



**CITY COUNCIL  
SPECIAL AND REGULAR MEETING  
REVISED AGENDA**

**Tuesday, April 16, 2013  
5:30 P.M.**

**701 Laurel Street, Menlo Park, CA 94025  
City Council Chambers**

**Note:** Only revision is to add PMA to Closed Session.

**5:30 P.M. CLOSED SESSION**

**Public Comment on this item will be taken prior to adjourning to Closed Session**

**CL1.** Closed Session pursuant to Government Code section 54957.6 to conference with labor negotiators regarding labor negotiations with the Police Officers Association (POA) and Police Management Association (PMA). Attendees: Alex McIntyre, City Manager, Starla Jerome-Robinson, Assistant City Manager, Bill McClure, City Attorney, Gina Donnelly, Human Resources Director, Robert Jonsen, Police Chief, Dave Bertini, Commander

**7:00 P.M. REGULAR SESSION**

**ROLL CALL** – Carlton, Cline, Keith, Ohtaki, Mueller

**PLEDGE OF ALLEGIANCE**

**REPORT FROM CLOSED SESSION**

**ANNOUNCEMENTS**

**A. PRESENTATIONS AND PROCLAMATIONS**

- A1.** Proclamation declaring April 19<sup>th</sup> as “Menlowe Ballet Day” (*Attachment*)
- A2.** Presentation of Environmental Quality Awards
- A3.** Presentation regarding San Francisquito Creek Community Outreach Plan Program EIR for projects upstream of Highway 101 and Pope/Chaucer Bridge Project by Len Materman, SFCJPA Executive Director
- A4.** Bay Area Water Supply and Conservation Agency (BAWSCA) update by Representative Kelly Fergusson

**B. COMMISSION/COMMITTEE VACANCIES, APPOINTMENTS AND REPORTS**

- B1.** Consider applicants for appointment to fill three vacancies on the Parks and Recreation Commission; and one vacancy on the Transportation Commission (*Staff report #13-061*)

**C. PUBLIC COMMENT #1 (Limited to 30 minutes)**

Under “Public Comment #1”, the public may address the Council on any subject not listed on the agenda and items listed under the Consent Calendar. Each speaker may address the Council once under Public Comment for a limit of three minutes. Please clearly state your name and address or political jurisdiction in which you live. The Council cannot act on items not listed on the agenda and, therefore, the Council cannot respond to non-agenda issues brought up under Public Comment other than to provide general information.

**D. CONSENT CALENDAR**

- D1.** Adopt a resolution accepting dedication of a public access easement and authorizing the City Manager to sign the certificate of acceptance for the 1035 O'Brien Drive Frontage Improvements Project *(Staff report #13-058)*
- D2.** Adopt an amended Resolution of Intention to abandon a portion of Louise Street *(Staff report #13-057)*
- D3.** Approve the response to the San Mateo Grand Jury Report "Can We Talk? Law Enforcement and Our Multilingual County" *(Staff report #13-063)*
- D4.** Receive the San Francisquito Creek Joint Powers Authority projects update and approve the Project Community Outreach Plan *(Staff report #13-062)*
- D5.** Authorize the City Manager to enter into an agreement with Municipal Revenue Advisors, Inc., to perform sales and use tax services in connection with the Development Agreement for the Facebook West Campus Project and approval of a resolution authorizing the examination of sales and use tax records by Municipal Revenue Advisors, Inc. *(Staff report #13-064)*
- D6.** Accept minutes from the Council meetings of March 26 and April 2, 2013 *(Attachment)*

**E. PUBLIC HEARINGS**

- E1.** Conduct a Public Hearing and consider a resolution approving a Conditional Development Permit amendment for the property located at 401 Pierce Road *(Staff report #13-059)*

**F. REGULAR BUSINESS**

- F1.** Consideration of a Mixed-Use Development Proposal at 500 El Camino Real, including options for the project review process *(Staff report #13-066)*
- F2.** Adopt a resolution taking the following actions: 1. Appropriating an additional \$715,000 to the Santa Cruz Avenue Irrigation Replacement Project from the General Fund CIP fund balance; 2. Authorizing the City Manager to award a contract to the lowest responsible bidder for the Santa Cruz Avenue Irrigation Replacement Project authorizing a total budget of \$1,060,000 for construction, contingencies, material testing, and construction administration; and 3. Awarding contracts up to \$250,000 for the purchase and installation of the downtown benches and solid waste and recycling bins *(Staff report #13-065)*
- F3.** Consider appointing a Councilmember to serve on the Blue Ribbon Task Force as proposed by the City of Redwood City regarding South Bay Waste Management Authority (SBWMA) board governance *(Staff report #13-060)*
- F4.** Consider appointment of a director to the Boards of the Bay Area Water Supply & Conservation Agency and the Bay Area Regional Water Supply Financing Authority *(Attachment)*
- F5.** Consider state and federal legislative items, including decisions to support or oppose any such legislation, and items listed under Written Communication or Information Item – None

**G. CITY MANAGER'S REPORT – None**

**H. WRITTEN COMMUNICATION – None**

**I. INFORMATIONAL ITEMS – None**

**J. COUNCILMEMBER REPORTS**

**K. PUBLIC COMMENT #2 (*Limited to 30 minutes*)**

Under “Public Comment #2”, the public if unable to address the Council on non-agenda items during Public Comment #1, may do so at this time. Each person is limited to three minutes. Please clearly state your name and address or jurisdiction in which you live.

**L. ADJOURNMENT**

Agendas are posted in accordance with Government Code Section 54954.2(a) or Section 54956. Members of the public can view electronic agendas and staff reports by accessing the City website at <http://www.menlopark.org> and can receive e-mail notification of agenda and staff report postings by subscribing to the “Home Delivery” service on the City’s homepage. Agendas and staff reports may also be obtained by contacting the City Clerk at (650) 330-6620. Copies of the entire packet are available at the library for viewing and copying. (Posted: 04/11/2013)

At every Regular Meeting of the City Council, in addition to the Public Comment period where the public shall have the right to address the City Council on the Consent Calendar and any matters of public interest not listed on the agenda, members of the public have the right to directly address the City Council on any item listed on the agenda at a time designated by the Mayor, either before or during the Council’s consideration of the item.

At every Special Meeting of the City Council, members of the public have the right to directly address the City Council on any item listed on the agenda at a time designated by the Mayor, either before or during consideration of the item.

Any writing that is distributed to a majority of the City Council by any person in connection with an agenda item is a public record (subject to any exemption under the Public Records Act) and is available for inspection at the Office of the City Clerk, Menlo Park City Hall, 701 Laurel Street, Menlo Park, CA 94025 during regular business hours. Members of the public may send communications to members of the City Council via the City Council’s e-mail address at [city.council@menlopark.org](mailto:city.council@menlopark.org). These communications are public records and can be viewed by any one by clicking on the following link: <http://ccin.menlopark.org>

City Council meetings are televised live on Government Access Television Cable TV Channel 26. Meetings are re-broadcast on Channel 26 on Thursdays and Saturdays at 11:00 a.m. A DVD of each meeting is available for check out at the Menlo Park Library. Live and archived video stream of Council meetings can be accessed at [http://menlopark.granicus.com/ViewPublisher.php?view\\_id=2](http://menlopark.granicus.com/ViewPublisher.php?view_id=2)

Persons with disabilities, who require auxiliary aids or services in attending or participating in City Council meetings, may call the City Clerk’s Office at (650) 330-6620.

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## Menlowe Ballet Day April 19, 2013

**Whereas**, Menlowe Ballet is a new Menlo Park based non-profit professional ballet company; and

**Whereas**, Menlowe Ballet is a dynamic company performing imaginative and illuminating new works enhancing the dance canvas for Menlo Park citizens and the entire Bay Area community; and

**Whereas**, Menlowe Ballet offers professional performing opportunities to elite students from the award winning, and nationally recognized, Menlo Park Academy of Dance; and

**Whereas**, Menlowe Ballet is performing for the first time in its new home theater, the Menlo-Atherton Performing Arts Center; and

**Whereas**, Menlowe Ballet is supported by the greater Menlo Park community through their contributions of time, talents, and resources.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Menlo Park, does hereby proclaim April 19, 2013 as "Menlowe Ballet Day" and encourages all citizens to experience and enjoy the works of this Menlo Park company.

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Peter I. Ohtaki, Mayor

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# ADMINISTRATIVE SERVICES DEPARTMENT

Council Meeting Date: April 16, 2013  
Staff Report #: 13-061

Agenda Item #: B-1

**COMMISSION REPORT:** Consider applicants for appointment to fill three vacancies on the Parks and Recreation Commission; and one vacancy of the Transportation Commission

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## RECOMMENDATION

Staff recommends appointing applicants to fill the three vacancies on the Parks and Recreation Commission; and one vacancy on the Transportation Commission.

## BACKGROUND

Staff has been recruiting for the vacant positions by publishing press releases in the *Daily News* and posting notices on the City's website and City bulletin board.

There are three vacancies on the Parks & Recreation Commission due to the resignation of Nick Naclerio, the election of Council Member Carlton to the City Council and the expiration of Andrew Kirkpatrick's term. One applicant appointed will serve through April 30, 2014, one through April 30, 2015 and one through April 30, 2016.

Applicants for the Parks & Recreation Commission vacancies:

- Kristin Cox
- Marianne Palefsky
- Noria Zasslow

There is one vacancy on the Transportation Commission due to the election of Vice Mayor Mueller to the City Council. The applicant selected will serve the remainder of the unexpired term through April 30, 2014.

Applicants for the Transportation Commission vacancy:

- Adina Levin (Currently on Environmental Quality Commission)
- Philip Mazzara
- Michael Meyer (Currently on Bicycle Commission)

## **ANALYSIS**

Pursuant to City Council Policy CC-01-0004 (attachment A), commission members must be residents of the City of Menlo Park and serve for designated terms of four years, or through the completion of an unexpired term.

In addition, the Council's policy states that the selection/appointment process shall be conducted before the public at a regularly scheduled meeting of the City Council. Nominations will be made and a vote will be called for each nomination. Applicants receiving the highest number of affirmative votes from a majority of the Council present shall be appointed.

## **IMPACT ON CITY RESOURCES**

Staff support for selection of commissioners is included in the FY 2012-13 Budget.

## **POLICY ISSUES**

Council Policy CC-01-004 establishes the policies, procedures, roles and responsibilities for the City's appointed commissions and committees.

Currently the budget metrics set a goal of two applications for each appointment. Staff has not been unable to meet this metric with the Parks and Recreation Commission vacancies.

## **ENVIRONMENTAL REVIEW**

The proposed action does not require environmental review.

## **PUBLIC NOTICE**

Public Notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting.

## **ATTACHMENTS**

- A. Excerpt from Council Policy CC-01-004, page 5
- B. Commission Applications

Report prepared by:  
Margaret S. Roberts, MMC  
City Clerk

Attachment B will not be available on-line, but is available for review at City Hall in the City Clerk's Office during standard City operating hours.



<b>City of Menlo Park</b>		City Council Policy
<b>Department</b> City Council  <b>Subject</b> Commissions/Committees Policies and Procedures and Roles and Responsibilities	<b>Page 5 of 10</b>	<b>Effective Date</b> 3-13-01
	<b>Approved by:</b> Motion by the City Council on 03-13-2001; Amended 09-18-2001; Amended 04-05-2011	<b>Procedure #</b> CC-01-0004

Application/Selection Process

1. The application process begins when a vacancy occurs due to term expiration, resignation, removal or death of a member.
2. The application period will normally run for a period of four weeks from the date the vacancy occurs. If there is more than one concurrent vacancy in a Commission, the application period may be extended. Applications are available from the City Clerk’s office and on the City’s website.
3. The City Clerk shall notify members whose terms are about to expire whether or not they would be eligible for reappointment. If reappointment is sought, an updated application will be required.
4. Applicants are required to complete and return the application form for each Commission/Committee they desire to serve on, along with any additional information they would like to transmit, by the established deadline. Applications sent by fax, email or submitted on-line are accepted; however, the form submitted must be signed.
5. After the deadline of receipt of applications, the City Clerk shall schedule the matter at the next available regular Council meeting. All applications received will be submitted and made a part of the Council agenda packet for their review and consideration. If there are no applications received by the deadline, the City Clerk will extend the application period for an indefinite period of time until sufficient applications are received.
6. Upon review of the applications received, the Council reserves the right to schedule or waive interviews, or to extend the application process in the event insufficient applications are received. In either case, the City Clerk will provide notification to the applicants of the decision of the Council.
7. If an interview is requested, the date and time will be designated by the City Council. Interviews are open to the public.
8. The selection/appointment process by the Council shall be conducted open to the public. Nominations will be made and a vote will be called for each nomination. Applicants receiving the highest number of affirmative votes from a majority of the Council present shall be appointed.
9. Following a Council appointment, the City Clerk shall notify successful and unsuccessful applicants accordingly, in writing. Appointees will receive copies of the City’s Non-Discrimination and Sexual Harassment policies, and disclosure statements for those members who are required to file under State law as designated in the City’s Conflict of Interest Code. Copies of the notification will also be distributed to support staff and the Commission/Committee Chair.
10. An orientation will be scheduled by support staff following an appointment (but before taking office) and a copy of this policy document will be provided at that time.

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# PUBLIC WORKS DEPARTMENT

Council Meeting Date: April 16, 2013  
Staff Report #: 13-058

Agenda Item #: D-1

**CONSENT CALENDAR:**      **Adopt a Resolution Accepting Dedication of a Public Access Easement and Authorize the City Manager to Sign the Certificate of Acceptance for the 1035 O'Brien Drive Frontage Improvements Project**

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## RECOMMENDATION

Staff recommends that the City Council adopt a resolution (Attachment A) accepting dedication of a Public Access Easement and authorize the City Manager to sign the certificate of acceptance for the 1035 O'Brien Drive frontage improvements project.

## BACKGROUND

In October 2012, the City approved construction of a new 36,000 square foot office/research and development and manufacturing/warehouse building at 1035 O'Brien Drive. The Conditions of Approval for the project included construction of frontage improvements including all new curb, gutter, driveways and sidewalk along the O'Brien Drive and Kelly Court frontages. While there is adequate right-of-way on O'Brien Drive to accommodate the new sidewalk, the existing right-of-way on Kelly Court results in approximately one to two feet of sidewalk width falling within the applicant's private property.

## ANALYSIS

As a condition of the use permit, the applicant was required to provide public pedestrian access along the O'Brien Drive and Kelly Court frontages of their property. Since a portion of the new public sidewalk along Kelly Court is located within the applicant's private property, a Public Access Easement is required to allow the public to use the sidewalk. The easement dedication is shown in Attachment B. The sidewalk along O'Brien Drive is within the existing right-of-way and therefore does not require an easement from the property owner.

Acceptance and recordation of the easement dedication is a condition of final inspection for the project and for occupancy of the building.

## **IMPACT ON CITY RESOURCES**

The staff time associated with review and acceptance of the easement dedication is fully recoverable through fees collected from the applicant.

## **POLICY ISSUES**

The recommendation does not represent any change to existing City policy.

## **ENVIRONMENTAL REVIEW**

On October 29, 2012, the Planning Commission made a finding that the project is categorically exempt under Class 32 (Section 15301, "In-fill Development Project") of the current CEQA Guidelines.

## **PUBLIC NOTICE**

Public Notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting.

## **ATTACHMENTS**

- A. Resolution
- B. Public Access Easement

Report prepared by:  
Roger K. Storz  
Senior Civil Engineer

**RESOLUTION NO.**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO PARK ACCEPTING DEDICATION OF A PUBLIC ACCESS EASEMENT AND AUTHORIZING THE CITY MANAGER TO SIGN THE CERTIFICATE OF ACCEPTANCE FOR THE 1035 O'BRIEN DRIVE FRONTAGE IMPROVEMENTS PROJECT**

WHEREAS, the 1035 O'Brien Drive Frontage Improvements Project consists of construction of new concrete curb, gutter, driveways and sidewalk along O'Brien Drive and Kelly Court; and

WHEREAS, the Project includes the construction of a new concrete sidewalk on the property along the Kelly Court frontage; and

WHEREAS, as a condition of the use permit to provide public pedestrian access along the O'Brien Drive and Kelly Court frontages; and

WHEREAS, a portion of the new public sidewalk is located within the applicant's private property requiring a Public Access Easement to allow the public use of the sidewalk.

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby accepts the required Public Access Easement along the easterly edge of the property at 1035 O'Brien Drive and is attached hereto as Exhibits A and B and incorporated herein by this reference; and

BE IT FURTHER RESOLVED that the City Council authorizes the City Manager to sign the Certificate of Acceptance for said easements.

I, Margaret S. Roberts, City Clerk of Menlo Park, do hereby certify that the above and foregoing Council Resolution was duly and regularly passed and adopted at a meeting by said Council on this sixteenth day of April, 2013, by the following votes:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of said City on this sixteenth day of April, 2013.

Margaret S. Roberts, MMC  
City Clerk

**RECORDING REQUESTED BY**

O'Brien Drive Portfolio  
C/O Tarlton Properties, Inc.  
1530 O'Brien Drive  
Menlo Park, CA 94025

**WHEN RECORDED MAIL TO**

City of Menlo Park  
701 Laurel Street  
Menlo Park, CA 94025  
Attn: City Clerk

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SPACE ABOVE THIS LINE FOR RECORDER'S USE

Documentary Transfer Tax: \$-0- No apparent value  
"No fee required" (Government Code Section 6103 & 27383)  
Recorded for the benefit of the City of Menlo Park.

**PUBLIC ACCESS EASEMENT AGREEMENT**

This Public Access Easement Agreement (this "Agreement") is made as of this \_\_\_\_ day of January, 2013, by and between O'Brien Drive Portfolio, LLC, a Delaware limited liability company ("Grantor") and the City of Menlo Park, a municipal corporation in the County of San Mateo, State of California ("Grantee"). Grantor is the owner of certain real property situated in the City of Menlo Park, County of San Mateo, California, and more commonly known as 1035 O'Brien Drive (hereafter referred to as the "Servient Tenement").

**Grant of Easement**

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, Grantor hereby grants to Grantee a nonexclusive easement and right-of-way for public access purposes, including the right of ingress and egress, over, under and across a portion of the Servient Tenement being that certain real property ("Easement Property") situated in said City of Menlo Park and more particularly described and shown in Exhibit A and B, attached hereto and incorporated herein by this reference. The Easement Property shall not be used for any purpose other than for public access purposes.

**Term**

This easement is granted in perpetuity. If the public street located adjacent to the Easement Property is vacated pursuant to the California Street and Highway Code, then the easement shall be deemed abandoned.

**Maintenance**

Grantor shall be responsible for maintaining and repairing the Easement Property, including, without limitation, the sidewalk located on the Easement Property, in accordance with City of Menlo Park Municipal Code Title 13.

## **Nonexclusive Easement**

The easement granted in this Agreement is nonexclusive. Grantor retains the right to make any use of the Servient Tenement, including the right to grant concurrent easements in the Servient Tenement to third parties that does not interfere unreasonably with Grantee's right to use the easement as set forth herein.

Reserving to Grantor the continued use of the Servient Tenement that is subject to the easement granted herein, Grantor agrees for itself, its successors and assigns, not to erect, place or maintain, nor to permit the erection, placement, or maintenance of any permanent buildings, structures or similar improvements that would unreasonably interfere with the ability of Grantee to exercise the access rights granted herein.

The easement granted herein is accepted subject to any and all matters of record and property conditions affecting the Easement Property. The easement is made on an "AS IS" basis, and Grantee acknowledges that Grantor makes no representations or warranties regarding the Servient Tenement or the Easement Property, including, without limitation, the suitability of the Easement Property or the Servient Tenement for the purposes contemplated herein.

Any modifications or amendments to this Agreement shall be made in writing and be executed by all parties.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date set forth above.

Dated: \_\_\_\_\_

GRANTOR:

O'Brien Drive Portfolio, LLC,  
a Delaware limited liability company

By: \_\_\_\_\_

Dated: \_\_\_\_\_

GRANTEE:

The City of Menlo Park,  
a municipal corporation

By: \_\_\_\_\_



State of California

County of \_\_\_\_\_

On \_\_\_\_\_ before me, \_\_\_\_\_, a notary public, personally appeared John Tarlton who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)

State of California

County of \_\_\_\_\_

On \_\_\_\_\_ before me, \_\_\_\_\_, a notary public, personally appeared John Tarlton who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)

**“EXHIBIT A”  
LEGAL DESCRIPTION  
FOR PUBLIC ACCESS EASEMENT**

All that certain real property situated in the City of Menlo Park, County of San Mateo, State of California, being a portion of Parcel A as shown on that certain Parcel Map filed for record on February 27, 1991 in Book 64 of Maps at pages 66, San Mateo County Records, being more particularly described as follows:

Beginning at the northeast corner of said Parcel A;

Thence along the easterly line of said Parcel A southeasterly along a non tangent curve to the left having a radius of 50.00 feet and to which point a radial line bears North 51°56'34" East, through a central angle of 12°03'50" for an arc distance of 10.53 feet to a point of reverse curvature;

Thence southerly along a curve to the right having a radius of 50.00 feet, through a central angle of 60°00'00" for an arc distance of 52.36 feet;

Thence continuing along said easterly line South 09°52'44" West, 143.40 feet;

Thence southwesterly along a tangent curve to the right having a radius of 20.00 feet, through a central angle of 68°12'00" for an arc distance of 23.81 feet;

Thence leaving said easterly line North 54°48'10" East, 14.97 feet;

Thence North 09°52'44" East, 18.37 feet;

Thence South 80°07'16" East, 1.00 feet to a point on a line parallel with and distant 1.00 feet westerly measured at right angles from said easterly line of Parcel A;

Thence along said parallel line North 09°52'44" East, 133.00 feet;

Thence northwesterly along a tangent curve to the left having a radius of 49.00 feet, through a central angle of 60°00'00" for an arc distance of 51.31 feet to a point of reverse curvature;

Thence along a curve to the right having a radius of 51.00 feet, through a central angle of 13°17'39" for an arc distance of 11.83 feet to a point on the northerly line of said Parcel A;

Thence along said northerly line South 80°07'16" East, 1.48 feet to the Point of Beginning;

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

**Legal Description prepared by Kier & Wright Civil Engineers & Surveyors, Inc.**

11-20-12  
Date

  
Ryan M. Amaya, L.S. 8134



LANDS OF  
DM FIGLEY CO INC.  
PARCEL 2  
(17 PM 2)

LINE TABLE:

LINE	BEARING	DISTANCE
L1	N 54°48'10" E	14.97'
L2	N 09°52'44" E	18.37'
L3	S 80°07'16" E	1.00'
L4	S 80°07'16" E	1.48'

POINT OF BEGINNING

N 80°07'16" W 253.84'  
252.36'

LANDS OF  
VELA CORPORATION  
LOT 8  
(50 M 5)

217.80'

N 22°05'00" E



PARCEL A

(64 PM 66)

APN: 055-421-190

1.00' PUBLIC ACCESS EASEMENT

CURVE TABLE:

CURVE	RADIUS	DELTA	LENGTH
C1	50.00'	12°03'50"	10.53'
C2	50.00'	60°00'00"	52.36'
C3	20.00'	68°12'00"	23.81'
C4	49.00'	60°00'00"	51.31'
C5	51.00'	13°17'39"	11.83'
C6	20.00'	21°48'00"	7.61'



N 80°07'16" W 313.38'

O'BRIEN DRIVE

N 80°07'16" W 230.00'

N 80°07'16" W  
25.00'

N 51°56'34" E (R)

133.00'

143.40'

(BASIS OF BEARINGS)  
N 09°52'44" E

280.00'

KELLY COURT

25.00'

25.00'

30.00'

PLAT TO ACCOMPANY LEGAL DESCRIPTION

FOR: PUBLIC ACCESS EASEMENT

DATE NOV., 2012

SCALE NOT TO SCALE

DR. BY MJA

MENLO PARK

CALIFORNIA

EXHIBIT "B"

PAGE 20



KIER & WRIGHT

CIVIL ENGINEERS & SURVEYORS, INC.

3350 Scott Boulevard, Building 22 (408) 727 6665  
Santa Clara, California 95054 fax (408) 727 5641

JOB A12047-1

SHEET NO.

1 OF 1

Boundary: PAE

POB: N: 5000.0000 E: 5000.0000

1. Line SE 80°07'16" 1.48'  
N: 4999.7461 E: 5001.4581
2. Curve Delta: -12°03'50" Radius: 50.00' Length: 10.53'  
PC to RP: NE 51°56'34"  
RP North: 5030.5685 RP East: 5040.8278  
RP to PT: SW 39°52'44"  
Chord: SE 44°05'21" 10.51'  
N: 4992.1984 E: 5008.7695
3. Curve Delta: 60°00'00" Radius: 50.00' Length: 52.36'  
PC to RP: SW 39°52'44"  
RP North: 4953.8283 RP East: 4976.7111  
RP to PT: SE 80°07'16"  
Chord: SE 20°07'16" 50.00'  
N: 4945.2500 E: 5025.9698
4. Line SW 09°52'44" 143.40'  
N: 4803.9763 E: 5001.3672
5. Curve Delta: 68°12'00" Radius: 20.00' Length: 23.81'  
PC to RP: NW 80°07'16"  
RP North: 4807.4076 RP East: 4981.6637  
RP to PT: SE 11°55'16"  
Chord: SW 43°58'44" 22.43'  
N: 4787.8390 E: 4985.7950
6. Line NE 54°48'10" 14.97'  
N: 4796.4676 E: 4998.0281
7. Line NE 09°52'44" 18.37'  
N: 4814.5652 E: 5001.1798
8. Line SE 80°07'16" 1.00'  
N: 4814.3936 E: 5002.1649
9. Line NE 09°52'44" 133.00'  
N: 4945.4216 E: 5024.9832
10. Curve Delta: -60°00'00" Radius: 49.00' Length: 51.31'  
PC to RP: NW 80°07'16"  
RP North: 4953.8283 RP East: 4976.7098  
RP to PT: NE 39°52'44"  
Chord: NW 20°07'16" 49.00'  
N: 4991.4310 E: 5008.1270
11. Curve Delta: 13°17'39" Radius: 51.00' Length: 11.83'  
PC to RP: NE 39°52'44"  
RP North: 5030.5684 RP East: 5040.8265  
RP to PT: SW 53°10'23"  
Chord: NW 43°28'26" 11.81'  
N: 4999.9990 E: 5000.0035

Perimeter: 462.06' Area: 245.90 sq.ft. 0.006 acres

Error Closure: 0.0037' Bearing: NW 74°52'58"  
Error North: -0.00096' Error East: 0.00355'  
Precision: 1: 125,722.19

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# PUBLIC WORKS DEPARTMENT

Council Meeting Date: April 16, 2013  
Staff Report #: 13-057

Agenda Item #: D-2

**CONSENT CALENDAR:**            **Adopt an Amended Resolution of Intention to Abandon a Portion of Louise Street**

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## RECOMMENDATION

Staff recommends that City Council adopt an Amended Resolution of Intention to abandon a portion of Louise Street.

## BACKGROUND

On March 5, 2013, the City Council adopted a Resolution of Intention to abandon a portion of Louise Street. In that resolution, dates were specified for upcoming Public Hearings to be held by the Planning Commission and the City Council. As these Public Hearing dates need to change, an Amended Resolution of Intention is required to set the new dates.

## ANALYSIS

The previously adopted Resolution of Intention set a Public Hearing date of April 22, 2013 for the Planning Commission. This Public Hearing date has since become unavailable as the Planning Commission meeting scheduled for April 22, 2013 is now solely dedicated to actions related to the Housing Element. The Planning Commission Public Hearing is now scheduled for May 6, 2013. Rescheduling the Planning Commission Public Hearing also necessitates the rescheduling of the subsequent City Council Public Hearing. The previously scheduled City Council Public Hearing on May 22, 2013 is now scheduled for July 16, 2013.

<b>Public Hearings</b>	<b>Original Resolution</b>	<b>Amended Resolution</b>
<b>Planning Commission</b>	April 22, 2013	May 6, 2013
<b>City Council</b>	May 22, 2013	July 16, 2013

## IMPACT ON CITY RESOURCES

The proposed action will not have a direct financial impact on the City. The applicant has paid the required processing fees.

## **POLICY ISSUES**

There are no specific policy issues with this action.

## **ENVIRONMENTAL REVIEW**

The project is categorically exempt under Class 5 of the current California Environmental Quality Act (CEQA) Guidelines.

## **PUBLIC NOTICE**

Public Notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting.

## **ATTACHMENTS**

A. Resolution

Report prepared by:  
Roger K. Storz  
Senior Civil Engineer



**RESOLUTION NO.**

**RESOLUTION OF THE CITY OF MENLO PARK TO AMEND THE  
RESOLUTION OF INTENTION TO ABANDON A PORTION OF LOUISE  
STREET**

WHEREAS, the City Council of the City of Menlo Park considered the abandonment of Louise Street and approved a Resolution of Intention to abandon a portion of Louise Street as Resolution No. 6125 on March 5, 2013; and

WHEREAS, the dates set by the previously approved Resolution of Intention for the Public Hearings to be held by the Planning Commission and the City Council necessitate being changed; and

WHEREAS, the Planning Commission will hold a Public Hearing on this subject on May 6, 2013, as required by law to notify property owners; and to find out whether the proposed abandonment is consistent with the City's General Plan; and

WHEREAS, the City Council will hold a Public Hearing on July 16, 2013 at approximately 7:00 p.m. as required by law determining whether recorded public utility easements and public access easements, over that area of the property affected, will retain the City's option relative to any utilities and street improvements within that area.

NOW, THEREFORE, BE IT RESOLVED that an Amended Resolution of Intention of the City Council of the City of Menlo Park, is hereby established, to consider the abandonment of a portion of Louise Street.

I, Margaret S. Roberts, City Clerk of the City of Menlo Park, do hereby certify that the above and foregoing Resolution was duly and regularly passed and adopted at a meeting by said Council on the sixteenth day of April, 2013, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of City of Menlo Park on this sixteenth day of April, 2013.

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Margaret S. Roberts, MMC  
City Clerk

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# POLICE DEPARTMENT

Council Meeting Date: April 16, 2013  
Staff Report #: 13-063

Agenda Item #: D-3

**CONSENT CALENDAR:**            **Approve the Response to the San Mateo Grand Jury Report “Can We Talk? Law Enforcement and Our Multilingual County”**

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## RECOMMENDATION

Staff recommends that the City Council approve the attached response to the San Mateo County Grand Jury report “Can We Talk? Law Enforcement and Our Multilingual County” dated March 20, 2013, for the Mayor’s signature.

## BACKGROUND

The San Mateo County Grand Jury conducted an investigation on how law enforcement agencies in the county handle the issue of dealing with multilingual residents and visitor. The Grand Jury conducted research into current Federal and State laws along with the relevant policies on language services and language tools throughout the San Mateo County law enforcement agencies. The Grand Jury also conducted several interviews with line level staff, supervisors and managers at several police agencies within the County.

The Grand Jury filed a report on March 20, 2013 (Attachment B) which contained six findings and four recommendations. Comments responsive to the Findings and Recommendations are required to be submitted to the Honorable Judge Richard C. Livermore no later than June 18, 2013. The City’s response must be approved by the City Council at a public meeting.

## ANALYSIS

Staffed reviewed and analyzed numerous reports and documents in regards to the language services used by this department and others in the County. The Menlo Park response includes some of the relevant findings and recommendations gleaned from this analysis.

## **IMPACT ON CITY RESOURCES**

Approving and submitting a response to the Grand Jury report has no direct impact on City resources.

## **POLICY ISSUES**

There are no policy implications as the Menlo Park Police Department is in compliance with the Grand Jury recommendation.

## **ENVIRONMENTAL REVIEW**

No environmental assessment is required.

## **PUBLIC NOTICE**

Public Notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting.

## **ATTACHMENTS**

- A. City of Menlo Park Response Letter
- B. Grand Jury Report

Report prepared by:  
Dave Bertini  
Police Commander



## City Council - City of Menlo Park

701 Laurel Street, Menlo Park, CA 94025

Telephone (650) 330-6610 [www.menlopark.org](http://www.menlopark.org)

April 16, 2013

Honorable Richard C. Livermore  
Judge of the Superior Court  
c/o Charlene Kresevich  
Hall of Justice  
400 County Center; 2<sup>nd</sup> Floor  
Redwood City, CA. 94063-1655

Re: Grand Jury Report – “Can We Talk? Law Enforcement and Our Multilingual County”

Dear Judge Livermore:

The Menlo Park City Council received the above referenced San Mateo County Grand Jury Report in March of 2013. The report identifies certain findings and recommendations, and requests that the City Council respond in writing to those findings no later than June 18, 2013. On May 21, 2013, the Menlo Park City Council held a public meeting and approved this response.

Regarding the “findings” of the San Mateo County Civil Grand Jury, Council is requested to respond with one of the following:

1. Council agrees with the finding.
2. Council disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons thereafter.

Regarding the “recommendations” of the San Mateo County Grand Jury, Council is requested to report one of the following actions:

1. The recommendation has been implemented, with a summary regarding the implemented action.
2. The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.
3. The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a time frame for the matter to be prepared for discussion by the officer or director of the agency or department being investigated or reviewed, including the governing of the public agency when applicable. This time frame shall not exceed six months from the date of publication of the Grand Jury report.
4. The recommendation will not be implemented because it is not warranted or reasonable with an explanation therefore.

The City of Menlo Park responds to the San Mateo County Grand Jury report as follows:

### **Findings**

**F1. The law enforcement agencies in the County are aware of the linguistic issues presented by the County's non-English speaking population and, in general, have responded well by implementing written policies for language access and instituting hiring procedures designed to recruit multilingual personnel.**

### **Response**

The City of Menlo Park agrees with this finding.

**F2. The 911 Service does a good job for the non-English speakers in the communities serviced by the San Mateo County Sheriff's Office.**

### **Response**

The City of Menlo Park agrees with this finding. San Mateo County Public Safety Dispatch, who dispatches for the San Mateo County Sheriff's Office utilizes the same "language line" as many other dispatch centers in the County, including the Menlo Park Police Dispatch center.

**F3. Written policies and procedures, such as those adopted by, Belmont, Brisbane, Burlingame, Foster City, Menlo Park, City of San Mateo, South San Francisco, and the Sheriff's Office, are useful in guiding law enforcement during encounters with non-English speakers.**

## **Response**

The City of Menlo Park agrees with this finding.

**F4. Language Line is helpful in reducing communication difficulties between the immigrant population and law enforcement.**

## **Response**

The City of Menlo Park agrees with this finding. The Menlo Park Police Department utilizes this service in its dispatch center.

**F5. Alternative language translation services such as Google Translate, accessible by smart phones in the field, are useful in multilingual law enforcement situations.**

## **Response**

The City of Menlo Park agrees with this finding.

**F6. It would be beneficial for law enforcement agencies to take advantage of low cost Spanish education available through POST.**

## **Response**

The City of Menlo Park agrees with this finding.

## **Recommendations**

The Grand Jury recommends to the City Councils of the Cities of San Mateo County that:

**R1. The cities of Atherton, Colma, Daly City, East Palo Alto, Hillsborough, Pacifica, Redwood City, and San Bruno develop a written policy/procedure for language access based on the guidelines set forth by the United States Department of Justice and customized for California Law by Lexipol in Policy 368.**

## **Response**

Not applicable to Menlo Park. The Menlo Park Police Department currently has Lexipol Policy 368 “Limited English Proficiency Services” in effect, and that policy was used as an example attached to the Grand Jury report in Appendix D.

**R2. The cities of Brisbane and Hillsborough subscribe to a telephonic translation service that provides immediate access for dispatchers and officers in the field.**

## **Response**

Not applicable to Menlo Park.

**R3. Every County policing agency examine the feasibility of providing smart phones to patrol officers so that they can access free translation serviced such as Google Translate.**

## **Response**

The recommendation will not be implemented because it is not warranted or reasonable. The Menlo Park Police Department outfits every marked police vehicle with a Mobile Data Terminal (MDT) which has immediate access to the internet, making it possible for officers to use the above mentioned Google Translate in the field already. Also, purchasing smart phones for every officer is extremely cost prohibitive. The initial cost along with the monthly cost of cellular and data plans would be unsustainable for most police departments. Along with the cost, mandating that officers carry department issued smart phones raises a labor law issue of compensation for use of the phones while off duty. This issue of compensation in regards to department issued phones is currently being litigated in another state and that decision could have long term and profound effects on every police department.

Sincerely,

Peter I. Ohtaki  
Mayor



This is an advanced copy of a Grand Jury report that will be publicly released on March 20, 2013. Penal Code section 933.05 (f) prohibits any officer, agency, department, or governing body of a public agency from disclosing any contents of the report prior to the public release of this report.

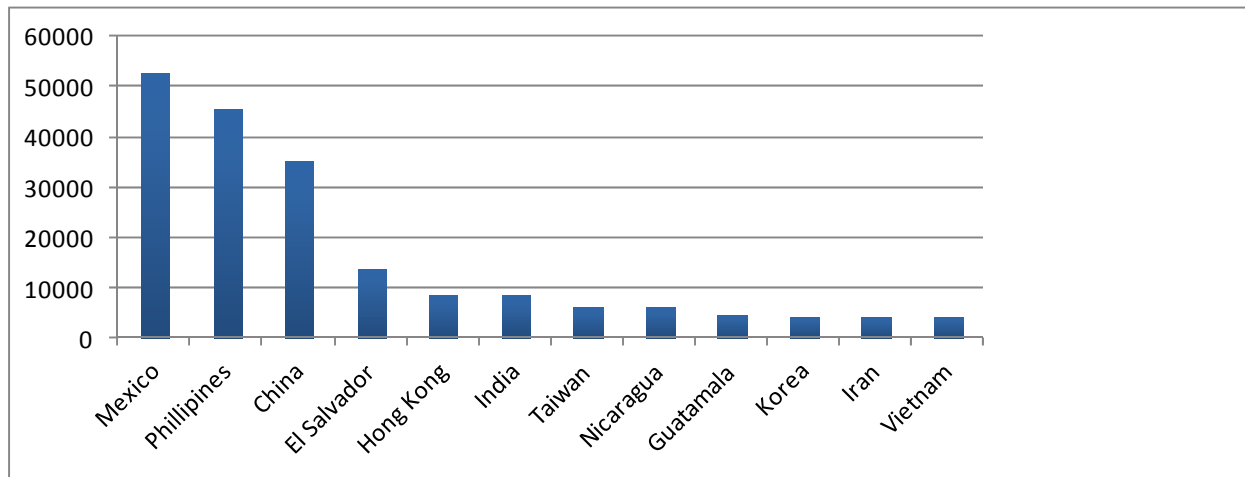


## CAN WE TALK? LAW ENFORCEMENT AND OUR MULTILINGUAL COUNTY

### SUMMARY

The law enforcement agencies for the 20 cities and towns located in San Mateo County (County), together with the County Sheriff's Office, have a mandate to safeguard the County's citizens. This mandate has become more difficult to fulfill as demographic changes over the past 20 years have brought into the County an increasing number of people who speak English either poorly or not at all.

