



**SPECIAL AND REGULAR MEETING AGENDA**

**Date:** 3/13/2018  
**Time:** 6:00 p.m.  
**City Council Chambers**  
**701 Laurel St., Menlo Park, CA 94025**

According to City Council policy, all regular meetings of the City Council are to end by midnight unless there is a super majority vote taken by 11:00 p.m. to extend the meeting and identify the items to be considered after 11:00 p.m.

**6:00 p.m. Closed Session (City Hall - “Downtown” Conference Room, 1st Floor)**

Public Comment on these items will be taken before adjourning to Closed Session.

- CL1.** Closed session conference with real property negotiators pursuant to Government Code §54956.8 regarding terms and conditions of lease for Burgess Pool facilities at 501 Laurel St. and Belle Haven Pool facilities at 100 Terminal Ave., with Tim Sheeper of Team Sheeper, Inc.

Attendees: City Manager Alex McIntyre, City Attorney Bill McClure, Community Services Director Derek Schweigart, Public Works Director Justin Murphy, Administrative Services Director Nick Pegueros

- CL2.** Closed session conference with legal counsel on anticipated litigation pursuant to Government Code §54956.9(d)(2) – one case

Attendees: City Manager Alex McIntyre, City Attorney Bill McClure

**7:00 p.m. Regular Session (City Council Chambers)**

**A. Call to Order**

**B. Roll Call**

**C. Pledge of Allegiance**

**D. Report from Closed Session**

Report on action taken in Closed Session, if required, pursuant to Government Code §54957.1

**E. Presentations and Proclamations**

- E1. Proclamation welcoming Mayor of Galway, Ireland

**F. Study Session**

- F1. Consider and provide direction regarding (1) updating the City’s Below Market Rate Housing Ordinance and Below Market Rate Program Guidelines and (2) updating the community amenities required for bonus level development in the Residential Mixed-Use zoning district

(Staff Report #18-052-CC)

## **G. Public Comment**

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

## **H. Commission Report**

- H1. Consider applicants and make appointments to fill one public vacancy on the Belle Haven Neighborhood Library Advisory Committee (Staff Report #18-054-CC)

## **I. Consent Calendar**

- I1. Approve the City Council meeting minutes of January 13, January 23, January 29, February 6 and February 13, 2018 (Attachment)
- I2. Authorize the Mayor to sign letters of support or opposition on behalf of the City Council regarding pending State legislation in accordance with City policy and the League of California Cities official position (Staff Report #18-047-CC)
- I3. Appropriate a matching gift of \$43,000 to the Menlo Park Historical Association and an additional \$30,000 for City incurred costs for the Menlo Gates Project (Staff Report #18-053-CC)
- I4. Authorize the City Manager to enter into an agreement with Teri Black & Co., LLC to perform recruitment services; and approve a bid waiver and expenditure for the recruitment services agreement with Teri Black & Co., LLC not to exceed \$227,200 (Staff Report #18-046-CC)

## **J. Public Hearing**

- J1. Consider the Planning Commission's recommendation and approve the conditional development permit and development agreement amendments to the Facebook East Campus, located at 1 Hacker Way (1601 Willow Road) (Staff Report #18-049-CC)

## **K. Regular Business**

- K1. Approve the introduction of an ordinance that will regulate newsracks within Menlo Park (Staff Report #18-045-CC)
- K2. Adopt a resolution to amend the City Council adopted salary schedule (Staff Report #18-051-CC)

## **L. Informational Items**

- L1. Update on draft charter process and timeline (Staff Report #18-055-CC)
- L2. Update on the Transportation Master Plan Status (Staff Report #18-048-CC)

- L3. Update on the Menlo Gateway Development Agreement requirements to construct 1) off-site landscape improvements near the project site and 2) capital improvements in Belle Haven and Bedwell Bayfront Park (Staff Report #18-050-CC)

**M. City Manager's Report**

**N. Councilmember Reports**

**O. Adjournment**

Agendas are posted in accordance with Government Code Section 54954.2(a) or Section 54956. Members of the public can view electronic agendas and staff reports by accessing the City website at [menlopark.org/agenda](http://menlopark.org/agenda) and can receive email notification of agenda and staff report postings by subscribing to the "Notify Me" service at [menlopark.org/notifyme](http://menlopark.org/notifyme). Agendas and staff reports may also be obtained by contacting City Clerk at 650-330-6620. (Posted: 3/8/2018)

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

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

Any writing that is distributed to a majority of the City Council by any person in connection with an agenda item is a public record (subject to any exemption under the Public Records Act) and is available for inspection at the City Clerk's Office, 701 Laurel St., Menlo Park, CA 94025 during regular business hours. Persons with disabilities, who require auxiliary aids or services in attending or participating in City Council meetings, may call the City Clerk's Office at 650-330-6620.

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## STAFF REPORT

### City Council

Meeting Date:

3/13/2018

Staff Report Number:

18-052-CC

### Study Session:

**Consider and provide direction regarding (1) updating the City's Below Market Rate Housing Ordinance and Below Market Rate Program Guidelines and (2) updating the community amenities required for bonus level development in the Residential Mixed-Use zoning district**

### Recommendation

Staff recommends that in light of the new State of California housing law, Assembly Bill (AB) 1505, which allows cities to apply inclusionary housing requirements to rental housing, the City Council consider and provide direction regarding:

1. Updating the City's Below Market Rate Housing Ordinance and the City's Below Market Rate Program Guidelines; and
2. Updating the community amenities required for bonus level development in the Residential Mixed-Use (R-MU) zoning district.

### Policy Issues

The City's Housing Element includes a program (H.4.B) to implement inclusionary housing requirements to assist in providing housing affordable to extremely low, very low, low and moderate-income households in Menlo Park. On September 29, 2017, Governor Brown signed 15 housing related bills as part of a landmark housing package designed to respond to the State of California's housing crisis. The most significant bill, AB 1505, was adopted to legislatively override a court case preventing cities from legally imposing inclusionary housing requirements on rental units. The proposed update to the Below Market Rate Housing Ordinance would further the City's affordable housing goals by allowing the City of Menlo Park to again impose inclusionary requirements on rental housing. Also proposed are corresponding changes to the City's Below Market Rate Housing Program Guidelines. These policy changes would have a city-wide impact.

The second policy issue would only impact the R-MU zoning district, which generally includes the property in the area of Menlo Gateway between Constitution Drive and Independence and Jefferson Drives, and the proposed approximate 59-acre Willow Village along Willow Road near Hamilton Avenue. As part of ConnectMenlo, the City Council adopted bonus level development regulations in the Life Science (LS), Office (O), and Residential Mixed-Use (R-MU) zoning districts. An applicant may choose to provide community amenities in exchange for bonus level development in the form of increased density, intensity or height. In all three zoning districts, the value of the community amenity was set at 50 percent of the fair market value of the additional gross floor area of the bonus level development (the Amenity Value). In the R-MU zoning district, the Council specified that the Amenity Value should be used to provide the following community amenities in rank order:

1. A minimum of 15 percent of the total units on-site for affordable housing.
2. Affordable housing units up to 20 percent of the bonus level development.
3. Another amenity from the City Council adopted community amenities list.

AB 1505 does not change the Amenity Value—it is still 50 percent of the fair market value of the additional gross floor area of the bonus level development. It does, however, change how affordable housing would be provided. Before AB 1505, the City could not impose inclusionary housing requirements on rental housing and, therefore, the only way to ensure the provision of affordable rental units was to require it in the R-MU zoning as the first use of the Amenity Value. After AB 1505, if the proposed update to the City’s Below Market Rate Housing Ordinance is adopted, providing 15 percent of the total units on-site for affordable housing would be required under the City’s inclusionary housing ordinance. The policy discussion for the City Council would then be how the Amenity Value should be utilized in the R-MU zoning district once 15 percent of the total units on site for affordable housing can be required as inclusionary housing and creating that level of affordability does not require use of the Amenity Value.

## Background

### ***Inclusionary Zoning***

The City Council adopted the Below Market Rate Housing Ordinance establishing the Below Market Rate Housing Program (BMR Program) in 1987 to increase the housing supply for people who live and/or work in Menlo Park and have very-low, low, or moderate incomes as defined by the Department of Housing and Urban Development (HUD). The BMR Program is also referred to as “inclusionary zoning.” The primary objective of the BMR Program is to create actual housing units rather than generate a capital fund. The BMR Program contains a range of options depending on the type of development. Typically, residential developments comply with the BMR Program by constructing deed restricted affordable units. While the Below Market Rate Housing Program Guidelines (BMR Guidelines) encourage commercial developments to comply by providing on- or off-site units, if that is not feasible, commercial projects are able to pay a housing impact fee.

### For-Sale Residential Development

For-sale residential developments of five or more units must include a percentage of BMR units in the project along with the market-rate units. Although the preference is for the units to be included in the project, the City has the discretion to allow a developer to meet the BMR unit requirement through payment of an in-lieu fee. In-lieu fees are calculated as three percent of the sale price for the number of required BMR units. The on-site inclusionary requirements are summarized in Table 1.

Table 1: Inclusionary Requirements	
Number of Units	Inclusionary Requirement
0-4	Exempt
5-9	1 Unit
10-19	10%
20 or more	15%

### Rental Residential Development

When the BMR Program was originally established, it applied to rental housing projects. However, in 2009, the California Court of Appeal ruled in the *Palmer/Sixth Street Properties LP v. City of Los Angeles* case that the Costa-Hawkins Rental Housing Act (the Act) prevented local governments from imposing inclusionary requirements on rental housing projects that did not receive government assistance. The Act is the State’s primary rent control law, which generally gives residential landlords the right to establish the initial rents

payable by new tenants. Since *Palmer*, many cities have either repealed their inclusionary rental housing requirements or declined to enforce them. Some cities have attempted to get around this decision by enacting rental housing impact fees, which require preparation of a detailed nexus study. In Menlo Park, in 2011, the City Council by resolution formally suspended its inclusionary rental housing requirement to comply with the *Palmer* decision. More recently, the City joined other jurisdictions in San Mateo County to perform a nexus study as part of the 21 Elements effort to begin the process of collecting a rental housing impact fee.

### Commercial Development

The BMR Program also applies to new commercial developments of 10,000 square feet or more. The current in-lieu fees to mitigate the demand for affordable housing are \$16.15 per square foot of net new gross floor area for most commercial uses and \$8.76 per square foot of net new gross floor area for defined uses that generate fewer employees. Collected in-lieu fees are deposited into the BMR Housing Fund. The BMR Housing Fund is then used by the City to develop affordable housing. For example, the City Council provided a loan to MidPen Housing for a new affordable senior housing project that was developed at 1221-1275 Willow Road. The fee is adjusted annually on July 1.

### Housing Commission and Planning Commission Input

On January 10, 2018, the City's Housing Commission reviewed a proposed ordinance to update the City's Below Market Rate Housing Ordinance and BMR Guidelines. On a 6-0-1 vote with one commissioner absent, the Commission voted to recommend that the City Council approve the proposed updates. In addition, the Commission made several recommendations regarding the in-lieu fees: 1) developers should be strongly encouraged to develop on-site units that satisfy needed affordability levels rather than pay the in-lieu fee, 2) the fees should be set in relation to actual construction costs rather than in comparison to what neighboring cities charge, and 3) the City should allow flexibility to have the fees vary by area as an incentive to promote proportional dispersion of affordable housing throughout the City.

On February 5, 2018, the Planning Commission reviewed the proposed ordinance to update the City's Below Market Rate Housing Ordinance and BMR Guidelines and the Housing Commission's recommendation. On a unanimous vote (7-0-0), the Planning Commission voted to recommend that the City Council approve the proposed updates. In addition, the Planning Commission requested further clarity on and the opportunity to review any schedules, tables or structure for the in-lieu fee as well as information regarding the impact of the update on parcels in the R-MU zoning district.

### **Public Benefit Zoning**

The San Francisco Bay Area is growing rapidly and, as a result, land values are increasing substantially. The benefits of increased land values accrue to the landowner and/or the developer. Rising land values also lead to higher housing costs and that can be detrimental to very-low, low and moderate-income households. One solution is to require developers who are benefitting from the increased land values to provide community benefits in exchange for additional development potential. This voluntary exchange between the developer and the community is commonly referred to as "public benefit zoning".

The guiding principles of the ConnectMenlo General Plan update included creating a live/work/play environment in the City of Menlo Park where the benefits and impacts of local growth were shared and where in exchange for added development potential developers provided benefits to the community. These guiding principles were codified in both the Land Use Element and the zoning code for the three new zoning districts (R-MU, O and LS). These three new zoning districts identified a base level of development and a bonus level of development that allowed increased density, floor area ratio and/or height in exchange for the voluntary provision of community amenities. The list of community amenities identified during the ConnectMenlo process included, but was not limited to, the provision of a grocery store, a pharmacy and

affordable housing. In the R-MU zoning district, the City Council prioritized the provision of affordable housing as the primary community amenity.

The City did not anticipate that every developer would choose to utilize bonus level development; however, the community was interested in seeing rental housing developments provide affordable units. The City's economic consultant, BAE, which performed the fiscal analysis for ConnectMenlo and is helping to develop the appraisal process codified in the zoning ordinance, ran an analysis, based on a certain set of variables, concluding that a bonus level project would be feasible with 15 percent or more of the total units set aside for lower income households. At the Council hearing prior to the approval of ConnectMenlo, the development community expressed the opinion that the 15 percent requirement was reasonable, but that requiring 20 percent would potentially make it unreasonable for a developer to pursue bonus level development. In addition to economic considerations, there was also concern in the community about ensuring that other amenities such as a grocery store would be provided. Ultimately, the City Council voted to require the Amenity Value to first be utilized to provide 15 percent affordable housing units and then to rely on the appraisal process to determine if after providing 15 percent of the total number of units as affordable there was any remaining Amenity Value available either for more affordable housing (up to 20 percent of the bonus level) or for other community amenities.

## **Analysis**

### ***Impact of AB 1505 on Inclusionary Housing***

Under AB 1505, cities are once again authorized to adopt and enforce inclusionary housing ordinances requiring rental housing developments to include a specified percentage of affordable units. AB 1505 supersedes the Court's ruling in *Palmer/Sixth Street Properties LP v. City of Los Angeles* (discussed above). The proposed updates to the Below Market Rate Housing Ordinance and BMR Guidelines would implement AB 1505 by restoring the City's inclusionary housing requirements for rental projects.

Pursuant to AB 1505, cities that elect to apply inclusionary zoning to rental housing developments must provide developers with an alternative means of compliance other than on-site construction as part of the project. Alternatives include the payment of in-lieu fees, dedication of land, the construction of affordable units off-site, or the acquisition and rehabilitation of existing units. These alternatives are not included in the City's existing BMR Program. Therefore, to comply with AB 1505, the proposed ordinance allows rental projects to comply with the BMR Program through alternative means.

One of the issues for City Council to consider and provide input on is in regard to how to assess the BMR in-lieu fee and whether to weight any of the various compliance options. There are several ways of calculating the in-lieu fee. Some cities attempt to set the fee at a rate that would allow the city to develop and construct comparable BMR rental units. By tying the fee to the city's actual cost to develop, the developer is incentivized to provide on-site units. Some cities set their housing fees in line with similar fees in nearby communities. Setting fees comparable to other nearby communities would attract more housing development overall. Based upon research regarding other cities' policies and input from the Housing Commission and Planning Commission, staff has identified four methods to calculate the in-lieu fee and are requesting direction from Council on the preferred approach:

1. Market value approach: Difference between the value of the project with a BMR unit and the value of the project with a market rate unit. This value would be determined at the time of project application by an appraiser to be selected by the City and funded by the applicant.
2. Cost approach: Cost to acquire land and design, develop, construct, maintain, repair and administer a comparable BMR unit in a comparable area of the City of Menlo Park. This value will be determined by a consultant selected by the City and funded by the applicant.



3. Standardized fee adjusted by unit size and location: Determined by method 1 or 2 above for a standard 1-bedroom unit and then adjusted on a project-by-project basis depending on size and location. The fee can be adjusted by a pre-set formula or by a consultant selected by the City and funded by the applicant.
4. Limited fee (or no fee): Limit the fee below the amount determined by method 1 or 2 above with intent of incentivizing more housing production overall. This approach recognizes that fees in general can discourage housing and limiting the fee could incentivize more housing production. The downside of this approach is that it would make production of affordable housing more difficult by reducing the availability of sites for housing and decreasing the available local funds.

Also new under AB 1505, if an inclusionary rental ordinance that is adopted or amended after September 15, 2017 requires more than 15 percent of the total number of units in the development be affordable to low-income households, the Department of Housing and Community Development (HCD) has the authority to review the ordinance if the jurisdiction has either: (1) failed to meet at least 75 percent of its share of its regional housing need allocation for the above-moderate income category over a five-year period, or (2) failed to submit its annual housing element report for two consecutive years or more. If these circumstances apply, HCD has the authority to require the City to prepare an economic feasibility study to determine whether the ordinance unduly constrains the production of housing. Based on the study, HCD can require that the ordinance require no more than 15 percent low income units. At this time, neither of these criteria applies to Menlo Park.

### ***Impact of AB 1505 on Public Benefit Zoning***

At the time the City Council enacted the new R-MU zoning regulations, inclusionary housing requirements were not applicable to rental housing projects. The only way to obtain affordable rental housing was to identify it as a community amenity voluntarily provided by the developer in exchange for bonus level development. As part of the ConnectMenlo process, the community indicated a preference for the provision of affordable rental housing. As a result, the City Council indicated that Amenity Value (defined above) should first be spent to create 15 percent affordable housing in the R-MU zoning district.

After AB 1505, provided the City Council adopts the proposed updates, the City will again be able apply inclusionary zoning to rental housing. As a result, the provision of affordable housing in accordance with the City's BMR Program would be mandatory for both for-sale and rental housing projects. Given the densities identified in the R-MU zoning district, it is anticipated that all projects would be of a size that would require 15 percent affordable units. Therefore, as a result of the AB 1505, all projects (base or bonus level) would be required to provide 15 percent of the total units for affordable housing. Use of the Amenity Value would no longer be necessary to create that level of affordability.

After AB 1505, the provision of community amenities in an amount equal to the Amenity Value remains a requirement for bonus level development. With the zoning language as it stands, if a developer wanted to take advantage of bonus level development, the requirement to use the Amenity Value to first provide a minimum of 15 percent of the total units on site for affordable housing would be in addition to the required inclusionary units. This could be as much as 30 percent of the total units – 15 percent inclusionary plus 15 percent community amenity. Although this is and was the case with for-sale housing even before AB 1505, the anticipated housing product in the R-MU zoning district was rental housing and no comments were received about this additive potential prior to adopting the zoning ordinance.

### **1. Achieving Affordable Housing Goals**

In the R-MU zoning district, the City's goal was to provide 15 percent of the total units on site as affordable housing. Before AB 1505, that goal was accomplished through the use of the Amenity Value to provide affordable housing as the community amenity. After AB 1505, that goal is achieved through inclusionary zoning. However, AB 1505 requires that the inclusionary zoning ordinance adopted by the City allow a

developer an alternative means to satisfy the inclusionary requirements, i.e. to pay a fee. Since the goal of the Council with the public benefit zoning was to create units that were built on-site as part of the project, one policy issue the Council should discuss is whether a threshold requirement for utilizing bonus level development should be that the developer agree to provide the affordable rental units on-site and not take advantage of the alternative means of compliance (no payment of a fee).

## **2. Changing the Appraisal Process**

The second policy issue for the Council to discuss is changing the appraisal process in the R-MU zoning district. As discussed above, AB 1505 does not change the Amenity Value, which is 50 percent of the fair market value of the additional gross floor area of the bonus level development. This Amenity Value is determined through an appraisal process. The appraisal process is intended to quantify the additional value that would be captured by the developer with the bonus development potential and then share that equally with the City in the form of community amenities. However, in the R-MU zoning district, there is an additional step the appraisal process that is no longer appropriate after AB 1505 (unless the Council desires to have 30 percent of the total units on site for affordable housing). The appraisal process is as follows:

1. The appraiser determines the total bonus value without consideration of the community amenities requirement.
2. The appraiser determines the change in total bonus value with consideration of the 15 percent affordable housing community amenity requirement (the affordable housing amenity value).
3. If the affordable housing amenity value is less than 50 percent of the total bonus value, the value of the community amenities to be provided in addition to the 15 percent affordable housing is the difference between those two numbers.

After AB 1505, the provision of 15 percent of the total units as affordable is a requirement that would be factored into the first step. The inclusionary zoning requirement would be a base cost associated with any development project and analyzed similarly to impact fees or the costs of green building requirements that are included in the cost of doing business. As it is no longer a community amenity, if the 15 percent affordable housing cost were netted out in step 2, the developer would be given credit for the inclusionary requirement and avoid being required to provide the appropriate level of community amenities and still get the benefit of the bonus level development. Therefore, after AB 1505, steps 2 and 3 should be removed from the appraisal process, which would be consistent with the calculations in the O and LS zoning districts.

Even if the Council directs a change to the appraisal process, the Council could still consider, as a policy matter, whether or not to include language in the R-MU zoning to indicate a preference that the Amenity Value be spent on additional affordable housing above the inclusionary requirements. Staff would recommend this preference not include a specific percentage or number of units. As markets change, the amount of affordable housing that can be provided with the Amenity Value will also change and a specific percentage or number that may be appropriate in today's market may not be appropriate in a different market with different conditions. Removing a specific percentage would still allow the City to receive the full Amenity Value, but build in flexibility for the amount of additional affordable housing (above the 15 percent inclusionary requirement) generated as a community amenity.

If, however, as a policy matter the Council's goal is for bonus level projects to provide more than the 15 percent affordable units than are required through inclusionary housing, the appraisal process could be tailored to that goal. For example, if the Council wishes to retain the requirement for 15 percent affordable housing as a community amenity in addition to the 15 percent inclusionary requirement, the appraisal process could remain as-is, recognizing that this would require developers to provide 30 percent of the total units as affordable (inclusionary plus amenity) for bonus level development. Or for example, if the goal was 20 percent of the total units for affordable housing, the appraisal process could net out 5 percent of the affordable

housing in step 2 to determine the remaining Amenity Value, if any. The appraisal process can be tailored based on the policy direction received from the Council.

### **3. Potential for Flexibility**

If the Council's goal is for bonus level projects to provide more than the 15 percent affordable units that are required through inclusionary housing, the Council should discuss whether it wishes to provide developers flexibility in how those units are provided. Inclusionary zoning is intended to create units that are included in the project being developed. However, staff understands from the development community that when more than 15 percent of the units in a project are set aside for affordable housing that project becomes more difficult with conventional financing. Therefore, one possibility would be for the Council to provide flexibility that when a developer uses some or all of the Amenity Value to provide additional affordable housing, above and beyond the 15 percent inclusionary, the developer may create a stand-alone building for those units and apply for tax credit financing or partner with an affordable housing developer. Allowing this flexibility may create some opportunities for the development community to creatively provide housing, but it may also create some potential issues relative to integrating the community. Staff is requesting Council direction on what flexibility, if any, to build into the ordinance for projects that provide more than 15 percent of the units as affordable.

### **4. Allocation of BMR Units**

If the proposed updates are adopted, the provision of 15 percent affordable units in the R-MU zoning district would be pursuant to the City's BMR Ordinance, which provides that the units be available at below market rates to very-low, low and moderate-income households. The BMR Guidelines, which implement the BMR Ordinance, further refine the required affordability level. The BMR Guidelines currently provide that affordable rental units will be equal to or less than 30% of 60% of AMI for City subsidized projects and 30% of low income levels (which is 80% of AMI) for non-subsidized private projects. The BMR Guidelines further state: "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." This requirement for low income has not been examined for a while, and the Housing Commission has expressed a desire to update it to better conform with HUD affordability levels, to provide certain preferences and to allow for some flexibility.

The City Council in adopting the R-MU zoning language provided that the affordable units should be provided "with a preference for current or recently displaced Belle Haven residents, and commensurate with the city's regional housing need allocation distribution amongst the income categories at the time of a development application." The City's regional housing need allocation (RHNA) is not limited to low income households; it includes a wider array of income categories from extremely-low to above-moderate. Thus, a policy issue for the Council's discussion and direction is whether to build into the BMR Guidelines a similar policy allowing a broader range of income levels that would apply city-wide. The other policy issue for the Council's discussion is whether to continue to incorporate the preference for current or recently displaced Belle Haven residents as a requirement for bonus level development as that is not a preference in the BMR Guidelines.

### **Impact on City Resources**

The approval of the ordinance update could result in additional in lieu fees to the City's affordable housing program. Revisions to the R-MU zoning district as directed by Council would require a certain amount of staff time to prepare, but it is not anticipated to have any further impact on City resources.

### **Environmental Review**

This action is not a project within the meaning of the California Environmental Quality Act (CEQA) Guidelines

Section 15378 and 15061(b)(3) as it is an organizational structure change that will not result in any direct or indirect physical change in the environment. Furthermore, the City Council certified an environmental impact report (EIR) for ConnectMenlo and related zoning ordinances. It is not anticipated that the City Council's policy direction and any resulting changes in the zoning ordinance will fall outside the scope of the certified EIR. No further environmental review is necessary.

### **Public Notice**

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

### **Attachments**

A. Menlo Park Municipal Code Sections 16.45.060 and 16.45.070

Report prepared by:

Leigh F. Prince, Assistant City Attorney

#### 16.45.060 Bonus level development.

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A development in a location identified as residential mixed use-bonus (R-MU-B) on the adopted city of Menlo Park zoning map may seek an increase in the density, floor area ratio and/or height per Section 16.45.050, subject to obtaining a use permit or conditional development permit per Chapter 16.82 and providing community amenities consistent with Section 16.45.070. As described in Section 16.45.070, the community amenity provided in the residential mixed use-bonus (R-MU-B) zoning district must include the provision of a minimum of fifteen (15) percent of the total units on site for affordable housing units for moderate, low, and very low income households, with a preference for current or recently displaced Belle Haven residents, and commensurate with the city's regional housing need allocation distribution amongst the income categories at the time of a development application. Units for extremely low, very low, and low income may be substituted for any higher income categories requirement. This affordable unit requirement is in addition to the city's below market rate requirements per Chapter 16.96. (Ord. 1026 § 3 (part), 2016).

#### 16.45.070 Community amenities required for bonus level development.

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Bonus level development allows a project to develop at a greater level of intensity with an increase in density, floor area ratio and/or height. There is a reasonable relationship between the increased intensity of development and the increased effects on the surrounding community. The required community amenities are intended to address identified community needs that result from the effect of the increased development intensity on the surrounding community. To be eligible for bonus level development, an applicant shall provide one (1) or more community amenities. Construction of the amenity is preferable to the payment of a fee.

(1) Amenities. Community needs, specifically including affordable housing, were initially identified through the robust community engagement process generally referred to as ConnectMenlo. The city council of the city of Menlo Park adopted by resolution those identified community needs as community amenities to be provided in exchange for bonus level development. The identified community amenities may be updated from time to time by city council resolution. All community amenities, except for affordable housing, shall be provided within the area between U.S. Highway 101 and the San Francisco Bay in the city of Menlo Park. Affordable housing may be located anywhere housing is allowed in the city of Menlo Park.

(2) Application. An application for bonus level development is voluntary. In exchange for the voluntary provision of community amenities, an applicant is receiving a benefit in the form of an increased floor area ratio, density, and/or increased height. An applicant requesting bonus level development shall provide the city with a written proposal, which includes but is not limited to the specific amount of bonus development sought, the value of the amenity as calculated pursuant to subsection (3) of this section, and adequate information identifying the value of the proposed community

amenities. An applicant's proposal for community amenities shall be subject to review by the planning commission in conjunction with a use permit or conditional development permit. Consideration by the planning commission shall include differentiation between amenities proposed to be provided on site and amenities proposed to be provided off site, which may require a separate discretionary review and environmental review per the California Environmental Quality Act.

(3) Value of Amenity. The value of the community amenities to be provided shall equal fifty percent (50%) of the fair market value of the additional gross floor area of the bonus level development. The value shall be calculated as follows: The applicant shall provide, at their expense, an appraisal performed within ninety (90) days of the application date by a licensed appraisal firm that sets a fair market value in cash of the gross floor area of the bonus level of development ("total bonus"). The form and content of the appraisal, including any appraisal instructions, must be approved by the community development director. The appraisal shall (A) first determine the total bonus without consideration of the community amenities requirement established under Section 16.45.070, and (B) second determine the change in total bonus with consideration of the fifteen percent (15%) affordable housing community amenity requirement ("affordable housing amenity value"). If the affordable housing amenity value is less than fifty percent (50%) of the total bonus value, the value of the community amenities to be provided in addition to the fifteen percent (15%) affordable housing is the difference between those two (2) numbers.

(4) Form of Amenity. A community amenity shall be provided utilizing any one (1) of the following mechanisms:

(A) Include the community amenity as part of the project. The community amenity designed and constructed as part of the project shall first be the provision of a minimum of fifteen percent (15%) of total units on site for affordable housing units (or with approval of the planning commission in another location) for moderate, low, and very low income households, with a preference for current or recently displaced Belle Haven residents, and commensurate with the city's regional housing need allocation distribution amongst the income categories at the time of a development application, and shall second be the provision of additional affordable housing units up to twenty percent (20%) of the bonus level development, or third the provision of another amenity from the list of community amenities adopted by city council resolution. Units for extremely low, very low and low income may be substituted for any higher income categories requirement. The value of the community amenity provided shall be at least equivalent to the value calculated pursuant to the formula identified in subsection (3) of this section. Once any one (1) of the community amenities on the list adopted by city council resolution has been provided, with the exception of affordable housing, it will no longer be an option available to other applicants. Prior to approval of final inspection for the building permit for any portion of the project, the applicant shall complete (or bond for) the construction and installation of the community amenities included in the project and shall provide documentation sufficient for the city manager or his/her designee to certify compliance with this section.

(B) Payment of a fee. If the city adopts an impact fee that identifies a square foot fee for community amenities, an applicant for the bonus development shall pay one hundred twenty percent (120%) of the fee; provided, that the fee adopted by the city council is less than full cost recovery and not less than the total bonus value less the affordable housing amenity value as calculated pursuant to subsection (3) of this section.

(C) Enter into a development agreement. An applicant may propose amenities from the list adopted by city council resolution to be included in a development agreement. The value of the amenities included in the development agreement shall be at least equivalent to the value calculated pursuant to the formula identified in subsection (3) of this section. Timing of the provision of the community amenities shall be agreed upon in the development agreement. (Ord. 1026 § 3 (part), 2016).

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## STAFF REPORT

### City Council

Meeting Date:

3/13/2018

Staff Report Number:

18-054-CC

Commission Reports:

**Consider applicants and make appointments to fill one public vacancy on the Belle Haven Neighborhood Library Advisory Committee**

### Recommendation

Staff recommends this City Council consider the remaining applicants and make an appointment to fill one vacant seat on the Belle Haven Neighborhood Library Advisory Committee.

### Policy Issues

City Council Policy CC-01-004 establishes the policies, procedures, roles and responsibilities for the City's appointed commissions and committees, including the manner in which commissioners are selected.

### Background

On October 17, 2017, the City Council unanimously voted to create a Belle Haven Neighborhood Library Advisory Committee that would begin by participating in the Library Needs Assessment project and would continue to provide input to staff and consultants as the branch portion of the system improvements move forward. The Committee was to be comprised of one member each from the Library Commission and the Library Foundation, two members of the City Council, and three resident members (preference for applicants who are active library users and those with bicultural/bilingual backgrounds).

On January 1, 2018, the City Council filled three vacant public seats on the Committee from five applicants. Since her appointment, Committee Member Michelle Boire has been unable to serve as an active member of the Committee due to personal reasons and recently submitted her resignation.

Remaining applicants for consideration are, in alphabetical order by last name:

- LJ Anderson
- Pushpinder Lubana

### Analysis

Pursuant to City Council Policy CC-01-0004, committee members must be residents of the City of Menlo Park. Commission and committee members generally serve for designated terms of four years, or through the completion of an unexpired term or as otherwise designated. In the case of the Belle Haven Neighborhood Library Advisory Committee, the term is through the duration of the branch library system improvements, expected to last several months.

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

majority of the City Councilmembers present shall be appointed.

### **Impact on City Resources**

Staff support for commissions and funds for recruitment advertising are provided in the fiscal year 2017-18 budget.

### **Public Notice**

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

### **Attachments**

Applications will be provided to the City Council under separate cover and are available for public viewing at the City Clerk's office.

Report Prepared by:  
Clay J. Curtin, Interim City Clerk



**REGULAR MEETING MINUTES - DRAFT**

**Date:** 1/16/2018  
**Time:** 7:00 p.m.  
**City Council Chambers**  
**701 Laurel St., Menlo Park, CA 94025**

**A. Call to Order**

Mayor Ohtaki called the meeting to order at 7:03 p.m.

**B. Roll Call**

**Present:** Cline, Keith, Ohtaki, Mueller, Carlton  
**Absent:** None  
**Staff:** City Manager Alex McIntyre, City Attorney Bill McClure, Deputy City Clerk Jelena Harada

**C. Pledge of Allegiance**

Mayor Ohtaki led the Pledge of Allegiance.

**D. Public Comment**

- Maria Amundson spoke about the railroad crossing on Encinal Avenue.
- Marcy Abramowitz spoke about the railroad crossing on Encinal Avenue.
- Andrew Boone spoke about local minimum wage and local rent control ordinances.
- Pamela Jones spoke about the Karl E. Clark Park dedication.
- Osnat Loewenthal spoke about potential impacts to the Menlo Children's Center from the Library project.
- Gary Lauder spoke about the Willow Road/U.S. 101 interchange project.
- Kathleen Daly spoke about Willows neighborhood traffic.
- Annika McClure, Silicon Valley Leadership Group, spoke about the upcoming 2018 Washington, D.C. Advocacy trip.
- Shani Rodell spoke about traffic issues on Bay Road.
- Tom Caldecott spoke about traffic in the Willows neighborhood.
- Brie Cioffi spoke about traffic in the Willows neighborhood.

**E. Presentations and Proclamations**

**E1. Presentation of the 2017 City Satisfaction Survey results**

City Manager Alex McIntyre introduced the item. Charles Hester, from Godbe Research, Inc., provided a presentation.

- Jen Wolosin spoke about the survey questions.

## **F. Commissioner Reports**

- F1. Consider applicants and make appointments to fill three public vacancies and two City Councilmember seats on the Belle Haven Neighborhood Library Advisory Committee (Staff Report #18-014-CC)

Interim City Clerk Clay Curtin introduced the item.

Veronica Gonzalez (nominated by Carlton, appointed by the majority vote of Carlton, Mueller, Ohtaki)

Pushpinder Lubana (nominated by Kirsten Keith, vote from Kirsten Keith)

L.J. Anderson (nominated by Rich Cline, vote from Rich Cline)

Tiffanie Lai (nominated by Carlton, appointed by the majority vote of Carlton, Cline, Keith, Ohtaki)

Michelle Boire (nominated by Carlton, appointed by the majority vote of Carlton, Cline, Keith, Ohtaki)

## **G. Consent Calendar**

Mayor Ohtaki announced that Item G6 was being continued to the January 23, 2018, meeting.

City Manager McIntyre recused himself from hearing Item G7 due to proximity of his residence to the subject location.

Councilmember Cline recused himself from hearing and voting on Item G8 due to proximity of his residence to the subject location.

- G1. Accept the City Council meeting minutes for December 12, 2017 (Attachment)
- G2. Introduce an ordinance adding Chapter 2.55 to the Menlo Park Municipal Code requiring electronic filing of campaign statements and statements of economic interest (Staff Report #18-013-CC)
- G3. Receive and file the Comprehensive Annual Financial Report for the fiscal year ended June 30, 2017 (Staff Report #18-005-CC)
- G4. Review of the annual report on the status of the transportation impact, storm drainage, recreation in-lieu, below market rate housing in-lieu, and building construction road impact fees collected as of June 30, 2017 (Staff Report# 18-001-CC)
- G5. Approve a third amendment to the current lease agreement with Team Sheepher Inc. for operation of the Burgess and Belle Have pools to extend the term through March 31, 2018, and continue modifications approved by City Council on September 26, 2017 (Staff Report #18-010-CC)
- G6. Approve the design for the relocated connection of Marsh Road to Independence Drive
- G7. Adopt a resolution of intention to abandon a Public Utility Easement within the property at 1049 Almanor Avenue (Staff Report #18-003-CC)
- G8. Approve installation of traffic management plan for North Lemon Avenue between Valparaiso

Avenue and Santa Cruz Avenue for a six-month trial period; and appropriate \$30,000 from the Measure A fund for construction, contract administration and inspection (Staff Report #18-004-CC)

Councilmember Mueller pulled items G2 and G5. Mayor Pro Tem Ohtaki pulled item G1.

**ACTION:** Motion and second (Cline/Keith) to approve items G1 through G7 on the Consent Calendar, with the exception of G6, passed unanimously.

By acclamation, Item G6 was continued to the meeting of January 23, 2018.

**ACTION:** Motion and second (Keith/Carlton) to approve item G8, passed (4-0-1; Cline recused)

## H. Regular Business

- H1. City Clerk's random selection of first three Advisory Districting Committee members, input on City's community outreach and engagement plan for transitioning to district elections and appropriation of additional funds for the districting project (Staff Report #18-002-CC)

Interim City Clerk Clay Curtin provided a presentation.

- Charles Jameson expressed interest in serving on the Committee.
- Fran Dehn spoke about the formation of the Advisory Districting Committee.
- Steve Chessin spoke about requirements for districting.
- John Kadwany spoke about requirements for districting and district sizing.

**ACTION:** Motion and second (Cline/Ohtaki) to direct the City Clerk to select the first three Advisory Districting Committee members by random draw from the pool of approved candidates; and to appropriate additional funds for the districting project, passed unanimously.

Interim City Clerk Clay Curtin administered the random draw. Honor Huntington, Michael Hoff, and Mark Heim were selected as the three initial members to serve on the Advisory Districting Committee.

- H2. Provide direction regarding placement of a city charter on the ballot and discussion of the scope and timing of a possible charter vote (Staff Report #18-006-CC)

Assistant City Attorney Cara Silver provided a presentation.

- John Kadwany spoke about the charter timeline and the preference to adopt the charter by 2020.
- Pamela Jones spoke about the charter timeline and voting systems.
- Steve Chessin spoke about the charter timeline and the ranked-choice voting system.
- Jen Wolosin spoke about alternative electoral process and voiced the preference to vote for the charter in 2020.

After the discussion, the City Council directed staff to continue this item to the goal setting meeting on January 29, 2018, and requested information on how becoming a charter city would affect not only the election system but also the quality of life for Menlo Park residents.

## **I. Informational Items**

- I1. Update on the temporary traffic calming modifications to the Willows neighborhood due to construction impacts of the Willow Road/U.S. 101 interchange (Staff Report #18-009-CC)
  - Sam Perry spoke about impacts of the project.
  - Daniel Hom spoke about neighborhood traffic.
  - Tracy Morris spoke about neighborhood traffic.
- I2. Update on 2017 City Council Work Plan and City Council 2018 Work Plan preparation (Staff Report #18-012-CC)
- I3. Hello Housing quarterly update (Staff Report #18-008-CC)
- I4. Update on the Ravenswood Avenue railroad crossing (Staff Report #18-007-CC)

## **J. City Manager's Report**

City Manager Alex McIntyre reported:

- Menlo Park City School District has announced its cooperation with the Sequoia High School District to allow night-time school activities 5:30–7:30 p.m., on the Hillview sports fields through the month of February. The fields' lights will be on during the activities.
- SamTrans has announced a negotiation process with Facebook for the programming of the Dumbarton Rail Corridor.
- The City Council's Goal Setting meeting is scheduled for January 29, 2018, at 1 p.m. in the Arrillaga Family Recreation Center.

## **K. Councilmember Reports**

Mayor Pro Tem Mueller reported that the design for the Little League snack shack has been approved by the Parks and Recreation Commission and will be presented to the City Council.

Mayor Ohtaki noted that on January 23, he and Assistant Public Works Director Nicole Nagaya will attend the Santa Clara Board of Supervisors meeting to present during the appeal of the Stanford CAM project on Quarry Road to present the impacts and mitigations on Menlo Park.

## **L. Adjournment**

Mayor Ohtaki adjourned the meeting at 11:55 p.m.

Jelena Harada, Deputy City Clerk



**REGULAR MEETING MINUTES - DRAFT**

**Date:** 1/23/2018  
**Time:** 7:00 p.m.  
**City Council Chambers**  
**701 Laurel St., Menlo Park, CA 94025**

**A. Call to Order**

Mayor Ohtaki called Regular Session to order at 7:07 p.m.

**B. Roll Call**

**Present:** Cline, Keith, Ohtaki, Mueller  
**Absent:** Carlton  
**Staff:** City Manager Alex McIntyre, City Attorney Bill McClure, Deputy City Clerk Jelena Harada

**C. Pledge of Allegiance**

Mayor Ohtaki led the Pledge of Allegiance.

Mayor Ohtaki announced that the Santa Clara County Board of Supervisors recently denied the City of Menlo Park's appeal of the Stanford University Center for Academic Medicine Project at 453 Quarry Road.

**D. Public Comment**

- Marcy Abramowitz spoke in support of quad gate rail crossings.
- Andrew Boone spoke in support of bike lanes on El Camino Real.
- Pamela Jones spoke about traffic on Willow Road.

**E. Presentations and Proclamations**

**E1. Presentation by "Get Us Moving" San Mateo County regarding transportation**

San Mateo County Supervisors Don Horsley and Warren Slocum introduced the item. Cory Wolbach, Outreach Manager for "Get Us Moving" San Mateo County, provided a presentation.

- Andrew Boone spoke in support of modern transportation systems.
- Jen Wolosin spoke in support of investments to our transportation systems.
- Pamela Jones spoke in support of including Santa Clara County, Mountain View, Palo Alto and Stanford in the planning process.

## **F. Consent Calendar**

- F1. Waive the second reading and adopt an ordinance adding Chapter 2.55 to the Menlo Park Municipal Code requiring electronic filing of campaign statements and statements of economic interest (Staff Report #18-020-CC)
- F2. Authorize the Public Works Director to accept the work performed by Interstate Grading & Paving, Inc. for the 2017 Street Resurfacing Project (Staff Report #18-022-CC)
- F3. Adopt a resolution supporting the City's Shuttle Program for application for the San Mateo County Shuttle Program Fiscal Years 2018-19 and 2019-20 and authorizing the City Manager to enter into funding agreements (Staff Report #18-018-CC)
- F4. Authorize the City Manager to enter into an agreement with EOA, Inc. to perform business inspections per the City's stormwater municipal Regional Permit (Staff Report #18-016-CC)
- F5. Authorize the Public Works Director to accept the work performed by Stoloski & Gonzalez, Inc. for the Water Main Replacement Project (Staff Report #18-017-CC)
- F6. Authorize the City Manager to amend the contract with Gachina Landscape Management and appropriate \$100,000 from the General Fund Unassigned Fund Balance (Staff Report #18-023-CC)

Councilmember Mueller pulled items G2 and G5. Mayor Pro Tem Ohtaki pulled item G1.

**ACTION:** Motion and second (Keith/Cline) to approve all items on the Consent Calendar, passed 4-0-1 (Carlton absent).

## **G. Regular Business**

- G1. Adopt a resolution to amend all City Salary Schedules adopted on or after November 10, 2015 (Staff Report #18-019-CC)

Human Resources Manager Lenka Diaz provided the staff report.

**ACTION:** Motion and second (Keith/Cline) to adopt a resolution amending all city salary schedules adopted between November 10, 2015, and December 5, 2018, with changes as distributed at the meeting. The motion passed 4-0-1 (Carlton absent).

- G2. Approve a revised comment letter on the Draft Environmental Impact Report for the Stanford University 2018 General Use Permit Project (Staff Report #18-015-CC)

Assistant Public Works Director Nikki Nagaya introduced the item.

- Jen Wolosin suggested addition to the comment letter, related to school crossing guards.

**ACTION:** Motion and second (Ohtaki/Keith) to approve a revised comment letter and direct the subcommittee to review the letter on the Draft Environmental Impact Report for the Stanford University 2018 General Use Permit Project. The motion passed 4-0-1 (Carlton absent).



**G3. Discussion to prepare for the City Council goal setting meeting and 2018 Work Plan (Staff Report #18-024-CC)**

City Manager Alex McIntyre introduced the item. Assistant City Manager Chip Taylor provided a presentation.

- Andrew Boone spoke in support of including a local minimum wage ordinance.
- Henry Riggs spoke in support of focusing on existing community needs.
- Jen Wolosin spoke in support of the safe routes to school program.
- Pamela Jones spoke about various projects and in support of Belle Haven visioning.

The City Council directed staff to replace the term “over hire” with “overlap” in regards to the management of institutional knowledge by overlapping existing staff and new hires for management and executive positions. The City Council directed staff to draft language for the City Council Procedures Manual regarding conducting business at a late hour and meeting ending time. The City Council discussed Work Plan items to be considered at the City Council’s Goal Setting meeting on January 29, 2018.

**H. Informational Items**

**H1. Update on the Water System Master Plan (Staff Report #18-021-CC)**

**I. City Manager's Report**

There was no report.

**J. Councilmember Reports**

Mayor Ohtaki reported that East Palo Alto Councilmember Larry Moody invited the City Council to the League of California Cities event on January 25, 2018, at the McKenzie Room of the Huang Engineering Center on the Stanford University campus.

**K. Adjournment**

Mayor Ohtaki adjourned the meeting at 9:40 p.m.

Jelena Harada, Deputy City Clerk

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**SPECIAL MEETING MINUTES - DRAFT**

**Date:** 1/29/2018  
**Time:** 1:00 p.m.  
**Arrillaga Family Recreation Center, Oak Room**  
**700 Alma St., Menlo Park, CA 94025**

**1:00 p.m. Special Meeting**

**A. Call To Order**

Mayor Ohtaki called the meeting to order at 1:06 p.m.

**B. Roll Call**

**Present:** Carlton, Cline (arrived at 1:17 p.m.), Keith, Mueller, Ohtaki  
**Absent:** None  
**Staff:** City Manager Alex McIntyre, City Attorney Bill McClure

Management Staff Present: Assistant City Manager Chip Taylor, Administrative Services Director Nick Pegueros, Interim Police Chief Dave Bertini, Public Works Director Justin Murphy, Assistant Public Works Director Nikki Nagaya, Community Development Director Arlinda Heineck, Assistant Community Development Director Mark Muenzer, Library Services Director Susan Holmer, Housing and Economic Development Manager Jim Cogan, Human Resources Manager Lenka Diaz

Mayor Ohtaki opened the meeting, gave a brief overview of the key points that will be covered during the session and welcomed the members of the public. Councilmember Cline arrived at this point.

**C. Public Comment**

- Winter Dellenbach spoke about the Guild Theatre.
- Tom Prussing spoke about emergency preparedness.
- Jen Wolosin spoke about the safe routes to school.
- Jim Lewis spoke about art commission. (Handout)
- Drew Dunlevie spoke about the Guild Theatre.
- Judy Adams spoke about the Guild Theatre.
- Heather Hopkins spoke about shortage of childcare in Menlo Park.
- Sarah Kinahan spoke about a shortage of childcare and preschool in Menlo Park.
- Elias Blawie spoke about staff vacancy rate.
- Meg McGraw Scherer spoke about prioritizing the affordable housing.
- Karen Grove spoke about prioritizing the affordable housing.
- David Fleischman spoke about shortage of childcare and preschool in Menlo Park.
- Angela Evans spoke about prioritizing the affordable housing.

- Anders Klemmer spoke about the Guild Theatre.
- Nesreen Kawar spoke about the affordable housing.
- John Conway spoke about the downtown parking structure.
- Marcy Abramowitz spoke about the quiet zones at Encinal grade crossing.
- Fran Dehn spoke about prioritizing the review of El Camino Real Downtown Visioning plan.
- Gregory Faris spoke about the West Menlo Park Triangle annexation.
- Stephanie Peters spoke about the Guild Theatre.
- Randy Uang spoke about smoke-free multi-unit housing.
- Jessica Mihaly spoke about the shortage of child care centers.
- Andrew Boone spoke about the minimum wage ordinance.
- Diane Bailey spoke about Menlo Green Challenge.
- Daniel Abrams spoke about the Guild Theatre.
- Janelle London spoke about environment related projects and meeting the 2020 Environment Action Plan goals.
- Julie Shanson spoke about prioritizing the Public Works Maintenance Services, childcare, and minimum wage.
- Pamela Jones spoke about affordable housing and Belle Haven visioning.
- Jean Forstner spoke about the Guild Theatre.
- Eric Gleider spoke about the Guild Theatre.
- Pam Salvatierra spoke about the staff vacancy rate.
- Brian O'Neill spoke about the minimum wage ordinance.
- Osnat Loewenthal spoke about the library expansion.
- Cecilia Taylor spoke about the minimum wage ordinance.

