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Menlo Park, CA 94025

**2016-133794 CONF**

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Count of pages 53

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County of San Mateo

Mark Church

Assessor-County Clerk-Recorder



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**DEVELOPMENT AGREEMENT**  
(301-309 CONSTITUTION DRIVE, MENLO PARK, CA  
[APNs 055-260-250 and 055-260-290])



BY AND BETWEEN

**CITY OF MENLO PARK,**  
A CALIFORNIA MUNICIPAL CORPORATION

AND

**HIBISCUS PROPERTIES, LLC,**  
A DELAWARE LIMITED LIABILITY COMPANY

SEPARATE PAGE, PURSUANT TO GOVT. CODE 27361.6

THIS DEVELOPMENT AGREEMENT ("Agreement") is made and entered into as of this 14<sup>th</sup> day of December, 2016, by and between the City of Menlo Park, a municipal corporation of the State of California ("City") and Hibiscus Properties LLC, a Delaware limited liability company ("Facebook"), pursuant to the authority of California Government Code Sections 65864-65869.5 and City Resolution No. 4159.

### RECITALS

This Agreement is entered into on the basis of the following facts, understandings and intentions of the City and Facebook:

A. To strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic risk of development, the Legislature of the State of California adopted Government Code Sections 65864-65869.5 authorizing the City to enter into development agreements in connection with the development of real property within its jurisdiction by qualified applicants with a requisite legal or equitable interest in the real property which is the subject of such development agreements.

B. As authorized by Government Code Section 65865(c), the City has adopted Resolution No. 4159 establishing the procedures and requirements for the consideration of development agreements within the City.

C. Facebook owns those certain parcels of real property collectively and commonly known as 301 thru 309 Constitution Drive in the City of Menlo Park, California ("Property") as shown on Exhibit A attached hereto and being more particularly described in Exhibit B attached hereto.

D. Facebook intends to develop the Project (as defined in this Agreement) on the Property in accordance with the Project Approvals and any other Approvals.

E. Facebook (and/or its affiliates) intends to occupy the Property in accordance with the Project Approvals and any other Approvals (as such terms are defined in this Agreement), with the exception of the Hotel which Facebook anticipates may be constructed and operated by a third-party.

F. The City examined the environmental effects of the Project in an Environmental Impact Report ("EIR") prepared pursuant to the California Environmental Quality Act ("CEQA"). On November 1, 2016, the City Council reviewed and certified the EIR.

G. The City has determined that the Project is a development for which a development agreement is appropriate. The City and Facebook each acknowledge that the development and construction of the Project is a large-scale undertaking involving major investments by Facebook, and assurances that the Project can be developed and used in accordance with the terms and conditions set forth in this Agreement and in the Project Approvals governing development of the Project will benefit both Facebook and City. A development agreement will eliminate uncertainty in the City's land use planning for, and secure orderly development of, the Project and otherwise achieve the goals and purposes for which Resolution No. 4159 was enacted by City. The Project will generate the public benefits described

in this Agreement, along with other fees for the City. Facebook will incur substantial costs in order to comply with the conditions of the Approvals and otherwise in connection with the development of the Project. In exchange for the public benefits and other benefits to the City and the public, Facebook desires to receive vested rights, including, without limitation, legal assurances that the City will grant permits and approvals required for the development, occupancy and use of the Property and the Project in accordance with the Existing City Laws (as defined in this Agreement), subject to the terms and conditions contained in this Agreement. In order to effectuate these purposes, the City and Facebook desire to enter into this Agreement.

H. On September 26, 2016, after conducting a duly noticed public hearing pursuant to Resolution No. 4159, the Planning Commission of the City recommended that the City Council approve this Agreement, based on the following findings and determinations: that this Agreement (1) is consistent with the objectives, policies, general land uses and programs specified in the General Plan (as defined in this Agreement); (2) is compatible with the uses authorized in and the regulations prescribed for the land use district in which the Property is located; (3) conforms with public convenience, general welfare and good land use practices; (4) will not be detrimental to the health, safety and general welfare of the City or the region surrounding the City; (5) will not adversely affect the orderly development of property or the preservation of property values within the City; and (6) will promote and encourage the development of the Project by providing a greater degree of certainty with respect thereto.

I. Thereafter, on November 1, 2016, the City Council held a duly noticed public hearing on this Agreement pursuant to Resolution No. 4159. The City Council made the same findings and determinations as the Planning Commission. On that same date, the City Council made the decision to approve this Agreement by introducing Ordinance No. 1021 ("Enacting Ordinance"). A second reading was conducted on the Enacting Ordinance on November 15, 2016, at which the City Council adopted the Enacting Ordinance, making the Enacting Ordinance effective on December 16, 2016.

J. As part of the Project Approvals, the Conditional Development Permit for the Facebook West Campus Project will be superseded by an Amended and Restated Conditional Development Permit encompassing the Property, the 1 Facebook Way property (formerly known as 312 and 313 Constitution Drive or the West Campus), and Building 23 (formerly known as 300 Constitution Drive). Except where specifically noted in this Agreement, nothing in this Agreement shall be construed as superseding, amending or modifying the Development Agreement for 312-313 Constitution or Facebook's obligations thereunder.

NOW, THEREFORE, pursuant to the authority contained in Government Code Sections 65864-65869.5 and Resolution No. 4159, and in consideration of the mutual covenants and promises of the City and Facebook herein contained, the City and Facebook agree as follows:

1. Definitions. Each reference in this Agreement to any of the following terms shall have the meaning set forth below for each such term. Certain other terms shall have the meaning set forth for such term in this Agreement.

1.1 Approvals. Any and all permits or approvals of any kind or character required under the City Laws in order to authorize and entitle Facebook to complete the Project

and to develop and occupy the Property in accordance with the terms of the Project including, but not limited to, the items described in the Project Approvals (as defined in this Agreement).

1.2 Bayfront Area. The area in the City comprising the City's existing M-2 Zoning district, as such zoning designation may change from time to time.

1.3 Building 21. The first office building to be developed as part of the Project, as shown on the approved plans and described in the Project Approvals.

1.4 Building 22. The second office building to be developed as part of the Project, as shown on the approved plans and described in the Project Approvals.

1.5 Chilco Streetscape Improvements. Those certain improvements identified on Exhibit C attached hereto, including bicycle lanes, pedestrian and sidewalk improvements, that are to be constructed in six phases (Phases 1 through 6). Phases 1 and 2 have already been completed.

1.6 City Council. The City Council of the City of Menlo Park.

1.7 City Laws. The ordinances, resolutions, codes, rules, regulations and official policies of the City governing the permitted uses of land, density, design, and improvement applicable to the development of the Property. Specifically, but without limiting the generality of the foregoing, the City Laws shall include the City's General Plan and Zoning Ordinance.

1.8 City Manager. The City Manager or his or her designee as designated in writing from time to time. Facebook may rely on the authority of the designee of the City Manager.

1.9 City Wide. Any City Law, Fee or other matter that is generally applicable to one or more kinds or types of development or use of property wherever located in the City.

1.10 Community Development Director. The City's Community Development Director or his or her designee.

1.11 Conditional Development Permit. The Amended and Restated Conditional Development Permit approved by the City Council for the development of the Project, which sets forth the conditions and development standards governing the development and use of the Project. Because the Conditional Development Permit will encompass both the Property and the 1 Facebook Way property (which will be merged as part of the Approvals), it includes provisions and ongoing standards that apply to the Facebook West Campus Project and are being carried forward as part of the Project.

1.12 Conditions. All Fees, conditions, dedications, reservation requirements, obligations for on- or off-site improvements, services, other monetary or non-monetary requirements and other conditions of approval imposed, charged by or called for by the City in connection with the development of or construction on real property under the Existing City Laws, whether such conditions constitute public improvements, mitigation measures in

connection with environmental review of any project or impositions made under applicable City Laws.

1.13 Default. As to Facebook, the failure of Facebook to comply substantially and in good faith with any obligations of Facebook under this Agreement; and as to the City, the failure of the City to comply substantially and in good faith with any obligations of City under this Agreement; any such failure by Facebook or the City shall be subject to cure as provided in this Agreement.

1.14 Effective Date. The effective date of the Enacting Ordinance pursuant to Government Code Section 65867.5, as specified in Recital I of this Agreement.

1.15 Existing City Laws. The City Laws in effect as of the Effective Date.

1.16 Facebook East Campus Project. The use and occupancy of the 1 Hacker Way property (formerly known as 1601 Willow Road) pursuant to the Amended and Restated Conditional Development Permit for 1601 Willow Road, 1601 Willow Road Development Agreement, and other project approvals for 1 Hacker Way (formerly known as 1601 Willow Road) in the City of Menlo Park.

1.17 Facebook West Campus Project. The use and occupancy of the 1 Facebook Way property (formerly known as 312 and 313 Constitution Drive) pursuant to the Conditional Development Permit for 312 and 313 Constitution (and which will be amended and restated as part of the Project Approvals), 312 and 313 Constitution Development Agreement, and other project approvals for 1 Facebook Way (formerly known as 312 and 313 Constitution Drive) in the City of Menlo Park.

1.18 Fees. All exactions, costs, fees, in-lieu fees, payments, charges and other monetary amounts imposed or charged by the City in connection with the development of or construction on real property under Existing City Laws. Fees shall not include Processing Fees.

1.19 General Plan. Collectively, the General Plan for the City adopted by the City Council on November 30 and December 1, 1994, as subsequently amended and in effect as of the Effective Date.

1.20 Hotel. A hotel containing a restaurant and bar to be developed as part of the Project.

1.21 Hotel Revenue. For any year, the sum of (a) the TOT received by the City and attributable to such year, and (b) the City's portion of sales tax revenue generated by the Hotel, received by the City and attributable to such year.

1.22 Laws. The laws and Constitution of the State of California, the laws and Constitution of the United States and any state or federal codes, statutes, executive mandates or court decisions thereunder. The term "Laws" shall exclude City Laws.

1.23 Mitigation Measures. The mitigation measures applicable to the Project, developed as part of the EIR process and required to be implemented through the MMRP and the Conditional Development Permit.

1.24 MMRP. The Mitigation Monitoring and Reporting Plan adopted as part of the Project Approvals and applicable to the Project.

1.25 Mortgage. Any mortgage, deed of trust or similar security instrument encumbering the Property, any portion thereof or any interest therein.

1.26 Mortgagee. With respect to any Mortgage, any mortgagee or beneficiary thereunder.

1.27 Party. Each of the City and Facebook and their respective successors, assigns and transferees (collectively, "Parties").

1.28 Processing Fee. A fee imposed by the City upon the submission of an application or request for a permit or Approval, which is intended to cover only the estimated cost to the City of processing such application or request and/or issuing such permit or Approval and which is applicable to similar projects on a City Wide basis, including but not limited to building permit plan check and inspection fees, public works, engineering and transportation plan check and inspection fees, subdivision map application, review and processing fees, fees related to the review, processing and enforcement of the MMRP, and fees related to other staff time and city attorney's time incurred to review and process applications, permits and/or Approvals; provided such fees are not duplicative of or assessed on the same basis as any Fees.

1.29 Project. The uses of the Property, the site plan for the Property and the Vested Elements (as defined in Section 3.1), as authorized by or embodied within the Project Approvals and the actions that are required pursuant to the Project Approvals.

1.30 Project Approvals. The following approvals for the Project granted, issued and/or enacted by the City as of the date of this Agreement, as amended, modified or updated from time to time: (a) this Agreement; (b) the statement of overriding considerations and adoption of the MMRP and other actions in connection with environmental review of the Project; (c) the ordinance rezoning the Property from M-2 to M-2(x); (d) the Conditional Development Permit; (e) the BMR Agreement; (f) the lot line adjustment; and (g) the heritage tree removal permits.

1.31 Public Works Director. The City's Public Works Director or his or her designee.

1.32 Resolution No. 4159. City Resolution No. 4159 entitled "Resolution of the City Council of the City of Menlo Park Adopting Regulations Establishing Procedures and Requirements for Development Agreements" adopted by the City Council of the City of Menlo Park on January 9, 1990.

1.33 Revenue Benchmark. One Million Two Hundred and Fifty Thousand Dollars (\$1,250,000), which such amount shall be adjusted on the fifth (5<sup>th</sup>) anniversary of the

Guarantee Commencement Date and on each subsequent fifth (5<sup>th</sup>) year anniversary during the Guarantee Payment Period (with each such fifth (5<sup>th</sup>) year anniversary referred to herein as an "Index Date"). The adjustment will be based on the product of the Revenue Benchmark amount in effect prior to the applicable Index Date times a fraction, the numerator of which is the "Index" (defined below) for the third month preceding the applicable Index Date, and the denominator of which is the Index for the third month preceding the last Index Date or, in case of the first Index Date, the Index in effect as of the Guarantee Commencement Date. "Index" means the United States Department of Labor, Bureau of Labor Statistics, Consumer Price Index for all Urban Consumers (all items for the SF-Oakland-San Jose Metropolitan Area on the basis of 1982 1984 = 100). If the format or components of the Index are materially changed after the execution of this Agreement, the City will reasonably select an index which is published by the Bureau of Labor Statistics or similar agency and which is a reasonable equivalent to the Index in effect on the Effective Date.

1.34 Revenue Shortfall. For each Revenue Calculation Period (as defined in Section 6.3.1 of this Agreement), the amount, if any, by which the Hotel Revenue for such Revenue Calculation Period, is less than the Revenue Benchmark.

1.35 Substantially Consistent Modification. Any changes to or modifications of any portion of the Project which Facebook makes or proposes to make to the Project, provided such changes or modifications are in substantial compliance with and/or substantially consistent with the approved plans and the Project Approvals, as determined by the City Manager. Without limiting the foregoing, minor modifications to the Project which do not affect permitted uses, density or intensity of use, provisions for reservation or dedication of land, restrictions and requirements relating to subsequent discretionary actions, monetary obligations of Facebook, conditions or covenants limiting or restricting the use of the Property, or similar material changes, shall be considered to be Substantially Consistent Modifications.

1.36 Substantially Complete Building Permit Application. Facebook's completed or substantially completed application for a building permit as reasonably determined by the City's Building Official applied in a manner consistent with City's standard practices in effect at the time of building permit submittal, accompanied by (i) payment of all Processing Fees and other fees required to be submitted with such application and (ii) plans/required submittals for all associated on-site and off-site improvements and parking associated with such building, all as described in the Conditional Development Permit.

1.37 TE Vacation Date. The date the lease agreement between Facebook and Tyco Electronics Corporation ("TE") has been terminated and TE has vacated all buildings leased by TE on the Property.

1.38 TOT. The amount of gross transient occupancy tax received by the City from operation of the Hotel. The TOT is as described in Section 6.3.7 below.

## 2. Effective Date; Term

2.1 Effective Date. This Agreement shall be dated and the rights and obligations of the Parties hereunder shall be effective as of the Effective Date. Not later than ten

(10) days after the Effective Date, the City and Facebook shall execute and acknowledge this Agreement, and the City shall cause this Agreement to be recorded in the Official Records of the County of San Mateo, State of California as provided for in Government Code Section 65868.5. However, the failure to record this Agreement within the time period provided for in Government Code Section 65868.5 shall not affect its validity or enforceability among the Parties.

2.2 Term. This Agreement shall terminate twenty (20) years from the Effective Date (subject to the provisions of Sections 14 and 19), provided that if Facebook submits a Substantially Complete Building Permit Application for Building 21 prior to such termination and the City subsequently issues final building permit sign off allowing occupancy of Building 21, then the term of this Agreement shall continue until the later of (a) the expiration of the TOT Guarantee Payment Period obligation (as defined in Section 6.3 of this Agreement); or (b) the expiration of the Property Tax Guaranty (as defined in Section 6.4 of this Agreement).

