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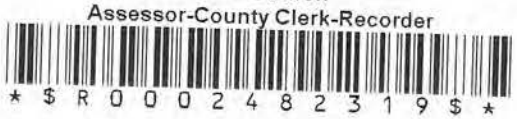

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DEVELOPMENT AGREEMENT

MIDDLE PLAZA AT 500 EL CAMINO REAL PROJECT

SEPARATE PAGE, PURSUANT TO GOVT. CODE 27361.6

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DEVELOPMENT AGREEMENT

MIDDLE PLAZA AT 500 EL CAMINO REAL PROJECT
(300 – 550 EL CAMINO REAL)

THIS DEVELOPMENT AGREEMENT ("**Agreement**") is made and entered into as of this ___ day of _____, 2017, by and between the City of Menlo Park, a municipal corporation of the State of California ("**City**") and Board of Trustees of the Leland Stanford Junior University, a body having corporate powers under the laws of the State of California ("**Owner**"), 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 Owner:

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. Owner owns those certain parcels of real property having current addresses at 300 – 550 El Camino Real 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, upon which Owner has applied to construct the Project commonly known as Middle Plaza.

D. Owner intends to demolish all existing structures on the Property and to construct the Project on the Property in accordance with the Project Approvals and any other Approvals.

E. The City examined the environmental effects of the Project in an Environmental Impact Report ("**EIR**") prepared for the Menlo Park El Camino Real/ Downtown Specific Plan and an Infill EIR prepared for the Project pursuant to the California Environmental Quality Act ("**CEQA**"). On September 26, 2017 the City Council of the City reviewed and certified the Infill EIR.

F. The City has determined that the Project is a development for which a development agreement is appropriate. 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 further the goals and objectives of the Menlo Park El Camino Real/ Downtown Specific Plan, and generate the additional public benefits described in this Agreement, along with other fees for the City. Owner 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, Owner 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, subject to the terms and conditions contained in this Agreement. In order to effectuate these purposes, the City and Owner desire to enter into this Agreement.

G. On August 28, 2017, 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 and Menlo Park El Camino Real/ Downtown Specific Plan (as both are 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.

H. Thereafter, September 26, 2017 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. 1039 ("**Enacting Ordinance**"). A second reading was conducted on the Enacting Ordinance on October 10, 2017, on which date the City Council adopted the Enacting Ordinance, making the Enacting Ordinance effective on November 9, 2017.

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 Owner herein contained, the City and Owner 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 Owner to complete the Project and to develop and occupy the Property in accordance with Existing City Laws, this Agreement and the items described in the Project Approvals (as defined in this Agreement).

1.2 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 General Plan, the Menlo Park El Camino Real/ Downtown Specific Plan, and the City's Zoning Ordinance.

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

1.4 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 or that is applicable only within the area included in the Menlo Park El Camino Real/Downtown Specific Plan. A City Law, Fee or other matter shall not be City Wide if, despite its stated scope, it applies only to the Property or to one or more parcels located within the Property, or if the relevant requirements are stated in such a way that they apply only to all or a portion of the Project and not to other parcels or properties in the Menlo Park El Camino Real/Downtown Specific Plan.

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

1.6 Conditions. All 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.

1.7 Crossing. A pedestrian/bicycle crossing at or near Middle Avenue that will improve bicycle and pedestrian circulation between El Camino Real and Alma Street, connecting the downtown and residential neighborhoods west of El Camino Real with Burgess Park, the Menlo Park Civic Center complex, and the north-south bicycle lanes on Alma Street.

1.8 Default. As to Owner, the failure of Owner to comply substantially and in good faith with any obligations of Owner 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 Owner or the City shall be subject to cure as provided in this Agreement.

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

1.10 El Camino Real/ Downtown Specific Plan: Collectively, the Specific Plan governing the Property, as adopted by the City Council in June 2012 and that become effective on July 12, 2012, as amended as of the date of adoption of the Enacting Ordinance.

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

1.12 Fees. All exactions, costs, fees, in-lieu fees, payments, charges and other monetary amounts imposed or charged by the City in connection with the use, development of or construction on real property under Existing City Laws, but not including Processing Fees. Fees includes impact fees, which are the monetary amount charged by the City or equivalent in-kind obligation in connection with a development project for the purpose of defraying all or a portion of the cost of mitigating the impacts of the development project or development of the public facilities related to the development project, including any "fee" as that term is defined by Government Code Section 66000(b) and including any fees included in the MMRP.

1.13 General Plan. Collectively, the General Plan for the City, including all elements as adopted by the City Council on November 29, 2016.

1.14 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.

1.15 Mitigation Measures. The mitigation measures applicable to the Project, developed as part of the EIR process and required to be implemented through the MMRP for the Project, which includes the applicable measures required to be implemented by the Menlo Park El Camino Real/Downtown Specific Plan.

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

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

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

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

1.20 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 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.

1.21 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. Specifically, the Project includes the demolition of the existing structures on the Property and the construction of new buildings including residential, non-medical office space, ground floor retail/restaurant space, at-grade parking, an underground parking garage, a privately owned and operated publicly accessible plaza, and related site improvements, landscaping and infrastructure, as more particularly described in the Project Approvals.

1.22 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 findings, statement of overriding considerations and adoption of the MMRP and other actions in connection with environmental review of the Project; (c) Architectural Control; (d) Lot Merger; (e) Heritage Tree Removal Permits; and (f) Below Market Rate Housing Agreement.

1.23 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.

1.24 Substantial Crossing Progress. To constitute Substantial Crossing Progress: (i) the City must have completed and the City Council must have approved the final design for the Crossing; (ii) the City must have completed all steps necessary to achieve compliance with the California Environmental Quality Act to construct and operate the Crossing; and (iii) the City must have made substantial progress toward obtaining funding for the cost of construction of the Crossing. For purposes of this paragraph, substantial progress toward obtaining funding for the cost of construction of the Crossing means that the City has secured a minimum of fifteen percent (15%) of the cost to construct the Crossing (excluding Owner's contribution).

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 Owner 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 ten (10) years from the Effective Date (the "**Term**"), unless earlier terminated under Sections 10, 12, or 17 of this Agreement or extended by mutual written agreement under Section 10.1. Notwithstanding the foregoing, and subject to this Agreement's termination provisions, if the City has made Substantial Crossing Progress, then the term of this Agreement shall continue until the earlier of: (a) payment by the Owner of the Crossing Payment pursuant to Section 5; (b) the City Council's decision to abandon pursuit of the funding and construction of the Crossing; or (c) five (5) years beyond the initial ten (10)-year term.

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; and (b) Owner shall thereafter comply with the provisions of the City Laws and Approvals 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 Owner 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. Owner shall have the vested right to develop 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 Owner, as the same may be amended from time to time upon application by Owner; and City shall have the right to control development of the Property in accordance with the Approvals for the Project and/or the Property and the provisions of this Agreement, so long as this Agreement remains effective. Except as otherwise specified herein, until the expiration or earlier termination of this Agreement, this Agreement, the Approvals and the Existing City Laws (the three of which collectively constitute the "**Vested Elements**") 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 , 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. The Project Approvals shall not expire so long as this Agreement remains effective.

3.2 Subsequent Projects. The City agrees that as long as Owner develops and occupies the Project in accordance with the terms of this Agreement, Owner'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. Owner 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, the City shall not apply for any such permits or approvals without Owner's prior written approval. The City shall use its best efforts to promptly and diligently cooperate, at no cost to the City, with Owner in its endeavors to obtain such permits and approvals and, from time to time at the request of Owner, 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 Owner's cost and expense, including payment of City staff time in accordance with standard practices, and Owner 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, Owner 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 Owner or the City thereunder and/or the duties and obligations of the parties thereto. Notwithstanding any provision in this Agreement, the design, construction and operation of the Crossing is not part of the Project and Owner shall bear no responsibility for paying for applications, approval, agreements, and permits for the Crossing, nor shall Owner indemnify the City for any liabilities imposed on City arising out of or resulting from applications, permits, agreements and/or approvals for the Crossing.

3.4 Vesting. The Parties acknowledge and agree that this Agreement vests Owner's rights to develop the Project in accordance with the terms of 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), and the provisions of state law concerning development agreements.

3.5 Processing Fees. Notwithstanding any other provision of this Agreement, and notwithstanding the provisions of Section 3.1, at the time any Approvals are applied for, the City may charge Processing Fees to Owner 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 at the time Owner submits an application for those permits.

3.6 Additional Fees: Except as set forth in this Agreement and the Project Approvals, the City shall not impose any new or additional Fees not in existence as of October 1, 2017 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 as the base or methodology for calculating such Fees that is in effect as of October 1, 2017. Notwithstanding the foregoing, if as of October 1, 2017, 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 October 1, 2017. Notwithstanding the foregoing, the following provisions shall apply:

3.6.1 If the City forms an assessment district including the Property, and the assessment district is City Wide or applied to all El Camino Real/Downtown Specific Plan properties and is not duplicative of or intended to fund any matter that is covered by any Fee payable by Owner, 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 Owner's obligation to pay such assessment result in a cessation or postponement of development and occupancy of the Property or affect in any way Owner's development rights for the Project.

3.6.2 The City may charge Processing Fees to Owner 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 El Camino Real/Downtown Specific Plan properties at the time Owner submits an application for those permits.

3.6.3 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 El Camino Real/Downtown Specific Plan properties, the Property may be so taxed, which tax shall be consistent with the taxation of other properties in the City similarly situated.

3.6.4 If the City enacts new impact fees that apply on a City Wide basis or are applied uniformly to El Camino Real/Downtown Specific Plan properties and which address matters that are not identified or addressed by the mitigation measures, Conditions on the Project, community 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 ordinance. For purposes of this Section, the parties agree that any impact fees addressing transportation including railroad crossings, housing, open and publicly accessible spaces, utilities including energy and water, and any 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.

3.7 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), shall constitute a part of the Enacting Ordinance, as if incorporated by reference therein in full.

3.8 Review and Processing of Approvals. The City shall accept, review and shall use its best efforts to expeditiously process Owner'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 complies and is consistent with the Project Approvals. Owner shall 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. Owner shall submit all applications and requests for Approvals in the manner required under the procedures specified in the applicable City Laws in effect as of the time of such submittal. The Parties shall cooperate with each other and shall use diligent, good faith efforts to cause the expeditious review, processing, and issuance of the approvals and permits for the development and occupation of the Project in accordance with the Project Approvals.

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. Owner 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 Standards Code as amended and adopted by the City (including the Mechanical Code, Electrical Code and Plumbing Code), the California Fire Code as amended and adopted by the City and/or the Menlo Park Fire Protection District, the California Energy Code, and the California Green Building Standards, all as amended by the City from time to time, as such codes may be in effect at the time Owner submits an application for a building permit for any aspect of the Project or Property. 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 Owner: (a) apply to the Project or Property 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 Property 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. Nothing herein shall affect Owner's right to challenge any amendments to the aforementioned codes.

4.2 Application of New City Laws. Nothing herein shall prevent the City from applying 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 new or additional Fees or other conditions on the Project or Property that are inconsistent with this Agreement or the intent of this Agreement. Any action or proceeding of the City that has any of the following effects on the Project or Property shall be considered in conflict with this Agreement and the Existing City Laws:

(a) Limiting or reducing the uses or mix or uses permitted on the Property or the density or intensity of use of the Property;

(b) 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; or

(c) 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.

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. Prior to the adoption of any new City Law, including without limitation any change in the City's affordable housing rules or policies, City shall, upon Owner's request, confer as to whether such new City Law would be considered in conflict with this Agreement and Existing City Laws.

4.3 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.

4.4 Subsequent Environmental Review. The Parties acknowledge and agree that the EIR contains a thorough environmental analysis of the Project, 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 Owner 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 to the extent that is consistent with the California Environmental Quality Act. Owner 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.

4.5 Easements; Improvements. The City shall cooperate with Owner 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 Owner, 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 Owner pursuant to this Agreement, including those set forth in the Project Approvals, shall be constructed by Owner.

5. Funding for Crossing. Owner shall be obligated to pay the City fifty percent (50%) of the cost to construct the Crossing, up to a maximum of Five Million Dollars ($5,000,000) ("**Crossing Payment**"). For purposes of this Section 5, "costs" shall include design, permitting, right-of-way acquisition, construction and other costs reasonably related to such construction. The Crossing Payment shall be made as a one-time lump sum payment within sixty (60) days of written demand by City supported by evidence of the cost of Crossing construction reasonably acceptable to Owner, once City has confirmation that: (i) it has obtained or has been awarded complete and full funding to construct all components of the Crossing; (ii) the City has completed and the City Council has approved the final design for the Crossing; (iii) the City has completed all steps necessary to achieve compliance with the California Environmental Quality Act to construct and operate the Crossing; and (iv) the City has obtained all necessary approvals, permits and property rights from other public agencies and private landowners to construct and operate the Crossing. Until the Crossing Payment is made, the maximum amount of the payment shall be adjusted annually by the Engineering News Record Construction Cost Index for the San Francisco Bay Area on June 30 of each year. If the Term expires without extension pursuant to Section 2.2, Owner shall be relieved of the obligation to make the Crossing Payment. In no event shall the Crossing Payment exceed the unfunded portion of the costs of the Crossing. "Unfunded" shall mean the portion of the cost not funded by grants and/or payments from third parties. If, after collecting the Crossing Payment from Owner, City decides not to construct the Crossing, City shall refund the full Crossing Payment to Owner.

6. Education Foundation Payments. To support the Menlo Park City School District, Owner agrees to pay the Menlo Park Atherton Education Foundation an initial lump sum payment of One Million Five Hundred thousand dollars ($1,500,000) to be placed in an endowment fund for support of the District. The initial lump sum payment shall be due and payable one (1) year after issuance of the last building permit for the residential and office buildings to be constructed as part of the Project. In addition, Owner agrees to pay the Menlo Park Atherton Education Foundation a second lump sum payment for the same endowment fund of up to One Million dollars ($1,000,000) of any savings by Owner in its contribution to the cost of the Crossing to be determined as follows: (a) the second lump sum payment shall be due and payable to the Education Foundation within sixty (60) days of completion of construction of the Crossing; (b) the amount of the second lump sum payment shall be equal to the difference between the maximum amount of the Crossing Payment described in Section 5 of this Agreement (Five Million dollars [$5,000,000] as adjusted annually by the Engineering News Record Construction Cost Index) and any lesser amount demanded by the City for Owner's contribution to the Crossing pursuant to Section 5 of this Agreement, so long as the resulting second lump sum payment does not exceed One Million dollars ($1,000,000). For example, if application of the Construction Cost Index results in a maximum Crossing Payment of Five Million Two Hundred Thousand dollars ($5,200,000) and, based on the City's demand, Owner's actual 50% share of the crossing is Four Million Five Hundred Thousand dollars ($4,500,000), the amount of the second lump sum payment to the Education Foundation would be Seven Hundred Thousand dollars ($700,000). If application of the Construction Cost Index results in a maximum Crossing Payment of Five Million Two Hundred Thousand dollars ($5,200,000) and, based on the City's demand, Owner's actual 50% share of the crossing is Four Million dollars ($4,000,000), the amount of the second lump sum payment to the Education Foundation would be One Million dollars ($1,000,000) because the One Million Two Hundred Thousand dollar ($1,200,000) difference would be capped at a payment of One Million dollars ($1,000,000). In no event would the combined total of the Crossing Payment demanded by the City pursuant to Section 5 of this Agreement and the second lump sum payment to the Education Foundation exceed Five Million Dollars ($5,000,000) as adjusted annually by the Engineering News Record Construction Cost Index.

7. Affordable Housing. Concurrently with the recordation of this Agreement, Owner and City shall execute and record an Affordable Housing Agreement ("**Affordable Housing Agreement**") in the form attached as Exhibit C, which shall provide, among other things, for the provision of a total of ten (10) units in the Project to be occupied exclusively by, and rented to, Low Income Households ("Low Income Units"). (If the 2131 Sand Hill Road project is not approved, Owner would provide eight (8) one-bedroom BMR units at the low-income level.) Owner further acknowledges, under Civil Code Sections 1954.52(b) and 1954.53(a)(2), that it has agreed to limit rents in the Low Income Units in

consideration for the City's agreements to enter into a Development Agreement for the Project and for the City's approval of this Agreement, as described in the BMR Housing Agreement. Owner hereby agrees that any Low Income Units provided pursuant to this Agreement are not subject to Civil Code Section 1954.52(a) or any other provision of the Costa-Hawkins Act inconsistent with controls on rents, and further agrees that any limitations on rents imposed on the Affordable Units are in conformance with the Costa-Hawkins Act.

8. Privately Owned and Operated Publicly Accessible Open Space: The Project includes a privately owned and operated publicly accessible plaza at Middle Avenue. Prior to issuance of a City permit allowing occupancy of office, retail, or residential space in the Project, the Parties shall enter into and record a public use agreement in substantially the same form as the agreement attached to this Agreement as Exhibit D (the "**Public Use Agreement**"). The Public Use Agreement may be amended from time to time by mutual agreement of the City and the Owner, and any amendment to the Public Use Agreement shall automatically be deemed to be incorporated into this Agreement without any further requirement to amend this Agreement.

9. Indemnity. Owner shall indemnify, defend and hold harmless City, and its elective and appointive boards, commissions, officers, agents, contractors, and employees (collectively, "**City Indemnified Parties**") from any and all claims, causes of action, damages, costs or expenses (including reasonable attorneys' fees) arising out of or in connection with, or caused on account of, any work to construct the Project, or litigation challenging any Approval with respect thereto(collectively, "**Owner Claims**"); provided, however, that Owner shall have no liability under this Section 8 for Owner Claims arising from the sole 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 Owner and accepted by the City.

10. Periodic Review for Compliance.

10.1 Annual Review. The City shall, at least every twelve (12) months during the Term of this Agreement, review the extent of Owner's good faith compliance with the terms of this Agreement pursuant to Government Code § 65865.1 and Resolution No. 4159. Notice of such annual review shall be provided by the City's Community Development Director to Owner not less than thirty (30) days prior to the date of the hearing by the Planning Commission on Owner'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. Owner shall demonstrate good faith compliance with this Agreement. At the conclusion of the review, the Planning Commission shall determine on the basis of substantial evidence whether the Owner has complied in good faith with the terms and conditions of this Agreement. The decision of the Planning Commission may be appealed to the City Council within ten (10) days of its decision. A finding by the Planning Commission or City Council, as applicable, of good

faith compliance with the terms of this Agreement shall conclusively determine the issue up to and including the date of such review.

10.2 Non-Compliance. If the Planning Commission (if its finding is not appealed) or City Council finds that Owner has not complied in good faith with the terms and conditions of this Agreement, the City shall provide written notice to Owner describing: (a) such failure and that such failure constitutes a Default; (b) the actions, if any, required by Owner to cure such Default; and (c) the time period within which such Default must be cured. If the Default can be cured, Owner 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 Owner commences within such thirty (30) day time period the actions necessary to cure such Default and diligently proceeds to complete such actions necessary to cure such Default, Owner shall have such additional time period as may be required by Owner within which to cure such Default.

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

10.4 Proceeding Upon Amendment or Termination. If, upon a finding under Section 10.2 of this Agreement and the expiration of the cure period specified in such Section 10.2 without the Owner having cured a Default, the City determines to proceed with amendment or termination of this Agreement, the City shall give written notice to Owner of its intention so to do. The notice shall be given at least thirty (30) days before the scheduled hearing and shall contain:

(a) The time and place of the hearing;

(b) A statement that the City proposes to terminate or to amend this Agreement; and

(c) Such other information as is reasonably necessary to inform Owner of the nature of the proceeding.

10.5 Hearings on Amendment or Termination. At the time and place set for the hearing on amendment or termination, Owner shall be given an opportunity to be heard, and Owner 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 Owner has not complied in good faith with the terms or conditions of this Agreement, the City Council may terminate this Agreement or, with Owner'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.

10.6 Effect on Transferees. If Owner has transferred a partial interest in the Property to another party so that title to the Property is held by Owner 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. If the City Council terminates or amends this Agreement based upon any such annual review and the determination that any party with a partial interest in the Property has not complied in good faith with the terms and conditions of this Agreement, such action shall be effective as to all parties with a partial interest in the Property and to the entirety of the Property.

11. Permitted Delays; Subsequent Laws.

11.1 Extension of Times of Performance. In addition to any specific provisions of this Agreement, 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 thirty (30) days after the commencement of the cause of the delay, the period shall commence to run as of only thirty (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 Owner. Litigation attacking the validity of the EIR, this Agreement, the Project Approvals, future Approvals and/or the Project shall also be deemed to create an excusable delay under this Section 11.1, 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. Notwithstanding this Section 11.1, in no event shall the Term (or any extended term) of this Agreement as set forth in Section 2.2 be extended by any such delay without approval of the City Council and the mutual written agreement of the City and Owner.

11.2 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 Owner's reasonable business judgment, then Owner shall have the right to terminate this Agreement by written notice to the City. Owner 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.

12. Termination.

12.1 City's Right to Terminate. The City shall have the right to terminate this Agreement only under the following circumstances: The City Council has determined that Owner is not in good faith compliance with the terms of this Agreement, and this Default remains uncured, all as set forth in Section 9 of this Agreement.

12.2 Owner's Right to Terminate. Owner shall have the right to terminate this Agreement only if both of the following occur:

(a) In the notice to the City terminating this Agreement, Owner requests City in writing to rescind the Project Approvals; and

(b) One of the following has occurred:

(1) Owner 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; or

(2) Owner is unable to complete the Project because of supersedure by a subsequent Law or court action, as set forth in Sections 11.2 and 16 of this Agreement; or

(3) Owner determines in its business judgment that it does not desire to proceed with the construction of the Project.

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

12.4 Effect of Termination. If this Agreement is terminated pursuant to this Section 11, such termination shall not affect any condition or obligation due to the City from Owner prior to the date of termination.

12.5 Recordation of Termination. In the event of a termination, the City and Owner 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.

13. Remedies.

13.1 No Damages. City and Owner acknowledge that the purpose of this Agreement is to carry out the Parties' objectives as set forth in the recitals. City and Owner agree that to determine a sum of money which would adequately compensate either Party for choices they have made which would be foreclosed should the Property not be developed as contemplated by this Agreement is not possible and that damages would not be an adequate remedy. Therefore, City and Owner agree that in no event shall a Party, or its boards, commissions, officers, agents, or employees, be liable in damages for an Default under this Agreement. This exclusion on damages shall not preclude actions by a Party to enforce payments of monies or fees due or the performance of obligations requiring the expenditures of money under the terms of this Agreement.

13.2 Remedies Cumulative. In the event of a breach of this Agreement, the only remedies available to the non-breaching Party shall be: (a) suit for specific performance to remedy a specific breach; (b) suits for declaratory or injunctive relief; (c) suit for mandamus under Code of Civil Procedure Section 1085, or special writ; and (d) termination or cancellation of this Agreement. While Owner is in Default under this Agreement, City shall not be obligated to issue any permit or grant any Approval until Owner cures the Default. All of these remedies shall be cumulative and not exclusive of one another, and the exercise of any one or more of these remedies shall not constitute a waiver or election with respect to any other available remedy.

13.3 Parties' Agreement. In connection with the foregoing provisions, each Party acknowledges, warrants and represents that it has been fully informed with respect to, and represented by counsel of such Party's choice in connection with, the rights and remedies of such Party hereunder and the waivers herein contained, and after such advice and consultation has presently and actually intended, with full knowledge of such Party's rights and remedies otherwise available at law or in equity, to waive and relinquish such rights and remedies to the extent specified herein, and to rely to the extent herein specified solely on the remedies provided for herein with respect to any breach of this Agreement by the other Party. The provisions of this Section 12 shall survive and remain in effect following the expiration of the Term or termination or cancellation of this Agreement.

14. Waiver. Failure by a Party to insist upon the strict performance of any of the provisions of this Agreement by the other 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.

15. 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 14 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.

