



# The Mark Company Monthly Reports Santa Clara County

May 2016



Developer-driven. Buyer-centric. Smarter real estate.



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Disclaimer

## Notes

- 1) **New Construction** developments are either actively selling for the first time or a rental development that has been converted to for sale and is now actively selling. Most recent closings include the last 10 reported closings that have price and square footage included.
- 2) **Sold Out** developments have completed their original sales process and are now being tracked for resales. Most recent closings include the last 10 reported closings that have price and square footage included. The list may include both new and resale closings as noted.
- 3) This report covers new construction developments with 20+ market rate units and selected sold out developments with 50+ market rate units located in Santa Clara County.
- 4) Assume that developments in the **New Construction** section are actively selling units unless noted otherwise. In addition, list prices and number of units available are based on the month of the report and closings are based on what has been recorded to date. Please note that closings can take 30-60 days to be recorded.
- 5) **Date On Market** refers to the date the Sales Center opened.
- 6) **Average Absorption** is calculated from Date On Market through the date of the report. It accounts for units both in contract and closed.
- 7) **Average Price/SF** is calculated using only units where both square footage and price are known. Average Price/SF is defined as the average price divided by the average square footage. Averages are weighted averages.
- 8) Developments are considered **Sold Out** once the last Market Rate unit has closed OR there have been three months without a closing, all units are in contract and the Sales Center is closed (e.g. there is no active marketing).
- 9) Below Market Rate units are omitted from new construction and resale closings whenever possible.

## New Construction

The following section contains sales information and updates for actively selling developments with 20+ Market Rate units in Santa Clara County.

### Project List\*

The Globe

The Skyline

\* Sorted in alphabetical order

# New Construction



## The Globe

Formerly a rental community, The Globe features a collection of 76 modern urban residences located in downtown San Jose. This 80,000 square foot building is comprised of one-, two- and three-bedroom homes close to many neighborhood amenities.

### Available list prices as of May 2016:

#### Studio Lofts

Starting List Price: \$472,000

Average Size: 793 SF

Starting List Price/SF: \$595

#### One Bedroom

Starting List Price: \$514,000 - \$519,000

Average Size: 704 - 887 SF

Starting List Price/SF: \$585 - \$730

#### Two Bedroom

Starting List Price: \$580,000 - \$698,000

Average Size: 1,170 - 1,195 SF

Starting List Price/SF: \$496 - \$574

#### Three Bedroom/Two Bath

Starting List Price: \$855,000- \$939,000

Average Size: 2,046 SF

Starting List Price/SF: \$418 - \$459

#### Three Bedroom/Three Bath

Starting List Price: \$845,000

Average Size: 2,080 SF

Starting List Price/SF: \$406

**Address**  
25 South 3rd Street,  
San Jose

**Developer**  
CIM Group

**Total Units**  
76 (61 Market Rate)

**Average HOA Fees**  
\$500 - \$700/month

**Date on Market**  
March 2015

**Average Absorption**  
3 units/month

**Closings Commenced**  
September 2015

**Last Six Months Price/SF**  
\$535 (15 units)

## Sales Status



## Most Recent Closed Sales

Unit	Type	SF	Closing Price	\$/SF	Closed Date
103	1/1	800	\$399,000	\$499	4/26/2016
433	1/1	810	\$500,000	\$617	3/28/2016
509	2/2	1,195	\$680,000	\$569	3/24/2016
315	1/1	704	\$451,000	\$641	3/23/2016
116	3/3	2,078	\$845,000	\$407	3/11/2016
215	1/1	704	\$438,000	\$622	2/25/2016
331	2/2	1,209	\$610,000	\$505	2/25/2016
236	1/1	887	\$525,000	\$592	2/22/2016
333	1/1	810	\$475,000	\$586	2/18/2016
431	2/2	1,209	\$647,500	\$536	2/17/2016
<b>Averages:</b>		<b>1,041</b>	<b>\$557,050</b>	<b>\$535</b>	

# New Construction



## The Skyline (All Units In Contract)

Located in the heart of San Jose, Skyline provides easy commute access throughout the South Bay. A former rental community, Skyline was recently converted to condominiums. Amenities include an outdoor kitchen with barbeques and firepits, controlled access, fitness center, secure parking, dog run and future swimming pool.

Available in one- and two-bedroom floor plans, homes feature natural maple flooring with carpet in the bedrooms, stainless steel appliances, hardwood cabinetry, granite countertops, walk-in closets and central air conditioning.