2.3 Expiration of Term. Except as otherwise provided in this Agreement or any of the Approvals, upon the expiration of the term of this Agreement, (a) this Agreement, and the rights and obligations of the Parties under this Agreement, shall terminate; (b) the Property shall remain subject to the Conditional Development Permit; and (c) Facebook shall thereafter comply with the provisions of the City Laws then in effect or thereafter enacted and applicable to the Property and/or the Project, except that the expiration of the term of this Agreement shall not affect any rights of Facebook that are or would be vested under City Laws in the absence of this Agreement or any other rights arising from Approvals granted or issued by the City for the construction or development of all or any portion of the Project.

### 3. General Development of the Project.

3.1 Project. Facebook shall have the vested right to develop, operate and occupy the Property in accordance with the terms and conditions of this Agreement and the Project Approvals, and any additional Approvals for the Project and/or the Property obtained by Facebook, as the same may be amended from time to time upon application by Facebook; and City shall have the right to control development of the Property in accordance with the provisions of this Agreement, so long as this Agreement remains effective, and the Approvals for the Project and/or the Property. Except as otherwise specified herein, until the expiration or earlier termination of this Agreement, this Agreement, the Approvals and the Existing City Laws shall control the overall development, use and occupancy of the Property, and all improvements and appurtenances in connection therewith, including, without limitation, the density and intensity of use ("Vested Elements"), and all Mitigation Measures and Conditions required or imposed in connection with the Project Approvals in order to minimize or eliminate environmental impacts of the Project.

3.2 Subsequent Projects. The City agrees that as long as Facebook develops and occupies the Project in accordance with the terms of this Agreement, Facebook's right to develop and occupy the Property shall not be diminished despite the impact of future development in the City on public facilities, including, without limitation, City streets, water systems, sewer systems, utilities, traffic signals, sidewalks, curbs, gutters, parks and other City owned public facilities that may benefit the Property and other properties in the City.



3.3 Other Governmental Permits. Facebook or City (whichever is appropriate) shall apply for such other permits and approvals from governmental or quasi-governmental agencies other than the City having jurisdiction over the Project (e.g. the California Department of Transportation) as may be required for the development of or provision of services to the Project; provided, however, that City shall not apply for any such permits or approvals without Facebook's prior written approval. The City shall use its best efforts to promptly and diligently cooperate, at no cost to the City, with Facebook in its endeavors to obtain such permits and approvals and, from time to time at the request of Facebook, shall proceed with due diligence and in good faith to negotiate and/or enter into binding agreements with any such entity in order to assure the availability of such permits and approvals or services. All such applications, approvals, agreements, and permits shall be obtained at Facebook's cost and expense, including payment of City staff time in accordance with standard practices, and Facebook shall indemnify City for any liabilities imposed on City arising out of or resulting from such applications, permits, agreements and/or approvals. The indemnifications set forth in this Section 3.3 shall survive the termination or expiration of this Agreement. To the extent allowed by applicable Laws, Facebook shall be a party or third party beneficiary to any such agreement between City and such agencies and shall be entitled to enforce the rights of Facebook or the City thereunder and/or the duties and obligations of the parties thereto.

3.4 Additional Fees. Except as set forth in this Agreement and the Project Approvals, the City shall not impose any further or additional fees (including, without limitation, any fees, taxes or assessments not in existence as of the Effective Date or not applicable to the Project in accordance with the Existing City Laws, the Project Approvals and this Agreement), whether through the exercise of the police power, the taxing power, or any other means, other than those set forth in the Project Approvals, the Existing City Laws and this Agreement. In addition, except as set forth in this Agreement, the base or methodology for calculating all such Fees applicable to the construction and development of the Project shall remain the same for such Fees as in effect as of the Effective Date. Notwithstanding the foregoing, the following provisions shall apply:

3.4.1 If the City forms an assessment district including the Property, and the assessment district is City Wide or applies to all Bayfront Area properties and is not duplicative of or intended to fund any matter that is covered by any Fee payable by Facebook, the Property may be legally assessed through such assessment district based on the benefit to the Property (or the methodology applicable to similarly situated properties), which assessment shall be consistent with the assessments of other properties in the district similarly situated. In no event, however, shall Facebook's obligation to pay such assessment result in a cessation or postponement of development and occupancy of the Property or affect in any way Facebook's development rights for the Project.

3.4.2 The City may charge Processing Fees to Facebook for land use approvals, building permits, encroachment permits, subdivision maps, and other similar permits and approvals which are in force and effect on a City Wide basis or applicable to all Bayfront Area properties at the time Facebook submits an application for those permits.

3.4.3 If the City exercises its taxing power in a manner which will not change any of the Conditions applicable to the Project, and so long as any new taxes or increased

taxes are uniformly applied on a City Wide basis or applied uniformly to Bayfront Area properties, the Property may be so taxed, which tax shall be consistent with the taxation of other properties in the City similarly situated.

3.4.4 If, as of the Effective Date, the Existing City Laws under which the Fees applicable to the Project have been imposed provide for automatic increases in Fees based upon the consumer price index or other method, then the Project shall be subject to any such increases in such Fees resulting solely from the application of any such index or method in effect on the Effective Date.

3.4.5 If Laws are adopted by the State of California or the federal government which impose fees on new or existing projects, such fees shall be applicable to the Project.

3.4.6 If the City enacts new impact fees that apply on a City Wide basis or are applied uniformly to Bayfront Area properties and which address matters that are not identified or addressed by the mitigation measures, conditions on the Project, public benefits, or required on- or off-site improvements, then the Project shall be subject to any such impact fees as of the effective date of the City's ordinance. For purposes of this Section, the parties agree that any impact fees addressing transportation, housing, sea level rise, biological resources, utilities including energy and water, and any other impacts identified and mitigated in the Environmental Impact Report for the Project, constitute impact areas that are addressed by the Project and the Project Approvals, and that any new impact fees related to these impact areas shall not apply to the Project. This list is not intended to be exhaustive, but to illustrate some of the areas in which new impact fee programs would not apply to the Project. Notwithstanding the above, if the City adopts a new impact fee related to fire protection services, then the City may enforce such fee; provided, however, that to the extent that Facebook reaches a separate agreement with the Menlo Park Fire Protection District ("Fire District") that requires Facebook to make funding contributions to the Fire District, then Facebook shall be entitled to a credit against any future fire impact fee in the amount of its funding contribution to the Fire District.

3.5 Effect of Agreement. This Agreement, the Project Approvals and all plans and specifications upon which such Project Approvals are based (as the same may be modified from time to time in accordance with the terms of the Project Approvals), including but not limited to the Conditional Development Permit, shall constitute a part of the Enacting Ordinance, as if incorporated by reference therein in full.

3.6 Review and Processing of Approvals; Expedited Construction Permitting. The City shall accept, review and shall use its best efforts to expeditiously process Facebook's applications and requests for Approvals in connection with the Project in good faith and in a manner which complies with and is consistent with the Project Approvals and this Agreement. The City shall approve any application or request for an Approval which substantially complies and is consistent with the Project Approvals. Facebook shall promptly provide the City with the Processing Fees, applications, documents, plans, materials and other information necessary for the City to carry out its review and processing obligations, and shall pay for any costs incurred by City for third-party or outside building consultants to review plans or otherwise assist City's effort to expedite the City's review and processing obligations. Facebook shall submit all

applications and requests for Approvals in the manner required under applicable City Laws in effect as of the time of such submittal. The Parties shall cooperate with each other and the City shall use its best efforts to cause the expeditious review, processing and issuance of the Approvals and permits for the development and occupancy of the Project in accordance with the Project Approvals. To the maximum extent permitted by law, the City further agrees to expedite review, processing and issuance of the Approvals, including reasonable measures to minimize or reduce delays caused by other public agencies or third-parties, and to cooperate with Facebook to develop an expedited permitting plan for the construction phase of the Project. The City's obligations pursuant to this Section 3.6 are expressly conditioned upon the City's prompt reimbursement for any costs borne by the City by Facebook in fulfilling its review and processing obligations.

4. Specific Criteria Applicable to the Project.

4.1 Applicable Laws and Standards. Notwithstanding any change in any Existing City Law, including, but not limited to any change by means of ordinance, resolution, initiative, referendum, policy or moratorium, and except as otherwise expressly provided in this Agreement, the laws and policies applicable to the Property are and shall be as set forth in Existing City Laws (regardless of future changes in Existing City Laws by the City) and the Project Approvals. Facebook shall also have the vested right to develop and occupy or to cause the Property to be developed and occupied in accordance with the Vested Elements; provided that the City may apply and enforce the California Building Code as amended and adopted by the City (including the Mechanical Code, Electrical Code and Plumbing Code) and the California Fire Code as amended and adopted by the City and/or the Menlo Park Fire Protection District, as such codes may be in effect at the time Facebook applies for building permits for any aspect of the Project. Without limiting the generality of the foregoing, except as otherwise expressly provided in this Agreement, during the term of this Agreement, the City shall not, without the prior written consent of Facebook: (a) apply to the Project any new or amended ordinance, resolution, rule, regulation, requirement or official policy that is inconsistent with any Existing City Laws or Approvals and that would have the effect of delaying, preventing, adversely affecting or imposing any new or additional condition with respect to the Project; or (b) apply to the Project or any portion thereof any new or amended ordinance, resolution, rule, regulation, requirement or official policy that requires additional discretionary review or approval for the proposed development, use and/or occupancy of the Project.

4.2 Application of New City Laws. The City may apply to the Property new City Laws that are not inconsistent or in conflict with the Existing City Laws or the intent, purposes or any of the terms, standards or conditions of this Agreement, and which do not affect the Vested Elements, or impose any further or additional fees or impose any other conditions on the Project, including, without limitation, those requiring additional traffic improvements/requirements or additional off-site improvements, or additional dedications or exactions, that are inconsistent with this Agreement or the intent of this Agreement; provided, however, that the City may apply new impact fees pursuant to Section 3.4.6 of this Agreement. Notwithstanding the previous sentence, Facebook may consent in its sole discretion and in writing to any new City Law. Any action or proceeding of the City that has any of the following effects on the Project shall be considered in conflict with this Agreement and the Existing City Laws:

- 4.2.1 Limiting or reducing the density or intensity of use of the Property;
- 4.2.2 Limiting grading or other improvements on the Property in a manner that is inconsistent with or more restrictive than the limitations included in the Project Approvals;
- 4.2.3 Applying to the Project or the Property any law, regulation, or rule restricting or affecting a use or activity otherwise allowed by the Project Approvals;
- 4.2.4 Applying to the Project any City Law otherwise allowed by this Agreement that is not uniformly applied on a City Wide or area wide basis to all substantially similar types of development projects (excluding such impact fees that may be imposed pursuant to Section 3.4.6 of this Agreement); or
- 4.2.5 Limiting the processing or procuring of any Approvals.

The above list of actions is not intended to be comprehensive, but is illustrative of the types of actions that would conflict with this Agreement and the Existing City Laws.

4.3 Initiatives and Referenda. If any City Law is enacted or imposed by initiative or referendum, or by the City Council directly or indirectly in connection with any initiative or referendum, which City Law would conflict with the Existing City Laws or this Agreement or reduce the development rights provided by this Agreement and the Project Approvals, such City Law shall not apply to the Project. To the maximum extent provided by law, City shall endeavor to prevent any City Law from invalidating or prevailing over all or any part of this Agreement, and City shall cooperate with Facebook, at Facebook's expense, as may be necessary to ensure this Agreement remains in full force and effect. City, except to submit to vote of the electorate initiatives and referendums required by Laws to be placed on a ballot, shall not support, adopt or enact any City law, or take any other action that would violate the express provisions of this Agreement, the Project Approvals, or, when issued, the Approvals.

4.4 Timing. Without limiting the foregoing, no moratorium or other limitation affecting the development and occupancy of the Project or the rate, timing or sequencing thereof shall apply to the Project.

4.5 Subsequent Environmental Review. The Parties acknowledge and agree that the EIR contains a thorough environmental analysis of the Project and the Project alternatives, and specifies the feasible Mitigation Measures available to eliminate or reduce to an acceptable level the environmental impacts of the Project. The Parties further acknowledge and agree that the EIR provides an adequate environmental analysis for the City's decisions to authorize Facebook to proceed with the Project as embodied in the Project Approvals and this Agreement and subsequent development of the Project during the term of this Agreement. The Mitigation Measures imposed are appropriate for the implementation of proper planning goals and objectives and the formulation of Project conditions of approval. In view of the foregoing, the City agrees that the City will not require another or additional environmental impact report or environmental review for any subsequent Approvals implementing the Project. Facebook shall

defend, indemnify and hold the City harmless from any costs or liabilities incurred by the City in connection with any litigation seeking to compel the City to perform additional environmental review of any subsequent Approvals.

4.6 Easements; Improvements. The City shall cooperate with Facebook in connection with any arrangements for abandoning existing easements and facilities and the relocation thereof or creation of any new easements within the Property necessary or appropriate in connection with the development of the Project. If any such easement is owned by the City or an agency of the City, the City or such agency shall, at the request of Facebook, take such action and execute such documents as may be reasonably necessary in order to abandon and relocate such easement(s) as necessary or appropriate in connection with the development of the Project in accordance with the Project Approvals. All on-site and off-site improvements required to be constructed by Facebook pursuant to this Agreement, including those set forth in the Project Approvals, shall be constructed by Facebook.

5. Conditions Precedent. Facebook's obligations under Sections 6 through 9 inclusive are expressly conditioned on the resolution of all legal challenges, if any, to the EIR, the Project Approvals and the Project (the "Legal Challenges Condition"), and the City's issuance of a building permit for the construction of Building 21 to be built as part of the Project. If no litigation or referendum is commenced challenging or seeking to set aside the EIR, the Project Approvals or the Project, then the Legal Challenges Condition will be deemed satisfied 90 days after the Effective Date. If litigation or a referendum is commenced challenging the EIR, the Project Approvals and/or the Project, then the Legal Challenges Condition will be deemed satisfied on the date of final, non-appealable resolution of all litigation in a manner that is reasonably acceptable to Facebook or resolution of the referendum in a manner that is reasonably acceptable to Facebook. The conditions described in this Section 5 shall, collectively, be referred to as the "Conditions Precedent." If litigation or a referendum is commenced challenging the EIR, the Project Approvals or the Project and Facebook elects to terminate this Agreement pursuant to Section 14 of this Agreement, then Facebook shall be relieved of all obligations set forth in Sections 6 through 9 of this Agreement.

6. On-Going Public Benefits, Conditions.

6.1 Recurring Public Benefit Payment. Within 60 days of the later of (a) City sign off on final building permits allowing occupancy of Building 21 by Facebook and (b) Facebook's receipt of City's request for payment, Facebook will commence making an annual payment of Three Hundred Thousand Dollars (\$300,000.00) per year ("Recurring Public Benefit Payment") to the City for twenty (20) years in the manner set forth in this Section 6.1. The first payment of the Recurring Public Benefit Payment will be due and payable on July 1 of the City's fiscal year commencing after City sign off on final building permits allowing occupancy by Facebook of Building 21. Subsequent payments of the Recurring Public Benefit Payment will be due and payable in full to the City on July 1 of each fiscal year thereafter for which the Recurring Public Benefit Payment is payable. The Recurring Public Benefit Payment will be payable for this twenty (20) year period with no proration, reduction or suspension and shall survive the termination of this Agreement. Every five(5) years following commencement of the Recurring Public Benefit Payment, the amount of the Recurring Public Benefit Payment shall be adjusted to the product of the Recurring Public Benefit Payment amount in effect immediately

prior to the applicable Index Date times a fraction, the numerator of which is the "Index" for the third month preceding the applicable Index Date, and the denominator of which is the Index for the third month preceding the last Index Date or, in case of the first Index Date, the Index as of the date the first Recurring Public Benefit Payment is due. If the format or components of the Index are materially changed after the execution of this Agreement, the City will reasonably select an index which is published by the Bureau of Labor Statistics or similar agency and which is a reasonable equivalent to the Index in effect on the Effective Date. The benefit under this Section 6.1 shall not be payable unless the City signs off on building permits allowing occupancy by Facebook of Building 21. Facebook's obligation to make any Recurring Public Benefit Payment to the City shall terminate if (a) the term of this Agreement expires or this Agreement is earlier terminated; or (b) Facebook delivers to the City written notice that Facebook has relinquished all rights to construct the Project; in either case prior to the issuance of a building permit for Building 21.