16. Limitations on Actions. The City and Owner 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.

17. Owner's Right of Termination; Indemnity. If any court action or proceeding is brought by any third party to challenge the EIR, the Project Approvals and/or the Project, or any portion thereof, and without regard to whether Owner is a party to or real party in interest in such action or proceeding, or this Agreement is the subject of a referendum petition submitted to the City, then Owner 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, proceeding, or referendum, or within ninety (90) days after the final determination therein (including any appeals), irrespective of the nature of such final determination, provided that in the notice to the City, Owner requests City in writing to rescind the Project Approvals. If Owner elects not to terminate this Agreement, any such action, proceeding, or referendum shall constitute a permitted delay under Section 11.1 of this Agreement and Owner 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, including any court action or proceeding involving a referendum petition regarding this Agreement, 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 or attorneys' fees awarded to a third party related to a referendum petition. The defense and indemnity provisions of this Section 16 shall survive Owner's election to terminate this Agreement. Notwithstanding anything to the contrary herein, Owner shall retain the right to terminate this Agreement pursuant to this Section 16 even after: (a) it has vacated the Property; and (b) its other rights and obligations under this Agreement have terminated.

18. 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 thirty (30) days following the receipt thereof. The City Manager shall have the right to execute any certificate requested by Owner hereunder. The City acknowledges that a certificate may be relied upon by transferees and Mortgagees.

19. Mortgagee Protection; Certain Rights of Cure.

19.1 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 18 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.

19.2 Mortgagee Not Obligated. Notwithstanding the provisions of Section 19.1 above, 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 Owner under this Agreement; and (b) be liable for any Default of Owner 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 Owner.

19.3 Notice of Default to Mortgagee; Right of Mortgagee to Cure. If the City receives notice from a Mortgagee requesting a copy of any notice of Default given Owner hereunder and specifying the address for service thereof, then City shall deliver to such Mortgagee, concurrently with service thereon to Owner, any notice of a Default or determination of noncompliance given to Owner. Each Mortgagee shall have the right (but not the obligation) for a period of ninety (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 ninety (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 ninety (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 ninety (90) day period, and thereafter diligently pursues such cure to completion.

20. Assignment, Transfer, Financing.

20.1 Owner's Right to Assign. Subject to the terms of this Agreement, Owner shall have the right to transfer, sell and/or assign Owner's rights and obligations under this Agreement in conjunction with the transfer, sale or assignment of all or a partial interest in the Property. If the transferred interest consists of less than Owner's entire Property, or less than Owner's entire title to or interest in the Property, Owner shall have the right to transfer, sell, and/or assign to the transferee only those of Owner's rights and obligations under this Agreement that are allocable or attributable to the transferred property. Any transferee shall assume in writing the obligations of Owner 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. Owner shall notify City within ten (10) days of any such transfer, sale, or assignment.

20.2 Financing. Notwithstanding Section 20.1 of this Agreement, 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 Owner 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 Owner under this Agreement.

20.3 Release upon Transfer of Property. Upon Owner's sale, transfer and/or assignment of all of Owner's rights and obligations under this Agreement in accordance with this Section 19, Owner shall be released from Owner's obligations pursuant to this Agreement which arise or accrue subsequent to the effective date of the transfer, sale and/or assignment, provided that Owner has provided notice to the City as required by Section 19.1.

21. 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.

22. Amendment.

22.1 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.

22.2 Recordation. Any amendment, termination or cancellation of this Agreement shall be recorded by the City Clerk not later than ten (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.

23. 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 of Menlo Park
701 Laurel Street
Menlo Park, CA 94025
Attention: City Attorney

Owner: Stanford University
Vice President, Land Buildings and Real Estate
3160 Porter Drive, Suite 200
Palo Alto, CA 94304
Attention: Robert Reidy

With a copy to: Stanford University
Vice President and General Counsel
P.O. Box 20386
Stanford, CA 94305
Attention: Debra Zumwalt

A Party may change its mailing address at any time by giving to the other Party ten (10) days' notice of such change in the manner provided for in this Section 22. 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.

24. Miscellaneous.

24.1 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 Owner, the affairs of the City, or otherwise, nor shall it cause them to be considered joint venturers or members of any joint enterprise.

24.2 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.

24.3 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.

24.4 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 23.4 is subject to the terms of Section 11.2.

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

24.6 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.

24.7 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 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.

24.8 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.

24.9 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. Venue shall be San Mateo County Superior Court.

24.10 Construction. This Agreement has been reviewed and revised by legal counsel for Owner 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.

24.11 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.

25. 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.

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: _____
~~Kirsten Keith, Mayor~~
PETER OHTAKI, MAYOR PRO TEM

Date: 11-17-17

ATTEST:

_____
City Clerk

Date: 11-17-17

APPROVED AS TO FORM:

By: _____
City Attorney

Date: 11/14/17

OWNER:

BOARD OF TRUSTEES OF THE LELAND STANFORD JUNIOR UNIVERSITY

By: _____
Robert C. Reidy

Its: Vice President Land, Buildings & Real Estate

November 13, 2017

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT **CIVIL CODE § 1189**

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 NOVEMBER 17, 2017 before me, JELENA HARADA, NOTARY PUBLIC,
Date *Here Insert Name and Title of the Officer*

personally appeared PETER I. OHTAKI JR.
Name(s) of Signer(s)

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.

JELENA HARADA
Notary Public – California
San Mateo County
Commission # 2167438
My Comm. Expires Oct 10, 2020

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 _____
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: _____ Document Date: _____

Number of Pages: _____ Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☐ Other: _____
Signer Is Representing: _____

Signer's Name: _____
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☐ Other: _____
Signer Is Representing: _____

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 SANTA CLARA

On November 13, 2017, before me, Amy M. Hartfield, Notary Public, personally appeared, Robert C. Reidy, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person 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.

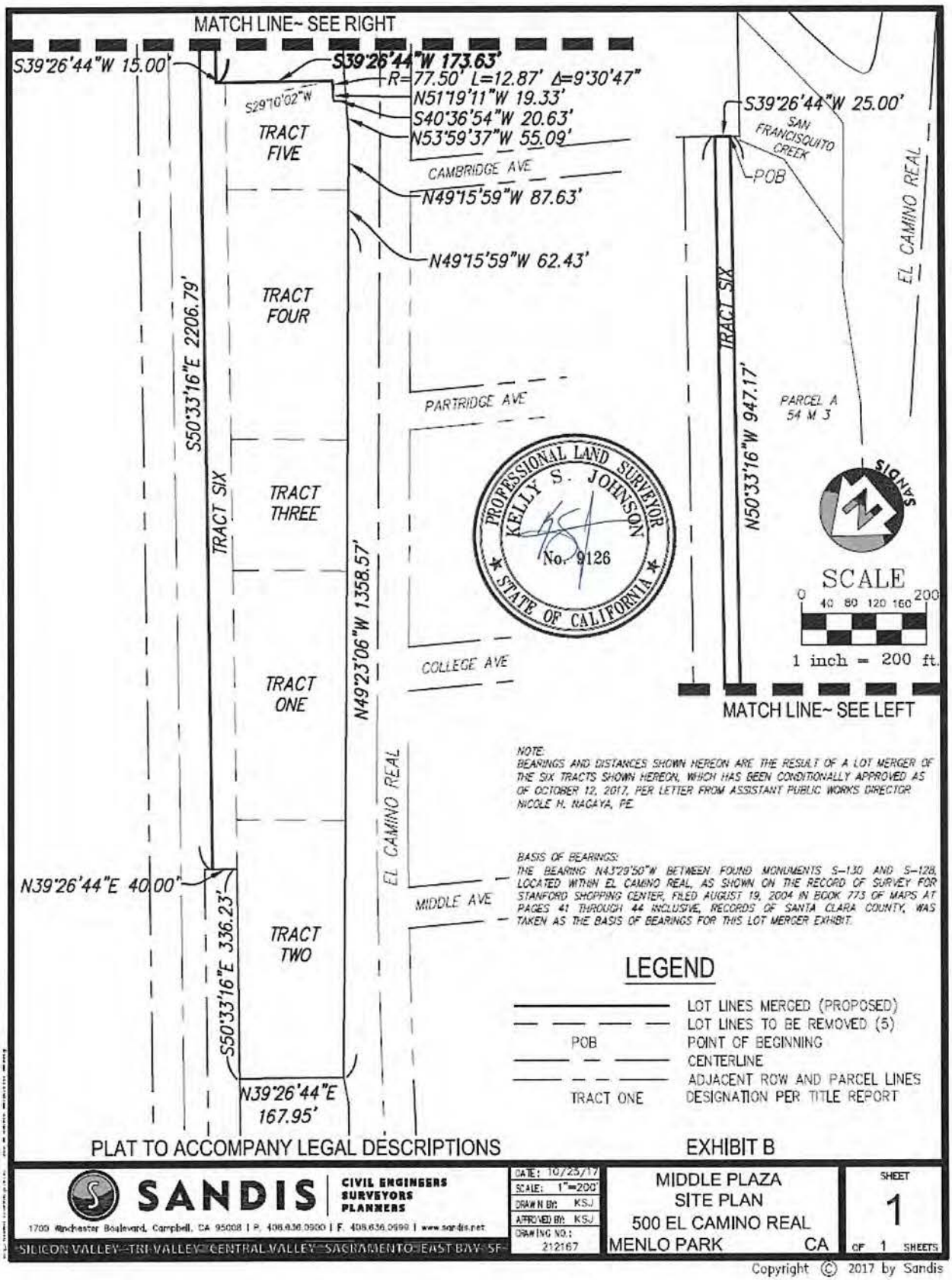
Amy M. Hartfield

Name: Amy M. Hartfield

Notary Public

EXHIBIT A

SITE PLAN OF PROPERTY



NOTE:
BEARINGS AND DISTANCES SHOWN HEREON ARE THE RESULT OF A LOT MERGER OF THE SIX TRACTS SHOWN HEREON, WHICH HAS BEEN CONDITIONALLY APPROVED AS OF OCTOBER 12, 2017, PER LETTER FROM ASSISTANT PUBLIC WORKS DIRECTOR NICOLE H. NAGAYA, PE.

BASIS OF BEARINGS:
THE BEARING N43°29'50"W BETWEEN FOUND MONUMENTS S-130 AND S-128, LOCATED WITHIN EL CAMINO REAL, AS SHOWN ON THE RECORD OF SURVEY FOR STANFORD SHOPPING CENTER, FILED AUGUST 19, 2004 IN BOOK 773 OF MAPS AT PAGES 41 THROUGH 44 INCLUSIVE, RECORDS OF SANTA CLARA COUNTY, WAS TAKEN AS THE BASIS OF BEARINGS FOR THIS LOT MERGER EXHIBIT.

LEGEND

- LOT LINES MERGED (PROPOSED)
- LOT LINES TO BE REMOVED (5)
- POB — POINT OF BEGINNING
- CENTERLINE
- ADJACENT ROW AND PARCEL LINES
- TRACT ONE — DESIGNATION PER TITLE REPORT

PLAT TO ACCOMPANY LEGAL DESCRIPTIONS

EXHIBIT B

SANDIS
CIVIL ENGINEERS
SURVEYORS
PLANNERS
1700 Winchester Boulevard, Campbell, CA 95008 | P. 408.636.0900 | F. 408.636.0999 | www.sandis.net
SILICON VALLEY · TRI-VALLEY · CENTRAL VALLEY · SACRAMENTO · EAST BAY · SF

DATE:	10/25/17
SCALE:	1"=200'
DRAWN BY:	KSJ
APPROVED BY:	KSJ
DRAWING NO.:	212167

MIDDLE PLAZA
SITE PLAN
500 EL CAMINO REAL
MENLO PARK CA

SHEET 1 OF 1 SHEETS

EXHIBIT B

LEGAL DESCRIPTION OF PROPERTY

Real property in the City of Menlo Park, County of San Mateo, State of California, described as follows:

TRACT ONE

PORTION OF THAT CERTAIN 14.80 ACRE TRACT OF LAND AS DESCRIBED IN THE DEED FROM CHARLES CROCKER, ET AL, TO LELAND STANFORD DATED OCTOBER 19, 1885 AND RECORDED IN BOOK 39 OF DEEDS, PAGE 354, RECORDS OF SAN MATEO COUNTY, CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHEASTERLY BOUNDARY LINE OF EL CAMINO REAL, AS ESTABLISHED BY THAT CERTAIN FINAL ORDER OF CONDEMNATION ISSUED OUT OF THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, IN AND FOR THE COUNTY OF SAN MATEO ON JULY 07, 1930 IN ACTION NO. 17642, ENTITLED "THE PEOPLE OF THE STATE OF CALIFORNIA, ETC. VS. THE BOARD OF TRUSTEES OF THE LELAND STANFORD JUNIOR UNIVERSITY", A COPY OF SAID ORDER BEING RECORDED IN BOOK 483 OF OFFICIAL RECORDS, PAGE 240 (FILE NO. 64056-B), RECORDS OF SAN MATEO COUNTY, CALIFORNIA, DISTANT THEREON SOUTH 50° 25' 00" EAST 411.00 FEET FROM THE POINT OF INTERSECTION OF THE NORTHWESTERLY BOUNDARY LINE OF SAID 14.80 ACRE TRACT WITH THE NORTHEASTERLY BOUNDARY LINE OF EL CAMINO REAL, SAID POINT OF BEGINNING ALSO BEING THE MOST SOUTHERLY CORNER OF THE LANDS DESCRIBED IN THAT CERTAIN MEMORANDUM OF LEASE, BY AND BETWEEN THE BOARD OF TRUSTEES OF THE LELAND STANFORD JUNIOR UNIVERSITY AND SIMPSON MOTORS, DATED APRIL 01, 1961 AND RECORDED APRIL 10, 1961 IN BOOK 3963 OF OFFICIAL RECORDS OF SAN MATEO COUNTY,

CALIFORNIA, PAGE 678 (FILE NO. 47143-T); THENCE FROM SAID POINT OF BEGINNING ALONG SAID NORTHEASTERLY BOUNDARY LINE OF EL CAMINO REAL, AS ESTABLISHED BY SAID

ORDER, SOUTH 50° 25' 00" EAST 400.00 FEET; THENCE LEAVING SAID LAST MENTIONED LINE NORTH 39° 35' 00" EAST 184.54 FEET TO THE SOUTHWESTERLY BOUNDARY LINE OF THAT CERTAIN 40 FOOT STRIP OF LAND CONTAINING 2.33 ACRES AS DESCRIBED IN THE DEED FROM THE BOARD OF TRUSTEES OF THE LELAND STANFORD JUNIOR UNIVERSITY TO THE SOUTHERN PACIFIC RAILROAD COMPANY, DATED MARCH 26, 1902 AND RECORDED IN BOOK 92 OF DEEDS, PAGE 374, RECORDS OF SAN MATEO COUNTY, CALIFORNIA; THENCE ALONG SAID LAST MENTIONED LINE NORTH 51° 35' 10" WEST 400.08 FEET TO THE MOST EASTERLY CORNER OF SAID CERTAIN PARCEL OF LAND LEASED BY THE BOARD OF TRUSTEES OF THE LELAND STANFORD JUNIOR UNIVERSITY TO SIMPSON MOTORS, ABOVE REFERRED TO; THENCE ALONG THE SOUTHEASTERLY LINE OF SAID LAST MENTIONED PARCEL OF LAND SOUTH 39° 35' 00" WEST 176.37 FEET TO THE POINT OF BEGINNING.

TRACT TWO

PORTION OF THAT CERTAIN 14.80 ACRE TRACT OF LAND CONVEYED FROM CHARLES CROCKER, ET AL, TO LELAND STANFORD BY DEED DATED OCTOBER 19, 1885 AND RECORDED IN BOOK 39 OF DEEDS, PAGE 354, RECORDS OF SAN MATEO COUNTY, CALIFORNIA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE POINT OF INTERSECTION OF THE NORTHWESTERLY BOUNDARY LINE OF SAID 14.80 ACRE TRACT WITH THE NORTHEASTERLY BOUNDARY LINE OF EL CAMINO REAL AS ESTABLISHED BY THAT CERTAIN FINAL ORDER OF CONDEMNATION ISSUED OUT OF THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, IN AND FOR THE COUNTY OF SAN MATEO ON JULY 07, 1930 IN ACTION NO. 17642, ENTITLED "THE PEOPLE OF THE STATE OF CALIFORNIA, ETC., VS. THE BOARD OF TRUSTEES OF THE LELAND STANFORD JUNIOR UNIVERSITY", A COPY OF SAID ORDER BEING RECORDED IN BOOK 483 OF OFFICIAL RECORDS, PAGE 240 (FILE NO. 64056-B), RECORDS OF SAN MATEO COUNTY, CALIFORNIA;

THENCE FROM SAID POINT OF BEGINNING ALONG SAID NORTHEASTERLY LINE OF EL CAMINO REAL, AS ESTABLISHED BY SAID ORDER, SOUTH 50° 25' 00" EAST 411 FEET;

THENCE LEAVING SAID LAST MENTIONED LINE, NORTH 39° 35' 00" EAST 176.37 FEET TO THE SOUTHWESTERLY BOUNDARY LINE OF THAT CERTAIN 40 FOOT STRIP OF LAND CONTAINING

2.33 ACRES, CONVEYED FROM SAID UNIVERSITY TO THE SOUTHERN PACIFIC RAILROAD COMPANY BY DEED DATED MARCH 26, 1902 AND RECORDED IN BOOK 92 OF DEEDS, PAGE 374, RECORDS OF SAN MATEO COUNTY, CALIFORNIA;
THENCE ALONG SAID LAST MENTIONED LINE NORTH 51° 35' 10" WEST 414.51 FEET TO THE INTERSECTION THEREOF WITH THE ABOVE MENTIONED NORTHWESTERLY BOUNDARY LINE OF THE 14.80 ACRE TRACT CONVEYED TO STANFORD;
THENCE ALONG SAID LAST MENTIONED LINE, SOUTH 38° 24' 50" WEST 167.95 FEET TO THE POINT OF BEGINNING.

TRACT THREE

PORTION OF THAT CERTAIN 14.80 ACRE TRACT OF LAND AS DESCRIBED IN THE DEED FROM CHARLES CROOKER, ET AL, TO LELAND STANFORD, DATED OCTOBER 19, 1885 AND RECORDED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SAN MATEO, STATE OF CALIFORNIA, IN BOOK 39 OF DEEDS, PAGE 354, SAID PORTION BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
BEGINNING AT A POINT ON THE NORTHEASTERLY BOUNDARY LINE OF EL CAMINO REAL, AS ESTABLISHED BY THAT CERTAIN FINAL ORDER OF CONDEMNATION ISSUED OUT OF THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, IN AND FOR THE COUNTY OF SAN MATEO ON JULY 07, 1930 IN ACTION 17642, ENTITLED "THE PEOPLE OF THE STATE OF CALIFORNIA, ETC., VS. THE BOARD OF TRUSTEES OF THE LELAND STANFORD JUNIOR UNIVERSITY", A COPY OF SAID ORDER BEING RECORDED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SAN MATEO, STATE OF CALIFORNIA, IN BOOK 483 OF OFFICIAL RECORDS, PAGE 240, (FILE NO. 64056-B), DISTANT THEREON SOUTH 50° 25' 00" EAST 811.00 FEET FROM THE POINT OF INTERSECTION OF THE NORTHWESTERLY BOUNDARY LINE OF SAID 14.80 ACRE TRACT WITH

THE NORTHEASTERLY BOUNDARY LINE OF EL CAMINO REAL, SAID POINT OF BEGINNING ALSO BEING THE MOST SOUTHERLY CORNER OF THE LANDS DESCRIBED IN THAT CERTAIN MEMORANDUM OF LEASE, BY AND BETWEEN THE BOARD OF TRUSTEES OF THE LELAND STANFORD JUNIOR UNIVERSITY AND KENNETH R. LOWELL AND AUDREY T. LOWELL, DATED OCTOBER 11, 1961, AND RECORDED OCTOBER 11, 1961, IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SAN MATEO, STATE OF CALIFORNIA, IN BOOK 4071 OF OFFICIAL RECORDS, PAGE 580; THENCE FROM SAID POINT OF BEGINNING ALONG SAID NORTHEASTERLY BOUNDARY LINE OF EL CAMINO REAL, AS ESTABLISHED BY SAID ORDER, SOUTH 50° 25' 00" EAST 210.00 FEET; THENCE LEAVING SAID LAST MENTIONED LINE NORTH 39° 35' 00" EAST 188.83 FEET TO THE SOUTHWESTERLY BOUNDARY LINE OF THAT CERTAIN 40 FOOT STRIP OF LAND CONTAINING 2.33 ACRES, AS DESCRIBED IN THE DEED FROM THE BOARD TRUSTEES OF THE LELAND STANFORD JUNIOR UNIVERSITY TO THE SOUTHERN PACIFIC RAILROAD COMPANY, DATED MARCH 26, 1902 AND RECORDED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SAN MATEO, STATE OF CALIFORNIA, IN BOOK 92 OF DEEDS, PAGE 374;

THENCE ALONG SAID LAST MENTIONED LINE NORTH 51° 35' 10" WEST 210.04 FEET TO THE MOST EASTERLY CORNER OF SAID CERTAIN PARCEL OF LAND LEASED BY THE BOARD OF TRUSTEES OF THE LELAND STANFORD JUNIOR UNIVERSITY TO KENNETH R. LOWELL AND AUDREY T. LOWELL, ABOVE REFERRED TO;

THENCE ALONG THE SOUTHEASTERLY LINE OF SAID LAST MENTIONED PARCEL OF LAND SOUTH 39° 35' 00" WEST 184.54 FEET TO THE POINT OF BEGINNING AND BEING A PORTION OF LOT 76 OF THE UNRECORDED MAP OF THE LANDS OF THE BOARD OF TRUSTEES OF THE LELAND STANFORD JUNIOR UNIVERSITY.

EXCEPTING AND RESERVING THEREFROM AN EASEMENT 10 FEET IN WIDTH CONTIGUOUS WITH AND LYING SOUTHWESTERLY FROM THE SOUTHWESTERLY LINE OF LANDS OF SOUTHERN PACIFIC RAILROAD COMPANY. SAID EASEMENT IS EXCEPTED AND RESERVED UNTO LESSOR, ITS SUCCESSORS AND ASSIGNS, AS APPURTENANT TO AND FOR THE BENEFIT OF OTHER LANDS OF LESSOR, FOR THE PURPOSE OF CONSTRUCTING, INSTALLING, OPERATING, MAINTAINING, USING, ALTERING, REPAIRING, INSPECTING, REPLACING AND

RELOCATING THEREIN AND/OR REMOVING THEREFROM STORM SEWER AND DRAINAGE FACILITIES AND ALL APPURTENANCES NECESSARY AND CONVENIENT THERETO.

TRACT FOUR

PORTION OF THAT CERTAIN 14.80 ACRE TRACT OF LAND AS DESCRIBED IN THAT CERTAIN

DEED FROM CHARLES CROCKER, ET AL, TO LELAND STANFORD, DATED OCTOBER 19, 1885 AND RECORDED IN BOOK 39 OF DEEDS, PAGE 354 RECORDS OF SAN MATEO COUNTY, CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHEASTERLY LINE OF EL CAMINO REAL, WHICH POINT IS DISTANT 50 FEET MEASURED AT RIGHT ANGLES, NORTHEASTERLY FROM THE CENTER LINE STATION 593+50.00, SAID POINT OF BEGINNING BEING MARKED BY AN IRON PIPE MONUMENT; THENCE FROM SAID POINT OF BEGINNING, ALONG THE SAID NORTHEASTERLY LINE OF EL CAMINO REAL, NORTH 50° 17' 53" WEST 87.63 FEET TO THE TRUE POINT OF BEGINNING AT THE LANDS TO BE DESCRIBED HEREIN; THENCE FROM SAID TRUE POINT OF BEGINNING, ALONG THE SAID NORTHEASTERLY LINE OF EL CAMINO REAL, NORTH 50° 17' 53" WEST 62.43 FEET AND NORTH 50° 25' WEST 337.57 FEET; THENCE LEAVING SAID LINE OF EL CAMINO REAL, NORTH 39° 35' 00" EAST 188.83 FEET TO THE SOUTHWESTERLY BOUNDARY LINE OF THAT CERTAIN 40 FOOT WIDE STRIP OF LAND CONTAINING 2.33 ACRES, AS DESCRIBED IN THAT CERTAIN DEED FROM THE BOARD OF TRUSTEES OF THE LELAND STANFORD JUNIOR UNIVERSITY TO THE SOUTHERN PACIFIC RAILROAD COMPANY, DATED MARCH 26, 1902 AND RECORDED IN BOOK 92 OF DEEDS, PAGE 374, RECORDS OF SAN MATEO COUNTY, CALIFORNIA; THENCE SOUTH 51° 35' 10" EAST ALONG SAID LAST MENTIONED LINE,

400.08 FEET; THENCE SOUTH 39° 35' 00" WEST 197.12 FEET TO THE POINT OF BEGINNING.

TRACT FIVE

PARCEL B OF THAT CERTAIN PARCEL MAP FILED OCTOBER 06, 1983 IN BOOK 54 OF PARCEL MAPS, PAGE 3, SAN MATEO COUNTY RECORDS.