The population of the County is linguistically diverse. The 2010 census lists the County's population at 718,451,<sup>1</sup> with 239,225 people indicating a birthplace other than the United States.<sup>2</sup> Immigrants comprise 33% of the County's total population, which does not include the children of immigrants or undocumented immigrants. Over the past decade, San Mateo County has seen an increase in the Asian population (25%), the Hispanic population (18%) and a decrease in the white population (14%).<sup>3</sup> Hispanics represent the largest population (22.1%), followed by Asians (18.3%) and Pacific Islanders (1.4%). The chart below shows the most common country of origin of immigrants to the County, as measured by the number of permanent visas provided.<sup>4</sup>



<sup>1</sup> <http://www.bayareacensus.ca.gov/counties/SanMateoCounty.htm> (11/28/2012).

<sup>2</sup> Ibid.

<sup>3</sup> Preliminary Findings from the Assessment of Immigrant Needs in San Mateo County, [http://svcgii.sjsu.edu/content/20120126\\_SMC\\_Key\\_Findings.pdf](http://svcgii.sjsu.edu/content/20120126_SMC_Key_Findings.pdf) \_ pg. 4 (1/28/2013).

<sup>4</sup> Ibid.

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As part of only the 2000<sup>5</sup> census, the U.S. Census Bureau gathered English fluency data by asking respondents to rate their ability to speak English on a scale from “very well” to “not at all.” The results indicated that 55% of the County’s residents speak English “very well,” 22% “well,” 16% “not well,” and 7% “not at all.”<sup>6</sup> This indicates that a minimum of 23% of the County’s residents, or 165,000 people, have some level of difficulty communicating in English.

In light of this problem, the 2012-2013 San Mateo County Civil Grand Jury (Grand Jury) sought to determine how the law enforcement officers of the 20 cities and towns in the County and the County Sheriff’s Office deal with communication obstacles that might prevent them from effectively discharging their duties. The Grand Jury found that both the County’s police departments<sup>7</sup> and the Sheriff’s Office<sup>8</sup> are making credible efforts at recruiting, hiring, training, and retaining multilingual officers and support personnel.

The Grand Jury recommends that every policing agency in the County develop a written policy/procedure for language access, subscribe to effective translation services, and actively encourage language training for its personnel.

## BACKGROUND

Whether it is a routine vehicle stop or a high-profile homicide investigation, law enforcement officers need to be able to communicate effectively to do their job. The size of the non-English speaking population in the County presents a serious challenge for law enforcement to provide effective policing programs while developing trust and cooperation in the communities they serve. As the number of non-English speakers increases, so does the number of non-English speaking residents who become witnesses to crime and even targets of crime. Because of language difficulties, these crimes may go unreported. Improved communications between officers and citizens can improve upon this situation.

Several laws mandate that law enforcement agencies find ways to overcome language barriers. Under Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d et seq.),<sup>9</sup> police agencies receiving federal assistance must take reasonable steps to ensure that their services are meaningfully accessible to those who do not speak English well.<sup>10</sup> Additionally, California’s Dymally-Alatorre Bilingual Services Act (Cal. Gov. Code §7290) requires state and local

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<sup>5</sup> 2000 data is the most recent as the question was not asked in the 2010 census.

<sup>6</sup> U.S. Department of Health and Human Services, <http://www.ahrq.gov/research/iomracereport/reldata4a.htm> (11/29/2012).

<sup>7</sup> Atherton, Belmont, Brisbane, Burlingame, Colma, Daly City, East Palo Alto, Foster City, Hillsborough, Menlo Park, Pacifica, Redwood City, San Bruno, San Mateo, and South San Francisco.

<sup>8</sup> Includes Half Moon Bay, Millbrae, Portola Valley, San Carlos, and Woodside.

<sup>9</sup> No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

<sup>10</sup> Overcoming Language Barriers, Solutions For Law Enforcement, pg. 5, [www.cops.usdoj.gov](http://www.cops.usdoj.gov) (11/28/2012).

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agencies serving a “substantial number of non-English speaking people” to employ a “sufficient number of qualified bilingual staff in public contact positions” and to translate documents explaining available services to their clients’ languages. (See, Appendix A).

Law enforcement agencies operate within a culture of written policies and procedures. Accordingly, written policies and procedures regarding language access would be useful in guiding officers and support personnel on how and when to use language resource services. The Department of Justice Civil Rights Division has created a number of planning tools for law enforcement agencies to assist with formulating such policies and procedures.<sup>11</sup> Further, the development and implementation of such policies and procedures can demonstrate a department’s commitment to ensuring access for residents with limited English skills and combating national origin discrimination.<sup>12</sup>

## METHODOLOGY

The Grand Jury collected information from all the law enforcement agencies in the cities and towns in the County, and from the County Sheriff’s Office, regarding the level and efficiency of their interactions with non-English speakers in their jurisdictions. The Grand Jury requested these agencies’ assessments of the difficulties that language barriers create for both police officers and the public. Additionally, the Grand Jury asked these agencies to supply data regarding multilingual law enforcement officers and support personnel within their jurisdictions, information regarding programs to recruit, hire, train, and retain multilingual personnel, and current written policies/procedures addressing language access.

### Interviews

The Grand Jury interviewed patrol officers from several police agencies to determine the actions they take when confronted with a language barrier. The Grand Jury also interviewed personnel from the County’s Office of Public Safety Communications (911).

### Site Tours

In an emergency, the public often calls 911 as its first choice for obtaining police and medical services. As this is often the public’s initial contact point with law enforcement, the Grand Jury sought to determine the linguistic effectiveness of the 911 control center in the County’s Office of Public Safety Communications.

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<sup>11</sup> Executive Order 13166 Limited English Proficiency Resource Document: Tips and Tools from the Field, Washington, D.C: U.S. Department of Justice, Civil Rights Division, 2004: <http://www.justice.gov/crt/about/cor/lep/Final%20Tips%20and%20Tools%20Document.%209%2021%2004.pdf> (1/24/2013).

<sup>12</sup> Ibid.

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## Documents

The Grand Jury reviewed the following documents:

- Civil Rights Act of 1964
- Summary of Language Access Laws in California (Appendix A)
- California Government Code Sections 7290-7299.8 (Appendix B)
- Overcoming Language Barriers, Solutions for Law Enforcement<sup>13</sup>
- Enhancing Community Policing with Immigrant Populations<sup>14</sup>
- Dymally-Alatorre Bilingual Services Act
- Lexipol Policy 368 (Appendix E)

The Grand Jury gathered statistical information from the 2000 and 2010 U.S. Censuses,<sup>15</sup> from various websites dedicated to employment opportunities in law enforcement, and from the websites maintained by the various law enforcement departments in the County.

## DISCUSSION

The Grand Jury's investigation revealed widespread awareness among the County's law enforcement agencies regarding the need for more multilingual law enforcement and emergency personnel, particularly those fluent in Spanish. While several communities have as many as 22% of their officers fluent in a second language,<sup>16</sup> two cities (Belmont and Hillsborough) reported no multilingual officers. The departments in these communities must depend on neighboring agencies or non-police employees for their translation needs. Fifteen communities of the 20 surveyed stated their agencies could benefit from additional multilingual officers. (Appendix C) Atherton, Brisbane, Burlingame, Foster City, and Hillsborough stated no additional multilingual officers are currently needed.

The primary concern among the policing agencies is how difficult basic communication is with non-English speakers during an initial contact, which is often during an emergency. When non-English speaking residents are involved, the departments reported that delays were common in obtaining information critical to the resolution of an incident or the investigation of a crime.

## 911 Calls

As part of the Emergency Telephone Users Surcharge Law,<sup>17</sup> the State of California has mandated that language translation services be available to limited or non-English speakers. A general tax on telephone usage funds the cost for this service.

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<sup>13</sup> [www.cops.usdoj.gov/Publications/vera\\_translating\\_justice\\_final.pdf](http://www.cops.usdoj.gov/Publications/vera_translating_justice_final.pdf) (1/9/2013).

<sup>14</sup> [www.cops.usdoj.gov/Publications/e04106266-Enhancing-CP-Immigrant-Populations\\_b.pdf](http://www.cops.usdoj.gov/Publications/e04106266-Enhancing-CP-Immigrant-Populations_b.pdf) (1/9/2013).

<sup>15</sup> <http://quickfacts.census.gov/qfd/states/06/06081.html> (1/30/2013).

<sup>16</sup> See Appendix C.

<sup>17</sup> California State Board of Equalization [www.boe.ca.gov/pdf/pub39a.pdf](http://www.boe.ca.gov/pdf/pub39a.pdf) (1/28/2013).

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Under the County Manager's direction the County's 911 center processes emergency calls for the Sheriff's Office, which services the cities of Half Moon Bay, Millbrae, Portola Valley, San Carlos, and Woodside, together with the unincorporated areas of the County. 911 also processes calls for all the fire departments in the County and ambulance dispatch, transit police (BART), Caltrain, and occasional direct calls from the public.<sup>18</sup> As this is generally the first interface the public has with potential assistance, the Grand Jury reviewed the Public Safety Communications departmental policies and procedures when encountering a non-English speaking caller. This review revealed that when necessary, 911 operators can provide translation services for limited or non-English speakers through a service called "Language Line."

### Language Line

Language Line is a telephonic service operated by AT&T that enables users to speak through a translator in 98.6% of the world's 6,809 languages, and includes sign language, when a video feed is available, and TTY (text telephone) users.<sup>19</sup> A transfer button at all 911 operator workstations accomplishes this quickly. County administrators track the calls to determine the usage of Language Line. 911 Service's internal policies dictate a 30-second processing time for incoming 911 calls. The transfer to Language Line for non-English speakers is occasionally longer than the 30-second goal. However, 911 Service reports a favorable experience with this service.

All, except two (Brisbane and Hillsborough) of the cities' police departments, use Language Line for translation services.<sup>20</sup> The patrol officers interviewed indicated that use of Language Line in the field is cumbersome, as officers have to pass a telephone back and forth between the officer and the non-English speaker. The patrol officers preferred using Language Line for follow up investigations when a second telephone line is available.

### Patrol Officers in the Field

Patrol officers in the field are resourceful when dealing with language barriers. They initially rely on their dispatchers to identify the language needs of the parties involved. This allows the officer to secure necessary translators while in route to the scene. At the scene, their first resource frequently is family members and neighbors. If additional translation is necessary, the officer can contact multilingual members of their department or neighboring departments for assistance. Officers also report having used web-based smart phone translation applications such as Google Translate on their personal phones.

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<sup>18</sup> Cities not serviced by the Sheriff's Office have their own 911 operations that, for whatever reason, seldom receive direct calls from the public.

<sup>19</sup> [http://languageline.com/main/files/Language\\_List.pdf](http://languageline.com/main/files/Language_List.pdf) (1/30/2013).

<sup>20</sup> See Appendix C.

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All law enforcement agencies in the County stated that they actively recruit multilingual officers. Additionally, all responding departments except Brisbane and Colma provide additional compensation to their multilingual officers according to their language proficiency.

### Written Language Access Policies

The cities of Belmont, Brisbane, Burlingame, Foster City, Menlo Park, City of San Mateo, South San Francisco<sup>21</sup>, and the Sheriff's Office (which services the cities of Half Moon Bay, Millbrae, Portola Valley, San Carlos, Woodside, and the unincorporated areas of the County) provided the Grand Jury with written policies and procedures addressing language access. The Sheriff's Office also recognizes the need for additional efforts, such as including the salary premium information in job postings and assigning multilingual officers to duty areas aligned with their language skills. The cities of Atherton, Colma, Daly City, East Palo Alto, Hillsborough, Pacifica, Redwood City, and San Bruno did not provide any written policies or procedures addressing language access to the Grand Jury and the Grand Jury is not aware that any such policies or procedures exist for those jurisdictions.

### POST

The State of California provides continuing education through its Commission on Peace Officers Standards and Training (POST) program. POST offers language classes in Spanish (five proficiency levels) including courses to develop the basic skills needed for an initial interaction with Spanish speakers. The cost for the courses ranges from \$20 to \$350. The skills thus obtained have the potential to minimize language barriers during emergencies with a large percentage of the immigrant population, thereby allowing law enforcement officers to render better service to their communities.

### FINDINGS

- F1. The law enforcement agencies in the County are aware of the linguistic issues presented by the County's non-English speaking population and, in general, have responded well by implementing written policies for language access and instituting hiring procedures designed to recruit multilingual personnel.
- F2. The 911 Service does a good job for the non-English speakers in the communities serviced by the San Mateo Sheriff
- F3. Written policies and procedures, such as those adopted by Belmont, Brisbane, Burlingame, Foster City, Menlo Park, City of San Mateo, South San Francisco, and the Sheriff's Office, are useful in guiding law enforcement during encounters with non-English speakers.

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<sup>21</sup> Appendix E [www.Lexipol.com](http://www.Lexipol.com) (1/24/2013).

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- F4. Language Line is helpful in reducing communication difficulties between the immigrant population and law enforcement.
- F5. Alternative language translation services such as Google Translate, accessible by smart phones in the field, are useful in multilingual law enforcement situations.
- F6. It would be beneficial for law enforcement agencies to take advantage of low cost Spanish education available through the POST program.

## RECOMMENDATIONS

The Grand Jury recommends that:

- R1. The cities of Atherton, Colma, Daly City, East Palo Alto, Hillsborough, Pacifica, Redwood City, and San Bruno develop a written policy/procedure for language access based on the guidelines set forth by the United States Department of Justice<sup>22</sup> and customized for California Law by Lexipol in Policy 368 (See, e.g., Appendix E)
- R2. The cities of Brisbane and Hillsborough subscribe to a telephonic translation service that provides immediate access for dispatchers and officers in the field.
- R3. Every County policing agency examine the feasibility of providing smart phones to patrol officers so that they can access free translation services such as Google Translate<sup>23</sup>.
- R4. Every County policing agency encourage and financially support participation in POST<sup>24</sup> language skills classes.

## REQUEST FOR RESPONSES

Pursuant to Penal code section 933.05, the Grand Jury requests the following, as applicable, to respond to the foregoing Findings and Recommendations, referring in such responses to the numerical reference thereof:

- San Mateo County Sheriff
- The Town/City Councils of Atherton, Belmont, Brisbane, Burlingame, Colma, Daly City, East Palo Alto, Foster City, Hillsborough, Menlo Park, Pacifica, Redwood City, San Bruno, City of San Mateo, and South San Francisco.

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<sup>22</sup> Overcoming Language Barriers, Solutions For Law Enforcement, Community Oriented Policing Services, U.S. Department of Justice, [www.cops.usdoj.gov/Publications/vera\\_translating\\_justice\\_final.pdf](http://www.cops.usdoj.gov/Publications/vera_translating_justice_final.pdf) (1/9/2013).

<sup>23</sup> <https://play.google.com/store/apps/details?id...google...apps.translate> (1/24/2013).

<sup>24</sup> Ca. Gov. Post, [www.post.ca.gov](http://www.post.ca.gov) (12/17/2012).

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The governing bodies indicated above should be aware that the comment or response of the governing body must be conducted subject to the notice, agenda and open meeting requirements of the Brown Act.

Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Civil Grand Jury.
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## **APPENDIX A**

### **SUMMARY OF LANGUAGE ACCESS LAWS IN CALIFORNIA**

There are a number of federal, state, and local laws that govern language access for limited-English proficient (LEP) individuals. The following is an overview of the federal, state, and local laws governing language access.

#### **Title VI of the 1964 Civil Rights Act**

“No person in the United States shall, on the ground of race, color, or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”

Title VI of the Civil Rights Act of 1964 prohibits discrimination based on race, color, or national origin by any recipient of federal funding. This obligation applies to all recipients, including government agencies, public educational institutions, nonprofit organizations, private corporations, and other entities. Title VI also applies without regard to the amount of funds received by an entity. Although the law does not define national origin discrimination, courts and regulations have consistently interpreted the provision as requiring linguistically assessable services. This means that agencies that receive federal funds and fail to provide meaningful access for limited English speaking individuals to services can violate Title VI. Title VI also covers private for-profit and nonprofit entities that receive federal funds, including those re-allocated by state or local governments. In the past several years, policies have been put in place at the federal level to provide direction that is more specific to federal recipients regarding their legal duty to provide language-accessible services. In August 2000, President Clinton issued Executive Order 13166, “Improving Access to Services for Persons with Limited English Proficiency,” requiring federal agencies to develop guidance for federal funding recipients on how to comply with Title VI. The Bush administration has reaffirmed Executive Order 13166, and the U.S. Department of Justice has led a multi-agency effort to issue guidance outlining four factors that a recipient of federal funding should apply in determining its level of obligation to provide access to services for people who are LEP:

1. Number or proportion of LEP persons served. While programs that serve fewer LEP individuals are still required to take reasonable steps to provide meaningful access, the number of LEP individuals expected to be encountered will determine the reasonableness of the efforts.
2. Frequency of contact with LEP persons. The more frequent the need by LEP individuals to access the services, the greater the responsibility to provide meaningful access.
3. Nature and importance of the program. The greater the importance of the program to beneficiaries, the greater the duty to provide access.
4. Resources available and costs. Cost is a legitimate consideration in assessing the reasonableness of particular language access measures, and a smaller recipient of federal funding with limited resources may not have to take the same steps as a larger one.

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In balancing these four factors, recipients of federal funding must provide an appropriate level of both oral interpretation and translation of important written documents. More information about Title VI's language access requirements can be found at the federal government's web site, [www.lep.gov](http://www.lep.gov). This web site contains:

- Background information about Title VI;
- Executive Order 13166 (requesting federal agencies to develop detailed guidance on enforcing Title VI);
- Guidance for implementing Title VI for over 30 federal agencies;
- Federal implementation and enforcement policies;
- "Know Your Rights" materials;
- "I Speak" Flashcards (flashcard written in 38 languages that can be used to identify the language spoken by individuals who attempt to access services); and
- General resources for providing multilingual services.

### **Dymally-Alatorre Bilingual Services Act**

California's Dymally-Alatorre Bilingual Services Act requires state and local agencies serving a "substantial number of non-English speaking people," to employ a "sufficient number of qualified bilingual staff in public contact positions" and to translate documents explaining available services into their clients' languages. In enacting the law over 30 years ago, the California Legislature recognized that "the effective maintenance and development of a free and democratic society depends on the right and ability of its citizens and residents to communicate with their government and the right and ability of the government to communicate with them." Gov. Code § 7291. Because a substantial number of limited English proficient ("LEP") Californians were unable to effectively utilize government services to which they were entitled, in 1973, the Legislature passed the Dymally-Alatorre Bilingual Services Act (the "Act"). See Gov. Code §§ 7290 et seq. The Bilingual Services Program of the State Personnel Board monitors agency compliance with Dymally-Alatorre and provides guidance to agencies seeking to meet their legal obligations to serve LEP individuals. For more information see, <http://www.spb.ca.gov/bilingual/>

### **Equal Access to Services Ordinance**

San Francisco's Equal Access to Services (EAS) Ordinance, Chapter 91 of the SF Adm. Code, requires covered city departments to make its services accessible in any language spoken by limited English proficient persons who make up either 1) five percent of the population served by the Department, or 2) 10,000 residents citywide. The EAS Ordinance applies to all city departments that provide services to the public and have at least 30 full-time employees. The EAS delineates a range of obligations including, but not limited to: conducting annual language needs assessments, utilizing written and oral language services to ensure individuals have equal access to services regardless of language ability. Written Translation. The Ordinance requires City

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departments that provide extensive public services (enumerated in the Ordinance as “Tier 1” departments), to translate vital governmental documents into the languages spoken by at least 10,000 LEP residents or 5 percent of the clients served by the department.

**[Section 91.4.]**

At this time, the languages that fall under the broad, citywide 10,000 persons categories are Spanish and Chinese. The seven categories of “vital” documents designated for translation by Tier 1 departments include:

- (1) applications or forms to participate in a Department’s program or activity or to receive its benefits or services;
- (2) written notices of rights to, determination of eligibility of, award of, denial of, loss of, or decreases in benefits or services, including the right to appeal any Department’s decision;
- (3) written tests that do not assess English language competency, but test competency for a particular license or skill for which knowledge of written English is not required;
- (4) notices advising limited English-proficient persons of free language assistance;
- (5) materials explaining a Department’s services or programs;
- (6) complaint forms; and
- (7) any other written documents that have the potential for important consequences for an individual seeking services from or participating in a program of a city department.

**Oral Language Services**

The ordinance requires each City department with at least 30 full-time employees to provide information and services to the public not only in English, but also in the languages spoken by at least 10,000 LEP residents or 5 percent of the clients served by the department.

**[Section 91.3.]**

Again, the languages that fall under the citywide threshold are Spanish and Chinese (specifically Cantonese). Also, a local office of a City department that provides direct services to the public and serves as the workplace for 5 or more full-time City employees must additionally provide information and services to the public in the languages spoken by at least 5 percent of the population of the supervisorial district in which the facility is located or at least 5 percent of the clients served by the local office, when either of those constituencies is LEP and shares a primary language other than English.

**[Section 91.3.]**

In order to comply with the spoken language component of the Ordinance, departments must utilize sufficient numbers of bilingual staff in public contact positions (made vacant by retirement or attrition – no existing employee would be dismissed to implement this ordinance). A public contact position is defined in the ordinance as “a position in which a primary job responsibility consists of

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meeting, contacting, and dealing with the public in the performance of the duties of that position.”

**[Section 91.2(i).]**

The standard for determining whether departments comply with this "Tier 1 Departments" include the following:

Adult Probation Department, Department of Consumer Assurance, Department of Elections, Department of Human Services, Department of Parking and Traffic, Department of Public Health, Department of Public Transportation, District Attorney's Office, Emergency Communications Department, Fire Department, Juvenile Probation Department, Police Department, Public Defender's Office, Department of Aging and Adult Services, Rent Stabilization and Arbitration Board, and Sheriff's Office requirement of the Ordinance is whether they “provide the same level of service to Limited English Speaking Persons as they provide English speakers.”

**[Section 91.3(a).]**

The Ordinance may require the use of other means (such as language translation telephone lines) to communicate with the public in non-English languages in order to supplement bilingual staffing.

**Monitoring**

Individual departments and the city’s Immigrant Rights Commission are charged with monitoring compliance with the EAS. Departments must submit annual compliance plans by February 1. Amongst other items, the plans must include

- The number and percentage of LEP individuals who actually use the Department’s services citywide, listed by language.
- The number and percentage of LEP residents of each district in which a covered departmental facility is located and persons who use the services provided by such facility.
- The number of public contact positions in the Department.
- The number of bilingual employees in public contact positions, their titles, office locations, the languages other than English that the person speaks.
- A description of any telephone based interpretation services offered, including the number of times such services were used and that languages for which they were used.
- A narrative assessment of the procedures used to facilitate communications with LEP individuals.
- A numerical assessment of the number of bilingual employees in public contact positions needed to meet the requirements of the EAS.
- A list of the Department’s written materials required to be translated under the EAS.
- A description of procedures for accepting and resolving complaints of an alleged violation of the EAS.

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## **APPENDIX B**

### **GOVERNMENT CODE SECTION 7290-7299.8**

7290. This chapter may be known and cited as the Dymally-Alatorre Bilingual Services Act.

7291. The Legislature hereby finds and declares that the effective maintenance and development of a free and democratic society depends on the right and ability of its citizens and residents to communicate with their government and the right and ability of the government to communicate with them.

The Legislature further finds and declares that substantial numbers of persons who live, work and pay taxes in this state are unable, either because they do not speak or write English at all, or because their primary language is other than English, effectively to communicate with their government. The Legislature further finds and declares that state and local agency employees frequently are unable to communicate with persons requiring their services because of this language barrier. Therefore, substantial numbers of persons presently are being denied rights and benefits to which they would otherwise, be entitled.

It is the intention of the Legislature in enacting this chapter to provide for effective communication between all levels of government in this state and the people of this state who are precluded from utilizing public services because of language barriers.

7292. (a) Every state agency, as defined in Section 11000, except the State Compensation Insurance Fund, directly involved in the furnishing of information or the rendering of services to the public whereby contact is made with a substantial number of non-English-speaking people, shall employ a sufficient number of qualified bilingual persons in public contact positions to ensure provision of information and services to the public, in the language of the non-English-speaking person.

(b) For the purposes of this chapter, the furnishing of information or rendering of services includes, but is not limited to, providing public safety, protection, or prevention, administering state benefits, implementing public programs, managing public resources or facilities, holding public hearings, and engaging in any other state program or activity that involves public contact.

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7293. Every local public agency, as defined in Section 54951, serving a substantial number of non-English-speaking people, shall employ a sufficient number of qualified bilingual persons in public contact positions or as interpreters to assist those in such positions, to ensure provision of information and services in the language of the non-English-speaking person. The determination of what constitutes a substantial number of non-English-speaking people and a sufficient number of qualified bilingual persons shall be made by the local agency.

7294. An employee of a state or local agency, as defined by Sections 11000 and 54951, may not be dismissed to carry out the purposes of this chapter. A state or local public agency need only implement this chapter by filling employee public contact positions made vacant by retirement or normal attrition.

7295. Any materials explaining services available to the public shall be translated into any non-English language spoken by a substantial number of the public served by the agency. Whenever notice of the availability of materials explaining services available is given, orally or in writing, it shall be given in English and in the non-English language into which any materials have been translated. The determination of when these materials are necessary when dealing with local agencies shall be left to the discretion of the local agency.

7295.2. Every state agency that serves a substantial number of non-English-speaking people, and which provides materials in English explaining services, shall also provide the same type of materials in any non-English language spoken by a substantial number of the public served by the agency. Whenever notice of the availability of materials explaining services available is given, orally or in writing, it shall be given in English and in the non-English language into which any materials have been translated. This section shall not be interpreted to require verbatim translations of any materials provided in English by a state agency.

7295.4. Whenever a state agency finds that the factors listed in both subdivisions (a) and (c) or (b) and (c) exist, it shall distribute the applicable written materials in the appropriate non-English language through its local offices or facilities to non-English-speaking persons, or, as an alternative, the state agency

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may instead elect to furnish translation aids, translation guides, or provide assistance, through use of a qualified bilingual person, at its local offices or facilities in completing English forms or questionnaires and in understanding English forms, letters, or notices:

(a) The written materials, whether forms, applications, questionnaires, letters, or notices solicit or require the furnishing of information from an individual or provide that individual with information.

(b) The information solicited, required, or furnished affects or may affect the individual's rights, duties, or privileges with regard to that agency's services or benefits.

(c) The local office or facility of the agency with which the individual is dealing, serves a substantial number of non-English-speaking persons.

7296. (a) As used in this chapter, a "qualified bilingual person," "qualified bilingual employee," or "qualified interpreter" is a person who is proficient in both the English language and the non-English language to be used. For any state agency, "qualified" means one of the following:

(1) A bilingual person or employee who the State Personnel Board has tested and certified as proficient in the ability to understand and convey in English and a non-English language commonly used terms and ideas, including terms and ideas regularly used in state government.

(2) A bilingual employee who was tested and certified by a state agency or other testing authority approved by the State Personnel Board as proficient in the ability to understand and convey in English and a non-English language commonly used terms and ideas, including terms and ideas regularly used in state government.

(3) An interpreter who has met the testing or certification standards established by the State Personnel Board for outside or contract interpreters, as proficient in the ability to communicate commonly used terms and ideas between the English language and the non-English language to be used and has knowledge of basic interpreter practices, including, but not limited to, confidentiality, neutrality, accuracy, completeness, and transparency.

(b) The determination of what constitutes "qualified" for local agencies, shall be left to the discretion of the local agency.

7296.2. As used in Sections 7292 and 7295.2, a "substantial number

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of non-English-speaking people" are members of a group who either do not speak English, or who are unable to effectively communicate in English because it is not their native language, and who comprise 5 percent or more of the people served by any local office or facility of a state agency.

7296.4. As used in Section 7292, "a sufficient number of qualified bilingual persons in public contact positions" is the number required to provide the same level of services to non-English-speaking persons as is available to English-speaking persons seeking these services. However, where the local office or facility of the state employs the equivalent of 25 or fewer regular, full-time employees, it shall constitute compliance with the requirements of this chapter if a sufficient number of qualified bilingual persons are employed in public contact positions, or as qualified interpreters to assist those in those positions, to provide the same level of services to non-English-speaking persons as is available to English-speaking persons seeking the services from the office or facility.

7297. As used in this chapter, a "public contact position" is a position determined by the agency to be one which emphasizes the ability to meet, contact and deal with the public in the performance of the agency's functions.

7298. The provisions of this chapter are not applicable to school districts, county boards of education, or the office of a county superintendent of schools.

7299. The provisions of this act shall be implemented to the extent that local, state or federal funds are available, and to the extent permissible under federal law and the provisions of civil service law governing the state and local agencies.

7299.1. State agencies may, utilizing existing funds, contract for telephone-based interpretation services in addition to employing qualified bilingual persons in public contact positions.

7299.2. The State Personnel Board shall be responsible for informing state agencies of their responsibilities under this chapter and providing state agencies with technical assistance, upon request on a reimbursable basis.

7299.4. (a) Notwithstanding any other provision in this chapter,



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each state agency shall conduct an assessment, develop, and update an implementation plan that complies with the requirements of this chapter.

(b) Each agency shall conduct a survey of each of its local offices every two years to determine all of the following:

(1) The number of public contact positions in each local office.

(2) The number of qualified bilingual employees in public contact positions in each local office, and the languages they speak, other than English.

(3) The number and percentage of non-English-speaking people served by each local office, broken down by native language.

(4) The number of anticipated vacancies in public contact positions.

(5) Whether the use of other available options, including contracted telephone-based interpretation services, in addition to qualified bilingual persons in public contact positions, is serving the language needs of the people served by the agency.

(6) A list of all written materials that are required to be translated or otherwise made accessible to non- or limited-English-speaking individuals by Sections 7295.2 and 7295.4.

(7) A list of materials identified in paragraph (6) that have been translated and languages into which they have been translated.

(8) The number of additional qualified bilingual public contact staff, if any, needed at each local office to comply with this chapter.

(9) Any other relevant information requested by the State Personnel Board.

(c) Each agency shall calculate the percentage of non-English-speaking people served by each local office by rounding the percentage arrived at to the nearest whole percentage point.

The survey results shall be reported on forms provided by the State Personnel Board, and delivered to the board not later than October 1 of every even-numbered year beginning with 2008.

(d) Beginning in 2009 and in every odd-numbered year thereafter, each state agency shall develop an implementation plan that, at a minimum, addresses all of the following:

(1) The name, position, and contact information of the employee designated by the agency to be responsible for overseeing implementation of the plan.

(2) A description of the agency's procedures for identifying written materials that need to be translated.

(3) A description of the agency's procedures for identifying language needs at local offices and assigning qualified bilingual

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staff.

(4) A description of how the agency recruits qualified bilingual staff.

(5) A description of any training the agency provides to its staff on the provision of services to non- or limited-English-speaking individuals.

(6) A detailed description of how the agency plans to address any deficiencies in meeting the requirements of this chapter, including, but not limited to, the failure to translate written materials or employ sufficient numbers of qualified bilingual employees in public contact positions at local offices, the proposed actions to be taken to address the deficiencies, and the proposed dates by when the deficiencies can be remedied.

(7) A description of the agency's procedures for accepting and resolving complaints of an alleged violation of this chapter.

(8) A description of how the agency complies with any federal or other state laws that require the provision of linguistically accessible services to the public.

(9) Any other relevant information requested by the State Personnel Board.

(e) In developing its implementation plan in 2003, each state agency may rely upon data gathered from its 2002 survey.

(f) Each state agency shall submit its implementation plan to the State Personnel Board no later than October 1 of each applicable year. The board shall review each plan, and, if it determines that the plan fails to address the identified deficiencies, the board shall order the agency to supplement or make changes to its plan. A state agency that has been determined to be deficient shall report to the State Personnel Board every six months on its progress in addressing the identified deficiencies.

(g) If the board determines that a state agency has not made reasonable progress toward complying with this chapter, the board may issue orders that it deems appropriate to effectuate the purposes of this chapter.

7299.5. The State Personnel Board may exempt state agencies from the requirements of Section 7299.4, where the State Personnel Board determines that any of the following conditions apply:

(a) The agency's primary mission does not include responsibility for furnishing information or rendering services to the public.

(b) The agency has consistently received such limited public contact with the non-English-speaking public that it has not been required to employ bilingual staff under Section 7292 and the agency

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employs fewer than the equivalent of 25 full-time employees in public contact positions.

In order to receive an exemption, each state agency shall annually petition the State Personnel Board for the exemption and receive approval in writing by the date established by the board. An agency may receive an exemption for up to five consecutive surveys or implementation plans, if it demonstrates that it meets the requirements of subdivision (a) or (b), and provides all required documentation to the State Personnel Board.

7299.6. The State Personnel Board shall review the results of the surveys and implementation plans required to be made by Section 7299.4, compile this data, and provide a report to the Legislature every two years. The report shall identify significant problems or deficiencies and propose solutions where warranted.

7299.8. It is not the intent of the Legislature in enacting this chapter to prohibit the establishment of bilingual positions, or printing of materials, or use of qualified interpreters, where less than 5 percent of the people served do not speak English or are unable to communicate effectively, as determined appropriate by the state or local agency. It is not the intent of the Legislature in enacting this chapter to require that all public contact positions be filled with qualified bilingual persons.

## Appendix C

### Survey Results

Does your law enforcement department have a significant number of interactions with non-English speakers?

Yes	No
Atherton	Brisbane
Belmont	Burlingame
Colma	Hillsborough
Daly City	Pacifica
East Palo Alto	
Foster City	
Menlo Park	
San Bruno	
City of San Mateo	
San Mateo Sheriff*	
South San Francisco	

What language(s) in addition to English is spoken by a significant number of people with who your department has interaction?

Spanish – 19  
None – 1(Hillsborough)

What number and percentage of your law enforcement officers are fluent in each of the languages listed?

Atherton = 1 officer, 2 dispatchers  
Belmont = 0%  
Brisbane = 18%  
Burlingame = 8%  
Colma = 20%  
Daly City = 10%  
East Palo Alto = 12%  
Foster City = 16%  
Hillsborough = 0%  
Menlo Park = 8%  
Pacifica = 15%  
Redwood City = 16%  
San Bruno = 22%  
City of San Mateo = 10%  
San Mateo Sheriff = 14%  
South San Francisco = 10%

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\*Includes Half Moon Bay, Millbrae, Portola Valley, San Carlos, Woodside, and the unincorporated areas of the County.

Do you consider that you have a sufficient number of multilingual officers?

Yes	No
Atherton	Belmont
Brisbane	Colma
Burlingame	Daly City
Foster City	East Palo Alto
Hillsborough	Menlo Park
	Pacifica
	Redwood City
	City of San Mateo
	San Bruno
	San Mateo Sheriff*
	South San Francisco

What issues do non-English speakers present to your department?

Communication and accurate reporting = 16  
None = 4

Does your department have a stated policy and/or an active program addressing the recruiting, hiring and retention of multilingual officers and does your department have written policy/procedures when encountering a non-English speaker?

Yes	No
Belmont	Atherton
Brisbane	Colma
Burlingame	Daly City
Foster City	East Palo Alto
Menlo Park	Hillsborough
San Mateo	Pacifica
San Mateo Sheriff*	San Bruno
South San Francisco	Redwood City

Are multilingual police officers paid a premium?

Yes	No
Atherton = 5%	Brisbane
Belmont = 5%	Colma
Burlingame = 5%	
Daly City = \$30 per pay period	
East Palo Alto = \$100 per month	
Foster City = \$75 per month	

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Hillsborough = 5%  
 Menlo Park = \$75 per pay period  
 Pacifica = \$373 per month  
 Redwood City = 2.5%-5% relative to proficiency  
 San Bruno = 2.5% relative to proficiency  
 City of San Mateo = \$181.96 bi-weekly  
 San Mateo Sheriff\* = \$42.50 bi-weekly  
 South San Francisco = 5% relative to proficiency

Does your jurisdiction have in-house translators for police business?

Yes	No
Atherton	Belmont
Burlingame	Brisbane
Daly City	Colma
East Palo Alto	Foster City
Hillsborough	Pacifica
Menlo Park	
Redwood City	
San Bruno	
City of San Mateo	
San Mateo Sheriff*	
South San Francisco	

Does your city use outside vendors for translating? Who are those vendors?

Yes	No
<i>Language Line</i>	
Atherton	Brisbane
Belmont	Hillsborough
Burlingame	
Colma	
Daly City	
East Palo Alto	
Foster City	
Menlo Park	
Pacifica	
Redwood City	
San Bruno	
City of San Mateo	
San Mateo Sheriff*	
South San Francisco	

## Appendix D - Example



Menlo Park Police Department  
Policy Manual

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### Limited English Proficiency Services

#### 368.1 PURPOSE AND SCOPE

Language barriers can sometimes inhibit or even prohibit individuals with limited English proficiency (LEP) from gaining meaningful access to, or an understanding of important rights, obligations and services. It is therefore the policy of this department to take all reasonable steps to ensure timely and equal access to all individuals, regardless of national origin or primary language (Title VI of the Civil Rights Act of 1964, § 601, 42 USC 2000d).

##### 368.1.1 DEFINITIONS

Definitions related to this policy include:

**Authorized interpreter** - Any employee who is bilingual and has successfully completed department-prescribed interpreter training and is authorized to act as an interpreter or translator.

**Bilingual** - The ability to communicate in two languages fluently, including the ability to communicate technical and law enforcement terminology. Bilingual includes a variety of skill levels. For example, some bilingual individuals may be fluent enough to engage in direct communications in a non-English language but insufficiently fluent to interpret or translate from one language into another. For example, a bilingual individual, depending on his/her skill level, could be utilized to communicate fluently in a non-English language but not to interpret between two languages if he/she does not possess the specialized skills necessary to interpret between two languages effectively. In order to be utilized to interpret or translate from one language into another, an individual must possess the skill, training and demonstrated competence to do so. For purposes of this policy, employees, in order to be identified as bilingual, must initially and periodically demonstrate, through a procedure to be established by the Department, their level of skill and competence such that the Department is able to determine the purposes for which an employee's language skills may be used.

**Interpretation** - The act of listening to a communication in one language (source language) and orally converting it to another language (target language) while retaining the same meaning.

**Limited English Proficient (LEP)** - Designates individuals whose primary language is not English and who have a limited ability to read, write, speak or understand English. LEP individuals may be competent in certain types of communication (e.g., speaking or understanding), but still be LEP for other purposes (e.g., reading or writing). Similarly, LEP designations are context-specific: An individual may possess sufficient English language skills to function in one setting but these skills may be insufficient in other situations.

**Translation** - The replacement of written text from one language (source language) into an equivalent written text (target language).

#### 368.2 FOUR FACTOR ANALYSIS

Since there are potentially hundreds of languages department personnel could encounter, the Department will utilize the four-factor analysis outlined in the Department of Justice LEP *Guidance to Federal Financial Assistance Recipients* available at the DOJ [website](#) in determining which measures will provide reasonable and meaningful access to

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# PUBLIC WORKS DEPARTMENT

Council Meeting Date: April 16, 2013  
Staff Report #: 13-062

Agenda Item #: D-4

**CONSENT CALENDAR:**            **Receive the San Francisquito Creek Joint Powers Authority Projects Update and Approve the Project Community Outreach Plan**

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## RECOMMENDATION

Staff recommends that the City Council receive the San Francisquito Creek Joint Powers Authority (SFCJPA) update on the various projects and approve the community outreach activities for the Program Environmental Impact Report for projects upstream of Highway 101 being planned and implemented by SFCJPA member agencies to provide flood protection, ecosystem restoration, and recreational opportunities along San Francisco Bay and San Francisquito Creek, including the Pope/Chaucer Bridge.

