

**LICENSE AND COST SHARING AGREEMENT**

This License and Cost Sharing Agreement ("**Agreement**") is made this 26 day of SEPTEMBER, 2016 ("**Effective Date**") by and between the Galata Pistro ("**Participating Business**"), and the City of Menlo Park ("**City**"), alternatively referred to herein as a "**Party**" and collectively referred to herein as the "**Parties**".

**RECITALS**

WHEREAS, local businesses expressed interest in a cost-sharing plan for the Santa Cruz Street Café Pilot Program ("**Program**");

WHEREAS, the Program will be a semi-permanent expansion of the On-Street Dining Pilot Program from January 2015, open to businesses located in the central downtown area ("**Downtown**");

WHEREAS, it was determined that the Program is consistent with the El Camino Real/Downtown Specific Plan to enhance the vibrancy of Downtown;

WHEREAS, on May 24, 2016, the City Council approved a design by Ian Moore Designs, Inc. and the cost-sharing requirements for the Program;

WHEREAS, several local businesses have submitted applications to participate in the Program;

WHEREAS, City staff has reviewed the applications and only approved applications which have a *de minimis* effect on parking, agree to comply with existing outdoor seating permit requirements, and agree to the cost-sharing plan; and

WHEREAS, the application submitted by Participating Business was reviewed and approved by City staff.

NOW, THEREFORE, the Parties agree as follows:

**SECTION 1: Construction, Maintenance and Cost-Sharing of Improvement.**

**1.1 Construction.** The City shall be responsible for design, construction, and installation of sidewalk improvements ("**Improvement**") for the Program, as shown on **Exhibit A ("Final Plan")**.

**1.2 Location of Improvement.** The installation of the Improvement shall be located in the in the public right-of-way immediately adjacent to the Participating Business as shown on the front page of **Exhibit A ("Final Plan")**.

**1.3 Cost-Sharing.** The City shall be responsible for payment of seventy-five (75%) of the total cost of construction, and installation of the Improvement. The Participating Business shall be responsible for twenty-five (20%) of the total cost of construction and

installation of the Improvement and for any custom features desired beyond the base design. Attached as **Exhibit B (“Invoice”)**, is a cost breakdown indicating the total estimated amount owed by Participating Business. Once the Improvement is installed, City shall submit to Participating Business a cost breakdown indicating the final total cost of the Improvement and the total owed by Participating Business (“Total Cost Invoice”). The Participating Business shall make twelve (12) equal quarterly payments for three (3) years to the City for its share of the cost the Improvement. The first quarterly payment is due to the City thirty (30) days after receipt of the Total Cost Invoice. The eleven (11) remaining payments are due every quarter thereafter.

**1.4 Penalty for Delinquent/Non-Payment.** In the event that the Participating Business does not submit payment of the Invoice to the City within the time set by Section 1.3, it will be required to pay a late payment penalty of five percent (5%) of the total delinquent payment and interest at a rate of ten percent (10%) per annum until the Invoice is paid in full.

**1.5 Furnishings and Additional Improvements by Participating Business.** All additional improvements made by Participating Business, such as lighting and/or outdoor heaters, shall be made at Participating Business’ sole cost and expense and shall be subject to City’s prior written approval, which approval shall not be unreasonably withheld. The Participating Business shall be responsible for providing any furnishings for its use of the Improvement, subject to City’s review and approval, not to be unreasonably withheld or delayed. At a minimum, Participating Business agrees to install furnishings and improvements to enhance the aesthetics of the Improvement as described in **Exhibit C (“Additional Improvements”)**. Such enhancements shall be completed/ installed when Participating Business commences use of the Improvement.

**1.6 Maintenance and Repair.** The Participating Business shall be responsible for the ongoing maintenance and repair of the Improvement and for any damage caused to the Improvement, including but not limited to, keeping the storm drain running through or adjacent to the Improvement free and clear of leaves, debris and blockages. If the Improvement is not properly maintained or damage is not repaired by the Participating Business, the City shall submit notice (“Maintenance/Repair Notice”) to the Participating Business specifying the maintenance and/or repair that must be completed. If the Participating Business does not comply with the Maintenance/Repair Notice within five (5) business days, the City may undertake and complete the required maintenance and/or repair. The Participating Business shall be responsible for reimbursing the City for the cost of such maintenance/repair performed by City.