TRACT SIX

BEGINNING AT A POINT WHERE THE SOUTHWEST LINE OF THE LANDS OF THE SOUTHERN PACIFIC RAILROAD COMPANY INTERSECTS THE CENTERLINE OF SAN FRANCISQUITO CREEK, SAID POINT BEING SITUATE FIFTY (50) FEET SOUTHWESTERLY AT RIGHT ANGLES FROM THE LOCATED CENTERLINE OF SAID RAILROAD AT OR NEAR ENGINEER'S STATION 228+49.9 OF SAID CENTERLINE; THENCE RUNNING NORTHWESTERLY ALONG SAID SOUTHWEST LINE OF THE LANDS OF SAID RAILROAD COMPANY, PARALLEL WITH SAID CENTERLINE OF RAILROAD, A DISTANCE OF TWENTY-FIVE HUNDRED AND FORTY-THREE (2543), MORE OR LESS, TO AN INTERSECTION WITH THE SOUTHEASTERLY LINE OF THE LANDS OF SAID RAILROAD COMPANY, AT A POINT SITUATE FIFTY (50) FEET SOUTHWESTERLY AT RIGHT ANGLES FROM SAID CENTERLINE OF RAILROAD AT OR NEAR ENGINEER'S STATION 203+06.9 OF SAID CENTERLINE OF RAILROAD; THENCE RUNNING SOUTHWESTERLY ALONG SAID SOUTHEASTERLY LINE OF THE LANDS OF SAID RAILROAD COMPANY TO A POINT SITUATE NINETY (90) FEET SOUTHWESTERLY AT RIGHT ANGLES FROM SAID CENTERLINE OF RAILROAD; AND THENCE RUNNING NORTHEASTERLY ALONG THE CENTERLINE OF SAID CREEK TO THE POINT OF BEGINNING; BEING A STRIP OF LAND FORTY (40) FEET WIDE, LYING IMMEDIATELY ADJACENT ON THE SOUTHWEST TO THE LANDS OF THE SAID RAILROAD COMPANY, AND EXTENDING FROM THE CENTERLINE OF SAID CREEK TO SAID SOUTHEASTERLY LINE OF THE LANDS OF SAID RAILROAD COMPANY; BEING THE SAME LANDS AS CONVEYED BY JANE L. STANFORD, ET AL TO THE SOUTHERN PACIFIC RAILROAD COMPANY, BY DEED RECORDED APRIL 02, 1902 IN BOOK 92 OF DEEDS, PAGE 374, RECORDS OF SAN MATEO COUNTY. ALSO BEING A PORTION OF PARCEL "B" AS SHOWN ON THAT CERTAIN MAP ENTITLED, "PARCEL MAP, BEING ALL OF PARCEL ONE-REMAINDER AS SHOWN ON THAT CERTAIN PARCEL MAP RECORDED IN VOLUME 51 OF PARCEL MAPS, PAGES 5, 6 & 7 SAN MATEO COUNTY RECORDS", WHICH MAP WAS RECORDED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SAN MATEO, STATE OF CALIFORNIA ON JANUARY 07, 1982, IN BOOK 52 OF PARCEL MAPS, PAGE 31.

EXCEPTING THEREFROM ALL THAT PORTION OF SAID PROPERTY AS CONVEYED TO SOUTHERN PACIFIC LAND COMPANY BY INSTRUMENT RECORDED MARCH 23, 1981 UNDER RECORDER'S DOCUMENT NO. 265227-AS, OFFICIAL RECORDS.

AND FURTHER EXCEPTING ALL THAT PORTION OF SAID PROPERTY AS CONVEYED TO THE BOARD OF TRUSTEES OF THE LELAND STANFORD JUNIOR UNIVERSITY BY INSTRUMENT RECORDED JANUARY 18, 1982, UNDER RECORDER'S DOCUMENT NO. 82004513, OFFICIAL RECORDS.

EXCEPTING THEREFROM ALL MINERALS AND ALL MINERAL RIGHTS OF EVERY KIND AND CHARACTER NOW KNOWN TO EXIST OR HEREAFTER DISCOVERED, INCLUDING, WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, OIL AND GAS AND RIGHTS THERETO, TOGETHER WITH THE SOLE, EXCLUSIVE AND PERPETUAL RIGHT TO EXPLORE FOR, REMOVE AND DISPOSE OF SAID MINERALS BY ANY MEANS OR METHODS SUITABLE BUT WITHOUT ENTERING UPON OR USING THE SURFACE OF THE PROPERTY, AND IN SUCH MANNER AS NOT TO DAMAGE THE SURFACE OF SAID LANDS OR TO INTERFERE WITH THE USE THEREOF AS RESERVED BY UNION PACIFIC RAILROAD COMPANY IN GRANT DEED RECORDED JULY 01, 1999, DOCUMENT NO. 99112045.

APN: APN(S): 071-440-030 (AFFECTS TRACT ONE); 071-440-040-5 (AFFECTS TRACT TWO); 071-440-050-4 (AFFECTS TRACT THREE); 071-440-060-3 (AFFECTS TRACT FOUR); 071-440120-5 (AFFECTS TRACT FIVE) AND 071-440-130-4 (AFFECTS TRACT SIX)

JPN(S): 071-044-440-03A (AFFECTS TRACT ONE); 071-044-440-04A (AFFECTS TRACT TWO); 071-044-440- 05A (AFFECTS TRACT THREE); 071-044-440-06A (AFFECTS TRACT FOUR): 071044-440-07.01A

(AFFECTS TRACT FIVE) AND 071-044-440-08 (AFFECTS TRACT SIX)

26. **NOTE:**

THE PARCELS DESCRIBED HEREINABOVE ARE PART OF A LOT MERGER THAT HAS BEEN CONDITIONALLY APPROVED AS OF OCTOBER 12, 2017, PER LETTER FROM ASSISTANT PUBLIC WORKS DIRECTOR NICOLE H. NAGAYA, PE.

EXHIBIT C

BMR HOUSING AGREEMENT

AFFORDABLE HOUSING AGREEMENT

AND

DECLARATION OF RESTRICTIVE COVENANTS

MIDDLE PLAZA AT 500 EL CAMINO REAL PROJECT

THIS AFFORDABLE HOUSING AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS ("**Agreement**") is entered into as of October 10, 2017, by and between the **CITY OF MENLO PARK**, a California municipal corporation ("**City**"), and **THE BOARD OF TRUSTEES OF THE LELAND STANFORD JUNIOR UNIVERSITY**, a body having corporate powers under the laws of the State of California ("**Owner**") with reference to the following facts:

RECITALS

A. Owner is the owner of those certain parcels of real property having current addresses at 300-550 El Camino Real in the City of Menlo Park, California ("**Property**"), as more particularly described in Exhibit A attached hereto.

B. The Parties have entered into a Development Agreement ("**Development Agreement**"), effective November 9, 2017, of even date herewith, to facilitate development of the Property subject to certain terms and conditions. Owner intends to demolish all existing structures on the Property and to construct the Project on the Property, as defined in the Development Agreement (the "**Project**"). All capitalized terms not otherwise defined in this Agreement have the meaning ascribed to them in the Development Agreement.

C. As a material consideration for the long term assurances, vested rights, and other City obligations provided by the Development Agreement and as a material inducement to City to enter into the Development Agreement, Owner offered and agreed to certain terms as specified in the Development Agreement. Section 7 of the Development Agreement specifies that the Parties shall enter into and record this Agreement for the benefit of the City. This Agreement provides that the Project shall include ten (10) units to be occupied exclusively by, and rented to, qualified Low Income Households, as defined below (the "**Low Income Units**"). (If the 2131 Sand Hill Road project is not approved, Owner would provide eight (8) one-bedroom BMR units at the low-income level.) This Agreement further ensures that the Project will comply with the City's Municipal Code Chapter 16.96 and the City's BMR Housing Program Guidelines as adopted by the City Council of Menlo Park, and amended from time to time and, as in effect as of the date of this Agreement, attached hereto as Exhibit B ("**Guidelines**").

NOW, THEREFORE, the Parties hereto agree as follows. The recitals are incorporated into this Agreement by this reference.

100. CONSTRUCTION OF THE IMPROVEMENTS.

101. **Construction of the Property**. To the extent provided in the Development Agreement, the Owner agrees to construct the Project in accordance with the City Municipal Code, the Development Agreement, the Guidelines, and all other applicable state and local building codes, development standards, ordinances and zoning codes. No portion of any residential building may be approved for occupancy unless the percentage of Low Income Units approved for occupancy in that portion of the building is equivalent to, or greater than, the percentage of Low Income Units in the entire building (e.g., if 11 percent of the units in the entire building will be Low Income Units, then at least 11 percent of the units approved for occupancy must be Low Income Units).

102. **City and Other Governmental Permits**. Before commencement of the Project, the Owner shall secure or cause its contractor to secure any and all permits which may be required by the City or any other governmental agency affected by such construction, including without limitation building permits. Except as otherwise provided in the Development Agreement, the Owner shall pay all necessary fees and timely submit to the City final drawings with final corrections to obtain such permits; the staff of the City will, without incurring liability or expense therefor, process applications in the ordinary course of business for the issuance of building permits and certificates of occupancy for construction that meets the requirements of the City Code, and all other applicable laws and regulations.

103. **Compliance with Laws**. The Owner shall carry out the acquisition, design, construction and operation of the Project in conformity with all applicable laws, including all applicable state labor standards, City zoning and development standards, building, plumbing, mechanical and electrical codes, and all other provisions of the City Municipal Code, to the extent that these laws, codes, and standards are consistent with the provisions of the Development Agreement. The Owner shall also ensure that the Project is constructed and operated in compliance with all applicable disabled and handicapped access requirements, including without limitation the Americans With Disabilities Act, 42 U.S.C. Section 12101, *et seq.*, Government Code Section 4450, *et seq.*, Government Code Section 11135, *et seq.*, and the Unruh Civil Rights Act, Civil Code Section 51, *et seq.*

200. OPERATION OF HOUSING

201. **(a) Provision of Low Income Units**. The Low Income Units shall be one-bedroom units, shall be of a quality comparable to all of the other rental units in the Project, and shall be equitably distributed throughout the Project's residential buildings. Prior to occupancy of the first residential unit in the Project, the Owner shall notify the City and the City shall approve of the locations of the Low Income Units within the residential buildings. The location of the individual Low Income Units may float to account for the Next Available Unit Requirement set forth below and as otherwise necessary for the smooth and professional maintenance of the Project, provided that the location of Low Income Units shall remain equitably distributed throughout the Project's residential buildings. Rental of each Low Income Unit shall include the right to use one parking space in the residential buildings' parking garage.

201. **(b) Low Income Units**. As described in Recital C above, the Owner agrees to make available, restrict occupancy, and lease not less than ten (10) of the rental units on the Property exclusively to Low Income Households at Affordable Low Income Rent, as defined below. For purposes of this Agreement, "**Low Income Households**" shall mean those households with incomes that do not exceed the low income limits for San Mateo County, adjusted for household size, as set forth in the Guidelines, and as established and amended from time to time in accordance with the low income limits for San Mateo County established by the State of California in the California Code of Regulations, Title 25, Section 6932 or successor provision ("**Low Income Limits**"). A qualified Low Income Household shall continue to qualify unless at the time of recertification, for two consecutive years, the household's income exceeds the Low Income Limits, then the tenant shall not longer be qualified. Upon the Owner's determination that any such household is no longer so qualified, the unit shall no longer be deemed a Low Income Unit, and the Owner shall make the next available one-bedroom unit, which is comparable in terms of size, features and number of bedrooms, a Low Income Unit ("**Next Available Unit Requirement**") and take such other actions, including as specified in Section 11.1.7 of the Guidelines, as may be necessary to ensure that the total required number of units are rented to Low Income Households. The Owner shall notify the City annually if Owner substitutes a different unit for one of the designated Low Income Units pursuant to this paragraph.

201. **(c) Income Certification**. On or before July 1 of each year, commencing with the calendar year that the first unit in the Project is rented to a tenant, and annually thereafter, the Owner shall obtain from each household occupying a Low Income Unit and submit to the City a completed income computation and certification form, which shall certify that the income of the household is truthfully set forth in the income certification form, in the form attached hereto as Exhibit C unless a different form is specified by the City or proposed by Owner and approved by the City's Director of Community Development ("**Director**"). The Owner shall certify that each household leasing a Low Income Unit meets the income and eligibility restrictions for the Low Income Unit.

202. **(a) Affordable Rent, Low Income**. The maximum Monthly Rent chargeable for the Low Income Units and actually paid by a Low Income Household shall be thirty percent (30%) of the Low Income Limits, adjusted for assumed household size of two persons in a one-bedroom Low Income Unit (the "**Affordable Low Income Rent**").

202. **(b) Monthly Rent**. For purposes of this Agreement, "**Monthly Rent**" means the total of monthly payments actually made by the household for (a) use and occupancy of each Low Income Unit and land and facilities associated therewith, (b) any separately charged fees or service charges mandatorily assessed by the Owner which are required of all tenants, other than security deposits, (c) a reasonable allowance for an adequate level of service of utilities not included in (a) or (b) above, and which are not paid directly by the Owner, including garbage collection, sewer, water, electricity, gas and other heating, cooking and refrigeration fuels, but not including telephone service, cable, and internet service, and (d) possessory interest, taxes or other fees or charges assessed for use of the land and facilities associated therewith by a public or private entity other than Owner.

A sample utility allowance schedule prepared by San Mateo County as of the date of this Agreement is attached as Exhibit D.

203. **Lease Requirements**. At least ninety (90) days prior to occupancy of any residential space in the Project, the Owner shall submit a standard lease form for approval by the Director. The City shall reasonably approve such lease form upon finding that such lease form is consistent with this Agreement and contains all of the provisions required by the Guidelines. The Owner shall enter into a written lease, in the form approved by the City, with each new tenant of a Low Income Unit upon such tenant's rental of the Low Income Unit. Each lease shall be for an initial term of not less than one year, and shall not contain any of the provisions which are prohibited by the Guidelines.

204. **Selection of Tenants**. Each Low Income Unit shall be leased to tenant(s) selected by the Owner who meet all of the requirements provided herein, and, to the extent permitted by law, with priority given to those eligible households who either live or work in the City of Menlo Park. The City may, from time to time, provide to the Owner names of persons who have expressed interest in renting Low Income Units for the purposes of adding such interested persons to Owner's waiting list to be processed in accordance with Owner's customary policies. The Owner shall not refuse to lease to a holder of a certificate or a rental voucher under the Section 8 program or other tenant-based assistance program, who is otherwise qualified to be a tenant in accordance with the approved tenant selection criteria.

205. **Maintenance**. The Owner shall maintain or cause to be maintained the interior and exterior of the residential buildings at the Property in a decent, safe and sanitary manner, and consistent with the standard of maintenance of first class multifamily apartment projects within San Mateo County, California of the age of the Property improvements. If at any time Owner fails to maintain the Property in accordance with this Agreement and such condition is not corrected within five (5) days after written notice from the City with respect to graffiti, debris, waste material, and general maintenance, or thirty (30) days after written notice from the City with respect to landscaping and building improvements (or such longer time in accordance with Section 301 of this Agreement), then the City, in addition to whatever remedy it may have at law or at equity, shall have the right to enter upon the applicable portion of the Property and perform all acts and work necessary to protect, maintain, and preserve the Property, and to attach a lien upon the Property, or to assess the Property, in the amount of the expenditures arising from such acts and work of protection, maintenance, and preservation by the City and/or costs of such cure, including a reasonable administrative charge, which amount shall be promptly paid by Owner to the City upon demand.

206. **Monitoring and Recordkeeping**. Throughout the Affordability Period, as defined below, Owner shall comply with all applicable recordkeeping and monitoring requirements set forth in the Guidelines and shall annually complete and submit to City by July 1st a Certification of Continuing Program Compliance in a form approved by the City. Representatives of the City shall be entitled to enter the Property, upon at least twenty-four (24) hour notice, to monitor compliance with this Agreement, to inspect the records of the Project with respect to the Low Income Units, and to conduct, or cause to be conducted, an

independent audit or inspection of such records. The Owner agrees to cooperate with the City in making the Property available for such inspection or audit. If for any reason the City is unable to obtain the Owner's consent to such an inspection or audit, the Owner understands and agrees that the City may obtain at Owner's expense an administrative inspection warrant or other appropriate legal order to obtain access to and search the Property. Owner agrees to maintain records in businesslike manner, and to maintain such records for the Affordability Period.

207. **Non-Discrimination Covenants**. Owner covenants by and for itself, its successors and assigns, and all persons claiming under or through them that there shall be no discrimination against or segregation of any person or group of persons on account of race, color, religion, sex, marital status, familial status, disability, national origin, or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the Property, nor shall Owner itself or any person claiming under or through it, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the Property.

208. **Agreement to Limitation on Rents**. The Owner covenants that it has agreed to limit Monthly Rent in the Low Income Units in consideration for the City's agreement to enter into a Development Agreement for the Project, under Civil Code Sections 1954.52(b) and 1954.53(a)(2). The Owner hereby agrees, for so long as this Agreement is operative, that any Low Income Units provided pursuant to this Agreement are not subject to Civil Code Section 1954.52(a) or any other provision of the Costa-Hawkins Act inconsistent with controls on rents and further agrees that any limitations on Monthly Rent imposed on the Low Income Units are in conformance with the Costa-Hawkins Act.

209. **Term of Agreement**. The Property shall be subject to the requirements of this Agreement from the date of recordation of this Agreement until the fifty-fifth (55^{th}) anniversary of the date of the City's signoff of the final building permit permitting occupancy of all planned residential space in the Project. The duration of this requirement shall be known as the "**Affordability Period**."

210. **Expiration of Affordability Period; Release of Property from Agreement**. Prior to the expiration of the Affordability Period, Owner shall provide all notifications required by Government Code Sections 65863.10 and 65863.11 or successor provisions and any other notification required by any state, federal, or local law. In addition, at least six (6) months prior to the expiration of the Affordability Period, the Owner shall provide a notice by first-class mail, postage prepaid, to all tenants in the Low Income Units. The notice shall contain (a) the anticipated date of the expiration of the Affordability Period and (b) any anticipated Monthly Rent increase upon the expiration of the Affordability Period. The Owner shall file a copy of the above-described notice with the City Manager. Upon the expiration of the Affordability Period for all Low Income Units, City shall execute and record a release of the Project, the Property, and each unit in the Project from the burdens of this Agreement within thirty (30) days following written notice from the Owner, if at the time the Owner is in compliance with all terms of this

Agreement, including without limitation the provisions of this section regarding notice of the expiration of the Affordability Period.

300. DEFAULT AND REMEDIES

301. **Events of Default**. The following shall constitute an "**Event of Default**" by Owner under this Agreement: there shall be a material breach of any condition, covenant, warranty, promise or representation contained in this Agreement and such breach shall continue for a period of thirty (30) days after written notice thereof to the defaulting Party without the defaulting Party curing such breach, or if such breach cannot reasonably be cured within such thirty (30) day period, commencing the cure of such breach within such thirty (30) day period and thereafter diligently proceeding to cure such breach within ninety (90) days, unless a longer period is granted by the City; provided, however, that if a different period or notice requirement is specified for any particular breach under any other paragraph of Article 300 of this Agreement, the specific provision shall control.

302. **Remedies**. The occurrence of any Event of Default under Section 301 shall give the non-defaulting Party the right to proceed with an action in equity to require the defaulting Party to specifically perform its obligations and covenants under this Agreement or to enjoin acts or things which may be unlawful or in violation of the provisions of this Agreement, and the right to terminate this Agreement. Any Event of Default under this Agreement shall constitute a Default under the Development Agreement.

303. **Obligations Personal to Owner**. The liability of the Owner under this Agreement to any person or entity is limited to the Owner's interest in the Project, and the City and any other such persons and entities shall look exclusively thereto for the satisfaction of obligations arising out of this Agreement or any other agreement securing the obligations of the Owner under this Agreement. From and after the date of this Agreement, no deficiency or other personal judgment, nor any order or decree of specific performance (other than pertaining to this Agreement, any agreement pertaining to any Project or any other agreement securing the Owner's obligations under this Agreement), shall be rendered against the Owner, the assets of the Owner (other than the Owner's interest in the Project), its partners, members, successors, transferees or assigns and each of their respective officers, directors, employees, partners, agents, heirs and personal representatives, as the case may be, in any action or proceeding arising out of this Agreement or any agreement securing the obligations of the Owner under this Agreement, or any judgment, order or decree rendered pursuant to any such action or proceeding. No subsequent owner of the Project shall be liable or obligated for the breach or default of any obligations of the Owner under this Agreement on the part of any prior Owner. Such obligations are personal to the person who was the Owner at the time the default or breach was alleged to have occurred and such person shall remain liable for any and all damages occasioned thereby even after such person ceases to be the Owner. Each Owner shall comply with and be fully liable for all obligations of an "owner" hereunder during its period of ownership.

304. **Force Majeure**. Subject to the Party's compliance with the notice requirements as set forth below, performance by either Party hereunder shall not be deemed

to be in default, and all performance and other dates specified in this Agreement shall be extended, where delays or defaults are due to causes beyond the control and without the fault of the Party claiming an extension of time to perform, which may include, without limitation, the following: war, insurrection, strikes, lockouts, riots, floods, earthquakes, fires, assaults, acts of God, acts of the public enemy, epidemics, quarantine restrictions, freight embargoes, lack of transportation, governmental restrictions or priority, litigation, unusually severe weather, inability to secure necessary labor, materials or tools, acts or omissions of the other Party, or acts or failures to act of any public or governmental entity (except that the City's acts or failure to act shall not excuse performance of the City hereunder). An extension of the time for any such cause shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause, if notice by the Party claiming such extension is sent to the other Party within thirty (30) days of the commencement of the cause.

305. **Attorneys' Fees**. In addition to any other remedies provided hereunder or available pursuant to law, if either Party brings an action or proceeding to enforce, protect or establish any right or remedy hereunder, the prevailing Party shall be entitled to recover from the other Party its costs of suit and reasonable attorneys' fees.

306. **Remedies Cumulative**. No right, power, or remedy given by the terms of this Agreement is intended to be exclusive of any other right, power, or remedy; and each and every such right, power, or remedy shall be cumulative and in addition to every other right, power, or remedy given by the terms of any such instrument, or by any statute or otherwise.

307. **Waiver of Terms and Conditions**. The City may, in its sole discretion, waive in writing any of the terms and conditions of this Agreement. Waivers of any covenant, term, or condition contained herein shall not be construed as a waiver of any subsequent breach of the same covenant, term, or condition.

308. **Non-Liability of City Officials and Employees**. No member, official, employee or agent of the City shall be personally liable to the Owner or any occupant of any Low Income Unit, or any successor in interest, in the event of any default or breach by the City or failure to enforce any provision hereof, or for any amount which may become due to the Owner or its successors, or on any obligations under the terms of this Agreement.

400. GENERAL PROVISIONS

401. **Guidelines**. This Agreement incorporates by reference the provisions of Sections 1, 2, 3.1, 4.1.2, 5.1, 5.2, 5.3, 7.1, 7.2.1, 7.2.3, 7.2.4, 7.2.5, 11.1.1, 11.1.2, 11.1.3 through 11.1.6, 11.1.8, 13.6, and 13.7 of the Guidelines as of the date of this Agreement and any successor sections as the Guidelines may be amended from time to time and expresses the entire obligations and duties of Owner with respect to the Owner's obligations under the Guidelines. No other requirements or obligations under the Guidelines shall apply to Owner except as expressly provided for in this Agreement. In the event of any conflict or ambiguity between this Agreement, the Development Agreement, the requirements of state and federal fair housing laws, and the Guidelines, the

terms and conditions of this Agreement, the Development Agreement, and the requirements of state and federal fair housing laws shall control. In the event of any conflict or ambiguity between this Agreement and the Development Agreement, the Development Agreement shall control.

402. **Time**. Time is of the essence in this Agreement.