## BACKGROUND

The SFCJPA's objectives are to protect lives and properties, enhance ecosystems, and build recreational opportunities and connectivity for the cities of East Palo Alto, Menlo Park, Palo Alto, and portions of unincorporated San Mateo and Santa Clara Counties. The SFCJPA was established in May of 1999.

The SFCJPA is currently leading the local effort on major flood protection projects in the area. The SFCJPA is planning and designing capital projects with the goal of removing more than 8,400 properties in Menlo Park, Palo Alto and East Palo Alto from the San Francisquito Creek and San Francisco Bay FEMA floodplains. Attachment A provides a list of all the current projects, participating agencies, funding sources, project summary, and a short summary status update of all current projects. The summary of the status of the various projects being planned and implemented by the SFCJPA and its member agencies to provide flood protection, ecosystem restoration, and recreational opportunities along San Francisquito Creek and San Francisco Bay is also on the [sfcjpa.org](http://sfcjpa.org) website.

Historically, the San Francisquito Creek has caused serious flooding and widespread damage to surrounding neighborhoods. SFCJPA's overall goal is to make improvements to the creek to provide capacity for a 100-year storm event and alleviate the continuing flooding and erosion of the creek. One specific project includes the Pope/Chaucer Street Bridge. The existing arch culvert structure at the Pope/Chaucer

street crossing is inadequate to pass the 100-year design flood. The existing culvert shown in Figure 2 is a picture taken during the December 23, 2012 major storm event.

The Santa Clara Valley Water District (SCVWD), a member agency of the SFCJPA, is planning to replace the existing Pope/Chaucer Bridge crossing at San Francisquito Creek. The new bridge will be designed to accommodate a 100-year flood event under the bridge and prevent future flooding of the areas surrounding the creek. The project is part of the overall SFCJPA goal to provide 100-year flood capacity in the creek.

The Pope/Chaucer Bridge Replacement Project is located at the Pope Street and Chaucer Street crossing of San Francisquito Creek. This crossing is the boundary between the City of Palo Alto and the City of Menlo Park as well as the boundary between the Counties of Santa Clara and San Mateo. Figure 1 shows the vicinity map and location of the project, and Figure 2 shows the existing culvert at Pope/Chaucer.

Figure 1 – Vicinity Map

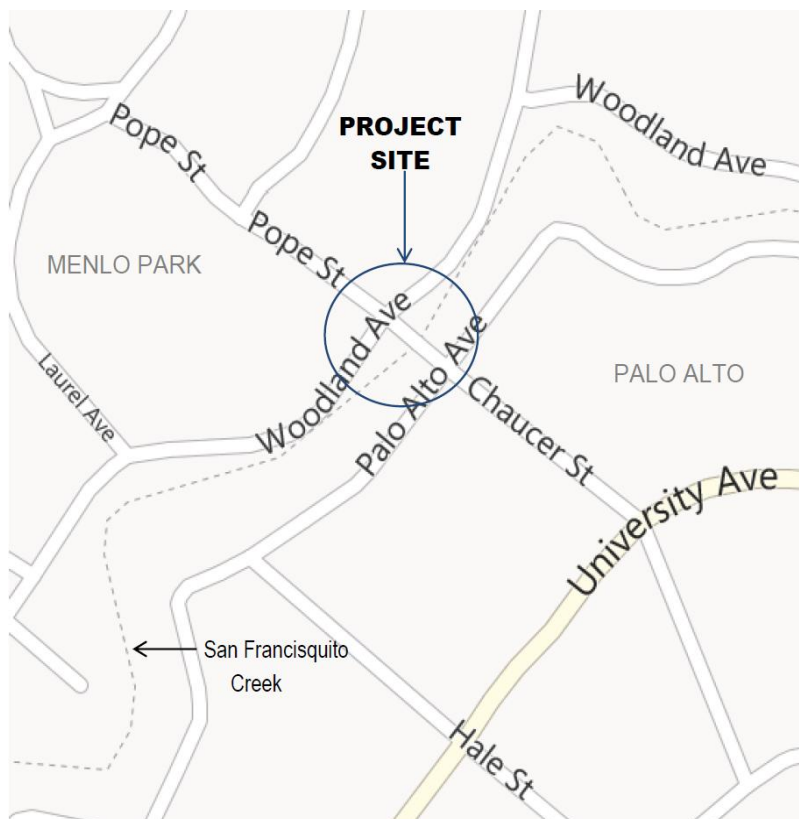


Figure 2 – Existing Culvert at Pope/Chaucer



The Environmental Analysis and Design for this project is currently under way. The participating agencies for this project include Menlo Park, Palo Alto, SFCJPA, and SCVWD. The project is currently being funded by SCVWD. SCVWD has secured an engineering design firm to prepare an alternatives analysis and design of the replacement bridge. The environmental analysis for the Pope/Chaucer Bridge Project will be covered as part of the larger SFCJPA's Program Environmental Impact Report (EIR) for projects upstream of Highway 101, and the initial Scoping Community Meeting for the EIR will be scheduled in May of this year. The construction for the Pope/Chaucer Bridge Project is anticipated to be completed by Fall of 2015. In addition to the scoping meeting, there will be two project specific community meetings held, one in Menlo Park during the preliminary design stages, and another in Palo Alto during the final design stages of the Pope/Chaucer Bridge Project. The community outreach plan will be presented by SFCJPA Executive Director at today's council meeting.

## **ANALYSIS**

Once the CEQA analysis and design for the Pope/Chaucer Bridge are completed, this project will move into construction with an anticipated completion date set for 2016. Both the environmental phase and design phase for this project are moving concurrently. The existing Pope/Chaucer Bridge is anticipated to be raised about 5 feet to provide the adequate flood protection capacity needed for this location. This will cause some modifications along Pope Street and Woodland Street in Menlo Park and removal of some heritage trees. Similar impacts are anticipated in the Palo Alto side. The bridge structure will be approximately 45 feet wide and it will include two 11 foot lanes, two 5 foot shoulders, and 5 feet sidewalks on each side. Attachment B is a graphical representation of the concept section of the bridge.

Currently, NV5, the project design firm and the member agencies have been working on establishing the technical design criteria and preliminary design concepts to select a project design concept that will be included in the project description for the environmental CEQA analysis. The selected project alternative will be evaluated in the SFCJPA's EIR analysis report. Before the project alternative is selected, a design project alternative will be confirmed by both Cities and included in the CEQA analysis.

The public outreach plan will begin with the Scoping Meeting in May. The draft public outreach plan is attached in Attachment C. This plan will be approved by the SFCJPA after all comments are received from the SFCJPA member agencies. The plan will be used for project stewardship, community input, and to educate the stakeholders and interested parties about the project, the process, and project schedule. The public outreach plan will include review of the project alternatives by the Bicycle Commission, Transportation Commission, Environmental Quality Commission and finally by City Council confirming the selected design concept.

## **IMPACT ON CITY RESOURCES**

The environmental phase and design phase of this project are being funded by the SCVWD. Costs for the construction and maintenance phase have not been determined at this time; however, support staff is not being funded by the SCVWD. In addition, the City does not have a funded CIP project for this Fiscal Year. Staff resources to support this project will be used from the Creek Management program budget at this time. A new project has been added to the 5 year Capital Improvement Plan for the staff costs respective to the design and construction phase in FY 2013-2014.

## **POLICY ISSUES**

This project will require a joint maintenance agreement between Santa Clara Valley Water District, Palo Alto, and Menlo Park. As the construction costs are better defined and maintenance costs are estimated, staff will evaluate funding strategies for the long-term maintenance of the constructed facility. This project is consistent with policies established in Chapter 12.42 of the Municipal Code, Flood Damage Prevention.

## **ENVIRONMENTAL REVIEW**

This Council action is not subject to the current California Environmental Quality Act. The SFCJPA will complete all required environmental review documents to construct the project.

## **PUBLIC NOTICE**

Public Notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting.

## **ATTACHMENTS**

- A. SFJPA Summary of Projects and Status Update
- B. Bridge General Plan
- C. Draft Public Outreach Plan

Report prepared by:  
Fernando Bravo  
Engineering Services Manager

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The following is a summary of the status of the various projects being planned and implemented by the SFCJPA and its member agencies to provide flood protection, ecosystem restoration, and recreational opportunities along San Francisquito Creek and San Francisco Bay. The SFCJPA will periodically update and redistribute this document as progress is made.

**SUMMARY OF PROJECTS AND STATUS UPDATE:**

1. **San Francisco Bay to Highway 101**

Participating Agencies: SFCJPA, SCVWD, Palo Alto, East Palo Alto

Funding Sources: SFCJPA Proposition 1E Grant Award; SCVWD; East Palo Alto; Palo Alto Donation of Golf Course land to accommodate project.

Project Summary: When constructed, the project will reduce flood risks in East Palo Alto and Palo Alto along a flood-prone reach of the creek downstream (east) of U.S. Highway 101 to San Francisco Bay. Additionally, it will reduce flood risks from Bay tides and 50 years of future Sea Level Rise within the creek in concert with the SFCJPA's planned coastal levee system for the region.

This project will also provide the capacity needed for upstream flood protection projects being designed by the SFCJPA and member agencies, benefit the habitat of three endangered species in the area, and improve Bay trails and outdoor education opportunities.

Status: Environmental Impact Report certified in 2012. Final Design anticipated May 2013. Permits anticipated August 2013. Construction start (utility relocation) will begin September 2013, with continued project construction anticipated during the construction seasons of 2014 and 2015.

Anticipated Completion Date: October 2015

2. **Highway 101, East Bayshore and West Bayshore Bridges**

Participating Agencies: Caltrans, SFCJPA, Palo Alto, East Palo Alto

Funding Sources: Caltrans

Project Summary: Caltrans is in the design and environmental review phases of a project to replace the U.S. Highway 101 (and frontage roads) crossing over San

Francisquito Creek to improve traffic flow. Knowing this, in 2008, the JPA approached Caltrans to request that their bridge replacement project also increase the Creek's capacity to accommodate a greater flow at that point.

Currently, the channel flow capacity is less than half of what is needed to accommodate a 100-year event. In the spring of 2009, Caltrans agreed to improve the floodwater capacity of the bridge structure to match JPA improvements for the channel to provide flood protection should a 100-year creek flow event occur at the same time as a high tide event.

Status: Construction will begin in June 2014

Anticipated Completion Date: October 2015

3. **Environmental Impact Report for projects upstream of 101**

Participating Agencies: SFCJPA, SCVWD, East Palo Alto, Menlo Park, Palo Alto

Funding Sources: **SFCJPA**, SCVWD

Project Summary: The purpose of the Project is to produce an IS and EIR for the construction elements needed to protect homes, businesses, and other facilities in the cities of Palo Alto, Menlo Park and East Palo Alto that are currently at risk of flooding from Creek overbanking in the reach between the Highway 101 corridor and El Camino Real. The Project elements to be constructed (and described below) will contain within the channel, or a combination of the channel and water detention facility, the one-percent (1%) flood flow (9,300 cubic feet per second) through the Project reach, and provide defined ecosystem and recreational enhancements. The final work products of this Project will be a completed Initial Study and certified Environmental Impact Report.

Status: The SFCJPA has secured an Environmental Consulting firm to conduct the field investigations and prepare the EIR. Work on the 18-month project began in December 2012.

Anticipated Completion Date: Summer 2014

4. **Newell Road Bridge**

Participating Agencies: Palo Alto, East Palo Alto, SCVWD, SFCJPA

Funding Sources: Caltrans Highway Bridge Program grant to Palo Alto, SCVWD



Project Summary: The existing bridge, built in 1911, impedes the creek channel and requires replacement to accommodate a 1% (100-year) flood event. Improvements to the Newell Road Bridge will protect adjacent homes from flooding if there is a large storm event.

Status: Palo Alto has hired an engineering design firm and have embarked on the preparation of an Environmental Impact Report specific to the Newell Road project to fully explore alternatives with broad public participation

Anticipated Completion Date: Fall 2015

5. **Channel Widening upstream of 101**

Participating Agencies: SFCJPA, SCVWD, East Palo Alto, Palo Alto, Menlo Park

Funding Sources: SCVWD

Project Summary: The Project will widen four to six areas would be widened to improve channel hydraulics and effectively reduce water surface elevations. Some of these “bottlenecks” are the result of structures such as private pedestrian bridges, and others are simply areas where the channel is too narrow to convey the desired storm flows.

Status: Development of alternatives and design for widening the channel in key locations is at 60% completion. Environmental documentation will be covered in the SFCJPA’s EIR for projects upstream of 101 (Item #3).

Anticipated Completion Date: Fall 2015

6. **Pope-Chaucer Bridge**

Participating Agencies: SCVWD, Menlo Park, Palo Alto, SFCJPA

Funding Sources: SCVWD

Project Summary: The bridge where Pope and Chaucer Streets meet over the creek will be replaced with a new bridge capable of passing flows up to the 1% event.

Status: SCVWD has secured an engineering design firm to prepare an alternatives analysis and design of the replacement bridge. The first public meeting to discuss project design is being planned for April 2013. Environmental documentation will be

covered in the SFCJPA's EIR for projects upstream of 101 (Item #3).

Anticipated Completion Date: Fall 2015

7. **Middlefield Road Bridge**

Participating Agencies: SCVWD, Menlo Park, Palo Alto, SFCJPA

Funding Sources: Requests have been made to Caltrans for grant funding from their Highway Bridge Replacement Program. SCVWD Measure B 2012 includes funding for replacement or modification design.

Project Summary: Modifications will be made at the Middlefield Road Bridge so that 1% flows can be accommodated.

Status: SCVWD has engaged an engineering design firm to conduct a preliminary alternatives analysis to evaluate potential modifications and new bridge concepts. Environmental documentation will be covered in the SFCJPA's EIR for projects upstream of 101 (Item #3).

Anticipated Completion Date: 2016

8. **100-year protection alternatives for upstream of 101**

Participating Agencies: SFCJPA, SCVWD, East Palo Alto, Menlo Park, Palo Alto San Mateo County FCD.

Funding Sources: SCVWD, SFCJPA Operational Funds

Project Summary: Collectively, the projects to improve flow capacity downstream of 101, the Caltrans 101 and frontage road replacements, Newell Road Bridge replacement, channel widening, and Pope-Chaucer Bridge replacement will provide flood protection from the 50-year flow event, which is greater than the flood of record in 1998. Increasing protection to the 100-year level in order to remove parcels from the FEMA floodplain will require one or a combination of the following project elements: New floodwalls on both sides of the channel between Highway 101 and Pope-Chaucer Bridge, underground bypass culvert along Woodland Ave, or upstream detention.

Status: Environmental documentation will be covered at a program level in the SFCJPA's EIR for projects upstream of 101 (Item #3). This will evaluate the impacts of each alternative to assist in the final decision on which to implement. SCVWD has produced designs on the floodwall and bypass culvert alternatives to 30%

completion. Funding for construction will be sought through a special finance district (Item #11).

Anticipated Completion Date: 2017

9. **Coastal protection north of channel**

Participating Agencies: SFCJPA, East Palo Alto, Menlo Park, San Mateo County FCD

Funding Sources: SFCJPA grant from DWR Local Levee Assistance Program  
City of East Palo Alto  
City of Menlo Park

Status: Funding has been secured to conduct geotechnical investigations, survey work, design and environmental documentation for the improvements. A request for proposals from qualified firms will be released late Spring 2013. Funding for construction will be sought through a special finance district (Item #11).

Anticipated Completion Date:

- Design and CEQA: late 2014
- Construction: 2017

Project Summary: The project will modify existing coastal levees along San Francisco Bay between San Francisquito Creek to the South and the Menlo Park/Redwood City border to the North. The levee improvements will provide protection against a 1% tide plus required FEMA freeboard, and considering projected sea level rise. The objective is to remove the communities of East Palo Alto and Menlo Park from the FEMA coastal floodplain, which, when coupled with projects being implemented along the Creek, will obviate the need for property owners to participate in the National Flood Insurance Program.

10. **Coastal protection south of channel**

Participating Agencies: SCVWD, Palo Alto, SFCJPA

Funding Sources: SCVWD grant from DWR Local Levee Assistance Program

Project Summary: The project will modify existing coastal levees along San Francisco Bay between San Francisquito Creek to the North and Guadalupe River in San Jose to the South. The levee improvements will provide protection against a

1% tide plus required FEMA freeboard, and considering projected sea level rise. The objective is to remove the communities in Santa Clara County from the FEMA coastal floodplain.

Status: SFCJPA and SCVWD are contemplating combining efforts for coastal protection on both sides of San Francisquito Creek. If this happens, construction in Palo Alto and Mountain View would be on the same schedule as coastal improvements for Menlo Park and East Palo Alto. If this does not happen, SCVWD will decide how to proceed either partnering with the Corps of Engineers, or as a local effort.

Anticipated Completion Date: **TBD**

11. **Special Finance District for 1% protection**

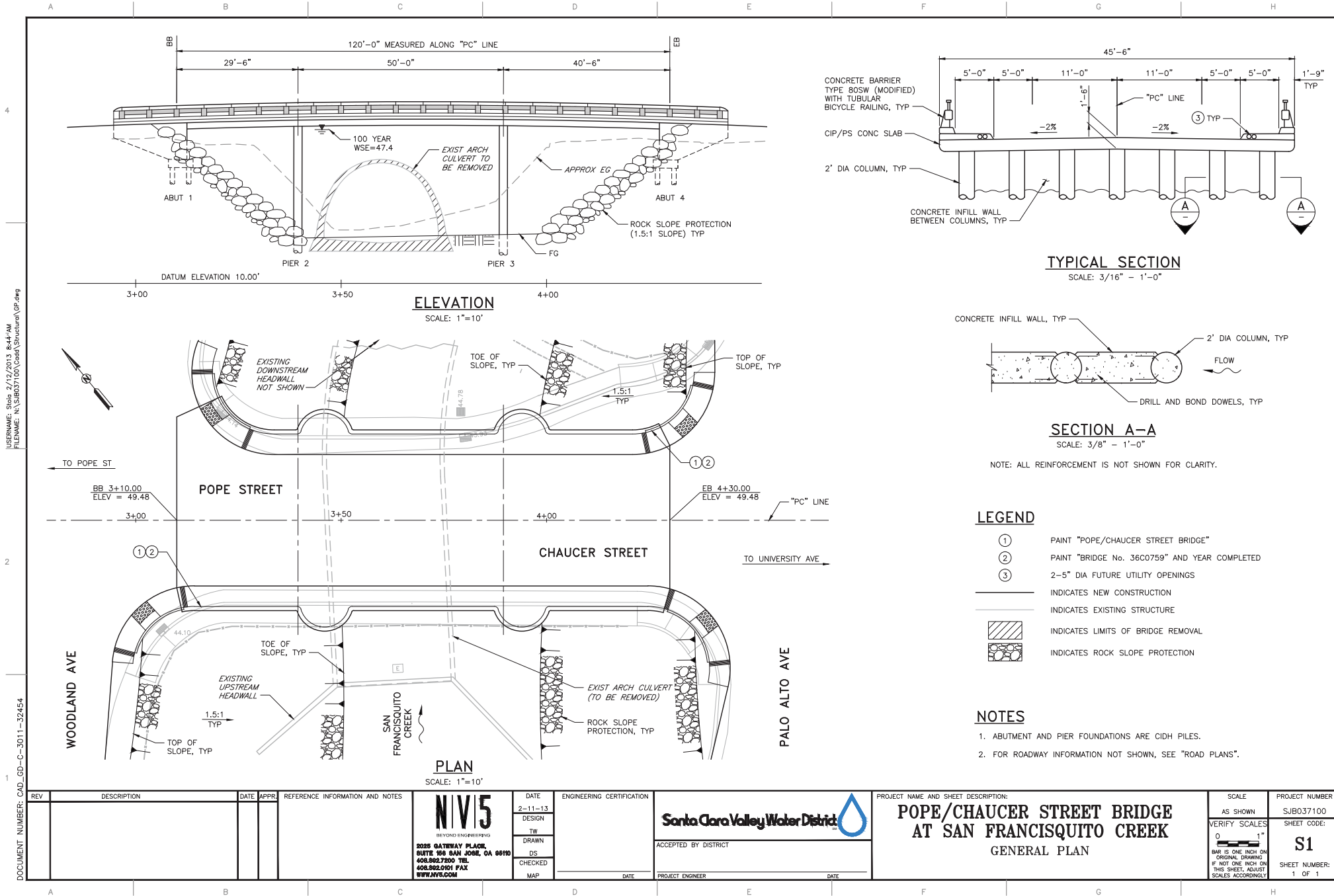
Participating Agencies: SFCJPA, East Palo Alto, Menlo Park, Palo Alto, SCVWD, SMCFCFCD

Funding Sources: SFCJPA Operational Funds

Project Summary: The SFCJPA is in the process of preparing to place a special finance initiative on the ballot that would provide for local construction funding for the project elements needed to advance the 50-year protection baseline project to the 100-year protection level, and potentially provide for construction funding for coastal levee improvements.

Status: The SFCJPA has secured a consultant to advise on the options of creating a special finance district, and will proceed with developing the appropriate documents at the direction of the SFCJPA.

Anticipated Completion Date: 2015



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REV	DESCRIPTION	DATE	APPR	REFERENCE INFORMATION AND NOTES	DATE	ENGINEERING CERTIFICATION	PROJECT NAME AND SHEET DESCRIPTION:	SCALE	PROJECT NUMBER
					2-11-13	DESIGN	<b>POPE/CHAUCER STREET BRIDGE AT SAN FRANCISQUITO CREEK</b> GENERAL PLAN	AS SHOWN	SJB037100
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						MAP	PROJECT ENGINEER	1 OF 1	

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## Memorandum

<b>Date:</b>	March 25, 2013
<b>To:</b>	Kevin Murray, Project Manager, San Francisquito Creek JPA Len Materman, Executive Director, San Francisquito Creek JPA
<b>Cc:</b>	Matthew Jones, ICF International Alexa LaPlante, ICF International
<b>From:</b>	Karen Molinari, KM Consulting Jennifer Rogers, ICF International
<b>Subject:</b>	<b>San Francisquito Creek Flood Protection, Ecosystem Restoration, and Recreation Project, Upstream of Highway 101</b> <b>DRAFT Public Outreach Plan</b>

## Introduction/Purpose

The primary goals of this project, led by the San Francisquito Creek Joint Powers Authority (SFCJPA), are to protect life and property in the cities of Palo Alto, Menlo Park, and East Palo Alto at risk from San Francisquito Creek floodwaters overbanking between Highway 101 and El Camino Real, and to provide ecosystem and recreational benefits. The SFCJPA, along with ICF International (ICF), is preparing the California Environmental Quality Act (CEQA) documents necessary to disclose the potential impacts on the built and natural environments caused by construction of this project. These documents will also include analysis of viable project alternatives and outline mitigation measures, which could reduce any identified significant impacts related to implementing this project.

An integral component of this project, and one that will greatly influence its planning efficiency and ultimate success, is a transparent and proactive outreach strategy that enables the SFCJPA to consider and incorporate the interests of the project partners, property owners, residents and businesses within the watershed, as well as conservation and recreational interests, community and nongovernmental organizations, elected officials, and other interested members of the general public. This outreach plan (Plan) outlines the strategies ICF's outreach team will employ, in cooperation with SFCJPA, to ensure the public is informed and engaged during each step of the project's planning process. This plan is divided into the following sections.

- Project Background
- Outreach Philosophy, Goals and Objectives
- Outreach Strategies and Practices
- Evaluation of Outreach Plan Implementation

## **Project Background**

The San Francisquito Creek watershed encompasses a 45 square mile basin, extending from Skyline Boulevard to the San Francisco Bay. The watershed includes public lands and numerous private landowners in the cities of East Palo Alto, Menlo Park, Palo Alto, Portola Valley, and Woodside; unincorporated areas of San Mateo and Santa Clara counties; and Stanford University. San Francisquito Creek begins at the confluence of Corte Madera Creek and Bear Creek, just below Searsville Dam in Stanford University's Jasper Ridge Biological Preserve. The lower reach of the creek runs through urbanized areas and bisects an approximately 5-square-mile floodplain that extends from San Francisco Bay to Middlefield Road. In 1998 the creek overbanked and caused significant damage to the area and the following year, the cities of East Palo Alto, Menlo Park, and Palo Alto; and the Santa Clara Valley Water District and San Mateo County Flood Control District formed the San Francisquito Creek Joint Powers Authority as an agency.

The SFCJPA is taking a phased approach to the planning, design, permitting and implementation of flood protection improvements for segments of San Francisquito Creek. The SFCJPA certified the environmental impact report (EIR) for its San Francisco Bay to Highway 101 Project, and intends to begin construction of in 2013. Construction of the Caltrans Highway 101/Bayshore Frontage Roads Project is scheduled to begin in 2014, and design work to replace the Newell Road, Pope-Chaucer Street and Middlefield Road bridges, and widen the channel at various constriction points between Highway 101 and El Camino Real, are underway. Three alternatives that would complement these project elements to protect against a 100-year flood have been developed to the 30% design level. The next step, which SFCJPA is taking with this project, is to perform a joint project/program-level analysis of the watershed upstream of West Bayshore Road. The project elements to be constructed would contain within the channel, or a combination of the channel and underground culvert or water detention facility, the 100-year or 1% flood flow through the project reach, and would provide defined ecosystem and recreational enhancements. A separate SFCJPA project to eliminate the threat of S.F. Bay flooding and Sea Level Rise, and allow historic Bay marshes to be restored and Bay trails to be constructed, will begin with the design and environmental review of a Bay levee system in the spring of 2013

SFCJPA has made it a priority to listen to, involve, and educate the public during each project phase. SFCJPA remains committed to public outreach and engagement in this next phase, especially in light of heightened public awareness with the storm damage and flooding in December 2012.

## **Outreach Philosophy, Goals and Objectives**

The SFCJPA, in coordination with ICF, will conduct an outreach program that sustains an open and transparent process for the planning and construction phases of this project. Outreach will be proactive and conducted early and consistently at key project milestones. This approach will engage stakeholders, build trust, and help identify hot-topic issues earlier in the process. Early identification and resolution of concerns will help avoid project delays due to community opposition.



The goal of the Plan is to implement a public outreach process that provides information in an accessible, timely manner and via a forum where agency, stakeholder, and general public comments are solicited and incorporated as feasible. Specific objectives of the Plan are listed below.

- Communicate clearly the need for, and purpose and details of, the project
- Educate stakeholders and interested parties about the environmental process, multi-agency complexity, and schedule
- Provide opportunities for *meaningful* public participation and ensure the public understands how their comments will be responded to and incorporated as appropriate
- Generate confidence and credibility in the process and project

## Outreach Strategies and Practices

Listed below are the strategies and practices that will be conducted to achieve these objectives.

### Stakeholder Identification and Assessment

At the onset of the public outreach effort, key stakeholder groups will be identified within the project area. This will allow the outreach team to determine and track the specific issues and concerns of these groups and address them in the outreach effort. Understanding the relevant issues for each target audience allows the project team to tailor an approach to each group based on their concern. Known stakeholders are listed in Attachment A.

A stakeholder database will be developed including contact information as well as areas of interest/concern for each group. This will provide SFCJPA with an information hub to track and respond to stakeholder concerns. This database will be updated as needed at key project milestones.

Some stakeholders, such as large property owners, will require additional involvement due to the possibility that alternatives under evaluation would impact their land. Because this project will evaluate the potential use of lands owned by Stanford University, the SFCJPA will work closely with the University throughout the planning process.

### Key Message Development

To ensure consistent and clear communication, general language and topic-specific messages will be developed and tailored for use in informational materials, as well as talking points for speaking opportunities. Utilizing key messages will help maintain consistency in what information is relayed to the public, and when. This consistency will help avoid public confusion or contradiction in information shared by each of the project partners.

Messages will be designed to provide context as to how the multiple interests and objectives within the overall watershed are being addressed. These messages will be relayed in public meetings, key stakeholder meetings, all written materials, the media, and other agencies.

Key messages will address the relationship between the three core elements of the project: flood protection, ecosystem restoration, and recreational amenities that connect communities. The SFCJPA considers all of these elements vital to the overall success of the project.

## **Public Meetings**

Public scoping meeting(s) and Draft Environmental Impact Report (DEIR) public meeting(s) will be held during the environmental review process to share information and receive input.

Scoping meeting(s) will be held prior to the start of the environmental analysis and alternatives development. These meetings will inform the public of the proposed action, the environmental process, and ask for input on the scope of resources analyzed in the DEIR. Informational materials, described below, will be utilized at these meetings. Scoping is a required element of the CEQA process.

Once the DEIR is released, public meeting(s) will be held to solicit input on the draft document. Stakeholders will be able to provide meaningful input orally or in written format. Specific time and locations of these meetings is yet to be determined and will align with key project milestones. Informational materials, mentioned below, will be utilized at these meetings as well. A meeting to allow comments on the DEIR is required by CEQA after the release of the draft document.

Comments received throughout the life of the project (during specified times) will inform the decisions of SFCJPA and help shape the project.

## **Informational Materials**

To effectively inform target audiences about the project and planning process, collateral materials will be developed and distributed to support public meetings and other outreach efforts. All materials will be understandable to the public and designed for the project website. Materials will give context of other efforts in the watershed, address the purpose and need for the project, the project timeline, and ways to provide input. Below are examples of how information may be disseminated.

## **Project Newsletter / E-Newsletter**

At the onset of the project, all contacts from the SFCJPA will be compiled in Constant Contact to be managed for the duration of the project. This one-page e-newsletter will provide updates on all project elements and will include hyperlinks to where stakeholders can learn more about each project element online. At key times in the project process beginning in 2013, in coordination with staff from the SFCJPA and its Member Agencies, ICF will provide content for six newsletters describing SFCJPA-related projects, the EIR process, background information, public participation opportunities, and schedule. The newsletters will be sent via email or mail to stakeholders (including agencies and elected officials), posted to the agency website and produced as hardcopies as needed.

As we anticipate approximately eight months between the scoping public comment period and the public DEIR comment period, SFCJPA may choose to provide a newsletter in autumn 2013 to keep stakeholders abreast of project status, the environmental process, and opportunities for input. This can serve to keep the public up-to-date, despite several months separating formal comment opportunities.

## Fact Sheet and Frequently Asked Questions Page

ICF will provide content for two (2) fact sheets outlining the issues, approach, methodology, goals and objectives, and status of the project. These will be available in hard copy at public meetings, posted to the website and available via project partners (e.g., city hall and district lobby displays, libraries, community centers). Additionally, a frequently asked questions (FAQ) list compiling typical and anticipated questions and answers will provide information in a proactive manner. ICF will assist with the development of an FAQ which will be available online, at meetings, and via project partners.

## Key Stakeholder Meeting

Prior to scoping, SFCJPA will engage key stakeholders (non-government organizations, environmental groups, interested resident and business groups) who may be *directly* affected by the project, in a small meeting format. The goal of this meeting in the second half of April 2013 will be to introduce the project, the suite of potential alternatives, and the Comprehensive Plan. This will also be an opportunity to highlight milestones within the project where input will be solicited, beginning with scoping in late-May 2013.

This meeting is intended to reach 10–15 people providing more direct engagement in which ideas and concerns can be clearly heard and shared face-to-face. This meeting will ensure that the SFCJPA receives input and identifies concerns early on in the process so that they may inform the project from the start. Maps and general project information will be presented to these groups. This meeting will likely occur in the second half of April.

## Website Enhancements

The SFCJPA.org website will serve as the primary interface for this project and the agency as a whole. This will provide opportunities for people to subscribe to newsletter updates, learn more about the project, and be notified about project meetings.

Webpage text will be developed to add to the existing text the SFCJPA has online about this project. The new text will address the purpose and need of this project, the environmental process, input opportunities (meeting dates and times), and environmental and construction timeline. Meeting materials will also be posted on this site as a record of what was presented at each meeting and for those who were unable to attend. This provides the public with a one-stop shop for all information related to the project at any time. Text will be consistent with key messages. Information will be made available for posting to project partner and key stakeholder websites with links to the SFCJPA for additional resources.

To enhance the SFCJPA website, ICF would take professional, high-definition photographs to represent reaches of the project area for website posting. Additionally, a graphic location map will be developed with GPS points of each notable treatment, area of interest, and stretch of the project, to be posted on the web pages. The photos will then be correlated to each GPS point on the map. When the user clicks on each point, a photo and caption will pop up to give relevant information about that particular point in the project area.

The website will include a “Get Involved” page that allows interested parties to enter their full contact information, and solicit specific areas of interest related to flood risk-reduction efforts in the watershed. A simple, optional, quantitative survey will be developed to solicit these areas of interest from online visitors. All contact information received on the Web site will be fed into a stakeholder database to be utilized by the SFCJPA. Additionally, a “Resources” page may hyperlink to the Websites of partnering agencies, watershed stewardship groups, and other related Websites. This will allow the public to gain a holistic view of cooperating partners.

## Meeting Presentations

An easily adaptable standard presentation will be developed to stage the environmental review process. This presentation can be used at key stakeholder, scoping, and public meetings. ICF will assist the SFCJPA in developing a PowerPoint presentation template, which the project team can tailor according to meeting needs and audience.

Described below are additional informational materials that can be developed to specifically support the public scoping and DEIR meetings.

- **Public Meeting Announcement**—The announcement, in the form of a one-page letter with graphics, will provide brief information about the purpose of the meeting, along with details about meeting location and time. This can be mailed to stakeholders or posted in common spaces.
- **Advertisements**—Paid display advertisements in major local papers will be secured to generate publicity for the meetings and ensure a wide audience, outside the immediate area of impact, is notified. These could also be enlarged and displayed at key public venues, such as city hall, libraries, grocery stores and community centers.
- **Displays Boards**—Display boards will be prepared to provide visual information on a large scale. These may include maps, process descriptions, project purpose and need, environmental review process and public input opportunities.

## Media Relations

ICF may assist the SFCJPA with a media outreach approach outlining how information will be disseminated to regional news outlets (e.g., news releases, advisories at project milestones, and opinion editorials), and develop press packets. SFCJPA Board and staff will take the lead on media relations, consistent with the key messages that have been developed for the project.

The SFCJPA will pursue long-lead stories and/or a comprehensive system-wide expose with key reporters covering the agency and flood events. This will provide the SFCJPA an opportunity to further educate the media on the Comprehensive Plan and fully explain the individual/phased projects.

## Summary of Public Involvement Opportunities and Schedule

- One small stakeholder meeting (April 2013)
- Scoping Meeting(s) (Second half of May/early June 2013).
- Potential booths at well-attended local events (ongoing)
- Public DEIR Meeting and Comment Period (Early 2014)

2013 TASKS	Feb	Mar	April	May	June	July	Aug	Sept	Oct	Nov	Dec
Planning	—										
Stakeholder identification	—	—									
Draft Materials		—	—	—				—			—
Meetings w/ stakeholders & impacted areas			—	—	—			—		—	
Scoping				—	—						
Media Advisories				—				—			—
Roadshow/Events			—	—	—			—	—		

## Evaluation of Outreach Plan Implementation

The evaluation of Plan implementation will occur periodically throughout the project and adjustments will be made accordingly. As such, this Plan and associated outreach practices will be revised as appropriate to align with new or changed conditions and goals. We can, however, gauge our efforts and effectiveness on multiple levels, including those described below.

- Assess the level of stakeholder understanding of the current environmental process, project status and goals.
- Assess the level of stakeholder satisfaction that the process is transparent and project goals are understandable.
- Determine the public sentiment of whether public comments are being heard and understood.
- Determine the ability to maintain open and consistent lines of communication with cooperating and participating agencies.
- Quantify the number of individuals participating in public meetings, small group discussions, etc., as well as the number of independent comments received.

###

## Attachment A – Draft Stakeholder List

### ID 20 Stakeholders for mid-April meeting

#### Federal, State, and Regional Gov't

##### Agencies

USACE  
NOAA / NMFS  
USFWS  
CDFW  
CDWR  
Caltrans  
RWQCB  
MPROSD  
ABAG / Bay Trail

#### Local Government Entities & Programs

Bay Area IRWMP  
City of East Palo Alto  
City of Menlo Park  
City of Palo Alto  
City Park Departments  
    Community Services Dept (MP)  
    Open Space, Parks & Golf Admin (PA)  
    Youth & Family Services (EPA)  
San Mateo County  
Santa Clara County  
SCVURPPP (Santa Clara Storm water)  
SCVWD  
SFPUC  
San Mateo C/CAG Water Pollution Prevention

#### Neighborhood Associations

##### Palo Alto

Palo Alto Area Neighborhoods (PAN)  
Crescent Park Neighborhood Association  
Duveneck/St. Francis Neighborhood Assn.  
Downtown North Neighborhood Assoc.  
Community Center Neighbors Association  
Leland Manor  
Middlefield Road Residents' Association  
Evergreen Park  
Southgate Neighborhood Watch

##### Menlo Park

Creekshire Group  
Linfield Oaks  
Willows Neighborhood Association

##### East Palo Alto

Cummings Park  
Gardens Neighborhood Association  
Gateway 101  
University Circle  
University Palms Senior Center

#### Private Institutions

German American School  
Stanford University

#### NGOs

ACTERRA  
American Rivers  
Beyond Searsville Dam  
CLEAN South Bay  
Collective Roots  
Committee for Green Foothills  
Linked In (EPA community non-profit)  
Portola Valley Open Space Acquisition Adv. Comm.  
San Francisco Bay Joint Venture  
San Francisco Estuary Institute  
Santa Clara County Creeks Coalition  
Santa Clara Valley Audubon Society  
Sequoia Audubon Society  
South Valley Streams for Tomorrow  
Save the Bay  
Urban Creeks Council

#### Local Businesses

Chambers of Commerce  
East Palo Alto Community Farmers Market  
Edgewood Plaza merchants  
Mi Pueblo Grocery  
Willows neighborhood merchants  
Property Owners and Tenants  
University Square/Gateway 101

#### Utilities

PG&E  
City of Palo Alto Utilities  
Local sanitation districts

#### School Districts

Menlo Park City School District  
Palo Alto Unified School District  
Ravenswood City School District  
Sequoia Union High School District

#### Individual Stakeholders

Local Churches  
Trail Groups  
PAMP (Parent's Club)

#### Local Media

Palo Alto Weekly / The Almanac  
East Palo Alto Today  
EPA.net  
Palo Alto Daily Post  
East Palo Alto Today  
San Jose Mercury News  
Palo Alto Daily News



## CITY ATTORNEY'S OFFICE

Council Meeting Date: April 16, 2013  
Staff Report #: 13-064

Agenda Item #: D-5

**REGULAR BUSINESS:**                    **Authorize the City Manager to Enter Into an Agreement with Municipal Revenue Advisors, Inc., to Perform Sales and Use Tax Services in Connection with the Development Agreement for the Facebook West Campus Project and Approval of a Resolution Authorizing the Examination of Sales and Use Tax Records by Municipal Revenue Advisors, Inc.**

---

### RECOMMENDATION

Staff recommends that the City Council authorize the City Manager to enter into an agreement with Municipal Revenue Advisors, Inc., to perform sales and use tax services in connection with the Development Agreement for the Facebook West Campus project and adopt a resolution authorizing the examination of sales and use tax records by Municipal Revenue Advisors, Inc.

