AGREEMENT FOR SERVICES BETWEEN
THE CITY OF MENLO PARK AND GOLDEN BAY CONSTRUCTION

THIS FOURTH AMENDMENT is made and entered into this 7/31/2020, by and between the CITY OF MENLO PARK, a Municipal Corporation, hereinafter referred to as “CITY,” and GOLDEN BAY CONSTRUCTION, hereinafter referred to as “FIRST PARTY.”

1. Pursuant to Section 24. TERM OF AGREEMENT of Agreement No. 1916, (“Agreement”), Section 24. TERM OF AGREEMENT [amendment to section] to read as follows

“This Agreement shall remain in effect for the period of July 1, 2020 through June 30, 2021 unless extended, amended, or terminated in writing by CITY.”

Except as modified by this Amendment, all other terms and conditions of Agreement No. 1916 remain the same.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

SIGNATURE PAGE TO FOLLOW
FOR FIRST PARTY:
Johnny Zanette
7/31/2020
Signature

Printed name
Johnny Zanette

Tax ID

Tax ID#

APPROVED AS TO FORM:
Cara E. Silver, Interim City Attorney
7/31/2020

FOR CITY OF MENLO PARK:
Starla Jerome-Robinson, City Manager
7/31/2020

ATTEST:
Judi A. Herren, City Clerk
7/31/2020
AGREEMENT AMENDMENT
City Manager's Office
701 Laurel St., Menlo Park, CA 94025
tel 650-330-6620

Amendment #: 1916-3

AGREEMENT FOR SERVICES BETWEEN
THE CITY OF MENLO PARK AND GOLDEN BAY CONSTRUCTION

THIS THIRD AMENDMENT is made and entered into this 13th day of June, 2019, by and between the CITY OF MENLO PARK, a Municipal Corporation, hereinafter referred to as "CITY," and GOLDEN BAY CONSTRUCTION, hereinafter referred to as "FIRST PARTY."

1. Pursuant to Section 24. TERM OF AGREEMENT of Agreement No. 1916, ("Agreement"), Section 24. TERM OF AGREEMENT [amendment to section] to read as follows:

"This Agreement shall remain in effect for the period of July 1, 2019 through June 30, 2020 unless extended, amended, or terminated in writing by CITY."

Except as modified by this Amendment, all other terms and conditions of Agreement No. 1916 remain the same.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

SIGNATURE PAGE TO FOLLOW
FOR FIRST PARTY:

Signature

Johnny Zanette - President

Printed name

94-2918512

Tax ID#  

APPROVED AS TO FORM:

William L. McClure, City Attorney

FOR CITY OF MENLO PARK:

Signature

Starla Jerome-Robinson, City Manager

ATTEST:

Signature

Judi A. Herren, City Clerk

Date 6/13/19

Title

Date 6/13/19

Date 6/13/19

Date 6/13/19
PAY ITEM PRICE SCHEDULE

The bidder shall set forth for each quantified item of work a unit price and a total for the item, and for each lump sum item a total for the item, all in clearly legible figures in the respective spaces provided for this purpose. In the case of unit base items, the amount set forth under the "Total" column shall be the extension of the item price bid on the basis of the estimated quantity for the item.

In case of conflict between an item price in words and the price in figures, the price in words shall prevail. In case of discrepancy between an item unit price and the total set forth for a unit base item, the item unit price shall prevail. However, if the amount set forth as an item unit price is ambiguous, illegible or uncertain for any cause, or is omitted, or if the same amount as the entry in the "Total" column, then the amount set forth in the "Total" column for the item shall prevail and shall be divided by the estimated quantity for the item, and the price thus obtained shall be the item unit price.

The bidding contractor's attention is directed to Section 9-4.1 of the Special Provisions regarding payment for work or requirements not specifically included in the Pay Item Price Schedule.

NOTE: The quantities and total amount below have been provided for the purposes of bid comparison only.

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Unit</th>
<th>Quantity</th>
<th>Item Description (Quantity)</th>
<th>Unit Price per Item (Figures)</th>
<th>Total (Figures)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>MOBILIZATION</td>
<td>EA</td>
<td>10</td>
<td>four hundred ninety-one</td>
<td>$1,991.00</td>
<td>$19,910.00</td>
</tr>
<tr>
<td>2</td>
<td>TRAFFIC CONTROL</td>
<td>EA</td>
<td>10</td>
<td>four hundred ninety-one</td>
<td>$1,991.00</td>
<td>$19,910.00</td>
</tr>
<tr>
<td>3</td>
<td>WASTE MANAGEMENT</td>
<td>EA</td>
<td>10</td>
<td>four hundred ninety-one</td>
<td>$1,991.00</td>
<td>$19,910.00</td>
</tr>
<tr>
<td>4</td>
<td>SWN CLUTTER &amp; ROLLING</td>
<td>SF</td>
<td>100</td>
<td>three dollars and fifty cents</td>
<td>$3.50</td>
<td>$2,950.00</td>
</tr>
<tr>
<td>5</td>
<td>UTILITY BORROW THL ADJUSTMENT</td>
<td>EA</td>
<td>3</td>
<td>two hundred dollars</td>
<td>$750.00</td>
<td>$1,575.00</td>
</tr>
<tr>
<td>6</td>
<td>ROOF REPAIR AND REPLACE</td>
<td>EA</td>
<td>10</td>
<td>seven hundred ninety-one</td>
<td>$791.00</td>
<td>$7,910.00</td>
</tr>
<tr>
<td>7</td>
<td>4 INCH THICK AS PAVEMENT</td>
<td>SQ FT</td>
<td>100</td>
<td>thirty two dollars</td>
<td>$3.00</td>
<td>$1,600.00</td>
</tr>
<tr>
<td>8</td>
<td>4 INCH THICK CONCRETE SIDEWALK</td>
<td>SQ FT</td>
<td>200</td>
<td>thirty eight dollars</td>
<td>$3.80</td>
<td>$9,500.00</td>
</tr>
<tr>
<td>9</td>
<td>6 INCH THICK CONCRETE SIDEWALK</td>
<td>SQ FT</td>
<td>100</td>
<td>thirty nine dollars</td>
<td>$3.90</td>
<td>$3,900.00</td>
</tr>
<tr>
<td>10</td>
<td>VERTICAL CURB AND GUTTER (VCG)</td>
<td>LF</td>
<td>60</td>
<td>ninety three dollars</td>
<td>$430.00</td>
<td>$4,150.00</td>
</tr>
<tr>
<td>11</td>
<td>ROLLED CURB AND GUTTER (RCG)</td>
<td>LF</td>
<td>60</td>
<td>ninety three dollars</td>
<td>$430.00</td>
<td>$4,150.00</td>
</tr>
<tr>
<td>12</td>
<td>SIDEWALK RAMP</td>
<td>EA</td>
<td>2</td>
<td>six hundred ninety-one</td>
<td>$497.00</td>
<td>$1,294.00</td>
</tr>
<tr>
<td>Item</td>
<td>Quantity</td>
<td>Description</td>
<td>Price</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>------</td>
<td>----------</td>
<td>-------------</td>
<td>-------</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>13</td>
<td>75</td>
<td>VALLEY GUTTER IN ROADWAY 6F</td>
<td>41.00</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>14</td>
<td>73</td>
<td>CONCRETE VALLEY GUTTER LF</td>
<td>108.00</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td><strong>Total</strong></td>
<td>$94,514.00</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Notes:
- The Contract will be compiled and awarded based on the Total Bid for the sample project provided which represents a typical on-call project that would be performed under this contract.
- The City reserves the right to reject all bids for any reason whatsoever.
- The estimate of construction quantities set forth herein is based on a hypothetical project at ten locations, typical of the on-call work that is expected under this contract. The quantities and Total Bid amount is being used as a basis for the comparison of bids only. The City does not expressly or by implication agree that the actual amount of work will correspond therewith, and reserves the right to change the quantity of any class or portion of the work or to omit portions of the work as may be deemed necessary or expedient by the Engineer in accordance with the Special Provisions.
- The City reserves the right to increase or decrease quantities as deemed necessary.

The undersigned declares, by their signature in the proposal documents, that the bidder has examined carefully all of the above figures and understands that the City shall not be responsible for any errors or omissions on the part of the undersigned in making up this bid.

ADDITIONAL ACKNOWLEDGEMENT

The undersigned acknowledges receipt of Addendum No. ___ through ____ Addendum(s).
# AGREEMENT COVER SHEET

**City Manager's Office**  
701 Laurel St., Menlo Park, CA 94025  
tel 650-330-6620

<table>
<thead>
<tr>
<th>Agreement #: 1916-A3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Project manager: Hugo Torres</td>
</tr>
</tbody>
</table>

- [ ] Time sensitive  
- [ ] New agreement  
- [ ] Attest only  
- [x] Amendment  
- [ ] Term

First party: Golden Bay Construction  
Type of agreement: Maintenance

Agreement or project title: Amendment 3 - Multi-Year Citywide Sidewalk Repair Program

Purpose: To remove and replace portions of existing concrete sidewalk, curb and gutter, access ramp, driveway, valley gutter, asphalt parking strip, deep-lifting asphalt concrete pavements, decomposed granite, tree root pruning, and other incidentals as necessary to complete the work at various locations in the City of Menlo Park. This amendment extends term from July 1, 2019 – June 30, 2020.

<table>
<thead>
<tr>
<th>Agreement amount: $450,000</th>
<th>Begin date: 7/1/2019</th>
<th>End date: 6/30/2020</th>
</tr>
</thead>
<tbody>
<tr>
<td>Approved budget: $550,000</td>
<td>Budget year: 2019-20</td>
<td>Available budget: $ 550,000</td>
</tr>
<tr>
<td>Funding account: 851 20101 2011 5601 - 250,000</td>
<td>839 20101 20011 5601 - 200,000</td>
<td></td>
</tr>
</tbody>
</table>

Required approval:  
- [ ] Department  
- [x] City Manager  
- [ ] City Council

- [ ] Language modifications were made to the template  
- [ ] These have been approved by the City Attorney (attach)

Summary of modifications: NA

Attachments:  
- [x] Three (3) Originals of agreement  
- [x] Staff report  
- [x] Prior agreement/amendments(s) for reference  
- [x] PO/Check requisition

- [ ] Other/Comment

Approval:  

[Signature]  

Supervisor  

[Signature]  

Department Head  

[Signature]  

Administrative Services/Finance  

City Attorney

City Manager (If needed)  

Routing: Department, City Clerk, City Attorney, Administrative Services/Finance, (City Manager), City Clerk, Vendor, Department  

Revised  
20180515
AGREEMENT AMENDMENT
City Manager's Office
701 Laurel St., Menlo Park, CA 94025
tel 650-330-6620

<table>
<thead>
<tr>
<th>Agreement #: 1916</th>
<th>Amendment #: 2</th>
</tr>
</thead>
</table>

AGREEMENT FOR SERVICES BETWEEN
THE CITY OF MENLO PARK AND GOLDEN BAY CONSTRUCTION

THIS THIRD AMENDMENT is made and entered into this 13th day of July, 2019, by and between the CITY OF MENLO PARK, a Municipal Corporation, hereinafter referred to as “CITY,” and GOLDEN BAY CONSTRUCTION, hereinafter referred to as “FIRST PARTY.”

1. Pursuant to Section 24. TERM OF AGREEMENT of Agreement No. 1916, (“Agreement”), Section 24. TERM OF AGREEMENT [amendment to section] to read as follows

“This Agreement shall remain in effect for the period of July 1, 2018 through June 30, 2019 unless extended, amended, or terminated in writing by CITY.”

Except as modified by this Amendment, all other terms and conditions of Agreement No. 1916 remain the same.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

SIGNATURE PAGE TO FOLLOW
FOR FIRST PARTY:

Signature

Johnny Zanette - President

Printed name

94-2918512

Tax ID#

APPROVED AS TO FORM:

William L. McClure, City Attorney

7/13/18

Date

FOR CITY OF MENLO PARK:

Alex D. McIntyre, City Manager

7/13/18

Date

ATTEST:

Judi A. Herren, City Clerk

7/17/18

Date
PAY ITEM PRICE SCHEDULE

The Bidder shall set forth for each quantified item of work a unit price and a total for the item, and for each lump sum item a total for the item, all in clearly legible figures in the respective spaces provided for this purpose. In the case of unit basis items, the amount set forth under the "Total" column shall be the extension of the item price bid on the basis of the estimated quantity for the item.

In case of conflict between an item price in words and the price in figures, the price in words shall prevail. In case of discrepancy between an item unit price and the total set forth for a unit basis item, the item unit price shall prevail. However, if the amount set forth as an item unit price is ambiguous, illegible, or uncertain for any cause, or is omitted, or is the same amount as the entry in the "Total" column, then the amount set forth in the "Total" column for the item shall prevail and shall be divided by the estimated quantity for the item, and the price thus obtained shall be the item unit price.

The bidding contractor's attention is directed to Section 9-1.1 of the Special Provisions regarding payment for work or requirements not specifically included in the Pay Item Price Schedule.

NOTE: The quantities and total amount below have been provided for the purposes of bid comparison only.

Bid Items:

<table>
<thead>
<tr>
<th>Item No.</th>
<th>Description</th>
<th>Unit</th>
<th>Estimated Quantity</th>
<th>Low Price per Unit of Quantity (in figures)</th>
<th>High Price per Unit of Quantity (in figures)</th>
<th>Total (in figures)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>MOBILIZATION</td>
<td>EA</td>
<td>10</td>
<td>$1,991.00</td>
<td>$19,910.00</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>TRAFFIC CONTROL</td>
<td>EA</td>
<td>10</td>
<td>$420.00</td>
<td>$4,200.00</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>WASTE MANAGEMENT</td>
<td>EA</td>
<td>10</td>
<td>$100.00</td>
<td>$1,000.00</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>SAW CUTTING &amp; DEMOLITION</td>
<td>SF</td>
<td>850</td>
<td>$3.50</td>
<td>$2,975.00</td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>UTILITY BOXVAULT ADJUSTMENT</td>
<td>EA</td>
<td>3</td>
<td>$275.00</td>
<td>$675.00</td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>ROOT REMOVAL AND BASE RECONSTRUCTION</td>
<td>EA</td>
<td>10</td>
<td>$791.00</td>
<td>$7,910.00</td>
<td></td>
</tr>
<tr>
<td>7</td>
<td>4 INCH THICK AC PAVEMENT</td>
<td>SQ FT</td>
<td>500</td>
<td>$32.00</td>
<td>$1,600.00</td>
<td></td>
</tr>
<tr>
<td>8</td>
<td>4 INCH THICK CONCRETE SIDEWALK</td>
<td>SQ FT</td>
<td>250</td>
<td>$38.00</td>
<td>$9,500.00</td>
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</tr>
<tr>
<td>9</td>
<td>6 INCH THICK CONCRETE SIDEWALK</td>
<td>SQ FT</td>
<td>100</td>
<td>$39.00</td>
<td>$3,900.00</td>
<td></td>
</tr>
<tr>
<td>10</td>
<td>VERTICAL CURB AND GUTTER (VG)</td>
<td>LF</td>
<td>50</td>
<td>$93.00</td>
<td>$4,650.00</td>
<td></td>
</tr>
<tr>
<td>11</td>
<td>ROLLED CURB AND GUTTER (RG)</td>
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<td>50</td>
<td>$93.00</td>
<td>$4,650.00</td>
<td></td>
</tr>
<tr>
<td>12</td>
<td>SIDEWALK RAMP</td>
<td>EA</td>
<td>2</td>
<td>$6,497.00</td>
<td>$12,994.00</td>
<td></td>
</tr>
<tr>
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<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>---</td>
<td>---</td>
<td>---</td>
<td>---</td>
<td>---</td>
<td></td>
<td></td>
</tr>
<tr>
<td>13</td>
<td>73</td>
<td>VALLEY GUTTER IN ROADWAY</td>
<td>8F</td>
<td>75</td>
<td></td>
<td></td>
</tr>
<tr>
<td>14</td>
<td>73</td>
<td>CONCRETE VALLEY GUTTER</td>
<td>LF</td>
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<td></td>
<td></td>
<td>Forty Six dollars</td>
<td>$46.00</td>
<td>$3,450.00</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>one hundred and eight dollars</td>
<td>$108.00</td>
<td>$2,700.00</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>TOTAL</td>
<td></td>
<td>(in words) ninety four thousand five hundred and fourteen dollars</td>
<td>(in figures) $94,514.00</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Notes:
- The Contract will be compared and awarded based on the Total Bid for the sample project provided which represents a typical on-cell project that would be performed under this contract.
- The City reserves the right to reject all bids for any reason whatsoever.
- The estimate of construction quantities set forth herein is based on a hypothetical project at ten locations, typical of the on-cell work that is expected under this contract. The quantities and Total Bid amount is being used as a basis for the comparison of bids only. The City does not expressly or by implication agree that the actual amount of work will correspond therewith, and reserves the right to change the quantity of any class or portion of the work or to omit portions of the work as may be deemed necessary or expedient by the Engineer in accordance with the Special Provisions.
- The City reserves the right to increase or decrease quantities as deemed necessary.

The undersigned declares, by their signature in the proposal documents, that the bidder has checked carefully all of the above figures and understands that the City shall not be responsible for any errors or mistakes on the part of the undersigned in making up this bid.

**ADDENDA ACKNOWLEDGMENT**

The undersigned acknowledges receipt of Addendum No. _1_ through _6_ Inclusively.

SIGNATURE OF CONTRACTOR’S REPRESENTATIVE:  

[Signature]

TITLE: President

PRINT NAME: Johnny Zenette

TITLE: President

DATE: 10/27/15

Page 4
AGREEMENT COVER SHEET
City Manager's Office
701 Laurel St., Menlo Park, CA 94025
tel 650-330-6620

Agreement #: 1916-A2

<table>
<thead>
<tr>
<th>Project manager: Irv Meachum</th>
<th>Department: Public Works</th>
<th>Date: 6/1/2018</th>
</tr>
</thead>
</table>

- ☐ Time sensitive
- ☐ New agreement
- ☐ Attest only
- ☑ Amendment

First party: Golden Bay Construction

Type of agreement: Maintenance

Agreement or project title: Amendment 2 - Multi-Year Citywide Sidewalk Repair Program

Purpose: To remove and replace portions of existing concrete sidewalk, curb and gutter, access ramp, driveway, valley gutter, asphalt parking strip, deep-lifting asphalt concrete pavements, decomposed granite, tree root pruning, and other incidentals as necessary to complete the work at various locations in the City of Menlo Park. This amendment extends term from July 1, 2018 – June 30, 2019.