All homes are in contract at The Skyline. The development will be moved to the Sold Out section once all units have closed escrow or three months have passed without a closing reported.

### Address

1375 Lick Avenue,  
San Jose

### Developers

Barry Swenson; Pacific  
Coast Capital Partners

### Total Units

121 (101 Market Rate)

### Average HOA Fees

\$386 - \$431/month

### Date on Market

August 2013

### Average Absorption

3 units/month

### Closings Commenced

March 2014

### Last Six Months Price/SF

\$531 (13 units)

## Sales Status

85 closed

16 in contract

0 available

## Most Recent Closed Sales

Unit	Type	SF	Closing Price	\$/SF	Closed Date
230	1/1	733	\$345,000	\$471	4/25/2016
1126	1/1	857	\$535,000	\$624	4/22/2016
427	1/1	891	\$390,000	\$438	4/21/2016
426	2/2	952	\$485,000	\$509	4/19/2016
320	1/1	733	\$365,000	\$498	4/18/2016
324	2/2	952	\$460,000	\$483	4/18/2016
922	2/2	1,024	\$656,000	\$641	4/1/2016
228	2/2	1,097	\$480,000	\$442	3/30/2016
1025	1/1	842	\$500,000	\$594	3/15/2016
1129	2/2	1233	\$725,000	\$588	2/22/2016
<b>Averages:</b>		<b>931</b>	<b>\$494,600</b>	<b>\$531</b>	

# Sold Out

The following section contains selected sold out developments located in Santa Clara County.

## Project List

100 First Street

Axis

Cannery Square at Monte Vista

City Heights

Plant 51

Portfolio at Santana Row

Solaire

The 88

The Works

\* Sorted in alphabetical order

# Sold Out



## 100 First Street

Available in one-, two- and three-bedroom floor plans, the homes include hardwood, carpet and stone flooring, gourmet stainless steel appliances, Shaker-style cabinetry, quartz slab countertops and various green features. Amenities include a fitness center, club room, onsite lobby attendant/concierge and landscaped rooftop terrace with barbeque, seating and lounges. There are also guest parking and electric car charging stations.

<b>Address</b> 100 First Street, Los Altos	<b>Developer</b> Los Altos 8 Owner, LLC
<b>Total Units</b> 46 (41 Market Rate)	<b>Average HOA Fees</b> High \$400s - Low \$1,000s
<b>Date on Market</b> May 2013	<b>Sold Out</b> 2015
<b>Closings Commenced</b> March 2015	<b>Last Six Months Price/SF</b> n/a

## Most Recent Closed Sales

Unit	Type	SF	Closing Price	\$/SF	Closed Date	Sale Type
102	2/2	1,714	\$1,495,000	\$872	5/1/2015	New
112	2/2	1,604	\$1,495,500	\$932	4/30/2015	New
217	2/2	1,714	\$1,625,500	\$948	4/29/2015	New
302	3/3	2,281	\$2,383,500	\$1,045	4/21/2015	New
306	3/3.5	2,719	\$2,700,000	\$993	4/17/2015	New
318	2/2	1,604	\$1,656,000	\$1,032	4/17/2015	New
216	2/2	1,773	\$1,609,000	\$908	4/16/2015	New
301	2/2	1,471	\$1,629,000	\$1,107	4/1/2015	New
303	3/3	2,316	\$2,395,000	\$1,034	3/30/2015	New
106	2/2	1,395	\$1,430,000	\$1,025	3/27/2015	New
<b>Averages:</b>		<b>1,859</b>	<b>\$1,841,850</b>	<b>\$991</b>		

# Sold Out



## Axis

Axis is a 22-story high-rise tower in downtown San Jose offering live/work units to three-bedroom flats. The tower, an L-shaped building clad in glass, houses 329 homes and five floors of parking. Axis is adjacent to the DeAnza Hotel and within walking distance of SAP Center and a VTA light rail station.

Complex amenities occupy 13,000 square feet of outdoor space on the third floor and include concierge services, a patio-level fitness center, lap pool, two spas, a large poolside cabana and barbeque areas. Homes span in size from 655 square feet for a studio to 1,882 square feet for a penthouse. The penthouses are located on the 21st and 22nd floors.

