

AMENDED AND RESTATED CONDITIONAL DEVELOPMENT PERMIT

1601 Willow Road

1. GENERAL INFORMATION:

- 1.1 Applicant: Facebook, Inc.
- 1.2 Property Owner: Wilson Menlo Park Campus, LLC (and its successors and assigns)
- 1.3 Nature of Project: Amended and Restated Conditional Development Permit, 1601 Willow Road Development Agreement, Heritage Tree Removal Permits and Environmental Impact Report (EIR) for the implementation of a vehicular trip cap to accommodate an increase in employees at the Project site beyond 3,600 employees (Project).
- 1.4 Property Location (Project site): 1601 Willow Road
- 1.5 Assessor's Parcel Numbers: The Property has been merged into one parcel; however, the County Assessor's Office has not yet assigned an Assessor's Parcel Number. Previous Assessor's Parcel Numbers associated with the Property include: 055-411-110, 055-411-120, 055-411-130 and 055-411-140.
- 1.6 Area of Property: 56.9 acres; pursuant to Section 8.9 of this Amended and Restated Conditional Development Permit, the Applicant shall diligently pursue incorporation of the Caltrans remainder parcel consisting of 0.45 acres as part of the Project site for a total of 57.35 acres.
- 1.7 Zoning: M-2-X (General Industrial, Conditional Development)
- 1.8 Previous Entitlements Superseded: The Amended and Restated Conditional Development Permit and the 1601 Willow Road Development Agreement supersede the Conditional Development Permit and associated Master Site Plan and Development Agreement for the Project site granted to Sun Microsystems in 1992.
- 1.9 Notwithstanding anything to the contrary herein, if the Project-specific conditions set forth in this Amended and Restated Conditional Development Permit are not satisfied by the Applicant and/or Property Owner (as applicable), the Amended and Restated Conditional Development Permit shall remain in full force and effect except that the right to exceed the Density Condition, as defined in Section 7.1.1, shall terminate.

- 1.10 The Applicant's and Property Owner's obligations as set forth herein are expressly conditioned on the resolution of all legal challenges, if any, to the EIR and/or the Project. If no litigation or referendum is commenced challenging the EIR and/or the Project, the Applicant's and Property Owner's obligations will vest on the passing of all applicable statutes of limitation.
- 1.11 Notwithstanding anything to the contrary herein, the Applicant's rights and obligations under this Amended and Restated Condition Development Permit shall terminate on the earlier of the Applicant vacating the Property or the expiration or earlier termination of the Lease between Wilson Menlo Park Campus, LLC and the Applicant dated as of February 7, 2011 (the earlier of such dates, the Applicant Termination Date) unless the Applicant is then the Property Owner, in which case, the Applicant shall retain the rights and obligations of the "Property Owner" so long as it remains the "Property Owner".

2. DEVELOPMENT STANDARDS:

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

3. USES:

- 3.1 The campus development is comprised of nine one to three-story buildings consisting of office space and associated amenity buildings, totaling 1,036,000

square feet. Permitted uses in the office and associated amenity buildings shall include the following:

- 3.1.1 Administrative and professional offices, excluding medical/dental offices serving the general population;
 - 3.1.2 Medical and dental uses to serve on-site employees and contractors is permissible;
 - 3.1.3 General industrial uses including but not limited to warehousing, manufacturing, printing and assembling;
 - 3.1.4 Amenities and related uses intended to serve employees, contractors, and visitors, such as neighborhood-serving convenience retail, banks, community facility space, and restaurants, including those that serve alcoholic beverages;
 - 3.1.5 Outdoor seating, temporary structures, and events associated with those uses listed above, subject to approved building permits and Fire District permits, as applicable;
 - 3.1.6 Activities involving the use of hazardous materials, such as emergency power generators, incidental to those uses listed above and subject to an approved Hazardous Materials Business Plan, Building Permit, San Mateo County Health Permit, and Menlo Park Fire Protection District permit; and
 - 3.1.7 Cellular telecommunications facilities if fully screened or integrated into the design of the building.
- 3.2 Conditional uses listed in the M-2 zoning district may be conditionally permitted through a use permit process, unless otherwise allowed in Section 3.1.

4 SIGNS:

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

5. RECORDATION:

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

6. MODIFICATIONS:

6.1 Modifications to the approved Project Plans may be considered according to the following:

6.1.1 Substantially Consistent Modifications, which include any changes to or modifications of any portion of the Project which Applicant and/or Property Owner make or propose to make to the Project, provided such changes or modifications are in substantial compliance with and/or substantially consistent with the approved plans and the Project approvals, as determined by the City Manager (in his/her reasonable discretion). Without limiting the foregoing, non-substantial modifications to the Project which do not affect permitted uses, density or intensity of use, restrictions and requirements relating to subsequent discretionary actions, monetary obligations or conditions or covenants limiting or restricting the use of the Property or constitute material changes shall be considered to be Substantially Consistent Modifications.

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

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

recommendation to the City Council. City Council shall have final authority to approve Major Modifications.

6.2 Revisions to the Project which involve relaxation of the development standards identified in Section 2, material changes to the uses identified in Section 3, exceedance of the signage maximum square footages identified in Section 4, or modifications to the conditions of approval identified in Sections 8, 9 and 10 (other than changes deemed to be Substantially Consistent Modifications pursuant to Section 6.1.1 that can be authorized by the City Manager or Minor Modifications pursuant to Section 6.1.2) , constitute Conditional Development Permit amendments that require public hearings by the Planning Commission and City Council. Such revisions may also require modifications to the plans and/or 1601 Willow Road Development Agreement. Any application for amendment shall be made by the Property Owner and/or Applicant, in writing, to the Planning Commission. The Planning Commission shall then forward its recommendation to the City Council for revision(s) to the Amended and Restated Conditional Development Permit.

7. EMPLOYEE CAP/TRIP CAP:

7.1. To minimize environmental and community impacts resulting from utilization of the Project site, the Applicant, until the Applicant Termination Date, and, thereafter, the Property Owner shall enforce either an employee cap or a trip cap.

