

RECORDING REQUESTED BY  
AND WHEN RECORDED RETURN TO:

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

**2019-048958**

11:00 am 06/25/19 AG Fee: NO FEE  
Count of Pages 7  
Recorded in Official Records  
County of San Mateo  
Mark Church  
Assessor-County Clerk-Recorder



The undersigned declares this instrument to be exempt from Recording Fees (Govt. Code § 27383) and Documentary Transfer Tax (Rev. & Tax. Code §11922).

(Space above this line reserved for Recorder's use only)

**ENCROACHMENT AGREEMENT FOR INSTALLATION OF PRIVATE IMPROVEMENTS WITHIN PUBLIC RIGHT OF WAY AT 3636 HAVEN AVENUE**

THIS AGREEMENT, dated this 18 day of April, 2019, is by and between the City of Menlo Park, a political subdivision of the State of California, hereinafter referred to as "City", and Carrera PRB Company, fee title owner(s) (the "Owner") of the real property commonly known as 3636 Haven Ave., and more particularly outlined in the legal description attached hereto as Exhibit A (the "Property") for the use of, maintenance, and repair of a privately owned fence, stair, park lights and dealership signage within and beneath the public right-of-way (the "ROW") in the City of Menlo Park, depicted approximately in Exhibit B (the "Encroachment Area"), incorporated into this Encroachment Agreement.

**RECITALS**

WHEREAS, Carrera PRB Company is proposing to install fence, stair, park lights, and dealership signage (the "Facility") within City ROW, as depicted on Exhibit B (the "Encroachment Area"), and incorporated into this Encroachment Agreement.

WHEREAS, the Facility has been reviewed, and meets the satisfaction of, all necessary City Departments including approval from the Director of Public Works.

WHEREAS, as a result of the foregoing, the City is requiring an Agreement for the ownership, liability, and maintenance of said Facility prior to the commencement of its construction.

NOW, THEREFORE, it is agreed by and between the City and Owner hereto as follows:

**CONDITIONS OF AGREEMENT**

1. Access

Owner agrees to the following regarding access to the ROW within the footprint of the Facility:

- a. Owner agrees to provide access to the City, and any public utility company, requesting entry to any existing utilities within the footprint of the Facility.

- b. Owner agrees to remove the Facility upon receipt of a 60-day advance notification from the City, at the City's sole and absolute discretion. Costs for removal of the Facility shall be borne by the Owner. Costs for removal of the Facilities shall be borne by the Owner. In the event Owner fails to do so, the City may remove the Facilities at the Owner's cost and Owner shall reimburse City for such costs within ten (10) days of demand.
2. Owner shall be responsible for any and all maintenance and repair of the Facility and the ROW in the vicinity of the Facility and shall keep the Facility and the ROW in good condition and repair, to the satisfaction of the City, at all times.
  3. Owner agrees to obtain all necessary permits from the City for maintenance, removal, repair or replacement of the Facility. Permits may include, but are not limited to: Planning Permits, Building Permits, or Engineering / Encroachment Permits. Additionally, Owner shall obtain all appropriate permits and consents required by applicable law before performing future construction work within the Encroachment Area.
  4. In the event that Owner fails to abide by the terms of this Agreement after fifteen (15) days prior notice, the City may enter and repair the Facility and/or ROW, or, remove the Facility at the Owner's cost and Owner shall reimburse City for such costs within ten (10) days of demand.
  5. The Owner shall indemnify and hold harmless the City, its subsidiary agencies, their officers, agents, employees, and servants from all claims, suits, or actions of every name, kind, and description, brought for, and on account of, injuries to or death of any person or damage to the ROW or property within the ROW resulting from the existence of the Facility or maintenance and/or lack of maintenance of the Facility required by this Agreement. The duty of the Owner to indemnify and hold harmless, as set forth herein, shall include the duty to defend as set forth in Section 2778 of the California Civil Code, provided, however, that nothing herein shall be construed to require the Owner to indemnify the City, its subsidiary agencies, their officers, agents, employees and servants against any responsibility to liability in contravention of Section 2782 of the California Civil Code.
  6. Owner shall not construct any new structures or other permanent improvements within the Encroachment Area without City's prior written approval. City reserves the right to continued use of the Encroachment Area for any, and all, Public purposes, and or, utilities.
  7. The covenants and conditions in this Agreement, including, but not limited to, indemnification of the City, shall run with the land commonly known as 3636 Haven Avenue / APN 055 162 360, burden the Property and bind and inure to the benefit of the City and Owner and their respective successors and assigns.
  8. This Agreement may be executed in counterparts, each of which shall be an original, but all counterparts shall constitute one instrument.
  9. In the event of any litigation arising out of, or to, enforce the terms and provisions of this Agreement, the prevailing party in any such litigation shall be entitled to recover its attorneys' fees and costs of suit.