**1.7 Utilities.** The Participating Business shall be responsible for payment of all utilities serving the Improvement, or to the extent the utilities are not separately metered and are paid for by the City, the parties shall determine a fair amount to be paid to the City annually to reimburse the City for the utilities serving the Improvement.

## **SECTION 2: License.**

**2.1 Grant of License.** The City hereby grants to the Participating Business an exclusive license (“License”) upon, across, and over the Improvement Location for the

purpose of utilizing the space for patrons of the Participating Business. The Parties agree that this License does not grant or create in the Participating Business any fee, leasehold, easement or other interest or estate in land in the Improvement Location.

**2.2 Permits.** Participating Business shall and comply with any required City Administrative Permit for outdoor seating prior to any use of the Improvement requiring such permit.

**2.3 Term.** This Agreement shall become effective, and the obligations herein, commencing on the Effective Date and shall remain in effect for a term of five (5) years from the completion of the Improvement. Thereafter, the term shall continue on a month-to-month basis upon all of the terms and provisions herein, except that they City, upon approval of the City Council may require payment of a reasonable monthly or annual license fee for the continued use and enjoyment of the Improvement. Following the initial Term of this Agreement, the City may, with or without cause, revoke this License by service upon the Participating Business (or its heirs, successors and assigns) of a written notice of revocation ("Termination Notice") if the City determines that it is in the best interests of the public to do so. The Agreement shall terminate Ninety (90) days after City submits the Termination Notice. This Agreement and the License granted herein may also be terminated at any time upon written mutual agreement of the Parties.

**2.5 Insurance.** Participating Business shall maintain commercial business liability insurance coverage for use and maintenance of the Improvement, with limits of at least One Million Dollars (\$1,000,000) for each occurrence, naming the City as additional insured under such policy. Upon request, Participating Business shall provide the City with a certificate evidencing such insurance.

**2.6 Indemnification.** Participating Business shall indemnify, protect, defend and hold the City and its successors and assigns, and its agents, contractors, guests, and invitees, harmless from and against any and all claims, demands, actions, suits, losses, obligations, liens, proceedings, costs, expenses (including, without limitation, attorneys' fees and costs), judgments, orders, decrees, damages or liabilities of any type or kind arising out of or in any way connected with the Participating Business', including use by its employees and patrons, of the Improvement, as set forth in this Agreement; except to the extent such claims arise out of the gross negligence or willful misconduct of the City.

### **SECTION 3. Miscellaneous.**

**3.1 Notice.** All notices required or permitted to be given under this Agreement must be in writing and mailed postage prepaid by certified or registered mail, return receipt requested, or by personal delivery or overnight courier to the appropriate address indicated below or at such other place(s) that either Party may designate in written notice to the other. Notices are deemed received upon delivery if personally served, one day after mailing if delivered via overnight courier, or two days after mailing if mailed as provided above.

City:

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

Participating Business:

Galata Bistro Mediterranean Grill  
Attn: Cumhur Ulas  
820 Santa Cruz Ave  
Menlo Park, CA 94025

**3.2. Entire Agreement.** This Agreement contains the entire understanding and agreement of the Parties relating to the rights granted and the obligations set forth in this Agreement. Any prior, contemporaneous or subsequent written or oral representations and modifications shall be of no force or effect, except an amendment in accordance with Section 3.3.

**3.3 Amendment.** This Agreement may only be amended in a writing executed by both Parties.

**3.4 Severability.** Should any provisions or portion hereof be declared to be invalid or in conflict with any law, the validity of all other provisions or portion of this Agreement shall remain unaffected and in full force and effect.

**3.5 Governing Law and Venue.** This Agreement shall be governed by and enforced in accordance with the laws of the State of California. The venue for any action related to this Agreement shall be the County of San Mateo, California.

**3.6 Authority.** Each Party to this Agreement represents and warrants to the other party that this Agreement is a binding obligation of the Party.

**3.7 Waiver.** Waiver by any Party of any of the provisions contained in this Agreement, or of the application thereof to any person by judgment or court order, shall in no way affect any of the other provisions of this Agreement, or the application thereof to any other person, and the same shall remain in full force and effect to the maximum extent possible.

