



SPECIAL AND REGULAR MEETING AGENDA

Date: 5/24/2016
Time: 6:00 p.m.
City Council Chambers
701 Laurel St., Menlo Park, CA 94025

Councilmember Mueller will appear by telephone from the following location:
Sheraton Portland Airport Hotel
8235 N.E. Airport Way
Portland, OR 97220

6:00 p.m. Closed Session (City Hall Administration Building, 1st floor conference room)

Public comment will be taken on this item prior to adjourning to Closed Session.

- CL1. Closed Session pursuant to Government Code Section §54957.6 to confer with labor negotiators regarding current labor negotiations with Service Employees International Union (SEIU), American Federation of State, County and Municipal Employees (AFSCME) and the Menlo Park Police Sergeants' Association (PSA)

Attendees: City Manager Alex McIntyre, Administrative Services Director Nick Pegueros, Finance and Budget Manager Rosendo Rodriguez, Human Resources Manager Lenka Diaz, City Attorney Bill McClure, Labor Counsel Charles Sakai

7:00 p.m. Regular Session

- A. Call To Order**
- B. Roll Call**
- C. Pledge of Allegiance** led by the Boy Scout Troop 222
- D. Report from Closed Session**
- E. Presentations and Proclamations**
 - E1. Certificates of Recognition to the Boys' and Girls' Club High School Youths of the Year
 - E2. Proclamation declaring Public Works Week May 15 - 21, 2016
- F. Commissioner Reports**
 - F1. Transportation Commission quarterly update

G. Study Session

- G1. Review and provide direction on options for improvements at Nealon Park, including sports and field irrigation, surface and dog park location

H. Public Comment

Under "Public Comment," the public may address the City Council on any subject not listed on the agenda. Each speaker may address the City 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 City Council cannot act on items not listed on the agenda and, therefore, the City Council cannot respond to non-agenda issues brought up under Public Comment other than to provide general information.

I. Consent Calendar

- I1. Authorize the City Manager to enter into a comprehensive agreement with the Peninsula Joint Powers Board on the Caltrain Peninsula Corridor Electrification Project (PCEP) (Staff Report# 16-082-CC)
- I2. Adopt resolutions for the Landscaping Assessment District (District) for fiscal year (FY) 2016-17 that proposes a 5% increase and sets the date of the public hearing and authorize the City Manager to amend contracts for tree and sidewalk maintenance (Staff Report# 16-083-CC)
- I3. Approve a contract with FATHOM for water meter reading, billing and customer service (Staff Report# 16-084-CC)
- I4. Adopt a resolution to extend Section 16.79.045 of the Zoning Ordinance to allow the conversion of accessory buildings into secondary dwelling units for one year, expiring on June 13, 2017 (Staff Report# 16-078-CC)
- I5. Authorize the City Manager to approve a contract with David J. Powers & Associates, Inc. in the amount of \$96,885 and future augments as may be necessary to prepare an Initial Study and Mitigated Negative Declaration for the 2111-2121 Sand Hill Road Annexation Project (Staff Report# 16-069-CC)
- I6. Confirm the City's intent to participate in the South Bayside Waste Management Authority's (SBWMA) process to negotiate a potential franchise extension with Recology (Staff Report# 16-081-CC)
- I7. Approve minutes for the City Council meetings of April 12, 2016 (Attachment)

J. Public Hearing

- J1. Adoption of the 2015 Urban Water Management Plan (UWMP) (Staff Report# 16-079-CC)

K. Regular Business

- K1. Approve the designs for the Santa Cruz Street Cafés, increase the Downtown Streetscape budget for FY16-17, authorize the City Manager to award construction contracts for each Street Café up to the budgeted amount, authorize the City Manager to enter into license and funding agreements with

business owners, and consider an increase to the maximum City share of construction costs (Staff Report# 16-087-CC)

L. Informational Items

- L1. Update on downtown parking garage study session and extended-time parking pilot program (Staff Report# 16-088-CC)
- L2. Update on the South Bay Salt Pond Restoration Project – Ravenswood Ponds (Staff Report# 16-085-CC)

M. Councilmember Reports

N. City Manager's Report

O. 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 www.menlopark.org and can receive e-mail notification of agenda and staff report postings by subscribing to the “Notify Me” service at menlopark.org/notifyme. Agendas and staff reports may also be obtained by contacting City Clerk at 650-330-6620. (Posted: 5/19/2016)

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 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 City 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 City Clerk’s Office, 701 Laurel St., Menlo Park, CA 94025 during regular business hours.

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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STAFF REPORT

City Council
Meeting Date: 5/24/2016
Staff Report Number: 16-082-CC

Consent Calendar: **Authorize the City Manager to enter into a comprehensive agreement with the Peninsula Joint Powers Board on the Caltrain Peninsula Corridor Electrification Project (PCEP)**

Recommendation

Staff recommends that the Council authorize the City Manager to enter into a comprehensive agreement with the Peninsula Joint Powers Board on the Caltrain Peninsula Corridor Electrification Project (PCEP).

Policy Issues

This item is included in the Council's adopted 2016 Work Plan to coordinate with Caltrain to complete PCEP design review.

Background

The Peninsula JPB currently runs commuter rail service (Caltrain) along the peninsula. The current system utilizes traditional diesel locomotives to run the trains. To improve efficiency and reduce their reliance on fossil fuels, Caltrain has proposed a modification to electrify the corridor and run Electric Multiple Units (EMU) for the system. EMUs consist of self-propelled carriages that are powered by electricity. The electrification would include overhead catenary power lines that would provide power to the EMUs.

Caltrain prepared an Environmental Impact Report (EIR) for the project, which was initiated in early 2013. The City Council authorized submission of comments on the Notice of Preparation (NOP) on March 5, 2013 and on the Draft EIR on April 1, 2014. Caltrain prepared a Final EIR and certified the document on January 8, 2015. Caltrain currently plans to complete the Electrification Project by fiscal year 2020-21.

Analysis

Prior to advancing the project into detailed design and construction in mid-2016, Caltrain has requested to enter into a comprehensive agreement with each public agency along the rail corridor to memorialize expectations from Caltrain and for the City, to ensure timely review of plans and to identify coordination items necessary for the project design and construction. Construction may start as early as 2017.

City staff and Greg Rubens, contract City attorney that supports the City on rail-related issues, have reviewed the MOU (Attachment A). The agreement includes terms for items as summarized below:

- Terms for Caltrain to cover all City costs for necessary project review and inspection

- Summary of relevant mitigation measures identified in the EIR, including traffic signal timing modifications, measures to reduce light spillover into residential areas during nighttime construction, and preparation of a Tree Avoidance, Minimization, and Replacement Plan
- Identification, replacement and potential betterment of any City improvements (streets, curbs, gutters, sidewalks, traffic control devices, utilities, etc.)
- Anticipated work hours, construction staging areas and truck routes
- Notification requirements and construction complaint-resolution process
- Encroachment permit and design review process and expected timelines for review
- Dispute resolution process

Impact on City Resources

The cost of staff time for the City's review of the PCEP is proposed to be covered by Caltrain as outlined in the proposed MOU. This project is anticipated to be completed with current staffing levels and contract review assistance as needed.

Environmental Review

This Council action does not require environmental review under the California Environmental Quality Act (CEQA). The Caltrain PCEP was environmentally cleared by the JPB (lead agency) on January 8, 2015.

Public Notice

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

Attachments

- A. Comprehensive Agreement between the Peninsula Joint Powers Board and City of Menlo Park Relating to the Peninsula Corridor Electrification Project

Report prepared by:
Nicole H. Nagaya, P.E, Transportation Manager

COMPREHENSIVE AGREEMENT
BETWEEN
THE PENINSULA CORRIDOR JOINT POWERS BOARD
AND CITY OF MENLO PARK
RELATING TO THE PENINSULA CORRIDOR ELECTRIFICATION PROJECT

This Comprehensive Agreement (“**Agreement**”) between the City of Menlo Park, a municipal corporation city of the State of California (“**City**”) and the Peninsula Corridor Joint Powers Board, a joint exercise of powers agency (“**JPB**”) (collectively, the “**Parties**”) is entered into as of this _____ day of _____ 201__ (the “**Effective Date**”), each of which is referred to herein individually as “**Party**” and jointly as “**Parties.**”

RECITALS

- A. City is a duly established municipal corporation organized and existing under the laws of the State of California.
- B. JPB is a joint exercise of powers agency organized and existing under the laws of the State of California.
- C. JPB is the owner of the Peninsula Corridor Railroad right-of-way and specifically certain real property and fixtures located in the City of Menlo Park between milepost (MP) 28.1 and 29.7, (the “**Right-of-Way**”), and includes the four vehicular at-grade and one pedestrian at-grade crossing at the Menlo Park Station.
- D. The Peninsula Corridor Electrification Project (“**Project**”) consists of converting Caltrain from diesel-hauled to electrically-powered trains for service between the 4th and King Street Station in San Francisco and the Tamien Station in San Jose.
- E. In 2009, the JPB completed a Final Environmental Assessment/Environmental Impact Report (EA/EIR) for the Project. Based upon that document, the Federal Transit Administration issued a Finding of No Significant Impact (FONSI) in 2009, which completed the federal environmental review for the Project in accordance with the National Environmental Policy Act (NEPA).
- F. On January 31, 2013, the JPB issued a Notice of Preparation of an Environmental Impact Report and, in February, 2014, issued a Draft Environmental Impact Report for a 60-day comment period ending on April 29, 2014. A Final Environmental Impact Report was issued in December 2014.
- G. On January 8, 2015, pursuant to Resolution No. 2015-03, the JPB certified conformance with the California Environmental Quality Act (CEQA) to the extent that it is applicable to the Project, and certified the Final Environmental Impact Report (FEIR) for the Project.
- H. On January 8, 2015, pursuant to Resolution No. 2015-04, the JPB adopted CEQA findings of fact, a statement of overriding considerations, and a mitigation monitoring and reporting plan.
- I. On February 5, 2015, pursuant to Resolution No. 2015-08 the JPB authorized the issuance of the PCEP Project Design Build Request for Proposals to engage a Design-Build Contractor to construct the Project.

- J. The City desires to cooperate with the JPB to facilitate the design and construction of the Project. The JPB and the City desire to memorialize the interagency cooperation and consultation between the Parties in this Agreement.
- K. The Parties acknowledge that the Project is funded in part with funds made available by the Federal Transit Administration. Accordingly, this Agreement and the obligations imposed on the Parties hereby shall be interpreted in a manner consistent with both Federal and State laws and regulations.
- L. The locations of certain elements of the Project may require the use of certain City streets for hauling operations and staging of construction during construction of the Project.
- M. The JPB and the City acknowledge that it will be necessary to develop procedures to ensure careful and continued cooperation between the Parties, including the following: (1) procedures to promote cooperation during the design and construction process; (2) procedures to avoid all unnecessary delays to either the contracting, design or construction process; and (3) procedures for inspecting the construction, relocation, and replacement, as necessary, of City Improvements.
- N. The Parties recognize and agree that this Agreement may not reasonably anticipate all aspects of the Project and changes thereto which may occur due to unforeseen circumstances. Accordingly, the Parties acknowledge their respective obligations to act reasonably and in good faith and to modify the terms hereof when necessary to accomplish their mutual goals.

SECTION 1: AFFIRMATION OF RECITALS AND OPERATIVE DATE

The JPB and the City affirm that the above recitals are true and correct.

SECTION 2: DEFINITIONS

The following definitions relate to such terms found in the entire Agreement, including, without limitation, all Exhibits hereto.

- A. **“City”** means City of Menlo Park, its officers, employees, agents, consultants and contractors.
- B. **“City Improvements”** means City streets (including curbs, gutters and sidewalks), traffic control devices, storm drains, sanitary sewers, water lines, hydrants, electroliers, landscaping, irrigation systems, street signs, City-owned or -maintained trees, and all other public facilities and appurtenances.
- C. **“Contract Documents”** means the executed Design-Build Contract, Contract Change Orders and additional documents incorporated by express reference into the Contract.
- D. **“JPB”** means the Peninsula Corridor Joint Powers Board, its employees, agents, consultants, and contractors.

- E. **"Project Improvements"** means all structures, features and fixtures, including tree replacements, constructed or installed for the Project, including all necessary changes to signal, fiber optic facilities and appurtenances, relocation of all utilities and pipelines of any kind within the Right-of-Way, grading, drainage, access roadways to the Right-of-Way, preliminary and construction engineering, and any and/or all other work of every kind and character necessary to build the Project.
- F. **"Project"** means the Peninsula Corridor Electrification Project described in the FEIR, consisting of converting Caltrain from diesel-hauled to electrically-powered trains for service between the 4th and King Street Station in San Francisco and the Tamien Station in San Jose.

SECTION 3: PURPOSE OF THE AGREEMENT

The purpose of this Agreement is to memorialize the Parties' consultation and cooperation, designate their respective rights and obligations, and ensure cooperation between the JPB and the City in connection with the design and construction of the Project.

SECTION 4: PROJECT FEATURES

The Project features set forth below are not intended to constitute a comprehensive list of Project features, but are described in this Agreement to provide a general description of the elements of the Project. A comprehensive list of Project features associated with the Project is set forth in the FEIR.

- A. The Project will install facility improvements, including overhead catenary wires, support poles, traction power facilities, and other appurtenances necessary to convert service from the existing diesel-locomotive driven trains to Electric Multiple Units (EMUs). EMUs are self-propelled electric trains that do not have a separate locomotive. EMUs can accelerate and decelerate at faster rates than diesel-powered trains, even with longer trains. With EMUs, Caltrain can run longer trains without degrading speeds, thus increasing peak-period capacity. This will support operations of up to 6 Caltrain trains per peak hour per direction (an increase from 5 trains per peak hour per direction at present). Electrification of the rail line is scheduled to be operational by 2020/2021. The Project includes operating 114 trains per day between San Jose and San Francisco and six trains per day between Gilroy and San Jose.
- B. The Project will include the installation of 130 to 140 single-track miles of Overhead Contact System (OCS) for the distribution of electrical power to the new electric rolling stock. The OCS would be powered from a 25 kilovolt (kV), 60 Hertz (Hz), single-phase, alternating current (AC) traction power system consisting of the following Traction Power Facilities (TPF): two Traction Power Substations, one Switching Station and seven Paralleling Stations. The OCS poles are typically about 180 to 200 feet apart. On curved sections, the span lengths between supports must be reduced. The OCS poles are placed approximately 9 – 11 feet from the centerline of the tracks. Associated with the OCS, an electric safety zone to adjacent vegetation is needed. This electric safety zone distance is approximately 10 feet from the face of the OCS pole.

- C. Specific to the City, and based on preliminary design, the Project elements anticipated within the City, include:
- (1) OCS poles. Installation of foundations, poles and appurtenances.
 - (2) Stringing wire for OCS. Which will require temporary street closures when work occurs at an existing at-grade crossing. Specificity about the closures will be included in the Traffic Control Plan.
 - (3) Staging areas. The PCEP FEIR identified one potential staging area for the DB Contractor's use. The location of this staging area is from approximately Encinal Avenue to Glenwood Avenue and is within the JPB right-of-way. This location is shown in Exhibit A. Additional staging areas will comply with applicable mitigation measures and will be coordinated with the City.

SECTION 5: GENERAL COMMITMENTS

- A. The JPB will avoid affecting any City Improvements to the extent feasible. In the event a City Improvement requires modification and/or relocation, JPB shall be responsible for the design and construction of the City Improvement. A comprehensive list of affected City Improvements will be prepared by the JPB, and will be provided to the City for review. The City agrees to cooperate with the JPB to identify all City Improvements affected by the Project. Any replacement City Improvements will be of a similar kind and capacity to the existing facilities per existing City codes. If City desires to increase size or upgrade a City Improvement beyond its existing codes, it shall be responsible for any additional costs for that change. The Parties will agree to a protocol for the review of plans and the inspection of affected City Improvements.
- B. In order to minimize disruption to the Caltrain passenger service during project construction as well as maximize protection of people and property, most of the Project work will be performed outside of the weekday peak commute hours [including at night](#).
- C. The JPB will provide the City with plan(s) addressing haul routes along city streets and roadways, and any staging areas or property owned or controlled by the City for City review and approval, which approval shall not be unreasonably withheld. JPB will also collaborate with the City to document existing conditions by video and photographic record of the proposed and accepted haul routes for comparison at the end of the project. The JPB shall be responsible for damages to City Improvements but only to the extent and in the event that use of the City Improvements for this Project creates damages that exceed ordinary wear and tear of the City Improvements.
- D. The JPB and the City will cooperate to reduce impacts of the Project on local police, fire, and emergency services.
- E. During construction of the Project, the JPB shall provide the City with a list of JPB personnel to be contacted in the event of an emergency on the Project construction site within the City.

- F. During construction of the Project, the JPB will take responsibility for maintaining the security of the JPB construction areas within the City in consultation with the City's Police Department, as necessary.
- G. For the duration of Project construction, the JPB shall assign a lead representative to handle Project-related complaints from City residents, City officials, and/or staff. The JPB shall provide written notice to the City and shall publicize the telephone number, and E-mail address of the lead representative. The JPB shall make an initial response to all complaints within a reasonable period of time not to exceed 72 hours. For urgent matters, the JPB will make initial contact immediately. Follow-up of complaints will be completed within a reasonable time following initial contact with the complainant. The JPB shall take all reasonable actions to ensure that its lead representative is authorized to and does, in fact, ensure that corrective actions are implemented within a reasonable period of time following the determination that corrective actions are appropriate.
- H. Construction Noticing. The JPB will provide weekly construction updates via social media, the Caltrain website and by email. The JPB will provide a 60-day advance notice for construction within the City. The JPB will provide an initial notice of road and driveway closures 7 days in advance of the closure and the visual notifications for closures will be posted 72 hours in advance.
- I. Tree Trimming and Tree Removal. JPB will comply with any City tree permit requirements for tree trimming or removal involving public or private property outside of the JPB property.
- J. Encroachment Permits. JPB will obtain any City permit legally required for construction of the Project. The City shall not unreasonably withhold approval of the issuance of any such permit.
- K. During construction of the Project, the JPB Contractors shall adhere to construction best practices for dust control and material and equipment storage.

SECTION 6: MITIGATION MEASURES

The JPB will require the Design/Build Contractor to perform the work to implement the mitigation measures outlined in the Mitigation, Monitoring and Reporting Plan adopted by the JPB on January 8, 2015, to include the following:

- A. Mitigation Measure Aesthetics-2b: Aesthetic treatments for OCS poles, TPFs in sensitive visual locations.
 - (1) The JPB shall coordinate with the City to obtain their input into OCS pole design relative to station aesthetics.

- B. Mitigation Measure Aesthetics-4a: Minimize spillover light during nighttime construction adjacent to residential neighborhoods. The JPB will direct any artificial lighting onto the worksite and away from adjacent residential areas at all times.
- C. Mitigation Measure Biology-5: A Tree Avoidance, Minimization, and Replacement Plan will be developed in consultation with a certified arborist and in consultation with cities, counties, and affected property owners along the Project. A complete field survey of the entire Project area will be completed to support the plan development by preparing a tree inventory for all affected areas.
- D. Mitigation Measure Traffic-1c: Implement Signal optimization and/or roadway geometry improvements will be implemented at impacted intersections for the 2020 Project condition per FEIR. The impacted intersections for the City are:
 - (1) El Camino Real and Glenwood Avenue, and
 - (2) El Camino Real and Oak Grove Avenue.

The mitigation strategy identified in the FEIR is adjust signal timings to better serve traffic after the project implementation, currently planned for revenue service in 2020.

SECTION 7: CITY IMPROVEMENTS

- A. Construction Standards: The JPB is designing and constructing the Project. The design and construction of the Project shall conform with JPB’s adopted standards, specifically JPB Standards Dated September 30th, 2011 and the Design/Build Contract Documents. Any work required to repair or replace City Improvements damaged or affected by the Project shall conform with the City’s adopted codes. If no City or codes exist for such work, it shall be designed to applicable Caltrans standards, or if no Caltrans standards apply, it shall be designed to such standards as JPB shall reasonably determine to apply. The JPB shall have the right to make changes to the design of work related to the City Improvements during construction, subject to the terms of this agreement and concurrence from the City.
- B. Design Review: The JPB will do a page-turn design review, or detailed walkthrough of the Project elements within the City limits at the 65% and Issued for Construction design levels prior to official submittal of Issued for Construction plans for final approval. All comments received will be addressed prior to official submittal of Issued for Construction plans. Design review for Project elements within the JPB Right-of-Way is for informational purposes only and is not for City approval. The City shall review and approve the design of any required work that alters or replaces City Improvements within 21 days of receipt of the official submittal of the Issued for Construction plans.
- C. Permits: Following approval of the official submittal of Issued for Construction plans, the City will issue all necessary permits for work to be performed in the City in accordance with the City’s Municipal Code. The JPB will pay the City for its staff time and/or consultant costs spent on review of design documents or inspections of City

Improvements. The JPB shall make an initial deposit of \$25,000 to the City for design review and inspection costs. The JPB will pay the City's standard permit and processing fees, as applicable to the Project. The method of payment is described below in Section 8. The City will cooperate with the JPB in identifying all City permits necessary for work to be performed under this Agreement. With the approved official submittal of Issued for Construction plans, the City shall issue the permits no later than fourteen (14) calendar days following the City's receipt of such permit submission, except in cases where City staff does not have the expertise to evaluate the proposed design. Such cases will be noted by the City during the page-turn design review noted in Section 7B above.

- D. Coordination: During construction of the Project, the City shall provide the JPB with a list of City personnel to be contacted in the event of an emergency on the Project construction site within the City.
- E. Obligations: The Parties shall agree in writing with regard to any new or replacement City Improvements that will be the obligation of JPB to construct. Unless specifically authorized in writing, JPB shall not be required to replace any City Improvement with facilities of greater capacity, durability or efficiency than the one replaced, unless such replacement is required by the Project. Upon acceptance of any Project work related to City Improvements, City will have the responsibility for any maintenance, repairs, alterations or future upgrades or replacements.

SECTION 8: INVOICING REQUIREMENTS AND METHOD OF PAYMENT TO THE CITY

- A. The JPB shall make an initial deposit of \$25,000 to the City for costs incurred by the City for design review and inspection costs for the Project as described in Section 7 above. The JPB will pay the City's standard permit and processing fees, as applicable to the Project. The City shall notify the JPB when 75% of the initial deposit has been spent, at which time the JPB and the City shall review the spent and remaining budget to determine any additional needs beyond the initial deposit. Additional deposit amounts shall be reviewed by the JPB and the City and shall be based on a reasonable estimate of the work required by City. If the \$25,000 deposit is not exhausted at conclusion of the project, any unused funds shall be returned to the JPB within sixty (60) days.

SECTION 9: TRAFFIC MAINTENANCE AND DETOURS

The JPB will assume full responsibility for maintaining in service, or causing to be maintained in service, all traffic detours during JPB construction of the Project in a manner reasonably satisfactory to the City, subject to and consistent with all applicable California Department of Transportation requirements. All traffic control, lane closure, and detour plans shall be submitted to the City for approval prior to commencement of any phase of construction requiring either traffic control or detour(s). The traffic control, lane closure, and detour plans shall specify the length of time that portions of City streets will likely be closed.

- A. Although certain City streets will, of necessity, be partially closed for some period during construction of the Project, the JPB will, to the greatest extent practicable, maintain in

service, or cause to be maintained in service, all City streets and related City Improvements within the limits of the Project area in a manner reasonably satisfactory to the City. At a minimum, two-way service will be maintained on all City streets affected by the Project, unless otherwise agreed to by the JPB and the City.

- B.** In its Contract Documents, the JPB will require its contractor(s) to submit traffic plans showing haul routes, temporary closures, and the method of traffic maintenance and staging to the City for approval. The City shall approve or disapprove the plans no later than twenty-one (21) calendar days following the City's receipt of such plans.
- C.** In its Contract Documents, the JPB will, prior to the temporary closure to traffic of all or part of any street, sidewalk, or other public access, require that its contractor(s) provide at least fourteen (14) calendar days' notice of such closure to the City. Deviation from this fourteen (14) calendar day requirement may be permitted in bona fide emergency situations as determined by the JPB and the City.
- D.** At least seventy two (72) hours prior to the temporary closure to traffic of all or part of any street, sidewalk, or other public access, the JPB will post notice of such closure and contact the City to inform of the work. Such notice of any road closure shall include, at minimum, use of an electronic sign. The JPB will also provide closure-information fliers to residents, schools, and businesses within a five hundred (500) foot radius of any such partial closure and within a one thousand (1000) foot radius of any such full closure.

SECTION 10: EROSION CONTROL PLAN

The JPB shall provide an erosion control plan to retain sediments on site in accordance with the JPB's Storm Water Pollution Prevention Program and Contract Documents. All stockpiled earthwork shall be protected from wind and water erosion. Dust control shall be undertaken in accordance with the JPB Contract Documents and shall provide for dust, erosion and pollution control seven days a week, 24 hours a day for the duration of construction activities

SECTION 11: DESIGNATED AGENT OF THE PARTIES

The City contact person for all matters related to this Agreement will be the City Manager or his or her designee. The JPB's contact person for all matters related to this Agreement will be the Lin Guan (650-508-7976; guanz@samtrans.com) or his designee.

SECTION 12: INDEMNIFICATION

A. City's Indemnity.

- (1)** City shall fully release, indemnify, hold harmless and defend the JPB, as well as the San Mateo County Transit District, the Santa Clara Valley Transportation Authority, the City and County of San Francisco, TransitAmerica Services, Inc. or any successor Operator of the Service, the Union Pacific Railroad Company, and/or their respective officers, directors, employees, contractors and agents

(collectively, “JPB Indemnitees”) from and against all liability, claims, suits, sanctions, costs or expenses for injuries to or death of any person (including, but not limited to, the passengers, employees and contractors of City and JPB), and damage to or loss of property arising out of or resulting from any act or omission by City, its agents, employees, contractors or subcontractors in the performance of its obligations under this Agreement.

- (2) City’s obligation to defend shall include the payment of all reasonable attorney’s fees and all other costs and expenses of suit, and if any judgment is rendered against any JPB Indemnitee, City shall, at its expense, satisfy and discharge the same, so long as said claim has been timely tendered to the City without prejudice to City’s rights and/or abilities to undertake a defense of said claim.

B. JPB’s Indemnity.

- (1) JPB shall fully release, indemnify, hold harmless and defend the City and its respective officers, directors, employees, contractors and agents (collectively, “City Indemnitees”) from and against all liability, claims, suits, sanctions, costs or expenses for injuries to or death of any person (including, but not limited to, passengers, employees and contractors of City and JPB) and damage to or loss of property arising out of or resulting from any act or omission by the JPB, its agents, employees, contractors or subcontractors in performance of its obligations under this Agreement.

- (2) JPB’s obligation to defend shall include the payment of all reasonable attorney’s fees and all other costs and expenses of suit, and if any judgment is rendered against City Indemnitee’s or any one of them, JPB shall, at its expense, satisfy and discharge the same, so long as said claim has been timely tendered to the JPB without prejudice to JPB’s rights and/or abilities to undertake a defense of said claim.

C. Severability. It is the intention of the Parties that should any term of this indemnity provision be found to be void or unenforceable; the remainder of the provision shall remain in full force and effect.

D. Survival. This indemnification shall survive termination or expiration of this Agreement.

SECTION 13: INSURANCE

The JPB shall include in its Contract Documents a requirement that the City be named an additional insured on all policies of insurance required of its contractors.

SECTION 14: RESOLUTION OF DISPUTES

A. Prior to commencement of any formal litigation arising out of this Agreement, the Parties shall submit the matters in controversy to a neutral mediator jointly selected by the Parties. The costs of said mediator shall be borne evenly by the Parties involved in said

dispute. To the extent the disputes remain outstanding following completion of mediation, any claim, controversy, action or proceeding arising out of or relating to this Agreement or to any document, instrument or exhibit executed pursuant to this Agreement shall be tried by a judge pro tem. Said judge is to be selected by counsel for the Parties from a list of retired judges furnished by the presiding judge of the County of San Mateo. If counsel are unable to select a judge pro tem said judge will be selected by the presiding judge from the list provided.

- B.** Each Party shall pay its pro rata share of the fee for the judge pro tem. Each Party shall bear its own fees and expenses in such proceedings and the prevailing Party shall not be entitled to reimbursement from the losing Party for any such fees or expenses.
- C.** The judge pro tem shall have the authority to try and decide any or all of the issues in the claim, controversy, action or proceeding, whether of fact or of law, and to report a statement of decision thereon. In any proceedings before the judge pro tem, the issues are to be determined under the statutory and decisional law of the State of California. All local and California Rules of Court shall be applicable to any proceeding before the judge pro tem. All proceedings shall be conducted on consecutive dates without postponement or adjournments except as agreed to by the parties or ordered by the Judge Pro tem.

SECTION 15: NOTICES

All notices required hereunder may be given by personal delivery, US Mail, or courier service (e.g. federal express) transmission. Notices shall be effective upon receipt at the following addresses.

PCJPB: Peninsula Corridor Joint Powers Board
1250 San Carlos Avenue
San Carlos, CA 94070
Attn: Executive Director

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

SECTION 16: PARTIES NOT CO-VENTURERS

Nothing in this Agreement is intended to nor does it establish the Parties as partners, co-ventures or principal and agent with one another.

SECTION 17: FURTHER ASSURANCES, TIME PERIODS AND RECORDS

- A. Each Party shall execute and deliver to the other all such additional instruments or documents as may be necessary to carry out this Agreement or to assure and secure to the other Party the full and complete enjoyment of its rights and privileges under this Agreement, subject to appropriate approvals of each Party's governing body.
- B. Should unforeseen circumstances occur, the JPB and the City shall negotiate in good faith to reach agreement on any amendment(s) that may be necessary to fully effectuate the Parties' respective intentions in entering into this Agreement.
- C. Pursuant to California Government Code Section 8546.7, the Parties shall be subject to the examination and audit of the State Auditor, at the request of the JPB or as part of any audit of the JPB by the State Auditor, for a period of three (3) years after final payment under this Agreement. The examination and audit shall be confined to those matters connected with the performance of this Agreement including, but not limited to, the cost of administering the Agreement.

SECTION 18: NON-LIABILITY OF OFFICIALS, EMPLOYEES AND AGENTS

No director, member, official, employee or agent of the City or the JPB shall be personally liable to any Party to this Agreement or any successor in interest in the event of any default or breach of this Agreement or for any amount which may become due on any obligation under the terms of this Agreement.

SECTION 19: HEADING AND TITLES

Any titles of the Sections of this Agreement are inserted for convenience of reference only, and shall be disregarded in construing or interpreting any part of its provisions.

SECTION 20: APPLICABLE LAW

This Agreement shall be interpreted under and pursuant to the laws of the State of California. The Parties agree that the jurisdiction and venue of any dispute between the Parties to this Agreement shall be the Superior Court of San Mateo County.

SECTION 21: SEVERABILITY

If any term, provision, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions shall continue in full force and effect unless the rights and obligations of the Parties have been materially altered or abridged by such invalidation, voiding or unenforceability.

SECTION 22: BINDING UPON SUCCESSORS

This Agreement shall be binding upon and inure to the benefit of the transferees, successors and assigns of each of the Parties to it, except that there shall be no transfer of any interest by any of the Parties to this Agreement except pursuant to the terms of the Agreement.

SECTION 23: REMEDIES NOT EXCLUSIVE

No right or remedy conferred upon or reserved to the JPB or the City under this Agreement is intended to be exclusive of any other right or remedy, except as expressly stated in this Agreement, and each and every right and remedy shall be cumulative and in addition to any other right or remedy given under this Agreement or now or hereafter existing at law or in equity or by statute, except such rights or remedies as are expressly limited in this Agreement.

SECTION 24: FORCE MAJEURE

In addition to specific provisions of this Agreement, performance by either Party shall not be deemed to be in default where delays or defaults are due to war, insurrection, strikes, lockouts, riots, floods, earthquakes, fires, quarantine restrictions, casualties, acts of God, acts of the public enemy, epidemic, government restrictions on priorities, freight embargoes, shortage of labor or materials, unusually inclement weather, lack of transportation, court order, or any other similar causes beyond the control or without the fault of the Party claiming an extension of time to perform. An extension of time for any cause will be deemed granted if notice by the Party claiming such extension is sent to the other Party within thirty (30) days from the commencement of the cause and such extension is not rejected in writing by the other Party within thirty (30) days of receipt of the notice. Time of performance under this Agreement may also be extended by mutual written agreement, signed by both Parties.

SECTION 25: INTEGRATION

This Agreement represents the full, complete and entire agreement of the Parties with respect to the subject matter hereof, and supersedes any and all other communications, representations, proposals, understandings or agreements, whether written or oral, between the Parties hereto with respect to such subject matter. This Agreement may not be modified or amended, in whole or in part, except by a writing signed by an authorized officer or representative of each of the Parties hereto.

SECTION 26: COUNTERPARTS

This Agreement may be executed in counterparts, each of which shall be deemed an original but all of which together shall constitute a single Agreement.

SECTION 27: AMENDMENTS

This Agreement may be amended only in a writing that is executed by the Parties hereto.

SECTION 28: THIRD PARTY RIGHTS

Nothing herein shall be considered as creating any rights and/or obligations by any of the Parties to this Agreement to any third parties. Specifically, none of the duties to inspect or maintain shall in any way be construed as creating or expanding any additional obligations to any third

Party beyond those required and established under the applicable statues, regulations, ordinances or law.

SECTION 29: SUCCESSORS

This Agreement shall be binding upon and shall inure to the benefit of the respective successors and assigns of the Parties hereto.

SECTION 30: BONDING

JPB will require the design/build contractor for this Project to provide performance and payment bonds in the full amount of the contract and will require a two-year warranty period. The bond shall be maintained in full force and effect during the entire period that work is performed by the contractor until such work is accepted by JPB. With respect to work related to City Improvements, the JPB shall not accept the work related to such facilities for purposes of this section until it has reviewed the matter with the City.

This Agreement is made and entered into as of the date set forth above.

PENINSULA CORRIDOR JOINT POWERS BOARD CITY OF MENLO PARK

By: _____

Jim Hartnett
General Manager

Alex D. McIntyre
City Manager

APPROVED AS TO FORM:

APPROVED AS TO FORM:

JPB Attorney

Menlo Park City Attorney

By: _____



STAFF REPORT

City Council

Meeting Date:

5/24/2016

Staff Report Number:

16-083-CC

Consent Calendar:

Adopt resolutions for the Landscaping Assessment District (District) for Fiscal Year (FY) 2016-17 that proposes a 5% increase and sets the date of the public hearing and authorize the City Manager to amend contracts for tree and sidewalk maintenance

Recommendation

Staff recommends that the City Council:

- 1) Adopt a resolution of preliminary approval of the Engineer's Report for the District for FY 2016-17 that proposes a 5% increase to the tree portion of the assessment, which amounts to \$3.14 per single family equivalent a year (Attachment A);
- 2) Adopt a resolution to order the continuation and collection of assessments for the District for FY 2016-17 and set the date for the public hearing for June 21, 2016 (Attachment B);
- 3) Authorize the City Manager to amend the Tree Services Maintenance Contract with West Coast Arborists, Inc. (WCA) at new contract rates; and
- 4) Authorize the City Manager to increase the multi-year contract with Golden Bay Construction for the sidewalk replacement contract up to the funds available in the annual maintenance budget (i.e., \$697,254 for FY 2016-17).

Policy Issues

The funds collected through the District are used for the maintenance of the City's trees and sidewalks. If the City Council does not adopt the resolutions required for the collection of the assessments, the lack of adequate funding would impact the high level of service required for the proper care and maintenance of the City's trees and sidewalks.

Background

In 1983, the City of Menlo Park established a District for the proper care and maintenance of City street trees. In 1990, an assessment for the repair and maintenance of sidewalks and parking strips was added to the District. The District levies assessments on parcels in Menlo Park to generate funds for the maintenance of public trees, the repair of sidewalks in the public right-of-way damaged by City street trees. District funds are also used to cover the cost of street sweeping.

Due to the passage of Proposition 218 in 1996, the City must conduct assessment ballot proceedings whenever an increase in rates is required to cover the expenditures associated with the maintenance of street trees and sidewalks. In 1998, the City conducted assessment ballot proceedings establishing rates for FY 1998-99. As part of that process, the maximum annual assessment for future rates was tied to a cost escalator based on the annual change in the Engineering News Record Construction Cost Index for the San Francisco Bay Area (ENR Index). The annual adjustment that can be made without property owner

approval through ballot proceedings is the ENR Index (up to a maximum of 3%) plus any uncaptured and accumulated excess in the ENR Index from prior years.

Adjustments to the assessment have varied since the establishment of the rates in FY 1998-99. As shown in Table 1, the City’s adjustments have typically been lower than the ENR Index for the San Francisco Bay Area. The adjustments have been made to cover the costs associated with the tree maintenance program, while the sidewalk assessment rates have remained the same since FY 1998-99. Significant cost savings resulting from changes in the approach to sidewalk repair have kept costs low and have not required adjustments to the assessment to date.

Table 1 – District Adjustments (1998-2016)

Year	San Francisco Bay Area ENR Index	Fiscal Year	Tree Maintenance Program Adjustment	Sidewalk Repair Program Adjustment
1998	1.70%	1999-00	0%	0%
1999	-0.42%	2000-01	0%	0%
2000	9.26%	2001-02	0%	0%
2001	-0.65%	2002-03	3.01%	0%
2002	3.31%	2003-04	0%	0%
2003	1.88%	2004-05	0%	0%
2004	5.64%	2005-06	3%	0%
2005	2.84%	2006-07	3.01%	0%
2006	7.63%	2007-08	2.01%	0%
2007	0.25%	2008-09	2.59%	0%
2008	7.11%	2009-10	5.00%	0%
2009	-0.60%	2010-11	0%	0%
2010	4.09%	2011-12	0%	0%
2011	0.83%	2012-13	0%	0%
2012	1.47%	2013-14	0%	0%
2013	5.25%	2014-15	2.99%	0%
2014	0.15%	2015-16	0%	0%

Notes:
 The ENR Index for 12/2015 is not yet available.
 The annual adjustment that can be made is the ENR Index, plus uncaptured excess from previous years.

For each fiscal year the assessments will be levied, the City Council must direct the preparation of an Engineer’s Report, budgets, and proposed assessments. On January 26, 2016, the City Council adopted Resolution No. 6305 (Attachment C) describing the improvements and directing the preparation of an Engineer’s Report for the District for FY 2016-17.



Analysis

Program Budgets

The Engineer's Report establishes the foundation and justification for the continued collection of the landscape assessments in context with recent court decisions, Proposition 218 compliance, and legal requirements for benefit assessments. SCI Consulting Group completed the preliminary Engineer's Report (Attachment D) for the District, which includes the proposed FY 2016-17 budget and Tree Maintenance and Sidewalk Repair Assessments. In developing the Engineer's Report, staff reviewed the existing budget and operating needs in order to maintain street trees and sidewalk repair requirements at the current level of service. The report describes in detail the incorporation of the proposed budget and the method used for apportioning the total assessment among properties within the District. This method involves identifying the benefit received by each property in relation to a single family equivalent (SFE). The proposed budgets and findings from the Engineer's Report are described below.

Tree Maintenance Assessment

WCA Tree Services Maintenance Contract

Staff has contracted with WCA since 2004 to perform tree grid trimming, planting and removal, and emergency services as necessary. The grid trimming, which consists of the majority of work performed by WCA, involves the pruning of a set number of trees on an annual basis. Currently, the City performs tree grid pruning on a five (5) year cycle. The grid pruning strategy is common practice within municipal arboriculture, as it becomes cost effective to maintain the trees on a regular basis. When pruning is deferred for longer periods, fast growing trees can become prone to limb failure and hazards, requiring more expensive measures in the long-run.

On September 10, 2014, the City approved a new five (5) year contract with WCA for the tree maintenance work. Under the contract terms, compensation for the work is based on prevailing wages determined by the State's Department of Industrial Relations (DIR). However, on August 2015, DIR created a new laborer classification for tree maintenance work and issued a prevailing wage determination. The new prevailing wages reflect an increase in the laborer hourly rate from \$9.69 to a range of \$14.73 to \$19.83, resulting in a 52% to 105% increase. To offset the new State requirements, WCA is requesting a 31% price adjustment to the unit costs for the tasks included in the 2014 contract for FY 2016-17.

In order to maintain the same level of service for tree maintenance and comply with the new State prevailing wage requirements, the City has the option to adjust the existing contract with WCA or to rebid. A number of cities, including Palo Alto, Campbell, Redwood City, Santa Clara and El Cerrito have recently contracted with WCA for tree maintenance services through a competitive bidding process at the new prevailing wages. Table 2 summarizes the City's current price for tree pruning, WCA's proposed adjustment, as well as the contract price for the City of Palo Alto. As can be observed, Palo Alto's contract price for tree pruning is significantly higher than WCA's proposed adjustment. Staff recommends that the Council authorize the City Manager to amend the existing contract with WCA and adjust the rates by 31%, as the proposed rates are lower than the competitively bid prices that other cities are currently paying.

Table 2 – Grid Tree Pruning Unit Costs				
Tree Diameter Breast Height Size	Unit	Existing 2014 Contract Price	Proposed 2016-17 Contract Price	Palo Alto 2016-17 Contract Price
3 – 6”	Each	\$59.00	\$77.00	\$100
7 – 49”+	Each	\$59.00	\$77.00	\$134

Tree Assessment

The Tree Maintenance Program expenditures include the contract for grid tree pruning services, debris removal (includes street sweeping), general operating expenses, vehicle and equipment maintenance and the salaries and benefits associated with the staff time required to manage the program and work on street trees. Additional tree care required due to the drought and increasing prevailing wage costs associated with the tree pruning contract, in particular, have resulted in higher expenditures projected for FY 2016-17. As shown in Table 3, the estimated expenses increased from \$849,723 in FY 2015-16 to \$1,018,400 for FY 2016-17. The new budget accounts for the 52% to 105% increase in prevailing wage rates recently set by the State.

Proposition 218 stipulates that only the “special benefits” received by a parcel can be charged through an assessment District, with “general benefits” funded by other sources. The Engineer’s Report determined that 75% of the benefits received are special benefits, and 25% are general benefits. To comply with these requirements, contributions from the General Fund in the amount of \$180,000 (an increase from FY 2015-16 amount of \$159,000) and San Mateo County Vehicle Registration Fee - Measure M (\$145,000) will meet the City’s obligation for the “general benefits,” covering a total of \$325,000 for this year. Measure M was approved by the voters of San Mateo County in 2010, imposing an annual fee of ten dollars (\$10) on motor vehicles registered in San Mateo County over a 25 year period for water pollution mitigation programs and transportation-related traffic congestion.

In the past, the cost for the street sweeping contract has been covered both by revenue from the Tree Maintenance Assessment and Measure M funds. This year, however, the street sweeping contract will be covered entirely by Measure M funds. The remaining expenditures associated with the program will be covered by the assessment.

Table 3 – Tree Maintenance Assessments Proposed FY 2016-17 Budget	
Projected Beginning Fund Balance	\$221,182
Estimated Revenues:	
Tree Assessment Revenue	\$586,918
General Fund Contribution	\$180,000
Measure M Funds	\$145,000
Total:	\$911,918
Estimated Expenses:	
Street Tree Maintenance	\$669,544
Debris Removal	\$223,381
Administration & County Assessment Fees	\$125,475
Total:	\$1,018,400
Projected Ending Fund Balance	\$127,624

To cover the Tree Maintenance Program’s budget for FY 2016-17, the Engineer’s Report proposes an assessment of \$65.16 per SFE, which reflects a 5% increase from last year’s assessment of \$62.02 (an increase of \$3.14). The proposed assessment, however, is significantly lower than the maximum authorized assessment rate allowed of \$104.46 (due to uncaptured ENR Index increases). It is important to note that annual increases in the tree portion of the assessment in the range of 5-6% will be required to cover the cost of services in future years. Future budgets will need to account for the cost of maintaining the existing level of service at the new prevailing wage rates set by the State.

Table 4 summarizes the proposed rates for parcels with and without street trees. The assessment for properties without street trees, but that have a direct benefit due to their close proximity to parcels with street trees, is 50% of the tree assessment.

Table 4 Annual Tree Assessment Rates Proposed FY 2016-17 (5% increase)		
Property Type	Properties with Trees	Properties without Trees
Single-family	\$65.16 per Parcel	\$32.58 per Parcel
R-2 Zone, in use as single-family	\$65.16 per Parcel	\$32.58 per Parcel
Condominium/ Townhouse	\$58.64 per Unit	\$29.32 per Unit
	\$293.22 max. per Project	\$146.61 max. per Project
Other Multi-family	\$52.13 per Unit	\$26.06 per Unit
	\$260.64 max. per Project	\$130.32 max. per Project
Commercial	\$65.16 per 1/5 acre	\$32.58 per 1/5 acre
	\$325.80 max. per Project	\$162.90 max. per Project
Industrial	\$65.16 per 1/5 acre	\$32.58 per 1/5 acre
	\$325.80 max. per Project	\$162.90 max. per Project
Parks, Educational	\$65.16 per Parcel	\$32.58 per Parcel
Miscellaneous, Other	\$0.00 per Parcel	\$0.00 per Parcel



Sidewalk Repair Assessment

The Sidewalk Repair program includes sidewalk, curb, gutter and parking strip repair and replacement due to damage cause by trees. The program is broken into two separate contracts, one for sidewalk repair and the other for replacement. Under the repair program, the City retains a contractor to address minor tripping hazards, which are fixed by performing horizontal sawcuts rather than removing the entire concrete / sidewalk section. Since the City adopted this approach, it has reduced the need for complete concrete removal, which has resulted in significant cost savings. As a result, the City has been able to perform the necessary repairs without the need to increase the sidewalk assessment since the rates were established in 1999.