#### **D. Regular Business**

##### **D1. Discuss and prepare City Council 2018 work plan (Staff Report #18-025-CC)**

City Manager Alex McIntyre outlined the agenda for the meeting. Administrative Services Director Nick Pegueros gave a presentation regarding the City's financial health.

The City Council reviewed and discussed a list of potential workplan items. The prioritization exercise yielded the top six priority projects.

- District Elections
- Transportation Master Plan
- Citywide Safe Routes to School Program (non-infrastructure)
- Review of Downtown/El Camino Real Specific Plan
- Downtown Parking Garage
- The Guild Theatre (approval of land use entitlements)

#### **E. Adjournment**

Mayor Ohtaki adjourned the meeting at 5:28 p.m.  
Jelena Harada, Deputy City Clerk



**SPECIAL AND REGULAR MEETING MINUTES - DRAFT**

**Date:** 2/6/2018  
**Time:** 6:30 p.m.  
**City Council Chambers**  
**701 Laurel St., Menlo Park, CA 94025**

**6:30 p.m. Closed Session (City Hall – “Downtown” Conference Room, 1st floor)**

Mayor Ohtaki called the meeting to order at 6:44 p.m.

**Present:** Carlton, Ohtaki, Mueller, Keith  
**Absent:** Cline

- CL1.** Closed session pursuant to Government Code Section §54957.6 to confer with labor negotiators regarding current labor negotiations with the Menlo Park Police Officers’ Association (POA) and unrepresented management

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

**7:00 p.m. Regular Session (City Council Chambers)**

**A. Call to Order**

Mayor Ohtaki called Regular Session to order at 7:24 p.m.

Mayor Ohtaki asked for a moment of silence to honor former Mayor Billy Ray White who passed away recently. Mayor White was elected to two terms on the City Council between 1978 and 1986 and served as mayor three times (1981, 1983, 1986).

**B. Roll Call**

**Present:** Cline, Carlton, Ohtaki, Mueller, Keith  
**Absent:** None  
**Staff:** City Manager Alex McIntyre, City Attorney Bill McClure, Deputy City Clerk Jelena Harada

**C. Pledge of Allegiance**

Mayor Ohtaki led the Pledge of Allegiance.

**D. Report from Closed Session**

Mayor Ohtaki reported there was no action taken in Closed Session.

## **E. Presentations and Proclamations**

- E1. Overview of employee engagement and organizational development project

This item was continued to a future date.

At this time, Mayor Ohtaki moved on to Commissioner Reports and took Item G2 out of order.

## **G. Commissioner Reports**

- G2. Library Commission quarterly update

Library Commissioner Grayson Badgley provided a verbal report.

- Pamela Jones spoke about the work of the Library Commission and the upcoming Belle Haven Neighborhood Library Advisory Committee meeting.
- Adina Levin spoke about meeting space availability and reservation process.

- G3. Parks and Recreation Commission quarterly update

Parks and Recreation Commission Chair Tucker Stanwood provided a verbal report.

- G1. Environmental Quality Commission quarterly update

Environmental Quality Commission Chair Janelle London provided a presentation.

At this time, Mayor Ohtaki returned to Item F1.

## **F. Study Session**

- F1. Provide direction on potential alternatives to form a transportation management association

Transportation Demand Management Coordinator Nicholas Yee introduced Sustainability Manager Rebecca Lucky, who spoke briefly on the environmental benefits of transportation management associations. Staff Yee then provided a presentation.

- Adina Levin spoke in support of a transportation management association.
- Diane Bailey, Menlo Spark, spoke in support of a transportation management association.

## **H. Public Comment**

- Elias Blawie spoke about meeting management and police-related records retention.
- Jen Wolosin spoke about the efforts of the community safety police officer position and police chief recruitment.
- John Kadwany spoke about the work of the Advisory Districting Committee.

## **I. Consent Calendar**

- I1. Adopt a resolution accepting dedication of a Public Access Easement from 650-660 Live Oak Avenue project applicant (Staff Report #18-030-CC)

- I2. Authorize the City Manager to enter into an agreement with Ecological Concerns, Inc., for maintenance of the City's herbicide free parks and appropriate \$160,000 from the General Fund unassigned fund balance for inclusion of all City parks (Staff Report #18-029-CC)

**ACTION:** Motion and second (Cline/Keith) to approve all items on the Consent Calendar, passed unanimously.

## J. Regular Business

- J1. Approve the 2018-19 Budget Principles, City Council Procedures Manual and the 2018 City Council Work Plan (Staff Report #18-031-CC)

City Manager Alex McIntyre introduced the item and Assistant City Manager Chip Taylor provided a presentation.

- Gregory Faris spoke about the West Menlo Park Triangle Annexation and provided a handout.
- Jen Wolosin, Parents for Safe Routes, spoke about the Safe Routes to School item.
- Angie Evans, Housing Leadership Council, spoke about housing opportunities in work plan projects.
- Regine Schmidt spoke about the West Menlo Park Triangle Annexation.
- Leah Rogers spoke about the West Menlo Park Triangle Annexation.
- Pamela Jones spoke about meeting management, Belle Haven library improvements and calendar transparency.
- Janet Weisman Goff spoke about the West Menlo Park Triangle Annexation.

The City Council provided the following direction on modifications:

### Budget principles

- Add "Find areas, which may include shared services, to provide more efficient use of funds"

**ACTION:** Motion and second (Mueller/Carlton) to approve the Budget Principles with modifications, passed unanimously.

### City Council Procedures Manual

- Change the reference in Chapter 3 (page 11) under Meeting Schedule from "City Manager's Secretary" to "City Manager's assistant"
- Update the section on "Conducting Business at a Late Hour" to read:  
"According to City Council policy, all regular meetings of the City Council are to end by midnight unless there is a two-thirds, three-fourths, or four-fifths (based on the number of Councilmembers present) vote taken by 11:00 p.m. to extend the meeting. The motion to extend is to include the title of the items to be considered after 11:00 p.m. and a new ending time for the meeting. The City Clerk will alert the City Council at or before 11:00 p.m. New items of business will not be discussed after 11:00 p.m. unless the motion to consider such item(s) was passed."

**ACTION:** Motion and second (Mueller/Keith) to approve the City Council Procedures Manual with modifications, passed unanimously.

2018 City Council Work Plan (Attachment)

- Add West Menlo Triangle Annexation (Subcommittee - information gathering)
- Add “system” to what was previously included, clarification provided on the Belle Haven Branch and Main Library improvements
- Add language for the Equity in Education Joint Powers Authority (JPA) to include:  
“The JPA, and other initiatives, will help to address education and inequality in Menlo Park.”

**ACTION:** Motion and second (Carlton/Keith) to approve the 2018 City Council Work Plan with modifications, passed unanimously.

- J2. Provide direction on placing enabling charter on November 2018 ballot (Staff Report #18-032-CC)

**ACTION:** Motion and second (Mueller/Cline) to continue this item to the February 13, 2018, City Council meeting, passed unanimously.

**K. Informational Items**

- K1. Cost of services study and User Fee Cost Recovery policy (Staff Report #18-026-CC)
- K2. Parks and Recreation Facilities Master Plan community outreach plan (Staff Report #18-028-CC)

**L. City Manager's Report**

There was no City Manager's report.

**M. Councilmember Reports**

There were no councilmember reports.

**N. Adjournment**

Mayor Ohtaki adjourned the meeting at 11:23 p.m. in honor of former Mayor Billy Ray White.





**SPECIAL AND REGULAR MEETING MINUTES - DRAFT**

**Date:** 2/13/2018  
**Time:** 5:45 p.m.  
**City Council Chambers**  
**701 Laurel St., Menlo Park, CA 94025**

**5:45 p.m. Closed Session (City Hall - “Downtown” Conference Room, 1<sup>st</sup> Floor)**

Mayor Ohtaki called the closed session to order at 6:11 p.m. There were no comments from the public.

Councilmembers Carlton, Cline, Keith, Mueller and Ohtaki were present.

- CL1.** Closed session pursuant to Government Code Section §54957.6 to confer with labor negotiators regarding current labor negotiations with the unrepresented management

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

**7:00 p.m. Regular Session (City Council Chambers)**

**A. Call to Order**

Mayor Ohtaki called the meeting to order at 7:17 p.m.

**B. Roll Call**

Present: Carlton, Cline, Keith, Ohtaki, Mueller  
Absent: None  
Staff: City Manager Alex McIntyre, City Attorney Bill McClure, Deputy City Clerk Jelena Harada

**C. Pledge of Allegiance**

Mayor Ohtaki led the Pledge of Allegiance.

**D. Report from Closed Session**

There was no report from Closed Session.

**E. Study Session**

- E1.** Review the Cost of Services Study and User Fee Cost Recovery Policy and provide direction on amendments to the Master Fee Schedule (Staff Report #18-042-CC)

Administrative Services Director Nick Pegueros made a presentation.

After discussion, the City Council directed staff to return with amendments to the Master Fee Schedule to update fees, in accordance with the City Council’s User Fee Cost Recovery Policy. The

City Council provided direction to clarify that childcare fee adjustments do not need to fully recover indirect costs allocated to the services as part of the Cost of Services Study.

The City Council directed staff to return with further analysis on planning fees for certain single-family residential planning services, as well as an analysis of moving the fee basis for these permits from time and materials to a flat fee.

The City Council also directed staff to return with an additional analysis of the consultant's recommendation to establish a community development reserve fund.

## E2. Guild Theatre site (Staff Report #18-038-CC)

Assistant Community Development Director Mark Muenzer introduced the item. The project applicant Drew Dunlevie, president at Peninsula Arts Guild, gave an overview of the project. Chris Wasney of CAW Architects made a presentation.

- Owen Byrd spoke about Guild Theatre event programming.
- Skip Hilton spoke in support of the Guild Theatre project.
- Fran Dehn spoke in support of the Guild Theatre project and other cultural and art events in Menlo Park.
- Patrick Corman spoke in support of the Guild Theatre project.
- Judy Adams spoke in support of the Guild Theatre project.

Mayor Ohtaki summarized the Councilmembers' comments and general support of the proposed project, support of the proposed 2.46 floor-area-ratio and connecting the public benefit to the increase in floor-area-ratio. There was a consensus to support the community's use of the performance facility without a specific cap on the number of events, which could be determined by the applicant and staff at a later time. The City Council directed staff to report back on a potential increase in the floor-area-ratio limits throughout the Specific Plan area for entertainment uses.

## F. Public Comment

Mayor Ohtaki announced a student cultural exchange with Bizen, Japan and encouraged Menlo Park residents between the ages of 12 and 15 to apply for the cultural program exchange. The applications are due on March 15, 2018, and may be submitted at [menlopark.org/studentexchange](http://menlopark.org/studentexchange).

- Judy Adams encouraged the City to apply for the Mayors for Peace Program.
- Jen Wolosin spoke about increased Menlo-Atherton High School bike-to-school rates and city staff vacancies.
- Angela Evans presented a video about the need of the affordable housing in the downtown area.

## G. Consent Calendar

Mayor Ohtaki pulled item G6. Councilmember Keith pulled item G1.

Councilmember Carlton announced that she had a conflict of interest due to her consulting relationship with a company that does business with Facebook and recused herself from voting on items G4 and G6.

- G2. Adopt a resolution authorizing the Public Works Director to accept work performed on construction contracts (Staff Report #18-036-CC)
- G3. Authorize the use of Rectangular Rapid Flashing Beacons as a traffic control device to enhance pedestrian safety (Staff Report #18-034-CC)
- G4. Authorize the City Manager to enter into a contract with ICF International (ICF) to prepare an Environmental Impact Report (EIR) for a proposed 318,614 square foot office building at 164 Jefferson Drive for the amount of \$402,275 and future augments as may be necessary to complete the environmental review for the proposed project (Staff Report #18-039-CC)
- G5. Authorize the City Manager to enter into a contract with ICF International (ICF) to prepare an Environmental Impact Report (EIR) for the proposed approximately 260,000 square foot research and development (R&D) building at 1350 Adams Court for the amount of \$363,780 and future augments as may be necessary to complete the environmental review for the proposed project (Staff Report #18-040-CC)
- G7. Adopt a resolution initiating the Menlo Park Landscape Assessment District proceedings for Fiscal Year 2018-19 (Staff Report #18-037-CC)

**ACTION:** Motion and second (Cline/Carlton) to approve items G2, G3, G4, G5 and G7 passed unanimously (Item G4 passed 4-0-1; Carlton recused).

- G1. Approve the City Council meeting minutes of February 6, 2018 (Attachment)

Councilmember Keith requested clarification on item G1.

The City Council directed the City Clerk to review the recording and return with this item at the next meeting.

- G6. Approve the design for the relocated connection of Marsh Road to Independence Drive (Staff Report #18-035-CC)

Councilmember Carlton announced that she had a conflict of interest due to her consulting relationship with a company that does business with Facebook and recused herself on item G6 and left the City Council Chambers at 10:21 p.m.

- Philip Bourgeois spoke about the personal cost burden of the Independence Drive relocation.
- Patrick Coyne spoke about the negative financial impact the Independence Drive relocation would have on the building owners in the area.
- Sateez Kadivar spoke against the proposed design and requested the item not be approved.
- Gerry Secret spoke against the proposed design.

**ACTION:** Motion and second (Ohtaki/Keith) to agendize a study session for a future meeting to discuss the Independence Drive relocation, passed 3-0-1-1 (Mueller abstained, Carlton recused).

Councilmember Carlton returned to the City Council chambers at 10:58 p.m.

Mayor Ohtaki noted the time being 11:00 p.m. and called for discussion of items H1 and H3 under Regular Business and announced that item H2 may be deferred to the next meeting if it is not heard before midnight.

## **H. Regular Business**

- H1. Appoint a City Council subcommittee to assist with the West Menlo Park Triangle Annexation project (Staff Report #18-044-CC)

**ACTION:** Motion and second (Keith/Cline) to appoint Councilmember Carlton and Mayor Pro Tem Mueller to the subcommittee to assist with the West Menlo Park Triangle Annexation project, passed unanimously.

- H3. Provide direction on placing an enabling charter on November 2018 ballot (Staff Report #18-032-CC)

City Attorney Bill McClure introduced the item.

**ACTION:** Motion and second (Cline/Carlton) to proceed with placing an enabling charter on November 2018 ballot and set specific guidelines for instances when the City Council is considering legislation that would vary from existing State statutes, passed unanimously.

- H2. Approve the 2017-18 midyear budget report and approve recommended 2017-18 budget amendments (Staff Report #18-043-CC)

Administrative Services Director Nick Pegueros made a presentation.

**ACTION:** Motion and second (Cline/Keith) to approve the fiscal year 2017-18 midyear budget report and approve recommended budget amendments, passed unanimously.

## **I. Informational Items**

- I1. Review of the City's investment portfolio as of December 31, 2017 (Staff Report #18-033-CC)
- I2. Update on the temporary traffic calming modifications to the Willows neighborhood due to construction impacts of the Willow Road/U.S. 101 interchange (Staff Report #18-041-CC)

## **J. City Manager's Report**

## **K. Councilmember Reports**

## **L. Adjournment**

Mayor Ohtaki adjourned the meeting at 11:45 p.m.

Jelena Harada, Deputy City Clerk



## STAFF REPORT

### City Council

**Meeting Date:** 3/13/2018  
**Staff Report Number:** 18-047-CC

**Consent Calendar:** **Authorize the Mayor to sign letters of support or opposition on behalf of the City Council regarding pending State legislation in accordance with City policy and the League of California Cities official position**

### Recommendation

Staff recommends that the City Council authorize the Mayor to sign letters of support or opposition on behalf of the City Council regarding pending State legislation in accordance with the City Council's Legislative Policy Guide and official position of the League of California Cities, including the following current legislation and future legislation as it arises:

1. Oppose – SB 827 (Wiener) Planning and Zoning
2. Support – Proposition 68, the Parks, Environment, and Water Bond
3. Support – Proposition 69, the Transportation Taxes and Fees Lockbox and Appropriations Limit Exemption Amendment

### Policy Issues

The City has a Legislative Policy Guide (Attachment A), which is an appendix of the City Council's Procedures Manual. In addition, the City Council has routinely directed staff to draft letters of support or opposition to pending State legislation, often based on the official position of the League of California Cities. This item would grant the Mayor authority to sign letters on behalf of the City, which are in accordance with these same guiding principles.

### Background

Currently, staff receives requests from individual councilmembers to place letters of support or opposition regarding pending State legislation on the City Council's agenda for consideration. These are generally routine and in line with the City's existing policy positions or at the request of the League of California Cities in accordance with the League's official position.

The League of California Cities employs full-time lobbying staff who advocate for legislative and regulatory measures and 16 regional public affairs managers who work with city elected officials and coalition partners to augment and support legislative advocacy efforts. The League also has an active Legal Advocacy Program that represents the interests of California cities in both federal and state court and regularly files friend of the court briefs and letters to bring attention to matters of statewide importance. Additionally, there are nearly 400 city officials serving on the League's seven standing policy committees, which enable the League's policy-making process to facilitate discussions among cities on issues facing the state and to establish policy directions on those issues.

The League's online bill search makes it easy for city officials and others to track the League's position on bills, view letters that the League has sent to legislators or contact the League lobbyist working on a bill. League positions and lobbyist assignments are available for all League-tracked current session bills.

## **Analysis**

### **SB 827 (Wiener) Planning and Zoning**

As proposed, SB 827 would obligate cities to provide “transit-rich housing bonuses” for multifamily residential projects located within one-half mile of a “major transit stop,” or along a “high-quality transit corridor,” which could be miles away from an actual bus stop. In addition to increased density, such bonuses would waive parking requirement and design review standards, and permit structures between forty-five (45) and eighty-five (85) feet tall “by right.”

SB 827 would undermine locally adopted General Plans, Housing Elements and Sustainable Community Strategies. It allows private for-profit housing developers and transit agencies—rather than cities—to determine housing densities, parking requirements and design review standards for multifamily projects. Under existing law, the City is already required to zone for densities at levels necessary to meet our Regional Housing Needs Allocation (RHNA).

Local land use and zoning laws are designed to protect the quality and integrity of cities. Public hearings allow members of the community to inform their representatives of their support or concerns when planning projects are developed, often leading to better projects. Disregarding such requirements and processes will foster increased public distrust in government and strip cities of local land use authority and autonomy.

The League of California Cities urges cities to oppose this legislation. A draft letter is included as Attachment B.

### **Proposition 68, the Parks, Environment and Water Bond**

Proposition 68 would authorize \$4 billion in general obligation bonds for state and local parks, environmental protection and restoration projects, water infrastructure projects, and flood protection projects. Assuming a 3.5 percent interest rate over a 30-year period, the bond issue would generate \$2.53 billion in interest, meaning the state would spend \$6.53 billion to pay off the bond issue.

The measure would require that 15–20 percent of the bond's funds, depending on the type of project, be dedicated to projects in communities with median household incomes less than 60 percent of the statewide average; that 60 percent threshold amounted to about \$39,980 in 2016. The largest amount of bond revenue—\$725 million—would go toward neighborhood parks in park-poor neighborhoods in accordance with the Statewide Park Development and Community Revitalization Act of 2008's competitive grant program. The measure would also reallocate \$100 million in unissued bonds that voters approved via Proposition 1 (2014), Proposition 84 (2006) and Proposition 40 (2002).

The League of California Cities urges cities to support this proposition. A draft resolution of support is included as Attachment C.

### **Proposition 69, the Transportation Taxes and Fees Lockbox and Appropriations Limit Exemption Amendment**

Proposition 69 was part of a legislative package that included Senate Bill 1 (SB 1). Without SB 1, Proposition 69 would not affect anything. SB 1, which was also known as the Road Repair and Accountability Act of 2017, enacted an estimated \$5.2 billion-a-year increase in transportation-related

taxes and fees, including a \$0.12 cents per gallon increase of the gasoline excise tax, a \$0.20 cents per gallon increase of the diesel excise tax, a 4 percent increase of the diesel sales tax, an annual \$25 to \$100 Transportation Improvement Fee, and an annual \$100 zero-emission vehicles fee.

Proposition 69 would require that revenue from the diesel sales tax and Transportation Improvement Fee (TIF) be dedicated for transportation-related purposes. As of 2018, the state constitution prohibited the legislature from using gasoline excise tax revenue or diesel excise tax revenue for general non-transportation purposes. The amendment would require the diesel sales tax revenue to be deposited into the Public Transportation Account, which was designed to distribute funds for mass transportation and rail systems. Proposition 69 would require the TIF revenue be spent on public streets and highways and public transportation systems. Although SB 1 requires revenue from the zero-emission vehicles fee to be placed in the Road Maintenance and Rehabilitation Account, Proposition 69 does not contain a provision creating a constitutional mandate for zero-emission vehicles fee revenue.

Proposition 69 would make revenue from SB 1's tax increases and fee schedules exempt from the state appropriations limit, also known as the Gann Limit. In other words, the revenue would not count toward the limit. The Gann Limit prohibits the state government and local governments from spending revenue in excess of per-person government spending in fiscal year 1978-1979, with an adjustment allowed for changes in the cost-of-living and population. Amendments were made to the Gann Limit in 1988 and 1990, modifying the formula and requiring half of the excess revenue to be distributed to public education and the other half to taxpayer rebates. Rejecting the constitutional amendment would make SB 1's revenue subject to the Gann Limit. As of 2018, the Gann Limit had been exceeded just once in 1987.

The League of California Cities urges cities to support this proposition. A draft resolution of support is included as Attachment D.

### **Public Notice**

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

### **Attachments**

- A. City Council Procedures Manual, Appendix B-Legislative Policy Guide
- B. Letter of opposition to SB 827 (Wiener) Planning and Zoning
- C. Resolution No. 6428 in support of Proposition 68
- D. Resolution No. 6429 in support of Proposition 69

Report prepared by:

Clay J. Curtin, Assistant to the City Manager/Interim City Clerk

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**APPENDIX B**

**LEGISLATIVE POLICY GUIDE**

**The City Council of Menlo Park believes:**

- *In conducting the business of government with openness, respect, and civility, and including the involvement of all stakeholders in establishing goals and in solving problems.*
- *The vitality of cities is dependent upon their fiscal stability and local autonomy, and that local self-governance is the cornerstone of democracy.*

**Therefore:**

- The City supports legislation that reflects the need to conduct the public's business in public.
- The City opposes legislation that mandates costly and unnecessary procedures.
- The City supports the use of the general plan as a guide to meeting community planning needs, and opposes mandatory review or approval by another level of government and legislation that restricts the land use authority of cities.
- The City emphasizes efficiency and effectiveness to achieve the best possible use of city resources and believes the state should implement fiscal and legislative reforms in order to allow local government to adequately finance its service responsibilities, with accountability to the taxpayers for its programs.
- The City supports additional funding for local transportation and other critical unmet infrastructure needs and enhanced autonomy for local transportation decision-making.
- The City supports strategic alliances with counties, schools, other cities and local agencies, nonprofit and civic organizations and business and professional associations.

September 2005

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March 13, 2018

The Honorable Scott Wiener  
California State Senate  
State Capitol, Rm 4066  
Sacramento, CA 95814

**RE: Opposition to SB 827 (Wiener) Planning and Zoning**

Dear Senator Wiener:

The City of Menlo Park opposes SB 827 (Wiener), which would exempt certain housing projects from locally-developed and adopted height limitations, densities, parking requirements, and design review standards.

Specifically, SB 827 would undermine locally adopted General Plans, Housing Elements (which are certified by the Department of Housing and Community Development), and Sustainable Community Strategies (SCS).

SB 827 allows private for-profit housing developers and transit agencies to determine housing densities, parking requirements and design review standards within one-half mile of a "major transit stop," or along a "high-quality transit corridor," which could be miles away from an actual bus stop.

Under existing law, cities are already required to zone for densities at levels necessary to meet their entire Regional Housing Needs Allocation (RHNA). Additionally, SB 827 would provide developers a means to generate additional profits without any requirement to build affordable housing.

Exempting large-scale developments from General Plans, Housing Elements, and zoning ordinances goes against the principles of local democracy and public engagement. Public hearings allow members of the community to inform their representative of their support or concerns when planning documents are developed. Public engagement also often leads to better projects.

Disregarding such processes will increase public distrust in government and could lead to additional ballot measures dealing with growth management.

For these reasons, the City of Menlo Park opposes SB 827.

Sincerely,

Peter I. Ohtaki  
Mayor

DRAFT

**RESOLUTION NO. 6428****RESOLUTION OF THE CITY COUNCIL OF THE CITY  
OF MENLO PARK IN SUPPORT OF PROPOSITION 68,  
THE PARKS, ENVIRONMENT AND WATER BOND**

WHEREAS, the Legislature adopted and governor signed SB 5, a \$4 Billion General Obligation Bond to be placed on the June 2018 ballot entitled the California Drought, Water, Parks, Climate, Coastal Protection, and Outdoor Access for All Act of 2018; and

WHEREAS, SB 5 represents the first legislatively authorized debt instrument for parks, resources and environmental improvements since 2002; and

WHEREAS, investments in California's urban, suburban and rural park and resources-related landscapes promote the notion of community and provide health, environmental and aesthetic benefits; and

WHEREAS, cities are eligible for at least \$1.69 billion in funding for parks, water, and climate and environmental programs; and

WHEREAS, SB 5 contains \$200 million in per capita funding to assist all of California's communities in underwriting priority park-related improvements; and

WHEREAS, SB 5 includes an additional \$15 million for grants to cities and districts in urbanized counties providing park and recreation services within jurisdictions of 200,000 or less in population; and

WHEREAS, SB 5 contains an additional \$40 million shall be available in block grant awards for communities that self-tax for park related improvements; and

WHEREAS, SB 5 invests \$725 million in grants for the creation and expansion of safe neighborhood parks in park-poor neighborhoods under the Statewide Park Development and Community Revitalization Act of 2008's; and

WHEREAS, SB 5 invests no less than \$1 billion in California's most economically challenged communities, eradicating blight and promoting greater access to the outdoors and health-related pursuits; and

WHEREAS, SB 5 expends \$200 million on California's State Park system, addressing a greater than \$1 billion backlog in deferred maintenance which will translate into greater tourism and visitorship opportunities in adjacent communities; and

WHEREAS, SB 5 invests \$30 million in trail network improvements promoting non-motorized recreational and commuter opportunities throughout the state; and

WHEREAS, SB 5 expends hundreds of millions on other important investments in resource-related infrastructure including California's rivers, coast, and other waterways; and

WHEREAS, SB 5 invests hundreds of millions toward combatting global warming through investments in urban greening projects, promoting healthy forests and carbon farming applications; and

WHEREAS, SB 5 underwrites \$250 million in investments in improving local water systems, and providing safe and reliable drinking water to all Californians; and

WHEREAS, SB 5 spends \$80 million in competitive grants for treatment and remediation to promote access to safe drinking water in some of California's most economically challenged communities; and

WHEREAS, SB 5 underwrites improvements in the state flood management systems, armoring against calamities that beset the state including Oroville and elsewhere.

THEREFORE, BE IT RESOLVED, that the City of City Council of City of Menlo Park does hereby support Proposition 68, the Parks, Environment and Water Bond authorized by SB 5, the California Drought, Water, Parks, Climate, Coastal Protection, and Outdoor Access for All Act of 2018 and any subsequent iteration titled otherwise by the Secretary of State that is scheduled to appear on the June 2018 statewide ballot.

I, Clay J. Curtin, Interim City Clerk of the City of Menlo Park, do hereby certify that the above and foregoing resolution was duly and regularly passed and adopted at a meeting by said City Council on the thirteenth day of March, 2018, by the following votes:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of said City on this thirteenth day of March, 2018.

---

Clay J. Curtin, Interim City Clerk

**RESOLUTION NO. 6429****RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
MENLO PARK IN SUPPORT OF PROPOSITION 69  
AND OPPOSING “THE ROAD REPAIR AND  
ACCOUNTABILITY ACT” (SB 1-BEAL) REPEAL**

WHEREAS, California’s cities, counties, and transportation agencies face a statewide backlog of over \$130 billion in needed funds to make transportation infrastructure improvements; and

WHEREAS, “The Road Repair and Accountability Act” (SB 1 – Beal) passed by the Legislature and signed by the Governor last year will raise \$5 billion annually in long-term, dedicated transportation funding to make road safety improvements, fill potholes, and repair local streets, highways, bridges, and overpasses, with the revenues split equally between state and local government projects; and

WHEREAS, SB 1 provides critically-needed funding in the City of Menlo Park that could be used for critically needed pavement rehabilitation, access ramps, traffic signal replacements, restriping, and other appropriate transportation/traffic infrastructure; and

WHEREAS, SB 1 contains strong accountability provisions to streamline projects by cutting bureaucratic redundancies and red tape to ensure transportation funds are spent efficiently and effectively, while also establishing the independent office of Transportation Inspector General to perform audits, improve efficiency, and increase transparency; and

WHEREAS, Proposition 69 on the June 2018 ballot would add additional accountability for taxpayers by preventing the State Legislature from diverting or raiding any new transportation revenues for non-transportation improvement purposes; and

WHEREAS, there is also a proposed ballot measure aimed for the November 2018 ballot (Attorney General #17-0033) that would repeal the new transportation revenues provided by SB 1 and make it more difficult to increase funding for state and local transportation improvements in the future; and

WHEREAS, this proposed November proposition would raid millions of dollars annually from cities resulting in the potential halt to critical investments in future transportation improvement projects in our community.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MENLO PARK DOES RESOLVE AS FOLLOWS:

Section 1. The City of Menlo Park hereby supports Proposition 69, the June 2018

constitutional amendment to prevent new transportation funds from being diverted for non-transportation purposes.

Section 2. The City of Menlo Park hereby opposes the proposed November ballot proposition (Attorney General #17-0033) that would repeal the new transportation funds and make it more difficult to raise state and local transportation funds in the future.

Section 3. The City of Menlo Park supports efforts on behalf of the League of California Cities and other coalitions of local government agencies, business, labor, transportation, and other organizations throughout the state, in support of Proposition 69 and opposing the repeal of SB 1.

Section 4. This resolution shall become effective immediately upon its passage and adoption.

I, Clay J. Curtin, Interim City Clerk of the City of Menlo Park, do hereby certify that the above and foregoing resolution was duly and regularly passed and adopted at a meeting by said City Council on the thirteenth day of March, 2018, by the following votes:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of said City on this thirteenth day of March, 2018.

---

Clay J. Curtin, Interim City Clerk





## STAFF REPORT

### City Council

**Meeting Date:** 3/13/2018  
**Staff Report Number:** 18-053-CC

**Consent Calendar:** **Appropriation of a matching gift of \$43,000 to the Menlo Park Historical Association and an additional \$30,000 for City incurred costs for the Menlo Gates Project**

### Recommendation

Staff recommends that the City Council approve appropriation of a contribution not to exceed \$73,000 to the Menlo Gates project comprised of a \$43,000 matching gift to the Menlo Park Historical Association and a \$30,000 budget for City incurred costs.

### Policy Issues

City Council approval is required for contributions to community programs or projects that are outside of the City's normal operating budget.

### Background

At their meeting on October 25, 2016, the City Council waived permit processing fees for this project which were estimated at \$3,500. The Menlo Park Historical Association is now seeking a City contribution to match funds already raised for the Menlo Gates project.

### Analysis

Menlo Park Historical Association (MPHA) has requested a matching gift of \$43,000 for the Menlo Gates project as outlined in Attachment A. Staff recommends that the City pledge the funds requested by MPHA, \$43,000, and release the funds to MPHA upon building permit issuance.

The Menlo Gates project will be managed and constructed by MPHA with limited project management by City staff. Upon review of the project designs, included as Attachment B, and preliminary project cost estimate and scope of work provided by MPHA, included as Attachment C, the total cost for items included in the scope of work is \$85,930. The cost estimates exclude items in the scope of work that are noted as being provided "by City" such as underground electrical and landscaping. Staff is working to more fully assess the additional costs and whether some or all of the work can be performed by City staff. In the absence of greater clarity, staff recommends City Council approval of an additional \$30,000 to cover City incurred expenses not covered by the project cost estimate of \$85,930. If the additional funds are insufficient to complete the scope of work or if City staff is required to manage the project, staff will return to City Council for additional approvals before fulfilling the pledge.

### **Impact on City Resources**

Sufficient funds are available in the City's unreserved fund balance for the \$73,000 appropriation.

### **Environmental Review**

No environmental review is required.

### **Public Notice**

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

### **Attachments**

- A. Request from Menlo Park Historical Association
- B. Project Plans
- C. Preliminary Cost Estimate and Project Scope – Sinnott & Co dated 12/4/2017

Report prepared by:  
Nick Pegueros, Administrative Services Director



800 Alma Street  
Menlo Park, CA 94025-3445  
March 8, 2018

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

Dear Council Members:

Re: Request for a Matching Gift of \$43,000 for the Menlo Gates Project

**Board  
Members**

**President**  
*Jim Lewis*

**Vice President**  
*Michael Demeter*

**Secretary**  
*Bo Crane*

**Treasurer**  
*Lydia Cooper*

**At Large**  
*Dick Angus*  
*Jym Clendenin*  
*Frank Helfrich*  
*Pam Jones*  
*Martha Lancelstremere*

Background: The late Ernst Meissner began talking about reproducing the original Menlo Gates several years ago. Finally in 2016 the Menlo Park Historical Association formed a committee, chaired by the late Bill Weseloh, to raise the necessary funds and to construct the Gates. Ernst and his daughter, Melina, provided the detailed construction drawings of the Gates based on old photographs. Keith Willig provided the landscape drawings for installation. Based on these drawings, Sam Sinnott generated a detailed estimate of the cost (\$86,000).

Current status: To date \$43,000 has been contributed by 57 donors including Galway City, Ireland, Menlo Park's sister city. The names of all donors of \$1,000 or more will be inscribed on a bronze plaque to be located beneath the Gates. At the February 13<sup>th</sup>, 2018 City Council meeting, Vice Mayor Mueller suggested the City of Menlo Park match all of the current donations to date and make a donation of \$43,000 to finish the Menlo Gates project. The City Council requested the issue be brought to the City Council as an agenda item for approval.

Request: For the City of Menlo Park to make a matching gift of \$43,000, based on current plans and siting on City property as submitted to Alex McIntyre on January 3, 2018. This gift would allow construction to begin soon with the goal of installing the Menlo Gates this summer.

Sincerely,

Jym Clendenin, Gates Project Chairman

**Encl (1): Menlo Gates Project Committee:**

Jym Clendenin, MPHA, Chair  
Ernst Meissner, Architect (deceased)  
Sam Sinnott, Architect & Construction  
Keith Willig, Landscape Architect  
Michael Demeter, MPHA  
Dick Angus, MPHA  
Bobby Carcioni, MPHA  
Bill Weseloh, MPHA (deceased)  
Dexter Chow, Cheeky Monkey Toys  
Brian Flegel, Flegel's Home Furnishings

Links to the drawings and the estimate are at:  
<https://sites.google.com/site/mphistorical/home/menlo-gates> .



800 Alma Street  
Menlo Park, CA 94025-3445  
March 8, 2018

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

Dear Council Members:

Re: Request for a Matching Gift of \$43,000 for the Menlo Gates Project

**Board  
Members**

**President**  
*Jim Lewis*

**Vice President**  
*Michael Demeter*

**Secretary**  
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**At Large**  
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Sincerely,

Jym Clendenin, Gates Project Chairman

**Encl (1): Menlo Gates Project Committee:**

Jym Clendenin, MPHA, Chair  
Ernst Meissner, Architect (deceased)  
Sam Sinnott, Architect & Construction  
Keith Willig, Landscape Architect  
Michael Demeter, MPHA  
Dick Angus, MPHA  
Bobby Carcioni, MPHA  
Bill Weseloh, MPHA (deceased)  
Dexter Chow, Cheeky Monkey Toys  
Brian Flegel, Flegel's Home Furnishings

Links to the drawings and the estimate are at:  
<https://sites.google.com/site/mphistorical/home/menlo-gates> .

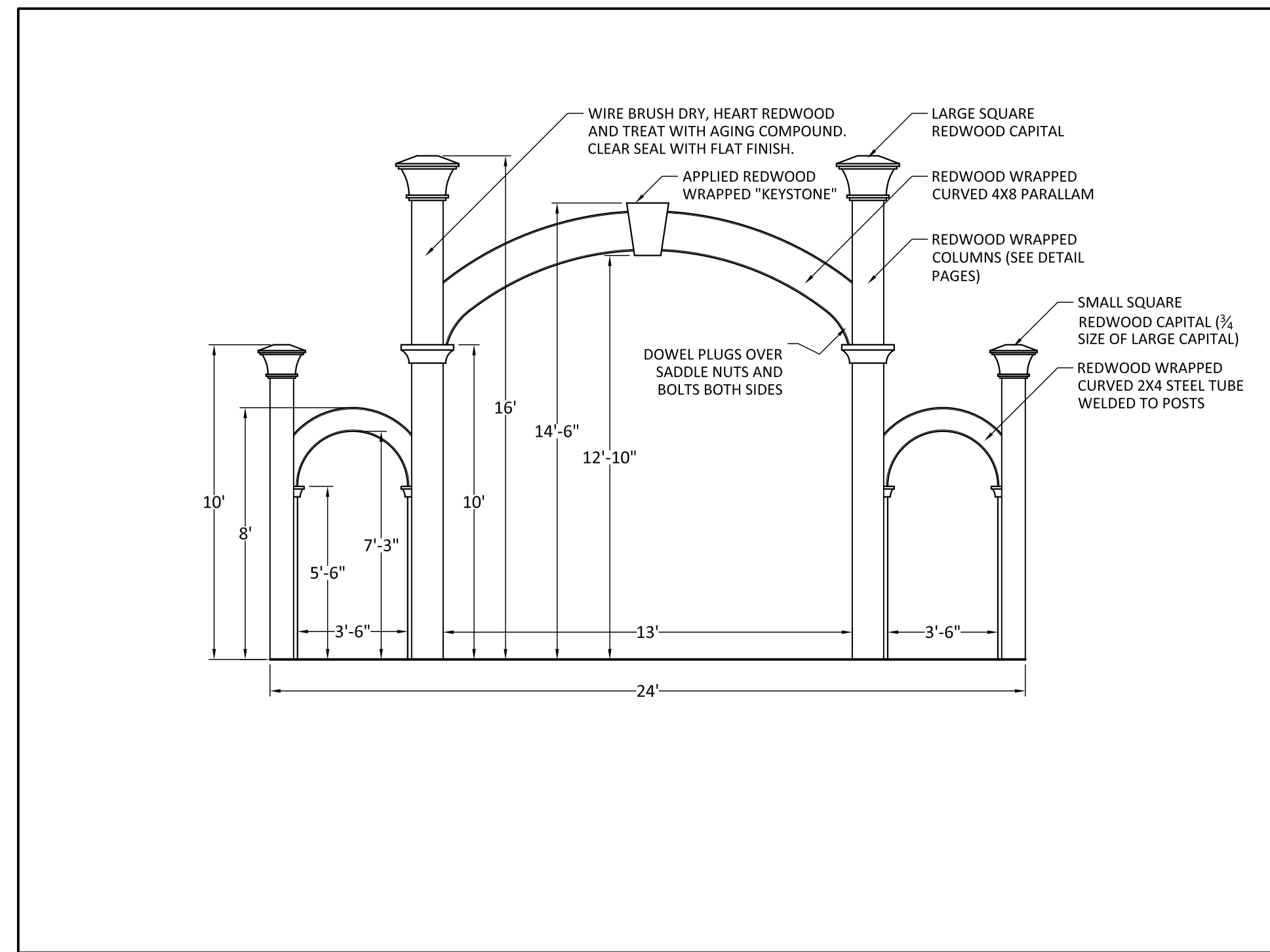
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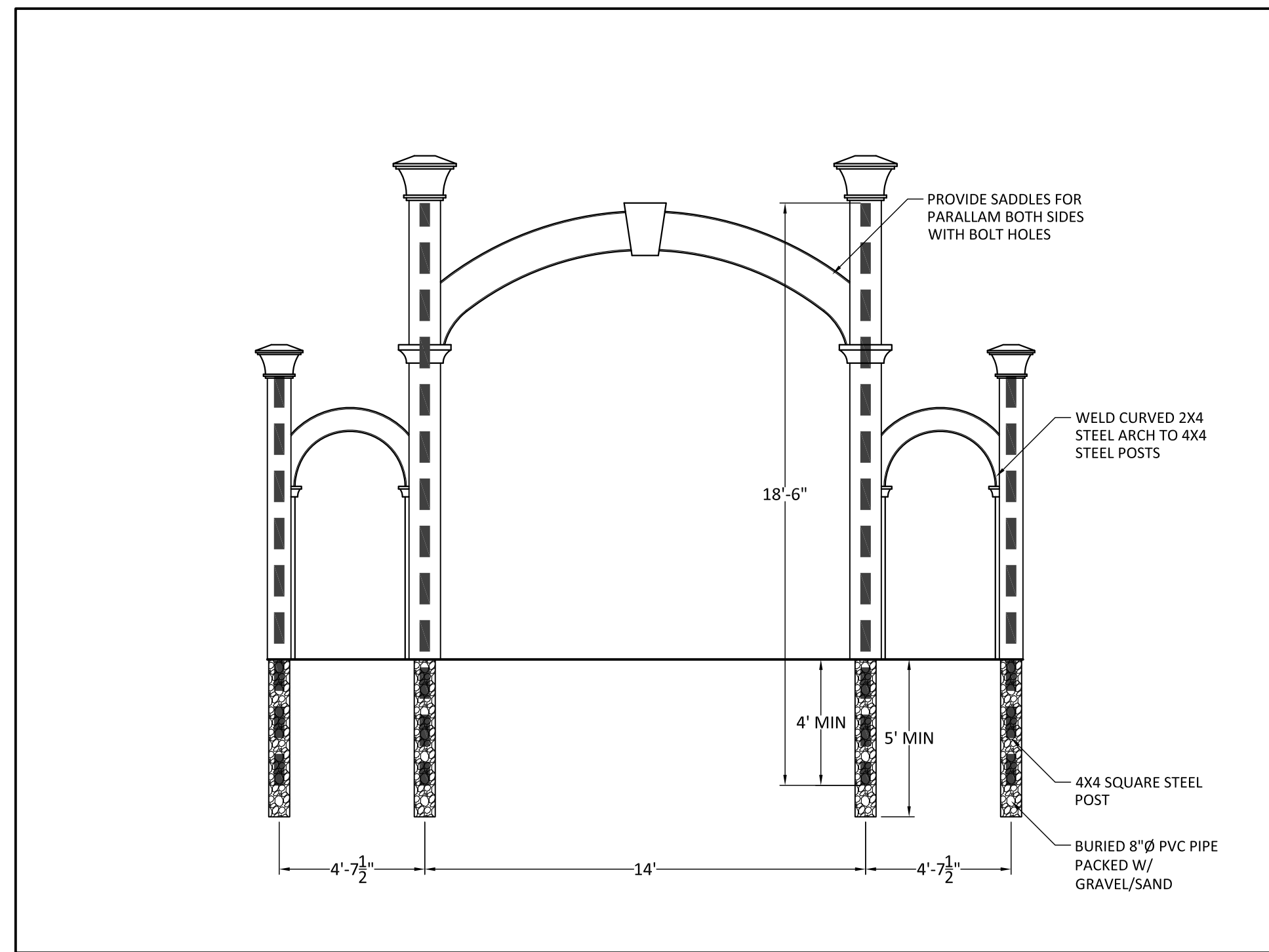
SCALE: AS NOTED

SHEET NO.