<table>
<thead>
<tr>
<th>Agreement amount: $400,000</th>
<th>Begin date: 7/1/2018</th>
<th>End date: 6/30/2019</th>
</tr>
</thead>
</table>

- Approved budget: $500,000
- Budget year: 2018-19
- Available budget: $ 500,000

- Funding account: 651 20101 20011 5601 – 200,000
- 839 20101 20011 5601 - 200,000

- Required approval: ☐ Department
- ☑ City Manager
- ☐ City Council

- ☐ Language modifications were made to the template
- ☐ These have been approved by the City Attorney (attach)

Summary of modifications: NA

Attachments:
- ☑ Three (3) Originals of agreement
- ☑ Staff report
- ☑ Prior agreement/amendment(s) for reference
- ☐ PO/Check requisition

Approval:

[Signatures]

Supervisor

Department Head

Administrative Services/Finance

City Attorney

Routing: Department, City Clerk, City Attorney, Administrative Services/Finance, (City Manager), City Clerk, Vendor, Department

City Manager (If needed)

Revised 20180515
AGREEMENT AMENDMENT
City Manager's Office
701 Laurel St., Menlo Park, CA 94025
tel 650-330-6620

AGREEMENT FOR SERVICES BETWEEN
THE CITY OF MENLO PARK AND GOLDEN BAY CONSTRUCTION

This 1st AMENDMENT ("Amendment") is made and entered into this 1st day of July, 2017, by and
between the CITY OF MENLO PARK, a Municipal Corporation, hereinafter referred to as "CITY", and
GOLDEN BAY CONSTRUCTION, hereinafter referred to as "FIRST PARTY."

1. Pursuant to Section 24. Term of Agreement of Contract No. 1916 ("Agreement"), Term of
   Agreement [amendment to section] to read as follows:

   "This Agreement shall remain in effect for the period of July 1, 2017 through June 30, 2018 unless
   extended, amended, or terminated in writing by CITY."

   Except as modified by this Amendment, all other terms and conditions of Contract No. 1916 remain the
   same.

   IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first
   above written.

FIRST PARTY:

Signature
Johnny Zanette
Name
94-2918512
Tax ID #

APPROVED AS TO FORM:

William L. McClure, City Attorney

CITY OF MENLO PARK:

Signature
CHARLES TAYLOR
Name

ATTEST:

Deputy City Clerk, City of Menlo Park

Date

6/13/17
6/20/17
6/20/17
6/30/17

Date

President
Title

Date

Date

Date

Title

ACTING CITY MANAGER

CC Rev 20160726
EXHIBIT "A"
PROPOSAL TO THE CITY COUNCIL

CITY OF MENLO PARK
STATE OF CALIFORNIA

FOR
MULTI-YEAR CITYWIDE SIDEWALK REPAIR PROGRAM
PROJECT NO. 20-011

NAME OF BIDDER: Golden Bay Construction, Inc.

BUSINESS ADDRESS: 3826 Depot Road

CITY, STATE, ZIP: Hayward, CA 94545

LICENSE NO.: 451401 CLASS: A, C3 EXP. DATE: 1/31/16

TAX I.D. NO.: 94-2918512

TELEPHONE NO: (510) 783-2960 FAX NO: (510) 783-2971

EMAIL: johnny@gbayinc.com

The work for which this Proposal is submitted is for construction in accordance with the Contract Documents, including the Agreement, the project Plans, the 2006 Standard Specifications of the State of California Department of Transportation as modified by the Special Provisions, the State of California Department of Transportation Labor Surcharge and Equipment Rental Rates, and the State Department of Industrial Relations General Prevailing Wage Rates current at the Bid Opening date.

The work to be done consists, in general, of removing and replacing portions of existing concrete sidewalk, curb and gutter, access ramp, driveway, valley gutter, asphalt parking strip, decomposed granite, deep-lifting asphalt concrete pavements, tree root pruning, pickup and delivery and installation of City-furnished materials and other incidents as necessary to complete the work at various locations in the City of Menlo Park; all as shown on the plans and described in the specification with the title indicated in the paragraph above, and on the file in the Office of the Assistant Public Works Director. Reference to said Plans and Specifications is hereby made for further particulars. The City will issue three or less separate project tasks throughout the year in which the total annual contract is estimated to be around $200,000. The City will provide a spread sheet to show the locations and estimated quantities for each of the three projects. The City will pay for the actual quantities installed. Once the contractor is assigned a task they must begin working on the project within the agreed upon time frame and complete it without any stoppages unless agreed upon by the City.

The contract term shall be for one year from the date of execution, renewable on an annual basis for up to seven years, total. If the contract is renewed in subsequent years, unit pricing may be increased by a percentage amount no greater than the Consumer Price Index for All Urban Consumers (CPI-U), as published by the United States Department of Labor, with additional evidence from the Contractor that his/her direct costs have increased. In no case may the annual unit prices exceed five (5) percent.
Accompanying this Bid is a Deposit in the form of (write "Cash", "Cashier's Check", "Certified Check", or "Bid Bond") Bid Bond payble to the City in the amount of $100,000, which is ten percent (10%) of the total amount of this proposal, given as a guarantee that the undersigned will enter into a contract with the City if awarded the work.

If this Proposal shall be accepted and the undersigned shall fail to enter into the Contract and furnish the two bonds in the sums required by Section 3 of the Special Provisions with surety satisfactory to the City of Menlo Park within 10 business days, not including legal holidays, after the Bidder has received notice from the City that the Contract has been awarded, the City may, at its option, determine that the Bidder has abandoned the Contract, and thereupon this Proposal and the acceptance thereof shall be null and void. If the City declares the Proposal as null and void, the forfeiture of the Bid Deposit accompanying this Proposal shall operate and the same shall become the property of the City.

All notices, demands, or other communications shall be mailed or delivered to:

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

To Contractor:
Golden Bay Construction, Inc.
Johnny Zanette - President
3826 Depot Road
Hayward, CA 94545

In these and the following pages, if the Bidder fails to provide the required information, or if information provided is subsequently proved false, the Proposal shall be considered as non-responsive and shall be grounds for rejection of the bid.

The undersigned, as Bidder, declares that the only persons or parties interested in this Proposal as principals are those named herein; that this Proposal is made without collusion with any other person, firm or corporation; that they have carefully examined the location of the proposed work, the attached proposed form of Agreement, and the Plans and other Contract Documents therein referred to; and the undersigned proposes and agrees that, if this Proposal is accepted, they will contract with the City of Menlo Park, in the form of the Agreement attached hereto, to provide all necessary machinery, tools, apparatus and other means of construction, and to do all the work and furnish all the materials specified in the Contract Documents, in the manner and time therein prescribed, and according to the requirements of the Engineer as therein set forth, and they will take in full payment therefore the amounts shown on the following Pay Item Price Schedule:
# PAY ITEM PRICE SCHEDULE

The Bidder shall set forth for each quantified item of work a unit price and a total for the item, and for each lump sum item a total for the item, all in clearly legible figures in the respective spaces provided for this purpose. In the case of unit basis items, the amount set forth under the "Total" column shall be the extension of the item price bid on the basis of the estimated quantity for the item.

In case of conflict between an item price in words and the price in figures, the price in words shall prevail. In case of discrepancy between an item unit price and the total set forth for a unit basis item, the item unit price shall prevail. However, if the amount set forth as an item unit price is ambiguous, illegible or uncertain for any cause, or is omitted, or is the same amount as the entry in the "Total" column, then the amount set forth in the "Total" column for the item shall prevail and shall be divided by the estimated quantity for the item, and the price thus obtained shall be the item unit price.

The bidding contractor's attention is directed to Section 9-1.1 of the Special Provisions regarding payment for work or requirements not specifically included in the Pay Item Price Schedule.

NOTE: The quantities and total amount below have been provided for the purposes of bid comparison only.

<table>
<thead>
<tr>
<th>Bid Item</th>
<th>Description</th>
<th>Units</th>
<th>Estimated Quantity</th>
<th>Item Price per Unit or Quantity (in words)</th>
<th>Item Price per Unit (in figures)</th>
<th>Total (in figures)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>MOBILIZATION</td>
<td>EA</td>
<td>10</td>
<td>one thousand nine hundred ninety nine dollars</td>
<td>$1,991.00</td>
<td>$19,910.00</td>
</tr>
<tr>
<td>2</td>
<td>TRAFFIC CONTROL</td>
<td>EA</td>
<td>10</td>
<td>Four hundred twenty dollars</td>
<td>$420.00</td>
<td>$4,200.00</td>
</tr>
<tr>
<td>3</td>
<td>WASTE MANAGEMENT</td>
<td>EA</td>
<td>10</td>
<td>one hundred dollars</td>
<td>$100.00</td>
<td>$1,000.00</td>
</tr>
<tr>
<td>4</td>
<td>SAW CUTTING &amp; DEMOLITION</td>
<td>BF</td>
<td>850</td>
<td>three dollars and fifty cents</td>
<td>$3.50</td>
<td>$2,975.00</td>
</tr>
<tr>
<td>5</td>
<td>UTILITY BOX/Vault ADJUSTMENT</td>
<td>EA</td>
<td>3</td>
<td>two hundred fifty dollars</td>
<td>$225.00</td>
<td>$675.00</td>
</tr>
<tr>
<td>6</td>
<td>ROOT REMOVAL AND BASE RECONSTRUCTION</td>
<td>EA</td>
<td>10</td>
<td>seven hundred ninety one dollars</td>
<td>$791.00</td>
<td>$7,910.00</td>
</tr>
<tr>
<td>7</td>
<td>4 INCH THICK AC PAVEMENT</td>
<td>SQ FT</td>
<td>500</td>
<td>thirty two dollars</td>
<td>$32.00</td>
<td>$16,000.00</td>
</tr>
<tr>
<td>8</td>
<td>4 INCH THICK CONCRETE SIDEWALK</td>
<td>SQ FT</td>
<td>250</td>
<td>thirty eight dollars</td>
<td>$38.00</td>
<td>$9,500.00</td>
</tr>
<tr>
<td>9</td>
<td>6 INCH THICK CONCRETE SIDEWALK</td>
<td>SQ FT</td>
<td>100</td>
<td>thirty nine dollars</td>
<td>$39.00</td>
<td>$3,900.00</td>
</tr>
<tr>
<td>10</td>
<td>VERTICAL CURB AND GUTTER (VC/G)</td>
<td>LF</td>
<td>50</td>
<td>ninety three dollars</td>
<td>$93.00</td>
<td>$4,650.00</td>
</tr>
<tr>
<td>11</td>
<td>ROLLED CURB AND GUTTER (RC/G)</td>
<td>LF</td>
<td>50</td>
<td>ninety three dollars</td>
<td>$93.00</td>
<td>$4,650.00</td>
</tr>
<tr>
<td>12</td>
<td>SIDEWALK RAMP</td>
<td>EA</td>
<td>2</td>
<td>six thousand four hundred ninety seven dollars</td>
<td>$6,493.00</td>
<td>$12,994.00</td>
</tr>
</tbody>
</table>
**Notes:**

- The Contract will be compared and awarded based on the Total Bid for the sample project provided which represents a typical on-call project that would be performed under this contract.
- The City reserves the right to reject all bids for any reason whatsoever.
- The estimate of construction quantities set forth herein is based on a hypothetical project at ten locations, typical of the on-call work that is expected under this contract. The quantities and Total Bid amount is being used as a basis for the comparison of bids only. The City does not expressly or by implication agree that the actual amount of work will correspond therewith, and reserves the right to change the quantity of any class or portion of the work or to omit portions of the work as may be deemed necessary or expedient by the Engineer in accordance with the Special Provisions.
- The City reserves the right to increase or decrease quantities as deemed necessary.

The undersigned declares, by their signature in the proposal documents, that the bidder has checked carefully all of the above figures and understands that the City shall not be responsible for any errors or omissions on the part of the undersigned in making up this bid.

**ADDENDA ACKNOWLEDGMENT**

The undersigned acknowledges receipt of Addendum No. 1 through 1 inclusive.

**SIGNATURE OF CONTRACTOR’S REPRESENTATIVE:**

**TITLE:** President

**PRINT NAME:** Johnny Zanette

**TITLE:** President

**DATE:** 10/27/15

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CITYWIDE SIDEWALK REPAIR PROGRAM
 AGREEMENT COVER SHEET

City Manager's Office
701 Laurel Street, Menlo Park, CA 94025
tel 650-330-6620

Contract #: 1916-A1

Project Manager: Irv Meachum | Department: Public Works | Date: 6/6/2017

☐ Time Sensitive  ☐ New Agreement  ☐ Attest Only  ☒ Amendment  Term

First Party: Golden Bay Construction | Type of Agreement: Construction

Agreement or Project Title: Amendment 1 - Multi-Year Citywide Sidewalk Repair Program

Purpose:
To remove and replace portions of existing concrete sidewalk, curb and gutter, access ramp, driveway, valley gutter, asphalt parking strip, deep-lifting asphalt concrete pavements, decomposed granite, tree root pruning, and other incidentals as necessary to complete the work at various locations in the City of Menlo Park. This amendment extends term from July 1, 2017 – June 30, 2018.

Agreement Amount: $300,000  |  Begin Date: 7/1/2016  |  End Date: 9/30/2016
Approved Budget: $300,000  |  Budgeted YR: 2017-18  |  Available Budget: $400,000

Account/Funding:
839 20101 20011 5601 - 200,000
851 20101 20011 5601 - 100,000√

Required Approval:  ☐ Department  ☒ City Manager  ☐ City Council

☐ Language Modifications  ☐ Approved by City Attorney

Summary of Modifications:

Attachments:
☒ Two (2) Copies of Agreement
☒ Staff Report
☒ Prior Agreement/Amendments(s) for reference
☒ PO/Check Req
☐ Receive an electronic copy of the executed Agreement
☐ Request to forward PO/Check Req to Finance
☐ Other/Comment

Approval:

[Signatures]

Supervisor

Department Head

Budget/Finance

Routing: Department, City Clerk, City Attorney, Finance, (City Manager), City Clerk, Department

Revised 20180629
MAINTENANCE AGREEMENT

City Manager’s Office
701 Laurel St., Menlo Park, CA 94025
tel 650-330-6620

AGREEMENT FOR SERVICES BETWEEN
THE CITY OF MENLO PARK AND GOLDEN BAY CONSTRUCTION, INC.

THIS AGREEMENT made and entered into at Menlo Park, California, this 1st day of July, 2016, by and between the CITY OF MENLO PARK, a Municipal Corporation, hereinafter referred to as "CITY", and GOLDEN BAY CONSTRUCTION, INC, hereinafter referred to as "FIRST PARTY."

WITNESSETH:

WHEREAS, CITY desires to retain FIRST PARTY to provide certain professional services for CITY in connection with that certain project called: Multi-Year Citywide Sidewalk Repair Program

WHEREAS, FIRST PARTY is licensed to perform said services and desires to and does hereby undertake to perform said services.

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS, PROMISES AND CONDITIONS of each of the parties hereto, it is hereby agreed as follows:

1. SCOPE OF WORK

In consideration of the payment by CITY to FIRST PARTY, as hereinafter provided, FIRST PARTY agrees to perform all the services as set forth in Exhibit "A", Scope of Services.

2. SCHEDULE FOR WORK

FIRST PARTY’s proposed schedule for the various services required pursuant to this agreement will be as set forth in Exhibit "A", Scope of Services. CITY will be kept informed as to the progress of work by written reports, to be submitted monthly or as otherwise required in Exhibit "A". Neither party shall hold the other responsible for damages or delay in performance caused by acts of God, strikes, lockouts, accidents or other events beyond the control of the other, or the other's employees and agents.

FIRST PARTY shall commence work immediately upon receipt of a "Notice to Proceed" from CITY. The "Notice to Proceed" date shall be considered the "effective date" of the Agreement, as used herein, except as otherwise specifically defined. FIRST PARTY shall complete all the work and deliver to CITY all project related files, records, and materials within one month after completion of all of FIRST PARTY’s activities required under this Agreement.

3. PROSECUTION OF WORK

FIRST PARTY will employ a sufficient staff to prosecute the work diligently and continuously and will complete the work in accordance with the schedule of work approved by the CITY.
(See Exhibit "A", Scope of Services).
4. COMPENSATION AND PAYMENT

A. CITY shall pay FIRST PARTY an all-inclusive fee that shall not exceed $500,000 as described in Exhibit "A", Scope of Services. This compensation shall be based on the rates described in Exhibit "A". All payments, including fixed hourly rates, shall be inclusive of all indirect and direct charges to the Project incurred by FIRST PARTY. The CITY reserves the right to withhold payment if the City determines that the quantity or quality of the work performed is unacceptable.

B. FIRST PARTY’s fee for the services as set forth herein shall be considered as full compensation for all indirect and direct personnel, materials, supplies and equipment, and services incurred by FIRST PARTY and used in carrying out or completing the work.

C. Payments shall be monthly for the invoice amount or such other amount as approved by CITY. As each payment is due, a statement describing the services performed shall be submitted to CITY by the FIRST PARTY. This statement shall include, at a minimum, the project title, Agreement Number, the title(s) of personnel performing work, hours spent, payment rate, and a listing of all reimbursable costs. CITY shall have the discretion to approve the invoice and the work completed statement. Payment shall be for the invoice amount or such other amount as approved by CITY.

D. Payments are due upon receipt of written invoices. CITY shall have the right to receive, upon request, documentation substantiating charges billed to CITY. CITY shall have the right to perform an audit of the FIRST PARTY’s relevant records pertaining to the charges.

5. EQUAL EMPLOYMENT OPPORTUNITY

A. FIRST PARTY, with regard to the work performed by it under this Agreement shall not discriminate on the grounds of race, religion, color, national origin, sex, handicap marital status or age in the retention of sub-consultants, including procurement of materials and leases of equipment.

B. FIRST PARTY shall take affirmative action to insure that employees and applicants for employment, are treated without regard to their race, color, religion, sex, national origin, marital status or handicap. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer, recruitment advertising; layoff or termination; rates of pay or other forms of compensation and selection for training including apprenticeship.