For the sidewalk replacement program, the City Council awarded a multi-year contract to Golden Bay Construction for a budget of up to a maximum of \$300,000 annually on November 11, 2015. However, the annual sidewalk replacement needs exceed the \$300,000 limit. As such, the annual funds for this year have already been spent since the contract was awarded. The Sidewalk Repair program is expected to have a remaining balance of \$397,000 in FY 2016-17 after the projected expenses (Table 5). To address the sidewalk replacement needs and perform additional work, staff is recommending that Council authorize the City Manager to increase the multi-year contract with Golden Bay Construction for the sidewalk replacement project up to the funds available in the annual budget. With the increase in the contract amount, the City would be able to replace twice as many sidewalks, compared to the work done in FY 2015-16. Remaining funds would be used for the work and the increase in the contract amount would not result in an adjustment to the sidewalk assessment for FY 2016-17. The assessment rate will remain at \$28.70 per SFE, which is significantly lower that the allowed assessment of \$46.64 per SFE.

Table 5 – Sidewalk Assessments Proposed FY 2016-17 Budget		
Projected Beginning Fund Balance		\$380,780
Estimated Revenues:		
	Sidewalk Assessment Revenue	\$196,474
	General Fund Contribution	\$120,000
	Total:	\$697,254
Estimated Expenses:		
	Sidewalk, Curb, Gutter, Parking Strip Repair / Replacement	\$300,000
	Total:	\$300,000
Projected Ending Fund Balance		\$397,254

Summary of Proposed Adjustments

The City’s total FY 2016-17 budget for the maintenance of trees and sidewalks is \$1,318,399.56. The Engineer’s Report proposes an assessment of \$65.16 per SFE, which reflects a 5% increase from last year’s tree assessment of \$62.02. The sidewalk assessment will remain at \$28.70 per SFE.

Assessment Notification Process

If the Council approves the attached resolutions, staff will publish a legal notice of the Public Hearing at least ten (10) days prior to the hearing, which is tentatively scheduled for June 21, 2016. Once the assessments are confirmed and approved, the levy will be submitted to the County Auditor/Controller for inclusion on the property tax roll for FY 2016-17.



Impact on City Resources

Funding for the District consists of a variety of sources, including the carryover of unspent funds from prior years, annual tax assessment revenues, and contributions from the General Fund. If the Council does not order the continuation and collection of assessments, the impact on City resources would amount to \$783,393 (the total of the proposed tree and sidewalk assessments).

If the City Council does not authorize the City Manager to amend the tree maintenance contract with WCA, the City would have to rebid the contract. Based on the contract prices with other cities, the unit prices for the services may increase beyond the 31% adjustment that WCA is requesting. The impact on City resources may therefore be higher.

Amendment of the sidewalk replacement contract with Golden Bay Construction would not impact the City's resources as there are excess funds in the program budget. If the City Council authorizes the City Manager to amend the contract, the City would not be limited to the \$300,000 in sidewalk replacement work per year and could perform additional work.

Environmental Review

An environmental review is not required.

Public Notice

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

Attachments

- A. Resolution of Preliminary Approval of the Engineer's Report
- B. Resolution of Intention to Order the Continuation and Collection of Assessments
- C. Resolution No. 6305
- D. Engineer's Report Dated May 17, 2016

Report prepared by:
Azalea Mitch, Senior Civil Engineer

Reviewed by:
Ruben Niño, Assistant Public Works Director

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RESOLUTION NO.

**RESOLUTION OF PRELIMINARY APPROVAL OF THE ENGINEER'S
REPORT FOR THE CITY OF MENLO PARK LANDSCAPING DISTRICT
FOR FISCAL YEAR 2016-17**

WHEREAS, on the 26th day of January, 2016, the Menlo Park City Council did adopt Resolution No. 6305, describing improvements and directing preparation of the Engineer's Report for the City of Menlo Park Landscaping District (District) for Fiscal Year 2016-17, pursuant to provisions of Article XIID of the California Constitution and the Landscaping and Lighting Act of 1972, in said City and did refer the proposed improvements to SCI Consulting Group and did therein direct SCI Consulting Group to prepare and file with the Clerk of said City a report, in writing, all as therein more particularly described, under and in accordance with Section 22565, *et. seq.*, of the Streets and Highways Code and Article XIID of the California Constitution; and

WHEREAS, said SCI Consulting Group prepared and filed with the City Clerk of said City a report in writing as called for in Resolution No. 6305 and under and pursuant to said Article and Act, which report has been presented to this Council for consideration; and

WHEREAS, said Council has duly considered said report and each and every part thereof, and finds that each and every part of said report is sufficient, and that neither said report, nor any part thereof, should be modified in any respect.

NOW, THEREFORE, BE IT RESOLVED THAT IT IS HEREBY FOUND, DETERMINED, and ORDERED, as follow:

1. That the plans and specifications for the existing improvements and the proposed new improvements to be made within the District contained in said report, be, and they are hereby, preliminarily approved;
2. That the Engineer's estimate of the itemized and total costs and expenses of said improvements, maintenance, and servicing thereof, and of the incidental expenses in connection therewith, contained in said report be, and each of them is hereby, preliminarily approved;
3. That the diagram showing the exterior boundaries of the District referred to and described in said Resolution No. 6305 and the lines and dimensions of each lot or parcel of land within said District as such lot or parcel of land is shown on the County Assessor's maps for the fiscal year to which the report applies, each of which lot or parcel of land has been given a separate number upon said diagram, as contained in said report be, and it is hereby, preliminarily approved;

4. That the proposed continued assessment of the total amount of the estimated costs and expenses of the proposed improvements upon the several lots or parcels of land in said District in proportion to the estimated benefits to be received by such lots or parcels, respectively, from said improvements including the maintenance or servicing, or both, thereof, and of the expenses incidental thereto, as contained in said report be, and they are hereby, preliminarily approved; and
5. That said report shall stand as the Engineer's Report for the purpose of all subsequent proceedings to be had pursuant to said Resolution No. 6305.

I, Pamela I. Aguilar, 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 24th of May, 2016, by the following votes:

AYES:

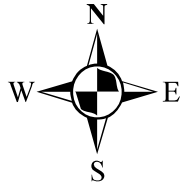
NOES:

ABSENT:

ABSTAIN:

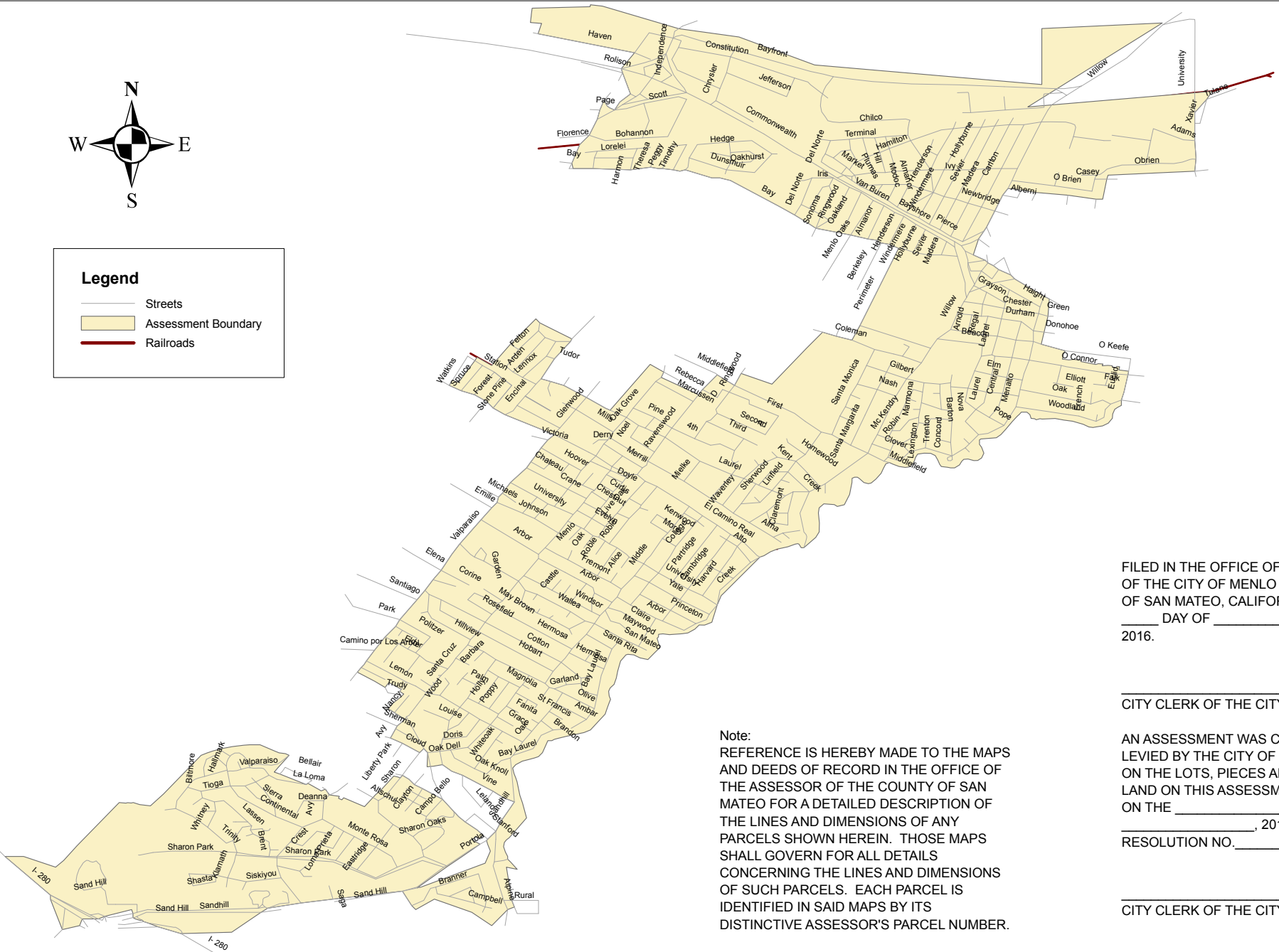
IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of said City on this 24th of May, 2016.

Pamela I. Aguilar
City Clerk



Legend

- Streets
- Assessment Boundary
- Railroads



FILED IN THE OFFICE OF THE CITY CLERK
 OF THE CITY OF MENLO PARK, COUNTY
 OF SAN MATEO, CALIFORNIA, THIS
 _____ DAY OF _____,
 2016.

 CITY CLERK OF THE CITY OF MENLO PARK

AN ASSESSMENT WAS CONFIRMED AND
 LEVIED BY THE CITY OF MENLO PARK
 ON THE LOTS, PIECES AND PARCELS OF
 LAND ON THIS ASSESSMENT DIAGRAM
 ON THE _____ DAY OF
 _____, 2016 BY ITS
 RESOLUTION NO. _____

 CITY CLERK OF THE CITY OF MENLO PARK

Note:
 REFERENCE IS HEREBY MADE TO THE MAPS
 AND DEEDS OF RECORD IN THE OFFICE OF
 THE ASSESSOR OF THE COUNTY OF SAN
 MATEO FOR A DETAILED DESCRIPTION OF
 THE LINES AND DIMENSIONS OF ANY
 PARCELS SHOWN HEREIN. THOSE MAPS
 SHALL GOVERN FOR ALL DETAILS
 CONCERNING THE LINES AND DIMENSIONS
 OF SUCH PARCELS. EACH PARCEL IS
 IDENTIFIED IN SAID MAPS BY ITS
 DISTINCTIVE ASSESSOR'S PARCEL NUMBER.

CITY OF MENLO PARK
LANDSCAPING ASSESSMENT DISTRICT
ASSESSMENT DIAGRAM

SCI Consulting Group
 4745 Mangels Blvd.
 Fairfield, CA 94534
 (707) 430-4300

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RESOLUTION NO.**RESOLUTION OF INTENTION OF THE CITY COUNCIL OF THE CITY OF MENLO PARK TO ORDER THE CONTINUATION AND COLLECTION OF ASSESSMENTS FOR THE CITY OF MENLO PARK LANDSCAPING DISTRICT FOR FISCAL YEAR 2016-17 PURSUANT TO THE LANDSCAPING AND LIGHTING ACT OF 1972**

WHEREAS, pursuant to Resolution No. 6305 describing improvements and directing the preparation of the Engineer's Report for Fiscal Year 2016-17 for the City of Menlo Park Landscaping District, adopted on January 26, 2016, by the City Council of Menlo Park; and

WHEREAS pursuant to provisions of Article XIID of the California Constitution and the Landscaping and Lighting Act of 1972, SCI Consulting Group for said City has prepared and filed with the City Clerk of this City the written report called for under and in accordance with Section 22565, *et. seq.*, of the Streets and Highways Code and Article XIID of the California Constitution; and

WHEREAS, by said Resolution No. 6305, which said report has been submitted and preliminarily approved by this Council in accordance with said Article and Act.

NOW, THEREFORE, BE IT RESOLVED, THAT IT IS HEREBY FOUND, DETERMINED, and ORDERED, as follows:

1. In its opinion, the public interest and convenience require, and it is the intention of this Council, to order the continuation and collection of assessments for Fiscal Year 2016-17 pursuant to the provisions of Article XIID of the California Constitution and the Landscaping and Lighting Act of 1972, Part 2, Division 15 of the Streets and Highways Code of the State of California, for the construction or installation of the improvements, including the maintenance or servicing, or both, thereof, more particularly described in Exhibit A hereto attached and by reference incorporated herein;
2. The cost and expense of said improvements, including the maintenance or servicing, or both, thereof, are to be made chargeable upon the assessment district designated as "City of Menlo Park Landscaping District" (District) the exterior boundaries of which District are the composite and consolidated area as more particularly described on a map thereof on file in the office of the Clerk of said City, to which reference is hereby made for further particulars. Said map indicates by a boundary line the extent of the territory included in the District and the general location of said District;
3. Said Engineer's Report prepared by SCI Consulting Group, preliminarily approved by this Council, and on file with the Clerk of this City, is hereby referred to for a full and detailed description of the improvements, the boundaries of the

assessment district and the proposed assessments upon assessable lots and parcels of land within the District;

4. The authorized maximum assessment rates for the District include an annual adjustment by an amount equal to the annual change in the Engineering News Record Index, not to exceed 3.00 percent per year, plus any uncaptured excesses. Assessment rates for the tree portion of the assessments are proposed to increase during Fiscal Year 2016-17 by 5.00% Including the authorized annual adjustment, the maximum authorized assessment rate for street tree maintenance for Fiscal Year 2016-17 is \$104.46 per single family equivalent benefit unit, and the assessment rate per single family equivalent benefit unit for Fiscal Year 2016-17 is \$65.16 which is less than the maximum authorized rate. Including the authorized annual adjustment, the maximum authorized assessment rate for sidewalk repairs for Fiscal Year 2016-17 is \$46.64 per single family equivalent benefit unit, and the proposed assessment rate per single family equivalent benefit unit to be continued to Fiscal Year 2016-17 is \$28.70, which is the same rate as that levied in Fiscal Year 2015-16 and is less than the maximum authorized rate;
5. Notice is hereby given that Tuesday, the 21st day of June, 2016, at the hour of 7:00 o'clock p.m., or as soon thereafter as the matter may be heard, in the regular meeting place of said Council, Council Chambers, Civic Center, 701 Laurel Street, Menlo Park, California, be, and the same are hereby appointed and fixed as the time and place for a Public Hearing by this Council on the question of the continuation and collection of the proposed assessment for the construction or installation of said improvements, including the maintenance and servicing, or both, thereof, and when and where it will consider all oral statements and all written protests made or filed by any interested person at or before the conclusion of said hearing, against said improvements, the boundaries of the assessment district and any zone therein, the proposed diagram or the proposed assessment, to the Engineer's estimate of the cost thereof, and when and where it will consider and finally act upon the Engineer's Report;
6. The Clerk of said City is hereby directed to give notice of said Public Hearing by causing a copy of this resolution to be published once in *The Daily News*, a newspaper circulated in said City, and by conspicuously posting a copy thereof upon the official bulletin board customarily used by the City for the posting of notices, said posting and publication to be had and completed at least ten (10) days prior to the date of public hearing specified herein; and
7. The Office of the Assistant Public Works Director of said City is hereby designated as the office to answer inquiries regarding any protest proceedings to be had herein, and may be contacted during regular office hours at the Civic Center, 701 Laurel Street, Menlo Park, California, 94025, or by calling (650) 330-6740.

I, Pamela I. Aguilar, 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 24th day of May, 2016, 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 24th day of May, 2016.

Pamela I. Aguilar
City Clerk

Exhibit A

City of Menlo Park Landscaping District

Maintaining and servicing of street trees, including the cost of repair, removal or replacement of all or any part thereof, providing for the life, growth, health, and beauty of landscaping, including cultivation, trimming, spraying, fertilizing, or treating for disease or injury, the removal of trimmings, rubbish, debris, and other solid waste, and water for the irrigation thereof, and the installation or construction, including the maintenance and servicing thereof, of curbs, gutters, sidewalks, and parking strips.

RESOLUTION NO. 6305**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO PARK DESCRIBING IMPROVEMENTS AND DIRECTING PREPARATION OF THE ENGINEER'S REPORT FOR THE CITY OF MENLO PARK LANDSCAPE ASSESSMENT DISTRICT FOR FISCAL YEAR 2016-17**

WHEREAS, in 1982, the Menlo Park citizens voted for Measure N, an advisory measure for the City to form an assessment district to care for the City's street tree infrastructure and the Menlo Park Landscape Assessment District was subsequently formed in 1983; and

WHEREAS, prior to 1990, property owners were responsible for all sidewalk and parking strip repair damaged by City street trees; and

WHEREAS, in 1990, an additional assessment was established and combined with the Landscape Assessment District to fund the repair of sidewalks and parking strips damaged by City trees; and

WHEREAS, in 1998-99, the City reauthorized the Landscape Assessment District through a mailed ballot, as required by Proposition 218.

NOW, THEREFORE, BE IT RESOLVED, as follows:

1. This Council did, pursuant to the provisions of the Landscaping and Lighting Act of 1972, Part 2, Division 15 of the Streets and Highways Code of the State of California, conduct proceedings for the formation of the City of Menlo Park Landscaping District and for the levy and collection of assessments for Fiscal Year 1983-1984, and did, on May 10, 1983, pursuant to proceedings duly had, adopt its Resolution No. 3417-F, A Resolution Overruling Protests and Ordering the Formation of an Assessment District and the Improvements and Confirming the Diagram and Assessment.
2. The public interest, convenience, and necessity require, and it is the intention of said Council to undertake proceedings for, the levy and collection of assessments upon the several lots or parcels of land in said District for the construction or installation of improvements, including the maintenance or servicing, or both, thereof for the Fiscal Year 2016-17.
3. The improvements to be constructed or installed include the maintenance and servicing of street trees, the cost of repair, removal, or replacement of all or any part thereof, providing for the life, growth, health and beauty of public landscaping, including cultivation, trimming, spraying, fertilizing, or treating for disease or injury, the removal of trimmings, rubbish, debris, and other solid waste, and water for the irrigation thereof, and the installation or construction, including the maintenance and servicing thereof, of curbs, gutters, sidewalks, and parking strips.

4. The costs and expenses of said improvements, including the maintenance or servicing, or both, thereof, are to be made chargeable upon said District, the exterior boundaries of which District are the composite and consolidated area as more particularly shown on a map (Exhibit A) thereof on file in the office of the Engineering Division of the City of Menlo Park to which reference is hereby made for further particulars. Said map indicates by a boundary line the extent of the territory included in said District and of any zone thereof and shall govern for all details as to the extent of the assessment district.
5. The Assessment Engineer is hereby directed to prepare and file with said Clerk a report, in writing, referring to the assessment district by its distinctive designation, specifying the fiscal year to which the report applies, and, with respect to that year, presenting the following:
 - a) Plans and specifications of the existing improvements and for proposed new improvements, if any, to be made within the assessment district or within any zone thereof;
 - b) An estimate of the costs of said proposed new improvements, if any, to be made, the costs of maintenance or servicing, or both, thereof, and of any existing improvements, together with the incidental expenses in connection therewith;
 - c) A diagram showing the exterior boundaries of the assessment district and of any zones within said district and the lines and dimensions of each lot or parcel of land within the district as such lot or parcel of land is shown on the County Assessor's map for the fiscal year to which the report applies, each of which lots or parcels of land shall be identified by a distinctive number or letter on said diagram; and
 - d) A proposed assessment of the total amount of the estimated costs and expenses of the proposed new improvements, including the maintenance or servicing, or both, thereof, and of any existing improvements upon the several lots or parcels of land in said district in proportion to the estimated benefits to be received by such lots or parcels of land respectively from said improvements, including the maintenance or servicing, or both, thereof, and of the expenses incidental thereto.
6. The Office of the Assistant Public Works Director of said City is hereby, designated as the office to answer inquiries regarding any protest proceedings to be had herein, and may be contacted during regular office hours at the Civic Center Administration Building, 701 Laurel Street, Menlo Park California 94025, or by calling (650) 330-6740.

I, Pamela Aguilar, 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 twenty-sixth day of January, 2016, by the following votes:

AYES: Carlton, Cline, Keith, Mueller, Ohtaki

NOES: None

ABSENT: None

ABSTAIN: None

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of said City on this twenty-sixth day of January, 2016.



Pamela Aguilar
Pamela Aguilar
City Clerk

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CITY OF MENLO PARK
LANDSCAPING ASSESSMENT DISTRICT

ENGINEER'S REPORT

FISCAL YEAR 2016-17

MAY, 2016

PURSUANT TO THE LANDSCAPING AND LIGHTING ACT OF 1972 AND
ARTICLE XIID OF THE CALIFORNIA CONSTITUTION

ENGINEER OF WORK:
SCI Consulting Group
4745 MANGELS BLVD.
FAIRFIELD, CALIFORNIA 94534
PHONE 707.430.4300
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CITY OF MENLO PARK

MENLO PARK CITY COUNCIL

Mayor Richard Cline
Mayor Pro Tem Kirsten Keith
Council Member Catherine Carlton
Council Member Ray Mueller
Council Member Peter I. Ohtaki

CITY MANAGER

Alex D. McIntyre

ASSISTANT PUBLIC WORKS DIRECTOR

Ruben Niño

CITY CLERK

Pamela Aguilar

CITY ATTORNEY

Bill McClure

ENGINEER OF WORK

SCI Consulting Group
Lead Assessment Engineer, John Bliss, M.Eng., P.E.

TABLE OF CONTENTS

INTRODUCTION 1

 ASSESSMENT BACKGROUND..... 1

 LEGAL ANALYSIS 3

PLANS & SPECIFICATIONS 5

METHOD OF ASSESSMENT 6

 DISCUSSION OF BENEFIT 6

 BENEFIT FACTORS..... 7

 GENERAL VS. SPECIAL BENEFIT 9

 METHOD OF ASSESSMENT 10

 ASSESSMENT APPORTIONMENT - STREET TREES 11

 ASSESSMENT APPORTIONMENT - SIDEWALK PROGRAM 12

 ASSESSMENT APPORTIONMENT - OTHER PROPERTIES 13

 APPEALS AND INTERPRETATION 13

ASSESSMENT 15

ASSESSMENT DIAGRAM..... 20

 APPENDIX A – ASSESSMENT ROLL, FY 2016-17 22

LIST OF FIGURES

FIGURE 1 – RESIDENTIAL ASSESSMENT FACTORS..... 11
FIGURE 2 – TREE MAINTENANCE ASSESSMENTS..... 14
FIGURE 3 – SIDEWALK, CURB, GUTTER, PARKING STRIP ASSESSMENTS..... 14
FIGURE 4 – SUMMARY COST ESTIMATE 15
FIGURE 5 – ENGINEER’S COST ESTIMATE, FISCAL YEAR 2016-17..... 18

INTRODUCTION

ASSESSMENT BACKGROUND

Between 1960 and 1982, the City of Menlo Park had one three-person crew to care for approximately 9,000 City trees. As the trees grew, it took considerably more time per tree to provide proper care. Consequently one tree crew was unable to perform the necessary work to maintain all of the street trees in proper condition. The Landscape Assessment District was originally formed in 1983 for the purpose of levying annual special assessments in order to properly maintain street trees in the City of Menlo Park. Currently, there are approximately 11,000 street trees that are maintained by the assessments.

Prior to 1990, property owners and the City would split the cost of repairing sidewalks damaged by City trees. The City would annually enter into an agreement with approximately 200 individual property owners. The one-time cost was a financial burden to some residents on fixed incomes. In order to make the program more cost-effective and less of a financial burden for property owners, an assessment for repair of sidewalks/parking strips due to City street-tree related damages was established in 1990.

The increased cost of the necessary work made the assessment amounts levied in Fiscal Year 1997-98 insufficient for adequately maintaining the City's street trees, curbs, gutters and sidewalks. An increase in the assessments was required to provide funding for continued tree maintenance and sidewalk repairs. However, with the passage of Proposition 218 on November 6, 1996, assessments can only be raised after the City conducts an assessment ballot proceeding and the ballots submitted in opposition to the assessments do not exceed the ballots in favor of the assessments. (Each ballot is weighted by the amount of assessment for the property it represents.)

ASSESSMENT PROCESS

In 1998, the City conducted an assessment ballot proceeding for increased tree maintenance and sidewalk repair assessments pursuant to the requirements of Article XIID of the California Constitution (Proposition 218) and the Landscaping and Lighting Act of 1972. The proposed tree maintenance assessments for fiscal year 1998-99 were \$64.28 per single family equivalent unit and the proposed sidewalk repair assessments were \$28.70 per single family equivalent. The proposed maximum assessments also included an annual assessment cost escalator tied to the annual change in the Engineering News Record Construction Cost Index for the San Francisco Bay Area ("ENR Index"). These proposed assessments were supported by 73% of assessment ballots received from property owners (with each ballot weighted by the amount of assessments it represented). Therefore, on June 16, 1998 by its Resolution Number 4840-D, the City Council levied the new assessments.

ENGINEER'S REPORT AND CONTINUATION OF ASSESSMENTS

In each subsequent year for which the assessments will be continued, the City Council must direct the preparation of an Engineer's Report, budgets and proposed assessments

for the upcoming fiscal year. After the Engineer's Report is completed, the City Council may preliminarily approve the Engineer's Report and proposed assessments and establish the date for a public hearing on the continuation of the assessments. This Report was prepared pursuant to the direction of the Council.

The maximum authorized assessment rate, as increased each year by the change in the ENR Index, is the maximum assessment rate that can be levied in the given fiscal year without approval from property owners in another assessment ballot proceeding. In fiscal year 1998-99, the assessments were levied at the maximum rate for that fiscal year. Since this first fiscal year after the ballot proceeding, the assessments have been levied below the maximum authorized rate.

The change to the ENR Index from December 2014 to December 2015 is currently unavailable. The maximum amount assessments can be increased annually is the ENR Index plus any uncaptured excess reserved from prior years, to a maximum increase of up to 3%. Therefore, this Engineer's Report assumes a 0% increase as of December 2015.

Based on accumulated excess reserves from prior years, the maximum authorized rates for fiscal year 2016-17 are \$104.46 for trees and \$46.64 for sidewalks without another ballot proceeding. (No additional ballot proceeding is required because the maximum authorized assessment rates, including the annual adjustments in these rates, were approved in the 1998 ballot proceeding. The actual rate levied in any given fiscal year can be revised up, with an annual maximum increase of 3%, or down, by any amount that does not cause the actual rates levied to exceed the maximum authorized assessment rates.)

The City reduced the assessment rate for tree maintenance in fiscal year 2000-01 and increased the assessment rate in fiscal years 2002-03, 2005-06 through 2009-10, and 2014-15. In other fiscal years it was not necessary to increase the rate, due to sufficient reserve funds carried forward from prior fiscal years, combined with general benefit contributions. For fiscal year 2016-17 the proposed assessments for tree maintenance are proposed to increase from fiscal year 2015-16, and the assessments for sidewalk maintenance are still not proposed to increase. The proposed rates are \$65.16 per Single Family Equivalent (SFE) for tree maintenance and \$28.70 per SFE for sidewalk repairs.

If the Council approves this Engineer's Report and the continuation of the assessments by resolution, a notice of assessment levies must be published in a local newspaper at least 10 days prior to the date of the public hearing. The resolution preliminarily approving the Engineer's Report and establishing the date for a public hearing is used for this notice.

Following the minimum 10 day time period after publishing the notice, a public hearing is held for the purpose of allowing public testimony about the proposed continuation of the assessments. This hearing is currently scheduled for June 14, 2016. At this hearing, the Council will consider approval of a resolution confirming the continuation of the assessments for fiscal year 2016-17. If so confirmed and approved, the assessments will

be submitted to the County Auditor/Controller for inclusion on the property tax roll for Fiscal Year 2016-17.

LEGAL ANALYSIS

PROPOSITION 218

This assessment is consistent with Proposition 218, The Right to Vote on Taxes Act, which was approved by the voters of California on November 6, 1996, and is now Article XIII C and XIII D of the California Constitution. Proposition 218 provides for benefit assessments to be levied to fund the cost of providing services, improvements, as well as maintenance and operation expenses to a public improvement which benefits the assessed property.

Proposition 218 describes a number of important requirements, including a property-owner balloting, for the formation and continuation of assessments, and these requirements are satisfied by the process used to establish this assessment.

The original assessment existed prior to the passage of Proposition 218. Although the original assessment is also consistent with Proposition 218, the California judiciary has generally referred to pre-Proposition 218 assessments as "grandfathered assessments" and held them to a lower standard than post Proposition 218 assessments.

SILICON VALLEY TAXPAYERS ASSOCIATION, INC. V SANTA CLARA COUNTY OPEN SPACE AUTHORITY

In July of 2008, the California Supreme Court issued its ruling on the Silicon Valley Taxpayers Association, Inc. v. Santa Clara County Open Space Authority ("SVTA vs. SCCOSA"). This ruling is the most significant court case in further legally clarifying the substantive assessment requirements of Proposition 218. Several of the most important elements of the ruling included further emphasis that:

- Benefit assessments are for special, not general, benefit
- The services and/or improvements funded by assessments must be clearly defined
- Special benefits are directly received by and provide a direct advantage to property in the assessment district

DAHMS V. DOWNTOWN POMONA PROPERTY

On June 8, 2009, the 4th Court of Appeal amended its original opinion upholding a benefit assessment for property in the downtown area of the City of Pomona. On July 22, 2009, the California Supreme Court denied review. On this date, Dahms became good law and binding precedent for assessments. In Dahms the Court upheld an assessment that was 100% special benefit (i.e., 0% general benefit) on the rationale that the services and improvements funded by the assessments were directly provided to property in the assessment district. The Court also upheld discounts and exemptions from the assessment for certain properties.

BONANDER V. TOWN OF TIBURON

On December 31, 2009, the 1st District Court of Appeal overturned a benefit assessment approved by property owners to pay for placing overhead utility lines underground in an area of the Town of Tiburon. The Court invalidated the assessments on the grounds that the assessments had been apportioned to assessed property based in part on relative costs within sub-areas of the assessment district instead of proportional special benefits.

BEUTZ V. COUNTY OF RIVERSIDE

On May 26, 2010 the 4th District Court of Appeal issued a decision on the Steven Beutz v. County of Riverside ("Beutz") appeal. This decision overturned an assessment for park maintenance in Wildomar, California, primarily because the general benefits associated with improvements and services were not explicitly calculated, quantified and separated from the special benefits.

GOLDEN HILL NEIGHBORHOOD ASSOCIATION V. CITY OF SAN DIEGO

On September 22, 2011, the San Diego Court of Appeal issued a decision on the Golden Hill Neighborhood Association v. City of San Diego appeal. This decision overturned an assessment for street and landscaping maintenance in the Greater Golden Hill neighborhood of San Diego, California. The court described two primary reasons for its decision. First, like in *Beutz*, the court found the general benefits associated with services were not explicitly calculated, quantified and separated from the special benefits. Second, the court found that the City had failed to record the basis for the assessment on its own parcels.

COMPLIANCE WITH CURRENT LAW

This Engineer's Report is consistent with the requirements of Article XIIC and XIID of the California Constitution and with the SVTA decision because the Improvements to be funded are clearly defined; the Improvements are directly available to and will directly benefit property in the Assessment District; and the Improvements provide a direct advantage to property in the Assessment District that would not be received in absence of the Assessments.

This Engineer's Report is consistent with *Beutz*, *Dahms* and *Greater Golden Hill* because the Improvements will directly benefit property in the Assessment District and the general benefits have been explicitly calculated and quantified and excluded from the Assessments. The Engineer's Report is consistent with *Bonander* because the Assessments have been apportioned based on the overall cost of the Improvements and proportional special benefit to each property.

PLANS & SPECIFICATIONS

Following is a description of the Services that are provided for the benefit of property in the Assessment District. Prior to the residential development in Menlo Park, the Level of Service on these improvements was effectively zero. The formula below describes the relationship between the final level of improvements, the baseline level of service (pre-development) had the assessment not been instituted, and the enhanced level of improvements funded by the assessment.

Final Level of Service	=	Baseline Level of Service (≈zero, pre-development)	+	Enhanced Level of Service
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The City of Menlo Park maintains street trees, sidewalks, curbs, gutters, and parking strips throughout the City.

The proposed improvements to be undertaken by the City of Menlo Park and financed by the levy of the annual assessment provide special benefit to Assessor Parcels within the District as defined in the Method of Assessment herein. The said improvements consist of maintaining, trimming, disease treatment, and replacement of street trees; street sweeping to remove debris; and the repair and replacement of damaged sidewalks, curbs, gutters, and parking strips damaged by street trees throughout the City of Menlo Park.

METHOD OF ASSESSMENT

This section of the Engineer's Report includes an explanation of the benefits to be derived from the maintenance, repair, and replacement of street trees, sidewalks, curbs, gutters, and parking strips throughout the City, and the methodology used to apportion the total assessment to properties within the Landscaping Assessment District.

The Landscaping Assessment District consists of all Assessor Parcels within the boundaries of the City of Menlo Park as defined by the County of San Mateo tax code areas. The method used for apportioning the assessment is based upon the proportional special benefits to be derived by the properties in the Landscaping Assessment District over and above general benefits conferred on real property or to the public at large. The apportionment of special benefit is a two-step process: the first step is to identify the types of special benefit arising from the improvements and the second step is to allocate the assessments to property based on the estimated relative special benefit for each type of property.

DISCUSSION OF BENEFIT

In summary, the assessments can only be levied based on the special benefit to properties. This benefit is received by property over and above any general benefits and such benefit is not based on any one property owner's use of the amenities or a property owner's specific demographic status. With reference to the requirements for assessment, Section 22573 of the Landscaping and Lighting Act of 1972 states:

"The net amount to be assessed upon lands within an assessment district may be apportioned by any formula or method which fairly distributes the net amount among all assessable lots or parcels in proportion to the estimated benefits to be received by each such lot or parcel from the improvements."

Article XIII D, Section 4 of the California Constitution has confirmed that assessments must be based on the special benefit to property:

"No assessment shall be imposed on any parcel which exceeds the reasonable cost of the proportional special benefit conferred on that parcel."

The following benefit categories summarize the types of special benefit to residential, commercial, industrial and other lots and parcels resulting from the installation, maintenance and servicing of landscaping and lighting improvements to be provided with the assessment proceeds. These categories of special benefit are derived from the statutes passed by the California Legislature and other studies which describe the types of special benefit received by property from maintenance and improvements such as those within by the District. These types of special benefit are summarized as follows:

- A. PROXIMITY TO IMPROVED LANDSCAPED AREAS WITHIN THE ASSESSMENT DISTRICT.
- B. ACCESS TO IMPROVED LANDSCAPED AREAS WITHIN THE ASSESSMENT DISTRICT.
- C. IMPROVED VIEWS WITHIN THE ASSESSMENT DISTRICT.
- D. ENHANCED ENVIRONMENT BECAUSE OF THE VIGOROUS STREET TREE PROGRAM FOR OWNERS OF PROPERTY IN THE LANDSCAPING ASSESSMENT DISTRICT.
- E. INCREASED SAFETY AGAINST TRIPPING AND OTHER HAZARDS CAUSED BY CRACKED OR DAMAGED SIDEWALKS, CURBS AND GUTTERS.
- F. ENHANCED DESIRABILITY OF THE PROPERTY.
- G. REDUCED LIABILITY FOR LANDSCAPE MAINTENANCE.

In this case, the recent the SVTA v. SCCOSA decision provides enhanced clarity to the definitions of special benefits to properties in three distinct areas:

- Proximity
- Expanded or improved access
- Views

The SVTA v. SCCOSA decision also clarifies that a special benefit is a service or improvement that provides a direct advantage to a parcel and that indirect or derivative advantages resulting from the overall public benefits from a service or improvement are general benefits. The SVTA v. SCCOSA decision also provides specific guidance that landscaping improvements are a direct advantage and special benefit to property that is proximate to landscaping that is improved by an assessment:

The characterization of a benefit may depend on whether the parcel receives a direct advantage from the improvement (e.g. proximity to a park) or receives an indirect, derivative advantage resulting from the overall public benefits of the improvement (e.g. general enhancement of the district's property values).

Proximity, improved access and views, in addition to the other special benefits listed above further strengthen the basis of these assessments.

BENEFIT FACTORS

The special benefits from the Improvements are further detailed below:

PROXIMITY TO IMPROVED LANDSCAPED AREAS WITHIN THE ASSESSMENT DISTRICT

Only the specific properties within close proximity to the Improvements are included in the Assessment District. Therefore, property in the Assessment District enjoys unique and valuable proximity and access to the Improvements that the public at large and property outside the Assessment District do not share.

In absence of the assessments, the Improvements would not be provided and the landscaping areas in the Assessment District would be degraded due to insufficient funding for maintenance, upkeep and repair. Therefore, the assessments provide Improvements that are over and above what otherwise would be provided. Improvements that are over and above what otherwise would be provided do not by themselves translate into special benefits, but when combined with the unique proximity and access enjoyed by parcels in the Assessment District, they provide a direct advantage and special benefit to property in the Assessment District.

ACCESS TO IMPROVED LANDSCAPED AREAS WITHIN THE ASSESSMENT DISTRICT

Since the parcels in the Assessment District are nearly the only parcels that enjoy close access to the Improvements, they directly benefit from the unique close access to improved landscaping areas that are provided by the Assessments. This is a direct advantage and special benefit to property in the Assessment District.

IMPROVED VIEWS WITHIN THE ASSESSMENT DISTRICT

The City, by maintaining these landscaped areas, provides improved views to properties in the Assessment District. The properties in the Assessment District enjoy close and unique proximity, access and views of the Improvements; therefore, the improved and protected views provided by the Assessments are another direct and tangible advantage that is uniquely conferred upon property in the Assessment District. The Landscaping Assessment District provides funding to maintain and protect these public resources and facilities of the City. For example, the assessments provide funding to trim and maintain the street trees to maintain them in a healthy condition. This benefits properties by maintaining and improving the public resources in the community.

In order to allocate the proposed assessments, the Engineer begins by identifying the types of special benefit arising from the maintenance, repair, and replacement of the aforementioned facilities and that would be provided to property within the District. These types of special benefit are as follows:

ENHANCED ENVIRONMENT BECAUSE OF THE VIGOROUS STREET TREE PROGRAM FOR OWNERS OF PROPERTY IN THE LANDSCAPING ASSESSMENT DISTRICT.

Residential properties benefit from the enhanced environment provided by a vigorous program to install and maintain the street trees at a level beyond that followed by other cities throughout the County. The increased use of street trees provides an atmosphere of beauty beyond the norm. The improvements to the trees will be available to residents and guests of properties within the District.

Non-residential properties also will benefit from these improvements in many ways. The use of street trees softens the environment making it more pleasant for employees during commute time and at breaks from their work. These improvements, therefore, enhance an employer's ability to attract and keep quality employees. The benefits to employers ultimately flow to the property because better employees improve the employment

prospects for companies and enhanced economic conditions benefit the property by making it more valuable.

INCREASED SAFETY AGAINST TRIPPING AND OTHER HAZARDS CAUSED BY CRACKED OR DAMAGED SIDEWALKS, CURBS AND GUTTERS.

An aggressive inspection program identifies hazardous conditions in sidewalks, curbs and gutters caused by street trees and allows for these conditions to be repaired on a timely basis. Timely repair of hazardous conditions greatly improves the overall safety of the environment, thereby providing for safer use of property.

ENHANCED DESIRABILITY OF THE PROPERTY

The assessments will provide funding to improve the City's street tree program, raising the quality to a more desired level, and to ensure that the sidewalks, curbs, and gutters remain operable, safe, clean and well maintained. Such improved and well-maintained facilities enhance the overall desirability of property. This is a benefit to residential, commercial and industrial properties.

REDUCED LIABILITY FOR LANDSCAPE MAINTENANCE

The assessments will reduce the liability for landscape maintenance to street trees and other improvements. This is a benefit to residential, commercial and industrial properties.

GENERAL VS. SPECIAL BENEFIT

Article XIII D of the Constitution specifies that only special benefits are assessable and that the City must separate the general benefits from the special benefits conferred on any parcel. The complete analysis of special benefits and their allocation are found elsewhere in this report. For the Landscaping Assessment District, the City has identified a general benefit and has separated it from the special assessments.

The City's maintenance of street trees and sidewalk facilities provides a general benefit to the community and to the general public to some degree. The measure of this general benefit is the enhancement of the environment and safety provided to the greater public at large. This general benefit can be measured by the proportionate amount of time that the City's sidewalks and street trees are used and enjoyed by the greater public at large¹. It is reasonable to assume that approximately 1/4 or 25% of the usage and enjoyment of the improvements is by the greater public. Therefore, approximately 25% of the benefits conferred by the improvements are general in nature.

¹ . The greater public at large is generally defined as those who are not residents, property owners, customers or employees within the City, and residents who do not live in close proximity to the improvements.

The City's total budget for maintenance and improvement of its trees and sidewalk facilities is \$1,318,400. Of this total budget amount, the City will contribute \$120,000 from sources other than the assessments for sidewalk repair and \$325,000 for street tree maintenance. These contributions by the City equate to approximately 33.8% of the total budget for maintenance and more than offset the cost of the general benefits resulting from the improvements.

In the 2009 Dahms case, the court upheld an assessment that was 100% special benefit on the rationale that the services funded by the assessments were directly provided within the assessment district. It is also important to note that the improvements and services funded by the assessments in Pomona are similar to the improvements and services funded by the Assessments described in this Engineer's Report and the Court found these improvements and services to be 100% special benefit. Also similar to the assessments in Pomona, the Assessments described in this Engineer's Report fund improvements and services directly provided within the Assessment District and every benefiting property in the Assessment District enjoys proximity and access to the Improvements. Therefore, Dahms establishes a basis for minimal or zero general benefits from the Assessments. However, in this Report, the general benefit is more conservatively estimated and described, and then budgeted so that it is funded by sources other than the Assessment.

METHOD OF ASSESSMENT

The second step in apportioning assessments is to determine the relative special benefit for each property. This process involves determining the relative benefit received by each property in relation to a single family home, or, in other words, on the basis of Single Family Equivalents (SFE). This SFE methodology is commonly used to distribute assessments in proportion to estimated special benefit and is generally recognized as providing the basis for a fair and appropriate distribution of assessments. For the purposes of this Engineer's Report, all properties are designated a SFE value, which is each property's relative benefit in relation to a single family home on one parcel. The "benchmark" property is the single family detached dwelling which is one Single Family Equivalent, or one SFE.

As stated previously, the special benefits derived from the assessments are conferred on property and are not based on a specific property owner's use of the improvements, on a specific property owner's occupancy of property, or the property owner's demographic status such as age or number of dependents. However, it is ultimately people who enjoy the special benefits described above, use and enjoy the City's trees and sidewalks, and control property values by placing a value on the special benefits to be provided by the improvements. In other words, the benefits derived to property are related the average number of people who could potentially live on, work at or otherwise could use a property, not how the property is currently used by the present owner. Therefore, the number of people who could or potentially live on, work at or otherwise use a property is an indicator of the relative level of benefit received by the property.

ASSESSMENT APPORTIONMENT - STREET TREES

PROPERTIES WITH STREET TREES

All improved residential properties that represent a single residential dwelling unit and have a street tree on or fronting the property are assigned 1.0 SFE. All single-family houses with tree(s) and those units in R-2 zones that are being used as single family dwellings (with trees) are included in this category.

Properties with more than one residential unit are designated as multi-family residential properties. These properties benefit from the improvements in proportion to the number of dwelling units that occupy each property and the relative number of people who reside in multi-family residential units compared to the average number of people who reside in a single-family home. The population density factors for the County of San Mateo are depicted below. The SFE factors for condominium, townhouse, and multi-family parcels, as derived from relative dwelling unit population density, are also shown below.

