

FRONTAGE IMPROVEMENTS AND DEVELOPMENT FEES AGREEMENT

THIS FRONTAGE IMPROVEMENTS AND DEVELOPMENT FEES AGREEMENT (“Agreement”) is made and entered into on this ____ day of _____, 2020 (“Effective Date”), by and between the COUNTY OF SAN MATEO, a political subdivision of the State of California (“County”), and the CITY OF REDWOOD CITY, a charter city and California municipal corporation (“City”) with reference to the following facts:

RECITALS

A. County and City are parties to a Real Property Exchange Agreement (“Exchange Agreement”), which provides among other things for: (a) City to transfer to County a fee interest in that certain undeveloped real property consisting of approximately 3.29 acres located within the City of Redwood City, County of San Mateo, State of California, described in Attachment 1, attached hereto and incorporated herein by reference (the “Property”) in exchange for County’s transfer to City of certain County-owned property, including the buildings and improvements thereon, together with a cash purchase price payment in the amount of \$1,425,000; (b) City to leaseback by a separate written agreement to County an existing homeless shelter building on the County-owned property until June 30, 2022; (c) County to commit to undertake certain work of public improvements and pay certain development related fees to City at such time as County undertakes permanent development of the Property; and (d) City to be solely responsible for demolishing or causing demolition of the buildings and improvements on the County-owned property to facilitate the Blomquist Street extension work.

B. As contemplated by the Exchange Agreement, upon Closing, County has acquired from the City a fee interest in the Property.

C. In accordance with the Exchange Agreement, City and County now desire to enter into this Agreement committing County, at such time as the Property is developed in the future, (i) to construct and install or cause the construction and installation of, and dedicate to City, certain Frontage Improvements (defined below), and (ii) to pay to City certain Development Fees (defined below), all as set forth in this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the faithful performance of the terms and conditions set forth in this Agreement, the parties hereto agree as follows:

1. Purpose:. The purpose of this Agreement is to require and guarantee completion of the Frontage Improvements, and following satisfactory completion thereof, dedication of certain of such Frontage Improvements to City, and set forth County’s agreement to pay certain Development Fees to City, at such time as the Property is developed with permanent improvements, and City’s agreement that County’s completion, dedication, and payment pursuant to this Agreement satisfies the entirety of the County’s obligations with regard to the construction of such improvements and payment of such fees.

2. Property Subject to Agreement. The Property shall be subject to this Agreement upon Closing of the Exchange Agreement and during the entirety of the County’s ownership of the Property. In the event the property is ever alienated by County, this Agreement shall have no further effect and neither

party shall have any further duty of performance, nor can any subsequent purchaser rely on, enforce or assume the County's rights and obligations hereunder.

3. Duty to Install Frontage Improvements. At such time as County develops the Property with permanent improvements, County shall construct, install and complete, or cause to be constructed, installed and completed, at the County's sole cost and expense, the public improvements along Blomquist Street and Maple Street generally described and depicted in Attachment 2 attached hereto and incorporated herein (collectively, the "Frontage Improvements"), in accordance with improvement plans and drawings to be prepared by County and submitted to the City Engineer for review and approval not to be unreasonably withheld, conditioned or delayed ("Improvement Plans"). The construction, installation and completion of the Frontage Improvements and all labor and materials furnished in connection therewith are hereinafter referred to collectively as the "Work." In the event County proposes to develop the Property in phases, the parties will cooperate in good faith to agree upon a schedule for phased installation of the Frontage Improvements. If, prior to County's development of permanent improvements on the Property, City proposes to undertake adjacent street improvements which may include elevation of the adjacent right of way, the parties will cooperate in good faith to agree upon a schedule for County's accelerated performance of the Frontage Improvements Work. The Work and Frontage Improvements shall be in compliance with the provisions of Chapter 30 of the Redwood City Code. In the event a conflict exists between the Improvement Plans and the requirements of Chapter 30 of the Redwood City Code, the requirement or standard as reasonably determined by the City Engineer shall govern. In connection with its construction and installation of the Frontage Improvements County shall offer to dedicate to City appropriate rights-of-way and/or easements as reasonable required for City and the public to use, and for City to maintain, repair, replace and operate such Frontage Improvements. Installation of a Temporary Navigation Center (as defined in Section 5 below) shall not be deemed a permanent improvement for purposes of this Agreement.