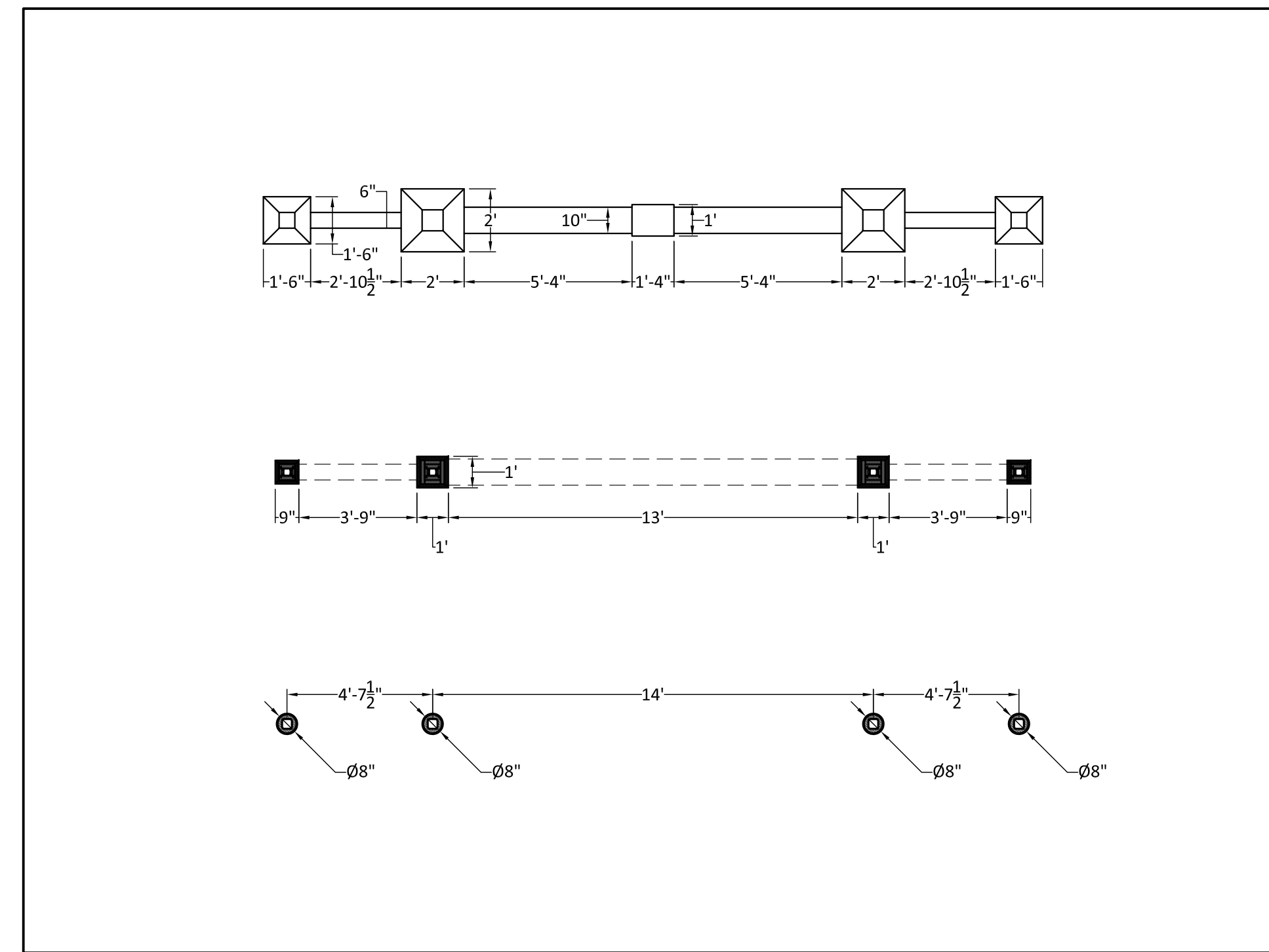
**A1.0**



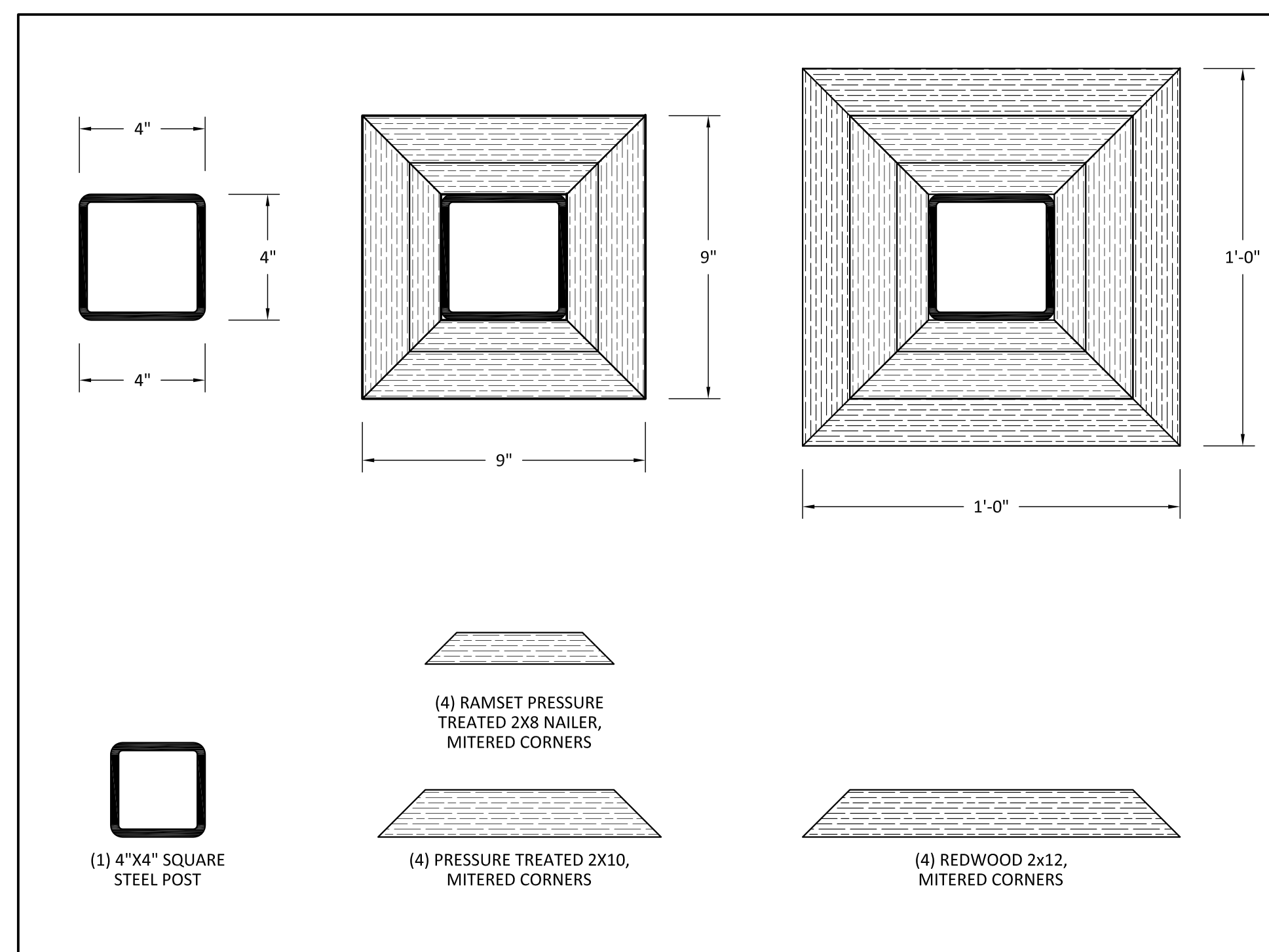
**ELEVATION VIEW**  
SCALE: 1/4" = 1'-0"



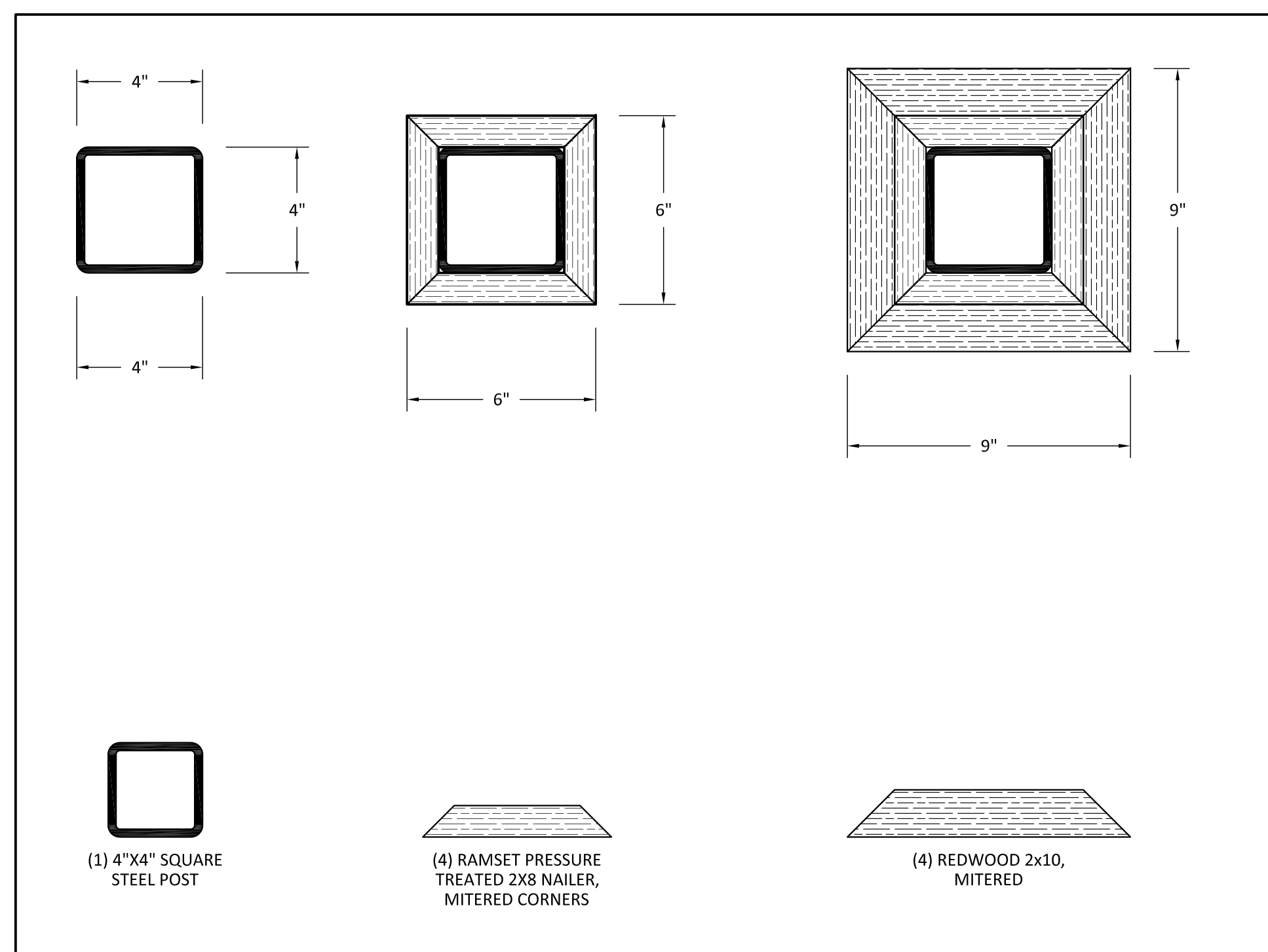
**SUPPORT VIEW**  
SCALE: 1/4" = 1'-0"



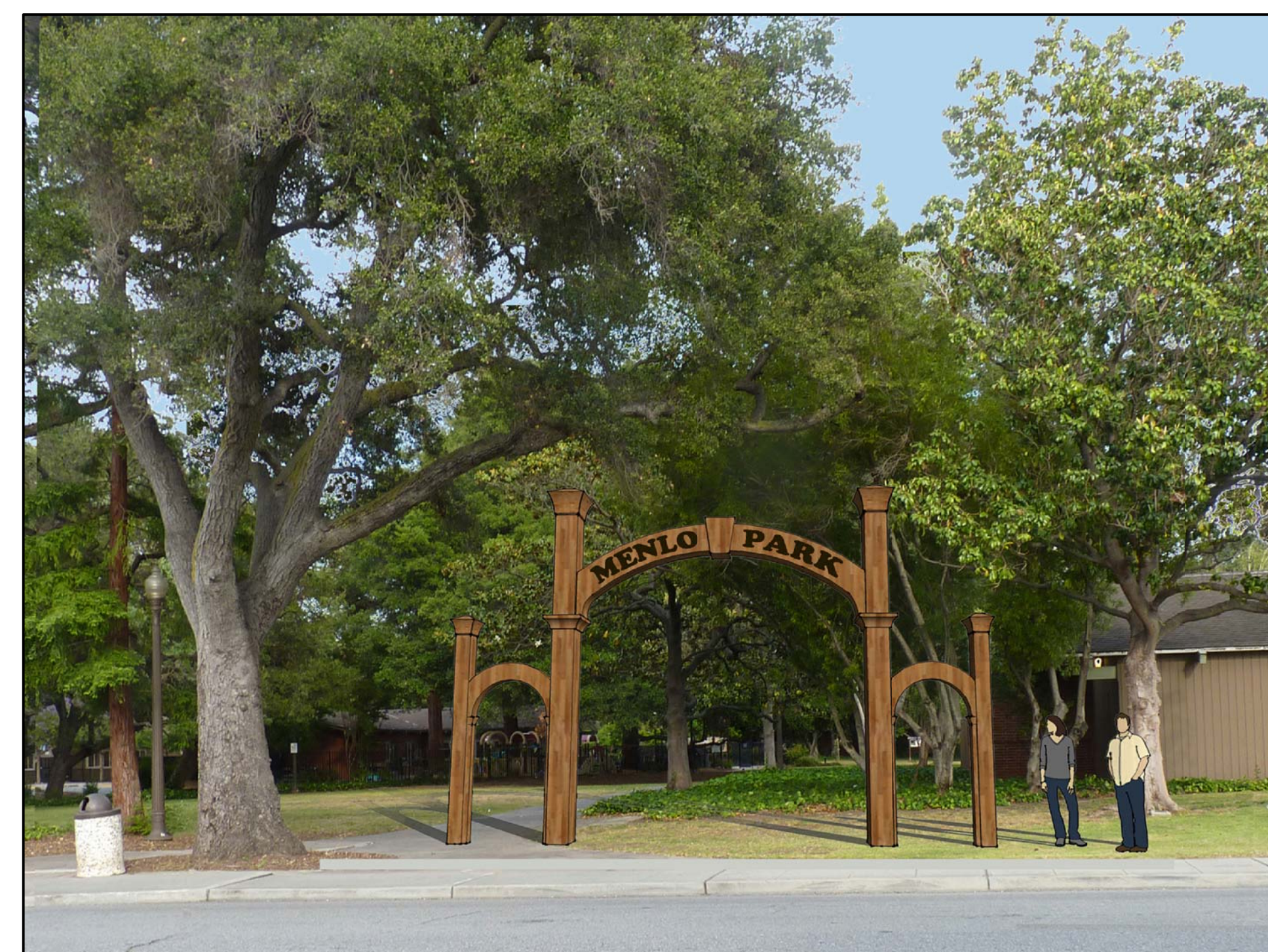
**PLAN & HORIZONTAL SECTION VIEWS**  
SCALE: 1/4" = 1'-0"



**LARGE COLUMN ASSEMBLY**  
SCALE: 3" = 1'-0"

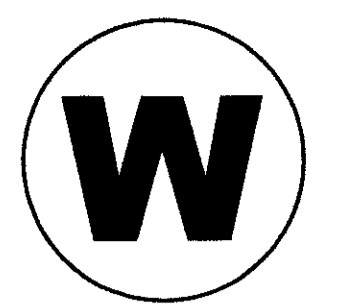


**SMALL COLUMN ASSEMBLY**  
SCALE: 3" = 1'-0"



**PROPOSED REPLICATION OF THE HISTORIC MENLO GATES**

A COMMUNITY PROJECT SPONSORED BY THE MENLO PARK HISTORICAL ASSOCIATION AND THE MENLO PARK CHAMBER OF COMMERCE PARTNERING WITH THE CITY OF MENLO PARK



Keith Willig  
Landscape Architecture, Inc.  
885 Santa Cruz Ave. Suite D,  
Menlo Park, CA 94025  
(P) 650.326.2294  
(F) 650.326.2293  
License #3851

**THE MENLO GATES**  
800 ALMA STREET, MENLO PARK, CA 94025

**MASTER PLAN**  
**LAYOUT PLAN AND UTILITY PLAN**

scale: 1/8" = 1'-0"  
date: 6/27/2017  
drawn by: HC  
review by: KW  
revision:

notes:

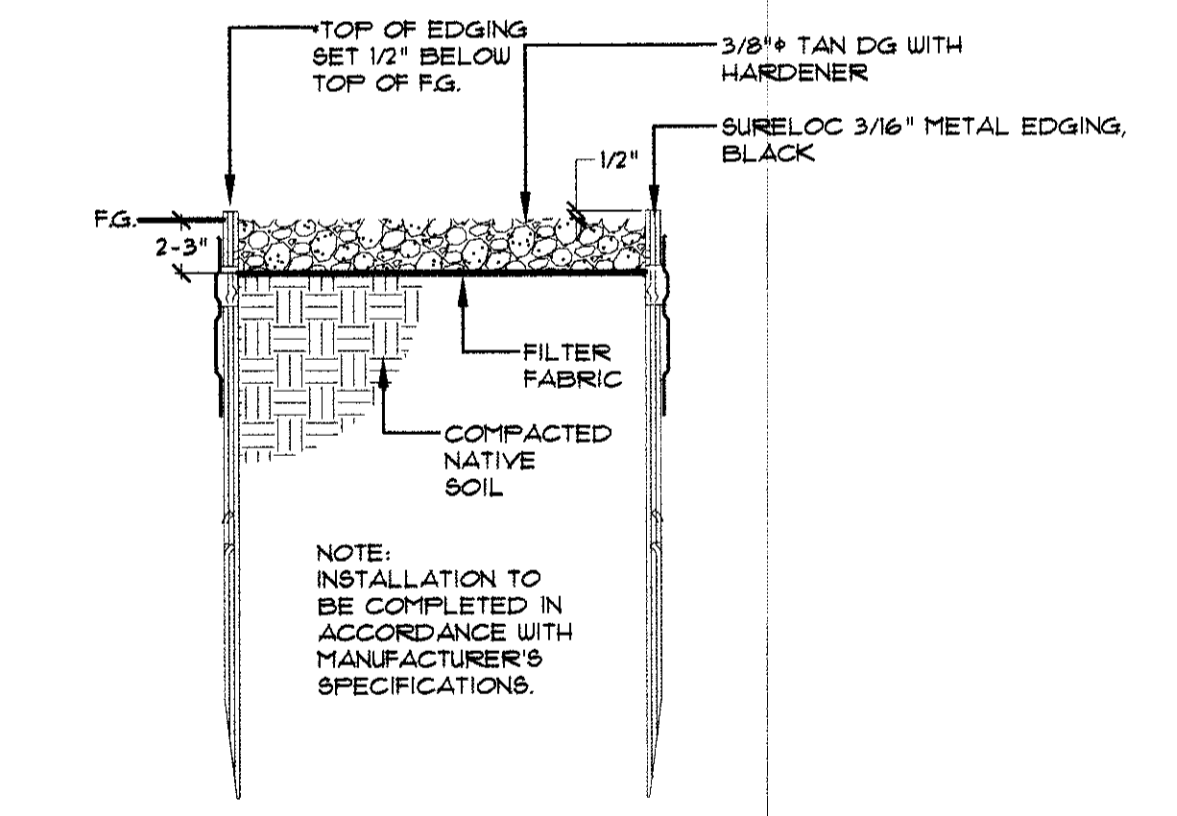
SHEET NO.  
**L-1.0**  
1 OF 2 SHEETS

**GENERAL NOTES:**

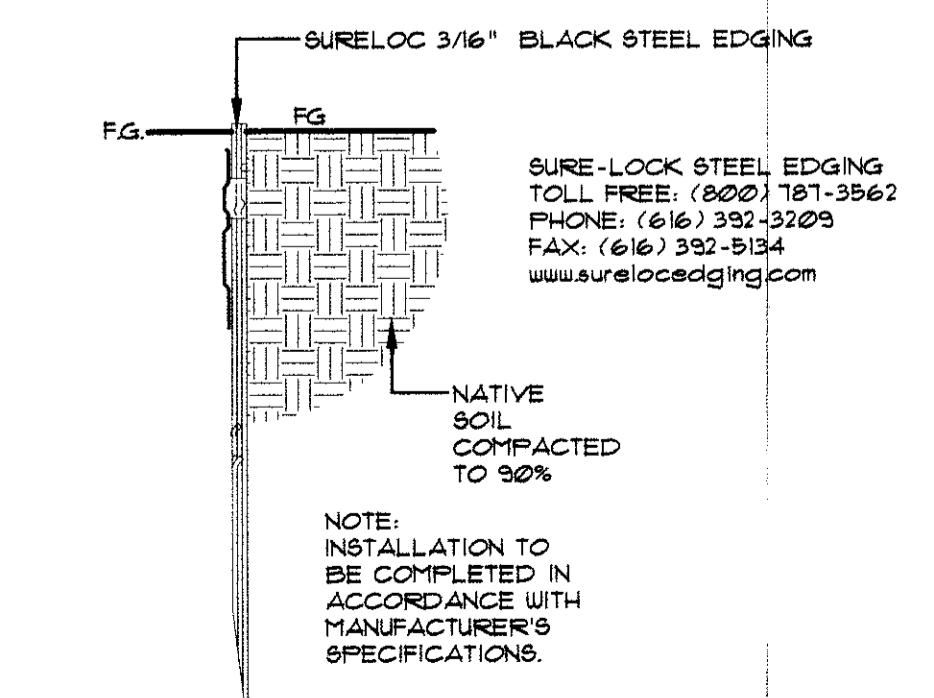
- CONTRACTOR TO FAMILIARIZE HIM/HERSELF WITH ALL SITE CONDITIONS PRIOR TO BIDDING ON PROJECT.
- CONTRACTOR SHALL CLEAN OUT AND REPAIR/REPLACE AS REQUIRED EXISTING DRAINAGE.
- SYSTEM AND GRADE SITE SO THAT THE SITE HAS POSITIVE DRAINAGE.
- ALL GRADING SHALL BE IN ACCORDANCE WITH LOCAL GRADING CODES AND ORDINANCES. THE CONTRACTOR SHALL OBTAIN, COORDINATE AND PAY FOR ANY AND ALL PERMITS AND ALL INSPECTIONS AS REQUIRED.
- ALL CONCRETE FLATWORK LAYOUT SHALL BE APPROVED BY OWNER AND/OR LANDSCAPE ARCHITECT PRIOR TO INSTALLATION.
- THE LOCATION AND PROTECTION OF ALL UTILITIES SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR.
- ALL DIMENSIONS ARE FROM OUTSIDE FACE OF PAVING, WALLS, ETC. UNLESS OTHERWISE NOTED ON PLANS.
- ALL PROPERTY LINES AND LOT LINES SHALL BE VERIFIED PRIOR TO COMMENCING WORK.
- THE CONTRACTOR SHALL BE RESPONSIBLE AND LIABLE FOR ANY AND ALL DAMAGE DUE TO OPERATIONS, OR NEGLIGENCE OF SUBCONTRACTORS.
- ALL WALLS AND WALKS SHALL HAVE SMOOTH, CONTINUOUS CURVES AS INDICATED ON PLANS. JOIN ALL EXISTING PAVING FLUSH.
- APPROVED PROTECTIVE MEASURES AND TEMPORARY DRAINAGE PROVISIONS SHALL BE USED TO PROTECT THE ADJOINING PROPERTIES DURING GRADING OPERATIONS.
- LANDSCAPE AREAS SHALL DRAIN AWAY FROM ALL BUILDINGS AND FACILITIES AT 2% MIN. 5' AS SHOWN ON THE PLAN.
- ALL WASTE OR DEBRIS SHALL BE REMOVED BY THE CONTRACTOR FROM THE SURFACE UPON WHICH FILL IS TO BE PLACED.
- DUST SHALL BE CONTROLLED BY WATERING.
- EXPORTED SOIL AND DEBRIS SHALL GO TO A LEGAL DUMP SITE AT NO ADDITIONAL COST TO THE OWNER.
- ALL LANDSCAPE AREAS SHALL BE SMOOTH IN CHARACTER AND SHALL HAVE NATURAL TRANSITIONS BETWEEN CONTOURS AS DIRECTED BY THE LANDSCAPE ARCHITECT.
- LANDSCAPE MOUNDS AND FILL AREAS SHALL BE SPREAD IN LOOSE LIFTS OF 6 INCHES OR LESS AND COMPACTED TO A DEGREE OF 95% OR GREATER.

**LAYOUT LEGEND:**

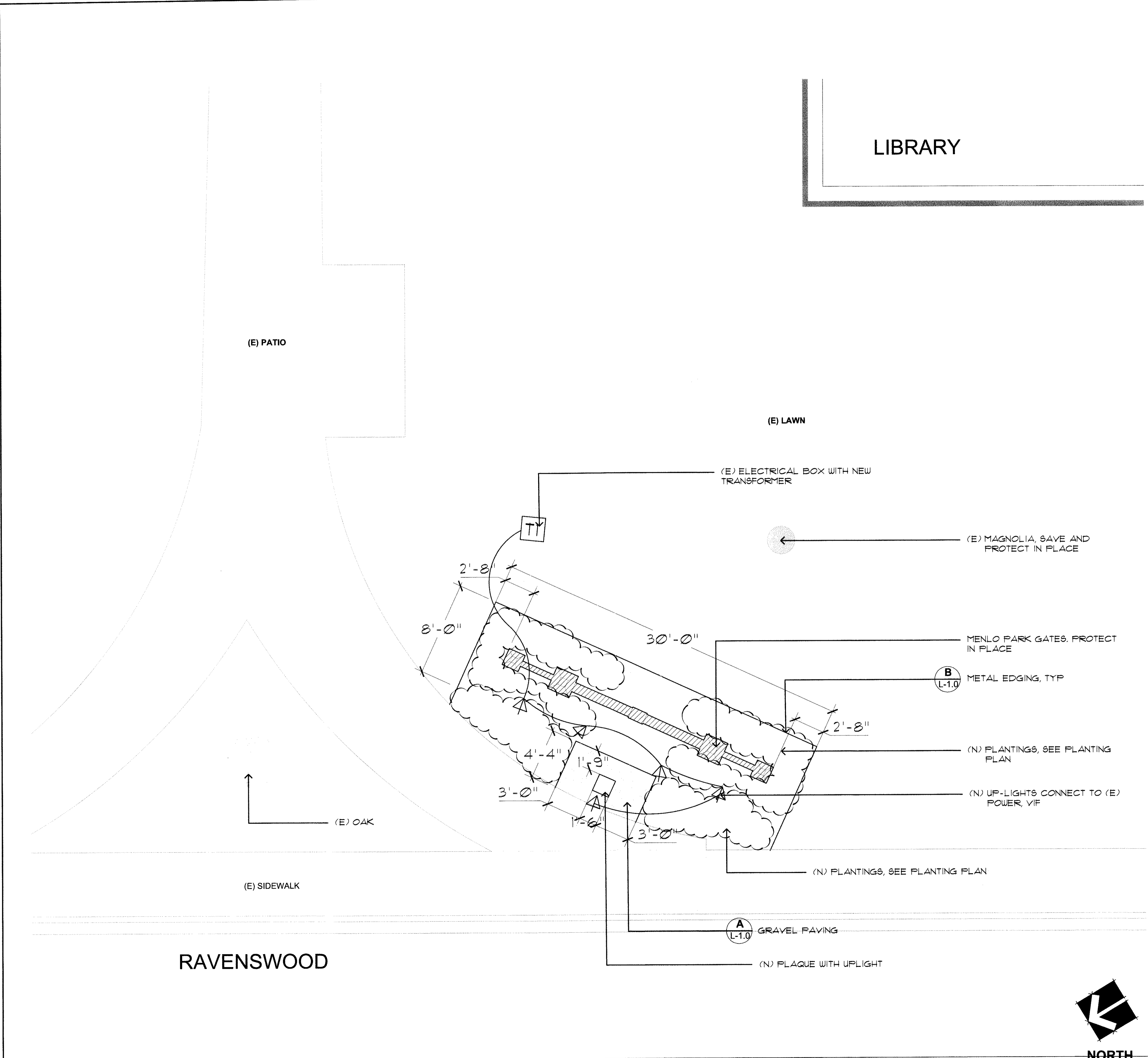
SYMBOL	MFG.	MODEL NO./DESCRIPTION
	FXLUMINAIRE	NP-3LED-FB
	FXLUMINAIRE	PX-300-T-FB
FFE		FINISH FLOOR ELEVATION
FS		FINISH SURFACE
FG		FINISH GRADE
(N)		NEW
(E)		EXISTING
VIF.		VERIFY IN FIELD
PA		PLANTING AREA
TYP.		TYPICAL



**A GRAVEL PAVING**



**B METAL EDGING**



**C LAYOUT PLAN AND UTILITY PLAN**

**B METAL EDGING**





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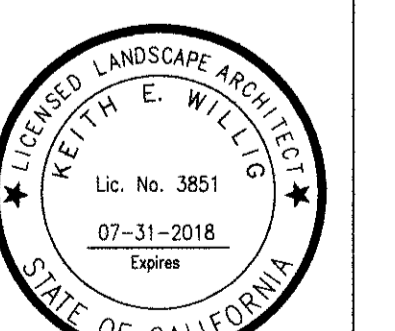
**THE MENLO GATES**  
800 ALMA STREET, MENLO PARK, CA 94025

**MASTER PLAN**

**PLANTING AND IRRIGATION PLAN**

scale: 1/8" = 1'-0"  
date: 6/27/2017  
drawn by: HC  
review by: KW  
revision:

**notes:**



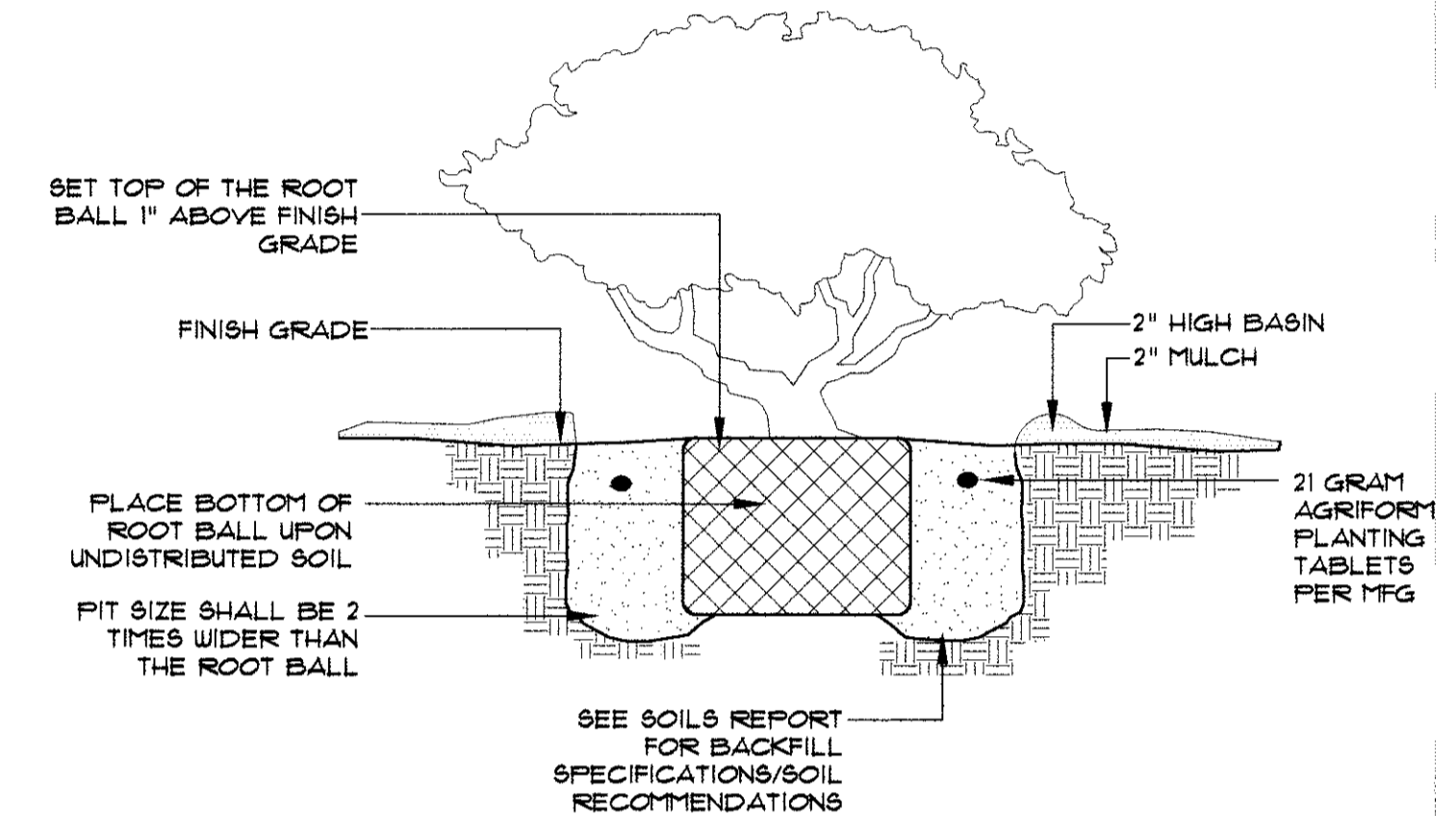
SHEET NO.

**L-2.0**

2 OF 2 SHEETS

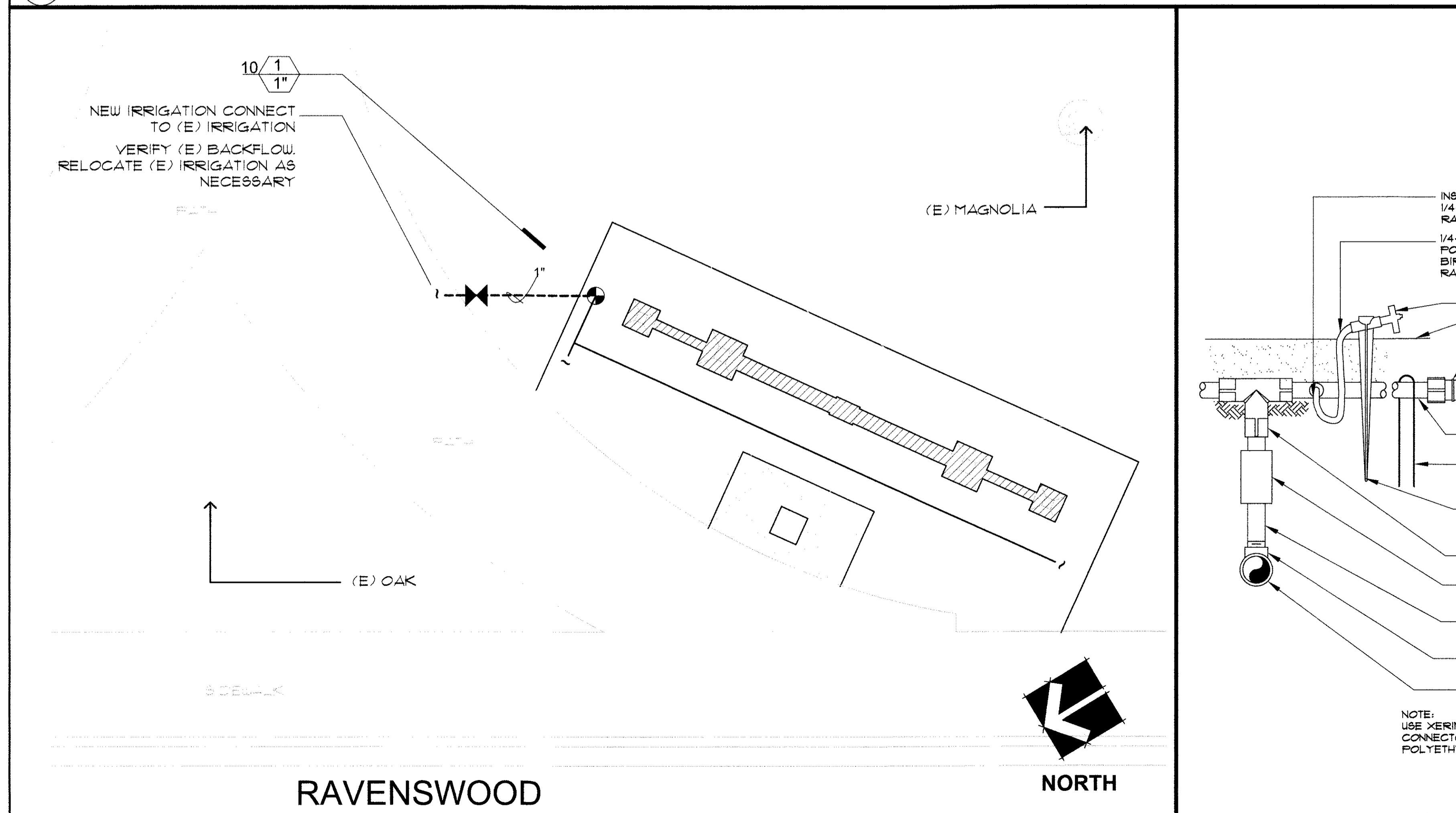
**PLANTING NOTES:**

- CONTRACTOR SHALL BE RESPONSIBLE FOR MAKING HIMSELF FAMILIAR WITH ALL EASEMENTS, UNDERGROUND UTILITIES, PIPES AND STRUCTURES. CONTRACTOR SHALL TAKE SOLE RESPONSIBILITY FOR ANY COST INCURRED DUE TO DAMAGE OF SAID UTILITIES.
- DO NOT WILLFULLY PROCEED WITH CONSTRUCTION AS DESIGNED WHEN IT IS OBVIOUS THAT UNKNOWN OBSTRUCTIONS, AREA DISCREPANCIES AND/OR GRADE DIFFERENCES EXIST THAT MAY NOT HAVE BEEN KNOWN DURING DESIGN. SUCH CONDITIONS SHALL BE IMMEDIATELY BROUGHT TO THE ATTENTION OF THE OWNER. THE CONTRACTOR SHALL ASSUME FULL RESPONSIBILITY FOR ALL NECESSARY REVISIONS DUE TO FAILURE TO GIVE SUCH NOTIFICATION.
- LANDSCAPE AREAS SHALL DRAIN AWAY FROM ALL BUILDINGS AND FACILITIES AT 2% MIN. FOR 5' AS PER DRAINAGE PLAN. FOLLOW ALL DRAINAGE PLANS.
- ALL PLANT MATERIAL SHALL BE OF NURSERY QUALITY AND BE GUARANTEED FOR THREE MONTHS.
- ALL PLANT MATERIAL SHALL BE APPROVED FOR QUALITY BY THE OWNER AND/OR LANDSCAPE ARCHITECT PRIOR TO INSTALLATION.
- FINAL LOCATION OF ALL PLANT MATERIAL SHALL BE SUBJECT TO THE APPROVAL OF THE OWNER.
- SOIL PREPARATION:**
  - ROTTILL THE FOLLOWING AMENDMENTS 6" INTO THE SOIL AT RATES INDICATED PER 1000 SQUARE FEET FOR ALL PLANTING AREA AND SOIL AREAS.
    - 6 CUBIC YARDS NITROGEN STABILIZED SAWDUST OR EQUAL.
    - 125 LBS. GRO-POWER PLUS OR EQUAL PRE PLANT FERTILIZER.
- PLANT PITS SHALL BE 2X THE ROOT BALL SIZE WITH 10% NATIVE SOIL AND 30% AMENDMENTS WITH PLANT TABLETS OR OTHER PRE PLANT FERTILIZER.
- ALL PLANTS SHALL HAVE A 2" MIN. WATERING BERM AROUND THEM.
- TREES ARE TO BE STAKED WITH A MIN. 2"x2" REQUIRED HEIGHT STAKE AND TIED TO INSURE VERTICAL GROWTH.
- ALL PLANTING AREAS SHALL BE WATERED WITH AN AUTOMATIC IRRIGATION SYSTEM.
- ALL APPLICABLE CODES TO BE FOLLOWED. ALL WORK REQUIRING PERMITS SHALL HAVE PERMITS BEFORE WORK IS TO BEGIN.
- ALL PLANTING AREAS TO BE COVERED WITH 3" THICK LAYER OF PREMIUM ARBOR MULCH.
- ALL TREE ROOTS GREATER THAN 1-1/2" IN DIAMETER DAMAGED DURING CONSTRUCTION SHALL BE CUT CLEAN AND SEALED.
- CONTRACTOR TO VERIFY QUANTITIES, QUANTITIES SHOWN ARE FOR REFERENCE ONLY.



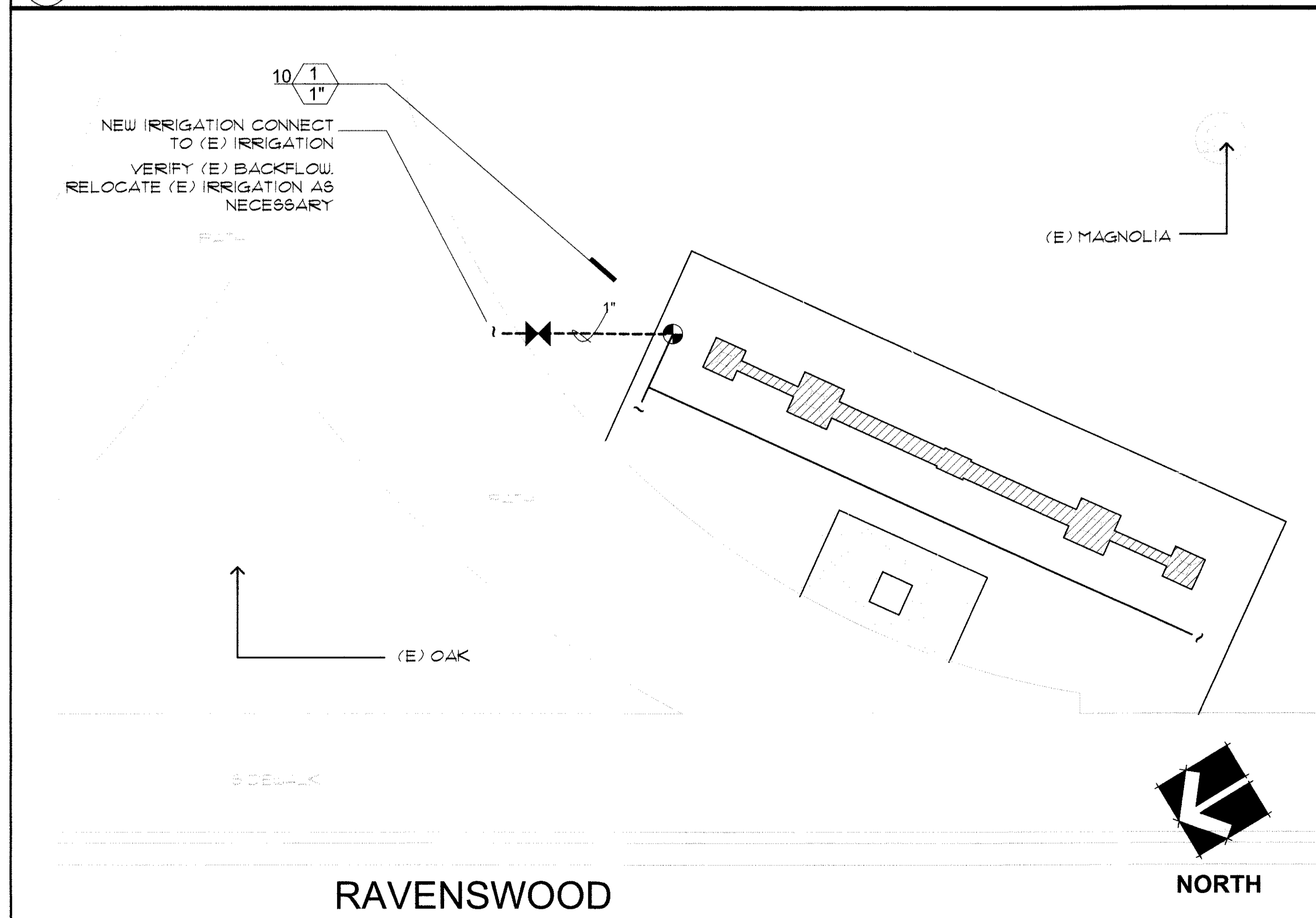
**PLANTING PLAN**

**TYPICAL SHRUB PLANTING**



**IRRIGATION PLAN**

**EMITTERS**



**IRRIGATION NOTES:**

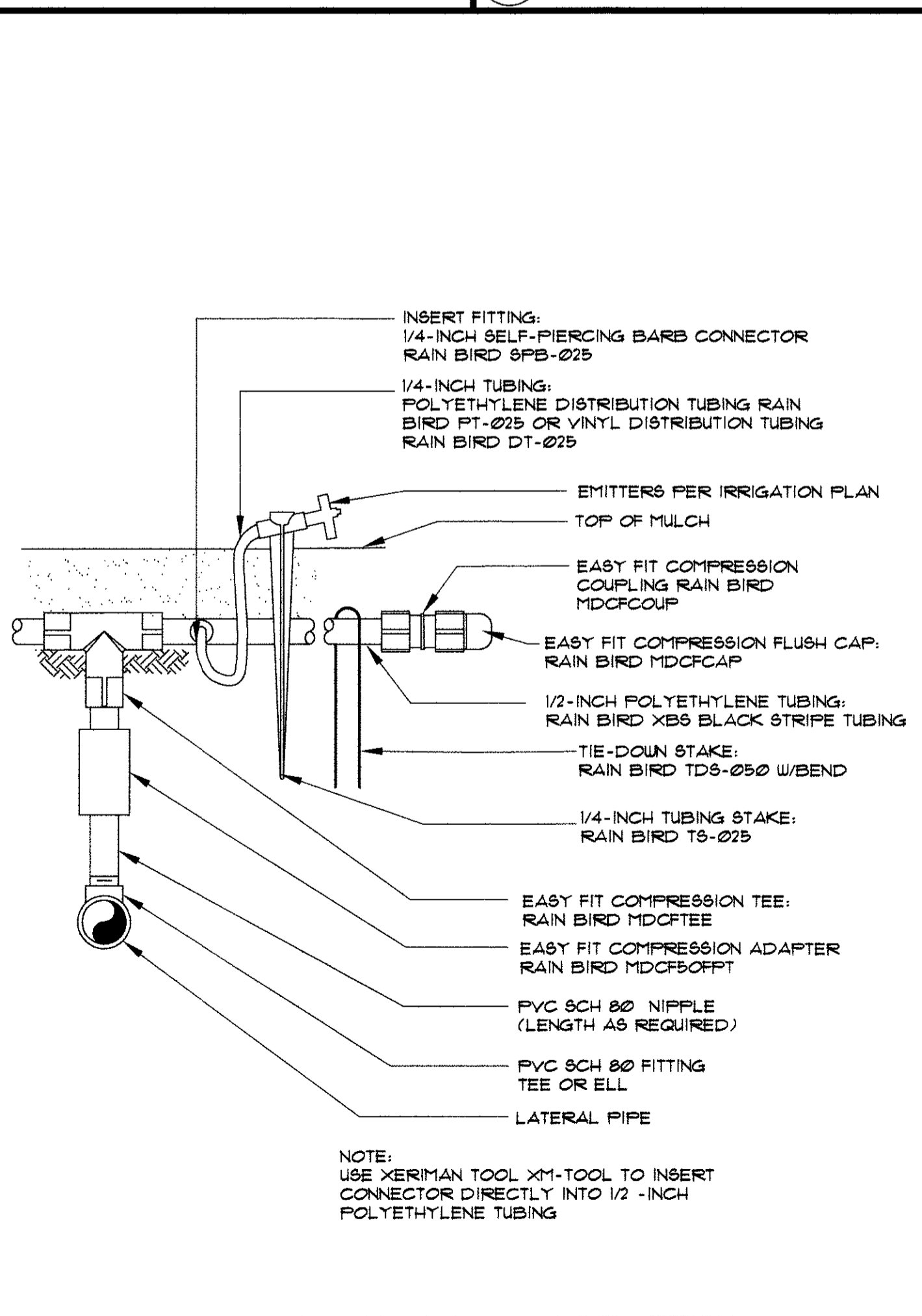
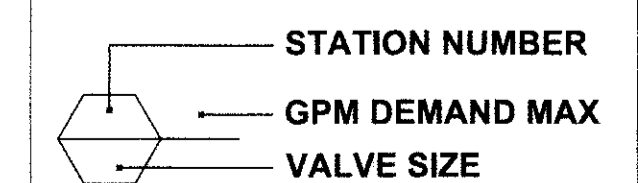
- INSTALL ALL IRRIGATION COMPONENT ACCORDING TO LOCAL CODES & ORDINANCES.
- THE CONTRACTOR SHALL OBTAIN, COORDINATE AND PAY FOR ANY AND ALL PERMITS AND ALL INSPECTIONS AS REQUIRED.
- THE CONTRACTOR SHALL BE RESPONSIBLE AND LIABLE FOR ANY ENCROACHMENT INTO ADJACENT PROPERTY, ROW'S, EASEMENTS, SETBACKS OR ANY OTHER LEGAL PROPERTY RESTRICTIONS EITHER MARKED OR UNMARKED.
- IT SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR TO FAMILIARIZE HIMSELF WITH ALL UNDERGROUND UTILITIES. CONTRACTOR SHALL REPAIR/REPLACE AT NO ADDITIONAL COST TO THE OWNER, ANY DAMAGE TO UNDERGROUND UTILITIES THAT MAY OCCUR.
- THE CONTRACTOR SHALL VERIFY THE STATIC PRESSURE, METER SIZE/SIZE OF SERVICE METER, AT EACH POINT OF CONNECTION. CONTRACTOR SHALL NOTIFY OWNER OR LANDSCAPE ARCHITECT OF ANY DISCREPANCIES. (VERIFY IN FIELD)
- IRRIGATION PLANS AS DRAIN SHALL BE CONSIDERED DIAGRAMMATIC. ALL PIPE, VALVES, ETC. SHOWN WITHIN PAVED AREAS ARE FOR DESIGN CLARIFICATION ONLY AND SHALL BE INSTALLED IN PLANTING AREAS WHEREVER POSSIBLE.
- ADJUST ALL HEADS FOR MINIMUM OVER SPRAY ON NON-PLANTED AREAS AND FOR COMPLETED COVERAGE. THIS SHALL INCLUDE SELECTING THE BEST DEGREE OF ARC TO FIT THE EXISTING CONDITIONS. ADJUST FOR PLANT REQUIREMENTS.
- FINAL LOCATION OF CONTROLLER SHALL BE APPROVED BY THE OWNER. POWER SOURCE BY OTHERS.
- INSTALL ALL HEADS WITH TRIPLE SWING JOINTS.
- INSTALL ALL DRIP IRRIGATION PER DETAILS/MFG.
- P.O.C. INFORMATION - CONTRACTOR SHALL TIE INTO DOMESTIC WATER LINE FOR IRRIGATION WATER SUPPLY.

METER SIZE	1"
MAXIMUM DEMAND	15 GPM
STATIC PRESSURE	60 PSI (EXISTING)
DESIGN PRESSURE	65 PSI
VERIFY EXISTING PRESSURE REGULATOR	

**IRRIGATION LEGEND:**

SYMBOL	MFG.	MODEL NO./DESCRIPTION	INSTALL PER DETAIL
	HAMMOND	WGV THD BRASS GATE VALVE -LINE SIZE.	INSTALL PER DETAIL
	RAINBIRD	PEB SERIES-AUTOMATIC IRRIGATION VALVE-SIZE PER PLAN W RAINBIRD PRP-100-BFF PRESSURE REGULATOR AND FILTER RAINBIRD PC-10 EMITTERS PER CHART	INSTALL PER DETAIL
<b>EMITTER CHART:</b>			
1 PER 4' AND 1 GAL			
2 PER 2GAL			
2 PER 5GAL			
3 PER 15GAL			
6 PER 24' BOX			
6 PER 36' BOX			
SPACE AN EMITTER EVERY 3' OVER EXISTING ROOT BALLS			
	SCH. 40 PVC LATERAL LINE (SIZE PER PLAN)	INSTALL @ 12" BELOW FINISH GRADE	
	SCH. 40PVC MAIN LINE	INSTALL @ MIN. OF 18" BELOW FINISH GRADE	

**VALVE LEGEND**



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# sinnott&co



architecture & construction

## **Preliminary Project Cost Estimate and Scope of Work**

*The Menlo Gates Project*

*City Center*

*Ravenswood Avenue*

*Menlo Park, California 94025*

### **Menlo Park Historical Association**

800 Alma Street

Menlo Park, CA 94025

(650) 330- 2522

[mphistorical@yahoo.com](mailto:mphistorical@yahoo.com)

### **Samuel Sinnott & Company**

**558A Santa Cruz Ave.**

**Menlo Park, CA 94025**

**(650) 325 5560**

**(650) 325 0138 (fax)**

[sam@sinnottandco.com](mailto:sam@sinnottandco.com)

[www.Sinnottandco.com](http://www.Sinnottandco.com)

last update on **12/4/2017**  
by **12/4/2017**  
**SCS**

**Project Total:**

**\$85,930**

**Note:** 'NIC' means not in contract. 'By Owner or City' are required items supplied by the owner. Shaded Boxes are allowances for items to be defined by owner. Items with a name in the center right column have been bid. Total includes overhead & profit which is calculated into each division subtotal. Items with an asterisk in the left column have cahnged since the last billing.