FIGURE 1 – RESIDENTIAL ASSESSMENT FACTORS

<i>Total Population</i>	<i>Occupied Households</i>	<i>Persons per Household</i>	<i>SFE Factor- Single Family Residential</i>	<i>SFE Factor- Condominium/ Townhouse</i>	<i>SFE Factor- Multi-Family Residential</i>
717,041	257,849	2.74	1.0	0.9	0.8

Source: 2003 Census, San Mateo County

The SFE factor for condominium, townhouse, and multi-family parcels is based on the ratio of average persons per household for the property type versus the average persons per household for a single family residential home. Multi-family units are assessed at 0.80 per unit up to a maximum of 4.0 SFE per parcel (maximum of 5 units multiplied by 0.80). Condominium and townhouse parcels are assessed at 0.90 per unit, up to a maximum of 4.5 SFEs per development (maximum of 5 units multiplied by 0.90).

SFE values for commercial and industrial land uses are based on the equivalence of special benefit on a land area basis between single-family residential property and the average commercial/industrial property. The average size of a parcel for a single-family home in the District is approximately 0.18 acres, and such single-family property has an SFE value of 1.0. Using the equivalence of benefit on a land area basis, improved commercial and industrial parcels of approximately 0.20 acres or less would also receive an SFE benefit factor of 1.0. Commercial and industrial parcels in excess of a fifth of an acre in size are assigned 1.0 SFE per 0.20 acre or portion thereof, and the maximum benefit factor for any commercial/industrial parcel is 5.0 SFE.

Vacant parcels are also benefited from the street tree improvement and maintenance program. An example of a benefit is enhancement of the visual appeal that will accrue to a

vacant parcel from the presence or proximity of the community's street trees based on its future potential use. Undeveloped property also benefits from the installation and maintenance of street trees, because if the property is developed during the year, the street trees will be available to the developed property. The relative benefit to vacant property is determined to be generally equal to the benefit to a single-family home property. Therefore, vacant property with street tree(s) are assessed 1 SFE.

PROPERTIES WITHOUT STREET TREES

The special benefit factors conferred on property can be defined by the benefits conferred to properties with and without street trees. The types of benefits conferred to all property in the community include protection of views, screening, and resource values and enhanced desirability of the property. A higher level of special benefits is conferred directly on parcels with street trees because these parcels obtain additional benefits from well-maintained, healthy trees fronting the property. The types of special benefits that are increased for properties with street trees include enhanced levels of safety, desirability, unique proximity, access and views of resources and facilities from healthy trees on the property. Therefore, individual properties without street trees but in close proximity to parcels with street trees receive a direct benefit from the street trees and should pay 50% of the rate for a similar property with street trees. Such properties are assigned an SFE benefit factor that is 50% of that for a similar property with street trees.

ASSESSMENT APPORTIONMENT - SIDEWALK PROGRAM

The benefits to property for sidewalks, curbs, gutters and parking strips are closely related to a parcel's proximity to these improvements and the parcel's proximity to street trees. Street trees are the most common cause of sidewalk problems. Therefore, the highest benefit from the proposed sidewalk improvements is to properties with street trees and sidewalks, curbs and gutters, or street trees and parking strips and gutters, because without the maintenance work, these improvements would degrade more quickly, which would affect the parcel's appearance and safety. It is estimated that 1/3 of the special benefits are conferred to property with street trees and sidewalks or parking strips. Another 1/3 of the special benefits are conferred to property with street trees and curbs and gutters. Special benefit factors are also conferred on property without street trees or adjoining sidewalk, curb, gutter and/or parking strip improvements that are in close proximity to these types of improvements. It is estimated that the remaining 1/3 of the special benefit factors from the Sidewalk Program are conferred to these parcels that are in close proximity to the improvements but that do not have improvements directly adjacent to their property.

Consequently, properties with street trees and sidewalks or parking strips and curbs and gutters or valley gutters are assigned a benefit factor of 1 SFE. Properties with street trees, curbs and gutters are assigned a benefit factor of 0.67 SFE. If there are street trees but no improvements along the frontage of a parcel, or no street trees on a parcel, its benefit is 1/3 or 0.33 SFE.

ASSESSMENT APPORTIONMENT - OTHER PROPERTIES

Improved, publicly owned parcels that are used for residential, commercial or industrial purposes are assessed at the rates specified previously. Other improved public property; institutional property and properties used for educational purposes, typically generate employees on a less consistent basis than other non-residential parcels. Moreover, many of these parcels provide some degree of on-site amenities that serve to offset some of the benefits from the District. Therefore, these parcels, with or without street trees, receive minimal benefit and are assessed an SFE factor of 1 for street tree assessments and an SFE factor of 1 for sidewalks, curbs and gutter assessments.

All properties that are specially benefited have been assessed. Agricultural parcels without living units, public right-of-way parcels, well, reservoir or other water rights parcels, unimproved open space parcels, watershed parcels and common area parcels generally provide recreational, open space and/or scenic benefits to the community. As such, they tend to provide similar benefits as provided by the improvements in the District. Any benefits they would receive from the landscaping maintenance are generally offset by the equivalent benefits they provide. Moreover, these parcels typically do not generate employees, residents or customers. Such parcels are, therefore, not specially benefited and are not assessed.

APPEALS AND INTERPRETATION

Any property owner who feels that the assessment levied on the subject property is in error as a result of incorrect information being used to apply the foregoing method of assessment, may file a written appeal with the Assistant Public Works Director of the City of Menlo Park or his or her designee. Any such appeal is limited to correction of an assessment during the then current or, if before July 1, the upcoming fiscal year. Upon the filing of any such appeal, the Assistant Public Works Director or his or her designee will promptly review the appeal and any information provided by the property owner. If the Assistant Public Works Director or his or her designee finds that the assessment should be modified, the appropriate changes shall be made to the assessment roll. If any such changes are approved after the assessment roll has been filed with the County of San Mateo for collection, the Assistant Public Works Director or his or her designee is authorized to refund to the property owner the amount of any approved reduction. Any dispute over the decision of the Assistant Public Works Director or his or her designee shall be referred to the City Council of the City of Menlo Park and the decision of the City Council of the City of Menlo Park shall be final.

FIGURE 2 – TREE MAINTENANCE ASSESSMENTS

Property Type	2016-17 Assessment Rates	
Parcels with Trees		
Single Family	\$65.16	(per Parcel)
R-2 Zone, in use as single family	\$65.16	(per Parcel)
Condominium/Townhouse	\$58.64	(per Unit, \$293.22 max. per Project)
Other Multi-family	\$52.13	(per Unit, \$260.64 max. per Project)
Commercial	\$65.16	(per 1/5 acre, \$325.80 max. per Project)
Industrial	\$65.16	(per 1/5 acre, \$325.80 max. per Project)
Parks, Educational	\$65.16	(per Parcel)
Miscellaneous, Other	\$0.00	(per Parcel)
Parcels without Trees		
Single, Family	\$32.58	(per Parcel)
R-2 Zone, in use as single family	\$32.58	(per Parcel)
Condominium/Townhouse	\$29.32	(per Unit, \$146.61 max. per Project)
Other Multi-family	\$26.06	(per Unit, \$130.32 max. per Project)
Commercial	\$32.58	(per 1/5 acre, \$162.9 max.)
Industrial	\$32.58	(per 1/5 acre, \$162.9 max.)
Parks, Educational	\$32.58	(per Parcel)
Miscellaneous, Other	\$0.00	(per Parcel)

FIGURE 3 – SIDEWALK, CURB, GUTTER, PARKING STRIP ASSESSMENTS

Property Type	2016-17 Assessment Rates	
Parcels with Trees		
Sidewalks, curbs, gutters	\$28.70	(per Parcel)
Parking strips and gutters	\$28.70	(per Parcel)
Curbs and/or gutters only	\$19.23	(per Parcel)
No improvements	\$9.47	(per Parcel)
Miscellaneous, Other	\$0.00	(per Parcel)
Parcels without Trees		
Parcels with or without improvements	\$9.47	(per Parcel)
Miscellaneous, Other	\$0.00	(per Parcel)

Note: All total combined tree and sidewalk assessment amounts are rounded to the lower even penny.

ASSESSMENT

WHEREAS, on January 19, 2016 the City Council of the City of Menlo Park, County of San Mateo, California, pursuant to the provisions of the Landscaping and Lighting Act of 1972 and Article XIID of the California Constitution (collectively "the Act"), adopted its Resolution Initiating Proceedings for the Levy of Assessments within the Landscaping Assessment District;

WHEREAS, said Resolution directed the undersigned Engineer of Work to prepare and file a report presenting an estimate of costs, a diagram for the assessment district and an assessment of the estimated costs of the improvements upon all assessable parcels within the assessment district, to which Resolution and the description of said proposed improvements therein contained, reference is hereby made for further particulars;

NOW, THEREFORE, the undersigned, by virtue of the power vested in me under said Act and the order of the City Council of said City of Menlo Park, hereby make the following assessment to cover the portion of the estimated cost of said improvements, and the costs and expenses incidental thereto to be paid by the assessment district.

The amount to be paid for said improvements and the expense incidental thereto, to be paid by the Landscaping Assessment District for the fiscal year 2016-17 is generally as follows:

FIGURE 4 – SUMMARY COST ESTIMATE

	<i>F.Y. 2016-17 Budget</i>
Street Tree Program	\$669,544
Street Sweeping	\$223,381
Sidewalk Program	\$300,000
Incidental Expenses	\$125,475
TOTAL BUDGET	\$1,318,400
Plus:	
Projected Fund Balance	\$266,998
Less:	
City Contribution for General Benefits	(\$445,000)
Contribution from Carry-Over Fund Balances	(\$357,005)
NET AMOUNT TO ASSESSMENTS	\$783,393

As required by the Act, an Assessment Diagram is hereto attached and made a part hereof showing the exterior boundaries of said Landscaping Assessment District. The distinctive number of each parcel or lot of land in the said Landscaping Assessment District is its Assessor Parcel Number appearing on the Assessment Roll.

And I do hereby assess and apportion said net amount of the cost and expenses of said improvements, including the costs and expenses incidental thereto, upon the parcels and lots of land within said Landscaping Assessment District, in accordance with the special benefits to be received by each parcel or lot, from the improvements, and more particularly set forth in the Cost Estimate and Method of Assessment hereto attached and by reference made a part hereof.

The assessment is made upon the parcels or lots of land within the Landscaping Assessment District in proportion to the special benefits to be received by the parcels or lots of land, from said improvements.

The assessment is subject to an annual adjustment tied to the Engineering News Record (ENR) Construction Cost Index for the San Francisco Bay Area, with a maximum annual adjustment not to exceed 3%. Any change in the ENR in excess of 3% shall be cumulatively reserved as the "Unused ENR" and shall be used to increase the maximum authorized assessment rate in years in which the ENR is less than 3%. The maximum authorized assessment rate is equal to the maximum assessment rate in the first fiscal year the assessment was levied adjusted annually by the minimum of 1) 3% or 2) the change in the ENR plus any Unused ENR as described above. The initial, maximum assessment rate balloted and established in Fiscal Year 1998-99 was \$64.28 per single family equivalent benefit unit for tree maintenance, and \$28.70 per single family equivalent benefit unit for sidewalk maintenance.

Based on the preceding annual adjustments, the maximum assessment rate for Fiscal Year 2015-16 was \$101.42 for tree maintenance and \$45.28 for Sidewalk maintenance. The change in the ENR from December 2014 to December 2015 is not yet available. Therefore, assuming a 0% increase in the ENR Index plus the uncaptured excess reserved from prior years, the maximum authorized assessment rate for Fiscal Year 2016-17 has been increased from \$101.42 to \$104.46 per single family equivalent benefit unit for tree maintenance, and from \$45.28 to \$46.64 per single family equivalent benefit unit for sidewalk maintenance. However, the estimate of cost and budget in this Engineer's Report proposes assessments for fiscal year 2016-17 at the rate of \$65.16 per single family equivalent benefit unit for tree maintenance, which is less than the maximum authorized assessment rate and is a 5% increase over the rate assessed in the previous fiscal year. The proposed assessment rate for fiscal year 2016-17 for sidewalk maintenance is \$28.70 per single family equivalent benefit unit, which is also less than the maximum authorized assessment rate and is the same rate assessed in the previous fiscal year.

Property owners in the Assessment District, in an assessment ballot proceeding, approved the initial fiscal year benefit assessment for special benefits to their property including the ENR adjustment schedule. As a result, the assessment may continue to be levied annually and may be adjusted by up to the maximum annual ENR adjustment without any additional assessment ballot proceeding. In the event that in future years the assessments are levied at a rate less than the maximum authorized assessment rate, the assessment rate in a subsequent year may be increased up to the maximum authorized assessment rate without any additional assessment ballot proceeding.

Each parcel or lot of land is described in the Assessment Roll by reference to its parcel number as shown on the Assessor's Maps of the County of San Mateo for the fiscal year 2016-17. For a more particular description of said property, reference is hereby made to the deeds and maps on file and of record in the office of the County Recorder of said County.

I hereby place opposite the Assessor Parcel Number for each parcel or lot within the Assessment Roll, the amount of the assessment for the fiscal year 2016-17 for each parcel or lot of land within the said Landscaping Assessment District.

May 17, 2016

Engineer of Work



By _____
John W. Bliss, License No. C52091



FIGURE 5 – ENGINEER'S COST ESTIMATE, FISCAL YEAR 2016-17

**2016-17
CITY OF MENLO PARK LANDSCAPING ASSESSMENT DISTRICT
ENGINEER'S COST ESTIMATE**

A. Tree Maintenance		
Salaries & Benefits	\$340,452.00	
Operating Expense	\$38,551.94	
Fixed Assets & Capital Outlay	\$4,500.00	
Vehicle & Equipment Maintenance	\$16,040.00	
Professional Services (Tree Spraying, Tree Trimming, Misc.)	\$270,000.00	
Subtotal - Tree Maintenance		<u>\$669,543.94</u>
B. Debris Removal		
Salaries & Benefits	\$75,947.00	
Operating Expense	\$2,433.62	
Street Sweeping Contract	\$145,000.00	
Subtotal - Debris Removal		<u>\$223,380.62</u>
C. Sidewalk, Curb, Gutter, Parking Strip Repair/Replacement		
Construction Costs	\$190,490.00	
Design & Inspection	\$109,510.00	
Subtotal - S/W,C,G, & PS Repair/Replace		<u>\$300,000.00</u>
Subtotal Tree/Debris/Reforestation/Sidewalk		<u>\$1,192,924.56</u>
D. Incidentals		
Indirect Costs & Administration	\$110,475.00	
County Collection Fees	\$15,000.00	
Subtotal - Incidentals		<u>\$125,475.00</u>
Total Cost		<u>\$1,318,399.56</u>

Revenue

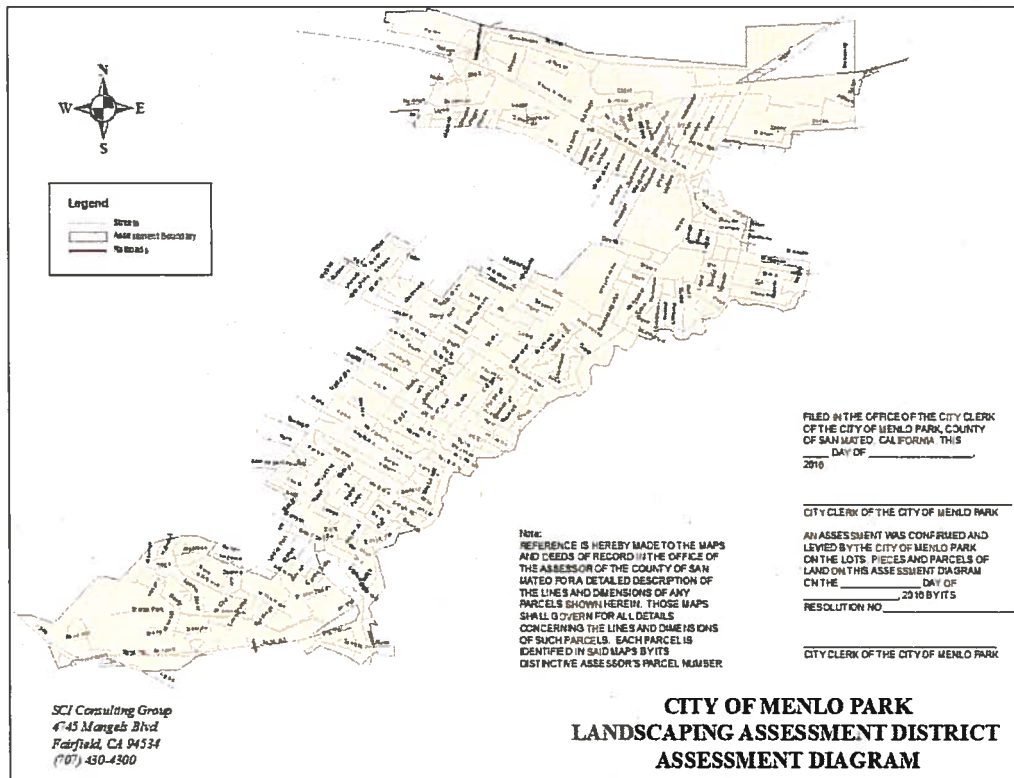
Single Family Equivalent Benefit Units - Trees		9,007.34
Single Family Equivalent Benefit Units - Sidewalks		6,845.80
	2016/17	2015/16
Assessment Rate for Tree Fund/ SFE	\$65.16	\$62.06
Assessment Rate for Sidewalk Fund/ SFE	\$28.70	\$28.70
Revenue for Tree Fund		\$586,918.27
Revenue for Sidewalk Fund		\$196,474.46
Total Revenue *		\$783,392.73

* Total revenue is slightly less than SFEs times the assessment rate because all combined assessments are rounded down to the even penny.

ASSESSMENT DIAGRAM

The Landscaping Assessment District includes all properties within the boundaries of the City of Menlo Park.

The boundaries of the Landscaping Assessment District are displayed on the following Assessment Diagram.



APPENDIX A – ASSESSMENT ROLL, FY 2016-17

Reference is hereby made to the Assessment Roll in and for the assessment proceedings on file in the office of the City Clerk of the City of Menlo Park, as the Assessment Roll is too voluminous to be bound with this Engineer's Report.

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STAFF REPORT

City Council

Meeting Date: 5/24/2016
Staff Report Number: 16-084-CC

Consent Calendar: Approve a contract with FATHOM for water meter reading, billing and customer service

Recommendation

Staff recommends the following City Council actions:

- Authorize the City Manager to approve a five-year contract for water meter reading, billing and customer service with FATHOM effective June 1, 2016, and
- After the five-years, authorize the City Manager to extend the contract for additional one-year terms.

Policy Issues

The recommendations do not represent any change to existing City policy.

Background

In 1953, the City formed the Menlo Park Municipal Water District (MPMWD) and established the Water Fund as a self-supporting enterprise fund. MPMWD purchases all of its water from the San Francisco Public Utilities Commission (SFPUC) and sells the water to approximately 16,000 customers through 4,300 metered service connections. Water revenue collected from sales supports the operations, maintenance, and capital needs of the MPMWD. There are three other water agencies that provide water to Menlo Park residents and businesses (California Water Service (Calwater), O'Connor Tract Co-Operative Water Company, and Palo Alto Park Mutual Water Company).

In 1994, staff began analyzing the costs and benefits of contracting out for water meter reading, billing, and customer service. In September 1995, the City awarded a one-year contract to Calwater to provide these services, and Calwater provided these services for almost 16 years until March 2010 through various contract extensions.

In 2009, staff issued a Request for Proposal (RFP) in order to take advantage of current technology and improvements in data availability for water use analysis, and in January 2010, the City awarded a five-year contract to FATHOM (formerly Global Water), which also included five additional one-year terms, to provide water meter reading, billing, and customer service. FATHOM has been providing these services for more than six years (the initial five years and we are currently in the second year extension) since April 2010.

In October, 2015, staff issued a RFP to nine experienced contractors that provide water billing and customer service to other local water agencies. Staff felt it necessary to issue a RFP in order to receive a better level of service and to investigate other billing contractor options available since it had been six years since the last RFP. The RFP asked contractors to submit a separate cost for meter reading services in order to evaluate the feasibility of providing meter reading services differently in the future, particularly if MPMWD pursues an Automated Meter Infrastructure (AMI) system which would remove the separate meter

reading option. In addition to meter reading services and normal billing services, the scope of work also included an enhanced past due collections process, up-to-date customer data available online for City staff, detailed procedures outlining the responsibilities of both the City staff and the contractor, and improved customer service with City staff and water customers.

Analysis

Staff received a total of three proposals from FATHOM, Util-Assist and Smart Utility Systems and estimated annual costs are shown in the table below.

Contractor	Monthly Rate, per Account			Estimated Annual Costs
	Meter Reading	Billing & Customer Service	Total	
FATHOM (current contract)	Not itemized		\$5.34	\$275,500
FATHOM (proposed contract)	\$2.51	\$4.00	\$6.51	\$336,000
Util-Assist	\$4.12	\$8.44	\$12.56	\$648,000
Smart Utility Systems	Not provided	\$1.28 (Provides e-billing only, no paper bills)	Not provided	Not provided

Staff also determined that with the current water maintenance workload, it would be difficult to provide the additional meter reading services, therefore, staff decided it would be best to continue contracting out for meter reading services at this time.

Smart Utility Systems is a fairly new utilities service provider with an innovative web-based portal solution. Their biggest disadvantage, however, is that they do not provide paper billing services which is an important service for MPMWD to accommodate for many customers that do not use e-billing services. Util-Assist is also a fairly new utility service provider for both small and large water providers, however, their costs were 93% higher compared to FATHOM’s cost for the same services.

FATHOM has a current agreement with the City and, over the last nine months, staff has been extremely satisfied with FATHOM’s quality of work and responsiveness. FATHOM currently provides MPMWD with meter reading, billing, and customer service at a cost of \$5.34 per account per month, which equates to approximately \$275,500 annually (for about 4,300 accounts), and these costs increase each year based on the Consumer Price Index (no higher than 5%). FATHOM has extensive experience in meter automation and many of their utilities read meters with AMI that collect accurate daily or hourly readings that are available online. MPMWD is looking towards transitioning to an AMI system within the next five years, so partnering with a billing contractor that can provide AMI capability without the need to change billing systems is valuable.

Based on the information above, staff believes that FATHOM is the most qualified contractor to provide billing services for MPMWD now and into the future, hence, recommending that the Council approve a new agreement with FATHOM.



Impact on City Resources

Annual costs to enter into an enhanced agreement with FATHOM will increase about 22%, from \$275,500 to \$336,000 the first year. These costs will be fully covered by the Water Fund and are included in the fiscal year 2016-17 draft budget.

Environmental Review

Environmental Review is not required.

Public Notice

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

Attachments

A. Scope of Work

Report prepared by:

Sally Salman, Assistant Engineer

Pam Lowe, Senior Civil Engineer

Report reviewed by:

Ruben Niño, Assistant Public Works Director

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Exhibit "A-1"**Description of Scope of Services**

FATHOM services will be provided in accordance with the tasks described below. For items not specifically mentioned below, FATHOM is permitted to perform functions in accordance with FATHOM's most-current standard industry best practices, where applicable.

Incorporated herein by reference are the most current, mutually agreed to versions of the "Work Order Routing and Guidelines" (Work Order Routing and Guidelines) and "Menlo Park Collections Process" (Menlo Park Collections Process) documents. Revisions to either or both of these documents may be made in the future with written approval of both the CITY and FATHOM.

Task	Description
1	Meter Reading
2	Billing Services
3	Past Due Collections
4	Data Sharing
5	Customer Service
6	FATHOM Software and Services

Task 1 – Meter Reading

- 1.1 FATHOM shall physically field check, read meters, and record meter readings for each meter **within the City's service area on a monthly basis. Individual monthly readings shall be read plus or minus two (2) days on or about the same date each month.** The monthly meter reading schedule may vary because of holidays and weekends.
- 1.2 FATHOM shall notify the CITY for corrective actions that are the CITY'S responsibility within two (2) days for non-emergencies and within one (1) hour for emergencies by following the emergency contact process **delineated in the "Work Order Routing and Guidelines"**. Examples of emergencies are water leaks or other repair issues that could place the CITY in liability or create significant property damage. Notification of corrective actions requires a work order in the electronic work order system.
- 1.3 FATHOM shall provide a monthly report that summarizes the number of work orders received within that month, the number of work orders that have been resolved, and an itemized list of outstanding work orders and current status. The list shall separate work orders that are the responsibility of the City and the responsibility of FATHOM.

- 1.4 **CITY and FATHOM responsibilities shall be clearly delineated in the "Work Order Routing and Guidelines"** document which summarizes the various field activities that will occur and emergency notification procedures.
- 1.5 FATHOM shall have an AMR (Automated Meter Reader) device capable of reading Sensus meters.
- 1.6 FATHOM shall submit monthly reports summarizing the number of meters read each day within each cycle, the number of meters re-read and the reason, and the number of meters not read and the reason.
- 1.7 FATHOM meter reading staff will not be available before 7:00 am or after 5:00 pm CITY local time on business days, or any time on weekends and holidays.
- 1.8 Should the CITY opt to transition to a more automated meter reading system, the meter reading component, and associated costs, would be proportionately reduced, if not eliminated.

Task 2 – Billing Services

- 2.1 FATHOM shall mail monthly bills within five (5) business days of meters being read. Bills will be based on meter readings recorded by the meter readers and in accordance with the actual meter readings and prevailing usage tariffs in effect at the time of billing as presented in the **CITY'S current water rate schedule**. One bill, **printed on a single 8.5" x 11" page**, will be mailed per billing cycle per customer. FATHOM shall print customer bills on billing stock with **"Menlo Park Municipal Water District"** and the **CITY'S logo printed on the top of the bill**.
- 2.2 FATHOM shall accept and process customer payments each business day. Customers shall have the option of paying bills by several means, including mailing the payment to FATHOM, paying by credit card, authorizing payment via home banking, or by automatic deduction from **customers' bank accounts**. **If paying by credit card, customers shall pay the credit card transaction fee percentage applicable to the payment.**
- 2.3 FATHOM shall use commercially reasonable efforts to maintain accurate customer records.
- 2.4 FATHOM shall provide customers the ability to access their account through a website that will show the current bill, monthly usage, account information, and payment history. The website shall also provide a graph showing historical water consumption compared to other similar City accounts.
- 2.5 FATHOM shall allow customer to pay bills online or set up automatic bill payments. For customers using online bill pay and automatic bill pay, within five business days of meter

reading, FATHOM shall notify customers each time a bill is available for viewing and payment. Customers whose checks or automatic bill payments or online payments are rejected for any reason will be charged a rejected payment processing fee. This fee will be added to the **customer's account in addition to the original payment amount.**

- 2.6 FATHOM shall remit collected funds to the CITY by direct deposit, wire transfer or ACH within one week of collection of payments.
- 2.7 FATHOM shall accommodate two rate modifications per year.
- 2.8 FATHOM shall submit a weekly summary to the CITY with total customer payments received, the number of meters read and corresponding FATHOM fees, and other fees such as reconnection fees.
- 2.9 FATHOM shall establish a billing/collection calendar annually and submit to the CITY for approval.

Task 3 – Past Due Collections

- 3.1 FATHOM shall be responsible for notifying customers and collecting past due accounts.
- 3.2 **CITY and FATHOM responsibilities shall be clearly delineated in the "Menlo Park Collections Process"** document which summarizes the outreach, notices, and penalties.

Task 4 – Data Sharing

- 4.1 FATHOM shall provide authorized City employees unlimited access via the internet to water **customers' non-confidential** account information to view online or download into Excel. FATHOM is not responsible for providing City employees access to the internet.
- 4.2 FATHOM shall provide monthly reports by the 15th of each month as follows:
 - a. Income Statement – Year to date income statement by month.
 - b. Transaction Summary – Transactions summarized by General Ledger number.
 - c. Transaction Detail – Transactions detailed by Account.
 - d. A/R Summary – A/R balance detailed by Service, Account Status, Account Type.
 - e. A/R Aging – A/R aging detailed by account including 0-30, 30-60, 60-90, and 90-120 days.
 - f. AR Roll-forward - tracks all financial transactions by type.

- g. Deposits – Deposit detail by account.
 - h. Consumption Details
 - i. Location / consumption summary (based on accounting system)
 - ii. Location / consumption summary (adjusted for actual water usage, cannot show negative consumption to correct for past billings)
 - iii. Top 20 customers by structure type
 - iv. Commercial greater than 20%
 - v. Residential greater than 50%
 - i. Customer email addresses.
- 4.3 FATHOM shall provide customer mailing addresses in a bi-annual report.
- 4.4 FATHOM shall retain customer records for a minimum of 10 years.
- 4.5 FATHOM shall distribute six (6) CITY-**provided 8.5"x11"**, single page insert mailings per calendar year at no additional cost, provided that the inserts do not increase the postage of an individual bill.
- 4.6 FATHOM shall verify addresses by checking the USPS change of address database every month. FATHOM shall update the database with any address changes on a monthly basis.
- 4.7 **FATHOM shall include utility messages written on customers' billing statements at no charge.**

Task 5 – Customer Service

- 5.1 FATHOM shall provide information to new customers regarding CITY water rates and conditions of service.
- 5.2 FATHOM will provide a local or 800 telephone number for customers to call and speak to a representative of FATHOM. FATHOM will provide sufficient personnel, including Spanish-speaking personnel, to respond to customer service calls by the next business day.
- a. Live customer care representatives will be available Monday through Friday, at least 8:00 am to 5:00 pm CITY local time, excluding holidays observed by FATHOM.
 - b. Monthly call volume of up to ten percent (10%) of the total number of managed accounts, rounded up to the nearest whole number is included. Beginning on January 1, 2017, calls in excess of the monthly call volume shall be charged at a rate of ten dollars (\$10) per call. Monthly call volume applies to calls handled by live customer care representatives only.

- c. Seventy percent (70%) of customer contacts will be addressed within sixty (60) seconds.
- 5.3 FATHOM shall notify CITY for customer service requests or problems received which require field work not related to billing services. This will include, but not be limited to leaks, system damages, system low pressures, and water quality matters.
- 5.4 FATHOM shall provide an automated work order system to be used by FATHOM and CITY in reporting problems or service requests. FATHOM shall provide training via web-conferencing tools as necessary to the CITY at no charge. For onsite training, travel and expense charges may apply.
- 5.5 FATHOM shall provide an after-hour customer call service. FATHOM will determine which calls are considered emergencies and, if needed, will follow emergency response procedures **outlined in the "Work Order Routing and Guidelines"** document. For calls that are non-emergency, FATHOM will return calls the next business day. FATHOM shall provide the CITY with a weekly list of after-hour calls and followup status.
- 5.6 FATHOM shall provide and manage a client portal that the CITY can use for uploading, downloading and sharing utility digital media on the utility server.

Task 6 – FATHOM Software and Services

- 6.1 FATHOM shall provide a dedicated ticketing support management system to effectively manage CITY inquiries and concerns.
- 6.2 **FATHOM shall provide support services ("Support Services"), including all modifications created by FATHOM that are made generally available to FATHOM's clients.** The Support Services to be provided by FATHOM shall not include: (i) support of Software operation on equipment not identified by FATHOM as an authorized device; (ii) support of software not supplied by FATHOM; (iii) support of Software not properly used or used in an operation environment not designated by FATHOM; or (iv) support of business processes not identified during the existing implementation of the project.
- 6.3 CITY shall designate those CITY employees authorized to contact FATHOM for provision of Support Services, and shall maintain and provide FATHOM with an updated list of employees, including all relevant contact information (such as email addresses). Only those CITY employees designated shall contact FATHOM for the provision of Support Services. In addition, FATHOM shall designate those FATHOM employees who CITY may contact for provision of Support Services, and shall maintain and provide CITY with all relevant contact information for such FATHOM employees.
- 6.4 FATHOM will issue maintenance releases from time to time at **FATHOM's discretion to**

subscribers of Support Services including bug fixes, updates, enhancements contained within new releases, new releases, and new versions of the Software and/or FATHOM platform. Maintenance releases contain proprietary and confidential information and are provided for **the CITY's internal use only and shall be treated as Confidential Information of FATHOM.**

- 6.5 Additional services not included in this Scope of Work may be billed on a time and materials basis. Both parties must agree to the additional services and fees prior to work commencing.

Exhibit "A-2"
Fee Schedule

This schedule defines the fees to be paid by CITY to FATHOM under this Agreement.

Fees will be billed monthly as shown in the table below. Should the CITY opt to transition to a more automated meter reading system or perform in-house meter reading, the meter reading component, and associated costs, would be reduced, if not eliminated.

Fee Type	Monthly Fee	Adjustments
Meter Reading	\$2.51 per account location per month	<i>Inflation Adjuster:</i> \$2.51 per account location per month shall be subject to an increase each year equivalent to the CPI factor for the applicable region.
Customer Information System – Software as a Service – with Utility Billing and Customer Care Managed Services	\$4.00 per account managed per month	<i>Inflation Adjuster:</i> \$4.00 per account managed per month shall be subject to an increase each year equivalent to the CPI factor for the applicable region.

The above fees shall be adjusted annually on July 1 based on the Consumer Price Index – United States City Average – for All Urban Consumers and all Items published by the United States **Department of Labor, Bureau of Labor Statistics (the "Index")**, per the Index for the month of May of the then-current year. The first adjustment will occur on July 1, 2017. If the Index is discontinued or revised during the Term, such other government index or computation with which it is replaced shall be utilized, and modified as necessary, to obtain substantially the same result as would have been obtained if the Index had not been discontinued or revised. Annual adjustments will be calculated **based on the prior year's fees for the Recurring Services, plus the inflation adjuster as described above.** At no point will any change result in a reduction of fees.

Exhibit "A-3"
Contact Information

CLIENT PROJECT MANAGER

City Engineer/Public Works Director
Name: _____
Address: 701 Laurel Way
City, State, Zip: Menlo Park, CA 94025
Phone: _____
Fax: _____
Email: _____

FATHOM PROJECT MANAGER

FATHOM Water Management, Inc.
Name: _____
Address: 21410 N. 19th Avenue, Suite 201
City, State, Zip: Phoenix, AZ 85027
Phone: _____
Fax: (623) 580 9659
Email: _____

CLIENT IT PROJECT MANAGER

Name: _____
Title: _____
Address: _____
City, State Zip: _____
Phone: _____
Fax: _____
Email: _____

FATHOM IT PROJECT MANAGER

Name: _____
Title: _____
Address: 21410 N. 19th Avenue, Suite 201
City, State, Zip: Phoenix, AZ 85027
Phone: _____
Fax: (623) 580 9659
Email: _____



STAFF REPORT

City Council Meeting Date: 5/24/2016
Staff Report Number: 16-076-CC

Consent Calendar: Adopt a Resolution to Extend Section 16.79.045 of the Zoning Ordinance to allow the conversion of accessory buildings into secondary dwelling units for one year, expiring on June 13, 2017

Recommendation

Staff recommends that the City Council adopt a resolution to extend Section 16.79.045 of the Zoning Ordinance to allow the conversion of accessory buildings meeting certain criteria into secondary dwelling units for one additional year, expiring on June 13, 2017.

Policy Issues

The adoption of the resolution to extend the provision to allow the conversion of accessory buildings into secondary dwelling units would support Program H4.F of the Housing Element. The proposed resolution would extend provisions that have been in place since June 2014, and would not modify the criteria or review process.

Background

Following an extensive process, the City Council adopted the Housing Element for the 2015-2023 planning period on April 1, 2014. The Housing Element includes a number of goals, policies and programs to account for local changes in the housing market and to meet regional housing needs. Concurrent with the adoption of the Housing Element, the City Council also implemented a number of programs, including Program H4.F (Establish a Process and Standards to Allow the Conversion of Accessory Buildings and Structures to a Secondary Dwelling Unit).

On May 13, 2014, the City Council adopted Ordinance No. 1005 to amend the secondary dwelling unit chapter of the Zoning Ordinance. The modifications to the secondary dwelling unit chapter included the establishment of a process and standards to allow the potential conversion of accessory buildings into a secondary dwelling unit. The intent of the changes was to increase the housing stock by accounting for buildings that may effectively function like secondary dwelling units, but do not meet the minimum yard requirements. Proposed projects meeting specific criteria established in the ordinance could be reviewed through the administrative permit process, where the Community Development Director is authorized to make a decision after public notice.

The ordinance was adopted with a sunset clause, expiring on June 13, 2015. However, the ordinance includes a provision that allows the City Council to extend the effective date via resolution without further public hearings by the Planning Commission and City Council. In May 2015, the City Council adopted Resolution No. 6265 to extend the ordinance to June 13, 2016.

Analysis

In 2015, the City issued eight building permits for secondary dwelling units. One of the building permits was for the conversion of a detached garage into a secondary dwelling unit, taking advantage of the limited-time conversion provision in the Zoning Ordinance. One additional administrative permit application for the secondary dwelling unit conversion process is still pending, and would continue to be processed even if the provision ceases. The City reviewed a third application, but it was determined not to be required following revisions to the proposal. The latter accessory building was reviewed for the conversion of a garage into a secondary dwelling unit through the building permit process, and was recently issued a building permit in November 2015. Although staff does not have formal statistics on the number of inquiries regarding the conversion process, staff has received a number of general inquiries, and believes that extension of the program for an additional year would be a mechanism to support the development of secondary dwelling units and to increase the number of relatively affordable housing in the City.

As part of the 2014 Housing Element Annual Report review, staff identified six potential housing-related, “clean-up” Zoning Ordinance amendments. One of the potential changes would impact the secondary dwelling unit conversion requirements. Currently, Section 16.79.040(d) indicates that the accessory building must meet all of the development regulations of the secondary dwelling unit ordinance with the exception of minimum yards. Staff recognizes that other development factors, such as daylight plane and height, could also be potentially “grandfathered” to help facilitate the conversion process for a structure that might otherwise not qualify. As part of the General Plan update process, staff will be considering several housing programs that could trigger Zoning Ordinance amendments. For efficiency, staff will consider bundling the “clean up” Zoning Ordinance amendments with other housing-related zoning ordinances that may come concurrent with or following the General Plan update.

In order to extend the existing provisions before the June 13, 2016 deadline, staff recommends that the City Council adopt a resolution, included as Attachment A, to continue the secondary dwelling unit conversion program for one additional year.

Impact on City Resources

There are no impacts to City resources besides the preparation of the report. Subsequent staff time to review the applications will be covered by the administrative permit application fee per the Master Fee Schedule.

Environmental Review

The 2015-2023 Housing Element and the Zoning Ordinance amendments associated with the implementation programs were subject to the California Environmental Quality Act (CEQA). A Negative Declaration, which was prepared on the basis of an initial study, was adopted on April 1, 2014 by resolution No. 6190. The proposed one year extension does not modify the standards or process outlined in the existing ordinance, and there would be no new potential environmental impacts beyond what was considered in the adopted Negative Declaration.

Public Notice

Public Notification was achieved by posting the agenda, with the agenda items being listed, at least 72

hours prior to the meeting.

Attachments

- A. Resolution of the City Council of the City of Menlo Park to extend Chapter 16.79.045 of the Zoning Ordinance to allow the conversion of accessory buildings into secondary dwelling units for one year, expiring on June 13, 2017

Report prepared by:
Deanna Chow, Principal Planner



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RESOLUTION NO. _____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO PARK TO EXTEND CHAPTER 16.79.045 OF THE ZONING ORDINANCE TO ALLOW THE CONVERSION OF ACCESSORY BUILDINGS INTO SECONDARY DWELLING UNITS FOR ONE YEAR, EXPIRING ON JUNE 13, 2017

WHEREAS, the City of Menlo Park (“City”) adopted its 2015-2023 Housing Element in April 2014 and in May 2014 amended its Zoning Ordinance to implement Housing Element programs, including modifications to the secondary dwelling units and accessory building and structures ordinances; and

WHEREAS, on May 13, 2014, the City Council adopted Ordinance No. 1005, which added Section 16.79.045 (Conversion of Accessory Buildings) to Chapter 16.79 (Secondary Dwelling Unit) of the Zoning Ordinance to allow the conversion of accessory buildings into secondary dwelling units, subject to meeting certain criteria; and

WHEREAS, the adoption of Ordinance No. 1005 supports Housing Program H4.F (Establish a Process and Standards to Allow the Conversion of Accessory Buildings and Structures to a Secondary Dwelling Unit) and is intended to increase the City’s housing stock by accounting for legally built accessory buildings that effectively function like secondary dwelling units, but do not meet the minimum yard requirements; and

WHEREAS, the City Council adopted Resolution No. 6265 on May 19, 2015 to extend the conversion of legally building accessory buildings into secondary dwelling units provision until June 13, 2016; and

WHEREAS, the City has issued one administrative permit in 2015 and has one pending application for the conversion of a legally built accessory building into a secondary dwelling unit; and

WHEREAS, the conversion provision was set to sunset in its entirety on June 13, 2016, however the City Council is allowed, by resolution, to extend the effective date without further public hearings by the Planning Commission and City Council; and

WHEREAS, on May 24, 2016, the City Council held a duly noticed public meeting on a one-year extension for the conversion of accessory buildings meeting certain criteria into secondary dwelling units through an administrative permit process, at which all interested persons had the opportunity to appear and comment; and

NOW THEREFORE, BE IT AND IT IS HEREBY RESOLVED by the City Council of the City Menlo Park that Section 16.79.045 of the Zoning Ordinance is hereby extended for

a period of one year, and shall sunset in its entirety on June 13, 2017, for any administrative permit application not received by said date.

I, Pamela Aguilar, 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 24th day of May, 2016, 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 ___ day of _____, 2016.

Pamela Aguilar, MMC
City Clerk



STAFF REPORT

City Council

Meeting Date: 5/24/2016
Staff Report Number: 16-069-CC

Consent Calendar: **Authorize the City Manager to approve a contract with David J. Powers & Associates, Inc. in the amount of \$96,885 and future augments as may be necessary to prepare an Initial Study and Mitigated Negative Declaration for the 2111-2121 Sand Hill Road Annexation Project**

Recommendation

Staff recommends that the City Council authorize the City Manager to approve a contract with David J. Powers & Associates, Inc. in the amount of \$96,885, and future augments as may be necessary, to complete an environmental review for the 2111-2121 Sand Hill Road annexation project based on the proposal included as Attachment A.

Policy Issues

The proposed project will ultimately require the Planning Commission and City Council to consider the proposed land use entitlements, including pre-zoning to incorporate the parcels into the City of Menlo Park and a use permit and architectural control request for a new two-story office building on one of the parcels. The policy implications of such actions are considered on a case-by-case basis, and will be informed by additional analysis as the project review proceeds. The environmental review will assist the Council in making decisions on these actions. Authorizing the proposed environmental review contract will have no bearing on future Council action on the proposed development.

Background

Site location

With Sand Hill Road in an east-west orientation, the subject site is located on the south side of Sand Hill Road. The subject site is bordered on the east by Alpine Road, and narrows from east to west until ending at a point just east of Stanford Hills Park, across Sand Hill Road from the Sharon Heights Shopping Center. Single-family residences in the Stanford Hills neighborhood are located immediately south of the project site. The project site consists of two parcels totaling approximately 13.8 acres, currently addressed 2111 and 2121 Sand Hill Road, and located in unincorporated San Mateo County. The subject properties include an existing residence owned by Stanford University, and an existing two-story office building leased by The William and Flora Hewlett Foundation.

Analysis

Project description

Stanford has submitted an application to pre-zone the properties located at 2111 and 2121 Sand Hill Road in unincorporated San Mateo County. If approved, the pre-zoning and associated entitlements would result in the annexation of the properties into the City of Menlo Park, as well as the construction of a new two-story, 39,000 square foot office building on the 2121 Sand Hill Road parcel, west of the office building where the Hewlett Foundation is located.

Project review process

The entitlement process for the project includes the following review and permit approvals:

- **Pre-Zoning:** to set the zoning for the properties once the annexation is complete and the area is incorporated into the City;
- **General Plan Amendment:** to amend the General Plan to include land use designations for the properties to be annexed;
- **Use Permit:** to allow the office use in the C-1-C (Administrative, Professional and Research, Restrictive) zoning district proposed for the 2121 Sand Hill Road parcel;
- **Architectural Control:** to allow the construction of a new office building;
- **Heritage Tree Removal Permits:** to allow the removal of heritage trees on the site; and,
- **Environmental Review:** to evaluate the potential environmental impacts pursuant to California Environmental Quality Act (CEQA).

Environmental review

Staff has determined that an Initial Study and Mitigated Negative Declaration, collectively referred to as the MND, would be required to analyze the potential physical environmental impacts of the project. The MND analyzes a wide range of impact areas, and preparation of a MND is appropriate where potentially significant environmental impacts can be reduced to a less than significant level with the incorporation of mitigation measures. The potential environmental impacts of the project would include air quality, biological resources, hydrology, geology and soils, noise, transportation, and utilities and service systems.

Due to the complexity and anticipated resources that would be required to prepare the MND, staff determined it would be necessary to contract the services of an environmental consultant. The City, with input from Stanford, sought proposals and ultimately selected David J. Powers & Associates, Inc. ("Powers") to prepare the MND. Out of the proposals received, Powers offered both the lowest cost and the quickest schedule to complete the environmental review. Powers has extensive experience preparing environmental review analyses throughout the Bay Area, including projects in Menlo Park such as the Haven Avenue – Atherton Channel Pedestrian and Bicycle Bridge Project MND. Powers' proposal is included as Attachment A.