**Address**  
38 Almaden Boulevard,  
San Jose

**Owner**  
iStar Financial

**Total Units**  
329

**Average HOA Fees**  
\$390 - \$520/month

**Date on Market**  
November 2007

**Sold Out**  
2014

**Closings Commenced**  
August 2008

**Last Six Months Price/SF**  
\$801 (13 units)

## Most Recent Closed Sales

Unit	Type	SF	Closing Price	\$/SF	Closed Date	Sale Type
620	2/2	1,296	\$960,000	\$741	4/12/2016	Resale
1113	1/1	975	\$650,000	\$667	4/5/2016	Resale
403	1/1	868	\$565,000	\$651	3/30/2016	Resale
300	2/2	1,312	\$990,000	\$755	3/16/2016	Resale
1909	1/1	852	\$655,000	\$769	3/15/2016	Resale
315	2/2	1,306	\$890,000	\$681	3/3/2016	Resale
1520	2/2	1,296	\$950,000	\$733	2/19/2016	Resale
2209	2/2	1,195	\$1,400,000	\$1,172	2/18/2016	Resale
1619	2/2	1,220	\$850,000	\$697	1/26/2016	Resale
2119	2/3	1,789	\$1,675,000	\$936	1/13/2016	Resale
<b>Averages:</b>		<b>1,211</b>	<b>\$958,500</b>	<b>\$792</b>		



# Sold Out



## Cannery Square at Monte Vista

Cannery Square at Monte Vista is located on the former site of San Jose's Del Monte Cannery No. 3, which was built in 1893. Select artifacts from the cannery have been preserved at Monte Vista, such as the cannery's original conveyer belt, which now serves as the entry monument to the Monte Vista community and the cannery's original 160-foot-tall water tower. Echoing the original brick-adorned cannery, the homes at Monte Vista have façades that are partially clad in brick.

The condominiums are housed in a single four-story building and range in size from 824 to 1,433 square feet. Each home is allotted two subterranean parking spaces. Amenities include a small park with a bocce ball court and a community picnic area with barbecues.

**Address**  
809 Auzerais Street,  
San Jose

**Developer**  
KB Home

**Total Units**  
235

**Average HOA Fees**  
\$360/month

**Date on Market**  
March 2007

**Sold Out**  
2010

**Closings Commenced**  
September 2008

**Last Six Months Price/SF**  
\$521 (6 units)

## Most Recent Closed Sales

Unit	Type	SF	Closing Price	\$/SF	Closed Date	Sale Type
410	2/2	1,274	\$665,000	\$522	4/4/2016	Resale
315	1/1	824	\$485,500	\$589	2/16/2016	Resale
246	2/2	1,274	\$630,000	\$495	1/15/2016	Resale
157	2/2	1,229	\$627,500	\$511	1/13/2016	Resale
336	2/2	1,118	\$600,000	\$537	12/4/2015	Resale
358	2/2	1,229	\$615,000	\$500	12/1/2015	Resale
301	2/2	1,274	\$515,000	\$404	9/18/2015	Resale
102	2/2	1,274	\$615,000	\$483	8/25/2015	Resale
211	2/2	1,299	\$605,000	\$466	8/20/2015	Resale
208	2/2	1,118	\$545,000	\$487	8/3/2015	Resale
<b>Averages:</b>		<b>1,191</b>	<b>\$590,300</b>	<b>\$496</b>		

# Sold Out



## City Heights

City Heights is located near downtown San Jose's northeastern edge, next to Pellier Park. The interiors boast granite slab kitchen countertops, Kenmore stainless steel appliances, cherry wood cabinets, 9- to 11-foot ceilings, dual-paned windows and imported ceramic tiles. The parking ratio at City Heights is 1.4 parking spaces per unit.

**Address**  
175 West St. James  
Street, San Jose

**Developer**  
Barry Swenson Builder

**Total Units**  
124

**Average HOA Fees**  
~\$360/month

**Date on Market**  
December 2006

**Sold Out**  
2012

**Closings Commenced**  
June 2007

**Last Six Months Price/SF**  
n/a

## Most Recent Closed Sales

Unit	Type	SF	Closing Price	\$/SF	Closed Date	Sale Type
308	2/2	1,103	\$570,000	\$517	10/2/2015	Resale
306	2/2	1,190	\$606,409	\$510	9/17/2015	Resale
1207	1/1	663	\$450,000	\$679	7/16/2015	Resale
1206	2/2	1,190	\$665,000	\$559	6/23/2015	Resale
406	2/2	1,190	\$620,000	\$521	5/14/2015	Resale
1402	1/1	769	\$450,000	\$585	4/10/2015	Resale
102	1/2	803	\$448,000	\$558	3/30/2015	Resale
1006	2/2	1,190	\$615,000	\$517	3/4/2015	Resale
601	2/2	1,303	\$525,000	\$403	3/2/2015	Resale
1507	1/2	1,033	\$630,000	\$610	2/20/2015	Resale
<b>Averages:</b>		<b>1,043</b>	<b>\$557,941</b>	<b>\$535</b>		

# Sold Out



## Plant 51

Plant 51 was originally the site of Del Monte Factory Plant No. 51. The site now features 265 homes in two- and three-story lofts and one- and two-bedroom condominium configurations. Staying true to its industrial past, the exterior of the project is adorned in stucco and brick with metal detailing, while the interiors feature industrial-style, 17-foot ceilings.