### BACKGROUND

The Development Agreement for the Facebook West Campus provides that Facebook will cooperate with the City and its consultant to maximize sales and use tax revenues to the City of Menlo Park from construction activities and initial purchases of personal property and equipment for the Facebook West Campus as set forth in the Development Agreement.

### ANALYSIS

City staff does not have the capacity or the expertise to work with Facebook, the State Board of Equalization and Facebook's general contractor and sub-contractors to establish a program to maximize sales and use tax revenue to the City from these activities. Municipal Revenue Advisors, Inc., (MRA) specializes in this type of work and will work with Facebook and its general contractor and its sub-contractors to establish a program to maximize sales and use tax to the City. The City's former Finance Director, the City Manager and the City Attorney interviewed the principals of MRA and are satisfied that MRA and its principals have the qualifications and capacity to perform these services to maximize sales and use taxes to the City from the Facebook West Campus.

## **IMPACT ON CITY RESOURCES**

As compensation for the services performed, MRA will be paid 25% of the realized benefits of MRA's work based on the net increase in sales and use tax revenue attributable to the Facebook West Campus evidenced by the City's State Board of Equalization Quarterly Detail Reports for a total of eleven calendar quarters. MRA will only be compensated from the net increase in sales and use taxes received by the City from the Facebook West Campus (i.e. the gross amount of sales and use taxes allocated as coming from the Facebook West Campus from construction contracts and/or purchases of personal property and equipment, minus the share the City would have received from countywide use tax pools). To the extent there are no sales or use tax revenues received attributable solely to the Facebook West Campus, there will be no cost to the City. The compensation to MRA is generally consistent with other consulting contracts for similar services. It is difficult to estimate the net amount of increased revenue the City might receive as result of these efforts, but it is possible that the net amount could exceed several hundred thousand dollars and possibly considerably more.

## **POLICY ISSUES**

There are no policy implications as this is a program approved as part of the Development Agreement for the Facebook West Campus.

## **ENVIRONMENTAL REVIEW**

This is not a project under the California Environmental Quality Act; therefore, no environmental assessment is required.

## **PUBLIC NOTICE**

Public Notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting.

## **ATTACHMENTS**

- A. Proposed Resolution

Report prepared by:  
William L. McClure  
City Attorney



## RESOLUTION NO.

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO  
PARK AUTHORIZING THE EXAMINATION OF SALES AND USE TAX  
RECORDS BY MUNICIPAL REVENUE ADVISORS, INCORPORATED**

WHEREAS, the City of Menlo Park entered into a contract with the State Board of Equalization (SBOE) to perform all functions incident to the administration and collection of local sales and use tax; and

WHEREAS, the City Council of the City of Menlo Park deems it desirable and necessary for authorized representatives of the City to examine confidential sales and use tax records of the SBOE pertaining to sales and use tax collected by the SBOE for the City pursuant to that contract; and

WHEREAS, Section 7056 of the California Revenue and Taxation Code sets forth certain requirements and conditions for the disclosure of SBOE records, and establishes criminal penalties for the unlawful disclosure of information contained in, or derived from, sales and use tax records of the SBOE.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Menlo Park that:

1. The City Manager, Assistant City Manager, Finance Director, and other officers or employees of the City, designated in writing by the City Manager to the SBOE, are hereby appointed to represent the City with authority to examine sales and use tax records of the SBOE pertaining to sales and use taxes collected for the City by the SBOE pursuant to the contract between the City and SBOE. The information obtained by the examination of SBOE records shall be used only for purposes related to the collection of City sales and use tax by the SBOE pursuant to that contract.
2. That Municipal Revenue Advisors, Inc., designated in writing by the City Manager to the SBOE, is hereby appointed to represent the City with authority to examine those sales and use tax records of the SBOE, for the purposes related to the following governmental functions of the City:
  - 2.1. Sales and economic analysis;
  - 2.2. Allocation audit and recovery; and
  - 2.3. Ongoing consultation.

The entity, designated in writing by the City Manager to the SBOE, meets all the following conditions:

- (a) has an existing contract with the City to examine those sales and use tax records;
- (b) is required by that contract to disclose information contained in, or derived

from, those sales and use tax records only to the officer or employee authorized under Paragraph 1 of this resolution to examine the information;

- (c) is prohibited by that contract from performing consulting services for a retailer during the term of that contract; and
- (d) is prohibited by that contract from retaining the information contained in, or derived from those sales and use tax records, after that contract has expired.

3. The information obtained by examination of SBOE records shall be used only for the purposes related to the collection of City sales and use tax by the SBOE pursuant to the contract between the City and the SBOE.

I, Margaret S. Roberts, City Clerk of Menlo Park, do hereby certify that the above and foregoing Council Resolution was duly and regularly passed and adopted at a meeting by said Council on the sixteenth day of April, 2013, by the following votes:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of said City on this sixteenth day of April, 2013.

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Margaret S. Roberts, MMC  
City Clerk



**CITY COUNCIL  
SPECIAL MEETING MINUTES**

**Tuesday, March 26, 2013 at 6:00 p.m.  
701 Laurel Street, Menlo Park, CA 94025  
City Council Chambers**

Mayor Ohtaki called the Study Session to order at 6:03 p.m. with all members present.

**SS1.** Provide general direction on the 5-year Capital Improvement Plan; including capital and other projects to be included in the City Manager's proposed 2013-14 budget  
([Staff report #2013-042](#))

Staff presentation by Charles Taylor, Director of Public Works ([PowerPoint](#))

Public Comment

- Henry Riggs addressed streamlining processes, El Camino Real, residential zoning, and a potential parking structure.
- Fran Dehn, Chamber of Commerce, discussed that there are goals that are not reflected in the 5-year Capital Improvement Plan (CIP). She asked that Santa Cruz be looked at like a project.
- Elizabeth Houck asked if the irrigation wells are included in the CIP and at what location(s).

Council Members provided feedback to staff regarding the CIP.

Mayor Ohtaki called the Regular Session to order at 7:13 p.m. with all members present.

**ANNOUNCEMENTS**

There were no announcements made.

**A. PRESENTATIONS AND PROCLAMATIONS**

**A1.** Proclamation declaring March Red Cross Month ([Attachment](#))

Mayor Ohtaki presented the proclamation to Matt Martel representing the Red Cross.

**B. COMMISSION/COMMITTEE VACANCIES, APPOINTMENTS AND REPORTS**

**C. PUBLIC COMMENT #1**

**NOTE:** Vice Mayor Mueller is recused from discussion on the Stanford Property and left the Council meeting during public comments on that topic.

- Elizabeth Houck spoke regarding the underground AT&T Data Center across from her home which emits over 65 decibels 365 days a year and requested the council consider moving the high power lines that feed the data center to an alternative location. She would like to see traffic calming on Middle Avenue.
- Gita Dev, Sierra Club, requested that the Downtown Specific Plan be added to a future agenda for the one year review.
- Susan Connelly requested the Downtown Specific Plan concerning the Stanford owned property be added to a future meeting.

- Matt Henry asked the Council to include his proposal for a feasibility study regarding a Library in Belle Haven in the 5-year Capital Improvement Plan.
- Cherie Zaslowsky requested that the City Council modify the General Plan and the Specific Plan.

**D. CONSENT CALENDAR**

**ACTION:** Motion and second (Carlton/Keith) to approve consent calendar items D1, D3, and D7 passes unanimously.

**D1.** Adopt **Resolution No. 6127** approving the final map for the artisan subdivision located at 389 El Camino Real; accepting dedication of a storm drain easement, a pedestrian access easement and an emergency vehicle access easement; approving the abandonment of Alto Lane and the existing storm drain easements; authorizing the City Clerk to sign the final map; and authorizing the City Manager to sign the subdivision improvement agreement ([Staff report #13-045](#))

**D3.** Authorize an increase to the construction agreement with G. Bortolotto & Co. Inc. for additional work associated with the 2012 Street Resurfacing of Federal Aid Routes Project [Federal Aid Project No. 04-5273 (021)], in the amount of \$45,000 and authorize a total budget of \$617,169.39 for construction, contingencies, material testing, inspection and construction administration ([Staff report #13-044](#))

**D7.** Agenda item request for the City of Menlo Park to join the South Bay Waste Management Authority (SBWMA) Blue Ribbon Task Force ([Attachment](#))

**D2.** Adopt a resolution to approve an amendment to the water supply agreement with the City and County of San Francisco ([Staff report #13-040](#))

Item pulled by Council Member Keith for comments

**ACTION:** Motion and second (Keith/Carlton) to approve **Resolution No. 6128** to approve an amendment to the water supply agreement with the City and County of San Francisco.

**D4.** Approve two League of California Cities bylaws amendments ([Staff report #13-039](#))

Item pulled by Council Member Catherine Carlton

**ACTION:** Motion and second (Carlton/Cline) to approve bylaw amendment one and not to approve bylaw amendment two. The motion was withdrawn by Council Member Carlton.

**ACTION:** Motion and second (Keith/Mueller) to approve both bylaw amendments passes unanimously.

**D5.** Accept minutes for the Council meetings of March 5 and March 12, 2013 ([Attachment](#))

Item pulled by Council Member Keith for an amendment

**ACTION:** Motion and second (Carlton/Keith) to approve the minutes with the amendment to March 5 passes unanimously.

**D6.** Adopt the 2013 City Council goals ([Staff report #13-047](#))

Item pulled by Council Member Keith for questions

**ACTION:** Motion and second (Cline/Keith) to approve the City Council goals passes unanimously.

**D8.** Approve a resolution disbanding certain Commissions and approve modifications to City Council Policy CC-01-0004: Commissions/Committees Policy and Procedures and Roles and Responsibilities and receive an update in recruitment ([Staff report #13-038](#))  
Item pulled by Mayor Ohtaki for discussion and public input.

Public Comment

- Bianca Walser requested that staff recommendations regarding a commission be taken to the commission for input prior to being taken to Council.
- Penelope Huang read her comments which supported leaving the Transportation Commission in the Chambers for their meetings. ([Comments](#))
- Elizabeth Houck stated that she would like a mediation body be established and would like to see all Commission meetings be held in the Council Chambers.
- Charlie Bourne read a document to the Council supporting the work of the Transportation Commission. (*Handout*)

The Council requested that this item come back as a regular business item at a future date.

**NOTE:** Item F2 was taken out of order at this time

**F2.** Consider a request for architectural control, license agreement and encroachment permit, and heritage tree removal permits for a proposed limited-service, business-oriented hotel at 555 Glenwood Avenue ([Staff report #13-043](#))

Staff presentation by Thomas Rogers, Assistant Planner ([PowerPoint](#))

Reed Moulds, Sand Hill Property Company (applicant) made a presentation explaining the project. (*Handout*)

**NOTE:** Council Member Carlton left the meeting at 9:05 p.m.

Public Comments

- Nicki Manske, San Mateo County Ombudsmen, has been working with the residents currently at 555 Glenwood and provided an update regarding the residents.
- Patti Fry stated this is a good project and questioned the use of off-street parking on public right-of-way.
- Elizabeth Houck spoke regarding the parking issues and the financial analysis for the project.

**ACTION:** Motion and second (Keith/Mueller) taking the following actions passes 4-0-1 (Absent: Carlton):

1. Made findings with regard to the California Environmental Quality Act (CEQA) that the proposal is within the scope of the project covered by the El Camino Real/Downtown Specific Plan Program EIR, which was certified on June 5, 2012 as outlined in the staff report.
2. Adopted the findings in the staff report, as per Section 16.68.020 of the Zoning Ordinance, pertaining to architectural control approval.

3. Approved the architectural control request subject to the standard conditions of approval as outlined in the staff report.
4. Approved the architectural control request subject to the project-specific, construction-related conditions of approval as outlined in the staff report.
5. Approved the architectural control request subject to the project-specific, ongoing conditions of approval in the staff report with a modification to condition 5b. Modified condition 5b shall read:

Condition 5b: The applicant shall make a good-faith effort to explore the potential of a joint parking arrangement, on commercially reasonable terms, with the owners of the adjacent development site known as 1300 El Camino Real, or any other appropriate sites.

6. Approved the license agreement and encroachment permit.
7. Adopted **Resolution No. 6129** a resolution approving heritage tree removal permits for the permits for the property located at 555 Glen.

#### **E. PUBLIC HEARINGS**

**E1.** Consider a request for rezoning, conditional development permit, lot line adjustment, heritage tree removal permits, below market rate housing agreement, development agreement and environmental review for the Facebook West Campus located at the intersection of Bayfront Expressway and Willow Road ([Staff report #13-041](#))

**NOTE:** Assistant City Manager Starla Jerome Robinson announced that she has a conflict due to her husband's employment and is therefore recused from the item and left the meeting at 9:51 p.m. and returned at 10:39 p.m.

Staff presentation by Rachel Grossman, Associate Planner ([PowerPoint](#))

Tucker Bounds, Greg Webb and Chris Guilard, representing the applicant, gave a presentation ([PowerPoint](#))

Mayor Ohtaki opened the Public Hearing.

There were no public comments on this item.

Motion and second (Cline/Keith) to close the Public Hearing passes 4-0-1 (Absent: Carlton)

**ACTION:** Motion and second (Cline/Keith) taking the following actions passes 4-0-1 (Absent: Carlton):

- Approved **Resolution No. 6130** adopting findings required by the California Environmental Quality Act, Statement of Overriding Considerations, and adopting a Mitigation Monitoring and Reporting Program for the property located at 312 and 313 Constitution Drive;
- Approved **Resolution No. 6131** approving a Conditional Development Permit for the property located at 312 and 313 Constitution Drive;

- Approved **Resolution No. 6132** approving the Below Market Rate Housing Agreement between the City of Menlo Park and Giant Properties, LLC;
- Approved **Resolution No. 6133** approving the lot line adjustment for Giant Properties;
- Approved **Resolution No. 6134** approving heritage tree removal permits for the property located at 312 and 313 Constitution Drive;
- Introduced an Ordinance rezoning properties located at 312 and 313 Constitution Drive; and
- Introduced an Ordinance approving the Development Agreement with Giant Properties, LLC for the properties located at 312 and 313 Constitution Drive.

#### **F. REGULAR BUSINESS**

- F1.** Accept the 2012-13 mid-year financial summary and adopt a resolution approving the recommended amendments to the 2012-13 operating and capital budgets  
([Staff report #13-046](#))

Staff presentation by Starla Jerome-Robinson, Assistant City Manager

**ACTION:** Motion and second (Mueller/Cline) to approve **Resolution No. 6135** adopting the 2012-13 budget revisions to effect mid-year budget adjustments passes 4-0-1 (Absent: Carlton)

- F3.** Consider state and federal legislative items, including decisions to support or oppose any such legislation, and items listed under Written Communication or Information Item  
There were no legislative items discussed.

#### **G. CITY MANAGER'S REPORT**

There was no City Manager report given.

#### **H. WRITTEN COMMUNICATION**

There were no written communications.

#### **I. INFORMATIONAL ITEMS**

There were no informational items.

#### **J. COUNCILMEMBER REPORTS**

Council Members reported in compliance with AB1234 requirements.

#### **K. PUBLIC COMMENT #2**

There were no public comments made.

#### **L. ADJOURNMENT**

The meeting was adjourned at 11:05 p.m.

  
Margaret S. Roberts, MMC

City Clerk

Minutes accepted at the Council meeting of





## CITY COUNCIL SPECIAL MEETING MINUTES

Tuesday, April 2, 2013 at 5:30 p.m.  
701 Laurel Street, Menlo Park, CA 94025  
City Council Chambers

Mayor Ohtaki called the Study Session to order at 5:35 p.m. with Council Member Carlton absent.

**SS1.** Council review and possible direction regarding the proposed SRI, International Campus Modernization Project and the associated draft public outreach and development agreement negotiation process ([Staff report #13-050](#))

Staff presentation by Rachel Grossman, Associate Planner ([PowerPoint](#)) ([Handout](#))

Presentation by Tom Furst, Senior VP & CFO of SRI, International ([PowerPoint](#))

### Public Comment

- Janet Elliot asked that the cumulative noise of the campus be taken into consideration.
- Phillip Bahr appreciates many aspects of the project and encourages continued public transportation, avoid making an access point across from Pine Street and consider hiring locally for design and construction.
- Britt Von Thaden is in general agreement with the project and his main concern is dealing with traffic in and out of the site.

**NOTE:** Agenda Item A2 taken out of order at this time

**A2.** Proclamation: Honoring Marcel Vinokur ([Attachment](#))

Mayor Ohtaki presented the proclamation to Marcel Vinokur.

**SS2.** Provide direction on the Climate Action Plan Update and Status Report, new measuring methodology for transportation greenhouse gas emissions, and a community greenhouse reduction target, and provide direction on funding in order to achieve target ([Staff report #13-051](#))

Staff presentation by Rebecca Fotu, Environmental Programs Manager ([PowerPoint](#))

Environmental Quality Commission presentation by Chair Mitch Slomiak ([PowerPoint](#))

### Public Comment

- Gail Slocum urged the Council to move forward with aggressive targets.
- Carol McClelland, GRCC, fully supportive of the EQC recommendations.
- Bob Cohen asked the Council to examine the hard data. He believes there are errors in the information. ([Handout](#))
- Patti Fry is fully supportive of the EQCs aggressive recommendations.
- Scott Marshall urged the Council to also address the building codes to align with reducing greenhouse gas emissions.
- Adina Levin spoke about what other cities are doing regarding lowering green house gas emissions.
- Kristin Kuntz-Durisetti spoke to the benefits in reducing greenhouse gas emissions.
- Cherie Zaslowsky urged the Council to do their due diligence before taking action.

- Alex Cannara stated the recommendations are insufficient to address the problems that exist.

**ACTION:** The Council provided their feedback and took no formal action on the item.

Mayor Ohtaki called the Regular Session to order at 8:38 p.m. with Council Member Carlton absent.

Mayor Ohtaki led the Pledge of Allegiance.

## **ANNOUNCEMENTS**

There were no announcements made.

### **A. PRESENTATIONS AND PROCLAMATIONS**

**A1.** Proclamation: National Library Week, April 14-20, 2013 ([Attachment](#))

Mayor Ohtaki presented the proclamation to Michelle Figueras from the Library Commission, Anna Chow, President of the Library Foundation and Monica Carman.

### **B. COMMISSION/COMMITTEE VACANCIES, APPOINTMENTS AND REPORTS**

There were no appointments or reports.

### **C. PUBLIC COMMENT #1**

- Mickie Winnler, being a proxy for from Henry Riggs, read a letter speaking on behalf of Lee Duboc regarding having study sessions regarding unions and moving towards becoming a Charter City.
- Jym clendenin, Sister City Project Group, gave a report regarding forming a Sister City relationship with the Village of Menlough, Ireland. ([Handout](#))

### **D. CONSENT CALENDAR**

**D1.** Waive the reading and adopt ordinances approving the Rezoning and the Development Agreement for the Facebook West Campus located at the intersection of Bayfront Expressway and Willow Road ([Staff report #13-054](#))

**Ordinance No. 990:** An Ordinance of the City Council of the City of Menlo Park rezoning properties located at 312 and 313 Constitution Drive

**Ordinance No. 991:** An Ordinance of the City Council of the City of Menlo Park approving the Development Agreement with Giant Properties, LLC for the property located at 312 and 313 Constitution Drive

**ACTION:** Motion and second (Keith/Cline) to approve Ordinances 990 and 991 passes 4-0-1 (Absent: Carlton).

**D2.** Authorize the City Manager to execute master agreements for professional services with multiple consulting firms for engineering, surveying, inspection, testing and other administration services ([Staff report #13-052](#))

This item pulled by Council Member Mueller for questions.

**ACTION:** Motion and second (Cline/Mueller) to authorize the City Manager to execute master agreements for professional services with multiple consulting firms for engineering, surveying, inspection, testing and other administration services passes 4-0-1 (Absent: Carlton).

## **E. PUBLIC HEARINGS**

**E1.** Adopt a resolution amending the City's Master Fee Schedule to incorporate proposed changes in fees to become effective immediately or July 1, 2013 or as required by statute for the following departments: Community Services, Library, Police and Public Works ([Staff report #13-048](#))

Staff presentation by John McGirr, Revenue and Claims Manager

The Public Hearing was opened at 9:01 p.m.

**ACTION:** Motion and second (Cline/Keith) to close the Public Hearing passes 4-0-1 (Absent: Carlton) at 9:01 p.m.

**ACTION:** Motion and second (Cline/Keith) to approve **Resolution No. 6136** amending the City's Master Fee Schedule to incorporate proposed changes in fees to become effective immediately or July 1, 2013 or as required by statute for the following departments: Community Services, Library, Police and Public Works passes 4-0-1 (Absent: Carlton).

**ACTION:** The City Council directed staff to incorporate mediation in the process for appeals and bring back the appeal fees with the cost built in.

## **F. REGULAR BUSINESS**

**F1.** Memorandum from Council Members Keith and Cline requesting Council place review of 500 El Camino Real/Stanford Project on the April 16, 2013 City Council meeting agenda ([Attachment](#))

**NOTE:** Vice Mayor Mueller announced he is recused on the item due to the proximity of previously owned property and left the Council Chambers at 9:08 p.m.

Presentation by Council Members Keith and Cline

### Public Comment

- Vince Bressler stated that there was a mistake made with this parcel and requested the staff report to be clear and to state a provision that can be voted on to remove the South East portion of El Camino Real out of the Specific Plan and revert it to the previous zoning.
- Steve Elliott, representing Stanford, stated that due to comments they have heard, they are making changes to the plan and are willing to discuss them at the April 16 Council meeting.
- Adina Levin supported removing this parcel out of the El Camino/Downtown Specific Plan but not opening the entire Plan.
- Perla Ni urged the Council to put the Stanford Plan on the agenda for April 16 for the Council to consider removing the parcel out of the Plan and a moratorium on medical offices.
- Stefan Petry supports having the parcel taken out of the Plan and returned to the prior zoning.

- Cherie Zaslowsky presented a PowerPoint showing the reasons this item should be placed on the April 16 agenda. ([PowerPoint](#))

**ACTION:** Motion and second (Cline/Keith) to place a review of 500 El Camino Real/Stanford Project on the April 16, 2013 City Council meeting agenda for discussion passes 3-0-2 (Mueller recused; Carlton absent).

**NOTE:** Vice Mayor Mueller returned to the meeting at 9:41 p.m.

**F2.** Discuss and provide direction on City operating and budget principles for the 2013-14 budget process ([Staff report #13-053](#))  
Staff presentation by Alex McIntyre, City Manager

**ACTION:** Motion and second (Cline/Mueller) to approve the City Operating Principles adding a twelfth principle “Eye towards long-term stability of the fiscal plan”, the Budget Development Principles, use of one time revenues and temporarily setting aside \$300,000 for the police substation passes 4-0-1 (Absent: Carlton).

**F3.** Present information regarding employee compensation and receipt of public comment relating to upcoming contract negotiations with all units ([Staff report #13-049](#))  
There were no public comments on the item.

**F4.** Adopt a resolution appropriating \$500,000 from the Bedwell-Bayfront Park Landfill Fund, waiving the public bidding requirement, and authorizing the City Manager to award and execute contracts for the Gas Flare at Bedwell Bayfront Park Landfill and authorizing a total budget of \$500,000 ([Staff report #13-055](#))  
Staff presentation by Fernando Bravo, Engineering Services Manager ([PowerPoint](#))

#### Public Comment

- Allan Bedwell, Friends of Bedwell Bayfront Park, support the staff recommendation and stated that the Friends appreciate staff reaching out to them on this item. He encouraged that the City look towards finding a way to generate revenue from the site.

**ACTION:** Motion and second (Keith/Cline) to approve **Resolution No. 6137** appropriating \$500,000 from the Bedwell-Bayfront Park Landfill Fund, waiving the public bidding requirement, and authorizing the City Manager to award and execute contracts for the Gas Flare at Bedwell Bayfront Park Landfill and authorizing a total budget of \$500,000 passes 4-0-1 (Absent: Carlton).

**F5.** Consider state and federal legislative items, including decisions to support or oppose any such legislation, and items listed under Written Communication or Information Item  
There were no legislative items discussed.

#### **G. CITY MANAGER’S REPORT**

There was no City Manager report given.

#### **H. WRITTEN COMMUNICATION**

There were no written communications.

#### **I. INFORMATIONAL ITEMS**

There were no informational items.

**J. COUNCILMEMBER REPORTS**

Mayor Ohtaki stated he is interested in getting more information on a Sister City relationship and will be obtaining more information.

**K. PUBLIC COMMENT #2**

There were no public comments made.

**L. ADJOURNMENT**

The meeting was adjourned at 10:42 p.m.



Margaret S. Roberts, MMC  
City Clerk

Minutes accepted at the Council meeting of

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## COMMUNITY DEVELOPMENT DEPARTMENT

Council Meeting Date: April 16, 2013  
Staff Report #: 13-059

Agenda Item #: E-1

**PUBLIC HEARING:** Conduct a Public Hearing and Consider a Resolution Approving a Conditional Development Permit Amendment for the Property Located at 401 Pierce Road

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### RECOMMENDATION

Staff recommends that the City Council conduct a public hearing and concur with the recommendation of the Planning Commission to approve the following actions associated with proposed modifications to the existing non-profit recreational and educational facility at 401 Pierce Road in the R-3-X (Apartment, Conditional Development) zoning district:

1. **Make California Environmental Quality Act (CEQA) Findings** that the project is categorically exempt under Class 1 (Section 15301, "Existing Facilities") of the current CEQA Guidelines.
2. **Adopt a Resolution Approving the Conditional Development Permit Amendment** for the addition of 747 square feet of gross floor area to an existing private recreation facility and to increase the maximum FAR to 45 percent, subject to the requirements of the Conditional Development Permit.

The full recommended findings, actions, and conditions for approval are included as Attachment A.

### BACKGROUND

The Boys and Girls Club of the Peninsula ("the Club") is a non-profit organization that seeks to motivate all students to succeed academically. The organization focuses on education and career development, character and leadership development, health and life skills, the arts, and sports and recreation.

The subject site contains three individual parcels. Two parcels are owned by the City and one parcel is owned by the San Francisco Public Utilities Commission (SFPUC), which is part of the Hetch Hetchy right-of-way. The City has a lease agreement with the Club. The Club originally received use permit and architectural control approval to occupy the site at 401 Pierce Road in April 1960, and received a variety of modification

approvals by the Planning Commission and Board of Zoning Adjustment in 1979 and 1980. In June 1999, the Boys and Girls Club received City Council approval to comprehensively remodel and expand the existing facility, including the rezoning of the entire property from P-F (Public Facilities) and R-3 (Apartment) to R-3-X (Apartment, Conditional Development), a Zoning Ordinance Amendment to allow privately-operated recreational facilities in residential districts, and a Conditional Development Permit (CDP) for the development of the privately-operated recreational facility. In addition, a Negative Declaration was prepared for the project.

The Menlo Park facility currently operates Monday through Friday from the end of the school day until 8:00 P.M. The organization has seen significant growth over the last six years, and the Menlo Park facility serves approximately 250 community members, with 110 to 125 on site at any given time. The Menlo Park facility also functions as the administrative headquarters for the larger organization.

On March 18, 2013, the Planning Commission reviewed a request to amend the existing conditional development permit (CDP) to increase the maximum permitted floor area ratio (FAR) at the site to 45 percent, consistent with the maximum FAR of the R-3 (Residential Apartment) zoning district. The project includes construction of an approximately 747 square foot addition on the second floor for additional office and tutoring space, for a current total proposed FAR of 36.2 percent. Any future additions would be subject to architectural control review by the Planning Commission. The use of the site would remain an academic and private recreation facility. The proposed expansion is intended to allow for more productive use of space, and is not intended to increase the number of staff on-site.

At this meeting, the Commission voted 7-0 to recommend City Council approval of the following actions associated with the proposal:

1. Adopt a finding that the project is categorically exempt under Class 1 (Section 15301, "Existing Facilities") of the current CEQA Guidelines.
2. Adopt a Resolution approving the Conditional Development Permit amendment for the addition of 747 square feet of gross floor area to an existing private recreation facility and to increase the maximum FAR to 45 percent, subject to the requirements of the Conditional Development Permit.

## **ANALYSIS**

A complete discussion of the project proposal, requested land use entitlements and other actions is included in the Planning Commission staff report dated March 18, 2013, which is included as Attachment G. The associated excerpt minutes are included as Attachment H.



## **IMPACT ON CITY RESOURCES**

The City Manager waived the fees associated with review of CDP amendments, in recognition of the benefits the project would provide to the community.

## **POLICY ISSUES**

CDPs allow adjustment of the requirements of the underlying zoning district in order to secure special benefits possible through comprehensive planning of large developments and to provide relief from the monotony of standard development, to permit the application of new and desirable development techniques, and to encourage more usable open space than would otherwise be provided with standard development. The proposed project would be consistent with the purposes of a CDP.

## **ENVIRONMENTAL REVIEW**

The project is categorically exempt under Class 1 (Section 15301, "Existing Facilities") of the current California Environmental Quality Act (CEQA) Guidelines.

## **PUBLIC NOTICE**

Public Notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting.

## **ATTACHMENTS**

- A. Draft Findings, Actions, and Conditions for Approval
- B. Draft Resolution for CDP
- C. Draft Conditional Development Permit
- D. Location Map
- E. Project Plans
- F. Project Description Letter
- G. Planning Commission Staff Report, dated March 18, 2013, without attachments
- H. Planning Commission Meeting Excerpt Minutes, dated March 18, 2013

Report prepared by:

Kyle Perata  
Assistant Planner

Arlinda Heineck  
Community Development Director

**401 Pierce Road  
Draft Findings, Actions, and Conditions for Approval  
April 16, 2013**

1. Adopt a finding that the project is categorically exempt under Class 1 (Section 15301, "Existing Facilities") of the current CEQA Guidelines.
2. Adopt a Resolution approving the Conditional Development Permit amendment for the addition of 747 square feet of gross floor area to an existing private recreation facility and to increase the maximum FAR to 45 percent, subject to the requirements of the Conditional Development Permit. (Attachment B)

**RESOLUTION NO.**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO PARK, CALIFORNIA APPROVING A CONDITIONAL DEVELOPMENT PERMIT AMENDMENT FOR THE PROPERTY LOCATED AT 401 PIERCE ROAD**

WHEREAS, the Zoning Ordinance establishes that a Conditional Development Permit (“CDP”) may be issued to allow adjustment of requirements in order to secure special benefits possible through comprehensive planning of large development, and that such adjustment is intended to allow relief from the monotony of standard development; to permit the application of new and desirable development techniques; and to encourage more usable open space than would otherwise be provided with standard development; and

WHEREAS, the City has received an application from Boys and Girls Club of the Peninsula (“Applicant”), to amend an existing CDP for an existing private recreation facility and educational facility; and

WHEREAS, the proposed development will not be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood of such proposed development, and will not be detrimental to property and improvements in the neighborhood or the general welfare of the City; and

WHEREAS, all required public notices and public hearings were duly given and held according to law; and

WHEREAS, after notice having been lawfully given, a public hearing was scheduled and held before the Planning Commission of the City of Menlo Park on March 18, 2013 whereat all persons interested therein might appear and be heard; and

WHEREAS, the Planning Commission of the City of Menlo Park having fully reviewed, considered and evaluated all the testimony and evidence submitted in this matter voted affirmatively to recommend to the City Council of the City of Menlo Park to amend the CDP; and

WHEREAS, after notice having been lawfully given, a public hearing was scheduled and held before the City Council of the City of Menlo Park on April 16, 2013 whereat all persons interested therein might appear and be heard.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Menlo Park hereby approves the amendments to the Conditional Development Permit for the Property attached hereto as Exhibit A and incorporated herein by this reference.

I, Margaret S. Roberts, City Clerk of Menlo Park, do hereby certify that the above and foregoing Council Resolution was duly and regularly passed and adopted at a meeting by said Council on the sixteenth day of April, 2013 by the following votes:

AYES:

NOES:

ABSENT:

ABSTAIN:

---

Margaret S. Roberts, MMC  
City Clerk

*DRAFT – April 16, 2013*

## **CONDITIONAL DEVELOPMENT PERMIT**

### **401 Pierce Road (“Boys and Girls Club”)**

#### **1. GENERAL INFORMATION:**

- 1.1 Applicant: James Harris for the Boys and Girls Club of the Peninsula
- 1.2 Property Owner: City of Menlo Park and San Francisco Public Utilities Commission (SFPUC)
- 1.3 Nature of Project: Conditional Development Permit amendment to increase the maximum permitted floor area ratio (FAR) at the site from 34.6 percent, per the previous approved development plans, to 45 percent, consistent with the maximum FAR of the R-3 (Residential Apartment) zoning district. The use of the site would remain a private recreation facility and education center. As part of the approval of the CDP amendment, the applicant is proposing to construct an approximately 747 square foot addition on the second floor, for a current total proposed FAR of 36.2 percent. Any future additions would be subject to architectural control review by the Planning Commission.
- 1.4 Property Location (Project site): 401 Pierce Road
- 1.5 Assessor's Parcel Numbers: The Project site currently contains two legal parcels owned by the City of Menlo Park (062-015-050 and 062-015-040) and the Hetch Hetchy Right-Of-Way (093-560-010).
- 1.6 Area of Property: 48,391 square feet, inclusive of the Hetch Hetchy Right-Of-Way
- 1.7 Zoning: R-3 (X) (Apartment, Conditional Development)
- 1.8 Previous entitlements: The amended Conditional Development Permit for 401 Pierce Road supersedes the previously granted Conditional Development Permit for the site.

#### **2. DEVELOPMENT STANDARDS:**

- 2.1 Floor Area Ratio (FAR) shall not exceed **45 percent** of the project site. The current development contains an FAR of **36.2 percent**, which can be increased up to **45 percent** through Architectural Control review by the conditions contained herein and in accordance with Section 6.1.3 (Major Modifications) of this document.
- 2.2 Building coverage shall not exceed **30 percent** of the project site.

- 2.3 Building setbacks shall be in accordance with the approved plans, which may be modified through Architectural Control review by the conditions contained herein and in accordance with Section 6.1.3 (Major Modifications) of this document.
- 2.4 Building height shall not exceed **35 feet**.
- 2.5 The on-site circulation shall consist of a pick-up and drop-off zone on-site, and a minimum of two parking spaces: one accessible space and one standard space.
- 2.6 All rooftop equipment shall be fully screened and integrated into the design of the building. Rooftop equipment shall comply with noise requirements of the Municipal Code.

### 3. USES:

- 3.1 The following uses are permitted at the site:
  - 3.1.1 Not-for-profit, privately operated, recreational facilities;
  - 3.1.2 Not-for-profit educational facilities; and
  - 3.1.3 Ancillary office uses, associated with the above mentioned uses.

### 4 SIGNS:

- 4.1 Signage shall comply with the Zoning Ordinance and the Planning Division's *Design Guidelines for Signs*.

### 5 RECORDATION:

- 5.1 Concurrent with the submittal of a complete building permit application, the applicant shall record the amended Conditional Development Permit with the County of San Mateo County.
- 5.2 The Conditional Development Permit shall be in force on the effective date of the resolution approving the amendment.

### 6 MODIFICATIONS:

- 6.1 Modifications to the approved Project may be considered according to the following four tier review process:
  - 6.1.1 Substantially Consistent Modifications are made at the staff level. Substantially Consistent Modifications are changes to or modifications of the Project that are in substantial compliance with

and/or substantially consistent with the Project Plans and the Project approvals. Substantially Consistent Modifications are generally not visible to the public and do not affect permitted uses, density or intensity of use, restrictions and requirements relating to subsequent discretionary actions, monetary obligations, conditions or covenants limiting or restricting the use of the Property or similar material elements based on the determination that the proposed modification(s) is consistent with other building and design elements of the approved Conditional Development Permit, and will not have an adverse impact on the character and aesthetics of the Property. The determination as to whether a requested change is a Substantially Consistent modification will be made by the Community Development Director (in his/her reasonable discretion).

- 6.1.2 Minor Modifications are made at the staff level, but the Planning Commission is provided information regarding these modifications. The determination as to whether a requested change is a Minor Modification is determined by the Community Development Director (in his/her reasonable discretion). A Minor Modification is similar in nature to a Substantially Consistent Modification, except that Minor Modifications generally are visible to the public and result in minor exterior changes to the Project aesthetics. Any member of the Commission may request within seven (7) days of receipt of the informational notice that the item(s) be reviewed by the Planning Commission.
- 6.1.3 Major Modifications are reviewed by the Planning Commission through Architectural Control. Major Modifications include, but are not limited to, significant changes to the exterior appearance of the buildings or appearance of the Property, and changes to the approved plans, including the addition of gross floor area and modifications to the building setbacks, provided that the proposed modification meets all other development regulations set forth in the Section 2 of this document. The determination as to whether a requested change is a Major Modification is determined by the Community Development Director (in his/her reasonable discretion). In reviewing Major Modifications, the Planning Commission shall evaluate the project using the Zoning Ordinance findings for architectural control applications.
- 6.1.4 Conditional Development Permit Amendments are reviewed by the Planning Commission and the City Council. Conditional Development Permit Amendments are required where the Applicant seeks revisions to the Project which involve (a) the relaxation of the development standards identified in Section 2 (with the exception of setbacks and floor area ratio, (b) material changes to the uses identified in Section 3, (c) exceedance of the maximum permissible signage area identified in Section 4, or (d) material modifications to

the conditions of approval identified in Sections 7, and 8. If the Applicant wishes to make a change that requires an amendment to this Conditional Development Permit, it shall apply, in writing, to the Planning Division for review and recommendation to the Planning Commission. The Planning Commission shall then forward its recommendation to the City Council for amendment(s) to the Conditional Development Permit.