4. Completion Timing. County will complete the Work, or applicable phase thereof, prior to occupying all or any portion of the buildings or improvements whose construction triggered the obligation to construct and install the Frontage Improvements. All Work will be completed in a good and workmanlike manner in accordance with accepted design and construction practices and consistent with the Improvement Plans.

5. Temporary Navigation Center. The parties agree that no Development Fees, impact fees or fair share infrastructure contributions shall be due and payable to City, nor shall any Frontage Improvements be required, in connection with County's installation of a shipping container or similar homeless navigation center ("Temporary Navigation Center") on the Property. However, County will be required to pay the actual costs of meters, meter installation, and water and sewer service taps that may be required to serve such Temporary Navigation Center.

6. Modifications to the Plans. County agrees to make such modifications, changes or revisions as necessary in order to complete the Work in a good and workmanlike manner in accordance with accepted design and construction standards and consistent with the Improvement Plans as approved by the City Engineer.

7. Intentionally omitted.

8. Intentionally omitted.

9. Examination of Work. All of the Work shall be consistent with the Improvement Plans and performed to the satisfaction of the City Engineer, in his or her reasonable discretion. City and its authorized agents shall, at all times during the performance of the Work, have free access to the Work and

the Property as reasonably necessary to examine the Work, and shall be allowed to examine the Work and all materials used and to be used in the Work.

10. City Costs. County shall pay to City, the actual cost for all engineering, inspection, administration, plan check, laboratory and field testing, construction, and other services furnished by City in connection with this Agreement, including those performed by consultants under contract with City which consultants have been approved by County (“City Costs”). County agrees to complete payment of such sums for the services provided by City within thirty (30) days after billing by City.

11. Completion of Work. After County (a) completes the Work or applicable phase thereof in accordance with the Improvement Plans and the terms and conditions of this Agreement, (b) repairs any private or public property damaged as a result of the Work or applicable phase thereof or pays the full cost of such repair to the owner whose property was damaged and (c) obtains the written acceptance of such repair or payment from any owner whose private property was repaired by County or to whom County paid the full cost of such repair, County will provide City with a written notice of completion, together with copies of all written acceptances.

12. Final Acceptance.

12.1 Notice of Completion. Within thirty (30) days of receipt of County's written notification pursuant to Section 11 above, the City Engineer shall inspect the Work and repairs and review the written acceptances, if any, and send County a written notice stating whether the Work and repairs are complete to the satisfaction of the City Engineer, in his reasonable discretion, and whether the written acceptances have been provided. If the Work and repairs are, in the opinion of the City Engineer, not complete and satisfactory, and/or written acceptances have not been provided, the City Engineer will list the deficiencies that County must correct to make the Work and repairs complete and satisfactory. Upon satisfactory completion of the Work and repairs and submittal of written acceptances, the City Engineer will send County a written notice of satisfactory completion. The requirement for written acceptances may be waived by the City Engineer, in his reasonable discretion, if County has made commercially reasonable efforts to obtain such acceptances.

12.2 Acceptance of Frontage Improvements. After sending County a written notice of satisfactory completion pursuant to Section 12.1, the City Engineer will recommend acceptance of the Frontage Improvements or applicable portion thereof to the City Council. The acceptance of the Frontage Improvements, offers of dedication and right-of way, and easements, if any, shall be by City Council action, with the matter placed on the next available agenda for City Council action. Upon City Council's action, the City Engineer will promptly record a notice, in a form to be approved by the City Attorney, in the Official Records of San Mateo County.

13. Warranty Period; Repair and Reconstruction. County expressly warrants and guarantees all Work performed under this Agreement and all materials used in the Work for a period of one (1) year after City's final acceptance in accordance with Section 12. If, within this one (1) year warranty period, any Frontage Improvement or part of any Frontage Improvement installed or constructed, or caused to be installed or constructed by County, or any of the Work done under this Agreement, fails to fulfill any of the requirements of the Improvement Plans or this Agreement, County shall, without delay and without cost to City, repair, replace or reconstruct, or cause to be repaired, replaced or reconstructed, any defective or otherwise unsatisfactory part or parts of the Work or Frontage Improvements to the satisfaction of the City Engineer. Should the exigencies of the situation require repairs, replacements or reconstruction to be made before County can be notified, City may, at its option, make the necessary

repairs, replacements or perform the necessary reconstruction and County shall pay to City upon demand the actual cost of such repairs, replacements or reconstruction.