Kitchens include Whirlpool stainless steel appliances, granite slab countertops with four-inch backsplashes and Studio Becker cabinetry. Residents enjoy private recreational space with two exterior courtyards that connect to a public-entry courtyard. Other community amenities consist of a fitness center, secure access, meeting rooms, open courtyard and single-level, above-ground parking garage. The project is within close proximity to the Diridon Caltrain Station, SAP Center and a VTA light rail station.

<b>Address</b> 734 The Alameda, San Jose	<b>Developer</b> Carona Land Management
<b>Total Units</b> 265	<b>Average HOA Fees</b> ~\$380/month
<b>Date on Market</b> April 2009	<b>Sold Out</b> 2012
<b>Closings Commenced</b> August 2009	<b>Last Six Months Price/SF</b> \$623 (16 units)

## Most Recent Closed Sales

Unit	Type	SF	Closing Price	\$/SF	Closed Date	Sale Type
2176	1/1.5	841	\$584,950	\$696	4/19/2016	Resale
2199	2/2	1444	\$875,000	\$606	4/14/2016	Resale
3149	2/2	1195	\$830,000	\$695	4/14/2016	Resale
4211	2/2	1275	\$800,000	\$627	4/12/2016	Resale
4194	2/2	1275	\$805,000	\$631	4/7/2016	Resale
2153	1/1.5	1,126	\$665,000	\$591	4/6/2016	Resale
2126	1/1.5	841	\$575,000	\$684	3/25/2016	Resale
3131	2/2	1,175	\$800,000	\$681	3/22/2016	Resale
2174	1/1.5	841	\$595,000	\$707	3/18/2016	Resale
2128	2/1	1,389	\$750,000	\$540	1/15/2016	Resale
<b>Averages:</b>		<b>1,140</b>	<b>\$727,995</b>	<b>\$638</b>		

# Sold Out



## Portfolio at Santana Row

Portfolio at Santana Row offers villas and lofts. The lofts feature ceilings of up to 22 feet, private balconies or patios, catwalks, floor-to-ceiling windows, polished concrete floors and exposed wood beams. The three-story villas feature two-car garages, courtyards and gas fireplaces. All homes include luxury finishes, pre-wiring for cable and Internet access and secure entries.

These homes are located just steps away from the extensive shopping, dining and entertainment options of Santana Row.

<b>Address</b> Multiple addresses, San Jose	<b>Developer</b> Federal Realty Investment Trust
<b>Total Units</b> 219	<b>Average HOA Fees</b> \$437/month
<b>Date on Market</b> April 2005	<b>Sold Out</b> 2006
<b>Closings Commenced</b> August 2005	<b>Last Six Months Price/SF</b> \$672 (5 units)

## Most Recent Closed Sales

Unit	Type	SF	Closing Price	\$/SF	Closed Date	Sale Type
247	1/1	736	\$600,000	\$815	4/8/2016	Resale
339	2/1	1,099	\$710,000	\$646	3/1/2016	Resale
306	2/1	1,151	\$725,000	\$630	1/24/2016	Resale
227	2/2	1,250	\$850,000	\$680	12/11/2015	Resale
225	1/2	1,250	\$802,000	\$642	11/19/2015	Resale
320	1/2	1,099	\$709,000	\$645	10/14/2015	Resale
316	1/2	1,099	\$680,000	\$619	10/9/2015	Resale
319	1/2	1,099	\$740,000	\$673	8/24/2015	Resale
229	1/2	1,250	\$825,000	\$660	6/11/2015	Resale
308	1/1	1,099	\$755,000	\$687	6/8/2015	Resale
<b>Averages:</b>		<b>1,113</b>	<b>\$739,600</b>	<b>\$664</b>		

# Sold Out



## Solaire

Located in Sunnyvale, Solaire is a new development of 47 single-stacked townhomes. The two- and three-bedroom homes range from 1,064 to 1,211 square feet in size. They feature hardwood floors, Whirlpool appliances and modern stone countertops. Each residence benefits from a number of energy- and water-efficient features included as standard, a private and secure garage that includes prewiring for an electric vehicle charging station and interior elevator access from the garage to each floor above. The community's five buildings also offer unique WiFi decks, an element of common open space on each level, for residents' exclusive use.