## 7. PROJECT SPECIFIC CONDITIONS - GENERAL:

- 7.1 Indemnity by Owner: The Owner shall indemnify, defend and hold harmless City, and its elective and appointive boards, commissions, officers, agents, contractors and employees (collectively, "City Indemnified Parties") from any and all claims, causes of action, damages, costs or expenses (including reasonable attorneys' fees) arising out of or in connection with, or caused on account of, the development and occupancy of the Project, any Approval with respect thereto, or claims for injury or death to persons, or damage to property, as a result of the operations of Owner or its employees, agents, contractors, representatives or tenants with respect to the Project (collectively, "Claims"); provided, however, that Owner shall have no liability under this Section 7.1 for Claims arising from the gross negligence or willful misconduct of any City Indemnified Party, or for Claims arising from, or alleged to arise from, the repair or maintenance by the City of any improvements that have been offered for dedication by Owner and accepted by the City.
- 7.2 Indemnity By The Boys And Girls Club of the Peninsula: Boys and Girls Club, of the Peninsula shall indemnify, defend and hold harmless the City Indemnified Parties from any and all claims, causes of action, damages, costs or expenses (including reasonable attorneys' fees) arising out of or in connection with, or caused on account of, the development and occupancy of the Project, any Approval with respect thereto, or claims for injury or death to persons, or damage to property, as a result of the operations of Boys And Girls Club or its employees, agents, contractors, representatives or landlords with respect to the Project (collectively, "Claims"); provided, however, that Boys and Girls Club shall have no liability under this Section 7.2 for Claims arising from the gross negligence or willful misconduct of any City Indemnified Party, or for Claims arising from, or alleged to arise from, the repair or maintenance by the City of any improvements that have been offered for dedication by Owner and accepted by the City. As to Boys and Girls Club, the provisions of this Section 7.2 shall only apply to Claims arising from events which occurred in whole or in part before the later of Boys and Girls Club's vacating of the Property and the expiration or earlier termination of the Lease. Should Boys and Girls Club no longer be the tenant, the terms of this Section 7.2 shall apply to any new tenant for all Claims arising during the new tenant's tenancy.



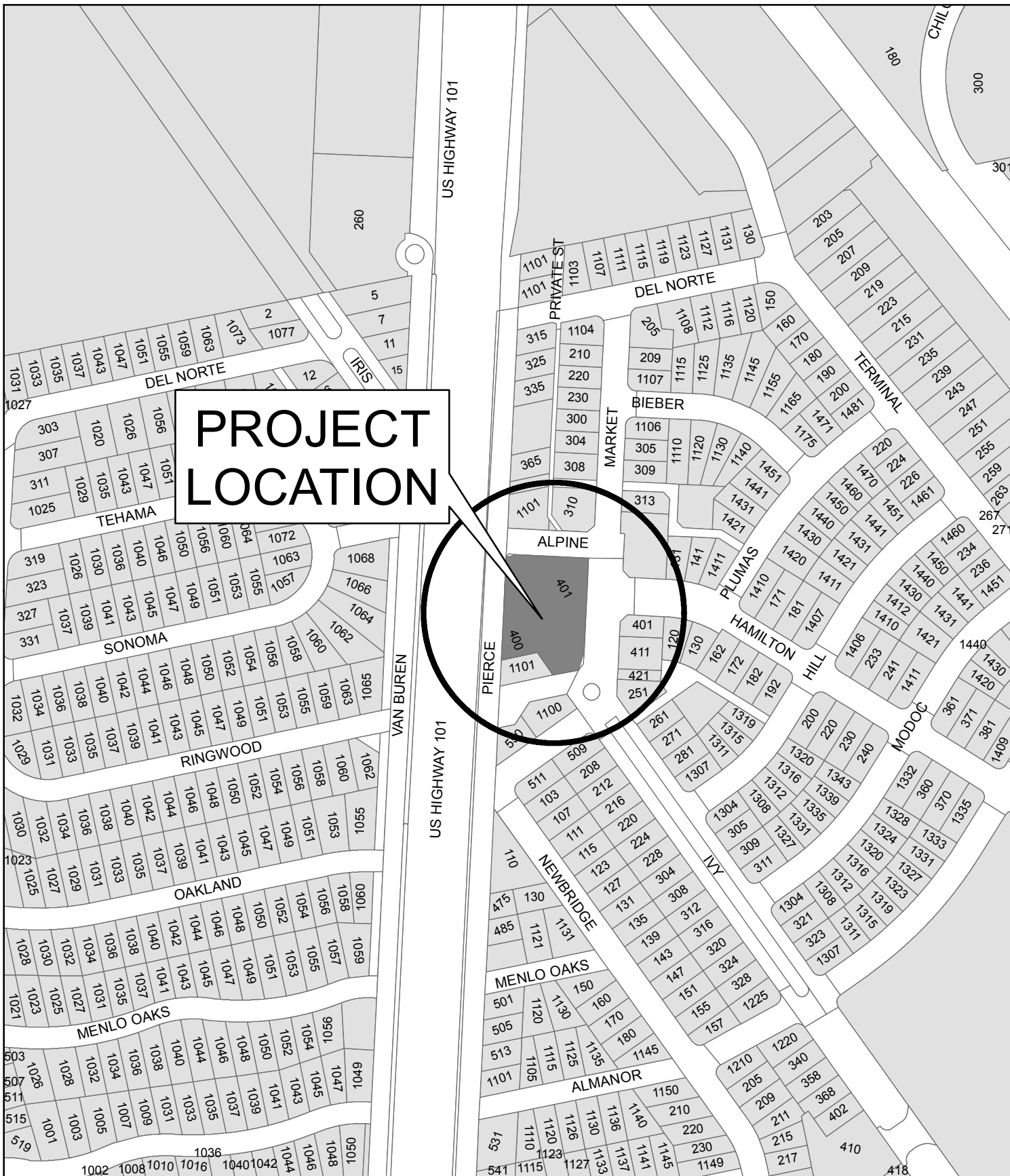
- 7.3 Project Plans: Development of the Project shall be substantially in conformance with the following plans submitted by Peterson Architects dated received by the Planning Division on March 11, 2013, consisting of nine plan sheets, recommended for approval to the City Council by the Planning Commission on March 18, 2013, and approved by the City Council on \_\_\_\_\_, 2013, except as modified by the conditions contained herein and in accordance with Section 6 (modifications) of this document.
- 7.4 Requirements of External Agencies: Prior to building permit issuance, the applicant shall comply with all Sanitary District, Menlo Park Fire Protection District, Recology, and utility companies' regulations that are directly applicable to the project.
- 7.5 Requirements of Internal Departments: Prior to building permit issuance, the applicant shall comply with all requirements of the Building Division, Engineering Division, and Transportation Division that are directly applicable to the project.
- 7.6 Demolition and Recycling: If warranted for a specific project proposal, prior to demolition permit and building permit issuance, the applicant shall comply with the requirements of Chapter 12.48 (Salvaging and Recycling of Construction and Demolition Debris) of the City of Menlo Park Municipal Code, and is subject to review and approval by the Engineering and Building Divisions.
- 7.7 Construction Safety and Erosion Control Plan: If warranted for a specific project proposal, prior to demolition permit issuance, the applicant shall submit a plan for 1) construction safety fences around the periphery of the construction area, 2) dust control, 3) erosion and sedimentation control, 4) tree protection fencing, and 5) construction vehicle parking. The plans shall be subject to review and approval by the Building and Engineering Divisions prior to issuance of a demolition permit. The fences and erosion and sedimentation control measures shall be installed according to the approved plan prior to commencing demolition.
- 7.8 Heritage Trees: If warranted for a specific project proposal, prior to demolition permit issuance, the applicant shall submit a heritage tree preservation plan, detailing the location of and methods for all tree protection measures, as described in the arborist report. The project arborist shall submit a letter confirming adequate installation of the tree protection measures. The project sponsor shall retain an arborist throughout the term of the project, and the project arborist shall submit periodic inspection reports to the Building Division. The heritage tree preservation plan shall be subject to review and approval by the Planning Division.
- 7.9 Truck Route Plan: If warranted for a specific project proposal, prior to demolition permit issuance, the applicant shall submit a truck route plan and permit to be reviewed and approved by the Transportation Senior Engineer.

- 7.10 Utilities: If warranted for a specific project proposal, concurrent with the submittal of a complete building permit application, the applicant shall submit a plan for any new utility installations or upgrades for review and approval by the Planning, Engineering, and Building Divisions. All utility equipment that is installed outside of a building and that cannot be placed underground shall be properly screened by landscaping. The plan shall show exact locations, dimensions, and colors of all meters, transformers, junction boxes, relay boxes, and other equipment boxes. The utility plans shall also show backflow and Double Check Detector Assembly (DCDA) devices.
- 7.11 Grading and Drainage Plan: If warranted for a specific project proposal, concurrent with the submittal of a complete building permit application, the applicant shall submit a Grading and Drainage Plan for review and approval by the Engineering Division. The Grading and Drainage Plan shall be prepared based on the City's Grading and Drainage Plan Guidelines and Checklist and the Project Applicant Checklist for the National Pollution Discharge Elimination System (NPDES) Permit Requirements. The erosion and sediment control plans shall be attached to the Grading and Drainage plans and may be similar to the erosion control plan provided for the demolition permit. The Grading and Drainage Plan shall be approved prior to or concurrent with the issuance of a building permit.
- 7.12 Geotechnical Report: if warranted for a specific project proposal, concurrent with the submittal of a complete building permit application, a design-level geotechnical investigation report shall be submitted the Building Division for review and confirmation that the proposed development fully complies with the California Building Code. The report shall determine the project site's surface geotechnical conditions and address potential seismic hazards. The report shall identify building techniques appropriate to minimize seismic damage.
- 7.13 Stormwater: If warranted for a specific project proposal, prior to building permit issuance, the applicant shall enter into and record a "Stormwater Treatment Measures Operations and Maintenance (O&M) Agreement" with the City subject to review and approval by the Engineering Division. With the executed agreement, the property owner is responsible for the operation and maintenance of stormwater treatment measures for the project. The agreement shall run with the land and shall be recorded by the applicant with the San Mateo County Recorder's Office.

## 8. PROJECT SPECIFIC CONDITIONS

- 8.1 Hetch Hetchy Right-Of-Way: The CDP is valid so long as the lease between The Boys and Girls Club and the City and County of San Francisco Public Utilities Commission for use of the Hetch Hetchy right-of-way remains in effect.

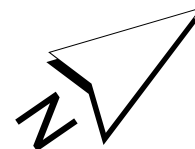
- 8.2 FAR and the Hetch Hetchy Right-Of-Way: Prior to issuing a building permit, a deed restriction shall be recorded against the property, whereby should the lease between Boys and Girls Club of the Peninsula and the City and County of San Francisco Public Utilities Commission for use of the Hetch Hetchy right-of-way be terminated, the portion of the building that exceeds the maximum FAR for the site, without utilizing the area of the Hetch Hetchy right-of-way, shall be demolished, subject to review and approval of the Planning Division and City Attorney. The demolition plan for the building would be subject to review and approval of the Planning Division.



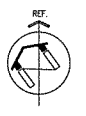
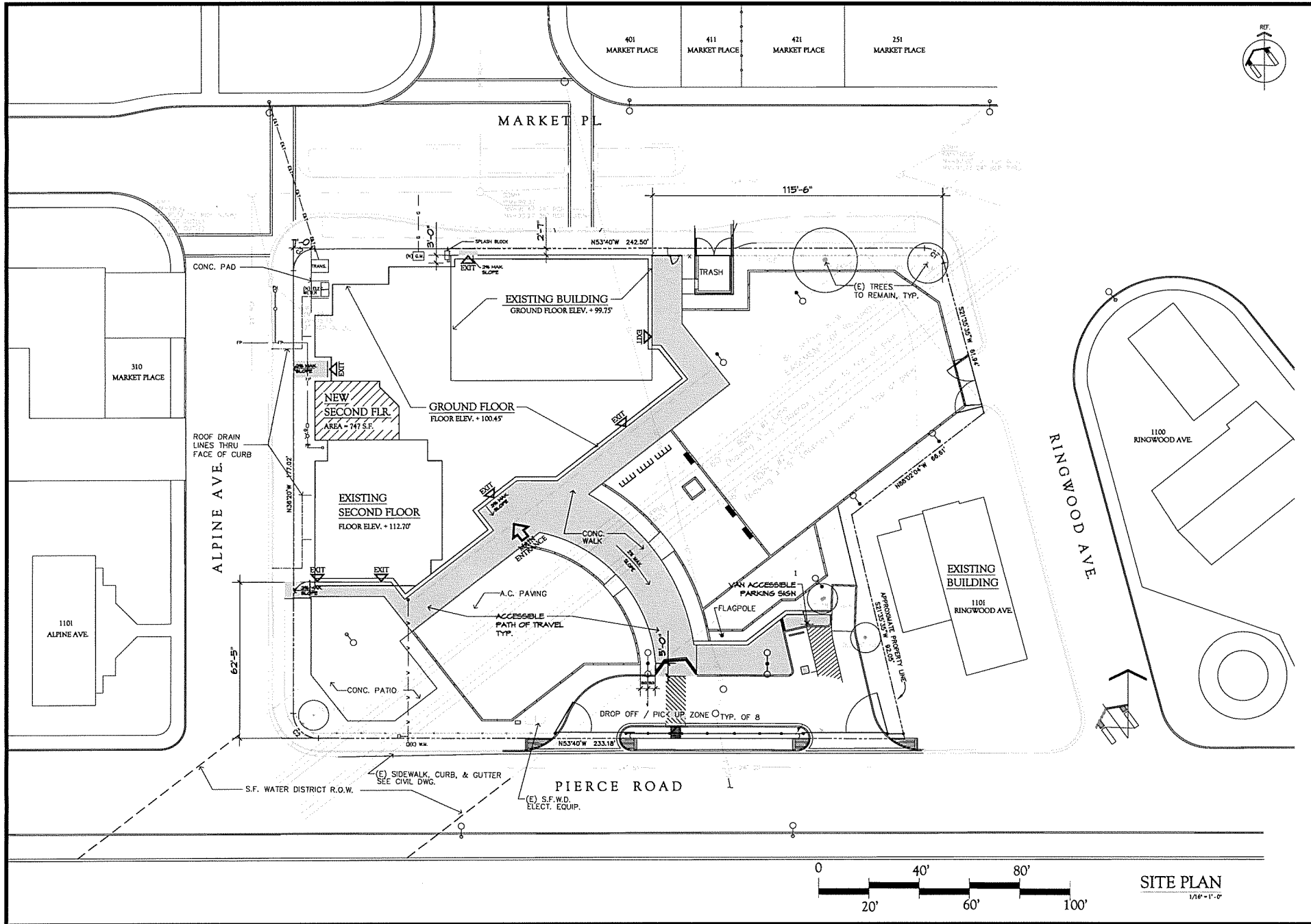
**PROJECT  
LOCATION**

**CITY OF MENLO PARK**  
 LOCATION MAP  
 401 PIERCE ROAD

DRAWN: KTP CHECKED: KTP DATE: 4/16/13 SCALE: 1" = 300' SHEET: 1







Second Floor Addition to:  
**Boys & Girls Club of the Peninsula**  
 401 Pierce Road, Menlo Park CA 94025

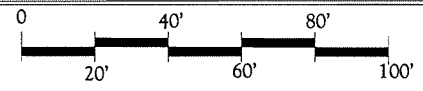
121501

CDP SET  
 MARCH 7, 2019

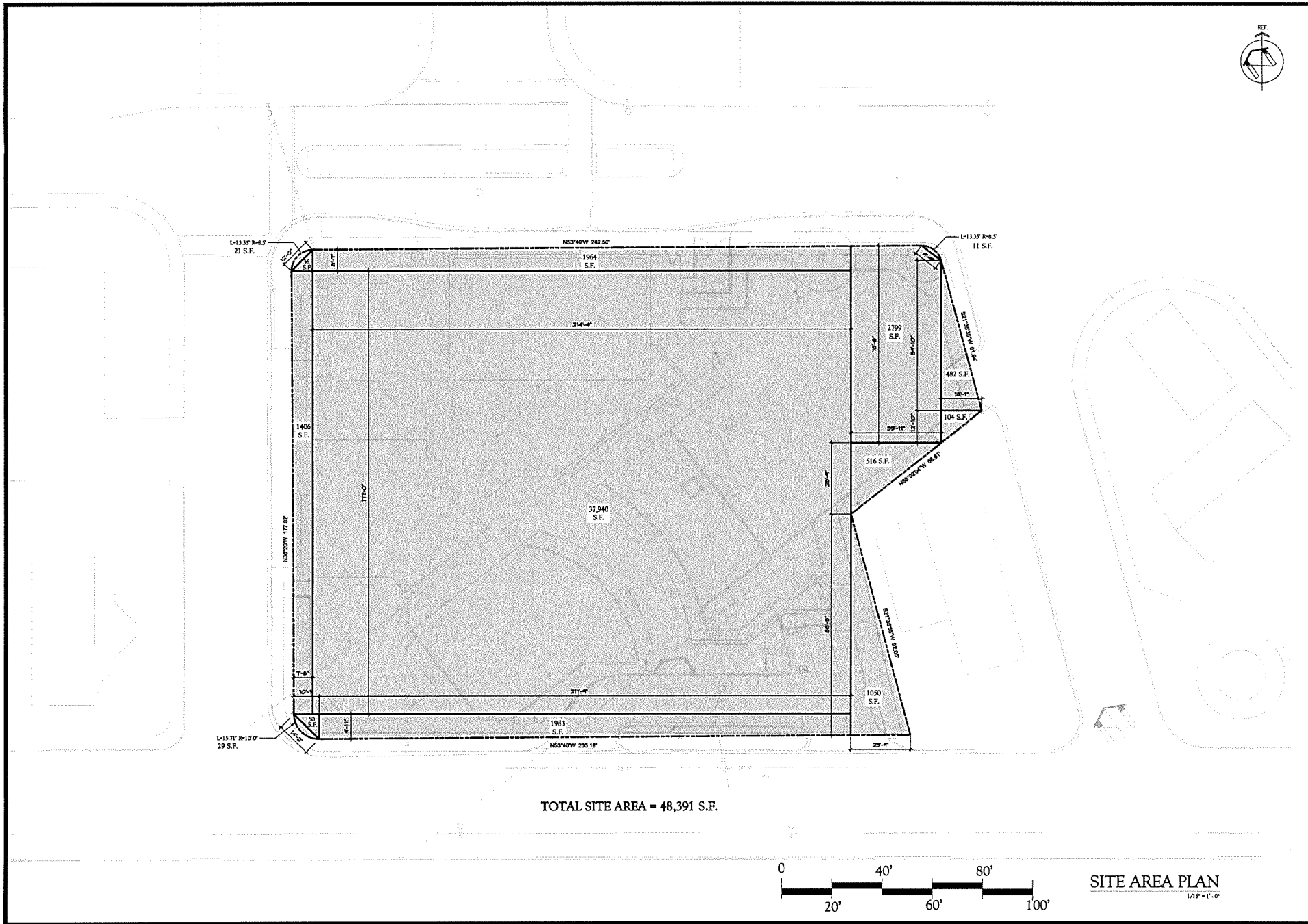
Robert Peterson Architects, Inc.  
 555 Third Street #822  
 Palo Alto, CA 94301  
 650.327.1161



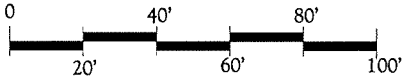
A1.0



**SITE PLAN**  
 1/8" = 1'-0"



TOTAL SITE AREA = 48,391 S.F.



SITE AREA PLAN  
1/8" = 1'-0"



Second Floor Addition to:  
Boys & Girls Club of the Peninsula  
401 Pierce Road, Menlo Park CA 94025

121501

CDP SET  
MARCH 7, 2019

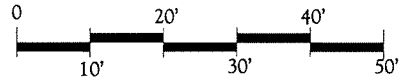
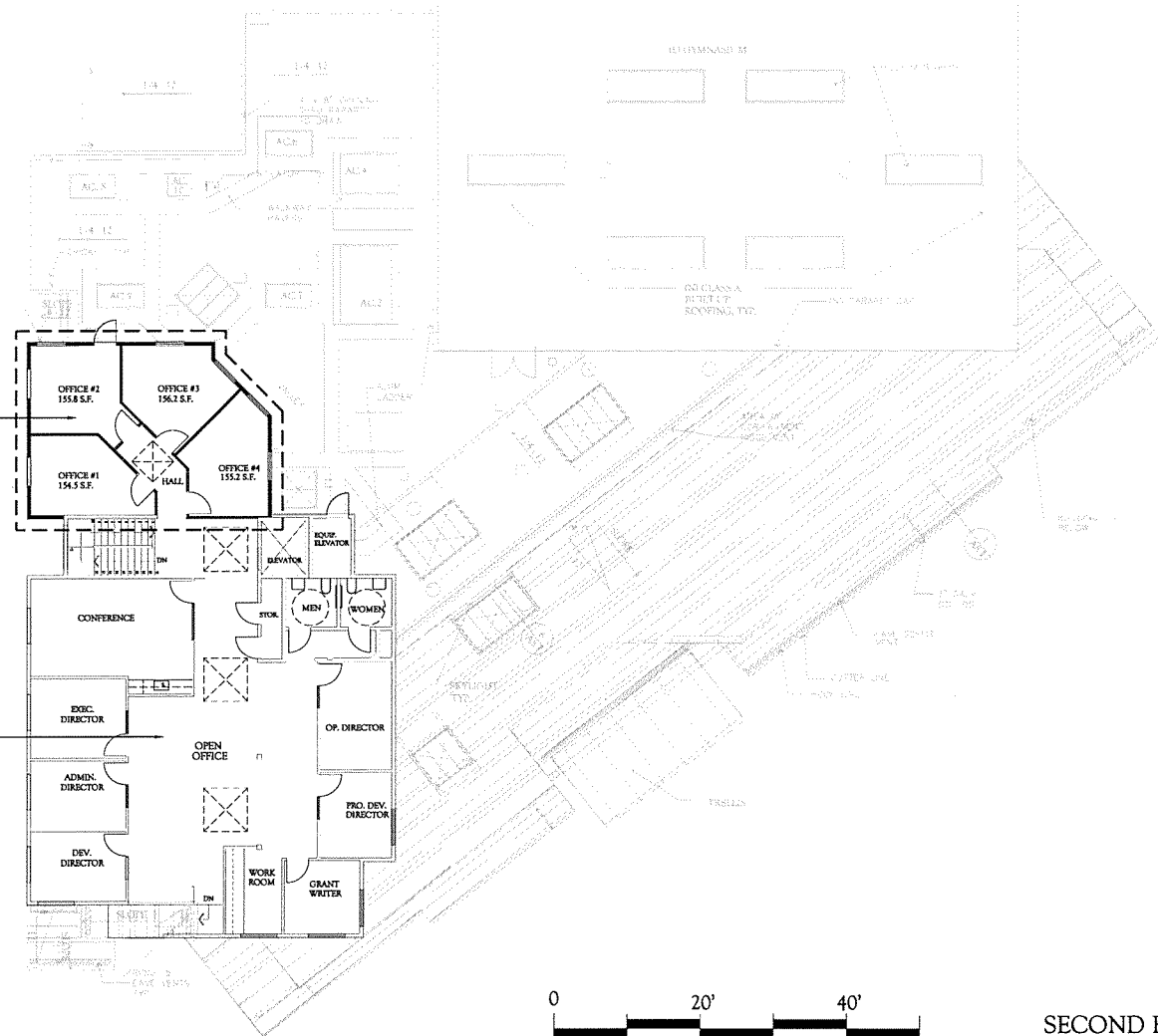
Robert Peterson Architects, Inc.  
555 Bryant Street #822  
Palo Alto, CA 94301  
650.327.1161

**PETERSON**  
**ARCHITECTS**

A1.1

PROPOSED SECOND FLOOR PLAN

EXISTING SECOND FLOOR PLAN



SECOND FLOOR PLANS  
1/16" = 1'-0"



Addition to:  
**Boys and Girls Club of the Peninsula**  
401 Pierce Road, Menlo Park CA 94025

121501

CDP SET  
MARCH 7, 2019

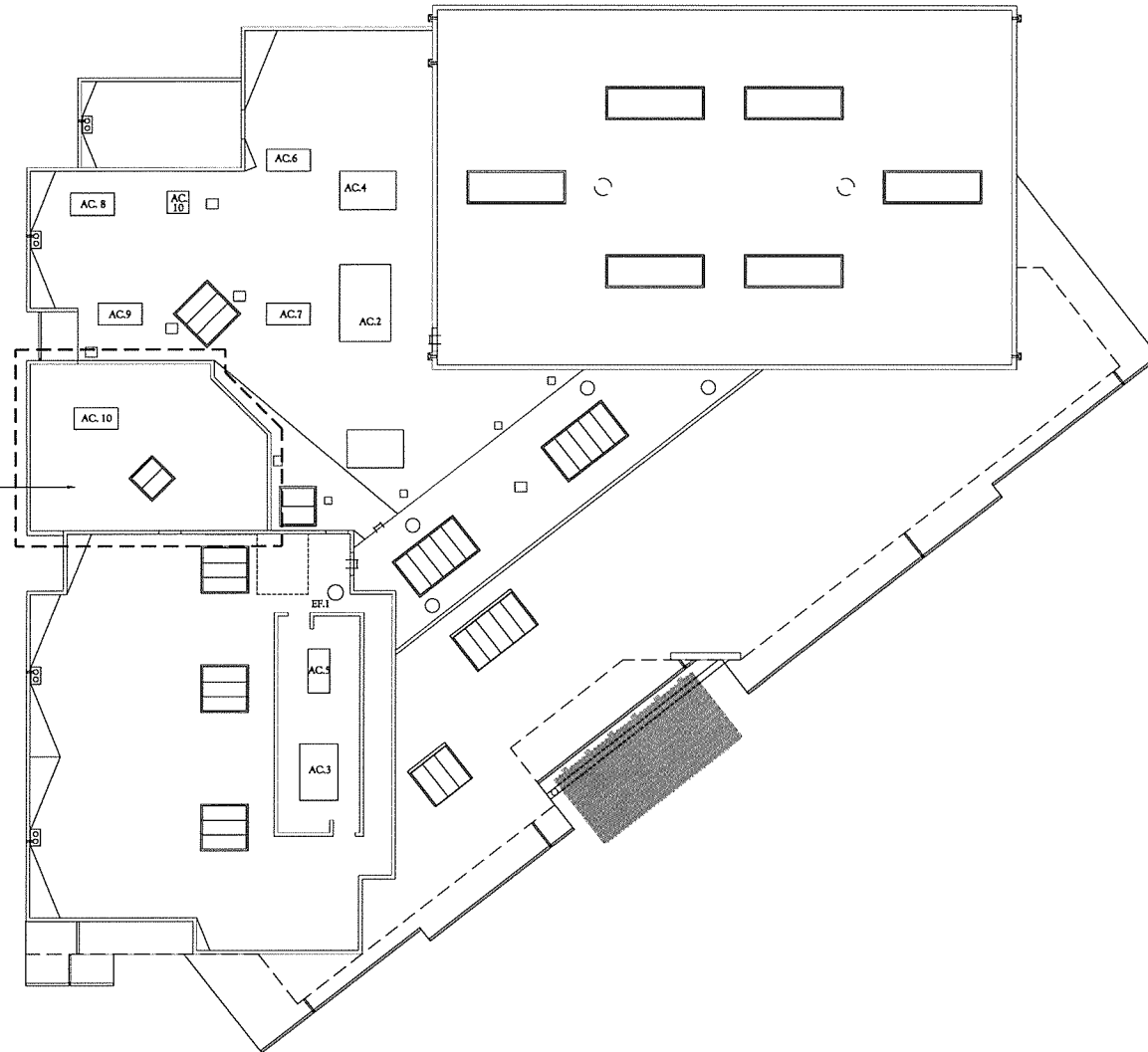
Robert Peterson Architects, Inc.  
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650.327.1161

**PETERSON**  
**ARCHITECTS**

A2.0



PROPOSED SECOND FLOOR  
ROOF PLAN



ROOF PLAN  
1/8" = 1'-0"



Second Story Addition to:  
**Boys and Girls Club of the Peninsula**  
401 Pierce Road, Menlo Park CA 94025

121501

CDP SET  
MARCH 7, 2019

Robert Peterson Architects, Inc.  
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A2.1



Second Story Addition to:  
**Boys and Girls Club of the Peninsula**  
 401 Pierce Road, Menlo Park CA 94025

121501  
 GDF SET  
 MARCH 7, 2015

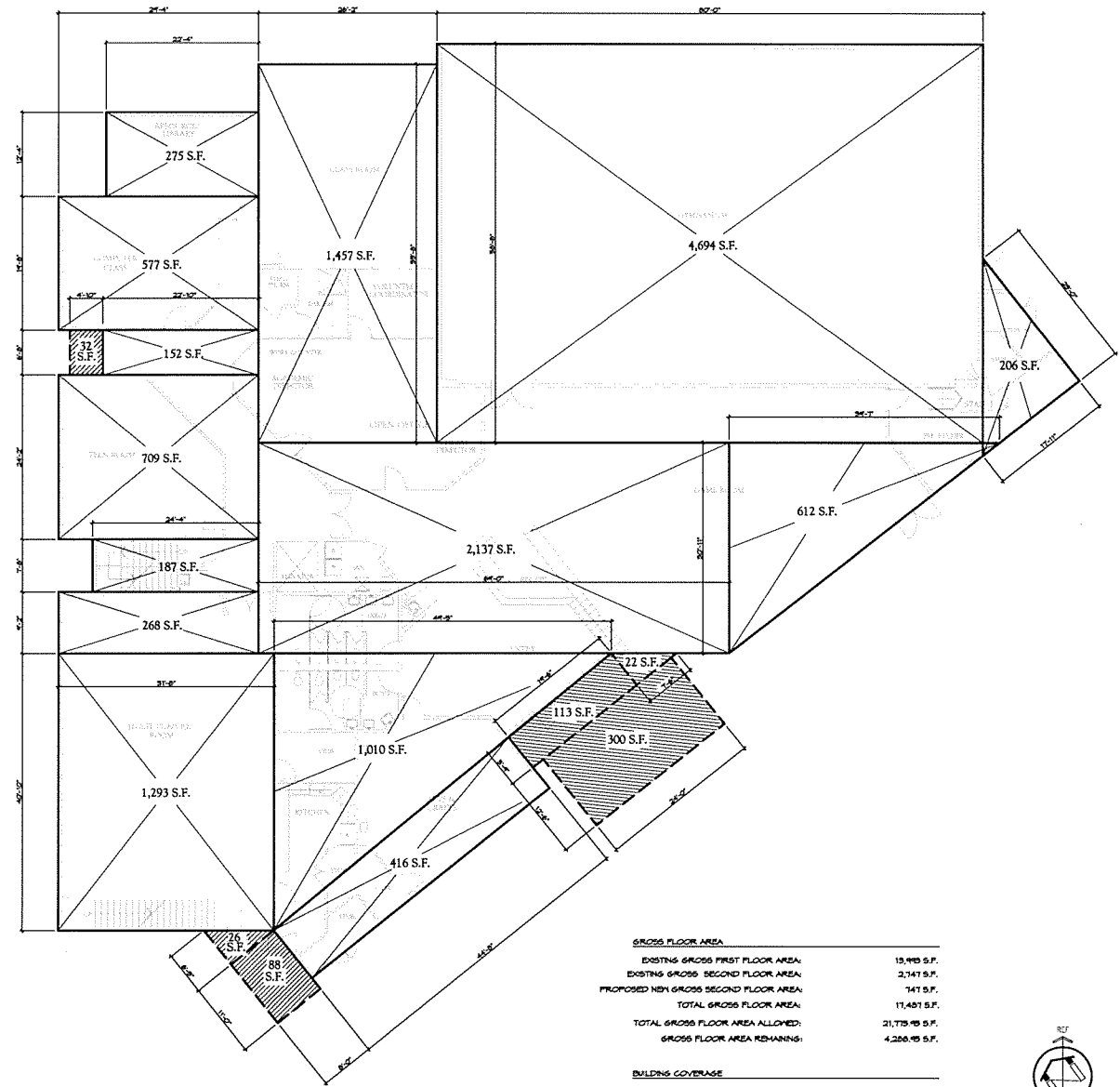
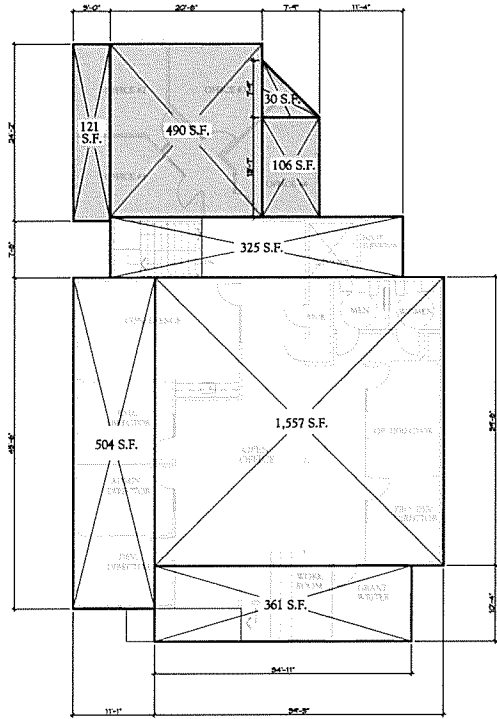
Robert Peterson Architects, Inc.  
 558 Bryant Street #822  
 Palo Alto, CA 94301  
 650.327.1161



A2.2

**AREA LEGEND:**

EXISTING FLOOR AREA		S.F.
NEW SECOND FLOOR AREA		
EXISTING COVERED PORCHES & EAVES OVER 6 FEET		



<b>GROSS FLOOR AREA</b>	
EXISTING GROSS FIRST FLOOR AREA:	15,965 S.F.
EXISTING GROSS SECOND FLOOR AREA:	2,747 S.F.
PROPOSED NEW GROSS SECOND FLOOR AREA:	747 S.F.
TOTAL GROSS FLOOR AREA:	19,459 S.F.
TOTAL GROSS FLOOR AREA ALLOWED:	21,775 SQ. S.F.
GROSS FLOOR AREA REMAINING:	4,200 SQ. S.F.
<b>BUILDING COVERAGE</b>	
EXISTING EAVES & COVERED PORCHES:	501 S.F.
EXISTING BUILDING COVERAGE:	14,514 S.F.
PROPOSED BUILDING COVERAGE:	14,514 S.F.