7.1.1. The employee cap allows a maximum of 3,600 employees to occupy the Project site at any time subject to a Transportation Demand Management (TDM) program to reduce vehicle trips by 25 percent (collectively, Density Condition).

7.1.2. If the Applicant or the Property Owner elects to exceed the Density Condition, the Applicant and/or the Property Owner (as applicable) shall be subject to a trip cap that sets the maximum number of morning and evening peak period trips and daily trips (Trip Cap), and shall be subject to the terms of the 1601 Willow Road Development Agreement. If the 1601 Willow Road Development Agreement terminates, the right to the employee density increase terminates as well. The parameters and requirements of the Trip Cap are specified in the Trip Cap Monitoring and Enforcement Policy, which is included as Exhibit A and incorporated herein.

8. PROJECT SPECIFIC CONDITIONS - GENERAL:

8.1. Indemnity by Property Owner: Property Owner shall indemnify, defend and hold harmless City, and its elective and appointive boards, commissions, officers, agents, contractors, and employees (collectively, City Indemnified Parties) from any and all claims, causes of action, damages, costs or expenses (including reasonable attorneys' fees) arising out of or in connection

with, or caused on account of, the development and occupancy of the Project, any Approval with respect thereto, or claims for injury or death to persons, or damage to property, as a result of the operations of Owner or its employees, agents, contractors, representatives or tenants with respect to the Project (collectively, Property Owner Claims); provided, however, that Owner shall have no liability under this Section for Property Owner Claims that (a) arise from the gross negligence or willful misconduct of any City Indemnified Party, or (b) arise from, or are alleged to arise from, the repair or maintenance by the City of any improvements that have been offered for dedication by the Applicant and/or Property Owner and accepted by the City.

- 8.2. Indemnity By Applicant: Applicant shall indemnify, defend and hold harmless the City Indemnified Parties from any and all claims, causes of action, damages, costs or expenses (including reasonable attorneys' fees) arising out of or in connection with, or caused on account of, the development and occupancy of the Project, any Approval with respect thereto, or claims for injury or death to persons, or damage to property, as a result of the operations of Applicant or its employees, agents, contractors, representatives or tenants with respect to the Project (collectively, Applicant Claims); provided, however, that the Applicant shall have no liability under this Section for Applicant Claims that (a) arise from the gross negligence or willful misconduct of any City Indemnified Party, or (b) arise from, or are alleged to arise from, the repair or maintenance by the City of any improvements that have been offered for dedication by the Applicant and/or the Property Owner and accepted by the City or (c) are attributable to events which occur after the Applicant Termination Date.
- 8.3. Project Plans: Development of the Project shall be substantially in conformance with the following plans submitted by Gensler, BKF, CMG, KEMA and Fehr and Peers dated received by the Planning Division on April 20, 2012, consisting of 14 plan sheets, recommended for approval to the City Council by the Planning Commission on May 7, 2012, and approved by the City Council on May 29, 2012, except as modified by the conditions contained herein and in accordance with Section 6 (Modifications) of this document.
- 8.4. Generator Screening: Consistent with Project Plans, the Applicant shall screen the two existing generators that do not have screening prior to building permit final inspection for undercrossing improvements, to the satisfaction of the Community Development Director.
- 8.5. Emergency Vehicle Access Easement: The Applicant shall record an Emergency Vehicle Access Easement (EVAE) inclusive of the private ring road prior to building permit final inspection for the undercrossing improvements, to the satisfaction of the City Building Official.
- 8.6. Refuse and Recyclables: All garbage bins and carts shall be located within a trash enclosure that meets the requirements of the solid waste disposal provider (Recology), and City Public Works Department and Planning Division

- within 90 days of the effective date of the 1601 Willow Road Development Agreement, to the satisfaction of the Public Works Director. If additional trash enclosures are required to address the on-site trash bin and cart storage requirements of the Applicant, a complete building permit submittal shall be submitted inclusive of detailed plans, already approved by Recology, for review and approval of the Planning Division and the Public Works Department prior to each building permit issuance.
- 8.7. Leadership in Energy and Environmental Design: For any building improvements undertaken within five years of the effective date of the Amended and Restated Conditional Development Permit, the Applicant shall diligently pursue Leadership in Energy and Environmental Design (LEED) Gold for Commercial Interiors certification from the United States Green Building Council (USGBC), consistent with USGBC 2009 standards, to the satisfaction of the Community Development Director.
- 8.8. Alcohol and Beverage Control: The Applicant, until the Applicant Termination Date, and, thereafter, the Property Owner shall ensure that all on-site suppliers of alcoholic beverages apply for and receive approval of the appropriate Alcohol and Beverage Control (ABC) license prior to any on-site alcohol sales and/or service, to the satisfaction of the Community Development Director.
- 8.9. Caltrans Remainder Parcel: The Applicant shall diligently pursue incorporation of the Caltrans remainder parcel (portion of APN: 055-411-090) as a part of the Project site. If incorporation of the remainder parcel with the Project site is not completed within three years of recordation of the 1601 Willow Road Development Agreement, the Applicant shall provide a letter from Caltrans indicating the proposed timing for incorporation of the remainder parcel into the Project site, or indicating why incorporation is not feasible, to the satisfaction of the Public Works Director.
- 8.10. Landscape Parking Reserve: If the Applicant and/or the Property Owner seeks to convert all or a portion of the identified landscape parking reserve to parking, a complete grading and drainage plan shall be submitted illustrating that there will be no net increase in impervious area and/or stormwater runoff on the Property, to the satisfaction of the Public Works Director. In addition, if lighting is proposed as part of the conversion of the landscape parking reserve, a complete lighting plan shall be submitted that illustrates no net increase in light spillover to adjacent natural areas, to the satisfaction of the Community Development Director.
- 8.11. Police Reimbursement for Protests and Dignitary Visits: Within three months of the effective date of the 1601 Willow Road Development Agreement, the Applicant shall execute a cost recovery agreement with the City to the satisfaction of the City Attorney for all security costs related to protests and dignitary visits. Such a cost reimbursement agreement shall ensure that protest and dignitary-related activities would not result in a General Fund

expenditure increase for the City, to the satisfaction of the Finance Director and Police Chief.