403. **Notices**. Any notice requirement set forth herein shall be deemed to be satisfied three (3) days after mailing of the notice first-class United States certified mail, postage prepaid, or by personal delivery, addressed to the appropriate Party as follows:

Owner: Stanford University
Vice President, Land Buildings & Real Estate
3160 Porter Drive, Suite 200
Palo Alto, CA 94304
Attention: Robert C. Reidy

With a copy to:
Stanford University
Vice President and General Counsel
P.O. Box 20386
Stanford, CA 94305
Attention: Debra Zumwalt

City: City of Menlo Park
701 Laurel Street
Menlo Park, California 94025-3483
Attention: City Manager

With a copy to:
City of Menlo Park
701 Laurel Street
Menlo Park, California 94025-3483
Attention: City Attorney

Such addresses may be changed by notice to the other Party given in the same manner as provided above.

404. **Covenants Running with the Land; Successors and Assigns**. The City and Owner hereby declare their express intent that the covenants and restrictions set forth in this Agreement shall apply to and bind Owner and its heirs, executors, administrators, successors, transferees, and assignees having or acquiring any right, title or interest in or to any part of the Property and shall run with and burden the Property. Until all or portions of the Property are expressly released from the burdens of this Agreement, each and every contract, deed or other instrument hereafter executed covering or conveying the Property or any portion thereof shall be held conclusively to have been executed, delivered, and accepted subject to such covenants and restrictions, regardless of whether such covenants or restrictions are set forth in such contract, deed or other instrument. In the event of

foreclosure or transfer by deed-in-lieu of all or any portion of the Property, title to all or any portion of the Property shall be taken subject to this Agreement. Owner acknowledges that compliance with this Agreement is a land use requirement and a requirement of the Development Agreement, and that no event of foreclosure or trustee's sale may remove these requirements from the Property. Whenever the term "Owner" is used in this Agreement, such term shall include any other permitted successors and assigns as herein provided.

405. **Subordination**. At Owner's request, this Agreement may be subordinated to liens, including a deed of trust (in each case a "**Senior Loan**"), which secure the financing used to acquire, construct, operate, or refinance the Project, but only if all of the following conditions are satisfied:

(a) The Owner shall submit to the City an appraisal of the Property, completed or updated within 90 days of the proposed closing of the Senior Loan, demonstrating that the amount of all proposed Senior Loans does not exceed eighty percent (80%) of the appraised fair market value of the Property.

(b) The proposed lender of the Senior Loan (the "**Senior Lender**") must not be an Affiliated Party. For the purposes of this Section, an "**Affiliated Party**" is any corporation, limited liability company, partnership, or other entity which is controlling of, or controlled by, or under common control with the Owner, and "control," for purposes of this definition, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such entity, whether through the ownership of voting securities, by contract, or otherwise. The terms "controlling" and "controlled" have the meanings correlative to "control."

(c) Any subordination agreement shall provide that the Low Income Units described in this Agreement unconditionally shall continue to be provided as required by the Development Agreement and Section 404 of this Agreement, provided that any successor in interest to Owner as owner of the Property claiming through the foreclosure or sale under any deed of trust shall not be liable for any violations of the BMR agreement which occurred prior to such successor taking title. In addition, any subordination agreement shall provide that such successor shall, within 90 days after taking title to the Property, execute a new BMR agreement approved by the City and consistent with the provisions of this Agreement, evidencing the obligation to continue to provide the Low Income Units.

(d) No subordination agreement may limit the effect of this Agreement before a foreclosure, nor require consent of the Senior Lender or assignee to exercise of any remedies by the City under this Agreement or the Development Agreement;

(e) The subordination described in this Section 405 may be effective only during the original term of the loan of the Senior Lender and not during any extension of its term or refinancing, unless otherwise approved in writing by the City Manager, which approval shall not be unreasonably withheld or delayed, provided that the conditions in this Section 405 are met.

(f) Owner shall submit adequate documentation to City so that City may determine that a proposed Senior Loan conforms with the provisions of this Section 405. Upon a determination by the City Manager that the conditions in this Section 405 have been satisfied, the City Manager is authorized to execute the approved subordination agreement.

406. **Intended Beneficiaries**. The City is the intended beneficiary of this Agreement, and shall have the sole and exclusive power to enforce this Agreement. It is intended that the City may enforce this Agreement in order to satisfy its obligations to improve, increase and preserve affordable housing within the City, as required by the Guidelines, and to provide that a certain percentage of new housing is made available at affordable housing cost to persons and families of low income, as required by the Guidelines, and to implement the provisions of the Development Agreement. No other person or persons, other than the City and the Owner and their assigns and successors, shall have any right of action hereon.

407. **Partial Invalidity**. If any provision of this Agreement shall be declared invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions hereof shall not in any way be affected or impaired.

408. **Governing Law**. This Agreement and other instruments given pursuant hereto shall be construed in accordance with and be governed by the laws of the State of California. Any references herein to particular statutes or regulations shall be deemed to refer to successor statutes or regulations, or amendments thereto. The venue for any action shall be the County of San Mateo.

409. **Each Party's Role in Drafting the Agreement**. Each Party to this Agreement has had an opportunity to review the Agreement, confer with legal counsel regarding the meaning of the Agreement, and negotiate revisions to the Agreement. Accordingly, neither Party shall rely upon Civil Code Section 1654 in order to interpret any uncertainty in the meaning of the Agreement.

410. **Amendment**. This Agreement may not be changed orally, but only by agreement in writing signed by Owner and the City.

411. **Approvals**. Where an approval or submission is required under this Agreement, such approval or submission shall be valid for purposes of this Agreement only if made in writing. Where this Agreement requires an approval or consent of the City, such approval may be given on behalf of the City by the City Manager or his or her designee. The City Manager or his or her designee is hereby authorized to take such actions as may be necessary or appropriate to implement this Agreement, including without limitation the execution of such documents or agreements as may be contemplated by this Agreement and amendments which do not substantially change the uses or restrictions hereunder, or substantially add to the costs of the City hereunder.

IN WITNESS WHEREOF, the Parties hereto have executed this Below Market Rate Housing Agreement as of the date and year set forth above.

OWNER:

THE BOARD OF TRUSTEES OF THE LELAND STANFORD JUNIOR UNIVERSITY, a body having corporate powers under the laws of the State of California

By: _____

Robert C. Reidy, Vice President Land, Buildings & Real Estate

Date: _____

CITY:

CITY OF MENLO PARK,
a California municipal corporation

By: _____

Alex D. McIntyre, City Manager

Date: _____

List of Exhibits:

Exhibit A: Property Description
Exhibit B: Below Market Rate Housing Program Guidelines
Exhibit C: Compliance Forms and Certifications
Exhibit D: Sample Utility Allowance

Exhibit A

Property Description

Real property in the City of Menlo Park, County of San Mateo, State of California, described as follows:

TRACT ONE

PORTION OF THAT CERTAIN 14.80 ACRE TRACT OF LAND AS DESCRIBED IN THE DEED FROM CHARLES CROCKER, ET AL, TO LELAND STANFORD DATED OCTOBER 19, 1885 AND RECORDED IN BOOK 39 OF DEEDS, PAGE 354, RECORDS OF SAN MATEO COUNTY, CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHEASTERLY BOUNDARY LINE OF EL CAMINO REAL, AS ESTABLISHED BY THAT CERTAIN FINAL ORDER OF CONDEMNATION ISSUED OUT OF THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, IN AND FOR THE COUNTY OF SAN MATEO ON JULY 07, 1930 IN ACTION NO. 17642, ENTITLED "THE PEOPLE OF THE STATE OF CALIFORNIA, ETC. VS. THE BOARD OF TRUSTEES OF THE LELAND STANFORD JUNIOR UNIVERSITY", A COPY OF SAID ORDER BEING RECORDED IN BOOK 483 OF OFFICIAL RECORDS, PAGE 240 (FILE NO. 64056-B), RECORDS OF SAN MATEO COUNTY, CALIFORNIA, DISTANT THEREON SOUTH 50° 25' 00" EAST 411.00 FEET FROM THE POINT OF INTERSECTION OF THE NORTHWESTERLY BOUNDARY LINE OF SAID 14.80 ACRE TRACT WITH THE NORTHEASTERLY BOUNDARY LINE OF EL CAMINO REAL, SAID POINT OF BEGINNING ALSO BEING THE MOST SOUTHERLY CORNER OF THE LANDS DESCRIBED IN THAT CERTAIN MEMORANDUM OF LEASE, BY AND BETWEEN THE BOARD OF TRUSTEES OF THE LELAND STANFORD JUNIOR UNIVERSITY AND SIMPSON MOTORS, DATED APRIL 01, 1961 AND RECORDED APRIL 10, 1961 IN BOOK 3963 OF OFFICIAL RECORDS OF SAN MATEO COUNTY, CALIFORNIA, PAGE 678 (FILE NO. 47143-T); THENCE FROM SAID POINT OF BEGINNING ALONG SAID NORTHEASTERLY BOUNDARY LINE OF EL CAMINO REAL, AS ESTABLISHED BY SAID ORDER, SOUTH 50° 25' 00" EAST 400.00 FEET; THENCE LEAVING SAID LAST MENTIONED LINE NORTH 39° 35' 00" EAST 184.54 FEET TO THE SOUTHWESTERLY BOUNDARY LINE OF THAT CERTAIN 40 FOOT STRIP OF LAND CONTAINING 2.33 ACRES AS DESCRIBED IN THE DEED FROM THE BOARD OF TRUSTEES OF THE LELAND STANFORD JUNIOR

UNIVERSITY TO THE SOUTHERN PACIFIC RAILROAD COMPANY, DATED MARCH 26, 1902 AND RECORDED IN BOOK 92 OF DEEDS, PAGE 374, RECORDS OF SAN MATEO COUNTY, CALIFORNIA; THENCE ALONG SAID LAST MENTIONED LINE NORTH 51° 35' 10" WEST 400.08 FEET TO THE MOST EASTERLY CORNER OF SAID CERTAIN PARCEL OF LAND LEASED BY THE BOARD OF TRUSTEES OF THE LELAND STANFORD JUNIOR UNIVERSITY TO SIMPSON MOTORS, ABOVE REFERRED TO; THENCE ALONG THE SOUTHEASTERLY LINE OF SAID LAST MENTIONED PARCEL OF LAND SOUTH 39° 35' 00" WEST 176.37 FEET TO THE POINT OF BEGINNING.

TRACT TWO

PORTION OF THAT CERTAIN 14.80 ACRE TRACT OF LAND CONVEYED FROM CHARLES CROCKER, ET AL, TO LELAND STANFORD BY DEED DATED OCTOBER 19, 1885 AND RECORDED IN BOOK 39 OF DEEDS, PAGE 354, RECORDS OF SAN MATEO COUNTY, CALIFORNIA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE POINT OF INTERSECTION OF THE NORTHWESTERLY BOUNDARY LINE OF SAID 14.80 ACRE TRACT WITH THE NORTHEASTERLY BOUNDARY LINE OF EL CAMINO REAL AS ESTABLISHED BY THAT CERTAIN FINAL ORDER OF CONDEMNATION ISSUED OUT OF THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, IN AND FOR THE COUNTY OF SAN MATEO ON JULY 07, 1930 IN ACTION NO. 17642, ENTITLED "THE PEOPLE OF THE STATE OF CALIFORNIA, ETC., VS. THE BOARD OF TRUSTEES OF THE LELAND STANFORD JUNIOR UNIVERSITY", A COPY OF SAID ORDER BEING RECORDED IN BOOK 483 OF OFFICIAL RECORDS, PAGE 240 (FILE NO. 64056-B), RECORDS OF SAN MATEO COUNTY, CALIFORNIA; THENCE FROM SAID POINT OF BEGINNING ALONG SAID NORTHEASTERLY LINE OF EL CAMINO REAL, AS ESTABLISHED BY SAID ORDER, SOUTH 50° 25' 00" EAST 411 FEET; THENCE LEAVING SAID LAST MENTIONED LINE, NORTH 39° 35' 00" EAST 176.37 FEET TO THE SOUTHWESTERLY BOUNDARY LINE OF THAT CERTAIN 40 FOOT STRIP OF LAND CONTAINING2.33 ACRES, CONVEYED FROM SAID UNIVERSITY TO THE SOUTHERN PACIFIC RAILROAD COMPANY BY DEED DATED MARCH 26, 1902 AND RECORDED IN BOOK 92 OF DEEDS, PAGE 374, RECORDS OF SAN MATEO COUNTY, CALIFORNIA; THENCE ALONG SAID LAST MENTIONED LINE NORTH 51° 35' 10" WEST 414.51 FEET TO THE INTERSECTION THEREOF WITH THE ABOVE MENTIONED NORTHWESTERLY BOUNDARY

LINE OF THE 14.80 ACRE TRACT CONVEYED TO STANFORD; THENCE ALONG SAID LAST MENTIONED LINE, SOUTH 38° 24' 50" WEST 167.95 FEET TO THE POINT OF BEGINNING.

TRACT THREE

PORTION OF THAT CERTAIN 14.80 ACRE TRACT OF LAND AS DESCRIBED IN THE DEED FROM CHARLES CROOKER, ET AL, TO LELAND STANFORD, DATED OCTOBER 19, 1885 AND RECORDED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SAN MATEO, STATE OF CALIFORNIA, IN BOOK 39 OF DEEDS, PAGE 354, SAID PORTION BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHEASTERLY BOUNDARY LINE OF EL CAMINO REAL, AS ESTABLISHED BY THAT CERTAIN FINAL ORDER OF CONDEMNATION ISSUED OUT OF THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, IN AND FOR THE COUNTY OF SAN MATEO ON JULY 07, 1930 IN ACTION 17642, ENTITLED "THE PEOPLE OF THE STATE OF CALIFORNIA, ETC., VS. THE BOARD OF TRUSTEES OF THE LELAND STANFORD JUNIOR UNIVERSITY", A COPY OF SAID ORDER BEING RECORDED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SAN MATEO, STATE OF CALIFORNIA, IN BOOK 483 OF OFFICIAL RECORDS, PAGE 240, (FILE NO. 64056-B), DISTANT THEREON SOUTH 50° 25' 00" EAST 811.00 FEET FROM THE POINT OF INTERSECTION OF THE NORTHWESTERLY BOUNDARY LINE OF SAID 14.80 ACRE TRACT WITH THE NORTHEASTERLY BOUNDARY LINE OF EL CAMINO REAL, SAID POINT OF BEGINNING ALSO BEING THE MOST SOUTHERLY CORNER OF THE LANDS DESCRIBED IN THAT CERTAIN MEMORANDUM OF LEASE, BY AND BETWEEN THE BOARD OF TRUSTEES OF THE LELAND STANFORD JUNIOR UNIVERSITY AND KENNETH R. LOWELL AND AUDREY T. LOWELL, DATED OCTOBER 11, 1961, AND RECORDED OCTOBER 11, 1961, IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SAN MATEO, STATE OF CALIFORNIA, IN BOOK 4071 OF OFFICIAL RECORDS, PAGE 580;

THENCE FROM SAID POINT OF BEGINNING ALONG SAID NORTHEASTERLY BOUNDARY LINE OF EL CAMINO REAL, AS ESTABLISHED BY SAID ORDER, SOUTH 50° 25' 00" EAST 210.00 FEET;

THENCE LEAVING SAID LAST MENTIONED LINE NORTH 39° 35' 00" EAST 188.83 FEET TO THE SOUTHWESTERLY BOUNDARY LINE OF THAT CERTAIN 40 FOOT STRIP OF LAND CONTAINING

2.33 ACRES, AS DESCRIBED IN THE DEED FROM THE BOARD TRUSTEES OF THE LELAND STANFORD JUNIOR UNIVERSITY TO THE SOUTHERN PACIFIC RAILROAD COMPANY, DATED MARCH 26, 1902 AND RECORDED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SAN MATEO, STATE OF CALIFORNIA, IN BOOK 92 OF DEEDS, PAGE 374;

THENCE ALONG SAID LAST MENTIONED LINE NORTH 51° 35' 10" WEST 210.04 FEET TO THE MOST EASTERLY CORNER OF SAID CERTAIN PARCEL OF LAND LEASED BY THE BOARD OF TRUSTEES OF THE LELAND STANFORD JUNIOR UNIVERSITY TO KENNETH R. LOWELL AND AUDREY T. LOWELL, ABOVE REFERRED TO;

THENCE ALONG THE SOUTHEASTERLY LINE OF SAID LAST MENTIONED PARCEL OF LAND SOUTH 39° 35' 00" WEST 184.54 FEET TO THE POINT OF BEGINNING AND BEING A PORTION OF LOT 76 OF THE UNRECORDED MAP OF THE LANDS OF THE BOARD OF TRUSTEES OF THE LELAND STANFORD JUNIOR UNIVERSITY.

EXCEPTING AND RESERVING THEREFROM AN EASEMENT 10 FEET IN WIDTH CONTIGUOUS WITH AND LYING SOUTHWESTERLY FROM THE SOUTHWESTERLY LINE OF LANDS OF SOUTHERN PACIFIC RAILROAD COMPANY. SAID EASEMENT IS EXCEPTED AND RESERVED UNTO LESSOR, ITS SUCCESSORS AND ASSIGNS, AS APPURTENANT TO AND FOR THE BENEFIT OF OTHER LANDS OF LESSOR, FOR THE PURPOSE OF CONSTRUCTING, INSTALLING, OPERATING, MAINTAINING, USING, ALTERING, REPAIRING, INSPECTING, REPLACING AND RELOCATING THEREIN AND/OR REMOVING THEREFROM STORM SEWER AND DRAINAGE FACILITIES AND ALL APPURTENANCES NECESSARY AND CONVENIENT THERETO.

TRACT FOUR

PORTION OF THAT CERTAIN 14.80 ACRE TRACT OF LAND AS DESCRIBED IN THAT CERTAINDEED FROM CHARLES CROCKER, ET AL, TO LELAND STANFORD, DATED OCTOBER 19, 1885 AND RECORDED IN BOOK 39 OF DEEDS, PAGE 354 RECORDS OF SAN MATEO COUNTY, CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHEASTERLY LINE OF EL CAMINO REAL, WHICH POINT IS DISTANT 50 FEET MEASURED AT RIGHT ANGLES, NORTHEASTERLY FROM THE CENTER LINE STATION 593+50.00, SAID POINT OF BEGINNING BEING MARKED BY AN IRON PIPE MONUMENT;

THENCE FROM SAID POINT OF BEGINNING, ALONG THE SAID NORTHEASTERLY LINE OF EL CAMINO REAL, NORTH 50° 17' 53" WEST 87.63 FEET TO THE TRUE POINT OF BEGINNING AT THE

LANDS TO BE DESCRIBED HEREIN; THENCE FROM SAID TRUE POINT OF BEGINNING, ALONG THE SAID NORTHEASTERLY LINE OF EL CAMINO REAL, NORTH 50° 17' 53" WEST 62.43 FEET AND NORTH 50° 25' WEST 337.57 FEET; THENCE LEAVING SAID LINE OF EL CAMINO REAL, NORTH 39° 35' 00" EAST 188.83 FEET TO THE SOUTHWESTERLY BOUNDARY LINE OF THAT CERTAIN 40 FOOT WIDE STRIP OF LAND CONTAINING 2.33 ACRES, AS DESCRIBED IN THAT CERTAIN DEED FROM THE BOARD OF TRUSTEES OF THE LELAND STANFORD JUNIOR UNIVERSITY TO THE SOUTHERN PACIFIC RAILROAD COMPANY, DATED MARCH 26, 1902 AND RECORDED IN BOOK 92 OF DEEDS, PAGE 374, RECORDS OF SAN MATEO COUNTY, CALIFORNIA; THENCE SOUTH 51° 35' 10" EAST ALONG SAID LAST MENTIONED LINE,
400.08 FEET; THENCE SOUTH 39° 35' 00" WEST 197.12 FEET TO THE POINT OF BEGINNING.

TRACT FIVE

PARCEL B OF THAT CERTAIN PARCEL MAP FILED OCTOBER 06, 1983 IN BOOK 54 OF PARCEL MAPS, PAGE 3, SAN MATEO COUNTY RECORDS.

TRACT SIX

BEGINNING AT A POINT WHERE THE SOUTHWEST LINE OF THE LANDS OF THE SOUTHERN PACIFIC RAILROAD COMPANY INTERSECTS THE CENTERLINE OF SAN FRANCISQUITO CREEK, SAID POINT BEING SITUATE FIFTY (50) FEET SOUTHWESTERLY AT RIGHT ANGLES FROM THE LOCATED CENTERLINE OF SAID RAILROAD AT OR NEAR ENGINEER'S STATION 228+49.9 OF SAID CENTERLINE; THENCE RUNNING NORTHWESTERLY ALONG SAID SOUTHWEST LINE OFTHE LANDS OF SAID RAILROAD COMPANY, PARALLEL WITH SAID CENTERLINE OF RAILROAD, A DISTANCE OF TWENTY-FIVE HUNDRED AND FORTY-THREE (2543), MORE OR LESS, TO AN INTERSECTION WITH THE SOUTHEASTERLY LINE OF THE LANDS OF SAID RAILROAD COMPANY, AT A POINT SITUATE FIFTY (50) FEET SOUTHWESTERLY AT RIGHT ANGLES FROM SAID CENTERLINE OF RAILROAD AT OR NEAR ENGINEER'S STATION 203+06.9 OFSAID CENTERLINE OF RAILROAD; THENCE RUNNING SOUTHWESTERLY ALONG SAID SOUTHEASTERLY LINE OF THE LANDS OF SAID RAILROAD COMPANY TO A POINT SITUATE NINETY (90) FEET SOUTHWESTERLY AT RIGHT ANGLES FROM SAID CENTERLINE OF

RAILROAD; AND THENCE RUNNING NORTHEASTERLY ALONG THE CENTERLINE OF SAID CREEK TO THE POINT OF BEGINNING; BEING A STRIP OF LAND FORTY (40) FEET WIDE, LYING IMMEDIATELY ADJACENT ON THE SOUTHWEST TO THE LANDS OF THE SAID RAILROAD COMPANY, AND EXTENDING FROM THE CENTERLINE OF SAID CREEK TO SAID SOUTHEASTERLY LINE OF THE LANDS OF SAID RAILROAD COMPANY; BEING THE SAME LANDS AS CONVEYED BY JANE L. STANFORD, ET AL TO THE SOUTHERN PACIFIC RAILROAD COMPANY, BY DEED RECORDED APRIL 02, 1902 IN BOOK 92 OF DEEDS, PAGE 374, RECORDS OF SAN MATEO COUNTY. ALSO BEING A PORTION OF PARCEL "B" AS SHOWN ON THAT CERTAIN MAP ENTITLED, "PARCEL MAP, BEING ALL OF PARCEL ONE-REMAINDER AS SHOWN ON THAT CERTAIN PARCEL MAP RECORDED IN VOLUME 51 OF PARCEL MAPS, PAGES 5, 6 & 7 SAN MATEO COUNTY RECORDS", WHICH MAP WAS RECORDED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SAN MATEO, STATE OF CALIFORNIA ON JANUARY 07, 1982, IN BOOK 52 OF PARCEL MAPS, PAGE 31.

EXCEPTING THEREFROM ALL THAT PORTION OF SAID PROPERTY AS CONVEYED TO SOUTHERN PACIFIC LAND COMPANY BY INSTRUMENT RECORDED MARCH 23, 1981 UNDER RECORDER'S DOCUMENT NO. 265227-AS, OFFICIAL RECORDS.

AND FURTHER EXCEPTING ALL THAT PORTION OF SAID PROPERTY AS CONVEYED TO THE BOARD OF TRUSTEES OF THE LELAND STANFORD JUNIOR UNIVERSITY BY INSTRUMENT RECORDED JANUARY 18, 1982, UNDER RECORDER'S DOCUMENT NO. 82004513, OFFICIAL RECORDS.

