc. (Silverado)
2. The subject property is a portion of APN 414-21-062, as outlined on the attached exhibit, comprised of approximately 1.9 acres. The final land area shall be made up of two parts: (a) exclusive area, and (b) joint use area. The joint use area is estimated to be approximately 6,000 sf, which is envisioned as a community garden. The location and configuration of this joint use area shall be agreed on by both of the parties. The site will be surveyed to create a new legal parcel. The final ground lease payment shall be based on the final total land area, less the joint use area.
3. The proposed land value shall be Fifty-Nine (\$59.00) Dollars/sf, which will be applied to the final agreed on exclusive area. The lease payment shall be based on a Five (5%) percent return through the term of the Agreement, as further outlined in this LOI.
 - a. Assuming the joint use area is 6,000 sf and the exclusive land area is approximately 76,764 sf, the imputed land value of the exclusive are is approximately \$4,529,000.
 - b. Based on the rate of return of five percent (5%) of the exclusive area land value, the Initial Ground Lease Payment is approximately \$226,450 per year.
 - c. It is not anticipated a shared or common use driveway will be required.

4. The term of the Joint Occupancy Agreement and Ground Lease (Agreement) shall be ninety-nine (99) years and shall reflect the terms and conditions as outlined in this LOI, as well as other matters agreed to by the parties.
5. In addition to the above, as part of the overall site and building construction, the Silverado will construct for CSD the following improvements on the joint use area, to be completed in conjunction with their site and building development:
 - a. A fence to secure this area (approximate dimensions are (60' x 100')). Material TBD
 - b. Provide water and sewer service point of connection to this area. Location TBD
 - c. Provide electric power to this area (120/208v). Location TBD
 - d. Construct a 10' x 15' tool and storage shed in this area.
 - e. Endow the District with a one-time payment of \$50,000 to maintain and improve the area.
6. The District proposes the following Due Diligence schedule:
 - a. Execute the Agreement on or before March 15, 2021.
 - b. From execution of the Agreement, Silverado shall have three (3) months due diligence, at their sole cost, to investigate the property for their intended use (Initial Contingency). CSD will cooperate with Silverado's consultant(s) to assist and supply information in their possession as requested by Silverado during this time.
 - c. Silverado shall obtain all discretionary approvals from all governmental agencies within twelve (12) months from the termination of the Initial Contingency period (Entitlement Contingency) on terms and conditions acceptable to Silverado. CSD shall cooperate with Silverado in this process. Due to the ongoing COVID-19 health issues impacting public agencies and development timelines, Silverado shall have the right to extend this Entitlement Contingency time, provided they have diligently pursued obtaining all approvals with all public agencies, for a time up to three (3) additional months in one (1) month increments.
 - d. Silverado shall obtain all financing commitments on terms and conditions acceptable to Silverado within two (2) months from the termination of the Entitlement Contingency (Financing Contingency).
 - e. Silverado shall obtain all building permits within three (3) months of the termination of the Financing Contingency.
 - f. During each contingency period, Silverado shall have the unilateral right at its sole discretion to terminate the agreement by giving written notice to CSD. At that time the Security Deposit shall be returned to Silverado.
7. The following is the schedule of payments for the Ground Lease, with commencement of rent 20 months from execution of the Ground Lease (estimated to be on or around December 1, 2022):
 - a. Years 1-3: 50% of the initial Ground Rent – fixed
 - b. Years 4-10: 100% of the initial Ground Lease payment plus a fixed increase of 5%
 - c. Years 11-16: Fixed increase of 10%
 - d. Years 17-24: Fixed increase of 14%
 - e. Years 25-29: Fixed increase of 14%