The following is a summary of the tasks for the proposed scope of work:

- Preparation of a Draft Initial Study (Environmental Checklist) and MND;
- Preparation of responses to public comments and revisions on the Draft MND, if necessary;
- Preparation of a Mitigation Monitoring and Reporting Program; and,
- Attendance at public hearings and meetings as needed.

The proposed budget is \$96,885. The costs would be borne by the applicant, although the applicant would have no control or direction over the work of the consultant. The applicant is in agreement with the scope and is prepared to pay the contract amount. Staff also recommends that the Council provide the City Manager with the authority to approve future augments to the contract, if required. Any future augments would be done only with the consent of the project applicant and at the applicant's cost.

Impact on City Resources

The applicant is required to pay Planning, Building, and Public Works 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 the associated environmental review. For the environmental review, the applicant deposits funds with the City, and the City pays the consultant.

Environmental Review

An MND will be prepared for the proposed project.

Public Notice

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

Attachments

- A. 2131 Sand Hill Road – CEQA Review Scope of Work, prepared by David J. Powers & Associates, Inc., dated April 22, 2016

Report prepared by:

Tom Smith, Associate Planner

Report reviewed by:

Arlinda Heineck, Community Development Director

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April 22, 2016

Tom Smith
 Associate Planner
 City of Menlo Park
 Community Development Department
 701 Laurel Street
 Menlo Park, CA 94025

RE: 2131 Sand Hill Road – CEQA Proposal

Dear Mr. Smith:

David J. Powers & Associates (DJP&A) is pleased to submit to you this scope of work to prepare an Initial Study (IS) for the proposed 2131 Sand Hill Road Annexation project that satisfies the requirements of the California Environmental Quality Act (CEQA) and the requirements of the City of Menlo Park.

The proposed project site is located on a 3.6 acre undeveloped site along Sand Hill Road, southwest of the Sand Hill Road and Sharon Park Drive intersection, in unincorporated San Mateo County. The applicant is proposing to construct a 39,010 square foot two-story office building with two levels of below grade parking. The applicant is also requesting a rezoning an annexation into the City of Menlo Park.

Based upon our existing understanding of the site and the scale of the project, we expect that mitigation measures are available to reduce any impacts to a less than significant level and, therefore, we propose to prepare an IS to support a Mitigated Negative Declaration (MND).

Our experience preparing CEQA documents for numerous projects throughout the Bay Area allows us to provide superior service and project management for the City. We appreciate your consideration of our firm for this work and look forward to working with you on this project. Please contact me, or our Senior Project Manager, Julie Wright (direct line: 408-454-3434, jwright@davidjpowers.com), if you have any questions regarding this proposed scope of work or if there is any additional information you need.

Sincerely,

Nora Monette
 Principal

Attachment: Scope of Work
 Job#16-054



DAVID J. POWERS & ASSOCIATES, INC.

Scope of Work to Prepare an Initial Study/Mitigated Negative Declaration 2131 Sand Hill Road Annexation April 22, 2016

The proposed project site is located on a 3.6 acre undeveloped site along Sand Hill Road, southwest of the Sand Hill Road and Sharon Park Drive intersection, in unincorporated San Mateo County. The applicant is proposing to construct a 39,010 square foot two-story office building with two levels of below grade parking. The applicant is also requesting an annexation into the City of Menlo Park. The IS may also be used by the San Mateo Local Agency Formation Commission (LAFCo), as a responsible agency, when considering the proposed annexation.

Based on our current understanding of the project, it is believed that mitigation measures are available to reduce any significant adverse environmental impacts to a less than significant level, and that all necessary mitigation measures will be incorporated into the project. The project will, therefore, be eligible for a Mitigated Negative Declaration (MND) under CEQA.¹ The specific tasks included in this scope are outlined below.

1.0 Preparation and Circulation of Initial Study/Mitigated Negative Declaration

DJP&A will prepare an Initial Study, consistent with the requirements of the California Environmental Quality Act (CEQA) and the City of Menlo Park. An overview of the existing environmental setting will be provided, including a description of the land use characteristics of the project area. The IS will include a checklist based on the form recommended by the state CEQA Guidelines. Each impact identified in the checklist will be addressed, including a discussion of its potential significance and project-specific mitigation measures to reduce the impact, if warranted.

1.1 *Project Description*

Based on information provided to DJP&A by the City of Menlo Park, the IS will include a detailed description of the proposed project. Construction, access, grading, and excavation/fill activities areas will be described, as well as the size and scale of the development. Project plans will be provided to DJP&A in PDF or similar format for use in the IS.

1.2 *Environmental Setting, CEQA Checklist, Impacts & Mitigation*

The IS will be divided into subsections for each subject area, such as air quality, noise, and transportation. The subsections will be formatted to include a description of the existing environmental setting followed by the relevant CEQA checklist section with a discussion of any question that is not answered “no impact.” “No Impact” responses will be evident from the project

¹ In the event that the project would result in a significant, unavoidable impact, or the project does not propose to include necessary mitigation, then an Environmental Impact Report (EIR) would be required. DJP&A could prepare the EIR under a separate scope and budget.

description and subject area existing setting narratives. The sources of information for evaluating impacts will be identified and the IS will provide a narrative to support each impact conclusion.

Based upon our current understanding of the project, the key environmental issues for the project are air quality (construction emissions), biological resources, drainage and slope stability, land use, noise, transportation and utilities and services systems. The IS will also discuss the other environmental issues including, aesthetics, agriculture, cultural resources, greenhouse gas emissions, hazardous materials, mineral resources, population and housing and public services. Mitigation measures to avoid or reduce impacts to a less than significant level will be identified, as necessary. The key environmental issues of constructing an office building are described in more detail below.

Air Quality

The primary air quality issue associated with the proposed project will be the potential community risk impacts that may result from project construction. Construction air quality impacts will be addressed by predicting construction-period emissions and health risk impacts to nearby sensitive receptors and identifying best management practices to control emissions. Construction emissions will be predicted by *Illingworth & Rodkin*, under contract with DJP&A, using the latest version of the California Emissions Estimator Model Version 2013.2.2 (CalEEMod) and construction phasing information provided by the applicant. A health risk assessment is proposed that will involve dispersion modeling and hourly meteorological data from the most representative monitoring station. The cancer risks associated with modeled construction period PM 2.5 or diesel particulate matter concentrations will be computed following BAAQMD risk management policy guidance. The risks will be compared against BAAQMD CEQA thresholds (i.e., cancer risk of 10 in one million). Mitigation measures that represent “Best Management Practices” to control dust or particulate matter emissions and to reduce construction exhaust emissions or cancer risks will be identified.

The proposed project size is below the BAAQMD operational criteria pollutant screening levels and GHG screening levels for office building, therefore, operational criteria pollutants, such as ROG, NOX and particulate matter, and GHG will be addressed qualitatively. Roadside carbon monoxide concentrations will be assessed qualitatively using screening methods acceptable to BAAQMD.

Biological Resources

The City of Menlo Park General Plan shows the project site as within mapped American badger habitat. A WRA biologist will complete a site visit to verify the land cover types, document existing conditions, and evaluate the potential for the project site to support suitable habitat for special-status plant and wildlife species. WRA will prepare a biological assessment for the project that will document the findings, describe the potential to impact sensitive biological resources, and recommend mitigation measures for reducing impacts, as necessary.

This scope assumes that an arborist report will be provided by the City and/or applicant and will include an evaluation of the trees to be removed and describe the type and size of the on-site trees. Any trees removed by the project will be replaced in accordance with *Chapter 13.24 Heritage Trees*, of the City of Menlo Park Municipal Code.

The IS will describe the potential for the project to result in impacts to sensitive wildlife species, including migratory birds. Mitigation measures will be identified, as necessary, to reduce biological impacts to a less than significant level.

Drainage and Slope Stability (Hydrology, Geology and Soils)

The IS will describe the change in site drainage and slope stability conditions resulting from the project, in accordance with the City of Menlo Park General Plan and based on a site specific geotechnical report provided to DJP&A by the City and/or applicant. *Cornerstone Earth Group* will prepare a peer-review for the geotechnical report and will also review the geotechnical design parameters and recommendations provided including the slope stability analysis. The findings and supplemental recommendations, as needed, will be summarized in a letter report.

This scope assumes that the project engineer will prepare and provide to DJP&A (via the City) an analysis of the current drainage and soil conditions at the project site and the potential for the project to affect slope stability conditions off-site. Any mitigation measures necessary to reduce impacts will be identified.

Water quality in stormwater runoff is regulated by the San Mateo Countywide Water Pollution Prevention Program (SMCWPPP), which include the C.3 provisions set by the San Francisco Bay Regional Water Quality Control Board. Adherence to these regulations require new development to incorporate treatment measures and site design features that reduce pollutants in run off. The project is also required to comply with National Pollution Discharge Elimination System (NPDES) Permit and implement construction Best Management Practices (BMPs) to control sedimentation and erosion. This scope assumes the project engineer will calculate the runoff from the proposed development and its effect on the storm drain system, as necessary. Identification of best management practices will be provided for construction impacts to stormwater quality. This information will be provided to DJP&A by the City.

Land Use

The project proposes several action, including rezoning and annexation by the City of Menlo Park. The IS will describe existing land uses and the General Plan land uses designation and zoning for the site. The IS will also describe the surrounding land uses and any land use compatibility issues related to the proposed office use. LAFCo requirements will be described as appropriate.

Noise

The IS will address the ambient noise conditions and potential construction noise impacts from the proposed project, based on the noise analysis prepared by *Illingworth and Rodkin*, under contract with DJP&A. The analysis will include site-specific noise measurements to establish the existing ambient noise environment, prediction of future noise levels based on future traffic projections, and a determination of the potential noise impacts on existing residents. The analysis will also assess the impacts of construction and operational noise from the project on the nearby residential land uses. Mitigation measures will be developed as required to reduce identified impacts.

Transportation

The IS will describe the potential traffic and circulation impacts resulting from the proposed project, based upon a traffic impact analysis (TIA) to be prepared by *Hexagon Transportation Consultants*. The TIA will be prepared in accordance with the requirements of the City of Menlo Park.

The analysis will include a level of service analysis for up to 10 intersections and 5 roadway segments. Existing AM and PM peak hour traffic volumes typically are obtained from the City of Menlo Park's Circulation System Assessment (CSA) document, if updated counts are available. Based on the project site location, this scope assumes that all study intersections will need new manual turning movement counts during both the AM and PM peak periods of traffic. New mechanical tube counts will be completed over a five-day period on each key roadway segment to obtain average daily traffic (ADT) volumes. The existing AM and PM peak hour levels of service at the key intersections will be evaluated using VISTRO. City of Menlo Park level of service guidelines will be followed for all intersections.

A list of approved developments located within the study area will be obtained from the Cities of Menlo Park, Atherton and Palo Alto. Projected traffic volumes associated with these approved developments will be estimated and added to the surrounding roadway network. Approved trips will be added to the existing AM and PM peak hour volumes to obtain traffic volumes for Near-Term conditions. Any roadway improvements associated with approved projects will be included. Intersection level of service calculations will be completed to evaluate Near-Term conditions. City of Menlo Park level of service guidelines will be followed for all intersections.

Based on the proposed project size, project generated traffic will be calculated using AM and PM peak hour trip generation data collected at three (3) existing comparable office buildings in Menlo Park. The directional distribution of project traffic will be forecast based on the trip distribution data contained in the City of Menlo Park's CSA document. The site-generated traffic will be added to the roadway network based on the CSA trip distribution pattern for office uses.

The analysis will identify existing and background conditions and address the effects of the project under existing plus project, background plus project, and cumulative traffic conditions. A Vehicle Miles Traveled (VMT) analysis will also be completed consistent with Senate Bill 743.

A list of pending projects located within the study area will be obtained from the Cities of Menlo Park, Atherton and Palo Alto. Projected traffic volumes associated with these pending projects will be estimated and added to the Near Term volumes to obtain traffic volumes for Cumulative conditions. An annual growth rate consistent with the City of Menlo Park's CSA Document will be applied over 10 years to reflect traffic increases anticipated as a result of future nonspecific developments that are unknown at this time. Project trips will be added to the Cumulative conditions volumes to obtain traffic volumes for Cumulative Plus Project conditions. Intersection level of service calculations will be completed to evaluate Cumulative and Cumulative Plus Project conditions. City of Menlo Park level of service guidelines will be followed for all intersections.

The TIA will include an analysis of site access and on-site circulation, and analysis of bicycle and pedestrian facilities. Operational impacts related to parking and vehicle queuing will also be addressed.

Mitigation measures will be identified for significant traffic impacts.

Utilities and Service Systems

The IS will describe the utilities and services systems that serve the site. Utility infrastructure and easements will also be noted. The availability of utility services will be addressed and mitigation measures identified for all identified impacts.

Consistency with Plans and Policies

Throughout the IS, in relevant sections, discussions of the proposed project's consistency with the City of Menlo Park General Plan, Zoning Ordinance, Municipal Code, and other applicable plans and policies will be included. As required by CEQA and the CEQA Guidelines, particular attention will be given to inconsistencies, if any are identified.

1.3 Revisions to Initial Study

DJP&A will provide up to ten (10) printed copies and an electronic version of the Initial Study in Administrative Draft form to City Staff for review and comment. Revisions will be made to the IS, based on comments received, and an additional ten (10) printed copies of either the 2nd Administrative Draft or Screencheck can also be provided to the City, upon request.

DJP&A will also provide a Draft Mitigated Negative Declaration (MND) to the City to be attached to the Initial Study. A PDF of these documents will be provided for posting on the City's website. DJP&A will also prepare a draft "Notice of Intent to Adopt a Mitigated Negative Declaration" (NOI), as described in the CEQA Guidelines Section 15072, for the City's use. After the IS/MND and NOI are completed, up to fifteen (15) printed copies of these documents will be provided to the City of Menlo Park for local distribution and circulation. This scope does not include DJP&A filing or paying of any fees.

1.4 Preparation of Mitigation Monitoring or Reporting Program

In accordance with the CEQA guidelines and the City of Menlo Park requirements, DJP&A will prepare a Mitigation Monitoring or Reporting Program, based on the findings of the IS/MND for use by the City of Menlo Park.

2.0 Project Activities Following Document Circulation

2.1 Public Comments

DJP&A will respond to substantive comments received on the Draft IS during the public review period, and will make any necessary changes to the Initial Study in the form of an Amendment, based upon the comments received. This scope of work includes four (4) Project Manager hours to respond to written comments received from the public and/or various governmental agencies as a result of circulation of the Initial Study. This scope assumes that no new technical analysis will be required to respond to the comments received.

2.2 Meetings and Hearings

This scope of work includes DJP&A Project Manager attendance at up to four meetings/hearings with the project team and/or City Staff. If an additional meeting or hearing attendance is needed, it can be added, upon approval, on a time and material basis. The DJP&A Project Manager will coordinate with City Staff on a regular basis using email and telephone communications.

INFORMATION TO BE PROVIDED TO DJP&A

This scope assumes that technical reports and other information provided by the City will be sufficient for preparation of the IS. In the event additional technical analysis is required, it can be added on a time and materials basis, upon your authorization. This scope assumes that the following technical information will be provided to DJP&A:

- Project plans; including total cut and fill amounts, limits of work disturbance, erosions control plans, and other pertinent project information, in electronic form (PDF).
- Drainage plan describing existing drainage and slope stability conditions including measures to reduce impacts, as necessary, and proposed stormwater control measures consistent with the Low Impact Development requirements of the Regional Water Quality Control Board Municipal Regional Stormwater Permit.
- Site Specific Geotechnical Report regarding existing soil conditions, drainage, and slope stability.
- Hazardous materials reports, including a current Phase I Environmental Site Assessment
- The project engineer will provide detailed graphics indicating all areas of temporary and permanent disturbance, including all staging areas and limits of work. All temporary and permanent disturbance areas will be calculated in square feet and provided to DJP&A. All engineered project drawings and graphics will be provided to DJP&A in CAD or ArcGIS format. Utility corridors and required setbacks shall also be provided.
- Arborist Report will include an evaluation of the trees to be removed and describe the type and size of the on-site trees.
- Utilities serving the site and any necessary on-site improvements.
- Estimated project construction schedule.
- Information for construction TAC analysis, including construction phasing, length of construction period, vehicles used in construction, excavation planned, etc. based in part on completion of a spreadsheet to be provided by DJP&A.

ESTIMATED SCHEDULE

DJP&A proposes the following optimum schedule for preparation of the IS for the 2131 Sand Hill Road Annexation project in Menlo Park. DJP&A can commit to maintaining the schedule in the areas which are within our control. Completion of the IS, as described in this schedule below, is based upon receipt of all necessary project information on schedule. Delays in receiving requested information or responses by others will result in at least day-for-day delays in the overall schedule.

The below schedule assumes that the project description will not change once we receive a notice to proceed, and that no comments are received during the circulation of the IS that require additional technical studies.

Task/Product	Completed at End of Week
Receive written authorization to proceed, complete project plans, City approved traffic scope, geotechnical report, and any hazardous materials reports available.	Day 1
DJP&A conducts site visit and drafts project description for review by the City.	Week 3
DJP&A receives technical reports from subconsultants	Week 6
DJP&A Completes Administrative Draft IS.	Week 8
City staff review of Administrative Draft IS (Assumes three (3) week City review). ¹	Week 11
DJP&A revises IS and per comments received (one week). ²	Week 12
City staff review of revised IS (two weeks).	Week 14
DJP&A revises IS per comments received, and prepares MND, NOI, NOC, and documents for printing (one week).	Week 15
Circulation of revised IS/Draft MND (30 days/four weeks) complete.	Week 20
DJP&A prepares responses to comments. ³	Week 21
Environmental Planning Commission meeting.	TBD
City Council hearing.	TBD
¹ This schedule assumes that the City Project Manager will provide us with one consolidated set of comments from all City departments in three weeks. ² Assumes that no additional technical analysis is required. ³ Assumes minimal public comments.	

COST ESTIMATE

The cost for preparation of the IS/MND is estimated not to exceed a maximum of **\$96,885** based upon our understanding of the project and the following budget breakdown. Our work will be billed on a time-and-materials basis, commensurate with work completed, in accordance with the attached charge rate schedule. Payment will be due and payable on a monthly basis.

Please note that the cost estimate shown below is a not-to-exceed amount for all tasks combined. Within this not-to-exceed total, actual amounts spent on individual tasks may be more or less than the estimates. If we can; complete the environmental review for this project for less than the total budget, you will only be billed for actual time spent and work completed.

David J. Powers & Associates, Inc.	
<ul style="list-style-type: none"> • Preparation of the Initial Study, MMRP, notices, coordination, and meeting attendance • Reimbursable expenses* (printing, mileage, CDs, etc.) 	\$ 31,985 \$ 1,800 Subtotal DJP&A: \$ 33,785
Subconsultants*	
Cornerstone Earth Group (Drainage and Scope Stability Peer Review)	\$ 3,220
Hexagon Transportation Consultants (Transportation)	\$ 44,850
Illingworth & Rodkin (Air Quality & Noise)	\$ 10,201
WRA (Biological Resources)	\$ 4,830
Subtotal Subconsultants:	\$63,101
Total for Project:	\$ 96,885

*Subconsultant and expenses include a 15% administrative fee.

This scope of work is valid for 90 days.



<u>Title</u>	<u>Hourly Rate</u>
Senior Principal	\$ 255.00
Principal Project Manager	\$ 225.00
Senior Environmental Specialist	\$ 200.00
Senior Project Manager	\$ 180.00
Environmental Specialist	\$ 165.00
Project Manager	\$ 155.00
Associate Project Manager	\$ 140.00
Assistant Project Manager	\$ 115.00
Researcher	\$ 100.00
Draftsperson/Graphic Artist	\$ 90.00
Document Processor/Quality Control	\$ 90.00
Administrative Manager	\$ 90.00
Office Support	\$ 75.00

Materials, outside services and subconsultants include a 15% administration fee.

Mileage will be charged per the current IRS standard mileage rate at the time costs occur.

Subject to revision December 1, 2016.

² David J. Powers & Associates, Inc. provides regular, clear and accurate invoices as the work on this project proceeds, in accordance with normal company billing procedures. The cost estimate prepared for this project does not include special accounting or bookkeeping procedures, nor does it include preparation of extraordinary or unique statements or invoices. If a special invoice or accounting process is requested, the service can be provided on a time and materials basis.



STAFF REPORT

City Council

Meeting Date: 5/24/2016
Staff Report Number: 16-081-CC

Consent Calendar: **Confirm the City's intent to participate in the South Bayside Waste Management Authority's (SBWMA) process to negotiate a potential franchise extension with Recology**

Recommendation

Staff recommends that the City Council adopt a resolution (Attachment A) to confirm its intent to participate in the process with the South Bayside Waste Management Authority (also known as SBWMA or RethinkWaste) to negotiate a potential franchise extension with Recology San Mateo (Recology) for collection of solid waste, recycling and organic materials.

Policy Issues

SBWMA has requested that all member agencies' governing bodies confirm their intent to participate with SBWMA in the drafting and negotiating a potential-extension of the member agencies' franchises with Recology.

Background

The City's franchise agreement with Recology to collect solid waste, recycling, and compostable materials will expire on December 31, 2020. If the City wishes to potentially extend the franchise agreement, City and SBWMA staff will work with Recology to draft franchise extension language to be reviewed by City Council in 2017. The potential-extension language may incorporate some changes to the current franchise agreement and provide service continuity. If the extension language is not agreed upon by the end of 2017, City and SBWMA staff will still have time to prepare a Request For Proposals (RFP) for a new franchise before the end of the current franchise in 2020.

The City of Menlo Park is one of twelve member agencies that comprise the SBWMA. Each SBWMA member agency has a franchise agreement for solid waste, recycling and organic materials collection services with Recology San Mateo County (Recology) which started on January 1, 2011 and ends at midnight on December 31, 2020. The franchise agreements states "During calendar year 2017, the Parties shall meet and confer on the possible extension of the Term".

The contract extension decision period was set to allow sufficient time, if needed, to conduct a competitive procurement process if no contract extension was granted. Given the size and complexity of the service

area it was determined that a three-year period (i.e., 2018-2020) is needed to complete a competitive procurement process and transition to a new service provider if appropriate.

On January 28, 2016, the SBWMA Board of Directors approved Resolution No. 2016-09 approving the Final Plan and Recommended Process for Supporting Member Agencies with Negotiating a Potential Franchise Agreement Extension with Recology (Attachment B: SBWMA January 28, 2016 Exhibit A - Plan). Most of the other 11 SBWMA member agencies have already confirmed their participation in this process, and this potential-extension process only covers the franchise agreements between the member agencies and Recology for collection.

Analysis

SBWMA's Plan (Attachment B) prescribes that each SBWMA member must provide notice of its commitment to participate by the end of May 2016, if it chooses to participate in the SBWMA led negotiations with Recology to extend the existing Franchise Agreement. This action is non-binding and does not preclude the City Council from negotiating directly with Recology or later choosing to solicit proposals for new collection service.

The Plan anticipates the negotiations with Recology to be concluded by the end of 2016 and the SBWMA Board of Directors will then consider approving the amended franchise agreement(s) at its January or February Board meeting for submittal to the member agencies to consider.

Impact on City Resources

A limited amount of City staff time is planned to support the possible franchise extension process, and no additional resources are being requested at this time. If additional resources are required for the potential franchise extension or follow on efforts, staff will report to City Council.

Environmental Review

An Environmental Review is not required for this item.

Public Notice

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

Attachments

- A. Resolution confirming the City's intent to participate in the SBWMA process to negotiate a potential franchise extension with Recology
- B. SBWMA January 28, 2016 Exhibit A - Plan and Recommended Process for Supporting Member Agencies with Negotiating a Potential Franchise Agreement Extension with Recology

Report prepared by:

Heather Abrams, Environmental Programs Manager

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO PARK PROVIDING NOTICE TO SBWMA OF ITS COMMITMENT TO PARTICIPATE IN THE SBWMA LED NEGOTIATIONS TO EXTEND THE TERM OF THE FRANCHISE AGREEMENT WITH RECOLOGY SAN MATEO COUNTY FOR SOLID WASTE, RECYCLING AND ORGANIC MATERIALS COLLECTION SERVICES

WHEREAS the SBWMA is a joint powers authority organized under the Joint Exercise of Powers Act by cities and other local government agencies in San Mateo County (the "Member Agencies"), each of which oversees the collection of solid waste, organic materials and recyclable materials within its jurisdiction; and

WHEREAS, the SBWMA's adopted mission is to cost effectively design, implement and manage innovative waste reduction and recycling programs and facility infrastructure that fulfills its fiduciary responsibilities to its Member Agencies while achieving community environmental and economic goals;

WHEREAS, each of the SBWMA's Member Agencies has a Franchise Agreement for the collection of solid waste, organic materials and recyclable materials with Recology San Mateo County which started on January 1, 2011 and ends at midnight on December 31, 2020; and

WHEREAS, the SBWMA Member Agency's Franchise Agreements with Recology San Mateo County include provisions that prescribe the term of the Agreement and the timeline to pursue an extension to the Agreement; and

WHEREAS, the past practice has been for the SBWMA to help its Member Agencies facilitate and manage the process for selection of a franchised collection services provider, negotiate Franchise Agreement contract terms, and to provide overall contract administration support;

NOW THEREFORE, IT IS HEREBY RESOLVED THAT the City Council of Menlo Park provides notice to the SBWMA of its commitment to participate in the SBWMA led negotiations to extend the term of the Franchise Agreement with Recology San Mateo County for Solid Waste, Recycling and Organic Materials Collection Services;

I, Pamela Aguilar, City Clerk of the City of Menlo Park, do hereby certify that the above foregoing Resolution was duly and regularly passed and adopted at a meeting by said Council on the seventeenth day of May, 2016, 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 seventeenth day of May, 2016.

Pamela Aguilar
City Clerk

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Exhibit A

**Final Plan and Recommended Process for
Supporting Member Agencies with Negotiating a Potential Franchise Agreement Extension with
Recology San Mateo County**

Background

Each of the Member Agencies has a Franchise Agreement (Agreement) with Recology San Mateo County (Recology) which started on January 1, 2011 and ends at midnight on December 31, 2020. The Agreement(s) include the following provisions regarding the term of the Agreement and an extension:

- **SECTION 3.02 TERM**

The Term of this Agreement shall begin on the Effective Date and shall end at midnight on December 31, 2020, unless earlier terminated, or extended as provided in Section 3.03. Contractor's obligation to Collect Solid Waste, Targeted Recyclable Materials and Organic Materials shall begin on January 1, 2011 at 12:01 a.m. and shall continue for the remainder of the Term.

- **SECTION 3.03 EXTENSION OF TERM**

During calendar year 2017, the Parties shall meet and confer on the possible extension of the Term.

The contract extension decision period prescribed in Section 3.03 was set for a defined period to allow sufficient time to conduct a competitive procurement process if no contract extension was granted. It was determined that a three-year period (i.e., 2018-2020) was needed to complete a competitive procurement process and transition to a new service provider, if applicable, given the scope of services, the size and complexity of the service area, and the lead time required.

Key Assumptions

- All Member Agencies, with the support and assistance of the JPA, will enter into negotiations with Recology for a potential extension of their Franchise Agreement beyond 2020. The JPA staff will take the lead in negotiating and drafting the uniform Franchise Agreement amendments that apply across all Member Agencies, including both minor/administrative changes and any major changes resulting from contract negotiations. Further, upon request, the JPA staff can assist individual Member Agencies with negotiating unique Franchise Agreement changes (e.g., if a Member Agency has a specific change in Recology's scope of services unique to their community).
- The JPA Board will appoint an adhoc committee of TAC or designated Member Agency staff to review the Franchise Agreement amendments negotiated by JPA staff prior to such amendments being brought forward to the full Board for consideration. The Board will consider approval of the uniform Franchise Agreement changes and make a recommendation to forward the uniform Franchise Agreements to the individual Member Agency governing bodies who ultimately approve any changes to their individual Franchise Agreements, including any unique scope items requested by the Member Agency.
- The JPA staff will take the lead in preparing rate revenue requirement projections, including different scenarios reflective of potential changes to the Franchise Agreements. JPA staff's work will include building a baseline proforma model that identifies Recology's current compensation vs. their actual operating costs (as provided by Recology). The model will also cover other factors such as pass-through costs (i.e., mainly processing and disposal costs). Future pass-through costs may be affected by changes to contracts with third party vendors (e.g., Republic Ox Mountain landfill), Shoreway capital improvement scenarios (per the Long Range Plan), etc. This baseline model will be provided to the Board prior to the start of formal contract negotiations.

- Also prior to the start of negotiations, JPA staff with input from the TAC, will prepare a high level analysis of Recology's performance in meeting the Franchise Agreement performance standards and meeting the original goals of the contractor selection process that resulted in the selection of Recology as the service provider. As part of the performance review, Recology will be requested to prepare its own written self-review.
- If applicable, the JPA staff will take the lead in developing and managing a collection services contractor RFP and selection process if directed by the Board. Such a process would be concluded in time to ensure franchised collection service is provided uninterrupted after expiration of the current Franchise Agreements on December 31, 2020.
- The Recology Franchise Agreement extension process outlined in this document does not include the potential extension to the Shoreway Operations Agreement which expires on December 31, 2020. The term extension provisions of that Agreement allow the JPA unilateral discretion to extend the Agreement for up to three additional one-year periods on the current terms and conditions. Such current terms and conditions are very financially beneficial to the JPA as has been discussed at several Board meetings.

Timeline

Current – Spring 2016 Member Agency governing bodies decide whether to be part of joint effort to negotiate a potential Franchise Agreement extension with Recology. This timeline allows for any Member Agencies that want to conduct any formal community outreach, if so desired, regarding this decision.

Fall 2015 – Spring 2016 Complete analysis of Recology actual collection costs including building a baseline financial model to use in future projection of collection costs. This work will include identifying any significant variances and how such variances may affect future collection costs.

Feb. 2016 – June 2016 Analysis of and recommendations for any changes to the scope of collection services based on the results of the two collection pilots per the adopted 2015 Long Range Plan and any cost savings suggestions developed by JPA staff in collaboration with Recology.

March 2016 Recology completes and submits to JPA and Member Agencies a self-review in meeting the Franchise Agreement performance standards and meeting the original goals of the contractor selection process. This self-review will include suggestions for any cost savings measures and/or future improvements to the current collection services noting that not all of the Long Range Plan collection pilots will be completed yet.

April 2016 JPA staff completes and submits to the Board its high level review of Recology's performance in meeting the Franchise Agreement standards and meeting the original goals of the contractor selection process.

April / May 2016 Member Agency governing bodies provide confirmation to the JPA of their intent to participate in the JPA's process to negotiate an extension of their Franchise Agreement with Recology. This commitment to the JPA's process to negotiate an extension with Recology does not preclude Member Agencies from pursuing their own concurrent competitive procurement process (i.e., RFP), nor does it preclude Member Agencies from individually negotiating aspects of their Franchise Agreements separately with Recology.

Board appoints an adhoc committee of TAC or designated Member Agency staff to review Franchise Agreement amendments negotiated by JPA staff prior to such amendments being brought forward to the full Board for consideration This Board action can happen as early as it's clear (e.g., by April or May) that a majority of the Member Agencies are onboard with pursuing

contract extension talks with Recology.

- Spring – Fall 2016 Contract negotiations take place between the JPA staff and Recology representatives. The final step of this process would be for Recology to submit an overall technical and cost proposal for the entire service area reflective of the agreed upon changes per the negotiations. Once the proposal is reviewed and agreed upon then a final document can be brought to the Board for consideration. (This does not preclude Member Agencies from individually negotiating aspects of their Franchise Agreements separately with Recology.)
- Fall 2016 – Dec. 2016 Completion of future collection cost projections based on negotiated changes to Franchise Agreement scope of services and other factors such as pass through costs.
- Completion of revisions to Franchise Agreements based on negotiated changes with Recology.
- Jan. / February 2017 Board considers and adopts Recology proposal for extension of current Franchise Agreements. This approval would be in the form of a recommendation to Member Agencies to adopt the Recology proposal and the newly revised and amended Franchise Agreements.
- March – Dec. 2017 Individual Member Agencies consider approval of contract extension with Recology.

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SPECIAL AND REGULAR MEETING MINUTES - DRAFT

Date: 4/12/2016
Time: 7:00 p.m.
City Council Chambers
701 Laurel St., Menlo Park, CA 94025

6:30 p.m. Closed Session (City Hall Administration Building, 1st Floor Conference Room)

Mayor Cline called the Closed Session to order at 6:40 p.m. There was no public comment.

CL1. Closed session pursuant to Government Code Section 54956.8 regarding real property negotiations (1 matter):

Property: Property owned by the City of Menlo Park located adjacent to 1080 O'Brien (APN 055434030), Menlo Park, CA

City Negotiators: City Attorney Bill McClure, City Manager Alex McIntyre, Assistant City Manager Chip Taylor, Public Works Director Justin Murphy

Negotiating Parties: City of Menlo Park (Owner) and John Tarlton, Tarlton Properties Inc (potential buyer)

Negotiation: Potential sale of real property owned by the City of Menlo Park, including but not limited to sales price and other terms of sale

7:00 p.m. Regular Session

A. Mayor Cline called the meeting to order at 7:00 p.m.

B. Roll Call

Present: Carlton, Cline, Keith, Mueller, Ohtaki

Absent: None

Staff: City Manager Alex McIntyre, City Attorney Bill McClure, Deputy City Clerk Jelena Harada

C. Pledge of Allegiance

Mayor Cline led the pledge of allegiance.

D. Report from Closed Session

Mayor Cline stated that there is no reportable action from the Closed Session held earlier.

Mayor Cline announced that item J1 will be continued to the May 3rd City Council meeting.

E. Presentations and Proclamations

E1. Proclamation regarding Earth Day ([Attachment](#))

Environmental Programs Manager Heather Abrams accepted the proclamation.

E2. Presentation by Dr. Stefan Heck regarding innovation, energy and transportation issues

Dr. Stefan Heck made the presentation.

E3. Presentation by the Bicycle Commission regarding the proposed Oak Grove bicycle boulevard

Bicycle commission members Jonathan Weiner and Bill Kirsch made the presentation. There was a consensus among the Councilmembers to support the proposed trial. It was clarified that further action on the proposed project would need formal direction from the City Council in a future meeting.

F. Commission/Committee Vacancies and Appointments

F1. Consider applicants and make appointments to fill vacancies on the San Mateo County Mosquito and Vector Control District, the Sister City & Friendship Committee, Finance & Audit Committee and the Bicycle, Environmental Quality, and Housing Commissions ([Staff Report# 16-062-CC](#))

Public comment was taken at this point.

- Dave Gildea spoke to present himself as a candidate to the Bicycle Commission vacancy.
- Meg McGraw-Scherer spoke to present herself as a candidate to the Housing Commission vacancy.

City Clerk Pamela Aguilar facilitated the appointment process. The council made the following commission appointments. Details regarding nominations and votes are recorded in Attachment of the Minutes.

San Mateo County Mosquito and Vector Control District:

- Justin Evans

Sister City and Friendship Committee:

- Jym Clendenin
- Fran Dehn
- Kristy Holch
- Analisa Pratt
- Carol Schumacher

Finance and Audit Committee

- Anne Craib
- Sody Tronson

Bicycle Commission:

- Katie Behroozi
- Jonathan Weiner

Environmental Quality Commission:

- Alan Bedwell
- Janelle London

Housing Commission:

- Meg McGraw-Scherer

G. Public Comment

- Fran Dehn spoke about the release of the new Menlo Park Business Directory.

H. Consent Calendar

Items H2 and H6 were pulled from the Consent Calendar for further comment and discussion.

- H1. Authorize the Public Works Director to accept the work performed by Syserco Inc. for the New Energy Monitoring System of the Administration Building and Library Project ([Staff Report# 16-060-CC](#))
- H2. Reject all bids for the construction of the Menlo Park-Atherton Pedestrian and Bicycle Improvement Project ([Staff Report# 16-057-CC](#))
- H3. Authorize the Public Works Director to accept the work performed by Knorr Systems Inc. for the installation of the Variable Frequency Drive Systems for the Burgess and Belle Haven Pools ([Staff Report# 16-059-CC](#))
- H4. Approve a comment letter on the California High Speed Rail Authority's (CHSRA) 2016 Draft Business Plan (Business Plan) ([Staff Report# 16-063-CC](#))
- H5. Authorize the City Manager to enter into a master professional agreement with 4LEAF Inc. for building permitting and inspection contract services ([Staff Report# 16-061-CC](#))
- H6. Consider accepting and relocating the Roger Reynolds Carriage Stop Building ([Staff Report# 16-065-CC](#))
- H7. Approve minutes for the City Council meeting of March 15, 2016 ([Attachment](#))

ACTION: Motion and second (Keith/Carlton) to approve all items on the Consent Calendar, except items H2 and H6, passes unanimously.

Councilmember Mueller left the meeting at 9:35 PM.

Councilmember Keith commented on item H2 to clarify that the project will continue and may be

delayed until a new bid process is complete.

Councilmember Ohtaki commented that the rectangular rapid flash beacons could affect some of the neighbors in the area and requested that staff reach out to warn the residents about the impact of the lights.

Transportation Manager Nicole Nagaya responded with a brief overview of the project.

ACTION: Motion and second (Keith/Carlton) to approve item H2, to continue the project with different funding passes 4-0-1 (Councilmember Muller absent).

Before discussion on item H6, Mayor Cline opened the floor to public comment.

- Jim Lewis spoke about the history of the Roger Reynolds Carriage Stop Building (carriage house).
- Bill Weslow spoke about the carriage house and requested a re-consideration of the project timeline.

City Council discussed item H6.

In response to Councilmember Keith's questions, City Manager McIntyre stated that the project is being sold and the property will be cleared of all structures within 30 days.

Mayor Cline asked that this matter be formally discussed if any new information related to the project timeline arises within the 30 day window.

ACTION: Motion and second (Keith/Carlton) to approve the staff recommendation and look into any option available to preserve the building passes 4-0-1 (Councilmember Mueller absent).

I. Regular Business

- I1. Consider a request by the Transportation Commission to review the current 1300 El Camino Real development project and provide potential direction of review of future development projects by Commissions ([Staff Report# 16-064-CC](#))

At this point, City Attorney McClure recused himself from participating in item I1 due to a conflict of interest that his place of business is in proximity to the subject location.

Assistant City Manager Chip Taylor presented the item.

- Bianca Walser stated that the Transportation Commission should be involved in reviewing of development projects.
- Phill Mazzara asked that the Transportation Commission review any development project with an Environmental Impact Report (EIR).

ACTION: Motion and second (Carlton/Keith) to include the Transportation Commission in the review of the current 1300 El Camino Real development project passes 4-0-1 (Councilmember Muller absent)

ACTION: Motion and second (Keith/Carlton) to continue involvement of Commissions on an ad hoc

basis when development projects are reviewed, fails 1-3-1 (Councilmember Cline, Carlton and Ohtaki dissent, Mueller absent).

Mayor Cline stated that this direction will need to include input from all Councilmembers and will be placed on a future agenda for discussion.

K. Informational Items

There were no informational items at this meeting.

L. City Manager's Report

City Manager McIntyre stated that the Summer Activity Guide is out and the registration for summer classes is open. The first Ravenswood Grade Separation Study meeting will be held on May 2, in the Arrillaga Family Recreation Center. City Manager relayed the news that Mid-Peninsula Housing and Hello Housing are merging. Cooley Landing Park grand opening is on Sunday April 16 at 10 AM.

M. Councilmember Reports

There was no report at this meeting.

N. Adjournment

Mayor Cline adjourned the meeting at 10:37 PM.

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EACH COUNCILMEMBER CAN VOTE FOR 2 CANDIDATE - ONCE A CANDIDATE HAS AT LEAST 3 VOTES, THE VOTING IS COMPLETE							
ENVIRONMENTAL QUALITY COMMISSION 2 four-year terms expiring April 2020							
VOTE #1	Nominated By	PO	RC	CC	RM	KK	Total
Term expires April 30, 2020 - 2 APPOINTMENTS							
Allan Bedwell							0
Janelle London							0

EACH COUNCILMEMBER CAN VOTE FOR 1 CANDIDATE - ONCE A CANDIDATE HAS AT LEAST 3 VOTES, THE VOTING IS COMPLETE							
HOUSING COMMISSION 1 four-year term expiring April 2020							
VOTE #1	Nominated By	PO	RC	CC	RM	KK	Total
Terms expire April 30, 2020 - 1 APPOINTMENT							
Jamie D'Allesandro	PO	1					1
Sahil Desai							0
Meg McGraw-Scherer	KK		1	1		1	3

VOTE #2 (if needed)	Nominated By	PO	RC	CC	RM	KK	Total
Terms expire April 30, 2020 - 1 APPOINTMENT							
Jamie D'Allesandro							0
Sahil Desai							0
Meg McGraw-Scherer							0

**EACH COUNCILMEMBER CAN VOTE FOR 5 CANDIDATES -
ONCE A CANDIDATE HAS AT LEAST 3 VOTES,
THE VOTING IS COMPLETE**

**SISTER CITY & FRIENDSHIP COMMITTEE
5 four-year terms expiring April 2020**

VOTE #1	Nominated By	PO	RC	CC	RM	KK	Total
Terms expire April 30, 2020 - 5 APPOINTMENTS							
Jim Clendenin							0
Fran Dehn							0
Kristy Holch							0
Analisa Pratt							0
Carol Schumacher							0

VOTE #2 (if needed)	Nominated By	PO	RC	CC	RM	KK	Total
Terms expire April 30, 2020 - 5 APPOINTMENTS							
							0
							0
							0
							0

**EACH COUNCILMEMBER CAN VOTE FOR 2 CANDIDATES -
ONCE A CANDIDATE HAS AT LEAST 3 VOTES,
THE VOTING IS COMPLETE**

**FINANCE & AUDIT COMMITTEE
2 two-year terms expiring April 2018**

VOTE #1	Nominated By	PO	RC	CC	RM	KK	Total
Terms expire April 30, 2018 - 2 APPOINTMENTS							
Anne Craib	CC/KK	1	1	1		1	4
Sahil Desai							0
Shaun Maguire							0
Sody Tronson	CC/KK	1	1	1		1	4

VOTE #2 (if needed)	Nominated By	PO	RC	CC	RM	KK	Total
Terms expire April 30, 2018 - 2 APPOINTMENTS							
Ann Craib							0
Sahil Desai							0
Shaun Maguire							0
Sody Tronson							0

**EACH COUNCILMEMBER CAN VOTE FOR 2 CANDIDATES -
ONCE A CANDIDATE HAS AT LEAST 3 VOTES,
THE VOTING IS COMPLETE**

**BICYCLE COMMISSION
2 four-year terms expiring April 2020**

VOTE #1	Nominated By	PO	RC	CC	RM	KK	Total
Terms expire April 30, 2020 - 2 APPOINTMENTS							
Katie Behroozi	KK/PO	1	1	1		1	4
David Gildea							0
Sody Tronson							0
Jonathan Weiner	KK/PO	1	1	1		1	4



STAFF REPORT

City Council
Meeting Date: 5/24/2016
Staff Report Number: 16-079-CC

Public Hearing: Adoption of the 2015 Urban Water Management Plan (UWMP)

Recommendation

Staff recommends that the City Council adopt a resolution approving the 2015 Urban Water Management Plan (UWMP).

Policy Issues

The recommendation is consistent with the General Plan Goal I-H "To promote the development and maintenance of adequate public and quasi-public facilities and services to meet the needs of Menlo Park's residents, business, workers and visitors."

In 1983, the California Legislature passed Assembly Bill (AB) 797, referred to as the Urban Water Management Planning Act (Act) requiring every urban water supplier serving more than 3,000 customers, or providing more than 3,000 acre-feet of water annually, to prepare and adopt an UWMP every five years.

Background

The Menlo Park Municipal Water District (MPMWD) provides water to approximately 16,000 residents through 4,300 service connections within two pressure areas. MPMWD purchases 100% of its water from the San Francisco Public Utilities Commission (SFPUC), which delivers water from the San Francisco Regional Water System to the City through 5 turnout connections. The 2015 average daily demand was around 2.3 million gallons per day (mgd).

The Act requires urban water suppliers to describe and evaluate their water supply sources and reliability, how delivery will be prioritized in the event of a water shortage, what measures are and will be taken to improve efficient uses of water, and other relevant information over the next 20 years. In 1991, the State added the requirement to include a WSCP to outline the water supplier's response and plan for changes or shortages in water supplies. In 2009, the Legislature passed Senate Bill x7-7 (known as SBx7-7) requiring that all agencies reduce their water consumption 20% by 2020, and that the urban water use target be included in the 2015 UWMP. In conjunction with the update to the UWMP, the community must be given an opportunity to give input on MPMWD's urban water use target in the UWMP, any impacts to the local economy, and MPMWD's method of determining its urban water use target.

As required by the Act, water suppliers are required to update, adopt, and submit their UWMP to the Department of Water Resources (DWR) every five years. Compliance with the Act is necessary to be eligible for State grants, loans, and drought assistance. The City Council approved an agreement with EKI to coordinate activities with the City's General Plan Update and M-2 Area Zoning Update and the 2015 UWMP. The State's UWMP Guidelines became available in January 2016.

On March 15, 2016, the City Council held a study session to discuss the draft 2015 UWMP findings. The City Council requested that staff include a description of the potential recycled water use through 2040.