**3.8 Compliance with Laws.** Participating Business shall comply with all applicable Federal, State and local laws, regulations and ordinances regarding the use of the Improvement, including but not limited to State Department of Alcohol and Beverage Control requirements for the service and consumption of alcohol and City Administrative Permit terms and conditions for participating business' use of the improvement.

**3.9 Counterparts.** This Agreement may be executed in counterparts, each of which, when taken together, shall constitute one and the same instrument.

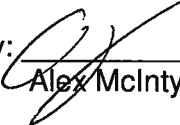
**3.10 Further Assurances.** Each Party covenants, on behalf of itself and its successors and assigns, to take all actions and do all things, and to execute, with

acknowledgement or affidavit if required, any and all documents, instruments and writings as may be necessary or proper to achieve the purposes and objections of the Agreement.

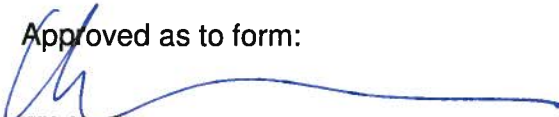
**3.11 Attorney Fees.** In the event that any party to this Agreement commences any legal action or proceeding to enforce or interpret the provisions of this Agreement, the prevailing party in such action or proceeding shall be entitled to recover reasonable attorneys' fees and other costs incurred in that action or proceeding, in addition to any other relief to which the successful party may be entitled.

IN WITNESS WHEREOF, the Parties have hereunder subscribed their names the day and year indicated below.

CITY OF MENLO PARK,  
a Municipal Corporation

By:  Charles Taylor for  
Alex McIntyre, City Manager

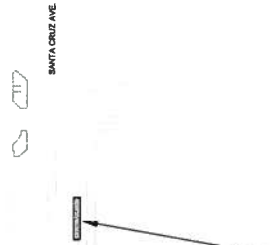
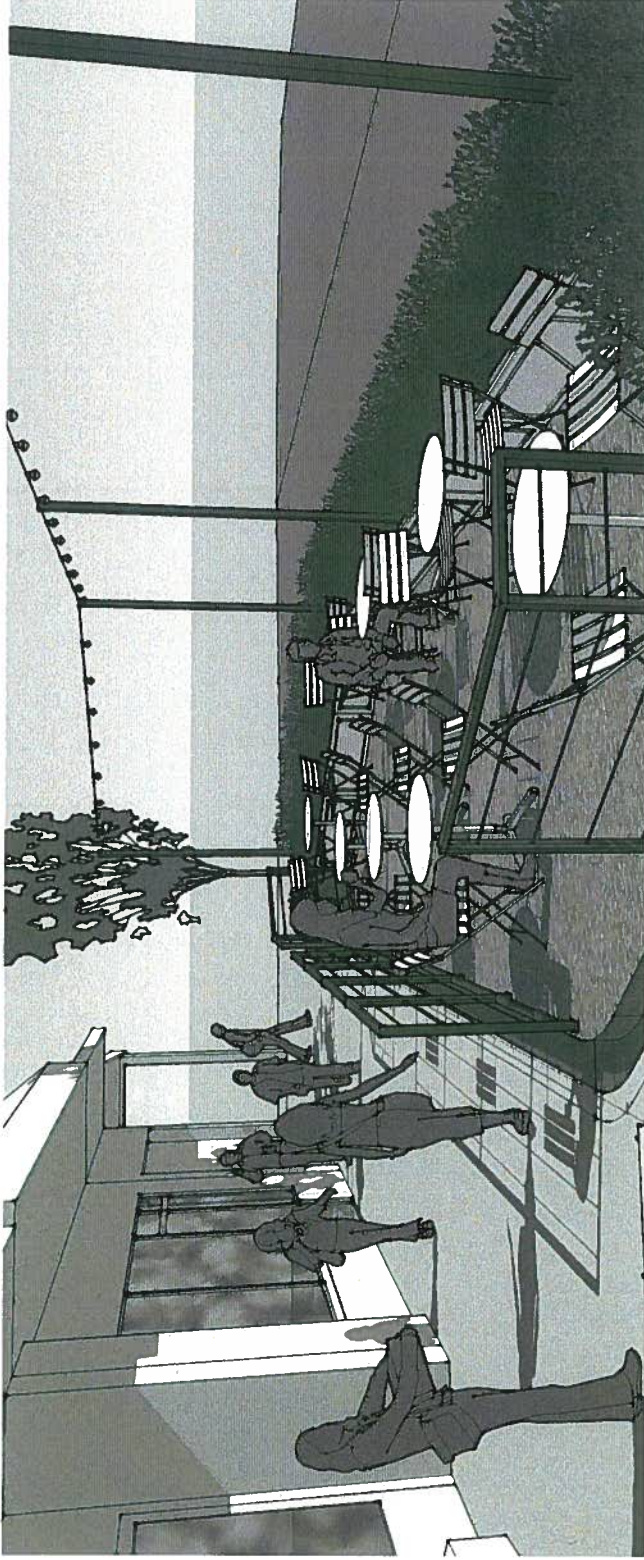
Approved as to form:



William McClure, City Attorney

Galata Bistro Mediterranean Grill

By:  Cumbur Ulas



- SHEET INDEX**
- 001 - Cover
  - 101 - Street Cafe Plan
  - 102 - Existing Conditions
  - 201 - Concrete Platform Construction Plan
  - 202 - Concrete Platform Details
  - 301 - Cross-sections
  - 401 - Drainage Grate Details
  - 402 - Custom Railing & Light Pole Details
  - 403 - Material Images



**SANTA CRUZ STREET CAFE PROJECT: GALATA LOCATION**

001	15-07 Downtown Menlo Park Santa Cruz Ave. Street Cafes	Galata Bistro	Ian Moore Kyra Baldwin	Date: 8/10/2016 KB
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# SYMBOL LEGEND

## EXISTING FEATURES

- ELECTRICAL OUTLET
- UTILITY BOX
- IRRIGATION BOX
- WATER METER
- WOOD CLAD STREET POLE
- BUS STOP

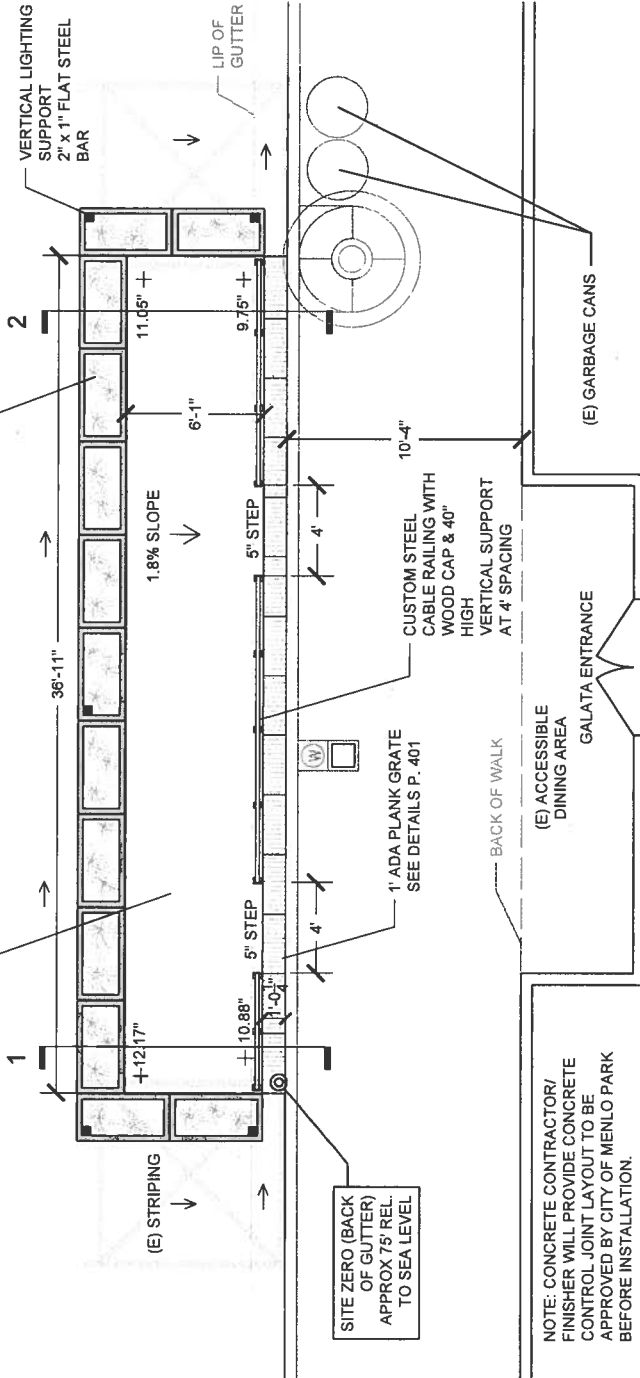
## ELEVATION POINTS

- SITE ZERO ELEVATION
- EXISTING ELEVATION
- PROPOSED ELEVATION