C. FIRST PARTY shall post in prominent places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.

D. FIRST PARTY shall state that all qualified applications will receive consideration for employment without regard to race, color, religion, sex, national origin, marital status or handicapped.

E. FIRST PARTY shall comply with Title VI of the Civil Rights Act of 1964 and shall provide such reports as may be required to carry out the intent of this section.

F. FIRST PARTY shall incorporate the foregoing requirements of this section in FIRST PARTY’s agreement with all sub-consultants.

6. ASSIGNMENT OF AGREEMENT AND TRANSFER OF INTEREST
A. FIRST PARTY shall not assign this Agreement, and shall not transfer any interest in the same (whether by assignment or novation), without prior written consent of the CITY thereto, provided, however, that claims for money due or to become due to the FIRST PARTY from the CITY under this Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Notice of an intended assignment or transfer shall be furnished promptly to the CITY.

B. In the event there is a change of more than 30% of the stock ownership or ownership in FIRST PARTY from the date of this Agreement is executed, then CITY shall be notified prior to the date of said change of stock ownership or interest and CITY shall have the right, in event of such change in stock ownership or interest, to terminate this Agreement upon notice to FIRST PARTY. In the event CITY is not notified of any such change in stock ownership or interest, then upon knowledge of same, it shall be deemed that CITY has terminated this Agreement.

7. INDEPENDENT WORK CONTROL

It is expressly agreed that in the performance of the service necessary for compliance with this Agreement, FIRST PARTY shall be and is an independent contractor and is not an agent or employee of CITY. FIRST PARTY has and shall retain the right to exercise full control and supervision of the services and full control over the employment, direction, compensation and discharge of all persons assisting FIRST PARTY in the performance of FIRST PARTY’s services hereunder. FIRST PARTY shall be solely responsible for its own acts and those of its subordinates and employees.

8. CONSULTANT QUALIFICATIONS

It is expressly understood that FIRST PARTY is licensed and skilled in the professional calling necessary to perform the work agreed to be done by it under this Agreement and CITY relies upon the skill of FIRST PARTY to do and perform said work in a skillful manner usual to the profession. The acceptance of FIRST PARTY’s work by CITY does not operate as a release of FIRST PARTY from said understanding.

9. NOTICES

All notices hereby required under this Agreement shall be in writing and delivered in person or sent by certified mail, postage prepaid or by overnight courier service. Notices required to be given to CITY shall be addressed as follows:

Brian Henry
Public Works
City of Menlo Park
701 Laurel St.
Menlo Park, CA 94025
650-330-6780
bphenry@menlopark.org

Notices required to be given to FIRST PARTY shall be addressed as follows:
Johnny Zanette
Golden Bay Construction, Inc.
3826 Depot Road
Hayward, CA 94545
510-783-2960
johnny@gbayinc.com

Provided that any party may change such address by notice, in writing, to the other party and thereafter notices shall be addressed and transmitted to the new address.
10. HOLD HARMLESS

The FIRST PARTY shall defend, indemnify and hold harmless the CITY, its subsidiary agencies, their officers, agents, employees and servants from all claims, suits or actions that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the FIRST PARTY brought for, or on account of, injuries to or death of any person or damage to property resulting from the performance of any work required by this Agreement by FIRST PARTY, its officers, agents, employees and servants. Nothing herein shall be construed to require the FIRST PARTY to defend, indemnify or hold harmless the CITY, its subsidiary agencies, their officers, agents, employees and servants against any responsibility to liability in contravention of Section 2782.8 of the California Civil Code.
11. INSURANCE

A. FIRST PARTY shall not commence work under this Agreement until all insurance required under this Section has been obtained and such insurance has been approved by the City, with certificates of insurance evidencing the required coverage.

B. There shall be a contractual liability endorsement extending the FIRST PARTY's coverage to include the contractual liability assumed by the FIRST PARTY pursuant to this Agreement. These certificates shall specify or be endorsed to provide that thirty (30) days' notice must be given, in writing, to the CITY, at the address shown in Section 9, of any pending cancellation of the policy. FIRST PARTY shall notify CITY of any pending change to the policy. All certificates shall be filed with the City.

1. Worker's Compensation and Employer's Liability Insurance:
   The FIRST PARTY shall have in effect during the entire life of this Agreement Worker's Compensation and Employer's Liability Insurance providing full statutory coverage. In signing this Agreement, the FIRST PARTY makes the following certification, required by Section 18161 of the California Labor Code: "I am aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions of the Code, and I will comply with such provisions before commencing the performance of the work of this Agreement" (not required if the FIRST PARTY is a Sole Proprietor).

2. Liability Insurance:
   The FIRST PARTY shall take out and maintain during the life of this Agreement such Bodily Injury Liability and Property Damage Liability Insurance (Commercial General Liability Insurance) on an occurrence basis as shall protect it while performing work covered by this Agreement from any and all claims for damages for bodily injury, including accidental death, as well as claims for property damage which may arise from the FIRST PARTY's operations under this Agreement, whether such operations be by FIRST PARTY or by any sub-consultant or by anyone directly or indirectly employed by either of them. The amounts of such insurance shall be not less than Two Million Dollars ($2,000,000) per occurrence and Two Million Dollars ($2,000,000), in aggregate or Two Million Dollars ($2,000,000) combined single limit bodily injury and property damage for each occurrence. FIRST PARTY shall provide the CITY with acceptable evidence of coverage, including a copy of all declarations of coverage exclusions. FIRST PARTY shall maintain Automobile Liability Insurance pursuant to this Agreement in an amount of not less than Two Million Dollars ($2,000,000) for each accident combined single limit or not less than Two Million Dollars ($2,000,000) for any one (1) person, and Two Million Dollars ($2,000,000) for any one (1) accident, and Three Hundred Thousand Dollars, ($300,000) property damage.

3. Professional Liability Insurance:
   FIRST PARTY shall maintain a policy of professional liability insurance, protecting it against claims arising out of the negligent acts, errors, or omissions of FIRST PARTY pursuant to this Agreement, in the amount of not less than One Million Dollars ($1,000,000) per claim and in the aggregate. Said professional liability insurance is to be kept in force for not less than one (1) year after completion of services described herein.

C. CITY and its subsidiary agencies, and their officers, agents, employees and servants shall be named as additional insured on any such policies of Commercial General Liability and Automobile Liability Insurance, (but not for the Professional Liability and Worker's Compensation), which shall also contain a provision that the insurance afforded thereby to the CITY, its subsidiary agencies, and their officers, agents, employees, and servants shall be primary insurance to the full limits of liability of the policy, and that if the CITY, its subsidiary agencies and their officers and employees have other insurance against a loss covered by a policy, such other insurance shall be excess insurance only.

D. In the event of the breach of any provision of this Section, or in the event any notice is received which indicates any required insurance coverage will be diminished or canceled, CITY, at its option, may, notwithstanding any other provision of this Agreement to the contrary, immediately declare a material breach of this Agreement and suspend all further work pursuant to this Agreement.

E. Prior to the execution of this Agreement, any deductibles or self-insured retentions must be declared to and approved by CITY.
12. **PAYMENT OF PERMITS/LICENSES**

Contractor shall obtain any license, permit, or approval if necessary from any agency whatsoever for the work/services to be performed, at his/her own expense, prior to commencement of said work/services or forfeit any right to compensation under this Agreement.

13. **RESPONSIBILITY AND LIABILITY FOR SUB-CONSULTANTS AND/OR SUBCONTRACTORS**

Approval of or by CITY shall not constitute nor be deemed a release of responsibility and liability of FIRST PARTY or its sub-consultants and/or subcontractors for the accuracy and competency of the designs, working drawings, specifications or other documents and work, nor shall its approval be deemed to be an assumption of such responsibility by CITY for any defect in the designs, working drawings, specifications or other documents prepared by FIRST PARTY or its sub-consultants and/or subcontractors.

14. **OWNERSHIP OF WORK PRODUCT**

Work products of FIRST PARTY for this project, which are delivered under this Agreement or which are developed, produced and paid for under this Agreement, shall become the property of CITY. The reuse of FIRST PARTY’s work products by City for purposes other than intended by this Agreement shall be at no risk to FIRST PARTY.

15. **REPRESENTATION OF WORK**

Any and all representations of FIRST PARTY, in connection with the work performed or the information supplied, shall not apply to any other project or site, except the project described in Exhibit "A" or as otherwise specified in Exhibit "A".

16. **TERMINATION OF AGREEMENT**

A. CITY may give thirty (30) days written notice to FIRST PARTY, terminating this Agreement in whole or in part at any time, either for CITY's convenience or because of the failure of FIRST PARTY to fulfill its contractual obligations or because of FIRST PARTY's change of its assigned personnel on the project without prior CITY approval. Upon receipt of such notice, FIRST PARTY shall:
   1. Immediately discontinue all services affected (unless the notice directs otherwise); and
   2. Deliver to the CITY all data, drawings, specifications, reports, estimates, summaries, and such other information and materials as may have been accumulated or produced by FIRST PARTY in performing work under this Agreement, whether completed or in process.

B. If termination is for the convenience of CITY, an equitable adjustment in the contract price shall be made, but no amount shall be allowed for anticipated profit on unperformed services.

C. If the termination is due to the failure of FIRST PARTY to fulfill its Agreement, CITY may take over the work and prosecute the same to completion by agreement or otherwise. In such case, FIRST PARTY shall be liable to CITY for any reasonable additional cost occasioned to the CITY thereby.

D. If, after notice of termination for failure to fulfill Agreement obligations, it is determined that FIRST PARTY had not so failed, the termination shall be deemed to have been effected for the convenience of the CITY. In such event, adjustment in the contract price shall be made as provided in Paragraph B of this Section.

E. The rights and remedies of the CITY provided in this Section are in addition to any other rights and remedies provided by law or under this Agreement.

F. Subject to the foregoing provisions, the CITY shall pay FIRST PARTY for services performed and expenses incurred through the termination date.
17. INSPECTION OF WORK

It is FIRST PARTY’s obligation to make the work product available for CITY’s inspections and periodic reviews upon request by CITY.

18. COMPLIANCE WITH LAWS

It shall be the responsibility of FIRST PARTY to comply with all State and Federal Laws applicable to the work and services provided pursuant to this Agreement, including but not limited to compliance with prevailing wage laws, if applicable.

19. BREACH OF AGREEMENT

A. This Agreement is governed by applicable federal and state statutes and regulations. Any material deviation by FIRST PARTY for any reason from the requirements thereof, or from any other provision of this Agreement, shall constitute a breach of this Agreement and may be cause for termination at the election of the CITY.

B. The CITY reserves the right to waive any and all breaches of this Agreement, and any such waiver shall not be deemed a waiver of any previous or subsequent breaches. In the event the CITY chooses to waive a particular breach of this Agreement, it may condition same on payment by FIRST PARTY of actual damages occasioned by such breach of Agreement.

20. SEVERABILITY

The provisions of this Agreement are severable. If any portion of this Agreement is held invalid by a court of competent jurisdiction, the remainder of the Agreement shall remain in full force and effect unless amended or modified by the mutual consent of the parties.

21. CAPTIONS

The captions of this Agreement are for convenience and reference only and shall not define, explain, modify, limit, exemplify, or aid in the interpretation, construction, or meaning of any provisions of this Agreement.

22. LITIGATION OR ARBITRATION

In the event that suit or arbitration is brought to enforce the terms of this Agreement, the prevailing party shall be entitled to litigation costs and reasonable attorneys’ fees. The Dispute Resolution provisions are set forth on Exhibit "B", ‘Dispute Resolution’ attached hereto and by this reference incorporated herein.

23. RETENTION OF RECORDS

Contractor shall maintain all required records for three years after the City makes final payment and all other pending matters are closed, and shall be subject to the examination and/or audit of the City, a federal agency, and the state of California.

24. TERM OF AGREEMENT

This Agreement shall remain in effect for the period of July 1, 2016 through June 30, 2017 unless extended, amended, or terminated in writing by CITY.
25. ENTIRE AGREEMENT

This document constitutes the sole Agreement of the parties hereto relating to said project and states the rights, duties, and obligations of each party as of the document’s date. Any prior Agreement, promises, negotiations, or representations between parties not expressly stated in this document are not binding. All modifications, amendments, or waivers of the terms of this Agreement must be in writing and signed by the appropriate representatives of the parties to this Agreement.

26. STATEMENT OF ECONOMIC INTEREST

Consultants, as defined by Section 18701 of the Regulations of the Fair Political Practices Commission, Title 2, Division 6 of the California Code of Regulations, are required to file a Statement of Economic Interests with 30 days of approval of a contract services agreement with the City of its subdivisions, on an annual basis thereafter during the term of the contract, and within 30 days of completion of the contract. Based upon review of the Consultant's Scope of Work and determination by the City Manager, it is determined that Consultant IS / IS NOT required to file a Statement of Economic Interest. A statement of Economic Interest shall be filed with the City Clerk's office no later than 30 days after the execution of the Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

FIRST PARTY:

Signature
Johnny Zanette
Name
94-2918512
Tax ID#

Date
President
Title

APPROVED AS TO FORM:

William L. McClure, City Attorney
Date

CITY OF MENLO PARK:

Signature
ALEX D. McINTYRE
Name

Date
City Manager
Title

ATTEST:

Pamela Aguilar, City Clerk, City of Menlo Park
Date
EXHIBIT “A” – SCOPE OF SERVICES

A1. SCOPE OF WORK

FIRST PARTY agrees to provide consultant services for CITY’s Public Works. In the event of any discrepancy between any of the terms of the FIRST PARTY’s proposal and those of this Agreement, the version most favorable to the CITY shall prevail. FIRST PARTY shall provide the following services:

Provide general consultant services for projects as determined by the CITY. The detailed scope of work for each task the CITY assigns the consultant shall be referred to as Exhibit A-1, which will become part of this Agreement. A notice to proceed will be issued separately for each separate scope of work agreed to between the CITY and FIRST PARTY.

FIRST PARTY agrees to perform these services as directed by the CITY in accordance with the standards of its profession and CITY’s satisfaction.

A2. COMPENSATION

CITY hereby agrees to pay FIRST PARTY at the rates to be negotiated between FIRST PARTY and CITY as detailed in Exhibit A-1. The actual charges shall be based upon (a) FIRST PARTY’s standard hourly rate for various classifications of personnel; (b) all fees, salaries and expenses to be paid to engineers, consultants, independent contractors, or agents employed by FIRST PARTY; and shall (c) include reimbursement for mileage, courier and plan reproduction. The total fee for each separate Scope of Work agreed to between the CITY and FIRST PARTY shall not exceed the amount shown in Exhibit A-1.

FIRST PARTY shall be paid within thirty (30) days after approval of billing for work completed and approved by the CITY. Invoices shall be submitted containing all information contained in Section A5 below. In no event shall FIRST PARTY be entitled to compensation for extra work unless an approved change order, or other written authorization describing the extra work and payment terms, has been executed by CITY prior to the commencement of the work.

A3. SCHEDULE OF WORK

FIRST PARTY’S proposed schedule for the various services required will be set forth in Exhibit A-1.

A4. CHANGES IN WORK – EXTRA WORK

In addition to services described in Section A1, the parties may from time to time agree in writing that FIRST PARTY, for additional compensation, shall perform additional services including but not limited to:

- Change in the services because of changes in scope of the work.
- Additional tasks not specified herein as required by the CITY.

The CITY and FIRST PARTY shall agree in writing to any changes in compensation and/or changes in FIRST PARTY’s services prior to the commencement of any work. If FIRST PARTY deems work he/she has been directed to perform is beyond the scope of this Agreement and constitutes extra work, FIRST PARTY shall immediately inform the CITY in writing of the fact. The CITY shall make a determination as to whether such work is in fact beyond the scope of this Agreement and constitutes extra work. In the event that the CITY determines that such work does constitute extra work, it shall provide compensation to the FIRST PARTY in accordance with an agreed cost that is fair and equitable. This cost will be mutually agreed upon by the CITY and FIRST PARTY. A supplemental agreement providing for such compensation for extra work shall be negotiated between the CITY and the FIRST PARTY. Such supplemental agreement shall be executed by the FIRST PARTY and may be approved by the City Manager upon recommendation of the Department Head.
### A5. BILLINGS

FIRST PARTY’s bills shall include the following information: A brief description of services performed, project title and the Agreement number; the date the services were performed; the number of hours spent and by whom; the current contract amount; the current invoice amount; Except as specifically authorized by CITY, FIRST PARTY shall not bill CITY for duplicate services performed by more than one person. In no event shall FIRST PARTY submit any billing for an amount in excess of the maximum amount of compensation provided in Section A2.

The expenses of any office, including furniture and equipment rental, supplies, salaries of employees, telephone calls, postage, advertising, and all other expenses incurred by FIRST PARTY in the performances of this Agreement shall be incurred at the FIRST PARTY’s discretion. Such expenses shall be FIRST PARTY’s sole financial responsibility.
EXHIBIT "A"
PROPOSAL TO THE CITY COUNCIL

CITY OF MENLO PARK
STATE OF CALIFORNIA

FOR

MULTI-YEAR CITYWIDE SIDEWALK REPAIR PROGRAM
PROJECT NO. 20-011

NAME OF BIDDER: Golden Bay Construction, Inc.

BUSINESS ADDRESS: 3826 Depot Road

CITY, STATE, ZIP: Hayward, CA 94545

LICENSE NO.: 451401 CLASS: A, C8 EXP. DATE: 1/31/16

TAX I.D. NO.: 94-2918512

TELEPHONE NO: (510) 783-2960 FAX NO: (510) 783-2971

EMAIL: johnny@gbayinc.com

The work for which this Proposal is submitted is for construction in accordance with the Contract Documents, including the Agreement, the project Plans, the 2006 Standard Specifications of the State of California Department of Transportation as modified by the Special Provisions, the State of California Department of Transportation Labor Surcharge and Equipment Rental Rates, and the State Department of Industrial Relations General Prevailing Wage Rates current at the Bid Opening date.