14. County Not Agent of City. Neither County nor County's contractors, subcontractors, agents, officers, or employees are agents or employees of City and the County's relationship to City, if any, arising herefrom is strictly that of an independent contractor.

15. Indemnification.

15.1 Neither the City, nor its officers, agents nor employees, will be liable or responsible for any accident, injury, loss, or damage to either property or person attributable to or arising out of the construction or installation of the Improvements. County shall indemnify, hold harmless and defend the City, its officers, agents and employees, from and against any and all losses, claims, costs, expenses, liabilities, damages, actions, causes of action and judgments, including reasonable attorneys' fees, for property damage, bodily injury or death arising out of or attributable to County's or its employees', agents', or contractors' performance of the Work under this Agreement. Notwithstanding the forgoing, County shall not be obligated under this Agreement to defend and/or indemnify the City to the extent that any of the damage or injury is caused by the gross negligence or willful misconduct of the City or its agents or employees. This indemnification obligation shall expire at the conclusion of the Warranty period.

15.2 County's obligations under this Section 15 are not conditioned or dependent upon whether the City or its contractors, agents or employees prepared, supplied or reviewed any Improvement Plans or related specifications in connection with the County's development project, or whether the City has insurance or other indemnification covering any of these matters.

16. Insurance. Prior to commencing construction or development on or about the Property and throughout the entire duration of such construction of the Work, County shall obtain and maintain in full force and effect, or require its contractor to obtain and maintain in full force and effect, the following insurance policies:

16.1 General Liability. Commercial general liability insurance with coverage at least as broad as Insurance Services Office form CG 00 01, in an amount not less than Two Million Dollars (\$2,000,000) per occurrence, Four Million Dollars (\$4,000,000) general aggregate, for bodily injury, personal injury, and property damage, including without limitation, blanket contractual liability and coverage for explosion, collapse and underground property damage hazards. County's or its contractor's general liability policies shall be primary and non-contributory, and be endorsed using Insurance Services Office form CG 20 10 to provide that City and its officers, officials, employees, and agents shall be additional insureds under such policies. For construction contracts, an endorsement providing completed operations to the additional insured, ISO form CG 20 37, is also required.

16.2 Workers' Compensation. Workers' Compensation Insurance (Statutory Limits) and Employer's Liability Insurance with limits of at least One Million Dollars (\$1,000,000). County shall submit to City, along with the certificate of insurance, a Waiver of Subrogation endorsement in favor of City, its officers, agents, employees, and volunteers.

16.3 Auto Liability. Auto liability coverage for owned, non-owned, and hired autos using ISO Business Auto Coverage form CA 00 01, or the exact equivalent, with a limit of no less than One Million Dollars (\$1,000,000) per accident. If County's contractor owns no vehicles, this requirement may be met through a non-owned auto endorsement to the CGL policy.

16.4 Contractors Pollution Liability. Pollution Coverage shall be provided on a Contractors Pollution Liability form or other form acceptable to City providing coverage for liability arising out of sudden, accidental and gradual pollution and remediation. The policy limit shall be no less than One Million Dollars (\$1,000,000) per claim and in the aggregate. All activities contemplated in this agreement shall be specifically scheduled on the policy as “covered operations.” The policy shall provide coverage for the hauling of waste from the project site to the final disposal location, including non-owned disposal sites.

16.5 Other Requirements. Prior to commencing construction or development on or about the Property, County shall furnish City with certificates and copies of information or declaration pages of the insurance required hereunder and, with respect to evidence of commercial general liability and automobile liability insurance coverage, original endorsements:

16.5.1. Precluding cancellation or reduction in coverage before the expiration of thirty (30) days after City shall have received written notification of cancellation or reduction in coverage by first class mail, postage prepaid;

16.5.2. Providing that County’s or its Contractor’s insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer’s liability (cross liability endorsements);

16.5.3. Naming City, its Council, commissions, boards, committees, officers, employees and agents as additional insureds; and

16.5.4. Providing that County’s or its contractor’s insurance shall be primary insurance relating to all Work hereunder with respect to City, its Council, commissions, boards, committees, officers, employees and Agents, and further providing that any insurance, self-insurance or joint self-insurance maintained by City for itself, its Council, commissions, boards, committees, officers, employees and agents shall not be excess of County’s or its Contractor’s insurance and shall not be contributory with it. Such insurance shall also specifically insure any contractual liability assumed by County under the terms of this Agreement.