- 8.12. Parking Intrusion: If the Applicant elects to exceed the Density Condition and be subject to the Trip Cap, the Applicant shall actively work to prevent the parking of employee and visitor vehicles (whose occupant(s)' final destination is the Project site) in adjacent neighborhoods, including, but not limited to, the Belle Haven neighborhood, on other public streets in the City, and on public streets in the City of East Palo Alto to the satisfaction of the Public Works Director. The City reserves the right to require monitoring of neighborhood parking intrusions consistent with the specifications of the Trip Cap Monitoring and Enforcement Policy, attached hereto as Exhibit A and incorporated herein.
- 8.13. Special Event Tents: The Applicant, until the Applicant Termination Date, and, thereafter, the Property Owner shall obtain required building and Fire District permits for erection of special event tents requiring such permits, to the satisfaction of the Building Official.
- 8.14. Levee Maintenance: The Applicant, until the Applicant Termination Date, and, thereafter, the Property Owner shall periodically maintain and improve the levees in order to ensure that the condition of the levees remains adequate, to the satisfaction of the Public Works Director. In addition, the Applicant, until the Applicant Termination Date, and, thereafter, the Property Owner shall cooperate with Federal efforts to address repair and reconstruction of adjacent levees, to the satisfaction of the Public Works Director.
- 8.15. Bayside Landscaping: When performing landscape improvements to those portions of the Project site that abut the San Francisco Bay, the Applicant, until the Applicant Termination Date, and, thereafter, the Property Owner shall minimize potential stormwater runoff through the use of appropriate techniques, such as grassy swales, rain gardens, and other Low Impact Development (LID) measures, and will consult with a qualified environmental consultant familiar with California native plant communities, select suitable natives for landscaping and ensure that plants and trees chosen are compatible with the adjoining wildlife habitats, to the satisfaction of the Public Works Director.

9. PROJECT SPECIFIC CONDITIONS – UNDERCROSSING IMPROVEMENTS

- 9.1 Sequencing Undercrossing Improvements: The following outlines the basic sequencing of required permits related to the required undercrossing improvements, as illustrated on plan sheet EL.2, Conceptual Undercrossing Plan.
 - a. City Approval: Apply for City approval of the undercrossing improvements (from the East Campus ring road all the way to the sidewalk in front of 1401 Willow Road)

- i. Submit complete set of undercrossing improvement plans to the City within 60 days of the effective date of the 1601 Willow Road Development Agreement.
 - b. Outside Agency Approval: Submit applications to outside agencies within 30 days of City approval of undercrossing improvement plans and diligently pursue approvals from those outside agencies. Applicable agencies with permitting authority for the undercrossing include:
 - i. Caltrans;
 - ii. Bay Commission Development Corporation (BCDC);
 - iii. SamTrans/Joint Powers Board (JPB); and
 - iv. Other Agencies with Jurisdiction
 - c. Construction: Construct the improvements within 180 days of the last approval by outside agencies with permitting authority, subject to acceptable delays, including, but not limited to, weather, the presence of nesting birds during nesting season, and the presence of burrowing owls, to the satisfaction of the Public Works Director.
- 9.2 Caltrans Approval: Prior to demolition, grading and drainage, or building permit issuance for the undercrossing improvements, the Applicant shall submit all necessary improvement plans and documents required by Caltrans for work associated with projects under Caltrans' jurisdiction, including, but not limited to, the undercrossing improvements, landscaping, and associated improvements. The plans shall be subject to review and approval of the Public Works Director prior to submittal to Caltrans. The Applicant shall diligently pursue permitting approval to the satisfaction of the Public Works Director. Upon Caltrans approval, the Applicant and/or Property Owner shall install the improvements and enter into a long-term maintenance agreement with the City for these improvements prior to building permit final inspection of the undercrossing improvements.
- 9.3 SamTrans/Joint Powers Board (JPB): Prior to demolition, grading and drainage, and building permit issuance for the undercrossing improvements, the Applicant shall submit necessary improvement plans to SamTrans/JPB for work associated with the project under their jurisdiction, including, but not limited to design and installation of a safe at-grade pedestrian crossing of the existing railroad. The plans shall be submitted to the Public Works Director for review and approval prior to submittal to SamTrans/JPB. The Applicant shall diligently pursue permitting approval to the satisfaction of the Public Works Director. Upon SamTrans/JPB approval, the Applicant shall install the improvements to the satisfaction of SamTrans/JPB.
- 9.4 Bay Conservation Development Commission: Prior to demolition, grading and drainage, and building permit issuance for the undercrossing improvements, the Applicant shall submit all necessary improvement plans and documents required by Bay Conservation and Development Commission (BCDC) for work associated with the Project under BCDCs' jurisdiction, including, but not limited to, the multi-use Shoreline Path adjustments and improvements, public amenity areas and associated landscaping. The plans shall be submitted to