EXCEPTING THEREFROM ALL MINERALS AND ALL MINERAL RIGHTS OF EVERY KIND AND CHARACTER NOW KNOWN TO EXIST OR HEREAFTER DISCOVERED, INCLUDING, WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, OIL AND GAS AND RIGHTS THERETO, TOGETHER WITH THE SOLE, EXCLUSIVE AND PERPETUAL RIGHT TO EXPLORE FOR, REMOVE AND DISPOSE OF SAID MINERALS BY ANY MEANS OR METHODS SUITABLE BUT WITHOUT ENTERING UPON OR USING THE SURFACE OF THE PROPERTY, AND IN SUCH MANNER AS NOT

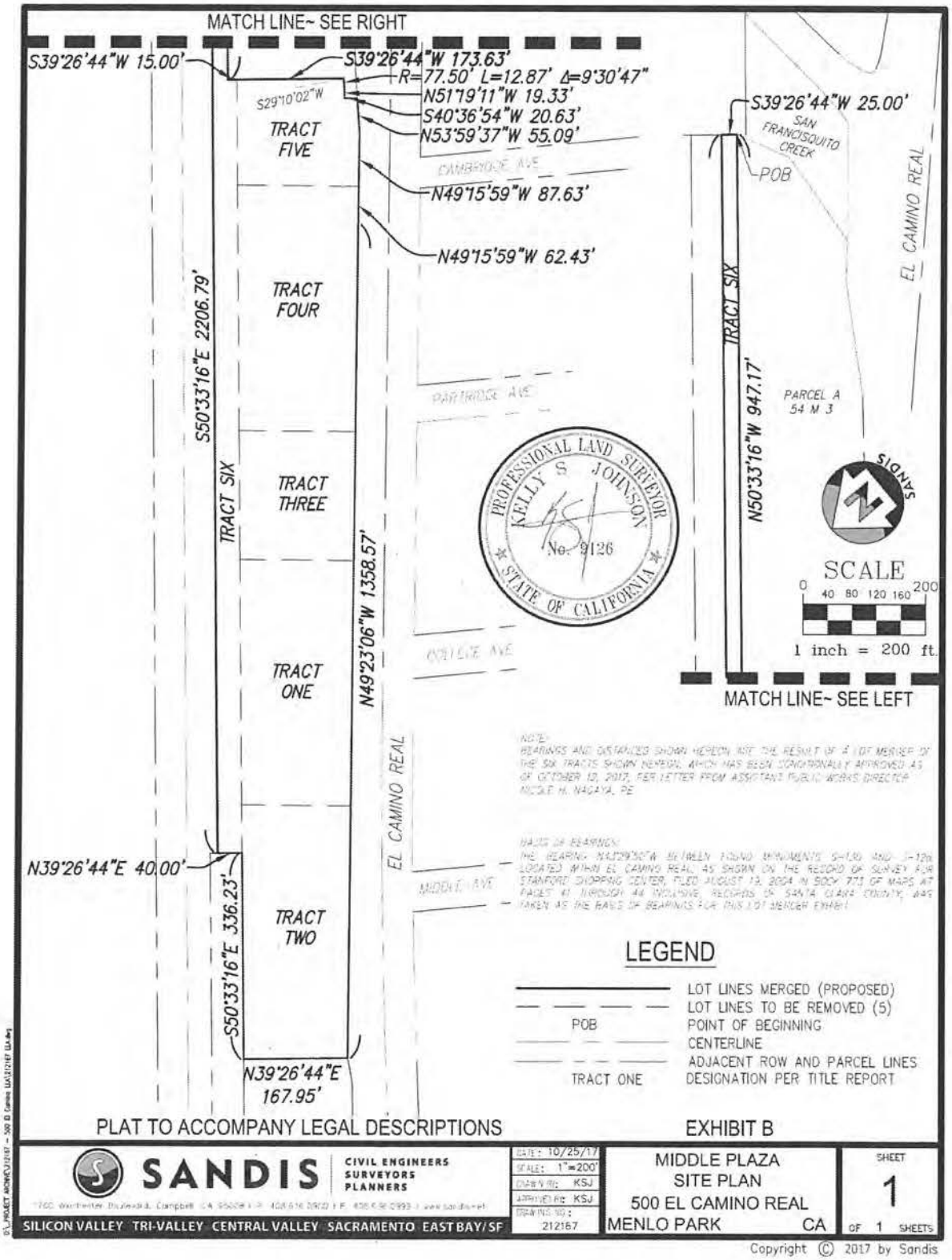
TO DAMAGE THE SURFACE OF SAID LANDS OR TO INTERFERE WITH THE USE THEREOF AS RESERVED BY UNION PACIFIC RAILROAD COMPANY IN GRANT DEED RECORDED JULY 01, 1999, DOCUMENT NO. 99112045.

APN: APN(S): 071-440-030 (AFFECTS TRACT ONE); 071-440-040-5 (AFFECTS TRACT TWO); 071-440-050-4 (AFFECTS TRACT THREE); 071-440-060-3 (AFFECTS TRACT FOUR); 071-440120-5 (AFFECTS TRACT FIVE) AND 071-440-130-4 (AFFECTS TRACT SIX)

JPN(S): 071-044-440-03A (AFFECTS TRACT ONE); 071-044-440-04A (AFFECTS TRACT TWO); 071-044-440- 05A (AFFECTS TRACT THREE); 071-044-440-06A (AFFECTS TRACT FOUR): 071044-440-07.01A (AFFECTS TRACT FIVE) AND 071-044-440-08 (AFFECTS TRACT SIX)

NOTE:

THE PARCELS DESCRIBED HEREINABOVE ARE PART OF A LOT MERGER THAT HAS BEEN CONDITIONALLY APPROVED AS OF OCTOBER 12, 2017, PER LETTER FROM ASSISTANT PUBLIC WORKS DIRECTOR NICOLE H. NAGAYA, PE.



PLAT TO ACCOMPANY LEGAL DESCRIPTIONS

EXHIBIT B

SANDIS CIVIL ENGINEERS SURVEYORS PLANNERS

2500 Weirfield Boulevard, Campbell, CA 95008 | P: 408.616.2600 | F: 408.636.0999 | www.sandis.net

SILICON VALLEY TRI-VALLEY CENTRAL VALLEY SACRAMENTO EAST BAY/SF

DATE:	10/25/17
SCALE:	1"=200'
DRAWN BY:	KSJ
APPROVED BY:	KSJ
DRAWING NO.:	212167

MIDDLE PLAZA
SITE PLAN
500 EL CAMINO REAL
MENLO PARK CA

SHEET 1 OF 1 SHEETS

Exhibit B

Below Market Rate Housing Program Guidelines

BELOW MARKET RATE HOUSING PROGRAM GUIDELINES

The rental BMR provisions contained in this document are not currently enforceable due to the Palmer court decision. The severability clause (13.6) allows the remainder of the guidelines to remain in effect. If changes are made to state law that allow the resumption of rental BMR programs, these provisions will be reinstated or changed as needed to comply with state law.

May 4, 2011

Income Limits/Section 14, Tables A and B Updated for 2017-18

Originally Adopted by City Council on January 12, 1988

Revised by City Council on the following dates:

- December 17, 2002 (No Resolution)
- March 25, 2003 (Resolution No. 5433)
- January 13, 2004 (No Resolution)
- March 22, 2005 (Resolution No. 5586)
- March 2, 2010 (Resolution No. 5915)
- May 10, 2011 (No Resolution)
- May 6, 2014 (Resolution No. 6196)

BELOW MARKET RATE HOUSING PROGRAM GUIDELINES

Table of Contents

1. OVERVIEW

The high cost and scarcity of housing in Menlo Park have been caused in large part because the number of jobs in Menlo Park has grown, but the supply of housing has not increased significantly. A majority of new employees earn low- and moderate-incomes and are most severely impacted by the lack of affordable housing in Menlo Park. Because of the high cost of housing, families who seek to live in Menlo Park cannot afford to purchase homes here and are forced to rent. Many renters pay a disproportionately high amount of their incomes in rent.

1.1 Purpose. The City of Menlo Park's Below Market Rate (BMR) Housing Program is intended to increase the housing supply for households that have very low, low- and moderate-incomes compared to the median income for San Mateo County. The primary objective is to obtain actual housing units, either "rental" or "for sale," rather than equivalent cash. Occupancy of BMR units is determined according to these City Council established guidelines from those on a numbered waiting list maintained by the City or its designee.

1.2 Enabling Legislation. The Below Market Rate Housing Program is governed by Chapter 16.96 of the Municipal Code. The BMR Program is administered under these Below Market Rate Housing Program Guidelines ("Guidelines").

2. BMR HOUSING AGREEMENT AND REVIEW PROCESS

2.1 BMR Housing Agreement. Before acceptance of plans for review by the City of Menlo Park staff, a developer should provide a proposal for meeting the requirements of the Below Market Rate Housing Program. The proposal should include one or a combination of the following alternatives: a) Provision of BMR units on site; and/or b) Provision of BMR units off site; and/or c) Payment of an in lieu fee. These alternatives are listed in order of preference.

2.2 Review Steps. The following review steps apply to most development projects:

- City Staff will review a BMR For-Sale Agreement or the Affordability Restriction Agreement (collectively, "BMR Housing Agreement"), that has been prepared by the developer's attorney on a form substantially similar to that provided by the City and shall make a recommendation with respect to it to the Planning Commission and, if applicable, the City Council.

- The Planning Commission will review the application for development with the BMR Housing Agreement. The City Attorney must approve the BMR Housing Agreement prior to its review by the Planning Commission. If the City Council has final approval authority for the project, the Planning Commission will recommend the BMR Housing Agreement for City Council approval. Otherwise the Planning Commission will approve the BMR

Housing Agreement.

- The City Council grants approval of the BMR Housing Agreement for projects which it reviews. The BMR Housing Agreement must be immediately signed and recorded after City Council approval.

3. REQUIREMENTS FOR DEVELOPMENTS BY TYPE

3.1 Commercial Developments. The Below Market Rate Housing Program requires commercial developments which bring employees to Menlo Park to provide BMR units or to contribute to the BMR Housing Fund that is set up to increase the stock of housing for very low-, low- and moderate-income households, with preference for workers whose employment is located in the City of Menlo Park, and for City residents.

3.1.1 Commercial Development Requirements. Commercial buildings of ten thousand (10,000) square feet or more gross floor area are required to mitigate the demand for affordable housing created by the commercial development project. In order to do so, it is preferred that a commercial development project provide below market rate housing on-site (if allowed by zoning), or off-site, if on-site BMR units are infeasible. A density bonus of up to fifteen percent (15%) above the density otherwise allowed by zoning may be permitted when below market rate housing is provided on-site. The BMR Housing Agreement will detail the BMR Housing Program participation of a particular development.

Although the provision of actual BMR units is strongly preferred, it is not always possible to provide BMR housing units. In such cases, the developer shall pay a commercial in-lieu fee rather than provide actual BMR housing units. Commercial in lieu fees must be paid prior to the issuance of a building permit.

Commercial in lieu fees are charged at different rates to two groups based on the employee housing demand the uses produce. Group A uses are office and research and development (R & D). Group B uses are all other uses not in Group A.

Commercial in lieu fee rates are adjusted annually on July 1st. The amount of the adjustment is based on a five-year moving average of the percentage increase in the Consumer Price Index (Shelter Only) for All Urban Consumers in the San Francisco-Oakland-San Jose area.

(Refer to Section 14, Table D, for the current year's Commercial In lieu Fee Rates.)

3.1.2 Applicability. The BMR Housing Program applies to conditional use permits, conditional development permits, planned development permits, subdivision approvals, architectural control approvals, variance approvals and building permits for any commercial development. The BMR Housing Program also applies to the construction of any new square footage or any square footage that is converted from an exempt use to a non-exempt use. Finally, the BMR Housing Program applies to the

conversion of floor area from a less intensive use (Commercial/Industrial uses) to a more intensive use (Office/R&D).

3.1.3 Exemptions. The following are exempted from the BMR Housing Program:

(a) Private schools and churches;

(b) Public facilities;

(c) Commercial development projects of less than ten thousand (10,000) square feet; and

(d) Projects that generate few or no employees.

3.2 Residential Developments. The Below Market Rate Housing Program requires residential developments which use scarce residentially zoned land in Menlo Park to provide BMR units or to contribute to the BMR Housing Fund. The BMR Fund is set up to increase the stock of housing for very low-, low- and moderate-income families, with preference for workers whose employment is located in the City of Menlo Park, and for City residents.

3.2.1 Residential Development Requirements. Residential developments of five (5) or more units are subject to the requirements of the Below Market Rate Housing Program. These requirements also apply to condominium conversions of five (5) units or more. As part of the application for a residential development of five (5) or more units, the developer must submit a Below Market Rate Housing Agreement, in a form substantially similar to that provided by the City, which details the developer's plan for participation in the BMR Program. No building permit or other land use authorization may be issued or approved by the City unless the requirements of the BMR Program have been satisfied.

3.2.2 Condominium Conversions. If an apartment complex already participating in the BMR program elects to convert the complex to condominiums, then the existing BMR rental apartments shall be converted to BMR condominium units under the BMR Housing Program.

When market rate rental units are removed from the rental housing stock for conversion to condominiums, and they are not already participating in the BMR Program, then the project shall meet the same requirements as new developments to provide BMR units in effect at the time of conversion. When the property owner notifies the City of the intent to sell, the property owner shall notify any BMR tenants of such units of the pending sale and non-renewal of lease. Such tenant(s) shall be given the right of first refusal to purchase the unit. If the tenant seeks to purchase the unit, at the close of escrow the unit shall exist as a For-Sale BMR unit. If the tenant does not seek to purchase, the tenant shall vacate the unit at the expiration of the current lease term and the unit will be sold to

an eligible third party according to the BMR Guidelines and held as a for-sale BMR unit. The tenant who vacates will have priority to move to other vacant BMR rental units in the City for two (2) years from the date the lease expired, regardless of the place of residence of the displaced BMR tenant.

3.3 Mixed Use Developments. Mixed use developments must comply with the requirements for commercial developments in the commercial portion of the development and must comply with the requirements for residential developments for the residential portion of the development.

3.4 Required Contribution for Residential Development Projects. All residential developments of five (5) units or more are required to participate in the BMR Program. The preferred BMR Program contribution for all residential developments is on-site BMR units. If that is not feasible, developers are required to pay an in lieu fee as described in Section 4.3. The requirements for participation increase by development size as shown below:

One (1) to Four (4) Units. Developers are exempt from the requirements of the BMR Housing Program.

Five (5) to Nine (9) Units. It is preferred that the developer provide one (1) unit at below market rate to a very low-, low-, or moderate-income household.

Ten (10) to Nineteen (19) Units. The developer shall provide not less than ten percent (10%) of the units at below market rates to very low-, low- and moderate-income households.

Twenty (20) or More Units. The developer shall provide not less than fifteen percent (15%) of the units at below market rates to very low-, low- and moderate-income households. On a case-by-case basis, the City will consider creative proposals for providing lower cost units available to lower income households such as smaller unit size, duet-style, and/or attached units that are visually and architecturally consistent with the market-rate units on the exterior, and that meet the City's requirements for design, materials, and interior features of BMR units.

3.4.1 Fraction of a BMR Housing Unit. If the number of BMR units required for a residential development project includes a fraction of a unit, the developer shall provide either a whole unit, the preferred form of participation, or make a pro rata residential in lieu payment on account of such fraction per Section 4.3.

Example: A residential project is developed with 25 condominium units. The preferred BMR Program participation is 4 BMR units. In this case the developer would pay no in lieu fee. If the developer is able to demonstrate that producing four BMR units is not feasible, the developer would provide three BMR units, which is the required amount for a 20 unit project. The developer would be eligible for three bonus units for the three BMR units, and would pay in lieu fees for the remaining two market rate units in the development.

4. BMR PROGRAM REQUIREMENTS FOR ON-SITE BMR UNITS, OFF-SITE BMR UNITS AND IN LIEU FEES

4.1 On-Site BMR Units.

4.1.1 Initial Price for For-Sale Unit. The initial selling price of BMR For-Sale units is based on what is affordable to households with incomes at One Hundred Ten Percent (110%) of the median income related to household size, as established from time to time by the State of California Housing and Community Development Department (HCD) for San Mateo County. See Section 14, Table A.

4.1.2 Initial Price for Rental Unit. The initial monthly rental amounts for BMR rental units will be equal to or less than thirty percent (30%) of sixty percent (60%) of median- income limits for City subsidized projects and thirty percent (30%) of Low-Income limits for non-subsidized private projects, minus eligible housing costs. In no case shall the monthly rental amounts for BMR units (subsidized or unsubsidized) exceed 75% of comparable market rate rents. The maximum rent for specific BMR units will be based on Section 14, Table B of the BMR Guidelines. See also Sections 11.1.1 and 11.1.2.

The purchase or rental price for BMR units shall be established and agreed upon in writing by the City Manager, or his or her designee, prior to final building inspection for such BMR units.

4.1.3 Bonus Unit. For each BMR unit provided, a developer shall be permitted to build one additional market rate (bonus) unit. However, in no event shall the total number of units in a development be more than fifteen percent (15%) over the number otherwise allowed by zoning.

4.2 Off-Site BMR Units. If authorized by the City as described in Section 2.2, developers may propose to provide BMR units at a site other than the proposed development. These off-site BMR units must be provided on or before completion of the proposed development and must provide the same number of units at below market rates to very low-, low- and moderate-income households as required for on-site developments. Such units may be new or existing. Provision by the developer and acceptance by the City of off-site units shall be described in the BMR Housing Agreement. Size, location, amenities and condition of the BMR units shall be among the factors considered by the City in evaluating the acceptability of the off-site BMR units. For existing units the developer shall be responsible for correcting, at his expense, all deficiencies revealed by detailed inspection of the premises by qualified inspectors, including a certified pest inspector.

The initial price or rent for the BMR units shall be established as stated in Sections 4.1.1 and 4.1.2 and in accordance with the BMR Income Guidelines in Section 14 in effect at the time the BMR unit is ready for sale or rent. Fractions of required BMR units shall be handled by provision of an in lieu fee for the market rate units for which no BMR unit is provided.

4.3 Residential In Lieu Payments Based on Sales Price.

4.3.1 Developments of Ten (10) or More Units. In developments of ten (10) or more units, the City will consider an in lieu payment alternative to required BMR units only if the developer substantiates to the City's satisfaction that the BMR units cannot be provided on or off site. In developments of ten (10) or more units which provide BMR units, upon the close of escrow on the sale of each unit in the subdivision for which a BMR unit has not been provided, the developer shall pay to the City an in lieu payment calculated at three percent (3%) of the actual sales price of each unit sold. In lieu payments for fractions of BMR units shall be determined by disregarding any bonus units and as three percent (3%) of selling price of each market rate unit sold if the developer substantiates to the City's satisfaction that the BMR units cannot be provided on or off-site.

If a portion of a BMR requirement is met by a provision of BMR units, and the developer substantiates to the City's satisfaction that a sufficient number of BMR units cannot be provided on or off site, then BMR in lieu payments will be required from the sales of the number of market rate units (excluding bonus units) that is in proportion to the BMR requirement that is not met.

4.3.2 Developments of Five (5) to Nine (9) Units.

Residential In Lieu Payments Based on Sales Price. In developments of five (5) to nine (9) units, the City will consider an in lieu payment alternative to required BMR units only if the developer cannot provide an additional BMR unit. If providing an additional BMR unit is not feasible, developers are required to pay a residential in lieu fee as described below.

Unit No.	In lieu fee for each unit
1, 2 and 3	1% of the sales price
4, 5 and 6	2% of the sales price
7, 8 and 9	3% of the sales price

Example: In a development of 7 units, the BMR contribution would be, in order of preference: a) One BMR unit out of the seven units, with the possibility of a density bonus of one unit, or, if that is not feasible, b) Three units designated to pay an in lieu fee of 1% of the sales price, three units to pay in lieu fees of 2% of their sales prices and one unit to pay 3% of its sales price.

Units paying in lieu fees are designated so that they are distributed by unit size and location throughout the project.

In developments of 10 or more units which provide BMR units, upon the close of escrow on the sale of each unit in the subdivision for which a BMR unit has not been provided, the developer shall pay to the City an in lieu payment calculated at 3% of the actual sales price of each unit sold.

Example: Two possible plans to meet the BMR requirement for a project of 15 housing units are, in order of preference: a) Two BMR units are provided, and no in lieu fees are paid, or b) One BMR unit is provided out of the first ten units, one bonus unit is granted for the provision of the BMR unit, and four units pay in lieu fees.

Units held as rental, in lieu fee. If the developer retains any completed unit as a rental, either for its own account or through subsidiary or affiliated organizations, the BMR contribution including BMR housing unit or in lieu payment for such unit shall be negotiated between the developer and the City. If an in lieu fee is paid, the market value shall be based on an appropriate appraisal by an appraiser agreed upon by the City and the developer and paid for by the developer. The basis for such appraisal shall be as a condominium rather than as a rental.

5. CHARACTERISTICS OF BMR UNITS

5.1 Size and Location of BMR Units. BMR housing units shall generally be of the same size (number of bedrooms and square footage) as the market-rate units. The BMR units should be distributed throughout the development and should be indistinguishable from the exterior. BMR units shall contain standard appliances common to new units, but need not have luxury accessories, such as Jacuzzi tubs. The Planning Commission and/or City Council shall have the authority to waive these size, location and appearance requirements of BMR units in order to carry out the purposes of the BMR Housing Program and the Housing Element.

5.2 Design and Materials in BMR Units. The design and materials used in construction of BMR units shall be of a quality comparable to other new units constructed in the development, but need not be of luxury quality.

5.3 The BMR Price Must Be Set Before Final Building Inspection. There shall be no final inspection of BMR housing units until their purchase or rental prices have been agreed upon in writing by the developer and the City Manager, or his or her designee. Also, the sale or rental process will not begin until the sales price is set.

5.3.1 Final Inspection Schedule for Smaller and Larger Developments.

Less Than Ten (10) Units. In developments of less than ten (10) units with one (1) or more BMR units, all BMR units must pass final inspection before the last market rate unit passes final inspection.

Ten (10) to Nineteen (19) Units. In developments of ten (10) or more units, including developments that are constructed in phases, for the first ten (10) housing units,

a BMR unit must pass final inspection before nine (9) market rate units may pass final inspection. For each additional group of ten (10) housing units, one (1) additional BMR unit must pass final inspection before nine (9) additional market rate units may pass final inspection.

Twenty (20) or More Units. In developments of twenty (20) or more units, including developments that are constructed in phases, for the first ten (10) housing units, a BMR unit must pass final inspection before nine (9) market rate units may pass final inspection. In addition, two (2) additional BMR units must pass final inspection before eight (8) additional market rate units may pass final inspection. For each additional group of Twenty (20) housing units, three (3) additional BMR units must pass final inspection before seventeen (17) additional market rate units may pass final inspection. No project or phase may pass final inspection unless all the BMR units, which equal fifteen percent (15%) or more of the housing units in that phase or project, have passed final inspection for that phase or project.

Last Unit. In no case may the last market rate unit pass final inspection before the last BMR unit has passed final inspection.

5.4 Sales Price Determination for BMR For-Sale Units. The maximum sales price for BMR units shall be calculated as affordable to households on the BMR waiting list, which are eligible by income at the time that the maximum prices are set and which are of the smallest size eligible for the BMR units (excluding two-bedroom units, which shall be based on incomes for two person households even when units are made available to one person households). See Section 14, Table A, for income eligibility limits for the current year. The affordability of maximum prices will take into consideration mortgage interest rates, minimum down payments, mortgage debt-to-income ratios and other qualifying criteria used by lenders at the time the sales prices are set, as well as cost of insurance, taxes, homeowners' dues and any other necessary costs of homeownership.

5.4.1 Price Determination for Projects with Condominium Maps That Will Rent for an Indefinite Period of Time. Projects with condominium subdivision maps that will rent BMR units for an indefinite period shall have basic sales prices established at the outset for such BMR units in accordance with the Guidelines. Such initial sales prices shall be adjusted for the period between the month of completion of the BMR units and the month of notification of intent to sell the units, with further adjustments for improvements and deterioration per the Guidelines. The adjustments shall be based on one-third of the increase in the Consumer Price Index, All Urban Consumers, San Francisco-Oakland-San Jose, published by the U.S. Department of Labor, Bureau of Labor Statistics, plus certain other equitable adjustments.

5.5 Legal Characteristics of BMR Units: Right of First Refusal and Deed Restrictions. All BMR units shall be subject to deed restrictions and conditions which include a right of first refusal in favor of the City for a period of fifty-five (55) years under which the City or its designee will be entitled to purchase the property at the lower of (1) market value, or (2) the purchase price paid by seller, plus one-third of the increase

(during the period of seller's ownership) in the Consumer Price Index (CPI), All Urban Consumers, San Francisco-Oakland-San Jose, published by the U.S. Department of Labor, Bureau of Labor Statistics, plus certain other equitable adjustments. The deed restrictions will also prohibit sales or transfers of the property except with the written consent of the City and at a price computed as above. Exceptions from all prohibitions against sale or transfer will include:

(1) Demonstrated unlikelihood of obtaining a qualified buyer within a reasonable period;

(2) Transfer by termination of joint tenancy or by gift or inheritance to parents, spouse, children, grandchildren or their issue.