### SANTA CRUZ AVE.

- RECTANGULAR CONCRETE PLANTER 24" x 48" TYP
- TO BE FURNISHED BY CITY
- CONTRACTOR RESPONSIBLE FOR TRANSPORT FROM CITY CORP YARD (APPROX. 1 MILE) & PLACEMENT
- PLACE 1" FROM CONCRETE PLATFORM
- CONTRACTOR TO INSTALL SOIL & AGGREGATE
- 1) FILL WITH 3/4" CIRCULAR DRAIN ROCK
- 2) FILL WITH SOIL TO 4" FROM TOP
- PLANTS TO BE INSTALLED BY BUSINESS OWNER

- STAMPED CONCRETE PLATFORM
- PATTERN: BRICKFORM
- RUNNING BOND NEW BRICK
- STANDARD PRODUCT ID: FM-5150-S/O
- COLOR: Brickform LC-2280 French Gray



SITE ZERO (BACK OF GUTTER) APPROX 75' REL TO SEA LEVEL

NOTE: CONCRETE CONTRACTOR/ FINISHER WILL PROVIDE CONCRETE CONTROL JOINT LAYOUT TO BE APPROVED BY CITY OF MENLO PARK BEFORE INSTALLATION.

JAY MOORE DESIGN LANDSCAPE ARCHITECTS P.C.
   
 1333 Wilcox Street
   
 Berkeley, CA 94709







# SYMBOL LEGEND

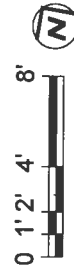
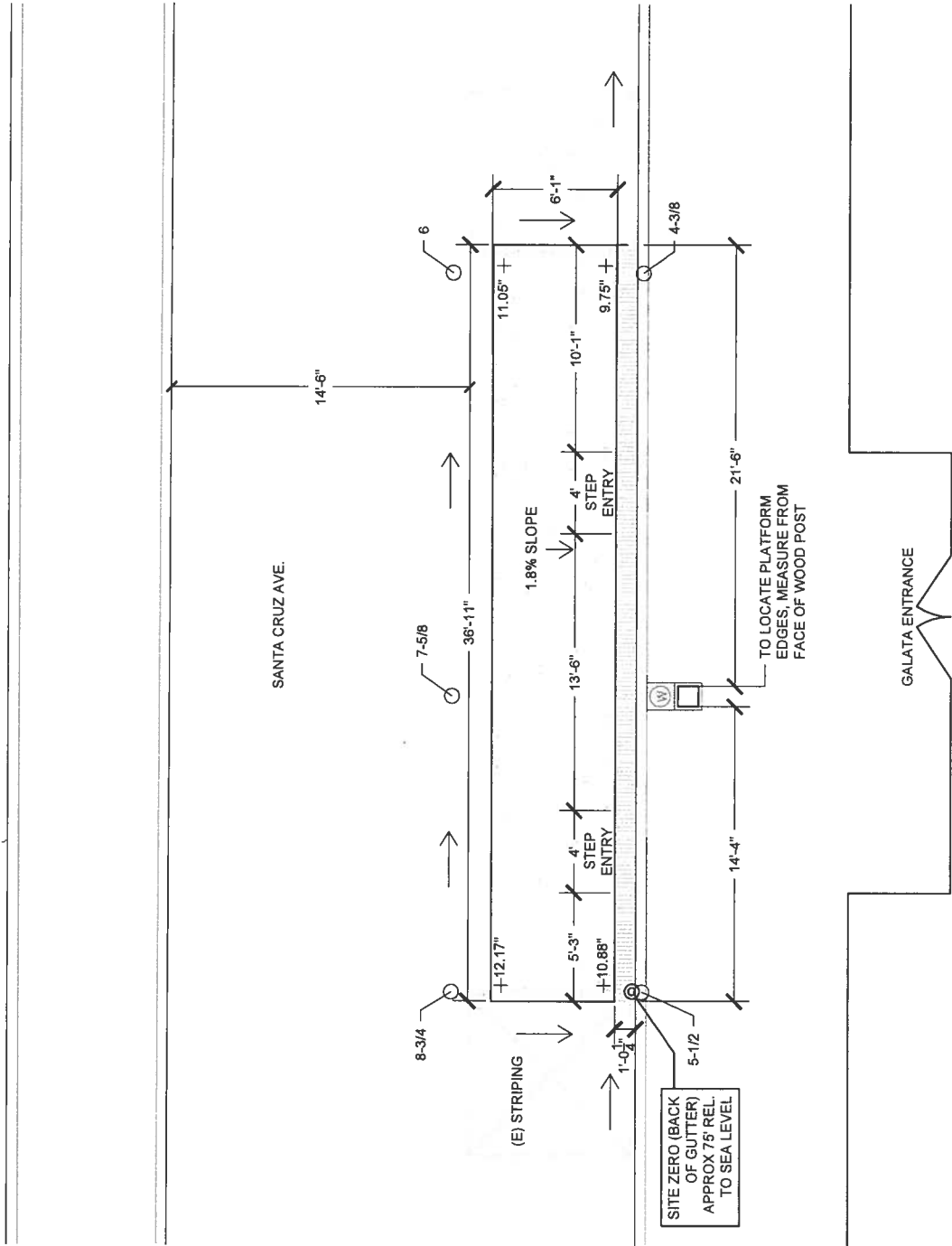
## EXISTING FEATURES