- the Public Works Director for review and approval prior to submittal to BCDC. The Applicant shall diligently pursue permitting approval to the satisfaction of the Public Works Director. Upon BCDC approval, the Applicant shall install the improvements to the satisfaction of BCDC.
- 9.5 Bay Trail Project Coordination: The Applicant shall work cooperatively with the Bay Trail Project on the design of the proposed undercrossing improvements to ensure that the undercrossing is compliant with the Bay Trail requirements to the maximum extent practicable, to the satisfaction of the Public Works Director.
- 9.6 Public Access Easements: Concurrent with complete plan set submittal for construction of the undercrossing improvements, the Applicant shall submit a plat and legal description for public access easements for utilization of the undercrossing and public amenity areas (including, but not limited to view platforms, and seating areas) to the satisfaction of the Public Works Director. Prior to building permit final inspection for the undercrossing improvements, the Applicant shall record public access easements executed by the Property Owner for utilization of the undercrossing and public amenity areas, inclusive of access points on both side of the undercrossing, to the satisfaction of the Public Works Director.
- 9.7 Heritage Tree Removals: Prior to demolition, grading and drainage, and building permit issuance, the applicable heritage trees shall be removed, subject to the satisfaction of the Public Works Director. All heritage tree removals shall comply with condition of approval 10.6 relating to nesting bird protection, to the satisfaction of the Public Works Director.
- 9.8 Heritage Tree Protection: Concurrent with demolition, grading and drainage, and building permit submittal for the undercrossing improvements, the Applicant shall submit a heritage tree preservation plan, detailing the location of and methods for all tree protection measures, as described in the arborist report. The project arborist shall submit a letter confirming adequate installation of the tree protection measures. The Applicant shall retain an arborist throughout the term of the project (demolition through approval of final building permit inspection for completion of the undercrossing improvements), and the project arborist shall submit periodic inspection reports to the Building Division. The heritage tree preservation plan shall be subject to review and approval by the Planning Division prior to demolition permit issuance.
- 9.9 Utility Installations: Concurrent with demolition, grading and drainage, and building permit submittal for the undercrossing improvements, the Applicant shall submit a plan for any new utility installations or upgrades for review and approval of the Community Development Director and Public Works Director prior to each permit issuance. Landscaping shall properly screen all utility equipment that is installed outside of a building and cannot be placed underground, subject to Menlo Fire, West Bay Sanitary District, Pacific Gas

and Electric and other agency requirements regarding utility clearances and screening. The plan shall show exact locations of all meters, back flow prevention devices, transformers, junction boxes, relay boxes, and other equipment boxes. The screening shall be compatible and unobtrusive and subject to the review and approval of the Community Development Director prior to building permit issuance.

- 9.10 Grading and Drainage: Concurrent with demolition, grading and drainage, and building permit submittal for the undercrossing improvements, the Applicant shall submit a Grading and Drainage Plan, including an Erosion and Sedimentation Control Plan, for review and approval of the Public Works Director prior to building permit issuance. The Grading and Drainage Plan shall be prepared based on the City's Grading and Drainage Plan Guidelines and Checklist, the City approved Hydrology Report for the Project, and the Project Applicant Checklist for the National Pollution Discharge Elimination System (NPDES) Permit Requirements to the satisfaction of the Public Works Director.
- 9.11 Landscape Plan: Concurrent with demolition, grading and drainage, and building permit submittal for the undercrossing improvements, the Applicant shall submit a detailed on-site landscape plan, including the size, species, and location, and an irrigation plan for review and approval by the Community Development Director and Public Works Director, prior to building permit issuance. The landscape plan shall include all onsite landscaping, adequate sight distance visibility, screening for outside utilities with labels for the utility boxes sizes and heights, fencing inclusive of fence height and materials, and documentation confirming compliance with the Water Efficient Landscaping Ordinance (Municipal Code Chapter 12.44), if applicable. The landscape plans shall illustrate the utilization of a plant palette consistent with the "Save the Bay" plant list. Furthermore, the landscape plan shall include an appropriate mix of native species to complement the nearby Don Edwards San Francisco Bay National Wildlife Refuge and shall be reviewed and approved by the Community Development Director and Public Works Director prior to building permit issuance.
- 9.12 Lighting: Concurrent with demolition, grading and drainage, and building permit submittal for the undercrossing improvements, the Applicant shall submit pedestrian scale lighting plans to ensure safe access and use of the undercrossing, to the satisfaction of the Community Development Director and Public Works Director.
- 9.13 Comply with Applicable Requirements: Prior to issuance of each demolition, grading and drainage, and building permit for the undercrossing improvements, the Applicant shall comply with all requirements of the Building Division, Engineering Division, and Transportation Division that are directly applicable to the project, to the satisfaction of the Community Development Director.

- 9.14 Building Construction Street Impact Fee: Prior to issuance of each demolition, grading and drainage, and building permit for undercrossing improvements, the Applicant shall pay the applicable Building Construction Street Impact Fee in effect at the time of payment to the satisfaction of the Public Works Director.
- 9.15 Utility and Communication Provider Requirements: Prior to issuance of each demolition, grading and drainage, and building permit for the undercrossing improvements, the Applicant shall comply with all regulations of Pacific Gas and Electric, West Bay Sanitary District, and communication providers (i.e., AT&T and Comcast) that are directly applicable to the project, to the satisfaction of the Community Development Director.
- 9.16 Stormwater Operations and Maintenance Agreement: Prior to issuance of each demolition, grading and drainage, and building permit, the Applicant and Property Owner shall enter into an Operations and Maintenance Agreement with the City or amend the existing Operations and Maintenance Agreement with the City. The Operations and Maintenance Agreement shall establish a self-perpetuating drainage system maintenance program (to be managed by the property owner or property manager) that includes annual inspections of any infiltration features and stormwater detention devices (if any), and drainage inlets, flow through planters, and other Best Management Practices (BMPs). Any accumulation of sediment or other debris shall be promptly removed. Funding for long-term maintenance of all BMPs must be specified in the Operations and Maintenance Agreement. The Operation and Maintenance Agreement shall be subject to review and approval of the City Attorney and the Public Works Director and shall be recorded prior to building permit final inspection. An annual report documenting the inspection and any remedial action conducted shall be submitted to the Public Works Director for review.
- 9.17 Construction and Demolition Debris: Prior to each demolition permit and/or building permit issuance, the Applicant shall comply with the requirements of Chapter 12.48 (Salvaging and Recycling of Construction and Demolition Debris) of the City of Menlo Park Municipal Code, subject to review and approval by the Building Official.
- 9.18 Erosion and Sedimentation Control: Concurrent with demolition, grading and drainage, and building permit submittal for the undercrossing improvements, the Applicant shall submit a plan for construction of safety fences around the periphery of the construction area and a demolition Erosion and Sedimentation Control Plan. The fences and erosion and sedimentation control measures shall be installed according to the plan prior to commencing construction. The plans shall be reviewed and approved by the Building Official prior to issuance of a demolition permit.
- 9.19 Dust Control: Concurrent with each demolition, grading and drainage, and building permit submittal, the Applicant shall prepare a dust control plan. The

plan shall be reviewed and approved by the Building Official prior to demolition permit issuance. To reduce particulate matter emissions during project demolition, excavation and construction phases, the project contractor(s) shall comply with the dust control strategies developed by the Bay Area Air Quality Management District (BAAQMD). The Applicant shall include in all construction contracts the following requirements, or measures shown to be equally effective. These requirements shall be implemented during the demolition, grading, and construction phases to the satisfaction of the Building Official.