The prohibition against sales or transfers will not terminate at the end of fifty-five (55) years in the event of an exempt transfer by termination of joint tenancy or by gift or inheritance to family members. The prohibition against sales or transfers will terminate in the event of an exempt sale or transfer when there is a demonstrated unlikelihood of obtaining a qualified buyer within a reasonable period of time.

In the event of an exempt sale when there is a demonstrated unlikelihood of obtaining a qualified buyer within a reasonable period of time, the seller will be entitled to receive the lesser of (A) market value or (B) the purchase price paid by the seller plus one-third of the increase (during the seller's ownership) in the CPI, plus certain other equitable adjustments, as specified in the deed restrictions. The balance of the proceeds shall be paid to the City of Menlo Park to be deposited in the BMR Housing Fund. Any transferee pursuant to an exempt transfer by termination of joint tenancy or by gift or inheritance to family members must reside in the BMR unit and must qualify under the income criteria of the BMR Program at the time of the transfer of the BMR unit.

6. ELIGIBILITY REQUIREMENTS FOR HOUSEHOLDS APPLYING TO PURCHASE BMR UNITS

Note: Eligibility requirements for households that wish to be placed on the BMR waiting list are identified in Section 7. The requirements identified below apply at the actual time of application to purchase a BMR unit. In order for a household to be eligible at the time of application to purchase, ALL of the following requirements must be met:

6.1 BMR Waiting List. Applicants are eligible to have their names placed on the BMR waiting list if they meet the following three requirements at the time they submit an application for the waiting list: (1) currently live or work within incorporated Menlo Park; (2) meet the current income limit requirements (per household size) for purchase of a BMR unit; and (3) all applicants currently live together as a household.

6.1.1 Definition of Household. For the purposes of this program, household is defined as a single person, or two or more persons sharing residency whose

income resources are available to meet the household's needs. To be considered a household, all applicants/household members must live together in a home that is their primary residence. To be considered part of the household and included in household size, children under the age of 18 (including foster children) must reside in the home at least part-time or parents must have at least partial (50%) custody of the child/children.

6.2 Live and/or Work Eligibility. Households that live and/or work within incorporated Menlo Park shall be eligible for the Below Market Rate Housing Program in accordance with the following provisions:

6.2.1 Eligibility by Living in Menlo Park. To qualify as living in Menlo Park, the applicant household must meet the following two requirements at the time of application: (1) currently live in Menlo Park as the household's primary residence and (2) must have continuously lived in Menlo Park for a minimum of one (1) year prior to the date of actual application to purchase.

6.2.2 Eligibility by Working in Menlo Park. To qualify as a household that works in Menlo Park, a member of the applicant's household must meet the following two requirements at the time of application: (1) currently work in Menlo Park at least twenty (20) hours per week, or (if currently less than 20 hours per week) hours worked over the course of the one year prior to application averages a minimum of twenty (20) hours per week and (2) must have continuously worked in Menlo Park for a minimum of one (1) year prior to the date of actual application to purchase.

6.2.2.1 Types of Work. Work is defined as (1) owning and operating a business at a Menlo Park location; (2) employment for wages or salary by an employer located at a Menlo Park location; (3) contract employment where the actual work is conducted at a Menlo Park location for one (1) year; or (4) commission work, up to and including a one hundred percent (100%) commission arrangement, conducted in Menlo Park.

6.2.2.2 Employer-Based Work. If employed for wages or salary by an employer, working in Menlo Park is defined as the employer is located in Menlo Park AND the employment/actual work is performed within incorporated Menlo Park.

6.2.2.3 Owning and Operating a Business at a Menlo Park Location. This does NOT include owning (either wholly or in part) a residential or commercial property for investment purposes only.

6.2.2.4 Work does NOT include volunteer or unpaid work.

6.3 Household Requirement. To constitute a household, all members of the applicant household must currently live together (in a location that is their primary residence) at the time of application. Also at the time of application and regardless of where they currently live, all members who make up the applicant household must have continuously lived together for a minimum of one (1) year prior to the date of application.

Exceptions. Exceptions to this minimum one (1) year joint-residency requirement include:

- Children under the age of 18 who have recently joined the household in conjunction with marriage, separation, or divorce, or similar family re-organization, and for whom there is evidence of a custody agreement or arrangement. This also applies to foster children.

- Children born into a household.

- Households newly formed as a result of marriage.

6.4 First Time Homebuyer. All members of the applicant household must be first time homebuyers, defined as not having owned a home as your primary residence within the last three (3) years prior to the date of application. First time homebuyers DO include owners of mobile homes, as well as applicants whose names are on title for properties they have not lived in as their primary residences for the last three years (for instance rental properties, which must be considered as part of the applicant's eligibility per assets).

Exceptions. Exceptions to this requirement are:

- Applicants who are current BMR homeowners and are otherwise eligible for the BMR Program, are eligible to place their names on the BMR waiting list and to purchase a smaller or larger home needed due to changes in household size or family needs, such as for handicap accessibility (per Section 7.2.6, below).

- Applicants whose names were placed on the BMR waiting list prior to March 2, 2010.

- Applicant households that currently and/or within the last three (3) years prior to the date of application own homes as their primary residences more than fifty (50) miles outside Menlo Park city limits, that are otherwise eligible for the BMR Program.

6.5 Complete One-Time Pre-Purchase Homebuyer Education. After an applicant's name is placed on the BMR waiting list and before receiving an offer to purchase a BMR property, all adult applicants/household members must complete a one-time homebuyer education workshop, class, or counseling session. When applicants' names are placed on the waiting list to purchase BMR units, program staff provides them with a list of approved local organizations that provide pre-purchase homebuyer education. Applicants choose an education provider or program from the approved list and may choose to attend in either a group or individualized setting. It is the applicants' responsibility to provide the City or the City's BMR program provider with evidence that a pre-purchase homebuyer education workshop or session was completed. In most cases, the education providers will provide applicants with certificates of completion, which

applicants can submit to the City's BMR program provider as proof that the pre-purchase education requirement was completed. Households on the waiting list that have not completed the homebuyer education requirement will retain their rank on the list but will NOT be invited to apply to purchase BMR units. Only households on the waiting list that have completed the education requirement will be invited to apply when units become available. Elderly parents of applicants living in the household need not complete the education requirement.

6.5.1 Prior Completion of Pre-Purchase Homebuyer Education. At the time of application to the BMR waiting list, applicants who provide written evidence of having completed an approved homebuyer education workshop, class, or counseling session within the previous twelve months prior to the date of application to the waiting list are not required to complete an additional workshop, class, or counseling session.

6.5.2 Homebuyer Education Provider. At the City's discretion, the City may elect to work exclusively with one or more homebuyer education providers/organizations. The City may also choose to contract with a particular person or organization to provide this educational component.

6.5.3 Long-Term Education or Counseling Required for Certain Applicants. Applicants who are invited to apply to purchase BMR units and are twice denied (on separate occasions) due to long-term or significant credit problems, will be required to meet individually with a credit counseling professional in order to remain on the waiting list. The applicant must provide evidence of completion of credit counseling within six (6) months to the City's BMR provider or the applicant will be removed from the BMR waiting list. This does not exclude the applicant from applying to the waiting list again, to be placed at the bottom of the list.

6.6 Ownership Interest. A minimum of fifty percent (50%) of the ownership interest in the property must be vested in the qualifying applicant(s), regardless of income.

6.7 Income and Asset Limits for Purchasers of BMR Units. Income eligibility limits are established by the State of California Housing and Community Development Department (HCD). Income limits are updated by State HCD on an annual basis. BMR units shall only be sold to very low-, low-, and moderate-income households. Only households having gross incomes at or below one hundred ten percent (110%) of the Area Median Income (AMI) for San Mateo County, adjusted for household size, are eligible to purchase and occupy BMR for-sale units, either upon initial sale or upon any subsequent resale, as specified in the deed restrictions.

(Refer to Section 14, Table A, for the current year's income eligibility limits.)

An asset is a cash or non-cash item that can be converted into cash. Only households having non-retirement assets that do not exceed the purchase price of the BMR units are considered eligible.

- Assets Include: cash held in checking accounts, savings accounts, and safe deposit boxes; equity in real property; cash value of stocks (including options), bonds, Treasury bills, certificates of deposit, money market accounts, and revocable trusts; personal property held as an investment such as gems, jewelry, coin and art collections, antiques, and vintage and/or luxury cars; lump sum or one-time receipts such as inheritances, capital gains, lottery winnings, victim's restitution, and insurance settlements; payment of funds from mortgages or deeds of trust held by the applicant(s); boats and planes; and motor homes intended for primary residential use.

- Assets DO NOT Include: cars and furniture (except cars and furniture held as investments such as vintage and/or luxury cars, and antiques); company pension and retirement plans; Keogh accounts; dedicated education funds/savings accounts; and funds dedicated to federally recognized retirement programs such as 401K's and IRA's.

Note that equity in real property or capital investments is defined as follows: the estimated current market value of the asset less the unpaid balance on all loans secured by the asset and all reasonable costs (e.g. broker/realtor fees) that would be incurred in selling the asset.

6.7.1 Senior or Disabled Households That Use Assets for Living Expenses. An exception to the income and asset limit requirement is a household whose head is over sixty-two (62) years of age, or permanently disabled and unable to work, with assets valued up to two (2) times the price of the BMR unit. The applicant must be able to demonstrate that the sole use of his/her assets has been for household support for at least the three (3) previous years, and that the total annual household income meets the Guidelines.

7. BMR WAITING LIST FOR RENTAL AND FOR-PURCHASE UNITS

7.1 Waiting List Eligibility Requirements. A numbered waiting list of households eligible for rental and/or for-purchase BMR units is maintained by the City or the City's designee. Households are eligible to be placed on the BMR waiting list if they meet the following four (4) requirements at the time they submit applications for the waiting list:

- The household currently resides within incorporated Menlo Park as its primary residence OR a member of the household currently works at least 20 hours per week within incorporated Menlo Park.

- The household meets the current income limit requirements (per household size) for rent and/or purchase of a BMR unit. See Section 14, Table A, for income eligibility limits for the current year.

- All persons included as members of the household currently live together in a residence that is their primary home. Applicant households may submit applications and, if eligible, will be placed on the numbered BMR waiting list in the order in which their applications were received.

- In accordance with Section 6.4, all members of the household must be first time homebuyers.

7.2 Waiting List Management. BMR units available for rent or purchase are offered to households on the BMR waiting list in the order in which the waiting list applications were received.

7.2.1 Annual affirmation of continued interest in remaining on the BMR waiting list. On an annual basis, all households on the BMR waiting list will be required to confirm their continued interest in remaining on the list. At or around the same time each year, the City's BMR program provider will mail and/or email annual update forms/applications to all current households on the waiting list. Households on the waiting list that wish to remain on the list are asked to complete the form and return it to the City's BMR program provider within a specified period of time (usually about one month) with a $10 annual fee for processing. Households who do not respond by completing and returning the forms and the fee by the specified deadline, or whose mail is returned undeliverable to the City's BMR program provider or who otherwise cannot be reached, shall be removed from the BMR waiting list. This does not exclude households removed from the waiting list from re-applying to the list, to be added to the bottom of the list in accordance with normal procedures.

7.2.2 Complete One-Time Pre-Purchase Homebuyer Education for Households That Would Like to Purchase a BMR Unit. For households that indicate they would like to purchase BMR units, after households are placed on the BMR waiting list and before receiving offers to purchase BMR properties, all adult applicants/household members must complete a one-time homebuyer education workshop, class, or counseling session, per Section 6.5.

7.2.3 When a BMR unit is offered for purchase or rent, applicants must enter into a purchase agreement or lease within a defined, reasonable period of time. If an applicant fails to do so, the BMR unit will be offered to the next eligible applicant on the waiting list. The City of Menlo Park reserves the right to establish other criteria to give preference to certain categories of eligible participants on the waiting list.

7.2.4 A tenant of a BMR rental unit who is required to vacate the BMR rental unit due to its conversion to a BMR for sale unit, shall have first priority for vacant BMR rental units for which the tenant is eligible and qualifies for two (2) years from the expiration of the lease, regardless of the place of residence of the displaced tenant.

7.2.5 Preference for Handicap Accessible Units for Bona Fide Wheelchair Users. If the BMR unit is wheelchair accessible, then bona fide wheelchair users on the BMR waiting list who are otherwise eligible for the BMR unit, including by household size and income, will receive preference over other applicants, and the BMR unit will be offered to the bona fide wheelchair users in the order that their applications were received.

7.2.6 Households who are current BMR homeowners are eligible to place their name on the BMR waiting list and to purchase a smaller or larger home needed due to changes in their household size or family needs, such as for a handicapped accessible unit.

8. THE BMR UNIT PURCHASE PROCESS: BUYER SELECTION AND SALE PROCEDURES

8.1 New Units and Condominium Conversions.

8.1.1 The participating developer informs the City or its designee in writing that the BMR unit has received its final building inspection and that the BMR unit is ready for sale and occupancy. "The City" shall mean the City Manager, or his or her designee.

8.1.2 City of Menlo Park staff or the City's BMR program provider inspects the BMR unit. After approval of the unit, the City or the City's BMR program provider writes a certifying letter that states the BMR unit meets the BMR Program's requirements and satisfies the BMR Agreement's provisions. The certifying letter will also state the price for the BMR unit. The price for the BMR unit will be determined based on the information described in the next three sections.

8.1.3 The City or its designee obtains necessary information for determining the price of the BMR unit. These include, but may not be limited to, the estimated tax figures from the developer and the County Assessor, as well as Homeowner's Association dues, Covenants, Conditions and Restrictions, and insurance figures from the developer. Also included will be all associated Homeowner Association documentation.

8.1.4 Household size and income qualifications are established. In households in which an adult holds fifty percent (50%) or more custody of a minor child or children through a legally binding joint custody settlement, each such child shall count as a person in determining the household size.

8.1.5 The City or its designee determines the maximum price of the BMR unit based on an income up to one hundred ten percent (110%) of the San Mateo County median income for the smallest household size eligible for the BMR unit (excluding two-bedroom units, which are based on income for a two person household), monthly housing costs including current mortgage rates, insurance costs, homeowners' dues, taxes,

closing costs and any other consideration of costs of qualifying for a first mortgage and purchase of the BMR unit. See Section 14, Table A, for income eligibility limits for the current year. When these documents and the information described in this and preceding sections have been received, the City will provide the developer with a certifying letter in which the City states the price for the BMR unit, accepts the BMR unit as available for purchase and the purchase period will commence.

8.1.6 If there is a standard pre-sale requirement by the BMR applicant's lender for a certain percentage of units in the project to be sold before the BMR applicant's lender will close, then the time for the City's purchase or the buyer's purchase will be extended until that requisite number of units has closed.

8.1.7 The City may retain a realtor to facilitate the sale of the property.

8.1.8 Contact is established between the City or its designee and the developer's representative to work out a schedule and convenient strategy for advertisements, if needed, when the units will be open for viewing, and for when the interested applicants may obtain detailed information about the units.

8.1.9 All marketing and sales procedures for BMR units must be approved by the City and will be subject to review on a periodic basis for compliance.

8.1.10 An information packet and application forms are designed and duplicated by the City or its designee. The developer provides information about the unit, including a floor plan of the unit and of the building showing the location of the unit, dimensions, appliances, amenities, and finishes.

8.1.11 The City or the City's BMR program provider holds an application orientation meeting(s). Households on the waiting list with the lowest numbers are contacted and invited to attend the orientation meeting(s). Only households that are eligible by household size and have completed the one-time pre-purchase education requirement are contacted and invited to attend the orientation. Applications to purchase BMR units can only be obtained by attending an application orientation meeting. At the meeting, potential applicants are provided with the following information:

- A detailed description of the BMR program, including the rights, restrictions, and responsibilities of owning a BMR home.

- A complete description of the property or properties being offered for sale including buyer eligibility requirements, the purchase price, home owner association costs (if any), estimated property taxes, and home features.

- An overview of the home loan application process and description of necessary costs including down payment (if required), closing costs, real estate taxes, and mortgage insurance.

- A description of the BMR and home loan approval process. Potential applicants are informed they must work with one of the program's approved mortgage providers. Per the City's discretion the potential applicants are also informed of the kinds of acceptable mortgage financing, and also of mortgage financing not allowed at that time (for instance negative amortizing loans).

- Based on the purchase price, estimates are provided on the minimum annual income required to purchase, as well as possible monthly housing costs including principal and interest, property taxes, and insurance payments.

- A step-by-step explanation of the BMR purchase application. If there are several sizes of units for which applicants may be eligible, applicants are instructed where to indicate their unit size preferences.

Potential applicants are invited to ask questions. Meeting attendees are invited to sign up to tour the property or properties for sale. Attendees are given applications and a reasonable deadline to submit their completed applications.

8.1.12 Completed applications are submitted to the City or its designee along with income and asset verifications.

8.1.13 When the application period closes, the City or its designee reviews the completed applications. The complete, eligible, qualifying applications are ranked in order by BMR waiting list numbers and/or other criteria established by the City. The complete applications with the lowest numbers, and meeting other qualifying criteria for each unit, if any, are selected, and the households that submitted them are notified of the opportunity to purchase the BMR unit, in the order of their numbers on the BMR waiting list. They are invited to an orientation meeting.

8.1.14 If the leading applicant for a unit fails to contact the developer, provide a deposit, or obtain appropriate financing within the period of time specified in the notification letter, the City or its designee will contact the next household on the list.

8.1.15 The City of Menlo Park or its designee submits to the title insurance company the Grant Deed, BMR Agreement and Deed Restrictions, and Request for Notice to be recorded with the deed to the property.

8.1.16 The developer shall be free to sell a BMR unit without restriction as to price or qualification of buyer if all of the following criteria are met, unless the BMR applicant's lender has a loan condition that a specific number of units in the development must be sold before the loan can be approved: (1) the City and the developer are unable to obtain a qualified buyer within six (6) months after the City has provided written notice both certifying that the unit is available for purchase and setting the price for the BMR unit, (2) the City or its designee does not offer to purchase the BMR unit within said six

(6) months period, and complete said purchase within not more than sixty (60) days following the end of the six (6) month period, (3) the developer has exercised reasonable good faith efforts to obtain a qualified buyer. A qualified buyer is a buyer who meets the eligibility requirements of the BMR Program and who demonstrates the ability to complete the purchase of the BMR unit. Written notice of availability shall be delivered to the City Manager, City of Menlo Park, 701 Laurel Street, Menlo Park, CA 94025. Separate written notice of availability shall also be delivered to the City Manager, City of Menlo Park, 701 Laurel Street, Menlo Park, CA 94025.

9. OCCUPANCY REQUIREMENTS FOR OWNER-OCCUPIED BMR UNITS

9.1 Primary Residence. The owners listed on title to the BMR property must occupy it as their primary residence and remain in residence for the duration of the Deed Restrictions (fifty-five years). Occupancy is defined as a minimum stay of ten months in every twelve month period. BMR owners may not terminate occupancy of the BMR property and allow the property to be occupied by a relative, friend, or tenant. Failure of the purchaser to maintain a homeowner's property tax exemption shall be construed as evidence that the BMR property is not the primary place of residence of the purchaser. As necessary, the City may request that BMR owners provide evidence that their units are currently occupied by them as their primary residences. Examples of such evidence may include current copies of any of the following: homeowner's insurance, car/vehicle registration, and utility bills.

9.2 Refinancing and BMR Valuations. BMR owners may refinance the debt on their property at any time following purchase, however, they must contact the City's designated BMR program provider first, prior to a refinance or equity line. The City's BMR contractor will provide the owner with clear instructions to ensure program compliance. At that time and at any other time the owner requests it, the BMR contractor will provide the owner and/or the lender with the current BMR value of the home, in accordance with the formula specified in the BMR Deed Restrictions. Only the City's BMR contractor can determine the appraised value of a BMR property and it is the owner's responsibility to inform their lender that the property is a BMR property. BMR owners are not allowed to take out loans against their property that exceed the BMR value of the home. There is a fee for refinancing a BMR home that is set by the City's BMR Housing contractor.

9.3 Transfers of Title. Prior to adding an additional person to title or transferring title to the BMR property, BMR owners must contact the City for clear instructions to ensure program compliance.

The following transfers of title are exempt from the City's right of first refusal and do NOT re-start the fifty-five (55) year deed restriction clock:

- Transfer by devise or inheritance to the owner's spouse.
- Transfer of title by an owner's death to a surviving joint tenant, tenant in common, or a surviving spouse of community property (that is, another

owner already on title).

- Transfer of title to a spouse as part of divorce or dissolution proceedings.

- Transfer of title or an interest in the property to the spouse in conjunction with marriage.

Transfers by devise or inheritance (such as to a child or other family member), are permitted under certain terms and conditions identified in the BMR Deed Restrictions. These kinds of transfers must first be reviewed and approved by the City or the BMR program contractor. If the person inheriting the property meets the following terms and conditions, then that person may take title, assume full ownership, and reside in the BMR unit. This would then restart the fifty-five (55) year deed restriction clock. If the person inheriting the property does NOT meet the following terms and conditions they may still inherit the property but are not allowed to live there. In such case, the inheriting party must sell the property and shall be entitled to receive any proceeds from the sale after payment of sales expenses and all liens against the property. The property would then be sold by the City through the BMR Program to an eligible, qualified household on the BMR waiting list.

For transfers of title by devise or inheritance, the inheriting party (Transferee) must meet the following terms and conditions in order to live in the BMR unit:

- Transferee shall occupy, establish and maintain the property as the Transferee's primary residence.

- The Transferee must meet all current eligibility requirements for the BMR Program, as identified at the time of transfer in the BMR Guidelines.

- The Transferee must sign a new BMR Deed Restrictions Agreement for the property. This restarts the fifty-five (55) year clock.

10. PROCESS FOR RESALE OF BMR UNITS

10.1 The seller notifies the City by certified mail that he/she wishes to sell the unit. The City notifies its designee, if applicable. The unit must be provided in good repair and salable condition, or the cost of rehabilitating the unit will be reimbursed to the City out of the proceeds of the sale. The definition of "salable condition" for any given unit shall be provided on a case-by-case basis following the City's inspection of the unit, and shall be at the discretion of the City Manager or his/her designee. "Salable condition" shall refer to the general appearance, condition, and functionality of all: flooring; painted surfaces; plumbing, heating, and electrical systems; fixtures; appliances; doors; windows; walkways; patios; roofing; grading; and landscaping. In addition for each unit, the City reserves the right to withhold the cost of having it professionally cleaned from the seller's proceeds. Once cleaning is complete, the seller will be refunded any difference between the amount withheld and the actual cost to clean the unit.

10.2 When the seller notifies the City or the City's BMR contractor, and it has been determined that the unit is in good repair and salable condition, and the City has set the price for the BMR unit, then the City or the City's BMR contractor will state in writing that the one-hundred and eighty day (180) period for completing the sale of the BMR unit shall commence. The price will be set using information in Sections 10.3 through 10.6 below.

10.3 The City or its designee obtains an appraisal made to ascertain the market value of the unit, giving consideration to substantial improvements made by the seller, if needed.

10.4 The City or its designee obtains figures for homeowners' dues, insurance, and taxes from the seller.

10.5 The City or its designee checks major lending institutions active in this market to ascertain current mortgage information (prevailing interest rates, length of loans available, points, and minimum down payments). Monthly housing costs are estimated.

10.6 The City or its designee establishes a sales price, based on the original selling price of the unit, depreciated value of substantial improvements made by the seller, and 1/3 of the increase in the cost of living index for the Bay Area. The selling price is established for the unit at the appraised market value or the computed price whichever is the lower.

10.7 The City retains a realtor to facilitate the sale of the property.

10.8 Agreement is reached between seller and the City or its designee for a schedule of open houses for the unit, at the seller's convenience.

10.9 The procedure continues the same as in Sections 8.1.7 – 8.1.16 above, with the seller substituted for the developer.

10.10 The City or its designee submits to the title insurance company the Grant Deed, BMR Agreement and Deed Restrictions, and Request for Notice and the seller's release from the old deed restrictions, to be recorded with the new deed to the property.

11. REQUIREMENTS FOR BMR RENTAL DEVELOPMENTS

11.1 Income and Rent Standards.

11.1.1 Income Limits upon Occupancy of BMR Rental Units. Only households having gross incomes at or below the Low Income for San Mateo County, adjusted for household size, are eligible to occupy BMR rental units, either when initially rented or upon filling any subsequent vacancy. See Section 14, Table A (Below Market Rate Household Income Limits).