16.6 Replacement Coverage Obligation. In the event the County contractor’s insurance is cancelled, County shall provide replacement coverage or all Work must cease as of the cancellation date until replacement insurance coverage is provided.

16.7 County Self-Insured. Notwithstanding any other provision of this Section 16, City accepts County’s self-insured coverage as satisfying the provisions of this Section.

17. Compliance with Laws. County shall comply with all federal, state and local laws, ordinances and regulations in the performance of this Agreement except those as to which it is immune, provided however the immunity carve out shall not be deemed to exempt or relieve County from any of its obligations under this Agreement. County shall, at its own cost and expense, obtain all necessary permits and licenses for the Work, give all necessary notices, pay all fees and taxes required by law and make any and all deposits legally required by those public utilities that will serve the development on the Property. Copies and/or proof of payment of said permits, licenses, notices, fee and tax payments and deposits shall be furnished to the City Engineer upon request.

18. Encroachment Permits. County shall obtain, at its sole cost and expense, any encroachment permits required by City in order to perform the Work. Such encroachment permits may include only such conditions as are generally applied to construction work such as the Work elsewhere in the City.

19. Payments. County agrees that it will pay, when due, all those furnishing labor or materials in connection with the Work. This paragraph shall not be interpreted to enlarge or expand the County's duty to pay its own employees or employees or consultants of City as to which reimbursement had been provided elsewhere in this Agreement.

20. Final Drawings. Upon completion of the Work and prior to final acceptance, County shall deliver to City a set of "as-built" drawings of the Frontage Improvements. These drawings shall be in a form acceptable to the City Engineer, shall be certified as being "as-built" and shall reflect the Work as actually constructed, with any and all changes incorporated therein. Said drawings shall be signed and sealed as accurate by the engineer of record.

21. Monuments. All pipes and monuments, if any, which are destroyed or displaced during construction operations shall be replaced by County at the time of the final inspection of the Frontage Improvements.

22. Payment of City's Standard Development Fees. In connection with County's permanent development of the Property, County agrees to pay to City those development fees set forth in Attachment 3 attached hereto and incorporated herein (collectively, the "Development Fees") at the rates and in the amounts in effect as of the Effective Date of this Agreement, subject to annual increases on the first anniversary of the Effective Date and each year thereafter based on the increase in the Construction Cost Index for San Francisco over the prior one-year period, as published from time to time by the Engineering News Record ("ENR Index"). Except as otherwise set forth above with respect to payment of the Development Fees, County shall have no obligation to pay any other City development related fees or charges, nor shall County be required to contribute to area wide improvements. County shall receive credits against any Development Fees, including fees for water, sewer, and wastewater treatment capacity, for use of the Maple Street Shelter (22,320 sq. ft. /141 residents/ 20 employees) formerly operated by County at 1580 Maple and the Women's Jail at 1590 Maple (19,218 sq. ft. / 120 occupants / 20 employees). Standard Development Fees shall only be imposed to the extent a permanent development exceeds this baseline. For purposes of calculating fees and credits for water capacity, sewer system capital facilities, and wastewater treatment capacity, shelter space shall receive Land Use Category designation "Motel."

23. Intentionally omitted.

24. Notice of Default; Opportunity to Cure. If City believes County is in default of any of its obligations under this Agreement, City shall provide written notice of default to County, and County shall have 30 days within which to correct, remedy or cure the default. If the written notification states that the problem is urgent and relates to the public health and safety, then County shall have 72 hours to correct, remedy or cure the default. If County does not take measures to cure the default within the applicable timeframe, City may pursue the remedies set forth in Section 25 below.

25. Remedies.

25.1 City may bring legal action to compel performance of this Agreement and recover the costs of completing the Work and/or repairs, if any.

25.2 City may recover actual damages equal to the sum total of any fees, financial contributions or other amounts payable by County.

25.3 No failure on the part of City to exercise any right or remedy hereunder shall operate as a waiver of any other right or remedy that City may have hereunder.

25.4 The rights and remedies of City are cumulative, and the exercise by City of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default.