AREA PLAN  
 1/8" = 1'-0"



Second Story Addition to:  
**Boys and Girls Club of the Peninsula**  
401 Pierce Road, Menlo Park CA 94025

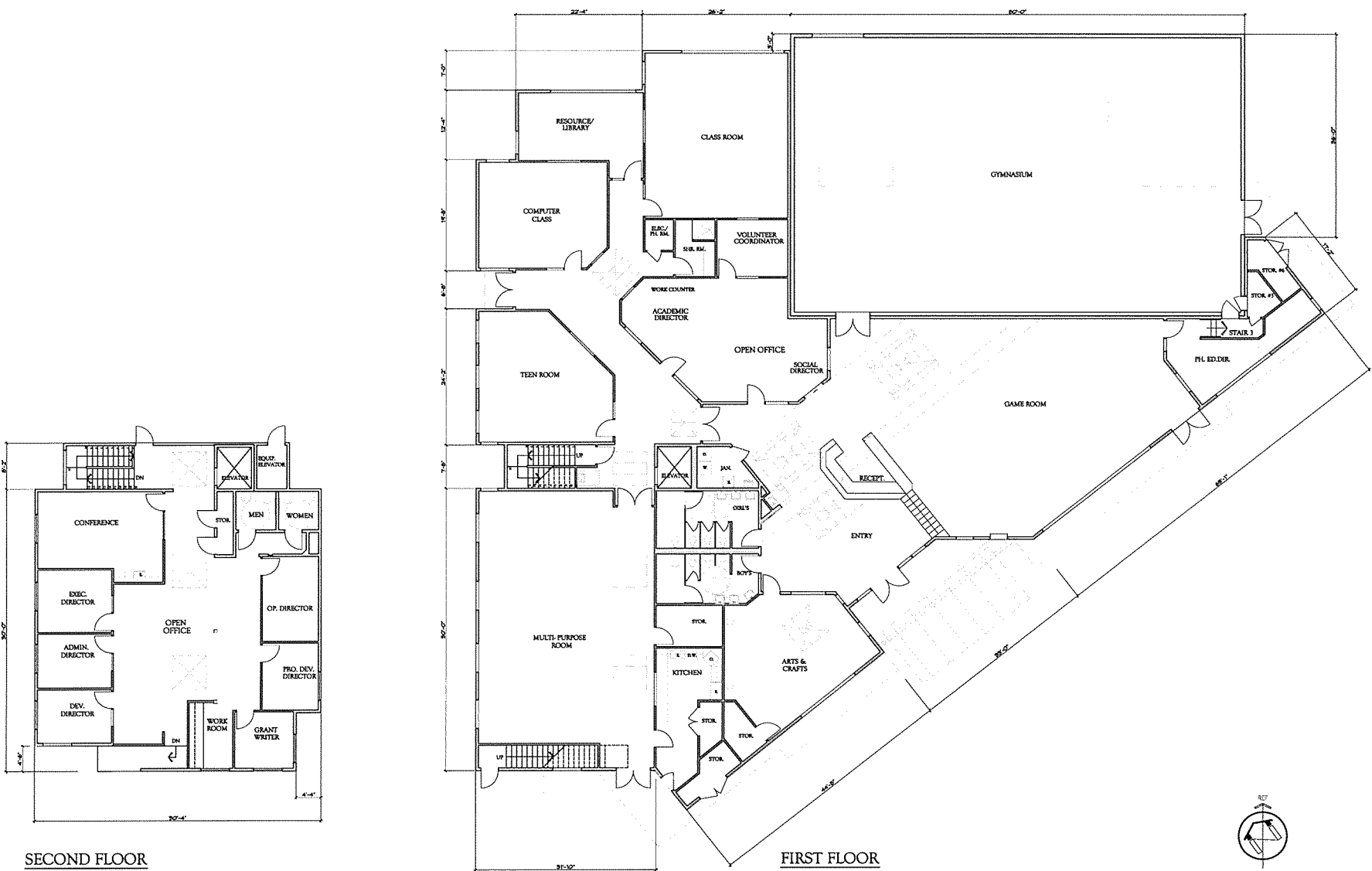
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CDP SET  
MARCH 7, 2015

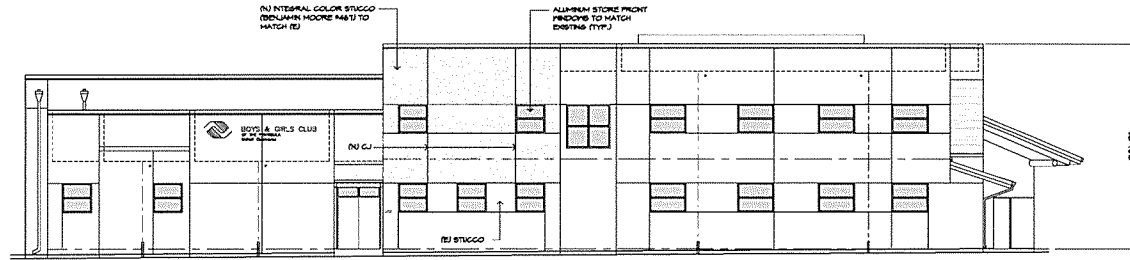
Robert Peterson Architects, Inc.  
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Palo Alto, CA 94301  
650.321.1161

**PETERSON**  
**ARCHITECTS**

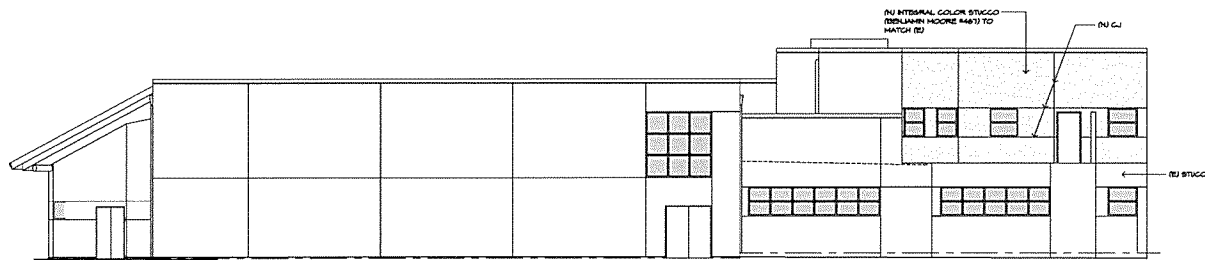
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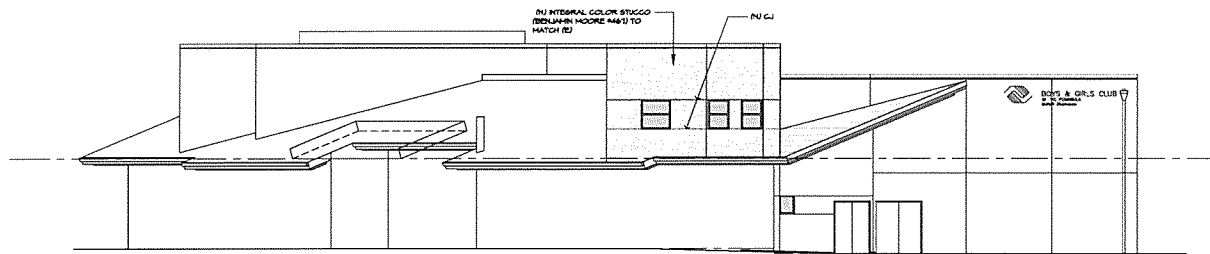
EXISTING FLOOR PLANS  
1/8" = 1'-0"



WEST ELEVATION  
1/8" = 1'-0"



NORTH ELEVATION  
1/8" = 1'-0"



EAST ELEVATION  
1/8" = 1'-0"



Second Story Addition to:  
**Boys and Girls Club of the Peninsula**  
401 Pierce Road, Menlo Park CA 94025

121501

CDP SET  
MARCH 7, 2015



Robert Peterson Architects, Inc.  
555 Bryant Street #822  
Palo Alto, CA 94301  
650.327.1161

**PETERSON**  
**ARCHITECTS**

A3.0



Addition to:  
**Boys and Girls Club of the Peninsula**  
401 Pierce Road, Menlo Park CA 94025

121501

CD SET  
MARCH 7, 2019

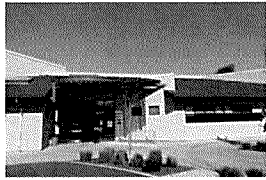
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Palo Alto, CA 94301  
650.327.1161

**PETERSON**  
**ARCHITECTS**

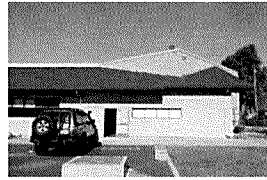
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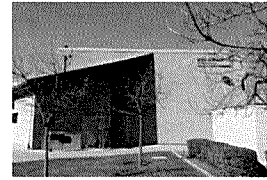
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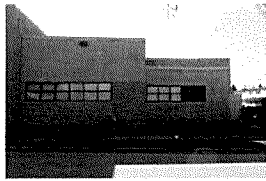
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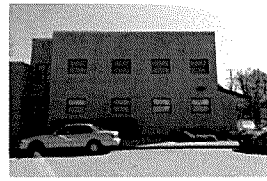
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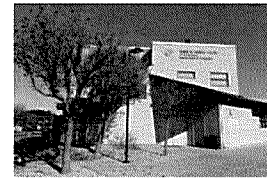
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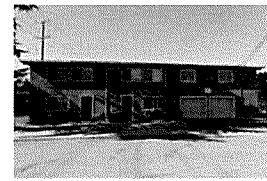
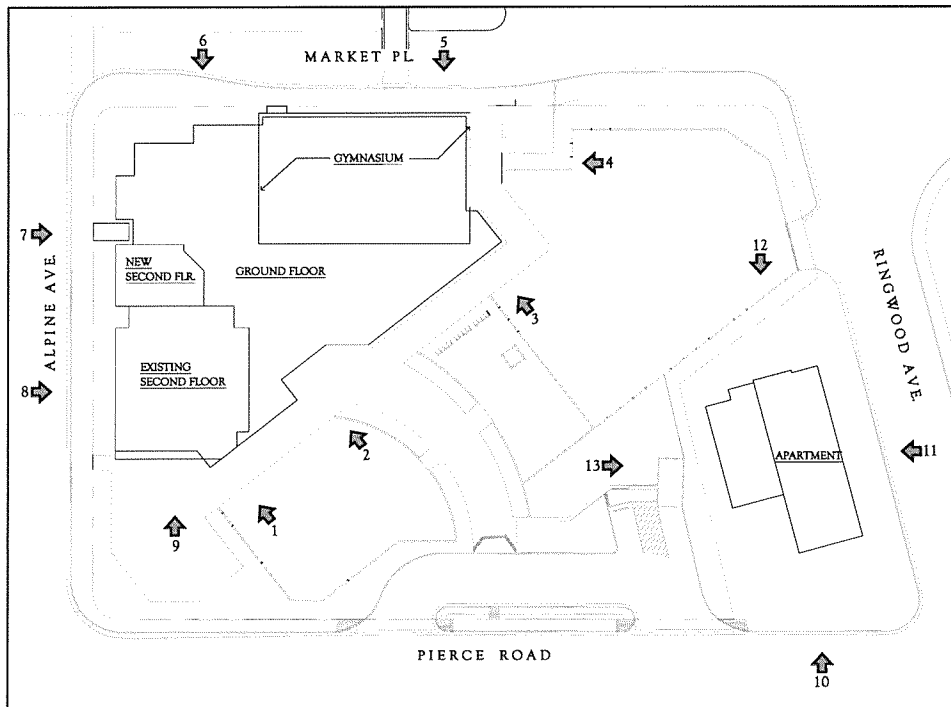
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REFERENCE SHEET



## Administrative Office Expansion Project

**Our Vision & Community Need:** Boys & Girls Clubs of the Peninsula's (BGCP) vision is for all youth of the Bay Area Peninsula to graduate from high school ready for college and/or career. Over the past seven years, in neighborhoods where *fewer than half the youth graduate from high school*, **82% of BGCP's school site members have graduated from high school with a plan**. BGCP is doubling high school graduation rates by implementing proven practices in strategic partnerships with schools, families, government, corporations, nonprofits and volunteers. While most youth development organizations focus on motivated youth and are selective about whom they serve, **BGCP serves all youth**. Principals specifically refer their most at-risk students to its programs. BGCP seeks to motivate all students to succeed academically.

**BGCP Core Programs:** BGCP offers a broad range of after-school and summer programs designed to drive positive outcomes for youth and reinforce necessary attitudes and life skills in five core program areas: Education & Career Development; Character & Leadership Development; Health & Life Skills; The Arts; and Sports, Fitness & Recreation. Our Menlo Park facility serves youth Monday through Friday from the time school ends until 8 pm; administrative staff begin arriving at 8 am. The staff typically park on Pierce Road and Alpine Street. Youth arrive at the facility either by walking or on a school district-provided bus.

BGCP's core program areas are:

- School support & college readiness: homework support, tutoring, academic enrichment, & college knowledge
- Job readiness and career exploration
- Leadership & community service: Torch Club & Keystone, teen staff, community service, & volunteering
- Health & life skills: sports & physical fitness, Smart Moves, healthy eating, & public speaking
- Visual and media arts: computer clubhouse & tech lab
- Parent education & engagement

**BGCP Growth:** BGCP has experienced tremendous growth over the last six years. We now run programs at 11 sites in East Palo Alto, eastern Menlo Park, and the North Fair Oaks section of Redwood City: three clubhouses, six elementary and middle school sites, and two high schools. At our Menlo Park location will generally have 110- 125 youth in the building at any given time. Over the last few years, BGCP has also deepened our focus on high quality programming - resulting in over 1,700 active members visiting the Club last year. Active members are those we define as attending 50 or more times a year.

	Org-wide 2006	Org-wide 2012	Menlo Park 2006	Menlo Park 2012
Sites	4	11		
Active Members	587	1,700	157	244
Average Daily Attendance	563	1,120	118	120
High School Graduates	9	60	1	10
Employees	65	180	28	38 (18 FT, 20 PT)
Volunteers (all PT)		557		94
Budget	\$4.3 million	\$6.8 million		

**Expansion Need:** Our considerable growth over the last six years has brought an all new challenge to the forefront: to better serve our youth, and to meet the demands of an ever growing staff, we must expand our operational administrative space. We currently have 180 staff organizationally, 46 of whom are full-time. Since the build out of the McNeil family Clubhouse, BGCP has added a two person Volunteer Services team, a Director of School Partnerships, an

Assistant Director of School Partnerships, a Human Resources Director, a Director of Program Strategy, a Director of Curriculum, a Data Analyst, an additional Development Director, and we are currently engaged in a search for a VP of Clubhouse and High School Programs.

**Solution:** BGCP has dedicated every possible dollar to programs, staff, and youth and we now find ourselves extremely tight on space, forcing us to face productivity issues. BGCP needs to invest in increased office space to allow for excellent programming by building out the roof top space attached to the 2<sup>nd</sup> floor office space constructed 13 years ago. This would provide four additional offices, which, along with our current office space, will be used for quiet tutoring space for our members after work hours. We do not expect an increase in the number of staff as a result of this build out.



# PLANNING COMMISSION STAFF REPORT

FOR THE PLANNING COMMISSION  
MEETING OF MARCH 18, 2013  
AGENDA ITEM D3

<b>LOCATION:</b>	<b>401 Pierce Road</b>	<b>APPLICANT:</b>	<b>James Harris for the Boys and Girls Club of the Peninsula</b>
<b>EXISTING USE:</b>	<b>Non-Profit Recreational Facility and Education Center</b>	<b>OWNER:</b>	<b>City of Menlo Park and San Francisco Public Utilities Commission (SFPUC)</b>
<b>PROPOSED USE:</b>	<b>Non-Profit Recreation Facility and Educational Center</b>	<b>APPLICATION:</b>	<b>Conditional Development Permit Amendment</b>
<b>ZONING</b>	<b>R-3-X (Residential Apartment, Conditional Development)</b>		

## PROPOSAL

The applicant is requesting an amendment to an existing conditional development permit (CDP) to increase the maximum permitted floor area ratio (FAR) at the site from 35 percent, to 45 percent, consistent with the maximum FAR of the R-3 (Residential Apartment) zoning district. The use of the site would remain an academic and private recreation facility. At this time, the applicant is proposing to construct an approximately 747 square foot addition on the second floor, for a current total proposed FAR of 36.2 percent. Any potential future additions would be subject to architectural control review by the Planning Commission, and would be limited to 45 percent FAR, established through the CDP amendment.

The property is currently regulated through a CDP, which places the property in the X (Conditional Development) district, which is a combining district that combines special regulations or conditions with one of the Zoning Ordinance's established zoning districts. According to the Zoning Ordinance, a CDP "may be issued to allow adjustment of the requirements of the district in order to secure special benefits possible through comprehensive planning of such large development. Further, such adjustment is intended to allow relief from the monotony of standard development; to permit the application of new and desirable development techniques; and to encourage more



usable open space than would otherwise be provided with standard development.” In order to apply for a CDP, the project site must be one acre in size.

The draft resolution approving the CDP amendment and the draft CDP itself are included in Attachments D and E, respectively. For proposals requesting a CDP amendment, the Planning Commission acts in a recommending capacity to the City Council, which is the final decision making body. Therefore, the City Council will review the CDP amendment, and the proposed second floor addition.

## **BACKGROUND**

The Boys and Girls Club of the Peninsula (“the Club”) is a non-profit organization that seeks to motivate all students to succeed academically. The organization focuses on education and career development, character and leadership development, health and life skills, the arts, and sports and recreation. The Menlo Park facility operates Monday through Friday from the end of the school day until 8:00 P.M. The organization has seen significant growth over the last six years, and the Menlo Park facility serves approximately 250 community members, with 110 to 125 on site at any given time. The proposed expansion is intended to allow for more productive use of space, and is not intended to increase the number of staff on-site. The applicant’s project description letter (Attachment C) provides more background about the organization and the proposed expansion.

The Club originally received use permit and architectural control approval to occupy the site in April 1960. The Club returned to the Planning Commission in November 1979 to request a use permit and architectural control revision in order to expand the facility. At that time, the entire property was zoned R-3, and the Planning Commission expressed concerns that the proposed improvements did not conform to the setback requirements of the R-3 zoning district. The Club requested and received a variance through the Board of Zoning Adjustment to encroach into the front and rear setbacks required in the R-3 zoning district. Subsequently, in order to bring the property into conformance with the Zoning Ordinance, a portion of the property occupied by the building was rezoned in January 1980 from R-3 (Apartment) to P-F (Public Facilities), bringing that portion of the site into compliance with the Zoning Ordinance development standards, as the P-F district does not contain any setback requirements. The remainder of the property maintained the R-3 zoning designation.

In June 1999, the Boys and Girls Club received City Council approval to comprehensively remodel and expand the existing facility, including the rezoning of the entire property from P-F (Public Facilities) and R-3 (Apartment) to R-3-X (Apartment, Conditional Development), a Zoning Ordinance Amendment to allow privately-operated recreational facilities in residential districts, and a CDP for the development of the privately-operated recreational facility. In addition, a Negative Declaration was prepared for the project. At this time, the applicant is requesting an amendment to the existing CDP to modify the maximum FAR for the site, and to construct a second story addition,

to add additional office and tutoring space. The number of employees is not anticipated to increase at this time.

## **ANALYSIS**

### Site Location

The site contains two parcels owned by the City of Menlo Park and one parcel owned by the San Francisco Public Utilities Commission (SFPUC). The combined site area is 48,391 square feet. The property fronts onto four streets, taking up an entire block except for a small portion in the southwest corner of the block that is occupied by a small, two-story apartment complex. The site is bounded by Market Place, Ringwood Avenue, Pierce Road, and Alpine Avenue. The shortest lot frontage onto these four streets is along Ringwood Avenue, making this property line the legal front of the property.

The project site is zoned R-3-X (Apartment, Conditional Development) and is currently occupied by a private recreation facility. Using Highway 101 in a north to south orientation, parcels to the east of the project site, across Market Place, are located within the R-1-U (Single Family Urban Residential) zoning district and contain single family residences. Parcels to the north of the project site are zoned R-3 (Apartment), R-2 (Low Density Apartment) and R-3-X (Apartment, Conditional Development), and are occupied by multi-family developments, single family residences, and vacant land. U.S. Highway 101 is located directly to the west of the subject site. Parcels across the freeway, located in the Flood Triangle neighborhood, are zoned R-1-U (Single Family Urban Residential) and are occupied by single-family residences. Parcels to the south of the subject site along Pierce Road are located in the R-3 zoning district and are occupied by multi-family developments. Parcels located away from Pierce Road, to the south of the site, are generally zoned R-1-U, and are occupied by single-family residences.

### Proposed Project

The applicant is seeking approval of a CDP amendment to allow for the construction of approximately 747 square feet of office and private tutoring space on the second floor of the existing building, adjacent to the existing second floor office space. The existing building has 16,740 square feet of gross floor area, which represents 34.6 percent FAR. The current CDP limits the FAR of the site to 35 percent. The proposed project would result in an increase of 747 square feet of gross floor area to the site, and therefore, would result in an FAR of 36.2 percent. The proposed project necessitates an amendment to the existing CDP to exceed 35 percent FAR. As part of the amendment, the applicant is requesting that the CDP be amended to allow the FAR of the site to be limited to 45 percent, which is consistent with the maximum FAR allowed in the R-3 zoning district. At this time the applicant is only proposing to construct 747 square feet of new gross floor area; however, the modified CDP would allow for the potential development of 4,288.95 additional square feet of gross floor area, for a total gross

floor area of 21,775.95 square feet of gross floor area (or 45 percent FAR). Any future potential additions would require public review through the Architectural Control process. However, this would allow for a more streamlined process, as Architectural control can be acted on by just the Planning Commission, while CDP amendments require both Planning Commission and City Council Review.

Except for the maximum allowed FAR, no development standards set forth in the CDP would be modified. The amended CDP is located in Attachment E. The proposed addition is located adjacent to the existing second floor and would be in line with the wall of the first floor along Alpine Avenue. The existing building contains stucco facades and aluminum windows. The proposed second floor expansion would contain stucco, painted to match the existing stucco, and would also contain aluminum storefront windows, which would match the existing windows at the site. The stucco would have subtle score lines to match the existing stucco treatment. Staff believes the design of the proposed addition would be complimentary to the existing building and the surrounding area.

### Site Layout

As mentioned previously, the existing site is bound by Alpine Avenue, Market Place, Ringwood Avenue, and Pierce Road, with the exception of the parcel at the corner of Ringwood Avenue and Pierce Road, the existing site takes up the entire block. The existing building at the site is located at the corner of Alpine Avenue and Market Place, and is two stories. The Hetch Hetchy right-of-way runs through the site, and contains concrete and grass play areas. A pick-up and drop-off zone is located along Pierce Road. The proposed expansion would be located along the Alpine Avenue façade of the building, to the northeast of the existing second floor. The proposed expansion would align with the façade along Alpine Avenue.

### Parking and Circulation

The applicant states that youth arrive at the facility either by walking or on a school district-provided bus. The existing facility has historically relied upon the on-street parking to satisfy its other parking needs. According to the applicant, staff has typically parked along Pierce Road or Alpine Avenue. The applicant does not anticipate an increase in staff as part of the proposed expansion, which is intended to allow for better space planning, not additional staff members. There is one accessible parking space, and one general parking space on-site, as well as a drop-off and pick-up zone along Pierce Road. While the Boys and Girls Club has seen an increase in staff organizationally, the number of employees at the Menlo Park facility has remained constant. The facility currently has 28 employees, 18 full time employees and 20 part time employees. Since this number is not intended to increase and the users of the facility do not typically drive to the site, staff does not anticipate any parking issues resulting from the proposed expansion.

## Correspondence

Staff has not received any correspondence on this item.

## Conclusion

The proposed project would allow for the expansion of the existing Boys and Girls Club facility, which would help enable the organization to better serve the community. The proposed expansion would be complementary to the existing building. The CDP amendment would allow for potential future expansions to be reviewed by the Planning Commission, which would allow the facility to make modifications in the future through a more streamlined process. The proposed development at this time is not intended to increase the number of employees at the site and therefore, should not result in any parking impacts to the neighborhood. The proposed expansion would allow the organization to continue to provide academic and recreational services to the immediate community.

## **ENVIRONMENTAL REVIEW**

The project is categorically exempt under Class 1 (Section 15301, "Existing Facilities") of the current California Environmental Quality Act (CEQA) Guidelines.

## **RECOMMENDATION**

Recommend to the City Council:

1. Adopt a finding that the project is categorically exempt under Class 1 (Section 15301, "Existing Facilities") of the current CEQA Guidelines.
2. Adopt a Resolution approving the Conditional Development Permit amendment for the addition of 747 square feet of gross floor area to an existing private recreation facility and to increase the maximum FAR to 45 percent, subject to the requirements of the Conditional Development Permit. (Attachment D)

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Kyle Perata  
Assistant Planner  
Report Author

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Thomas Rogers  
Senior Planner

## **PUBLIC NOTIFICATION**

Public notification consisted of publishing a legal notice in the local newspaper and notification by mail of owners and occupants within 300 feet of the property. The

Planning Commission action will be in the form of a recommendation to the City Council.

## **ATTACHMENTS**

- A. Location Map
- B. Project Plans
- C. Applicant Project Description
- D. Draft Resolution for CDP
- E. Draft Conditional Development Permit

**Note:** Attached are reduced versions of maps and diagrams submitted by the applicant. The accuracy of the information in these drawings is the responsibility of the applicant, and verification of the accuracy by City Staff is not always possible. The original full-scale maps, drawings and exhibits are available for public viewing at the Community Development Department.

## **EXHIBITS TO BE PROVIDED AT MEETING**

None

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**PLANNING COMMISSION APPROVED EXCERPT  
MINUTES**

**Regular Meeting  
March 18, 2013 at 7:00 p.m.  
City Council Chambers  
701 Laurel Street, Menlo Park, CA 94025**

**CALL TO ORDER** – 7:04 p.m.

**ROLL CALL** – Bressler, Eiref, Ferrick (Chair), Kadvany (Vice Chair), O'Malley, Onken, Riggs

**INTRODUCTION OF STAFF** – Momoko Ishijima, Planner; Kyle Perata, Assistant Planner; Thomas Rogers, Senior Planner

**D1. Conditional Development Permit Amendment/James K. Harris for the Boys and Girls Club of the Peninsula/401 Pierce Road and 400 Market Place:**

Request for an amendment to an existing conditional development permit (CDP) to increase the maximum permitted floor area ratio (FAR) at the site from 35 percent to 45 percent, consistent with the maximum FAR of the R-3 (Residential Apartment) zoning district. The use of the site would remain a private recreation facility. At this time, the applicant is proposing to construct an approximately 747 square foot addition on the second floor, for a current total proposed FAR of 36.2 percent. Any potential future additions would be subject to architectural control review by the Planning Commission. The property is zoned R-3-X (Residential Apartment, Conditional Development).

Staff Comment: Planner Perata said staff had no additional comments.

Public Comment: Mr. James Harris, Director of Operations, Boys and Girls Club of the Peninsula, said they were seeking to construct a second floor addition to accommodate administrative office space. He said they were not adding staff but relocating staff out of program space.

Commissioner Riggs asked for clarification on whether staff was increased noting report statements that there were no increases and another that eight positions were added, and whether those additional employees were for the Menlo Park site. Mr. Harris said they had increased the administrative team by nine prior to this application; he said the administrative staff serves all of the organizational facilities in the area. Commissioner Riggs confirmed with Mr. Harris that the administrative staff at the Menlo Park site provides support to all of the other seven sites on the peninsula.

Chair Ferrick closed the public hearing.

Commission Comment: Commissioner Onken noted that the project was supportable as it was simple in scale and would not negatively impact the neighborhood.

Commissioner O'Malley moved to recommend to the City Council approval of the Conditional Development Permit Amendment as recommended in the staff report. He said he was proud there was a Boys and Girls Club in the community, and praised their work. Chair Ferrick seconded the motion noting the organization's positive impact in the community.

Commissioner Riggs said there seemed to be 38 staff members and one to two parking spaces. He asked staff if this was working and whether there was enough daytime parking without causing conflicts. Planner Perata said that staff has not been made aware of any parking conflicts. He said the two onsite spaces were installed during the 1999 demolition and rebuild, and staff was not aware of any issues with parking.

Commissioner Bressler asked why the Conditional Development Permit had included a restriction on Floor Area Ratio (FAR) and if that percentage was above and beyond the zoning at the time it was approved. Planner Perata said the FAR was based on the development plans that were submitted in 1999 for the rebuild of the facility which was about 35% FAR. He said the applicant and staff were working together to allow for flexibility for future additions so they would not need to go back to the City Council. He said 45% FAR has been the R-3 standard for a number of years and was so in 1999. He said CDPs tend to reference development plans and the site plans were not to the maximum 45% FAR but to 35% FAR.

Commission Action: M/S O'Malley/Ferrick to recommend to the City Council:

1. Adopt a finding that the project is categorically exempt under Class 1 (Section 15301, "Existing Facilities") of the current CEQA Guidelines.
2. Adopt a Resolution approving the Conditional Development Permit amendment for the addition of 747 square feet of gross floor area to an existing private recreation facility and to increase the maximum FAR to 45 percent, subject to the requirements of the Conditional Development Permit. (Attachment D)

Motion carried 7-0:

Staff Liaison: Planner Rogers, Senior Planner

Recording Secretary: Brenda Bennett

The meeting adjourned at 8:43 p.m.

Approved by Planning Commission on April 8, 2013

Menlo Park Planning Commission  
Approved Excerpt Minutes  
401 Pierce Road / 400 Market Place  
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## COMMUNITY DEVELOPMENT DEPARTMENT

Council Meeting Date: April 16, 2013  
Staff Report #: 13-066

Agenda Item #: F-1

**REGULAR BUSINESS:**                    **Consideration of a Mixed-Use Development Proposal at 500 El Camino Real, Including Options for the Project Review Process**

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### RECOMMENDATION

Staff recommends that the City Council consider a proposal from Stanford University to redevelop the six properties currently addressed 300-550 El Camino Real, which is an 8.43-acre site that is part of the El Camino Real/Downtown Specific Plan area. The existing buildings (current and former auto dealerships) and site features would be replaced with a new mixed-use development consisting of offices, housing, and retail. In particular, the Council should consider options for the project review process.

### BACKGROUND

Between 2007 to 2012, the City conducted an extensive long-range planning project for the El Camino Real corridor and the Downtown area. The project commenced with a visioning process (Phase I: 2007-2008), which was structured to identify the core values and goals of the community and to define the structure of the second phase of planning. The culmination of the first phase of work was the City Council's unanimous acceptance of the Vision Plan in July 2008. The Vision Plan established 12 overarching goals for the project area and served as the foundation for the subsequent Specific Plan. The Specific Plan process (Phase II: 2009-2012) was informed by review of an Environmental Impact Report (EIR) and Fiscal Impact Analysis (FIA) and had as a key objective the establishment of a comprehensive, action-oriented set of rules, which would establish much greater clarity and specificity with regard to development.

Both the Vision Plan and Specific Plan processes benefited from extensive community involvement, with excellent attendance at workshops and related events, as well as regular public review by a diverse Oversight and Outreach Committee. Each phase of the project was guided by a consulting firm with technical expertise in the required tasks. Both consultants were chosen through public selection processes, which included opportunities for the public to review the proposals and attend the consultant interviews. The consultant selection process also included clear disclosures of the firms' relevant clients and projects.

Both the Planning Commission and City Council elected to greatly expand their respective reviews of the Draft Specific Plan in Summer-Fall 2011, in order to provide clear direction on improvements and refinements to the Plan. Among other topics, Floor Area Ratio (FAR) thresholds, land use regulations, and building height and massing requirements were publicly discussed in detail during this and other phases. The impact of such standards and guidelines on the subject parcel were a particular area of focus throughout the Specific Plan process, and were subject to advanced visualization techniques (photomontages, massing models, and artistic renderings) in order to clearly relay what buildings could look like. At the Draft Specific Plan stage, the City Council (acting on the Planning Commission's recommendation) specifically lowered the façade height limit by one full story and directed changes to the upper floor controls for the subject parcels' zoning district, in order to proactively address potential concerns with bulk and visual character. After those and other changes were made, the Specific Plan process culminated with the City Council's unanimous approval of the Plan and related actions in June 2012, following a unanimous recommendation for approval from the Planning Commission.

Full information on the Vision and Specific Plan projects (including staff reports, meeting video, environmental and fiscal review documents, analysis memos, and workshop presentations and summaries) is available on the City's web site at: <http://www.menlopark.org/specificplan>. The Specific Plan established requirements for ongoing review of the Plan itself by the Planning Commission and City Council. Specifically, an initial review is required one year after the Specific Plan's adoption, and ongoing review is required at subsequent two-year intervals.

The subject parcels (300-550 El Camino Real) were considered priority opportunity sites during both phases of the project. The subject applicant, Stanford University, participated throughout the entire planning process, in particular by serving as a City Council-designated representative on the Oversight and Outreach Committee. In public correspondence and through remarks at meetings, the applicant repeatedly supported the community planning process and stated an intent to pursue a comprehensive mixed-use redevelopment proposal in compliance with the adopted Plan. At various points, the applicant provided detail-type critiques of some draft regulations and Draft EIR elements, but did not submit correspondence or make in-meeting remarks that committed to a particular type of future development proposal. Neither the Planning Commission nor the City Council made findings that their Plan-related actions were based on any particular assumption of what the applicant ultimately might propose on this site.

The applicant submitted an initial project application in November 2012, and the City concurrently launched a project page to provide information to the public about the proposal. The applicant subsequently submitted a revised application package in January 2013, and the Planning Commission conducted a study session on January 28, 2013. No action took place at this meeting, but the study session provided an opportunity for the Planning Commission and the public to become more familiar with the proposal and to identify potential questions and concerns. Since this meeting, the

applicant has been reviewing this feedback and considering revisions to the proposal. City staff has also since elected to commence the City's initial independent traffic study, which is a key component of the project's environmental review (discussed in more detail in a following section). On April 2, 2013, the City Council requested that consideration of the project and its review process be added to the April 16 Council agenda. On April 10, 2013, the applicant submitted correspondence describing in-progress revisions to the plan (Attachment A).

## **ANALYSIS**

This section provides an overview of the proposal and analysis regarding options for the project review process. The project details are provided for context, in order to set the stage for the Council's discussion of the project review process, which is the primary focus of this meeting.

### **Proposal**

This description of the proposal utilizes the applicant's January 2013 comprehensive plan set (an excerpt of which is included for reference as Attachment B) and discussion from the Planning Commission study session staff report, with notations where elements are in the process of being changed. Project data (square footages, etc.) are listed as reported by the applicant, and are subject to change as staff conducts a detailed review and verification.

### ***Site Location***

The subject property is located along El Camino Real in the southeastern portion of the corridor. The project parcels are part of the Specific Plan's "ECR SE" zoning district and "El Camino Real Mixed Use" land use designation. The site currently consists of the following six parcels, which total 8.43 acres in size:

- 300 El Camino Real (APN: 071-440-060)
- 350 El Camino Real (APN: 071-440-050)
- 444 El Camino Real (APN: 071-440-030)
- 550 El Camino Real (APN: 071-440-040)
- *Unaddressed* (APN: 071-440-120)
- *Unaddressed* (APN: 071-440-130)

The overall project site adjoins El Camino Real at the front and the Caltrain rail corridor at the rear. The adjacent right-side parcel, 100 El Camino Real, is also owned by the applicant and in active use as a hotel (Stanford Park Hotel). The hotel property currently has an ingress-only access over the unaddressed (APN: 071-440-120) parcel at Cambridge Avenue, which is proposed to continue and be supplemented with new egress to this intersection, via the rear of the parcels. The adjacent left side property, 700-800 El Camino Real, is under separate ownership and occupied by a one-story retail building and a four-story office building. A portion of this separate parcel,

consisting of parking, extends behind part of the proposed 500 El Camino Real development.

Aside from 300 El Camino Real, which is currently occupied by an auto dealership, none of the project sites are in active use.

**Project Description**

The applicant is proposing to demolish the existing structures and site improvements, and construct a new mixed-use development consisting of office (including a portion that could be used for either medical/dental or business/professional office), multi-family residential, and retail. The “El Camino Real Mixed Use” land use designation establishes these uses as permitted uses (note: offices are subject to total square footage limitations, as is discussed in more detail below).

The proposal would adhere to the Specific Plan's "Base" level standards, which were established to achieve inherent public benefits, such as the redevelopment of underutilized properties, the creation of more vitality and activity, and the promotion of healthy living and sustainability. The precise FAR breakdown follows:

Intensity - FAR (Floor Area Ratio)				
			<i>Proposed</i>	<i>Maximum Permitted</i>
<b>Total</b>	<b>413,200-459,013</b>	<b>sf</b>	<b>1.125-1.25</b>	<b>1.25</b>
Office	199,500	sf	0.543	0.625
<i>Non-Medical</i>	174,500	sf	0.475	-
<i>Medical/Non-Medical Flex</i>	25,000	sf	0.068	0.417
Retail	10,000	sf	0.027	-
Housing (170 units)	203,700-249,513	sf	0.555-0.679	-
<i>Note: revised residential designs are still in progress, so the Housing and Total FARs are expressed as a range.</i>				

As relayed above, the Specific Plan establishes a maximum FAR, with most uses (e.g., retail or residential) able to utilize all of a parcel’s respective total floor area. However, business and professional office can be no more than one-half of the applicable FAR, and medical and dental office is additionally limited to no more than one-third of the applicable FAR (note: medical and dental office counts toward the business and professional office limit; these uses are not additive). These are the only uses limited by overall parcel square footage in the Specific Plan, which notes that these restrictions were built into the Plan in order to be similar to preexisting office FAR limits and to proactively address potential community concerns with these uses (while acknowledging that these uses have their places as part of a complete city).

Since the January 28 Planning Commission study session, the applicant has elected to lower the medical/non-medical office flex square footage from 96,150 square feet to 25,000 square feet, and also to reduce the total office square footage from 229,500 square feet to 199,500 square feet. These would be within the respective limits

established by the Specific Plan. In particular, the portion that could be used as medical office would have a 0.068 FAR, which represents only 16 percent of the 0.417 FAR that may be permitted.

At the north end, the development would consist of two five-story residential buildings straddling a Burgess Park Linkage/Open Space Plaza (discussed in more detail later). Both buildings would contain retail spaces, totaling 10,000 square feet, as required by the Specific Plan for this individual property (note: this requirement for a retail node was a change initiated by the City Council between the Draft and Final Specific Plan). Most of the required parking would be located underground, although a portion (serving the retail uses) would be at grade. The office uses would occupy the middle and south portions of the site. Similar to the residential buildings, most of the office parking would be located underground, although a portion would be provided at grade level, toward the rear and sides of the buildings.

The Specific Plan does not mandate certain architectural styles, although the Architectural Control findings do permit consideration of compatibility with a proposal's neighborhood character. At the January 28 study session, some members of the public and the Planning Commission expressed concern regarding the proposed architectural style, in particular of the office buildings. Since this meeting, the applicant has been comprehensively reviewing the design of these structures, and expects to propose significant revisions to address the comments and to better relate to other structures in the surrounding area.

### ***Height***

All buildings would comply with the maximum height limits as established in the Specific Plan, specifically the 38-foot façade height and 60-foot overall height limits. Roof-mounted equipment and other projections may exceed the overall height limit, subject to screening and design integration requirements. As noted previously, building height was a key discussion topic during the Draft Specific Plan, and the City Council reduced the initial recommendation for the façade height, in order to limit the perception of building size. The subject proposal is consistent with these limits.

### ***Setbacks and Projections***

The Specific Plan establishes minimum and maximum setbacks, in order to help establish the character of a street and neighborhood. For the 500 El Camino Real proposal, the front setback is set at a minimum of 10 feet and a maximum of 20 feet, with the exact requirement linked to what is necessary in a particular location to provide an expanded sidewalk (discussed in more detail in a following section). The interior side setback is set at a minimum of 10 feet and a maximum of 25 feet, and is intended in part to help avoid large expanses of parking/driveways along the street façade. The Specific Plan provides allowances for intrusions of architectural elements (such as balconies, bay windows, and dormer windows) into the setback, in order to increase overall variety and articulation.

### ***Massing and Modulation***

The Specific Plan establishes detailed standards and guidelines with regard to building massing and modulation, in order to reduce the monolithic character of a building, ensure that all new buildings complement the existing scale and character of the area, ensure appropriate transitions to adjacent neighborhoods, and provide variety and visual interest. In particular, for the subject parcel:

- Floors above the façade height limit are required to step back at a 45-degree building profile and to have a maximum length of 175 feet along a public right-of-way or public open space;
- Minor façade modulation is required at a minimum of every 50 feet;
- Major façade modulation is required at a minimum of every 100 feet;
- Building breaks are required at intervals aligning with the streets on the opposite side of El Camino Real, including a 120-foot publicly accessible break at Middle Avenue; and
- The total of all building breaks shall not exceed 25 percent of the primary façade plane in a development.

The Specific Plan provides full details on these and related requirements. For example, certain architectural features, such as balconies or bay windows, may extend into the 45-degree building profile, provided they are integrated into the design of the building. As noted previously, the size of upper floors was discussed in some detail during the Draft Specific Plan review process, and the City Council required revisions to the standards that had been initially proposed, in order to limit the potential for overly large or imposing structures.

Staff has worked with the applicant to preliminarily verify compliance with relevant massing and modulation standards, although additional details and review will be needed as the project review progresses. In terms of overall building mass, the subject proposal generally appears consistent with the detailed graphics that are part of the Specific Plan and which were derived from similar advanced visualization tools presented as part of the Draft Specific Plan (released in April 2010) and Community Workshops (which took place between April-September 2009).

### ***Open Space and Landscaping***

The proposal is required to provide open space of at least 30 percent of the building site. Residential uses also have unique requirements on a per-unit basis for private and/or common open spaces (including balconies and podium areas), which can count toward the overall 30 percent requirement. The applicant reported in January 2013 that the development would provide 33 percent open space, although this is subject to detailed verification.

The proposal is also required to implement the Specific Plan's requirements for significantly expanded sidewalks along El Camino Real. The Specific Plan requires a

minimum 15-foot wide sidewalk, made up of a minimum 10-foot wide clear walking zone and a minimum five-foot wide furnishings/planting zone. Given the limited right-of-way on El Camino Real, a portion of the sidewalk will be provided on the subject property itself, which will require a Public Access Easement (PAE) or equivalent instrument.

This project is also required to provide a 120-foot-wide, publicly accessible frontage break at Middle Avenue. This "Burgess Park Linkage/Open Space Plaza" would lead to a future grade-separated pedestrian/bicycle crossing of the Caltrain tracks. As is specified in the Specific Plan, the grade crossing itself (which would need to cross the separately-owned 700-800 El Camino Real property) is not the responsibility of this applicant, but the provision of a 120-foot-wide, publicly-accessible amenity that will ultimately lead to the crossing is a unique requirement of this applicant (while other properties in the Plan area will be required to expand sidewalks, no other parcel is obligated to provide a publicly-accessible area of this scale). As specified by the Specific Plan, the Burgess Park Linkage/Open Space Plaza is intended to create a welcoming, publicly-accessible open space that provides seating and shade and allows for small, informal gatherings, while also providing vehicular access to the 500 El Camino Real proposal. The 120-foot width was established in order to allow the break to serve this wide variety of purposes, including vehicle access. The design of the Burgess Park Linkage/Open Space Plaza has been a particular focus of the applicant since the January 28, 2013 study session, in order address comments from the public and Planning Commissioners regarding the desire for this to be a substantial public amenity.

The project will also include Heritage Tree removal permits, although these have not yet been submitted. The preliminary tree inventory submitted by the applicant states that 21 heritage trees with poor structure and/or health are proposed for removal. Conceptual landscape plans show proposed new plantings. In addition, 11 non-heritage trees are proposed for removal, five of which are street trees that would conflict with new/expanded driveways. The majority of the existing street trees are proposed to remain and be supplemented with new plantings.

### ***Sustainability***

The proposal is subject to the Specific Plan's sustainability standards and guidelines, in particular a requirement to achieve LEED certification at a Silver level or higher (to be verified either directly through the U.S. Green Building Council, or through an independent auditor program if established by the City).