6.2 Interim In-Lieu Sales Tax Payment. Within 60 days of the later of (a) City sign off on final building permits allowing occupancy of Building 21 by Facebook and (b) Facebook's receipt of City's request for payment, Facebook will commence making an annual payment of Three Hundred and Thirty Six Thousand Dollars (\$336,000.00) per year ("Interim In-Lieu Sales Tax Payment") to the City. Facebook shall continue to make annual Interim In-Lieu Sales Tax Payment until the Guarantee Commencement Date, defined in Section 6.3.1. If the Hotel commences operation before this payment obligation expires, Facebook will be entitled to a credit for any Hotel Revenue received by the City as a result of the Hotel operations and payable with respect to the period of time that this In-Lieu Sales Tax Payment is payable. The amount of the Interim In-Lieu Sales Tax Payment shall be subject to an adjustment every five (5) years based on the same formula described in in Section 6.1, above. The first payment of the Interim In-Lieu Sales Tax Payment will be due and payable on July 1 of the City's fiscal year commencing after City sign off on final building permits allowing occupancy by Facebook of Building 21. Subsequent payments of the Interim In-Lieu Sales Tax Payment will be due and payable in full to the City on July 1 of each fiscal year thereafter for which the Interim In-Lieu Sales Tax Payment is payable, subject to adjustments every five (5) years as described above, until the obligation to make such payments is terminated pursuant to this Section. The benefit under this Section 6.2 shall not be payable unless the City signs off on building permits allowing occupancy by Facebook of Building 21. Facebook's obligation to make any Interim In-Lieu Sales Tax Payment to the City shall terminate if (a) the term of this Agreement expires or this Agreement is earlier terminated; or (b) Facebook delivers to the City written notice that Facebook has relinquished all rights to construct the Project; in either case prior to the issuance of a building permit for Building 21.

6.3 Hotel TOT Guarantee Payments. Beginning on the Guarantee Commencement Date and throughout the Guarantee Payment Period, Facebook shall guarantee TOT payments to the City in the amount of the Revenue Benchmark and shall pay to the City the TOT Guarantee Payments to the extent required under, and on the terms and conditions contained in, this Section 6.3. Facebook shall receive a credit against the Revenue Benchmark for Hotel Revenue received by the City during the Guarantee Payment Period, as defined in Section 6.3.1. The negative difference, if any, between the Revenue Benchmark and the Hotel Revenue is the "TOT Guarantee Payment."

6.3.1 Facebook's obligation to make TOT Guarantee Payments, if any, shall commence upon July 1 of the second full City fiscal year following the TE Vacation Date ("Guarantee Commencement Date"). The TOT Guarantee Payments, if any, shall be calculated with respect to each City fiscal year (July 1 through June 30) during the Guarantee Payment Period ("Revenue Calculation Period"), the first such year commencing as of the Guarantee Commencement Date. Facebook's obligation to make TOT Guarantee Payments shall apply to the period ("Guarantee Payment Period") commencing on the Guarantee Commencement Date and continuing until thirty nine (39) years after the Guarantee Commencement Date.

6.3.2 Within one hundred twenty(120) days following the end of the calendar quarter after the end of each Revenue Calculation Period during the Guarantee Payment Period (or such later time as determined by the City based on receipt of the City's sales tax report for the applicable Revenue Calculation Period), the City Manager or his or her designee on behalf of the City, shall calculate the Hotel Revenue for such Revenue Calculation Period and shall determine whether a Revenue Shortfall exists for such year and the amount of any resulting TOT Guarantee Payment payable by Facebook to the City, and shall deliver to Facebook written notice thereof, together with such supporting detail and documentation as Facebook shall reasonably require (but excluding any documentation that City is prohibited by State law from disclosing to Facebook). If there is no Revenue Shortfall for a given year, then Facebook shall have no obligation to make any TOT Guarantee Payment for that year. Except as otherwise provided in this Section 6.3, within thirty (30) days following the date of Facebook's receipt of such written notice of the TOT Guarantee Payment from the City Manager or his or her designee, Facebook shall pay such TOT Guarantee Payment to the City. Notwithstanding the foregoing, if Facebook disagrees with the City's determination of any TOT Guarantee Payment, Facebook shall give to the City written notice thereof within such thirty (30) day period. The Parties shall thereafter meet and confer in person or by telephone and shall attempt in good faith to resolve any disagreement concerning such TOT Guarantee Payment within thirty (30) days following the City's receipt of written notice by Facebook indicating disagreement with the City's determination. If the Parties are unable to resolve any such disagreement between the Parties within such thirty-day period, the parties shall mediate such disagreement through JAMS/Endispute or other mutually acceptable mediation service. If the parties cannot resolve the disagreement through mediation, the dispute or disagreement shall be resolved through binding arbitration with JAMS/Endispute or other mutually acceptable binding arbitration service.

6.3.3 In the event following any Revenue Calculation Period (a) the City receives additional Hotel Revenue attributable to a prior Revenue Calculation Period and Facebook has already made a TOT Guarantee Payment based on a Revenue Shortfall for such Revenue Calculation Period, or (b) the City is required to refund any Hotel Revenue to the Hotel operator based on overpayment of TOT for a prior Revenue Calculation Period, or (c) the City is notified by the Hotel operator or the State Board of Equalization that there was an overpayment of Hotel Revenue (TOT or sales tax) for a prior Revenue Calculation Period and that a credit or offset has been taken in a subsequent Revenue Calculation Period; then in any such circumstance, the City shall recalculate Hotel Revenue for the applicable Revenue Calculation Period taking into account such additional revenue, refund and/or credit/offset promptly after receipt of information that a recalculation is required. To the extent there has been an overpayment by Facebook of a TOT Guarantee Payment, City shall refund to the Facebook the overpayment within forty-five (45) days after Facebook receives the notice of recalculation from

the City. To the extent there has been an underpayment by Facebook of a TOT Guarantee Payment, Facebook shall pay to City the amount underpaid within forty-five (45) days after Facebook receives the notice of recalculation from the City.

6.3.4 Facebook shall have the right to request that the City audit/inspect the records of the Hotel operator to ensure the City is receiving the proper amount of Hotel Revenue from the Hotel operations but not more frequently than once every three (3) years. It is anticipated that the Hotel will not be owned or operated by Facebook. Any agreement between Facebook transferring ownership or operation of the Hotel to another entity shall include a provision(s) allowing the City the right to audit/inspect the Hotel records. Any such audit or inspection performed at Facebook's request shall be performed at Facebook's cost and expense. Any such audit or inspection performed at the City's request shall be performed at the City's cost and expense. The City may also independently audit/inspect the records of the Hotel operator at its own cost and expense.

6.3.5 Facebook's obligation to make any TOT Guarantee Payment to the City shall terminate if (a) the term of this Agreement expires or this Agreement is earlier terminated; or (b) Facebook delivers to the City written notice that Facebook has relinquished all rights to construct the Project; in either case prior to the issuance of a building permit for Building 21 ("Guarantee Payment Termination"). Any such termination of Facebook's obligation to make TOT Guarantee Payments shall be effective with respect to the Revenue Calculation Period in which the event described in the foregoing clause (a) or clause (b) shall occur and with respect to all subsequent calendar years in the Guarantee Payment Period.

6.3.6 In the event Facebook commences construction of Building 21 and does not terminate this Agreement due to the filing of litigation or a referendum pursuant to Section 19 of this Agreement, the obligation to make TOT Guarantee Payments shall survive the termination or expiration of this Agreement and shall continue for the full term of the Guarantee Payment Period.

6.3.7 TOT Amount. As of the date of this Agreement, the City imposes the TOT on applicable hotel room rents and other receipts at the rate of twelve percent (12%). Facebook hereby agrees that, during the term of this Agreement and for so long as the Hotel is operating, the TOT applicable to the Hotel shall be assessed at one percent (1%) above the Citywide TOT rate in effect from time to time (e.g., if the Citywide TOT rate is 12%, the applicable TOT rate for the Hotel shall be 13%). In the event the City adopts a City Wide increase in the rate of the TOT, Facebook's obligation to collect and pay the one percent (1%) increase in TOT provided for in this Section 6.3.8 shall continue in effect following the City's adoption of a City Wide increase in the rate of the TOT. Facebook's obligation to collect and pay the additional one percent (1%) TOT pursuant to this Section 6.3.7 shall terminate in the event of a Guarantee Payment Termination and effective as of the effective date of such Guarantee Payment Termination. Except as provided in the preceding sentence, the obligations set forth herein to pay the additional one percent (1%) increase in TOT shall survive the expiration of this Agreement and shall continue so long as the Hotel is operating on the Property and shall be binding on any and all owners and operators of the Hotel. The provisions of this Section 6.3.7 shall be enforceable by a restrictive covenant or similar instrument agreed to by the parties and



recorded with the San Mateo County Recorder's Office prior to issuance of building permits for the Hotel.

6.4 Property Tax Guaranty. Facebook agrees to provide an independent property tax guaranty with respect to Building 21, Building 22 and the Hotel such that the value of the Property, improvements only, following completion of the Project will be at least Six Hundred Ninety-Five Million Dollars (\$695,000,000), subject to this Section 6.4.

6.4.1 Building 21 Property Tax Guaranty. Commencing with the first tax fiscal year following the initial reassessment of the Property by the San Mateo County Assessor ("Assessor") following completion of Building 21 and the initial occupancy of Building 21 by Facebook, and for a total period of thirty-nine (39) years following such initial reassessment ("Property Tax Guaranty Period"), Facebook agrees to pay to the City the positive difference, if any, between (a) the real property tax revenues the City would receive for a given tax fiscal year assuming the assessed value of Building 21 (improvements only) is Three Hundred Twenty-Five Million Dollars (\$325,000,000,) and (b) the actual real property tax revenue received by the City for such fiscal year with respect to Building 21 (improvements only) ("Building 21 Property Tax Guaranty"). For purposes of clarification, in any fiscal year during which the Building 21 Property Tax Guaranty applies, no payment will be due to the City pursuant to this section if the assessed value of Building 21 (improvements only) is greater than or equal to Three Hundred Twenty-Five Million Dollars (\$325,000,000).

6.4.2 Building 22 Property Tax Guaranty. Commencing with the first tax fiscal year following the initial reassessment of the Property by the Assessor following completion of Building 22 and the initial occupancy of Building 22 by Facebook, and for a period extending until the expiration of the Property Tax Guaranty Period, Facebook agrees to pay to the City the positive difference, if any, between (a) the real property tax revenues the City would receive for a given tax fiscal year assuming the assessed value of Building 22 (improvements only) is Three Hundred Million Dollars (\$300,000,000), and (b) the actual real property tax revenue received by the City for such fiscal year with respect to Building 22 (improvements only) ("Building 22 Property Tax Guaranty"). For purposes of clarification, in any fiscal year during which the Building 22 Property Tax Guaranty applies, no payment will be due to the City pursuant to this section if the assessed value of Building 22 (improvements only) is greater than or equal to Three Hundred Million Dollars (\$300,000,000).

6.4.3 Hotel Property Tax Guaranty. Commencing with the first tax fiscal year following the initial reassessment of the Property by the Assessor following completion of the Hotel and the initial occupancy of the Hotel, and for a period extending until the expiration of the Property Tax Guaranty Period, Facebook agrees to pay to the City the positive difference (if any) between (a) the real property tax revenues the City would receive for a given tax fiscal year assuming the assessed value of the Hotel (improvements only) is Seventy Million Dollars (\$70,000,000), and (b) the actual real property tax revenue received by the City for such fiscal year with respect to the Hotel (improvements only) ("Hotel Property Tax Guaranty"). For purposes of clarification, in any fiscal year during which the Hotel Property Tax Guaranty applies, no payment will be due to the City pursuant to this section if the assessed value of the Hotel (improvements only) is greater than or equal to Seventy Million Dollars (\$70,000,000).

6.4.4 As part of the Project, the Property will be merged via a lot line adjustment with an existing parcel that includes Building 20 and Building 23 (“Merged Site”). It is expected that the Merged Site will be assessed as a single tax parcel. Because it is expected that the Merged Site will be assessed as a single tax parcel, the parties expect that Building 21, Building 22 and the Hotel will not be separately assessed from other improvements, and, therefore, it will be necessary for the parties to agree upon a methodology for determining the assessed value of Building 21, Building 22 and the Hotel (as applicable). As Building 21, Building 22 and the Hotel are completed, the parties shall confer in good faith and attempt to develop a means for equitably determining the assessed value of those improvements. If the parties cannot agree on the assessed value for any improvement(s), then either party may submit the dispute to arbitration in accordance with the commercial arbitration rules of the American Arbitration Association or JAMS/Endispute. The decision of the arbitrator(s) shall be final and binding on the parties.

6.4.5 Nothing herein shall limit Facebook's right to challenge or appeal any assessment of the Property, any assessment of personal property situated at the Property, and/or the amount of taxes payable to the San Mateo County Tax Collector in any year. The benefit under this Section 6.4 shall not be payable unless the City signs off on building permits allowing occupancy by Facebook of Building 21.

6.5 Utility User's Tax Cap. Commencing upon the Guarantee Commencement Date, Facebook agrees that the protections afforded by Section 3.14.120 of the City's Municipal Code, which establishes a maximum cumulative tax payable for utility services (“Utility User's Tax Cap”), shall not apply to the Property, and that Facebook shall pay the City all Utility User's Taxes for the Property notwithstanding the Utility User's Tax Cap. In addition, and commencing upon the earlier of January 1 or July 1 following the Effective Date of this Agreement, Facebook agrees that the Utility User's Tax Cap shall not apply to the City's collection of Utility User's Taxes for Building 20, located at 1 Facebook Way.

#### 6.6 Sales and Use Taxes.

6.6.1 For all construction work performed as part of the Project, Facebook agrees to make diligent, good faith efforts, with the assistance of City's designated representative to include a provision in all construction contracts for Five Million Dollars (\$5,000,000) or more with qualifying contractors, subcontractors and material suppliers holding reseller's permits to obtain a sub-permit from the California State Board of Equalization to book and record construction materials purchases/sales as sales originating within the City. Upon request of the City Manager or the City's designated representative, Facebook shall make available copies of such contracts or other documentation demonstrating compliance with these requirements. Facebook shall have the right to redact unrelated portions of such contracts. The provisions of this Section 6.6.1 shall not be applicable to any subsequent remodeling or construction on the Property following final building permit sign off for Building 21 and Building 22 and the Hotel to be built as part of the Project.

6.6.2 With respect to the purchase of furnishings, equipment and personal property for the initial occupancy of Building 21 and Building 22 and the Hotel to be constructed as part of the Project, Facebook shall cooperate with the City and its designated

representative and, if the City or its designated representative identifies commercially reasonable strategies to maximize use taxes to be received by the City, to then use diligent, good faith efforts to maximize use taxes to be received by the City with respect to the purchase and use of such furnishings, equipment and personal property by acting in accordance with the commercially reasonable strategies identified by the City or its designated representative (and in any case, only to the extent allowed by applicable Laws). Notwithstanding the preceding, Facebook shall not be obligated to establish a California Sales and Use Tax permit and/or a Use Tax Direct Payment Permit identifying the City as the point of sale or the point of use for allocation purposes, but shall be obligated to provide City or its designated representative with such documents as are reasonably necessary to assist City or such representative in ensuring the appropriate allocation of use taxes to the Property.

6.7 To the extent sales and/or use taxes are not separately reported for the Property, the West Campus (i.e., Building 20) and the East Campus (i.e., Buildings 10-19), and provided that Facebook occupies both the West Campus and the East Campus, there shall be an equitable apportionment of the sales and use taxes to each campus based on location of employees, square footage of buildings, point of sale or such other equitable apportionment as the Parties may determine. The sales and/or use taxes referred to in this Section shall not include any sales and/or use taxes generated by the Hotel.