**Abbrvs:** Md- man-day, alw- allowance, sub- subcontractor, sup- supplier, lf- linear foot, sf- square foot, sy- square yard, sq- square (100sf), cy- cubic yard, loc - locations, mat- material

#### **Division 1 - General**

		subtotal=	\$7,130
liability insurance	0.0 of	150000	0 NIC
existing drawings	1.0 alw		by others
code research	1.0 alw		by others
conceptual design	1.0 alw		by others

planner reviews	1.0 alw			by others
site and floor plans	1.0 alw			by others
sections	1.0 alw			by others
elevations	1.0 alw			by others
details	1.0 alw			by others
electrical/mechanical	1.0 alw			by others
structural framing plans	1.0 alw			by others
structural details	1.0 alw			by others
permit submittal	1.0 alw			by City
coordinate consultants	1.0 alw			by others
cost estimation and review	1.0 alw	1000	1000	
plan check resubmittal	1.0 alw			by City
landscape design	1.0 alw	0	0	NIC
survey/Site Staking	1.0 alw			by City
geotechnical report	1.0 alw	0	0	NIC
coordinate permit and costs	1.0 md	650	650	
coordinate inspections	0.5 md	650	325	
Structural Engineering	1.0 alw			by others
plancheck submittal fee	1.0 alw	0	0	by City
fire plancheck submittal	1.0 alw	0	0	by City
permit fee	1.0 alw			by City
equipment rental	1.0 alw	250	250	Genie Lift
	1.0	1500	1500	scaffold
tools	1.0 alw	100	100	
job phone	1.0 alw	100	100	
site cleanup	1.0 md	500	500	(broom clean)
fencing	1.0 alw	600	600	
debris boxes/hauling	1.0 ea	600	600	
tree protection	1.0 alw	400	400	
temporary toilet	1.0 alw	400	400	
special inspections	1.0 alw	1000		NIC
geotechnical inspections	1.0 alw	0	0	NIC
engineer inspections	1.0 alw	400	0	NIC

**Division 2 - Site work**

		subtotal=		\$1,271
remove sidewalk	1.0 sub	0	0	NIC
setup & protection	1.0 mat	300	300	
	1.0 md	500	500	
trench for electrical	1.0 sub	0	0	to gatehouse - NIC
drainage	1.0 sub	0	0	NIC
asphalt patch and slurry coat	1.0 sub	1000		NIC
irrigation & planting	1.0 sub	0	0	by City
supervision	0.5 md	650	325	

**Division 3 - Concrete**

		subtotal=		\$3,842
sidewalk replacement	2 ea	750		NIC
concrete base for plaque	1 alw	750	750	
packed sand and sleeve	4 ea	500	2000	
supervision	1.0 md	650	650	

**Division 4 - Masonry**

		subtotal=		\$0
brick pedestals	4.0 ea	400		NIC

<b>Division 5 - Metals</b>			subtotal=	\$10,905
metal frames	1.0 sub	9000	9000	Subcontractor includes setting in sand/gravel
supervision	1.0 md	650	650	
<b>Division 6 - Wood &amp; Plastics</b>			subtotal=	\$40,150
Redwood Column & Trim Pre assembled	1.0 mtl	25831	25831	Supplier
marine ply nailers	1.0 mtl	500	500	
install	2.0 md	500	1000	
Install column and trim parts	6.0 md	500	3000	
supervision	8.0 md	650	5200	
<b>Division 7 - Thermal &amp; Moisture Protection</b>			0	\$0
<b>Division 8 - Doors &amp; Windows</b>				
<b>Division 9 - Finishes</b>				\$10,484
wire brush finish	1.0 sub	4500	4500	by supplier
exterior aging	1.0 mat	2178	2178	chemical aging compound
apply	1.5 md	500	750	
sealer	1.0 mat	200	200	
apply	2.0 md	500	1000	
supervision	1.0 md	650	650	
<b>Division 10 - Specialties</b>				\$4,125
printed graphics on wood	1.0 alw	1500	1500	
plaque	1.0 alw	1500	1500	
supervision	1.0 md	650	650	
<b>Division 11 - Equipment</b>				\$0
<b>Division 12 - Furnishings</b>				\$0
<b>Division 13 - Special Construction</b>				\$0
<b>Division 14 - Conveying Systems</b>				\$0
<b>Division 15 - Mechanical</b>				\$0
<b>Division 16 - Electrical</b>				\$8,023
electrical underground	1.0 sub	2500		by City
LED up lighting	6.0 alw	500	3000	LV
electrical rough & finish	4.0 ea	150	600	
circuit/sub panel	1.0 sub	700	700	
conduit underground	1.0 sub	1500	1500	
supervision	2.0 md	650	1300	

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## STAFF REPORT

### City Council

**Meeting Date:**

**3/13/2018**

**Staff Report Number:**

**18-046-CC**

### Consent Calendar:

**Authorize the City Manager to enter into an agreement with Teri Black & Co., LLC to perform recruitment services; and approve a bid waiver and expenditure for the recruitment services agreement with Teri Black & Co., LLC not to exceed \$227,200**

### Recommendation

Staff recommends Council authorize the City Manager to enter into an agreement with Teri Black & Co., LLC to perform recruitment services and approve an expenditure for the recruitment services agreement with Teri Black & Co., LLC not to exceed \$227,200.

### Policy Issues

City Council directed staff to augment staff capacity through contract/professional services to expedite critical work efforts. City policy establishes limits on the award authority for City purchases, including professional services contracts. Only the City Council can approve a professional services contract of this amount and a bid waiver.

### Background

The City's management team recently experienced the resignation of our Police Chief; retirement announcements from our Community Services Director and Community Development Director; and a resignation announcement from our Assistant City Manager. The City's Human Resources Division does not possess adequate capacity to conduct the extensive advertising, marketing, and outreach efforts that a professional recruiter can provide, especially for executive and senior level positions.

### Analysis

With a current vacancy factor of 24% within the management group, the ability to implement City Council workplan initiatives and other critical work efforts continues to be challenging. Teri Black & Co., LLC has extensive experience with recruiting for all disciplines in local government. The firm most recently conducted our City Clerk recruitment, and assisted the City with a successful Assistant Community Development Director recruitment in 2017. In both efforts of searching for professional services to conduct these recruitments, another recruiting firm declined to provide quotes. Teri Black & Co., LLC has a unique familiarity with Menlo Park, which will decrease the recruitments' timelines and maintain standardization of the recruitment process, meeting the criteria for a bid waiver.

Teri Black & Co., LLC has indicated their readiness to work with the City of Menlo Park on recruiting for current vacancies, and availability to assist with up to eight (8) recruitments through the end of the calendar year.

Teri Black & Co., LLC is able to provide comprehensive executive searches that will include developing ideal candidate profiles; designing and executing advertising, marketing, and social media campaigns; conducting extensive personal outreach and screening interviews; facilitating candidate interviews; conducting background and reference checks; and assisting with negotiations and transition to the City of Menlo Park.

### **Impact on City Resources**

The professional fee for complete scope of work for up to eight recruitments will not exceed \$148,000. In addition, reimbursable expenses for up to eight recruitments will not exceed \$79,200, for a total cost not to exceed \$227,200. Reimbursable expenses could include advertising, recruitment brochures, postage, administrative support, shipping, background check fees, and consultant travel. This expenditure can be covered through the amended 2017-18 budget; no additional funding is required.

### **Environmental Review**

No environmental review is required for this item.

### **Public Notice**

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

### **Attachments**

A. Recruitment Price Quote from Teri Black & Co., LLC

Report prepared by:

Lenka Diaz, Human Resources Manager



STELLAR TALENT PREMIER SERVICE. POWERFUL RESULTS.



**City of Menlo Park  
Recruitment Price Quote  
Multiple Positions  
February 2018**

---

**SCOPE OF WORK**

The scope of work presented represents comprehensive executive search services for up to eight (8) comprehensive recruitments which include the following activities:

- Develop ideal candidate profiles in consultation with the client/stakeholders
- Design and execute advertising, marketing and social media campaigns
- Produce and distribute recruitment brochures (traditional & electronic mail)
- Conduct extensive personal outreach
- Conduct screening interviews
- Develop and deliver written reports to client (highlighting the results of each recruitment and subsequent screening interviews)
- Design and facilitate candidate interviews with the Client
- Conduct background and reference checks (top candidates in each non-safety recruitment)<sup>1</sup>;
- Assist client with final selection deliberations
- Assist with negotiations and transition details

**QUALIFICATIONS**

TB&Co. has extensive experience with recruiting for all disciplines in local government and maintains an admirable client base in the Silicon Valley/Bay Area. In addition to Menlo Park, our other clients in the region include the Cities of Palo Alto, Mountain View, Redwood City, Menlo Park, Fremont, Pleasanton, San Mateo, Milpitas, Los Altos, Daly City, Brisbane, along with the Towns of Los Gatos and Hillsborough, among others.

City of Menlo Park  
Recruitment Quote 2018

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<sup>1</sup> California POST compliant public safety background check for safety positions is not included in this proposal. TBC will assist the City with securing a qualified and reputable investigator.

## PROFESSIONAL FEES

The professional fee for complete scope of work for up to eight (8) recruitments articulated in this quote will not exceed **\$148,000** (or \$18,500 per recruitment). Given our strong partnership with the City of Menlo Park, the fee reflects a 5% discount from our standard rates. Services include all on-site visits for the purposes of gathering feedback on candidate profiles, briefing client on results of each recruitment, facilitating panel interviews and assisting the client with selection deliberations.

## REIMBURSABLE EXPENSES (PER PROJECT)

Advertising	\$3,500
Recruitment Brochures & mailings	\$2,000
Administrative Support (misc. expenses)	\$2,400
Shipping & FedEx	\$ 450
Background & records checks	\$ 550
Consultant travel (Airfare, Transportation & Hotel x4 from LA; Mileage and/or hotel x5 from Napa)	\$1,000
<hr/>	
Project expenses (per project)	\$9,900

Total expenses not to exceed \$79,200 for eight (8) full recruitments. Professional fees and expenses are billed monthly as work progresses and expenses are incurred.

## Placement Guarantee

If a candidate selected and appointed by the City of Menlo Park terminates employment for any reason before the completion of the first year of service as a result of a comprehensive TBC recruitment, the firm will provide Menlo Park with the necessary consulting services required to secure a replacement. Professional consulting services will be provided at a discounted rate of 25-50% of the original fee.<sup>2</sup> Expenses will be covered by the Client.

## Fee for Additional Placements

Because of the challenging market for top talent, our clients are increasingly taking advantage of selecting more than one outstanding candidate from a single recruitment that will benefit the organization in a different capacity. In these instances, a \$5,000 placement fee will apply and will include completion of background check records review as well as reference checking.

City of Menlo Park

<sup>2</sup> To be negotiated at the time of re-engagement and will be dependent on scope of work needed to refill the position.

**LEAD CONSULTANT/PRIMARY CONTACT**

Teri Black will serve as the lead consultant and primary contact for all Menlo Park recruitments. Senior Recruiters Suzanne Mason and Bradley Wardle along with the TBC support team will also be engaged in the successful completion of these assignments.

Respectfully submitted:

A handwritten signature in black ink that reads "Teri Black". The signature is written in a cursive, flowing style.

Teri Black  
President/CEO

Date: February 8, 2018

Teri Black & Co., LLC  
3510 Torrance Blvd., Suite 209  
Torrance, CA 90503  
tel 424.296.3111  
EIN #13-4346458

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**STAFF REPORT**

**City Council**

**Meeting Date:**

**3/13/2018**

**Staff Report Number:**

**18-049-CC**

**Public Hearing:**

**Consider the Planning Commission's recommendation and approve the conditional development permit and development agreement amendments to the Facebook East Campus, located at 1 Hacker Way (1601 Willow Road)**

**Recommendation**

The Planning Commission and staff recommend that the City Council make the necessary findings and take action to approve the proposed amendments to the Development Agreement (DA) and the Trip Cap associated with the Conditional Development Permit (CDP) for the Facebook East Campus (1601 Willow Road/1 Hacker Way), which are presented in the form of amended and restated documents. The amendments to the DA and CDP are required by the DA and mitigation measures from the certified EIR for the Facebook Campus Expansion Project, approved initially in November 2016 and amended in November 2017 by the City Council. The recommended actions are contained in Attachment A.

- Second Amended and Restated Conditional Development Permit to modify the Trip Cap in the Amended and Restated CDP for the East Campus, which was previously approved in May 2012, to implement the peak hour limitations (compared to the peak period limitations which are currently in the CDP) identified as a mitigation measure for both campuses in the certified EIR for the Facebook Campus Expansion Project. The proposed amendments to the Trip Cap would also clarify, for consistency, those trips which are excluded under the Trip Cap. The amendments to the Trip Cap would result in an East Campus Trip Cap consistent with the Trip Cap that governs the West Campus (Buildings 20, 21, 22, 23, and the hotel). Facebook also requested that the Second Amended and Restated Conditional Development Permit for the East Campus include updates to reflect changes in ownership that have occurred in the interim and completion of items. No other amendments are proposed for the CDP.
- Amended and Restated Development Agreement to remove the ability for Facebook to partially reduce its annual payment in exchange for a reduction in the allowed number of trips, but still allow the right to suspend in the entirety. This change was identified in Section 10 of the City Council Approved DA for the Facebook Campus Expansion Project and the amendment to the East Campus DA is required for implementation. The proposed amendments to the DA also include clarifications to reflect the change in ownership of the property.

The Planning Commission recommended approval, with no modifications, of the requested CDP and DA amendments to implement the approvals associated with the Facebook Campus Expansion Project at its meeting on February 5, 2018. The recommended actions for the City Council are outlined in Attachment A.

**Policy Issues**

For these amendments to the East Campus DA and CDP, the City Council should consider The Planning

Commission's recommendation that the changes, as presented, conform to the requirements of the DA and the mitigation monitoring and reporting program (MMRP) from the certified EIR for the Campus Expansion Project, which were approved by the City Council. The City Council should also consider whether the additional text changes and the proposed clarifications to the East Campus DA, CDP, and Trip Cap are appropriate and consistent with City policy. The City Council is the final acting body on the proposed amendments.

## **Background**

### ***Site location***

The Facebook East Campus is located north of Bayfront Expressway at the intersection of Willow Road and Bayfront Expressway and is developed with nine buildings (Buildings 10 through 19). To the south, across Bayfront Expressway, and to the west of Willow Road, is the Facebook West Campus. The West Campus consists of two distinct phases: West Campus (Building 20) and the Facebook Campus Expansion Project (Buildings 21, 22, 23, and hotel). Building 21 is currently under construction, and construction for Building 22 is expected to begin in spring 2018. An additional Facebook campus, known as the Willow Village (formerly Menlo Science and Technology Park), is located southeast of the East Campus, along the eastern side of Willow Road at the intersection of Hamilton Avenue and Willow Road. Facebook currently uses a number of the existing buildings at the Willow Village site for offices or office-related uses, and has submitted plans for a comprehensive redevelopment of the site. A location map showing the East Campus, West Campus, and Willow Village is included in Attachment B.

### ***Project history***

The amended and restated CDP and the DA for the East Campus were approved in June 2012. The first CDP and DA for the West Campus (Building 20) was approved in April 2013. In November 2016, the City Council approved the land use entitlements, including the amended and restated CDP and DA, and certified the EIR for the Facebook Campus Expansion Project, which encompassed the remainder of the TE Campus. The approved project included two new office buildings (Buildings 21 and 22) and a 200-room limited service hotel. The CDP and DA also incorporated the conditions of approval for the existing Building 23 (300 Constitution Drive).

In February 2017, Facebook submitted an application for a CDP amendment, DA amendment, and associated environmental review for modifications to the approved Facebook Campus Expansion Project and the City Council reviewed and approved the requested amendments in November 2017. Building 21 (Phase One) of the Campus Expansion Project is currently under construction and anticipated to be complete in spring 2018.

## **Analysis**

### ***Project description***

Section 10 of the DA for the approved Facebook Campus Expansion Project includes a requirement that the DA for the East Campus be amended to remove the ability for Facebook to reduce its payments to the City commensurate with a reduction to the trips permitted by the Trip Cap. Further, the certified EIR contained Mitigation Measure TRA-1.2 that required a reduction in the maximum number of allowable peak-hour share of vehicle trips to no more than 50 percent of the two-hour peak period vehicle trip cap. This mitigation measure applies to the West Campus and the East Campus. The amendments to the East Campus CDP and the DA are required prior to occupancy of Building 21. The proposal before the Planning Commission is generally limited to amendments to the DA and CDP for the East Campus to implement the DA and comply

with the MMRP for the Facebook Campus Expansion Project. The specific amendments to each document are described in more detail in the following sections.

#### Conditional Development Permit Amendment

The East and West Campuses include a limit on the number of daily and peak period vehicle trips to and from the site. These are tracked using an automated monitoring system, with the results provided to Transportation Division staff at regular intervals. The West Campus Trip Cap includes the Facebook Campus Expansion Project (Buildings 21, 22, and the hotel) and is also inclusive of Buildings 20 and 23. Before the Facebook Campus Expansion Project, prior entitlements included morning and evening peak period and daily caps; however, for the Facebook Campus Expansion Project, a new peak hour cap was also required as a transportation mitigation measure. The environmental review and analysis for the Facebook Campus Expansion Project determined that limiting the maximum number of trips in any one hour of the peak period to 50 percent of the total maximum for the peak period would reduce a number of potentially significant impacts to less than significant with mitigation. However, the analysis determined that the mitigation would only be effective if applied retroactively to the East Campus. Therefore, the Trip Cap associated with the East Campus has been revised to limit 50 percent of the maximum permitted peak period trips in either peak hour (7:00-8:00 a.m.; 8:00-9:00 a.m. in the AM Peak Period and 5:00-6:00 p.m. and 6:00-7:00 p.m. for the PM Peak Period). The updated Trip Cap would also include clarifying language regarding the exempt trips from the Trip Cap, consistent with the adopted Trip Cap for the Campus Expansion Project. The revised Trip Cap is located in Attachment C and the complete draft Second Amended and Restated CDP (with Trip Cap) is included in Attachment D for reference. The draft City Council resolution for the Second Amended and Restated CDP is included in Attachment E. As stated previously, Facebook also requested that the Second Amended and Restated CDP for the East Campus include updates to reflect changes in ownership that have occurred in the interim and completion of items, including one-time mitigation measures. No other amendments to the East Campus CDP are proposed. In addition, with the exception of clarifications on the exempt trips, no changes to other aspects of the Trip Cap, such as definitions, monitoring requirements, and enforcement are proposed. The proposed amendment would implement the required mitigation measures from the certified EIR and would be consistent with the entitlements for the East Campus, West Campus, and Facebook Campus Expansion Projects.

#### Development Agreement Amendment

The entitlements associated with Facebook's occupancy of the East Campus in 2012 allowed a density increase with a trip cap (and if the density increase was suspended, required compliance with the employee cap contained in the original approvals for the Sun Microsystems Project). The East Campus DA also established an annual payment and allowed Facebook to reduce that annual payment in exchange for a reduction in the number of trips. The Facebook Campus Expansion Project DA, however, requires modifications to the East Campus DA to eliminate Facebook's right to reduce the annual payment in exchange for a reduction in the allowed number of trips; provided, however, that Facebook will retain the right to suspend the density increase and comply with the employee/density cap contained in the original project approvals for the Sun Microsystems project. If Facebook elects to suspend the density increase, then Facebook's obligations to make annual payments will likewise be suspended in its entirety.

In addition, the amendments to the DA include modifications to the trip cap requirements for consistency with the proposed amendments to the trip cap in the CDP, updated identification of property ownership and the parties to the agreement, and acknowledgement of certain completed and ongoing public benefits in the recitals. These modifications do not affect the negotiated public benefits and requirements in the DA. The proposed amended and restated DA is included in Attachment F and the draft ordinance is included in Attachment G.

### ***Planning Commission Review and Recommendation***

At its meeting on February 5, 2018, the Planning Commission reviewed the proposed amendments to the CDP and DA for the East Campus. The Planning Commission voted affirmatively to recommend approval of the proposed CDP and DA amendments to the East Campus for implementation of the Facebook Campus Expansion Project MMRP and DA, as outlined in Attachment A without any modifications

### **Correspondence**

Staff has not received any items of correspondence on the proposed project.

### **Impact on City Resources**

The project sponsor is required to pay Planning, Building and Public Works permit fees, based on the City's Master Fee Schedule, to fully cover the cost of staff time spent on the review of the project. There are no changes to the public benefits received by the city through the East Campus DA.

### **Environmental Review**

An EIR was prepared and certified for the East Campus. An EIR was prepared and certified for the Facebook Campus Expansion Project. The proposed amendments to the CDP and DA are required to comply with the certified EIR and the Mitigation Monitoring and Reporting Program for the Facebook Campus Expansion Project. The requested amendments are consistent with the certified EIR for the East Campus and the Facebook Campus Expansion Project.

### **Public Notice**

Public Notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting. Public notification also consisted of publishing a notice in the local newspaper and notification by mail of owners and occupants within a 300-foot radius of the subject property.

### **Attachments**

- A. Recommended Actions
- B. Location Map
- C. Draft East Campus Trip Cap
- D. Draft East Campus Second Amended and Restated Conditional Development Permit
- E. Draft Resolution Adopting Second Amended and Restated Conditional Development Permit
- F. Draft East Campus Amended and Restated Development Agreement
- G. Draft Ordinance Adopting Amended and Restated Development Agreement

The previously approved conditional development permit and development agreement are available for review on the City-maintained project page at [menlopark.org/facebookcampusproject](http://menlopark.org/facebookcampusproject).

Report prepared by:

Kyle Perata, Senior Planner

Mark Muenzer, Assistant Community Development Director



**Attachment A**  
**RECOMMENDED ACTIONS FOR CITY COUNCIL –**  
**Facebook East Campus**  
**1601 Willow Road**  
**(1 Hacker Way)**

**Environmental Review**

1. The City Council finds that (a) an EIR was prepared for the approved East Campus Project and the approved Facebook Campus Expansion Project; (b) that the proposed amendments to the East Campus CDP and DA are required to comply with the certified EIR and the Mitigation Monitoring and Reporting Program for the Facebook Campus Expansion Project; and (c) that the requested amendments are consistent with the certified EIR for the East Campus and Facebook Campus Expansion Projects as outlined in the recitals for the resolution for the CDP amendment and the ordinance for the DA amendment.

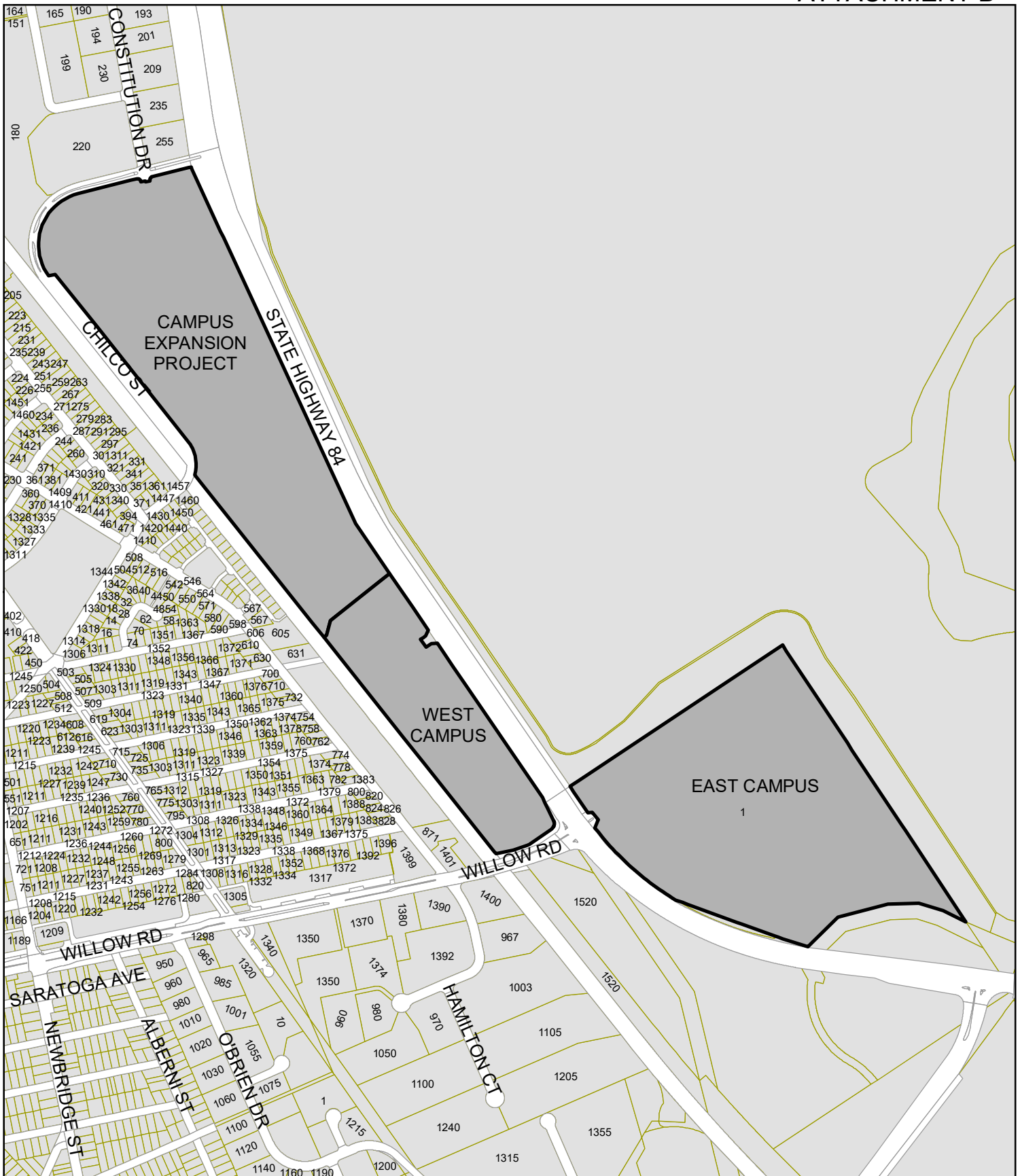
**Conditional Development Permit**

2. Adopt a resolution approving the Second Amended and Restated Conditional Development Permit for the Facebook East Campus located at 1 Hacker Way (Attachment E).

**Development Agreement**

3. Introduce an ordinance approving the Amended and Restated 1601 Willow Road Development Agreement for the Facebook East Campus at 1 Hacker Way (Attachment G).

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CITY OF  
MENLO PARK

# CITY OF MENLO PARK

## LOCATION MAP

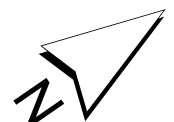
### 301-309 CONSTITUTION DRIVE & 1 FACEBOOK WAY

DRAWN: THR

CHECKED: KTP

DATE: 02/05/18

SHEET: 1



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## EXHIBIT A

### **TRIP CAP MONITORING AND ENFORCEMENT POLICY<sup>1</sup>**

The Facebook project includes both an East Campus and a West Campus. This Trip Cap Monitoring and Enforcement Policy is specific to the East Campus.

#### **DEFINITIONS**

**Trip** – A single vehicle (car, truck, van, shuttle, etc.) arriving at a location in Menlo Park, whose occupant(s)' final destination is the East Campus, or a single vehicle departing from a location in Menlo Park, whose occupant(s)' origin is the East Campus. Therefore, for example, a roundtrip by a single vehicle arriving at a location in Menlo Park and departing from a location in Menlo Park whose occupant(s)' destination and origin is the East Campus equals two trips. A vehicle transiting from the East Campus to the West Campus or from the West Campus to the East Campus is a trip. A single shuttle coming from outside Menlo Park or from the Menlo Park CalTrain station that makes stops at multiple campuses shall only count as one trip against the Daily Trip Cap; however, campus entries and exits associated with such intra-campus shuttle trips occurring during the peak periods shall count fully against the Peak Hour Trip Caps. Shuttles and trams utilizing the undercrossing between the East and West Campus shall not count against either the Daily Trip Cap or the Peak Hour Trip Caps. Trips also do not include bicycles (or other self-powered modes of travel).

**Peak Hour Trip Cap** – The maximum number of trips allowed in each hour of the AM Peak Period or the PM Peak Period.

**Peak Period** – Roadway morning and evening commuter peak travel times:

- AM Peak Period - 7:00 AM to 9:00 AM
- PM Peak Period - 4:00 PM to 6:00 PM

**Daily Trip Cap** – The maximum number of trips per day.

**Trip Cap** – Generally refers to the AM Peak Hour Trip Caps, PM Peak Hour Trip Caps and the Daily Trip Cap.

#### **TRIP CAP**

The Trip Cap is part of the Facebook project definition and is included in the Conditional

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<sup>1</sup> This Trip Cap Monitoring and Enforcement Policy was prepared by the City of Menlo Park in consultation with Facebook.

Development Permit (CDP) for the project.<sup>2</sup> Therefore, one way to think about the Trip Cap is in terms of building square footage. A CDP typically defines the maximum building square footage. Increases in building square footage that exceed the maximum permitted building square footage are not allowed without an application for and approval of a change to the CDP. Any increase in building square footage without the appropriate approval violates the CDP. The same is true for the Trip Cap. Facebook must comply with the Trip Cap and may not exceed the Trip Cap without an application for and approval of a change to the CDP. If the Trip Cap is exceeded without the appropriate approval, Facebook is in violation of the CDP.

The Trip Cap proposed as part of Facebook's East Campus project definition is as follows:

- AM Peak Period Trip Caps:
  - 1,300 trips are permitted between 7:00 a.m. and 8:00 a.m.
  - 1,300 trips are permitted between 8:00 a.m. and 9:00 a.m.
- PM Peak Period Trip Caps:
  - 1,300 trips are permitted between 4:00 p.m. and 5:00 p.m.
  - 1,300 trips are permitted between 5:00 p.m. and 6:00 p.m.
- Daily Trip Cap: 15,000 trips

## **MONITORING**

To monitor compliance with the Trip Cap, traffic counts shall be taken at the East Campus. The monitoring shall be done through automated means (e.g., imbedded loop detectors in the pavement in each travel lane or video detection) approved by the City.<sup>3</sup> All vehicular entrances to the East Campus shall be included in the monitoring. Facebook shall be solely responsible for paying all costs related to monitoring, including, but not limited to, development, installation, maintenance and repair of all monitoring equipment.

The City reserves the option to require Facebook to monitor neighborhood parking intrusion in the Belle Haven neighborhood, parking on other public streets in the City, or parking at any off-site parking lot(s) in Menlo Park (other than the West Campus or any other property or properties leased or owned by and occupied by Facebook) if it is observed or suspected that vehicles whose occupant(s)' final destination is the East Campus are parking at any of these locations. If the City requires monitoring of these off-

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<sup>2</sup> This Trip Cap applies to the East Campus and applies to Facebook and Facebook's successor(s) and assign(s) through the Second Amended and Restated Conditional Development Permit.

<sup>3</sup> City approvals related to monitoring equipment will be through the Director of Public Works or his/her designee.

site locations and, after investigation, it is confirmed that vehicle occupant(s) whose final destination is the East Campus are parking vehicles at these off-site locations (other than the West Campus or any other property or properties leased or owned by and occupied by Facebook), the trips to these locations will be counted toward the Trip Cap.

Monitoring program details are as follows:

- **Monitoring Days/Times** – Each hour within the AM Peak Period, each hour within the PM Peak Period and total daily trips will be monitored on all non-holiday weekdays. Holidays are those days identified as State holidays in California Government Code Section 6700.
- **Exclusions – Two types of exclusions from the Trip Cap shall be permissible as discussed below:**
  - Special Events: To account for special events and their effect on trips, Facebook may have up to 12 special event exclusions per year or 12 days on which one or more of the AM Peak Hour Trip Caps, PM Peak Hour Trip Caps or Daily Trip Cap are exceeded, but are not considered violations of the Trip Cap. These special events do not represent typical operating conditions at the East Campus. A special event will be defined as an activity that is not typical of the normal operations of the East Campus and will likely involve more than East Campus employees. If the Trip Cap has been violated as a result of a special event, Facebook shall provide documentation to the City that a special event took place. Upon City review and approval, in the City's sole and reasonable discretion, an exclusion for a special event shall apply.
  - Non-event exclusions: For non-special events, Facebook will be allowed three days on which one or more of the AM Peak Hour Trip Caps, PM Peak Hour Trip Caps or Daily Trip Cap are exceeded within a 180 day period without incurring penalties. These non-event exclusion days are intended to allow Facebook time to correct the Trip Cap violation. If Facebook exceeds the Trip Cap on more than three days within a 180 day period, then the non-event exclusion is exhausted and penalties will be imposed for violations of the Trip Cap until compliance is reached for a consecutive 180 day period. Additional violations, if any, within the 180 day compliance period, will re-set the 180 day compliance period. If after a consecutive 180 day period, Facebook remains in full compliance with the Trip Cap, then the three day exclusion will become available again.
- **Count Equipment** – Automated count equipment will be designed and constructed at Facebook's sole expense to collect data on the number of trips at

the two East Campus driveways and send the data back to the City offices. The type of count equipment (initial and any future changes) shall be approved by the City, in consultation with Facebook and considering the latest technologies for detection, counting and reporting. The City shall not unreasonably withhold approval of initial count equipment or any future equipment which achieves the result envisioned in this document. The City shall also approve the count equipment that will be used to monitor off-site locations, if the City exercises the option to require such monitoring. The City shall not unreasonably withhold approval of such additional count equipment.

- **Initial Calibration Process** – Once the count equipment has been established, a calibration process will be undertaken to determine the reliability and accuracy of the count equipment. Depending on the type of equipment, the count accuracy can be affected by a number of environmental factors which will need to be confirmed. This calibration process would be conducted prior to the East Campus reaching full occupancy.
- **Determination of Reliability (Sensitivity) Factor** – Based on the calibration analysis, the City and Facebook will agree to a reliability factor for the count stations which will be used to evaluate the count results consistent with what the City and Facebook have historically agreed upon. The reliability factor would represent the margin of error inherent in the vehicle counting equipment, and would address the exclusion of trips whose final destination is not the East Campus (i.e. wrong turns, uninvited guests, etc.). The reliability factor would also account for single shuttles coming from outside Menlo Park or from the Menlo Park CalTrain station and making stops at multiple campuses. Periodically, the reliability factor, based on reporting from Facebook, may be modified to address the anticipated or actual number of shuttles coming from outside Menlo Park or from the Menlo Park CalTrain station making stops as part of one trip at multiple campuses outside of the peak period. At a minimum, Facebook shall provide an annual report to the Transportation Manager for each upcoming year that provides data on the proposed number of shuttle trips so that the City may analyze whether the reliability factor is accurately accounting for single shuttles coming from outside Menlo Park or from the Menlo Park CalTrain station and making stops at multiple campuses.
- **Periodic Count Equipment Testing/Recalibration** – The vehicle detection system will be periodically tested to ensure the accuracy of the monitoring counts. During the first two years of operation, testing will be conducted at six month intervals. If these tests show that the system is operating reliably, then testing can be reduced to once a year. If the equipment is thought to be out of calibration, Facebook will work with the City to test and calibrate the equipment if necessary.



The City will have final approval, which approval shall be granted or withheld in a reasonable manner, on all testing and calibration.

- **Installation and Repairs** – The count equipment shall be installed and in good working order. The City shall have final approval, which approval shall be granted or withheld in a reasonable manner, of the contractor completing the installation and the maintenance contractor completing any repairs. Non-emergency repairs and maintenance of the monitoring equipment shall occur only on evenings and weekends, unless otherwise approved by the City. The Transportation Division shall be notified at least 48 hours in advance of any non-emergency repairs or maintenance work. The City Transportation Division shall be notified within 24 hours of any emergency repairs. City inspection and approval of any repairs or maintenance is required. Failure to keep monitoring equipment operational in good working order will be considered a violation of the Trip Cap after two working days, unless the repairs/maintenance require additional time as approved by the City and Facebook is diligently pursuing such repairs/maintenance. The Trip Cap penalty will not be enforced during the repair/maintenance of the monitoring equipment. If the City, in its sole and reasonable discretion, determines that Facebook is not diligently pursuing the repairs/maintenance, the City may elect to perform the repairs/maintenance and charge the cost of the repair/maintenance, staff time, and 15 percent penalty fee to Facebook.
- **Access to Count Equipment/Reporting** – The City shall have the ability to access the count equipment at any time after reasonable prior notice to Facebook. Facebook will not have access to the count equipment, unless approved by the City or in case of the need for emergency repairs. The City shall not unreasonably withhold approval of access for repair/maintenance contractors. Facebook shall have “read-only” access to the reporting data, but shall have the ability to record such data and run history reports in order to track trends. Reporting data shall be provided to Facebook and the City in real time. Real time data will provide Facebook the opportunity to take immediate action, if necessary, to avoid violating the Trip Cap.

## **ENFORCEMENT**

Facebook shall be responsible not only for monitoring, but also for achieving compliance with the Trip Cap, which includes, by definition, all trip cap measurements on a daily basis (the AM Peak Hour Trip Caps, the PM Peak Hour Trip Caps and the Daily Trip Cap). The City shall enforce compliance with the Trip Cap.

If, on a given day, the results of the monitoring indicate that the number of trips is at or below the Trip Cap, considering the reliability factor, then Facebook is considered in compliance. If, however, the monitoring, considering the reliability factor, reveals that any

of the AM Peak Hour Trip Caps or PM Peak Hour Trip Caps or the Daily Trip Cap has been exceeded (after accounting for any permitted exclusions), Facebook is in violation of its CDP and the City may take steps to enforce the Trip Cap.

The specifics for enforcement are as follows:

- **Threshold** – If there are any AM Peak Hour Trip Cap, PM Peak Hour Trip Cap or Daily Trip Cap violations that do not qualify for an exclusion as discussed above, then penalties will be imposed.
- **Penalties** – Monetary penalties will be imposed for violations of the Trip Cap in excess of the threshold. Penalties are calculated on a per trip basis and progressively increasing penalties will be imposed for subsequent violation(s) of the Trip Cap based on a tiered system described in the table below. Penalties will be applied for each violation including the AM Peak Hour, PM Peak Hour and the Daily Period. If any of the AM Peak Hour Trip Caps, and/or PM Peak Hour Trip Caps and Daily Trip Cap are exceeded on the same day, the penalty paid shall be the greater of the sum of the penalties for the AM Peak Hour and PM Peak Hour or the Daily penalty. The penalty payment schedule is shown in the table below (the intent is for the same penalty rate to apply to both the East and West Campuses):

Penalty Tier <sub>1</sub>	Applicability	Penalty Amount
Tier 1	Tier 1 is the default tier and applies for the month unless one of the other tiers is applicable.	\$50 per trip per day
Tier 2	Tier 2 applies for the month if either (a) penalties were imposed in both of the 2 months immediately preceding that month or (b) penalties were imposed in any 4 of the 6 months immediately preceding that month. Tier 2 will not apply if Tier 3 applies.	\$100 per trip per day
Tier 3	Tier 3 applies for the month if penalties were imposed in each of the 6 months immediately preceding that month.	\$200 per trip per day

1 Only one tier is applicable for any given violation

An example table showing the penalty amounts:

<b>Penalty Cost Per Day</b>
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<b>Vehicles over Trip Cap</b>	<b>Tier 1</b>	<b>Tier 2</b>	<b>Tier 3</b>
100	\$5,000	\$10,000	\$20,000
500	\$25,000	\$50,000	\$100,000
1000	\$50,000	\$100,000	\$200,000
2000	\$100,000	\$200,000	\$400,000

Example calculations:

**Daily penalty greater:**

7:00-8:00 AM Peak Hour exceeds the AM Peak Hour Trip Cap by 100 trips  
 5:00-6:00 PM Peak Hour exceeds the PM Peak Hour Trip Cap by 50 trips  
 Daily trips exceed the Daily Trip Cap by 400 trips

The payment would be:

AM Peak Hour penalty = 100 trips x \$50/trip = \$5,000  
 PM Peak Hour penalty = 50 trips x \$50/trip = \$2,500  
 Total Peak Period penalty = \$7,500  
 Daily penalty = 400 trips x \$50/trip = \$20,000

**Penalty Paid = \$20,000**

**AM Peak Period and PM Peak Period penalty greater:**

7:00-8:00 AM Peak Hour exceeds the AM Peak Hour Trip Cap by 100 trips  
 5:00-6:00 PM Peak Hour exceeds the PM Peak Hour Trip Cap by 50 trips  
 Daily trips exceed the Daily Trip Cap by 100 trips

The payment would be:

AM Peak Hour penalty = 100 trips x \$50/trip = \$5,000  
 PM Peak Hour penalty = 50 trips x \$50/trip = \$2,500  
 Total Peak Period penalty = \$7,500  
 Daily penalty = 100 trips x \$50/trip = \$5,000

**Penalty Paid = \$7,500**

The base penalties shall be adjusted annually starting at base year 2012 per the Consumer Price Index for All Urban Consumers All Items in the San Francisco-

Oakland-San Jose Metropolitan Area [1982-84=100]. Penalties are due and payable to the City within 30 days of the issuance of an invoice, which the City shall issue on a monthly basis. The City shall use the penalties collected for programs or projects designed to reduce trips or traffic congestion within Menlo Park and the City shall share 25 percent of the penalties collected with the City of East Palo Alto for use on transportation systems and solutions that help reduce traffic in the City of East Palo Alto around the East Campus. In addition to monetary penalties, failure to comply with the Trip Cap is considered a violation of the CDP and could result in revocation of the CDP.

Violations of the Trip Cap for the East Campus are independent of violations of the West Campus Trip Cap. This means, for instance, that if there are violations of the Trip Cap at the East Campus for the six months immediately preceding a particular month, but there are no violations of the Trip Cap at the West Campus during that same period, Tier 3 would be applicable to the East Campus and Tier 1 would be applicable to the West Campus.

- **Interim Measure** – If Facebook determines that it needs to secure parking in another location as an interim measure to maintain compliance with the Trip Cap, Facebook may, through the City’s entitlement process, obtain approval for the use of another private property in Menlo Park (not the East or West Campus) that includes both a building and associated parking. Trips to such an off-site location will not count toward the Trip Cap only if there will be no more trips to that off-site location than is allowed under the then current use of that property.
- **Compliance** – If after non-compliance, Facebook comes back into compliance with the Trip Cap and maintains compliance for 180 consecutive days, the scale of penalties will revert to the base level and the relevant threshold would once again apply before there is non-conformance and the onset of penalties.

**DRAFT SECOND AMENDED AND RESTATED  
CONDITIONAL DEVELOPMENT PERMIT****1601 Willow Road (1 Hacker Way)**

## 1. GENERAL INFORMATION:

- 1.1 Applicant: Facebook, Inc. (and its successors and assigns).
- 1.2 Nature of Project: Second Amended and Restated Conditional Development Permit, Amended and Restated 1601 Willow Road Development Agreement, Heritage Tree Removal Permits and Environmental Impact Report (EIR) for the implementation of a vehicular trip cap to accommodate an increase in employees at the Project site beyond 3,600 employees (Project).
- 1.3 Property Location (Project site): 1601 Willow Road (1 Hacker Way)
- 1.4 Assessor's Parcel Number: 055-411-150.
- 1.5 Area of Property: 57.35 acres.
- 1.6 Zoning: O (Office); previously M-2-X (General Industrial, Conditional Development), subject to Amended and Restated 1601 Willow Road Development Agreement.
- 1.7 Previous Entitlements Superseded: The Second Amended and Restated Conditional Development Permit and the Amended and Restated 1601 Willow Road Development Agreement supersede the Conditional Development Permit and associated Master Site Plan and Development Agreement for the Project site granted to Sun Microsystems in 1992.
- 1.8 Amended and Restated Conditional Development Permit: Certain specific mitigations and conditions that were included in the Amended and Restated Conditional Development, which was recorded in the Official Records of the County of San Mateo as document number 2012-095802, have been deleted and are not included in this Second Amended and Restated Conditional Development Permit because those mitigations and conditions have been completed and/or satisfied.
- 1.9 Notwithstanding anything to the contrary herein, if the Project-specific conditions set forth in this Second Amended and Restated Conditional Development Permit are not satisfied by the Applicant, the Second Amended and Restated Conditional Development Permit shall remain in full force and effect except that the right to exceed the Density Condition, as defined in Section 7.1.1, shall terminate.

## 2. DEVELOPMENT STANDARDS:

- 2.1 Floor Area Ratio (FAR) shall not exceed **45 percent** of the Project site.
- 2.2 Building coverage shall not exceed **50 percent** of the Project site.
- 2.3 Building setbacks shall be in accordance with the approved plans. Development shall comply with a minimum **50 foot** front yard, **50 foot** side yard and **50 foot** rear yard setback.
- 2.4 Building height for buildings 10, 11, 12, 14, 15 and 18 shall not exceed **35 feet**, for buildings 16 and 17 building heights shall not exceed **48 feet**, and building height for building 19 shall not exceed **20 feet**. All heights shall be measured from the average level of the highest and lowest point of the finished grade of that portion of the lot covered by the structure (height excludes elevator equipment rooms, ventilating and air conditioning equipment).
- 2.5 The on-site circulation and parking spaces shall be maintained consistent with the approved plans inclusive of a minimum of **3,165** parking spaces and a maximum of **3,450** parking spaces installed according to the approved plans. The difference of **285** parking spaces shall be maintained in landscape or other reserve (shuttle stops and loading zones). Landscape and other reserve spaces may be converted after occupancy exceeds 3,600 employees, pursuant to condition of approval 8.10.
- 2.6 All rooftop equipment shall be fully screened and integrated into the design of the building. Roof-top equipment shall comply with noise requirements of the Municipal Code.

## 3. USES:

- 3.1 The campus development is comprised of nine one to three-story buildings consisting of office space and associated amenity buildings, totaling 1,036,000 square feet. Permitted uses in the office and associated amenity buildings shall include the following:
  - 3.1.1 Administrative and professional offices, excluding medical/dental offices serving the general population;
  - 3.1.2 Medical and dental uses to serve on-site employees and contractors is permissible;
  - 3.1.3 General industrial uses including but not limited to warehousing, manufacturing, printing and assembling;
  - 3.1.4 Amenities and related uses intended to serve employees, contractors, and visitors, such as neighborhood-serving convenience retail, banks,

- community facility space, and restaurants, including those that serve alcoholic beverages;
- 3.1.5 Outdoor seating, temporary structures, and events associated with those uses listed above, subject to approved building permits and Fire District permits, as applicable;
  - 3.1.6 Activities involving the use of hazardous materials, such as emergency power generators, incidental to those uses listed above and subject to an approved Hazardous Materials Business Plan, Building Permit, San Mateo County Health Permit, and Menlo Park Fire Protection District permit; and
  - 3.1.7 Cellular telecommunications facilities if fully screened or integrated into the design of the building.
- 3.2 Conditional uses listed in the M-2 zoning district may be conditionally permitted through a use permit process, unless otherwise allowed in Section 3.1.

#### 4 SIGNS:

- 4.1 The maximum permissible sign area for the Project site is 200 square feet. Vehicular directional signage and signage not visible from the public right-of-way shall not count against the maximum sign areas. The square footage, location and materials for all signage shall be subject to review and approval by the Planning Division through the Sign Permit process, with an application and applicable filing fees.

#### 5. RECORDATION:

- 5.1 Concurrently with the recordation of the Amended and Restated 1601 Willow Road Development Agreement, the Applicant shall record the Second Amended and Restated Conditional Development Permit in the Official Records of the County of San Mateo, State of California.
- 5.2 The Second Amended and Restated Conditional Development Permit shall be in full force and effect on the effective date of the Amended and Restated 1601 Willow Road Development Agreement.

#### 6. MODIFICATIONS:

- 6.1 Modifications to the approved Project Plans may be considered according to the following:
  - 6.1.1 Substantially Consistent Modifications, which include any changes to or modifications of any portion of the Project which Applicant makes or proposes to make to the Project, provided such changes or modifications are in substantial compliance with and/or substantially consistent with the approved plans and the Project approvals, as

determined by the City Manager (in his/her reasonable discretion). Without limiting the foregoing, non-substantial modifications to the Project which do not affect permitted uses, density or intensity of use, restrictions and requirements relating to subsequent discretionary actions, monetary obligations or conditions or covenants limiting or restricting the use of the Property or constitute material changes shall be considered to be Substantially Consistent Modifications.

6.1.2 Minor Modifications, which do not affect permitted uses, density or intensity of use, restrictions and requirements relating to subsequent discretionary actions, monetary obligations, conditions or covenants limiting or restricting the use of the Property or similar material elements, based on the determination that the proposed modification(s) is consistent with other building and design elements of the approved Second Amended and Restated Conditional Development Permit, and will not have an adverse impact on the character and aesthetics of the Property. The Planning Commission shall be notified of approved Minor Modifications, and any member of the Commission may request within 14 days of receipt of the notice that the item(s) be reviewed by the Planning Commission.