- All trucks hauling soil, sand, and other loose construction and demolition debris from the site shall be covered, or all such trucks shall maintain at least two feet of freeboard.
- All exposed or disturbed soil surfaces in active construction areas shall be watered at least twice daily.
- All unpaved parking areas and staging areas shall be paved, watered three times daily, or treated with (non-toxic) soil stabilizers.
- All paved parking areas and staging areas shall be swept daily (with water sweepers).
- Mud and dirt carried onto paved streets from the construction areas shall be cleaned daily.
- Exposed stockpiles (i.e., dirt, sand, etc.) shall be enclosed, covered, watered twice daily or non-toxic soil binders applied.
- Traffic speeds shall be limited on unpaved roads to 15 mph.
- Sandbags or other erosion control measures shall be used to prevent silt runoff to public roadways.
- In graded areas in which construction activities will not occur for a period of more than 30 days, a temporary vegetative cover shall be planted within 5 days of completion of grading.
- Wheel washers shall be installed for all exiting trucks, or truck tires and tracks of all trucks and equipment leaving the site shall be washed.
- Wind breaks at the windward side(s) of construction areas shall be installed.
- Excavation and grading activity shall be suspended when winds (instantaneous gusts) exceed 25 miles per hour over a 30-minute period or more.
- To the extent possible, the area subject to excavation, grading, and other dust-generating construction activity shall be limited to only one activity.

9.20 Landscape Installation: Prior to building permit final inspection for the undercrossing improvements, landscape shall be installed on the applicable parcel/easement areas per the approved landscape plan, subject to review and approval by the Community Development Director and Public Works Director.

10. PROJECT SPECIFIC CONDITIONS – MITIGATION MEASURES:

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

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

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

If Caltrans does not approve the intersection improvements proposed within five years from the 1601 Willow Road Development Agreement effective date, and the Applicant demonstrates that it has worked diligently to pursue Caltrans approval to the satisfaction of the Public Works Director, in his/her sole discretion, then the Applicant shall be relieved of responsibility to construct the improvement and the bond shall be released by the City. Construction of this improvement by the Applicant shall count as a future credit toward payment of the Transportation Impact Fee (TIF) payable by the

Applicant pursuant to the TIF Ordinance. In the event any portion of the intersection improvements is eligible for funding in whole or in part by the City/County Association of Governments (C/CAG) such improvements may be deferred by the City in its sole discretion to pursue such funding and the Applicant may be relieved of its responsibility to construct such portion of the intersection improvements as may be funded by C/CAG, or such responsibility may be deferred until eligibility for funding is determined. (MM-TR-1.1.a)

- 10.2 Willow Road and Middlefield Road Improvement: The proposed mitigation measure for the intersection of Willow Road and Middlefield Road includes restriping an existing northbound through lane to a shared through and right-turn lane. Implementing this improvement would require traffic signal modifications, removal of the existing triangular median on the southeast corner of the intersection, along with realignment of the crosswalks on the south and east side of the intersection.

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

Complete plans shall include all necessary requirements to construct the improvements in the public right-of-way, including but not limited to, grading and drainage improvements, utility relocations, traffic signal relocations/modifications, tree protection requirements, and signage and striping modifications. The plans shall be subject to review and approval of the Public Works Director. Upon obtaining approval from the City, the Applicant shall construct the improvements within 180 days of the encroachment permit approval date by the City. Construction of these improvements is not eligible for a Transportation Impact Fee (TIF) credit. (MM-TR-1.1.b)

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

to the intersection of University Avenue and Bayfront Expressway) is a feasible, partial mitigation measure for the impact. This partial mitigation measure would require paving, grading, drainage and signing and striping improvements.

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

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

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

- 10.4 Bayfront Expressway and Chrysler Drive Improvements: The proposed mitigation measures for the intersection of Bayfront Expressway and Chrysler Drive include restriping the existing eastbound right turn lane to a shared left-right-turn lane.

Prior to the 1601 Willow Road Development Agreement approval, the Applicant shall prepare a construction cost estimate for the proposed mitigation measures at the intersection of Bayfront Expressway and Chrysler

Drive for review and approval of the Public Works Director. Within 90 days of the effective date of the 1601 Willow Road Development Agreement, the Applicant shall provide a bond for improvements in the amount equal to the estimated construction cost for the intersection improvements plus a 30 percent contingency. Within 180 days of the effective date of the 1601 Willow Road Development Agreement, the Applicant shall submit complete plans to construct the intersection improvements.

The plans shall be subject to review and approval of the Public Works Director prior to submittal to Caltrans. The Applicant shall complete and submit an encroachment permit for approval by the City and Caltrans prior to construction of the intersection improvements. The Applicant shall construct the improvements within 180 days of receiving approval from Caltrans.

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

- 10.5 Marsh Road and Bayfront Expressway: The proposed mitigation measures for the intersection of Marsh Road and Bayfront Expressway include restriping the westbound approach from a shared left-through-right lane to a shared left-through lane and a shared through-right lane.