## 7. Transportation and Infrastructure Public Benefits.

7.1.1 Dumbarton Transportation Corridor Study. Facebook has committed One Million Dollars (\$1,000,000) in funding to SamTrans to conduct the Dumbarton Transportation Corridor Study. The purpose of the study is to evaluate ways to improve the existing rail line as a multi-modal transit corridor. This study is currently scheduled to be completed in April 2017.

7.1.2 Funding Recommendations from Dumbarton Transportation Corridor Study. Facebook agrees to fund future recommendations arising from the Dumbarton Transportation Corridor Study in the amount of up to One Million Dollars (\$1,000,000) ("Dumbarton Corridor Funding"). Within ninety (90) days after SamTrans publishes the final version of Dumbarton Transportation Corridor Study, Facebook shall evaluate the recommendations contained in the Dumbarton Transportation Corridor Study and provide a written proposal identifying recommendations for how the Dumbarton Corridor Funding should be allocated for review by the City Manager or his or her designee. By way of example only, the Dumbarton Corridor Funding could be used to fund recommendations such as providing funding to SamTrans for design and/or environmental clearance for preferred corridor transit improvements, providing resources and funding to extinguish freight trackage rights and re-certification of the corridor with the Federal Transportation Authority to allow multiple modes, or funding other actions that would support the activation of Dumbarton Rail Corridor to support regional mobility options. Within sixty (60) days of receiving Facebook's written proposal, the City shall confer with Facebook regarding the specific improvements and/or funding initiatives it believes should be made by Facebook to facilitate implementation of the recommendations set forth in the Dumbarton Corridor Study. Final decisions regarding how the Dumbarton Corridor Funding is allocated shall be made by Facebook in its discretion, subject to the City's approval which shall not be unreasonably withheld or delayed. With input from the City, Facebook shall

then make the Dumbarton Corridor Funding available upon the later of (a) occupancy of Building 21 by Facebook or (b) sixty (60) days following Facebook's receipt of City's written response and report back to the City as part of the annual review required by Section 12.1 of this Agreement.

7.1.3 Dumbarton Rail Trail Study. Facebook has committed Seven Hundred Thousand Dollars (\$700,000) in funding to SamTrans for the pre-design and environmental clearance of a pedestrian/bicycle path between East Palo Alto and the Redwood City Caltrain Station. The purpose of this study is to enable the shared path to be environmentally cleared if it is selected as a preferred solution by SamTrans in the Dumbarton Corridor Study.

7.1.4 Transportation Management Association Feasibility and Implementation Strategy. Facebook agrees to make a one-time payment in the amount of One Hundred Thousand Dollars (\$100,000) to the City to be set aside in a special fund and earmarked for the development of a Transportation Management Association Feasibility and Implementation Strategy study ("TMA Study"). Such payment shall be required within sixty (60) days of the City's request for payment indicating the City is prepared to initiate the TMA study. This purpose of the TMA Study will identify potential ways in which a TMA could be formed and evaluate implementation strategies and best practices including providing shuttles open to the public, developing transportation system and demand management strategies, securing funding from private employers, landowners, city, regional, State, and Federal agencies coordinating nonautomotive transportation modes, including bike share and incentive base transportation alternatives, and expanding the transit network in the City. Any additional funds that remain upon completion of the TMA Study shall be used by the City to fund a portion of the TMA's startup costs. Facebook further agrees to cooperate with the City and other landowners and employers in the Bayfront Area in connection with the implementation of a TMA, and to share Facebook's best practices with other members of the TMA upon its formation.

7.1.5 Regional Transportation Forum. In recognition of the fact that regional transportation issues require equitable regional partnerships, Facebook shall sponsor a forum in partnership with officials from the City, East Palo Alto, San Mateo County, and Santa Clara County to consider and evaluate innovative ways that the recommendations of the Dumbarton Transportation Corridor Study may be executed with minimal delays. Facebook envisions that this forum will concentrate on funding, operational and construction strategies as well as innovations intended to facilitate an integrated execution of regional improvements to multi-modal transportation options. Facebook shall commit One Million Dollars (\$1,000,000) in funding to sponsor this forum. Facebook shall commence the process of facilitating this forum within six (6) months of the date SamTrans publishes the final version of Dumbarton Corridor Study, which is anticipated to occur in April 2017, and shall use diligent good faith efforts to convene the forum within two (2) years of starting the process. Facebook shall also use diligent good faith efforts to include representatives from the City, East Palo Alto, San Mateo County, Santa Clara County, and SamTrans in the process. In addition, and following the forum, Facebook agrees to provide assistance and support to develop design, operational and construction strategies to implement recommendations arising out of the forum, provided that the amount of any financial assistance will be in Facebook's sole and absolute discretion.

7.1.6 Chilco Streetscape Improvements (Phases 1 through 4). Facebook shall complete certain capital improvements associated with Phases 1 through 4 of the Chilco Streetscape Improvements at its sole cost. Facebook shall coordinate the design of the Chilco Streetscape Improvements with the City and shall provide detailed plans and specifications for construction of the improvements to the City for final review and approval of the City Manager or designee. Subject to the City Manager's approval, Facebook shall pay for and cause the construction of the Chilco Streetscape Improvements to be completed in phases: (1) Phases 3a and 3b improvements shall be completed prior to the date of the City's final building inspection of Building 21; and (2) Phase 4A and 4B shall be completed prior to the date of the City's final building inspection of Building 22. If permits or approvals are required from outside agencies and such permits or approvals delay issuance of permits or completion of construction, or if construction is delayed for reasons beyond Facebook's reasonable control, then Facebook shall have such additional time to complete such capital improvements as may be reasonably necessary resulting from such delays beyond Facebook's reasonable control. Facebook shall work diligently and in good faith with the City to obtain the necessary permits or approvals from outside agencies; however, if such permits or approvals from outside agencies are rejected for reasons beyond Facebook's reasonable control, then Facebook shall not be obligated to complete that particular improvement and the parties shall work together to determine alternate or substitute improvements. The approximate location and scope of the improvements described in this Section are identified in Exhibit C, attached hereto.

7.1.7 Chilco Streetscape Improvements (Phases 5 and 6). Facebook shall also complete certain capital improvements associated with Phases 5 and 6 of the Chilco Streetscape Improvements, in the approximate locations shown on Exhibit C, at its sole cost, provided, however, that Facebook shall be entitled to a credit against any construction road impact fees imposed on the Project in an amount equal to the actual costs of constructing Phases 5 through 6. Subject to the City Manager's approval of the design for Phases 5 and 6 of the Chilco Streetscape Improvements, Facebook shall pay for and cause the construction of such improvements to be completed pursuant to a schedule to be reasonably agreed upon by Facebook and the City. If permits or approvals are required from outside agencies and such permits or approvals delay issuance of permits or completion of construction, or if construction is delayed for reasons beyond Facebook's reasonable control, then Facebook shall have such additional time to complete such capital improvements as may be reasonably necessary resulting from such delays beyond Facebook's reasonable control. Facebook shall work diligently and in good faith with the City to obtain the necessary permits or approvals from outside agencies; however, if such permits or approvals from outside agencies are rejected for reasons beyond Facebook's reasonable control, then Facebook shall not be obligated to complete that particular improvement and the parties shall work together to determine alternate or substitute improvements.

## 8. Housing Public Benefits.

8.1.1 Housing Inventory and Local Supply Study. In order to provide a framework for future, fact-based actions and policy-making related to long-term housing solutions in Belle Haven and East Palo Alto, Facebook agrees to collaborate with officials and local stakeholders in the City and East Palo Alto to conduct a Housing Inventory and Local Supply Study to assess the conditions, occupancy, and resident profiles of residents living in the immediate vicinity of the Property (including, but not limited to Belle Haven, Fair Oaks and the

City of East Palo Alto). The purpose of this study is to establish a baseline understanding of the housing conditions in the area, to facilitate the development of an informed regional housing strategy, and to develop concrete recommendations to help to support the preservation of affordable and workforce housing. Facebook agrees to fund up to Three Hundred and Fifty Thousand Dollars (\$350,000) for the study and shall be responsible for selecting a qualified consultant to undertake the study. Facebook shall make diligent good faith efforts to coordinate with the City Manager of the City of Menlo Park or his or her designee, the City Manager of the City of East Palo Alto, local community organizations, and other regional stakeholders, in the development of the study, and to convene an advisory group comprising Facebook representatives, elected officials from the City of Menlo Park and the City of East Palo Alto, and members of local community organizations to participate in the process. Facebook shall commence the process of initiating the study within 30 days of satisfaction of the Conditions Precedent, and shall use diligent good faith efforts to complete the study within eighteen (18) months from commencement. Within thirty (30) days of completion of the study, Facebook shall provide a copy of the study to the City Manager of the City of Menlo Pak and the City Manager of the City of East Palo Alto.

8.1.2 Housing Innovation Fund. Prior to completion of the Housing Inventory and Local Supply Study described in 8.1.1 above, Facebook shall establish a Housing Innovation Fund to identify near-term actions that may be taken within the local community (including Belle Haven and East Palo Alto) as a direct outcome of the Housing Inventory and Local Supply Study. Facebook shall commit One Million Five Hundred Thousand Dollars (\$1,500,000) to establish the Housing Innovation Fund and provide seed funding for near-term implementation actions. The funding commitment shall be used exclusively for implementation actions and shall not be used for operating expenses associated with administration of the Fund, or expenses associated with formation of the Fund itself (e.g., startup costs). Facebook anticipates that the Housing Innovation Fund would be established as a non-profit organization that would be initially run by members of the advisory group convened to provide oversight over the Housing Inventory and Local Supply Study, including Facebook representatives, local elected officials and members of local community organizations. The board would initially be comprised of eight (8) members, including at least one member selected by the City Manager of the City of Menlo Park and one member selected by the City Manager of the City of East Palo Alto. The remaining members shall be selected by Facebook in its sole and absolute discretion. Facebook's obligation to provide additional assistance and support for the Housing Innovation Fund above and beyond the funding contribution identified above will be in Facebook's sole and absolute discretion.

8.1.3 Affordable Housing Preservation Pilot Program. Facebook shall work in partnership with a reputable non-profit affordable housing partner to create and/or provide funding for a Housing Preservation pilot project. The purpose of the pilot project is to identify and purchase housing in the immediate vicinity of the Property (including but not limited to Belle Haven and East Palo Alto) to protect at-risk populations and serve as part of a regional anti-displacement strategy. Within one year of satisfaction of the Conditions Precedent, Facebook shall identify an appropriate non-profit affordable housing partner and contribute One Million Dollars (\$1,000,000) towards a suitable Housing Preservation pilot project, to be determined by Facebook at Facebook's sole and absolute discretion. The funding commitment shall be used exclusively for implementation actions and shall not be used for operating expenses

associated with administration of the non-profit affordable housing partner, or administrative expenses associated with any particular pilot project. Facebook has already coordinated with non-profit affordable housing partners to identify potential programs that would qualify for funding, which could include programs targeting single-family preservation and/or multi-family preservation, as well as “public-private partnerships” that could involve funding sources from private entities and public agencies. In selecting an appropriate recipient, Facebook shall consider the extent to which its contribution would be leveraged or combined with additional funding sources to ensure the greatest possible impact. Upon written request by the City (to be provided not more than once per year), Facebook shall report out on the status of its funding contribution pursuant to this Section 8.1.3 and provide information regarding how the funding contribution was allocated.

8.1.4 Workforce Housing Fund Pilot Program. Within one year of satisfaction of the Conditions Precedent, Facebook shall initiate a Workforce Housing pilot program in the Belle Haven community. This pilot program will subsidize rents for not less than twenty-two (22) units of workforce housing at the residential development located at 777 Hamilton Avenue, currently under development, for community serving professions such as teachers. Facebook shall select and partner with an appropriate non-profit housing organization (such as Hello Housing) to administer the program; the selection of an appropriate partner shall be at Facebook’s sole and absolute discretion. The allocation of the units will be prioritized as follows: (1) first to teachers employed by the Ravenswood City School District or a non-profit school that is located in the area encompassed by the Ravenswood City School District, (2) second to teachers employed by the Menlo Park City School District, the Las Lomas School District or teachers directly employed by Menlo-Atherton High School, (3) third to persons engaged in public safety professions (e.g., police officers, fire fighters, etc.) and employed by the City or the Menlo Park Fire Protection District, and (4) fourth to persons employed by public interest non-profit organizations located in the cities of Menlo Park or East Palo Alto. Facebook agrees to commit up to Four Hundred and Thirty Thousand Dollars (\$430,000) per year for five (5) years (up to Two Million One Hundred and Fifty Thousand Dollars (\$2,150,000) total) for the program, which represents an average subsidy of One Thousand Six Hundred Twenty-Eight Dollars (\$1,628) per unit per month. For purposes of this section, “workforce housing” shall mean housing that is affordable to qualifying households as mutually agreed upon by Facebook and the City. The particular mix of units and levels of subsidy shall be determined by Facebook in consultation with an appropriate non-profit housing organization.

8.1.5 Use of BMR Housing Fees. As part of the Approvals, Facebook will be entering into a Below Market Rate (“BMR”) Housing Agreement with the City to satisfy the requirements under Chapter 16.96 of the City’s Municipal Code. As part of the implementation of the BMR Housing Agreement, Facebook shall use diligent good faith efforts to identify opportunities to partner with a non-profit housing organization in order to leverage the use of BMR housing fees payable in connection with the Project to develop the maximum number of units that can be procured with those fees.

8.1.6 Commitment to Design Housing Units Pending Completion of General Plan Update. Subject to completion and approval of the pending ConnectMenlo process, which proposes updating the City’s General Plan and rezoning portions of the Bayfront Area for mixed-use and residential uses, Facebook shall commit to the planning and design of at least

1,500 housing units on the approximately 56-acre site known as the Menlo Science & Technology Park located in the Bayfront Area. Facebook further agrees that any future application to develop residential units on the Menlo Science & Technology Park site will include a commitment to include no less than fifteen percent (15%) BMR units and/or workforce housing units (regardless of whether the proposed units are for sale or rentals). Facebook shall have no obligation to construct these units or to submitting an application for the future redevelopment of the Menlo Science & Technology Park site. The parties further recognize that any future redevelopment would be subject to a future discretionary review process including environmental review under the California Environmental Quality Act. In addition, this obligation shall only apply so long as the Menlo Science & Technology Park site is owned by Facebook (or an affiliate of Facebook) and shall not run with the land or bind bona-fide third party purchasers of the Menlo Science & Technology Park site in the event of a sale.

9. Local Community Benefits.

9.1.1 Belle Haven Community Pool Maintenance and Operations.

Within one year of satisfaction of the Conditions Precedent, Facebook shall contribute an initial Sixty Thousand Dollars (\$60,000) to the City to be applied exclusively for operating and maintenance costs for the community pool at the Onetta Harris Community Center, and shall make an additional contribution of Sixty Thousand Dollars (\$60,000) on July 1 of each of the following four (4) calendar years to the City for the same purpose (for a total of five (5) years). The total amount of Facebook's commitment under this Section 9.1.1 is Three Hundred Thousand Dollars (\$300,000).

9.1.2 Local Scholarship Program. Within one year of satisfaction of the Conditions Precedent, Facebook shall establish, or shall partner with an appropriate organization to establish, an educational scholarship program to provide financial assistance for young residents of the City and East Palo Alto for ten (10) years, and shall contribute One Hundred Thousand Dollars (\$100,000) per year for ten (10) years in scholarship funds. Decisions regarding eligibility criteria and distribution of funding shall be made by Facebook in its sole and absolute discretion. The total amount of Facebook's commitment under this Section 9.1.2 is One Million Dollars (\$1,000,000).