The work to be done consists, in general, of removing and replacing portions of existing concrete sidewalk, curb and gutter, access ramp, driveway, valley gutter, asphalt parking strip, decomposed granite, deep-lifting asphalt concrete pavements, tree root pruning, pickup and delivery and installation of City-furnished materials and other incidentals as necessary to complete the work at various locations in the City of Menlo Park; all as shown on the plans and described in the specification with the title indicated in paragraph 1 above, and on the file in the Office of the Assistant Public Works Director. Reference to said Plans and Specifications is hereby made for further particulars. The City will issue three or less separate project tasks throughout the year in which the total annual contract is estimated to be around $200,000. The City will provide a spread sheet to show the locations and estimated quantities for each of the three projects. The City will pay for the actual quantities installed. Once the contractor is assigned a task they must start working on the project within the agreed upon time frame and complete it without any stoppages unless agreed upon by the City.

The contract term shall be for one year from the date of execution, renewable on an annual basis for up to seven years, total. If the contract is renewed in subsequent years, unit pricing may be increased by a percentage amount no greater than the Consumer Price Index for All Urban Consumers (CPI-U), as published by the United States Department of Labor, with additional evidence from the Contractor that his/her direct costs have increased. In no case shall the annual unit prices exceed five (5) percent.
Accompanying this Bid is a Deposit in the form of (write "Cash", "Cashier's Check", "Certified Check", or "Bid Bond") _______ Bid Bond _______ payable to the City in the amount of $______________ ($___________), which is ten percent (10%) of the total amount of this proposal, given as a guarantee that the undersigned will enter into a contract with the City if awarded the work.

If this Proposal shall be accepted and the undersigned shall fail to enter into the Contract and furnish the two bonds in the sums required by Section 3 of the Special Provisions with surety satisfactory to the City of Menlo Park within 10 business days, not including legal holidays, after the Bidder has received notice from the City that the Contract has been awarded, the City may, at its option, determine that the Bidder has abandoned the Contract, and thereupon this Proposal and the acceptance thereof shall be null and void. If the City declares the Proposal as null and void, the forfeiture of the Bid Deposit accompanying this Proposal shall operate and the same shall become the property of the City.

All notices, demands, or other communications shall be mailed or delivered to:

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

To Contractor:
Golden Bay Construction, Inc.
Johnny Zanette - President
3826 Depot Road
Hayward, CA 94545

In these and the following pages, if the Bidder fails to provide the required information, or if information provided is subsequently proved false, the Proposal shall be considered as non-responsive and shall be grounds for rejection of the bid.

The undersigned, as Bidder, declares that the only persons or parties interested in this Proposal as principals are those named herein; that this Proposal is made without collusion with any other person, firm or corporation; that they have carefully examined the location of the proposed work, the attached proposed form of Agreement, and the Plans and other Contract Documents therein referred to; and the undersigned proposes and agrees that, if this Proposal is accepted, they will contract with the City of Menlo Park, in the form of the Agreement attached hereto, to provide all necessary machinery, tools, apparatus and other means of construction, and to do all the work and furnish all the materials specified in the Contract Documents, in the manner and time therein prescribed, and according to the requirements of the Engineer as therein set forth, and they will take in full payment therefore the amounts shown on the following Pay Item Price Schedule:
# PAY ITEM PRICE SCHEDULE

The Bidder shall set forth for each quantified item of work a unit price and a total for the item, and for each lump sum item a total for the item, all in clearly legible figures in the respective spaces provided for this purpose. In the case of unit basis items, the amount set forth under the "Total" column shall be the extension of the item price bid on the basis of the estimated quantity for the item.

In case of conflict between an item price in words and the price in figures, the price in words shall prevail. In case of discrepancy between an item unit price and the total set forth for a unit basis item, the item unit price shall prevail. However, if the amount set forth as an item unit price is ambiguous, illegible or uncertain for any cause, or is omitted, or is the same amount as the entry in the "Total" column, then the amount set forth in the "Total" column for the item shall prevail and shall be divided by the estimated quantity for the item, and the price thus obtained shall be the item unit price.

The bidding contractor's attention is directed to Section 9-1.1 of the Special Provisions regarding payment for work or requirements not specifically included in the Pay Item Price Schedule.

NOTE: The quantities and total amount below have been provided for the purposes of bid comparison only.

<table>
<thead>
<tr>
<th>Bid Items</th>
<th>Description</th>
<th>Units</th>
<th>Estimated Quantity</th>
<th>Item Price per Unit of Quantity (in words)</th>
<th>Item Price per Unit (in figures)</th>
<th>Total (in figures)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 11</td>
<td>MOBILIZATION</td>
<td>EA</td>
<td>10</td>
<td>one thousand nine hundred ninety one dollars</td>
<td>$1,991.00</td>
<td>$19,910.00</td>
</tr>
<tr>
<td>2 12</td>
<td>TRAFFIC CONTROL</td>
<td>EA</td>
<td>10</td>
<td>Four hundred twenty dollars</td>
<td>$420.00</td>
<td>$4,200.00</td>
</tr>
<tr>
<td>3 13</td>
<td>WASTE MANAGEMENT</td>
<td>EA</td>
<td>10</td>
<td>one hundred dollars</td>
<td>$100.00</td>
<td>$1,000.00</td>
</tr>
<tr>
<td>4 15</td>
<td>SAW CUTTING &amp; DEMOLITION</td>
<td>SF</td>
<td>850</td>
<td>three dollars and fifty cents</td>
<td>$3.50</td>
<td>$2,975.00</td>
</tr>
<tr>
<td>5 15</td>
<td>UTILITY BOX VAULT ADJUSTMENT</td>
<td>EA</td>
<td>3</td>
<td>two hundred twenty five dollars</td>
<td>$225.00</td>
<td>$675.00</td>
</tr>
<tr>
<td>6 16</td>
<td>ROOT REMOVAL AND BASE RECONSTRUCTION</td>
<td>EA</td>
<td>10</td>
<td>seven hundred ninety one dollars</td>
<td>$791.00</td>
<td>$7,910.00</td>
</tr>
<tr>
<td>7 39</td>
<td>4 INCH THICK AC PAVEMENT</td>
<td>SQ FT</td>
<td>500</td>
<td>thirty two dollars</td>
<td>$32.00</td>
<td>$16,000.00</td>
</tr>
<tr>
<td>8 73</td>
<td>4 INCH THICK CONCRETE SIDEWALK</td>
<td>SQ FT</td>
<td>250</td>
<td>thirty eight dollars</td>
<td>$38.00</td>
<td>$9,500.00</td>
</tr>
<tr>
<td>9 73</td>
<td>6 INCH THICK CONCRETE SIDEWALK</td>
<td>SQ FT</td>
<td>100</td>
<td>thirty nine dollars</td>
<td>$39.00</td>
<td>$3,900.00</td>
</tr>
<tr>
<td>10 73</td>
<td>VERTICAL CURB AND GUTTER (VCG)</td>
<td>LF</td>
<td>50</td>
<td>ninety three dollars</td>
<td>$93.00</td>
<td>$4,650.00</td>
</tr>
<tr>
<td>11 73</td>
<td>ROLLED CURB AND GUTTER (RCG)</td>
<td>LF</td>
<td>50</td>
<td>ninety three dollars</td>
<td>$93.00</td>
<td>$4,650.00</td>
</tr>
<tr>
<td>12 73</td>
<td>SIDEWALK RAMP</td>
<td>EA</td>
<td>2</td>
<td>six thousand four hundred ninety seven dollars</td>
<td>$6,497.00</td>
<td>$12,994.00</td>
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<tr>
<td>13</td>
<td>73</td>
<td>VALLEY GUTTER IN ROADWAY</td>
<td>SF</td>
<td>75</td>
<td>forty six dollars</td>
<td>$46.00</td>
</tr>
<tr>
<td>14</td>
<td>73</td>
<td>CONCRETE VALLEY GUTTER</td>
<td>LF</td>
<td>25</td>
<td>one hundred and eight dollars</td>
<td>$108.00</td>
</tr>
<tr>
<td></td>
<td></td>
<td>TOTAL</td>
<td>(in words)</td>
<td>ninety four thousand five hundred and fourteen dollars</td>
<td>(in figures)</td>
<td>$94,514.00</td>
</tr>
</tbody>
</table>

Notes:

- The Contract will be compared and awarded based on the Total Bid for the sample project provided which represents a typical on-call project that would be performed under this contract.
- The City reserves the right to reject all bids for any reason whatsoever.
- The estimate of construction quantities set forth herein is based on a hypothetical project at ten locations, typical of the on-call work that is expected under this contract. The quantities and Total Bid amount is being used as a basis for the comparison of bids only. The City does not expressly or by implication agree that the actual amount of work will correspond therewith, and reserves the right to change the quantity of any class or portion of the work or to omit portions of the work as may be deemed necessary or expedient by the Engineer in accordance with the Special Provisions.
- The City reserves the right to increase or decrease quantities as deemed necessary.

The undersigned declares, by their signature in the proposal documents, that the bidder has checked carefully all of the above figures and understands that the City shall not be responsible for any errors or omissions on the part of the undersigned in making up this bid.

ADDENDA ACKNOWLEDGMENT

The undersigned acknowledges receipt of Addendum No. 1 through 1 inclusively.

SIGNATURE OF CONTRACTORS REPRESENTATIVE: [Signature]

TITLE: President

PRINT NAME: Johnny Zanette

TITLE: President

DATE: 10/27/15
THIS PAGE INTENTIONALLY LEFT BLANK
LIST OF SUBCONTRACTORS

NOTE: It is illegal - and grounds for any Contract hereby awarded to be declared void - for the Contractor to perform any of the work with a subcontractor who is ineligible to work on a public works project pursuant to Section 1777.1 or 1777.7 of the Labor Code. Any public money paid to a debarred subcontractor shall be returned to the City by the Contractor, and the Contractor shall be responsible for payment of wages to workers of the subcontractor who had been allowed to work on the project.

Per Sections 4100-4114 of the Public Contracts Code, the Bidder shall list the name, address and telephone number of each subcontractor to whom the Bidder proposes to subcontract portions of the work in excess of 0.5% of the total Contract, or $10,000.00, whichever is greater.

<table>
<thead>
<tr>
<th>SUBCONTRACTOR'S NAME</th>
<th>PLACE OF BUSINESS (ADDRESS &amp; PHONE)</th>
<th>DESCRIPTION OF PORTION OF WORK SUBCONTRACTED</th>
</tr>
</thead>
<tbody>
<tr>
<td>None</td>
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</tbody>
</table>

If more space is needed, staple separate sheets to the Proposal. In addition to the information required here, each extra sheet must include the name of the Project, as well as the time and date of the Bid Opening, as listed on the Notice To Contractors.
PRINCIPAL PERSONS WITH INTEREST IN PROPOSAL

The names of all persons interested in the foregoing Proposal as principals are as follows:

IMPORTANT NOTICE. If bidder or other interested person is a corporation, state legal name of
corporation, also names of the president, secretary, treasurer, and manager thereof; if a co-
partnership, state true name of firm, also names of all individual copartners composing firm; if
bidder or other interested person is an individual, state first and last names in full.

Golden Bay Construction, Inc. - A California Corporation

Johnny Zanette - President / Anthnoy Zanette - Secretary, Treasurer, Manager

EXPERIENCE AND FINANCIAL QUALIFICATIONS

The bidder has been engaged in the contracting business under State License No. 451401
for a period of 32 years.

The bidder's three most recently completed Contracts are:

1. Title of Project: See Attached

   Owner:

   Address:

   Telephone No.:

   Engineer in Charge:

   Date Accepted:
### Project Reference List - Completed Jobs

<table>
<thead>
<tr>
<th>Completed</th>
<th>Project Name</th>
<th>Type of Work</th>
<th>Awarded By</th>
<th>Contact Name &amp; Number</th>
<th>Contract Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>2008</td>
<td>Trailhead &amp; Overlook @ Lands End</td>
<td>Construct Plaza Paving &amp; Walls</td>
<td>Golden Gate National Parks Conservancy</td>
<td>Stephen Wheeler (415) 252-7075</td>
<td>$ 1,098,278</td>
</tr>
<tr>
<td>2008</td>
<td>ADA Accessibility Ramps Resurfacing Project 2008</td>
<td>Construct Handicap Ramps @ Various Locations</td>
<td>City of San Jose</td>
<td>Eric Newton (408) 391-6030</td>
<td>$ 851,948</td>
</tr>
<tr>
<td>2009</td>
<td>2008 Curb, Gutter, Sidewalk &amp; Ramp Repair</td>
<td>Sidewalk / Handicap Ramp Repairs</td>
<td>City of Stockton</td>
<td>Sean Gallagher (209) 937-8105</td>
<td>$ 3,019,691</td>
</tr>
<tr>
<td>2010</td>
<td>Cavanagh Street Reconstruction</td>
<td>Street Reconstruction</td>
<td>City of San Mateo</td>
<td>Otis Chan (650) 522-7305</td>
<td>$ 547,778</td>
</tr>
<tr>
<td>2011</td>
<td>Parking Plaza No. 2</td>
<td>Parking Lot Reconstruction</td>
<td>City of Menlo Park</td>
<td>Ruben Nino (650) 330-6740</td>
<td>$ 518,340</td>
</tr>
<tr>
<td>2012</td>
<td>15QH-120</td>
<td>Pavement Renovation Various Stations</td>
<td>BART</td>
<td>Wai Chan (510) 464-6747</td>
<td>$ 1,621,747</td>
</tr>
<tr>
<td>2013</td>
<td>San Tomas Aquino Trail</td>
<td>On Street Trail Improvements</td>
<td>City of Santa Clara</td>
<td>Jim Mazzzone (408) 504-3321</td>
<td>$ 1,621,747</td>
</tr>
<tr>
<td>2013</td>
<td>Delaware Street Bike Lane</td>
<td>Road Narrowing, Street Beautification</td>
<td>City of San Mateo</td>
<td>Otis Chan (650) 522-7305</td>
<td>$ 1,363,002</td>
</tr>
<tr>
<td>2013</td>
<td>15XN-110</td>
<td>Ashby &amp; N. Berkeley Station Path of Travel Improvements</td>
<td>BART</td>
<td>Wai Chan (510) 464-6747</td>
<td>$ 1,183,400</td>
</tr>
<tr>
<td>2014</td>
<td>GDBG Sidewalks &amp; Street</td>
<td>Sidewalk &amp; Road Repairs</td>
<td>City of San Mateo</td>
<td>Otis Chan (650) 522-7305</td>
<td>$ 447,111</td>
</tr>
<tr>
<td>2014</td>
<td>Central Expressway Sidewalk Improvements</td>
<td>Sidewalk Installation &amp; Island Modifications</td>
<td>City of Mountain View</td>
<td>Andy Chang (650) 903-8522</td>
<td>$ 348,841</td>
</tr>
<tr>
<td>2015</td>
<td>Oregon Expressway</td>
<td>Road Modifications &amp; Pedestrian Enhancements</td>
<td>County of Santa Clara</td>
<td>Rowdy Pipkin (408) 690-9472</td>
<td>$ 3,010,556</td>
</tr>
</tbody>
</table>
2. **Title of Project:**

   **Owner:**

   **Address:**

   **Telephone No.:**

   **Engineer in Charge:**

   **Date Accepted:**

3. **Title of Project:**

   **Owner:**

   **Address:**

   **Telephone No.:**

   **Engineer in Charge:**

   **Date Accepted:**

Reference is hereby made to the following bank or banks as to the financial responsibility of the bidder:

<table>
<thead>
<tr>
<th>Name of Bank</th>
<th>Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>Heritage Bank of Commerce</td>
<td>150 Almaden Blvd, San Jose, CA 95113</td>
</tr>
</tbody>
</table>

Reference is hereby made to the following surety companies as to the financial responsibility and general reliability of the bidder:

<table>
<thead>
<tr>
<th>Company</th>
<th>Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>Guarantee Co of North America</td>
<td>1 Towne Square, Suite 1470, Southfield, MI 48075</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Company</th>
<th>Address</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>
PUBLIC CONTRACT CODE SECTION 10285.1 STATEMENT

In accordance with Public Contract Code Section 10285.1 (Chapter 376, Stats. 1985), the bidder hereby declares under penalty of perjury under the laws of the State of California that the bidder has ___ / has not ___ been convicted within the preceding three years of any offenses referred to in that Section. These offenses include any charge of fraud, bribery, collusion, conspiracy, or any other act in violation of any state or federal antitrust law in connection with the bidding upon, award of, or performance of, any public works contract, as defined in Public Contract Code Section 1101, with any public entity, as defined in Public Contract Code Section 1100, including the Regents of the University of California or the Trustees of the California State University. The term “bidder” is understood to include any partner, member, officer, director, responsible managing officer, or responsible managing employee thereof, as referred to in Section 10285.1.

NOTE: The bidder must place a check mark after “has” or “has not” in one of the blank spaces provided above.

The above Statement is part of the Proposal. Signing this Proposal on the signature portion thereof shall also constitute signature of this Statement. Bidders are cautioned that making a false certification may subject the certifier to criminal prosecution.

PUBLIC CONTRACT CODE SECTION 10162 QUESTIONNAIRE

In accordance with Public Contract Code Section 10162, the bidder shall complete, under penalty of perjury, the following questionnaire:

Has the bidder, any officer of the bidder, or any employee of the bidder who has a proprietary interest in the bidder, ever been disqualified, removed, or otherwise prevented from bidding on, or completing a federal, state, or local government project because of a violation of law or safety regulation?

YES ___ NO ___

If the answer is yes, explain the circumstances in the following space:

________________________________________________________

PUBLIC CONTRACT CODE SECTION 10232 STATEMENT

In accordance with Public Contract Code Section 10232, the Contractor, hereby states under penalty of perjury, that no more than one final unappealable finding of contempt of court by a federal court has been issued against the Contractor within the immediately preceding two year period because of the Contractor’s failure to comply with an order of a federal court which orders the Contractor to comply with an order of the National Labor Relations Board.

WORKERS COMPENSATION REQUIREMENT

The Contractor hereby states that he is aware of the provisions of Section 3700 of the Labor Code, which require every employer to be insured against liability for workers’ compensation or to undertake self-insurance in accordance with the provisions of that code, and he agrees to comply with such provisions before commencing the performance of the work of this Contract.

Signed by Representative of Bidder

Page 9

CITYWIDE SIDEWALK REPAIR PROGRAM
AFFIDAVIT OF NON-COLLUSION

State of California  

County of Alameda

"I, Johnny Zanette, being first duly sworn, depose and say that I am the authorized representative of the party making the foregoing bid that the bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the bid is genuine and not collusive or sham; that the bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid, and has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or that anyone shall refrain from bidding; that the bidder has not in any manner, directly, or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder, or to secure any advantage against the public body awarding the Contract anyone interested in the proposed contract; that all statements contained in this bid are true; and, further, that the bidder has not, directly or indirectly submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid."