<b>Address</b> 1150 Persian Drive, Sunnyvale	<b>Developer</b> KB Home
<b>Total Units</b> 47	<b>Average HOA Fees</b> \$350/month
<b>Date on Market</b> April 2015	<b>Sold Out</b> 2016
<b>Closings Commenced</b> June 2015	<b>Last Six Months Price/SF</b> \$693 (3 units)

## Most Recent Closed Sales

Unit	Type	SF	Closing Price	\$/SF	Closed Date	Sale Type
1140 Karby #203	2/2	1,064	\$789,000	\$742	12/2/2015	New
1140 Karby #304	2/2	1,211	\$839,000	\$693	12/2/2015	New
1130 Karby #301	3/2	1,205	\$784,000	\$651	11/30/2015	New
1140 Karby #201	3/2	1,205	\$869,000	\$721	10/28/2015	New
1140 Karby #301	3/2	1,205	\$869,000	\$721	10/28/2015	New
1150 Karby #301	3/2	1,205	\$814,000	\$676	10/28/2015	New
1120 Karby #204	2/2	1,211	\$834,000	\$689	10/8/2015	New
1130 Karby #204	2/2	1,211	\$844,000	\$697	10/8/2015	New
1140 Karby #303	2/2	1,064	\$819,000	\$770	10/8/2015	New
1140 Karby #101	3/2	1,205	\$804,000	\$667	9/10/2015	New
<b>Averages:</b>		<b>1,179</b>	<b>\$826,500</b>	<b>\$701</b>		

# Sold Out



## The 88

The 88 is nestled in the heart of downtown San Jose's newest residential district. Phase I of the 22-story development features 197 residences with one-, two- and three-bedroom floor plans ranging in size from 624 to 2,380 square feet. The building features stunning, unobstructed views and is just steps away from the theatre, symphony, restaurants and SAP Center.

Homes feature hardwood and carpet flooring, granite countertops, Studio Becker cabinetry and stainless steel appliances. Community amenities include a full-size pool, spa, fitness center, courtyard with barbeques and outdoor kitchen, secluded gardens, media room, community chef kitchen, business center, 24-hour attended lobby, concierge service and secured parking garage.

**Address**  
88 East San Fernando Street, San Jose

**Developers**  
Wilson Meany  
CIM Group

**Total Units**  
197

**Average HOA Fees**  
\$495 - \$726/month

**Date on Market**  
April 2008

**Sold Out**  
2013

**Closings Commenced**  
March 2009

**Last Six Months Price/SF**  
\$668 (8 units)

## Most Recent Closed Sales

Unit	Type	SF	Closing Price	\$/SF	Closed Date	Sale Type
810	1/1	889	\$608,000	\$684	4/26/2016	Resale
1404	0/1	683	\$465,000	\$681	4/6/2016	Resale
2005	2/2	1,237	\$860,000	\$695	2/11/2016	Resale
601	2/2	1,026	\$669,000	\$652	12/18/2015	Resale
1608	2/2	1,237	\$810,000	\$655	12/8/2015	Resale
1708	2/2	1,237	\$800,000	\$647	12/1/2015	Resale
1711	2/2	1,270	\$865,000	\$681	11/30/2015	Resale
1202	2/2	1,224	\$805,000	\$658	11/25/2015	Resale
1111	2/2	1,270	\$760,000	\$598	10/27/2015	Resale
1509	1/1	889	\$610,000	\$686	10/22/2015	Resale
<b>Averages:</b>		<b>1,096</b>	<b>\$725,200</b>	<b>\$662</b>		

# Sold Out



## The Works

The Works is located in the creative up-and-coming neighborhood of Martha Gardens, offering close proximity to San Jose State University and downtown San Jose. The development is within walking distance to Kelly Park, Japanese Gardens and San Jose's Historical Park. The Works offers a landscaped courtyard.

The condominium and loft homes feature dramatic nine-foot ceilings and private street entrances for select homes. Finishes include maple Shaker-style cabinetry, granite-slab countertops, expansive closet space and stylish stainless steel appliances.