- f. Years 30-37: Fixed increase of 8.75%, with a Fair Market Rent increase as set forth below.
 - g. Years 38-45: Fixed increase of 14%
 - h. Years 46-53: Fixed increase of 14%
 - i. Years 54-59: Fixed increase of 14%
 - j. Years 60-67: Fixed increase of 10.5%, with a Fair Market Rent increase as set forth below.
 - k. Years 68-75: Fixed increase of 14%
 - l. Years 76-83: Fixed increase of 14%
 - m. Years 84-89: Fixed increase of 14%
 - n. Years 90-99: Fixed increase of 10.5%, with a Fair Market Rent increase as set forth below.
8. Fair Market Value Adjustment (FMVA):
- a. The FMVA will be based on the land value only of the site, not accounting for any improvements, assuming the permitted use is for a Class “B” office. The new imputed rent will be 5% of this new land value subject to the provisions of ¶8 b & c below.
 - b. In no event will there be more than a 12% increase over the adjusted base rent including the fixed increase (“Catch-up increase”).
 - c. In no event will there be less than a 5% increase over the current Fixed increase including the Catch-up increase.
9. Security Deposit shall be One Hundred Twenty Thousand Dollars which can be in the form of cash, bond or letter of credit. Fifty (50%) percent of this amount shall be paid to CSD at the execution of the Agreement, with the remaining balance due upon release of all contingencies as referenced in the LOI. If the Lessee is in good standing on their obligations, 50% of this amount will be refunded on the 5 year anniversary of the Agreement execution by way of a lease payment credit. The balance of this deposit shall be released on the 7 year anniversary, provided the Lessee is in good standing on their obligations, by way of a lease payment credit.
10. At the expiration of the Ground Lease, the District shall have the option of accepting the building in its current condition, or requesting it to be demolished at Silverado's sole cost including any hazardous materials.
11. Silverado shall be responsible for all operating costs associated with their exclusive use land including but not limited to: possessory taxes, utilities, maintenance of buildings, landscaping and all paved areas. The District shall be responsible for maintenance, utilities, etc. for the joint use portion of the property.
12. District shall receive copies of any reports or due diligence investigation performed by Silverado and their consultants, at no cost.
13. To the extent permitted by law, District and Silverado to work out the terms of a First Right of Refusal, should the District choose to dispose of the property, as part of the final Agreement.

14. Per the terms of the RFP, Silverado shall pay CSD a one-time, non-refundable, Option Payment of Ten Thousand (\$10,000.00) Dollars at the execution of the Agreement to cover the legal and consulting costs of preparing the final agreement.
15. CSD shall not be responsible for any real estate brokerage commission. Any commissions payable by Silverado shall be by separate agreement, with the acknowledgement that Mr. Mark Kuiper with Colliers International is representing Silverado in this transaction.
16. Each party shall be responsible for their own legal and other fees and costs incurred in connection with this transaction and due diligence, regardless of whether or not the Agreement is consummated.
17. CSD shall pay for the cost of a CLTA title insurance policy. If Silverado wishes to obtain an ALTA title policy they shall be responsible for the additional cost, including a survey if required. The parties agree to split the escrow costs 50/50. All other costs shall be prorated at the closing.

Silverado understands that this letter does not commit the District (i) to sell, lease or otherwise transfer the Property to Silverado or (ii) to take any other acts or activities requiring the independent exercise of discretion by the District's Board. Any agreement resulting from the negotiations under these writings shall be effective only after the Agreement has been considered and approved at a public hearing called for such purpose in accordance with applicable law.

The final Agreement will be based on the negotiations of the parties, as well as the provisions of the joint occupancy statutes set forth in the California Education Code. CSD shall prepare the Agreement for review and approval by Silverado.

This LOI shall expire at 5pm Thursday January 14, 2021 if CSD has not received Silverado's executed copy by that date/time.

If these terms and conditions are acceptable, please indicate by signing below.

Call me with any questions or clarifications.

Sincerely,




Scott Sheldon
President

ACCEPTED ON THIS 14 DAY OF January 2021

SILVERADO CSD, INC:

CAMBRIAN SCHOOL DISTRICT



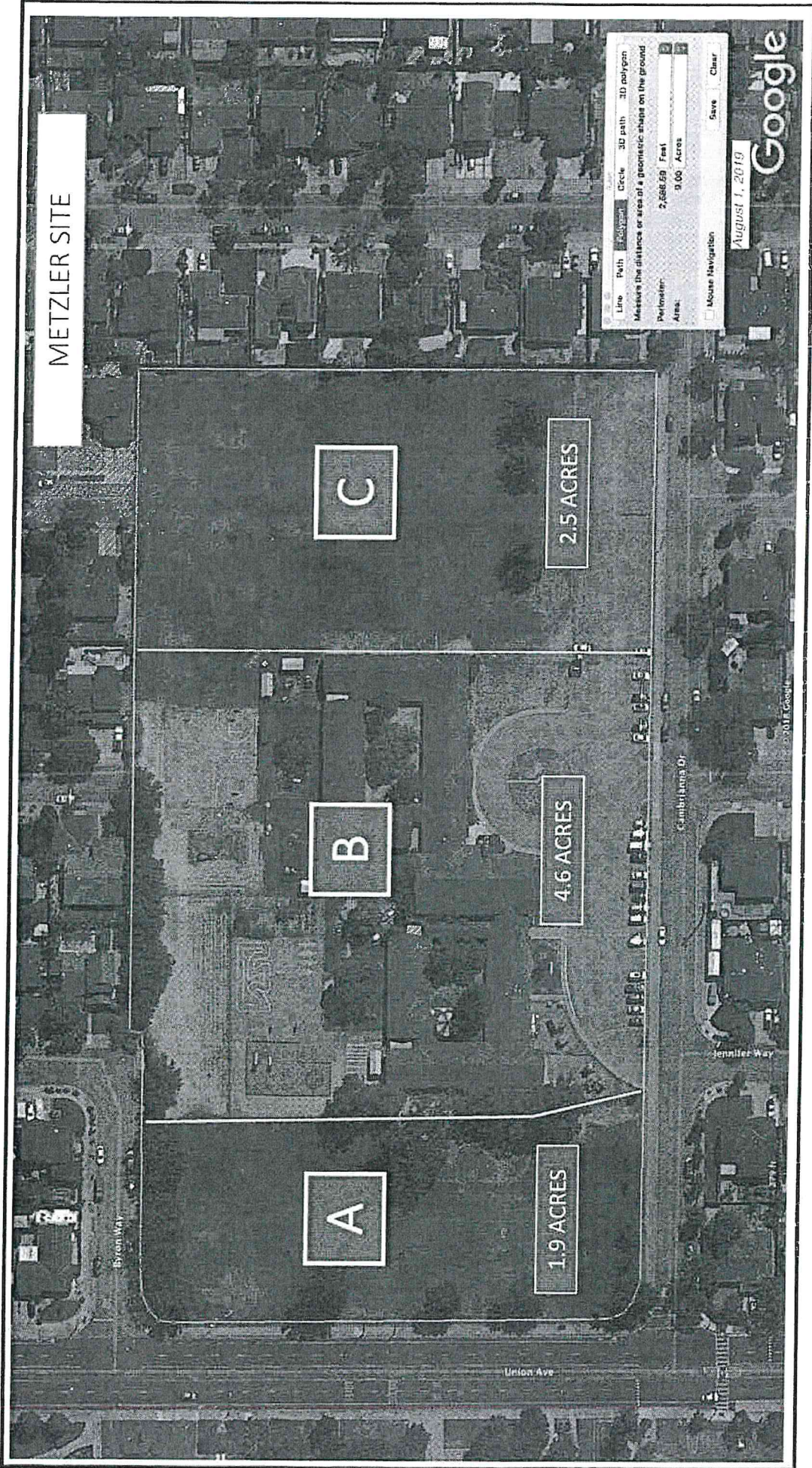
by: Mr. Loren Snook
President, CEO, COO



by: Dr. Carrie Andrews

Cc Ms. Penny Timboe, Chief Business Officer
Ms. Clarissa Canady, Esq.
Mr. Tim Fitzpatrick
Ms. Ashanté Reid

METZLER SITE



C

2.5 ACRES

B

4.6 ACRES

A

1.9 ACRES

Line Path Polygon Circle 3D path 3D polygon
Measure the distance or area of a geometric shape on the ground
Perimeter: 2,568.59 Feet
Area: 3.00 Acres
 Mouse Navigation

August 1, 2019

Google

Exhibit C

RESIDENT CARE FACILITY IS 100% MEMORY CARE

Table with 4 columns: Room Name, Qty, Beds, and Max Area (Sq Ft). Lists various room types like ADULT DAY ROOM, BATH, BAY, and BREAK ROOM.

OTHER BUILDING AREA

AREA TOTAL

GROSS FLOOR AREA

NET FLOOR AREA

RECEIVING DRIVEWAY

RECEIVING DRIVEWAY

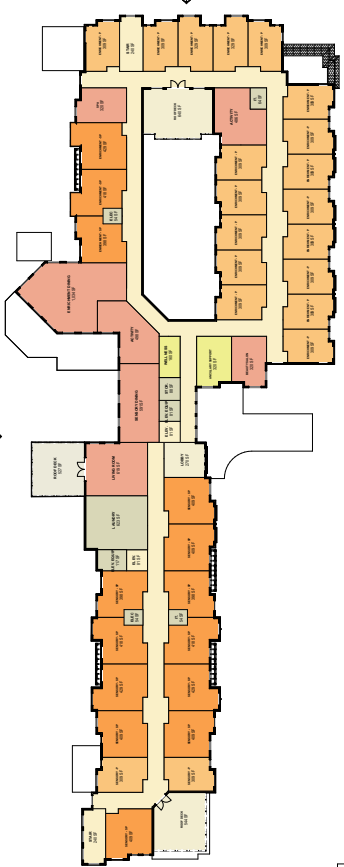
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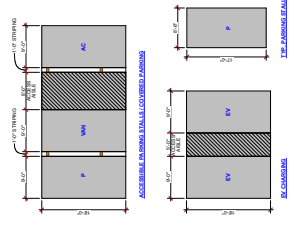
RECEIVING DRIVEWAY

RECEIVING DRIVEWAY

RECEIVING DRIVEWAY



2 Second Floor



1 Site Plan + First Floor Plan

Silverado San Jose
Silverado Memory Care Community

Douglas Pancake
ARCHITECTURE

First Floor Plan & Site Plan
A1

PROJECT NO. 000002
PLOT DATE: 09/20/22