Signed by Contractor's Representative: ________________________________

STATE OF CALIFORNIA  
COUNTY OF Alameda

On 10/27/15, before me, ________________________, Notary Public, personally appeared Johnny Zanette, 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 ________________________

D. Chan
Commission # 1986100
Notary Public - California
Alameda County
DEBARMENT AND SUSPENSION CERTIFICATION

The bidder, under penalty of perjury, certifies that, except as noted below, they or any person associated therewith in the capacity of owner, partner, director, officer, manager (please check if applicable):

- Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any state or federal agency;
- Has not been suspended, debarred, voluntarily excluded or determined ineligible by any state or federal agency within the past three (3) years;
- Does not have a proposed debarment pending; and
- Has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.

If there are any exceptions to this certification, insert the exceptions in the following space:

________________________________________________________________________

Exceptions will not necessarily result in denial of award, but will be considered in determining bidder responsibility. For any exception noted above, indicate below to whom it applies, initiating agency, and dates of action:

________________________________________________________________________

Note: Providing false information may result in criminal prosecution or administrative sanction. The above certification is part of the Proposal. Signing this Proposal on the signature portion thereof shall also constitute signature of this Certification.

By my signature on this Proposal I certify, under penalty of perjury under the laws of the State of California, that the foregoing questionnaire and statements of Public Contract Code Sections 10162, 10232 and 10285.1 are true and correct and that the bidder has complied with the requirements of Section 8103 of the Fair Employment and Housing Commission Regulations (Chapter 5, Title 2 of the California Administrative Code). By my signature on this Proposal I further certify, under penalty of the perjury under the laws of the State of California that the Non-Collusion Affidavit, and the Debarment and Suspension Certification are true and correct.

Date: 10/27/15

(Type or print name): Johnny Zanette

(Signature of Bidder):

Business Address (Street Address, City, State & Zip Code):
3826 Depot Road, Hayward, CA 94545

Business Phone: (510) 783-2960
Fax No.: (510) 783-2971
PROPOSAL - SIGNATURES PAGE

The undersigned, representing Golden Bay Construction, Inc., hereby certifies that the information presented on the preceding pages is a true and correct Bid for the project identified as the:

"CITYWIDE SIDEWALK REPAIR PROGRAM"

and they agree to the stipulations contained in this proposal package.

SIGNATURE OF COMPANY REPRESENTATIVE: ________________________________

NAME OF COMPANY REPRESENTATIVE: Johnny Zanette

TITLE OF COMPANY REPRESENTATIVE: President

DATE EXECUTED: 10/27/15
CITY OF MENLO PARK
STATE OF CALIFORNIA

BID BOND

Note: Bidders may use this form as the Bid Bond to accompany proposals or may substitute standardized bond forms prepared by their surety. If substitute forms are submitted, the following text shall be included.

KNOW ALL PERSONS BY THESE PRESENTS, that we, __ Golden Bay Construction, Inc. ________________, as Principal, and __ The Guarantee Company of North America USA ________________, as Surety, are held and firmly bound unto the City of Menlo Park, hereinafter called "City", in penal sum of ten percent (10%) OF THE TOTAL AMOUNT OF THE BID OF THE PRINCIPAL submitted to the said City for the work described below for the payment of which sum in lawful money of the United States, well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that, whereas the Principal has submitted the accompanying Proposal dated __ October 28 __, 2015, for the "MULTI-YEAR CITYWIDE SIDEWALK REPAIR PROGRAM".

NOW, THEREFORE, if the Principal shall not withdraw said Proposal prior to the date and time for the opening of bids, and if the Principal is awarded the Contract and shall within the period specified in the Proposal after receiving notice that the Contract has been awarded and the prescribed forms are presented to him/her for signature, enter in a written Contract with the City, in accordance with the Proposal as accepted and give insurance and bond with good and sufficient surety or sureties, as may be required, for the faithful performance and proper fulfillment of such Contract and for the payment for labor and materials used for the performance of the Contract, or in the event of the withdrawal of said Proposal within the period specified or the failure to enter into such Contract and to give such City bond, within the time specified, if the Principal shall pay the City the difference between the amount specified in said Proposal and the amount for which the City may procure the required work and/or supplies, if the latter amount be in excess of the former, together with all costs incurred by the City in again calling for bids, then the above obligation shall be voided and of no effect, otherwise to remain in full force and virtue.

Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract on the call for bids, or to the work to be performed thereunder, or the specifications accompanying the same, shall in anywise affect its obligation under this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of said Contract or the call for bids, or to the work, or to the specifications.

In the event suit is brought upon this bond by the City and judgment is recovered, the Surety shall pay all costs incurred by the City in such suit, including a reasonable attorney's fee to be fixed by the court.
IN WITNESS WHEREOF, the above-bounded parties have executed this instrument under their several seals this 21st day of October, 2015, the name and corporate seals of each corporate party being hereto affixed and these presents duly signed by its undersigned representatives, pursuant to authority of its governing body.

(Corporate Seal)  

Principal: Golden Bay Construction, Inc.

By: ________________________________  

Title: Johnny Zonette - President

(Acknowledgment)

Surety: The Guarantee Company of North America USA

By: ________________________________  

Title: Gregory McCartney, Attorney-in-Fact

(Corporate Seal)

(Acknowledgment)

NOTE TO SURETY COMPANY: The following form of acknowledgment should be used. If any other form of acknowledgment is used, there must be submitted a certified copy of unrevoked resolution of authority for the attorney-in-fact.

NOTARIAL ACKNOWLEDGMENT OF ATTORNEY-IN-FACT OF SURETY

STATE OF CALIFORNIA  

COUNTY OF  

ss:

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 ________________________________

See Attached
CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

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

State of California

County of San Mateo

On October 21, 2015 before me, Deborah M. Knipp, Notary Public

Date

personally appeared Gregory McCartney

Name(s) of Signer(s)

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

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

WITNESS my hand and official seal.

Signature

Signature of Notary Public

Place Notary Seal Above

OPTIONAL

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

Description of Attached Document

Title or Type of Document: ____________________________ Document Date: ____________________________

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

Capacity(ies) Claimed by Signer(s)

Signer's Name: ____________________________ Signer's Name: ____________________________

☐ Corporate Officer — Title(s): ____________________________ ☐ Corporate Officer — Title(s): ____________________________

☐ Partner — ☐ Limited ☐ General

☐ Individual ☐ Attorney in Fact

☐ Trustee ☐ Guardian or Conservator

☐ Other: ____________________________

☐ Partner — ☐ Limited ☐ General

☐ Individual ☐ Attorney in Fact

☐ Trustee ☐ Guardian or Conservator

☐ Other: ____________________________

Signer Is Representing: ____________________________

Signer Is Representing: ____________________________

©2014 National Notary Association • www.NationalNotary.org • 1-800-US NOTARY (1-800-876-6682) Item #5907
KNOW ALL BY THESE PRESENTS: That THE GUARANTEE COMPANY OF NORTH AMERICA USA, a corporation organized and existing under the laws of the State of Michigan, having its principal office in Southfield, Michigan, does hereby constitute and appoint

Gregory McCartney, Steve Suissa, Mary Baez
James E. McGovern, Inc.

its true and lawful attorney(s)-in-fact to execute, seal and deliver for and on its behalf as surely, any and all bonds and undertakings, contracts of indemnity and other writings obligatory in the nature thereof, which are or may be allowed, required or permitted by law, statute, rule, regulation, contract or otherwise.

The execution of such instrument(s) in pursuance of these presents, shall be as binding upon THE GUARANTEE COMPANY OF NORTH AMERICA USA as fully and amply, to all intents and purposes, as if the same had been duly executed and acknowledged by its regularly elected officers at the principal office.

The Power of Attorney is executed and may be certified so, and may be revoked, pursuant to and by authority of Article IX, Section 9.03 of the By-Laws adopted by the Board of Directors of THE GUARANTEE COMPANY OF NORTH AMERICA USA at a meeting held on the 31st day of December, 2003. The President, or any Vice President, acting with any Secretary or Assistant Secretary, shall have power and authority:

1. To appoint Attorney(s)-in-fact, and to authorize them to execute on behalf of the Company, and attach the Seal of the Company thereto, bonds and undertakings, contracts of indemnity and other writings obligatory in the nature thereof; and
2. To revoke, at any time, any such Attorney-in-Fact and revoke the authority given, except as provided below
3. In connection with obligations in favor of the Florida Department of Transportation only, it is agreed that the power and authority hereby given to the Attorney-in-Fact includes any and all consents for the release of retained percentages and/or final estimates on engineering and construction contracts required by the State of Florida Department of Transportation. It is fully understood that consenting to the State of Florida Department of Transportation making payment of the final estimate to the Contractor and/or its assignee, shall not relieve this surety company of any of its obligations under its bond.
4. In connection with obligations in favor of the Kentucky Department of Highways only, it is agreed that the power and authority hereby given to the Attorney-in-Fact cannot be modified or revoked unless prior written personal notice of such intent has been given to the Commissioner—Department of Highways of the Commonwealth of Kentucky at least thirty (30) days prior to the modification or revocation.

Further, this Power of Attorney is signed and sealed by facsimile pursuant to resolution of the Board of Directors of the Company adopted at a meeting duly called and held on the 8th day of December 2011, of which the following is a true excerpt:

RESOLVED that the signature of any authorized officer and the seal of the Company may be affixed by facsimile to any Power of Attorney or certification thereof authorizing the execution and delivery of any bond, undertaking, contracts of indemnity and other writings obligatory in the nature thereof, and such signature and seal when so used shall have the same force and effect as though manually affixed.

IN WITNESS WHEREOF, THE GUARANTEE COMPANY OF NORTH AMERICA USA has caused this instrument to be signed and its corporate seal to be affixed by its authorized officer, this 23rd day of February, 2012.

THE GUARANTEE COMPANY OF NORTH AMERICA USA

STATE OF MICHIGAN
County of Oakland

Stephen C. Ruschak, Vice President		Randall Musselman, Secretary

On this 23rd day of February, 2012 before me came the individuals who executed the preceding instrument, to me personally known, and being by me duly sworn, said that each is the herein described and authorized officer of The Guarantee Company of North America USA; that the seal affixed to said instrument is the Corporate Seal of said Company; that the Corporate Seal and each signature were duly affixed by order of the Board of Directors of

Cynthia A. Takai
Notary Public, State of Michigan
County of Oakland
My Commission Expires February 27, 2018
Acting In Oakland County

IN WITNESS WHEREOF, I have hereunto set my hand at The Guarantee Company of North America USA office the day and year above written.

Cynthia A. Takai

1, Randall Musselman, Secretary of THE GUARANTEE COMPANY OF NORTH AMERICA USA, do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney executed by THE GUARANTEE COMPANY OF NORTH AMERICA USA, which is still in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand and attached the seal of said Company this 21st day of October, 2015.

Randall Musselman, Secretary
State of California

County of Alameda

On 10/27/2015 before me D. Chan, Notary Public, personally appeared Johnny Zanette
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

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

Witness my hand and official seal

D. Chan, Notary Public

Optional Information

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent, reattachment of this form.

Any inquiries regarding the preparation of this document should be directed to:

D. Chan
Golden Bay Construction, Inc.
3826 Depot Road
Hayward, CA 94545
510-783-2960 x 232
ADDENDUM NO. 1

Project: Multi-Year Citywide Sidewalk Repair Program
City Project No. 20-011

Owner: City of Menlo Park

Bid Opening: Wednesday, October 28, 2015, at 2:00 p.m.

DATE RELEASED: October 19, 2015

Addendum No. 1 for the above project consists of the following:

A. Revision to Contract Documents, NOTICE TO CONTRACTORS Added #19.

19. CONTRACTOR TO BE REGISTERED WITH THE DEPARTMENT OF INDUSTRIAL RELATIONS:

No contractor or subcontractor may be listed on a bid proposal for a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code section 171.1(a)]. No contractor or subcontractor may be awarded a contract for public work on a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5.

B. 1000002870 6/30/16

DIR License Number Expiration Date

NOTICE: THIS FORM MUST BE SIGNED AND RETURNED WITH YOUR BID. FAILURE TO INCLUDE OR ACKNOWLEDGE A CLARIFICATION MAY RESULT IN THE BID BEING REJECTED AS NOT RESPONSIVE.

Acknowledgement of Receiving Addendum
Bidders should acknowledge receipt of the addendum by signing and returning one copy of the Addendum Acknowledgment with the bid proposal.

Ruben Nina, Assistant Public Works Director

CONTRACTOR: Golden Bay Construction, Inc.

SIGNATURE OF BIDDER:

DATE: 10/27/15

Addendum #1: October 18, 2015
EXHIBIT “B” - DISPUTE RESOLUTION

B1.0 All claims, disputes and other matters in question between the FIRST PARTY and CITY arising out of, or relating to, the contract documents or the breach thereof, shall be resolved as follows:

B2.0 Mediation
B2.1 The parties shall attempt in good faith first to mediate such dispute and use their best efforts to reach agreement on the matters in dispute. After a written demand for non-binding mediation, which shall specify in detail the facts of the dispute, and within ten (10) days from the date of delivery of the demand, the matter shall be submitted to a mutually agreeable mediator. The Mediator shall hear the matter and provide an informal opinion and advice, none of which shall be binding upon the parties, but is expected by the parties to help resolve the dispute. Said informal opinion and advice shall be submitted to the parties within twenty (20) days following written demand for mediation. The Mediator's fee shall be shared equally by the parties. If the dispute has not been resolved, the matter shall be submitted to arbitration in accordance with Paragraph B3.1.

B3.0 Arbitration
B3.1 Any dispute between the parties that is to be resolved by arbitration as provided in Paragraph B2.1 shall be settled and decided by arbitration conducted by the American Arbitration Association in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association, as then in effect, except as provided below. Any such arbitration shall be held before three arbitrators who shall be selected by mutual agreement of the parties; if agreement is not reached on the selection of the arbitrators within fifteen (15) days, then such arbitrator(s) shall be appointed by the presiding Judge of the court of jurisdiction of the Agreement.

B3.2 The provisions of the Construction Industry Arbitration Rules of the American Arbitration Association shall apply and govern such arbitration, subject, however to the following:

B3.3 Any demand for arbitration shall be writing and must be made within a reasonable time after the claim, dispute or other matter in question as arisen. In no event shall the demand for arbitration be made after the date that institution of legal or equitable proceedings based on such claim, dispute or other matter would be barred by the applicable statute of limitations.

B3.4 The arbitrator or arbitrators appointed must be former or retired judges, or attorneys at law with last ten (10) years' experience in construction litigation.

B3.5 All proceedings involving the parties shall be reported by a certified shorthand court reporter, and written transcripts of the proceedings shall be prepared and made available to the parties.

B3.6 The arbitrator or arbitrators must be made within and provide to the parties factual findings and the reasons on which the decisions of the arbitrator or arbitrators is based.

B3.7 Final decision by the arbitrator or arbitrators must be made within ninety (90) days from the date of the arbitration proceedings are initiated.

B3.8 The prevailing party shall be awarded reasonable attorneys' fees, expert and non-expert witness costs and expenses, and other costs and expenses incurred in connection with the arbitration, unless the arbitrator or arbitrators for good cause determine otherwise.

B3.9 Costs and fees of the arbitrator or arbitrators shall be borne by the non-prevailing party, unless the arbitrator or arbitrators for good cause determine otherwise.

B3.10 The award or decision of the arbitrator or arbitrators, which may include equitable relief, shall be final, and judgment may be entered on it in accordance with applicable law in any court having jurisdiction over the matter.
AGENDA ITEM H-1
Public Works

STAFF REPORT

City Council
Meeting Date: 11/10/2015
Staff Report Number: 15-166-CC

Consent Calendar: Award a Construction Contract for the Multi-Year Sidewalk Replacement Project to Golden Bay Construction, Inc. and Authorize a Total Construction Contract Budget of $300,000 Annually

Recommendation
Staff recommends that the City Council award a contract to Golden Bay Construction, Inc. for the Multi-Year Sidewalk Replacement Project and authorize staff to extend the contract for up to seven one year extensions with an annual expenditure of up to $300,000.

Policy Issues
The contract exceeds staff authorization and requires City Council approval. This project is part of the Capital Improvement Plan.

Background
The streets of Menlo Park are lined with various species of trees. Most trees are located in close proximity to frontage improvements such as concrete sidewalks, curbs, gutters, and asphalt parking strips. As the trees mature, their roots spread out and sometimes cause damage to the improvements. The damage can result in tripping hazards, drainage problems, and nuisances for property owners, residents, and businesses.

The frontage improvements that are damaged by City tree roots are repaired through the annual Sidewalk Repair Program (Program). Staff has divided the City into five zones for the Program. Each year staff focuses on one zone in which thorough sidewalk inspections are performed to identify issues and perform repair work in. A limited amount of funds is also set aside to respond to residents’ requests for repairs throughout the City.

There are two categories of sidewalk repairs performed through the Program, which are as follows: tree root damage to concrete structures requiring complete removal and replacement of the concrete; and tree root uplift of concrete sidewalk panels with vertical offsets of 1-3/4 inches or less where the trip hazard can be eliminated by the horizontal sawcut method.

A Multi-year (5 year) contract was awarded by City Council on July 21, 2015 for the horizontal sawcut method portion of this Program.
Analysis
Unlike typical sidewalk replacement projects where the repair locations are replaced at one time, staff changed the specifications where the Contractor is on-call. The specifications require the contractor to be on-call up to three times during the year to replace damaged sidewalks. This was done in order to be more responsive to property owners. The unit prices for the sidewalk replacement can be adjusted annually based upon the Consumer Price Index; however, the annual unit prices should not exceed five (5) percent.

On October 28, 2015, two bids were submitted for the 2015-16 Multi-Year Sidewalk Replacement Project. The lowest bidder, Golden Bay Construction, Inc., submitted a bid in the amount of $94,514. Attachment A provides the bid summary. Staff has checked the background and references of Golden Bay Construction, Inc., and is satisfied with its past performance.