11.1.2 BMR Rent. BMR units may be rented for monthly amounts not exceeding thirty percent (30%) of sixty (60%) of median household income limits for City subsidized projects and thirty percent (30%) of Low Income limits for non-subsidized private projects, minus eligible housing costs. In no case shall the monthly rental amounts for BMR units (subsidized or unsubsidized) exceed 75% of comparable market rate rents. The maximum rental amounts are listed in Section 14, Table B, (Maximum Monthly Housing Cost Limits for BMR Rental Units.) BMR rents may be adjusted from time to time to reflect any changes to the then current Income limits.

11.1.3 Tenant Selection and Certification Procedures. Priority for occupancy of all BMR rental units shall be given to those eligible households who either live or work in the City of Menlo Park. During the fifteen (15) day period following the date the City and its designee receive notification from the owner (or owner's agent) of an impending availability or vacancy in a BMR rental unit, priority for occupancy of that unit, when available, shall be given to eligible households on the Waiting List, on a first-come, first-served basis. The selected household shall be allowed up to thirty (30) days to move into the unit after it is ready for occupancy.

If no qualified household living or working in Menlo Park is available to occupy the vacated unit as aforesaid, the owner shall be free to rent the BMR unit to any other eligible BMR tenant.

11.1.4 BMR Waiting List. The qualifications of BMR rental tenants will be independently verified by the City or its designee. The City of Menlo Park or the City's designee shall maintain the waiting list for BMR rental units.

11.1.5 One-Year Lease Offer. Each BMR tenant shall be offered the opportunity to enter into a lease, which has a minimum term of one (1) year. Such offer must be made in writing. If the tenant rejects the offer, such rejection must also be in writing. A lease may be renewed upon the mutual agreement of both parties.

11.1.6 Vacation of Units and Re-Renting. When a BMR tenant vacates, the owner must provide notice to the City, and re-rent the unit to a qualified BMR tenant in accordance with these Guidelines and the Affordability Restriction Agreement for the unit.

11.1.7 Annual Recertification of BMR Units. The City of Menlo Park or the City's BMR contractor will recertify annually, by procedures to be established in the Affordability Restriction Agreement, the provision of BMR rental units as agreed at the time of application for the permit. If, at the time of recertification, for two consecutive years, a Tenant's household income exceeds the eligibility requirements set forth in the Guidelines ("Ineligible Tenant"), the Ineligible Tenant shall no longer be qualified to rent the BMR unit and the Lease shall provide that the Lease term shall expire and the Tenant shall vacate the BMR unit on or prior to sixty (60) days after delivery of a notice of ineligibility by the property manager or City or City's designee to the Tenant. Upon expiration of the Lease term pursuant to the foregoing, if the Tenant has not vacated the

BMR unit as required, the property manager shall promptly take steps to evict the Ineligible Tenant and replace the BMR unit with an Eligible Tenant as soon as reasonably possible.

11.1.8 Annual Report. On an annual basis on or before July 1 of each year, the Developer or subsequent owner shall submit a report (the "Annual Report") to the City which contains, with respect to each BMR unit, the name of the Eligible Tenant, the rental rate and the income and household size of the occupants. The Annual Report shall be based on information supplied by the Tenant or occupant of each BMR unit in a certified statement executed yearly by the Tenant on a form provided or previously approved by the City or designee. Execution and delivery thereof by the Tenant may be required by the terms of the Lease as a condition to continued occupancy at the BMR rate. In order to verify the information provided, City shall have the right to inspect the books and records of Developer and its rental agent or bookkeeper upon reasonable notice during normal business hours. The Annual Report shall also provide a statement of the owner's management policies, communications with the tenants and maintenance of the BMR unit, including a statement of planned repairs to be made and the dates for the repairs.

12. EQUIVALENT ALTERNATIVES

Nothing set forth herein shall preclude the City from considering reasonably equivalent alternatives to these Guidelines, including, but not limited to, the size of units and differentiation of internal materials.

13. BELOW MARKET RATE HOUSING FUND ("BMR FUND") AND SEVERABILITY CLAUSE

13.1 Purpose. The City of Menlo Park Below Market Rate Housing Fund is a separate City fund set aside for the specific purpose of assisting the development of housing that is affordable to very low, low and moderate-income households. The BMR Fund is generated by such income as in-lieu fees. All monies contributed to the BMR Fund, as well as repayments and interest earnings accrued, shall be used solely for this purpose, subject to provisions set forth below.

13.2 Eligible Uses. The BMR Fund will be used to reduce the cost of housing to levels that are affordable to very low, low and moderate-income households, as defined in the Housing Element of the City's General Plan. A preference will be given to assisting development of housing for households with minor children; however, this preference does not preclude the use of funds for other types of housing affordable to households with very low, low and moderate- incomes.

13.3 Eligible Uses in Support of Very Low-, Low- and Moderate-Income Housing Development. The BMR Fund may be used for, but is not limited, to the following:

- Provision of below market rate financing for homebuyers.

- Purchase of land or air rights for resale to developers at a reduced cost to facilitate housing development for very low, low or moderate-income households.

- Reduction of interest rates for construction loans or permanent financing, or assistance with other costs associated with development or purchase of very low, low or moderate-income housing.

- Rehabilitation of uninhabitable structures for very low, low or moderate-income housing.

- On-site and off-site improvement costs for production of affordable housing.

- Reduction of purchase price to provide units that are very low, low or moderate cost.

- Rent subsidies to reduce the cost of rent for households with limited incomes.

- Emergency repair and/or renovation loan program for BMR owners of older units.

- Loan program to assist BMR condominium owners who have no other way to pay for major special assessments.

- City staff time and administrative costs associated with implementation of the BMR program.

13.4 Procedures. Requests for use of BMR Housing Fund money shall be submitted to staff for review and recommendation to the City Council. A request for funding shall provide the following minimum information:

- A description of the proposal to be funded and the organizations involved in the project. Public benefit and relevant Housing Element policies and programs should be identified.

- Amount of funding requested.

- Identification of the number of very low, low and moderate-income households to be assisted and the specific income range of those assisted.

- Reasons why special funding is appropriate.

- Identification of loan rate, financial status of applicants, and source of

repayment funds or other terms.

- Identification of leverage achieved through City funding.

13.5 Annual Report. At the close of each fiscal year, City staff shall report on activity during the previous year (deposits and disbursements) and available funds. The City's auditor shall periodically examine this report and all other BMR Fund financial records, and shall report the results of this examination. In addition, City staff shall report annually on activities assisted by monies from the BMR Fund. The report will review how the program is serving its designated purpose. It will include a discussion of the timely use of funds for actions taken to provide Below Market Rate housing units, a review of management activities, and staff recommendations for policy changes to improve the program's performance. In addition it will provide, for each activity, information corresponding to that required of funding requests listed above in Section 13.4.

13.6 Severability Clause. If any one or more of the provisions contained in the Below Market Rate Housing Program Guidelines shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, then such provisions shall be deemed severable from the remaining provisions contained in the Guidelines, and the Guidelines shall be construed as if such invalid, illegal or unenforceable provision(s) had never been contained herein.

13.7 Administrative Updates. Future updates to tables in Section 14 may be made annually without Council approval when data becomes available from the appropriate state and federal agencies.

14. TABLES

Table A

Below Market Rate Household Income Limits

Household Size	*HUD & State Very Low*	*60% of Median*	*HUD & State Low*	Median	*110% of Median*	*120% of Median*
1	46,100	48,420	73,750	80,700	88,770	96,840
2	52,650	55,350	84,300	92,250	101,475	110,700
3	59,250	62,250	94,850	103,750	114,125	124,500
4	65,800	69,180	105,350	115,300	126,830	138,360
5	71,100	74,700	113,800	124,500	136,950	149,400
6	76,350	80,250	122,250	133,750	147,125	160,500
7	81,600	85,770	130,650	142,950	157,245	171,540
8	86,900	91,320	139,100	152,200	167,420	182,640

Source: Based on median income for a household of four persons as reported in the Income Guidelines for San Mateo County published by the Department of Housing and Community Development Division of Housing Policy Development for 2017.
http://www.hcd.ca.gov/grants-funding/income-limits/state-and-federal-income-limits/docs/inc2k17.pdf

Table B

Maximum Monthly Housing Cost Limits for BMR Rental Units

Unit Size	*30% of 60% of Median*	*30% of HUD & State Low*
Studio	1,211	1,844
1	1,384	2,108
2	1,556	2,371
3	1,730	2,634
4	1,868	2,845
5	2,006	3,056

Table C

Occupancy Standards

Occupancy of BMR units shall be limited to the following:

Unit Size	Number of Persons Minimum	Maximum
Studio	1	2
1	1	4
2	2	5
3	3	7
4	4	9

Note: Smallest household size for purposes of determining the maximum rental amount shall be one (1) person per bedroom or studio. The City Manager or his/her designee has the discretion to vary the persons per unit for unusually large units, not to exceed one (1) person per bedroom, plus one (1).

Table D

Commercial In-Lieu Fees for 2017-18

Group A uses are Research & Development and Office.	Fee: $16.90 per square foot of gross floor area.

Group B uses are all other Commercial Uses not in Group A.	Fee: $9.17 per square foot of gross floor area.

Commercial In-Lieu Fees are adjusted annually on July 1.

Exhibit C

Compliance Forms and Certifications

Project Name: Middle Plaza at 500 El Camino Real

Project Location: 300-550 El Camino Real, Menlo Park, CA

Pursuant to Section 204, of the Affordable Housing Agreement and Declaration of Restrictive Covenants ("Agreement"), by and between the City of Menlo Park, a California municipal corporation ("City"), and The Board of Trustees of the Leland Stanford Junior University, a body having corporate powers under the laws of the State of California ("Owner") on _____, I, _____ [name], a representative of the Owner, hereby certify that, as of the date of this Certification, the multi-family residential rental project that is the subject of the Agreement is in compliance with all of the terms and conditions set forth in the Agreement.

Owner has obtained and maintains on file income certifications executed by each tenant renting a BMR Unit and hereby submits to the City a completed Income Computation and Certification Form for each household occupying a BMR Unit. Owner has made a good faith effort to obtain third party verification of the accuracy of the information provided by each tenant on an income certification. Good faith effort includes conducting a credit agency or other similar search, obtaining an Income tax return for the most recent year (unless tenant is not legally required to file an income tax return) and taking one or more of the following steps: (1) obtaining a pay stub for the most recent pay period; (2) obtaining an Income verification form from the tenant's current employer; or (3) obtaining an income certification from the Social Security Administration or California Department of Social Services if the tenant receives assistance from either of such agencies. To the best of Owner's knowledge and belief, each household leasing a BMR Unit meets the income and eligibility restrictions for the BMR Unit.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

_____ _____

Signature of Officer Date

_____

Printed Name of Officer

_____

Title of Officer/Corporation

Middle Plaza at 500 El Camino Real 300-550 El Camino Real Menlo Park, CA 94025

Household Name: _____
Apartment/Application#_____

I certify (or declare) under penalty of perjury under the laws of the State of California that the family household is comprised of the following: (*Enter the amount of income and income from assets for all members of the household*).

INCOME:

Household Member	Source	Actual Income
	Total Income (A)	

ASSETS:

HHLD Member	Source	Cash Value	Income from Asset
		Total Income Assets (B)	

Total Annual Household Income (A + B): _____

I certify that the information presented in this certification is true and accurate to the best of my/our knowledge and belief:

_____
_____
Signature Date

_____
_____
Signature Date

Exhibit D

Sample Utility Allowance

Allowances for Tenant Furnished Utilities and other Services

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577-0169
(exp. 09/30/2017)

Locality: **Housing Authority of the County of San Mateo, CA**		Unit Type: **Multi-Family (Apartment/Condo/Duplex)**				Date (mm/dd/yyyy) **11/01/2017**	
Utility or Service		Monthly Dollar Allowances					
		0 BR	1 BR	2 BR	3 BR	4 BR	5 BR
Heating	a. Natural Gas	$16.00	$20.00	$22.00	$24.00	$26.00	$28.00
	b. Bottle Gas/Propane						
	c. Electric	$13.00	$15.00	$19.00	$23.00	$27.00	$31.00
	d. Electric Heat Pump	N/A	N/A	N/A	N/A	N/A	N/A
	e. Oil / Other						
Cooking	a. Natural Gas	$3.00	$3.00	$5.00	$7.00	$9.00	$10.00
	b. Bottle Gas/Propane						
	c. Electric	$5.00	$6.00	$9.00	$12.00	$14.00	$17.00
Other Electric (Lights & Appliances) **& Climate Credit**		$17.00	$20.00	$30.00	$42.00	$54.00	$67.00
Water Heating	a. Natural Gas	$7.00	$8.00	$11.00	$15.00	$19.00	$22.00
	b. Bottle Gas/Propane						
	c. Electric	$12.00	$14.00	$18.00	$22.00	$26.00	$30.00
	d. Oil / Other						
Water **(avg)**		$52.00	$53.00	$68.00	$85.00	$104.00	$123.00
Sewer		N/A	N/A	N/A	N/A	N/A	N/A
Trash Collection **(avg)**		$24.00	$24.00	$24.00	$24.00	$24.00	$24.00
Range / Microwave Tenant-supplied		$12.00	$12.00	$12.00	$12.00	$12.00	$12.00
Refrigerator Tenant-supplied		$13.00	$13.00	$13.00	$13.00	$13.00	$13.00
Other-- specify:							

Actual Family Allowances

To be used by the family to compute allowance. *Complete below for the actual unit rented.*

Name of Family

Address of Unit

Number of Bedrooms

Utility or Service	per month cost
Heating	$
Cooking	$
Other Electric	$
Air Conditioning	$
Water Heating	$
Water	$
Sewer	$
Trash Collection	$
Range / Microwave	$
Refrigerator	$
Other	$
Other	$
Total	$

Seal of Certified Compliance 2017 Residential Utility Allowances

EXHIBIT D

PUBLIC USE AGREEMENT

This document is recorded for the benefit of the City of Menlo Park and is entitled to be recorded free of charge in accordance with Sections 6103 and 27383 of the Government Code.

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

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

Space above this line for Recorder's Use Only

PUBLIC USE AGREEMENT

MIDDLE PLAZA AT 500 EL CAMINO REAL PROJECT

TABLE OF CONTENTS

Exhibits:

PUBLIC USE AGREEMENT

THIS PUBLIC USE AGREEMENT (the "**Agreement**") is made and entered into on the 26th day of September, 2017, by and between the **CITY OF MENLO PARK**, a California municipal corporation ("**City**"), and **THE BOARD OF TRUSTEES OF THE LELAND STANFORD JUNIOR UNIVERSITY**, a body having corporate powers under the laws of the State of California ("**Owner**") (individually a "**Party**" and collectively the "**Parties**"), with reference to the following facts:

RECITALS

A. Owner is the fee owner of those certain parcels of real property having current addresses at 300-550 El Camino Real in the City of Menlo Park, California ("**Property**") as more particularly described in Exhibit A attached hereto.

B. The Parties have entered into a Development Agreement ("**Development Agreement**"), effective November 9, 2017 and recorded on _____ in the Official Records of San Mateo County as Instrument No. _____, to facilitate development of the Property subject to certain terms and conditions. Owner intends to demolish all existing structures on the Property and to construct the Project on the Property, as defined in the Development Agreement (the "**Project**"). All capitalized terms not otherwise defined in this Agreement have the meaning ascribed to them in the Development Agreement.

C. As a material consideration for the long term assurances, vested rights, and other City obligations provided by the Development Agreement and as a material inducement to City to enter into the Development Agreement, Owner offered and agreed to provide certain public benefits to the City as specified in the Development Agreement.

D. Section 8 of the Development Agreement specifies that the Project will incorporate a privately owned and operated, publicly-accessible "**Plaza**" at Middle Avenue as shown on Exhibit B attached hereto that shall be open to the public consistent with this Agreement. Through this Agreement, the Parties desire to memorialize the terms under which Owner will make the Plaza available for public use.

NOW, THEREFORE, with reference to the foregoing recitals and in consideration of the mutual promises, obligations and covenants herein contained, City and Owner agree as follows:

AGREEMENT

The introductory paragraph and the Recitals are hereby incorporated into this Agreement as if hereinafter fully and completely rewritten.

ARTICLE 1
CONSTRUCTION OF PLAZA

Construction of the Plaza shall be completed substantially in conformance with the Project Approvals and all other state and local building codes, development standards, and

ordinances, as they are made applicable to the Project by the Development Agreement, prior to City sign off of the building permit allowing occupancy of any residential unit in the Project.

ARTICLE 2
PUBLIC USE OF PLAZA

2.1 Public Use of Plaza.

2.1.1 Subject to the restrictions identified in this Agreement, Owner hereby agrees to permit members of the public to use the Plaza for the purposes identified in Section 2.1.2, below, and to enter the Property for such purposes seven days a week from 6:00 a.m. to Midnight. Plaza hours may be extended at Owner's sole discretion to coincide with the hours of operation for tenants of the Project's commercial spaces. Owner reserves the right to temporarily close the Plaza due to construction, maintenance, or other improvement work or, at Owner's reasonable discretion, due to safety concerns or the disruptive behavior of Plaza users. Closures longer than five (5) consecutive days shall be subject to written City approval, which shall not be unreasonably withheld. If City fails to respond to any such request within ten (10) business days of its receipt, such temporary closure shall be deemed approved.

2.1.2 Permissible public uses of the Plaza include access and passive and community-centered outdoor activities. Passive activities may include, but are not limited to, the use and enjoyment of public seating, an interactive fountain, game areas, and retail carts and sales areas authorized by Owner. Passive use includes small informal gatherings. Community-centered activities may include, but are not limited to, art, music, dance, drama, comedy, pet, and bike safety events and shows; seasonal festivities/holiday celebrations; community workshops; and fitness activities, including, but not limited to tai chi, yoga and boot camp

2.1.3 Members of the public utilizing the Plaza shall comply with all applicable federal, state, county and local laws, rules, and regulations and all reasonable rules and regulations for use of the Plaza adopted by Owner in consultation with City under Section 2.1.4 below.

2.1.4 Public use of the Plaza is conditioned on compliance with rules and regulations adopted as provided in this Section 2.1.4. At least ninety (90) days prior to the public's first use of the Plaza, the Parties shall meet and confer to approve written, detailed rules and regulations for use of the Plaza by the public. If City and Owner do not agree on the rules and regulations for use of the Plaza, Owner shall have the final authority to adopt reasonable rules and lawful rules and regulations, so long as those rules and regulations do not discriminate between members of the public, and residents or tenants and do not defeat the purpose and intent of the public space as described in the Specific Plan. Either Party subsequently may propose amendments to the adopted rules and regulations, subject to Owner's final authority to adopt reasonable, lawful rules and regulations. The Parties hereby agree that Owner shall have the right to take all appropriate action and impose such rules and regulations as are reasonable and lawful, including requiring prior approval by Owner, to ensure that activities in the Plaza proposed by members of the public do not conflict with the daily operation of the Project and have secured any required governmental permits.

2.1.5 Owner reserves the right to exclude members of the public from any portion or portions of the Plaza that a tenant or tenants of commercial spaces within the Project leases for outdoor food service, dining, alcoholic beverage service, entertainment, retail sales, or any other outdoor use that may facilitate successful operation of the commercial portion of the Project. Areas within the Plaza affected by this provision are subject to change as tenant desires, needs, and interests change.

2.1.6 Owner reserves the right to undertake any and all additional activities that are not inconsistent with, and that do not unreasonably interfere with, the public use of the Plaza granted by this Agreement, including, but not limited to, operating and maintaining the Plaza and improvements within it; placing improvements and barriers within the Plaza to enhance the Plaza's function and security; using the Plaza for pedestrian routes crossing the Plaza; engaging in tree planting; and accessing utilities.

2.2 Maintenance.

Owner shall be responsible for the maintenance, repair and replacement, at its sole cost, of the Plaza and all improvements located thereon, which Owner shall keep in a good, safe and usable condition, in good repair, and in compliance with all applicable federal, state, county, and local laws. Members of the public may be required to remove litter and other objects brought onto the Property. Owner may also require specific members of the public who are known to have caused damage to reimburse Owner for the actual cost of repairing damage done to the Plaza caused by use of the Property, excluding damage attributed to ordinary wear and tear.

ARTICLE 3
AMENDMENT OR TERMINATION OF AGREEMENT

3.1 Amendment or Termination.

The Parties may mutually agree to amend or terminate this Agreement in whole or in part. As provided in Section 8 of the Development Agreement, any amendment to this Agreement shall automatically be deemed to be incorporated into the Development Agreement. This Agreement shall survive the termination or cancellation of the Development Agreement.

3.2 Requirement for a Writing: Amendments.

No amendment to or termination of this Agreement or any provision hereof shall be effective for any purpose unless specifically set forth in a writing that refers expressly to this Agreement and is signed by duly authorized representatives of the Parties. Where this Agreement requires an approval or consent of the City, such approval may be given on behalf of the City by the City Manager or his or her designee. The City Manager or his or her designee is hereby authorized to take such actions as may be necessary or appropriate to implement this Agreement, including without limitation the execution of such documents or agreements as may be contemplated by this Agreement and approval of amendments which do not substantially change the uses or restrictions hereunder, or substantially add to the costs of the City.

ARTICLE 4
DEFAULT AND REMEDIES

4.1 Default.

A Party's violation of any material term of this Agreement or failure by any Party to perform any material obligation of this Agreement shall constitute a default ("**Default**"), if the violation continues for a period of thirty (30) days after written notice thereof has been provided to the defaulting Party without the defaulting Party curing such breach, or if such breach cannot reasonably be cured within such thirty (30) day period, commencing the cure of such breach within such thirty (30) day period and thereafter diligently proceeding to cure such breach within ninety (90) days, unless a longer period is granted by the City. A Default under this Agreement shall be a Default under the Development Agreement.

4.2 Remedies for Default; Notice and Procedure.

The remedies for Default under this Agreement shall be limited to those contained in Section 13 of the Development Agreement.

4.3 No Waiver.

Any failures or delays by a Party in asserting any of its rights and remedies as to any Default shall not operate as a waiver of any Default or of any such rights or remedies. Delays by a Party in asserting any of its rights and remedies, irrespective of the length of the delay, shall not deprive the Party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert, or enforce any such rights or remedies, nor 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.

ARTICLE 5
ESTOPPEL CERTIFICATE

Either Party may, at any time, and from time to time, deliver written notice to the other Party requesting such Party to certify in writing that, to the knowledge of the certifying Party: (a) this Agreement is in full force and effect and is a binding obligation of the Parties; (b) this Agreement has not been amended or modified or, if so amended or modified, identifying the amendments or modifications; and (c) the requesting Party is not in Default in the performance of its obligations under this Agreement, or if in Default, to describe the nature of any Defaults. The Party receiving a request under this Article 5 shall execute and return the certificate within thirty (30) days following receipt of the request. The City Manager shall be authorized to execute any certificate requested by Owner.

ARTICLE 6
AGREEMENT RUNNING WITH THE LAND

The City and Owner hereby declare their express intent that the covenants and restrictions set forth in this Agreement shall apply to and bind Owner and its heirs, executors, administrators, successors, transferees, and assignees having or acquiring any right, title or interest in or to any part of the Property and shall run with and burden the Property. Until all or portions of the Property are expressly released from the burdens of this Agreement, each and every contract, deed or other instrument hereafter executed covering or conveying the Property or any portion thereof shall be held conclusively to have been executed, delivered, and accepted subject to such covenants and restrictions, regardless of whether such covenants or restrictions are set forth in such contract, deed or other instrument. In the event of foreclosure or transfer by deed-in-lieu of all or any portion of the Property, title to all or any portion of the Property shall be taken subject to this Agreement. Owner acknowledges that compliance with this Agreement is a land use requirement and a requirement of the Development Agreement, and that no event of foreclosure or trustee's sale may remove these requirements from the Property. Whenever the term "Owner" is used in this Agreement, such term shall include any other permitted successors and assigns as herein provided.