Attachments: Exhibit A 1.0 AC MOL BEING NLY PTN OF LOT 1 PARCEL MAP VOL 73/100  
 Exhibit B Pictures of improvements within City's ROW

[SIGNATURES APPEAR ON NEXT PAGE]

**SIGNATURES**

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

**OWNER:**

*Charles A. Burton*  
Signature

4/23/2019  
Date

CHARLES A BURTON, PRESIDENT  
Name CARLSEN Motor Cars, INC.  
dba CARLSEN PORSCHE  
& GENERAL PARTNER, CARRERA PRB COMPANY

**APPROVED AS TO FORM:**

*William L. McClure*  
William L. McClure, City Attorney

5/21/19  
Date

**CITY OF MENLO PARK:**

*Justin I. C. Murphy*  
Justin I. C. Murphy, Public Works Director

5/21/19  
Date

**ATTEST:**

*Judi A. Herren*  
Judi A. Herren, City Clerk

5/23/19  
Date

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

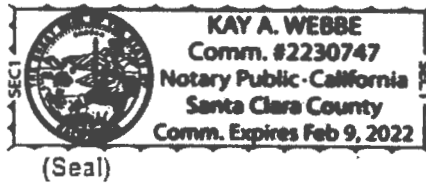
On June 4, 2019 before me, KAY A. WEBBE  
(insert name and title of the officer)

personally appeared CHARLES A. BURTON  
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 Kay Webb





**CALIFORNIA ALL-PURPOSE  
ACKNOWLEDGMENT**

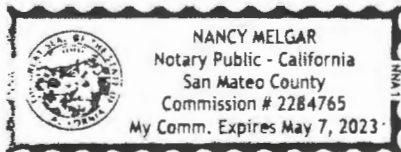
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

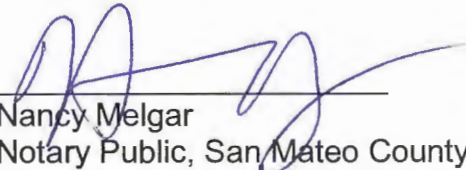
State of California  
County of San Mateo County

On May 21<sup>st</sup>, 2019 before me, Nancy Melgar, Notary Public, personally appeared, Justin I. C. Murphy, 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.



  
Nancy Melgar  
Notary Public, San Mateo County  
Commission #2284765  
Expires 05-07-2023

LEGAL DESCRIPTION FOR PARCEL A

PARCEL A

ALL THAT CERTAIN REAL PROPERTY SITUATED IN THE CITY OF REDWOOD CITY, COUNTY OF SAN MATEO, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEING ALL OF LOT 1 AS SHOWN ON THE PARCEL MAP RECORDED ON OCTOBER 24, 2001 IN BOOK 73 OF MAPS, PAGE 100, SAN MATEO COUNTY RECORDS, TOGETHER WITH ALL OF THE LAND DESCRIBED IN THE GRANT DEED RECORDED MARCH 6, 2015 UNDER DOCUMENT NUMBER 2015-020517, SAN MATEO COUNTY RECORDS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

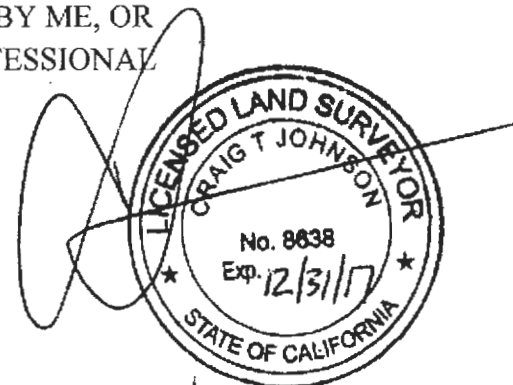
**BEGINNING** AT THE NORTH EAST CORNER OF SAID LOT 1, SAID POINT OF BEGINNING ALSO BEING ON THE SOUTHERLY RIGHT OF WAY LINE FOR HAVEN AVENUE, AS SHOWN ON SAID MAP; THENCE FROM SAID POINT OF BEGINNING ALONG THE PERIMETER OF SAID LOT 1 AND SAID GRANT DEED THE FOLLOWING FOUR (4) COURSES AND DISTANCES:

1. SOUTH 18°41'37" WEST 269.25 FEET TO THE BEGINNING OF A NON-TANGENT CURVE HAVING A RADIUS OF 10153.25 FEET FROM WHICH THE RADIUS THEREOF BEARS SOUTH 18°41'37" WEST ;
2. ALONG SAID NON-TANGENT CURVE THROUGH A CENTRAL ANGLE OF 01°38'57" AN ARC LENGTH OF 292.25 FEET;
3. NORTH 17°02'39" WEST 269.25 FEET OT THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 10422.50 FEET, FROM WHICH THE RADIUS THEREOF BEARS SOUTH 17°02'39" EAST;
4. ALONG SAID NON-TANGENT CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 01°38'57" AN ARC LENGTH OF 300 FEET TO THE POINT OF BEGINNING FOR THIS DESCRIPTION.

SAID LAND CONSISTS OF 2.441 ACRES, MORE OR LESS

END OF DESCRIPTION

THIS REAL PROPERTY DESCRIPTION HAS BEEN PREPARED BY ME, OR UNDER MY DIRECTION, IN CONFORMANCE WITH THE PROFESSIONAL LAND SURVEYOR ACT.



alsin

CITY OF MENLO PARK  
ENGINEERING/PUBLIC WORKS DEPARTMENT  
**EXHIBIT B:**

Improvements requested by Carlsen Porsche along 3636 Haven Avenue within City of Menlo Park right-of-way:



Fence, Stair, Park lights and Dealership signage along 3636 Haven Avenue frontage.