9.1.3 Local Community Fund. Within one year of satisfaction of the Conditions Precedent, Facebook shall contribute an additional One Hundred Thousand Dollars (\$100,000) to the Local Community Fund ("LCF") previously established and funded by Facebook, and shall continue to contribute One Hundred Thousand Dollars (\$100,000) per year to the LCF for a total period of ten (10) years. After the ten (10) year period is complete, Facebook will consider whether to provide additional funding for the LCF. The decision of whether to contribute additional funding shall be in Facebook's sole and absolute discretion. The benefit under this Section 9.1.3 shall not be payable unless the City signs off on building permits allowing occupancy by Facebook of Building 21. The total amount of Facebook's commitment under this Section 9.1.3 is One Million Dollars (\$1,000,000,000).

9.1.4 Bedwell Bayfront Park Maintenance. Within one year of satisfaction of the Conditions Precedent, Facebook shall contribute One Million Dollars (\$1,000,000) to the Bedwell Bayfront Park Maintenance Fund for maintenance and operation.



The decision regarding how to spend those funds on maintenance and operation of the park shall be in the sole discretion of the City.

9.1.5 Public Open Space; Multi-Use Bridge Facility; Public Access.

Facebook shall construct, operate, and maintain a new two-acre publicly accessible open space and safe multi-use pedestrian/bicyclist bridge across the Bayfront Expressway as shown on the approved plans and in the Project Approvals for public use as provided for in the CDP. The obligation to construct, operate and maintain the multi-use pedestrian/bicyclist bridge shall arise upon issuance of building permits for Building 21 and be governed by the Conditional Development Permit. Facebook's obligations to construct the multi-use pedestrian/bicyclist bridge pursuant to this Section 9.1.5 is expressly conditioned on Facebook's receipt of such permits and approvals from governmental or quasi-governmental agencies other than the City having jurisdiction over the multi-use bridge and associated improvements as may be required. At the end of the useful life of the multi-use pedestrian/bicyclist bridge, Facebook shall have the right to demolish the bridge improvements and shall have no obligation to replace or reconstruct the improvements. The obligation to construct, operate and maintain the two-acre publicly accessible open space shall arise upon issuance of building permits for Building 22. The open space shall primarily be used as passive open space, but Facebook agrees to make the open space reasonably available from time to time for community programming and events such as farmer's markets, movie-nights and food truck festivals in its sole discretion. Facebook, in Facebook's reasonable discretion, will also install other amenities in this area for the benefit of the public. The public access right to the open space will be a right to pass by permission and Facebook will have the right to implement reasonable rules and regulations governing such access. The City further agrees to cooperate with Facebook to ensure that Facebook has reasonable control over the public open space, and agrees that a public easement is not required in order to maintain the open space as publicly accessible.

9.2 Design and Environmental Commitments. Facebook has entered into a contract with Gehry Partners LLP for design of the office components of the Project, and Facebook anticipates that Gehry Partners LLP will be the registered architect for office components of the Project. Facebook will cause the design of the buildings located at the Property to perform to LEED Building Design and Construction (BD+C) Gold equivalency, and will commit to installing photovoltaic solar panels at Building 21. Facebook may satisfy this obligation by delivering a report from its LEED consultant to the City demonstrating satisfaction with this condition. That report will be subject to approval by the City (not to be unreasonably withheld or conditioned). Facebook will also commit to enhanced soil remediation and other environmental cleanup measures at the Property, consistent with the Soil Management Plan for the Property and which may require Facebook to conduct additional testing and grid sampling above and beyond what is ordinarily required by the California Department of Toxic Substance Control.

9.2.1 When performing work that might impact the bay-lands, Facebook will hire an environmental consultant knowledgeable about the San Francisco Bay and associated marsh habitats to ensure that endangered species, particularly the Salt Marsh Harvest Mouse and Clapper Rail, are not harmed.

9.2.2 Facebook will cooperate with the Don Edwards San Francisco Bay National Wildlife Refuge ("Refuge") team and consult with related nonprofit groups on habitat protection and restoration adjacent to the Property. Facebook will establish an ongoing, in-house point of contact for the Refuge, nonprofit groups and related agencies to ensure collaborative success.

9.2.3 Facebook will educate employees and visitors about the unique species next to the Property and their habitat requirements. Such education may be by way of installing appropriate interpretive signage and/or hosting educational programs.

9.2.4 Facebook will engage in "wildlife-friendly" behavior, such as (a) adopting policies requiring the trapping and removal of feral cats and the leashing of dogs when using trails located on the Property, (b) employing wildlife-safe rodent control measures, (c) encouraging beneficial species (through, for example, the installation of bat houses), and (d) implementing bird-safe design standards into the Project's office buildings and lighting design.

9.2.5 Facebook will use (or require use of) available best practices to ensure that new building roofs, window ledges, parking lot light poles and landscaping changes do not create sites for predatory bird species to roost or nest.

9.2.6 Within ninety (90) days of completion of the bridge improvements, Facebook will fund a seasonal docent for two (2) years for the Don Edwards National Wildlife Refuge, a new interpretive display associated with the multi-use bridge, realignment of a portion of the Bay Trail adjacent to the bridge to provide east-west connectivity around the proposed northern ramp of the bridge, and a snowy plover enhancement study to benefit Bedwell Bayfront Park, all as detailed in the Biological Assessment prepared for the United States Fish and Wildlife Service and dated June 7, 2016.

9.2.7 Facebook agrees to use diligent good faith efforts to install a recycled water system on the Property to serve Buildings 21 and 22 Within sixty (60) days of the City's sign off on final building permits allowing occupancy of Building 21 by Facebook, Facebook agrees to contribute Twenty Five Thousand Dollars (\$25,000) in seed funding to the City to conduct feasibility studies for a Bayfront Area-wide recycled water system. If Facebook is unable to obtain all permits necessary to construct and operate an on-site recycled water system through no fault or lack of diligence on the part of Facebook, Facebook agrees to (a) connect the office buildings to any future recycled water system developed by a Recycled Water Purveyor recognized by the City of Menlo Park or Menlo Park Municipal Water District (the "Recycled Water Purveyor") and utilize recycled water for landscaping and non-potable uses for Buildings 21 and 22 at such time as a system to serve the Project and other properties in the vicinity of the Project is constructed, (b) offer to provide the Recycled Water Purveyor with initial funding not to exceed One Million Five Hundred Thousand Dollars (\$1,500,000) for the Recycled Water Purveyor to use in financing the development and construction of a recycled water system capable of serving the Project in exchange for a credit against future capital expense charges that would otherwise be incurred by users participating in the Recycled Water Purveyor's recycled water system, and (c) if the Recycled Water Purveyor's does not accept Facebook's offer to provide initial financing, Facebook shall pay a reasonable proportionate share of the Recycled Water Purveyor's costs of developing and/or implementing the system in a

manner consistent with conditions imposed on other similarly situated projects in the Bayfront Area. In addition, if the Recycled Water Purveyor develops an area-wide recycled water system serving multiple properties in the Bayfront Area, Facebook agrees that any applications submitted by Facebook or its affiliates to develop buildings (other than the buildings proposed as part of the Project) in the Bayfront Area will include a commitment to pay a reasonable proportionate share of the Recycled Water Purveyor's costs of developing and/or implementing the system in a manner consistent with conditions imposed on other similarly situated projects in the Bayfront Area.

10. Amendment to Development Agreement for the Facebook East Campus Project.

No later than the issuance of occupancy for Building 21, Facebook agrees to record an amendment to the Development Agreement for the East Campus Project ("East Campus DA") that eliminates Facebook's right to reduce the Annual Payment (as defined in the East Campus DA) in exchange for a reduction in the allowed number of trips; provided, however, that Facebook shall retain the right to suspend the Density Increase (as defined in the East Campus DA) and comply with the employee/density cap contained in the original project approvals for the Sun Microsystems project, in which case Facebook's obligations to make Annual Payments (as defined in the East Campus DA) will likewise be suspended in its entirety. In the event that Facebook terminates this Agreement pursuant to Section 19 and the amendment to the East Campus DA has already been recorded, the City agrees that Facebook will have the right to annul the amendment and that the terms of the original East Campus DA will remain in full force and effect.

11. Indemnity. Facebook shall indemnify, defend and hold harmless City, and its elective and appointive boards, commissions, officers, agents, contractors, and employees (collectively, "City Indemnified Parties") from any and all claims, causes of action, damages, costs or expenses (including reasonable attorneys' fees) arising out of or in connection with, or caused on account of, the development and occupancy of the Project, any Approval with respect thereto, or claims for injury or death to persons, or damage to property, as a result of the operations of Facebook or its employees, agents, contractors, representatives or tenants with respect to the Project (collectively, "Facebook Claims"); provided, however, that Facebook shall have no liability under this Section 11 for Facebook Claims arising from the gross negligence or willful misconduct of any City Indemnified Party, or for Claims arising from, or that are alleged to arise from, the repair or maintenance by the City of any improvements that have been offered for dedication by Facebook and accepted by the City. The indemnity provisions in this Section 11 shall survive termination of this Agreement.

12. Periodic Review for Compliance.

12.1 Annual Review. The City shall, at least every twelve (12) months during the term of this Agreement, review the extent of Facebook's good faith compliance with the terms of this Agreement pursuant to Government Code § 65865.1 and Resolution No. 4159. Such review shall be scheduled to coincide with the City's review of compliance with the Development Agreements for the Facebook East Campus Project and Facebook West Campus Project. Notice of such annual review shall be provided by the City's Community Development Director to Facebook not less than thirty (30) days prior to the date of the hearing by the Planning Commission on Facebook's good faith compliance with this Agreement and shall to the

extent required by law include the statement that any review may result in amendment or termination of this Agreement. A finding by the City of good faith compliance with the terms of this Agreement shall conclusively determine the issue up to and including the date of such review.

12.2 Non-Compliance. If the City Council makes a finding that Facebook has not complied in good faith with the terms and conditions of this Agreement, the City shall provide written notice to Facebook describing (a) such failure and that such failure constitutes a Default, (b) the actions, if any, required by Facebook to cure such Default, and (c) the time period within which such Default must be cured. If the Default can be cured, Facebook shall have a minimum of thirty (30) days after the date of such notice to cure such Default, or in the event that such Default cannot be cured within such thirty (30) day period, if Facebook shall commence within such thirty (30) day time period the actions necessary to cure such Default and shall be diligently proceeding to complete such actions necessary to cure such Default, Facebook shall have such additional time period as may be required by Facebook within which to cure such Default.

12.3 Failure to Cure Default. If Facebook fails to cure a Default within the time periods set forth above, the City Council may amend or terminate this Agreement as provided below.

12.4 Proceeding Upon Amendment or Termination. If, upon a finding under Section 12.2 of this Agreement and the expiration of the cure period specified in such Section 12.2, the City determines to proceed with amendment or termination of this Agreement, the City shall give written notice to Facebook of its intention so to do. The notice shall be given at least thirty (30) days before the scheduled hearing and shall contain:

12.4.1 The time and place of the hearing;

12.4.2 A statement that the City proposes to terminate or to amend this Agreement; and

12.4.3 Such other information as is reasonably necessary to inform Facebook of the nature of the proceeding.

12.5 Hearings on Amendment or Termination. At the time and place set for the hearing on amendment or termination, Facebook shall be given an opportunity to be heard, and Facebook shall be required to demonstrate good faith compliance with the terms and conditions of this Agreement. If the City Council finds, based upon substantial evidence, that Facebook has not complied in good faith with the terms or conditions of this Agreement, the City Council may terminate this Agreement or, with Facebook's agreement to amend rather than terminate, amend this Agreement and impose such conditions as are reasonably necessary to protect the interests of the City. The decision of the City Council shall be final, subject to judicial review pursuant to Section 1094.5 of the California Code of Civil Procedure.

12.6 Effect on Transferees. If Facebook has transferred a partial interest in the Property to another party so that title to the Property is held by Facebook and additional parties

or different parties, the City shall conduct one annual review applicable to all parties with a partial interest in the Property and the entirety of the Property.

13. Permitted Delays; Subsequent Laws.

13.1 Extension of Times of Performance. In addition to any specific provisions of this Agreement, (i) the deadline for Facebook to submit a Substantially Complete Building Permit Application under Section 2.2 shall be extended; and (ii) the performance by any Party of its obligations under this Agreement shall not be deemed to be in Default, and the time for performance of such obligation shall be extended; where delays or failures to perform are due to war, insurrection, strikes, lockouts, riots, floods, earthquakes, fire, casualties, acts of God, acts of the public enemy, epidemics, quarantine restrictions, freight embargoes, restrictions imposed by governmental or quasi-governmental entities other than the City, unusually severe weather, acts of another Party, acts or the failure to act of any public or governmental agency or entity (except that acts or the failure to act of the City shall not excuse the City's performance) or any other causes beyond the reasonable control, or without the fault, of the Party claiming an extension of time to perform. An extension of time for any such cause shall only be for the period of the enforced delay, which period shall commence to run from the time of the commencement of the cause of the delay. If a delay occurs, the Party asserting the delay shall use reasonable efforts to notify promptly the other Parties of the delay. If, however, notice by the Party claiming such extension is sent to the other Party more than 30 days after the commencement of the cause of the delay, the period shall commence to run as of only 30 days prior to the giving of such notice. The time period for performance under this Agreement may also be extended in writing by the joint agreement of the City and Facebook. Litigation attacking the validity of the EIR, the Project Approvals and/or the Project shall also be deemed to create an excusable delay under this Section 13.1, but only to the extent such litigation causes a delay and the Party asserting the delay complies with the notice and other provisions regarding delay set forth hereinabove. Except as expressly set forth in Section 2.2 and this Section 13.1, in no event shall the term of this Agreement be extended by any such delay without the mutual written agreement of the City and Facebook.

13.2 Superseded by Subsequent Laws. If any Law made or enacted after the date of this Agreement prevents or precludes compliance with one or more provisions of this Agreement, then the provisions of this Agreement shall, to the extent feasible, be modified or suspended as may be necessary to comply with such new Law. Immediately after enactment of any such new Law, the Parties shall meet and confer reasonably and in good faith to determine the feasibility of any such modification or suspension based on the effect such modification or suspension would have on the purposes and intent of this Agreement. If such modification or suspension is infeasible in Facebook's reasonable business judgment, then Facebook shall have the right to terminate this Agreement by written notice to the City. Facebook shall also have the right to challenge the new Law preventing compliance with the terms of this Agreement, and in the event such challenge is successful, this Agreement shall remain unmodified and in full force and effect. Notwithstanding the preceding, nothing herein shall permit the City to enact Laws that conflict with the terms of this Agreement.

14. Termination.

14.1 City's Right to Terminate. The City shall have the right to terminate this Agreement only under the following circumstances:

14.1.1 The City Council has determined that Facebook is not in good faith compliance with the terms of this Agreement, and this Default remains uncured, all as set forth in Section 12 of this Agreement.

14.2 Facebook's Right to Terminate. Facebook shall have the right to terminate this Agreement only under the following circumstances:

14.2.1 Facebook has determined that the City is in Default, has given the City notice of such Default and the City has not cured such Default within thirty (30) days following receipt of such notice, or if the Default cannot reasonably be cured within such thirty (30) day period, the City has not commenced to cure such Default within thirty (30) days following receipt of such notice and is not diligently proceeding to cure such Default.

14.2.2 Facebook is unable to complete the Project or desires to terminate this Agreement because of supersedure by a subsequent Law or court action, as set forth in Sections 13.2 and 19 of this Agreement.

14.2.3 Facebook determines in the first five years after the Effective Date, in its business judgment, that it does not desire to proceed with the construction of the Project.

14.3 Mutual Agreement. This Agreement may be terminated upon the mutual written agreement of the Parties.

14.4 Effect of Termination. If this Agreement is terminated pursuant to this Section 14, such termination shall not affect (a) any condition or obligation due to the City from Facebook and arising prior to the date of termination and/or (b) the Project Approvals.

14.5 Recordation of Termination. In the event of a termination, the City and Facebook agree to cooperate with each other in executing and acknowledging a Memorandum of Termination to record in the Official Records of San Mateo County within thirty (30) days following the effective date of such termination.