6.1.3 Major Modifications (such as significant changes to the exterior appearance of the buildings or appearance of the Property) to the approved plans, as determined by the Community Development Director, may be allowed, subject to review and recommendation by the Planning Commission to the City Manager for final decision. The City Manager's determination shall be in accordance with the terms of the Amended and Restated 1601 Willow Road Development Agreement and shall take into account the Planning Commission's recommendation. The Planning Commission's recommendation shall be based on the determination that the proposed modification is compatible with other building and design elements or onsite/offsite improvements of the Second Amended and Restated Conditional Development Permit and will not have an adverse impact on safety and/or the character and aesthetics of the site. Major Modifications that are not approved by the City Manager may be appealed to the Planning Commission for review and recommendation to the City Council. City Council shall have final authority to approve Major Modifications.

6.2 Revisions to the Project which involve relaxation of the development standards identified in Section 2, material changes to the uses identified in Section 3, exceedance of the signage maximum square footages identified in Section 4, or modifications to the conditions of approval identified in Sections 8, 9 and 10 (other than changes deemed to be Substantially Consistent Modifications pursuant to Section 6.1.1 that can be authorized by the City Manager or Minor Modifications pursuant to Section 6.1.2) , constitute



Conditional Development Permit amendments that require public hearings by the Planning Commission and City Council. Such revisions may also require modifications to the plans and/or Amended and Restated 1601 Willow Road Development Agreement. Any application for amendment shall be made by the Applicant, in writing, to the Planning Commission. The Planning Commission shall then forward its recommendation to the City Council for revision(s) to the Second Amended and Restated Conditional Development Permit.

## 7. EMPLOYEE CAP/TRIP CAP:

- 7.1. To minimize environmental and community impacts resulting from utilization of the Project site, the Applicant shall enforce either an employee cap or a trip cap.
  - 7.1.1. The employee cap allows a maximum of 3,600 employees to occupy the Project site at any time subject to a Transportation Demand Management (TDM) program to reduce vehicle trips by 25 percent (collectively, Density Condition).
  - 7.1.2. If the Applicant elects to exceed the Density Condition, the Applicant shall be subject to a trip cap that sets the maximum number of morning and evening peak hour and daily trips (Trip Cap), and shall be subject to the terms of the Amended and Restated 1601 Willow Road Development Agreement. If the Amended and Restated 1601 Willow Road Development Agreement terminates, the right to the employee density increase terminates as well. The parameters and requirements of the Trip Cap are specified in the Trip Cap Monitoring and Enforcement Policy, which is included as Exhibit A and incorporated herein.

## 8. PROJECT SPECIFIC CONDITIONS - GENERAL:

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

- 8.2. Project Plans: Development of the Project shall be substantially in conformance with the following plans submitted by Gensler, BKF, CMG, KEMA and Fehr and Peers dated received by the Planning Division on April 20, 2012, consisting of 14 plan sheets, recommended for approval to the City Council by the Planning Commission on May 7, 2012, and approved by the City Council on May 29, 2012, except as modified by the conditions contained herein and in accordance with Section 6 (Modifications) of this document.
- 8.3. Generator Screening: Consistent with Project Plans, the two existing generators that do not have screening shall be screened to the satisfaction of the Community Development Director.
- 8.4. Refuse and Recyclables: All garbage bins and carts shall be located within a trash enclosure that meets the requirements of the solid waste disposal provider (Recology), and City Public Works Department and Planning Division, to the satisfaction of the Public Works Director. If additional trash enclosures are required to address the on-site trash bin and cart storage requirements of the Applicant, a complete building permit submittal shall be submitted inclusive of detailed plans, already approved by Recology, for review and approval of the Planning Division and the Public Works Department prior to each building permit issuance.
- 8.5. Alcohol and Beverage Control: The Applicant shall ensure that all on-site suppliers of alcoholic beverages apply for and receive approval of the appropriate Alcohol and Beverage Control (ABC) license prior to any on-site alcohol sales and/or service, to the satisfaction of the Community Development Director.
- 8.6. Landscape Parking Reserve: If the Applicant seeks to convert all or a portion of the identified landscape parking reserve to parking, a complete grading and drainage plan shall be submitted illustrating that there will be no net increase in impervious area and/or stormwater runoff on the Property, to the satisfaction of the Public Works Director. In addition, if lighting is proposed as part of the conversion of the landscape parking reserve, a complete lighting plan shall be submitted that illustrates no net increase in light spillover to adjacent natural areas, to the satisfaction of the Community Development Director.
- 8.7. Parking Intrusion: If the Applicant elects to exceed the Density Condition and be subject to the Trip Cap, the Applicant shall actively work to prevent the parking of employee and visitor vehicles (whose occupant(s)' final destination is the Project site) in adjacent neighborhoods, including, but not limited to, the Belle Haven neighborhood, on other public streets in the City, and on public streets in the City of East Palo Alto to the satisfaction of the Public Works Director. The City reserves the right to require monitoring of neighborhood parking intrusions consistent with the specifications of the Trip Cap Monitoring

and Enforcement Policy, attached hereto as Exhibit A and incorporated herein.

- 8.8. Special Event Tents: The Applicant shall obtain required building and Fire District permits for erection of special event tents requiring such permits, to the satisfaction of the Building Official.
- 8.9. Levee Maintenance: The Applicant shall periodically maintain and improve the levees in order to ensure that the condition of the levees remains adequate, to the satisfaction of the Public Works Director. In addition, the Applicant shall cooperate with Federal efforts to address repair and reconstruction of adjacent levees, to the satisfaction of the Public Works Director.
- 8.10. Bayside Landscaping: When performing landscape improvements to those portions of the Project site that abut the San Francisco Bay, the Applicant shall minimize potential stormwater runoff through the use of appropriate techniques, such as grassy swales, rain gardens, and other Low Impact Development (LID) measures, and will consult with a qualified environmental consultant familiar with California native plant communities, select suitable natives for landscaping and ensure that plants and trees chosen are compatible with the adjoining wildlife habitats, to the satisfaction of the Public Works Director.

## 9. INTENTIONALLY DELETED.

## 10. PROJECT SPECIFIC CONDITIONS – MITIGATION MEASURES

- 10.1 Willow Road and Bayfront Expressway Improvement: The proposed partial mitigation measures for the intersection of Willow Road and Bayfront Expressway include an additional eastbound right turn lane with a right turn overlap phase from Willow Road to Bayfront Expressway, a new Class I bikeway between the railroad tracks and the existing Bay Trail, closing the outbound direction of the driveway at Building 10 to simplify maneuvering through the stop-controlled intersection (inbound access would still be provided), lengthening the existing right-turn pocket at the westbound approach to a full lane between Bayfront Expressway and the stop-controlled intersection, and ensuring the crosswalk at the stop-controlled intersection is accommodated safely.

Prior to the 1601 Willow Road Development Agreement approval, the Applicant shall prepare a construction cost estimate for the proposed mitigation measures at the intersection of Willow Road and Bayfront Expressway for review and approval of the Public Works Director. Within 90 days of the effective date of the 1601 Willow Road Development Agreement, the Applicant shall provide a bond for improvements in the amount equal to the estimated construction cost for the intersection improvements plus a 30 percent contingency. Within 180 days of the effective date of the 1601 Willow

Road Development Agreement, the Applicant shall submit complete plans to construct the intersection improvements.

Complete plans shall include all necessary requirements to construct the improvements in the public right-of-way and on the egress approach, including but not limited to, grading and drainage improvements, utility relocations, traffic signal relocations/modifications, tree protection requirements, signage and striping modifications further west on Willow Road, and the design of the eastbound direction Class I bikeway from the railroad tracks to the intersection of Willow Road and Bayfront Expressway. The plans shall be subject to review and approval of the Public Works Department prior to submittal to Caltrans. The Applicant shall complete and submit an encroachment permit for approval by the City and Caltrans prior to construction of the intersection improvements. The Applicant shall construct the on-site improvements within 180 days of City approval of the plans. The Applicant shall construct the off-site improvements within 180 days of receiving approval from Caltrans.

If Caltrans does not approve the intersection improvements proposed within five years from the 1601 Willow Road Development Agreement effective date, and the Applicant demonstrates that it has worked diligently to pursue Caltrans approval to the satisfaction of the Public Works Director, in his/her sole discretion, then the Applicant shall be relieved of responsibility to construct the improvement and the bond shall be released by the City. Construction of this improvement by the Applicant shall count as a future credit toward payment of the Transportation Impact Fee (TIF) payable by the Applicant pursuant to the TIF Ordinance. In the event any portion of the intersection improvements is eligible for funding in whole or in part by the City/County Association of Governments (C/CAG) such improvements may be deferred by the City in its sole discretion to pursue such funding and the Applicant may be relieved of its responsibility to construct such portion of the intersection improvements as may be funded by C/CAG, or such responsibility may be deferred until eligibility for funding is determined. (MM-TR-1.1.a)

10.2 Intentionally deleted.

10.3 University Avenue and Bayfront Expressway Improvement: The proposed mitigation measure for the intersection of University Avenue and Bayfront Expressway includes an additional southbound through lane and receiving lane. A revised signal timing plan would also be needed. The additional southbound through lane and southbound receiving lane are not feasible due to the right-of-way acquisition from multiple property owners, potential wetlands, relocation of the Bay Trail, and significant intersection modifications, which are under Caltrans jurisdiction. However, the installation of a Class I bikeway (portion of the Bay Trail from west of the railroad tracks to the intersection of University Avenue and Bayfront Expressway) is a

feasible, partial mitigation measure for the impact. This partial mitigation measure would require paving, grading, drainage and signing and striping improvements.

Prior to the 1601 Willow Road Development Agreement approval, the Applicant shall prepare a construction cost estimate for the proposed partial mitigation measure along University Avenue between Bayfront Expressway and the railroad tracks for review and approval of the Public Works Director. Within 90 days of the effective date of the 1601 Willow Road Development Agreement, the Applicant shall provide a bond for improvements in the amount equal to the estimated construction cost for the improvements plus a 30 percent contingency. Within 180 days of the effective date of the 1601 Willow Road Development Agreement, the Applicant shall submit complete plans to construct the improvements.

Complete plans shall include all necessary requirements to construct the improvements in the public right-of-way, including but not limited to, grading and drainage improvements, utility relocations, and signage and striping modifications. The plans shall be subject to review and approval by the City and coordination with the City of East Palo Alto Public Works Departments prior to submittal to Caltrans. The Applicant shall complete and submit an encroachment permit for approval by the cities of Menlo Park and East Palo Alto, if required, and Caltrans prior to construction of the improvements. The Applicant shall construct the improvements within 180 days of receiving approval from Caltrans.

If Caltrans does not approve the proposed improvements within five years from the 1601 Willow Road Development Agreement effective date, and the Applicant demonstrates that it has worked diligently to pursue Caltrans approval to the satisfaction of the Public Works Director, in his/her sole discretion, then the Applicant shall be relieved of responsibility to construct the improvement and the bond shall be released by the City after the Applicant submits funds equal to the updated estimated construction cost to the City. The City may use the funds for other transportation improvements, including, but not limited to, bicycle, pedestrian, and transit improvements, and TDM programs throughout the City, with priority given to portions of the City east of US 101. Construction of these improvements is not eligible for a Transportation Impact Fee (TIF) credit. (MM-TR-1.1.c)

10.4 Intentionally deleted.

10.5 Intentionally deleted.

10.6 Intentionally deleted.

10.7 Willow Road and Newbridge Street: The potential mitigation measure for the intersection of Willow Road and Newbridge Street includes an additional

eastbound left-turn lane, an additional northbound receiving lane for the eastbound left turning traffic, an additional westbound through/right-turn lane, and an additional receiving lane for the westbound through traffic. The additional eastbound left-turn lane and northbound receiving lane are not feasible due to the right-of-way acquisition and property impacts required along Newbridge Street and at the southwest quadrant of the intersection, which is in the City of East Palo Alto. However, the additional westbound through/right-turn lane and westbound receiving lane is a feasible, partial mitigation measure for the impact. This partial mitigation measure would require traffic signal modifications, the removal of at least one heritage tree in front of 1157 Willow Road in order to accommodate the receiving lane, and the removal and relocation of a portion of the concrete masonry wall and landscaping near 1221 Willow Road.

Prior to the 1601 Willow Road Development Agreement approval, the Applicant shall prepare a construction cost estimate for the feasible mitigation measure at the intersection of Willow Road and Newbridge Street for review and approval of the Public Works Director. Within 90 days of the effective date of the 1601 Willow Road Development Agreement, the Applicant shall provide a performance bond for improvements in the amount equal to the estimated construction cost for the intersection improvements plus a 30 percent contingency. Within 180 days of the 1601 Willow Road Development Agreement effective date, the Applicant shall submit complete plans to construct a westbound through/right turn lane approximately 300 feet in length, and a westbound through receiving lane, from the Willow Road and Newbridge Street intersection to the beginning of the northbound US 101 on-ramp, based on impacts to the intersections of Willow Road and Newbridge Street.

Complete plans shall include all necessary requirements to construct the improvements in the public right-of-way, including, but not limited to, grading and drainage improvements, utility relocations, traffic signal relocations/modifications, tree protection requirements, and striping modifications. The plans shall be subject to review and approval by the City and coordination with the City of East Palo Alto Public Works Departments prior to submittal to Caltrans. The Applicant shall complete and submit an encroachment permit for approval by the cities of Menlo Park and East Palo Alto, if required, and Caltrans prior to construction of the intersection improvements. The Applicant shall construct the improvements within 180 days of receiving approval from Caltrans.

If Caltrans does not approve the intersection improvements proposed within five years from the 1601 Willow Road Development Agreement effective date, and the Applicant demonstrates that it has worked diligently to pursue Caltrans approval to the satisfaction of the Public Works Director, in his/her sole discretion, then the Applicant shall be relieved of responsibility to construct the improvement and the bond shall be released by the City after the Applicant submits funds equal to the updated estimated construction cost

to the City. The City may use the funds for other transportation improvements, including, but not limited to, bicycle, pedestrian, transit improvements, and TDM programs, throughout the City, with priority given to those portions of the City east of US 101. The partial mitigation improvements are not eligible for a Transportation Impact Fee (TIF) credit. (MM-TR-6.2.d)

10.8 Intentionally deleted.

10.9 Nesting Bird Protection: The Applicant shall implement the following measures to reduce impacts to nesting migratory birds:

10.9.1 To facilitate compliance with State and federal law (Fish and Game Code and the Migratory Bird Treaty Act (MBTA)) and prevent impacts to nesting birds, the Applicant shall avoid the removal of trees, shrubs, or weedy vegetation February 1 through August 31 during the bird nesting period. If no vegetation or tree removal is proposed during the nesting period, no surveys are required. If it is not feasible to avoid the nesting period, a survey for nesting birds shall be conducted by a qualified wildlife biologist no earlier than seven days prior to the removal of trees, shrubs, weedy vegetation, buildings, or other construction activity. (MM-BR-4.1.a)

10.9.2 Survey results shall be valid for the tree removals for 21 days following the survey. If the trees are not removed within the 21-day period, then a new survey shall be conducted. The area surveyed shall include all construction areas as well as areas within 150 feet outside the boundaries of the areas to be cleared or as otherwise determined by the biologist.

In the event that an active nest for a protected species of bird is discovered in the areas to be cleared, or in other habitats within 150 feet of construction boundaries, clearing and construction shall be postponed for at least two weeks or until the biologist has determined that the young have fledged (left the nest), the nest is vacated, and there is no evidence of second nesting attempts. (MM-BR-4.1.b)

10.10 Intentionally deleted.

## 11. GENERAL CONDITIONS

11.1 Covenants Run with the Land. All of the conditions contained in this Second Amended and Restated Conditional Development Permit shall run with the land comprising the Property and shall be binding upon, and shall inure to the benefit of the Applicant and its heirs, successors, assigns, devisees, administrators, representatives and lessees, except as otherwise expressly provided in this Second Amended and Restated Conditional Development Permit. Upon transfer, sale or assignment of the Property to another owner, the Applicant shall be released from its obligations pursuant to this Second Amended and

Restated Conditional Development Permit that arise or accrue subsequent to the effective date of the transfer, sale and/or assignment.

- 11.2 Severability. If any condition of this Second Amended and Restated Conditional Development Permit, or any part hereof, is held by a court of competent jurisdiction in a final judicial action to be void, voidable or enforceable, such condition, or part hereof, shall be deemed severable from the remaining conditions of this Second Amended and Restated Conditional Development Permit and shall in no way affect the validity of the remaining conditions hereof.
- 11.3 Exhibits. The exhibits referred to herein are deemed incorporated into this Second Amended and Restated Conditional Development Permit in their entirety.

Exhibit A: Trip Cap Monitoring and Enforcement Policy



## RESOLUTION NO. 6427

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO PARK  
APPROVING THE SECOND AMENDED AND RESTATED  
CONDITIONAL DEVELOPMENT PERMIT FOR THE PROPERTY  
LOCATED AT 160 WILLOW ROAD (1 HACKER WAY)**

**WHEREAS**, on May 29, 2012 the City Council of the City of Menlo Park having fully reviewed, considered, and evaluated all the testimony and evidence submitted voted affirmatively to approve the Amended and Restated Conditional Development Permit for the Facebook East Campus Project (“East Campus”) and voted affirmatively to certify the Environmental Impact Report (“EIR”) for the East Campus; and

**WHEREAS**, the Amended and Restated Conditional Development Permit allowed Facebook to exceed the employee cap for the East Campus provided that Facebook complied with a Trip Cap that included limitations on trips to and from the site during the AM and PM Peak Periods, and a Daily Trip Cap; and

**WHEREAS**, on November 1, 2016 the City Council of the City of Menlo Park having fully reviewed, considered and evaluated all the testimony and evidence submitted voted affirmatively to approve the Amended and Restated Conditional Development Permit for the Facebook Campus Expansion Project (“Campus Expansion Project”); and

**WHEREAS**, an EIR was prepared for the Campus Expansion Project and certified by the City Council on November 1, 2016 and included a Mitigation Monitoring and Reporting Program (“MMRP”) that identified feasible mitigation measures to reduce potentially significant impacts to less than significant with mitigation; and

**WHEREAS**, the MMRP for the Campus Expansion Project included Mitigation Measure TRA-1.2 which reduced the maximum number of allowable peak-hour vehicle trips to no more than 50 percent of the 2-hour peak-period under the Trip Cap for the Campus Expansion Project and the East Campus; and

**WHEREAS**, the first phase of the Campus Expansion Project (Building 21) is currently under construction and anticipated to be completed in spring 2018; and

**WHEREAS**, the proposed amendments to the East Campus Amended and Restated Conditional Development Permit are required prior to occupancy of Building 21 to implement the Mitigation Measure identified certified EIR for the Campus Expansion Project to reduce the maximum number of allowable peak-hour vehicle trips to no more than 50 percent of the 2-hour peak-period under the Trip Cap for the East Campus; and

**WHEREAS**, Facebook requested that the Second Amended and Restated Conditional Development Permit for the East Campus include updates to reflect changes in ownership that have occurred in the interim and completion of certain mitigations and conditions; and

**WHEREAS**, after notice having been lawfully given, a public hearing was scheduled and held before the Planning Commission of the City of Menlo Park on February 5, 2018 whereat all persons interested therein might appear and be heard; and

**WHEREAS**, the Planning Commission of the City of Menlo Park having fully reviewed, considered and evaluated all the testimony and evidence submitted in this matter, including the certified EIRs for the East Campus and the Campus Expansion Project, voted affirmatively to recommend to the City Council of the City of Menlo Park to approve the Second Amended and Restated Conditional Development Permit; and

**WHEREAS**, after notice having been lawfully given, a public hearing was scheduled and held before the City Council of the City of Menlo Park on March 13, 2018 whereat all persons interested therein might appear and be heard; and

**WHEREAS**, upon the effective date of the Amended and Restated 1601 Willow Road Development Agreement through Ordinance No. \_\_\_, the Second Amended and Restated Conditional Development Permit for the East Campus shall become effective and binding on the Property.

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

I, Clay J. Curtin, Interim City Clerk of Menlo Park, do hereby certify that the above and foregoing Council Resolution was duly and regularly passed and adopted at a meeting by said Council on the thirteenth day of March, 2018, by the following votes:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of said City on this thirteenth day of March, 2018.

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Clay J. Curtin  
Interim City Clerk

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

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AMENDED AND RESTATED  
1601 WILLOW ROAD  
DEVELOPMENT AGREEMENT

THIS AMENDED AND RESTATED 1601 WILLOW ROAD DEVELOPMENT AGREEMENT (“Agreement”) is made and entered into as of this \_\_\_ day of \_\_\_\_\_, 2018, by and between the City of Menlo Park, a municipal corporation of the State of California (“City”), and Facebook, Inc., a Delaware corporation (“Facebook”), pursuant to the authority of California Government Code Sections 65864-65869.5 and City Resolution No. 4159. This Agreement amends, restates and supersedes the 1601 Willow Road Development Agreement recorded on July 6, 2012, as Instrument No. 2012-095801 in the Official Records of San Mateo County (“Original Agreement”).

### RECITALS

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

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

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

C. Facebook owns that certain parcel of real property commonly known as 1601 Willow Road, in the City of Menlo Park, California (“Property” or “East Campus”) as shown on Exhibit A attached hereto and being more particularly described in Exhibit B attached hereto.

D. In 2012, the City, Facebook and Wilson Menlo Park Campus, LLC, a Wisconsin limited liability company (“Owner”) entered into the Original Agreement for the Project on the East Campus. The Project Approvals (as defined in this Agreement) allowed Facebook to occupy the former Sun Microsystems campus at a higher employee density subject to a trip cap limiting vehicular trips to and from the Property. In 2016, Facebook purchased the Property from Owner in fee simple and assumed the Owner’s obligations under the Original Agreement in their entirety. The City and Facebook now desire to amend and restate the Original

Agreement to reflect Facebook's ownership of the Property and to modify certain other provisions as set forth below.

E. The City examined the environmental effects of the Project (as defined in this Agreement) in an Environmental Impact Report ("EIR") prepared pursuant to the California Environmental Quality Act ("CEQA"). On May 29, 2012, the City Council of the City reviewed and certified the 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 generate the public benefits described in this Agreement, along with other fees for the City. Facebook will incur substantial costs in order to comply with the conditions of the Approvals and otherwise in connection with the development of the Project. In exchange for the public benefits and other benefits to the City and the public, Facebook desires to receive vested rights, including, without limitation, legal assurances that the City will grant permits and approvals required for the development, occupancy and use of the Project in accordance with the Existing City Laws (as defined in this Agreement), subject to the terms and conditions contained in this Agreement. In order to effectuate these purposes, the City and Facebook desire to enter into this Agreement.

G. On May 7, 2012, after conducting a duly noticed public hearing pursuant to Resolution No. 4159, the Planning Commission of the City recommended that the City Council approve the Original Agreement, based on the following findings and determinations: that the Original Agreement (1) is consistent with the objectives, policies, general land uses and programs specified in the General Plan (as defined in this Agreement); (2) is compatible with the uses authorized in and the regulations prescribed for the land use district in which the Property is located; (3) conforms with public convenience, general welfare and good land use practices; (4) will not be detrimental to the health, safety and general welfare of the City or the region surrounding the City; (5) will not adversely affect the orderly development of property or the preservation of property values within the City; and (6) will promote and encourage the development of the Project by providing a greater degree of certainty with respect thereto.

H. Thereafter, on May 29, 2012, the City Council held a duly noticed public hearing on the Original 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 the Original Agreement by introducing Ordinance No. 978 (“Enacting Ordinance”). A second reading was conducted on the Enacting Ordinance on June 5, 2012, at which the City Council adopted the Enacting Ordinance, making the Enacting Ordinance effective on July 5, 2012 (“Effective Date”).

I. The Original Agreement required Facebook to provide a number of public benefits as set forth in Sections 7 through 20 and Section 22 of the Original Agreement, subject to satisfaction of certain conditions precedent. Those conditions precedent were satisfied 90 days after the Effective Date of the Original Agreement. As of the Amending Date, defined in Recital N below, Facebook has diligently performed those obligations set forth in Sections 7.1 (Capital Improvement Payment), 7.2 (Bicycle/Pedestrian Improvements), 7.3 (Business District), 10 (Local Community Fund), 13.1 (Internship Program), 18.1 (Local Purchasing), and 22 (Sanitary Sewer System Upgrades) of the Original Agreement, and the City acknowledges that these obligations have been satisfied. As to the remaining obligations, the City has found Facebook to be in compliance with the terms of the Original Agreement and to have timely performed all applicable public benefit obligations each year as part of each Annual Review for the Original Agreement. In addition, Section 13.2 of the Original Agreement (Encourage Local Jobs) required Facebook to create a quarterly series of “career development workshops” for the local community to focus on topics such as resume writing and interviewing skills. The City acknowledges that shortly after Facebook commenced providing these career development workshops, very few individuals participated and so Facebook and the City have agreed that hosting biannual job fairs, during which Facebook and certain of its vendors would be available to discuss employment opportunities with members of the community, provide a greater benefit than the original workshop concept and are sufficient to satisfy the “career development workshop” concept identified in Section 13.2 of the Original Agreement. Although this Agreement is intended to amend and restate the Original Agreement, for the sake of administrative efficiency this Agreement leaves the original language in Sections 7 through 20 and Section 22 intact, even though the obligations identified above have either been performed and no longer require further action by Facebook, or, in the case of Section 13.2, have been modified.

J. In 2016, the City approved a subsequent Facebook project located at 301-309 Constitution Drive and commonly known as the “Campus Expansion

Project.” As part of the approvals for the Campus Expansion Project, the City and a Facebook affiliate, Hibiscus Properties, LLC, a Delaware limited liability company, entered into a Development Agreement (301-309 Constitution Drive, Menlo Park, CA) dated December 14, 2016 and recorded on December 16, 2016 as Instrument No. 2016-133794 in the Official Records of San Mateo County, as subsequently amended by that certain Amendment to Development Agreement dated December 18, 2017, and recorded on December 19, 2017 as Instrument No. 2017-114052 in the Official Records of San Mateo County (collectively, the “Expansion Development Agreement”).

K. Section 10 of the Expansion Development Agreement requires modifications to the Original Agreement for the East Campus Project to eliminate Facebook’s right to reduce the Annual Payment (as defined in this Agreement) in exchange for a reduction in the allowed number of trips; provided, however, that Facebook shall retain the right to suspend the Density Increase (as defined in this Agreement) and comply with the employee/density cap contained in the Sun Conditional Development Permit (as defined in this Agreement), in which case, Facebook’s obligations to make Annual Payments would likewise be suspended in its entirety.

L. The Campus Expansion Project is subject to a mitigation measure that requires adjustments to the Trip Cap for the East Campus Project. Those adjustments require modifications to the definition of “Trip Cap” contained in the Original Agreement, and are also reflected in the Second Amended and Restated Conditional Development Permit for the East Campus Project recorded concurrently with this Agreement.

M. In order to implement the changes identified in Recitals D, K and L above and correct minor clerical errors, the Parties now desire to amend and restate the Original Agreement in this Agreement.

N. On February 5, 2018, the Planning Commission held a duly noticed public hearing to review the modifications to the Original Agreement to implement the changes described above and recommended the City Council enter into this Agreement.

O. On \_\_\_\_\_, 2018, the City Council held a duly noticed public hearing on the modifications to the Original Agreement to implement the changes described above and determined to enter into this Agreement. On that same date, the City Council made the decision to approve the Agreement by

introducing Ordinance No. \_\_\_\_ (“Amending Ordinance”). A second reading was conducted on the Amending Ordinance on \_\_\_\_\_, 2018, at which the City Council adopted the Amending Ordinance, making it effective on \_\_\_\_\_, 2018, (“Amending Date”).

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

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

1.1. Amended and Restated Conditional Development Permit. The Second Amended and Restated Conditional Development Permit that, subject to the terms and conditions of this Agreement, permits the Property to be occupied pursuant to the Density Condition or the Density Increase.

1.2. Approvals. Any and all permits or approvals of any kind or character required under the City Laws in order to authorize and entitle Facebook to develop and occupy the Property in accordance with the terms of the Project including, but not limited to, the Amended and Restated Conditional Development Permit and the heritage tree removal permits.

1.3. 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 and the City’s Zoning Ordinance.

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

1.5. 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. 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.



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

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

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

1.9. Density Condition. Pursuant to the Sun Conditional Development Permit, the density limitation of 3,600 employees with a required 25 percent reduction in single vehicle occupancy trips through the implementation of a transportation demand management program.

1.10. Density Increase. The Project Approvals allowing increased employee density on the Property above the Density Condition, subject to the Trip Cap.

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

1.12. Existing City Laws. The City Laws in effect as of the Effective Date of the Original Agreement.

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

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

1.15. 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.

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

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

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

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

1.20. Party. Each of the City and Facebook and their respective successors, assigns and transferees (collectively, “Parties”).

1.21. 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 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.

1.22. Project. The uses of the Property, the site plan for the Property and the Vested Elements, 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 option to occupy the Property with the Density Increase subject to this Agreement and the making of certain improvements to the undercrossing.

1.23. 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) certification of the EIR and adoption of the MMRP and other actions in connection with environmental review of the Project; (c) the Amended and Restated Conditional Development Permit; and (d) the heritage tree removal permits.

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

1.25. 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.

1.26. Sun Conditional Development Permit. The conditional development permit approved by the City on May 19, 1992 and issued to Sun Microsystems for the Property.

1.27. Trip Cap. The Trip Cap setting a maximum allowable number of vehicle trips associated with the Property on non-holiday weekdays, and which is as follows: 1,300 trips during the AM peak hour from 7:00 a.m. to 8:00 a.m., and 1,300 trips during the AM peak hour from 8:00 a.m. to 9:00 a.m.; 1,300 trips during the PM peak hour from 4:00 p.m. to 5:00 p.m., and 1,300 trips during the PM peak hour from 5:00 p.m. to 6:00 p.m.; and 15,000 total daily trips.

## 2. Amending Date; Term.

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

## 2.2. Term.

2.2.1. This Agreement shall continue until the earlier of: (a) the termination of the Project Approvals or (b) the termination of this Agreement in accordance with its terms.

2.2.2. Notwithstanding Section 2.2.1 above, all commitments and obligations under the following sections of this Agreement shall terminate on February 6, 2026: Housing (Section 9), Local Community Fund (Section 10), Bay Trail Gap (Section 11), Utility Undergrounding (Section 12), Jobs (Section 13), City of East Palo Alto Benefits (Section 14), Environmental Education (Section 16), Local Purchasing (Section 17), Transportation Demand Management Information Sharing (Section 19) and Volunteerism (Section 20).

2.2.3. Intentionally deleted.

2.2.4. The terms of this Agreement other than those specifically listed in Section 2.2.2 shall continue until this Agreement is terminated in accordance with its terms.

2.3. Expiration of Term. Except as otherwise provided in this Agreement or any of the Approvals, upon the expiration of the term of this Agreement, (a) this Agreement, and the rights and obligations of the Parties under this Agreement, shall terminate; (b) the Property shall remain subject to the Amended and Restated Conditional Development Permit; (c) the Property shall be subject to the Density Condition and the right to elect to have the Property subject to the Density Increase will terminate; and (d) Facebook shall thereafter comply with the provisions of the City Laws then in effect or thereafter enacted and applicable to the Property and/or the Project, except that the expiration of the term of this Agreement shall not affect any rights of Facebook that are or would be vested under City Laws in the absence of this Agreement and the Amended and Restated Conditional Development Permit.

## 3. General Development of the Project.

3.1. Project. Facebook 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 Facebook, as the same may be amended from time to time upon application by Facebook; and City shall have the right to control development of the Property in accordance with the provisions of this Agreement, so long as this

Agreement remains effective, and the Approvals for the Project and/or the Property. Except as otherwise specified herein, until the expiration or earlier termination of this Agreement, this Agreement, the Approvals and the Existing City Laws shall control the overall development, use and occupancy of the Property, and all improvements and appurtenances in connection therewith, including, without limitation, the density and intensity of use (“Vested Elements”), and all Mitigation Measures and Conditions required or imposed in connection with the Project Approvals in order to minimize or eliminate environmental impacts of the Project.

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

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

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

3.4.1. If the City forms an assessment district including the Property, and the assessment district is City Wide or applies to all M-2 Zoned properties and is not duplicative of or intended to fund any matter that is covered by any Fee payable by Facebook, the Property may be legally assessed through such assessment district based on the benefit to the Property (or the methodology applicable to similarly situated properties), which assessment shall be consistent with the assessments of other properties in the district similarly situated. In no event, however, shall Facebook's obligation to pay such assessment result in a cessation or postponement of development and occupancy of the Property or affect in any way Facebook's development rights for the Project.

3.4.2. The City may charge Processing Fees to Facebook for land use approvals, building permits, encroachment permits, subdivision maps, and other similar permits and approvals which are in force and effect on a City Wide basis or applicable to all M-2 Zoned properties at the time Facebook submits an application for those permits.

3.4.3. If the City exercises its taxing power in a manner which will not change any of the Conditions applicable to the Project, and so long as any new taxes or increased taxes are uniformly applied on a City Wide basis or applied uniformly to M-2 Zoned properties, the Property may be so taxed, which tax shall be consistent with the taxation of other properties in the City similarly situated.

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

3.4.5. If state or federal laws are adopted which impose fees on new or existing projects, such fees shall be applicable to the Project.

3.5. Effect of Agreement. This Agreement, the Project Approvals and all plans and specifications upon which such Project Approvals are based, including but not limited to the Amended and Restated Conditional Development Permit, shall constitute a part of the Enacting Ordinance and Amending Ordinance, as if incorporated by reference therein in full.

3.6. Review and Processing of Approvals. The City shall accept, review and expeditiously process Facebook's applications and requests for Approvals in connection with the Project in good faith and in a manner which complies with and is consistent with the Project Approvals and this Agreement. The City shall approve any application or request for an Approval which complies and is consistent with the Project Approvals and this Agreement. Facebook 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. Facebook shall submit all applications and requests for Approvals in the manner required under applicable City Laws in effect as of the time of such submittal. The Parties shall cooperate with each other and 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 and this Agreement.

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), this Agreement and the Approvals. Facebook's vested rights to develop and occupy or to cause the Property to be occupied in accordance with the Vested Elements, provided that City may apply and enforce the California Building Code as amended and adopted by the City (including the Mechanical Code, Electrical Code and Plumbing Code) and California Fire Code as amended and adopted by the City and/or the Menlo Park Fire Protection District, as such codes may be in effect at the time Facebook applies for building permits for any aspect of the Project. Without limiting the generality of the foregoing, except as otherwise expressly provided in this

Agreement, during the term of this Agreement, the City shall not, without the prior written consent of Facebook: (a) apply to the Project any new or amended ordinance, resolution, rule, regulation, requirement or official policy that is inconsistent with any Existing City Laws or Approvals and that would have the effect of delaying, preventing, adversely affecting or imposing any new or additional Condition with respect to the Project; or (b) apply to the Project or any portion thereof any new or amended ordinance, resolution, rule, regulation, requirement or official policy that requires additional discretionary review or approval for the proposed development, use and/or occupancy of the Project.

4.2. Application of New City Laws. 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, impose any further or additional fees or impose any other conditions on the Project, including, without limitation, those requiring additional traffic improvements/requirements or additional off-site improvements, 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 shall be considered in conflict with this Agreement and the Existing City Laws:

4.2.1. Limiting or reducing the density or intensity of use of the Property;

4.2.2. Limiting grading or other improvements on the Property in a manner that is inconsistent with or more restrictive than the limitations included in the Approvals or this Agreement; or

4.2.3. Applying to the Project or the Property any law, regulation, or rule restricting or affecting a use or activity otherwise allowed by this Agreement.

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

4.3. 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 the Project alternatives, and specifies the feasible Mitigation Measures available to eliminate or reduce to an acceptable level the environmental impacts of the Project. The Parties further acknowledge and agree that the EIR provides an adequate environmental analysis for the City's decisions to authorize Facebook to proceed with the Project as embodied in the Project Approvals and this Agreement and subsequent development of the Project during the term of this Agreement. The Mitigation Measures imposed are appropriate for the implementation of proper planning goals and objectives and the formulation of Project conditions of approval. In view of the foregoing, the City agrees that the City will not require another or additional environmental impact report or environmental review for any subsequent Approvals implementing the Project. Facebook shall defend, indemnify and hold the City harmless from any costs or liabilities incurred by the City in connection with any litigation seeking to compel the City to perform additional environmental review of any subsequent Approvals.

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

5. Trip Cap. If the Density Increase is elected and has not been suspended in accordance with the terms of Section 8.2, Facebook shall adhere to the Trip Cap, the details of which are included in the Project Approvals, and incorporated herein by this reference. To ensure compliance, the Trip Cap includes monitoring with periodic reporting and monetary penalties for violations of the Trip Cap that shall be paid by Facebook to the City.

6. Intentionally deleted.

7. One Time Public Benefits; Conditions.

7.1. Capital Improvement. Within 45 days of the satisfaction of the Conditions Precedent (as defined in the Original Agreement), Facebook shall make a one-time payment of One Million One Hundred Thousand Dollars (\$1,100,000) to the City for the City's unrestricted use toward capital improvement projects.

7.2. Bicycle/Pedestrian. Within 240 days of the satisfaction of the Conditions Precedent, Facebook shall, subject to the approval of the applicable regulatory agencies, take the actions described in this Section 7.2.

7.2.1. Facebook shall perform one-time improvements to the undercrossing above and beyond those described in the Project. The specific improvements shall be designated by Facebook in its sole and absolute discretion, but shall be subject to review, approval and permitting by the City. Conceptually, these improvements include landscape embellishments and a self-service bicycle tool station. Also, as a key feature, Facebook proposes to improve the undercrossing by, to the extent appropriate, preserving existing art and/or providing wall surfaces for invited artists to create mural art with the intent to create an "art gallery" experience for the pedestrians/bicyclists using the undercrossing.

7.2.2. Facebook shall perform restriping improvements for bicycle lanes to the following streets on a one-time basis:

- (a) Willow Road and Middlefield Road intersection;
- (b) Willow Road and U.S. 101 bridge;
- (c) Willow Road between Hamilton Avenue and Bayfront Expressway;
- (d) Willow Road between Newbridge Street and Ivy Drive; and
- (e) Willow Road between O'Keefe and U.S. 101 (shared lane marking).

7.2.3. Facebook shall have a one-time obligation to investigate the possibility of making crosswalk improvements, including, but not limited to the installation of in-pavement warning lights, to the pedestrian crossings at the U.S. 101 and Willow Road interchange, and, subject to the consent of the applicable regulatory agencies, shall make or pay for such improvements. Facebook shall not, however, be obligated to spend more than One Hundred Thousand Dollars (\$100,000) on these crosswalk improvements. If Facebook determines, as reasonably confirmed by the City's Public Works Director, that the cost of these crosswalk improvements will exceed One Hundred Thousand Dollars

(\$100,000), the City may perform such improvements and Facebook shall reimburse the City for its reasonable costs to perform such improvements, but not to exceed One Hundred Thousand Dollars (\$100,000). If the City performs the crosswalk improvements, the City shall provide evidence of the cost to complete the crosswalk improvements to Facebook, which evidence shall be subject to Facebook's reasonable review and approval.

7.2.4. Facebook shall perform one-time improvements to publicly accessible walking paths, trails and levees in the immediate vicinity of the Property, subject to approval by the San Francisco Bay Conservation and Development Commission ("BCDC"). The intent of these improvements would be to make the area surrounding the Property more pedestrian friendly and enable the community, visitors and Facebook employees to learn about and enjoy the surrounding bay-lands in an ecologically sensitive manner. The specific improvements shall be determined by Facebook in its sole and absolute discretion, but may include planting bay friendly native shrubs and trees, providing additional destination viewing points and seating and creating a renovated, environmentally friendly walking path and shall include adding interpretive signage. In performing these improvements, Facebook shall work with an environmental consultant to ensure that human interactions with the ecosystem are appropriate.

7.3. Business District. Within three years of the satisfaction of the Conditions Precedent, Facebook will have a one-time obligation to investigate the possibility of creating a business improvement district in the Willow Road corridor between U.S. 101 and Bayfront Expressway that includes the Property. If the business improvement district is feasible and the adjacent property owners are likewise interested in creating the business improvement district, Facebook shall initiate the process for creating the business improvement district; provided, however, that Facebook shall not be obligated to spend more than Fifty Thousand Dollars (\$50,000) on this effort. The adequacy of Facebook's investigation and verification of the amount spent in diligently pursuing this condition is subject to the review and approval of the City's Community Development Director.

7.4. In-Lieu Mitigation Payment. Facebook agrees that if the City (a) secures grant funds to pay for mitigations that Facebook is obligated to perform pursuant to the MMRP, (b) notifies Facebook that it wishes to perform such mitigations in lieu of Facebook, and (c) completes those mitigations, then Facebook shall make an in lieu of payment to the City equal to the cost of the mitigations (which payment shall fully satisfy Facebook's obligation to perform

such mitigations); provided, however, that (i) the City and Facebook shall agree on a not-to-exceed budget for the mitigations the City wishes to perform; and (ii) if the City notifies Facebook that it wishes to perform such mitigations in lieu of Facebook after Facebook has commenced planning for and/or performing such mitigations, then Facebook shall be entitled to a credit (to be offset against the in lieu of payment to the City) equal to Facebook's reasonable costs incurred in planning and/or performing such mitigations. The City shall provide evidence of the cost to complete the mitigations to Facebook, which evidence shall be subject to Facebook's reasonable review and approval. With respect to any particular mitigation, Facebook will not be obligated to pay the City any amounts incurred in excess of the not-to-exceed budget for that mitigation. If the City notifies Facebook that it wishes to perform a mitigation(s) in lieu of Facebook pursuant to this Section 7.4, then Facebook's only obligation with respect to such mitigation(s) will be to pay the City the applicable amounts described herein. In addition, Facebook also agrees that if the City secures grant funds to pay for mitigations that Facebook is obligated to perform pursuant to the MMRP and notifies Facebook that it wishes to use those funds to pay for mitigations that Facebook itself performs, then Facebook shall make an in lieu of payment to the City equal to the grant funds used by the City to pay for mitigations performed by Facebook.

8. On-Going Public Benefits, Conditions.

8.1. Annual Payment. During the term of this Agreement, Facebook shall make an annual payment ("Annual Payment") to the City in lieu of sales tax or other revenue that might otherwise accrue to the City if the Property was occupied by a sales tax producer. The first payment of the Annual Payment will be for the City's July 1, 2012 to June 30, 2013 fiscal year, and will be due and payable in full to the City on January 1, 2013. Subsequent payments of the Annual Payment will be due and payable in full to the City on July 1 of each fiscal year for which the Annual Payment is payable (commencing July 1, 2013). The Annual Payment will be payable for the 10-year period commencing on July 1, 2012 and ending on June 30, 2022 ("Minimum Payment Period") with no proration, reduction or suspension (except as set forth in Section 8.2.8). After the Minimum Payment Period has expired, however, the Annual Payment may be suspended as set forth below in Section 8.2. If the City changes its fiscal year, then the date for payment of the Annual Payment shall, likewise, be changed.

8.1.1. In each of the first five years beginning with the first payment on January 1, 2013, the amount of the Annual Payment shall be Eight Hundred Thousand (\$800,000).

8.1.2. For each of the five years beginning with the payment on July 1, 2017, the Annual Payment shall be Nine Hundred Thousand (\$900,000).

8.1.3. For each of the five years beginning with the payment on July 1, 2022, the Annual Payment shall be One Million Dollars (\$1,000,000).

8.1.4. Beginning on July 1, 2027 and on each anniversary thereof (each an "Index Date"), the Annual Payment amount will be increased to the product of the Annual Payment amount in effect immediately prior to the applicable Index Date times a fraction, the numerator of which is the "Index" (defined below) for the third (3rd) month preceding the applicable Index Date, and the denominator of which is the Index for the third (3rd) month preceding the last Index Date or, in case of the first Index Date, the Index for April 1, 2026. "Index" means the United States Department of Labor, Bureau of Labor Statistics, Consumer Price Index for all Urban Consumers (all items for the SF-Oakland-San Jose Metropolitan Area on the basis of 1982-1984 = 100). If the format or components of the Index are materially changed after the execution of this Agreement, the City will reasonably select an index which is published by the Bureau of Labor Statistics or similar agency and which is a reasonable equivalent to the Index in effect on the Effective Date.

## 8.2. Adjustments.

8.2.1. Following expiration of the Minimum Payment Period on June 30, 2022 and on each five-year anniversary thereof (each an "Adjustment Date"), Facebook shall have the option to temporarily suspend the Density Increase or, if the Density Increase is then suspended, to un-suspend the Density Increase ("Adjustment Option"). If Facebook elects to suspend the Density Increase and provides timely notice of the same in accordance with Section 8.2.2, the obligation to make the Annual Payment will likewise be suspended (in its entirety) and the Project shall be subject to the Density Condition rather than the Trip Cap.

8.2.2. Facebook may exercise its Adjustment Option by giving the City notice at least 180 days prior to an Adjustment Date. Such notice shall indicate whether Facebook is suspending or un-suspending the Density

Increase. On the first Adjustment Date, if Facebook does not exercise the Adjustment Option, the Annual Payment will be as described above in Section 8.1.3. Thereafter, if Facebook does not timely exercise its Adjustment Option, the Annual Payment (if any) for the succeeding five-year period will continue to remain as it was during the period preceding the Adjustment Date (subject to increases to account for changes in the Index as set forth in Section 8.1.4).

8.2.3. Following the expiration of the Minimum Payment Period, on the occurrence of a Triggering Event, as defined below, Facebook will have the option to suspend the Density Increase by giving the City notice of its exercise of its Adjustment Option, which notice must specify the Triggering Event. The suspension will become effective as of the commencement of the City's next fiscal year provided the City receives the notice at least 120 days prior to the commencement of such fiscal year. If the notice is given within 120 days of the City's next fiscal year, then the suspension will become effective as of the commencement of the City's succeeding fiscal year. The Triggering Event notice must indicate that Facebook is suspending the Density Increase. Following delivery of a Triggering Event notice, the Density Increase may be un-suspended on the next Adjustment Date, in the manner set forth above.

8.2.4. A "Triggering Event" means either of the following: (a) vacation of four or more of Buildings 10, 12, 14, 15, 16, 17 and 18 as shown on the site plan attached hereto as Exhibit C and incorporated herein by this reference, or (b) the performance of building improvements that cause the average employee density of the Buildings 10, 12, 14, 15, 16, 17 and 18 to be less dense than the Density Condition, as determined in the reasonable discretion of the City's Community Development Director.

8.2.5. Intentionally deleted.

8.2.6. The Density Increase may be suspended for a maximum of ten consecutive years, after which time this Agreement may be terminated pursuant to Section 26.

8.2.7. Facebook will be entitled to a credit equal to all taxes paid to and received by the City and attributable to operations at the Property, including, without limitation, sales taxes attributable to retail operations performed at the Property and any future taxes on any services provided from or attributable to the Property. That credit will be offset against the Annual Payment. Facebook will not be entitled to a credit for property taxes paid to the City.

8.2.8. Intentionally deleted.

8.2.9. Intentionally deleted.

9. Housing.

9.1. Facebook will explore opportunities to invest in low income tax credits for affordable housing projects in the City and the City of East Palo Alto, including partnering with a local non-profit housing developer(s) or contributing funds toward the creation of low, very-low or extremely-low income housing. Facebook shall report the results of its explorations to the City's Community Development Director upon the City's Community Development Director's written request. The decision of whether to make any investments will be in Facebook's sole and absolute discretion.

9.2. Facebook will contact a local real estate developer or local real estate developers interested in building housing projects in the City. Facebook in concert with the real estate developer(s) will explore ways to support housing projects, including, but not limited to investing capital, committing to leasing units or offering marketing opportunities to Facebook employees. Facebook shall report the conclusions from this collaborative effort to the City's Community Development Director upon the City's Community Development Director's written request. The decision of whether to provide any support will be in Facebook's sole and absolute discretion.

10. Local Community Fund. Within one year of the satisfaction of the Conditions Precedent, Facebook shall create a Local Community Fund ("LCF") in partnership with a non-profit partner to manage and administer the LCF and Facebook shall contribute Five Hundred Thousand Dollars (\$500,000) to the LCF. The purpose of the LCF will be to provide support for local community needs. A five-member Board of Advisors will be created to advise about criteria for eligibility and distribution of funding. The Board of Advisors will endeavor to spread the LCF's benefits equally between the City and the City of East Palo Alto. The City Manager and East Palo Alto's City Manager each will name one Advisory Board member to serve a two-year term. Facebook will name two Advisory Board members to each serve a two-year term, and a Facebook representative appointed by Facebook will serve on a continuing basis. Advisory Board members may serve more than one term (if re-appointed by the City Manager, the City of East Palo Alto's City Manager or Facebook, as applicable). If after the LCF's funding has been exhausted Facebook determines that the LCF is a success, is operating

smoothly and is making a positive impact on the community, Facebook will consider making an additional contribution to LCF (however, the decision of whether to make an additional contribution will be in Facebook's sole and absolute discretion).