**Address**  
125 Patterson Street,  
San Jose

**Developers**  
Barry Swenson Builder

**Total Units**  
78

**Average HOA Fees**  
\$300 - \$350/month

**Date on Market**  
February 2009

**Sold Out**  
2011

**Closings Commenced**  
May 2009

**Last Six Months Price/SF**  
\$459 (2 units)

## Most Recent Closed Sales

Unit	Type	SF	Closing Price	\$/SF	Closed Date	Sale Type
231	2/2	1,424	\$635,000	\$446	4/14/2016	Resale
206	1/1	894	\$430,000	\$481	1/15/2016	Resale
202	1/1	894	\$430,000	\$481	6/29/2015	Resale
335	2/2	1,424	\$495,000	\$348	3/9/2015	Resale
329	1/2	1,045	\$415,100	\$397	1/29/2015	Resale
331	2/2	1,424	\$483,000	\$339	1/21/2015	Resale
237	2/2	1,061	\$402,000	\$379	12/11/2014	Resale
137	2/2	1,061	\$402,500	\$379	9/15/2014	Resale
101	1/1.5	1,397	\$480,000	\$344	9/3/2014	Resale
303	1/1	1,045	\$385,000	\$368	8/26/2014	Resale
<b>Averages:</b>		<b>1,167</b>	<b>\$455,760</b>	<b>\$391</b>		

# Pipeline Summary

Under Construction

Approved

Under Review





# Pipeline Summary

## Condominium & Townhome Pipeline Summary

Area	Under Construction	Approved	Under Review
San Jose	785	307	554
Los Altos	0	20	0
Cupertino	0	0	0
Milpitas	92	2,120	72
Santa Clara	105	77	0
Campbell	108	81	0
Mountain View	108	516	167
Sunnyvale	206	88	610
<b>Totals:</b>	<b>1,404</b>	<b>3,209</b>	<b>2,073</b>

## Rental Pipeline Summary

Area	Under Construction	Approved	Under Review
San Jose	3,077	1,534	1,555
Los Altos	0	0	0
Cupertino	80	120	0
Milpitas	0	474	0
Santa Clara	1,578	420	0
Campbell	168	100	0
Mountain View	781	765	2,185
Sunnyvale	1,431	67	126
<b>Totals:</b>	<b>7,115</b>	<b>3,480</b>	<b>3,866</b>

## TBD Pipeline Summary

Area	Under Construction	Approved	Under Review
San Jose	-	15,877	3,850
Los Altos	-	0	0
Cupertino	-	0	0
Milpitas	-	1,643	1,969
Santa Clara	-	0	1,871
Campbell	-	0	0
Mountain View	-	0	24
Sunnyvale	-	0	1,157
<b>Totals:</b>	<b>-</b>	<b>17,520</b>	<b>8,871</b>

The Mark Company maintains a detailed list of all upcoming developments in the pipeline. Contact Erin Kennelly at [erin@themarkcompany.com](mailto:erin@themarkcompany.com) for more information.

Developer-driven. Buyer-centric. Smarter real estate.



# The Mark Company (TMC)

## Disclaimer

1. **Professional Opinion.** With regard to the consulting services, reports, projections, and recommendations to be provided by TMC under the Agreement, whether delivered orally or in writing, the parties acknowledge that the matters on which TMC is consulted [e.g., assessing potential competition, market trends, demographic trends, financing availability, and the like] are not the subject of a predictive science, and are instead subject to unforeseen market variables and conditions. Client therefore understands and acknowledges that TMC's projections and recommendations as contemplated by the agreement are solely the result of TMC's considered opinion based on TMC's assumptions and judgments predicated on past experience in light of the relevant data studied with respect to the market conditions and the proposed project. Consequently, Client specifically agrees (a) that TMC's projections and recommendations constitute opinions only and do not constitute any representation or assurance of any future market conditions; (b) that any action taken by Client based on any such TMC projections or recommendations is made without any reliance thereon as a representation or assurance as to any future market conditions; and (c) that Client will not hold TMC liable or otherwise responsible for any losses occurring in the event that future market conditions deviate from TMC's projections and/or recommendations.
2. **Use of Product.** All information, data, projections, and recommendations received by Client from TMC in connection with the Agreement, whether presented orally or in writing, shall be solely for use by Client, and is/are not to be used or relied upon by any third party[ies] without the prior written approval of TMC having been first had and obtained. TMC specifically disclaims any and all liability to any third party[ies] deriving from the use of, or reliance upon, any such material, and Client agrees to hold harmless, indemnify and defend TMC from any claims arising from any such use or reliance.