15. Remedies. Any Party may, in addition to any other rights or remedies provided for in this Agreement or otherwise available at law or equity, institute a legal action to cure, correct or remedy any Default by the another Party; enforce any covenant or agreement of a Party under this Agreement; enjoin any threatened or attempted violation of this Agreement; or enforce by specific performance the obligations and rights of the Parties under this Agreement.

16. Waiver; Remedies Cumulative. Failure by a Party to insist upon the strict performance of any of the provisions of this Agreement by another Party, irrespective of the length of time for which such failure continues, shall not constitute a waiver of such Party's right to demand strict compliance by such other Party in the future. No waiver by a Party of a Default shall be effective or binding upon such Party unless made in writing by such Party, and no such

waiver shall be implied from any omission by a Party to take any action with respect to such Default. No express written waiver of any Default shall affect any other Default, or cover any other period of time, other than any Default and/or period of time specified in such express waiver. All of the remedies permitted or available to a Party under this Agreement, or at law or in equity, shall be cumulative and not alternative, and invocation of any such right or remedy shall not constitute a waiver or election of remedies with respect to any other permitted or available right or remedy.

17. Attorneys' Fees. If a Party brings an action or proceeding (including, without limitation, any cross-complaint, counterclaim, or third-party claim) against another Party by reason of a Default, or otherwise to enforce rights or obligations arising out of this Agreement, the prevailing Party in such action or proceeding shall be entitled to recover from the other Party its costs and expenses of such action or proceeding, including reasonable attorneys' fees and costs, and costs of such action or proceeding, which shall be payable whether such action or proceeding is prosecuted to judgment. "Prevailing Party" within the meaning of this Section 17 shall include, without limitation, a Party who dismisses an action for recovery hereunder in exchange for payment of the sums allegedly due, performance of the covenants allegedly breached, or consideration substantially equal to the relief sought in the action.

18. Limitations on Actions. The City and Facebook hereby renounce the existence of any third party beneficiary of this Agreement and agree that nothing contained herein shall be construed as giving any other person or entity third party beneficiary status. If any action or proceeding is instituted by any third party challenging the validity of any provisions of this Agreement, or any action or decision taken or made hereunder, the Parties shall cooperate in defending such action or proceeding.

19. Effect of Court Action. If any court action, legal proceeding or referendum is brought by any third party seeking to set aside or challenge the EIR, the Project Approvals and/or the Project, or any portion thereof, and without regard to whether Facebook is a party to or real party in interest in such action or proceeding, then (a) Facebook shall have the right to terminate this Agreement upon thirty (30) days' notice in writing to City, given at any time during the pendency of such action or proceeding, or within ninety (90) days after the final determination therein (including any appeals), irrespective of the nature of such final determination, and (b) any such action or proceeding shall constitute a permitted delay under Section 13.1 of this Agreement. Facebook shall pay the City's cost and expense, including attorneys' fees and staff time incurred by the City in defending any such action or participating in the defense of such action and shall indemnify the City from any award of attorneys' fees awarded to the party challenging this Agreement, the Project Approvals or any other permit or Approval. The defense and indemnity provisions of this Section 19 shall survive Facebook's election to terminate this Agreement. Notwithstanding anything to the contrary herein, Facebook shall retain the right to terminate this Agreement pursuant to this Section 19 even after (a) it has vacated the Property and (b) its other rights and obligations under this Agreement have terminated.

20. Estoppel Certificate. Any Party may, at any time, and from time to time, deliver written notice to the other Party requesting such other Party certify in writing, to the knowledge of the certifying Party, (a) that this Agreement is in full force and effect and a binding obligation

of the Parties, (b) that this Agreement has not been amended or modified either orally or in writing, and if so amended, identifying the amendments, (c) that the requesting Party is not in Default in the performance of its obligations under this Agreement, or if the requesting Party is in Default, the nature and amount of any such Defaults, (d) that the requesting Party has been found to be in compliance with this Agreement, and the date of the last determination of such compliance, and (e) as to such other matters concerning this Agreement as the requesting Party shall reasonably request. A Party receiving a request hereunder shall execute and return such certificate within 30 days following the receipt thereof. The City Manager shall have the right to execute any certificate requested by Facebook hereunder. The City acknowledges that a certificate may be relied upon by transferees and Mortgagees.

21. Mortgagee Protection; Certain Rights of Cure.

21.1 Mortgagee Protection. This Agreement shall be superior and senior to any lien placed upon the Property, or any portion thereof, after the date of recordation of this Agreement in the San Mateo County, California Official Records, including the lien of any Mortgage. Notwithstanding the foregoing, no breach hereof shall defeat, render invalid, diminish or impair the lien of any Mortgage, and subject to Section 22.2 of this Agreement, all of the terms and conditions contained in this Agreement shall be binding upon and effective against any person (including any Mortgagee) who acquires title to the Property, or any portion thereof, by foreclosure, trustee's sale, deed in lieu of foreclosure or otherwise, and the benefits hereof will inure to the benefit of such party.

21.2 Mortgagee Not Obligated. Notwithstanding the provisions of Section 22.2 below, no Mortgagee or other purchaser in foreclosure or grantee under a deed in lieu of foreclosure, and no transferee of such Mortgagee, purchaser or grantee shall (a) have any obligation or duty under this Agreement to construct, or to complete the construction of, improvements, to guarantee such construction or completion or to perform any other monetary or nonmonetary obligations of Facebook under this Agreement, and (b) be liable for any Default of Facebook under this Agreement; provided, however, that a Mortgagee or any such purchaser, grantee or transferee shall not be entitled to use the Property in the manner permitted by this Agreement and the Project Approvals unless it complies with the terms and provisions of this Agreement applicable to Facebook.

21.3 Notice of Default to Mortgagee; Right to Mortgagee to Cure. If the City receives notice from a Mortgagee requesting a copy of any notice of Default given Facebook hereunder and specifying the address for service thereof, then City shall deliver to such Mortgagee, concurrently with service thereon to Facebook, any notice of a Default or determination of noncompliance given to Facebook. Each Mortgagee shall have the right (but not the obligation) for a period of 90 days after the receipt of such notice from City to cure or remedy, or to commence to cure or remedy, the Default claimed or the areas of noncompliance set forth in the City's notice. If the Default or such noncompliance is of a nature which can only be remedied or cured by such Mortgagee upon obtaining possession of the Property, or any portion thereof, such Mortgagee may seek to obtain possession with diligence and continuity through a receiver, by foreclosure or otherwise, and may thereafter remedy or cure the Default or noncompliance within 90 days after obtaining possession of the Property or such portion thereof. If any such Default or noncompliance cannot, with reasonable diligence, be remedied or cured



within the applicable 90 day period, then such Mortgagee shall have such additional time as may be reasonably necessary to remedy or cure such Default or noncompliance if such Mortgagee commences a cure during the applicable 90 day period, and thereafter diligently pursues such cure to completion.

22. Assignment, Transfer, Financing.

22.1 Facebook's Right to Assign. Subject to the terms of this Agreement, Facebook shall have the right to transfer, sell and/or assign Facebook's rights and obligations under this Agreement in conjunction with the transfer, sale or assignment of all or any portion of the Property (the "Transferred Property"). If the Transferred Property shall consist of a less than the entire Property, or less than Facebook's entire title to or interest in the Property, Facebook shall have the right to transfer, sell and/or assign to the transferee only those of Facebook's rights and obligations under this Agreement that are allocable or attributable to the Transferred Property, subject to the City's consent which shall not be unreasonably withheld, conditioned, or delayed, and provided that any obligations of Facebook that apply on a Property-wide basis (such as compliance with the trip cap imposed as a condition of the Project Approvals) shall not be considered allocable or attributable to a portion of the Property. The form of any partial assignment shall also be subject to the reasonable approval of the City Attorney. Any transferee of a Transferred Property shall assume in writing the obligations of Facebook under this Agreement and the Project Approvals relating to the Transferred Property and arising or accruing from and after the effective date of such transfer, sale or assignment.

22.2 Financing. Mortgages, sales and lease-backs and/or other forms of conveyance required for any reasonable method of financing requiring a security arrangement with respect to the development of the Property are permitted without the need for the lender to assume in writing the obligations of Facebook under this Agreement and the Project Approvals. Further, no foreclosure, conveyance in lieu of foreclosure or other conveyance or transfer in satisfaction of indebtedness made in connection with any such financing shall require any further consent of the City, regardless of when such conveyance is made, and no such transferee will be required to assume any obligations of Facebook under this Agreement.

22.3 Release Upon Transfer of Property.

22.3.1 Upon Facebook's sale, transfer and/or assignment of Facebook's rights and obligations under this Agreement in accordance with this Section 22, Facebook shall be released from any obligations under this Agreement with respect to the Transferred Property which arise or accrue subsequent to the effective date of the transfer, sale and/or assignment and which are expressly assumed in writing by the transferee; provided, however, that in the event of a transfer of only a portion of the Property, Facebook shall not be released of any obligations that apply on a Property-wide basis. If a Default under this Agreement shall occur with respect to Facebook, such Default shall not constitute a Default with respect to the owner of any Transferred Property, and shall not entitle the City to terminate or modify this Agreement as to the Transferred Property; and if a Default under this Agreement shall occur with respect to the owner of a Transferred Property, such Default shall not constitute a Default with respect to Facebook or with respect to the portion of the Property owned by Facebook, and shall not entitle

the City to terminate or modify this Agreement as to the portion of the Property owned by Facebook, unless it occurs with respect to an obligation that applies against the entire Property.

23. Covenants Run With the Land. All of the provisions, agreements, rights, powers, standards, terms, covenants and obligations contained in this Agreement shall constitute covenants that shall run with the land comprising the Property, and the burdens and benefits of this Agreement shall be binding upon, and shall insure to the benefit of, each of the Parties and their respective heirs, successors, assignees, devisees, administrators, representatives and lessees, except as otherwise expressly provided in this Agreement.

24. Amendment.

24.1 Amendment or Cancellation. Except as otherwise provided in this Agreement, this Agreement may be cancelled, modified or amended only by mutual consent of the Parties in writing, and then only in the manner provided for in Government Code Section 65868 and Article 7 of Resolution No. 4159. Any amendment to this Agreement which does not relate to the term of this Agreement, the Vested Elements or the Conditions relating to the Project shall require the giving of notice pursuant to Government Code Section 65867, as specified by Section 65868 thereof, but shall not require a public hearing before the Parties may make such amendment.

24.2 Amendment Exemptions. The following actions shall not require an amendment to this Agreement:

24.2.1 Further architectural or design review of specific aspects of the Project, provided any such architectural modifications are substantially consistent with the Project Approvals.

24.2.2 Any change or modification that Facebook proposes to make to the Project or to this Agreement that constitutes a Substantially Consistent Modification. The City Manager shall have the right to determine and approve any Substantially Consistent Modification.

24.3 Recordation. Any amendment, termination or cancellation of this Agreement shall be recorded by the City Clerk not later than 10 days after the effective date thereof or of the action effecting such amendment, termination or cancellation; provided, however, a failure of the City Clerk to record such amendment, termination or cancellation shall not affect the validity of such matter.

25. Notices. Any notice shall be in writing and given by delivering the notice in person or by sending the notice by registered or certified mail, express mail, return receipt requested, with postage prepaid, or by overnight courier to the Party's mailing address. The respective mailing addresses of the Parties are, until changed as hereinafter provided, the following:

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

With a copy to: City Attorney  
City of Menlo Park  
1100 Alma Street, Suite 210  
Menlo Park, CA 94025

Facebook: Hibiscus Properties LLC  
c/o Facebook, Inc.  
1 Hacker Way  
Menlo Park, CA 94025  
Attention: Director of Facilities

With a copy to: Hibiscus Properties LLC  
c/o Facebook, Inc.  
1 Hacker Way  
Menlo Park, CA 94025  
Attention: Real Estate Counsel

A Party may change its mailing address at any time by giving to the other Party ten days' notice of such change in the manner provided for in this Section 25. All notices under this Agreement shall be deemed given, received, made or communicated on the date personal delivery is effected, or if mailed, on the delivery date or attempted delivery date shown on the return receipt.

26. Miscellaneous.

26.1 Negation of Partnership. The Parties specifically acknowledge that the Project is a private development, that no Party is acting as the agent of the other in any respect hereunder and that each Party is an independent contracting entity with respect to the terms, covenants and conditions contained in this Agreement. None of the terms or provisions of this Agreement shall be deemed to create a partnership between or among the Parties in the businesses of Facebook, the affairs of the City, or otherwise, nor shall it cause them to be considered joint venturers or members of any joint enterprise.

26.2 Consents. Unless otherwise provided herein, whenever approval, consent or satisfaction (herein collectively referred to as an "approval") is required of a Party pursuant to this Agreement, such approval shall not be unreasonably withheld or delayed. If a Party shall not approve, the reasons therefor shall be stated in reasonable detail in writing. The approval by a

Party to or of any act or request by the other Party shall not be deemed to waive or render unnecessary approval to or of any similar or subsequent acts or requests.

26.3 Approvals Independent. All Approvals which may be granted pursuant to this Agreement, and all Approvals or other land use approvals which have been or may be issued or granted by the City with respect to the Property, constitute independent actions and approvals by the City. If any provisions of this Agreement or the application of any provision of this Agreement to a particular situation is held by a court of competent jurisdiction to be invalid or unenforceable, or if the City terminates this Agreement for any reason, such invalidity, unenforceability or termination of this Agreement or any part hereof shall not affect the validity or effectiveness of any Approvals or other land use approvals.

26.4 Not A Public Dedication. Nothing herein contained shall be deemed to be a gift or dedication of the Property, the Project, or any portion of either, to the general public, for the general public, or for any public use or purpose whatsoever. Facebook shall have the right to prevent or prohibit the use of the Property or the Project, or any portion thereof, including common areas and buildings and improvements located thereon, by any person for any purposes inimical to the operation of a private, integrated Project as contemplated by this Agreement, except as dedications may otherwise be specifically provided in the Project Approvals.

26.5 Severability. Invalidation 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 hereof or the application thereof to any other person or circumstance and the same shall remain in full force and effect, unless enforcement of this Agreement as so invalidated would be unreasonable or grossly inequitable under all the circumstances or would frustrate the purposes of this Agreement. Notwithstanding the preceding, this Section 26.5 is subject to the terms of Section 13.2.

26.6 Exhibits. The Exhibits referred to herein are deemed incorporated into this Agreement in their entirety.

26.7 Entire Agreement. This written Agreement and the Project Approvals contain all the representations and the entire agreement between the Parties with respect to the subject matter hereof. Except as otherwise specified in this Agreement and the Project Approvals, any prior correspondence, memoranda, agreements, warranties or representations are superseded in total by this Agreement.

26.8 Construction of Agreement. The provisions of this Agreement shall be construed as a whole according to their common meaning and not strictly for or against any Party in order to achieve the objectives and purpose of the Parties. The captions preceding the text of each Article, Section, and Subsection are included only for convenience of reference and shall be disregarded in the construction and interpretation of this Agreement. Wherever required by the context, the singular shall include the plural and vice versa, and the masculine gender shall include the feminine or neuter genders, or vice versa. All references to "person" shall include, without limitation, any and all corporations, partnerships, limited liability companies or other legal entities.

26.9 Further Assurances; Covenant to Sign Documents. Each Party covenants, on behalf of itself and its successors, heirs and assigns, to take all actions and do all things, and to execute, with acknowledgment or affidavit if required, any and all documents and writings that may be necessary or proper to achieve the purposes and objectives of this Agreement.

26.10 Governing Law. This Agreement, and the rights and obligations of the Parties, shall be governed by and interpreted in accordance with the laws of the State of California.

26.11 Construction. This Agreement has been reviewed and revised by legal counsel for Facebook and City, and no presumption or rule that ambiguities shall be construed against the drafting Party shall apply to the interpretation or enforcement of this Agreement.