- ELECTRICAL OUTLET
- UTILITY BOX
- IRRIGATION BOX
- WATER METER
- BUS STOP

## ELEVATION POINTS

- SITE ZERO ELEVATION
- EXISTING ELEVATION
- PROPOSED ELEVATION

- WOOD CLAD STREET POLE
- BUS STOP



IAN MOORE DESIGN LANDSCAPE  
 1523 Menlo Park Parkway, CA 94025

Date: 7/25/2016  
 KB

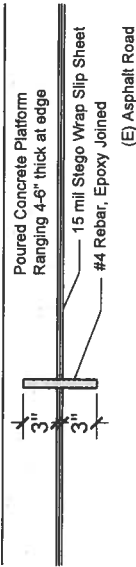
Scale: 1/4" = 1'-0"

Galata Bistro - Concrete Platform Plan

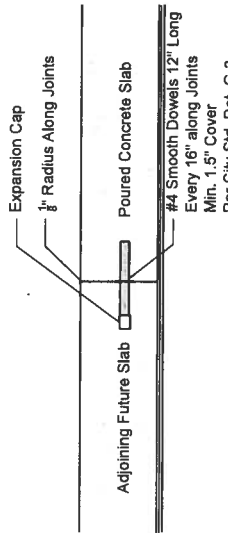
Downtown Menlo Park  
 Santa Cruz Ave. Street Cafes

201 15-07

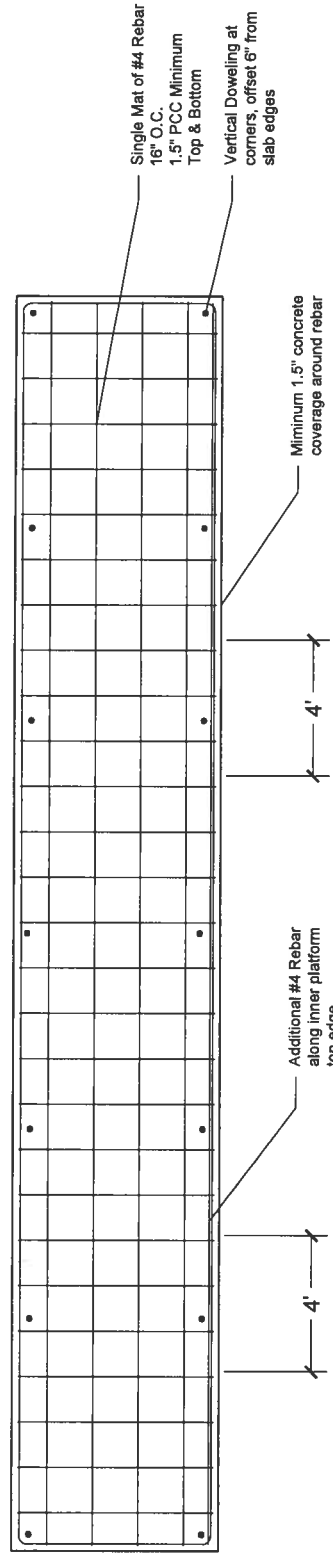
Reinforcement for all street cafe platforms to include vertical doweling between existing asphalt and new concrete. Doweling to be placed by contractor per general specification and in accordance with basic layout provided on plans.