11. Bay Trail Gap. Facebook will work with Bay Trail stakeholders, including, but not limited to Midpeninsula Regional Open Space District, Association of Bay Area Governments ("ABAG"), the City of East Palo Alto and the City and County of San Francisco and appropriate members of the business community to close the Bay Trail Gap, commonly known as Gap No. 2092, which terminates at the railroad right-of-way on University Avenue. Facebook will also evaluate making a future financial contribution to the effort to close the Bay Trail Gap. Facebook shall report the results of its explorations to the City upon the City's Community Development Director's written request. The decision of whether to make any investments will be in Facebook's sole and absolute discretion.

12. Utility Undergrounding. Facebook agrees to cooperate with the City in the City's efforts to underground existing electric transmission lines located in the vicinity of the Property, however, neither the City nor Facebook will be obligated to provide funding for utility undergrounding.

13. Jobs.

13.1. Internship Program. Facebook will create a summer intern program for students residing within the geographic boundaries of the Ravenswood Elementary School District. The summer intern program will commence with an initial, pilot program, and then later, if successful, may be expanded, in Facebook's sole and absolute discretion, to include more participants and/or subject areas. Students participating in the pilot program will work in the Facebook IT Department alongside technology professionals. The summer intern program will include weekly training sessions covering topics such as the college application process, professional skills and business and interpersonal skills. The department in which the summer interns are placed, and the scope of and agenda for the program may change over time. Facebook anticipates that the summer intern program will be launched in partnership with an academic non-profit organization and that the non-profit organization will be responsible for selecting the participating students, processing work permits and managing other related administrative matters. The program will include the following elements: (a) the program will be open to at least 10 students per session, (b) all students must be



in or entering their Junior year in high school (unless otherwise determined by Facebook in its reasonable discretion), and (c) the program will run for at least four weeks. Facebook will endeavor to launch the pilot program in June 2012, and in no case will the pilot program launch later than summer 2013. Facebook may also elect (in its sole and absolute discretion) to expand the program to include an after-school session during the school year in addition to the annual summer program.

13.2. Encourage Local Jobs. Facebook will work with a local training program to expand training services for residents of the City and the City of East Palo Alto. Facebook will also create an ongoing quarterly series of career development workshops to commence within one year of the satisfaction of the Conditions Precedent. The workshops will focus on topics such as resume writing, interviewing skills and how to find a job via social media, including Facebook. These workshops will take place in local community centers and/or other neighborhood sites. In addition, within one year of the satisfaction of the Conditions Precedent, Facebook will host a session, promoted in the Belle Haven neighborhood and East Palo Alto, on how to become a Facebook employee, including how to apply through [www.facebook.com/careers](http://www.facebook.com/careers). Because people who work at Facebook are comprised of both employees and contractors, to encourage contractors to hire City residents and residents of the City of East Palo Alto, Facebook will require future vendors to use reasonable efforts to notify residents of the City and the City of East Palo Alto when they are hiring new people to work at the Property in the facilities, culinary and construction trades. Reasonable efforts shall include, but not be limited to, using the existing East Palo Alto first source hiring jobs hotline/posting capabilities and any equivalent program later developed by the City. Vendors with existing contracts will be encouraged to use reasonable efforts to promote local hiring as openings become available. Facebook will also encourage campus vendors to host sessions on how to become an employee of their organization.

14. City of East Palo Alto Benefits. On May 24, 2012, the City of East Palo Alto and Facebook entered into the Memorandum of Agreement by and between the City of East Palo Alto and Facebook, Inc. Regarding the Menlo Park Facebook Campus Project ("MOA"). A copy of the MOA, including its "Exhibit A, Terms and Implementation" is attached hereto as Exhibit D. The specific terms listed in "Exhibit A, Terms and Implementation" are incorporated herein, except for the following terms which are specifically not incorporated herein:

- (a) Paragraph 1.c) Traffic Improvements, the terms of which are included in Section 7.2.3 of this Agreement;
- (b) Paragraph 3.a) Jobs/Local Hire, the terms of which are included in Sections 13.1 and 13.2 of this Agreement;
- (c) Paragraph 3.b) Volunteerism, the terms of which are included in Section 20 of this Agreement;
- (d) Paragraph 3.c) Community Fund, the terms of which are included in Section 10 of this Agreement;
- (e) Paragraph 3.d) Housing, the terms of the second and third bullet points, which are included in Sections 9.1 and 9.2 of this Agreement; and
- (f) Paragraph 3.e), the terms of which are included in Section 11 of this Agreement.

15. Adopt-a-Highway. Within 180 days of the satisfaction of the Conditions Precedent, Facebook will adopt a roadway segment in the vicinity of the Property pursuant to Caltrans' Adopt-A-Highway Program. This commitment will be for a period of five years. If there are no segments available for adoption in the vicinity of the Property, Facebook's obligation shall be tolled until a segment becomes available.

16. Environmental Education.

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

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

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

16.4. Facebook will engage in "wildlife-friendly" behavior, such as (a) adopting policies requiring the trapping and removal of feral cats and the leashing of dogs when using trails located on the Property, (b) employing wildlife-

safe rodent control measures, and (c) encouraging beneficial species (through, for example, the installation of bat houses).

17. On-Going Environmental Commitments.

17.1. When performing landscape improvements, Facebook will minimize (or require the minimization of) potential stormwater runoff through the use of appropriate techniques, such as grassy swales, rain gardens and other Low Impact Development (“LID”) measures.

17.2. If Facebook installs at the Property new windows or new window treatments on windows facing the parking lot or the San Francisco Bay, Facebook will select (or require the selection of) windows and window treatments that minimize impacts of light pollution and risk of collision to birds. If Facebook installs new lighting in the parking lot at the Property, Facebook will use (or require the use of) then available best practices to design and shield that new lighting so as to confine direct rays to the Property and not out into the adjacent areas of the San Francisco Bay. The obligations in this Section 17.2 will not apply to windows or treatments to windows that face the courtyard and lighting that is located within the courtyard, except that if Facebook replaces upper (3<sup>rd</sup> floor) windows or window treatments that face the courtyard, Facebook will select (or require the selection of) windows or treatments that minimize the risk of bird collision.

17.3. Except for the existing basketball court, Facebook will not create (or permit the creation of) any lighted playing field on the perimeter of the site that abuts the San Francisco Bay. Facebook will require the lights on the existing basketball court to be controlled so that the court is dark except when in use.

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

17.5. When performing landscape improvements to those portions of the Property that abut the San Francisco Bay, Facebook will consult with (or require consultation with) a qualified environmental consultant familiar with California native plant communities and select (or require the selection of) suitable native plants for landscaping.

17.6. Intentionally deleted.

18. Local Purchasing.

18.1. Facebook shall adopt a program to incentivize Facebook employees to frequent local businesses and continue such program for three years from the Effective Date. Facebook's continuation of the "Facebucks" program will satisfy this obligation.

18.2. When purchasing goods that can be sourced locally, Facebook shall endeavor to purchase goods from vendors located in the City if the quality, price, terms and conditions are competitive.

18.3. When engaging vendors to provide on-site services to employees (e.g., chiropractic services), Facebook shall endeavor to engage vendors that are located in the City if their services satisfy Facebook's needs and the quality, price, terms and conditions are competitive.

18.4. If the Menlo Gateway project is developed, Facebook will consider adding the hotel built as part of that project to its list of preferred hotels for visitors.

19. Transportation Demand Management Information Sharing. To help mitigate regional traffic, Facebook agrees to share its Transportation Demand Management best practices with other interested Silicon Valley companies that request such information from Facebook.

20. Volunteerism. Facebook will actively promote local volunteer opportunities in the City and the City of East Palo Alto to all its employees. Such promotion shall include the creation of an internal Facebook page for the posting of volunteer opportunities. Facebook will host a "Local Community Organization Fair" on the Property. This fair will launch in Summer 2012 and take place annually.

21. Assignment and Assumption.

21.1. Intentionally deleted.

21.2. The right to occupy the Property with the Density Increase shall continue regardless of whether a future tenant has assumed the remaining obligations under Sections 7, 9-11, 13, 15, 16, 18-20 and 22. Notwithstanding the foregoing, the continuation of the right to occupy the Property with the Density

Increase is subject to compliance with Section 8, On-Going Public Benefits, Conditions.

22. Sanitary Sewer System Upgrades. West Bay Sanitary District (“WBSD”) is the main permitting agency for the sanitary sewer system upgrades discussed in this Section 22. Facebook shall provide a specific contact to WBSD for matters related to the sanitary sewer system upgrades and shall provide another contact for all other matters, should it be different than the contact for the sanitary sewer system upgrades.

22.1. Facebook shall upsize 114 feet of the existing 12-inch diameter pipeline that runs north along Hamilton Avenue, beginning at the Hamilton/Willow Road intersection, to a 15-inch diameter pipe. Within 90 days of the Effective Date of this Agreement, Facebook shall apply for a Class 3 permit from WBSD. Facebook shall cause a cost estimate to be prepared and shall provide the cost estimate to WBSD for its review and to the City. Within 30 days of receiving approval from WBSD, Facebook shall apply for an encroachment permit from the City and Caltrans. Within 180 days of receiving approval of the respective encroachment permits, Facebook shall construct the improvements. To ensure that this work is timely completed to the reasonable satisfaction of the City’s Community Development Director, Facebook shall post a bond equal to 200 percent of the estimated cost of the work within 30 days of the satisfaction of the Conditions Precedent. The City shall release the bond upon completion of the work.

22.2. Facebook shall purchase a third wastewater pump to be placed into reserve in case of pump failure at the Hamilton Henderson Pump Station. Within 120 days of the Effective Date of this Agreement, Facebook shall purchase a Flygt NP 3202.090, 35 Horsepower, 460 Volt, 60 Hertz, 3 Phase pump with the following options: (a) 8-inch Discharge, (b) 642 Impeller, (c) minimum 50 feet of cable, (d) soft start motor starter, (e) FM explosion proof rating, and (f) Float Level Sensor or similar pump as approved by WBSD. Facebook shall cause a cost estimate to be prepared and shall provide the cost estimate to WBSD for its review and to the City. To ensure that the pump is purchased, to the reasonable satisfaction of the City’s Community Development Director, Facebook shall post a bond equal to and 120 percent of the cost of the wastewater pump within 30 days of the satisfaction of the Conditions Precedent. The City shall release the bond upon WBSD’s receipt of the pump.

23. Indemnity.

23.1. Intentionally deleted.

23.2. Facebook shall indemnify, defend and hold harmless the City, and its elective and appointive boards, commissions, officers, agents, contractors, and employees (collectively, "City Indemnified Parties") from any and all claims, causes of action, damages, costs or expenses (including reasonable attorneys' fees) arising out of or in connection with, or caused on account of, the development and occupancy of the Project, any Approval with respect thereto, or claims for injury or death to persons, or damage to property, as a result of the operations of Facebook or its employees, agents, contractors, representatives or tenants with respect to the Project (collectively, "Facebook Claims"); provided, however, that Facebook shall have no liability under this Section 23.2 for Facebook Claims that (a) arise from the gross negligence or willful misconduct of any City Indemnified Party, or (b) arise from, or are alleged to arise from, the repair or maintenance by the City of any improvements that have been offered for dedication by Facebook and accepted by the City or (c) are attributable to events which occur after Facebook vacates the Property.

23.3. Intentionally deleted.

24. Periodic Review for Compliance.

24.1. Annual Review. The City shall, at least every 12 months during the term of this Agreement, review the extent of Facebook's good faith compliance with the terms of this Agreement pursuant to Government Code § 65865.1 and Resolution No. 4159. Notice of such annual review shall be provided by the City's Community Development Director to Facebook not less than 30 days prior to the date of the hearing by the Planning Commission on Facebook's good faith compliance with this Agreement and shall to the extent required by law include the statement that any review may result in amendment or termination of this Agreement. A finding by the City of good faith compliance with the terms of this Agreement shall conclusively determine the issue up to and including the date of such review.

24.2. Non-Compliance. If the City Council makes a finding that Facebook has not complied in good faith with the terms and conditions of this Agreement, the City shall provide written notice to Facebook describing (a) such failure and that such failure constitutes a Default, (b) the actions, if any, required

by Facebook to cure such Default, and (c) the time period within which such Default must be cured. If the Default can be cured, Facebook shall have a minimum of 30 days after the date of such notice to cure such Default, or in the event that such Default cannot be cured within such 30 day period, if Facebook shall commence within such 30 day time period the actions necessary to cure such Default and shall be diligently proceeding to complete such actions necessary to cure such Default, Facebook shall have such additional time period as may be required by Facebook within which to cure such Default.

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

24.4. Proceeding Upon Amendment or Termination. If, upon a finding under Section 24.2 of this Agreement and the expiration of the cure period specified in such Section 24.2, the City determines to proceed with amendment or termination of this Agreement, the City shall give written notice to Facebook of its intention so to do. The notice shall be given at least 30 days before the scheduled hearing and shall contain:

24.4.1. The time and place of the hearing;

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

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

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

24.6. Effect on Transferees. If Facebook has transferred a partial interest in the Property to another party so that title to the Property is held by Facebook and additional parties or different parties, the City shall conduct one annual review applicable to all parties with a partial interest in the Property and the entirety of the Property. 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 taken as to all parties with a partial interest in the Property and the entirety of the Property.

24.7. Intentionally deleted.

24.8. Intentionally deleted.

25. Permitted Delays; Subsequent Laws.

25.1. Extension of Times of Performance. In addition to any specific provisions of this Agreement, 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 Parties more than 30 days after the commencement of the cause of the delay, the period shall commence to run as of only 30 days prior to the giving of such notice. The time period for performance under this Agreement may also be extended in writing by the joint agreement of the City and Facebook. Litigation attacking the validity of the EIR, the Project Approvals and/or the Project shall also be deemed to create an excusable delay under this Section 25.1, 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. In no event shall the term of this Agreement be extended by any such delay without the mutual written agreement of the City and Facebook.

25.2. Superseded by Subsequent Laws. If any Law made or enacted after the date of this Agreement prevents or precludes compliance with one or more provisions of this Agreement, then the provisions of this Agreement shall, to the extent feasible, be modified or suspended as may be necessary to comply with such new Law. Immediately after enactment of any such new Law, the Parties shall meet and confer reasonably and in good faith to determine the feasibility of any such modification or suspension based on the effect such modification or suspension would have on the purposes and intent of this Agreement. If such modification or suspension is infeasible in Facebook's reasonable business judgment, then Facebook shall have the right to terminate this Agreement by written notice to the City. Facebook shall also have the right to challenge the new Law preventing compliance with the terms of this Agreement, and in the event such challenge is successful, this Agreement shall remain unmodified and in full force and effect.

26. Termination.

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

26.1.1. The City Council has determined that Facebook is not in good faith compliance with the terms of this Agreement, and this Default remains uncured, all as set forth in Section 24 of this Agreement.

26.1.2. Intentionally deleted.

26.1.3. The Density Increase has been suspended for ten consecutive years.

26.2. Intentionally deleted.

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

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

Default within 30 days following receipt of such notice and is not diligently proceeding to cure such Default.

26.3.2. Intentionally deleted.

26.3.3. Intentionally deleted.

26.3.4. The Density Increase has been suspended for ten consecutive years.

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

26.5. Effect of Termination. If this Agreement is terminated pursuant to this Section 26, such termination shall not affect (a) any condition or obligation due to the City from Facebook and arising prior to the date of termination and/or (b) the Project Approvals, including, but not limited to, the Amended and Restated Conditional Development Permit, but Facebook's right to have the Property subject to the Density Increase will terminate.

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

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

28. Waiver; Remedies Cumulative. Failure by a Party to insist upon the strict performance of any of the provisions of this Agreement by another Party, irrespective of the length of time for which such failure continues, shall not constitute a waiver of such Party's right to demand strict compliance by such other Party in the future. No waiver by a Party of a Default shall be effective or binding upon such Party unless made in writing by such Party, and no such waiver shall be implied from any omission by a Party to take any action with respect to such Default. No express written waiver of any Default shall affect any other Default, or cover any other period of time, other than any Default and/or period of time

specified in such express waiver. All of the remedies permitted or available to a Party under this Agreement, or at law or in equity, shall be cumulative and not alternative, and invocation of any such right or remedy shall not constitute a waiver or election of remedies with respect to any other permitted or available right or remedy.

29. 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 29 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.

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

31. Effect of Court Action. 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 Facebook is a party to or real party in interest in such action or proceeding, then (a) Facebook shall have the right to terminate this Agreement upon 30 days' notice in writing to City, given at any time during the pendency of such action or proceeding, or within 90 days after the final determination therein (including any appeals), irrespective of the nature of such final determination, and (b) any such action or proceeding shall constitute a permitted delay under Section 25.1 of this Agreement. Facebook shall pay the City's cost and expense, including attorneys' fees and staff time incurred by the City in defending any such action or participating in the defense of such action and shall indemnify the City from any award of attorneys' fees awarded to the party

challenging this Agreement, the Project Approvals or any other permit or Approval. The defense and indemnity provisions of this Section 31 shall survive Facebook's election to terminate this Agreement. Notwithstanding anything to the contrary herein, Facebook shall retain the right to terminate this Agreement pursuant to this Section 31 even after (a) it has vacated the Property and (b) its other rights and obligations under this Agreement have terminated.

32. Estoppel Certificate. Any Party may, at any time, and from time to time, deliver written notice to the other Parties requesting such Parties certify in writing that, to the knowledge of the certifying Parties, (a) this Agreement is in full force and effect and a binding obligation of the Parties, (b) this Agreement has not been amended or modified either orally or in writing, and if so amended, identifying the amendments, (c) 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) the requesting Party has been found to be in compliance with this Agreement, and the date of the last determination of such compliance, and (e) as to such other matters concerning this Agreement as the requesting Party shall reasonably request. A Party receiving a request hereunder shall execute and return such certificate within 30 days following the receipt thereof. The City Manager shall have the right to execute any certificate requested by Facebook hereunder. The City acknowledges that a certificate may be relied upon by transferees and Mortgagees or Facebook.

33. Mortgagee Protection; Certain Rights of Cure.

33.1. 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 33.2 of this Agreement, all of the terms and conditions contained in this Agreement shall be binding upon and effective against any person (including any Mortgagee) who acquires title to the Property, or any portion thereof, by foreclosure, trustee's sale, deed in lieu of foreclosure or otherwise, and the benefits hereof will inure to the benefit of such party.

33.2. Mortgagee Not Obligated. Notwithstanding the provisions of Section 33.1 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 Facebook under this Agreement, and (b) be liable for any Default of Facebook under this Agreement; provided, however, that a Mortgagee or any such purchaser, grantee or transferee shall not be entitled to use the Property in the additional manner permitted by this Agreement and the Project Approvals (i.e. the Density Increase) unless it complies with the terms and provisions of this Agreement applicable to Facebook.

33.3. Notice of Default to Mortgagee; Right to Mortgagee to Cure.

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

34. Assignment, Transfer, Financing.

34.1. Facebook's Right to Assign. Subject to the terms of this Agreement, Facebook shall have the right to transfer, sell and/or assign Facebook's rights and obligations under this Agreement in conjunction with the transfer, sale or assignment of all or any portion of the Property. If the transferred property consists of a less than the entire Property, or less than Facebook's entire title to or interest in the Property, Facebook shall have the right to transfer, sell and/or assign to the transferee only those of Facebook's rights and obligations under this Agreement that are allocable or attributable to the transferred property.

Any transferee shall assume in writing the obligations of Facebook under this Agreement and the Project Approvals relating to the transferred property and arising or accruing from and after the effective date of such transfer, sale or assignment.

34.2. Financing. Notwithstanding Section 34.1 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 Facebook under this Agreement and the Project Approvals. Further, no foreclosure, conveyance in lieu of foreclosure or other conveyance or transfer in satisfaction of indebtedness made in connection with any such financing shall require any further consent of the City, regardless of when such conveyance is made, and no such transferee will be required to assume any obligations of Facebook under this Agreement.

34.3. Release Upon Transfer of Property.

34.3.1. Except as otherwise provided in Section 34.3.2 below, upon Facebook's sale, transfer and/or assignment of Facebook's rights and obligations under this Agreement in accordance with this Section 34, Facebook shall be released from its obligations pursuant to this Agreement with respect to the transferred property which arise or accrue subsequent to the effective date of the transfer, sale and/or assignment. If a Default under this Agreement shall occur with respect to Facebook, such Default shall not constitute a Default with respect to the owner of any transferred property, and shall not entitle the City to terminate or amend this Agreement as to the transferred property; and if a Default under this Agreement shall occur with respect to the owner of a transferred property, such Default shall not constitute a Default with respect to Facebook or with respect to the portion of the Property owned by Facebook, and shall not entitle the City to terminate or amend this Agreement as to the portion of the Property owned by Facebook.

34.3.2. Notwithstanding the provisions of Section 34.3.1 above, if a Transferred Property consists of less than the entire Property, or less than original Facebook's entire title to or interest in the Property, and if Facebook allocates a portion of its rights and obligations under this Agreement to the transferred property, Facebook shall not be released from its obligations pursuant to this Agreement with respect to the transferred property which arise or accrue

subsequent to the effective date of the transfer, sale and/or assignment unless the City agrees to such release.

34.3.3. Facebook shall have the right to propose to the City alternative or substitute security for any of Facebook's monetary obligations under this Agreement, including Facebook's obligations to make the Annual Payment pursuant to Section 8 of this Agreement. Such alternative or substitute security may consist of, without limitation, a letter of credit, a cash deposit and/or real property or personal property collateral acceptable to City in its sole discretion. If the City accepts any such alternative or substitute security, the monetary obligations of Facebook for which such alternative or substitute security shall have been provided shall no longer constitute a covenant running with the land or otherwise be binding upon any owner of any portion of the Property, and shall instead be the personal obligation of Facebook but with the City's recourse with respect to such monetary obligation limited to the alternative or substitute security. Facebook shall pay for all City costs of considering Facebook's request for City's acceptance of such alternative or substitute security, including but not limited to cost of consultants retained to consider and advise the City Manager or City Council on such request.

35. 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.

36. Amendment.

36.1. 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.

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

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

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

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

Facebook: Facebook, Inc.  
1601 Willow Road  
Menlo Park, CA 94025  
Attention: Director of Facilities

With a  
copy to: Facebook, Inc.  
1601 Willow Road  
Menlo Park, CA 94025  
Attention: Real Estate Counsel

A Party may change its mailing address at any time by giving to the other Parties 10 days' notice of such change in the manner provided for in this Section 37. 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.



38. Miscellaneous.

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

38.2. 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.

38.3. 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.

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

38.5. Severability. Invalidation of any of the provisions contained in this Agreement, or of the application thereof to any person, by judgment or court order, shall in no way affect any of the other provisions hereof or the application thereof to any other person or circumstance and the same shall remain in full force and effect, unless enforcement of this Agreement as so invalidated would be

unreasonable or grossly inequitable under all the circumstances or would frustrate the purposes of this Agreement. Notwithstanding the preceding, this Section 38.5 is subject to the terms of Section 25.2.

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

38.7. Entire Agreement. This written Agreement contains all the representations and the entire agreement between 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.

38.8. Construction of Agreement. The provisions of this Agreement shall be construed as a whole according to their common meaning and not strictly for or against any Party in order to achieve the objectives and purpose of the Parties. The captions preceding the text of each Article, Section, Subsection and the Table of Contents 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 company or other legal entities.

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

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

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

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

39. 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:

Attest:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk  
corporation

“Facebook”

FACEBOOK, INC., a Delaware

Approved as to Form:

By:

Name:

Title:

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

CERTIFICATE OF ACKNOWLEDGMENT

STATE OF CALIFORNIA            )  
  )ss:  
COUNTY OF SAN MATEO        )

On \_\_\_\_\_, before me, \_\_\_\_\_ ,  
Notary Public, personally appeared \_\_\_\_\_, 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/she executed the same in  
his/her authorized capacity, and that by his/her 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.

\_\_\_\_\_  
Signature  
My Commission expires: \_\_\_\_\_

STATE OF CALIFORNIA            )  
  )ss:  
COUNTY OF SAN MATEO        )

On \_\_\_\_\_, before me, \_\_\_\_\_ ,  
Notary Public, personally appeared \_\_\_\_\_, 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/she executed the same in  
his/her authorized capacity, and that by his/her 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.

\_\_\_\_\_  
Signature  
My Commission expires: \_\_\_\_\_

EXHIBIT A

SITE PLAN OF PROPERTY

EXHIBIT B

LEGAL DESCRIPTION OF PROPERTY

EXHIBIT C

SITE PLAN



EXHIBIT D

MEMORANDUM OF AGREEMENT

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**DRAFT – March 13, 2018**

**ORDINANCE NO. \_\_\_\_**

**ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MENLO PARK  
APPROVING THE AMENDED AND RESTATED 1601 WILLOW ROAD  
DEVELOPMENT AGREEMENT WITH FACEBOOK, INC. FOR THE  
PROPERTY LOCATED AT 1601 WILLOW ROAD (1 HACKER WAY)**

The City Council of the City Menlo Park does hereby ORDAIN as follows:

**SECTION 1.** This ordinance is adopted under the authority of Government Code Section 65864 *et. seq.* and pursuant to the provisions of City Resolution No. 4159, which establishes procedures and requirements for the consideration of developments within the City of Menlo Park (“City”).

**SECTION 2.** The City Council approved the 1601 Willow Road Development Agreement (“Original Agreement”) and an Amended and Restated Conditional Development Permit, and certified the Environmental Impact Report (“EIR”) for the East Campus Project at a duly noticed public meeting on May 29, 2012.

**SECTION 3.** In 2016, the City Council approved a project located at 301-309 Constitution Drive and commonly known as the “Facebook Campus Expansion Project.” As part of the approvals for the Facebook Campus Expansion Project, the City and a Facebook affiliate, Hibiscus Properties, LLC, a Delaware limited liability company, entered into a Development Agreement, which was subsequently amended by that certain Amendment to Development Agreement (collectively, the “Expansion Development Agreement”).

**SECTION 4.** The Expansion Development Agreement requires modifications to the Original Agreement to eliminate Facebook’s right to reduce the Annual Payment (defined in the Original Agreement) in exchange for a reduction in the allowed number of trips; provided, however, that Facebook shall retain the right to suspend the Density Increase (as defined in the Original Agreement) in its entirety and comply with the employee/density cap contained in the Sun Microsystems Conditional Development Permit.

**SECTION 5.** The Mitigation Monitoring and Reporting Program adopted with the certified EIR for the Facebook Campus Expansion Project requires adjustments to the Trip Cap for the East Campus Project. Those adjustments include modifying the definition of Trip Cap contained in the Original Agreement and changes to the definition of Peak Period in the Trip Cap, which is attached to the Second Amended and Restated Conditional Development Permit, to identify peak hour trip limitations.

**SECTION 6.** This ordinance incorporates by reference that certain Amended and Restated 1601 Willow Road Development Agreement (“Agreement”) by and between the City and Facebook, Inc., attached hereto as Exhibit A and incorporated herein by this reference, that will make the required changes described above.

**SECTION 7.** The City, as lead agency, examined the environmental effects of the East Campus Project in an EIR prepared pursuant to the California Environmental Quality Act (“CEQA”). On May 29, 2012, the City Council of the City reviewed and certified the EIR.

**SECTION 8.** The Agreement is consistent with the certified EIR for the East Campus Project, would continue to implement the negotiated terms in the Original Agreement and would implement the negotiated terms of the Expansion Development Agreement.

**SECTION 9.** As required by Section 301 of Resolution No. 4159 and based on an analysis of the facts set forth above, the City Council hereby adopts the following as its findings:

1. The Agreement is consistent with the objectives, policies, general land uses and programs specified in the General Plan, as amended by the Project Approvals, as that term is defined in the Agreement.

2. The Agreement is compatible with the uses authorized in and the regulations prescribed for the land use district in which the Property is located, as amended by the Project Approvals, including the Second Amended and Restated Conditional Development Permit.

3. The Agreement is in conformity with public convenience, general welfare and good land use practices.

4. The Agreement will not be detrimental to the health, safety and general welfare of the City or the region surrounding the City.

5. The Agreement will not adversely affect the orderly development of property or the preservation of property values within the City.

**SECTION 10.** If any section of this ordinance, or part hereof, is held by a court of competent jurisdiction in a final judicial action to be void, voidable or enforceable, such section, or part hereof, shall be deemed severable from the remaining sections of this ordinance and shall in no way affect the validity of the remaining sections hereof.

**SECTION 11.** The ordinance shall take effect 30 days after its passage and adoption. Within 15 days of its adoption, the ordinance shall be posted in three public places within the City, and the ordinance, or a summary of the ordinance prepared by the City Attorney, shall be published in a local newspaper used to publish official notices for the City prior to the effective date.

INTRODUCED on the 13 of March, 2018.

PASSED AND ADOPTED as an ordinance of the City of Menlo Park at a regular meeting of said Council on the \_\_\_\_\_ of March, 2018, by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

APPROVED:

---

Peter I. Ohtaki  
Mayor, City of Menlo Park

ATTEST:

---

Clay J. Curtin  
Interim City Clerk

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**STAFF REPORT****City Council****Meeting Date:****3/13/2018****Staff Report Number:****18-045-CC****Regular Business:****Approve the introduction of an ordinance that will regulate newsracks within Menlo Park****Recommendation**

Staff recommends that the City Council review and approve the introduction of the attached ordinance which will regulate newsracks by establishing a newsrack permit process, standards for maintenance and display of newsracks, size and design standards, standards for placement and location of newsracks and an enforcement mechanism for abandoned or unmaintained newsracks throughout Menlo Park.

**Policy Issues**

This action is consistent with the City Council's direction at the December 5, 2017 City Council Meeting to prepare a newsracks ordinance for Council review after reviewing it with publishers and distributors. This ordinance helps address the concerns raised about unmaintained, abandoned or poorly located racks within Menlo Park. This action is also consistent with the goal of the downtown beautification which is reflected among the El Camino Real/Downtown Specific Plan and the 2015 Menlo Park Economic Development Plan.

**Background**

Over the past three years, the City has received complaints regarding the proliferation and deterioration of newspaper racks throughout the City and especially, the downtown area. The City has been unable to address these issues due to concerns about possible First Amendment challenges similar to those which other cities have faced. There are two types of newsracks used within the City: double stacked, green pedestal racks and private, branded modular racks. To address a similar issue in the 1980's, publishers collaborated, purchased, and installed the green racks, but had no agreement on who would maintain the racks.

On October 25, 2017, staff held a community meeting to solicit general feedback and recommendations on a newsrack ordinance. General input strongly favored not completely removing newsracks, but emphasized the need for cleaning them up. Specific suggestions included; ensuring that permit fees are reasonable, not restricting the locations of racks, not mandating the size of the racks, not adopting an ordinance, giving publishers six months to clean up the racks and creating a stakeholder committee to advise staff on ordinance recommendations. Since the meeting, there was a perceived reduction in the number of branded modular racks.

At the December 5, 2017 City Council meeting, staff presented the community meeting feedback and requested direction on next steps for addressing the newsracks within the City. City Council gave direction for "staff to draft an ordinance and bring it for City Council consideration after it has been vetted through a stakeholders' advisory group." Staff asked for further clarification on three policy questions before drafting

an ordinance:

1. Does the City Council want to standardize the newsracks?
  - a. Style (pedestal or modular)
  - b. Size
  - c. Color
  - d. Manufacturer and/or model
2. Does the City Council want to regulate newsracks locations within the City?
3. Does the City Council want to restrict the number of newsracks allowed?

Council said no to all three.

### Community meeting with stakeholders

On February 8, 2018, staff held a community meeting in the Arrillaga Recreation Center. In advance of the meeting, the draft ordinance and draft permit application was available for the public to preview. Extensive outreach was conducted to ensure the community, publishers and distributors were notified. A personal email invitation was sent to all editors, publications and publishers identified as distributing within the City. Personal phone calls were made to key stakeholders, the Menlo Park Chamber of Commerce announced the meeting in its newsletter, a Council Digest article was published, it was posted on the community calendar and Economic Development website and it was posted on Facebook and Twitter. Additionally, InMenlo and the Almanac published articles about the meeting.

At the meeting, staff received positive feedback from the proposed draft ordinance. Distributors and publishers appreciated that the ordinance was not too restrictive, allowed them to brand the news racks while allowing them to distribute at locations they know best serve their customers. The City Attorney's Office and staff answered all follow up questions and, after the meeting, made minor edits to the draft ordinance and permit application.

### **Analysis**

The City of Menlo Park currently has no ordinance regulating newsracks and therefore no ability to address the concerns raised about unmaintained, abandoned or modular racks blocking sidewalks, crosswalks or bike racks. Adopting an ordinance, which requires publishers to obtain permits, will give the City current contact information for all racks placed in the public right of way and allow the City to legally remove any racks that do not meet the standards enumerated in the ordinance. Attachment A is the draft Menlo Park Newsracks Ordinance. It establishes a newsrack permit process, standards for maintenance and display of newsracks, size and design standards, standards for placement and location of newsracks and an enforcement mechanism for abandoned or unmaintained newsracks throughout Menlo Park.

### Draft ordinance highlights

The proposed ordinance was drafted based on the aforementioned Council, publisher/distributor and community input to staff. Staff felt it would be helpful to cite in the draft ordinance where specific areas of concern were addressed.

*Feedback:* Racks need to be maintained.

*Ordinance:* Section 13.28.050 Standards for Maintenance says, "Every newsrack shall be maintained in a neat and clean condition, and in good repair at all times. For example, without limitation, every newsrack shall be reasonably free of dirt and grease, be reasonably free of chipped, faded, peeling or cracked paint, be reasonably free of rust and corrosion, have no broken or cracked



plastic or glass parts, and have no broken structural parts... shall be constructed, installed and maintained in a safe and secure condition...shall be kept free of graffiti..."

*Feedback:* Don't mandate the box colors or branding.

*Ordinance:* Section 13.28.060 Size and Design Standards does not restrict newsracks colors or branding.

*Feedback:* Do not restrict distribution locations, distributors know where the customers want access to their publications.

*Ordinance:* Section 13.28.070 Standards for Placement and Location of Newsracks This section creates minimum siting requirements to comply with ADA and traffic safety standards.

*Feedback:* Clearly define "abandonment" so that outlets which go out of business can easily be removed if left on public property.

*Ordinance:* Section 13.28.020 Definitions defines an abandoned newsrack as "any newsrack which remains empty for ten (10) business days; provided, that a newsrack remaining empty due to labor strike or any temporary and extraordinary interruption of distribution or publication by the newspaper or other publication sold or distributed from that newsrack shall not be deemed abandoned."

*Feedback:* Have the ordinance cover all racks within the City.

*Ordinance:* Section 13.28.020 Definitions defines "newsrack" as "any self-service or coin-operated box, container, storage unit, or other dispenser installed, used or maintained for the display and sale or distribution of newspapers, periodicals or other publications." This includes but is not limited to all the current racks within the City, for example:

- Bay Area Parent
- Bay Classified
- Cinequest
- College of San Mateo
- Daily Post
- Deleon Realty
- Epoch Times
- Homes & Land
- New York Times
- Newsmax
- Palo Alto Daily News
- Real Estate Guide
- San Francisco Chronicle
- San Mateo Daily Journal
- SJ Mercury News
- The Almanac
- Tuolumne County
- The SF Examiner

### Permit Fee

Attachment B is the City of Menlo Park User Fee Cost Recover Policy. It guides the establishment of fees based on the degree of cost recovery and seeks to balance fiscal impacts with other priorities, such as intrinsic community benefit. It defines High Recovery Expectations as "Recovery in the range of 70% to 100% when user fees charged are sufficient to fully recover costs of providing the service. Individual benefit is foremost and minimal community benefit exists. Most services provided by the Public Works Department fall in this area."

Placement of modular newsracks within the City right-of-way is most similar to Public Work's encroachment permit. Encroachment permits are required whenever a property owner or contractor needs to perform work in the public right-of-way. Currently a minor encroachment permits cost \$500 and falls under the "high recovery cost" in the user fee cost recovery policy.

Fees for a newsracks permit are expected to be lower than an encroachment permit and would be set to

the cover the cost of reviewing and renewing permits, verifying modular rack placement and anchoring and enforcement. The majority of review time is expected to come with the initial permit. Subsequent renewals should be relatively nominal. Staff will recommend lower fees to encourage compliance with the new ordinance and higher fees for non-compliance (abandonment, other violations). Projected staff costs are being analyzed by Public Works. A proposed newsrack permit fee, renewal fee and violation fee will be included in the Master Fee Schedule that will go to Council in April 2018. Six out of the ten local cities that have a newsracks ordinance do not have any fees associated with their permit.

The City Council may also choose to define newsrack permit fee as a low (0-30%) or mid (30-70%) recovery fee, because it is a new fee and publishers requested that any fee be reasonable. It can be argued that there is an intrinsic value in the service provided by the publishers and therefore it is appropriate for the fee recovery to fall into a lower category.

### **Impact on City Resources**

The Public Works Department will be administering the permit process and Code Enforcement will be involved with enforcing the maintenance standards. Additional resources may be necessary based on the Council's direction, relative to establishing the permit fee.

### **Environmental Review**

This report is not subject to the California Environmental Quality Act.

### **Public Notice**

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

### **Attachments**

- A. Draft Menlo Park Newsracks Ordinance
- B. City of Menlo Park User Fee Cost Recover Policy

Report prepared by:  
Meghan Revolinsky, Management Analyst II

Report Reviewed by:  
Jim Cogan, Housing and Economic Development Manager

**ORDINANCE NUMBER \_\_\_\_\_**

**ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MENLO PARK  
ADDING CHAPTER 13.28 [NEWSRACKS] OF TITLE 13 [STREETS,  
SIDEWALKS, AND UTILITIES] OF THE MENLO PARK MUNICIPAL  
CODE**

The City Council of the City Menlo Park does hereby ordain as follows:

**SECTION 1. FINDINGS AND DETERMINATIONS.**

A. It is in the public interest to establish regulations that balance the right to distribute information through newsracks with the right of persons to reasonably access and use public property.

B. The City of Menlo Park currently has limited control on the design, placement, and installation of newsracks within the public rights of way, which newsracks can cause interference and obstruction with the use of public rights of way; can cause interference with the safe and reasonable use of private property adjoining or in the vicinity of such public rights of way, and further can adversely impact the aesthetics of the City of Menlo Park creating structural and visual clutter. The goal of this ordinance will reduce such negative impacts.

C. The City Council of the City of Menlo Park finds and declares the addition of Chapter 13.28 [Newsracks] is necessary for the above reasons.

**SECTION 2. ADDITION TO CODE. Section 13.28 [Newsracks] is hereby added in its entirety as follows:**

- Sections:
- 13.28.010 Purpose.
- 13.28.020 Definitions.
- 13.28.030 Permit Required.
- 13.28.040 Obtaining a Permit.
- 13.28.050 Standards for Maintenance and Display of Newsrack.
- 13.28.060 Size and Design Standards.
- 13.28.070 Standards for Placement and Location of Newsrack.
- 13.28.080 Blinder Racks Required.
- 13.28.090 Violation - Enforcement.
- 13.28.100 Nuisance.
- 13.28.110 Removal and Hearing.
- 13.28.120 Abandoned Newsracks.

### 13.28.010 Purpose.

The purpose and scope of the regulations in this chapter are as follows:

(a) The provisions of this chapter shall apply to all newsracks located within the City of Menlo Park; provided, that certain provisions, as specified, shall apply only to newsracks located on public property.

(b) It is in the public interest to establish regulations that balance the right to distribute information through newsracks with the right of persons to reasonably access and use public property.

(c) The public health, safety, welfare and convenience require that interference with vehicular, bicycle, wheelchair or pedestrian traffic be avoided; obstruction of sight distance and views of traffic signs and street-crossing pedestrians be eliminated; damage done to sidewalks or streets be minimized and repaired; the good appearance of public property be maintained; trees and other landscaping be allowed to grow without disturbance; access to emergency and other public facilities be maintained; and ingress and egress from, and the enjoyment of store window displays on, properties adjoining public property be protected.

(d) Newsracks placed and maintained on public and private property, absent some reasonable regulation, may unreasonably interfere with the use of such property, and may present hazards to persons or property.

(e) The regulations on the time, place and manner of the placement, location and maintenance of newsracks set forth in this chapter are carefully tailored to ensure that the purposes stated in this section are implemented while still providing ample opportunities for the distribution of news and other information to the public.

### 13.28.020 Definitions.

For the purposes of this chapter, the following words and phrases are defined and shall be given the meaning set out in this section unless it is apparent from the context that a different meaning is intended.

(a) "Abandoned newsrack" means any newsrack which remains empty or contains only outdated issues for fourteen(14) consecutive calendar days; provided, that a newsrack remaining empty due to labor strike or any temporary and extraordinary interruption of distribution or publication by the newspaper or other publication sold or distributed from that newsrack shall not be deemed abandoned.

(b) "Harmful matter" means and is defined as in California Penal Code Section 313, as such section may from time to time be amended.

(c) "Newsrack" means any self-service or coin-operated box, container, storage unit, or other dispenser installed, used or maintained for the display and sale or distribution of newspapers, periodicals or other publications.

(d) "Person" means any individual, partnership, firm, association, corporation, limited liability company, or other legal entity.

(e) "Public place(s)" means and includes any public property owned or controlled by the City of Menlo Park or any other public agency, or any outdoor private property which is open to the public.

(f) "Public property" means any public right-of-way or any property owned or controlled by the City of Menlo Park, including, without limitation, streets, sidewalks, alleys, plazas, and rights-of-way.

#### 13.28.030 Permit Required.

It is unlawful to install, place, maintain or cause to be placed, installed or maintained a newsrack on, or projecting on or over, any public property without first receiving a permit therefor from the City of Menlo Park Public Works Director or its designee, and unless such newsrack is in compliance with the provisions of this chapter; provided that a newsrack located on public property as of the effective date of this chapter, may continue to remain in such location for one hundred twenty (120) days following such effective date, under the following conditions:

(a) The newsrack is in compliance with the requirements for the installation and maintenance of newsracks contained in this chapter; and

(b) A permit application for such newsrack has been filed as of that date with the City of Menlo Park Public Works Director or its designee by the duly authorized representative of both the publisher and, if applicable, any independent distributor authorized to service the publisher's newsrack; and

(c) A permit pursuant to such application has not been denied with respect to any such newsrack.

If no permit application has been filed by that date by the duly authorized representative of both the publisher and, if applicable, any independent distributor authorized to service the publisher's newsrack, or such permit is denied, such newsrack shall be deemed to be in violation of the provisions of this chapter. Initial permits shall be valid until December 31, 2019. Thereafter, permits shall be valid for up to two years, expiring on December 31 of each even numbered year.

Newsracks on private property do not require a newsrack permit, but do require design review approval by the City of Menlo Park Public Works Director or its designee if they do not conform to the design standards in this chapter. Existing newsracks on private property shall constitute a non-conforming use to the extent they do not conform to the design standards set forth in this chapter.

#### 13.28.040 Obtaining a Permit.

(a) Exclusive Requirements. The provisions of this chapter shall be the exclusive requirements for newsracks located on or encroaching onto public property in the city.

(b) Application. Application for a newsrack permit for each location sought shall be submitted to the City of Menlo Park Public Works Director or its designee on a form prescribed by the City of Menlo Park, which shall include, without limitation:

(1) The name, street and mailing address, and telephone number of the applicant, which shall be the duly authorized representative of both the publisher and, if applicable, any independent distributor authorized to service the publisher's newsrack for which the permit is sought;

(2) The name, street and mailing address and telephone number of the distributor or other responsible person whom the city may notify or contact at any time concerning the applicant's newsrack(s);

(3) A description of the exact proposed location (including a map or site plan, drawn to scale, with adequate locational information to verify conformance with this chapter) and the proposed means of affixing the proposed newsrack;

(4) A description of the proposed newsrack, including its dimensions, the number of publication spaces it will contain, and whether it contains a coin-operated mechanism;

(5) The name and frequency of publication of each publication proposed to be contained in the newsrack;

(6) A statement signed by the applicant that the applicant agrees to indemnify, defend and hold harmless, the City of Menlo Park and its representatives from all claims, demands, loss, fines or liability to the extent arising out of or in connection with the installation, use or maintenance of any newsrack on public property by or on behalf of any such person, except such injury or harm as may be caused solely and exclusively by the negligence of the City of Menlo Park or its authorized representatives;

(7) A statement signed by the applicant that the applicant agrees, upon removal of a newsrack, to repair any damage to the public property caused by the newsrack or its removal; and

(8) Each applicant shall submit along with the permit application a fee as set forth in the City's Master Fee Schedule. Additionally each applicant shall submit an insurance certificate naming the City of Menlo Park as an additional insured under the same terms as required for a public works encroachment permit.

(c) Issuance of Permit. A permit shall be issued within fifteen (15) working days from the date of filing the application with the City of Menlo Park Public Works Director or its designee if the application is properly completed and the type of newsrack and location proposed for each newsrack meet the standards set forth in this chapter. A single permit shall be issued for each newsrack location applied for by an applicant which meets the standards of this chapter. Each permit holder shall maintain an active City of Menlo Park business license throughout the term of the permit. An applicant may submit more than one application, in order to apply for additional locations. A permit shall not be transferable without written authorization of the City of Menlo Park Public Works Director or its designee.

(d) Period of Permit Validity. Permits shall remain valid if re-registered with the City of Menlo Park prior to expiration, on a form provided by the City of Menlo Park. Failing to re-register or explicit cancellation by a permit holder will void the permit and it will be ineffective thereafter. Unregistered newsracks may be treated as abandoned under Section 13.28.120 or other applicable enforcement mechanism.

(e) Issuance of Permit Sticker. Each permittee shall be issued a pre-printed sticker for each permitted newsrack, which shall be affixed to the lower right corner of the front of each permitted newsrack. Failure to have a permit sticker affixed to a newsrack will be treated as abandoned under Section 13.28.120.

(f) Denial of Permit. If a newsrack permit is disapproved, in whole or in part, the City of Menlo Park Public Works Director or its designee shall notify the applicant within thirty (30) working days from the date of filing a complete application with the City of Menlo Park, explaining the reasons for the denial of the permit. The applicant shall have ten (10)

calendar days within which to appeal the decision to the City Manager in accordance with the appeal provisions set forth in subsection (g) of this section.

(g) Appeal of Permit Denial. After receiving a notice of appeal, the City Manager or the designee of the City Manager shall conduct a hearing within thirty (30) days of the receipt of the applicant's appeal, unless otherwise agreed to by the applicant. Written notice of the time and place of the hearing shall be given to the applicant, and shall be posted in the official posting locations of the City of Menlo Park. The hearing shall be informal, but oral and written evidence may be given by both sides. The City Manager or designee shall render a written decision within twenty (20) days after the date of the hearing. The decision of the City Manager shall be final.

(h) Amendment to Permit. In the event of a change in any of the information contained in the application, the permittee shall submit such change in writing to the City of Menlo Park Public Works Director or its designee. A permittee may install and maintain additional newsracks by an amendment to the permit. The rules and procedures of this section shall also apply to the review and approval of any such amendment.

### 13.28.050 Standards for Maintenance and Display of Newsracks.

(a) Every person placing or maintaining a newsrack on public property shall comply with the following requirements:

(1) Every newsrack shall be maintained in a neat and clean condition, and in good repair at all times. For example, without limitation, every newsrack shall be reasonably free of dirt and grease, be reasonably free of chipped, faded, peeling or cracked paint, be reasonably free of rust and corrosion, have no broken or cracked plastic or glass parts, and have no broken structural parts. No signs, advertising, stickers or adhesive labels, other than City of Menlo Park issued identification/approval labels, unrelated to publications in the newsracks shall be displayed on newsracks.

(2) Every newsrack shall be constructed, installed and maintained in a safe and secure condition.

(3) Every newsrack shall be made of solid material on all sides, so as to contain the material inside the newsrack in a manner as to prevent it from blowing away or otherwise becoming litter. No wire or other open form of newsrack shall be permitted.

(4) Every newsrack shall be kept free of graffiti.

(5) Every newsrack that sits on legs shall be kept free of dirt and litter under the newsrack.

(6) Every newsrack shall be painted or covered with a protective coating, so as to keep it free from rust, and shall be cleaned and repainted on a regular basis.

(7) Every coin-operated newsrack shall be equipped with a coin-return device that is maintained in good repair and working order.