26.12 Time. Time is of the essence of this Agreement and of each and every term and condition hereof. In particular, City agrees to act in a timely fashion in accepting, processing, checking and approving all maps, documents, plans, permit applications and any other matters requiring City's review or approval relating to the Project or Property.

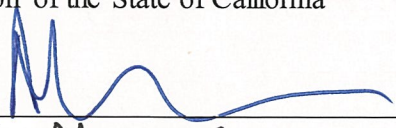
26.13 Counterparts. This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed an original, but all of which when taken together shall constitute but one Agreement.

(Signatures appear on following page)

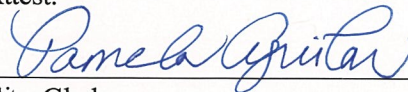
IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first above written.

“City”

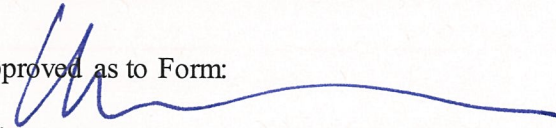
CITY OF MENLO PARK, a municipal corporation of the State of California

By:   
City Manager

Attest:

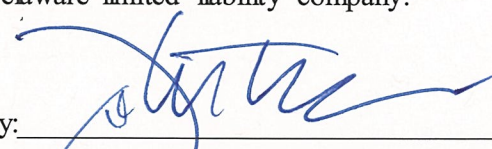
  
City Clerk

Approved as to Form:

  
By: \_\_\_\_\_  
City Attorney

“Facebook”

HIBISCUS PROPERTIES, LLC, a Delaware limited liability company:

By:   
Name: John Tenanes  
Title: VP Global Facilities



## ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California  
County of San Mateo)

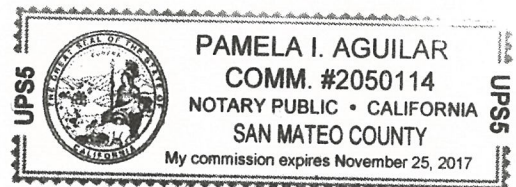
On December 14, 2016 before me, Pamela I. Aguilar, Notary Public  
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

Signature Pamela I. Aguilar (Seal)



**CALIFORNIA PROOF OF EXECUTION BY SUBSCRIBING WITNESS**

**CIVIL CODE § 1195**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California ) ss.

County of San Mateo )

On December 14, 2016, before me, Jessica White, Notary Public  
Date Name and Title of Officer

personally appeared Gabriel Pattee, proved to me to be the  
Name of Subscribing Witness  
person whose name is subscribed to the within instrument, as a witness thereto, on the oath of

Cory Tenares, a credible witness who is known to me and  
Name of Credible Witness  
provided a satisfactory identifying document. Gabriel Pattee, being by me  
Name of Subscribing Witness

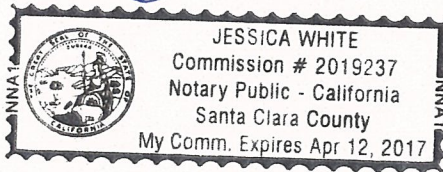
duly sworn, said that he/she was present and saw/heard (1) John Tenares (,)   
Name of Principal  
(and (2) \_\_\_\_\_,) the same person(s) described in and whose name(s)

is/are subscribed to the within or attached instrument in his/her/their authorized capacity(ies) as  
(a) party(ies) thereto, execute or acknowledge executing the same, and that said affiant subscribed  
his/her name to the within or attached instrument as a witness at the request of

(1) John Tenares (,) (and (2) \_\_\_\_\_.)  
Name of Principal Name of Principal

WITNESS my hand and official seal.

Signature Jessica White  
Signature of Notary Public



Place Notary Seal Above

**OPTIONAL**

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

**Description of Attached Document**

Title or Type of Document: Development Agreement Document Date: \_\_\_\_\_  
Number of Pages: 51 Signer(s) Other Than Named Above: \_\_\_\_\_

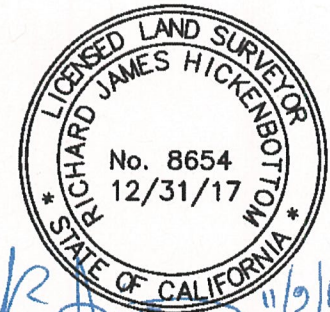
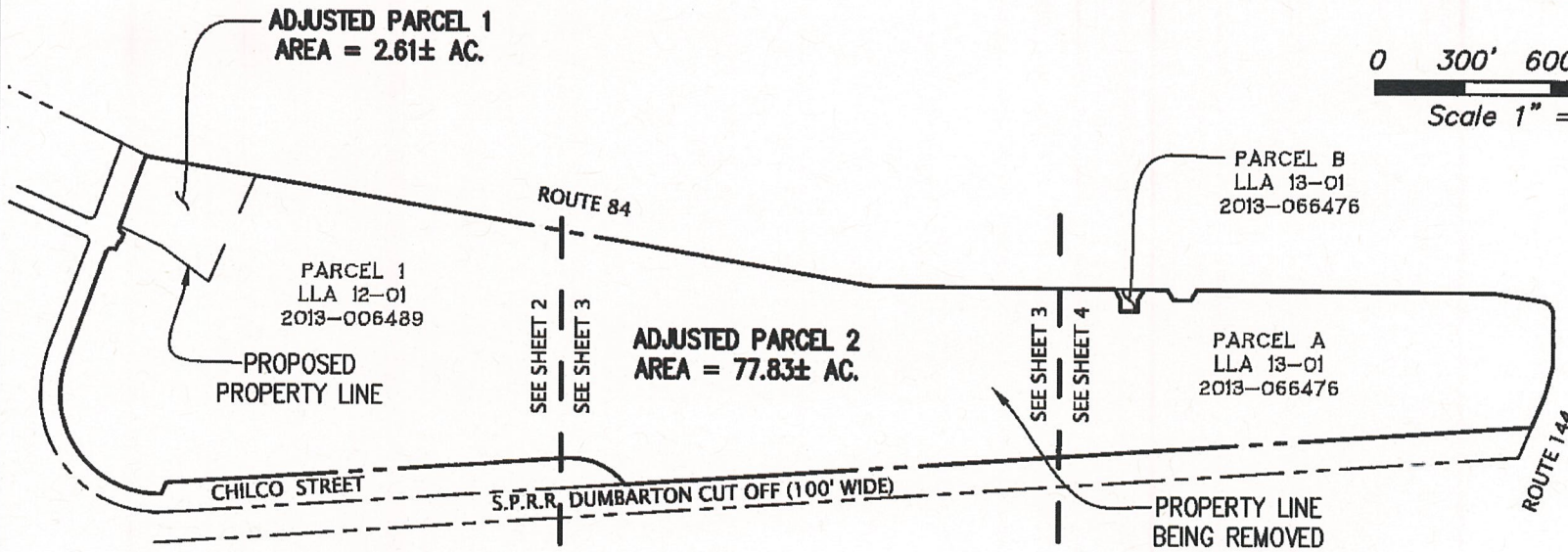




EXHIBIT A



0 300' 600' 1200'  
Scale 1" = 600 ft



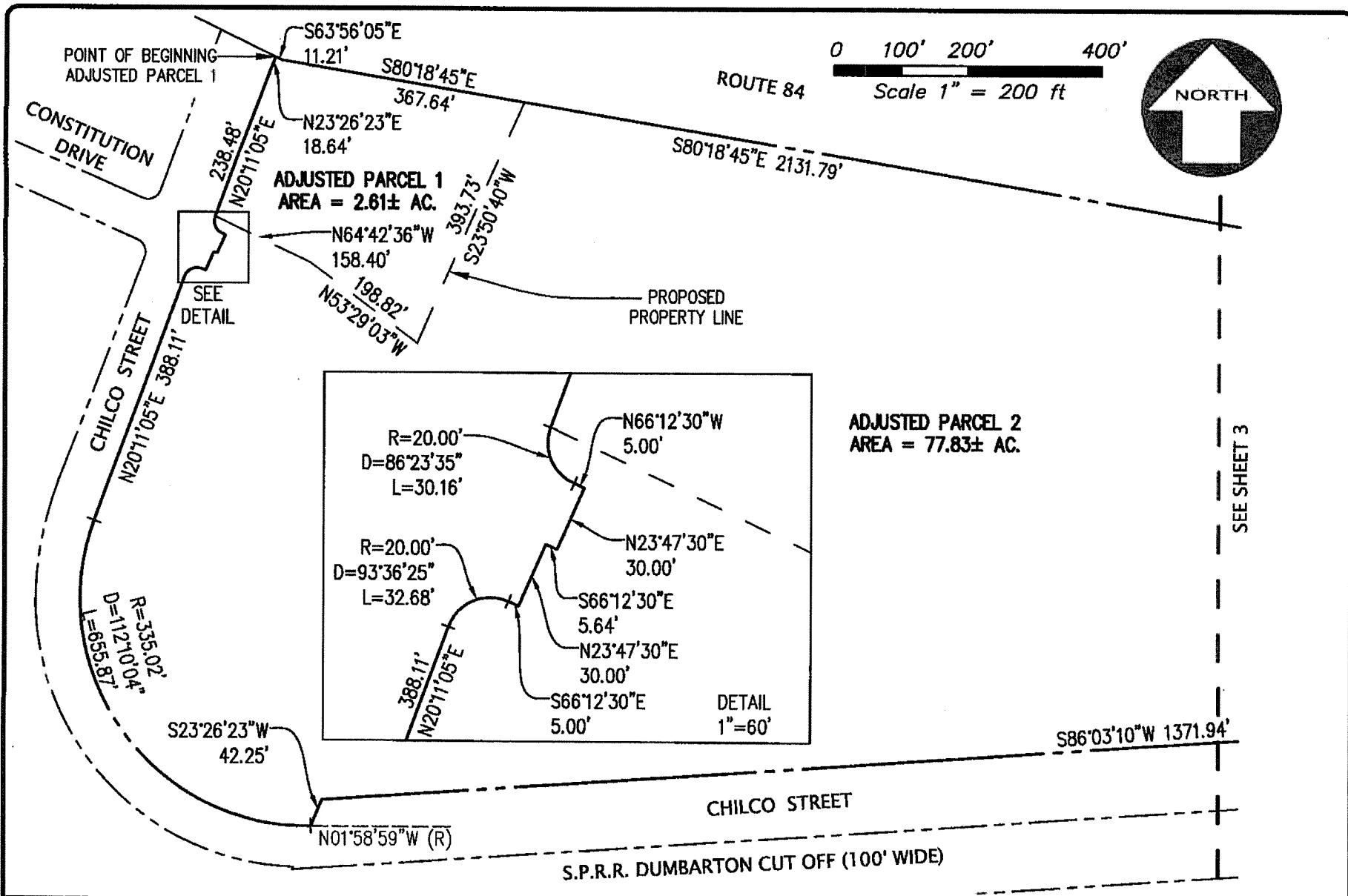
**KIER & WRIGHT**  
CIVIL ENGINEERS & SURVEYORS, INC.  
2850 Collier Canyon Road Phone (925) 245-8788  
Livermore, California 94551 Fax (925) 245-8796

**EXHIBIT "A"**  
**PLAT TO ACCOMPANY LEGAL DESCRIPTION**

**MENLO PARK,**

**CALIFORNIA**

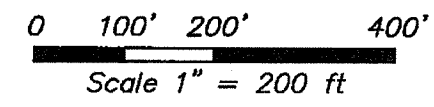
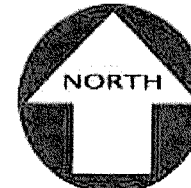
DATE	NOVEMBER, 2016
SCALE	1" = 600'
BY	RJH
JOB NO.	A15571-3
SHEET	1 OF 4




**KIER & WRIGHT**  
 CIVIL ENGINEERS & SURVEYORS, INC.  
 2850 Collier Canyon Road Phone (925) 245-8788  
 Livermore, California 94551 Fax (925) 245-8796

**EXHIBIT "A"**  
**PLAT TO ACCOMPANY LEGAL DESCRIPTION**  
 MENLO PARK, CALIFORNIA

DATE	NOVEMBER, 2016
SCALE	1" = 200'
BY	RJH
JOB NO.	A15571-3
SHEET	2 OF 4



ROUTE 84

S80°18'45"E 2131.79'

N89°38'32"W 823.77'

SEE SHEET 2

SEE SHEET 4

ADJUSTED PARCEL 2  
AREA = 77.83± AC.

R=231.73'  
D=53°54'34"  
L=218.04'

S86°03'10"W 1371.94'

S51°25'59"W (R)

S86°03'10"W 3091.29'

S.P.R.R. DUMBARTON CUT OFF (100' WIDE)



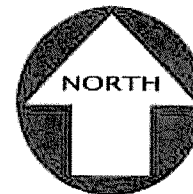
**KIER & WRIGHT**  
CIVIL ENGINEERS & SURVEYORS, INC.  
2850 Collier Canyon Road Phone (925) 245-8788  
Livermore, California 94551 Fax (925) 245-8796

**EXHIBIT "A"**  
**PLAT TO ACCOMPANY LEGAL DESCRIPTION**

**MENLO PARK,**

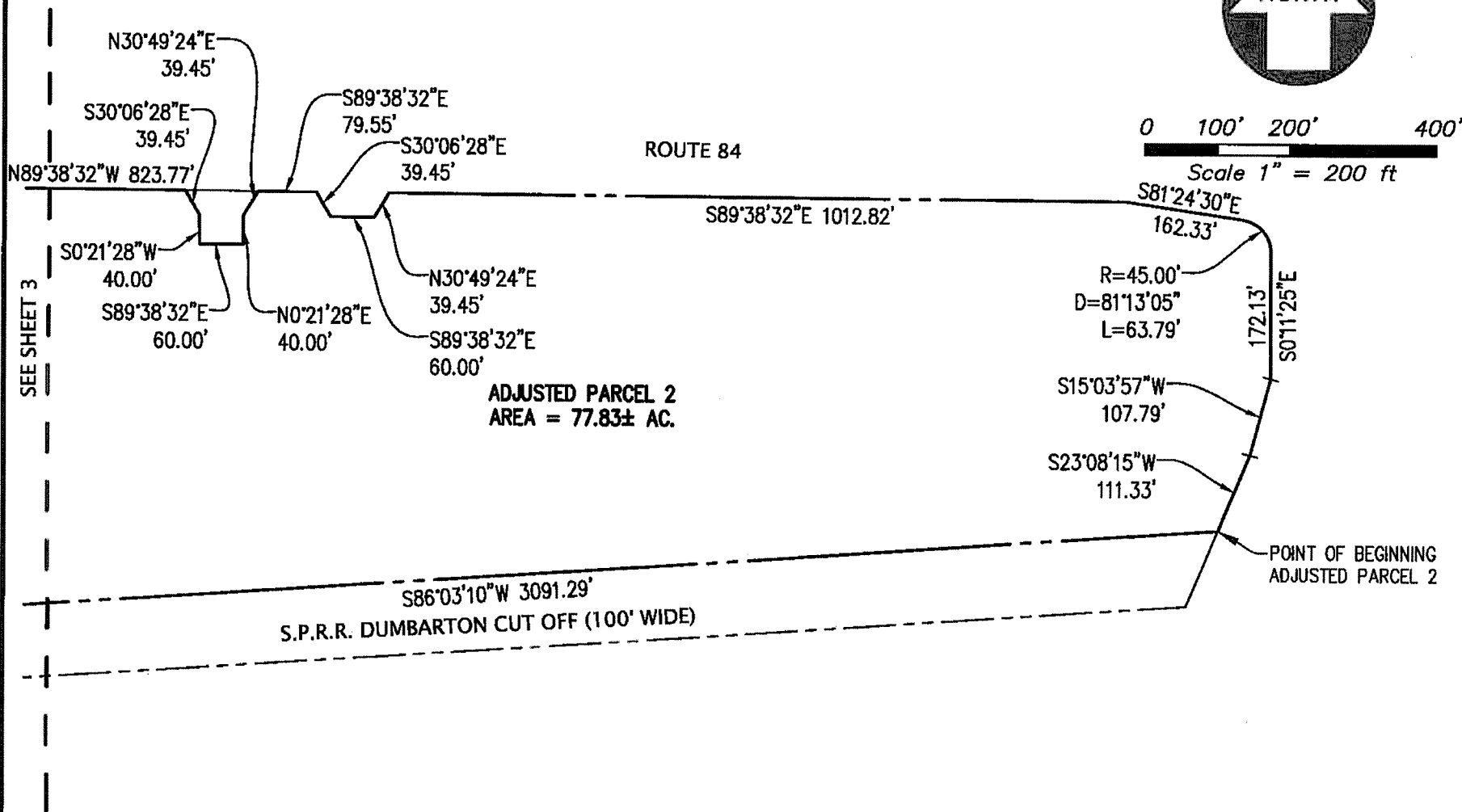
**CALIFORNIA**

DATE	NOVEMBER, 2016
SCALE	1" = 200'
BY	RJH
JOB NO.	A15571-3
SHEET	3 OF 4



0 100' 200' 400'

Scale 1" = 200 ft



ADJUSTED PARCEL 2  
AREA = 77.83± AC.