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

Complete plans shall include all necessary requirements to construct the improvements in the public right-of-way, including but not limited to, grading and drainage improvements, utility relocations, traffic signal relocations/modifications, tree protection requirements, and signage and striping modifications. The plans shall be subject to review and approval of

the Public Works Director prior to submittal to Caltrans. The Applicant shall complete and submit an encroachment permit for approval by the City and Caltrans prior to construction of the intersection improvements. The Applicant shall construct the improvements within 180 days of receiving approval from Caltrans.

If Caltrans does not approve the intersection improvements proposed within five years from the 1601 Willow Road Development Agreement effective date, and the Applicant demonstrates that it has worked diligently to pursue Caltrans approval to the satisfaction of the Public Works Director, in his/her sole discretion, then the Applicant shall be relieved of responsibility to construct the improvement and the bond shall be released by the City after the Applicant submits funds equal to the updated estimated construction cost to the City. The City may use the funds for other transportation improvements, including, but not limited to, bicycle, pedestrian, transit improvements, and TDM programs, throughout the City, with priority given to those portions of the City east of US 101. Construction of these improvements is not eligible for a Transportation Impact Fee (TIF) credit. (MM-TR-6.2.a)

- 10.6 Marsh Road and US 101 NB Ramps: The proposed mitigation measures for the intersection of Marsh Road and US 101 Northbound off-ramp include widening the northbound off-ramp on the western side of the approach and adding an additional left-turn lane along with adding a second right-turn lane by restriping one of the existing left-turn lanes. This improvement will require relocation of existing traffic signal poles, utility relocation and reconstruction of the curb ramp on the southwest corner of the intersection.

Prior to the 1601 Willow Road Development Agreement approval, the Applicant shall prepare a construction cost estimate for the proposed mitigation measures at the intersection of Marsh Road and US 101 Northbound off-ramp for review and approval of the Public Works Director. Within 90 days of the effective date of the 1601 Willow Road Development Agreement, the Applicant shall provide a bond for improvements in the amount equal to the estimated construction cost for the intersection improvements plus a 30 percent contingency. Within 180 days of the effective date of the 1601 Willow Road Development Agreement, the Applicant shall submit complete plans to construct the intersection improvements.

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

If Caltrans does not approve the intersection improvements proposed within five years from the 1601 Willow Road Development Agreement effective date, and the Applicant demonstrates that it has worked diligently to pursue Caltrans approval to the satisfaction of the Public Works Director, in his/her sole discretion, then the Applicant shall be relieved of responsibility to construct the improvement and the bond shall be released by the City after the Applicant submits funds equal to the updated estimated construction cost to the City. The City may use the funds for other transportation improvements, including, but not limited to, bicycle, pedestrian, transit improvements, and TDM programs, throughout the City, with priority given to those portions of the City east of US 101. Construction of these improvements is not eligible for a Transportation Impact Fee (TIF) credit. (MM-TR-6.2.b)

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

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

Complete plans shall include all necessary requirements to construct the improvements in the public right-of-way, including, but not limited to, grading and drainage improvements, utility relocations, traffic signal relocations/modifications, tree protection requirements, and striping modifications. The plans shall be subject to review and approval by the City

and coordination with the City of East Palo Alto Public Works Departments prior to submittal to Caltrans. The Applicant shall complete and submit an encroachment permit for approval by the cities of Menlo Park and East Palo Alto, if required, and Caltrans prior to construction of the intersection improvements. The Applicant shall construct the improvements within 180 days of receiving approval from Caltrans.

If Caltrans does not approve the intersection improvements proposed within five years from the 1601 Willow Road Development Agreement effective date, and the Applicant demonstrates that it has worked diligently to pursue Caltrans approval to the satisfaction of the Public Works Director, in his/her sole discretion, then the Applicant shall be relieved of responsibility to construct the improvement and the bond shall be released by the City after the Applicant submits funds equal to the updated estimated construction cost to the City. The City may use the funds for other transportation improvements, including, but not limited to, bicycle, pedestrian, transit improvements, and TDM programs, throughout the City, with priority given to those portions of the City east of US 101. The partial mitigation improvements are not eligible for a Transportation Impact Fee (TIF) credit. (MM-TR-6.2.d)

- 10.8 Cogenra System: The Applicant shall install a Cogenra Combined Heat and Power system at the existing Building 11 at the Property. The scale of the system shall be designed such that Reactive Organic Gas (ROG), Nitrogen Oxide (NOX) and Particulate Matter (PM10) are reduced beyond the Operational Mass Emissions identified in the Draft EIR. (MM-AQ-2.1)
- 10.9 Nesting Bird Protection: The Applicant, until the Applicant Termination Date, and, thereafter, the Property Owner, shall implement the following measures to reduce impacts to nesting migratory birds:
 - 10.9.1 To facilitate compliance with State and federal law (Fish and Game Code and the Migratory Bird Treaty Act (MBTA)) and prevent impacts to nesting birds, the Applicant or the Property Owner (as applicable) shall avoid the removal of trees, shrubs, or weedy vegetation February 1 through August 31 during the bird nesting period. If no vegetation or tree removal is proposed during the nesting period, no surveys are required. If it is not feasible to avoid the nesting period, a survey for nesting birds shall be conducted by a qualified wildlife biologist no earlier than seven days prior to the removal of trees, shrubs, weedy vegetation, buildings, or other construction activity. (MM-BR-4.1.a)
 - 10.9.2 Survey results shall be valid for the tree removals for 21 days following the survey. If the trees are not removed within the 21-day period, then a new survey shall be conducted. The area surveyed shall include all construction areas as well as areas within 150 feet outside the boundaries of the areas to be cleared or as otherwise determined by the biologist.