**H** Rebar Doweling Cross-Section  
SCALE: 1-1/2" = 1'-0"



**I** Construction Joint Cross-Section  
SCALE: 1-1/2" = 1'-0"



**J** Rebar Layout Plan  
SCALE: 3/8" = 1'-0"



1923 Menlo Street  
Berkeley, CA 94705

Date: 8/10/2016  
KB

Scale: Varies

Galata Bistro - Concrete Details

Downtown Menlo Park  
Santa Cruz Ave. Street Cafes

15-07

202

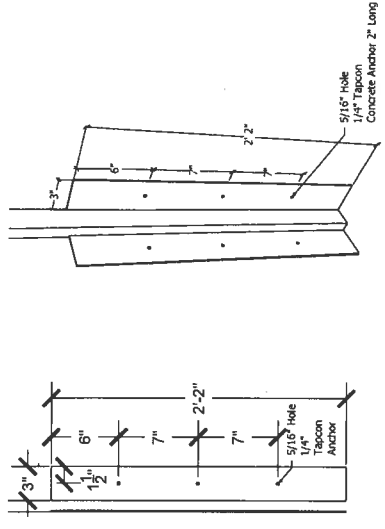




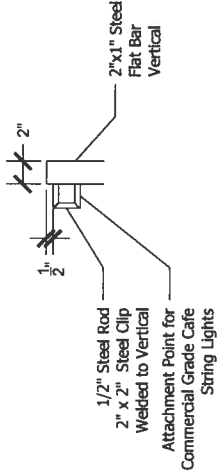


1533 Menlo Street  
Berkeley, CA 94705  
415.833.5493  
ianmooredesign.com

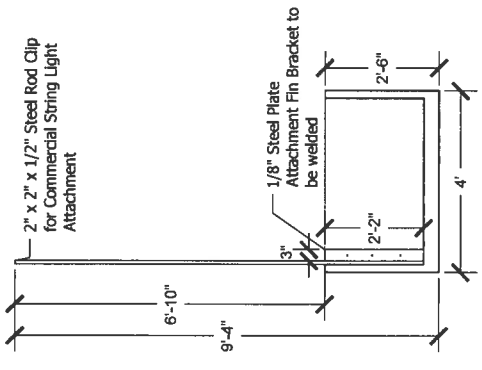
Date: 8/2/2016  
KB



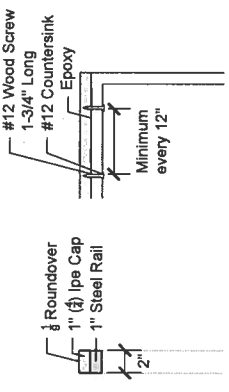
**J** Lighting Attachment to Planter Detail  
SCALE: 1-1/2" = 1'-0" & N.T.S.