On January 14, 2016, as required by the Act, staff mailed notices to local governmental agencies and other water suppliers in the area that MPMWD is considering revisions to its UWMP, and on April 22, 2016, staff mailed a second letter with the May 17, 2016 public hearing date to review and adopt the 2015 UWMP. On May 11, 2016, staff mailed amended notices to local governmental agencies and other water suppliers with the revised public hearing on May 24, 2016. Staff published two public hearing notices in the Daily News on April 29, 2016 and May 6, 2016 for the originally scheduled public hearing on May 17, 2016, and two amended public hearing notices in the Daily News on May 13, 2016 and May 20, 2016 for the revised public hearing on May 24, 2016. The notices provided a link to the UWMP webpage and draft 2015 UWMP (<http://www.menlopark.org/watermanagementplan>). Hard copies of the report have been placed in the City Administration Building and the City Council office.

Staff is also currently developing the Water System Master Plan (WSMP) which is a separate document from the UWMP. Whereas the UWMP evaluates and compares future water demand to water supply, the WSMP focuses on maintaining the water system infrastructure to meet current demands, future growth, and emergency situations.

Emergency Drought Regulations

In May 2015, the State Water Resources Control Board (SWRCB) adopted an emergency regulation requiring a cumulative 25 percent state-wide reduction in overall potable urban water use (with a 16% conservation goal for MPMWD), and in February 2016, the SWRCB approved an updated and extended emergency regulation that continued mandatory reductions through October 2016. On average over the last 12 months (April 2015 – March 2016), MPMWD has surpassed its 16% conservation goal, saving 38% compared to 2013.

On May 9, 2016, the Governor issued Executive Order B-37-16 directing the SWRCB to extend the emergency regulations for urban water conservation through the end of January 2017 and replace the state-developed standards with locally-developed conservation standards based upon each agency's specific circumstances. The new conservation standards, which were adopted by the SWRCB at their May 18, 2016 meeting, become effective on June 1, 2016 and remain in effect through January 2017, and include the following:

1. Continues the following regulations on a permanent basis:
 - Hosing off sidewalks, driveways and other hardscapes;
 - Washing automobiles with hoses not equipped with a shut-off nozzle;
 - Using non-recirculated water in a fountain or other decorative water feature;
 - Watering landscapes in a manner that causes runoff.
 - Watering landscapes within 48 hours after measurable precipitation; and
 - Irrigation ornamental turf on public street medians.
2. Lifts the prior statewide requirements for commercial properties pertaining to drinking water and laundered towels and linens.
3. Requires individual urban water suppliers to self-certify by June 15, 2016 the level of available water supplies they have assuming three additional dry years, and the level of conservation necessary to assure adequate supply over that time.
4. Requires urban water suppliers to continue reporting monthly water use production information to the SWRCB on a permanent basis.

Analysis

The 2015 UWMP evaluates the following through the year 2040:

- Water supply and supply reliability
- Water demand
- Water Shortage Contingency Plan (drought stages and actions)
- Water conservation programs

As required by the Act, the City Council must hold a public hearing and adopt the 2015 UWMP by June 30, 2016 (DWR extended the submittal deadline from December 2015 to June 2016) and submit the adopted UWMP to DWR by July 1, 2016. Staff recommends that the City Council adopt the 2015 UWMP by resolution (Attachment A).

Schedule to Adopt the 2015 UWMP	
May 24, 2016	City Council Public Hearing to adopt the 2015 UWMP
June 2016	Submit adopted 2015 UWMP to the Department of Water Resources
July 2016	Make final 2015 UWMP available to the public

Water Supply Reliability

On February 9, 2016, the City Council meeting included an informational item on the Water Supply Assessment (WSA) for the Facebook Campus Expansion Project and the Water Supply Evaluation (WSE) for the ConnectMenlo General Plan Update and M-2 Area Zoning Update, and these future water demands have been included in the draft 2015 UWMP. During a normal water use year, by the year 2040, the UWMP projects that MPMWD will remain slightly below its SFPUC Individual Supply Guarantee (ISG) of 1,630 MG (million gallons per year), or 4.465 mgd (million gallons per day).

The Act requires that agencies consider water supply reliability for a single dry year and for multiple dry years. Based on SFPUC’s water supply reliability data received in January 2016, the table below shows that MPMWD could experience a water supply shortfall of up to 31% by 2040 during a multiple dry year.

	2020	2025	2030	2035	2040
MPMWD SFPUC ISG (MG)	1,630	1,630	1,630	1,630	1,630
MPMWD Projected Demand (MG)	1,341	1,403	1,468	1,539	1,614
Single Dry Year % and Multiple Dry Year (Year 1) Shortfall	4.5%	8.7%	13%	17%	21%
Multiple Dry Year % (Years 2 and 3) Shortfall	17%	21%	24%	28%	31%

To help offset future potential water supply shortfalls, staff is evaluating the feasibility of developing a recycled water program as part of the WSMP. Depending on the extent of a recycled water program (which includes potential recycled water from West Bay Sanitary District for the Sharon Heights Golf & Country Club), potable water demand could be offset by a range between 7% and 12% in 2040. This would reduce the 2040 shortfall from 31% to a range between 24% and 19%. This corresponds to 0.31 million gallons per day (mgd) to 0.55 mgd of recycled water that could meet the demand of uses allowed by the State, such as for irrigation, cooling, and toilet flushing.

Water Shortage Contingency Plan (WSCP)

The Act requires that the 2015 UWMP include a WSCP which delineates drought stages and specific actions to be implemented at each stage. On November 18, 2014, the City Council adopted the amended 2010 UWMP which revised the WSCP, and approved implementing Stage 2 of the revised WSCP to reach



“up to 20%” conservation goal in order to meet the State’s drought mandates. On May 5, 2015, the City Council added additional Stage 2 measures in order to be in compliance with the State’s additional emergency drought regulations. Attachment B lists the Stage 2 drought actions currently in effect.

In order to better reflect targeted conservation goals, and include the regulations as part of the Governor’s Executive Order signed on May 9, 2016, staff is recommending revising the current WSCP’s stages and actions as shown in the table below. Attachment C contains the proposed WSCP with corresponding stages and actions, and Attachment D provides the drought surcharges for the revised stages of the proposed WSCP. Revising the drought surcharges as recommended does not require Proposition 218 noticing requirements. Please note that, in order to incorporate the regulations the SWRCB adopted at their May 18, 2016 meeting, the proposed WSCP attached to this staff report has been revised from the WSCP included in the public review draft UWMP.

Stage	Current WSCP	Proposed WSCP	Rational for Proposed Revision
1	N/A	N/A	Mandatory prohibitions
2	up to 20%	up to 10%	SFPUC called for 10% rationing in 2007-2009 and 2014, and they will likely ask for this in the near future.
3	up to 30%	up to 20%	Estimated single dry year shortfall in 2040 is 21%, and MPMWD’s 2015 target is 16% (from the SWRCB)
4	up to 40%	up to 30%	Estimated multiple dry year shortfall in 2040 is 31%
5	up to 50%	up to 50%	Required by the UWMP Act

Like the current WSCP, the proposed WSCP provides flexibility to incorporate additional water regulations based on any future emergency water regulations adopted by the SWRCB or drought-related actions imposed by SFPUC. Each of the five stages lists particular water conservation actions and the option for City Council to select other appropriate actions in order to meet the water reduction goal.

Based on the Governor’s May 9, 2016 Executive Order, SFPUC has stated that they will likely implement a 10% voluntary conservation goal, however, it has not yet been finalized. Because this information from SFPUC is not yet available, MPMWD and the other Bay Area Water Supply and Conservation Agency (BAWSCA) member agencies are not able to self-certify the level of available water supplies available assuming three additional dry years, and the level of conservation necessary to assure adequate supply over that time. MPMWD must submit this information to the SWRCB by June 15, 2016, so staff expects to obtain SFPUC information very soon. Staff plans to return to City Council on June 7, 2016 with a consent item to adopt a new water conservation plan (with a corresponding drought stage from the 2015 WSCP) to meet the new drought regulations.

Impact on City Resources

The UWMP Project, funded by the Water Fund, was approved as part of the FY 2014/15 Capital Improvement Program and will be completed within the approved budget.

Environmental Review

Environmental review is not required. Adoption of the 2015 UWMP is categorically exempt from the California Environmental Quality Act (“CEQA”) under Section 15307 of the CEQA Guidelines (Actions by Regulatory Agencies for Protection of Natural Resources).



Public Notice

Public Notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting. In addition, staff published public hearing notices as described earlier in the report.

Attachments

- A. Resolution to adopt the 2015 UWMP
- B. Drought regulations currently in effect (stage 2 of the current WSCP)
- C. Proposed WSCP (also included in the draft 2015 UWMP in Chapter 7)
- D. Drought surcharges for the proposed WSCP

Report prepared by:
Pam Lowe, Senior Civil Engineer

Reviewed By
Ruben Niño, Assistant Public Works Director

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RESOLUTION NO. _____

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO PARK
ADOPTING THE 2015 URBAN WATER MANAGEMENT PLAN**

WHEREAS, the Urban Water Management Planning Act (Water Code Section 10610 et. seq.) requires every urban water supplier to prepare an Urban Water Management Plan ("UWMP"), the primary function of which is to describe and evaluate reasonable and practical efficient water uses and conservation activities; and

WHEREAS, the Urban Water Management Planning Act requires periodic review of the UWMP at least once every five years, followed by any amendments or changes to the UWMP that are indicated by that review; and

WHEREAS, Senate Bill x7-7 (SBx7-7) requires that all urban water suppliers, as part of their UWMP, reduce their water consumption 20% by 2020, and that the urban water use target be included in the 2015 UWMP; and

WHEREAS, at a duly noticed public hearing on May 24, 2016, the City Council of the City of Menlo Park, an urban water supplier operating as the Menlo Park Municipal Water District, developed its 2015 UWMP including the Water Shortage Contingency Plan and its stages.

NOW THEREFORE, BE IT AND IT IS HEREBY RESOLVED by the City Council of the City of Menlo Park that the City Council does hereby approve and adopt the amendment to the 2015 Urban Water Management Plan.

BE IT AND IT IS HEREBY FURTHER RESOLVED by the City Council of the City of Menlo Park that the City Manager is hereby authorized and directed to file the amendment to the 2015 Urban Water Management Plan with the California Department of Water Resources within thirty days after its adoption.

BE IT AND IT IS HEREBY FURTHER RESOLVED by the City Council of the City of Menlo Park that adoption of the 2015 Urban Water Management Plan is categorically exempt from the California Environmental Quality Act ("CEQA") under Section 15307 of the CEQA Guidelines (Actions by Regulatory Agencies for Protection of Natural Resources).

I, PAMELA AGUILAR, 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 City Council on the twenty-fourth of May, 2016, 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 Council on this twenty-fourth day of May, 2016.

PAMELA AGUILAR,
City Clerk

DRAFT

**Drought Regulations Currently in Effect
(Stage 2 of the Current WSCP)**

Stage	Water Use Regulations	% Goal
1	<ol style="list-style-type: none"> 1. Hoses must be equipped with a shut-off valve for washing vehicles, sidewalks, walkways, or buildings. 2. Broken or defective plumbing and irrigation systems must be repaired or replaced within a reasonable period. 3. Other measures as may be approved by Resolution of the City Council. 	NA
2	<ol style="list-style-type: none"> 1. Continue with actions and measures from Stage 1, except where superseded by more stringent requirements. 2. Potable water shall not be used to water outdoor landscapes in a manner that causes runoff onto non-irrigated areas, walkways, roadways, parking lots, or other hard surfaces. 3. Potable water shall not be applied in any manner to any driveway or sidewalk, except when necessary to address immediate health or safety concerns. 4. Restaurants and other food service operations shall serve water to customers only upon request. 5. Use only re-circulated or recycled water to operate ornamental fountains. 6. Other measures as may be approved by Resolution of the City Council to achieve the overall percentage reduction. <p style="text-align: center;"><u>Additional Regulations Added to Stage 2</u> (Adopted May 5, 2015 in order to meet State Water Resources Control Board's emergency drought regulations)</p> <ol style="list-style-type: none"> 7. Potable water shall not be used to water outdoor landscapes during and within 48 hours after measurable rainfall. 8. Hotels and motels shall provide guests an option of choosing not to have towels and linens laundered daily. The hotel or motel shall prominently display notice of this option in each guestroom using clear and easily understood language. 9. Potable water to irrigate outdoor ornamental landscapes or turf shall be limited to no more than two days per week between designated hours, as determined by the Public Works Director. Water customers may be granted an exception upon review and approval of a Drought Response Plan by the Public Works Director pursuant to such policies and procedures as may be established by the Public Works Director provided that such plan results in an equivalent or greater reduction in water use. 10. Single-pass cooling systems on new construction shall not be allowed. 11. Pools, spas, and hot tubs shall be covered when not in use. 12. Permits for construction of new pools shall include a requirement that MPMWD water shall not be used to fill new pools. 13. Newly constructed homes and buildings must deliver potable water through drip or micro-spray systems to water outside. 14. Potable water shall not be used to irrigate ornamental turf on public street medians. 	Up to 20%

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Proposed Water Shortage Contingency Plan
Menlo Park Municipal Water District

Stage	Consumption Reduction Methods by Water Supplier	Restrictions and Prohibitions on End Uses (Customers)
<p>Stage 1 Mandatory Prohibitions</p> <p>Goal: N/A</p>	<ul style="list-style-type: none"> • Not applicable 	<ul style="list-style-type: none"> • Hoses must be equipped with a shut-off valve for washing vehicles, sidewalks, walkways, or buildings. • Broken or defective plumbing and irrigation systems must be repaired or replaced within a reasonable period. • Recreational water features shall be covered when not in use. • Ornamental fountains shall use only re-circulated or recycled water. • Single-pass cooling systems on new construction shall not be allowed. • Potable water shall not be applied in any manner to any driveway, sidewalk, or other hard surface except when necessary to address immediate health or safety concerns. • Potable water shall not be used to water outdoor landscapes in a manner that causes runoff onto non-irrigated areas, walkways, roadways, parking lots, or other hard surfaces. • Potable water cannot be applied to outdoor landscapes during and up to 48 hours after measurable rainfall. • Potable water shall not be used to irrigate ornamental turf on public street medians. • Other measures as may be approved by Resolution of the City Council.
<p>Stage 2</p> <p>Goal: up to 10% Reduction</p>	<ul style="list-style-type: none"> • Inform customers that there is a water shortage emergency and the list of actions they can take to reduce water use (e.g., via direct mail, bill inserts, etc.). • Increase public outreach, including information regarding fines or penalties for non-compliance. • Expand outreach for existing water conservation programs. • Conduct coordination with BAWSCA, SFPUC, and California Water Service Company (“Cal Water”). • Conduct in-house training so City staff is prepared to respond to customer calls, reports and complaints, and to support enforcement actions. 	<ul style="list-style-type: none"> • Continue with actions and measures from Stage 1 except where superseded by more stringent requirements. • Hotels and motels shall provide guests an option whether to launder towels and linens daily. Hotels and motels shall prominently display notice of this option in each bathroom using clear and easily understood language. • Restaurants and other food service operations shall serve water to customers only upon request. • Other measures as may be approved by Resolution of the City Council.



Proposed Water Shortage Contingency Plan
Menlo Park Municipal Water District

Stage	Consumption Reduction Methods by Water Supplier	Restrictions and Prohibitions on End Uses (Customers)
<p align="center">Stage 3</p> <p align="center">Goal: up to 20% Reduction</p>	<ul style="list-style-type: none"> • Continue with actions and measures from Stage 2. • Increase public outreach, including a dedicated customer service hotline. • Schedule staff for enforcement and customer service. May include hiring additional, temporary staff. • Reduce frequency of water main flushing. • Inform local fire department of water supply status and request cooperation in reducing of fire training exercises that use water. • Increase public outreach to the top 10% water users in each customer category. • Implement drought surcharge on water rates. 	<ul style="list-style-type: none"> • Continue with actions and measures from Stages 1 and 2 except where superseded by more stringent requirements. • Irrigation with potable water outside of newly constructed homes and buildings not delivered by drip or microspray is prohibited. • Potable water shall not be used for street cleaning. • Permits for construction of new pools shall include a requirement that MPMWD water shall not be used to fill new pools. • Irrigating outdoor ornamental landscapes or turf with potable water is not allowed between designated hours, as determined by the Public Works Director, except for hand watering. Hand watering must be with a continuously monitored hose fitted with an automatic shut-off nozzle or device attached to it that causes it to cease dispensing water immediately when not in use or monitored. • Irrigating outdoor ornamental landscapes or turf with potable water is limited to no more than two (2) days per week on a schedule established by the Director and posted on the City's website. Water customers may be granted an exception upon review and approval of a Drought Response Plan by the Public Works Director pursuant to such policies and procedures as may be established by the Public Works Director provided that such plan results in an equivalent or greater reduction in water use. • Other measures as may be approved by Resolution of the City Council.
<p align="center">Stage 4</p> <p align="center">Goal: up to 30% Reduction</p>	<ul style="list-style-type: none"> • Continue with actions and measures from Stages 2 and 3. • Increase public outreach, including hosting public events and workshops. • Increase enforcement and water waste patrols. • Suspend routine flushing of water mains except when necessary to address immediate health or safety concerns. • Offer free water use surveys to the top 10% water users in each customer category. 	<ul style="list-style-type: none"> • Continue with actions and measures from Stages 1, 2 and 3 except where superseded by more stringent requirements. • Prohibit vehicle washing except at facilities using recycled or recirculating water. • Irrigating outdoor ornamental landscapes or turf with potable water is limited to no more than one (1) day per week on a schedule established by the Director and posted on the City's website. Water customers may be granted an exception upon review and approval of a Drought Response Plan by the Public Works Director pursuant to such policies and procedures as may be established by the Public Works Director provided that such plan results in an equivalent or greater reduction in water use. • Other measures as may be approved by Resolution of the City Council.



Proposed Water Shortage Contingency Plan
Menlo Park Municipal Water District

Stage	Consumption Reduction Methods by Water Supplier	Restrictions and Prohibitions on End Uses (Customers)
<p>Stage 5</p> <p>Goal: up to 50% Reduction</p>	<ul style="list-style-type: none"> • Continue with actions and measures from Stages 2, 3 and 4. • Increase public outreach. • Develop water budgets for all accounts and notice those accounts appropriately. • MPMWD shall not approve new potable water service, new temporary meters or permanent meters, or issue statements of immediate ability to serve or provide potable water service (such as, will-serve letters, certificates or letters of availability), except under the following circumstances: <ul style="list-style-type: none"> a) A valid, unexpired building permit has been issued for the project; or b) The project is necessary to protect the public's health, safety, and welfare; or c) The applicant provides substantial evidence of an enforceable commitment that water demands for the project will be offset prior to the provision of a new water meter(s) to the satisfaction of the Public Works Director; or d) To provide continuation of water service or to restore service that has been interrupted for a period of one year or less. 	<ul style="list-style-type: none"> • Continue with actions and measures from Stages 1 through 4 except where superseded by more stringent requirements. • Turf irrigation is prohibited at all times, including artificial turf. • Existing irrigation systems shall not be expanded. • Water use shall not exceed water budgets established by MPMWD for each customer. • Other measures as may be approved by Resolution of the City Council.

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Drought Surcharges

CURRENT DROUGHT SURCHARGES (adopted 7/21/15)

DROUGHT SURCHARGES - All Customers, rate per ccf*					
	Sept 1 2015	July 1, 2016	July 1, 2017	July 1, 2018	July 1, 2019
Water Shortage Contingency Plan Required Water Cutback %					
Stage 2: Up to 20% (Current)	\$0.29	\$0.44	\$0.63	\$0.71	\$0.85
Stage 3: Up to 30%	\$0.52	\$0.79	\$1.11	\$1.24	\$1.48
Stage 4: Up to 40%	\$0.82	\$1.24	\$1.74	\$1.95	\$2.32
Stage 5: Up to 50%	\$1.25	\$1.88	\$2.63	\$2.94	\$3.50

PROPOSED DROUGHT SURCHARGES (based on proposed WSCP)

DROUGHT SURCHARGES - All Customers, rate per ccf*					
	Sept 1 2015	July 1, 2016	July 1, 2017	July 1, 2018	July 1, 2019
Water Shortage Contingency Plan Required Water Cutback %					
Stage 2: Up to 10%	\$0.11	\$0.18	\$0.26	\$0.30	\$0.36
Stage 3: Up to 20% (Proposed)	\$0.29	\$0.44	\$0.63	\$0.71	\$0.85
Stage 4: Up to 30%	\$0.52	\$0.79	\$1.11	\$1.24	\$1.48
Stage 5: Up to 50%	\$1.25	\$1.88	\$2.63	\$2.94	\$3.50

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STAFF REPORT

City Council

Meeting Date:

5/24/2016

Staff Report Number:

16-087-CC

Regular Business:

Approve the designs for the Santa Cruz Street Cafés, increase the Downtown Streetscape budget for FY16-17, authorize the City Manager to award construction contracts for each Street Café up to the budgeted amount, authorize the City Manager to enter into license and funding agreements with business owners, and consider an increase to the maximum City share of construction costs

Recommendation

Staff recommends that the City Council approve the design for the Santa Cruz Street Café program and consider the following actions:

- Increase the planned Downtown Streetscape budget by \$335,000 for fiscal year (FY) 2016-2017 as part of the budget adoption process;
- Authorize the City Manager to award construction contracts for each Street Café, up to the budgeted amount;
- Authorize the City Manager to enter into license and funding agreements between the City and participating merchants; and
- Consider an increase to the maximum City share of the base design by \$10,000 for each Street Café.
- Direct staff to take code enforcement action to remove unpermitted outdoor seating.

Policy Issues

The Santa Cruz Street Café Pilot Program is included as part of the City Council's Work Program for 2016. The Program was developed following adoption of the El Camino Real/Downtown Specific Plan and the City Council's goal of enhancing vibrancy in the Downtown and expediting public improvements. The Specific Plan allowed for sidewalk improvements on a trial basis before moving forward with a more permanent installation. The Council previously authorized advancing installations after a successful trial installation at Left Bank at 635 Santa Cruz Avenue. Staff is requesting additional guidance and authorization from Council as part of this report.

Background

On January 27, 2015, the City Council accepted a report on the Expanded On-Street Dining Pilot Program. During the January 27, 2015 City Council meeting, the Council agreed that the existing Left Bank pilot program, initiated by the Council in May, 2014, successfully enlivened the Downtown retail experience. As a result, the City Council directed staff to expand the pilot program, which is now being described as the Santa Cruz Street Café Program. The Council's direction was that the expansion be semi-permanent, include cost-sharing, and be open to all businesses.

The City retained the services of Ian Moore Design, Inc. (IMD) to provide a prototype design and initial cost estimates for a typical Street Café. Two base designs were developed to match the parking configurations Downtown: one for parallel parking spaces and one for angled parking spaces. After extensive outreach, the general consensus of interested business owners was that a \$10,000 - \$15,000 investment would be feasible, but also that a \$20,000 investment would preclude most of those small businesses from participating. To keep the Cafés affordable for small businesses, staff presented a series of cost sharing options based on the initial cost estimates of \$30,000 for a parallel installation and \$40,000 for an angled installation.

On June 2, 2015, the Council approved the base design concept and a cost-sharing requirement of 75% for parallel parking and 70% for angled parking with the participating business paying its share upfront. An alternative payment option was also approved which would allow a business to pay through installments over a two-year timeframe with the City contributing 70% for parallel parking and 60% for angled parking. Both payment options carried a City maximum contribution of \$30,000 for any one Café. The cost for any enhancements beyond the base design were to be borne solely by the business.

Analysis

Following Council direction, staff identified participating businesses and with a consultant, developed final Street Café designs which account for site-specific conditions. The estimated construction costs have increased due to a general increase in size of Street Cafés, safety features, and disabled accessibility requirements. Staff recommends, as described later in this section, that the Council revisit the proposed cost-sharing arrangement to consider recent information.

Business Selection Process

Staff sought out to find businesses that were willing to participate in the program. An online application was posted to the city website from June to July 2015 and was advertised through several news outlets, face to face meetings, and emails to downtown merchants. At the close of the application period, seven interested businesses were identified in downtown Menlo Park including:

- LB Steak at 898 Santa Cruz Ave
- Galata Bistro at 827 Santa Cruz Ave
- Angelo Mio at 820 Santa Cruz Ave
- Mademoiselle Colette at 816 Santa Cruz Ave
- Bistro Vida at 641 Santa Cruz Ave
- Harvest at 639 Santa Cruz Ave
- Left Bank at 635 Santa Cruz Ave

Design Elements and Construction Award

The City again retained the services of IMD to advance the concept design into final site specific designs for each of the selected businesses. Once IMD gathered site data and spot elevation measurements, it became clear that the initial concept would have to be modified for all locations along Santa Cruz Ave. Given the steep cross-slope of Santa Cruz Avenue, it is not possible to create a level seating area that meets American with Disabilities Act (ADA) requirements and is also flush with the existing sidewalk. Instead, an elevated platform was developed along with necessary disabled access and safety features. Plans and roadway cross-sections for the semi-permanent base model are included in Attachment A.

The base model includes features that have been chosen to produce a high quality structure that is functional and safe for residents and shoppers. Features of the base model include an elevated concrete

platform that has a level surface, a perimeter barrier of concrete planter boxes, safety railings and disabled accessibility. Each business will be given the opportunity to choose how its Street Café looks through the addition of custom features such as wood panels, painted color, plants, lighting and furniture. As Council previously decided, the cost for any custom features beyond the base design will be borne solely by the business.

A summary of the cost estimates are shown on Table 1 below range from \$33,000 to \$64,000 and consist of both parallel and angled parking space installations. The costs are higher than anticipated in 2015 mainly due to disabled access requirements necessitating the elevated concrete platform, which requires more complex formwork, reinforcement, labor, and railings. Also, several Street Café locations were expanded in size compared to original concepts.

Table 1: Cost Estimate

Location	Cost Estimate	Cost per Square Foot
Left Bank	\$64,000	\$127
Harvest	\$33,000	\$115
Bistro Vida	\$40,000	\$152
LB Steak	\$64,000	\$178
M. Colette	\$48,000	\$167
Angelo Mio	\$45,000	\$250
Galata Bistro	\$35,000	\$194
Base Design Total	\$329,000	
Custom Features	\$90,000	
25% Contingency, Construction Management	\$105,000	
Total Upfront Costs	\$524,000	

Even though the City is only paying for a percentage of the base design cost and none of the custom features, the total amount of \$524,000 is needed in the City budget to pay for the construction upfront. Staff recommends the Council approve an increase in the planned FY16-17 allocation by \$335,000. If approved in concept, staff will incorporate this amount into the FY16-17 budget and Capital Improvement Program to be considered by the Council in June 2016. Staff also recommends the Council authorize the City Manager to award construction contracts for each Street Café to complete the project under the budgeted amount. Actual City expenditures for this project are more clearly realized after business owner contributions are accounted for in the following cost-sharing analysis.

Cost-sharing and Agreements with Business Owners

On June 2, 2015, staff presented a cost-sharing proposal that sought to keep the cost of a Street Café affordable for business owners and equitable on a cost per square foot basis. After extensive outreach, the general consensus from interested business owners was that a \$10,000 - \$15,000 investment for a finished product would be feasible. The consideration of the business contribution towards the base design should also account for some level of custom features. To successfully enhance the vibrancy of downtown, each

Street Café should be unique. As the cost of each structure has increased, staff recommends the Council reassess the current cost-sharing ratio to support business participation. Table 2 below shows the current cost sharing arrangement and two potential options. Option A would increase the City contribution for each Street Café by \$10,000. Option B would increase the City contribution for each Street Café by \$15,000.

Table 2: Cost-sharing Options

Merchant Contributions (Total and per Square Foot, SF)				
Location	Engineer's Estimate	Current	Option A	Option B
Left Bank	\$64,000	\$34,000	\$24,000	\$19,000
Harvest	\$33,000	\$8,000	\$8,000	\$7,000
Bistro Vida	\$40,000	\$10,000	\$10,000	\$8,000
LB Steak	\$64,000	\$34,000	\$24,000	\$19,000
M. Colette	\$48,000	\$18,000	\$12,000	\$10,000
Angelo Mio	\$45,000	\$15,000	\$11,000	\$9,000
Galata Bistro	\$35,000	\$11,000	\$9,000	\$7,000
Total	\$329,000	\$130,000	\$98,000	\$79,000
Custom Features	\$90,000	\$90,000	\$90,000	\$90,000
Merchant Contributions		\$220,000	\$188,000	\$169,000
25% Contingency, Construction Management	\$105,000			
Total Upfront Costs	\$524,000			
City Cost less Merchant Contribution		\$304,000	\$336,000	\$355,000

* 75% with \$30,000 max (angled) and 70% with \$30,000 max (parallel)

** 75% with \$40,000 max (angled and parallel)

*** 80% with \$45,000 max (angled and parallel)

The current cost-sharing options would require business contributions of \$8,000 - \$34,000 which would preclude some of them from participating in the program. Staff recommends Council approve cost-sharing Option A to increase the maximum City contribution by \$10,000 which would require business contributions of \$8,000 - \$24,000. Alternatively, Option B would require business contributions of \$6,500 - \$19,500 and allows more ability for the smaller business to customize its own Street Café.

The City contribution between the current and proposed cost-sharing options differs by \$19,000 overall, but has a noticeable impact on each business' ability to participate. The option to pay over time is still available for a two year time period with a 5 percent increase in business contribution and is further detailed in the proposed funding/licensing agreement ([Attachment B](#) as a hyperlink).

Staff is also recommending the Council authorize the City Manager to enter into funding/licensing agreements with each business owner. The funding/licensing agreements outline how the City would be reimbursed for its upfront construction costs as well as how the use of the Street Café would be licensed. Use of the city utilities (such as electricity for lighting) would be granted based on a yearly fee paid by the business owner to cover costs. Maintenance of the Street Café would be the responsibility of the business

owner. In the event of a change in ownership or un-renewed agreement, use and maintenance of the Café would be returned to the City until a new agreement is completed. Staff is recommend an initial term of three years for the first agreements in order to evaluate and adjust program if necessary. A sample agreement is included in Attachment C.

Summary and Next Steps

If Council approves the project as recommended, staff will commence the following actions:

- Finalize design documents, including any custom features desired by the business owner
- Enter into license and funding agreements with business owners
- File for required environmental clearance
- Draft construction bid documents
- Begin the construction bid process

Assuming the City is able to enter into agreement with the business owners in a timely fashion and the bids are within the budgeted amount, staff anticipates that construction would begin in July 2016.

Impact on City Resources

The 5-Year CIP allocates \$165,000 for Downtown Streetscape Improvement (Specific Plan) for FY16-17. In order to advance the Santa Cruz Street Café Pilot Program this summer, staff has recommended that the planned budget be increased by \$335,000, as described above. Depending on which option the City Council chooses, the net cost to the City will range from \$304,000 to \$355,000 after recovering merchant contributions. If approved, staff will incorporate this additional funding into the proposed FY16-17 budget and CIP. The preparation and management of the project would not require additional city staff time beyond current staffing levels.

Environmental Review

Previous Council approval of this project on June 2, 2015 included a finding that it is categorically exempt under Class 4 (Section 153014 "Minor Alterations to Land") of the current CEQA Guidelines.

Public Notice

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

Attachments

- A. Site Specific Base Designs
- B. [June 2, 2015 Staff Report \(www.menlopark.org/DocumentCenter/View/7237\)](http://www.menlopark.org/DocumentCenter/View/7237)
- C. Example license and funding agreement

Report prepared by:

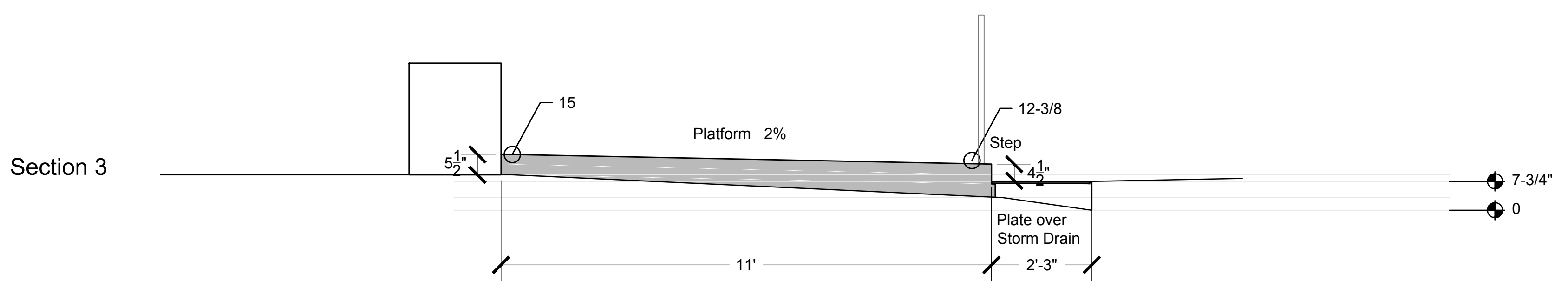
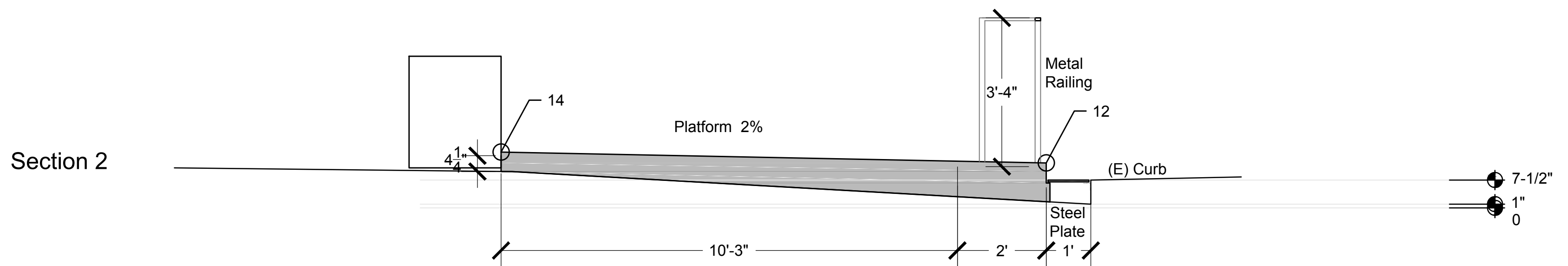
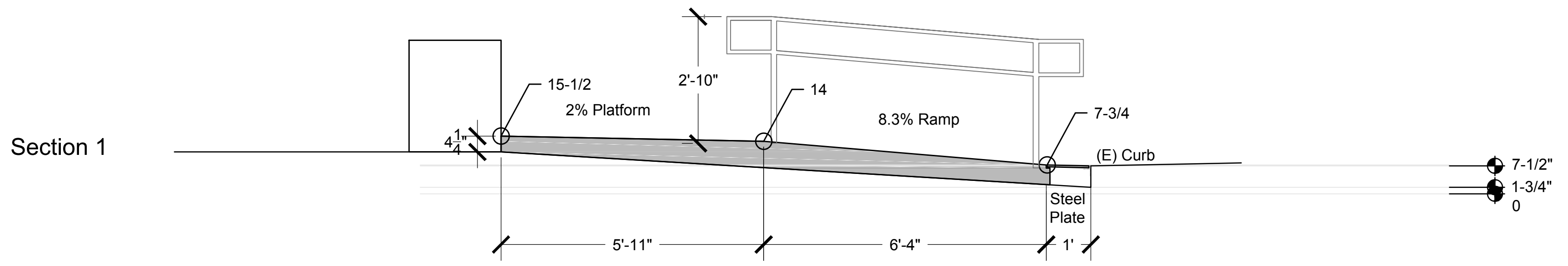
Michael Tsai, Assistant Engineer, Transportation

Report reviewed by:

Nicole H. Nagaya, P.E, Transportation Manager

Jim Cogan, Economic Development and Housing Manager









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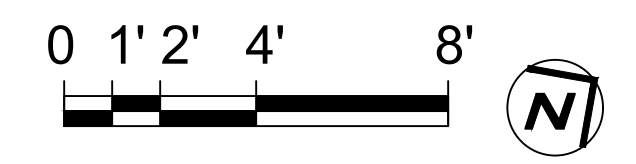
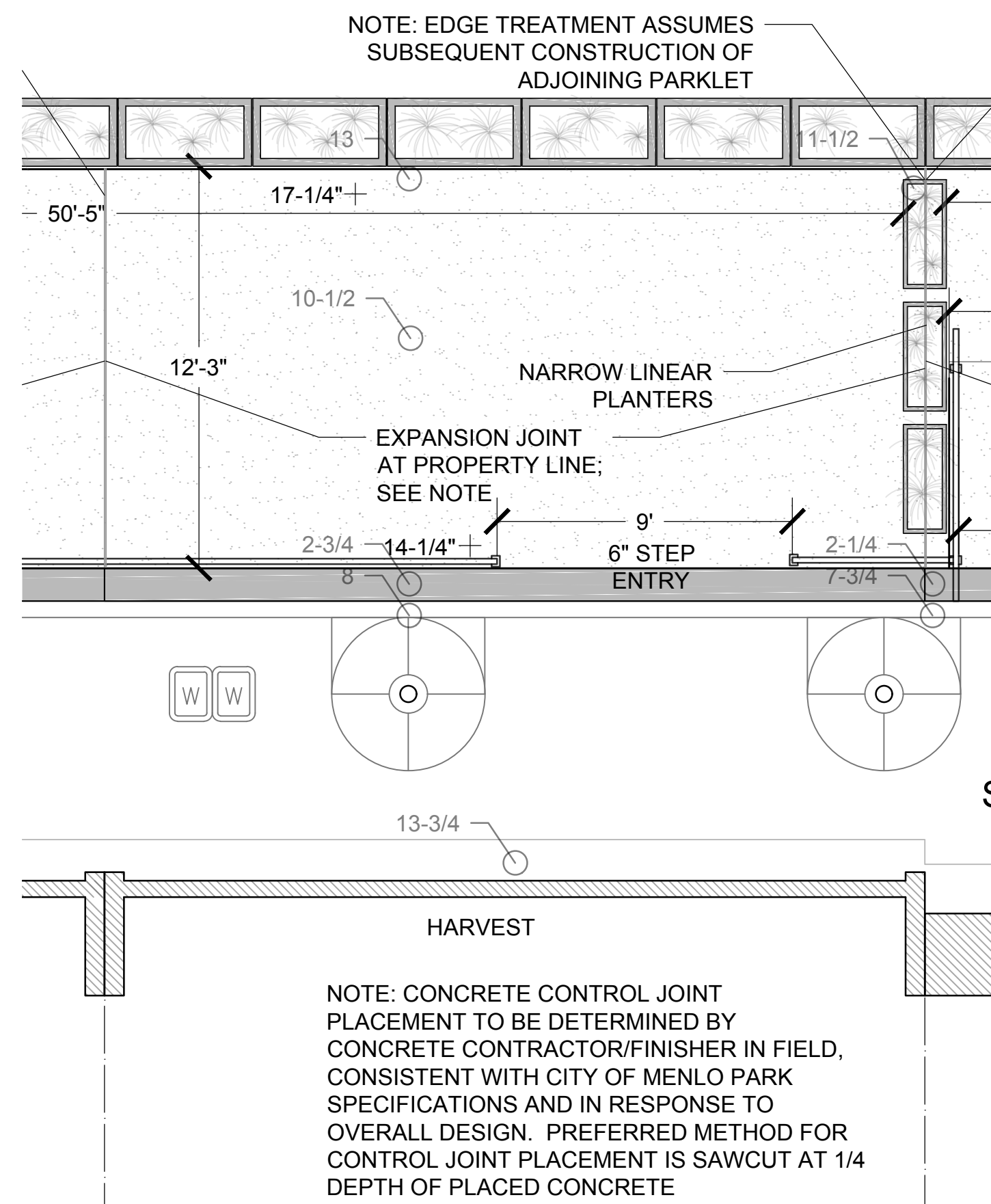
1523 Walnut Street
Berkeley, CA 94709

Sheet 3D2	15-07 Downtown Menlo Park Parklets	Left Bank Cross Sections	Scale: 1/2"=1'-0"	Date: 5/13/2016 KB
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SYMBOL LEGEND

-  ELECTRICAL OUTLET
-  UTILITY BOX
-  IRRIGATION BOX
-  WATER METER
-  WOOD CLAD STREET POLE
-  BUS STOP
-  EXISTING ELEVATION POINT
-  PROPOSED ELEVATION POINT

SANTA CRUZ AVE.



1523 Walnut Street
Berkeley, CA 94709

Sheet
3C2

15-07









Downtown Menlo Park Parklets

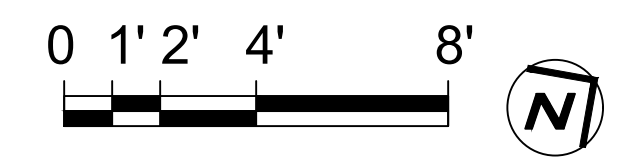
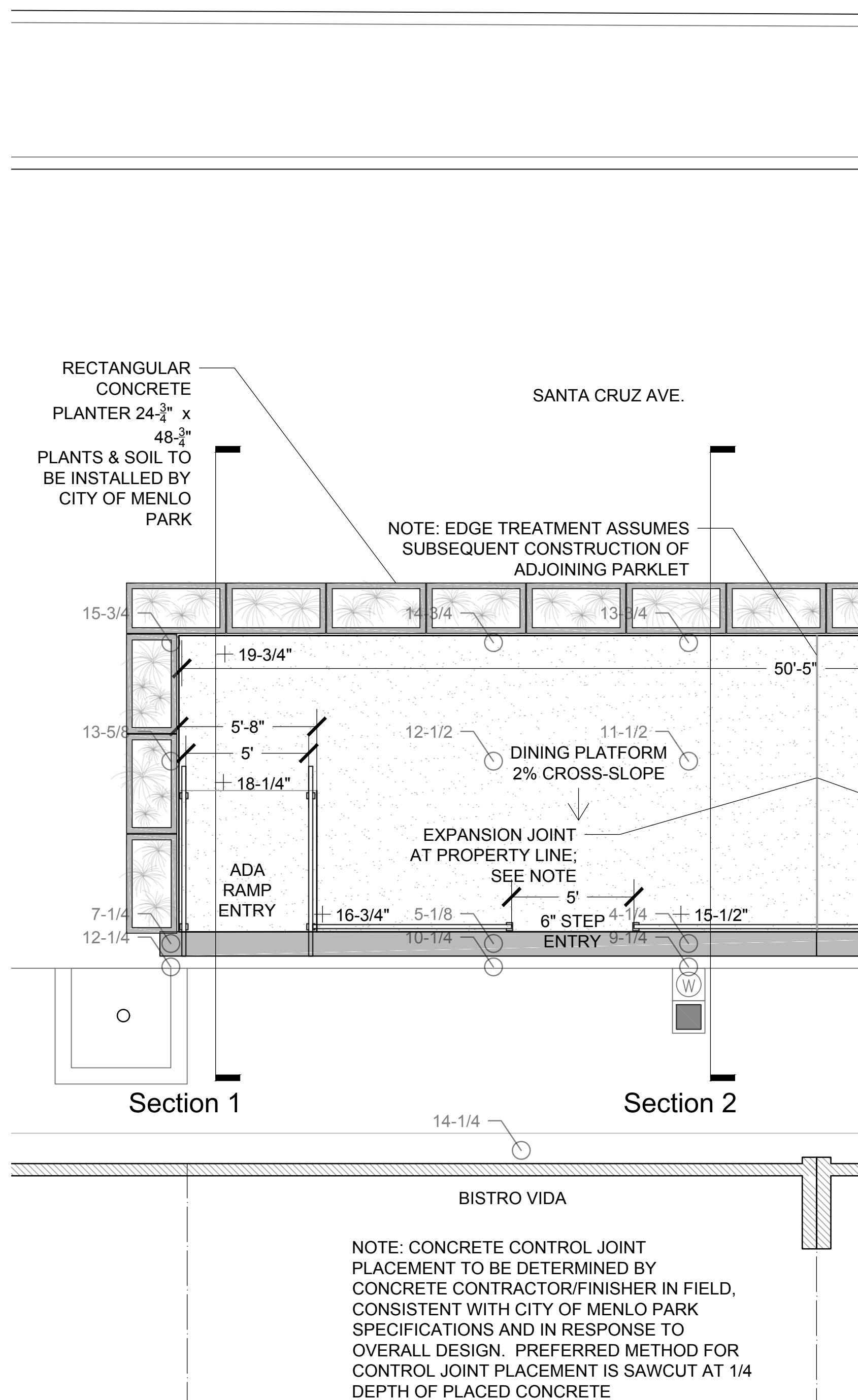
Harvest - Parklet Design

Scale: 1/4" = 1'-0"

Date: 5/12/2016
KB

SYMBOL LEGEND

-  ELECTRICAL OUTLET
-  UTILITY BOX
-  IRRIGATION BOX
-  WATER METER
-  WOOD CLAD STREET POLE
-  BUS STOP
-  EXISTING ELEVATION POINT
-  PROPOSED ELEVATION POINT

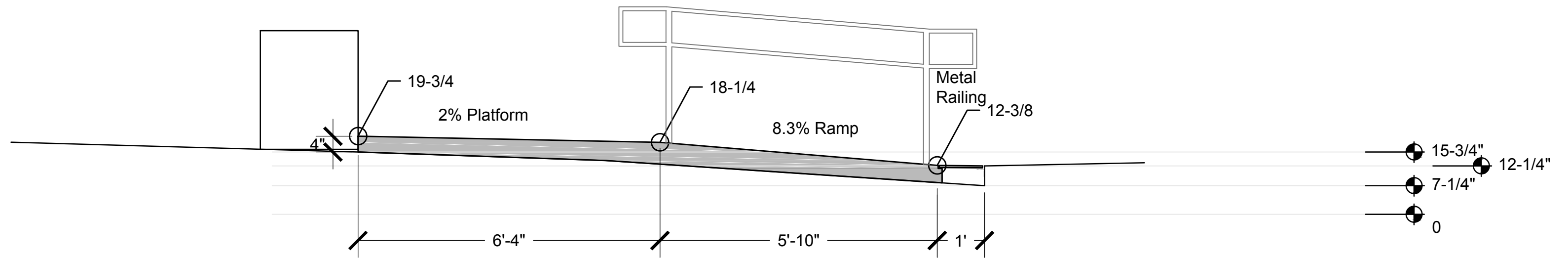


1523 Walnut Street
Berkeley, CA 94709

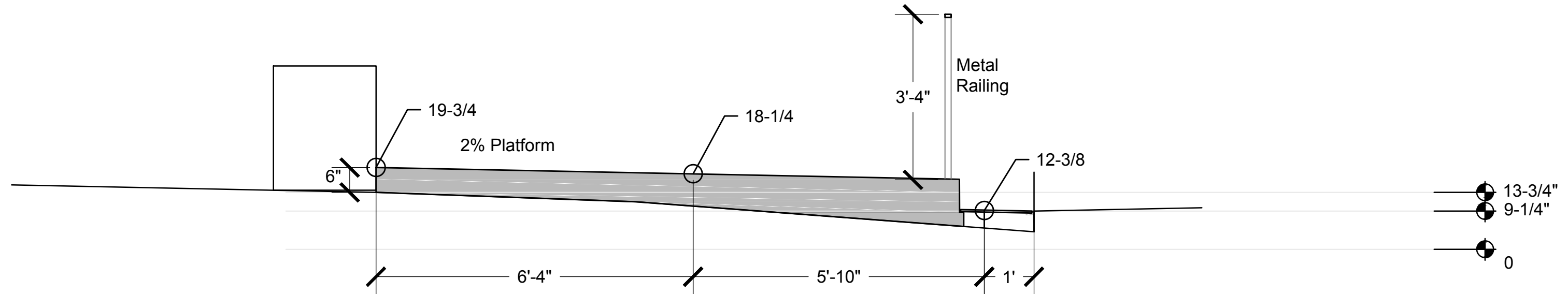
NOTE: CONCRETE CONTROL JOINT PLACEMENT TO BE DETERMINED BY CONCRETE CONTRACTOR/FINISHER IN FIELD, CONSISTENT WITH CITY OF MENLO PARK SPECIFICATIONS AND IN RESPONSE TO OVERALL DESIGN. PREFERRED METHOD FOR CONTROL JOINT PLACEMENT IS SAWCUT AT 1/4 DEPTH OF PLACED CONCRETE

Sheet 3C1	15-07	Downtown Menlo Park Parklets	Bistro Vida - Parklet Design	Scale: 1/4" = 1'-0"	Date: 5/12/2016 KB
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Section 1



Section 2



1523 Walnut Street
Berkeley, CA 94709

Sheet
3D1

15-07 Downtown Menlo Park Parklets

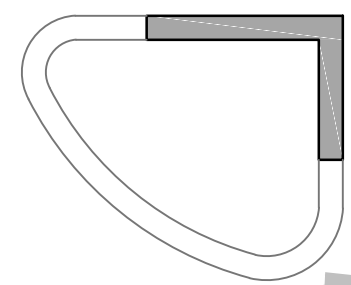
Bistro Vida
Cross Sections

Scale: 1/2" = 1'-0"

Date: 5/13/2016
KB

UNIVERSITY AVE.