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

10.10 Sanitary Sewer System Improvements: The Applicant shall upsize 114 linear feet of the existing 12-inch diameter pipeline that runs north along Hamilton Avenue, beginning at the Hamilton Avenue/Willow Road intersection, to a 15-inch diameter pipe. To ensure that this work is completed, as part of the 1601 Willow Road Development Agreement, the Applicant is agreeing to conduct these improvements and post a bond equal to 200 percent of the estimated cost of the work. In addition, the Applicant shall purchase a third wastewater pump to be placed into reserve in case of pump failure at Hamilton Henderson Pump Station (HHPS). To ensure this work is completed, as part of the 1601 Willow Road Development Agreement, the Applicant is agreeing to purchase the pump and post a bond equal to 120 percent of the cost of the wastewater pump. (MM-UT-3.1)

11. GENERAL CONDITIONS

- 11.1 Covenants Run with the Land. All of the conditions contained in this Amended and Restated Conditional Development Permit shall run with the land comprising the Property and shall be binding upon, and shall inure to the benefit of the Property Owner and its heirs, successors, assigns, devisees, administrators, representatives and leasees, except as otherwise expressly provided in this Amended and Restated Conditional Development Permit.
- 11.2 Severability - If any condition of this Amended and Restated Conditional Development Permit, or any part hereof, is held by a court of competent jurisdiction in a final judicial action to be void, voidable or enforceable, such condition, or part hereof, shall be deemed severable from the remaining conditions of this Amended and Restated Conditional Development Permit and shall in no way affect the validity of the remaining conditions hereof.
- 11.3 Exhibits – The exhibits referred to herein are deemed incorporated into this Amended and Restated Conditional Development Permit in their entirety.

Exhibit A: Trip Cap Monitoring and Enforcement Policy

TRIP CAP MONITORING AND ENFORCEMENT POLICY¹

The Facebook project includes both an East Campus and a West Campus. Entitlements are currently being sought only for the East Campus. Therefore, this Trip Cap Monitoring and Enforcement Policy is specific to the East Campus.²

DEFINITIONS

Trip – A single vehicle (car, truck, van, shuttle, etc.) arriving at a location in Menlo Park, whose occupant(s)' final destination is the East Campus, or a single vehicle departing from a location in Menlo Park, whose occupant(s)' origin is the East Campus. Therefore, for example, a roundtrip by a single vehicle arriving at a location in Menlo Park and departing from a location in Menlo Park whose occupant(s)' destination and origin is the East Campus equals two trips. Trips do not include bicycles or other self-powered modes of travel.

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

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

Peak Period Trip Cap – The maximum number of trips in the AM Peak Period or the PM Peak Period.

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

Trip Cap – Generally refers to the AM Peak Period Trip Cap, the PM Peak Period Trip Cap and the Daily Trip Cap.

TRIP CAP

The Trip Cap is part of the Facebook project definition and is included in the Conditional Development Permit (CDP) for the project.³ Therefore, one way to think about the Trip Cap is in terms of building square footage. A CDP typically defines the maximum building square footage. Increases in building square footage that exceed the maximum permitted building square footage are not allowed without an

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

² If and when Facebook seeks entitlements for the West Campus, a trip cap will be required per the mitigation measures contained within the Environmental Impact Report prepared for the Facebook project.

³ Although Facebook is the current applicant and the Trip Cap will apply to Facebook until Facebook vacates the East Campus, the Trip Cap is intended to apply to the East Campus, will apply to Owner and Owner's successor(s) and assign(s) through the Amended and Restated Conditional Development Permit that applies to the East Campus, and will cease applying to Facebook, directly, upon Facebook's vacating of the East Campus.

application for and approval of a change to the CDP. Any increase in building square footage without the appropriate approval violates the CDP. The same is true for the Trip Cap. Facebook must comply with the Trip Cap and may not exceed the Trip Cap without an application for and approval of a change to the CDP. If the Trip Cap is exceeded without the appropriate approval, Facebook is in violation of the CDP.

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

- AM Peak Period Trip Cap: 2,600 trips
- PM Peak Period Trip Cap: 2,600 trips
- Daily Trip Cap: 15,000 trips

MONITORING

To monitor compliance with the Trip Cap, traffic counts shall be taken at the East Campus. The monitoring shall be done through automated means (e.g., imbedded loop detectors in the pavement in each travel lane or video detection) approved by the City.⁴ All vehicular entrances to the East Campus shall be included in the monitoring. Facebook shall be solely responsible for paying all costs related to monitoring, including, but not limited to, development, installation, maintenance and repair of all monitoring equipment.

In addition to monitoring the East Campus, the City reserves the option to require Facebook to monitor the West Campus prior to its occupancy if it is observed or suspected that vehicles whose occupant(s)' final destination is the East Campus are parking at the West Campus. The City also reserves the option to require Facebook to monitor neighborhood parking intrusion in the Belle Haven neighborhood, parking on other public streets in the City, or parking at any off-site parking lot(s) in Menlo Park if it is observed or suspected that vehicles whose occupant(s)' final destination is the East Campus are parking at any of these locations. If the City requires monitoring of these off-site locations and, after investigation, it is confirmed that vehicle occupant(s) are parking vehicles at these off-site locations to access the East Campus, the trips to these locations will be counted toward the Trip Cap.

Monitoring program details are as follows:

- **Monitoring Days/Times** – The AM Peak Period, the PM Peak Period and total daily trips will be monitored on all non-holiday weekdays. Holidays are those days identified as State holidays in California Government Code Section 6700. This is the condition evaluated in the Environmental Impact Report for the Facebook project.
- **Exclusions** – Two types of exclusions from the Trip Cap shall be permissible as discussed below:

⁴ City approvals related to monitoring equipment will be through the Director of Public Works or his/her designee.