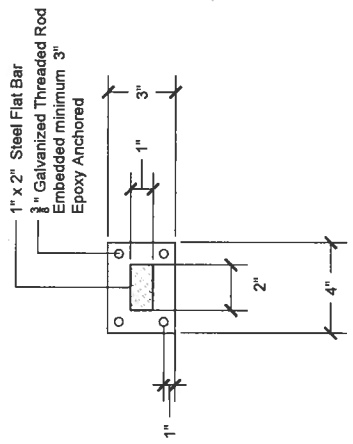
**I** Lighting Clip Detail  
SCALE: 1-1/2" = 1'-0"



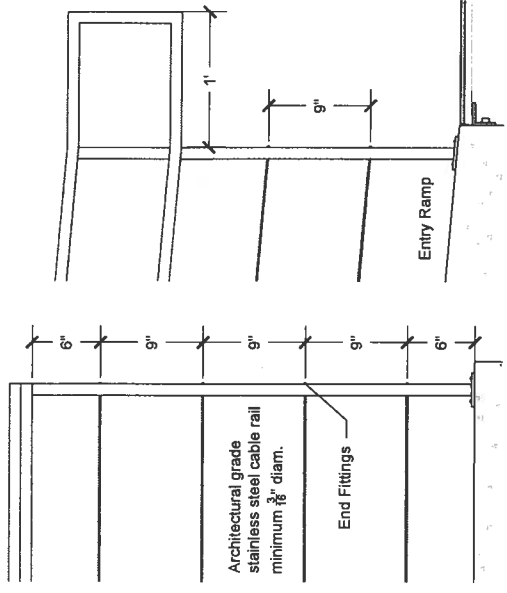
**H** Lighting Post Section-Elevation  
SCALE: 1/2" = 1'-0"



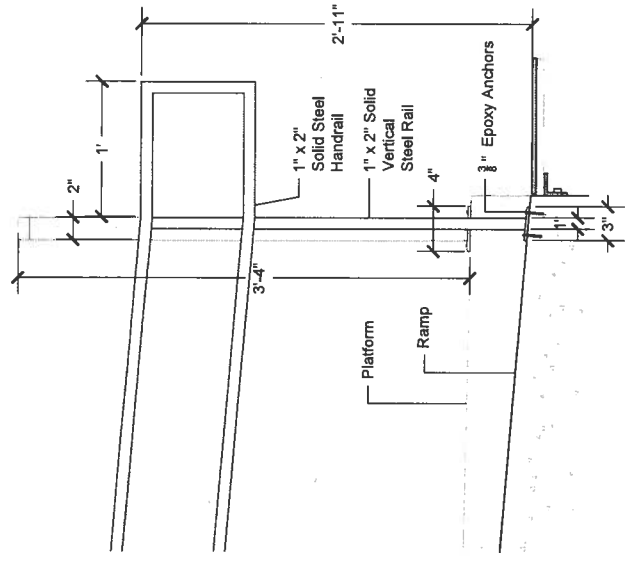
**G** Wood Rail Cap Detail  
SCALE: 1-1/2" = 1'-0"



**F** Railing Foot Plan View  
SCALE: 3" = 1'-0"



**E** Cable Rail Detail  
SCALE: 1-1/2" = 1'-0"



**D** Railing  
SCALE: 1-1/2" = 1'-0"

Scale: Varies

Custom Railing & Lighting Pole Details

Downtown Menlo Park  
Santa Cruz Ave. Street Cafes

402 15-07

Metal Drain Panel



Perforated non-slip ADA Plank over gutters

Metal Railing



Architectural cable  
Wood cap



Stamped Concrete Platform Surface



Running Bond Brick





EXHIBIT B - INVOICE

**INVOICE**

RETURN ONE COPY OF THIS INVOICE WITH YOUR REMITTANCE

**PAYABLE UPON RECEIPT**

Make all checks payable to:

City of Menlo Park/Transportation Division  
701 Laurel Street  
Menlo Park, CA 94025

Invoice to:

Galata Bistro Mediterranean Grill - Attn: Cumhur Ulas  
827 Santa Cruz Avenue  
Menlo Park, CA 94025

Date: 9/23/2016  
Department Public Works  
Phone: 650-330-6740

**Description**

25% of the contract amount for the project: Santa Cruz Street Café Project: Galata

**Galata Bistro Mediterranean Grill**

Total Construction Cost Estimate	<b>\$62,097.15</b>
25% Owner responsibility	<b>\$15,524.29</b>

**Total Due \$15,524.29**



# Galata Bistro

## Additional Improvements

- Planter Boxes to have Maroon color to match business frontage façade
- Black frame with wooden top tables
- Woven back chairs
- Blue sun umbrellas and heaters
- Plants as shown below