S.P.R.R. DUMBARTON CUT OFF (100' WIDE)

POINT OF BEGINNING  
ADJUSTED PARCEL 2



**KIER & WRIGHT**  
CIVIL ENGINEERS & SURVEYORS, INC.  
2850 Collier Canyon Road Phone (925) 245-8788  
Livermore, California 94551 Fax (925) 245-8796

**EXHIBIT "A"**  
**PLAT TO ACCOMPANY LEGAL DESCRIPTION**

MENLO PARK,

CALIFORNIA

DATE	NOVEMBER, 2016
SCALE	1" = 200'
BY	RJH
JOB NO.	A15571-3
SHEET	4 OF 4



EXHIBIT B

**EXHIBIT 'B'**  
**LEGAL DESCRIPTION**

**ADJUSTED PARCEL 1**

REAL PROPERTY SITUATE IN THE CITY OF MENLO PARK, COUNTY OF SAN MATEO, STATE OF CALIFORNIA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEING A PORTION OF PARCEL 1, AS SAID PARCEL IS DESCRIBED IN THAT CERTAIN LOT LINE ADJUSTMENT NO. 12-01, RECORDED JANUARY 11, 2013, AS INSTRUMENT NO. 2013-006489, OFFICIAL RECORDS OF SAN MATEO COUNTY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**BEGINNING** AT THE INTERSECTION OF THE SOUTHERLY RIGHT OF WAY OF ROUTE 84, AS SAID ROUTE IS SHOWN ON THAT CERTAIN CALTRANS RIGHT OF WAY MAP FOR ROUTE 84 IN THE COUNTY OF SAN MATEO ON SHEETS R-105.2 THROUGH R-105.4, WITH THE EAST RIGHT OF WAY LINE OF CHILCO STREET, AS SAID RIGHT OF WAY IS DESCRIBED AS PARCEL 46737-3 IN THAT CERTAIN DOCUMENT RECORDED JULY 27, 1983 AS DOCUMENT NUMBER 83-078012, OFFICIAL RECORDS OF SAN MATEO COUNTY, SAID INTERSECTION ALSO BEING THE NORTHWEST CORNER OF SAID PARCEL 1;

THENCE ALONG SAID SOUTHERLY RIGHT OF WAY, SOUTH 63° 56' 05" EAST, 11.21 FEET;

THENCE CONTINUING ALONG SAID SOUTHERLY RIGHT OF WAY, SOUTH 80° 18' 45" EAST, 367.64 FEET;

THENCE SOUTH 23° 50' 40" WEST, 393.73 FEET;

THENCE NORTH 53° 29' 03" WEST, 198.82 FEET;

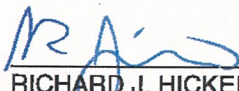
THENCE NORTH 64° 42' 36" WEST, 158.40 FEET TO A POINT ON SAID EASTERLY RIGHT OF WAY;

THENCE ALONG SAID EASTERLY RIGHT OF WAY, NORTH 20° 11' 05" EAST, 238.48 FEET;

THENCE CONTINUING ALONG SAID EASTERLY RIGHT OF WAY, NORTH 23° 26' 23" EAST, 18.64 FEET TO THE **POINT OF BEGINNING**.

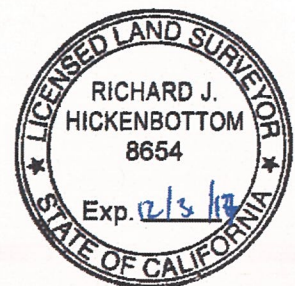
CONTAINING 2.61 ACRES OF LAND, MORE OR LESS.

KIER & WRIGHT CIVIL ENGINEERS & SURVEYORS, INC.



RICHARD J. HICKENBOTTOM, LS 8654  
LICENSE EXPIRES: 12/31/17

11/9/16  
DATE



**EXHIBIT 'B'**  
**LEGAL DESCRIPTION**

**ADJUSTED PARCEL 2**

REAL PROPERTY SITUATE IN THE CITY OF MENLO PARK, COUNTY OF SAN MATEO, STATE OF CALIFORNIA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEING A PORTION OF PARCEL 1, AS SAID PARCEL 1 IS DESCRIBED IN THAT CERTAIN LOT LINE ADJUSTMENT NO. 12-01, RECORDED JANUARY 11, 2013 AS INSTRUMENT NO. 2013-006489, AND ALL OF PARCEL A, AS SAID PARCEL A IS DESCRIBED IN THAT CERTAIN LOT LINE ADJUSTMENT NO. 13-01, RECORDED MAY 2, 2013 AS INSTRUMENT NO. 2013-066476, OFFICIAL RECORDS OF SAN MATEO COUNTY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**BEGINNING** AT THE INTERSECTION OF THE NORTH LINE OF THE 100 FOOT WIDE SOUTHERN PACIFIC RAILROAD DUMBARTON CUT OFF RIGHT OF WAY WITH THE WESTERLY RIGHT OF WAY OF ROUTE 144, AS SAID ROUTE 144 IS SHOWN ON THAT CERTAIN CALTRANS RIGHT OF WAY MAP FOR ROUTE 84 IN THE COUNTY OF SAN MATEO ON SHEETS R-105.2 THROUGH R-105.4;

THENCE ALONG SAID NORTH LINE, SOUTH 86° 03' 10" WEST, 3091.29 FEET TO THE INTERSECTION OF SAID NORTH LINE WITH THE NORTHERLY RIGHT OF WAY LINE FOR CHILCO STREET, AS DESCRIBED AS PARCEL 45831-1 IN THAT CERTAIN DOCUMENT RECORDED JUNE 29, 1982 AS DOCUMENT NUMBER 82-054425, OFFICIAL RECORDS OF SAN MATEO COUNTY;

THENCE ALONG THE SAID NORTHERLY RIGHT OF WAY OF CHILCO STREET THE FOLLOWING THREE (3) COURSES:

1) ALONG THE ARC OF A NON-TANGENT CURVE TO THE LEFT, THE CENTER OF WHICH BEARS SOUTH 51° 25' 59" WEST, HAVING A RADIUS OF 231.73 FEET, THROUGH A CENTRAL ANGLE OF 53° 54' 34" FOR AN ARC LENGTH OF 218.04 FEET,

2) SOUTH 86° 03' 10" WEST, 1371.94 FEET, AND

3) SOUTH 23° 26' 23" WEST, 42.25 FEET TO A POINT ON THE EASTERLY RIGHT OF WAY OF CHILCO STREET, AS DESCRIBED AS PARCEL 46737-3 IN THAT CERTAIN DOCUMENT RECORDED JULY 29, 1983 AS DOCUMENT NUMBER 83-078012, OFFICIAL RECORDS OF SAN MATEO COUNTY;

THENCE ALONG SAID EASTERLY RIGHT OF WAY THE FOLLOWING NINE (9) COURSES:

1) ALONG THE ARC OF A NON-TANGENT CURVE TO THE RIGHT, THE CENTER OF WHICH BEARS NORTH 01° 58' 59" WEST, HAVING A RADIUS OF 335.02 FEET, THROUGH A CENTRAL ANGLE OF 112° 10' 04" FOR AN ARC LENGTH OF 655.87 FEET,

2) NORTH 20° 11' 05" EAST, 388.11 FEET,

3) ALONG THE ARC OF A CURVE THE RIGHT, HAVING A RADIUS OF 20.00 FEET, THROUGH A CENTRAL ANGLE OF 93° 36' 25" FOR AN ARC LENGTH OF 32.68 FEET,

4) SOUTH 66° 12' 30" EAST, 5.00 FEET,

5) NORTH 23° 47' 30" EAST, 30.00 FEET,

6) SOUTH 66° 12' 30" EAST, 5.64 FEET,

7) NORTH 23° 47' 30" EAST, 30.00 FEET,

8) NORTH 66° 12' 30" WEST, 5.00 FEET, AND

9) ALONG THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 20.00 FEET, THROUGH A CENTRAL ANGLE OF 86° 23' 35" FOR AN ARC LENGTH OF 30.16 FEET;



THENCE SOUTH 64° 42' 36" EAST, 158.40 FEET;

THENCE SOUTH 53° 29' 03" EAST, 198.82 FEET;

THENCE NORTH 23° 50' 40" EAST, 393.73 FEET TO A POINT ON THE SOUTHERLY RIGHT OF WAY OF ROUTE 84, AS SAID ROUTE IS SHOWN ON SAID CALTRANS RIGHT OF WAY MAP;

THENCE ALONG SAID SOUTHERLY RIGHT OF WAY OF ROUTE 84 THE FOLLOWING TWO (2) COURSES:

1) SOUTH 80° 18' 45" EAST, 2,131.79 FEET, AND

2) SOUTH 89° 38' 32" EAST, 823.77 FEET TO THE NORTHWEST CORNER OF PARCEL B, AS SAID PARCEL IS DESCRIBED IN SAID LOT LINE ADJUSTMENT NO. 13-01;

THENCE ALONG THE BOUNDARY OF SAID PARCEL B THE FOLLOWING FIVE (5) COURSES:

1) SOUTH 30° 06' 28" EAST, 39.45 FEET,

2) SOUTH 0° 21' 28" WEST, 40.00 FEET,

3) SOUTH 89° 38' 32" EAST, 60.00 FEET,

4) NORTH 0° 21' 28" EAST, 40.00 FEET, AND

5) NORTH 30° 49' 24" EAST, 39.45 FEET TO A POINT ON SAID SOUTHERLY RIGHT OF WAY OF ROUTE 84;

THENCE ALONG SAID SOUTHERLY RIGHT OF WAY OF ROUTE 84 THE FOLLOWING NINE (9) COURSES:

1) SOUTH 89° 38' 32" EAST, 79.55 FEET,

2) SOUTH 30° 06' 28" EAST, 39.45 FEET,

3) SOUTH 89° 38' 32" EAST, 60.00 FEET,

4) NORTH 30° 49' 24" EAST, 39.45 FEET,

5) SOUTH 89° 38' 32" EAST, 1012.82 FEET,

6) SOUTH 81° 24' 30" EAST, 162.33 FEET,

7) ALONG THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 45.00 FEET, THROUGH A CENTRAL ANGLE OF 81° 13' 05" FOR AN ARC LENGTH OF 63.79 FEET,

8) SOUTH 0° 11' 25" EAST, 172.13 FEET, AND

9) SOUTH 15° 03' 57" WEST, 107.79 FEET TO SAID WESTERLY RIGHT OF WAY OF ROUTE 114;

THENCE ALONG SAID WESTERLY RIGHT WAY, SOUTH 23° 08' 15" WEST, 111.33 FEET TO THE POINT OF BEGINNING.

CONTAINING 77.83 ACRES OF LAND, MORE OR LESS.

KIER & WRIGHT CIVIL ENGINEERS & SURVEYORS, INC.

  
RICHARD J. HICKENBOTTOM, LS 8654  
LICENSE EXPIRES: 12/31/17

11/9/16  
DATE

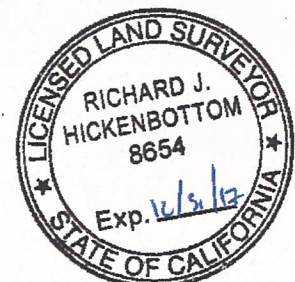


EXHIBIT C



**Exhibit C**  
**(Chilco Streetscape Improvements)**

Facebook will design and complete certain streetscape improvements (Phases 1, 2, 3B & 4) along Chilco Street between the Bayfront Expressway and Hamilton Avenue, at its sole cost (except as otherwise specified below), and in the approximate locations shown on the attached phasing plan. Facebook shall be responsible for the design of the improvements, subject to the City's reasonable approval and permitting process. Facebook will provide design assistance to the City of Menlo Park for Phase 3A, but the City will be responsible for the costs of installing the improvements and for performing the work. Phases 5 and 6 will be designed and constructed by Facebook, subject to a credit against any construction road impact fees assessed against the Project.

As for Phases 1, 2, 3, and 4, the scope of the improvements are as follows:

- 1) Phase 1 improvements have been completed, and include a new two-way bicycle path and pedestrian path along Chilco St., from the South-East corner of Building 23 (300 Constitution Drive) to an area just north of the railroad tracks. Temporary pathway lighting was also installed.
- 2) Phase 2 improvements have been constructed, and include extending the pedestrian and bicycle path improvements from Phase 1, to the north around Building 23, and onto the Chilco Street/Constitution Drive intersection. Phase 2 also includes new landscaping and permanent pathway lighting.
- 3) Phase 3 Chilco improvements are broken down into two sub-phases:
  - a. Phase 3A will include improvements south of the railroad crossing into the Belle Haven neighborhood. Facebook will provide design assistance, including the preparation of bid documents, for this phase, but the City of Menlo Park will be responsible for performing the work. The scope includes the addition of bike, pedestrian, and crossing facilities to provide two-way travel.
  - b. Phase 3B will involve completing striping for the existing bike lanes and a sidewalk on east side of Chilco through the railroad crossing (which will require SamTrans review and approval), as well as constructing the new bicycle/ pedestrian connection near the southwestern corner of Building 21 (as described in the Project Approvals). This new entry is intended as the community's primary access point to the new multi-use bridge which is proposed to be constructed concurrently with Building 21.
- 4) Phase 4 improvements are broken down into two sub-phases:
  - a. Phase 4A improvements will include roadway, intersection, pedestrian, and site landscaping improvements from the Chilco Street/Constitution Drive intersection to Bayfront Expressway. The Environmental Impact Report indicates the need for a signalized intersection at Constitution and two left turn lanes from Chilco into the Facebook campus. Phase 4A improvements are anticipated to be completed prior to the occupancy of Building 22 (as described in the Project Approvals).

- b. Phase 4B improvements will include removal of the temporary bicycle/ pedestrian path installed during Phase 1 and installation of a permanent bicycle/ pedestrian path. This design is ongoing and will evolve with the design of Building 22, which is anticipated to undergo a future design review process with the City.

In addition, Facebook will complete certain additional Chilco streetscape improvements requested by the City (Phases 5 and 6).

- 5) Phase 5 improvements will include design and construction of landscape frontage improvements from the Chilco Street/Constitution Drive intersection south to the new crosswalk being installed as part of the Phase 2. These improvements have not yet been designed, but are intended to include street lighting, a one-way protected bike lane and a sidewalk at a minimum.
- 6) Phase 6 improvements will include design and construction of additional landscape frontage improvements from those installed as part of Phase 5 to the railroad tracks near the Chilco Street curve. These improvements have not yet been designed, but are intended to include street lighting, a one-way protected bike lane and landscaping (including the treatment of stormwater runoff) at a minimum and potentially a sidewalk depending on the final configuration of the Dumbarton Trail.

# Chilco Street Improvements Phasing Plan

CMG Landscape Architecture  
13-October 2016