Impact on City Resources
The Program has a total annual budget for FY 2015-16 of $300,000, which includes sidewalk replacement and horizontal sawcutting work. The sidewalk replacement portion of the Program generally spends approximately $200,000 annually. Staff anticipates the annual expenditures to be within a range of $200,000- $240,000 over the course of the contract.

This is a seven year contract and staff is requesting authorization to spend up to the full amount budgeted annually for the Program in the event circumstances warrant an allocation of a larger portion of the budget for sidewalk replacement work. This expenditure authority will allow for more efficient execution of the work. To the extent such additional fund allocation is not required, the remaining funds will be used for the sidewalk horizontal sawcutting work. The project is funded by the General Fund CIP and the Sidewalk Assessment Fund.

Environmental Review
The project is categorically exempt under Class I of the current State of California Environmental Quality Act Guidelines, which allows minor alterations and replacement of existing facilities.

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. Bid Summary

Report prepared by:
Ruben Niño, Assistant Public Works Director
# BID SUMMARY

Multi-Year Citywide Sidewalk Repair Program  
Bid Opening: Wednesday October 28, 2015 at 2:00 PM

<table>
<thead>
<tr>
<th>COMPANY</th>
<th>BID</th>
</tr>
</thead>
<tbody>
<tr>
<td>1  Golden Bay Construction, Inc.</td>
<td>94,514.00</td>
</tr>
<tr>
<td>2  J.J.R Construction, Inc.</td>
<td>213,525.00</td>
</tr>
</tbody>
</table>
**AGREEMENT COVERSHEET**

City Manager's Office  
701 Laurel Street, Menlo Park, CA 94025  
tel 650-330-6640

<table>
<thead>
<tr>
<th>1916</th>
</tr>
</thead>
</table>

**Project Manager:** Irv Meachum  
**Department:** Public Works  
**Date:** 6/14/2016

- □ Attest Only  
- □ Time Sensitive  
- ■ New Agreement to #1780  
- □ Amendment

**First Party:** Golden Bay Construction  
**Title:** Multi-Year Citywide Sidewalk Repair Program  
**Purpose:**  
The work to be done consists, in general, of removing and replacing portions of existing concrete sidewalk, curb and gutter, access ramp, driveway, valley gutter, asphalt parking strip, deep-lifting asphalt concrete pavements, decomposed granite, tree root pruning, pickup and delivery and installation of City furnished materials, and other incidentals as necessary to complete the work at various locations in the City of Menlo Park.

<table>
<thead>
<tr>
<th>Agreement Amount: $500,000</th>
<th>Begin Date: 7/1/2016</th>
<th>End Date: 6/30/2017</th>
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<tr>
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<td>851 20101 20011 5601</td>
<td></td>
</tr>
<tr>
<td><strong>Approved Budget:</strong> $500,000</td>
<td><strong>Budgeted YR:</strong> 2016-17</td>
<td><strong>Available Budget:</strong> $697,000</td>
</tr>
</tbody>
</table>

**Required Approval:**  
- □ Department  
- ■ City Manager  
- □ City Council

- □ Language Modifications  
- □ Approved by City Attorney

**Summary of Modifications:**  
Prior agreement 1780 replaced with a new template to follow Fiscal Year schedule. This is second year of the seven year contract one year extensions.

**Attachments:**  
- ■ Three (3) Amendments  
- ■ Staff Report  
- ■ Prior Agreement/Amendments(s) for reference  
- ■ Other New Bonds required, PO

**Approval:**

- **Supervisor:**  
  - [Signature]
- **Department Head:**  
  - [Signature]  
- **Assistant Director or Manager:**  
  - [Signature]  
- **City Attorney:**  
  - [Signature]  

CC Rev 2016/1113
STAFF REPORT

City Council
Meeting Date: 5/24/2016
Staff Report Number: 16-083-CC

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

Recommendation

Staff recommends that the City Council:

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

Policy Issues

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

Background

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

Due to the passage of Proposition 218 in 1996, the City must conduct assessment ballot proceedings whenever an increase in rates is required to cover the expenditures associated with the maintenance of street trees and sidewalks. In 1998, the City conducted assessment ballot proceedings establishing rates for FY 1998-99. As part of that process, the maximum annual assessment for future rates was tied to a cost escalator based on the annual change in the Engineering News Record Construction Cost Index for the San Francisco Bay Area (ENR Index). The annual adjustment that can be made without property owner
approval through ballot proceedings is the ENR Index (up to a maximum of 3%) plus any uncaptured and accumulated excess in the ENR Index from prior years.

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

Table 1 – District Adjustments (1998-2016)

<table>
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<th>Year</th>
<th>San Francisco Bay Area ENR Index</th>
<th>Fiscal Year</th>
<th>Tree Maintenance Program Adjustment</th>
<th>Sidewalk Repair Program Adjustment</th>
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<td>0%</td>
<td>0%</td>
</tr>
<tr>
<td>2012</td>
<td>1.47%</td>
<td>2013-14</td>
<td>0%</td>
<td>0%</td>
</tr>
<tr>
<td>2013</td>
<td>5.25%</td>
<td>2014-15</td>
<td>2.99%</td>
<td>0%</td>
</tr>
<tr>
<td>2014</td>
<td>0.15%</td>
<td>2015-16</td>
<td>0%</td>
<td>0%</td>
</tr>
</tbody>
</table>

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

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

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

Tree Maintenance Assessment

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

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

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

<table>
<thead>
<tr>
<th>Tree Diameter Breast Height Size</th>
<th>Unit</th>
<th>Existing 2014 Contract Price</th>
<th>Proposed 2016-17 Contract Price</th>
<th>Palo Alto 2016-17 Contract Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>3 – 6” Each</td>
<td></td>
<td>$59.00</td>
<td>$77.00</td>
<td>$100</td>
</tr>
<tr>
<td>7 – 49”+ Each</td>
<td></td>
<td>$59.00</td>
<td>$77.00</td>
<td>$134</td>
</tr>
</tbody>
</table>

**Tree Assessment**

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

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

In the past, the cost for the street sweeping contract has been covered both by revenue from the Tree Maintenance Assessment and Measure M funds. This year, however, the street sweeping contract will be covered entirely by Measure M funds. The remaining expenditures associated with the program will be covered by the assessment.
Table 3 – Tree Maintenance Assessments
Proposed FY 2016-17 Budget

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Projected Beginning Fund Balance</strong></td>
<td>$221,182</td>
</tr>
<tr>
<td><strong>Estimated Revenues:</strong></td>
<td></td>
</tr>
<tr>
<td>Tree Assessment Revenue</td>
<td>$586,918</td>
</tr>
<tr>
<td>General Fund Contribution</td>
<td>$180,000</td>
</tr>
<tr>
<td>Measure M Funds</td>
<td>$145,000</td>
</tr>
<tr>
<td><strong>Total:</strong></td>
<td>$911,918</td>
</tr>
<tr>
<td><strong>Estimated Expenses:</strong></td>
<td></td>
</tr>
<tr>
<td>Street Tree Maintenance</td>
<td>$669,544</td>
</tr>
<tr>
<td>Debris Removal</td>
<td>$223,381</td>
</tr>
<tr>
<td>Administration &amp; County Assessment Fees</td>
<td>$125,475</td>
</tr>
<tr>
<td><strong>Total:</strong></td>
<td>$1,018,400</td>
</tr>
<tr>
<td><strong>Projected Ending Fund Balance</strong></td>
<td>$127,624</td>
</tr>
</tbody>
</table>

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

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

Table 4
Annual Tree Assessment Rates
Proposed FY 2016-17 (5% increase)

<table>
<thead>
<tr>
<th>Property Type</th>
<th>Properties with Trees</th>
<th>Properties without Trees</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single-family</td>
<td>$65.16 per Parcel</td>
<td>$32.58 per Parcel</td>
</tr>
<tr>
<td>R-2 Zone, in use as single-family</td>
<td>$65.16 per Parcel</td>
<td>$32.58 per Parcel</td>
</tr>
<tr>
<td>Condominium/ Townhouse</td>
<td>$58.64 per Unit</td>
<td>$29.32 per Unit</td>
</tr>
<tr>
<td></td>
<td>$293.22 max. per Project</td>
<td>$146.61 max. per Project</td>
</tr>
<tr>
<td>Other Multi-family</td>
<td>$52.13 per Unit</td>
<td>$26.06 per Unit</td>
</tr>
<tr>
<td></td>
<td>$260.64 max. per Project</td>
<td>$130.32 max. per Project</td>
</tr>
<tr>
<td>Commercial</td>
<td>$65.16 per 1/5 acre</td>
<td>$32.58 per 1/5 acre</td>
</tr>
<tr>
<td></td>
<td>$325.80 max. per Project</td>
<td>$162.90 max. per Project</td>
</tr>
<tr>
<td>Industrial</td>
<td>$65.16 per 1/5 acre</td>
<td>$32.58 per 1/5 acre</td>
</tr>
<tr>
<td></td>
<td>$325.80 max. per Project</td>
<td>$162.90 max. per Project</td>
</tr>
<tr>
<td>Parks, Educational</td>
<td>$65.16 per Parcel</td>
<td>$32.58 per Parcel</td>
</tr>
<tr>
<td>Miscellaneous, Other</td>
<td>$0.00 per Parcel</td>
<td>$0.00 per Parcel</td>
</tr>
</tbody>
</table>
**Sidewalk Repair Assessment**

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

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

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

**Summary of Proposed Adjustments**

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

**Assessment Notification Process**

If the Council approves the attached resolutions, staff will publish a legal notice of the Public Hearing at least ten (10) days prior to the hearing, which is tentatively scheduled for June 21, 2016. Once the assessments are confirmed and approved, the levy will be submitted to the County Auditor/Controller for inclusion on the property tax roll for FY 2016-17.
Impact on City Resources
Funding for the District consists of a variety of sources, including the carryover of unspent funds from prior years, annual tax assessment revenues, and contributions from the General Fund. If the Council does not order the continuation and collection of assessments, the impact on City resources would amount to $783,393 (the total of the proposed tree and sidewalk assessments).

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

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

Environmental Review
An environmental review is not required.

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

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

Report prepared by:
Azalea Mitch, Senior Civil Engineer

Reviewed by:
Ruben Niño, Assistant Public Works Director
RESOLUTION OF PRELIMINARY APPROVAL OF THE ENGINEER’S REPORT FOR THE CITY OF MENLO PARK LANDSCAPING DISTRICT FOR FISCAL YEAR 2016-17

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

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

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

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

1. That the plans and specifications for the existing improvements and the proposed new improvements to be made within the District contained in said report, be, and they are hereby, preliminarily approved;

2. That the Engineer’s estimate of the itemized and total costs and expenses of said improvements, maintenance, and servicing thereof, and of the incidental expenses in connection therewith, contained in said report be, and each of them is hereby, preliminarily approved;

3. That the diagram showing the exterior boundaries of the District referred to and described in said Resolution No. 6305 and the lines and dimensions of each lot or parcel of land within said District as such lot or parcel of land is shown on the County Assessor’s maps for the fiscal year to which the report applies, each of which lot or parcel of land has been given a separate number upon said diagram, as contained in said report be, and it is hereby, preliminarily approved;
4. That the proposed continued assessment of the total amount of the estimated costs and expenses of the proposed improvements upon the several lots or parcels of land in said District in proportion to the estimated benefits to be received by such lots or parcels, respectively, from said improvements including the maintenance or servicing, or both, thereof, and of the expenses incidental thereto, as contained in said report be, and they are hereby, preliminarily approved; and

5. That said report shall stand as the Engineer’s Report for the purpose of all subsequent proceedings to be had pursuant to said Resolution No. 6305.

I, Pamela I. Aguilar, City Clerk of Menlo Park, do hereby certify that the above and foregoing Council Resolution was duly and regularly passed and adopted at a meeting by said Council on the 24th of May, 2016, by the following votes:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

Pamela I. Aguilar
City Clerk
FILED IN THE OFFICE OF THE CITY CLERK
OF THE CITY OF MENLO PARK, COUNTY
OF SAN MATEO, CALIFORNIA, THIS
____ DAY OF ____________,
2016.

CITY CLERK OF THE CITY OF MENLO PARK

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

CITY CLERK OF THE CITY OF MENLO PARK

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

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

CITY OF MENLO PARK
LANDSCAPING ASSESSMENT DISTRICT
ASSESSMENT DIAGRAM
RESOLUTION NO.

RESOLUTION OF INTENTION OF THE CITY COUNCIL OF THE CITY OF MENLO PARK TO ORDER THE CONTINUATION AND COLLECTION OF ASSESSMENTS FOR THE CITY OF MENLO PARK LANDSCAPING DISTRICT FOR FISCAL YEAR 2016-17 PURSUANT TO THE LANDSCAPING AND LIGHTING ACT OF 1972

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

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

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

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

1. In its opinion, the public interest and convenience require, and it is the intention of this Council, to order the continuation and collection of assessments for Fiscal Year 2016-17 pursuant to the provisions of Article XIIID of the California Constitution and the Landscaping and Lighting Act of 1972, Part 2, Division 15 of the Streets and Highways Code of the State of California, for the construction or installation of the improvements, including the maintenance or servicing, or both, thereof, more particularly described in Exhibit A hereto attached and by reference incorporated herein;

2. The cost and expense of said improvements, including the maintenance or servicing, or both, thereof, are to be made chargeable upon the assessment district designated as “City of Menlo Park Landscaping District” (District) the exterior boundaries of which District are the composite and consolidated area as more particularly described on a map thereof on file in the office of the Clerk of said City, to which reference is hereby made for further particulars. Said map indicates by a boundary line the extent of the territory included in the District and the general location of said District;

3. Said Engineer’s Report prepared by SCI Consulting Group, preliminarily approved by this Council, and on file with the Clerk of this City, is hereby referred to for a full and detailed description of the improvements, the boundaries of the
assessment district and the proposed assessments upon assessable lots and parcels of land within the District;

4. The authorized maximum assessment rates for the District include an annual adjustment by an amount equal to the annual change in the Engineering News Record Index, not to exceed 3.00 percent per year, plus any uncaptured excesses. Assessment rates for the tree portion of the assessments are proposed to increase during Fiscal Year 2016-17 by 5.00% Including the authorized annual adjustment, the maximum authorized assessment rate for street tree maintenance for Fiscal Year 2016-17 is $104.46 per single family equivalent benefit unit, and the assessment rate per single family equivalent benefit unit for Fiscal Year 2016-17 is $65.16 which is less than the maximum authorized rate. Including the authorized annual adjustment, the maximum authorized assessment rate for sidewalk repairs for Fiscal Year 2016-17 is $46.64 per single family equivalent benefit unit, and the proposed assessment rate per single family equivalent benefit unit to be continued to Fiscal Year 2016-17 is $28.70, which is the same rate as that levied in Fiscal Year 2015-16 and is less than the maximum authorized rate;

5. Notice is hereby given that Tuesday, the 21st day of June, 2016, at the hour of 7:00 o'clock p.m., or as soon thereafter as the matter may be heard, in the regular meeting place of said Council, Council Chambers, Civic Center, 701 Laurel Street, Menlo Park, California, be, and the same are hereby appointed and fixed as the time and place for a Public Hearing by this Council on the question of the continuation and collection of the proposed assessment for the construction or installation of said improvements, including the maintenance and servicing, or both, thereof, and when and where it will consider all oral statements and all written protests made or filed by any interested person at or before the conclusion of said hearing, against said improvements, the boundaries of the assessment district and any zone therein, the proposed diagram or the proposed assessment, to the Engineer’s estimate of the cost thereof, and when and where it will consider and finally act upon the Engineer’s Report;

6. The Clerk of said City is hereby directed to give notice of said Public Hearing by causing a copy of this resolution to be published once in The Daily News, a newspaper circulated in said City, and by conspicuously posting a copy thereof upon the official bulletin board customarily used by the City for the posting of notices, said posting and publication to be had and completed at least ten (10) days prior to the date of public hearing specified herein; and

7. The Office of the Assistant Public Works Director of said City is hereby designated as the office to answer inquiries regarding any protest proceedings to be had herein, and may be contacted during regular office hours at the Civic Center, 701 Laurel Street, Menlo Park, California, 94025, or by calling (650) 330-6740.
I, Pamela I. Aguilar, City Clerk of Menlo Park, do hereby certify that the above and foregoing Council Resolution was duly and regularly passed and adopted at a meeting by said Council on the 24th day of May, 2016, by the following votes:

AYES:
NOES:
ABSENT:
ABSTAIN:

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

Pamela I. Aguilar
City Clerk
Exhibit A

City of Menlo Park Landscaping District

Maintaining and servicing of street trees, including the cost of repair, removal or replacement of all or any part thereof, providing for the life, growth, health, and beauty of landscaping, including cultivation, trimming, spraying, fertilizing, or treating for disease or injury, the removal of trimmings, rubbish, debris, and other solid waste, and water for the irrigation thereof, and the installation or construction, including the maintenance and servicing thereof, of curbs, gutters, sidewalks, and parking strips.
RESOLUTION NO. 6305

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO PARK DESCRIBING IMPROVEMENTS AND DIRECTING PREPARATION OF THE ENGINEER’S REPORT FOR THE CITY OF MENLO PARK LANDSCAPE ASSESSMENT DISTRICT FOR FISCAL YEAR 2016-17

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

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

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

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

NOW, THEREFORE, BE IT RESOLVED, as follows:

1. This Council did, pursuant to the provisions of the Landscaping and Lighting Act of 1972, Part 2, Division 15 of the Streets and Highways Code of the State of California, conduct proceedings for the formation of the City of Menlo Park Landscaping District and for the levy and collection of assessments for Fiscal Year 1983-1984, and did, on May 10, 1983, pursuant to proceedings duly had, adopt its Resolution No. 3417-F, A Resolution Overruling Protests and Ordering the Formation of an Assessment District and the Improvements and Confirming the Diagram and Assessment.

2. The public interest, convenience, and necessity require, and it is the intention of said Council to undertake proceedings for, the levy and collection of assessments upon the several lots or parcels of land in said District for the construction or installation of improvements, including the maintenance or servicing, or both, thereof for the Fiscal Year 2016-17.