26. Intentionally omitted.

27. Notices. Any notices relating to this Agreement shall be given in writing and shall be deemed sufficiently given and served for all purposes when delivered personally or by generally recognized overnight courier service, or five (5) days after deposit in the United States mail, certified or registered, return receipt requested, with postage prepaid, addressed as follows:

To the County: Don Grady
Real Property Manager
San Mateo County
555 County Center, 4th Floor
Redwood City, CA 94063

With a copy to: Justin W. Mates
Deputy County Manager
San Mateo County
400 County Center, First Floor
Redwood City, CA 94063

To the City: City of Redwood City
1017 Middlefield Road
Redwood City, California 94063
Attn: City Manager

With a copy to: City of Redwood City
1017 Middlefield Road
Redwood City, California 94063
Attn: City Attorney

28. Interpretation. The word “including” shall be construed as if followed by the words “without limitation.” All recitals to this Agreement are incorporated by reference as though fully restated herein. All exhibits and attachments to this Agreement are incorporated by reference as though fully restated herein. This Agreement shall be interpreted as though prepared jointly by both parties. Section headings in this Agreement are for convenience only and are not intended to be used in interpreting or construing the terms, covenants or conditions contained in this Agreement.

29. Severability. If any provision of this Agreement is held, to any extent, invalid, the remainder of this Agreement shall not be affected, except as necessarily required by the invalid provision, and shall remain in full force and effect.

30. Entire Agreement. The terms and conditions of this Agreement, together with the Exchange Agreement, constitute the entire agreement between City and County with respect to the matters addressed in this Agreement. This Agreement may not be altered, amended or modified without the written consent of all parties hereto. Performance of this Agreement shall constitute full performance of all duties and obligations of the County enforceable by the City with regard to frontage public improvements and payment of any development related fees and fair share infrastructure contributions.

31. Governing Law; Venue. This Agreement shall be construed and enforced in accordance with the laws of the State of California, without reference to choice of law provisions. Any legal actions under this Agreement shall be brought only in the Superior Court of the County of San Mateo, State of California.

32. Authority. Each party executing this Agreement on behalf of a party represents and warrants that such person is duly and validly authorized to do so on behalf of the entity it purports to bind and if such party is a partnership, corporation or trustee, that such partnership, corporation or trustee has full right and authority to enter into this Agreement and perform all of its obligations hereunder.

33. Time is of the Essence. Time is of the essence of this Agreement and of each and every term and condition hereof.

[Signatures on next page]

IN WITNESS WHEREOF, City and County have executed this Agreement as of the Effective Date.

COUNTY:

COUNTY OF SAN MATEO, a
political subdivision of the State of California

By: _____

Name: _____

Title: _____

[Signature must be notarized]

CITY:

CITY OF REDWOOD CITY, a
charter city and municipal corporation

Melissa Stevenson Diaz, City Manager

[Signature must be notarized]

ATTEST:

Pamela Aguilar, City Clerk

[NOTARY ACKNOWLEDGMENTS]