POURED CONCRETE TO MATCH (E) SIDEWALK



CURB AT GRADE

29-1/8 T.O.W.

FLAT STEEL RAILING 40" HIGH

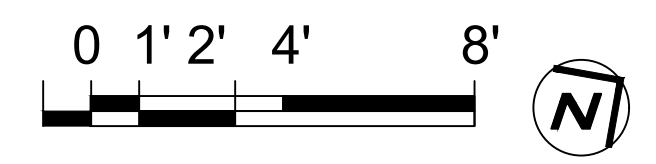
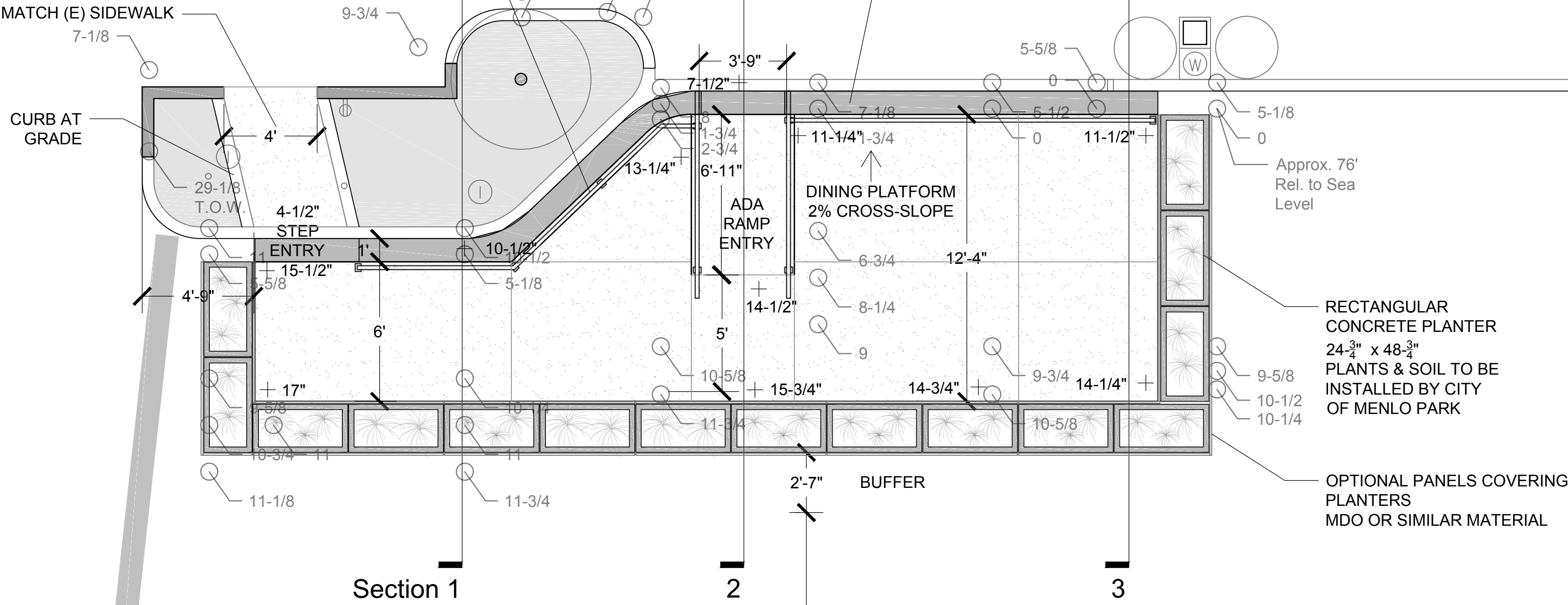
LB STEAK ENTRANCE

(E) DINING AREA

PERFORATED STEEL DRAIN PANEL

SYMBOL LEGEND

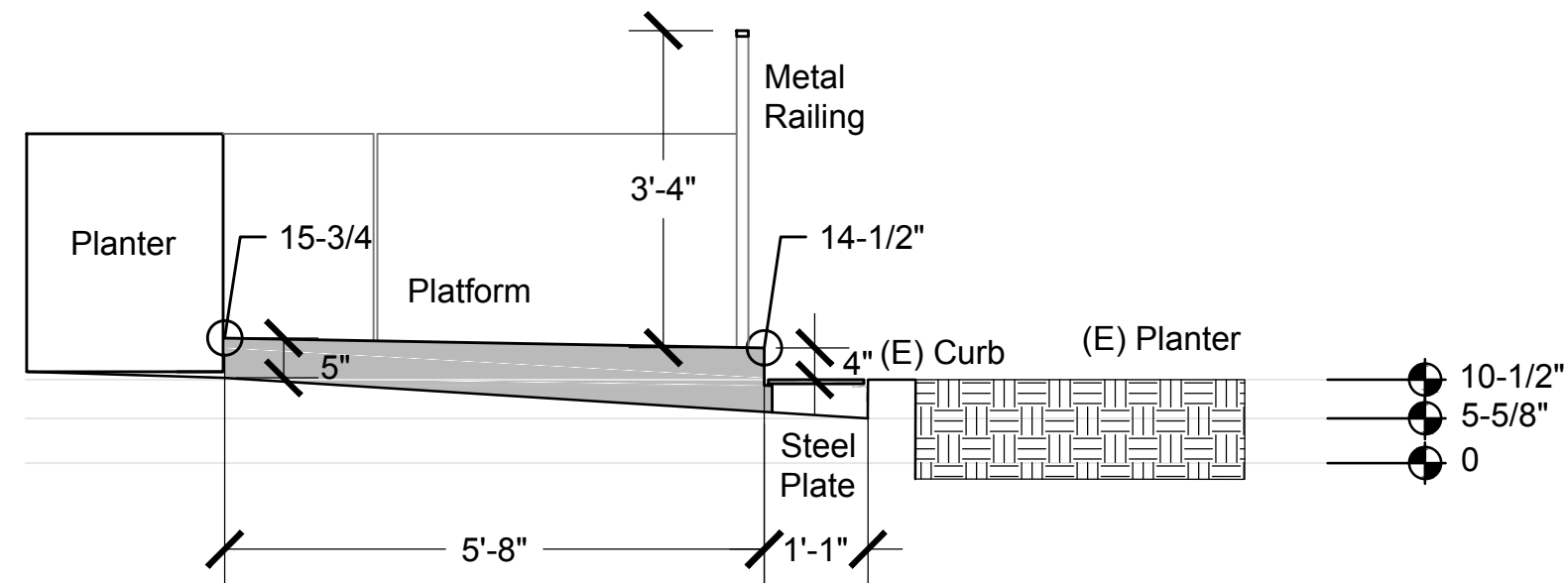
- ELECTRICAL OUTLET
- UTILITY BOX
- IRRIGATION BOX
- WATER METER
- WOOD CLAD STREET POLE
- BUS STOP
- EXISTING ELEVATION POINT
- PROPOSED ELEVATION POINT



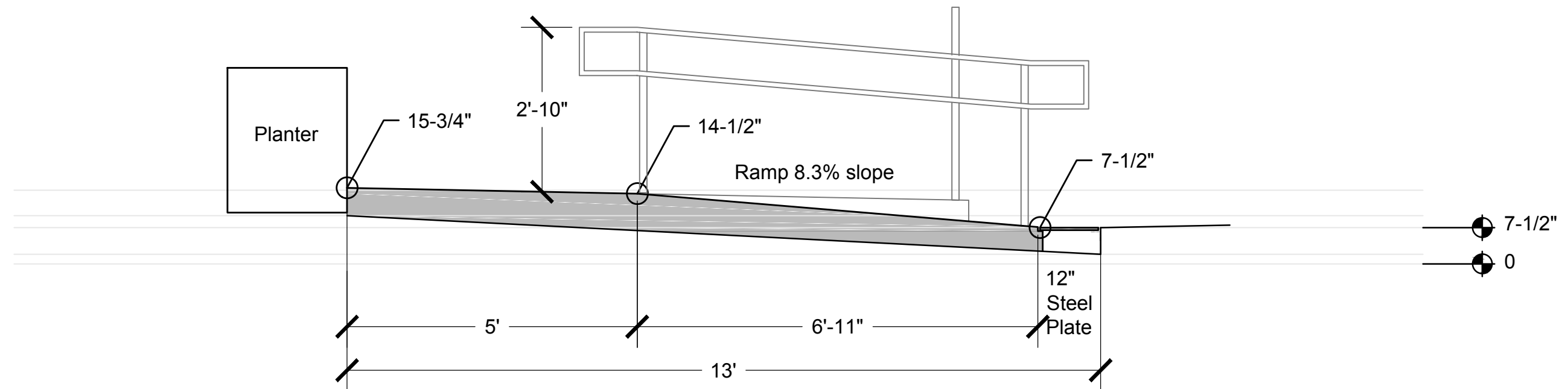
1523 Walnut Street
Berkeley, CA 94709

Sheet 1C	15-07	Downtown Menlo Park Parklets	LB Steak - Parklet Design	Scale: 1/4" = 1'-0"	Date: 5/13/2016 KB
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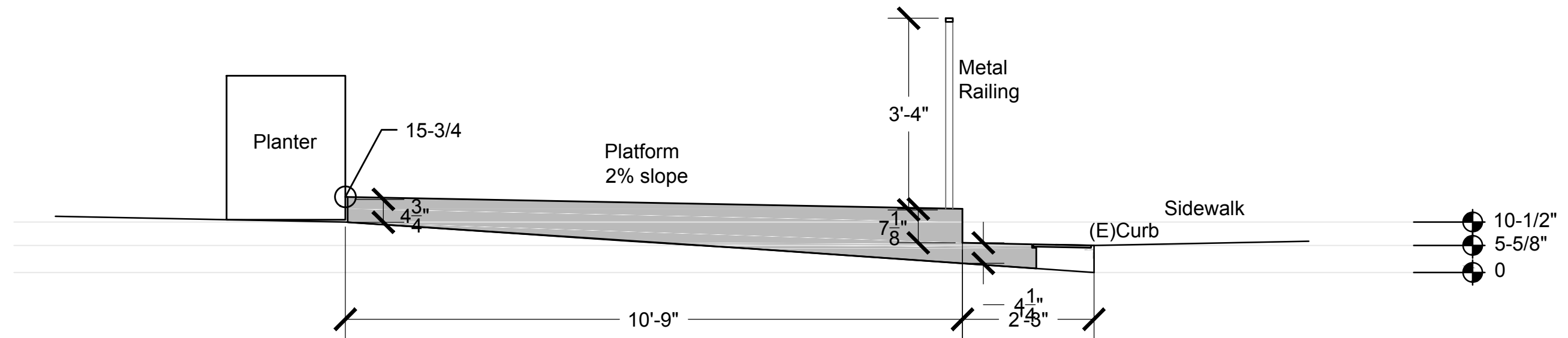
Section 1



Section 2



Section 3



1523 Walnut Street
Berkeley, CA 94709

Sheet
1D

15-07









Downtown Menlo Park Parklets

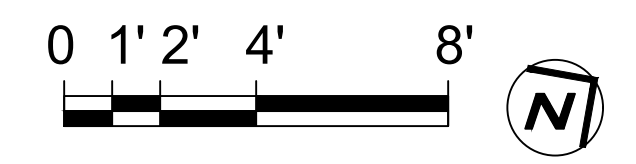
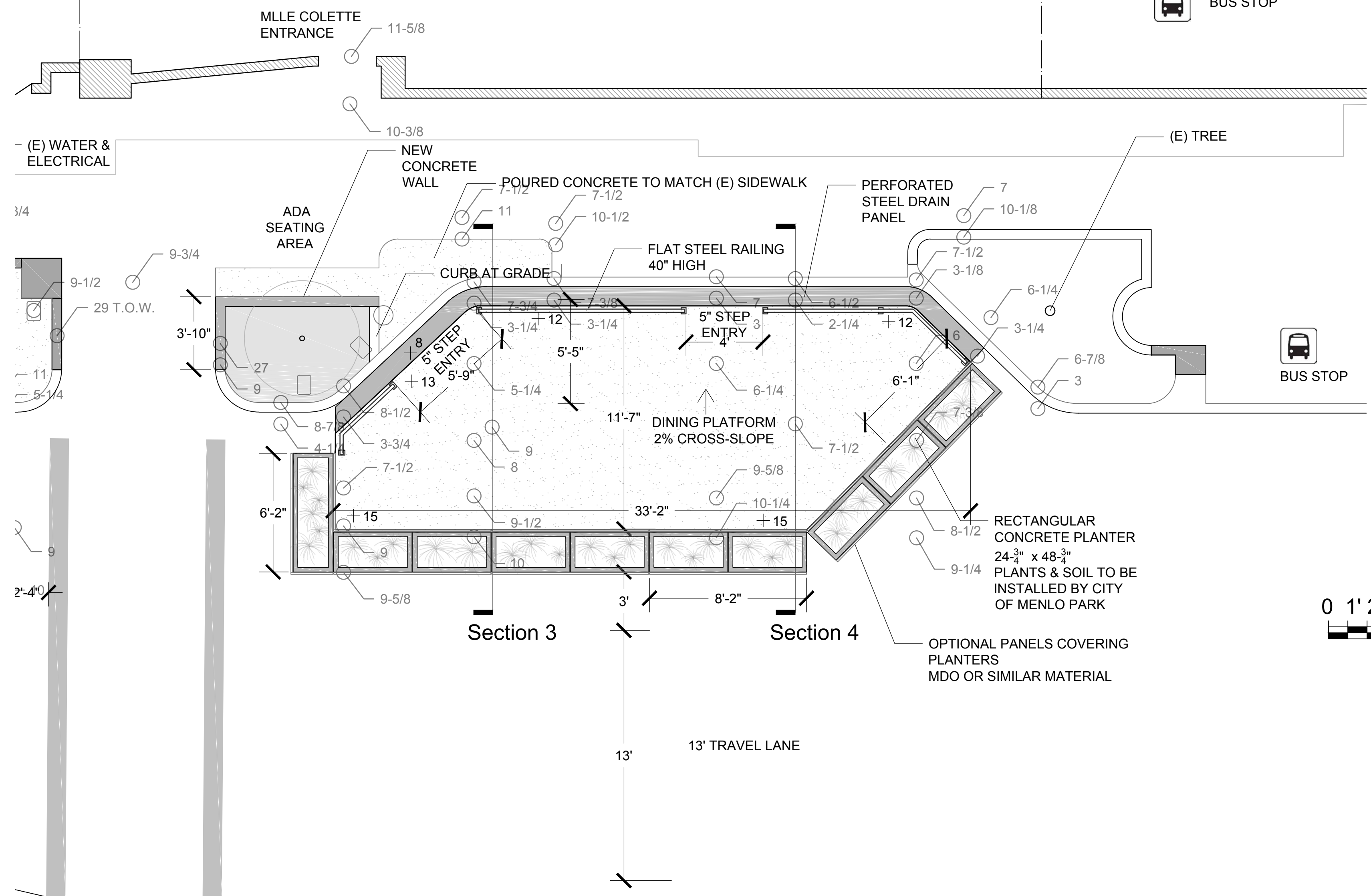
LB Steak - Cross Sections

Scale: 1/2" = 1'-0"

Date: 5/13/2016
KB

SYMBOL LEGEND

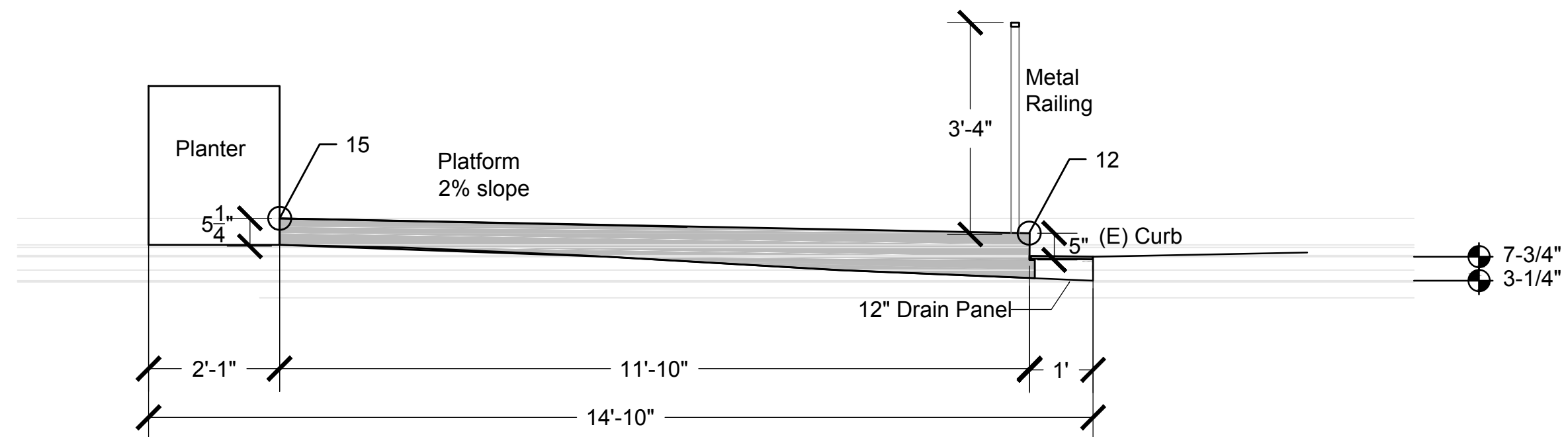
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-  UTILITY BOX
-  IRRIGATION BOX
-  WATER METER
-  WOOD CLAD STREET POLE
-  BUS STOP
-  EXISTING ELEVATION POINT
-  PROPOSED ELEVATION POINT



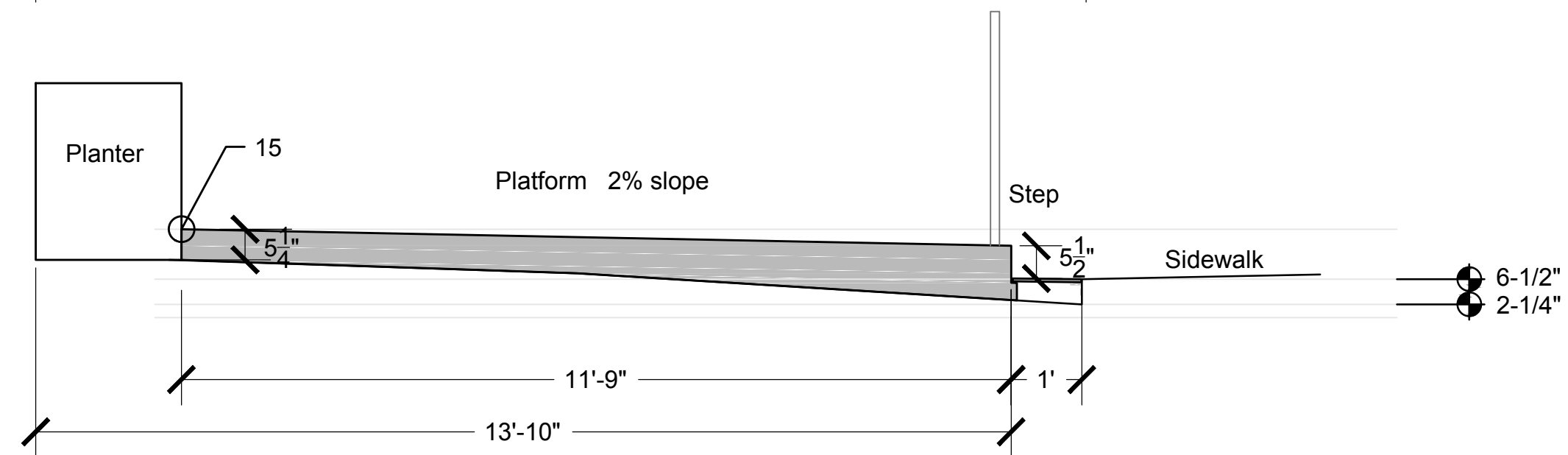
1523 Walnut Street
Berkeley, CA 94709

Sheet 2C2	15-07	Downtown Menlo Park Parklets	Mlle. Colette - Parklet Design	Scale: 1/4" = 1'-0"	Date: 5/12/2016 KB
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Section 3



Section 4



1523 Walnut Street
Berkeley, CA 94709

Sheet
2D2









15-07 Downtown Menlo Park Parklets

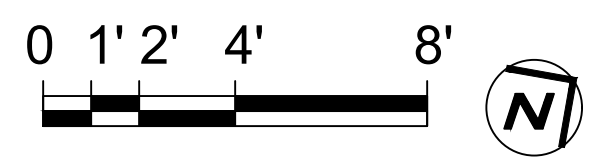
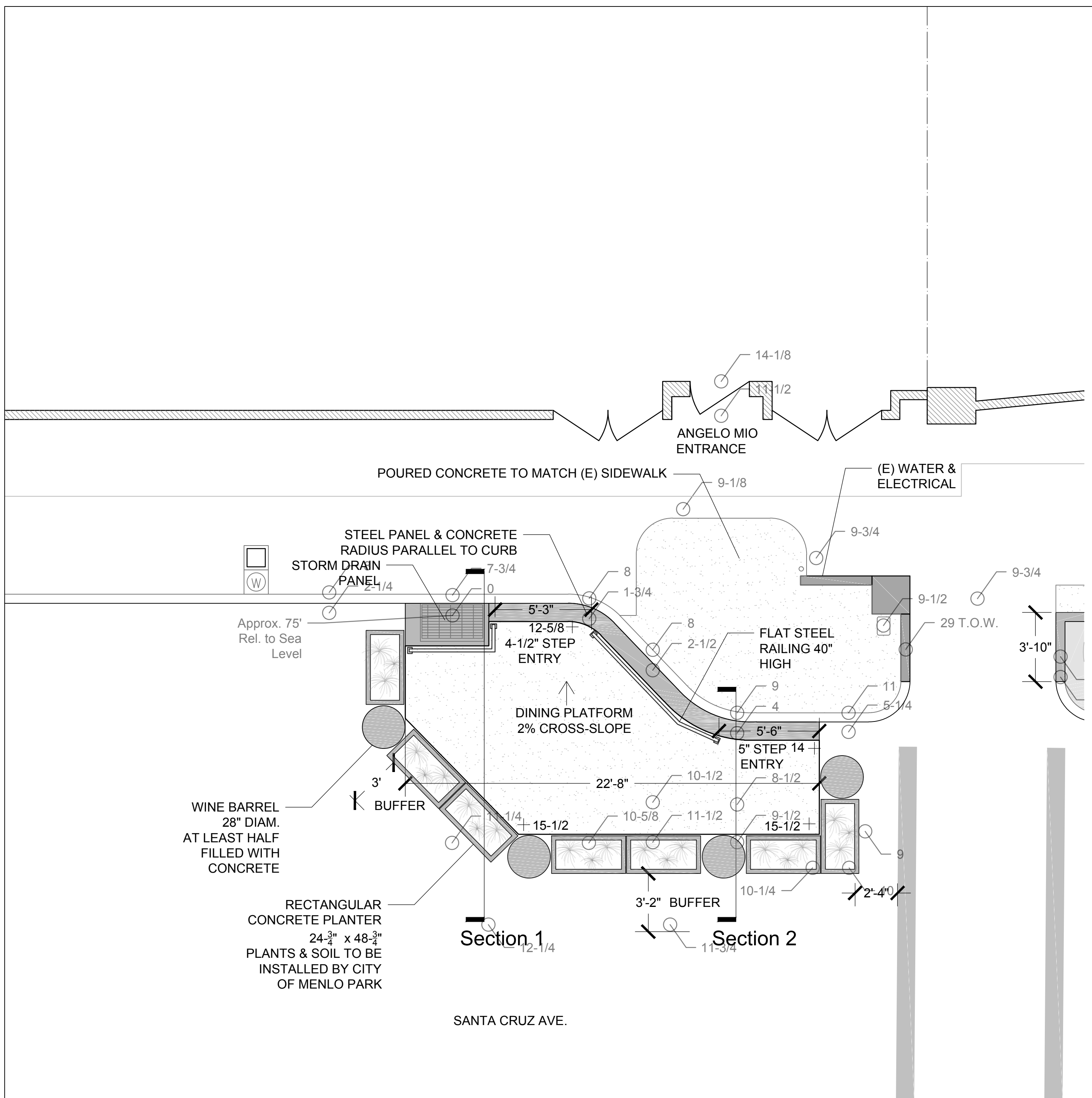
Mademoiselle Colette
Cross Sections

Scale: 1/2" = 1'-0"

Date: 5/13/2016
KB

SYMBOL LEGEND

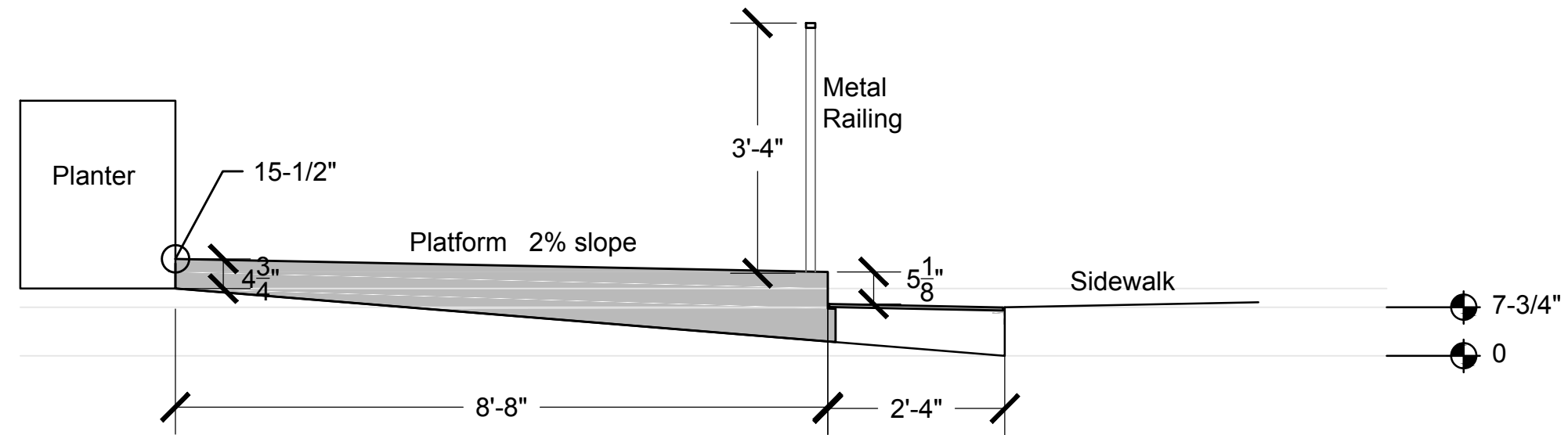
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-  UTILITY BOX
-  IRRIGATION BOX
-  WATER METER
-  WOOD CLAD STREET POLE
-  BUS STOP
-  EXISTING ELEVATION POINT
-  PROPOSED ELEVATION POINT



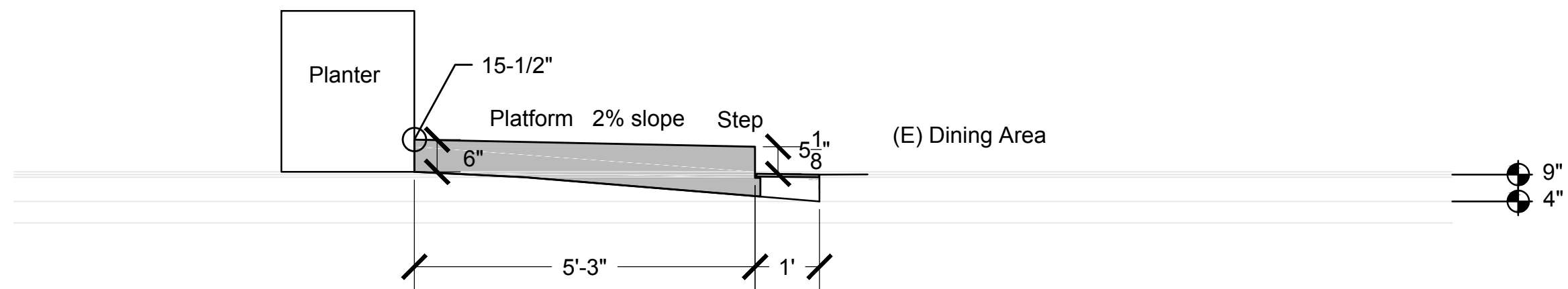
1523 Walnut Street
Berkeley, CA 94709

Sheet 2C1	15-07	Downtown Menlo Park Parklets	Angelo Mio - Parklet Design	Scale: 1/4" = 1'-0"	Date: 5/12/2016 KB
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Section 1



Section 2



1523 Walnut Street
Berkeley, CA 94709

Sheet
2D1









15-07 Downtown Menlo Park Parklets

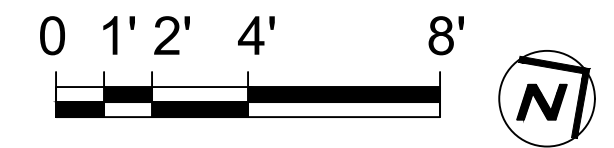
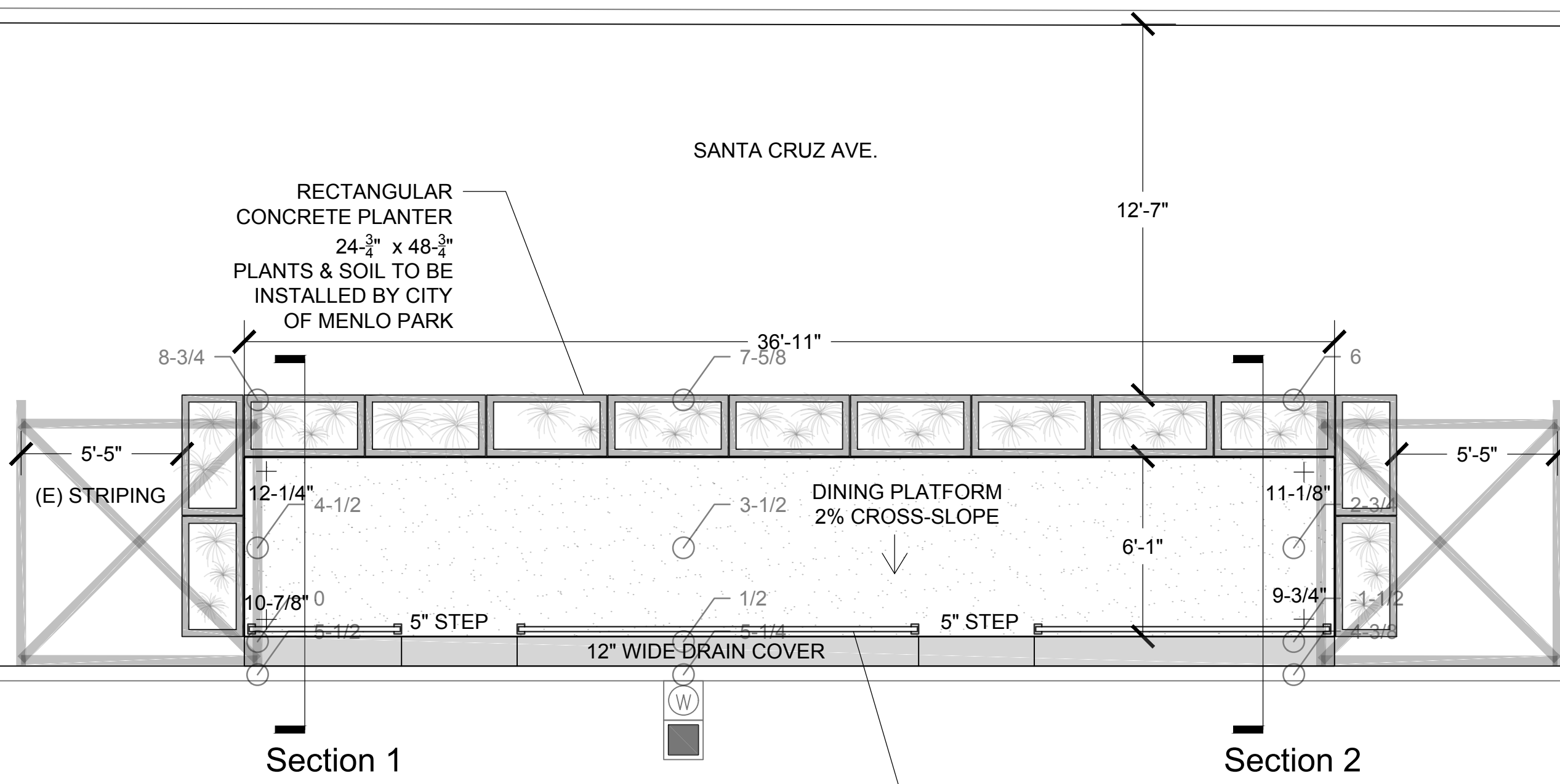
Angelo Mio
Cross Sections

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Date: 5/13/2016
KB

SYMBOL LEGEND

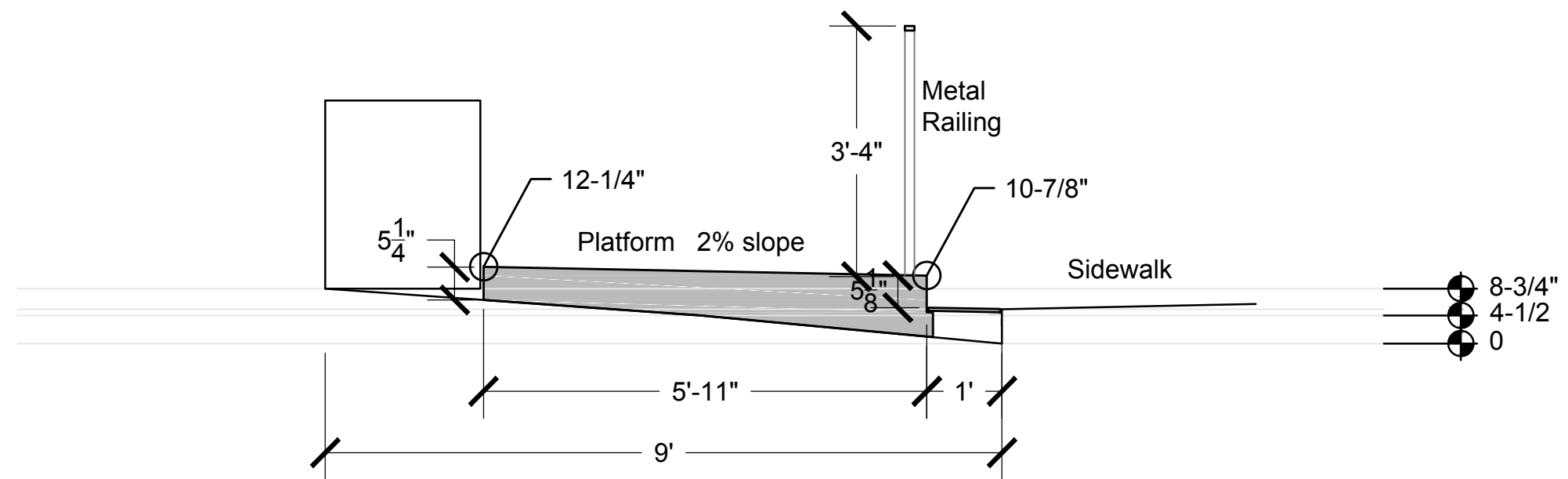
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-  WATER METER
-  WOOD CLAD STREET POLE
-  BUS STOP
-  EXISTING ELEVATION POINT
-  PROPOSED ELEVATION POINT



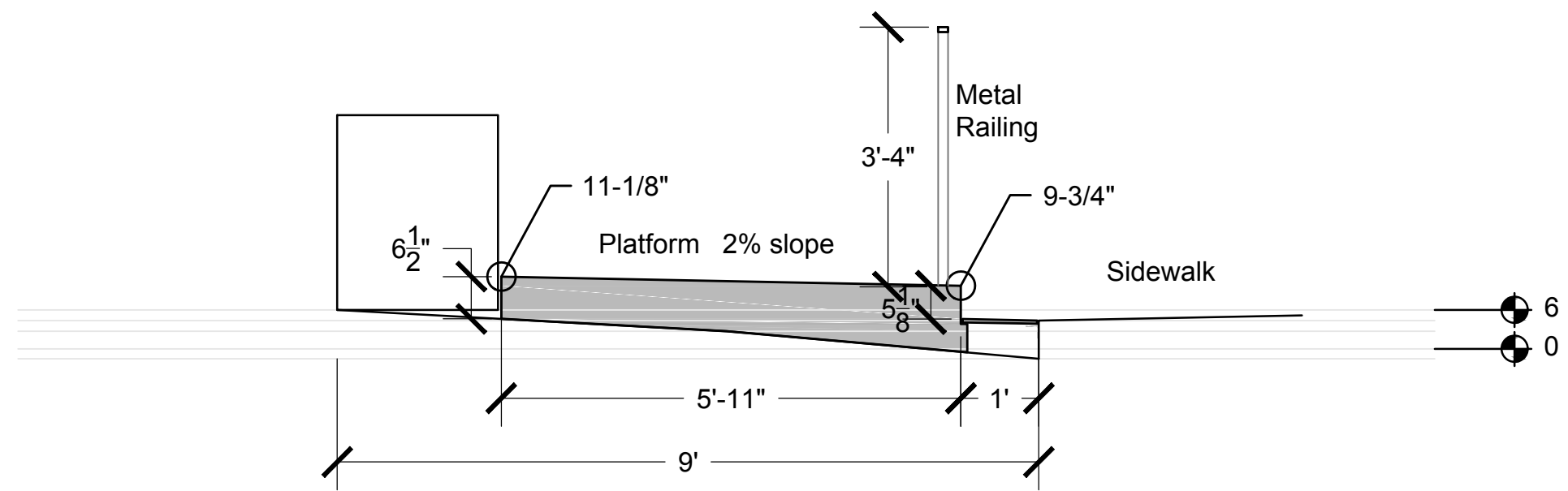
1523 Walnut Street
Berkeley, CA 94709

Sheet 4C	15-07	Downtown Menlo Park Parklets	Galata Bistro – Parklet Design	Scale: 1/4"=1'-0"	Date: 5/12/2016 KB
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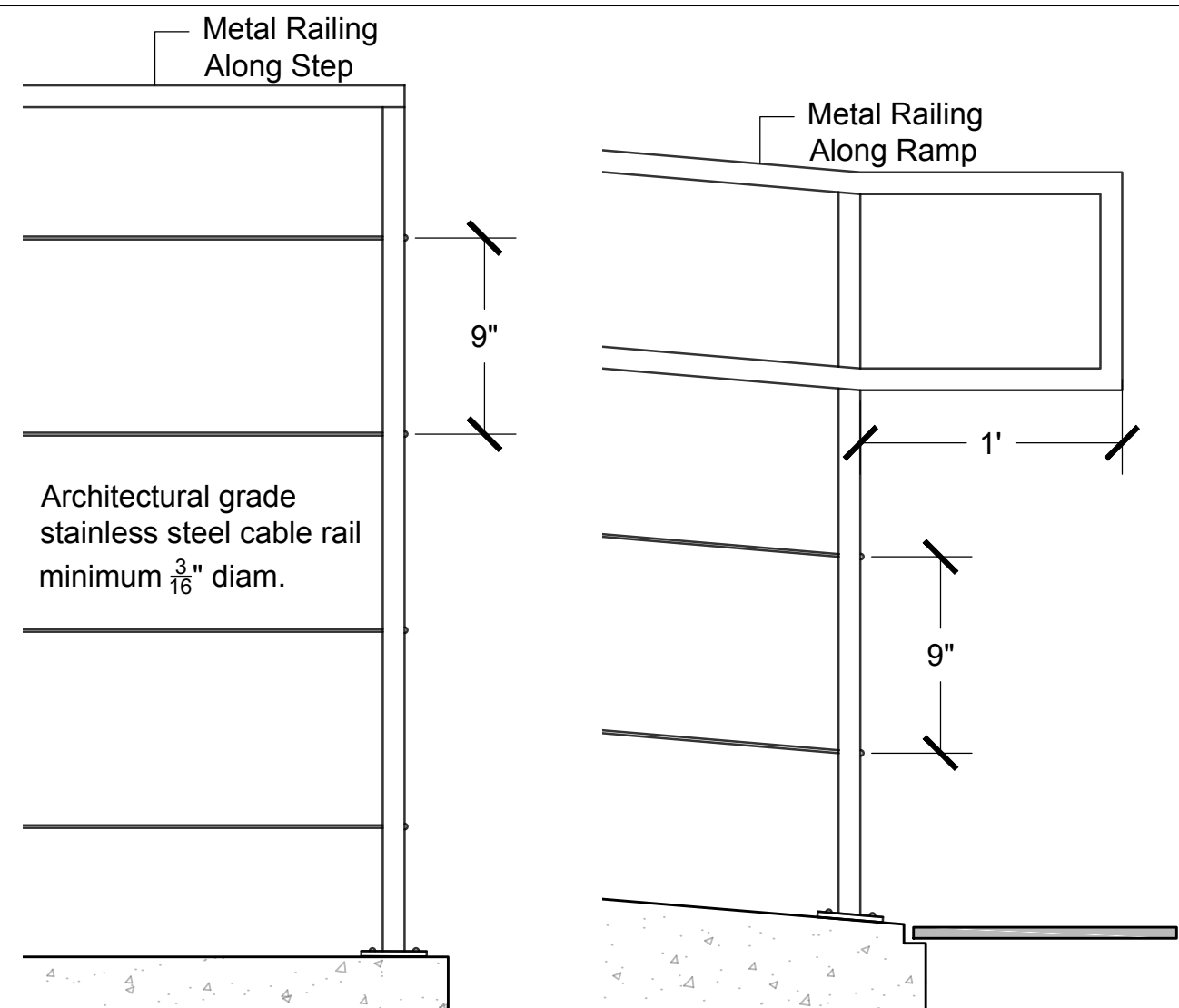
Section 1