3. The improvements to be constructed or installed include the maintenance and servicing of street trees, the cost of repair, removal, or replacement of all or any part thereof, providing for the life, growth, health and beauty of public landscaping, including cultivation, trimming, spraying, fertilizing, or treating for disease or injury, the removal of trimmings, rubbish, debris, and other solid waste, and water for the irrigation thereof, and the installation or construction, including the maintenance and servicing thereof, of curbs, gutters, sidewalks, and parking strips.
4. The costs and expenses of said improvements, including the maintenance or servicing, or both, thereof, are to be made chargeable upon said District, the exterior boundaries of which District are the composite and consolidated area as more particularly shown on a map (Exhibit A) thereof on file in the office of the Engineering Division of the City of Menlo Park to which reference is hereby made for further particulars. Said map indicates by a boundary line the extent of the territory included in said District and of any zone thereof and shall govern for all details as to the extent of the assessment district.

5. The Assessment Engineer is hereby directed to prepare and file with said Clerk a report, in writing, referring to the assessment district by its distinctive designation, specifying the fiscal year to which the report applies, and, with respect to that year, presenting the following:

   a) Plans and specifications of the existing improvements and for proposed new improvements, if any, to be made within the assessment district or within any zone thereof;

   b) An estimate of the costs of said proposed new improvements, if any, to be made, the costs of maintenance or servicing, or both, thereof, and of any existing improvements, together with the incidental expenses in connection therewith;

   c) A diagram showing the exterior boundaries of the assessment district and of any zones within said district and the lines and dimensions of each lot or parcel of land within the district as such lot or parcel of land is shown on the County Assessor's map for the fiscal year to which the report applies, each of which lots or parcels of land shall be identified by a distinctive number or letter on said diagram; and

   d) A proposed assessment of the total amount of the estimated costs and expenses of the proposed new improvements, including the maintenance or servicing, or both, thereof, and of any existing improvements upon the several lots or parcels of land in said district in proportion to the estimated benefits to be received by such lots or parcels of land respectively from said improvements, including the maintenance or servicing, or both, thereof, and of the expenses incidental thereto.

6. The Office of the Assistant Public Works Director of said City is hereby, designated as the office to answer inquiries regarding any protest proceedings to be had herein, and may be contacted during regular office hours at the Civic Center Administration Building, 701 Laurel Street, Menlo Park California 94025, or by calling (650) 330-6740.
I, Pamela Aguilar, City Clerk of Menlo Park, do hereby certify that the above and foregoing Council Resolution was duly and regularly passed and adopted at a meeting by said Council on the twenty-sixth day of January, 2016, by the following votes:

AYES: Carlton, Cline, Keith, Mueller, Ohtaki

NOES: None

ABSENT: None

ABSTAIN: None

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

Pamela Aguilar
City Clerk
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CITY OF MENLO PARK
LANDSCAPING ASSESSMENT DISTRICT

ENGINEER'S REPORT

FISCAL YEAR 2016-17

MAY, 2016

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

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**CITY OF MENLO PARK**
LANDSCAPING ASSESSMENT DISTRICT
ENGINEER'S REPORT, FY 2016-17

**SciConsultingGroup**
INTRODUCTION

ASSESSMENT BACKGROUND

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

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

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

ASSESSMENT PROCESS

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

ENGINEER'S REPORT AND CONTINUATION OF ASSESSMENTS

In each subsequent year for which the assessments will be continued, the City Council must direct the preparation of an Engineer's Report, budgets and proposed assessments
for the upcoming fiscal year. After the Engineer's Report is completed, the City Council may preliminarily approve the Engineer's Report and proposed assessments and establish the date for a public hearing on the continuation of the assessments. This Report was prepared pursuant to the direction of the Council.

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

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

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

The City reduced the assessment rate for tree maintenance in fiscal year 2000-01 and increased the assessment rate in fiscal years 2002-03, 2005-06 through 2009-10, and 2014-15. In other fiscal years it was not necessary to increase the rate, due to sufficient reserve funds carried forward from prior fiscal years, combined with general benefit contributions. For fiscal year 2016-17 the proposed assessments for tree maintenance are proposed to increase from fiscal year 2015-16, and the assessments for sidewalk maintenance are still not proposed to increase. The proposed rates are $66.16 per Single Family Equivalent (SFE) for tree maintenance and $28.70 per SFE for sidewalk repairs.

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

Following the minimum 10 day time period after publishing the notice, a public hearing is held for the purpose of allowing public testimony about the proposed continuation of the assessments. This hearing is currently scheduled for June 14, 2016. At this hearing, the Council will consider approval of a resolution confirming the continuation of the assessments for fiscal year 2016-17. If so confirmed and approved, the assessments will
be submitted to the County Auditor/Controller for inclusion on the property tax roll for Fiscal Year 2016-17.

LEGAL ANALYSIS

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

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

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

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

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

DAHMS V. DOWNTOWN POMONA PROPERTY
On June 8, 2009, the 4th Court of Appeal amended its original opinion upholding a benefit assessment for property in the downtown area of the City of Pomona. On July 22, 2009, the California Supreme Court denied review. On this date, Dahms became good law and binding precedent for assessments. In Dahms the Court upheld an assessment that was 100% special benefit (i.e., 0% general benefit) on the rationale that the services and improvements funded by the assessments were directly provided to property in the assessment district. The Court also upheld discounts and exemptions from the assessment for certain properties.
BONANDER v. TOWN OF TIBURON
On December 31, 2009, the 1st District Court of Appeal overturned a benefit assessment approved by property owners to pay for placing overhead utility lines underground in an area of the Town of Tiburon. The Court invalidated the assessments on the grounds that the assessments had been apportioned to assessed property based in part on relative costs within sub-areas of the assessment district instead of proportional special benefits.

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

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

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

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

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

\[
\text{Final Level of Service} = \text{Baseline Level of Service (} = \text{zero, pre-development)} + \text{Enhanced Level of Service}
\]

The City of Menlo Park maintains street trees, sidewalks, curbs, gutters, and parking strips throughout the City.

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

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

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

DISCUSSION OF BENEFIT

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

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

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

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

The following benefit categories summarize the types of special benefit to residential, commercial, industrial and other lots and parcels resulting from the installation, maintenance and servicing of landscaping and lighting improvements to be provided with the assessment proceeds. These categories of special benefit are derived from the statutes passed by the California Legislature and other studies which describe the types of special benefit received by property from maintenance and improvements such as those within the District. These types of special benefit are summarized as follows:
A. Proximity to improved landscaped areas within the Assessment District.
B. Access to improved landscaped areas within the Assessment District.
C. Improved views within the Assessment District.
D. Enhanced environment because of the vigorous street tree program for
owners of property in the Landscaping Assessment District.
E. Increased safety against tripping and other hazards caused by cracked or
damaged sidewalks, curbs and gutters.
F. Enhanced desirability of the property.
G. Reduced liability for landscape maintenance.

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

- Proximity
- Expanded or improved access
- Views

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

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

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

Benefit Factors

The special benefits from the Improvements are further detailed below:

Proximity to improved landscaped areas within the Assessment District

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

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

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

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

ENHANCED ENVIRONMENT BECAUSE OF THE VIGOROUS STREET TREE PROGRAM FOR OWNERS OF PROPERTY IN THE LANDSCAPING ASSESSMENT DISTRICT.
Residential properties benefit from the enhanced environment provided by a vigorous program to install and maintain the street trees at a level beyond that followed by other cities throughout the County. The increased use of street trees provides an atmosphere of beauty beyond the norm. The improvements to the trees will be available to residents and guests of properties within the District.

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

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

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

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

**ENHANCED DESIRABILITY OF THE PROPERTY**

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

**REDUCED LIABILITY FOR LANDSCAPE MAINTENANCE**

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

**GENERAL VS. SPECIAL BENEFIT**

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

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

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\(^1\) The greater public at large is generally defined as those who are not residents, property owners, customers or employees within the City, and residents who do not live in close proximity to the improvements.
The City's total budget for maintenance and improvement of its trees and sidewalk facilities is $1,318,400. Of this total budget amount, the City will contribute $120,000 from sources other than the assessments for sidewalk repair and $325,000 for street tree maintenance. These contributions by the City equate to approximately 33.8% of the total budget for maintenance and more than offset the cost of the general benefits resulting from the improvements.

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

**METHOD OF ASSESSMENT**

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

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

PROPERTIES WITH STREET TREES

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

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

**FIGURE 1 - RESIDENTIAL ASSESSMENT FACTORS**

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

Source: 2003 Census, San Mateo County

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

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

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

**PROPERTIES WITHOUT STREET TREES**

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

**ASSESSMENT APPORTIONMENT - SIDEWALK PROGRAM**

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

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

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

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

APPEALS AND INTERPRETATION

Any property owner who feels that the assessment levied on the subject property is in error as a result of incorrect information being used to apply the foregoing method of assessment, may file a written appeal with the Assistant Public Works Director of the City of Menlo Park or his or her designee. Any such appeal is limited to correction of an assessment during the then current or, if before July 1, the upcoming fiscal year. Upon the filing of any such appeal, the Assistant Public Works Director or his or her designee will promptly review the appeal and any information provided by the property owner. If the Assistant Public Works Director or his or her designee finds that the assessment should be modified, the appropriate changes shall be made to the assessment roll. If any such changes are approved after the assessment roll has been filed with the County of San Mateo for collection, the Assistant Public Works Director or his or her designee is authorized to refund to the property owner the amount of any approved reduction. Any dispute over the decision of the Assistant Public Works Director or his or her designee shall be referred to the City Council of the City of Menlo Park and the decision of the City Council of the City of Menlo Park shall be final.
### Figure 2 – Tree Maintenance Assessments

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

### Figure 3 – Sidewalk, Curb, Gutter, Parking Strip Assessments

<table>
<thead>
<tr>
<th>Parcels with Trees</th>
<th>2016-17 Assessment Rates</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sidewalks, curbs, gutters</td>
<td>$28.70 (per Parcel)</td>
</tr>
<tr>
<td>Parking strips and gutters</td>
<td>$28.70 (per Parcel)</td>
</tr>
<tr>
<td>Curbs only</td>
<td>$19.23 (per Parcel)</td>
</tr>
<tr>
<td>No improvements</td>
<td>$9.47 (per Parcel)</td>
</tr>
<tr>
<td>Miscellaneous, Other</td>
<td>$0.00 (per Parcel)</td>
</tr>
<tr>
<td><strong>Parcels without Trees</strong></td>
<td></td>
</tr>
<tr>
<td>Parcels with or without improvements</td>
<td>$9.47 (per Parcel)</td>
</tr>
<tr>
<td>Miscellaneous, Other</td>
<td>$0.00 (per Parcel)</td>
</tr>
</tbody>
</table>

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

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

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

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

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

**Figure 4 - Summary Cost Estimate**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Street Tree Program</td>
<td>$669,544</td>
</tr>
<tr>
<td>Street Sweeping</td>
<td>$223,381</td>
</tr>
<tr>
<td>Sidewalk Program</td>
<td>$300,000</td>
</tr>
<tr>
<td>Incidental Expenses</td>
<td>$125,475</td>
</tr>
<tr>
<td><strong>TOTAL BUDGET</strong></td>
<td><strong>$1,318,400</strong></td>
</tr>
</tbody>
</table>

**Plus:**

- Projected Fund Balance       $266,998

**Less:**

- City Contribution for General Benefits ($445,000)
- Contribution from Carry-Over Fund Balances ($357,005)

**NET AMOUNT TO ASSESSMENTS** $783,393

CITY OF MENLO PARK
LANDSCAPING ASSESSMENT DISTRICT
ENGINEER'S REPORT, FY 2016-17
As required by the Act, an Assessment Diagram is hereto attached and made a part hereof showing the exterior boundaries of said Landscaping Assessment District. The distinctive number of each parcel or lot of land in the said Landscaping Assessment District is its Assessor Parcel Number appearing on the Assessment Roll.

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

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

The assessment is subject to an annual adjustment tied to the Engineering News Record (ENR) Construction Cost Index for the San Francisco Bay Area, with a maximum annual adjustment not to exceed 3%. Any change in the ENR in excess of 3% shall be cumulatively reserved as the "Unused ENR" and shall be used to increase the maximum authorized assessment rate in years in which the ENR is less than 3%. The maximum authorized assessment rate is equal to the maximum assessment rate in the first fiscal year the assessment was levied adjusted annually by the minimum of 1) 3% or 2) the change in the ENR plus any Unused ENR as described above. The initial, maximum assessment rate balloted and established in Fiscal Year 1998-99 was $6.28 per single family equivalent benefit unit for tree maintenance, and $28.70 per single family equivalent benefit unit for sidewalk maintenance.

Based on the preceding annual adjustments, the maximum assessment rate for Fiscal Year 2015-16 was $101.42 for tree maintenance and $45.28 for Sidewalk maintenance. The change in the ENR from December 2014 to December 2015 is not yet available. Therefore, assuming a 0% increase in the ENR Index plus the uncaptured excess reserved from prior years, the maximum authorized assessment rate for Fiscal Year 2016-17 has been increased from $101.42 to $104.46 per single family equivalent benefit unit for tree maintenance, and from $45.28 to $46.64 per single family equivalent benefit unit for sidewalk maintenance. However, the estimate of cost and budget in this Engineer's Report proposes assessments for fiscal year 2016-17 at the rate of $55.16 per single family equivalent benefit unit for tree maintenance, which is less than the maximum authorized assessment rate and is a 5% increase over the rate assessed in the previous fiscal year. The proposed assessment rate for fiscal year 2016-17 for sidewalk maintenance is $28.70 per single family equivalent benefit unit, which is also less than the maximum authorized assessment rate and is the same rate assessed in the previous fiscal year.
Property owners in the Assessment District, in an assessment ballot proceeding, approved the initial fiscal year benefit assessment for special benefits to their property including the ENR adjustment schedule. As a result, the assessment may continue to be levied annually and may be adjusted by up to the maximum annual ENR adjustment without any additional assessment ballot proceeding. In the event that in future years the assessments are levied at a rate less than the maximum authorized assessment rate, the assessment rate in a subsequent year may be increased up to the maximum authorized assessment rate without any additional assessment ballot proceeding.

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

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

May 17, 2016

Engineer of Work

[Signature]

By

John W. Bliss, License No. C52091
### FIGURE 5 – ENGINEER’S COST ESTIMATE, FISCAL YEAR 2016-17

#### 2016-17
CITY OF MENLO PARK LANDSCAPING ASSESSMENT DISTRICT
ENGINEER’S COST ESTIMATE

<table>
<thead>
<tr>
<th>A. Tree Maintenance</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Salaries &amp; Benefits</td>
<td>$340,452.00</td>
</tr>
<tr>
<td>Operating Expense</td>
<td>$38,551.94</td>
</tr>
<tr>
<td>Fixed Assets &amp; Capital Outlay</td>
<td>$4,500.00</td>
</tr>
<tr>
<td>Vehicle &amp; Equipment Maintenance</td>
<td>$16,040.00</td>
</tr>
<tr>
<td>Professional Services</td>
<td>$270,000.00</td>
</tr>
<tr>
<td>(Tree Spraying, Tree Trimming, Misc.)</td>
<td></td>
</tr>
<tr>
<td>Subtotal - Tree Maintenance</td>
<td>$669,543.94</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B. Debris Removal</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Salaries &amp; Benefits</td>
<td>$75,947.00</td>
</tr>
<tr>
<td>Operating Expense</td>
<td>$2,433.62</td>
</tr>
<tr>
<td>Street Sweeping Contract</td>
<td>$145,000.00</td>
</tr>
<tr>
<td>Subtotal - Debris Removal</td>
<td>$223,380.62</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>C. Sidewalk, Curb, Gutter, Parking Strip Repair/Replacement</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Construction Costs</td>
<td>$190,490.00</td>
</tr>
<tr>
<td>Design &amp; Inspection</td>
<td>$109,510.00</td>
</tr>
<tr>
<td>Subtotal - S/W,C,G, &amp; PS Repair/Replace</td>
<td>$300,000.00</td>
</tr>
<tr>
<td>Subtotal Tree/Debris/Reforestation/Sidewalk</td>
<td>$1,192,924.56</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>D. Incidentals</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Indirect Costs &amp; Administration</td>
<td>$110,475.00</td>
</tr>
<tr>
<td>County Collection Fees</td>
<td>$15,000.00</td>
</tr>
<tr>
<td>Subtotal - Incidentals</td>
<td>$125,475.00</td>
</tr>
<tr>
<td>Total Cost</td>
<td>$1,318,399.56</td>
</tr>
</tbody>
</table>
### Revenue

<table>
<thead>
<tr>
<th>Description</th>
<th>Single Family Equivalent Benefit Units - Trees</th>
<th>Single Family Equivalent Benefit Units - Sidewalks</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single Family Equivalent Benefit Units - Trees</td>
<td>9,007.34</td>
<td></td>
</tr>
<tr>
<td>Single Family Equivalent Benefit Units - Sidewalks</td>
<td>6,845.80</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>2016/17</th>
<th>2015/16</th>
</tr>
</thead>
<tbody>
<tr>
<td>Assessment Rate for Tree Fund/ SFE</td>
<td>$65.16</td>
<td>$62.06</td>
</tr>
<tr>
<td>Assessment Rate for Sidewalk Fund/ SFE</td>
<td>$28.70</td>
<td>$28.70</td>
</tr>
</tbody>
</table>

<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Revenue for Tree Fund</td>
<td>$586,918.27</td>
<td></td>
</tr>
<tr>
<td>Revenue for Sidewalk Fund</td>
<td>$196,474.46</td>
<td></td>
</tr>
</tbody>
</table>

**Total Revenue**

<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>$783,392.73</td>
</tr>
</tbody>
</table>

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

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

The boundaries of the Landscaping Assessment District are displayed on the following Assessment Diagram.
APPENDIX A – ASSESSMENT ROLL, FY 2016-17

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

PERFORMANCE BOND

KNOW ALL PERSONS BY THESE PRESENTS:

WHEREAS, the City of Menlo Park, California, a municipal corporation, has awarded to Golden Bay Construction, Inc., hereinafter designated as the "Principal," a Contract for the "CITYWIDE SIDEWALK REPAIR PROGRAM"; and,

WHEREAS, said Principal is required under the terms of said Contract to furnish a bond for the faithful performance of said Contract,

NOW, THEREFORE, we the Principal, and The Guarantee Company of North America USA as Surety, are held and firmly bound unto the City of Menlo Park in the penal sum of Two Hundred Thousand and No/100 DOLLARS ($200,000.00), lawful money of the United States for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, or assigns jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that if the above bounded Principal, his/her or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and agreements in said Contract and any alteration thereof made as therein provided, on his/her or their part, to be kept and performed at the time and in the manner therein specified and in all respects according to their true intent and meaning; and shall defend, indemnify and save harmless the City of Menlo Park, its officers and agents as therein stipulated, then this obligation shall become null and void; otherwise it shall be and remain in full force and virtue.