**Parking and Circulation**

The Specific Plan establishes minimum parking space requirements by use. The following table summarizes the rates that are applicable to the proposal:

<b>Multi-Family Dwelling</b> (per unit)	
- Station Area Sphere of Influence ( <i>applicable to the portion of the property north of Middle Avenue</i> )	1.0
- Other ( <i>applicable to all other portions of the property</i> )	1.85
<b>General Office</b> (per 1,000 sf gfa)	3.8
<b>Medical Office</b> (per 1,000 sf gfa)	4.5
<b>Retail</b> (per 1,000 sf gfa)	4.0
<i>“gfa” = gross floor area</i>	

The Specific Plan also provides an allowance for applicants to incorporate a shared parking study, which can result in reduced rates for certain developments. However, the applicant is not currently proposing any shared parking study. In addition, none of the parking is currently proposed to be provided in landscape reserve. The proposal is also required to implement new short- and long-term bicycle parking requirements, as described in Specific Plan Section F.5.

The proposal would feature auto access at the existing signalized intersection of El Camino Real and Cambridge Avenue. At the signalized intersection of El Camino Real and Middle Avenue, the applicant is exploring the addition of a southbound left-turn lane (from El Camino Real, into the project site). Such a change would require Caltrans review and approval. The proposal would include right-in/right-out auto access approximately opposite Partridge Avenue and College Avenue, as well as a right-out driveway in the area between College and Middle Avenues. The applicant is also exploring whether a new unsignalized left-turn pocket from southbound El Camino Real into the project site at Partridge Avenue is feasible, although this analysis is at a preliminary stage (note: such a turn pocket would not allow left turns from northbound El Camino Real onto Partridge Avenue).

**Below Market Rate (BMR) Housing Agreement**

The City has Below Market Rate (BMR) Housing regulations that apply to commercial and ownership residential (e.g., condominium or single-family subdivision) projects. The BMR Ordinance and Guidelines establish three options for compliance, in the following priority:

- 1) Provide on-site BMR units
- 2) Provide off-site BMR units
- 3) In-lieu fees



The Housing Commission reviews and provides a recommendation on all BMR Agreements, with the final action subject to the Planning Commission or the City Council, in conjunction with the overall project actions.

Like many municipalities in California, the City initially adopted BMR regulations that also applied to rental residential (e.g., apartment) projects. However, such inclusionary requirements for rental residential projects were rendered unenforceable in the state as a result of litigation (Palmer/Sixth Street Properties, L.P. v. City of Los Angeles (2009)).

The 500 El Camino Real proposal contains commercial uses (office and retail) and market-rate rental residential units. As such, the BMR requirements apply to the net new commercial square footage. The preliminary staff calculation of the commercial uses' BMR obligations results in an estimated requirement for 9.3 BMR units. When BMR requirements result in a fractional requirement, the BMR Guidelines establish a preference for providing a whole unit, so this preliminary estimate may be considered as representing a requirement for 10 units (note: the preliminary BMR calculation is subject to review and verification).

The applicant has not submitted a draft BMR Agreement, although they have relayed an intent to comply with the BMR requirements for the commercial uses by providing on-site BMR rental units as part of the overall residential use. As listed above, provision of on-site units is the preferred option for compliance. In addition, staff has relayed to the applicant that there may be an interest in a BMR Agreement that restricts the on-site units to lower income categories than the minimum requirements of the BMR Guidelines, in order to provide new units at needed levels.

### ***Relationship with Housing Element***

The City is currently in the process of updating the Housing Element of the General Plan. The Housing Element provides goals, policies, and implementation programs for the planning and development of housing throughout the City. The City has released a Final Draft Housing Element, the most recent version of which is dated April 4, 2012. Although the Final Draft Housing Element is subject to change, it states the following:

#### **Implement the Recently Adopted El Camino Real/Downtown Specific Plan.**

The recently adopted El Camino Real/Downtown Specific Plan contains opportunities for 680 units to be built. Based on current zoning, densities of over 30 units per acre are permitted on the majority of the sites. While the sites could theoretically accommodate a maximum of 699 units at those densities, the EIR prepared for the plan examined 680 units as the maximum number. Appendix A, Table 2 lists the Assessor Parcel Numbers of opportunity sites. There is also the opportunity for a significant number of affordable units to be built. The Affordable Housing Overlay Zone (Housing Element Program H4.C) would be applicable to the entire Specific Plan area and would be a tool to achieve the public benefit densities for affordable housing.

Although not included as part of this report, the referenced Appendix A, Table 2 reviewed the portion of the project site currently addressed 550 El Camino Real, and projected that 65 units would be allowed on this portion (1.63 acres) of the overall site.

The current proposal for the overall 500 El Camino Real site (8.43 acres) is for 170 dwelling units. As noted in the previous section, the precise mix of affordable and market-rate units has not been fully determined, nor has the exact income category for the affordable units been selected. Depending on when the 500 El Camino Real proposal is deemed a complete application and/or receives its final actions, the specifics of the proposal will be incorporated into the current or future Housing Element cycles. At this point, Planning staff working on the Housing Element Update have reviewed the 500 El Camino Real proposal and deemed it consistent with the assumptions made in the Draft Housing Element with regard to residential development in the overall Specific Plan area. At this point, staff does not believe approval of the proposal would result in any unanticipated negative Housing Element consequences (e.g., a need to rezone any additional sites beyond those already identified in the Final Draft Housing Element for proposed rezonings).

### ***Specific Plan Maximum Allowable Development***

Per Section G.3, the Specific Plan establishes the maximum allowable net new development as follows:

- Residential uses: 680 units; and
- Non-residential uses, including retail, office and hotel: 474,000 square feet.

These totals are intended to reflect likely development over the Specific Plan's intended 20- to 30-year timeframe. As noted in the plan, development in excess of these thresholds will require amending the Specific Plan and conducting additional environmental review.

The 500 El Camino Real proposal is currently projected to create 170 new dwelling units, on a site that currently has no residential uses. Although the square footage of the one currently occupied commercial use at 300 El Camino Real has not been fully verified, the 500 El Camino Real proposal is currently estimated to result in approximately 181,568 square feet of net new non-residential uses. As such, the 500 El Camino Real proposal would represent 25 percent of the residential uses and 38 percent of the non-residential uses for the overall Specific Plan (note: per Section G.3, the non-residential development is not segmented by use). The current estimates represent changes from the January 2013 estimates that the proposal would represent between 20 and 23 percent of the residential uses and 45 percent of the non-residential uses. If the project is approved, these amounts would be deducted from the Maximum Allowable Development in the Plan area.

The potential for large projects to account for a significant percentage of the Maximum Allowable Development thresholds was discussed by the City Council prior to adoption

of the Specific Plan. As noted at the time by staff, because the thresholds are based on net new development, it should not be surprising if a project on a large and primarily vacant site would represent a large proportion of the Maximum Allowable Development. Conversely, more modest projects that propose redevelopment of sites with currently-active uses will typically result in smaller net new development totals. As different types and scales of projects are reviewed, the expectation is that the overall Plan area redevelopment will average out in accordance with the projections. In addition, while there is always some uncertainty with projections, the assumptions made when the Specific Plan environmental review was commenced were based upon the best information available at the time about sites that were likely to be redeveloped under the Specific Plan.

## **Project Review Process**

### ***Current Process***

As established by the Specific Plan, the subject proposal requires Architectural Control review and action by the Planning Commission. Because Architectural Control is a discretionary action, the proposal must also be evaluated under the California Environmental Quality Act (CEQA). Some or all of the project may have been adequately considered by the program-level Environmental Impact Report (EIR) that was completed as part of the Specific Plan, although this is subject to detailed review (as described in more detail in the Environmental Review section of this report). The proposal also requires approval of Heritage Tree Removal Permits and a Below Market Rate (BMR) Housing Agreement. The Specific Plan and Zoning Ordinance establish the Planning Commission as the acting body for Architectural Control actions, with appeal rights to the City Council. Architectural Control requires the following five findings:

- (1) That the general appearance of the structures is in keeping with character of the neighborhood;
- (2) That the development will not be detrimental to the harmonious and orderly growth of the city;
- (3) That the development will not impair the desirability of investment or occupation in the neighborhood;
- (4) That the development provides adequate parking as required in all applicable city ordinances and has made adequate provisions for access to such parking.
- (5) That the development is consistent with any applicable Specific Plan.

The first four findings have been part of the Zoning Ordinance for several decades, and the Planning Commission has numerous precedents for the scope of such actions. The fifth finding was added in conjunction with the El Camino Real/Downtown Specific Plan process, and provides the opportunity for full consideration of the extensive standards, guidelines, and other regulations contained within the Specific Plan.

As noted previously, the Planning Commission held an initial study session on the proposal on January 28, 2013. Since this meeting, the applicant has been working on

revisions to the proposal, in particular regarding the proportion of medical office, the architectural style of the overall office buildings, and the design of the Burgess Park Linkage/Open Space Plaza. Concurrently, staff has instigated the City's independent traffic study, to inform the project's environmental review. Prior to the City Council's request for the April 16 meeting, the intent was to return to the Planning Commission for another study session to review the comprehensive project revisions and the initial results of the independent traffic study. Depending on the results of that session, the Planning Commission could request another study session on specific aspects of the proposal, or the project could potentially return for a meeting at which formal actions may be considered. As discussed above, Planning Commission actions on the proposal may be appealed to the City Council.

Concurrent with the review of the 500 El Camino Real development proposal, the City Council has provided direction regarding the 5-Year Capital Improvement Plan (CIP). Specifically, the Council has directed that the following projects commence in the upcoming 2013-2014 fiscal year:

- El Camino Real/Ravenswood NB Right Turn Lane
- El Camino Real Lane Reconfiguration Alternatives Study

Full details on these projects are included as part of the March 26, 2013 City Council staff report on the CIP. Among other objectives, initiation of these projects at the current time is intended to proactively address cumulative growth that the City expects to occur in the coming decades. The City may have additional opportunities to comprehensively address growth challenges and opportunities, independent of individual development project review.

Staff believes the current process is functioning as intended by the Specific Plan, with the revisions being pursued by the applicant as evidence that key issues are being identified from public input and Planning Commission direction, and are being subsequently addressed. Although details on the environmental review (in particular, regarding traffic) have not been provided to date, they are being worked on and are required to be addressed in full prior to any potential project actions. As noted throughout this report, the proposal is required to meet an extensive set of regulations and guidelines contained in the Specific Plan, which were established through a transparent and community-oriented process that looked at opportunities and challenges on a comprehensive basis for El Camino Real and Downtown. The review process for this individual development proposal is generally proceeding carefully and deliberately, and is being informed by applicable analysis.

### ***Current Process with Enhancements***

The City Council could direct that the current project review process be retained, but with enhancements to address specific areas of interest. For example, the City Council could formally establish a Council subcommittee for the project, similar to what has been done for the Specific Plan itself and other initiatives like the High-Speed Rail

project. If a subcommittee were formed, the Council should be clear about its objectives and relationship to the Planning Commission. Other potential supplements to the current process can be discussed at the April 16 meeting.

### ***Modest Modifications to the Specific Plan***

The Specific Plan was adopted by resolution of the City Council, following review/recommendation by the Planning Commission. Specific Plan amendments can be conducted following the same general procedure. General Plan and/or Zoning Ordinance amendments could be required at the same time, although the Specific Plan was generally designed to be a comprehensive set of regulations and guidelines. Any changes to the Specific Plan are required to be evaluated with regard to the California Environmental Quality Act (CEQA). City Council Resolutions require a majority action of the Council Members present and eligible to vote.

It is difficult for staff to provide specificity on review process requirements and timelines without a fuller understanding of what Specific Plan changes might be desired. However, staff generally believes that modest modifications to the Specific Plan could be conducted relatively efficiently. Specifically, modest changes would be those that are primarily text-based and which do not revise fundamental principles of the Plan. For example, a use that is currently designated as permitted could be changed to conditionally permitted, which would require Use Permit review and approval for any such uses. These types of changes would require some level of CEQA consideration, but if findings can be made that the actions are within the scope of the project covered by the El Camino Real/Downtown Specific Plan Program EIR, there should not be extensive CEQA noticing or circulation requirements.

Staff believes that modest modifications could occur within an approximately three- to four-month timeframe. This process would include:

- Refinement of the Council's direction (wording, etc.)
- Draft revisions of the Specific Plan document
- Planning Commission meeting (with public notice)
- City Council meeting (with public notice)
- Final revisions of the Specific Plan document, including web posting and printing

During this time, the subject proposal would remain under consideration, with the existing Specific Plan in effect. The City Council could implement a moratorium (discussed more below) to preclude any action on the proposal while the Plan changes were under review, although staff does not generally believe this would be necessary. The size and complexity of the proposal still require detailed analysis for technical requirements, which, in combination with the Planning Division's current workload, would effectively limit the ability of the City to act on the proposal before modest Plan revisions could be acted upon.

### ***Major Modifications to the Specific Plan (Including Moratorium)***

Potential Specific Plan changes that would affect graphics and/or revisit core principles of the Plan would require a more extensive process. Examples of such major changes could include modifying height, FAR, or massing/modulation regulations, or removing the subject parcels from the Specific Plan entirely and applying some sort of replacement Zoning District.

Again, it is difficult for staff to project how long such a process would take in the absence of guidance about what changes might ultimately be directed. However, most major Plan revision scenarios would likely require specialized services for graphics and potentially additional environmental review. Such a process could also include an iterative, public process that allows for more careful and comprehensive consideration of options, which would appear appropriate given that the Specific Plan itself was developed through a community-oriented, transparent process. In general, staff believes that major modifications to the Specific Plan could take between six and 12 months to complete, at a minimum.

As noted previously, until any potential Specific Plan changes are completed, the current Specific Plan would remain in effect, and review of the 500 El Camino Real proposal would proceed. The estimated timeframe for major Plan modifications could allow the subject proposal to be reviewed and acted upon prior to the Plan changes being made. As a result, the Council could consider enacting a moratorium to preclude any action on the subject application. An interim moratorium ordinance must be passed by a four-fifths vote by the City Council in order to be adopted. If the City Council adopts a temporary moratorium, it would remain in effect for 45 days. The City Council must issue a report “describing the measures taken to alleviate the condition which led to the adoption” of the temporary moratorium 10 days prior to its expiration, pursuant to Government Code §65858(d). If the City Council needs more than 45 days to consider imposing limitations on the subject parcels, it may (by a four-fifths vote) extend the temporary moratorium up to an additional 22 months and 15 days, following notice and a public hearing.

With regard to the possibility of removing the subject parcels from the Specific Plan, staff believes this scenario would likely be more complex than other major Plan modification options. The subject parcels have been a key focus of the entire Vision Plan and Specific Plan processes, and the concept of their redevelopment is embedded within all sections of the Specific Plan and the Program EIR. A complete removal of these parcels from the Plan would require significant technical revisions, and could even result in new environmental impacts depending on the attributes of the replacement zoning. For example, the C-4 (ECR) zoning that was preempted by the Specific Plan did not require any front setback, in contrast to the ECR SE zoning that requires a 10- to 20-foot setback in order to provide a significantly expanded sidewalk. Similarly, without the Specific Plan, the requirements for the Burgess Park Linkage/Open Space Plaza and LEED Silver certification would no longer apply, which could result in new and unanticipated impacts.

## **IMPACT ON CITY RESOURCES**

### **Project Review**

The applicant is required to pay planning permit fees, based on the City's Master Fee Schedule, to fully cover the cost of staff time spent on the review of the project. The applicant is also required to bear the cost of any associated environmental review, such as a detailed traffic analysis. For the environmental review, the applicant deposits money with the City, and the City pays the consultants and independently manages the consultant's work.

### **Impact Fees**

If approved, the project would be required to pay applicable standard fees, some of which are briefly summarized below. In general, such fees are based on net new development (e.g., the square footage and/or dwelling unit count of active existing uses may be deducted), although this may vary by fee. Such fees are also generally considered to account for the impacts of development (as opposed to representing extra benefits).

- **Transportation Impact Fee (TIF)**  
The TIF is intended to defray the cost of certain transportation improvements required to serve development within the city of Menlo Park. Many (although not all) of the EIR transportation mitigations were already part of the TIF program, which means that payment of the TIF is considered as representing an individual development's proportional responsibility for mitigating those particular impacts. Developers may receive a TIF credit in consideration for certain facilities or improvements constructed or paid for by the developer.
- **El Camino Real/Downtown Specific Plan Preparation Fee**  
The Specific Plan Preparation Fee was adopted in conjunction with the approval of the Plan and, as allowed by State law, the cost of preparation, adoption, and administration of the Specific Plan (including the preparation of the EIR).
- **Building Construction Street Impact Fee**  
The Building Construction Street Impact Fee is intended to recover the cost of repairing damage to streets caused by construction-related vehicle traffic.

In addition to City fees, school impact fees will need to be paid to the Menlo Park City School District and the Sequoia Union High School District. Greater specificity on projected fees will be provided as the project review proceeds.

## **Property Tax Exemptions for Colleges and Welfare**

The California Revenue and Taxation Code provides for the following property tax exemptions (among others):

- Section 203 (“College” exemption): Property, whether owned or leased, and used exclusively for educational purposes by a nonprofit educational institution of collegiate grade;
- Section 214 (“Welfare” exemption): Property used exclusively for religious, charitable, scientific, or hospital purposes and owned and operated by religious, hospital, scientific, or charitable funds, foundations, limited liability companies, or corporations or educational institutions of collegiate grade.

The exemptions are not automatic; a claim for the exemption must be filed with the Assessor's Office. These exemptions only apply to property taxes, not special assessments for local improvements.

The applicant has indicated that the 500 El Camino Real proposal is intended at this time to be a revenue-producing property, not an educational or hospital/non-profit facility for the benefit of Stanford University. Staff believes that the proposal's location (non-contiguous to the main Stanford campus and on a high-visibility corridor) and design (with regard to amenities and aesthetics) are consistent with the Stanford-owned 2825-2895 Sand Hill Road office-hotel complex, which is an investment project for the University that generates full property tax revenues for the City.

The use of the subject property could possibly change in the future, although the City does not possess a mechanism (either under the Specific Plan or the earlier Zoning Ordinance regulations) to preempt the College and Welfare property tax exemptions that have been established by the State in recognition of these land uses' attributes, nor is it immediately clear whether such a mechanism would be permitted under State law. In addition, the Council should note that the College exemption is not contingent on the educational institution owning the property in question, so any action on this particular development site would not preclude Stanford (or another institution, such as Menlo College) from leasing other office space in the City, using it for educational purposes, and subsequently applying for the College exemption.

## **Modifications to the Specific Plan**

Staff believes the work required for minor modifications to the Specific Plan could likely be absorbed within the Community Development Department budget, although it would affect somewhat the Planning Division's ability to address other projects and plans while the Plan revisions are proceeding. The work required for major modifications to the Specific Plan could require consideration of a budget adjustment for technical consultant services, as well as more formal direction from the Council on how the revisions relate to other obligations of the Planning Division.



## **POLICY ISSUES**

The El Camino Real/Downtown Specific Plan provides the regulations and guidelines for the development of the 500 El Camino Real property. If the current review process remains in place, the Planning Commission (and City Council, if the Commission action is appealed) would review the applicable standards and guidelines established by the Specific Plan, and determine whether the required Architectural Control findings can be made for the subject proposal.

If the City Council directs that an alternate review process should be pursued, a variety of policy implications would be required to be addressed, depending on the extent of the changes desired.

## **ENVIRONMENTAL REVIEW**

The Specific Plan process included detailed review of projected environmental impacts through a program Environmental Impact Report (EIR), as required by the California Environmental Quality Act (CEQA). In compliance with CEQA requirements, the Draft EIR was released in April 2011, with a public comment period that closed in June 2011. The Final EIR, incorporating responses to Draft EIR comments, as well as text changes to parts of the Draft EIR itself, was released in April 2012, and certified along with the final Plan approvals in June 2012.

The Specific Plan EIR identifies no impacts or less-than-significant impacts in the following categories: Aesthetic Resources; Geology and Soils; Hydrology and Water Quality; Land Use Planning and Policies; Population and Housing; and Public Services and Utilities. The EIR identifies potentially significant environmental effects that, with mitigation, would be less than significant in the following categories: Biological Resources; Cultural Resources; Hazards and Hazardous Materials. The EIR identifies potentially significant environmental effects that will remain significant and unavoidable in the following categories: Air Quality; Greenhouse Gases and Climate Change; Noise; and Transportation, Circulation and Parking. The Final EIR actions included adoption of a Statement of Overriding Considerations, which is a specific finding that the project includes substantial benefits that outweighs its significant, adverse environmental impact.

As specified in the Specific Plan EIR and the CEQA Guidelines, program EIRs provide the initial framework for review of discrete projects. In particular, projects of the scale of the 500 El Camino Real proposal are required to be analyzed with regard to whether they would have impacts not examined in the program EIR. At this point, staff anticipates this will take the form of an expanded checklist that analyzes the project in relation to each environmental category in appropriate detail. In particular, traffic and transportation impacts are known to be a key area of interest, and will likely require detailed analysis and discussion. Depending on the results of such analysis, the City could determine that the program EIR adequately considered the project, or the City could determine that additional environmental review is required. This type of detailed

project-specific CEQA review will be available in advance of consideration of final project actions.

In addition, all projects must incorporate feasible mitigation measures included in the Specific Plan EIR's Mitigation Monitoring Program. Examples of such mitigations include:

- Payment of fees for transportation improvements (some of which are included in the City's TIF program and some of which would require additional fees for the Specific Plan area);
- Incorporation of Transportation Demand Management (TDM) programs;
- Surveys and avoidance programs for special-status animal species; and
- Training programs and protection measures for archaeological resources.

As noted earlier, potential changes to the Specific Plan would require consideration under CEQA, although it is difficult to describe that process without understanding the nature and extent of the changes.

## **PUBLIC NOTICE**

Public Notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting. In addition, the City sent an email update to subscribers to the project page for the proposal, which is available at the following address: [http://www.menlopark.org/projects/comdev\\_300-550ecr.htm](http://www.menlopark.org/projects/comdev_300-550ecr.htm)

## **ATTACHMENTS**

- A. Correspondence: Stanford University, received April 10, 2013
- B. Project Plans (excerpt), received January 18, 2013

Report prepared by:

Thomas Rogers  
Senior Planner

Arlinda Heineck  
Community Development Director

STANFORD  
UNIVERSITY

April 10, 2013

Mayor Peter I. Ohtaki  
Council Member Kirsten Keith  
Council Member Catherine Carlton  
Council Member Richard Cline  
701 Laurel Street, Menlo Park, CA 94025  
[city.council@menlopark.org](mailto:city.council@menlopark.org)

Dear Mayor Ohtaki and Council Members:

We are pleased to communicate to you our updated vision for the redevelopment of the vacant and underutilized auto lots on El Camino Real, and we look forward to discussing this redevelopment with the Council at its meeting on April 16. This is an exciting opportunity to create a transformational development that Menlo Park will be proud of for decades to come. The project will advance every guiding principle Menlo Park and its citizens identified for the El Camino Real/Downtown Plan.

The 500 El Camino Real development will greatly enhance both open space and connectivity by providing a wide tree-lined promenade along the site's entire El Camino Real frontage, linkage to the east side of the Caltrain tracks, and an important community gathering space at the new Middle Avenue plaza.

The project will generate vibrancy by bringing large numbers of residents, workers, and plaza visitors to the site. Our project includes a balanced mix of uses, with high-quality residential living (including affordable housing), world class office space, and local-serving retail and medical offices, all of which are in high demand in Menlo Park.

Our project brings new housing to downtown Menlo Park. Over half of our project's square footage is housing. This type of rental product, with its modern floor plans, finishes, amenities, and proximity to transit, simply does not now exist in downtown Menlo Park. We are confident this housing will attract a diverse demographic ranging from young professionals to seniors.

The office component of our project supports Menlo Park's position as the center of the venture capital industry. These modern, sustainable offices will contribute to Menlo Park's continued prominence as a premier office location and a center for innovation. The retail space at the new Middle Plaza will activate the plaza and provide dining and retail opportunities close to housing

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LEGAL26318012.1

and jobs. The potential for a modest amount of medical office allows for important medical services that serve the local community's health care needs.

The project will sustain Menlo Park's village character, not only by adhering to the Specific Plan standards adopted for that purpose, but also by incorporating suggestions from the community to create an integrated, village-like appearance.

The project will promote healthy living and sustainability through its public space and connectivity features, a progressive TDM program, its proximity to Caltrain and Downtown, and its adherence to the Specific Plan's LEED provisions.

At the January 28 planning commission, and in meetings with community members over the past few months, we heard a number of suggestions for our project. I would like to highlight a few of the changes we are proposing to our project as a result of this community input.

1. First, we have reduced our overall office square footage from 229,500 square feet to 199,500 square feet, of which up to 25,000 square feet would be available as medical office. The reduction in potential medical office from 96,000 square feet to 25,000 square feet significantly reduces the number of daily trips expected to be generated by the project. On a total basis, our revised project is estimated to have over 35% fewer daily car trips as compared to our previous proposal.
2. We have increased the number of residential units to 170. This is an increase in residential units of 36% from our original submission. We recognize that providing high-quality housing near transit is an important goal of the community.
3. We have redesigned our proposal for the publicly accessible plaza at Middle Avenue by reducing the number of driveway lanes from three to two, thereby increasing the amount of non-vehicular plaza area. Our revised plan provides a pedestrian and bicycle route from El Camino Real to the planned future bike tunnel that will be free of conflicts with cars, yet will provide a desirable, convenient and safe access for residents and retail customers.
4. Finally, we have changed the design of the office buildings, with a look that we feel responds more appropriately to the style and feel of Menlo Park and coordinates more closely with the project's residential and retail buildings.

We hope you recognize these changes to our project confirm that the process you put into place is an effective way to bring much needed redevelopment to underutilized portions of downtown Menlo Park. We look forward to discussing our project with you on April 16.

Sincerely,



Steve Elliott

Managing Director, Development  
Land, Buildings, & Real Estate

Cc: Alex McIntyre, Thomas Rogers, Arlinda Heineck, City of Menlo Park



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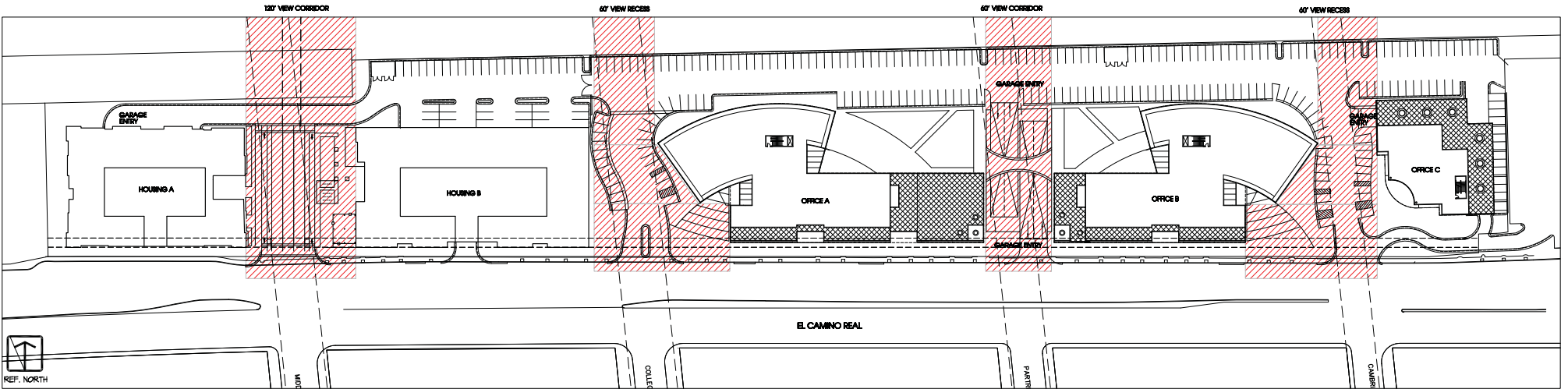
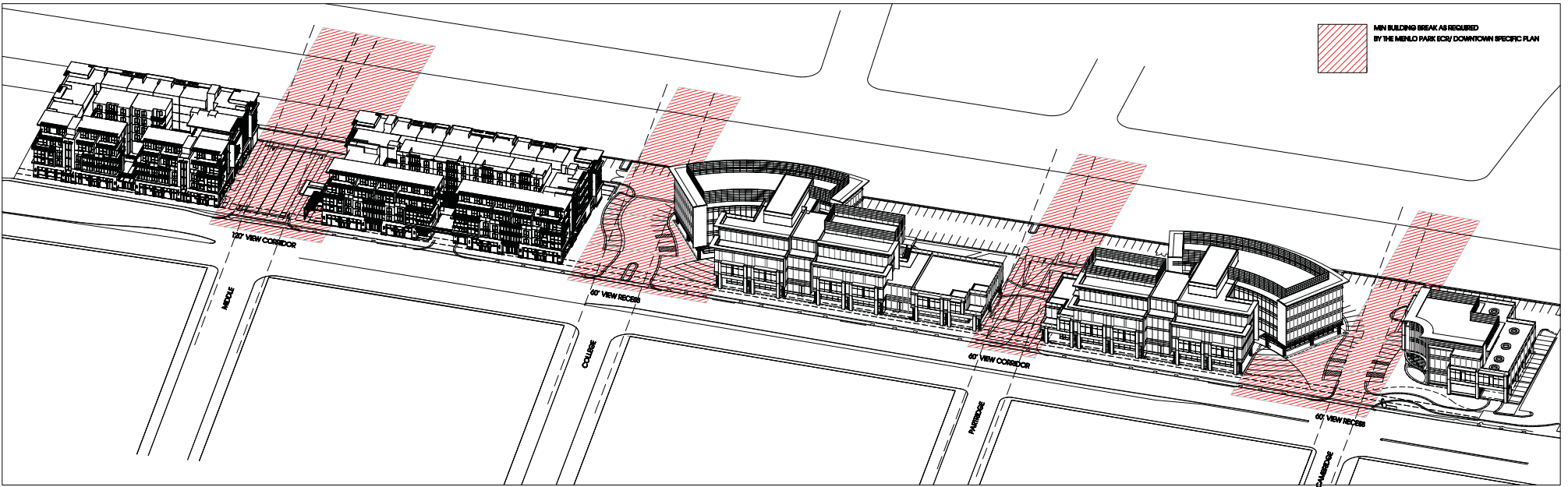
STANFORD UNIVERSITY

JANUARY 18, 2013

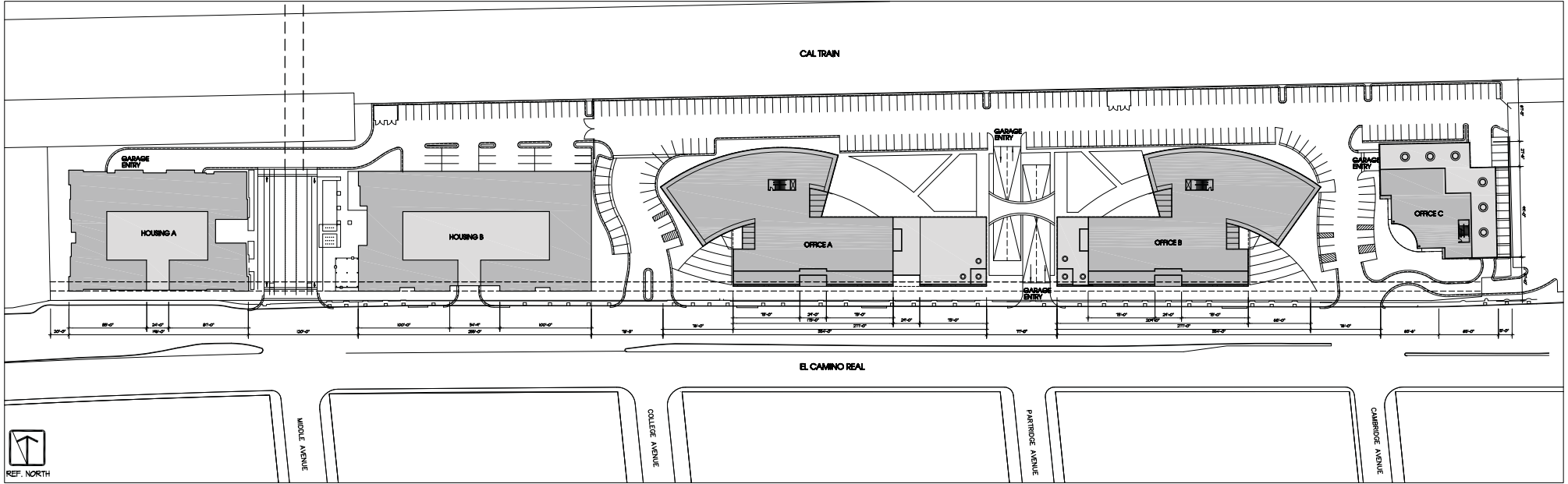
SITE AERIAL (PROPOSED)

A0.0





OVERALLSITE PLAN VIEW CORRIDORS  
SCALE: 1" = 50'-0"



1  
A0.2 OVERALL SITE PLAN  
SCALE: 1" = 50'-0"

OVERALL SITE:		OFFICE:	
OVERALL SITE:	8.43 ACRE (367,210 SF)	263,731 SF (5.83 AC)	
ALLOWABLE AREA:		HOUSING:	113,479 SF (2.60 AC)
TOTAL:	456,262 SF (FAR 1.25)	PROPOSED AREA:	
OFFICE:	229,506 SF (FAR 0.625)	OFFICE:	229,500 SF
		RETAIL:	10,000 SF
		HOUSING:	203,700 SF
		TOTAL:	443,200 SF
PARKING:	REQ'D	PROPOSED PKG:	
OFFICE: (3.8/1,000)	507	AT GRADE:	362
MEDICAL: (4.5/1,000)	432	GARAGE:	872
RETAIL: (4.0/1,000)	40	TOTAL:	1,224
HOUSING: (VARIOUS)	242		
	1,221		
OPEN SPACE: (30%)	REQ'D	PROPOSED OPENSACE:	
OFFICE:	76,119 SF	OFFICE:	80,962 SF
HOUSING:	34,034 SF	HOUSING:	41,040 SF
	110,162 SF	TOTAL:	122,002 SF (33%)

HOUSING SITE:		PARKING		
HOUSING A/B	203,700 SF	AT GRADE	GARAGE	TOTAL
HOUSING A	95,210 SF	53	188	241
HOUSING B	108,490 SF			
TOTAL	203,700 SF			
RETAIL	10,000 SF	AT GRADE	GARAGE	TOTAL
		40	-	40 (4.0/1,000)
TOTAL	213,700 SF	93	188	281

OFFICE SITE:		PARKING (PROPOSED)			
OFFICES		AT GRADE	GARAGE	TOTAL	BIKE
OFFICE A	108,360 SF	110	302	412 (3.8/1,000)	17
OFFICE B (MEDICAL)	96,150 SF	118	318	436 (4.5/1,000)	15
OFFICE C	25,000 SF	31	64	95 (3.8/1,000)	4
TOTAL	229,500 SF	259	684	943	36

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JANUARY 18, 2013

PROJECT DATA A0.2





PROPOSED



EXISTING

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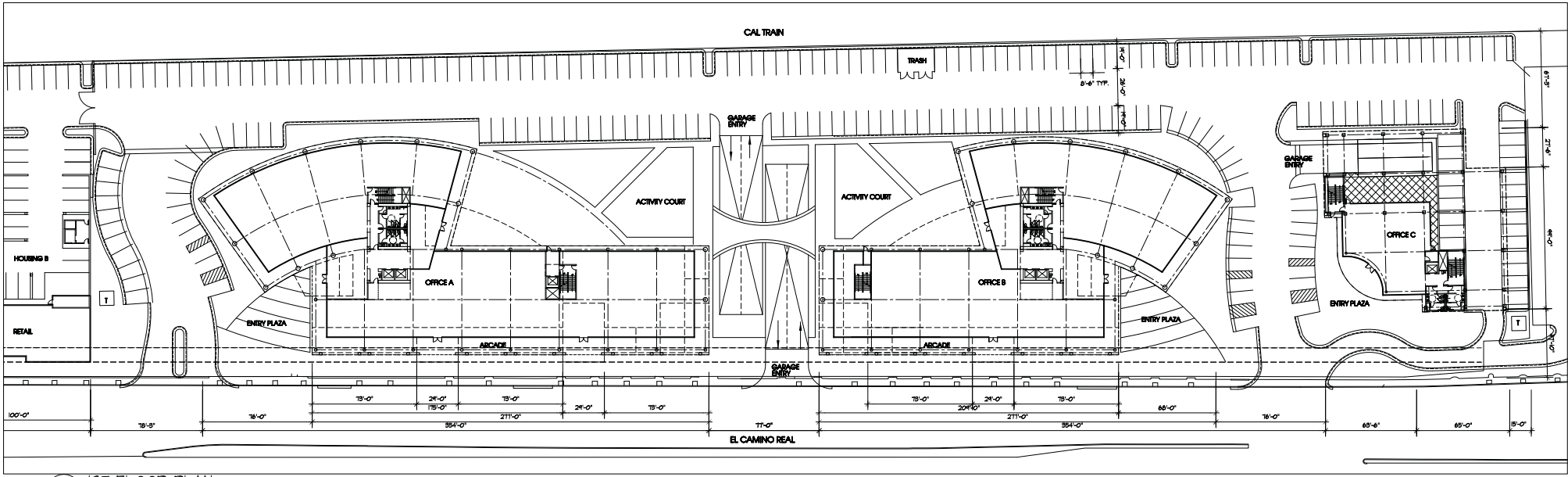
VIEW FROM EL CAMINO REAL TOWARD OFFICE C

JANUARY 18, 2013

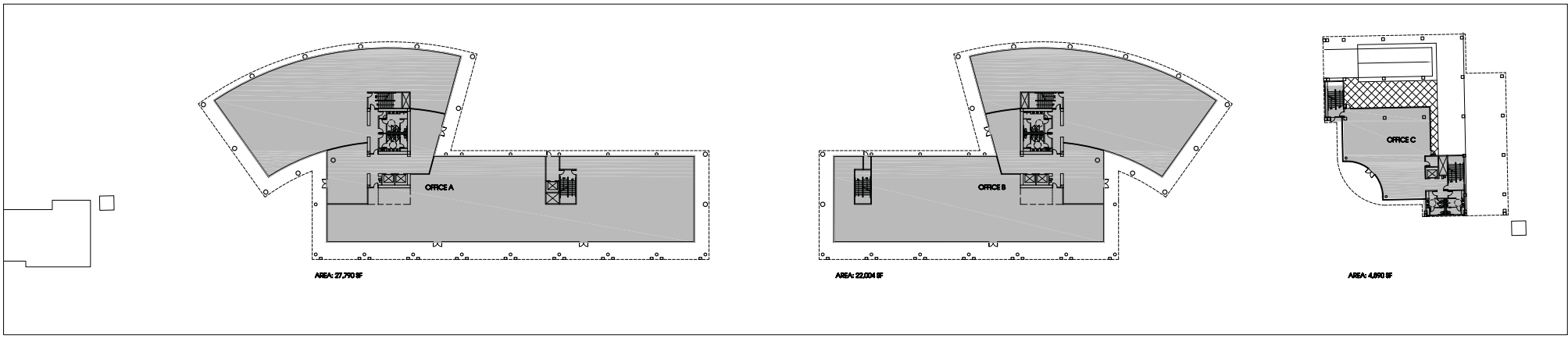
RENDERINGS A1-3







1 1ST FLOOR PLAN  
A2.1  
SCALE: 1/8" = 1'-0"