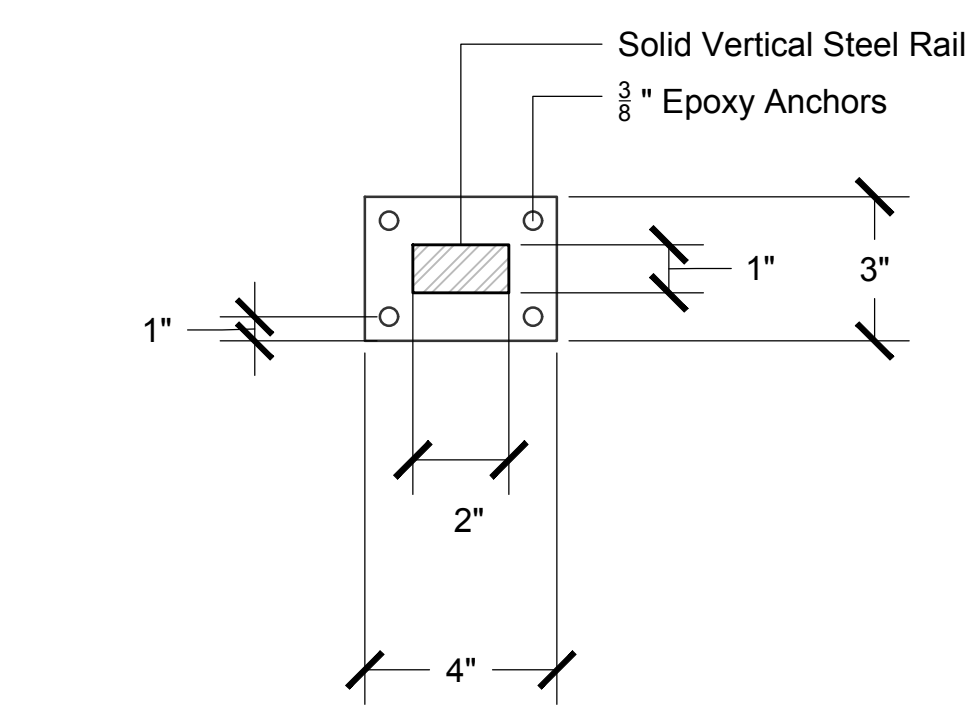
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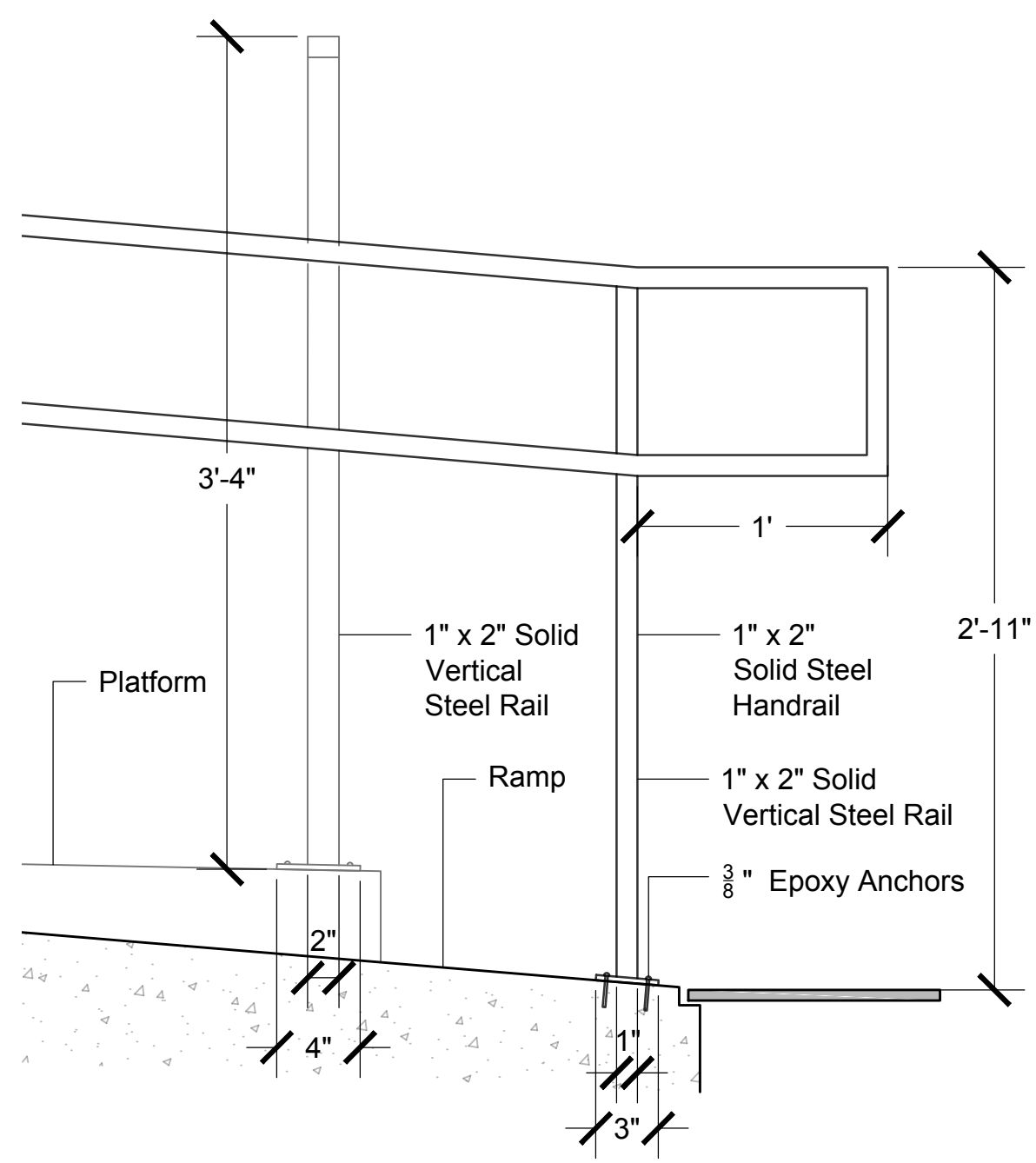
1523 Walnut Street
Berkeley, CA 94709



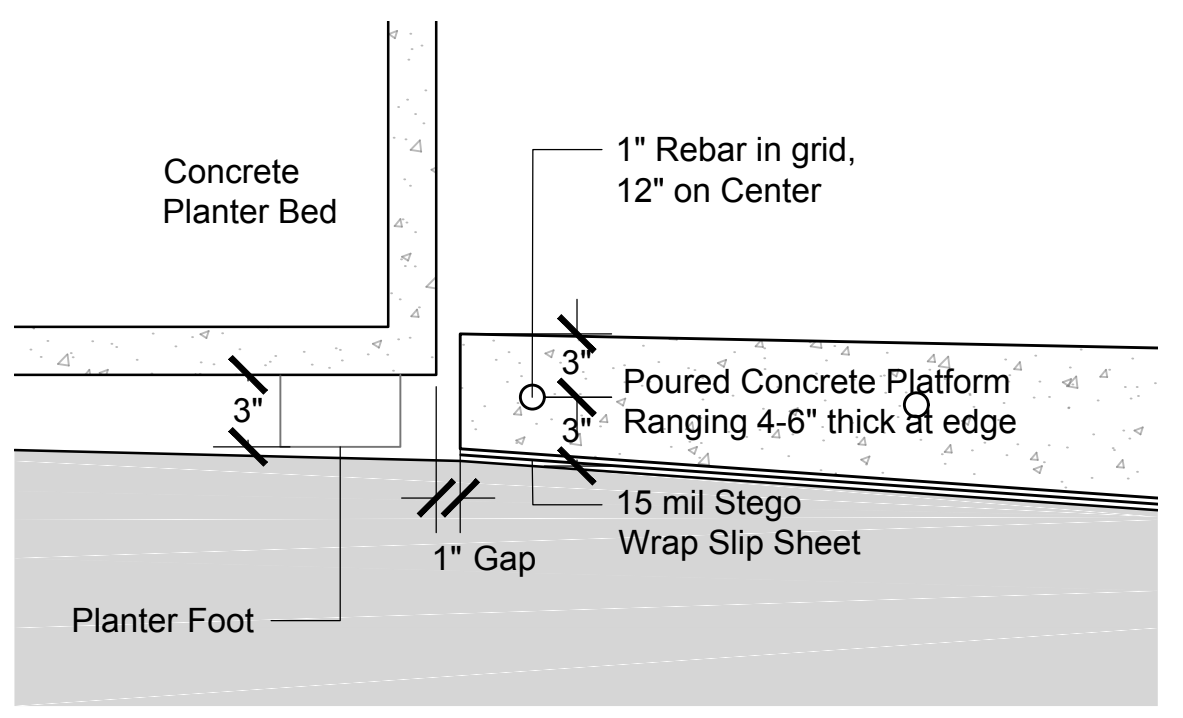
E Cable Rail Option
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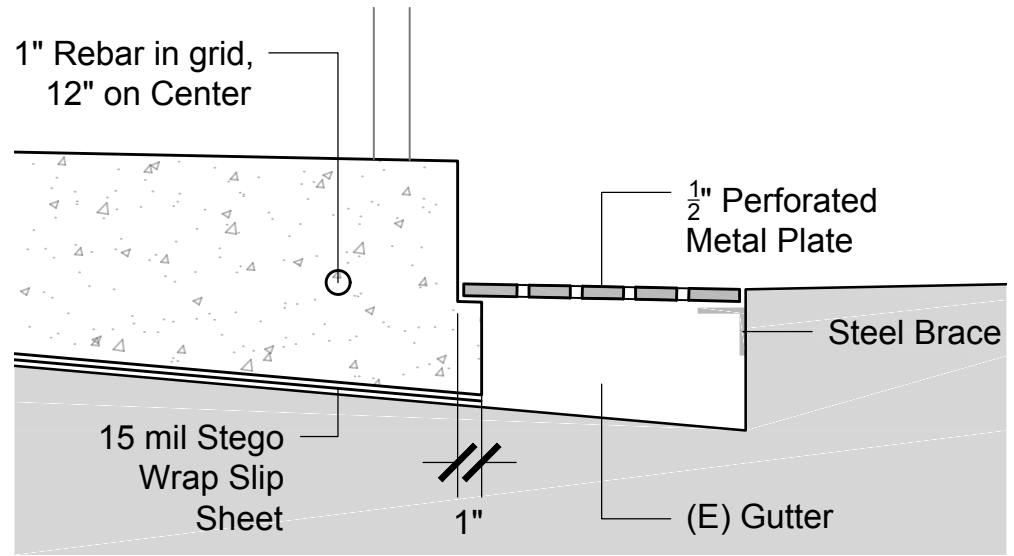
C Railing Plate Plan View
SCALE : 3" = 1'-0"



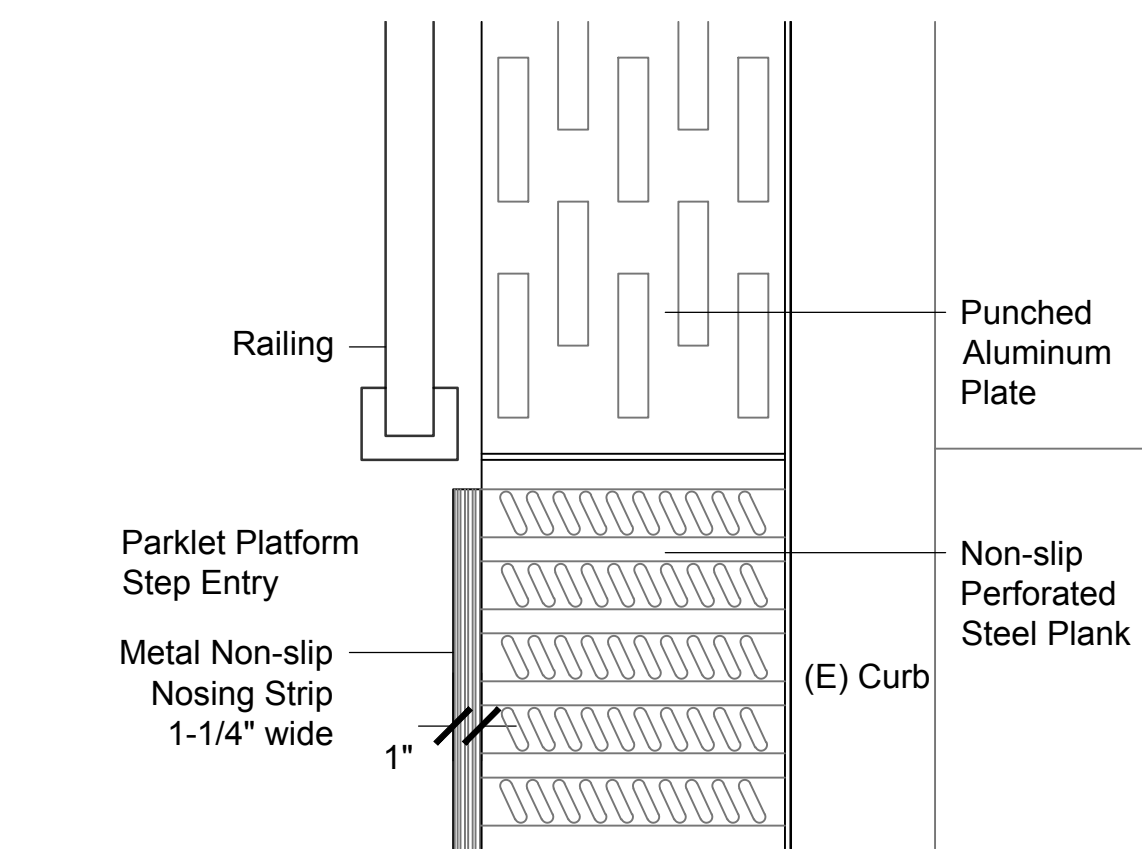
D Railing
SCALE : 1-1/2" = 1'-0"



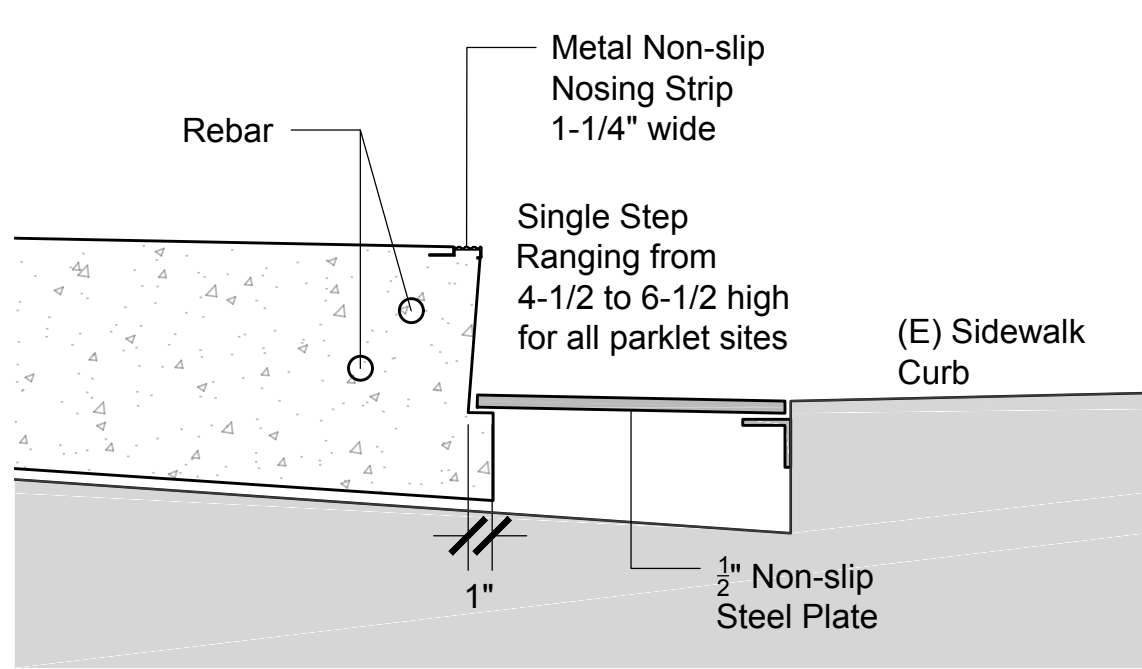
B Concrete Slab Edge at Planter
SCALE : 1-1/2" = 1'-0"



A Drain Panel Cross-Section
SCALE : 1-1/2" = 1'-0"



G Step Entry Plan View
SCALE : 1-1/2" = 1'-0"



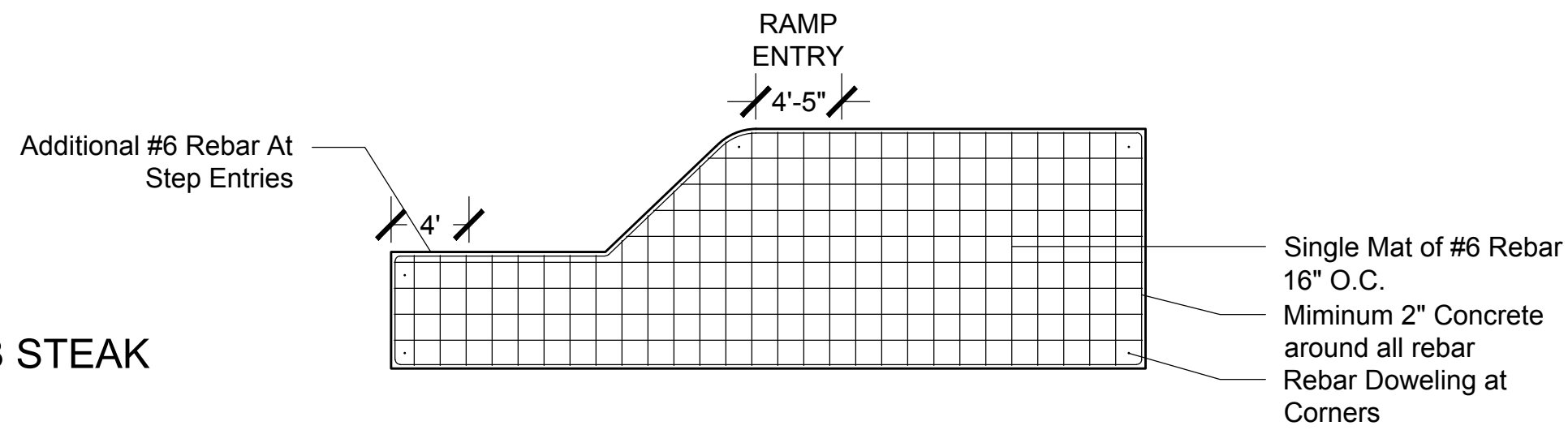
F Step Entry Cross Section
SCALE : 1-1/2" = 1'-0"



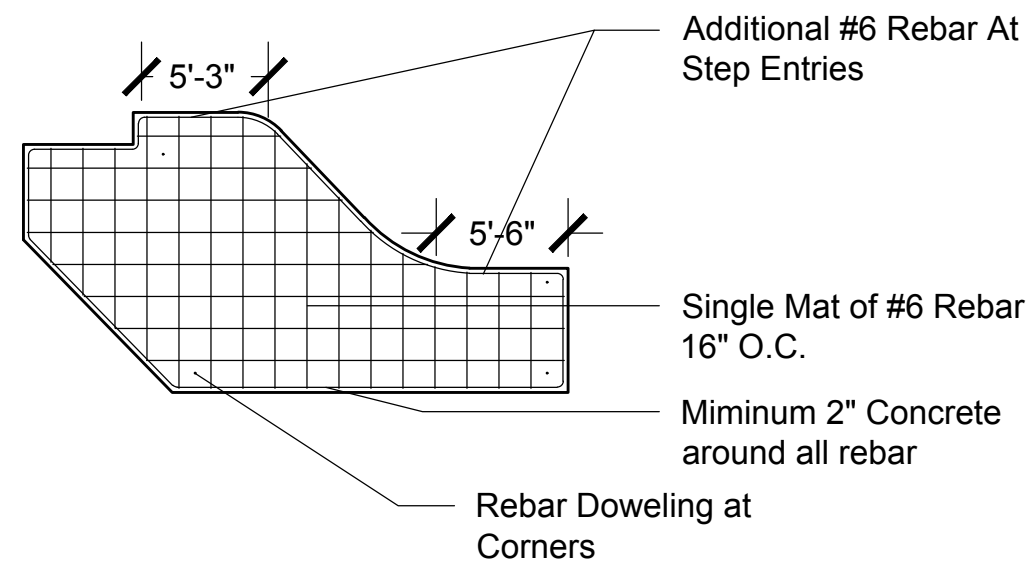
1523 Walnut Street
Berkeley, CA 94709

Sheet 5A	15-07	Downtown Menlo Park Parklets	Typical Details	Scale: Varies	Date: 5/16/2016 KB
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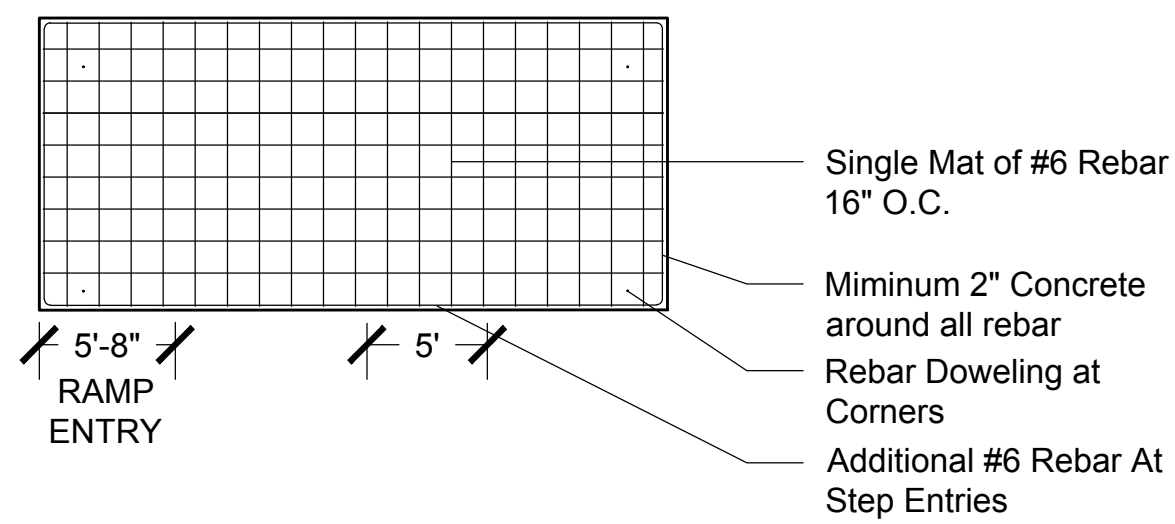
LB STEAK



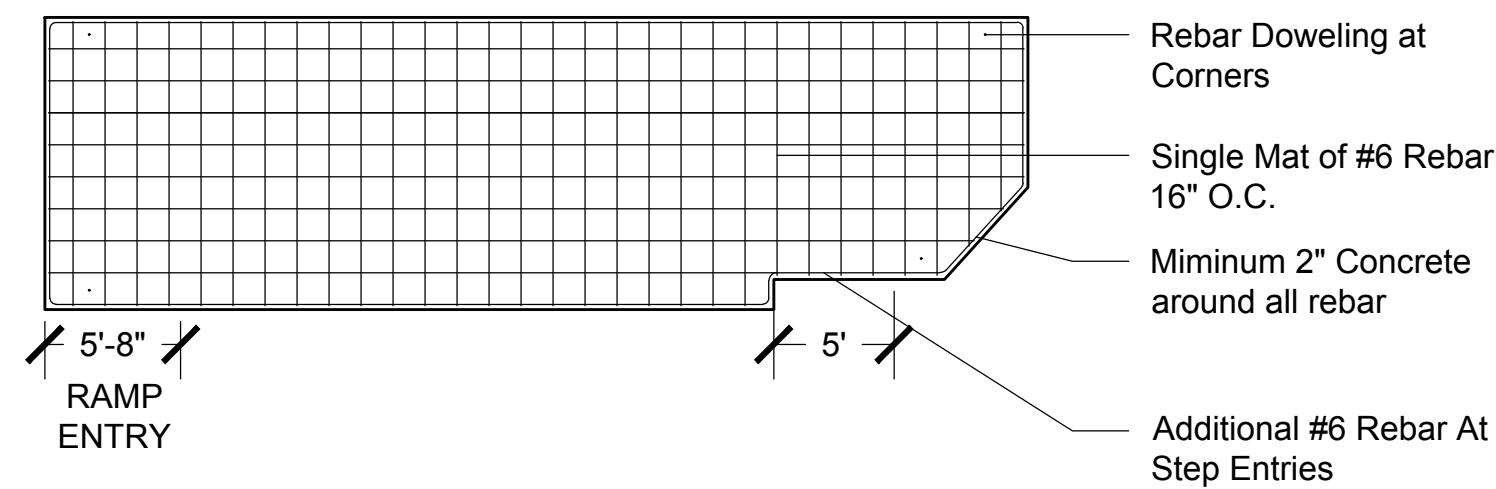
ANGELO MIO



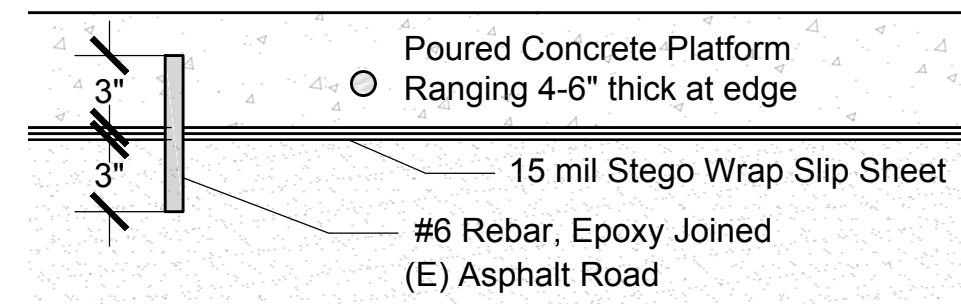
BISTRO VIDA



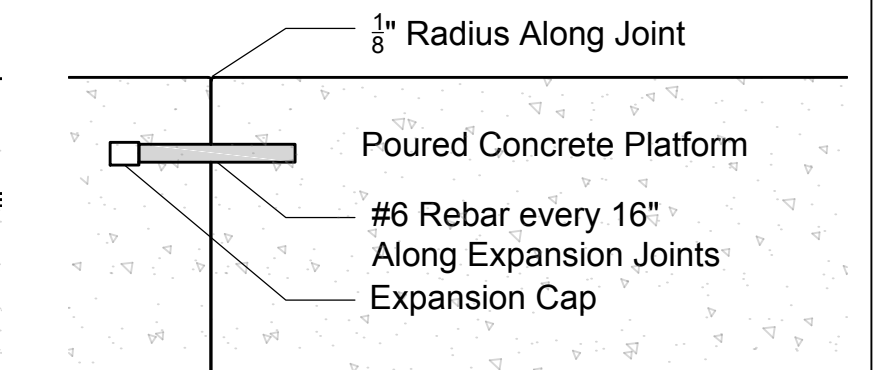
LEFT BANK



Reinforcement for all parklets to include vertical doweling between existing asphalt and new concrete. Doweling to be placed by contractor per general specification and in accordance with basic layout provided on plans.

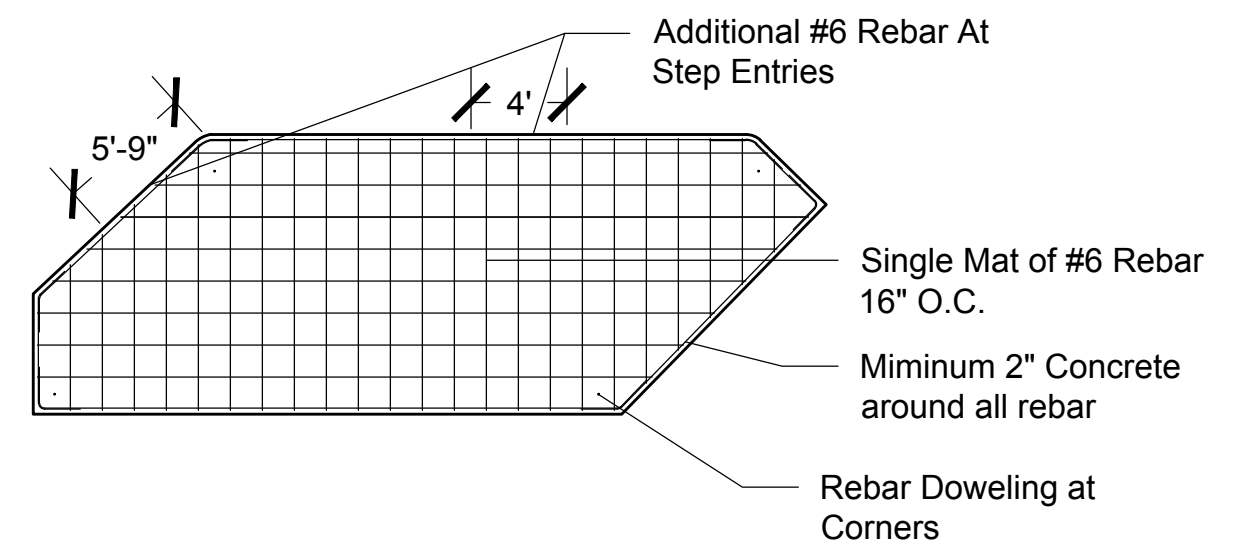


H Rebar Doweling Cross-Section
SCALE : 1-1/2" = 1'-0"

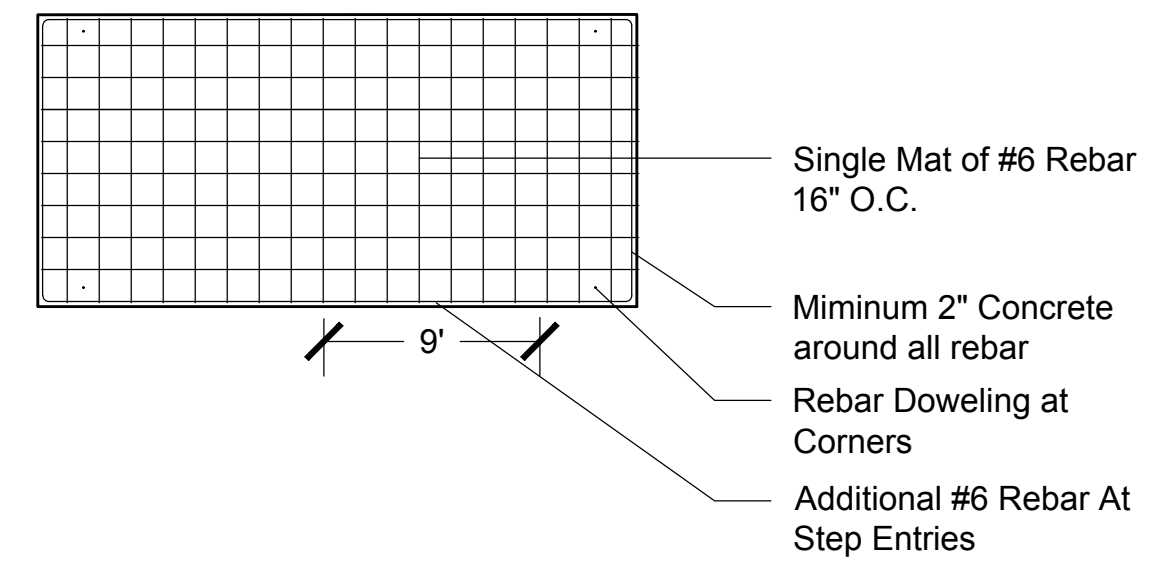


I Expansion Joint Cross-Section
SCALE : 1-1/2" = 1'-0"

MADMOISELLE COLETTE

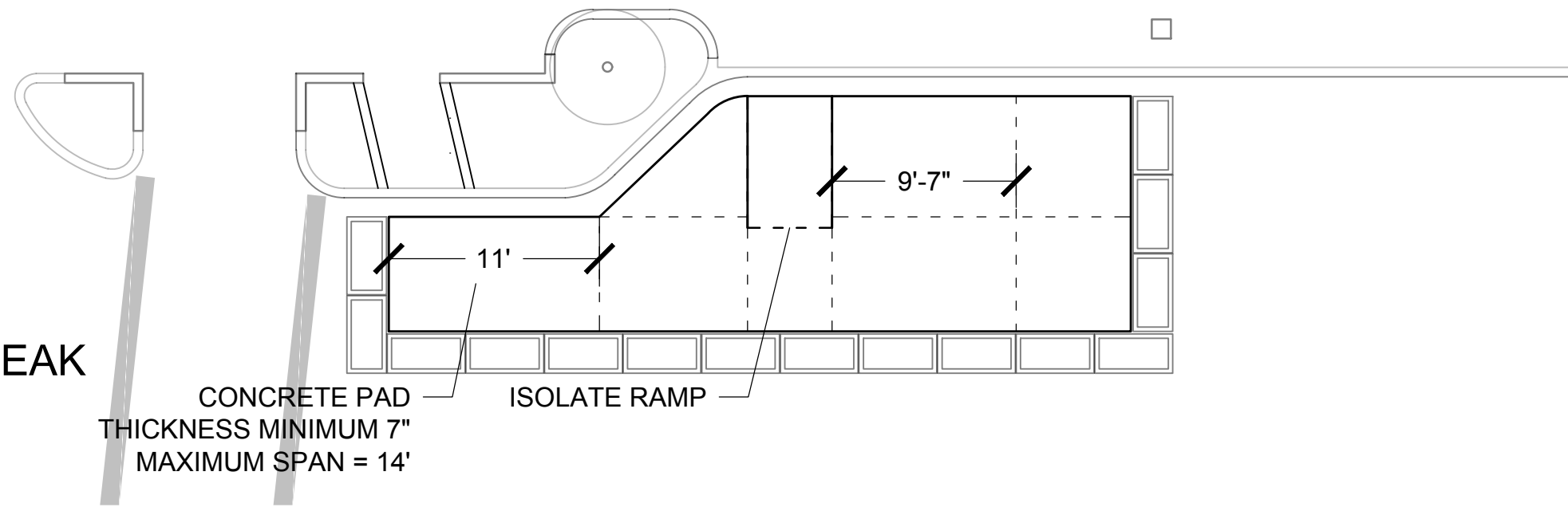


HARVEST



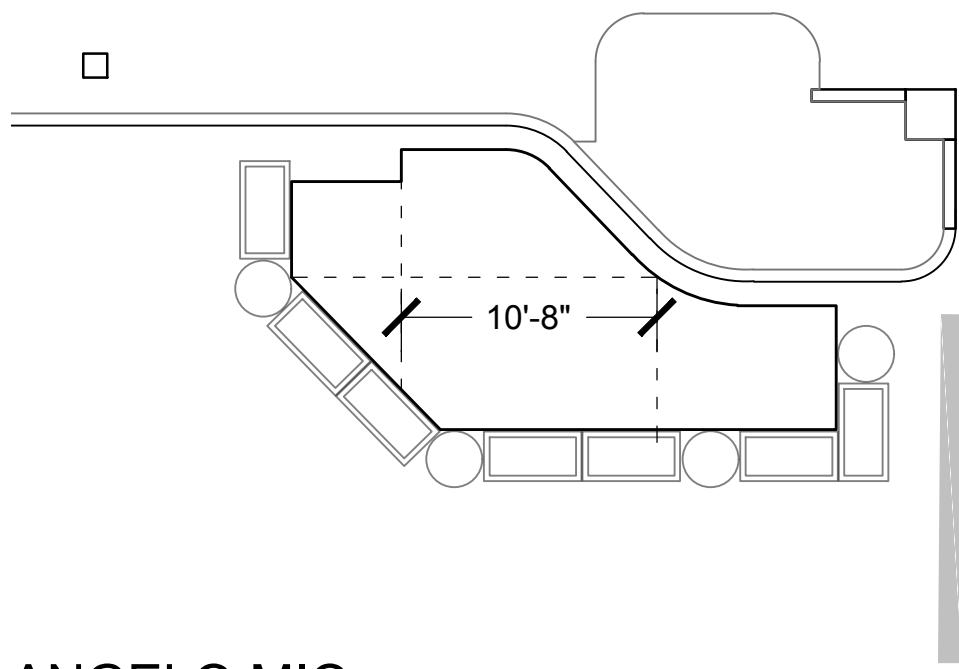
1523 Walnut Street
Berkeley, CA 94709

LB STEAK

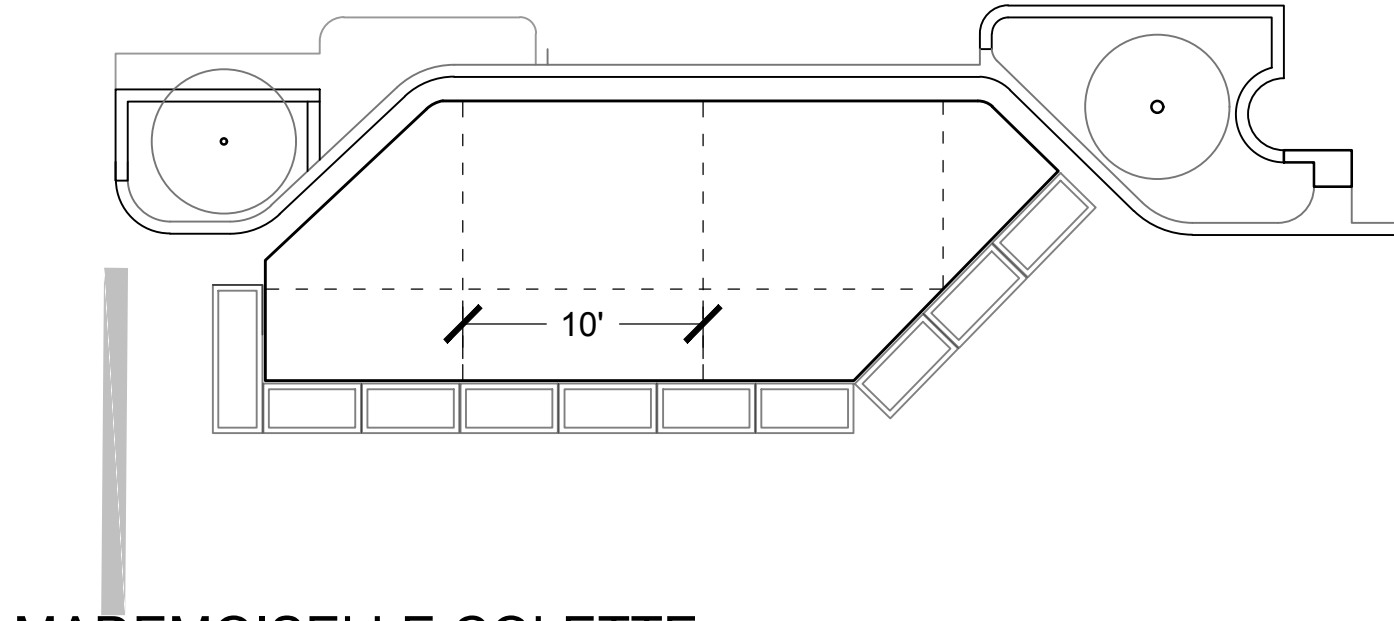


CONCRETE PAD
THICKNESS MINIMUM 7"
MAXIMUM SPAN = 14'

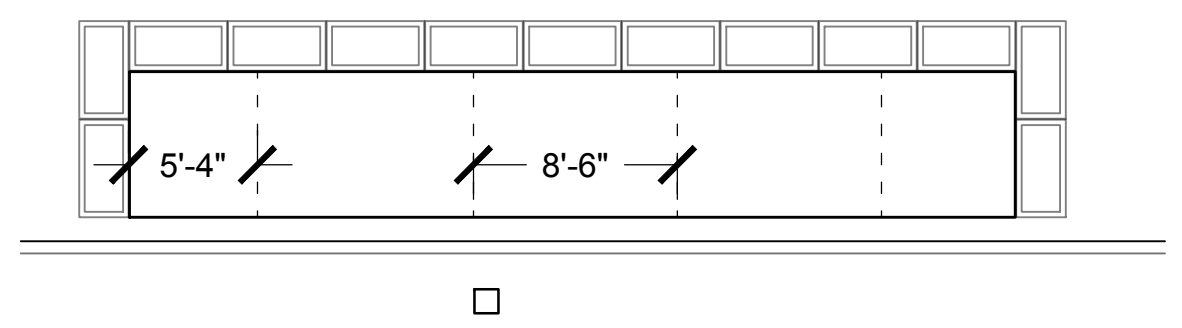
LB STEAK



ANGELO MIO

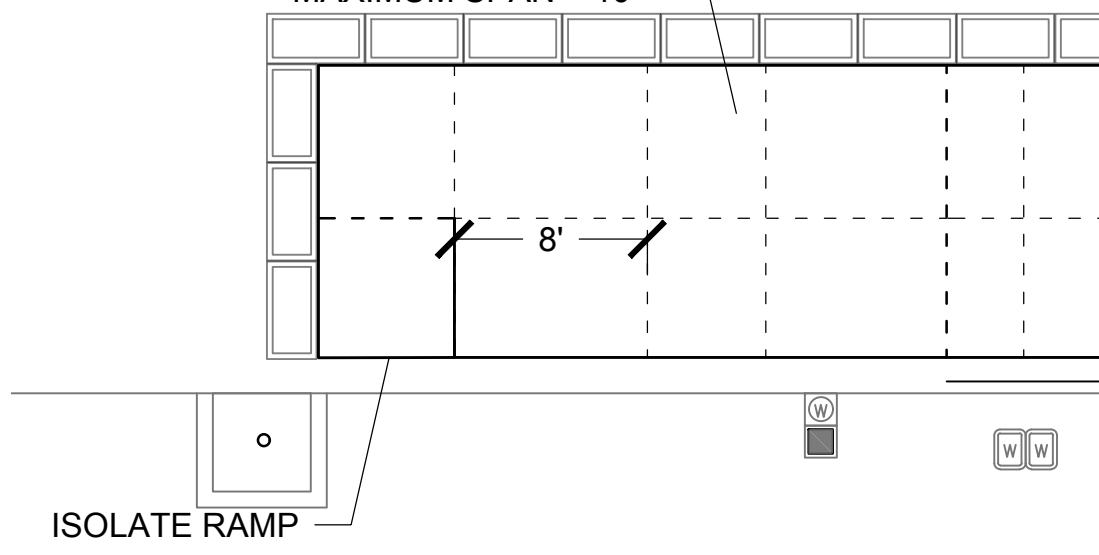


MADEMOISELLE COLETTE

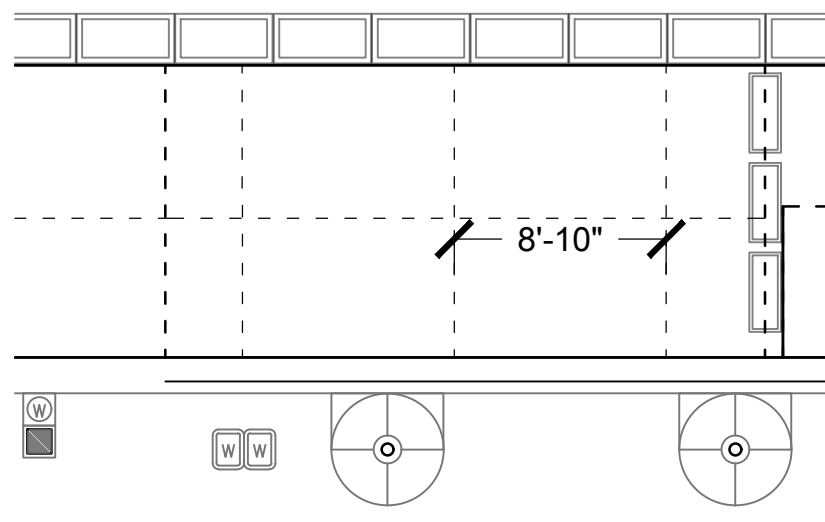


GALATA BISTRO

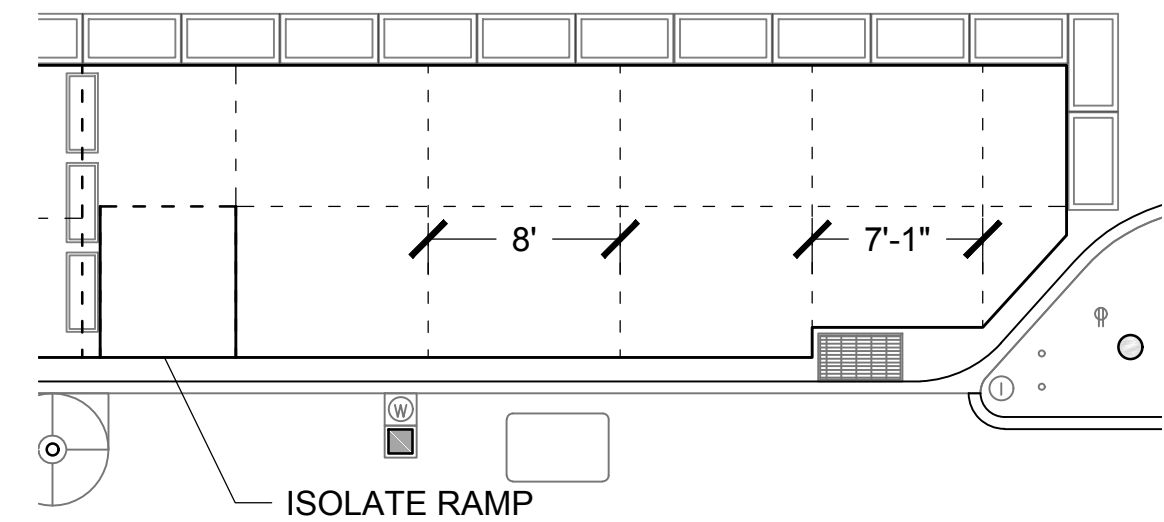
CONCRETE PAD
THICKNESS MINIMUM 4"
MAXIMUM SPAN = 10'



BISTRO VIDA



HARVEST



LEFT BANK



1523 Walnut Street
Berkeley, CA 94709

Sheet
5B

15-07

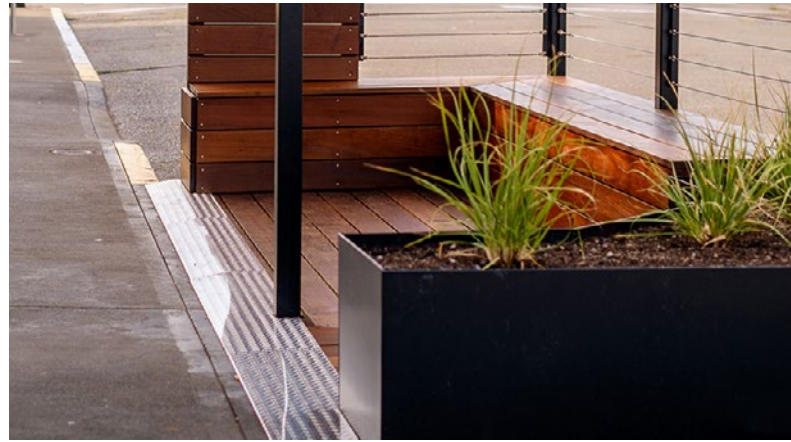
Downtown Menlo Park Parklets

Concrete Control Joint Layouts

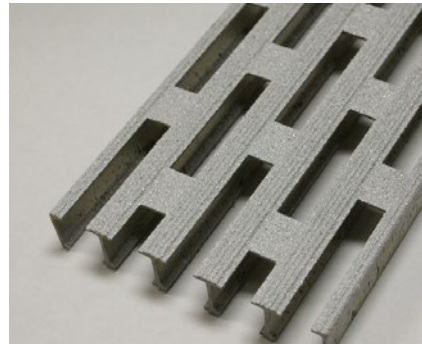
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Date: 5/16/2016
KB

Metal Drain Panel



Perforated non-slip Steel Plank for stair & ramp entrances

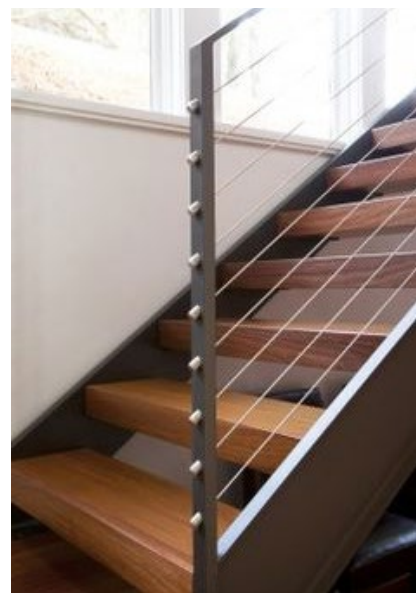


Punched Aluminum Plank

Metal Railing



Architectural cable



Concrete Platform Surface



Sawcut, exposed aggregate



Stamped, colored concrete



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LICENSE AND COST SHARING AGREEMENT

This License and Cost Sharing Agreement (“**Agreement**”) is made this ___ day of _____, 2016 (“**Effective Date**”) by and between the _____ (“**Participating Business**”), and the City of Menlo Park (“**City**”), alternatively referred to herein as a “**Party**” and collectively referred to herein as the “**Parties**”.