Surety, for value received hereby stipulates and agrees that, in accordance with the Plans, Standard Specifications, Contract Provisions and other Contract Documents, no change, extension of time, alteration or addition to the terms of the Contract or to the work to be performed thereunder or the specifications accompanying the same shall in anywise affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or additions to the terms of the Contract or to the work or to the specifications.

Approved as to form on behalf of "City":

[Signature]

Title of official: [Signature]
IN WITNESS WHEREOF, the above bounded parties have executed this instrument under their seals this 23rd day of June, 2016, the name and corporate seals of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

(Corporate Seal)

Principal: Golden Day Construction, Inc.
By: ________________________________
     Johnny Zanette - President
Title: ________________________________

Surety: The Guarantee Company of North America USA
By: ________________________________
     Mary Baez, Attorney-in-Fact
Title: ________________________________

(Acknowledgment)

NOTE TO SURETY COMPANY: The following form of acknowledgment should be used. If any other form of acknowledgment is used, there must be submitted a certified copy of unrevoked resolution of authority for the attorney-in-fact.

NOTARIAL ACKNOWLEDGMENT OF ATTORNEY-IN-FACT OF SURETY

STATE OF CALIFORNIA  }
COUNTY OF ____________________________}

On ________________________, before me, ____________________________, a Notary Public, personally appeared ________________, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that /they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

______________________________
Notary Public

(Seal)

SEE ATTACHED
State of California

County of Alameda

On 6/24/2016 before me D. Chan, Notary Public, personally appeared Johnny Zanette who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

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

Witness my hand and official seal

D. Chan, Notary Public

Optional Information

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent, reattachment of this form.

Any inquiries regarding the preparation of this document should be directed to:

D. Chan
Golden Bay Construction, Inc.
3826 Depot Road
Hayward, CA 94545
510-783-2960 x 232
CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

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

State of California
County of San Mateo

On June 23, 2016 before me, Deborah M. Knipp, Notary Public, personally appeared Mary Baez

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 she executed the same in her proper authorized capacity, and that by her signature(s) on the instrument the person, or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature

Signature of Notary Public

Place Notary Seal Above

OPTIONAL

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

Description of Attached Document
Title or Type of Document: ____________________________ Document Date: ____________________________
Number of Pages: __________ Signer(s) Other Than Named Above: ____________________________

Capacity(ies) Claimed by Signer(s)
Signer’s Name: ____________________________
☐ Corporate Officer — Title(s): ____________________________
☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☐ Other: ____________________________
Signer Is Representing: ____________________________

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

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CITY OF MENLO PARK
STATE OF CALIFORNIA

PAYMENT BOND

KNOW ALL PERSONS BY THESE PRESENTS:

WHEREAS, the City of Menlo Park, California, a municipal corporation, has awarded to
Golden Bay Construction, Inc., hereinafter designated as the
"Principal," a Contract for the "CITYWIDE SIDEWALK REPAIR PROGRAM"; and,

WHEREAS, said Principal is required to furnish a bond in connection with said Contract, to secure payment of
claims of laborers, mechanics, or material persons employed on work under said Contract, as provided by
law,

NOW, THEREFORE, we the undersigned Principal and The Guarantee Company of North America USA
as Surety, are held and firmly bound unto the City of Menlo Park in the sum of
Two Hundred Thousand and No/100 DOLLARS ($ 200,000.00), said
sum being equal to the estimated amount payable by said City of Menlo Park under the terms of the Contract,
for which payment well and truly to be made, we bind ourselves, our heirs, executors, administrators,
successors, or assigns jointly and severally, firmly by these presents.

THE CONDITIONS OF THIS OBLIGATION ARE SUCH that if said Principal, his/her or its heirs, executors,
administrators, successors, or assigns, or subcontractors shall fail to pay for any material, provisions,
provender or other supplies, implements or machinery used in, upon, for or about the performance of the work
contracted to be done, or for any work or labor thereon of any kind, or for amounts due under the
Unemployment Insurance Code with respect to such work or labor or for any amounts required to be
deducted, withheld, and paid over to the Franchise Tax Board from the wages of employees of the Contractor
and his/her subcontractors pursuant to the Revenue and Taxation Code, with respect to such work and labor,
the Surety or Sureties hereon will pay for the same in an amount not exceeding the sum specified in this bond,
otherwise the above obligation shall be voided. In case suit is brought upon this bond, said Surety will pay a
reasonable attorney's fee to be fixed by the court.

This bond shall inure to the benefit of any and all persons, companies and corporations entitled to file claims
under Section 3181 of the Civil Code of the State of California so as to give a right of action to them or their
assigns in any suit brought upon this bond.

Said Surety, for value received, hereby stipulates and agrees that, in accordance with the Plan, Standard
Specifications, Special Provisions and other Contract Documents, no change, extension of time, alteration or
addition to the terms of the Contract, or to the work to be performed thereunder, or to the specifications
accompanying the same, shall in anywise affect its obligations on this bond, and it does hereby waive notice
of any such change, extension of time, alteration or addition to the terms of the Contract or to the work or to
the specifications.
IN WITNESS WHEREOF, the above-bounded parties have executed this instrument under their seals this 23rd day of June 2016, the name and corporate seals of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

(Corporate Seal)

Principal: Golden Bay Construction, Inc.

By: ______________________
Title: Johnny Zanette - President

Surety: The Guarantee Company of North America USA

By: ______________________
Title: Mary Baez, Attorney-in-Fact

(Acknowledgment)

(Witness)

Approved as to form on behalf of “City”:

Signature

Title of official: ______________________
State of California

County of Alameda

On 6/24/2016 before me D. Chan, Notary Public, personally appeared Johnny Zanette who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

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

Witness my hand and official seal

D. Chan, Notary Public

Optional Information

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent, reattachment of this form.

Any inquiries regarding the preparation of this document should be directed to:

D. Chan
Golden Bay Construction, Inc.
3826 Depot Road
Hayward, CA 94545
510-783-2960 x 232
NOTE TO SURETY COMPANY: The following form of acknowledgment should be used. If any other form of acknowledgment is used, there must be submitted a certified copy of unrevoked resolution of authority for the attorney-in-fact.

NOTARIAL ACKNOWLEDGMENT OF ATTORNEY-IN-FACT OF SURETY

STATE OF CALIFORNIA}{ss.
COUNTY OF {ss.

On ________________, before me, ______________________________, a Notary Public, personally appeared ______________________________, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

____________________________
Notary Public

(Seal)

SEE ATTACHED
CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

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

State of California
County of San Mateo

On June 23, 2016 before me, Deborah M. Knipp, Notary Public

personally appeared Mary Baez

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 she executed the same in her authorized capacity, and that by 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

Signature of Notary Public

Place Notary Seal Above

OPTIONAL

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

Description of Attached Document
Title or Type of Document: ____________________________ Document Date: ____________________________
Number of Pages: _______ Signer(s) Other Than Named Above: ____________________________

Capacity(ies) Claimed by Signer(s)
Signer’s Name:
☐ Corporate Officer — Title(s):
☐ Partner — ☐ Limited ☐ General
☐ Individual ☒ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☐ Other: ____________________________

Signer Is Representing: ____________________________

Signer’s Name:
☐ Corporate Officer — Title(s):
☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☐ Other: ____________________________

Signer Is Representing: ____________________________

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THE GUARANTEE COMPANY OF NORTH AMERICA USA
Southfield, Michigan

POWER OF ATTORNEY

KNOW ALL BY THESE PRESENTS: That THE GUARANTEE COMPANY OF NORTH AMERICA USA, a corporation organized and existing under the laws of the State of Michigan, having its principal office in Southfield, Michigan, does hereby constitute and appoint

Gregory McCartney, Steve Suissa, Mary Baez
James E. McGovern, Inc.

its true and lawful attorney(s)-in-fact to execute, seal and deliver for and on its behalf as surety, any and all bonds and undertakings, contracts of indemnity and other writings obligatory in the nature thereof, which are or may be allowed, required or permitted by law, statute, rule, regulation, contract or otherwise.

The execution of such instrument(s) in pursuance of these presents, shall be as binding upon THE GUARANTEE COMPANY OF NORTH AMERICA USA as fully and amply, to all intents and purposes, as if the same had been duly executed and acknowledged by its regularly elected officers at the principal office.

The Power of Attorney is executed and may be certified so, and may be revoked, pursuant to and by authority of Article IX, Section 9.03 of the By-Laws adopted by the Board of Directors of THE GUARANTEE COMPANY OF NORTH AMERICA USA at a meeting held on the 31st day of December, 2003. The President, or any Vice President, acting with any Secretary or Assistant Secretary, shall have power and authority:

1. To appoint Attorney(s)-in-fact, and to authorize them to execute on behalf of the Company, and attach the Seal of the Company thereto, bonds and undertakings, contracts of indemnity and other writings obligatory in the nature thereof; and
2. To revoke, at any time, any such Attorney-in-fact and revoke the authority given, except as provided below
3. In connection with obligations in favor of the Florida Department of Transportation only, it is agreed that the power and authority hereby given to the Attorney-in-Fact includes any and all consents for the release of retained percentages and/or final estimates on engineering and construction contracts required by the State of Florida Department of Transportation. It is fully understood that consenting to the State of Florida Department of Transportation making payment of the final estimate to the Contractor and/or its assignee, shall not relieve this surety company of any of its obligations under its bond.
4. In connection with obligations in favor of the Kentucky Department of Highways only, it is agreed that the power and authority hereby given to the Attorney-in-Fact cannot be modified or revoked unless prior written personal notice of such intent has been given to the Commissioner – Department of Highways of the Commonwealth of Kentucky at least thirty (30) days prior to the modification or revocation.

Further, this Power of Attorney is signed and sealed by facsimile pursuant to resolution of the Board of Directors of the Company adopted at a meeting duly called and held on the 6th day of December 2011, of which the following is a true excerpt:

RESOLVED that the signature of any authorized officer and the seal of the Company may be affixed by facsimile to any Power of Attorney or certification thereof authorizing the execution and delivery of any bond, undertaking, contracts of indemnity and other writings obligatory in the nature thereof, and such signature and seal when so used shall have the same force and effect as though manually affixed.

IN WITNESS WHEREOF, THE GUARANTEE COMPANY OF NORTH AMERICA USA has caused this instrument to be signed and its corporate seal to be affixed by its authorized officer, this 23rd day of February, 2012.

THE GUARANTEE COMPANY OF NORTH AMERICA USA

STATE OF MICHIGAN
County of Oakland

Stephen C. Ruschak, Vice President
Randall Musselman, Secretary

On this 23rd day of February, 2012 before me came the individuals who executed the preceding instrument, to me personally known, and being by me duly sworn, said that each is the herein described and authorized officer of The Guarantee Company of North America USA; that the seal affixed to said instrument is the Corporate Seal of said Company; that the Corporate Seal and each signature were duly affixed by order of the Board of Directors of

Cynthia A. Takai
Notary Public, State of Michigan
County of Oakland
My Commission Expires February 27, 2018
Acting in Oakland County

IN WITNESS WHEREOF, I have hereunto set my hand at The Guarantee Company of North America USA offices the day and year above written.

IN WITNESS WHEREOF, I have hereunto set my hand and attached the seal of said Company this 23rd day of June, 2016.

Randall Musselman, Secretary
# Certificate of Liability Insurance

**Date:** 12/21/2015

**PRODUCER:** McGovern Insurance  
1625 El Camino Real  
Belmont, CA 94002

**INSURED:** Golden Bay Construction Inc.  
3826 Depot Road  
Hayward CA 94545

**Certificate Number:** 27756020  
**Revision Number:**

---

## Coverages

<table>
<thead>
<tr>
<th>INSURER(S) AFFORDING COVERAGE</th>
<th>NAIC #</th>
</tr>
</thead>
<tbody>
<tr>
<td>INSURER A: Navigators Insurance Company</td>
<td>42307</td>
</tr>
<tr>
<td>INSURER B: Travelers Property Casualty Company</td>
<td>26574</td>
</tr>
<tr>
<td>INSURER C: Scottsdale Insurance</td>
<td>15580</td>
</tr>
<tr>
<td>INSURER D: Hartford Accident and Indemnity Company</td>
<td>22357</td>
</tr>
</tbody>
</table>

## Policy Details

<table>
<thead>
<tr>
<th>INSR LTR</th>
<th>TYPE OF INSURANCE</th>
<th>ADDL INSURER (INSD W/O)</th>
<th>POLICY NUMBER</th>
<th>POLICY EFF (MM/DD/YYYY)</th>
<th>POLICY EXP (MM/DD/YYYY)</th>
<th>LIMITS</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>COMMERCIAL GENERAL LIABILITY</td>
<td>✓ CLAIMS-MADE ✓ OCCUR</td>
<td>SF15CGL019674</td>
<td>1/1/2016</td>
<td>1/1/2017</td>
<td>EACH OCCURRENCE: $1,000,000</td>
</tr>
<tr>
<td></td>
<td></td>
<td>✓ XCU-Not Excluded</td>
<td></td>
<td></td>
<td></td>
<td>DAMAGE TO RENTED PREMISES (per occurrence): $100,000</td>
</tr>
<tr>
<td></td>
<td></td>
<td>✓ GENERAL AGGREGATE LIMIT APPLIES PER:</td>
<td></td>
<td></td>
<td></td>
<td>MED EXP (Any one person): $5,000</td>
</tr>
<tr>
<td></td>
<td></td>
<td>✓ POLICY ✓ PROJ ☐ LOC</td>
<td></td>
<td></td>
<td></td>
<td>PERSONAL &amp; ADV INJURY: $1,000,000</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>GENERAL AGGREGATE: $2,000,000</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>PRODUCTS - COMP/OP AGG: $2,000,000</td>
</tr>
<tr>
<td>B</td>
<td>AUTOMOBILE LIABILITY</td>
<td>✓ ANY AUTO</td>
<td>DT-810-90354648</td>
<td>1/1/2016</td>
<td>1/1/2017</td>
<td>COMBINED SINGLE LIMIT (per accident): $1,000,000</td>
</tr>
<tr>
<td></td>
<td></td>
<td>✓ ALL OWNED AUTOS</td>
<td></td>
<td></td>
<td></td>
<td>BODILY INJURY (Per person): $</td>
</tr>
<tr>
<td></td>
<td></td>
<td>✓ HIRED AUTOS</td>
<td></td>
<td></td>
<td></td>
<td>BODILY INJURY (Per accident): $</td>
</tr>
<tr>
<td></td>
<td></td>
<td>✓ UMBRELLA LIABILITY</td>
<td></td>
<td></td>
<td></td>
<td>PROPERTY DAMAGE (Per accident): $</td>
</tr>
<tr>
<td></td>
<td></td>
<td>✓ OCCUR ✓ CLAIMS-MADE</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>✓ EXCESS LIABILITY</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>D</td>
<td>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</td>
<td>✓ PER STATUTE ☐ OTHER</td>
<td>57 WE Q10420</td>
<td>10/1/2015</td>
<td>10/1/2016</td>
<td>E.L. EACH ACCIDENT: $1,000,000</td>
</tr>
<tr>
<td></td>
<td>ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED (Mandatory in NH)</td>
<td>☐</td>
<td></td>
<td></td>
<td></td>
<td>E.L. DISEASE - EA EMPLOYEE: $1,000,000</td>
</tr>
</tbody>
</table>

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## Description of Operations / Locations / Vehicles

- **Re:** Citywide Sidewalk repair program
- **Additional Insured:** The City of Menlo Park, its employees, agents and officers
- **Additional Insured - per attached**

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## Certificate Holder

City of Menlo Park  
Dept of Public Works  
701 Laurel Street  
Menlo Park CA 94025

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## Cancellation

**Authorized Representative:**  
Steve Suissa

© 1988-2014 ACORD CORPORATION. All rights reserved.
THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – COMPLETED OPERATIONS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

<table>
<thead>
<tr>
<th>Name of Additional Insured Person(s) or Organization(s):</th>
<th>Location and Description of Completed Operations:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(Information required to complete this Schedule, if not shown above, will be shown in the Declarations.)

Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for “bodily injury” or “property damage” caused, in whole or in part, by "your work" at the location designated and described in the schedule of this endorsement performed for that additional insured and included in the "products-completed operations hazard".
COMMERCIAL GENERAL LIABILITY
CG 20 38 04 13

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – AUTOMATIC STATUS FOR OTHER PARTIES WHEN REQUIRED IN WRITTEN CONSTRUCTION AGREEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

A. Section II – Who is An Insured is amended to include as an additional insured:

1. Any person or organization for whom you are performing operations when you and such person or organization have agreed in writing in a contract or agreement that such person or organization be added as an additional insured on your policy; and

2. Any other person or organization you are required to add as an additional insured under the contract or agreement described in Paragraph 1. above.

Such person(s) or organization(s) is an additional insured only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

a. Your acts or omissions; or

b. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured.

However, the insurance afforded to such additional insured described above:

a. Only applies to the extent permitted by law;

b. Will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

A person's or organization's status as an additional insured under this endorsement ends when your operations for the person or organization described in Paragraph 1. above are completed.

B. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to:

1. "Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:

   a. The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or

   b. Supervisory, inspection, architectural or engineering activities.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury", involved in the rendering of, or the failure to render, any professional architectural, engineering or surveying services.

2. "Bodily injury" or "property damage" occurring after:

   a. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
b. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

C. With respect to the insurance afforded to these additional insureds, the following is added to Section III - Limits Of Insurance:

The most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement described in Paragraph A.1.; or

2. Available under the applicable Limits of Insurance shown in the Declarations; whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.
COMMERCIAL GENERAL LIABILITY
NPC-800 11 08

PRIMARY AND NON-CONTRIBUTORY

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

A. The following is added to 4. c. Method of Sharing, Section IV - Commercial General Liability Conditions:

However, we will not seek contribution from other insurance available to an Additional Insured endorsed to this policy when you have agreed in a written contract, prior to the loss, to provide such Additional Insured with primary and non-contributing insurance.