- **Special Events:** To account for special events and their effect on trips, Facebook may have up to 12 special event exclusions per year or 12 days on which one or more of the AM Peak Period Trip Cap, PM Peak Period Trip Cap or Daily Trip Cap are exceeded, but are not considered violations of the Trip Cap. These special events do not represent typical operating conditions at the East Campus. A special event will be defined as an activity that is not typical of the normal operations of the East Campus and will likely involve more than East Campus employees. If the Trip Cap has been violated as a result of a special event, Facebook shall provide documentation to the City that a special event took place. Upon City review and approval, in the City's sole and reasonable discretion, an exclusion for a special event shall apply.
- **Non-event exclusions:** For non-special events, Facebook will be allowed three days on which one or more of the AM Peak Period Trip Cap, PM Peak Period Trip Cap or Daily Trip Cap are exceeded within a 180 day period without incurring penalties. These non-event exclusion days are intended to allow Facebook time to correct the Trip Cap violation. If Facebook exceeds the Trip Cap on more than three days within a 180 day period, then the non-event exclusion is eliminated and penalties are imposed for violations of the Trip Cap until compliance is reached for a consecutive 180 day period. Additional violations, if any, within the 180 day compliance period, will re-set the 180 day compliance period. If after a consecutive 180 day period, Facebook remains in full compliance with the Trip Cap, then the three day exclusion is available again.
- **Count Equipment** – Automated count equipment will be designed and constructed at Facebook's sole expense to collect data on the number of trips at the two East Campus driveways and send the data back to the City offices. The type of count equipment (initial and any future changes) shall be approved by the City, in consultation with Facebook and considering the latest technologies for detection, counting and reporting. The City shall not unreasonably withhold approval of initial count equipment or any future equipment which achieves the result envisioned in this document. The City shall also approve the count equipment that will be used to monitor off-site locations, if the City exercises the option to require such monitoring. The City shall not unreasonably withhold approval of such additional count equipment.
- **Initial Calibration Process** – Once the count equipment has been established, a calibration process will be undertaken to determine the reliability and accuracy of the count equipment. Depending on the type of equipment, the count accuracy can be affected by a number of environmental factors which will need to be confirmed. This calibration process would be conducted prior to the East Campus reaching full occupancy.
- **Determination of Reliability (Sensitivity) Factor** – Based on the calibration analysis, the City and Facebook will agree to a reliability factor for the count stations which will be used to evaluate the count results. The reliability factor would represent the margin of error inherent in the

vehicle counting equipment, and would address the exclusion of trips whose final destination is not the East Campus (i.e. wrong turns, uninvited guests, etc).

- **Periodic Count Equipment Testing/Recalibration** – The vehicle detection system will be periodically tested to ensure the accuracy of the monitoring counts. During the first two years of operation, testing will be conducted at six month intervals. If these tests show that the system is operating reliably, then testing can be reduced to once a year. If the equipment is thought to be out of calibration, Facebook will work with the City to test and calibrate the equipment if necessary. The City will have final approval, which approval shall be granted or withheld in a reasonable manner, on all testing and calibration.
- **Installation and Repairs** – The count equipment shall be installed and in good working order within 180 days of the effective date of the Conditional Development Permit. The City shall have final approval, which approval shall be granted or withheld in a reasonable manner, of the contractor completing the installation and the maintenance contractor completing any repairs. Non-emergency repairs and maintenance of the monitoring equipment shall occur only on evenings and weekends, unless otherwise approved by the City. The Transportation Division shall be notified at least 48 hours in advance of any non-emergency repairs or maintenance work. The City Transportation Division shall be notified within 24 hours of any emergency repairs. City inspection and approval of any repairs or maintenance is required. Failure to keep monitoring equipment operational in good working order will be considered a violation of the Trip Cap after two working days, unless the repairs/maintenance require additional time as approved by the City and Facebook is diligently pursuing such repairs/maintenance. The Trip Cap penalty will not be enforced during the repair/maintenance of the monitoring equipment. If the City, in its sole and reasonable discretion, determines that Facebook is not diligently pursuing the repairs/maintenance, the City may elect to perform the repairs/maintenance and charge the cost of the repair/maintenance, staff time, and 15 percent penalty fee to Facebook.
- **Access to Count Equipment/Reporting** – The City shall have the ability to access the count equipment at any time after reasonable prior notice to Facebook. Facebook will not have access to the count equipment, unless approved by the City or in case of the need for emergency repairs. The City shall not unreasonably withhold approval of access for repair/maintenance contractors. Facebook shall have “read-only” access to the reporting data, but shall have the ability to record such data and run history reports in order to track trends. Reporting data shall be provided to Facebook and the City in real time. Real time data will provide Facebook the opportunity to take immediate action, if necessary, to avoid violating the Trip Cap.

ENFORCEMENT

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

If, on a given day, the results of the monitoring indicate that the number of trips is at or below the Trip Cap, considering the reliability factor, then Facebook is considered in compliance. If, however, the monitoring, considering the reliability factor, reveals that the AM Peak Period Trip Cap or the PM Peak Period Trip Cap or the Daily Trip Cap has been exceeded, Facebook is in violation of its CDP and the City may take steps to enforce the Trip Cap.

The specifics for enforcement are as follows:

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

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

¹ Only one tier is applicable for any given violation

An example table showing the penalty amounts:

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

Example calculations

Daily penalty greater:

AM Peak Period exceeds the AM Peak Period Trip Cap by 100 trips
 PM Peak Period exceeds the PM Peak Period Trip Cap by 50 trips
 Daily trips exceed the Daily Trip Cap by 400 trips

The payment would be:

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

AM Peak Period and PM Peak Period penalty greater:

AM Peak Period exceeds the AM Peak Period Trip Cap by 100 trips
 PM Peak Period exceeds the PM Peak Period Trip Cap by 50 trips
 Daily trips exceed the Daily Trip Cap by 100 trips

The payment would be:

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

The base penalties shall be adjusted annually starting at base year 2012 per the Consumer Price Index for All Urban Consumers All Items in the San Francisco-Oakland-San Jose Metropolitan Area [1982-84=100]. Penalties are due and payable to the City within 30 days of the issuance of an invoice, which the City shall issue on a monthly basis. The City shall use the penalties collected for programs or projects designed to reduce trips or traffic congestion within Menlo Park and the City shall share 25 percent of the penalties collected with the City of East Palo Alto for use on transportation systems and solutions that help reduce traffic in the City of East Palo Alto around the East Campus. In addition to monetary penalties, failure to comply with the Trip Cap is considered a violation of the CDP and could result in revocation of the CDP.

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