RECITALS

WHEREAS, local businesses expressed interest in a cost-sharing plan for the Santa Cruz Street Café Pilot Program (“**Program**”);

WHEREAS, the Program will be a semi-permanent expansion of the On-Street Dining Pilot Program from January 2015, open to businesses located in the central downtown area (“**Downtown**”);

WHEREAS, it was determined that the Program is consistent with the El Camino Real/Downtown Specific Plan to enhance the vibrancy Downtown;

WHEREAS, on May 24, 2016, the City Council approved a design by Ian Moore Designs, Inc. and the cost-sharing requirements for the Program;

WHEREAS, several local businesses have submitted applications to participate in the Program;

WHEREAS, City staff has reviewed the applications and only approved applications which have a de minimis effect on parking, agree to comply with existing outdoor seating permit requirements, and agree to the cost-sharing plan; and

WHEREAS, the application submitted by Participating Business was reviewed and approved by City staff.

NOW, THEREFORE, the Parties agree as follows:

SECTION 1: Construction, Maintenance and Cost-Sharing of Improvement.

1.1 Construction. The City shall be responsible for design, construction, and installation of sidewalk improvements (“**Improvement**”) for the Program.

1.2 Location of Improvement. The installation of the Improvement shall be located in the in the public right-of-way immediately adjacent to the Participating Business as shown on **Exhibit A (“Improvement Location”)**.

1.3 Cost-Sharing. The City shall be responsible for payment of [___%] of the total cost of design, construction, and installation of the Improvement, with the City’s total contribution not to exceed _____ Dollars (\$_____). The Participating Business shall be responsible for the balance of the cost of design,

construction and installation of the Improvement and for any enhancement, if so desired by the Participating Business, beyond the base design. *[Cash payment option: Prior to commencement of construction, City shall submit to Participating Business a cost breakdown indicating the total estimated amount owed by Participating Business ("Invoice"). The Participating Business shall pay to the City its share of the cost as described herein and as shown on the Invoice within thirty (30) days of receipt of the Invoice. If after completion of construction the actual final cost is more or less than the amount previously invoiced, then any overpayment shall be reimbursed to Participating Business or any underpayment shall be paid to the City within 30 days of receipt of notice.] [Installment payment option: Once the Improvement is installed, City shall submit to Participating Business a cost breakdown indicating the final total cost of the Improvement and the total owed by Participating Business ("Total Cost Invoice"). The Participating Business shall make eight (8) equal quarterly payments for two (2) years to the City for its share of the cost the Improvement. The first quarterly payment is due to the City thirty (30) days after receipt of the Total Cost Invoice. The seven (7) remaining payments are due every quarter thereafter.]*

1.4 Penalty for Delinquent/Non-Payment. In the event that the Participating Business does not submit payment of the [Invoice or any installment] to the City within the time set by Section 1.3, it will be required to pay a late payment penalty of five percent (5%) of the total delinquent payment and interest at a rate of ten percent (10%) per annum until the Invoice is paid in full.

1.5 Furnishing. The Participating Business shall be responsible for providing any furnishings for its use of the Improvement, subject to City's review and approval, not to be unreasonably withheld or delayed.

1.6 Maintenance and Repair. The Participating Business shall be responsible for the ongoing maintenance and repair of the Improvement and for any damage caused to the Improvement. If the Improvement is not properly maintained or damage is not repaired by the Participating Business, the City shall submit notice ("Maintenance/Repair Notice") to the Participating Business specifying the maintenance and/or repair that must be completed. If the Participating Business does not comply with the Maintenance/Repair Notice within five (5) business days, the City may undertake and complete the required maintenance and/or repair. The Participating Business shall be responsible for reimbursing the City for the cost of such maintenance/repair performed by City.

1.7 Utilities. The Participating Business shall be responsible for payment of all utilities serving the Improvement, or to the extent the utilities are not separately metered and are paid for by the City, the parties shall determine a fair amount to be paid to the City annually to reimburse the City for the utilities serving the Improvement.

SECTION 2: License.

2.1 Grant of License. The City hereby grants to the Participating Business an exclusive license ("License") upon, across, and over the Improvement Location for the purpose of utilizing the space for patrons of the Participating Business. The Parties

agree that this License does not grant or create in the Participating Business any fee, leasehold, easement or other interest or estate in land in the Improvement Location.

2.2 Permits. Participating Business shall obtain any required outdoor seating permit prior to any use of the Improvement requiring such permit.

2.3 Term. This Agreement shall become effective, and the obligations herein, commencing on the Effective Date and shall remain in effect for a term of ____ (__) years from the completion of the Improvement. Thereafter, the term shall continue on a month-to-month basis upon all of the terms and provisions herein. Following the initial Term of this Agreement, the City may, with or without cause, revoke this License by service upon the Participating Business (or its heirs, successors and assigns) of a written notice of revocation ("Termination Notice") if the City determines that it is in the best interests of the public to do so. The Agreement shall terminate Ninety (90) days after City submits the Termination Notice. This Agreement and the License granted herein may also be terminated at any time upon written mutual agreement of the Parties.

2.5 Insurance. Participating Business shall maintain commercial business liability insurance coverage for use and maintenance of the Improvement, with limits of at least One Million Dollars (\$1,000,000) for each occurrence, naming the City as additional insured under such policy. Upon request, Participating Business shall provide the City with a certificate evidencing such insurance.

2.6 Indemnification. Participating Business shall indemnify, protect, defend and hold the City and its successors and assigns, and its agents, contractors, guests, and invitees, harmless from and against any and all claims, demands, actions, suits, losses, obligations, liens, proceedings, costs, expenses (including, without limitation, attorneys' fees and costs), judgments, orders, decrees, damages or liabilities of any type or kind arising out of or in any way connected with the Participating Business', including use by its employees and patrons, of the Improvement, as set forth in this Agreement; except to the extent such claims arise out of the gross negligence or willful misconduct of the City.

SECTION 3. Miscellaneous.

3.1 Notice. All notices required or permitted to be given under this Agreement must be in writing and mailed postage prepaid by certified or registered mail, return receipt requested, or by personal delivery or overnight courier to the appropriate address indicated below or at such other place(s) that either Party may designate in written notice to the other. Notices are deemed received upon delivery if personally served, one day after mailing if delivered via overnight courier, or two days after mailing if mailed as provided above.

City:

City of Menlo Park
Attn: Public Works Director
701 Laurel Street
Menlo Park, CA 94025

Participating Business:

3.2. Entire Agreement. This Agreement contains the entire understanding and agreement of the Parties relating to the rights granted and the obligations set forth in this Agreement. Any prior, contemporaneous or subsequent written or oral representations and modifications shall be of no force or effect, except an amendment in accordance with Section 3.3.

3.3 Amendment. This Agreement may only be amended in a writing executed by both Parties.

3.4 Severability. Should any provisions or portion hereof be declared to be invalid or in conflict with any law, the validity of all other provisions or portion of this Agreement shall remain unaffected and in full force and effect.

3.5 Governing Law and Venue. This Agreement shall be governed by and enforced in accordance with the laws of the State of California. The venue for any action related to this Agreement shall be the County of San Mateo, California.

3.6 Authority. Each Party to this Agreement represents and warrants to the other party that this Agreement is a binding obligation of the Party.

3.7 Waiver. Waiver by any Party of any of the provisions contained in this Agreement, or of the application thereof to any person by judgment or court order, shall in no way affect any of the other provisions of this Agreement, or the application thereof to any other person, and the same shall remain in full force and effect to the maximum extent possible.

3.8 Compliance with Laws. Participating Business shall comply with all applicable Federal, State and local laws, regulations and ordinances regarding the use of the Improvement.

3.9 Counterparts. This Agreement may be executed in counterparts, each of which, when taken together, shall constitute one and the same instrument.

3.10 Further Assurances. Each Party covenants, on behalf of itself and its successors and assigns, to take all actions and do all things, and to execute, with acknowledgement or affidavit if required, any and all documents, instruments and writings as may be necessary or proper to achieve the purposes and objections of the Agreement.

3.11 Attorney Fees. In the event that any party to this Agreement commences any legal action or proceeding to enforce or interpret the provisions of this Agreement, the prevailing party in such action or proceeding shall be entitled to recover reasonable attorneys' fees and other costs incurred in that action or proceeding, in addition to any other relief to which the successful party may be entitled.

IN WITNESS WHEREOF, the Parties have hereunder subscribed their names the day and year indicated below.

CITY OF MENLO PARK,
a Municipal Corporation

By: _____
Alex McIntyre, City Manager

[Participating Business name]

By: _____

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**STAFF REPORT****City Council**

Meeting Date: 5/24/2016
Staff Report Number: 16-088-CC

Informational Item: Update on downtown parking garage study session and extended-time parking pilot program

Recommendation

This is an informational item and no action is required.

Policy Issues

It is an adopted City Council goal to identify options for increasing the availability of parking downtown and possible development that would enhance retail, entertainment and residential uses downtown. Separately, staff has been asked to report back on the results of adjustments to the downtown parking restrictions that were made last year.

BackgroundDowntown Parking Plazas

Staff has contacted and intends to contract with Carpenter/Robbins Commercial Real Estate, Inc. to facilitate a conversation with the City Council at the June 7th City Council meeting, regarding the opportunity that the City owned parking plazas present for enhancing retail, entertainment and residential development downtown. Carpenter/Robbins specializes in providing commercial real estate services to government clients throughout the United States. The firm was formed in 1998 and is headquartered in San Ramon, California.

To date, Carpenter/Robbins has completed over 681 government assignments. Areas of emphasis include strategic planning and real estate consulting, transactional brokerage, build-to-suit development and Federal process management. The firm holds multiple national and local government contracts including a GSA FABS schedule. In addition, Carpenter/Robbins has completed work for local municipalities, fire districts, school districts and even a ferryboat district. They have experience with public sector clients needing assistance with locating and coordinating build-to-suit office buildings (600,000 SF), medical centers (1,000,000 SF), and courthouses (400,000 SF). They have negotiated hundreds of special lease and acquisition requirements, dozens of problem solving consulting assignments.

Carpenter/Robbins is being contracted to help identify a range of likely opportunities that include simple structured parking projects, multi-use development opportunities and possible directions for public/private partnerships.

Parking Pilot Program

In November 2015, Council directed staff to implement a six-month Pilot Program for longer free parking downtown. The Pilot Program was implemented in January 2016. Staff is collecting two sets of data to evaluate the Pilot Program, the first in early May and second in late June. Additionally, a voluntary survey for Downtown business owners is being developed to solicit their feedback on the Pilot Program. The survey is expected to be reviewed by staff and distributed before July 2016. Evaluation of the Pilot Program will be completed following this data collection and staff anticipates bringing the results to the City Council in late summer or early fall 2016.

Analysis

While the downtown parking plazas present a number of opportunities for development, there are limitations built into zoning of the Downtown El Camino Real Specific Plan. Staff's intention in the study session on June 7th is for Carpenter/Robbins to provide expert feedback on what revisions might be necessary in order to achieve the goals of the City Council. Following the study session on June 7th, staff we work with Carpenter/Robbins on a scope of work to execute the City Council's direction.

Public Notice

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

Report prepared by:

Jim Cogan, Economic Development and Housing Manager



STAFF REPORT

City Council

Meeting Date:

5/24/2016

Staff Report Number:

16-085-CC

Informational Item:

Update on the South Bay Salt Pond Restoration Project – Ravenswood Ponds

Recommendation

This is an informational item only. No City Council action is required.

Policy Issues

There are no policy issues associated with this staff report.

Background

The South Bay Salt Pond Restoration Project (Project) consists of the restoration and enhancement of 15,100 acres of salt ponds to tidal wetland habitat, making it the largest tidal restoration project on the West Coast. The Project focuses on the restoration of three (3) salt pond complexes, which include Eden Landing in the East Bay, the Alviso pond cluster extending from the City of Mountain View to the City of Fremont, and the Ravenswood pond cluster located in the City of Menlo Park. Approximately 9,600 acres of the salt ponds in the Ravenswood and Alviso complexes were acquired by the California Department of Fish and Game (CDFG) and the U.S. Fish and Wildlife Service (USFWS) in 2003. The remaining 5,500 acres, located in the Eden Landing complex, were acquired by CDFG, also in 2003.

In 2009, CDFG, USFWS, and the California State Coastal Conservancy (CSCC) adopted a 50-year, multi-phased approach to the restoration plan. The overall goal of the restoration effort includes the conversion of 90% of the salt ponds to tidal marsh, while retaining 10% as managed ponds. Construction of the Phase 1 work began in 2008 and was completed in 2016. In the Ravenswood pond cluster, the Phase 1 effort included the enhancement of 240 acres of salt ponds (Pond SF-2) and the installation of interpretive displays and 0.7 miles of trails near the Dumbarton Bridge. Planning of the Phase 2 project began in 2010, with the Draft Environmental Impact Statement / Environmental Impact Report (DEIS/R) issued in July 2015. The Phase 2 DEIS/R presented a number of restoration alternatives, but did not recommend a preferred alternative.

The Ravenswood cluster consists of a number of ponds (R3, R4, R5, and S5) that are located east of Bedwell Bayfront Park (Park). The ponds are surrounded by levees, include the All-American Canal, and are bordered by State Route (SR) 84 to the south, Ravenswood Slough to the east, and Greco Island and the San Francisco Bay to the north. For the Ravenswood pond cluster, the Phase 2 DEIS/R evaluated four (4) options which include the breaching of existing levees for the conversion of the salt ponds to tidal marsh, varying types of enhancements for habitat, the raising of existing levees to maintain or improve the existing level of flood protection, and the incorporation of trails and interpretive areas for public use. Specifically, the following restoration options were evaluated by CSCC and USFWS (Figures included in Attachment A):

- Alternative A – No action;
- Alternative B – Consists of opening Pond R4 to tidal action, raising a number of levees for flood protection, and the conversion of Ponds R5 and S5 to open water managed ponds;
- Alternative C – Similar to Alternative B, except that this option converts Ponds R5 and S5 to mud flats. Public access would be improved through a new trail that would connect the Bay Trail (from SR 84 near Chilco Street) to the Park along the edge of Ponds R3 and R4; and
- Alternative D – This option involves opening Pond R4 to tidal action, raising a number of levees for flood protection, and the conversion of Ponds R5 and S5 to open water managed ponds that would also receive stormwater flow from the Bayfront Canal. The Bayfront Canal conveys stormwater flow from the Cities of Redwood City, Woodside, Menlo Park and Atherton, as well as areas of unincorporated San Mateo County to Flood Slough. This option also includes a new trail that would connect the Bay Trail (from SR 84 near Chilco Street) to the Park along the edge of Ponds R3 and R4.

The City provided comments on the Phase 2 DEIS/R on October 29, 2015 in support of Alternative D and focused on the following:

- Alternative D / Bayfront Canal - The City believes that this is the only option that would provide local flood relief and it is the preferred alternative.
- Flood protection and sea level rise - Further clarification is required regarding the constraints associated with the additional flood and sea level rise protection measures.
- Public Access - The City's preferred Alternative D would provide improved public access through the proposed trails and connection to the Bay Trail.
- Traffic - The City will require the development of a traffic control plan for review and approval.
- Construction Staging Areas - Coordination with the City and other appropriate agencies will be needed regarding the staging areas required for the project.

In April 2016, the Final EIS/R was issued, which identified the Preferred Alternative (Attachment B) as a modified version of Alternative B along with aspects of Alternatives C and D, but excludes the Bayfront Canal Project. While the CSCC and USFWS had indicated that Alternative D, which incorporated the ability to store storm flow in Ponds R5/S5 from the Bayfront Canal would be selected strong candidate for the Preferred Alternative, concerns were raised by the San Francisco Bay Regional Water Quality Control Board (RWQCB) over the water quality plan for the storm flow from the Bayfront Canal. As such, the CCSC and USFWS did not select Alternative D as the Preferred Alternative. However, it was noted that the Bayfront Canal project can be incorporated into the Preferred Alternative at a future date subject to separate environmental review.

In summary, the Preferred Alternative includes the following:

- Breaching of the outer levee to open Pond R4 to tidal flows;
- Lowering of a section of the outer levee along Pond R4 for spillover during high tides;
- Partial removal of the levee between R5/S5;
- Raising of the levees along R4 and R3;
- Enhancement of Ponds R5/S5 to shallow water areas;
- Water control structures between Ponds R3/S5, R5/R4, S5/Flood Slough, and R3/Ravenswood Slough;
- Creation of a habitat transition in Pond R4;
- New access from the Bay Trail (from SR 84 near Chilco Street) to the Park along Ponds R3 and R4 (note: the proposed trail has been included in the ConnectMenlo / General Plan update for over

- a year); and
- Gate and sign at the Bay Trail (from SR 84 near Chilco Street) and the new access point to the pond complex.

The 30% design for the Phase 2 Project is currently underway and is expected to be completed this year. The preliminary design drawings will be used to acquire the necessary permits for the work. Construction of the Project is expected to begin in the fall of 2017 and will last five (5) months. However, the USFWS has a current permit for levee maintenance, which will be used to begin the levee work prior to the construction of the full restoration effort. The intent is for USFWS to begin raising the levees once the RWQCB approves the Water Quality Assurance Plan that is currently under review. The levee work may therefore begin in the next three (3) to six (6) months, pending approval from the RWQCB.

Staff will be providing the information on the Project to the Parks and Recreation Commission on May 25, 2016.

Analysis

The Preferred Alternative meets the program's objectives by promoting the restoration of native habitat and supporting the diversity of species that depend on it. The alternative also improves public access as it incorporates a new path that would connect to the Bay Trail. However, the restoration effort must include measures that ensure the safety of visitors to the Park, that minimize the impact to the operations of the Park, and that mitigate the traffic concerns. Staff is currently working with CSCC and USFWS on the necessary requirements to support the project. These include the following:

- Construction Sequencing – As part of the Preferred Alternative, the levees between Ponds R4/R3 and Ponds R4/R5, along the All American Canal will be raised. This aspect of the Project will begin prior to the commencement of the full restoration effort (scheduled for fall of 2017) and may occur within three (3) to six (6) months. Staff is currently working with the USFWS and CSCC to determine the construction timeframe and identify the impact on park services.
- Truck Traffic and Construction Access – The restoration effort will require the import of material for the levees and habitat transitions zones that will be created and is estimated to require a maximum of 150 truck trips a day for one (1) month of the five (5) month construction period. The USFWS has indicated that they have an access easement to the Park, which was acquired from Cargill, Inc. when the ponds were purchased. The easement will be used to route the trucks through the Park to access the ponds. The EIS/R notes that the truck traffic associated with the project is expected to cause delays for Park visitors. Staff will work with CSCC and USFWS to ensure the safety of pedestrians, bicyclists, and vehicles. The following will be evaluated:
 - Truck routes – Depending on the area of construction, staff will work with CSCC and USFWS to determine the best access routes through the Park. The truck traffic will be monitored and flagmen will be used by the contractor to route the trucks at all times.
 - Park access – The Project will involve the construction of a new water control structure between Pond S5 and Flood Slough. The construction will impact the entrance to the Park. Staff will work with CSCC and USFWS to mitigate the impact to the road. This may involve building the inlet in sections to maintain access to the Park facilities. While closure to the Park is not planned at this time, staff will evaluate the duration of the construction activities and the safety conditions to determine whether limited access may be required.
 - Hours and days of construction – Staff will evaluate the hours and workdays allowed (weekday/weekends) and determine the best approach to expedite the construction

activities.

- Staging Areas – The EIS/R indicates that potential staging areas for materials and construction equipment include the parking areas along the Park and internal trails. Staff has requested clarification on the areas proposed to be used for staging. The location of the staging areas will be evaluated based on the truck activity required for the unloading and loading of materials and the impact to the access to the Park and safety.
- Traffic Congestion – The truck traffic associated with the project is expected to add delays and create congestion, particularly at the US 101 south bound off-ramp and Marsh Road. The EIS/R notes the modification to the traffic signal in the morning hours as a mitigation measure. Staff is in the process of acquiring more information to evaluate alternate mitigation options.
- Potential for Park Improvements – The construction of a new water control structure between Pond S5 and Flood Slough will impact the access road to the Park. As part of the roadway restoration effort, staff will evaluate the opportunity for any roadway improvements that can be made to improve the conditions for the safety of pedestrians and bicyclists.
- Bayfront Canal / Flood Protection – With the exclusion of the Bayfront Canal Project, Ponds R5/S5 would not be used for the storage of storm flow from the Bayfront Canal. While this project can be incorporated at a future date, it creates a delay in the flooding relief effort to the impacted areas in Redwood City and Menlo Park. The Bayfront Canal project will therefore have to proceed independently of the salt pond restoration work and undergo a separate environmental review process. This change to the project approach will also have an impact on the timing of the Memorandum of Understanding between the City and Redwood City on the Bayfront Canal project.

Staff will continue to coordinate with CSCC and USFWS on the Project and ensure that the construction activities do not pose safety concerns. It is important to note that while the Project will create some temporary disruptions to the Park, these will be short-term in nature. The benefits to the Park, with respect to the restoration of the adjacent ponds and the creation of marsh and wildlife habitat, will be long-term.

Public Notice

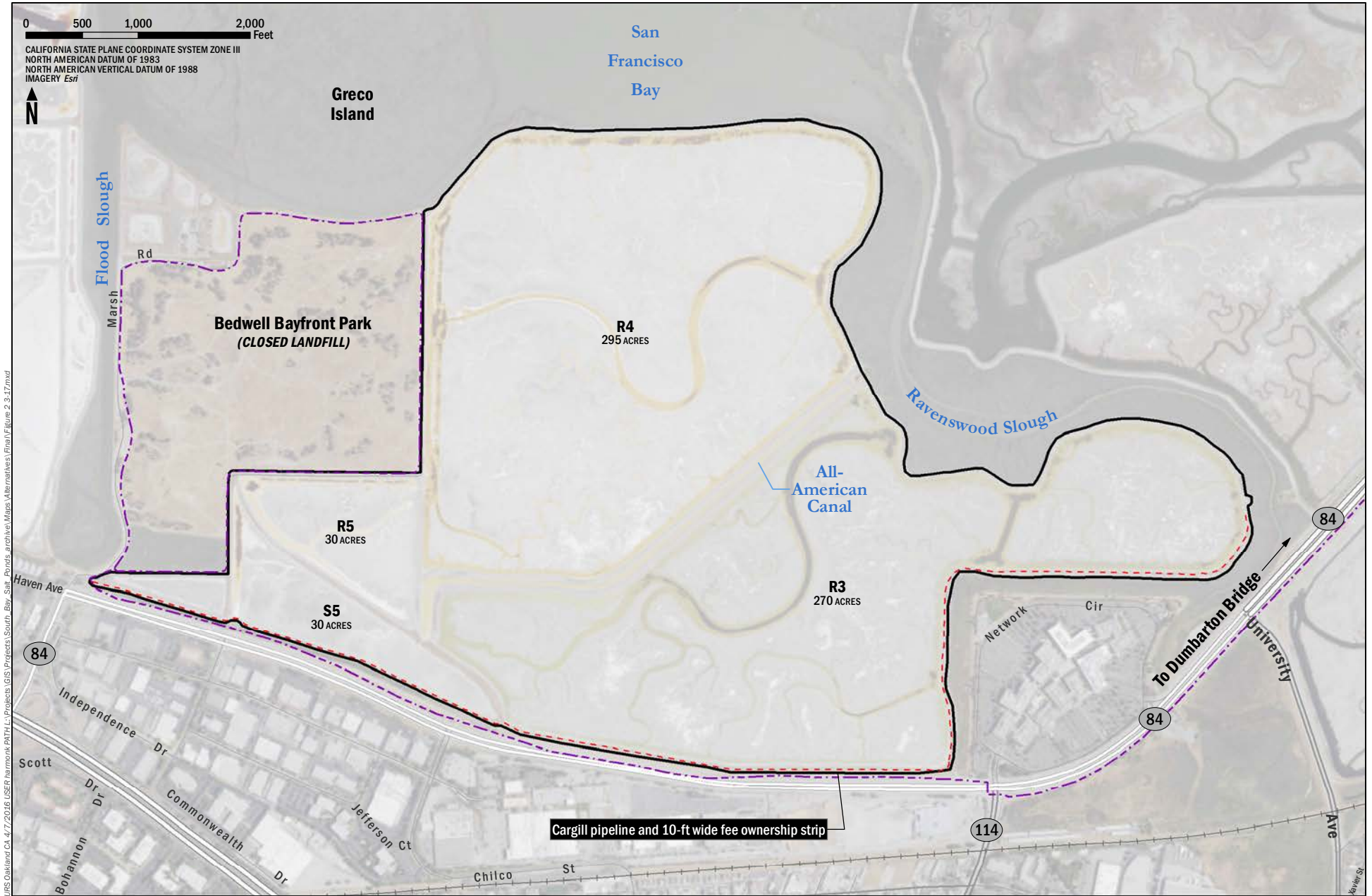
Public Notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting.

Attachments

- A. Restoration Alternatives for the Ravenswood Ponds, Figures
- B. Preferred Alternative, Ravenswood Ponds, Figure

Report prepared by:
Azalea Mitch, Senior Civil Engineer

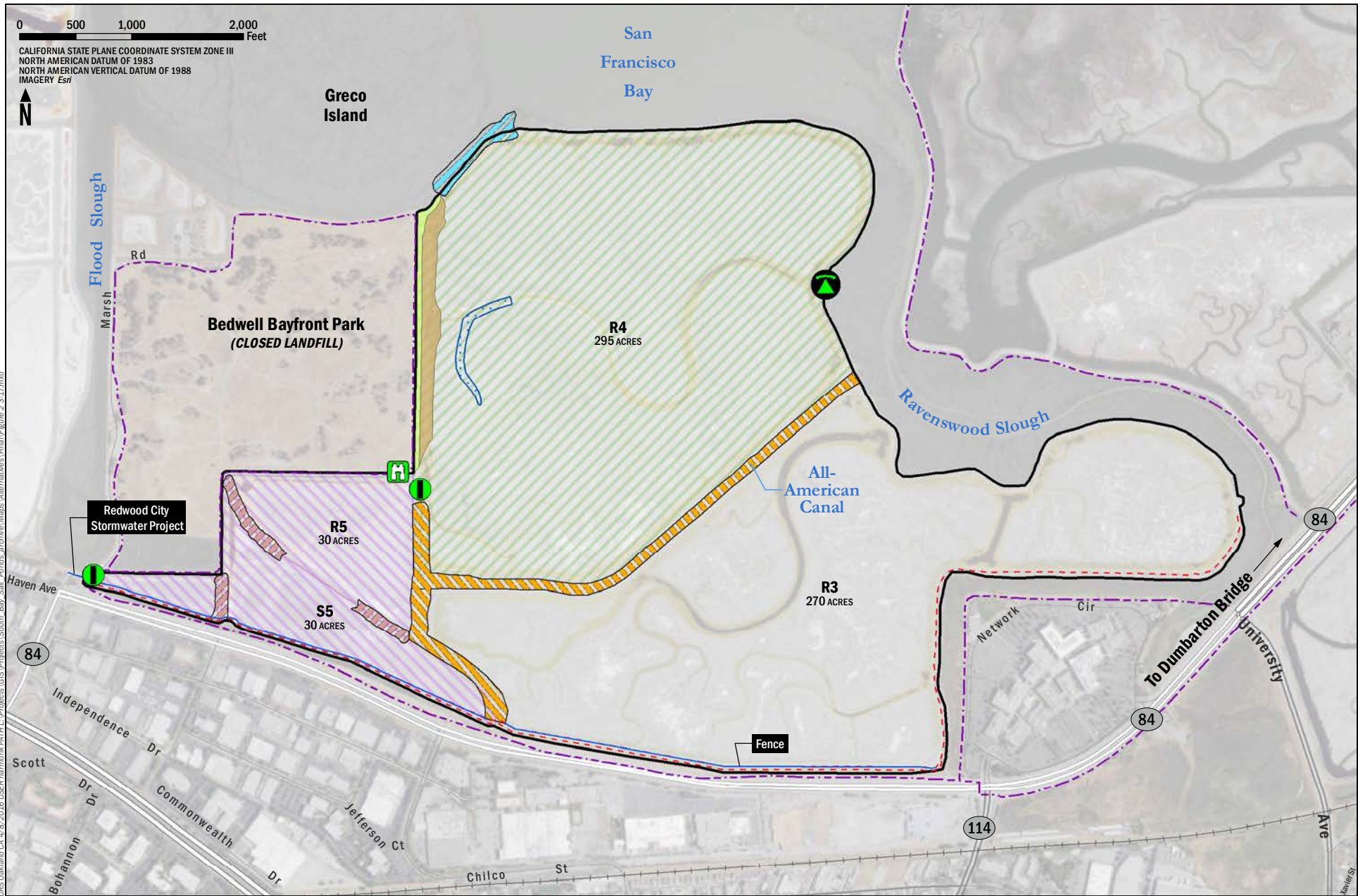
Reviewed by:
Justin Murphy, Public Works Director



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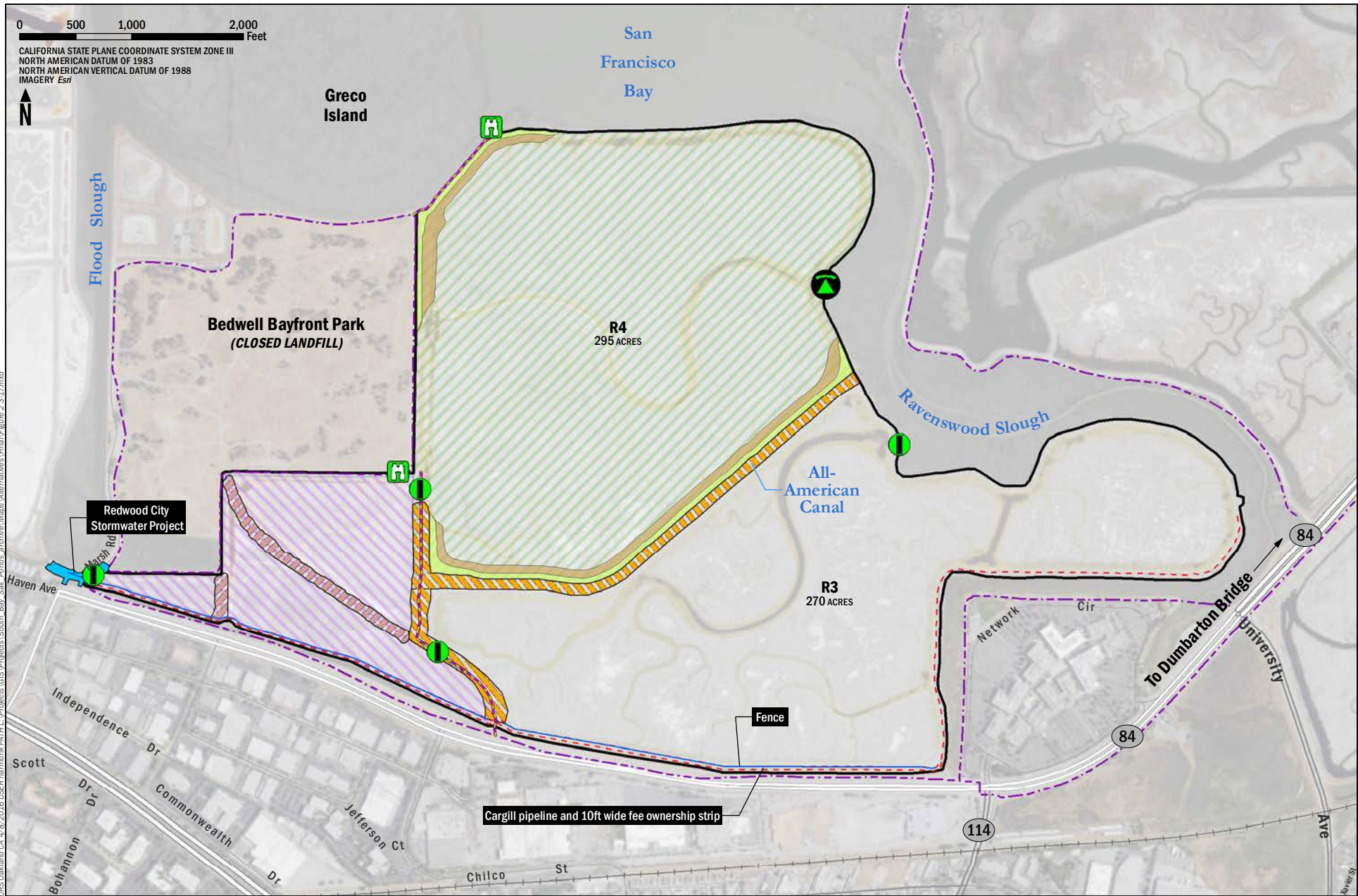
LEGEND

- - - Existing trail
- - - Cargill pipeline
- Pond boundary





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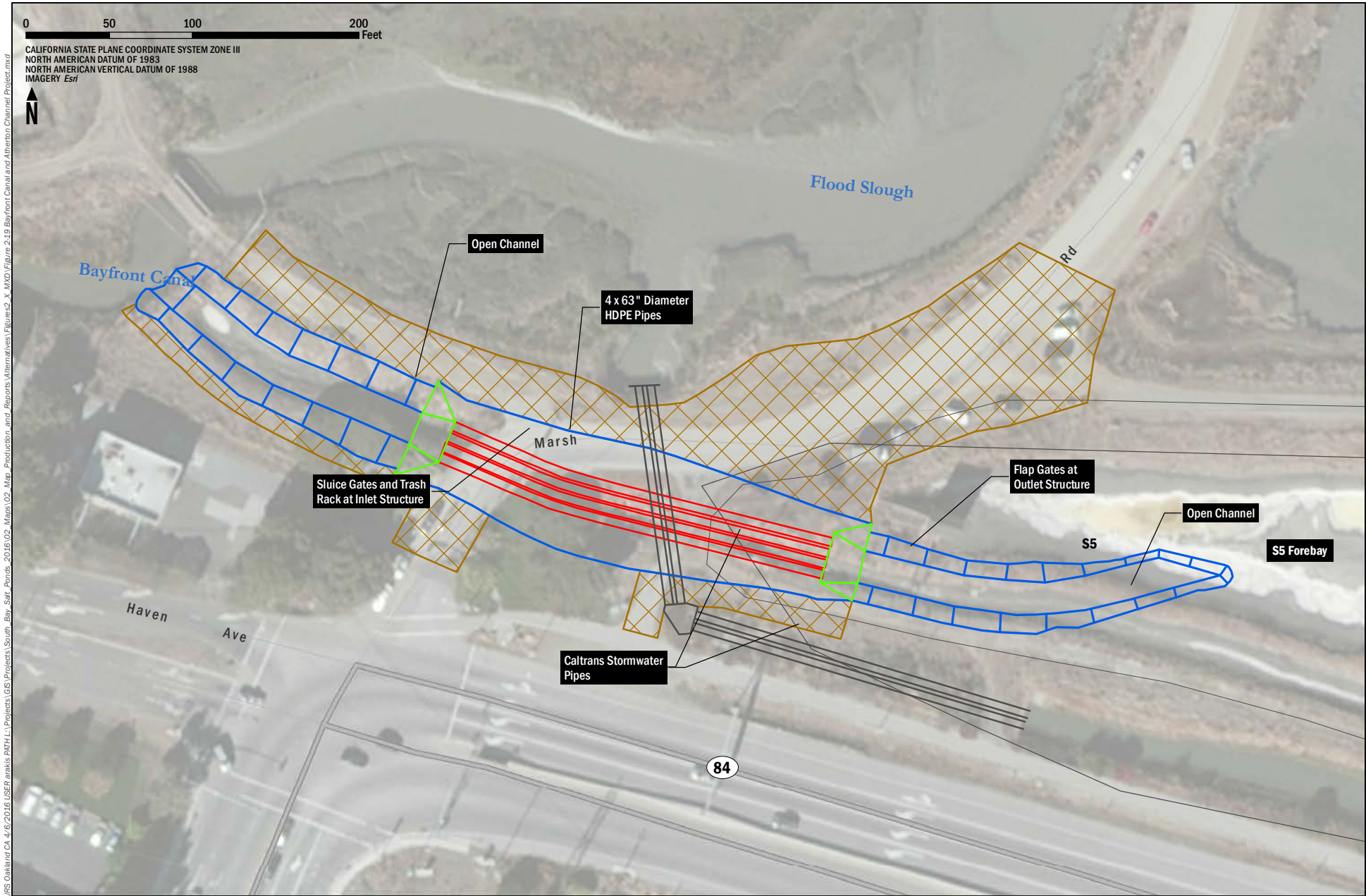


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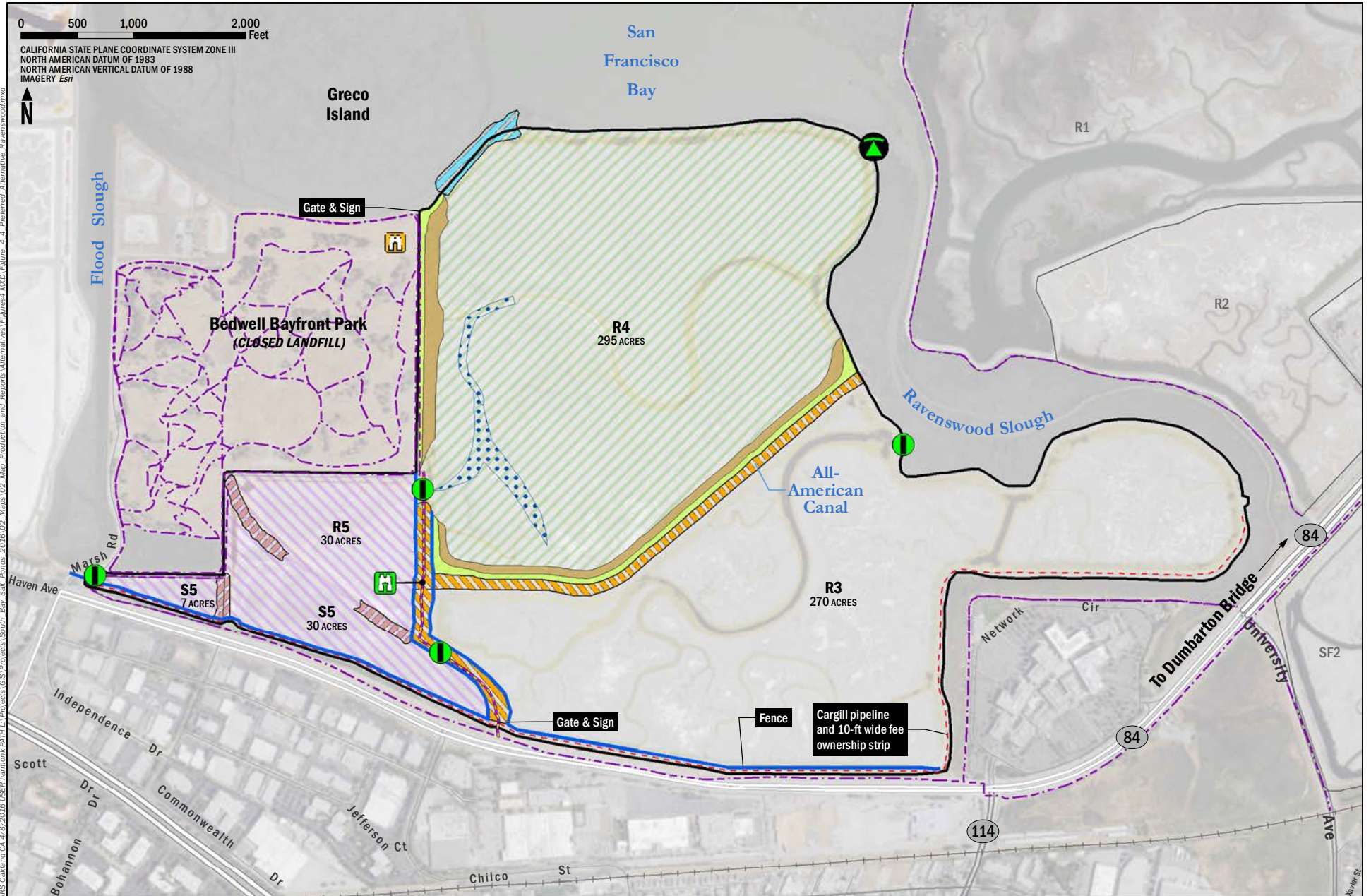
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| | | | | | | Transition Zone Habitat |
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*Pending property rights/easements



- LEGEND**
- Proposed new pipes
 - Proposed grading boundary
 - Caltrans culvert
 - Staging areas
 - Proposed concrete structures

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LEGEND

	Proposed breach		Viewing platform		Railroad		Cargill pipeline		Lowered levee		Pond boundary		Transition Zone Habitat
	Proposed water control structure		Existing viewing platform		Existing trail		Fence		Improved levee		Pilot channel		High marsh habitat
			Phase 2 trail		Removed levee		Managed pond		Intertidal habitat				

*Pending property rights/easements

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