(8) Every coin-operated newsrack shall display information on how to secure a refund in the event of coin return malfunction. Such information shall be placed in a visible location on the front or top of the newsrack, and shall be legible.

(9) Other than the display of the publication contained therein, no newsrack shall display or be affixed with any words or pictures except for the identifying information, and the coin return information, if applicable.

(10) Old or out-of-date material removed from any newsrack by any person who owns, maintains, or stocks the newsrack shall be recycled or disposed of in a lawful manner and

not in any City owned trash receptacle. Such material shall not be disposed of in any trash receptacle owned or rented by others, without the express written consent of the owner or renter of such receptacle. Such material shall be disposed of in a manner that does not cause the material to become litter.

(11) Upon the removal of a newsrack, the public right-of-way shall be returned to its original condition.

(b) Every newsrack located in a public place shall be affixed with identifying information, which shall contain the name, address and telephone number of the newsrack owner and of the distributor of the publication(s) contained therein. Such information shall be placed in a visible location on the front or top of the newsrack, and shall be legible. The size of the identifying information shall be no larger than three (3) inches by five (5) inches.

#### 13.28.060 Size and Design Standards.

No newsrack shall be placed, installed or maintained on any public property except in compliance with the following standards:

(a) No newsrack shall be more than fifty (50) inches high (including the pedestal in the case of modular newsracks) measured from the ground to the top surface of the newsrack, nor more than twenty-four (24) inches deep, nor more than twenty-four (24) inches wide.

(b) The highest operable part of the coin slot, if provided, and all controls, dispensers and other operable components of a newsrack shall be no higher than forty-eight (48) inches above the ground, and no lower than fifteen (15) inches above the ground.

(c) The design of a newsrack shall not create a danger to the persons using the newsrack in a reasonably foreseeable manner. All newsracks shall comply with all applicable federal, state and local laws and regulations including, without limitation, the Americans with Disabilities Act and other laws and regulations relating to barrier-free design.

#### 13.28.070 Standards for Placement and Location of Newsracks.

(a) No newsrack shall be placed, installed or maintained on any public property when such installation, use or maintenance endangers the safety of persons or property. No newsrack shall be placed, installed or maintained on any public property except in compliance with the following standards:

(1) Newsracks shall be placed only on a sidewalk, in one of the following locations:

(A) Near a curb, in which case, the back of the newsrack shall be placed no less than eighteen (18) inches nor more than twenty-four (24) inches from the face of the curb; or

(B) Adjacent to the wall of a building, in which case, the back of the newsrack shall be placed parallel to such wall and not more than six (6) inches from the wall.

(2) Every newsrack shall be placed so as to open toward the sidewalk.

(3) Every newsrack shall be affixed to the sidewalk or to another newsrack, in a manner approved by the permit therefor; provided, no newsrack shall be chained to another newsrack. Newsracks shall not be chained or otherwise attached to any bus shelter, bench, street light, utility pole or device or sign pole, or to any tree, shrub or other plant, nor situated upon any landscaped area.



(4) No newsrack shall be placed, installed or maintained:

(A) Within five (5) feet of any marked or unmarked crosswalk as measured from the curb return;

(B) Within five (5) feet of any fire hydrant, call box, or other emergency facility; or bus bench;

(C) At any location where the clear space for the passage of pedestrians is reduced to less than six (6) feet except that in areas where physical obstructions provide for less than a six (6) foot clearance, a clear space for passage of not less than four (4) feet may be permitted for a distance of not more than ten (10) feet with the written approval of the City of Menlo Park Public Works Director or its designee;

(D) Within five (5) feet of any driveway;

(E) Within five (5) feet of any red curb of a bus stop zone;

(F) Within five (5) feet of the curb return of any wheelchair curb ramp not in a marked crosswalk;

(G) In such a manner as to impede or interfere with the reasonable use of any commercial window display or access to or from any building;

(H) In such a manner as to impede or interfere with the reasonable use of any bicycle rack;

(I) In such a manner as to block or cover any portion of an underground utility vault, manhole, or other sidewalk underground access location.

(5) Any newsrack placed ~~on within Caltrans jurisdiction (such as along El Camino Real or portions of Willow Road) must be approved by CalTrans in addition to the approvals required under this section, unless CalTrans waives such approval right comply with the applicable Caltrans Maintenance Agreement held by the City of Menlo Park.~~

(b) The City of Menlo Park Public Works Director or its designee may allow a permittee to place a newsrack in a location in variance of the standards otherwise required by this section if it is found that such variance will not be detrimental to the public safety and that, due to the existing physical constraints at that location, imposition of the standards would make placement impossible and would cause a hardship to the permittee and its patrons. The written findings and the variance shall be made part of the permit. Prior to considering whether or not to grant a variance, the City of Menlo Park Director of Public Works or its designee shall provide written notice of the requested variance to the owner(s) of the real property adjacent to or abutting the proposed newsrack location.

(c) If sufficient space does not exist to accommodate all newsracks sought to be placed at one location without violating the standards set forth in this chapter, the City of Menlo Park Public Works Director or its designee shall give priority as to that location to publications on a historical "first come first served" basis to permit applicants as follows:

(1) First priority shall be publications that are published two (2) or more times a week;

(2) Second priority shall be given to publications that are published once per week;

(3) Third priority shall be given to publications that are published less than once per week but more than once per month;

(4) Fourth priority shall be given to publications that are published monthly or less frequently than monthly.

In the event the City of Menlo Park is required to utilize the priority system described in subsections (d)(1) through (4), the City of Menlo Park shall permit only one rack per publication or distributor in a single location.

13.28.080 Blinder Racks Required.

Section 313.1 of the California Penal Code shall govern the display, offer for sale or selling of harmful matter as defined in CPC Section 313(a), to minors in vending machines, selling such matter, unattended by an adult at the time of such sale, located in and upon public places. No material which is harmful to minors, as defined in Section 313 of the California Penal Code, shall be displayed in a public place, other than a public place from which minors are excluded, unless blinder racks are placed in front of the material so that the lower two-thirds of the material is not exposed to view.

13.28.090 Violation- Enforcement.

- (a) It shall be illegal to place, install, or maintain any newsrack or any material in a newsrack in a manner contrary to any provision of this chapter.
- (b) Any person who violates any provision of this chapter shall be guilty of an infraction and upon conviction thereof shall be punished as provided in Section 1.12.010 [Penalty for violations] of this code.
- (c) The provisions contained in this chapter shall be subject to the code enforcement authority of the city as provided in Title 1 of this code.

13.28.100 Nuisance.

Any newsrack or any material in a newsrack placed, installed or maintained in violation of this chapter shall constitute a public nuisance and may be abated in accordance with applicable provisions of law.

13.28.110 Removal and Hearing.

In addition to the enforcement remedies available to the City of Menlo Park, which are set forth in Title 1 and in Sections 13.28.090 and 13.28.100 of this chapter, any newsrack placed, installed or maintained in violation of this chapter may be removed by the City of Menlo Park, subject to the notice and hearing procedures set forth in this section.

- (a) Notice of Violation. Before removal of any newsrack, the City of Menlo Park shall notify the owner and/or distributor of the violation. Written notification by first class mail to the address or addresses shown on the offending newsrack shall constitute adequate notice; and in addition the City will provide notice by sending an email to the email address listed on the owner and/or distributor's permit application. The City may, but need not, affix an additional notice tag onto the offending newsrack. If no identification is shown on the newsrack, posting of the notice on the newsrack alone shall be sufficient. The notice shall state the nature of the violation, shall specify actions necessary to correct the violation, and shall give the owner and/or distributor ten (10) business days from the date appearing on the notice to either remedy the violation or to request a meeting before the City of Menlo Park Public Works Director or its designee. The date on the notice shall be no earlier than the date on which the notice is mailed or affixed to the newsrack, as the case may be.

(b) Meeting and Decision. Any owner or distributor notified under subsection (a) may request a meeting with the City of Menlo Park Public Works Director or its designee by delivering a written request therefor within ten (10) business days from the date appearing on the notice. The meeting shall be informal, but oral and written evidence may be given by both sides. The City of Menlo Park Public Works Director or its designee shall give its decision within ten (10) business days after the date of the meeting. Any action by the city to remove the newsrack shall be stayed pending the written decision of the City of Menlo Park Public Works Director or its designee following the meeting.

(c) Removal and Impoundment. The City of Menlo Park may remove and impound a newsrack or newsracks in accordance with this section following the written decision of the City of Menlo Park Public Works Director or its designee upholding the determination of a violation, or if the owner or distributor has neither requested a meeting nor remedied the violation within ten (10) business days from the date on the notice. An impounded newsrack shall be retained by the City of Menlo Park for a period of at least ninety (90) calendar days following the removal, and may be recovered by the permittee upon payment of a fee as set forth in the municipal fee schedule. An impounded newsrack and its contents may be disposed of by the City of Menlo Park after ninety (90) calendar days.

(d) Summary Abatement. Notwithstanding the provisions of subsections (a) and (b), prior notice and an opportunity to be heard shall not be required prior to removal of any newsrack that is installed or maintained in such a place or manner as to pose an immediate or clear and present danger to persons, vehicles or property or any newsrack that is placed in any location without a permit. In such case, the City of Menlo Park shall proceed in the following manner:

(1) Within the next working day following removal, the City of Menlo Park shall notify by telephone the permittee or, in the case of an unpermitted newsrack, the owner of the newsrack or a person whose name is shown on the required identification, if available. Within three (3) business days, the City of Menlo Park shall send written confirmation of the telephoned notice. The written confirmation shall contain the reasons for the removal and information supporting the removal, and shall inform the recipient of the right to request, in writing or in person, a post-removal meeting within four (4) business days of the date of such written notice and the person to whom such request shall be made.

(2) Upon timely request, the City of Menlo Park shall provide a meeting within two (2) business days of the request, unless the requesting party agrees to a later date. The proceeding shall be informal, but oral and written evidence may be given by both sides. The City of Menlo Park designee hearing the matter shall give his or her decision in writing to the requesting party within two (2) business days after such meeting. If the City of Menlo Park hearing officer finds that the removal was proper, he or she shall notify the requesting party to pay any applicable penalties and costs and recover the newsrack. If the City of Menlo Park hearing officer finds that the removal was improper and that placement of the newsrack was lawful, he or she shall order that the newsrack be released and reinstalled without charge.

(3) If the owner and distributor of an unpermitted rack cannot be determined and the rack does not contain the required identification, no notice of the removal shall be required.

### 13.28.120 Abandoned Newsracks.

An abandoned newsrack may be removed by the city and impounded, pursuant to the notice and hearing procedures set forth in Section 13.28.110. The City of Menlo Park may dispose of the newsrack if the permittee does not claim the newsrack and pay any required fees within ninety (90) days of its removal.

SECTION 3. SEVERABILITY. If any section of this ordinance, or part hereof, is held by a court of competent jurisdiction in a final judicial action to be void, voidable or unenforceable, such section, or part hereof, shall be deemed severable from the remaining sections of this ordinance and shall in no way affect the validity of the remaining sections hereof.

SECTION 4. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION. The City Council hereby finds that this ordinance is not subject to the provisions of the California Environmental Quality Act ("CEQA") because the activity is not a project as defined by Section 15378 of the CEQA Guidelines. The ordinance has no potential for resulting in physical change to the environment either directly or indirectly.

SECTION 5. EFFECTIVE DATE AND PUBLISHING. This ordinance shall take effect 30 days after adoption. The City Clerk shall cause publication of the ordinance within 15 days after passage in a newspaper of general circulation published and circulated in the city or, if none, the posting in at least three public places in the city. Within 15 days after the adoption of the ordinance amendment, a summary of the amendment shall be published with the names of the council members voting for and against the amendment.

INTRODUCED on the thirteenth day of March, 2018.

PASSED AND ADOPTED as an ordinance of the City of Menlo Park at a regular meeting of said Council on the \_\_\_ day of \_\_\_\_\_, 2018, by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

# City of Menlo Park

## Fiscal Policy

<b>Department</b> City Council	<b>Page 1 of 11</b>	<b>Effective Date</b> 03/09/10
<b>Subject</b> User Fee Cost Recovery	<b>Approved by</b> Minute Order March 9, 2010	<b>Procedure #</b> CC-10-0001

**Purpose:**

A clear User Fee Cost Recovery Policy will allow the City of Menlo Park to provide an ongoing, sound basis for setting fees that allows charges and fees to be periodically reviewed and updated based on predetermined, researched and supportable criteria that can be made available to the public.

**Background:**

In 2005 the *Your City/Your Decision* community driven budget process provided community direction and initial information on approaches to cost recovery of services. In 2007, the Cost Allocation Plan provided further basis for development of a standardized allocation system by providing a methodology for data-based distribution of administrative and other overhead charges to programs and services. The Cost of Services Study completed in 2008 allowed the determination of the full cost of providing each service for which a fee is charged and laid the final groundwork needed for development of a values-based and data-driven User Fee Cost Recovery Policy. A draft User Fee Cost Recovery Policy was presented for consideration by the Council at a Study Session on February 10, 2009. Comments and direction from the Study Session were used to prepare this Fiscal Policy.

**Policy:**

The policy has three main components:

- Provision for ongoing review
- Process of establishing cost recovery levels
  - Factors to be Considered
- Target Cost Recovery Levels
  - Social Services and Recreation Programs
  - Development Review Programs
  - Public Works
  - Police
  - Library
  - Administrative Services

***Provision for ongoing review***

Fees will be reviewed at least annually in order to keep pace with changes in the cost of living and methods or levels of service delivery. In order to facilitate a fact-based approach to this review, a comprehensive analysis of the city's costs and fees should be made at least every five years. In the interim, fees will be adjusted by annual cost factors reflected in the appropriate program's operating budget.

***Process of establishing service fee cost recovery levels***

The following factors will be considered when setting service fees and cost recovery levels:

1. Community-wide vs. special benefit
  - The use of general purpose revenue is appropriate for community-wide services while user fees are appropriate for services that are of special benefit to individuals or groups. Full cost recovery is not always appropriate.
2. Service Recipient Versus Service Driver
  - Particularly for services associated with regulated activities (development review, code enforcement), from which the community primarily benefits, cost recovery from the "driver" of the need for the service (applicant, violator) is appropriate.
3. Consistency with City public policies and objectives
  - City policies and Council goals focused on long term improvements to community quality of life may also impact desired fee levels as fees can be used to change community behaviors, promote certain activities or provide funding for pursuit of specific community goals, for example: health and wellness, environmental stewardship.

# City of Menlo Park

## Fiscal Policy

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4. Impact on demand (elasticity)
  - Pricing of services can significantly impact demand. At full cost recovery, for example, the City is providing services for which there is a genuine market not over-stimulated by artificially low prices. Conversely, high cost recovery may negatively impact lower income groups and this can work against public policy outcomes if the services are specifically designed to serve particular groups.
5. Discounted Rates and Surcharges
  - Rates may be discounted to accommodate lower income groups or groups who are the target of the service, such as senior citizens or residents.
  - Higher rates are considered appropriate for non-residents to further reduce general fund subsidization of services.
6. Feasibility of Collection
  - It may be impractical or too costly to establish a system to appropriately identify and charge each user for the specific services received. The method of assessing and collecting fees should be as simple as possible in order to reduce the administrative cost of collection.

### *Target cost recovery levels*

1. Low cost recovery levels (0% – 30%) are appropriate if:
  - There is no intended relationship between the amount paid and the benefit received
  - Collecting fees is not cost-effective
  - There is no intent to limit use of the service
  - The service is non-recurring
  - Collecting fees would discourage compliance with regulatory requirements
  - The public at large benefits even if they are not the direct users of the service
2. High cost recovery levels (70% – 100%) are appropriate if:
  - The individual user or participant receives the benefit of the service
  - Other private or public sector alternatives could or do provide the service
  - For equity or demand management purposes, it is intended that there be a direct relationship between the amount paid and the level and cost of the service received
  - The use of the service is specifically discouraged
  - The service is regulatory in nature
3. Services having factors associated with both cost recovery levels would be subsidized at a mid-level of cost recovery (30% - 70%).

General categories of services tend to fall logically into the three levels of cost recovery above and can be classified according to the factors favoring those classifications for consistent and appropriate fees. Primary categories of services include:

- Social Services and Recreation Programs
- Development Review Programs – Planning, and Building
- Public Works Department – Engineering, Transportation, and Maintenance
- Public Safety

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## Fiscal Policy

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### Social Services and Recreation Programs

Master Fee Schedule Page #'s	General categorization of programs, Services, Activity, and facilities	Low cost recovery (0-30%)	Mid cost recovery (30-70%)	High cost recovery (70-100%)
9	<u>Parks</u>			
	Dog Park	X		
	Skate Parks	X		
	Open Space/Parks Playgrounds	X X		
7 11 10 11 11 7 7 11	<u>Social Services</u>			
	Senior Transportation	X		
	Senior Classes/Events	X		
	Belle Haven School Age – Title 22		X	
	Menlo Children’s Center – Title 22			X
	Preschool - Title 22			X
	Preschool – Title 5		X	
	Second Harvest	X		
Congregate Nutrition		X		
Belle Haven Community School		X		
	<u>Events/Celebrations</u>			
	City Sponsored	X		
	City-Wide	X		
	Youth & Teen Targeted	X		
	Cultural	X		
	Concerts	X		
5, 6, 7 9 9 9 10 5,6,7 9 5,6,7,8,9,10	<u>Facility Usage</u>			
	City Functions (e.g. commissions)	X		
	Co-Sponsored Organizations	X		
	Non-Profit	X		
	Fields - Youth (non-profit)		X	
	Fields - Adult (non-profit)		X	
	Tennis Courts		X	
	Picnic Rentals - Private Party			X
	Private Rentals			X
	Fields - For-profit			X
Contracted Venues – for profit			X	
8 8 8 7 11	<u>Fee Assisted Programs</u>			
	Recreational Swim	X		
	Swimming Classes	X		
	Lap Swimming	X		
	Recreation Classes	X		
Open Gym Activities	X			

# City of Menlo Park

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**Social Services and Recreation Programs** - continued

Master Fee Schedule Page #'s	General categorization of programs, Services, Activity, and facilities	Low cost recovery (0-30%)	Mid cost recovery (30-70%)	High cost recovery (70-100%)
	<u>Recreation Programs</u>			
11	Drop-In Activities		X	
10,11	Camps & Clinics			X
9	Youth Leagues			X
10	Youth Special Interest			X
10	Adult Special Interest			X
12	Gymnastics			X
6,12	Birthday Parties			X
11	Adult League			X

**Low Recovery Expectations:** Low to zero recovery is expected for programs in this category as the community benefits from the service. Non-resident fees if allowed may provide medium cost recovery.

In general, low cost programs or activities in this group provide a community wide benefit. These programs and activities are generally youth programs or activities enhancing the health, safety and livability of the community and therefore require the removal of a cost barrier for optimum participation. Recreation programming geared toward the needs of teens, youth, seniors, persons with disabilities, and/or those with limited opportunities for recreation are included. For example:

- Parks – As long as collecting fees at City parks is not cost-effective, there should be no fees collected for general use of parks and playgrounds. Costs associated with maintaining the City’s parks represent a large cost for which there is no significant opportunity for recovery – these facilities are public domains and are an essential service of City government.
- Social Services – There is no intended relationship between the amount paid and the benefit received for social service programs. Some programs are designed and delivered in coordination/partnership with other providers in Menlo Park.
- Senior Transportation – Transportation is classified as a low cost recovery program because there is no fee charged for the program and the majority of the seniors served cannot afford the actual cost of the service. Donations are solicited, but they are minimal. No fee should be established for this service, as it would threaten ridership and County reimbursements would be withdrawn.
- Senior Classes/Events – The primary purpose of senior classes and events is to encourage participation. The seniors served in these classes do not have the means of paying for the classes and are classified as “scholarship” recipients due to their low income levels. The classes should continue to be offered in collaboration with outside agencies which can offer them for free through state subsidies.
- Second Harvest – Monthly food distributions provide free food to needy families and so contribute a broad community benefit. The coordination and operation of the program is through the Onetta Harris Center staff with volunteers assisting with the distribution of food, to keep costs as low as possible.
- Events/Celebrations – Community Services events provide opportunities for neighborhoods to come together as a community and integrate people of various ages, economic and cultural backgrounds. Events also foster pride in the community and provide opportunities for volunteers to give back. As such, the benefits are community-wide. In addition, collection of fees are not always cost effective.



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- Facility Usage – Safe and secure facilities for neighborhood problem-solving and provision of other general services support an engaged community and should be encouraged with low or no fees.
- Fee Assisted Recreation Programs – Activities with fee assistance or sliding scales make the programs affordable to all economic levels in the community. Organized activities, classes, and drop-in programs are designed to encourage active living, teach essential life and safety skills and promote life-long learning for broad community benefit.

**Medium Recovery Expectation** – recovery of most program costs incurred in the delivery of the service, but without recovery of any of the costs which would have been incurred by the department without the service. Both community and individuals benefit from these services. Non-resident fees if allowed may provide high cost recovery.

- Belle Haven School Age – Title 22 - Licensed Child Care Program – Services to participants in this program are not readily available elsewhere in the community at low cost. The program provides broad community benefit in the form of a safety net for children in the community. Organized activities and programs teach basic skills, constructive use of time, boundaries and expectations, commitment to learning and social competency. Resident fees charged based on San Mateo County Pilot program for full day care that sets fees at no more than 10% of the family's gross income.
- Preschool Title 5 – The Preschool Program is supported primarily by reimbursement of federal and state grants for low income children. Tuition and reimbursement rates are regulatory.
- Senior Lunches – Congregate Nutrition is classified as a medium cost recovery fee as it asks a donation coupled with a per meal reimbursement from OAA & State funds.
- Belle Haven School Community School – The Community School partners with various non-profit and community-based agencies to provide much needed services to the community – high quality instruction, youth enrichment services, after-school programs, early learning and a family center. Services are open to Belle Haven students, their families and residents of the surrounding neighborhood.
- Field Rentals and Tennis Courts – Costs should be kept low for local non-profit organizations providing sports leagues open to residents and children in the Menlo Park Schools that encourage healthy lifestyles and lifelong fitness. Opportunities exist to collect a reasonable fee for use to defray citywide expenses for tennis facilities and fields.
- Programs – Drop-in programs can be accessed by the widest cross section of the population and therefore have the potential for broad-base participation. Recreation drop-in programs have minimal supervision while providing healthy outlets for youth, teens and adults

**High Recovery Expectations** – present when user fees charged are sufficient to support direct program costs plus up to 100% of department administration and city overhead associated with the activity. Individual benefit foremost and minimal community benefit exists. Activities promote the full utilization of parks and recreation facilities.

- Menlo Children's Center School Age and Pre-school – Title 22 – Participation benefits the individual user.
- Picnic Areas – Picnic rental reservations benefit the individual but help defray the cost of maintaining parks benefiting the entire community.
- Facility Usage – Facility use is set at a higher rate for the private use of the public facility for meetings, parties, and programs charging fees for services and celebrations.

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- Programs – Activities in this area benefit the individual user. Programs, classes, and sports leagues are often offered to keep pace with current recreational trends and provide the opportunity to learn new skills, improve health, and develop social competency. The services are made available to maximize the use of the facilities, increase the variety of offerings to the community as a whole and spread department administration and city-wide overhead costs to many activities. In some instances offering these activities helps defray expenses of services with no viable means of collecting revenue e.g. parks, playgrounds, etc.
- Contracted Venues – (for profit) – Long term arrangements where a facility is rented or contracted out to reduce general funding expense in order to provide specialized services to residents.

### Development Review Services

1. Planning (planned development permits, tentative tract and parcel maps, re-zonings, general plan amendments, variances, use permits)
2. Building and safety (building permits, structural plan checks, inspections)

Master Fee Schedule Page #'s	General categorization of programs, Services, Activity, and facilities	Low cost recovery (0-30%)	Mid cost recovery (30-70%)	High cost recovery (70-100%)
	<b>1. Planning</b>			
24	Appeals of Staff Decisions	X		
24	Appeals of Planning Commission Decisions by Residents	X		
	Subsequent Appeals			X
24	Temporary Sign Permits	X		
23	Use Permits – Non-Profits	X		
24	Administrative Reviews – Fences		X	
	Appeals of Planning Commission Decisions by			X
24	Non-Residents			X
23	Administrative Reviews – Other			X
23	Architectural Control			X
23	Development Permits			X
23	Environmental Reviews			X
23	General Plan Amendments			X
24	Tentative Maps			X
24	Miscellaneous – not listed elsewhere			X
	Reviews by Community Development			X
24	Director or Planning Commission			X
23	Special Events Permitting			X
23	Study Sessions			X
24	Zoning Compliance Letters			X
23	Signs and Awnings			X
23	Use Permits – other			X
23	Variances			X
23	Zoning Map			X
	Ordinance Amendments			X

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Master Fee Schedule Page #'s	General categorization of programs, Services, Activity, and facilities	Low cost recovery (0-30%)	Mid cost recovery (30-70%)	High cost recovery (70-100%)
28-48	<u>2. Building and safety</u> Solar installations Building Permits Mechanical Permits Electrical Permits Plumbing Permit Consultant Review	X		X X X X X

**Low Recovery Expectations:** Low to zero recovery is expected for services in this category to maintain open and accessible government processes for the public, encourage environmental sustainability and encourage compliance with regulatory requirements. Example of Low Recovery items:

- Planning – The fees for applicants who wish to appeal a Staff Decision or for a Menlo Park resident or neighbor from an immediately adjacent jurisdiction who wishes to appeal a decision of the Planning Commission is purposefully low to allow for accessibility to government processes.
- Planning – Temporary sign permit fees are low so as to encourage compliance.
- Building – The elimination or reduction of building permits for solar array installations is consistent with California Government Code Section 65850.5, which calls on local agencies to encourage the installation of solar energy systems by removing obstacles to, and minimizing costs of, permitting for such systems.

**Mid-level Recovery Expectations:** Recovery in the range of 30% to 70% of the costs incurred in the delivery of the service reflects the private benefit that is received while not discouraging compliance with the regulation requirements.

- Planning – Administrative permits for fences that exceed the height requirements along Santa Cruz Avenue are set at mid-level to encourage compliance.

**High Recovery Expectations:** Cost recovery for most development review services should generally be high. In most instances, the City's cost recovery goal should be 100%.

- Planning – Subsequent Appeals - The fees for applicants who are dissatisfied with the results of a previous appeal of an administrative permit or a decision of the Planning Commission should be at 100% cost recovery.
- Planning – Most of the Planning fees charged are based on a "time and materials" basis, with the applicant/customer being billed for staff time (at a rate that includes overhead cost allocations) and the cost of actual materials or external services utilized in the delivery of the service.
- Building – Building fees use a cost-basis, not a valuation basis, and are flat fees based on the size and quantities of the project.

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**Public Works Department - Engineering, Transportation, and Maintenance**

1. Engineering and Transportation (public improvement plan checks, inspections, subdivision requirements, encroachments)
2. Transportation (red curb installation, truck route permits, traffic signal repairs from accidents)
3. Maintenance (street barricades, banners, trees, special event set-up, damaged city property)

Master Fee Schedule Page #'s	General categorization of programs, Services, Activity, and facilities	Low cost recovery (0-30%)	Mid cost recovery (30-70%)	High cost recovery (70-100%)
	<u>1. Engineering</u>			
25	Heritage Tree	X		
25	Appeals to Environmental Quality Commission and City Council	X		
	Bid Packages	X		
19	Plotter Prints		X	
19	Encroachment Permits for			
19	City-mandated repair work (non-temporary)		X	
25	Heritage Tree		X	
	Tree Removal Permits 1 – 3 trees			
19	City Standard Details		X	
20	Improvement Plan Review			X
20	Plan revisions			X
21	Construction Inspection			X
20	Maps / Subdivisions			X
	Real Property			X
19	Abandonments			X
19	Annexations			X
21	Certificates of Compliance			X
20	Easement Dedications			X
20	Lot Line Adjust/Merger			X
19	Encroachment Permits			X
19	Completion Bond			X
	Processing Fee			X
25	Heritage Tree Permits			X
	After first 3 trees			X
16	Downtown Parking Permits			X
	<u>2. Transportation</u>			
22	Red Curb Installation	X		
22	Truck Route Permits	X		
22	Traffic Signal Accident			X
22	Aerial Photos			X

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Master Fee Schedule Page #'s	General categorization of programs, Services, Activity, and facilities	Low cost recovery (0-30%)	Mid cost recovery (30-70%)	High cost recovery (70-100%)
	<u>3. Maintenance</u>			
22	Tree Planting	X		
22	Banners – Santa Cruz Ave			X
22	Barricade replacement			X
22	Weed Abatement			X
22	Special Event set-up – for profit use			X
22	Special Event set-up- for non-profits use		X	
22	Damaged City property			X

**Low Recovery Expectations:** Low to zero recovery is expected for services in this category as the community benefits from the service. In general, low cost services in this group provide a community-wide benefit. These services generally are intended to enhance or maintain the livability of the community and therefore require the removal of a cost barrier to encourage use. However, in some instances the maximum fee that can be charged is regulated at the State or Federal level and therefore the City fee is not determined by City costs (truck route permits, copies of documents). Examples of Low Recovery items:

- Maintenance – Tree Plantings is classified as a low cost recovery fee to replacement of trees removed due to poor health and to encourage new tree plantings.
- Transportation – Red Curb Installation is classified as a low cost recovery fee for support traffic/parking mitigation requests to address safety concerns of residents and businesses.
- Transportation – Truck Route Permits Fees – maximum fee set by State Law.
- Engineering – Heritage Tree Appeals is classified as a low cost recovery fee to insure that legitimate grievances are not suppressed by high fees.
- Engineering – Bid Packages are provided at a low cost to encourage bid submissions thereby insuring that the City receives sufficient bids to obtain the best value for the project to be undertaken.

**Medium Recovery Expectations:** Recovery in the range of 30% to 70% of the costs incurred in the delivery of the service. Typically both the community and individuals benefit from these services.

- Engineering – Encroachment Permits for City-mandated repairs are classified as a medium cost recovery. Since the property owner is paying for the cost of construction but is required by ordinance to perform it promptly, a discounted fee for the permit is appropriate.

**High Recovery Expectations:** Recovery in the range of 70% to 100% when user fees charged are sufficient to fully recover costs of providing the service. Individual benefit is foremost and minimal community benefit exists. Most services provided by the Public Works Department fall in this area.

- Engineering – Encroachment Permits where the public right of way is used or impacted on a temporary or permanent basis for the benefit of the permittee. Debris Boxes are such an example.
- Transportation – Traffic Signal Accident repair cost is the responsibility of the driver/insurer.
- Maintenance – Weed Abatement performed by Public Works staff to address ongoing code violation.
- Maintenance – Banners on Santa Cruz Avenue and El Camino Real.

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**Public Safety – Police Services** (Case Copies, False Alarms, Parking Permits, Abatements, Emergency Response, Background Investigations, Tow Contract)

Master Fee Schedule Page #'s	General categorization of programs, Services, Activity, and facilities	Low cost recovery (0-30%)	Mid cost recovery (30-70%)	High cost recovery (70-100%)
14	Case Copies	X		
15	Citation Sign Off - Residents	X		
1, 15	Document Copies	X		
14	Bicycle Licenses	X		
16	Overnight Parking Permits			X
16	Residential Parking Permits	X		
15	Property Inspection – Code Enforcement	X		
15	Real Estate Sign Retrieval	X		
14	False Alarm – Low Risk		X	
15	Rotation Tow Service Contract		X	
15	Repossession Fee		X	
14	False Alarm – High Risk			X
14	Good Conduct Letter			X
14	Preparation Fees			X
14	Research Fee			X
14	Civil Subpoena Appearance			X
14	Finger Printing Documents			X
15	Background Investigations			X
14	Notary Services			X
14	Vehicle Releases			X
14	DUI - Emergency Response			X
15	Intoximeter Rental			X
15	Street Closure			X
15	Unruly Gatherings			X
18	Abatements			X

**Low Recovery Expectations:** Low to zero recovery is expected for services in this category as the community generally benefits from the regulation of the activity. The regulation of these activities is intended to enhance or maintain the livability of the community. However, in some instances the maximum fee that can be charged is regulated at the State or Federal level and therefore the City fee is not determined by City costs (copies of documents).

**Medium Recovery Expectation:** Recovery in the range of 30% to 70% of the costs of providing the service. Both community and individuals benefit from these services.

- False Alarm – primarily residential and low cash volume retail. Alarm response provide a disincentive to crime activity. However excessive false alarms negatively impact the ability of prompt police response to legitimate alarms.

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### Public Safety – Police Services - continued

**High Recovery Expectations:** Recovery in the range of 70% to 100% when user fees charged are sufficient to recover costs of the service provided. Individual benefit is foremost and minimal community benefit exists. Items such as False Alarm, DUI Emergency Response, Vehicle Releases, Unruly Gathering, and Abatements are punitive in nature and the costs should not be funded by the community. Items such as Good Conduct Letter, Preparation Fees, Research Fee, Finger Printing, Background Investigations, and Notary Service primarily benefit the individual. 100% of the cost for services in these areas is typical.

- Overnight Parking Permits – the fee charged for One Night Parking Permits fall into Low Cost Recovery, however when combined with the fees collected from the issuance of Annual Permits the result is the program should achieve High Cost Recovery.
- Street Closure – primarily residential for activities within a defined area. This service is provide for public safety and therefore is provided at a rate below 100% cost recovery.

Library (Library Cards, Overdue Fines, etc.) – fees are primarily established by the Peninsula Library Service.

Administrative Services (Copying Charges, Postage, etc.) – fees are primarily set by regulations and are generally high cost recovery of pass-thru charges.

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## STAFF REPORT

### City Council

**Meeting Date:** 3/13/2018  
**Staff Report Number:** 18-051-CC

**Regular Business:** Adopt a resolution to amend the City Council adopted salary schedule

### Recommendation

Staff recommends that the City Council adopt a Resolution to Amend the City's Salary Schedule effective April 1, 2018.

### Policy Issues

The City Council retains sole authority to amend the City's salary schedule. This recommendation aligns with the City's goals of maintaining high quality public services while also continuing to align the City as a competitive employer in a robust job market.

### Background

Over the past three years, the City has negotiated compensation changes for many of the City's represented employees, providing a mix of market based adjustments for those classifications below market median and general cost of living increases. While certain actions have been taken over the past two years for unrepresented management classifications such as cost of living adjustments to salary ranges and range adjustments to achieve greater consistency within the management hierarchy, the City has not provided market based salary adjustments to management classifications.

The City's management team is comprised of 25 authorized full time equivalent (FTE) employees and collectively referred to as unrepresented management. Of the 25 FTEs, six are currently vacant and turnover in the City's leadership has a direct impact on the overall momentum of the City's ability to adapt efficiently to ever present change. As the City moves to open recruitment for the vacant leadership positions, the question has been raised whether the City's salary ranges for unrepresented management are competitive among comparable agencies. The City Council met in closed session on February 7 and February 13, 2018, to consider this question and has provided staff with direction to return on March 13, 2018, with recommendations to amend the salary schedule.

### Analysis

The staff recommendation to amend the City Council adopted salary schedule is comprised of three distinct recommendations. The first recommendation is a job classification title change for the "Project Manager" series which was originally approved on October 17, 2017. The second recommendation corrects several administrative oversights in recent salary schedule approvals. The final and most significant recommendation incorporates first a policy change and second a market based amendment of the maximum salary for all unrepresented management classifications. Given that unrepresented management employees only receive salary adjustments based on merit reviews which typically occur in

July and August of each year, adjusting the salary ranges for unrepresented management will not result in automatic increases to any existing employee. The recommended salary ranges, however, are critical to move forward with competitive recruitments for several key leadership positions in the police, community development, and community services departments. The three recommendations, if approved by the City Council, do not change the City's total authorized full time equivalent personnel and will not result in a salary increase for any existing employee.

#### Recommendation 1 - Renaming the Project Manager series

On October 17, 2017, the City Council approved the addition of the classifications of Project Manager I and Project Manager II, which were then added to the City's salary schedule. Subsequent reviews of the classification structure and job descriptions determined that changing the titles of the positions from "Project Manager I" to "Project Manager" and "Project Manager II" to "Senior Project Manager" is warranted. Typically, I/II titles are entry level positions found in the SEIU unit. Currently, these positions are in the unit designation process, with recommendations that the I level be designated as SEIU and the II level be designated as an AFSCME position. The recommended title changes follow that of our current Building Inspector series, which includes "Building Inspector" in SEIU and "Senior Building Inspector" in AFSCME. This change results in no financial impact on the City and does not impact the number of authorized full-time equivalent personnel.

#### Recommendation 2 - Administrative corrections

While preparing the proposed salary schedule for this report, several administrative oversights were identified that require correction. The following recommendation corrects for these errors and do not result in changes to the maximum salary previously approved by the City Council nor will the recommendation impact the salary for any existing employee.

Two confidential positions, Executive Assistant to the City Manager and Senior Management Analyst, are incorrectly showing ranges, rather than salary steps. The minimum and maximum amounts for these salary ranges remain unchanged. Steps B, C, and D have been added between the previously approved minimum and maximum amounts. These corrections align with the September 26, 2017 City Council approval of confidential employees' salaries and are shown in Attachment A.

Second, Step A of the Information Technology Supervisor position is incorrectly listed as \$89,107. The differential between Step A and Step B for all non-management positions in the salary schedule should represent approximately 5%. The difference between Step A and Step B in the current salary schedule for the Information Technology Supervisor is closer to 12%. To correct this error, Step A for the Information Technology Supervisor should be \$94,329, as shown in Attachment A. Steps B – E for this position remain unchanged. This position is currently vacant and the correct salary range will be advertised when the recruitment opens.

#### Recommendation 3a - New salary structure for unrepresented management

To address the challenges resulting from salary compaction, recruitment, and retention, the 2015-16 Koff & Associates classification and compensation study for non-sworn personnel recommended a salary structure that establishes differentials between classifications to compensate for differences between classifications such as span of control, supervision, specialized education and certification requirements, and internal compensation relationships. Another differentiating factor to consider is the level of responsibility classifications have for organizational priorities. When the City received Koff's recommendations the decision was to first address the City's compensation practices externally to ensure that the City's compensation package was at or above market median among comparable agencies for classifications represented by AFSCME and SEIU as well as unrepresented confidential employees. Market adjustments were not made for unrepresented management pending further review by the City

Council. In addition, the City took no action on Koff’s recommendation to establish a salary structure for all classifications.

Over the past two years, despite not taking explicit action to implement a best practice salary structure similar to the one recommended by Koff & Associates, the City Council has taken action to adjust unrepresented management salaries to address equity concerns between classifications with similar responsibilities. One of the City’s first actions on the topic of equity was addressed when the Administrative Services Department division heads were all set at the same salary range reflecting the span of control of each division head. Similar action was taken when setting the salary range for Assistant Public Works Director and the Engineering Services Manager/City Engineer as well as the salary ranges for the Assistant Community Services Director and Assistant Library Services Director classifications. Most recently, the salary ranges for the City Manager’s Office division heads, Assistant to the City Manager, City Clerk, Housing and Economic Development Manager, and Sustainability Manager, were all set at equal levels.

To fully expand the City’s most recent practices noted above as well as to address salary compaction among certain classifications such as Police Commander and Police Chief, the recommendation is to consolidate the unrepresented management salary schedule into six tiers as follows:

Management Salary Schedule	Maximum salary differential from benchmark
<b>Management Tier 6 (M6):</b> City Manager	20% above benchmark
<b>Management Tier 5 (M5):</b> Assistant City Manager and Police Chief	10% above benchmark
<b>Management Tier 4 (M4):</b> Administrative Services Director, Community Development Director, Community Services Director, Library Services Director, Police Commander, Public Works Director	Benchmark
<b>Management Tier 3 (M3):</b> Assistant Community Development Director, Assistant Community Services Director, Assistant Library Services Director, Assistant Public Works Director, Engineering Services Manager/City Engineer	20% below benchmark
<b>Management Tier 2 (M2):</b> Finance and Budget Manager, Human Resources Manager, Information Technology Manager, Public Works Superintendent	25% below benchmark
<b>Management Tier 1 (M1):</b> Assistant to the City Manager, City Clerk, Housing and Economic Development Manager, Sustainability Manager	30% below benchmark

It is staff’s finding that the salary schedule policy outlined above improves transparency in salary range development and achieves goals of California’s recently revised Equal Pay Act. For decades, the Act has prohibited an employer from paying its employees less than employees of a different gender for equal work. The Act was strengthened to now require equal pay for employees who perform “substantially similar work” when viewed as a composite of skill, effort, and responsibility.

The salary schedule policy sets maximum salaries based on differences in span of control between management levels and build off of a benchmark maximum salary which is established periodically as determined by the City Council. It should be noted that the salary for the City Manager is set by contract and, similar to unrepresented management, City Manager salary adjustments are determined based on merit evaluations. The City Council is scheduled to review the City Manager’s performance in September 2018 and this action does not obligate the City Council to modify the City Manager’s salary following that performance evaluation.

**Recommendation 3b. - Establish benchmark maximum salary for unrepresented management**

While some action has been taken to set salaries more consistently across certain related classifications, as mentioned earlier, the City has not made market rate adjustments to the unrepresented management classifications as was provided to AFSCME and SEIU in the 2016 contract negotiations. In order to apply the abovementioned methodology, the City must establish a benchmark classification from which all salaries are set using a methodology similar to that used in Koff’s 2015-16 study. For the Koff study, the City and labor units agreed to survey thirteen comparable agencies to establish the labor market. The specific cities were: Sunnyvale, Los Gatos, Mountain View, Los Altos, Palo Alto, East Palo Alto, Redwood City, Belmont, San Mateo, Foster City, Burlingame, San Bruno, and South San Francisco. These cities were selected based on factors such as the scope of services provided to the public and their proximity to the CalTrain corridor. Cities like Atherton, San Carlos and Woodside were excluded from the survey due to their limited scope of services and the high level of contract services.

For unrepresented management, the ability to compare classifications across organizations is more challenging than for mid managers and line level staff. When looking across cities, the greatest variability of organizational structure and breadth of responsibilities is most commonly observed at the unrepresented management level. For example, the Administrative Services Director and Community Services Director classifications are not ideal for comparison since their breadth of duties differ so dramatically from agency to agency. In some agencies Menlo Park’s Administrative Services Director role which oversees finance, human resources, and information technology is set at the Assistant City Manager level. In other organizations Community Services Director rarely include a significant child care program similar to that of Menlo Park. For this reason, when selecting a benchmark classification from which to build a salary structure, Public Works Director is the most common across agencies.

Public Works Director salary survey as of February, 2018

City	Maximum Salary
Belmont	\$197,604
Burlingame	202,176
Foster City	191,448
Los Altos	194,760
Los Gatos	189,108
Mountain View	239,932
Palo Alto	245,736
Redwood City	221,288
San Bruno	202,068
San Mateo	228,127
South San Francisco	220,952
Sunnyvale	251,909
<b>Median</b>	211,564
<b>Average</b>	215,426
<b>Menlo Park</b>	194,967

East Palo Alto data is not included due to an outdated salary schedule. When reviewing the salary survey data, the City Council also considered the salary range for the Public Works Director in San Carlos which was in recruitment as of their closed session and had a maximum salary of \$221,568. The timeliness of the San Carlos recruitment argues in favor of including the city in the salary survey. If San Carlos is added to the analysis, the median jumps to \$220,952. Following considerable deliberation in closed session, the City Council ultimately directed staff to use the average of the comparable agencies, \$215,426, as the benchmark for Executive Management salary schedule outlined in recommendation 3a. The maximum salary range for all unrepresented management classifications, as shown in Attachment A, reflects the benchmark plus or minus the applicable differential. No change is recommended to the minimum salary which ensures that no existing employee automatically receives a salary increase.

In summary, recommendation 3a and 3b in conjunction achieves the following:

- Results in no pay increases for current employees, as the minimum range level remains the same.
- Creates equity among employees performing similar work in similar classifications by eliminating the different pay scales for same level positions, i.e. Department Directors; lowering the City's risk of legal challenges and achieving goals of California's recently revised Equal Pay Act.
- Aligns pay for management positions with those positions in similar cities within our competitive labor market of San Mateo and Santa Clara counties.
- Implements standard relationship differentials that provide clear growth opportunity for current employees and those seeking employment with the City.
- Increases the earning potential for current employees, adding to the City's retention efforts.
- Increases the earning potential for prospective employees, providing a more competitive market position to attract highly skilled workers.

### **Impact on City Resources**

The change in title for the Project Manager classifications and the other administrative corrections do not modify previously approved salary schedules in a manner that results in changes to existing employee salaries. Therefore, there is no fiscal impact.

Due to the fact unrepresented management employees will not receive any salary increases as a consequence of City Council approving these changes, there is no current fiscal impact. The salary schedule does not impact the City unfunded pension liability unless the City Manager elects to provide staff with salary raises that exceed the CalPERS assumption for annual salary increases.

### **Environmental Review**

No environmental review is required for this item.