SOUTH ELEVATION (EL CAMINO REAL)



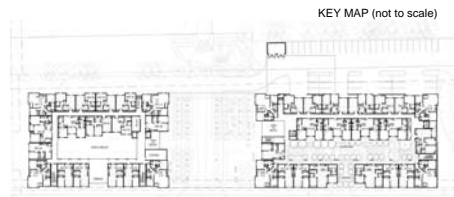
NORTH ELEVATION (CAL TRAIN)



EAST ELEVATION



WEST ELEVATION



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1: AERIAL PERSPECTIVE

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B0-1





BUILDING A

1: PUBLIC PLAZA

BUILDING B

EL CAMINO REAL



BUILDING A

PUBLIC PLAZA

BUILDING B

EL CAMINO REAL

KEY MAP (not to scale)

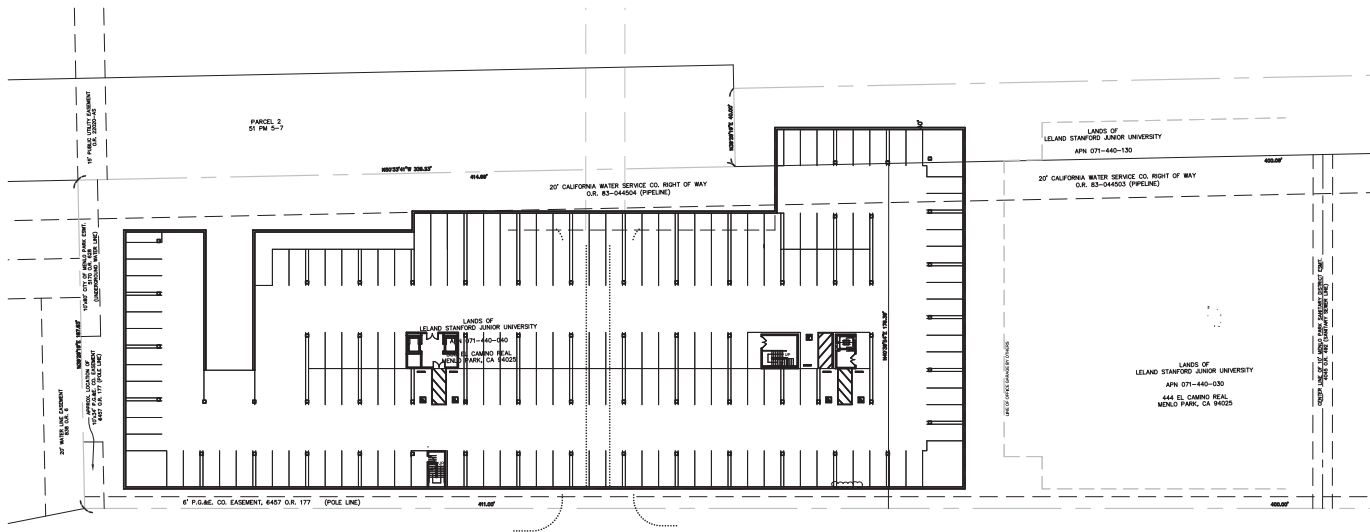


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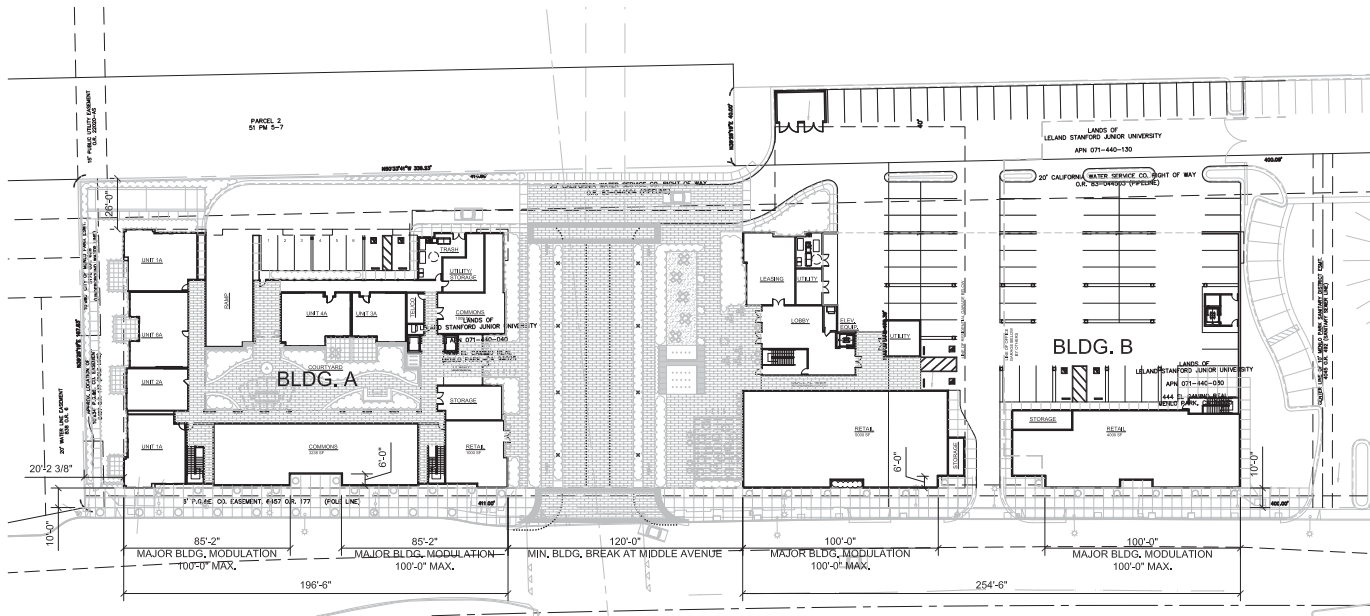
2: STREETSCAPE

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SITE PLAN - GARAGE LEVEL



SITE PLAN - GROUND LEVEL

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PROJECT DATA

**SITE COVERAGE ANALYSIS**

OVERALL SITE:	364,210 SF (8.43 ACRES)
ALLOWABLE AREA (MULTI-FAMILY):	455,262.5 SF (1.25 FAR)
BLDG. A:	87,000 - 96,000 SF
BLDG. B:	105,000 - 116,000 SF
TOTAL:	192,000 - 212,000 SF

**UNIT ANALYSIS**

**BUILDING A**

UNIT	SF	TOTAL
1 BDRM, UNITS	650 - 750 SF	20 - 22 UNITS
1 BDRM. + DEN UNITS	700 - 800 SF	15 - 17 UNITS
2 BDRM. UNITS	950 - 1,100 SF	25 - 29 UNITS
3 BDRM. UNITS	1,500 SF	4 UNITS
TOTAL		64 - 72 UNITS

**BUILDING B**

UNIT	SF	TOTAL
1 BDRM, UNITS	650 - 750 SF	18 - 20 UNITS
1 BDRM. + DEN UNITS	700 - 800 SF	10 - 12 UNITS
2 BDRM. UNITS	950 - 1,100 SF	40 - 44 UNITS
3 BDRM. UNITS	1,500 SF	4 UNITS
TOTAL		72 - 80 UNITS

COMMON AREA	4,680 SF
RETAIL AREA	1,000 SF

**OPEN SPACE ANALYSIS**

30% REQ. OPEN SPACE ACCORDING TO EL CAMINO REAL SPECIFIC PLAN.

OVERALL RESIDENTIAL SITE  
TOTAL REQUIRED PUBLIC OPEN SPACE\* [34,043 SF]

100 SF REQ. PER UNIT FOR COMMON SPACE  
80 SF REQ. PER UNIT FOR PRIVATE SPACE

**BLDG. A REQ OPEN SPACE**  
UNITS (64 - 72)x100 = 6,400 SF - 7,200 SF COMMON SPACE  
(64 - 72)x 80 = 5,120 SF - 5,760 SF PRIVATE SPACE

**BLDG. B REQ OPEN SPACE**  
UNITS (72 - 80)x100 = 7,200 SF - 8,000 SF COMMON SPACE  
(72 - 80)x 80 = 5,760 SF - 6,400 SF PRIVATE SPACE

**BLDG. A - OPEN SPACE PROVIDED**

UNIT BALCONIES	5,366 - 6,166 SF
TERRACES	1,551 SF
COURTYARD	3,799 SF
ENTRY PLAZA	1,047 SF
TOTAL	11,763 - 12,563 SF

**BLDG. B - OPEN SPACE PROVIDED**

UNIT BALCONIES	15,848 - 16,648 SF
TERRACES	1,402 SF
COURTYARD	5,789 SF
ENTRY PLAZA	4,636 SF
TOTAL	27,677 - 28,477 SF

**TOTAL OPEN SPACE PROVIDED**

BLDG. A 11,763 - 12,563 SF  
BLDG. B 27,677 - 28,477 SF  
TOTAL 39,440 - 41,040 SF > REQ. 30%

\*PER EL CAMINO REAL SPECIFIC PLAN ECR-SE SECTION E.3.A: RESIDENTIAL OPEN SPACE, WHETHER IN COMMON OR PRIVATE AREA, SHALL COUNT TOWARDS THE MINIMUM OPEN SPACE REQUIREMENTS FOR THE DEVELOPMENT.

**PARKING ANALYSIS**

PARKING REQUIREMENTS:  
BUILDING A - 1+1  
BUILDING B - 1+1.85  
RETAIL - 1000SF/4.0

**BUILDING A - PARKING REQUIRED**

UNITS	64 - 72 x 1	64 - 72 STALLS
RETAIL	1,000 SF x (1000SF)	4 STALLS
TOTAL		68 - 76 STALLS

**BUILDING B - PARKING REQUIRED**

UNITS	72 - 80 x 1.85	134 - 148 STALLS
RETAIL	9,000 SF x (1000SF)	36 STALLS
LEASING	1,000 SF x (1000SF)	4 STALLS
TOTAL		174 - 188 STALLS

TOTAL REQUIRED [242 - 264 STALLS]

**PARKING PROVIDED**

BUILDING A SURFACE 8 STALLS  
GARAGE 188 STALLS

**BUILDING B 85 STALLS**

TOTAL PROVIDED [242 - 264 STALLS]

**ACCESSIBLE PARKING REQUIREMENTS**

2% FOR ALL RESIDENTIAL UNITS  
REQUIRED PARKING STALLS  
BLDG. A 68 - 76 STALLS  
BLDG. B 174 - 188 STALLS  
TOTAL 242 - 264 STALLS

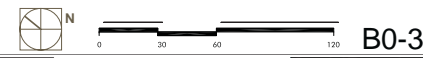
242 - 264 x .02 = 5 - 6 ACCESSIBLE STALLS REQUIRED FOR UNITS

TOTAL ACCESSIBLE STALLS PROVIDED = 5

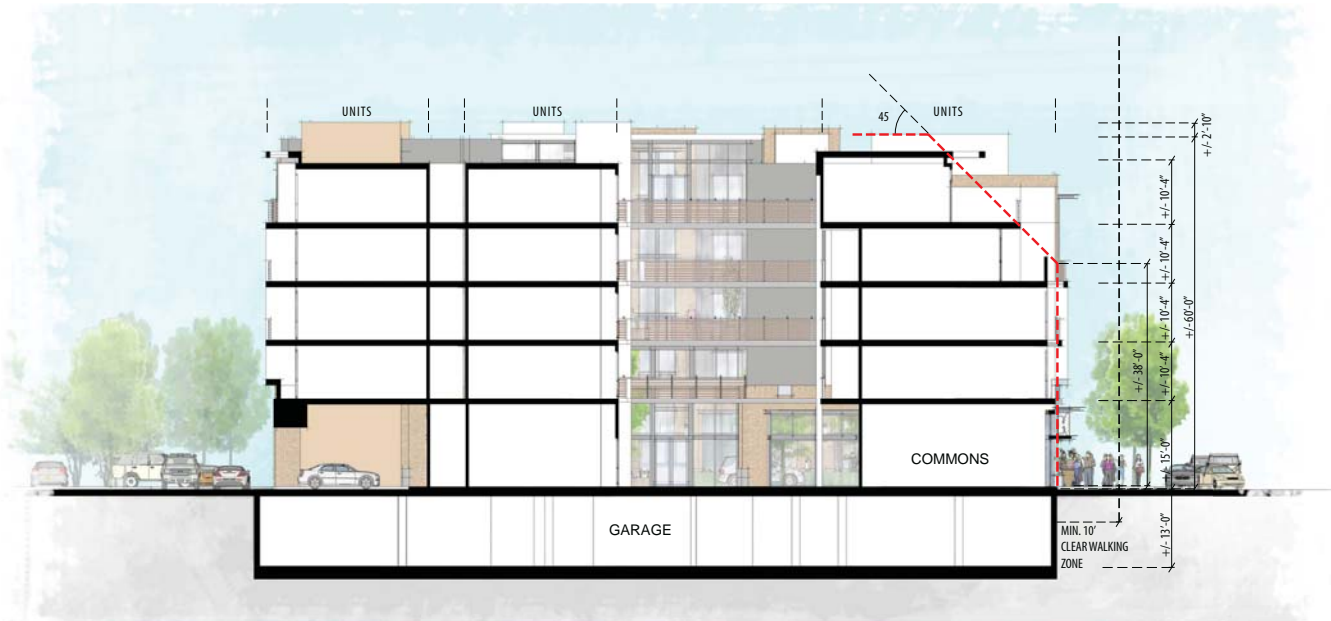
REQUIRED PARKING STALLS FOR RETAIL  
BLDG. A 4 STALLS  
BLDG. B 36 STALLS  
TOTAL 40 STALLS

TOTAL ACCESSIBLE PARKING STALLS REQUIRED BY SECTION 11B-6 OF CBC = 2 STALLS REQ.

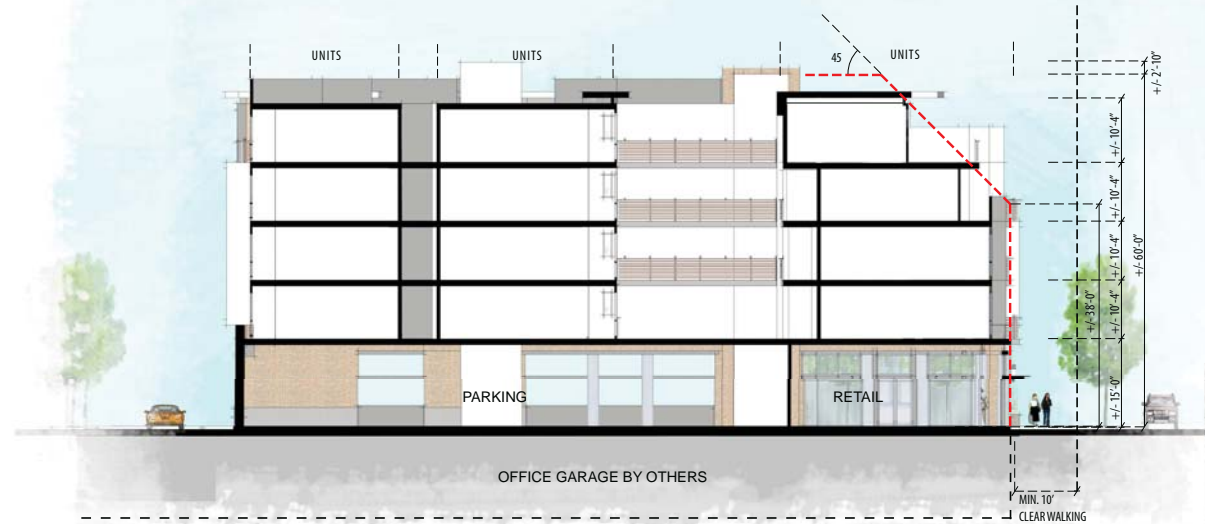
TOTAL PROVIDED = 6 STALLS



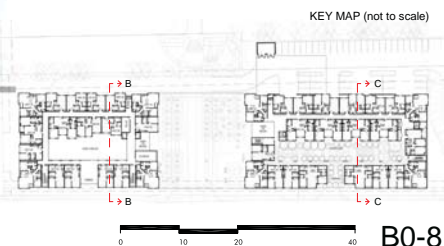
Logos for project partners: DAHLIN GROU, THE GUZZARDO PARTNERSHIP INC., LAIDERBAUGH ASSOCIATES, SANDIS CIVIL ENGINEERS SURVEYORS PLANNERS, and ArchiRenter architect.



SECTION BB: BUILDING A



SECTION CC: BUILDING B



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B0-8

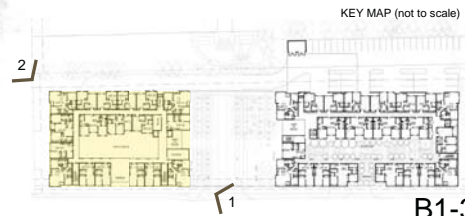


1: PERSPECTIVE - PLAZA SIDE



2: PERSPECTIVE

BUILDING A - STREETSCAPE



KEY MAP (not to scale)

B1-3



KEY MAP (not to scale)



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1: BUILDING A - TERRACE

B1-4







1: PERSPECTIVE - PLAZA SIDE



2: PERSPECTIVE - OFFICE SIDE



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BUILDING A - STREETSCAPE

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1: PERSPECTIVE

KEY MAP (not to scale)

1

B3-1





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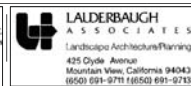
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1: AERIAL PERSPECTIVE - BUILDING B ENTRY

KEY MAP (not to scale)



B3-4





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STANFORD UNIVERSITY | L-2.2 RETAIL PLAZA ENLARGEMENT



Scale: 1" = 10'

0 5 10 20





## PUBLIC WORKS DEPARTMENT

Council Meeting Date: April 16, 2013  
Staff Report #: 13-065

Agenda Item #: F-2

### REGULAR BUSINESS:

Adopt a Resolution taking the following actions:  
1. Appropriating an additional \$715,000 to the Santa Cruz Avenue Irrigation Replacement Project from the General Fund CIP Fund Balance; 2. Authorizing the City Manager to award a contract to the lowest responsible bidder for the Santa Cruz Avenue Irrigation Replacement Project authorizing a total budget of \$1,060,000 for construction, contingencies, material testing, and construction administration; and 3. Awarding Contracts up to \$250,000 for the purchase and installation of the downtown benches and solid waste and recycling bins

---

### RECOMMENDATION

Adopt a resolution taking the following actions:

1. Appropriating an additional \$715,000 to the Santa Cruz Avenue Irrigation Replacement Project from the General Fund CIP Fund Balance;
2. Authorizing the City Manager to award a contract to the lowest responsible bidder for the Santa Cruz Avenue Irrigation Replacement Project authorizing a total budget of \$1,060,000 for construction, contingencies, material testing, and construction administration; and
3. Awarding contracts up to \$250,000 for the purchase and installation of the downtown benches and solid waste and recycling bins.

### BACKGROUND

The existing plantings and irrigation system were installed on Santa Cruz Avenue between University Drive and El Camino Real as part of improvements made in the 1970's. The aging irrigation system has breaks in part, due to tree roots, resulting in staff hand watering a portion of the landscaping.

There are two downtown improvement projects in the Capital Improvement Program. The Downtown Landscaping Improvement Project to provide a pilot landscaping plan for downtown (\$25,000) and the Downtown Irrigation Project to replace the existing irrigation system (\$320,000).

For the Downtown Irrigation Project, staff hired Callander Associates, a landscape architecture firm, to design the irrigation system and the landscaping (Attachment A). The proposed irrigation system consists of two irrigation lines that will run down either side of Santa Cruz Avenue and provide laterals to each landscaping island along the sidewalk. The existing irrigation system in the median island will remain. The plans for the irrigation system require boring under the existing brick paver sidewalks and existing concrete improvements.

Staff has been working with the Chamber of Commerce and downtown businesses on a general landscaping plan for downtown. The original planting pallet included input from Sunset Magazine. Callander Associates developed the planting plan based upon the original planting pallet. Staff presented the plans to the businesses and they supported the landscaping plans and the irrigation system replacement project. Due to the new irrigation installation which would require tearing up the existing landscaping, staff has expanded the planting to include all the sidewalk islands on Santa Cruz Avenue. The plants will be similar throughout the downtown area, but with different varieties of color. The construction plans and plant pallet are in the City Council office for review.

In August 2012, five contractors requested plans and specifications for the project. The bid opening for the Santa Cruz Avenue Irrigation Replacement Project was on September 11, 2012, and only one bid was received from Suarez and Muñoz Construction Inc., in the amount of \$723,000.

Staff contacted Suarez and Muñoz Construction, Inc. and they stated that their price was higher than normal due to the type of work and the location in the downtown area and the City's requirement that the work be performed at night. Staff also contacted the other landscaping contractors and one stated they did not bid due to the requirement that the work be performed at night, the other two prospective bidders stated they were too busy to take on additional jobs.

On October 9, 2012, the City Council rejected the bid received by Suarez & Muñoz Construction, Inc. After rejecting the bid, staff contacted contractors and requested input on ways to reduce the budget. The contractors stated that the cost would be higher than a regular landscape irrigation project due to the following factors: work location in the busy downtown area, the boring of irrigation laterals into the landscaped islands and hand work will be needed to install the irrigation line in the concrete island areas.

Staff met with Callander Associates to discuss options on how to revise the plans in order to reduce the price. The revised plans allow the contractor to work during the day with restrictions of work to one block at a time and only one side of the street. The

Chamber of Commerce contacted all businesses via email seeking their input into changing the construction work schedule from night to day. No comments were received on the proposed changes. Staff decided to move forward with a second bid opening in April 2013 with the changes in the schedule from night to day and reducing the depth of the irrigation system.

## **ANALYSIS**

### Santa Cruz Avenue Irrigation Replacement Project Bids

On April 9, 2013, bids were submitted and opened for the Santa Cruz Avenue Irrigation Replacement Project. There were a total of four bids submitted. The lowest bid was \$336,723 from Del Conte's Landscaping and the three remaining bids were in the \$650,000 range. Attachment C provides the bid summary. Staff has not had sufficient time to check references for the lowest bidder and is therefore requesting the City Council to authorize the City Manager to award the contract to the lowest responsible bidder based upon staff's review of references. Staff is requesting authorization to award the contract up to the third lowest bidder to be able to begin the work as soon as possible. The next City Council meeting after the April 16<sup>th</sup> meeting is in two weeks which would further delay the construction and potentially move the construction close to the Connoisseurs Market event in July. Staff anticipates that the project would be completed prior to the Connoisseurs Market event. The construction will not be completed when the block party occurs in June, but the site will be cleaned up for the block party.

### Benches and Solid Waste Receptacles

One of the City Council adopted goals for 2013 is to beautify the downtown area. The Downtown Irrigation project includes landscaping all the sidewalk islands on Santa Cruz Avenue from El Camino Real to University Drive. Staff proposed new street furniture for benches and solid waste and recycling bins to downtown business as part of the beautification process. Attachment A provides photos of the recommended benches and solid waste bins.

As part of the beautification in the downtown area, new benches and solid waste and recycling bins were installed at Fremont Park last year. Due to the cost, staff informed the businesses that the implementation of the benches and solid waste and recycling bins would be phased in over the next 10 years. To complete the purchasing and installation of benches and solid waste and recycling bins, the cost is approximately \$234,000. A budget will need to be appropriated to purchase the street furniture and award a contract for installation. Staff is requesting authorization from the City Council to allow the City Manager to award contracts up to \$250,000 for the purchase and installation of the benches and solid waste and recycling bins, so the purchase and installation can be done in the next five months.

Additional Annual Flowers

Staff has estimated a cost for planting annuals four to five times a year as part of Downtown Beautification. The annuals would be located at the end of the five (5) median islands on Santa Cruz Avenue and in approximately twenty of the existing planters along Santa Cruz Avenue and in front of the Fremont Park sign. Staff has estimated the annual cost to be \$20,000, which includes materials and labor to maintain these areas. Staff is waiting until next summer before recommending this part of downtown beautification in order to gather input from the businesses on the new irrigation system, allow time for plant establishment and let the plants be in full bloom which would occur in the summer.

**IMPACT ON CITY RESOURCES**

**Proposed Budget**

Design	\$ 45,000
Santa Cruz Irrigation Construction	\$ 650,000
Testing and Construction Administration	\$ 40,000
Contingencies	\$ 75,000
Benches, Solid Waste and Recycling Bins	<u>\$ 250,000</u>
<b>Total</b>	<b>\$1,060,000</b>

**Original Budget**

Downtown Landscaping Improvement Project	\$ 25,000
Downtown Irrigation Project	<u>\$ 320,000</u>
<b>Total</b>	<b>\$345,000</b>

**Additional Funds Needed** **\$715,000**

The additional funds needed vary based upon whether the award goes to either of the three lowest bidders based upon staffs' review of references. If the City Council approves the Resolution, the additional funds to complete the above will come from the General Fund CIP fund balance which has approximately \$5.8 million.

**POLICY ISSUES**

The recommendation represents improvements to the Downtown area consistent with the City Council 2013 stated goals.

**ENVIRONMENTAL REVIEW**

The project is categorically exempt under Class I of the current State of California Environmental Quality Act Guidelines.

**PUBLIC NOTICE**

Public Notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting.



## **ATTACHMENTS**

- A. Conceptual Perspective
- B. Resolution
- C. Bid Summary

Report prepared by:  
Ruben Niño  
Assistant Director of Public Works

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Existing Conditions



Proposed Improvements

# BREEZEWAY CONCEPTUAL PERSPECTIVE

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**RESOLUTION NO.**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO PARK APPROPRIATING AN ADDITIONAL \$715,000 TO THE SANTA CRUZ AVENUE IRRIGATION REPLACEMENT PROJECT FROM THE GENERAL FUND CIP FUND BALANCE; AUTHORIZING THE CITY MANAGER TO AWARD A CONTRACT TO THE LOWEST RESPONSIBLE BIDDER FOR THE SANTA CRUZ AVENUE IRRIGATION REPLACEMENT PROJECT AUTHORIZING A TOTAL BUDGET OF \$1,060,000 FOR CONSTRUCTION, CONTINGENCIES, MATERIAL TESTING, AND CONSTRUCTION ADMINISTRATION; AND AWARDING CONTRACTS UP TO \$250,000 FOR THE PURCHASE AND INSTALLATION OF THE DOWNTOWN BENCHES AND SOLID WASTE AND RECYCLING BINS**

WHEREAS, plans and specifications, dated March 15, 2013 were prepared and approved by the Assistant Public Works Director for the Santa Cruz Avenue Irrigation Replacement Project described above and on file in the office of the Assistant Public Works Director; and

WHEREAS, the Maintenance Division did issue a call for sealed proposals to be received at the Corporation Yard, at 333 Burgess Drive, Menlo Park, CA, until the hour of 2:00 p.m., Tuesday, April 9, 2013; and

WHEREAS, the Maintenance Division did cause the notice inviting sealed proposals to be published two (2) times in *The Daily News*, a newspaper printed and published in this County; and

WHEREAS, said bids were then publicly opened and declared in the Maintenance Division office.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Menlo Park that the City Council does hereby authorize the appropriation of an additional \$715,000 to the Santa Cruz Avenue Irrigation Replacement Project; and

BE IT FURTHER RESOLVED, that said City Council does hereby and authorize the City Manager to award a contract to the lowest responsible bidder for the Santa Cruz Avenue Irrigation Replacement Project authorizing a total budget of \$1,060,000 for construction, contingencies, material testing, and construction administration; and

BE IT FURTHER RESOLVED that said Council does hereby authorize the City Manager to award a contract to the lowest responsible bidder up to \$250,000 for the purchase and installation of the downtown benches and solid waste and recycling bins.

I, Margaret S. Roberts, City Clerk of the City of Menlo Park, do hereby certify that the above and foregoing Resolution was duly and regularly passed and adopted at a meeting by said Council on the sixteenth day of April, 2013, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of said City on this sixteenth day of April, 2013.

Margaret S. Roberts, MMC  
City Clerk



## BID SUMMARY

### SANTA CRUZ IRRIGATION REPLACEMENT

**BID OPENING DATE: Tuesday, April 9, 2013**

### APPARENT LOW BIDDER

	<b>CONTRACTOR</b>	<b>BID AMOUNT</b>
1.	Del Conte's Landscaping	\$336,723
2.	Bay Construction Co.	\$624,600
3.	Cleary Brothers Landscape	\$650,000
4.	Suarez & Munoz Construction, Inc.	\$698,000

**\* Pending City Council Approval**

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# PUBLIC WORKS DEPARTMENT

Council Meeting Date: April 16, 2013  
Staff Report #: 13-060

Agenda Item #: F-3

**REGULAR BUSINESS:** Consider Appointing A Councilmember To Serve On The Blue Ribbon Task Force As Proposed By the City of Redwood City Regarding South Bay Waste Management Authority (SBWMA) Board Governance

---

## RECOMMENDATION

Staff recommends that the City Council consider appointing an elected official to serve on the Blue Ribbon Task Force as proposed by the City of Redwood City regarding South Bay Waste Management Authority (SBWMA) Board governance.

## BACKGROUND

The South Bayside Waste Management Authority (SBWMA – also known as Rethink Waste) was formed in 1982 as a joint powers authority (JPA) with twelve member agencies in San Mateo County. Member agencies include Atherton, Belmont, Burlingame, East Palo Alto, Foster City, Hillsborough, Menlo Park, Redwood City, San Carlos, San Mateo, County of San Mateo, and West Bay Sanitary District. SBWMA's primary goal is to provide cost-effective waste reduction, recycling, and solid waste programs to member agencies through franchised services. SBWMA also owns the Shoreway Environmental Center in San Carlos which is operated by South Bay Recycling on behalf of the Authority. The FY 2012 budget for SBWMA included revenues of over \$40 million, and operating expenses of \$36.5 million.

The SBWMA is led by an executive director who reports to a Board of Directors comprised of staff members of member agencies. The staff members serving on the Board include City Managers, Assistant City Managers, Public Works Directors, Finance Directors, Public Works Superintendents, Recycling Program Managers, and their alternates in positions of similar authority.

In a letter dated December 7, 2012, the Mayor of Redwood City requested participation of an elected official from each SBWMA member agency to form a task force to bring member agencies' elected officials into a discussion about SBWMA and to explore various aspects of the organization (Attachment A). These would include such topics as governance structure, work force, compensation, and the overall purpose or mission of the agency. The Blue Ribbon Task Force would explore and analyze alternative models

and/or organizational efficiencies, and determine if they would then like to make recommendations on any of these topics to SBMWA member agencies. The first meeting of the task force was held on March 20, 2013 with representatives of Belmont, Burlingame, Foster City, Hillsborough, San Carlos, City of San Mateo, County of San Mateo, West Bay Sanitary District, and the City of Redwood City in attendance. The next meeting is scheduled for April 24, 2013. A specific meeting schedule has not been set.

On March 6, 2013, Council Member Keith submitted a formal request asking that the City Council consider an invitation from Redwood City (Attachment A) to participate on the Blue Ribbon Task Force. The item was placed on the March 26, 2013 Consent Calendar and was unanimously approved to be added to the April 16 Council meeting for discussion.

## **ANALYSIS**

The SBWMA has held briefings and outreach meetings for elected officials from time to time to discuss new services, the SBWMA budget, and other topics of interest. Menlo Park's elected officials have participated in these meetings. There has not been a significant discussion on the governance structure of the SBWMA for a long period of time and it could provide for an informative discussion.

Staff requests direction on whether Council would like to participate on the task force and if so, which councilmember would serve as the representative.

## **IMPACT ON CITY RESOURCES**

Participation by the City of Menlo Park on the proposed Task Force may have a direct impact on City Resources. It is anticipated that additional staff time to review and research matters raised by the task force will be needed, which could impact time spent on other priorities within the City.

## **POLICY ISSUES**

There are no policy issues as a result of the commitment of a Council liaison to the Task Force, but the work of the Task Force itself is anticipated to propose policy issues for City Council consideration such as a change in the governance structure of the SBWMA.

## **ENVIRONMENTAL REVIEW**

The proposed action does not require environmental review.

## **PUBLIC NOTICE**

Public Notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting.

## **ATTACHMENTS**

- A. Letter from Redwood City Mayor

Report prepared by:  
Charles Taylor  
Public Works Director

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Mayor Alicia C. Aguirre  
Vice Mayor Jeffrey Gee

Council Members  
Ian Bain  
Rosanne S. Foust  
Jeff Ira  
Barbara Pierce  
John D. Seybert



1017 MIDDLEFIELD ROAD  
Redwood City, California 94063  
Telephone (650) 780-7220  
FAX (650) 261-9102  
[www.redwoodcity.org](http://www.redwoodcity.org)

December 7, 2012

Honorable Mayor Peter Ohtaki  
and Council Members  
City of Menlo Park  
701 Laurel Street  
Menlo Park, CA 94025

(also sent via email c/o City Clerk)

**Subject: Invitation to Participate on Blue Ribbon Task Force to Consider Changes to South Bayside Waste Management Authority (SBWMA) Governance Structure and Board Composition**

Honorable Mayor Ohtaki and Council Members,

As you know, there have been discussions among city managers, staff, and elected officials of SBWMA's member agencies about the desire to analyze and explore possible changes to SBWMA's governance structure and board composition. With a majority of member agencies indicating in writing their desire to examine such changes, my colleagues and I on the City Council of Redwood City, unanimously agree that a full exploration of this question is best accomplished through the formation of a Blue Ribbon Task Force. This letter is your invitation to participate on this important Task Force.

Your agency's participation on this Task Force, either by appointing an elected official or a high-level staff member, is crucial. Even if you responded earlier with your perspective on examining possible structural changes, I would request to hear from your jurisdiction on the question of Task Force participation as well. You may want to advise your City Manager that you would like to participate on the Task Force, and ask he/she to notify Redwood City's City Manager Bob Bell at [bbell@redwoodcity.org](mailto:bbell@redwoodcity.org) or via phone at (650) 780-7300 by the first week in February.

The staff report on this matter can be found on Redwood City's website, at [www.redwoodcity.org/government/council/meetings.html](http://www.redwoodcity.org/government/council/meetings.html) (select the December 3 meeting Agenda and see item number 8C).

A fully representative Task Force will provide the best opportunity for the variety of interests related to this issue to be fully identified and explored, and will result in the maximum number of quality ideas and options for the group to consider.

Thank you for your consideration, and we look forward to hearing from your jurisdiction as to your preference for serving on the Blue Ribbon Task Force.

Sincerely,

A handwritten signature in black ink, appearing to read "Alicia C. Aguirre".

Alicia C. Aguirre  
Mayor

C: Members, City Council Redwood City  
Robert B. Bell, City Manager

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RECEIVED

March 29, 2013

APR - 1 2013

The Hon. Peter I. Ohtaki, Mayor  
 City of Menlo Park  
 701 Laurel Street  
 Menlo Park, CA 94025

City Clerk's Office  
 City of Menlo Park

**Subject: Appointment of a Director to the Boards of the Bay Area Water Supply & Conservation Agency and the Bay Area Regional Water System Financing Authority**

Dear Mayor Ohtaki,

The four-year term of Kelly Fergusson on the board of directors of the Bay Area Water Supply & Conservation Agency (BAWSCA) and the Bay Area Regional Water System Financing Authority (RFA) will end on June 30, 2013. Action by your agency must be taken promptly.

The enabling acts for both agencies allow the city to reappoint its director for an unlimited number of terms or to appoint a new director at the end of each term. The appointment will be for a four-year term. Hence, whoever is appointed will have a term that extends to June 2017.

The enabling acts for both agencies require that a vacancy on their boards be filled no later than **90 days** from the date the vacancy occurs. As applied, the statutes require action by your council no later than September 30, 2013.

However, we encourage your agency to make the appointments before June 30, effective July 1, so that a quorum of both boards can be ensured, and so that your agency is continuously represented.

The statutory qualifications for appointment to either board are:

- The appointee must be a resident of, and a registered voter in, the city.
- He or she may, but need not, be a member of your city council.

The mechanics of the appointment process are also simple:

- The appointments must be made at a public meeting of the city council and be properly agendized.
- The appointments must be made by action of the full city council, rather than by unilateral action of the Mayor.
- The appointments do not need to be memorialized in a resolution; a motion duly passed and recorded in the minutes of the meeting is sufficient.
- A copy of the record of the council actions making the appointment should be sent to BAWSCA. The Oaths of Office must be administered prior to the appointee's first meeting as a director on the BAWSCA and RFA Boards.

The two questions most frequently asked about an appointment are:

- Should the appointee be an elected member of the appointing agency's governing board?
- Should the same person be appointed to the boards of both agencies?

Both of these are matters of policy left entirely to the discretion of your council. I offer the following observations, based on BAWSCA's experience over the past nine years, for whatever use they may be.

- The great majority of cities and districts which are participants in BAWSCA and the RFA did select a member of their city council or governing board to serve on the BAWSCA and RFA boards.

One advantage of appointing a currently serving or former elected member of your council to the board is the stature that his or her presence gives BAWSCA in its dealings with San Francisco, regulatory agencies and legislators. Another is the familiarity and experience he or she already has in addressing policy matters for the city. The governing body of each individual agency is, of course, in the best position to evaluate these, and other relevant considerations.

- With no exceptions, cities and districts have appointed the same individual to both the BAWSCA and RFA boards.

Appointing one person to represent the city on both boards offers an advantage because, although the two agencies have distinct roles, they are closely related. The familiarity with the issues gained through service on one board will be useful in participating on the other. Additionally, having the same person appointed to both boards assures greater continuity in presenting your agency's perspective.

Please see that this matter is placed on an agenda for council action before June 30, 2013. I may be reached at (650) 349-3000 if you have any questions.

Sincerely,



Arthur R. Jensen  
Chief Executive Officer and General Manager

cc: Ms. Kelly Fergusson, BAWSCA Board Member  
Mr. Alex D. McIntyre, City Manager



**OATH OF OFFICE**  
**FOR**  
**MEMBER OF BOARD OF DIRECTORS**  
**BAY AREA WATER SUPPLY AND CONSERVATION AGENCY**

---

I, \_\_\_\_\_, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter.

---

\_\_\_\_\_  
Signature

\* \* \* \* \*

Sworn to and subscribed before me this \_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Signature

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**OATH OF OFFICE**  
**FOR**  
**MEMBER OF BOARD OF DIRECTORS**  
**SAN FRANCISCO BAY AREA**  
**REGIONAL WATER SYSTEM FINANCING AUTHORITY**

I, \_\_\_\_\_, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter.

\_\_\_\_\_  
Signature

\* \* \* \* \*

Sworn to and subscribed before me this \_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Signature

Name: \_\_\_\_\_

Title: \_\_\_\_\_

*Kelly Fergusson  
168 Oak Court  
Menlo Park, CA 94025*

April 11, 2013

Mayor and City Council  
701 Laurel Street  
Menlo Park, CA 94025

Mayor Ohtaki and Honorable Councilmembers,

It has been a pleasure to serve on the board of the Bay Area Water Supply and Conservation Agency (BAWSCA). My current term expires at the end of June.

I would be happy to continue to serve the City in this capacity by serving another term if this is your pleasure.

Thank you for your consideration,

Kelly Fergusson  
(via email)

copied: Margaret Roberts, City Clerk

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