ARTICLE 7
NOTICES

Any notice requirement set forth herein shall be deemed to be satisfied three (3) days after mailing of the notice first-class United States certified mail, postage prepaid, or by personal delivery, addressed to the appropriate Party as follows:

Owner:

Stanford University
Vice President, Land, Buildings & Real Estate
3160 Porter Drive, Suite 200
Palo Alto, CA 94304
Attention: Robert C. Reidy

With a copy to:

Stanford University
Vice President and General Counsel
P.O. Box 20386
Stanford, CA 94305
Attention: Debra Zumwalt

City:

City of Menlo Park
701 Laurel Street
Menlo Park, California 94025-3483
Attention: City Manager

With a copy to:

City of Menlo Park

701 Laurel Street
Menlo Park, California 94025-3483
Attention: City Attorney

Such addresses may be changed by notice to the other Party given in the same manner as provided above.

ARTICLE 8
MISCELLANEOUS

8.1 Partial Invalidity.

If any provision of this Agreement shall be declared invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions hereof shall not in any way be affected or impaired.

8.2 Applicable Law/Venue.

This Agreement and other instruments given pursuant hereto shall be construed in accordance with and be governed by the laws of the State of California. Any references herein to particular statutes or regulations shall be deemed to refer to successor statutes or regulations, or amendments thereto. The venue for any action shall be the County of San Mateo.

8.3 Further Assurances.

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.

8.4 Nondiscrimination.

Owner covenants by and for itself and any successors in interest that there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, marital status, ancestry, or national origin in the use of the Plaza in furtherance of this Agreement. The foregoing covenant shall run with the land.

8.5 Headings.

Section headings in this Agreement are for convenience only and are not intended to be used in interpreting or construing the terms, covenants, or conditions of this Agreement.

8.6 Agreement is Entire Understanding.

This Agreement is executed in one original, which constitutes the entire understanding and agreement of the Parties with respect to the subject matter hereof. Except as otherwise specified in this Agreement, any prior correspondence, memoranda, agreements, warranties, or representations are superseded in total by this Agreement.

8.7 Interpretation.

Each Party to this Agreement has had an opportunity to review the Agreement, confer with legal counsel regarding the meaning of the Agreement, and negotiate revisions to the Agreement. Accordingly, neither Party shall rely upon Civil Code Section 1654 in order to interpret any uncertainty in the meaning of the Agreement.

8.8 Intended Beneficiaries.

The City is the intended beneficiary of this Agreement, and shall have the sole and exclusive power to enforce this Agreement. It is intended that the City may enforce this Agreement to implement the provisions of the Development Agreement. No other person or persons, other than the City and Owner and their assigns and successors, shall have any right of action hereon.

8.9 Recordation of Termination.

Upon termination of this Agreement, a written statement acknowledging such termination shall be executed by Owner and City and shall be recorded by City in the Official Records of San Mateo County, California.

8.10 Signature Pages; Execution in Counterparts.

For convenience, the signatures of the Parties to this Agreement may be executed and acknowledged on separate pages in counterparts which, when attached to this Agreement, shall constitute this as one complete Agreement.

8.11 Not a Public Dedication.

Except as expressly provided herein, nothing contained in this Agreement shall be deemed to be a gift or dedication of the Plaza or any other portion of the Property to the general public or for any public purpose whatsoever, it being the intention of the Parties that the Agreement shall be limited to and for the purposes herein expressed.

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

OWNER:

THE BOARD OF TRUSTEES OF THE
LELAND STANFORD JUNIOR UNIVERSITY,
a body having corporate powers under the laws of the State of California

By:

_____

Robert C. Reidy, Vice President Land, Buildings & Real Estate

Date:

_____

CITY:

CITY OF MENLO PARK,
a California municipal corporation

By:

_____

Alex D. McIntyre, City Manager

Date:

_____

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

Real property in the City of Menlo Park, County of San Mateo, State of California, described as follows:

TRACT ONE

PORTION OF THAT CERTAIN 14.80 ACRE TRACT OF LAND AS DESCRIBED IN THE DEED FROM CHARLES CROCKER, ET AL, TO LELAND STANFORD DATED OCTOBER 19, 1885 AND RECORDED IN BOOK 39 OF DEEDS, PAGE 354, RECORDS OF SAN MATEO COUNTY, CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHEASTERLY BOUNDARY LINE OF EL CAMINO REAL, AS ESTABLISHED BY THAT CERTAIN FINAL ORDER OF CONDEMNATION ISSUED OUT OF THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, IN AND FOR THE COUNTY OF SAN MATEO ON JULY 07, 1930 IN ACTION NO. 17642, ENTITLED "THE PEOPLE OF THE STATE OF CALIFORNIA, ETC. VS. THE BOARD OF TRUSTEES OF THE LELAND STANFORD JUNIOR UNIVERSITY", A COPY OF SAID ORDER BEING RECORDED IN BOOK 483 OF OFFICIAL RECORDS, PAGE 240 (FILE NO. 64056-B), RECORDS OF SAN MATEO COUNTY, CALIFORNIA, DISTANT THEREON SOUTH 50° 25' 00" EAST 411.00 FEET FROM THE POINT OF INTERSECTION OF THE NORTHWESTERLY BOUNDARY LINE OF SAID 14.80 ACRE TRACT WITH THE NORTHEASTERLY BOUNDARY LINE OF EL CAMINO REAL, SAID POINT OF BEGINNING ALSO BEING THE MOST SOUTHERLY CORNER OF THE LANDS DESCRIBED IN THAT CERTAIN MEMORANDUM OF LEASE, BY AND BETWEEN THE BOARD OF TRUSTEES OF THE LELAND STANFORD JUNIOR UNIVERSITY AND SIMPSON MOTORS, DATED APRIL 01, 1961 AND RECORDED APRIL 10, 1961 IN BOOK 3963 OF OFFICIAL RECORDS OF SAN MATEO COUNTY, CALIFORNIA, PAGE 678 (FILE NO. 47143-T); THENCE FROM SAID POINT OF BEGINNING ALONG SAID NORTHEASTERLY BOUNDARY LINE OF EL CAMINO REAL, AS ESTABLISHED BY SAID ORDER, SOUTH 50° 25' 00" EAST 400.00 FEET; THENCE LEAVING SAID LAST MENTIONED LINE NORTH 39° 35' 00" EAST 184.54 FEET TO THE SOUTHWESTERLY BOUNDARY LINE OF THAT CERTAIN 40 FOOT STRIP OF LAND CONTAINING 2.33 ACRES AS DESCRIBED IN THE DEED FROM THE BOARD OF TRUSTEES OF THE LELAND STANFORD JUNIOR

UNIVERSITY TO THE SOUTHERN PACIFIC RAILROAD COMPANY, DATED MARCH 26, 1902 AND RECORDED IN BOOK 92 OF DEEDS, PAGE 374, RECORDS OF SAN MATEO COUNTY, CALIFORNIA; THENCE ALONG SAID LAST MENTIONED LINE NORTH 51° 35' 10" WEST 400.08 FEET TO THE MOST EASTERLY CORNER OF SAID CERTAIN PARCEL OF LAND LEASED BY THE BOARD OF TRUSTEES OF THE LELAND STANFORD JUNIOR UNIVERSITY TO SIMPSON MOTORS, ABOVE REFERRED TO; THENCE ALONG THE SOUTHEASTERLY LINE OF SAID LAST MENTIONED PARCEL OF LAND SOUTH 39° 35' 00" WEST 176.37 FEET TO THE POINT OF BEGINNING.

TRACT TWO

PORTION OF THAT CERTAIN 14.80 ACRE TRACT OF LAND CONVEYED FROM CHARLES CROCKER, ET AL, TO LELAND STANFORD BY DEED DATED OCTOBER 19, 1885 AND RECORDED IN BOOK 39 OF DEEDS, PAGE 354, RECORDS OF SAN MATEO COUNTY, CALIFORNIA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE POINT OF INTERSECTION OF THE NORTHWESTERLY BOUNDARY LINE OF SAID 14.80 ACRE TRACT WITH THE NORTHEASTERLY BOUNDARY LINE OF EL CAMINO REAL AS ESTABLISHED BY THAT CERTAIN FINAL ORDER OF CONDEMNATION ISSUED OUT OF THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, IN AND FOR THE COUNTY OF SAN MATEO ON JULY 07, 1930 IN ACTION NO. 17642, ENTITLED "THE PEOPLE OF THE STATE OF CALIFORNIA, ETC., VS. THE BOARD OF TRUSTEES OF THE LELAND STANFORD JUNIOR UNIVERSITY", A COPY OF SAID ORDER BEING RECORDED IN BOOK 483 OF OFFICIAL RECORDS, PAGE 240 (FILE NO. 64056-B), RECORDS OF SAN MATEO COUNTY, CALIFORNIA; THENCE FROM SAID POINT OF BEGINNING ALONG SAID NORTHEASTERLY LINE OF EL CAMINO REAL, AS ESTABLISHED BY SAID ORDER, SOUTH 50° 25' 00" EAST 411 FEET; THENCE LEAVING SAID LAST MENTIONED LINE, NORTH 39° 35' 00" EAST 176.37 FEET TO THE SOUTHWESTERLY BOUNDARY LINE OF THAT CERTAIN 40 FOOT STRIP OF LAND CONTAINING2.33 ACRES, CONVEYED FROM SAID UNIVERSITY TO THE SOUTHERN PACIFIC RAILROAD COMPANY BY DEED DATED MARCH 26, 1902 AND RECORDED IN BOOK 92 OF DEEDS, PAGE 374, RECORDS OF SAN MATEO COUNTY,

CALIFORNIA; THENCE ALONG SAID LAST MENTIONED LINE NORTH 51° 35' 10" WEST 414.51 FEET TO THE INTERSECTION THEREOF WITH THE ABOVE MENTIONED NORTHWESTERLY BOUNDARY LINE OF THE 14.80 ACRE TRACT CONVEYED TO STANFORD; THENCE ALONG SAID LAST MENTIONED LINE, SOUTH 38° 24' 50" WEST 167.95 FEET TO THE POINT OF BEGINNING.

TRACT THREE

PORTION OF THAT CERTAIN 14.80 ACRE TRACT OF LAND AS DESCRIBED IN THE DEED FROM CHARLES CROOKER, ET AL, TO LELAND STANFORD, DATED OCTOBER 19, 1885 AND RECORDED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SAN MATEO, STATE OF CALIFORNIA, IN BOOK 39 OF DEEDS, PAGE 354, SAID PORTION BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHEASTERLY BOUNDARY LINE OF EL CAMINO REAL, AS ESTABLISHED BY THAT CERTAIN FINAL ORDER OF CONDEMNATION ISSUED OUT OF THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, IN AND FOR THE COUNTY OF SAN MATEO ON JULY 07, 1930 IN ACTION 17642, ENTITLED "THE PEOPLE OF THE STATE OF CALIFORNIA, ETC., VS. THE BOARD OF TRUSTEES OF THE LELAND STANFORD JUNIOR UNIVERSITY", A COPY OF SAID ORDER BEING RECORDED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SAN MATEO, STATE OF CALIFORNIA, IN BOOK 483 OF OFFICIAL RECORDS, PAGE 240, (FILE NO. 64056-B), DISTANT THEREON SOUTH 50° 25' 00" EAST 811.00 FEET FROM THE POINT OF INTERSECTION OF THE NORTHWESTERLY BOUNDARY LINE OF SAID 14.80 ACRE TRACT WITH THE NORTHEASTERLY BOUNDARY LINE OF EL CAMINO REAL, SAID POINT OF BEGINNING ALSO BEING THE MOST SOUTHERLY CORNER OF THE LANDS DESCRIBED IN THAT CERTAIN MEMORANDUM OF LEASE, BY AND BETWEEN THE BOARD OF TRUSTEES OF THE LELAND STANFORD JUNIOR UNIVERSITY AND KENNETH R. LOWELL AND AUDREY T. LOWELL, DATED OCTOBER 11, 1961, AND RECORDED OCTOBER 11, 1961, IN THE OFFICE OF THE RECORDEROF THE COUNTY OF SAN MATEO, STATE OF CALIFORNIA, IN BOOK 4071 OF OFFICIAL RECORDS, PAGE 580;

THENCE FROM SAID POINT OF BEGINNING ALONG SAID NORTHEASTERLY BOUNDARY LINE OF EL CAMINO REAL, AS ESTABLISHED BY SAID ORDER, SOUTH 50° 25' 00" EAST 210.00 FEET; THENCE LEAVING SAID LAST MENTIONED LINE NORTH 39° 35' 00" EAST 188.83 FEET TO THE SOUTHWESTERLY BOUNDARY LINE OF THAT CERTAIN 40 FOOT STRIP OF LAND CONTAINING 2.33 ACRES, AS DESCRIBED IN THE DEED FROM THE BOARD TRUSTEES OF THE LELAND STANFORD JUNIOR UNIVERSITY TO THE SOUTHERN PACIFIC RAILROAD COMPANY, DATED MARCH 26, 1902 AND RECORDED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SAN MATEO, STATE OF CALIFORNIA, IN BOOK 92 OF DEEDS, PAGE 374;

THENCE ALONG SAID LAST MENTIONED LINE NORTH 51° 35' 10" WEST 210.04 FEET TO THE MOST EASTERLY CORNER OF SAID CERTAIN PARCEL OF LAND LEASED BY THE BOARD OF TRUSTEES OF THE LELAND STANFORD JUNIOR UNIVERSITY TO KENNETH R. LOWELL AND AUDREY T. LOWELL, ABOVE REFERRED TO;

THENCE ALONG THE SOUTHEASTERLY LINE OF SAID LAST MENTIONED PARCEL OF LAND SOUTH 39° 35' 00" WEST 184.54 FEET TO THE POINT OF BEGINNING AND BEING A PORTION OF LOT 76 OF THE UNRECORDED MAP OF THE LANDS OF THE BOARD OF TRUSTEES OF THE LELAND STANFORD JUNIOR UNIVERSITY.

EXCEPTING AND RESERVING THEREFROM AN EASEMENT 10 FEET IN WIDTH CONTIGUOUS WITH AND LYING SOUTHWESTERLY FROM THE SOUTHWESTERLY LINE OF LANDS OF SOUTHERN PACIFIC RAILROAD COMPANY. SAID EASEMENT IS EXCEPTED AND RESERVED UNTO LESSOR, ITS SUCCESSORS AND ASSIGNS, AS APPURTENANT TO AND FOR THE BENEFIT OF OTHER LANDS OF LESSOR, FOR THE PURPOSE OF CONSTRUCTING, INSTALLING, OPERATING, MAINTAINING, USING, ALTERING, REPAIRING, INSPECTING, REPLACING AND RELOCATING THEREIN AND/OR REMOVING THEREFROM STORM SEWER AND DRAINAGE FACILITIES AND ALL APPURTENANCES NECESSARY AND CONVENIENT THERETO.

TRACT FOUR

PORTION OF THAT CERTAIN 14.80 ACRE TRACT OF LAND AS DESCRIBED IN THAT CERTAINDEED FROM CHARLES CROCKER, ET AL, TO LELAND STANFORD, DATED OCTOBER 19, 1885 AND RECORDED IN BOOK 39 OF DEEDS, PAGE 354 RECORDS OF SAN MATEO COUNTY, CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHEASTERLY LINE OF EL CAMINO REAL, WHICH POINT IS DISTANT 50 FEET MEASURED AT RIGHT ANGLES, NORTHEASTERLY FROM THE CENTER LINE STATION 593+50.00, SAID POINT OF BEGINNING BEING MARKED BY AN IRON PIPE MONUMENT; THENCE FROM SAID POINT OF BEGINNING, ALONG THE SAID NORTHEASTERLY LINE OF EL CAMINO REAL, NORTH 50° 17' 53" WEST 87.63 FEET TO THE TRUE POINT OF BEGINNING AT THE LANDS TO BE DESCRIBED HEREIN; THENCE FROM SAID TRUE POINT OF BEGINNING, ALONG THE SAID NORTHEASTERLY LINE OF EL CAMINO REAL, NORTH 50° 17' 53" WEST 62.43 FEET AND NORTH 50° 25' WEST 337.57 FEET; THENCE LEAVING SAID LINE OF EL CAMINO REAL, NORTH 39° 35' 00" EAST 188.83 FEET TO THE SOUTHWESTERLY BOUNDARY LINE OF THAT CERTAIN 40 FOOT WIDE STRIP OF LAND CONTAINING 2.33 ACRES, AS DESCRIBED IN THAT CERTAIN DEED FROM THE BOARD OF TRUSTEES OF THE LELAND STANFORD JUNIOR UNIVERSITY TO THE SOUTHERN PACIFIC RAILROAD COMPANY, DATED MARCH 26, 1902 AND RECORDED IN BOOK 92 OF DEEDS, PAGE 374, RECORDS OF SAN MATEO COUNTY, CALIFORNIA; THENCE SOUTH 51° 35' 10" EAST ALONG SAID LAST MENTIONED LINE,
400.08 FEET; THENCE SOUTH 39° 35' 00" WEST 197.12 FEET TO THE POINT OF BEGINNING.

TRACT FIVE

PARCEL B OF THAT CERTAIN PARCEL MAP FILED OCTOBER 06, 1983 IN BOOK 54 OF PARCEL MAPS, PAGE 3, SAN MATEO COUNTY RECORDS.

TRACT SIX

BEGINNING AT A POINT WHERE THE SOUTHWEST LINE OF THE LANDS OF THE SOUTHERN PACIFIC RAILROAD COMPANY INTERSECTS THE CENTERLINE OF SAN FRANCISQUITO CREEK, SAID POINT BEING SITUATE FIFTY (50) FEET SOUTHWESTERLY AT RIGHT ANGLES FROM THE LOCATED CENTERLINE OF SAID RAILROAD AT OR NEAR ENGINEER'S STATION 228+49.9 OF SAID CENTERLINE; THENCE RUNNING NORTHWESTERLY ALONG SAID SOUTHWEST LINE OFTHE LANDS OF SAID RAILROAD COMPANY, PARALLEL WITH SAID CENTERLINE OF RAILROAD, A DISTANCE OF TWENTY-FIVE HUNDRED AND FORTY-THREE (2543), MORE OR

LESS, TO AN INTERSECTION WITH THE SOUTHEASTERLY LINE OF THE LANDS OF SAID RAILROAD COMPANY, AT A POINT SITUATE FIFTY (50) FEET SOUTHWESTERLY AT RIGHT ANGLES FROM SAID CENTERLINE OF RAILROAD AT OR NEAR ENGINEER'S STATION 203+06.9 OF SAID CENTERLINE OF RAILROAD; THENCE RUNNING SOUTHWESTERLY ALONG SAID SOUTHEASTERLY LINE OF THE LANDS OF SAID RAILROAD COMPANY TO A POINT SITUATE

NINETY (90) FEET SOUTHWESTERLY AT RIGHT ANGLES FROM SAID CENTERLINE OF RAILROAD; AND THENCE RUNNING NORTHEASTERLY ALONG THE CENTERLINE OF SAID CREEK TO THE POINT OF BEGINNING; BEING A STRIP OF LAND FORTY (40) FEET WIDE, LYING IMMEDIATELY ADJACENT ON THE SOUTHWEST TO THE LANDS OF THE SAID RAILROAD COMPANY, AND EXTENDING FROM THE CENTERLINE OF SAID CREEK TO SAID SOUTHEASTERLY LINE OF THE LANDS OF SAID RAILROAD COMPANY; BEING THE SAME LANDS AS CONVEYED BY JANE L. STANFORD, ET AL TO THE SOUTHERN PACIFIC RAILROAD COMPANY, BY DEED RECORDED APRIL 02, 1902 IN BOOK 92 OF DEEDS, PAGE 374, RECORDS OF SAN MATEO COUNTY. ALSO BEING A PORTION OF PARCEL "B" AS SHOWN ON THAT CERTAIN MAP ENTITLED, "PARCEL MAP, BEING ALL OF PARCEL ONE-REMAINDER AS SHOWN ON THAT CERTAIN PARCEL MAP RECORDED IN VOLUME 51 OF PARCEL MAPS, PAGES 5, 6 & 7 SAN MATEO COUNTY RECORDS", WHICH MAP WAS RECORDED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SAN MATEO, STATE OF CALIFORNIA ON JANUARY 07, 1982, IN BOOK 52 OF PARCEL MAPS, PAGE 31.

EXCEPTING THEREFROM ALL THAT PORTION OF SAID PROPERTY AS CONVEYED TO SOUTHERN PACIFIC LAND COMPANY BY INSTRUMENT RECORDED MARCH 23, 1981 UNDER RECORDER'S DOCUMENT NO. 265227-AS, OFFICIAL RECORDS.

AND FURTHER EXCEPTING ALL THAT PORTION OF SAID PROPERTY AS CONVEYED TO THE BOARD OF TRUSTEES OF THE LELAND STANFORD JUNIOR UNIVERSITY BY INSTRUMENT RECORDED JANUARY 18, 1982, UNDER RECORDER'S DOCUMENT NO. 82004513, OFFICIAL

RECORDS.

EXCEPTING THEREFROM ALL MINERALS AND ALL MINERAL RIGHTS OF EVERY KIND AND CHARACTER NOW KNOWN TO EXIST OR HEREAFTER DISCOVERED, INCLUDING, WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, OIL AND GAS AND RIGHTS THERETO, TOGETHER WITH THE SOLE, EXCLUSIVE AND PERPETUAL RIGHT TO EXPLORE FOR, REMOVE AND DISPOSE OF SAID MINERALS BY ANY MEANS OR METHODS SUITABLE BUT WITHOUT ENTERING UPON OR USING THE SURFACE OF THE PROPERTY, AND IN SUCH MANNER AS NOT TO DAMAGE THE SURFACE OF SAID LANDS OR TO INTERFERE WITH THE USE THEREOF AS RESERVED BY UNION PACIFIC RAILROAD COMPANY IN GRANT DEED RECORDED JULY 01, 1999, DOCUMENT NO. 99112045.

APN: APN(S): 071-440-030 (AFFECTS TRACT ONE); 071-440-040-5 (AFFECTS TRACT TWO); 071-440-050-4 (AFFECTS TRACT THREE); 071-440-060-3 (AFFECTS TRACT FOUR); 071-440120-5 (AFFECTS TRACT FIVE) AND 071-440-130-4 (AFFECTS TRACT SIX)

JPN(S): 071-044-440-03A (AFFECTS TRACT ONE); 071-044-440-04A (AFFECTS TRACT TWO); 071-044-440- 05A (AFFECTS TRACT THREE); 071-044-440-06A (AFFECTS TRACT FOUR): 071044-440-07.01A

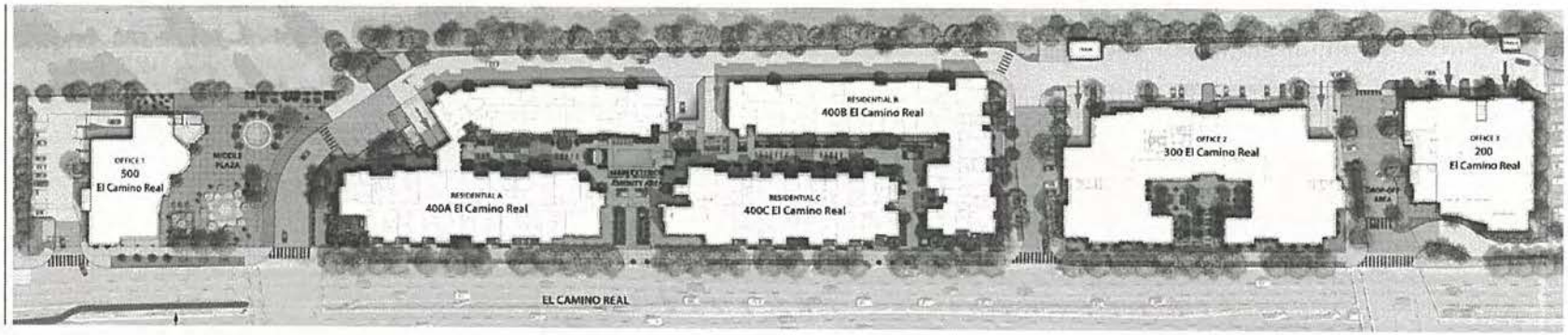
(AFFECTS TRACT FIVE) AND 071-044-440-08 (AFFECTS TRACT SIX)

NOTE:

THE PARCELS DESCRIBED HEREINABOVE ARE PART OF A LOT MERGER THAT HAS BEEN CONDITIONALLY APPROVED AS OF OCTOBER 12, 2017, PER LETTER FROM ASSISTANT PUBLIC WORKS DIRECTOR NICOLE
H. NAGAYA, PE.

EXHIBIT B

SITE PLAN OF PROJECT SHOWING PLAZA



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