to be inserted

ATTACHMENT 1

Legal Description of the Property

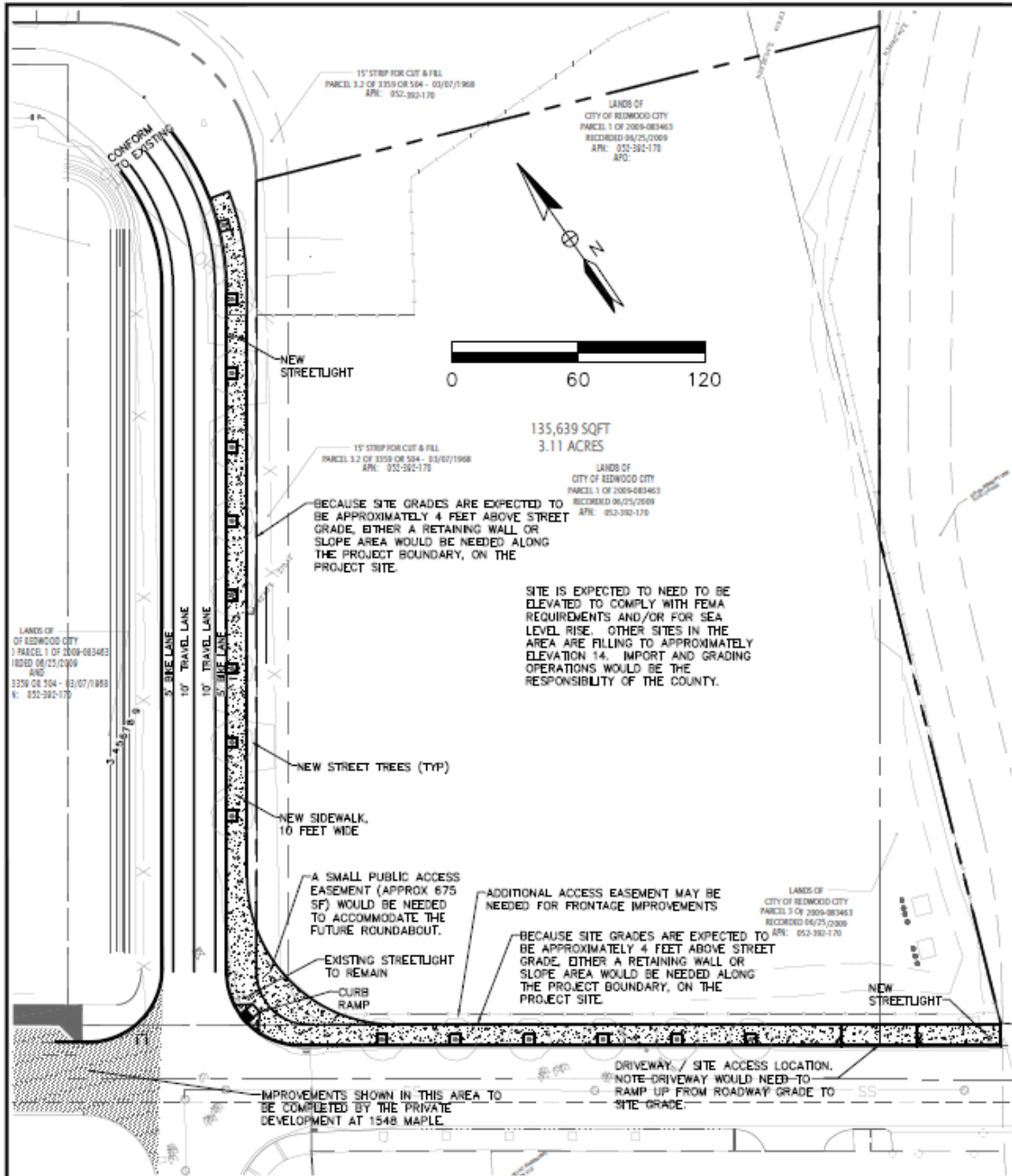
[to be inserted]

ATTACHMENT 2

Description of Frontage Improvements

Improvement Description	Design/Construction Standard
Sidewalk	10' Monolithic scored sidewalk most current City standard (MCCS) which will be provided by the City's Engineering Division
Curb Ramp	Directional ramp per most current Caltrans standards
Curb & Gutter	Type A (MCCS)
Trees	Tree Well with iron grate and steel frame assembly (MCCS) at a spacing of 30' on center in the locations determined by City staff
Irrigation	(MCCS) Street trees irrigated by the property
Street Lights	Cobra head lights (MCCS) as required by photometrics
Striping and Signage	per most current Caltrans
Green Infrastructure (Silva Cells) and associated storm improvements	Sized as 4% of tributary impervious surface per Regulated Project guidelines

Diagram of Frontage Improvements



ATTACHMENT 3 TYPICAL FRONTAGE IMPROVEMENTS FOR MAPLE STREET PARCEL

CITY OF REDWOOD CITY COMMUNITY DEVELOPMENT DEPARTMENT
1017 MIDDLEFIELD ROAD, REDWOOD CITY, CA 94063

ATTACHMENT 3

List of Development Fees***

Address Change	Water System Capital Facilities Fee	Review of Final Parcel Map (Deposit)*
Sewer System Capital Facilities Fee**	Water Service Line and Meter Installation Fee	Revocable Encroachment Permit (Deposit)*
Wastewater Treatment Capacity Fee**	Water Capacity Charge**	Storm Water Discharge (Deposit)*
Sewer Facilities Fee	Preliminary Plan Review (Deposit)*	

*Fees which include the word “(Deposit)” shall be paid via County’s delivery of a cash deposit to City which will be drawn down by City as costs are incurred.

**Fees for shelter space shall be calculated using Motel Land Use Category.

***Fees shall be calculated based on rates in effect as of Effective Date with annual escalations based on ENR Index as provided in Section 22 above.