### **Public Notice**

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

**Attachments**

- A. Proposed City of Menlo Park Salary Schedule effective April 1, 2018
- B. Resolution Amending the City Council Adopted Salary Schedule

Report prepared by:

Lenka Diaz, Human Resources Manager

Nick Pegueros, Administrative Services Director

City of Menlo Park  
Salary Schedule effective December 12, 2017 April 1, 2018

ATTACHMENT A

Classification Title	Minimum (Step A)	Step B	Step C	Step D	Maximum (Step E)
Accountant I	\$ 77,631	\$ 81,513	\$ 85,589	\$ 89,868	\$ 94,362
Accountant II	\$ 85,028	\$ 89,048	\$ 93,248	\$ 97,733	\$ 102,391
Accounting Assistant I	\$ 55,051	\$ 57,661	\$ 60,323	\$ 63,142	\$ 66,063
Accounting Assistant II	\$ 60,323	\$ 63,142	\$ 66,063	\$ 69,151	\$ 72,395
Administrative Assistant	\$ 60,504	\$ 63,331	\$ 66,262	\$ 69,359	\$ 72,613
Administrative Services Director	\$ 152,054	Open Range			<del>\$190,066</del> <del>\$215,426</del>
Assistant City Manager	\$ 160,578	Open Range			<del>\$211,761</del> <del>\$236,969</del>
Assistant Community Development Director	\$ 119,894	Open Range			<del>\$156,644</del> <del>\$172,341</del>
Assistant Community Services Director	\$ 122,657	Open Range			<del>\$153,321</del> <del>\$172,341</del>
Assistant Engineer	\$ 93,631	\$ 98,093	\$ 102,783	\$ 107,690	\$ 112,820
Assistant Library Services Director	\$ 122,657	Open Range			<del>\$153,321</del> <del>\$172,341</del>
Assistant Planner	\$ 84,834	\$ 88,823	\$ 93,081	\$ 97,517	\$ 102,175
Assistant Public Works Director	\$ 133,223	Open Range			<del>\$166,529</del> <del>\$172,341</del>
Assistant to the City Manager	\$ 115,402	Open Range			<del>\$144,252</del> <del>\$150,798</del>
Associate Civil Engineer	\$ 105,062	\$ 110,091	\$ 115,339	\$ 120,911	\$ 126,769
Associate Engineer	\$ 99,284	\$ 104,036	\$ 108,996	\$ 114,262	\$ 119,797
Associate Planner	\$ 93,081	\$ 97,517	\$ 102,175	\$ 107,064	\$ 112,188
Associate Transportation Engineer	\$ 110,091	\$ 115,339	\$ 120,911	\$ 126,769	\$ 132,911
Building Custodian	\$ 54,996	\$ 57,604	\$ 60,263	\$ 63,078	\$ 65,997
Building Inspector	\$ 90,186	\$ 94,522	\$ 99,028	\$ 103,762	\$ 108,716
Business Manager	\$ 93,078	\$ 97,554	\$ 102,204	\$ 107,091	\$ 112,204
Child Care Teacher I	\$ 49,210	\$ 51,442	\$ 53,771	\$ 56,221	\$ 58,881
Child Care Teacher II	\$ 54,996	\$ 57,604	\$ 60,263	\$ 63,078	\$ 65,997
Child Care Teacher's Aide	\$ 36,921	\$ 38,591	\$ 40,337	\$ 42,144	\$ 44,004
City Attorney	n/a	Set by contract			\$ 120,000
City Clerk	\$ 115,402	Open Range			<del>\$144,252</del> <del>\$150,798</del>
City Manager	n/a	Set by contract			\$ 232,890
Code Enforcement Officer	\$ 77,581	\$ 81,248	\$ 85,080	\$ 89,173	\$ 93,422
Communications and Records Manager	\$ 107,794	\$ 113,025	\$ 118,454	\$ 124,166	\$ 130,137
Communications Dispatcher	\$ 78,667	\$ 82,386	\$ 86,272	\$ 90,421	\$ 94,730
Communications Training Dispatcher	\$ 82,386	\$ 86,272	\$ 90,421	\$ 94,730	\$ 99,260
Community Development Director	\$ 151,850	Open Range			<del>\$189,811</del> <del>\$215,426</del>
Community Development Technician	\$ 65,980	\$ 69,034	\$ 72,260	\$ 75,651	\$ 79,205
Community Service Officer	\$ 64,511	\$ 67,545	\$ 70,673	\$ 74,027	\$ 77,581
Community Services Director	\$ 153,927	Open Range			<del>\$192,408</del> <del>\$215,426</del>
Construction Inspector	\$ 85,080	\$ 89,173	\$ 93,422	\$ 97,889	\$ 102,563
Contracts Specialist	\$ 68,124	\$ 71,327	\$ 74,630	\$ 78,173	\$ 81,925
Custodial Services Supervisor	\$ 63,282	\$ 66,211	\$ 69,305	\$ 72,557	\$ 75,966
Deputy City Clerk	\$ 70,665	\$ 74,027	\$ 77,581	\$ 81,248	\$ 85,080

City of Menlo Park  
Salary Schedule effective December 12, 2017 April 1, 2018

Classification Title	Minimum (Step A)	Step B	Step C	Step D	Maximum (Step E)
Engineering Services Manager/City Engineer	\$ 133,223	Open Range			<del>\$166,529</del> \$172,341
Engineering Technician I	\$ 70,922	\$ 74,206	\$ 77,729	\$ 81,459	\$ 85,310
Engineering Technician II	\$ 79,507	\$ 83,248	\$ 87,162	\$ 91,341	\$ 95,694
Enterprise Applications Support Specialist	\$ 93,078	\$ 97,554	\$ 102,204	\$ 107,091	\$ 112,204
Equipment Mechanic	\$ 70,665	\$ 74,027	\$ 77,581	\$ 81,248	\$ 85,080
Executive Assistant	\$ 69,082	\$ 72,324	\$ 75,721	\$ 79,283	\$ 83,012
Executive Assistant to the City Mgr	\$ 73,595	\$ 77,274	\$ 81,138	\$ 85,195	\$ 89,454
Facilities Maintenance Technician I	\$ 58,881	\$ 61,592	\$ 64,511	\$ 67,545	\$ 70,673
Facilities Maintenance Technician II	\$ 64,511	\$ 67,545	\$ 70,673	\$ 74,027	\$ 77,581
Finance and Budget Manager	\$ 119,870	Open Range			<del>\$151,694</del> \$161,570
Gymnastics Instructor	\$ 39,397	\$ 41,180	\$ 43,039	\$ 44,960	\$ 47,028
Housing & Economic Development Manager	\$ 115,402	Open Range			<del>\$144,252</del> \$150,798
Human Resources Manager	\$ 119,870	Open Range			<del>\$151,694</del> \$161,570
Human Resources Technician	\$ 63,924	\$ 66,948	\$ 69,937	\$ 73,349	\$ 76,799
Information Technology Manager	\$ 119,870	Open Range			<del>\$151,694</del> \$161,570
Information Technology Specialist I	\$ 68,854	\$ 72,297	\$ 75,912	\$ 79,709	\$ 83,695
Information Technology Specialist II	\$ 76,504	\$ 80,098	\$ 83,866	\$ 87,810	\$ 92,020
Information Technology Supervisor	<del>\$ 89,107</del> \$ 94,329	\$ 99,045	\$ 104,258	\$ 109,746	\$ 115,521
Junior Engineer	\$ 75,532	\$ 79,308	\$ 83,274	\$ 87,438	\$ 91,810
Librarian I	\$ 65,997	\$ 69,082	\$ 72,324	\$ 75,721	\$ 79,283
Librarian II	\$ 74,027	\$ 77,581	\$ 81,248	\$ 85,080	\$ 89,173
Library Assistant I	\$ 51,442	\$ 53,771	\$ 56,221	\$ 58,881	\$ 61,592
Library Assistant II	\$ 56,221	\$ 58,881	\$ 61,510	\$ 64,511	\$ 67,545
Library Assistant III	\$ 61,510	\$ 64,511	\$ 67,545	\$ 70,673	\$ 73,952
Library Clerk	\$ 36,061	\$ 37,692	\$ 39,397	\$ 41,180	\$ 43,039
Library Page	\$ 26,454	\$ 27,649	\$ 28,902	\$ 30,210	\$ 31,578
Library Services Director	\$ 148,092	Open Range			<del>\$185,115</del> \$215,426
Literacy Program Manager	\$ 75,966	\$ 79,539	\$ 83,279	\$ 87,272	\$ 91,431
Maintenance Worker I	\$ 56,221	\$ 58,881	\$ 61,510	\$ 64,511	\$ 67,545
Maintenance Worker II	\$ 61,510	\$ 64,511	\$ 67,545	\$ 70,673	\$ 74,027
Management Analyst I	\$ 81,443	\$ 85,516	\$ 89,793	\$ 94,282	\$ 98,997
Management Analyst II	\$ 93,078	\$ 97,554	\$ 102,204	\$ 107,091	\$ 112,204
Office Assistant	\$ 50,522	\$ 52,826	\$ 55,217	\$ 57,833	\$ 60,504
Parking Enforcement Officer	\$ 56,221	\$ 58,881	\$ 61,510	\$ 64,511	\$ 67,545
Permit Manager	\$ 105,876	\$ 110,942	\$ 116,252	\$ 121,793	\$ 127,678
Permit Technician	\$ 65,980	\$ 69,033	\$ 72,260	\$ 75,651	\$ 79,204
Plan Check Engineer	\$ 106,062	\$ 111,140	\$ 116,437	\$ 122,063	\$ 127,975
Planning Technician	\$ 75,651	\$ 79,204	\$ 82,931	\$ 86,831	\$ 90,994
Police Chief	\$ 164,070	Open Range			<del>\$205,087</del> \$236,969
Police Commander	\$ 147,663	Open Range			<del>\$184,579</del> \$215,426
Police Corporal (2080 hours)	\$ 99,412	\$ 104,383	\$ 109,602	\$ 115,082	\$ 120,836



City of Menlo Park  
Salary Schedule effective December 12, 2017 April 1, 2018

Classification Title	Minimum (Step A)	Step B	Step C	Step D	Maximum (Step E)
Police Corporal (2184 hours)	\$ 104,383	\$ 109,602	\$ 115,082	\$ 120,836	\$ 126,878
Police Officer (2080 hours)	\$ 92,369	\$ 96,987	\$ 101,836	\$ 106,928	\$ 112,275
Police Officer (2184 hours)	\$ 96,988	\$ 101,836	\$ 106,928	\$ 112,274	\$ 117,889
Police Records Specialist	\$ 61,510	\$ 64,511	\$ 67,545	\$ 70,673	\$ 74,027
Police Recruit	n/a	Hourly Rate			\$ 74,819
Police Sergeant (2080 hours)	\$ 114,733	\$ 120,469	\$ 126,493	\$ 132,817	\$ 139,458
Police Sergeant (2184 hours)	\$ 120,469	\$ 126,493	\$ 132,817	\$ 139,458	\$ 146,431
Principal Planner	\$ 112,393	\$ 119,429	\$ 125,145	\$ 131,111	\$ 135,535
Program Aide/Driver	\$ 35,323	\$ 36,921	\$ 38,591	\$ 40,337	\$ 42,144
Program Assistant	\$ 50,321	\$ 52,616	\$ 54,996	\$ 57,604	\$ 60,263
Project Manager-I	\$ 99,284	\$ 104,036	\$ 108,996	\$ 114,262	\$ 119,797
Senior Project Manager-II	\$ 109,212	\$ 114,440	\$ 119,896	\$ 125,688	\$ 131,776
Property and Court Specialist	\$ 64,511	\$ 67,545	\$ 70,673	\$ 74,027	\$ 77,581
Public Works Director	\$ 155,975	Open Range			<del>\$194,967</del> <del>\$215,426</del>
Public Works Superintendent	\$ 117,784	Open Range			<del>\$147,189</del> <del>\$161,570</del>
Public Works Supervisor - City Arborist	\$ 93,606	\$ 98,094	\$ 102,768	\$ 107,677	\$ 112,830
Public Works Supervisor - Facilities	\$ 94,272	\$ 98,792	\$ 103,499	\$ 108,444	\$ 113,632
Public Works Supervisor - Fleet	\$ 95,772	\$ 100,363	\$ 105,145	\$ 110,168	\$ 115,439
Public Works Supervisor - Park	\$ 89,109	\$ 93,381	\$ 97,831	\$ 102,504	\$ 107,409
Public Works Supervisor - Streets	\$ 89,109	\$ 93,381	\$ 97,831	\$ 102,504	\$ 107,409
Recreation Aide	\$ 33,794	\$ 35,323	\$ 36,921	\$ 38,591	\$ 40,337
Recreation Coordinator	\$ 66,211	\$ 69,305	\$ 72,557	\$ 75,966	\$ 79,539
Recreation Leader	\$ 26,454	\$ 27,649	\$ 28,902	\$ 30,210	\$ 31,578
Recreation Supervisor	\$ 81,510	\$ 85,355	\$ 89,460	\$ 93,723	\$ 98,204
Red Light Photo Enforcement Specialist	\$ 72,324	\$ 75,721	\$ 79,283	\$ 83,012	\$ 86,992
Revenue and Claims Manager	\$ 93,078	\$ 97,554	\$ 102,204	\$ 107,091	\$ 112,204
Senior Accountant	\$ 97,783	\$ 102,406	\$ 107,236	\$ 112,394	\$ 117,750
Senior Accounting Assistant	\$ 66,355	\$ 69,456	\$ 72,669	\$ 76,066	\$ 79,635
Senior Building Inspector	\$ 101,220	\$ 106,062	\$ 111,140	\$ 116,437	\$ 122,063
Senior Civil Engineer	\$ 115,710	\$ 121,300	\$ 127,177	\$ 133,339	\$ 139,836
Senior Communications Dispatcher	\$ 86,272	\$ 90,421	\$ 94,730	\$ 99,260	\$ 103,998
Senior Engineering Technician	\$ 85,310	\$ 89,335	\$ 93,631	\$ 98,093	\$ 102,783
Senior Equipment Mechanic	\$ 77,749	\$ 81,542	\$ 85,378	\$ 89,332	\$ 93,571
Senior Facilities Maintenance Technician	\$ 70,665	\$ 74,027	\$ 77,581	\$ 81,248	\$ 85,080
Senior Librarian	\$ 85,355	\$ 89,460	\$ 93,723	\$ 98,204	\$ 102,893
Senior Library Assistant	\$ 67,661	\$ 70,962	\$ 74,299	\$ 77,741	\$ 81,348
Senior Maintenance Worker	\$ 70,665	\$ 74,027	\$ 77,581	\$ 81,248	\$ 85,080
Senior Management Analyst	\$ 104,712	\$ 109,686	\$ 114,896	\$ 120,411	\$ 126,229
Senior Office Assistant	\$ 55,217	\$ 57,833	\$ 60,504	\$ 63,331	\$ 66,262
Senior Planner	\$ 102,175	\$ 107,064	\$ 112,188	\$ 117,536	\$ 123,214
Senior Police Records Specialist	\$ 64,511	\$ 67,545	\$ 70,673	\$ 74,027	\$ 77,581
Senior Program Assistant	\$ 61,112	\$ 63,968	\$ 66,971	\$ 70,117	\$ 73,416
Senior Recreation Leader	\$ 31,578	\$ 33,005	\$ 34,500	\$ 36,061	\$ 37,692
Senior Sustainability Specialist	\$ 76,640	\$ 80,306	\$ 84,150	\$ 88,161	\$ 92,420
Senior Transportation Engineer	\$ 115,710	\$ 121,300	\$ 127,177	\$ 133,339	\$ 139,836
Senior Water System Operator	\$ 72,508	\$ 75,864	\$ 79,410	\$ 83,136	\$ 87,041

City of Menlo Park  
 Salary Schedule effective ~~December 12, 2017~~ **April 1, 2018**

Classification Title	Minimum (Step A)	Step B	Step C	Step D	Maximum (Step E)
Sustainability Manager	\$ 115,402	Open Range			<del>\$144,252</del> \$150,798
Sustainability Specialist	\$ 65,997	\$ 69,082	\$ 72,324	\$ 75,721	\$ 79,283
Transportation Demand Management Coordinator	\$ 86,992	\$ 91,136	\$ 95,491	\$ 100,059	\$ 104,849
Water Quality Specialist	\$ 75,721	\$ 79,283	\$ 83,012	\$ 86,992	\$ 91,136
Water System Operator I	\$ 60,249	\$ 62,948	\$ 65,740	\$ 68,988	\$ 72,199
Water System Operator II	\$ 65,916	\$ 68,968	\$ 72,191	\$ 75,578	\$ 79,128
Water System Supervisor	\$ 90,239	\$ 94,539	\$ 99,056	\$ 103,795	\$ 108,763

**RESOLUTION NO. 6425**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO PARK  
AMENDING THE SALARY SCHEDULE**

WHEREAS, pursuant to the Personnel System Rules, the City Manager prepared a Compensation Plan; and

NOW, THEREFORE BE IT RESOLVED, that the City of Menlo Park, acting by and through its City Council, having considered and been fully advised in the matter and good cause appearing therefore do hereby establish the following compensation provisions in accordance with the City's Personnel System rules.

BE IT FURTHER RESOLVED that any previous enacted compensation provisions contained in Resolution No. 6416 and subsequent amendments, shall be superseded by this Resolution.

BE IT FURTHER RESOLVED that the changes contained herein shall be effective April 1, 2018.

I, Clay J. Curtin, City Clerk of Menlo Park, do hereby certify that the above and foregoing Council Resolution was duly and regularly passed and adopted at a meeting by said Council on the thirteenth day of March, 2018, by the following votes:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of said City on this thirteenth day of March, 2018.

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Clay J. Curtin, Interim City Clerk

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## STAFF REPORT

**City Council**  
**Meeting Date:** 3/13/2018  
**Staff Report Number:** 18-055-CC

**Informational Item:** Update on draft charter process and timeline

### Recommendation

This is an informational item and does not require City Council action.

### Policy Issues

This staff report transmits a tentative schedule for putting a City Charter on the November 6, 2018 ballot.

### Background

Menlo Park is currently a general law city subject to State restrictions even in the area of “municipal affairs.” Over the years, Menlo Park has wanted to pursue certain initiatives that were only available to charter cities. Most recently, both residents and the City Council have expressed a desire to examine other types of voting systems currently not available to general law cities. To avail itself of other types of voting systems and/or a hybrid district/at-large voting process, Menlo Park would need to become a charter city.

To become a charter city requires a vote of the people. The city’s voters would consider the draft charter during a general municipal election. Once a charter is adopted it operates as a local “constitution.” Like the federal and state constitutions, a charter may only be adopted, amended, or repealed by a majority vote of a city’s voting residents.

On January 16, 2018, the City Council discussed the process and timeline for becoming a charter city. In addition, the City Council requested staff to return with more information on the following issues:

1. Whether it would be possible to adopt a charter framework that would allow the City to later implement changes in areas such as planning and land use.
2. Summarize the high-level benefits of becoming a charter city.

Staff returned to the City Council with a framework for adopting a simple enabling charter. Under this approach, the City Council would ask the voters to approve an enabling charter that established Menlo Park as a charter city, declared autonomy over local affairs and reiterated the city’s power to establish local regulations in the key municipal areas of public works contracts, purchasing, public financing, utilities, revenue retention, land use, elections, fines and penalties. On February 13, the City Council directed the City Attorney to draft an enabling charter.

### Analysis

An enabling charter must be voted on at a General Municipal Election (i.e., November of even numbered years) and is subject to the State-prescribed public hearing process for charter adoption. This public hearing process requires approximately 75 days. In order to place a charter on the ballot, two public hearings must

take place following an initial 21-day notice period. During the first public hearing, a draft of the charter would need to be considered by the City Council. The second public hearing is required to take place 30 days after the first hearing. Following the second public hearing, the item may be set for final City Council deliberation after another 21-day waiting period.<sup>1</sup> Once this process is completed, the City Clerk can forward the measure regarding the proposed charter to the County Clerk-Recorder's Office. The County's deadline for submittal of measures for the November 2018 ballot is August 10, 2018.

Attached is a tentative schedule for placing a simple enabling charter on the November 6, 2018, ballot. The first public hearing on the draft charter language is scheduled for March 27, 2018. At that time, the City Council can provide feedback on the draft schedule and provide input on a community outreach plan.

### **Impact on City Resources**

A broad enabling charter would take less staff to draft in the short term. Over time, however, considerable staff time would be needed to implement local ordinances in the areas of municipal affairs.

### **Environmental Review**

This action is not a project within the meaning of the California Environmental Quality Act (CEQA) Guidelines §§ 15378 and 15061(b)(3) as it proposes an organizational structure change that will not result in any direct or indirect physical change in the environment.

### **Public Notice**

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

### **Attachments**

A. Tentative charter adoption schedule

Report prepared by:

Cara Silver, Assistant City Attorney

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<sup>1</sup> Cal. Gov't Code § 34458

**CITY OF MENLO PARK**  
**CHARTER ADOPTION TENTATIVE SCHEDULE\***  
**NOVEMBER 6, 2018, GENERAL MUNICIPAL ELECTION**

<b>Action</b>	<b>Date</b>
City Council gave direction to City Attorney to draft enabling charter	February 13, 2018
Provide 21 day notice** of first hearing	Notice to run March 2 and March 9, 2018
First public hearing on draft charter language	<b>March 27, 2018</b>
Provide 21 day notice** of second hearing	Notice to run April 6 and April 13, 2018
Second public hearing on draft charter language (must be at least 30 days after first public hearing)	<b>May 8, 2018</b>
21 day hold until City Council can take action to submit charter to voters	(May 9-29, 2018)
Third public meeting to call election and submit charter ballot measure to voters	<b>June 5, 2018</b>
Deadline for delivering ballot measure to the County Elections Official.	August 10, 2018
Election (must be at General Municipal Election)	November 6, 2018

\*Charter adoption hearing process governed by Cal. Gov't Code § 34458.

\*\*Public notice must be provided under Cal. Gov't Code § 6066.

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## STAFF REPORT

### City Council

Meeting Date:

3/13/2018

Staff Report Number:

18-048-CC

Informational Item:

Update on the Transportation Master Plan Status

### Recommendation

This is an informational item and does not require City Council action.

### Policy Issues

The development of a Transportation Master Plan is included as one of the top six priority projects in the City Council's adopted 2018 Work Plan and is also one of the highest priority implementation programs in the 2016 General Plan Circulation Element.

### Background

#### ConnectMenlo

On Nov. 29, and December 6, 2016, the City Council completed actions to approve the ConnectMenlo General Plan Land Use and Circulation Elements. This was a multiyear, comprehensive process that represents a vision for a live/work/play environment in the Bayfront (former M-2) area while maintaining the character and values that the City has embraced. While land use recommendations were focused in the Bayfront Area, the Circulation Element provides policy guidance that was applicable Citywide. The General Plan serves as the City's comprehensive and long range guide to land use and infrastructure development in the City.

Transportation challenges, including multimodal safety, traffic congestion, neighborhood quality of life, and regional coordination are significant concerns to the City of Menlo Park. The Circulation Element includes a number of forthcoming transportation-related programs, including those to encourage multimodal transportation, provide opportunities for active transportation to encourage health and wellness, minimize cut-through traffic on residential streets, and consider changes to the transportation impact metrics the City uses to evaluate development proposals. The Transportation Master Plan and updates to the Transportation Impact Fee were identified as the highest priority programs in the Circulation Element.

### Transportation Master Plan Purpose

The Transportation Master Plan will bridge the policy framework adopted within the Circulation Element and project-level efforts to modify the transportation network within Menlo Park. Broadly, it provides the ability to identify appropriate projects to enhance the transportation network, conduct community engagement to ensure such projects meet the communities' goals and values, and prioritize projects based on need for implementation. The Transportation Master Plan, when completed, will provide a detailed vision, set goals and performance metrics for network performance, and outline an implementation strategy for both improvements to be implemented locally and for local contributions toward regional improvements. It will

serve as an update to the City's Bicycle and Sidewalk Plans. Following development of the Master Plan, the Transportation Impact Fee program update would provide a mechanism to modernize the City's fee program to collect funds toward construction of the improvements identified and prioritized in the Master Plan.

### **Transportation Master Plan Initiation**

On May 23, 2017, the City Council authorized the City Manager to enter into an agreement with W-Trans, after an extensive consultant selection process for the Transportation Master Plan and Transportation Impact Fee Program.

On Aug. 29, 2017, the City Council appointed 11 members to the Transportation Master Plan Outreach & Oversight Committee. The core mission for the Committee is as follows:

- Provide advisory input and recommendations to the consultant and staff regarding the outreach process and draft Master Plan materials and submittals
- Guide and keep the project process on track to meet the key milestones
- Reach out to community members to share content and encourage participation at community engagement activities such as workshops/meetings and other planning activities

### **Analysis**

City staff and the W-Trans team initiated work on the project in June 2017, and one of the first tasks was to collect input from the community on how the City should prioritize transportation improvements. Feedback was collected through various methods, attending community events such as the Downtown block party and Summer Concert Series at Kelly Park, hosting a project online open house, and convening three walking workshops held in different parts of the City. The outreach efforts resulted in approximately 1,000 participants. Approximately 800 people visited the online open house with another 170 people visiting the block party and concert tables, and approximately 30 people participating in the walking workshops. Staff and the W-Trans team provided a summary of the engagement and feedback received in a presentation to the Committee at their first meeting Oct. 30, 2017. From these various mechanisms for feedback and engagement, the top priorities from the community were identified to include:

- Safer bike and pedestrian crossings
- Reducing delays and travel time
- Safe and convenient bicycle connectivity
- Minimizing cut-through traffic on residential streets

Lesser priorities were related to regional and local transit service.

At their October 2017 meeting, the Committee discussed the performance measures and prioritization criteria for the Transportation Master Plan. Feedback from the Committee highlighted safety, congestion relief, complete streets, quality of life, sustainability, education and enforcement, and advanced transportation technologies as considerations for the criteria.

Since the Committee meeting, City staff and the W-Trans team have been working together to compile existing traffic and collision history data, and utilizing that data with the community and Committee feedback to develop initial strategies and recommendations that the City could implement to address transportation challenges. The recommendations will include program strategies and infrastructure projects that address safety, active transportation, congestion relief, green infrastructure, transit, safe routes to school, and transportation demand management. When the W-Trans team analyzed the data, the collision history highlighted four key corridors (Willow Road, Bayfront Expressway, El Camino Real and Sand Hill Road) in

the City that should be prioritized due to higher rates and severity of collision patterns. In addition, some of the recommendations will require potential trade-offs due to limiting factors such as available right of way and costs.

Staff will be returning to the Committee March 20, 2018, to present the draft initial strategies and recommendations focusing on the high priority corridors. The purpose of this meeting will be to request feedback on the recommendations and potential trade-offs. For example, with limited available right of way on Willow Road, should the recommendations focus on reducing congestion and travel time by adding capacity or providing space for improved transit, bicycle facilities, or streetscape improvements to encourage pedestrian activity? Following the Committee meeting, staff and the W-Trans team will refine the high priority corridor recommendations and develop draft Citywide recommendations and strategies. These recommendations will be released through both an in person and online open house to gather feedback from the community on the proposed strategies and recommendations and prioritization of projects.

The project schedule is summarized below:

Draft Strategies and Recommendations for High Priority Corridors	March 2018
Draft Citywide Strategies and Recommendations	May 2018
Community Open House (in person and online)	May 2018
Draft Transportation Master Plan	December 2018
Final Transportation Master Plan	June 2019
Draft Transportation Impact Fee Update	September 2019
Final Transportation Impact Fee Update	December 2019

Major project milestone progresses and deliverables will be posted on the City project website ([menlopark.org/TMP](http://menlopark.org/TMP)).

### Attachments

There are no attachments.

Report prepared by:  
Kristiann Choy, Senior Transportation Engineer

Report reviewed by:  
Nicole H. Nagaya, Assistant Public Works Director

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## STAFF REPORT

**City Council**

**Meeting Date:**

**3/13/2018**

**Staff Report Number:**

**18-050-CC**

**Informational Item:**

**Update on the Menlo Gateway Development Agreement requirements to construct 1) off-site landscape improvements near the project site and 2) capital improvements in Belle Haven and Bedwell Bayfront Park**

### Recommendation

This is an informational item and does not require City Council action.

### Policy Issues

There are no policy issues related to this Informational Item.

### Background

In 2010, the City approved an application from Bohannon Development Company to redevelop the property located at 100 to 190 Independence Drive and 101 to 155 Constitution Drive (collectively known as Menlo Gateway). The Independence site is nearing completion, and construction on the Constitution site has recently begun.

The project's Development Agreement requires the applicant to make off-site landscaping improvements to certain areas in or around the project for the purpose of improving the aesthetics, architectural, circulatory and habitat connections. The applicant is required to pay for and construct the off-site landscaping improvements in an amount not to exceed \$500,000 (subject to increases based on the Consumer Price Index).

In addition, the Development Agreement requires the applicant to make capital improvements at Bedwell Bayfront Park and the Belle Haven neighborhood in an amount not to exceed \$1,250,000 (subject to increases based on the Consumer Price Index).

In 2017, the City entered into a Memorandum of Understanding with Bohannon to clarify the implementation of these requirements in the Development Agreement. The Memorandum of Understanding clarifies that the Consumer Price Index increases were frozen as of March 2016 because the City asked Bohannon to wait for the completion of the Bedwell Bayfront Park Master Plan to determine the capital improvements at the Park. Similarly, the City requested additional time to determine the capital improvements in Belle Haven. The current dollar amounts are as follows:

Item	Cost Range
Landscaping Improvements	\$567,909.56
Bedwell Bayfront Park Capital Improvements	\$397,536.69 to \$567,909.56
Belle Haven Capital Improvements	\$851,864.34 to \$1,022,237.21

The Development Agreement establishes a minimum to be spent on the Belle Haven and Bedwell Bayfront Park Capital improvements, respectively, and establishes a maximum combined amount that is not to exceed \$1,419,773.90. The exact amount to be spent on each within the prescribed cost ranges will be determined at the end of the public outreach process described below.

## Analysis

### Off-Site Landscaping Improvements

The City and the applicant hosted a meeting on January 25, 2018 at the Menlo Park Senior Center in order to receive community input on the selection and design of the off-site landscaping improvements in the vicinity of the Menlo Gateway project. Project representatives provided a brief presentation and City staff facilitated the discussion. The community members in attendance reviewed site alternatives and a conceptual plan for one location, asked questions, and provided feedback. The materials from the meeting are included in Attachment A.

Consistent with the public feedback at the meeting, staff and the applicant have decided to pursue “Area F” located between at the corner of Marsh Road and Bayfront Expressway near one of the parking structures for the off-site landscaping improvements. Items that factored into this decision included the following:

- Prominence of the location
- City ownership of the land compared to another public agency such as Caltrans or West Bay Sanitary District
- Menlo Gateway’s requirement to maintain the landscaping adjacent to the project site per the requirements of the Development Agreement
- Opportunities for multiple benefits given the available space to incorporate green stormwater infrastructure and some form of public art
- Available budget

The applicant’s team is now pursuing a detailed design for the area.

### Bedwell Bayfront Park Improvements

The City recently concluded a Master Plan process for Bedwell Bayfront Park. The Master Plan is available for viewing on the City’s website at [menlopark.org/BedwellBayfrontPlan](http://menlopark.org/BedwellBayfrontPlan). The Master Plan includes a table (Attachment B) of phased improvements and cost estimates that were developed through public input and staff recommendations. Staff intends to seek input from the Friends of Bedwell Bayfront Park using this list, to inform the decision on which improvement(s) the applicant will pursue. If the City is unable to decide on the improvement(s) by June 1, 2018, then Bohannon would pay the City and the City would assume responsibility for designing and constructing the improvement(s).

### **Belle Haven Neighborhood Improvements**

Over the past few years, the applicant has explored various options for pursuing capital improvements in Belle Haven including various streetscape improvements and landscaping improvements along the Ivy Drive median between the Boys and Girls Club and Belle Haven School. Staff intends to partner with the applicant to facilitate a community meeting to identify the specific improvement to pursue and will draw from existing documents such as the Five-year Capital Improvement Plan and the ConnectMenlo Community Amenities list. Similar to the Bedwell Bayfront Park improvements, Bohannon would pay the City and the City would assume responsibility for designing and constructing the capital improvement if the City is unable to decide on the specific improvement by June 1, 2018. If the City is unable to determine improvements for both capital improvement projects, then staff would pursue payment for each category based on a weighted average of the difference between the minimum and maximum (less any money eligible for credit through the Development Agreement for design work to date) as follows:

Item	Payment
Bedwell Bayfront Park Capital Improvements	\$451,746.24
Belle Haven Capital Improvements	\$968,027.66

If the City determines an improvement for one of the two categories, then the payment would be based on the remainder after deducting the cost estimate of the improvement selected for the other category.

### **Attachments**

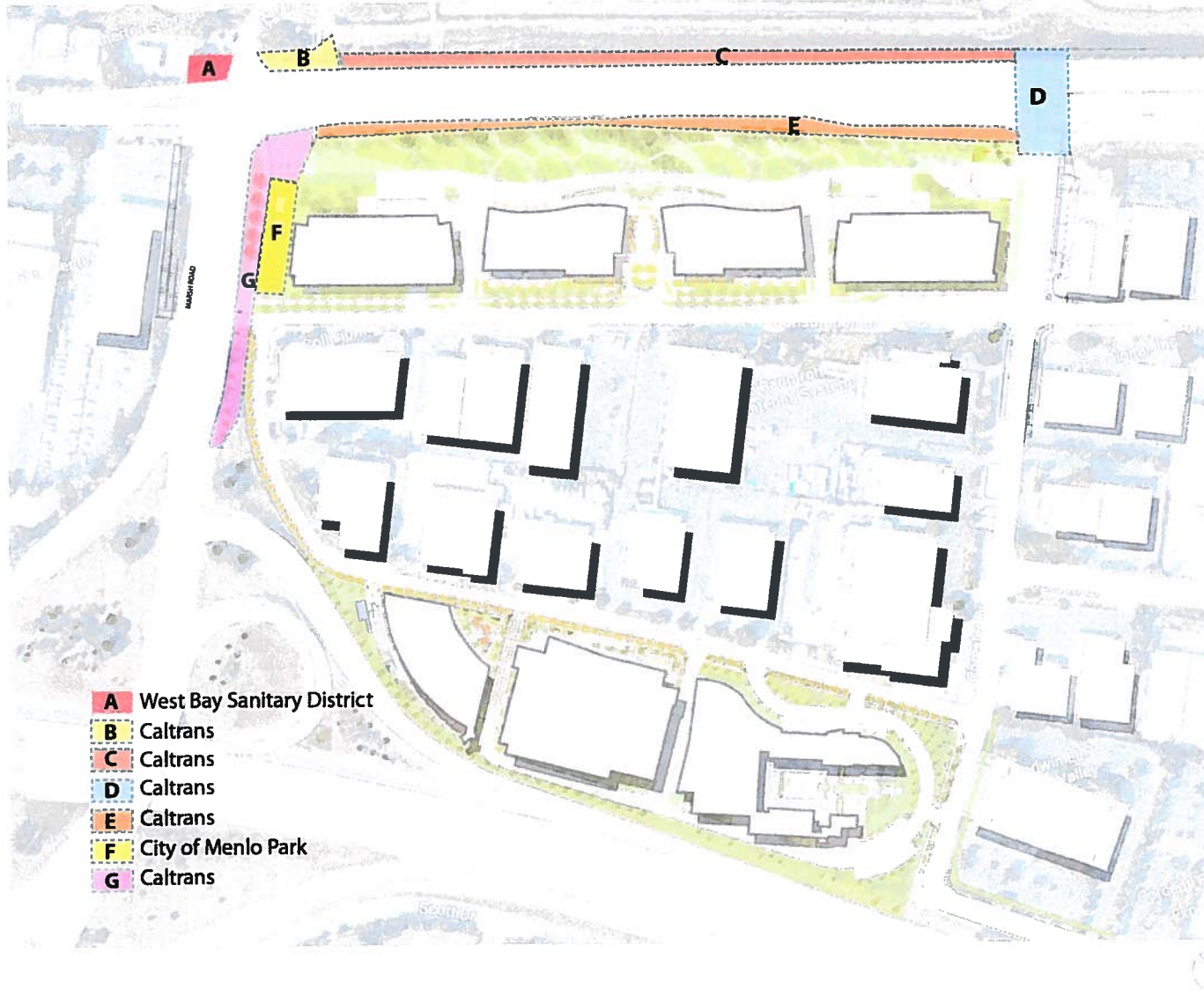
- A. Packet from January 25, 2018 Community Meeting on Off-Site Landscaping Improvements
- B. Phased Improvement Recommendations and Cost Estimates from the Bedwell Bayfront Park Master Plan

Report prepared by:  
Justin Murphy, Public Works Director

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# POSSIBLE SITES FOR LANDSCAPE/AESTHETIC IMPROVEMENTS

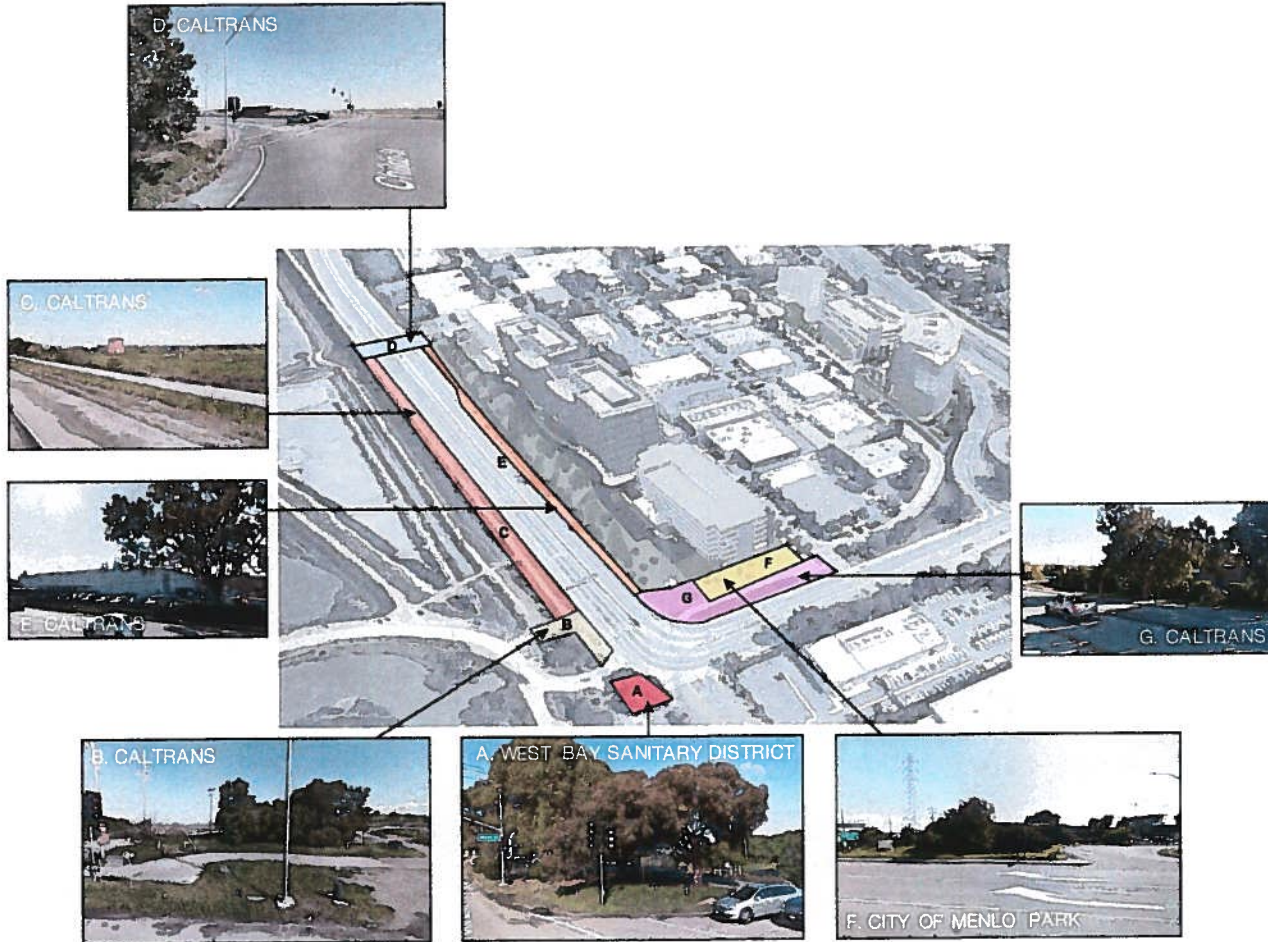


- A** West Bay Sanitary District
- B** Caltrans
- C** Caltrans
- D** Caltrans
- E** Caltrans
- F** City of Menlo Park
- G** Caltrans

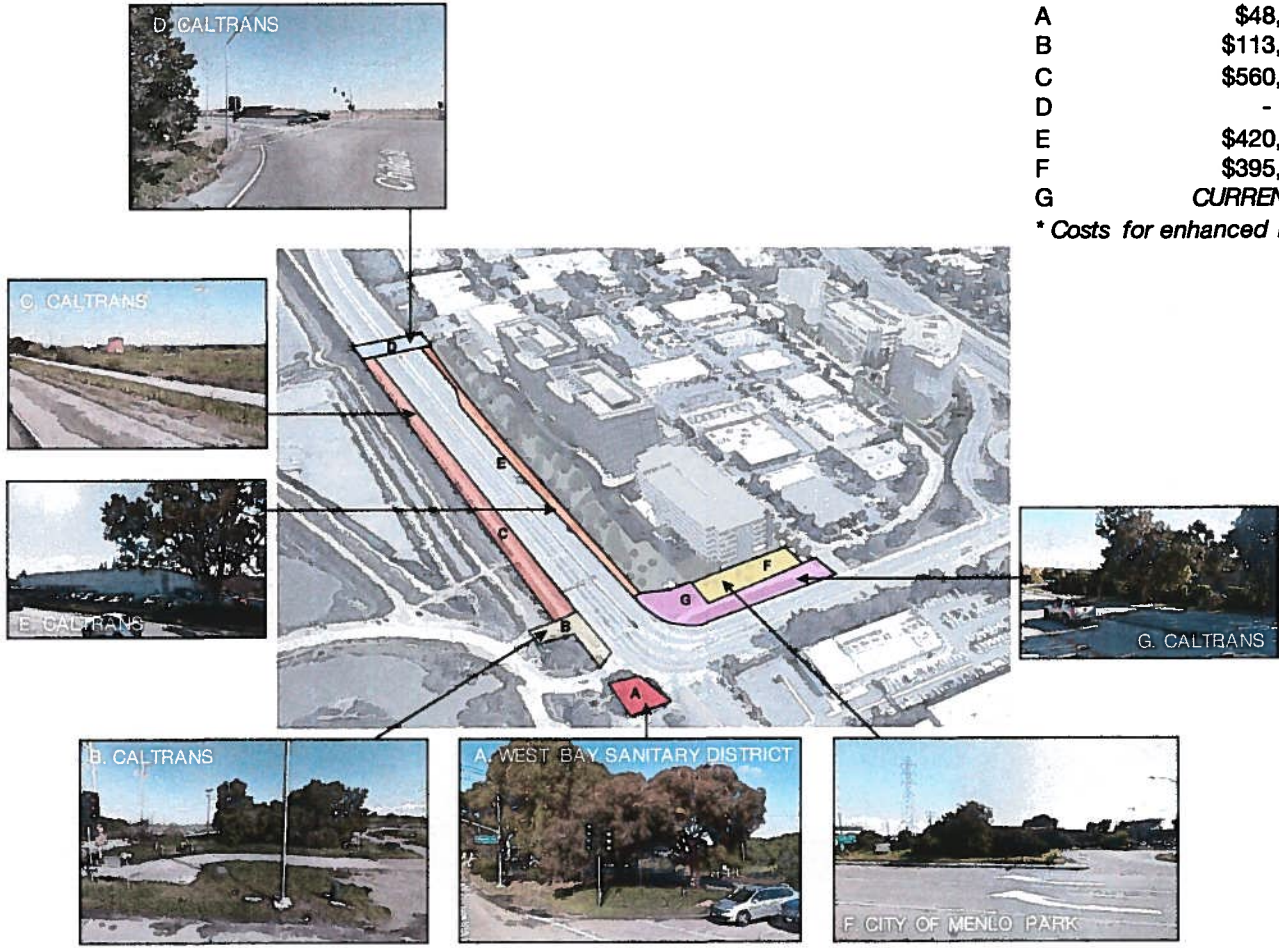
# PHOTOS OF POSSIBLE IMPROVEMENT SITES

# AREA SIZES

AREA	HARDSCAPE	PLANTING	TOTAL SF
A	-	3,154	3,154
B	-	7,435	7,435
C	-	48,840	48,840
D	-	17,309	17,309
E	-	28,102	28,102
F	-	11,078	11,078
G	4,480	18,752	23,232



# PRELIMINARY OPINION OF CONSTRUCTION COSTS

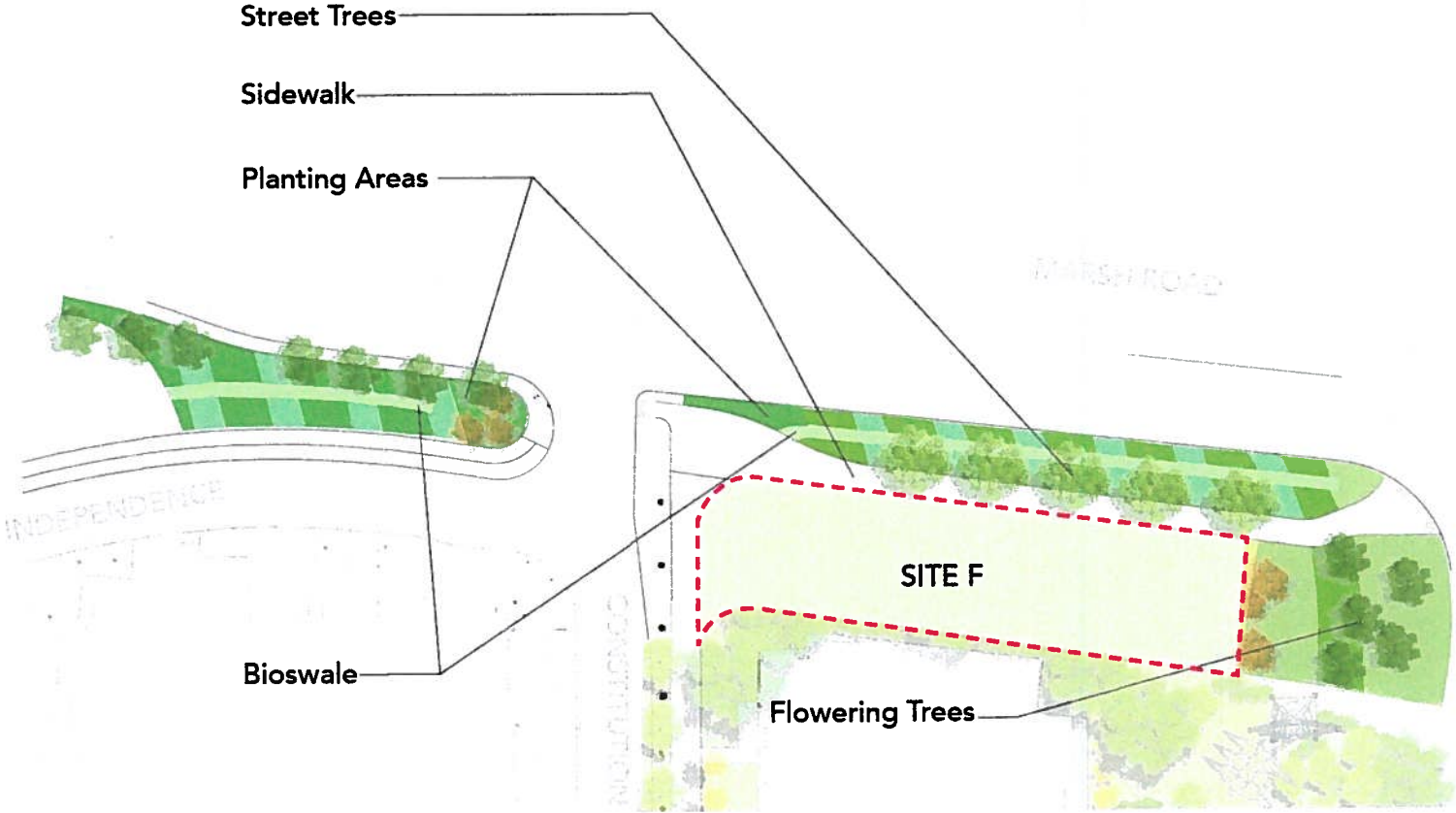


## AREA ESTIMATED CONSTRUCTION COST

AREA	ESTIMATED CONSTRUCTION COST
A	\$48,000
B	\$113,000
C	\$560,000
D	-
E	\$420,000
F	\$395,000*
G	CURRENTLY BEING REVIEWED BY CALTRANS

\* Costs for enhanced landscaping/improvements above & beyond base landscaping

# MARSH ROAD LANDSCAPE – SITE 'G'



## SCULPTURE PARK



Planting, bioswale and sculpture. *Final sculpture to be determined.*

## SCULPTURE PARK



Planting, bioswale and sculpture. Future street trees shown as transparent. *Final sculpture to be determined.*

## ART WALL



Rendering of Art Wall at Menlo Gateway Phase 1 Garage- similar concept planned for Phase 2 Garage.

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# 4 Implementation

## Cost Estimate

Costs for Bedwell Bayfront Park include park improvements, landfill improvements, and operation and maintenance costs. The park improvements include the community-supported features and will be implemented in phases that prioritize improvements to address flooding and those that enhance accessibility.

Cost estimate details for phased park improvements are noted in Figure 24. The operation and maintenance costs and the landfill improvement costs are separate items that may be funded and implemented differently than the park improvements. The approximate costs are based on 2017 dollars. Detailed cost estimates for all assumed expenses can be reviewed in the Appendix.

## Park Improvements

Item	Estimated Cost Range
Site preparation / start-up	\$ 400,000 – \$500,000
Accessible trails	\$ 700,000 – \$800,000
Parking	\$ 150,000 – \$250,000
Uses and amenities	\$ 1,400,000 – \$1,500,000
Restroom building and utilities	\$ 600,000 – \$700,000
Landscaping	\$ 1,000,000 – \$1,150,000
Tidal flooding / Sea level rise	\$ 1,100,000 – \$1,200,000
Contingencies and inflation	\$ 3,650,000 – \$3,800,000
Design and permitting	\$ 1,000,000 – \$1,100,000
<b>Estimated Project Total</b>	<b>\$10 million – \$11 million</b>

Figure 24 Park improvements

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## Phase 1

Timeframe: 0 to 5 years

Improvements to include the following:

- Address deferred maintenance and safety items (i.e., lack of sidewalk at Bayfront Expressway intersection, electrical panel)
- Install asphalt ADA trails
- Install treated ADA trails in the western half of the park
- Provide site furnishings and amenities: seating, dog bag dispenser, paved overlooks, bike racks, and interpretive signage
- Landfill GCCS improvements
- Install the ranger's office building
- Address the 100 year event (reconstruct segments of the access road to an elevation of 10.5') and address sea level rise by reconstructing the access road from the entrance to the first trail head to an elevation of 12.5'. The reconstruction should be in coordination with improvements planned for the Bayfront Canal.
- Coordinate with Bayfront Canal project

**Total Estimated Cost Range: \$3.3 million to \$3.6 million**

(Shown in Figure 25)

## Phase 2

Timeframe: 5 to 10 years

Improvements to include the following:

- Address sea level rise (reconstruct the segments of access road and Bay Trail to an elevation of 11.5')
- Install automatic entrance / gate system
- Install treated ADA trails in the eastern half of the park (that serve the eastern summit and Great Spirit Path)
- Provide additional site furnishings and amenities: picnic tables, and wayfinding signage
- Provide nature play, outdoor classroom, fitness stations, and observation platform, habitat restoration areas
- Provide parking improvements and related landscaping
- Replace restroom building

**Total Estimated Cost Range: \$5.7 million to \$6.1 million**

(Shown in Figure 26)

## Phase 3

Timeframe: 10 to 25 years

Improvements to include the following:

- Address sea level rise (reconstruct the segments of access road and Bay Trail to an elevation of 12.5')
- Renovate the Great Spirit Path art piece

**Total Estimated Cost Range: \$1 million to \$1.3 million**

(Shown in Figure 27)